the direction reflected in the new Forex Regulations is that more emphasis is placed on the administration of inflow of forex.

However, in the wake of unprecedented credit crunch, financial crisis and deteriorating economic conditions on a global horizon during the third quarter of 2008, the Chinese government has reacted proactively by adjusting her fiscal policies, such as export VAT refund, VAT transformation, and putting forward the remarkable "Economy Stimulation Plan". It is not unreasonable to expect that there would also be noticeable adjustments to the forex policies and administrative practice soon. The new Forex Regulations have already authorised the SAFE to take necessary measures in the time of severe imbalance of international receipts and payments. Obviously, this is necessary to ensure stability of the financial system, stable forex / RMB exchange rate, and sustainable economic growth. This implies that depending on the development of macro-economic environment, the SAFE may formulate different forex policies more frequently in a bid to achieve a balance of international payments. As such, companies have to stay on top of the possible changes in forex regulations in order to thrive in their operations in China.

Micro

As a matter of fact, we are aware that some foreign investment enterprises have recently experienced a more lengthy process or even delays when handling forex applications, such as debt registration with local-level SAFE and conversion of registered capital or export proceeds into RMB at the banks. As it may take considerable time to apply for either capital increase or additional foreign loan, it is important that foreign investors plan ahead for the financing and capitalisation structure of their entities in China in order to meet the funding needs in a timely manner.

Banks are now delegated with more responsibilities to detect and report forex non-compliance to the SAFE. The penalty provision for banks for breaching forex rules has been extended to their senior management personnel. In extreme cases, non-compliant banks can be asked to suspend their forex business. Going forward, banks may likely be more prudent in handling the forex business of their customers. In practice, banks may tend to consult with local-level SAFE before processing any doubtful forex remittance and conversion applications with a view to ensuring full compliance.

Finally, it is interesting to note that the new Forex Regulations state that non-financial institutions may engage in forex settlement and sale activities subject to approval. Further regulations on this would be separately promulgated. It is yet to wait and see which types of entities in China could quality for such forex operations and what prerequisites they have to fulfil.

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Cyprus

Amendment of the Assessment and Collection of Taxes Law

Cyprus is intent on meeting its obligations regarding information exchange and transparency, and has recently passed a new law (Law 72(I) of 2008) amending the Assessment and Collection of Taxes Law to incorporate the exchange of information provisions of Article 26 of the OECD Model Tax Convention of 2005 in double taxation agreements which have been concluded between Cyprus and other jurisdictions.

The passing of the new law will be a significant step forward in securing Cyprus's removal from the Russian tax authorities' "blacklist" of countries and territories failing to meet Russia's disclosure requirements regarding the tax affairs of Russian residents.

Companies incorporated in countries appearing on the blacklist are denied the benefit of the participation exemption introduced by Russia with effect from January 1, 2008. Most Russian-owned companies in Cyprus are holding companies rather than subsidiaries, so inclusion on the blacklist directly affects only a minority of Russian companies in Cyprus.

Under the new law, at the request of a contracting state, the Cyprus tax authorities may obtain and pass on information relating to any person, including a company or partnership which has been dissolved or struck off the register, and may inspect any books, records and other documents, data or information, regardless of any other legislative provisions of secrecy including bank or professional secrecy laws which include provisions for the maintenance of client confidentiality and data protection.

The law contains the following important safeguards:

- Information may be provided by the Cyprus tax authorities only where the other contracting state involved is under a reciprocal obligation to disclose information.
- The prior written consent of the Attorney-General of Cyprus is required for the tax authorities to exercise their powers to collect the information requested.
- The right to legal professional privilege is maintained, and any information passing between professional legal advisors and their clients may not be disclosed to third parties.

Requests to the Cyprus tax authorities for information must include the following particulars:

- The identity of the person under examination.
- A description of the information requested and the form and manner in which the requesting state wishes to receive it.
- The tax purpose for requesting the information.
- The reason for believing that the requested information is held by the Cyprus tax authorities or is in the possession or under the control of a person within the jurisdiction of Cyprus.
- The name and address of any person who may hold the information requested, if known.
- A declaration that the provision of such information is in accordance with the legislation and the administrative practices of the requesting state and that where the requested information is found within the

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jurisdiction of the state in question, the relevant authority may obtain the information according to its laws and according to the terms of its ordinary administrative practices.

- A declaration that the requesting state has exhausted all reasonable means at its disposal within its jurisdiction to obtain the requested information.

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Estonia

Tax changes as of 2009

Recently, the Estonian Parliament passed amendments to the income tax law which will come into effect as of January 1, 2009. The most significant changes are described below.

General overview

The Estonian Parliament abolished its earlier amendments made on March 26, 2008 and adopted several new amendments to the income tax law recently.

The undistributed corporate profits will remain tax-exempt and the tax base for corporations will generally remain the same, except that liquidation proceeds, share buy-backs and capital reductions will, similarly to dividends, become subject to tax at the level of Estonian company (until December 31, 2008 such items are taxable at the level of the shareholder only).

In addition, due to recent positive developments in the *Burda* case at the European Court of Justice, the Parliament decided to abolish the introduction of advance corporate income tax ("CIT") payments and changing the tax period and CIT-reporting from the current monthly basis to a tax year, as prescribed in the earlier law amendments adopted on March 26, 2008.

Tax rate reduction postponed for one year

The profit distributions made by companies will still be subject to 21 percent CIT in 2009 (21/79 on the net amount of distribution) and further will be subject to reduced to 20 percent CIT in 2010, 19 percent in 2011 and 18 percent in 2012 (previously it was envisaged to reduce the tax rate to 18 percent by 2011).

Withholding tax on dividends is completely abolished

The Parliament made various changes in the withholding taxation of non-residents. Consequently, the withholding tax on dividends paid to non-residents will be fully abolished from 2009.

However, in 2008, there is a 21 percent domestic withholding tax on dividends paid to non-resident corporate shareholders that have less than 15 percent shareholding or voting rights in the Estonian company distributing the dividends.

Withholding tax on royalties and service fees reduced

In addition, the domestic rates of withholding tax on royalties, fees received by artistes and sportsmen and service fees for services performed in Estonia will be reduced from 15 percent to 10 percent as of 2009.

Threshold for participation exemption lowered

The adopted law will also reduce the levels for participation exemption from current 15 percent to 10 percent.

Thus, from 2009 dividends distributed by Estonian companies will be exempt from CIT upon distribution if these are paid out of dividends received from qualified foreign companies, in which the Estonian company has at least 10 percent shareholding.

For companies not resident in the EU, EEA or Switzerland, in addition to 10 percent participation level the underlying profits must have been subject to foreign tax or dividends must have been subject to foreign withholding tax to qualify for participation exemption in Estonia.

Unilateral credit method introduced for double taxation relief

The adopted law will extend the credit method as a double taxation relief method to any income (incl. interest, royalties, capital gains, etc.).

Previously the unilateral credit method was limited only to dividends not qualifying for participation exemption and certain interest and royalties from EU Member States where withholding taxation was allowed under transitional rules.

Unless double taxation relief was provided by tax treaties, domestic double taxation relief was generally not available.

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Germany

Foreign loss claw-back not dependent on actual offset abroad

Up to 1998, German companies were able to deduct unrelieved losses from foreign permanent establishments despite a tax treaty provision allocating the sole right of taxation to the foreign state. The German deduction was subject to recapture once the PE made profits, if the foreign state allowed a carry forward. Recapture was in the form of an add-back to taxable income in the amount of the loss previously deducted in Germany up to the level of profit actually made in the year of recapture as recalculated to reflect German tax accounting principles. Recapture was independent of actual offset in the foreign state.

The ECJ has now held that the German recapture provision is not an unjustified restriction on a German company's freedom of establishment, in this case to