



## China Tax Newsletter

January 2018

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## **1. Tax Credit Policy for Enterprises' Overseas Income**

The Ministry of Finance and the State Administration of Taxation promulgated the Notice on Issues concerning Improvement of the Tax Credit Policy for Enterprises' Overseas Income (Cai Shui [2017] No.84) on 28 December 2017 which shall take effect from 1 January 2017 retroactively. Tax credit policy for enterprises' overseas income is adjusted as follows:

(1) An enterprise may calculate its taxable income amount from abroad by country (region) or calculate aggregately its taxable income from abroad not by country (region), and the enterprise shall not change the calculation method within five years upon the selection of the method above.

Where an enterprise adopts a method that is different from that adopted in previous years (hereinafter referred to as "new method") to calculate its overseas income tax amount which is applicable to tax credit and the tax credit limit, the tax credit balance from the previous years calculated in accordance with Cai Shui [2009] No.125 may be carried forward to the tax credit limit calculated in accordance with the new method within the remaining years for carry-forward stipulated in the tax laws.

(2) For dividends obtained overseas by an enterprise, when calculating the enterprise's overseas income tax amount applicable to tax credit and the tax credit limit, foreign enterprises with 20% or more of its shares being held directly or indirectly by the enterprise shall be expanded from three tiers to five tiers of foreign enterprises.

## **2. Annual Enterprise Income Tax Return of the People's Republic of China (Category A, 2017 Edition)**

In order to fully implement relevant policies on enterprise income tax, the State Administration of Taxation issues the Annual Enterprise Income Tax Return of the People's Republic of China (Category A, 2017 Edition) which shall be applicable to the final declaration and settlement of the enterprise income tax for the year 2017 and thereafter.

## **3. Pollutant Emission Charges Change into Environmental Protection Tax – Environmental Protection Tax Takes Effect Officially**

The Law of the People's Republic of China on Environmental Protection Tax shall become effective as of 1 January 2018 which formally implements the policy of tax reform on pollutant emission charges. The State Council issued the Implementing Regulations for the Law of the People's Republic of China on Environmental Protection Tax on 25 December 2017, specifying the tax basis of environmental protection tax, preferential policy of tax deduction and exemption, administration of tax collection, and other related taxation matters.

Tax declaration and payment shall be handled according to the Announcement of the State Administration of Taxation on Promulgation of the Tax Returns for Environmental Protection Tax (State Administration of Taxation [2018] No.7).

### **▲ Supporting Policy on Tax Levy and Administration**

Notice on Matters Concerning Ceasing Charging Some Administrative Fees Including the Pollutant Discharge Fees (Cai Shui [2018] No.4)

Announcement of the State Administration of Taxation on Promulgation of the Tax Returns for Environmental Protection Tax (Announcement of the State Administration of Taxation [2018] No.7)

#### 4. Administrative Measures for the Registration of VAT General Taxpayers

In February 2015, the State Council issued the Decision on Canceling and Adjusting a Number of Administrative Examination and Approval Items (Guo Fa [2015] No.11) and the "Verification of General Taxpayer's Qualification of Value-added Tax" was included in the administrative examination and approval items cancelled. In February 2016 and November 2017, the State Council issued the relevant decisions one after another and twice amended the Provisional Regulations of the People's Republic of China on Value-added Tax. In order to actively promote the reform of "streamlining administration, delegating powers, and improving regulation and services", the State Administration of Taxation revised the Administrative Measures for the Determination of General Taxpayers of Value-added Tax (State Administration of Taxation Order [2010] No.22) and formulated the Measures for the Administration of the Registration of General Taxpayers of Value-added Tax (State Administration of Taxation Order [2017] No. 43, hereinafter referred to as the "New Measures"). The main contents of the New Measures are as follows:

(1) Refine the definition of annual taxable sales amount. "Annual taxable sales amount" shall mean the sales amount in aggregate achieved by a taxpayer for an operation period of no more than 12 consecutive months or four consecutive quarters, on which VAT shall be levied, inclusive of the sales amount specified in tax returns, omitted sales amount found in tax inspections and sales amount adjusted in tax payment assessment.

According to the Announcement on Several Issues Concerning the Administration of the Registration of General Taxpayers of Value-added Tax (State Administration of Taxation Announcement [2018] No.6, hereinafter referred to as "**Announcement No. 6**"), the above "operation period" refers to the continuous business operation period during the period of existence of the taxpayer, including the months or quarters with no sales revenue; "sales amount specified in tax returns" refers to the total sales amount subject to VAT as declared voluntarily by the taxpayer, including tax-free sales and sales for which invoices are issued by the tax authorities on behalf of the taxpayer; "omitted sales amount found in tax inspections" and "sales amount adjusted in tax payment assessment" shall be added to the sales amount of the current month (or current quarter) of retrospective tax declaration, and shall not be added to the sales amount in the tax period.

(2) Clearly definite the scope of taxpayers not required to complete the registration of VAT general taxpayer: "taxpayers that choose to pay tax as small-scale taxpayers according to applicable policies; and other individuals whose annual taxable sales amount exceeds the stipulated standards." According to the further explanation, "other individuals" refer to natural persons.

(3) Clarify and simplify the procedures for handling the registration of VAT general taxpayers. To complete the registration, taxpayers only need to bring the tax registration certificate and fill in the registration form; regarding the procedures of tax office, the onsite verification procedure is cancelled and application would be approved on the spot if the specified registration requirements are met.

(4) Clearly definite the time limit for relevant formalities and related management requirements for the taxpayers whose annual taxable sales amount exceeds the specified standard. Per the New Measures, a taxpayer shall go through the relevant formalities in accordance with related regulations within 15 days after the end of the tax declaration period for the month (or quarter) for which its annual taxable sales amount exceeds the designated standard; where it fails to go through the required formalities, the competent tax authority shall issue the Notice on Tax Issues within five days after the end of the time limit to instruct the taxpayer to go through the relevant formalities with the competent authority within five days; where the taxpayer still does not complete the formalities within

the five-day time limit, the sales amount shall be subject to VAT at the applicable rate from the following month, and the input VAT shall not be deducted from the tax payable until the taxpayer completes the required formalities.

Announcement No.6 further clarifies that when a taxpayer concurrently undertakes sale of goods, provision of processing, repair and assembly labour services (hereinafter referred to as "taxable goods and services") and sale of services, intangible assets and real estate (hereinafter referred to as "taxable activities"), sale of taxable goods and services and sale of taxable activities shall be calculated separately in terms of sales amount, and be subject to the VAT general taxpayer registration standards respectively; where either sales amount exceeds the stipulated standards, the taxpayer shall complete the relevant formalities for VAT general taxpayer registration pursuant to the provisions.

(5) Specify that the effective date of VAT general taxpayer status can be chosen by taxpayers themselves. Per the New Measures, the effective date of VAT general taxpayer shall mean the first day of the month or the first day of the following month when a taxpayer completes the registration, which can be chosen by the taxpayer at the time of handling registration formalities.

#### ▲ Supporting Policy on Tax Levy and Administration

Announcement on Several Issues Concerning the Administration of the Registration of General Taxpayers of Value-added Tax (State Administration of Taxation Announcement [2018] No.6)

### **5. Revision of the Announcement of the Shenzhen Municipal Office of the State Administration of Taxation on Matters concerning the Full Launch of the Pilot Scheme of Levying Value-added Tax in Lieu of Business Tax**

According to the Administrative Measures for the Registration of General Taxpayers of Value-added Tax (State Administration of Taxation [2017] No.43) and other relevant policies, the Shenzhen Municipal Office of the State Administration of Taxation revised relevant contents of the Announcement of the Shenzhen Municipal Office of the State Administration of Taxation on Matters concerning the Full Launch of the Pilot Scheme of Levying Value-added Tax in Lieu of Business Tax (Shenzhen State Administration of Taxation [2016] No.1, hereinafter referred to as "the Announcement"). The revisions are as follows:

(1) The 2nd item of the 2nd clause of the Announcement is revised as follows: For a Shenzhen taxpayer providing construction services across districts within Shenzhen, it shall fill out the Table of Prepayment of VAT and provide the following materials when prepaying taxes to the competent state tax office in the place where they provide such services:

- A. a photocopy of the construction contract signed with the employer (affixed with the official seal of the taxpayer);
- B. A photocopy of the subcontract signed with the subcontractor (affixed the official seal of the taxpayer); and
- C. Photocopies of invoices received from the subcontractor (affixed with the official seal of the taxpayer).

(2) The 4th clause of the Announcement is revised as follows: The standard of annual taxable sales amount for registration of VAT general taxpayer is set to RMB5 million for taxpayers engaged in sale of services, intangible assets or real property.

(3) The first sentence of 3rd item of the 4th clause is revised as follows: For detailed

procedures of VAT general taxpayer registration, please refer to the Administrative Measures for the Registration of General Taxpayers of Value-added Tax (State Administration of Taxation [2017] No. 43).

#### **6. Shenzhen Local Taxation Bureau Adjusted the Tax Filing Period of Real Estate Tax and Urban and Township Land Use Tax**

The Shenzhen Local Taxation Bureau released the Announcement on Adjusting the Tax Filing Period of Real Estate Tax and Urban and Township Land Use Tax on 26 January 2018 (Shenzhen Local Taxation Bureau Announcement [2018] No.1). Previously, the tax filing periods for taxpayers to pay the real estate tax (calculated on a value basis) is January 1 to January 15, April 1 to April 15, July 1 to July 15, October 1 to October 15, and the tax filing periods for the urban and township land use tax is January 1 to January 15 and July 1 to July 15. Per the Announcement, the tax filing period for the two taxes is adjusted to October 1 to December 31 of the tax year. The Announcement will come into effect on 1 February 2018 and remain effective for 5 years.

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