



## China Tax Newsletter

### April and May 2016

Our tax newsletter for these two months covers:

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## **1. Promulgation of Supporting Policies for the Full Launch of the Pilot Scheme of Levying Value-added Tax in Place of Business Tax**

The State Administration of Taxation (SAT) had issued a series of announcements concerning the levying of value-added tax (VAT) in place of business tax during April and May of 2016, among which two are related to tax collection and administration, three are related to tax filing, one is related to cross-border taxable acts, and the remaining one is related to non-resident enterprise. The circulars are listed as below:

Circular 23 Announcement of the State Administration of Taxation on Tax Collection and Administration Matters Relating to Full Launch of the Pilot Scheme for Levying VAT in Place of Business Tax

Circular 25 Announcement of the State Administration of Taxation on Release of the Data Interface Specifications of Tax Control Software for Issuing VAT Invoices

Circular 26 Announcement of the State Administration of Taxation on Clarifying Several Issues Relating to Administration of Tax Collection in the Pilot Scheme of Levying VAT in Place of Business Tax

Circular 27 Announcement of the State Administration of Taxation on Issues Relating to Adjustments of VAT Filing

Circular 28 Announcement of the State Administration of Taxation on Revision of Computation Formula for Assessment of Taxable Income Amount of Non-resident Enterprises in Accordance with Reverse Calculation of Income based on Expenses

Circular 29 Announcement of State Administration of Taxation on Promulgation of the Administrative Measures on Tax Exemption for Cross-border Acts Subject to VAT in the Pilot Scheme for Levying VAT in Place of Business Tax (Trial Implementation)

Circular 30 Announcement of the State Administration of Taxation on Adjustments of Matters Relating to VAT Filing by Some Taxpayers in the Pilot Scheme of Levying VAT in Place of Business Tax

(1) Appendices of Circular 13, i.e. Structural Breakdown of Input VAT Credited in the Current Period annexed to Appendix 1 of Circular 13, and Appendix 3 VAT Declaration Form (for Small-scale Taxpayers) and Appendices of Circular 13, are adjusted. In the case of tolls paid by a VAT general taxpayer for the use of a road, bridge and flood gate, the deductible input VAT amount shall be computed based on the fee amounts stated on the toll receipts (excluding fiscal receipts), and be stated in column 8 "Others" of the VAT Declaration Form Appendix (II) (breakdown of input VAT in the current period) in Appendix 1 of Circular 13.

The table Breakdown of Tax Burden Analysis and Projection Pertaining to VAT Levied in Place of Business Tax is added as other VAT filing materials and shall be completed by VAT general taxpayers engaging in construction, real estate, financial or domestic services, etc. when they make VAT filing, and the detailed name list shall be determined by the tax authorities in charge.

(2) For VAT general taxpayers of Grade B taxpayer creditworthiness who have obtained a VAT invoice issued by a seller using the new system, they are not required to complete scanning and authentication. They can simply log in to the Province's VAT invoice enquiry platform to enquire or select VAT invoice information to be used for declaration of deduction or export tax refund; where the corresponding invoice information is not found, the taxpayer may complete scanning and authentication.

(3) VAT small-scale taxpayers shall compute the sales amount of sale of goods, the sales amount of provision of processing, repair and replacement services, and the sales amount of sale of services or intangible assets separately. For VAT small-scale taxpayers whose

monthly sales amount does not exceed RMB30,000 (RMB90,000 for quarterly tax payment) for sale of goods or provision of processing, repair and replacement services, or whose monthly sales amount does not exceed RMB30,000 (RMB90,000 for quarterly tax payment) for sale of services or intangible assets, they may be temporarily exempted from VAT as per small and micro enterprises during the period from 1 May 2016 to 31 December 2017.

(4) Upon implementation of the pilot scheme of levying VAT in place of business tax, entry tickets, road (bridge) toll receipts shall fall under the category of tickets to be reserved, and shall be produced and administered by the State tax authorities with effect from 1 May 2016. The aforesaid receipts produced by the original local tax authorities may be used up to 30 June 2016.

(5) The computation formula in item (1)(a) of Article 7 of the Provisional Measures on Administration of Tax Collection for Resident Representative Offices of Foreign Enterprises (Guo Shui Fa [2010] No. 18) shall be revised to:

Taxable income amount = Expenses incurred in the current period / (1 - assessed profit margin) x assessed profit margin

The computation formula in item (3) of Article 4 of the Administrative Measures on Assessment and Collection of Income Tax of Non-resident Enterprises (Guo Shui Fa [2010] No. 19) shall be revised to:

Taxable income amount = Expenses incurred in the current period / (1 - assessed profit margin) x assessed profit margin

(6) Taxpayers who engage in cross-border taxable acts set out in Article 2 of the Administrative Measures on Tax Exemption for Cross-border Acts Subject to VAT in the Pilot Scheme for Levying VAT in Place of Business Tax (Trial Implementation) shall, except for item (IX) and item (XX), enter into a written contract for cross-border sale of services or intangible assets; otherwise VAT shall not be exempted. Where a taxpayer's sale of services or intangible assets to an overseas entity is exempted from VAT pursuant to the provisions of the Measures, the income of the said sale of services or intangible assets shall be entirely sourced from overseas; otherwise VAT shall not be exempted.

## **2. Tax Policies for Labour Dispatch Services and Highway Tolls Deduction Pertaining to Full Launch of the Pilot Scheme for Levying VAT in Place of Business Tax**

The Ministry of Finance and the SAT had released supplementary announcement on labour dispatch services, highway tolls, etc. during the implementation of the pilot scheme of levying VAT in place of business tax (i.e. Cai Shui [2016] No. 47). Main contents of the circular are as follows:

(1) For VAT general taxpayers and small-scale taxpayers engaging in provision of labour dispatch services, they are opt between general tax computation method and the method of paying tax on the differential amount. When the method of paying tax on differential amount is used, the VAT payable is calculated based on the simplified tax computation method with the levy rate at 5%. Taxpayers who opt to pay tax on the differential amount shall not issue a special VAT invoice for wages and benefits paid by the employer to the dispatched personnel as well as the social security premiums and housing provident fund contributed for them, but may issue a general invoice.

(2) Deduction policy for highway tolls: During the period from 1 May 2016 to 31 July 2016, for road, bridge and flood gate tolls paid by VAT general taxpayers, the taxpayers shall, in the interim, compute the deductible input VAT based on the fee amounts stated on the toll receipts (excluding fiscal receipts) using the following formula:

Input VAT deductible against highway tolls = Amount stated on the highway toll receipts /

$$(1 + 3\%) \times 3\%$$

Input VAT deductible against arterial road, secondary road, bridge or flood gate tolls = Amount stated on the arterial road, secondary road, bridge or gate tolls /  $(1 + 5\%) \times 5\%$

Tolls shall mean fees determined and collected by the relevant authorities pursuant to the laws or regulations for users of roads, bridges and flood gates.

The notice shall come into force on 1 May 2016.

### **3. Notice on Issues Relating to Enterprise Income Tax Policies on Charitable Equity Donations**

To support and encourage the development of public welfare establishments, Cai Shui [2016] No. 45 has set out below regulations with regard to the enterprise income tax of equity donations:

(1) Where an enterprise donates equity to a public welfare establishment, the equity is deemed being transferred to the institution pursuant to related regulations and the income from equity transfer is determined by the historical cost for acquisition of the donated equity. The equity referred to in this item shall mean the equity of other enterprises, stocks of listed companies, etc. as held by the enterprise. The equity donation behaviour referred to in this item shall mean the behaviour of an enterprise donating equity to public welfare establishments located within the territory of the People's Republic of China.

(2) After equity donation, the enterprise shall determine the amount of donation based on the historical cost of the equity and apply the pre-tax deduction of the amount based on related enterprise income tax regulations. After receiving the equity donation, the public welfare establishment shall issue the donation receipt based on the historical cost of the equity provided by the enterprise.

The notice shall come into force on 1 January 2016.

### **4. Notice on Issues Relating to Tax Computation Bases for Deed Tax, Real Estate Tax, Land Appreciation Tax and Individual Income Tax following Implementation of the Pilot Scheme of Levying VAT in Place of Business Tax**

Cai Shui [2016] No. 43 clarifies relevant issues relating to the tax computation bases for deed tax, real estate tax, land appreciate tax and individual income tax following the implementation of the pilot scheme of levying VAT in place of business tax. Main contents of the circular are as follows:

(1) The transaction price subject to deed tax shall exclude VAT; for leased property, the rental income subject to real estate tax shall exclude VAT; income derived by a taxpayer of land appreciation tax for transfer of real estate shall be income excluding VAT. For input VAT pertaining to deductible items of land appreciation tax, if it is allowed to be deducted from the output VAT, it shall be excluded from the deductible items; where it is not allowed to be deducted from the output VAT, it may be included in the deductible items.

(2) Where an individual transfers his/her housing, the income subject to individual income tax shall exclude VAT, the VAT included in the price paid by him/her at the time of obtaining the housing shall be included in the original value of the property, the taxes and fees which can be deducted at the time of computation of transfer income shall exclude the VAT paid for the current transfer; where an individual leases housing, the income subject to individual income tax shall exclude VAT, and the taxes and fees which can be deducted at the time of computation of housing rental income shall exclude the VAT paid

for the current lease. The rent and VAT amount paid to the lessor by a sub-tenant of the housing can be deducted at the time of computation of sub-let income.

(3) Where VAT is exempted, VAT shall not be deducted from the transaction price, rental income, income derived from transfer of real estate when determining the tax computation basis.

The notice shall come into force on 1 January 2016.

#### **5. Notice on Further Strengthening the Management and Transition of Invoices between State and Local Tax Authorities following Implementation of the Pilot Scheme of Levying VAT in Place of Business Tax**

Shui Zong Han [2016] No. 192 has specified issues relating to the management of in-stock invoices of local tax authorities, expiry of the invoices already released by local tax authorities to taxpayers, cancellation of invoices already released by local tax authorities to taxpayers, and transition of lottery invoices. Main contents of the circular are as follows:

(1) For invoices printed by local tax authorities and those with the name of the organisations as received from the local tax authorities before 30 April 2016, the invoices can be used until 30 June 2016.

(2) The state tax authorities shall be responsible for verification of invoices issued by taxpayers and cancellation of blank invoices, while the local tax authorities shall offer full support on these. For taxpayers claiming invoices from the state tax authorities for the first time, they shall complete the cancellation of invoices received from the local tax authorities first. Taxpayers that have claimed invoices from the state tax authorities shall complete the cancellation of invoices received from the local tax authorities.

#### **Tips from BDO China**

In the Notice on Handling Tax Collection from Taxpayers Involved in the Pilot Scheme of Levying VAT in Place of Business Tax in Shenzhen Municipality (Announcement of Shenzhen Municipal State Tax Bureau and Shenzhen Municipal Local Tax Bureau [2016] No. 7), detailed regulations have been set out with regard to the issuance, cancellation, etc. of invoices:

1) Invoices claimed by taxpayers involved in the pilot scheme, excluding those printed with their organisation names, can be used until 30 June 2016. The taxpayer shall go to the local tax authorities to verify or cancel the surplus invoices before 31 July 2016.

2) Invoices claimed by taxpayers involved in the pilot scheme, which are printed with their organisation names, can be used until 31 August 2016. The taxpayer shall go to the local tax authorities to verify or cancel the surplus invoices before 30 September 2016.

3) The transitional period for lucky draw and cashing the prize (via red packets of WeChat and scratch-and-win) won by lottery invoices will be extended by three months after 1 May 2016, during which lucky draw and cashing are still available. Starting from 1 August 2016, no lucky draw and cashing will be available.

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