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China Tax Newsletter

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Our tax newsletter for this month covers:

1. Interim Regulations of Stamp Duty Upgraded to Tax Law

To implement the statutory principle of taxation, the Ministry of Finance and the State Administration of Taxation drafted the Stamp Duty Law of the People's Republic of China (Exposure Draft) (hereinafter referred to as the “Exposure Draft”). Compared with the Interim Regulations of the People's Republic of China on Stamp Duty (hereinafter referred to as the "Interim Regulations"), changes reflected in the contents of the Exposure Draft are as follows:

(1) The Exposure Draft adjusts the tax rate of some tax items. In the Interim Regulations, the applicable tax rate for process contracting contracts, engineering project reconnaissance and design contracts, and cargo transportation contracts is 0.05%, and it’s reduced to 0.03% in the Exposure Draft; and the applicable tax rate for business account books is reduced from 0.05% to 0.025% of the total amount of paid-in capital (equity capital) and capital reserve.

(2) The Exposure Draft stipulates the methods for determining the tax calculation base for taxable contracts, documents of transfer of property title, business account books, documentation of rights or licenses, and securities transactions. Where under special circumstance such as the price or remuneration is not explicitly set out in a taxable contract and document of transfer of property title, no transfer price is set out in the transfer of securities, etc., the Exposure Draft also stipulates the methods for determining the tax calculation base.

(3) The Exposure Draft stipulates that the stamp duty shall be declared and paid in a unified manner, and the tax method of attaching duty stamps shall no longer be used. The stamp duty on securities trading shall still be withheld and paid by the securities registration and settlement institutions in accordance with the current provisions.

2. Expanding the Applicable Scope of the Policy of Deferred Tax Payment on Distributed Profits Used by Overseas Investors for Direct Investment

In order to support the implementation of the Notice on Expanding the Applicable Scope of the Policy of Temporarily Not Levying the Withholding Income Tax on Distributed Profits Used by Overseas Investors for Direct Investment (Cai Shui [2018] No.102, hereinafter referred to as the "Notice"), the State Administration of Taxation issued the Announcement on Matters Concerning Expanding the Applicable Scope of the Policy of Temporarily Not Levying Withholding Income Tax on Distributed Profits Used by Overseas Investors for Direct Investments (Announcement of the State Administration of Taxation [2018] No.53, hereinafter referred to as the “Announcement”). The main content are as follows:

(1) Where an overseas investor uses the distributed profits to make a supplementary payment for its registered capital subscribed in a resident enterprise in China or increase the paid-in capital or capital reserve, it shall fall under the circumstance of "new increase in or conversion to the paid-in capital or capital reserves of a Chinese resident enterprise". Any investor that meets the other requirements stipulated in the Notice may enjoy the policy of temporarily not being levied the withholding income tax.

(2) Where an overseas investor transfers reinvestment funds through its RMB reinvestment designated deposit account pursuant to the provisions of the financial authorities in charge, the investor can enjoy the preferential policy of temporary tax exemption.

3. Liability Insurance Premium Like Employer Liability Insurance Premium, Public Liability Insurance Premium Are Deductible from the Taxable Income

Recently, the State Administration of Taxation issued the Announcement on Matters Concerning the Pre-tax Deduction of Liability Insurance Premiums for Enterprise Income Tax Purpose (Announcement of the State Administration of Taxation [2018] No.52), which clearly specifies that insurance premiums paid, as required, by enterprises for the employer liability insurance, the public liability insurance and other types of liability insurance, are deductible from the taxable income for the enterprise income tax purpose at the final settlement of the annual enterprise income tax for FY2018 and afterwards.

4. The State Administration of Taxation Revised the Measures for the Disclosure of Information on Major Taxation Offence and Dishonesty Cases

With a view to improving the social credit system, the State Administration of Taxation revised the Measures for the Disclosure of Information on Major Taxation Offence Cases (for Trial Implementation) (Announcement of the State Administration of Taxation [2016] No.24, revised by Announcement of the State Administration of Taxation [2018] No.31), and formulated the Measures for the Disclosure of Information on Major Taxation Offence and Dishonesty Cases (Announcement of the State Administration of Taxation [2018] No.54,hereinafter referred to as “Measures”).

According to the actual situation, the Measures clarifies that the threshold of overdue taxes evaded by taxpayers is adjusted, specifically, if a taxpayer evades the owed tax payments of CNY100,000 or more, a dramatic decrease from the previous threshold of CNY1 million or more, this case will be counted as one involving a serious tax offence and dishonesty, and information on enterprises which refuse to perform tax obligations and spin out of control of tax authorities will be also published.

In addition, the Measures also revises the measures on information publication, credit restoration and disciplinary measures.

Tips from BDO China

It should be noted that “Major Taxation Offence and Dishonesty Cases” means any of the following circumstances where:

(1) a taxpayer fails to pay or underpay the amount of taxes payable by means of forging, altering, concealing or destroying without authorization account books or accounting vouchers, or overstating expenses, or omitting or understating incomes in account books, or refusing to file his/her tax returns after the taxation authorities have notified him to do so or filing false tax returns, with the amount of tax evaded reaches CNY1 million or more and accounts for 10 percent or more of the taxes due in any year;

(2) a taxpayer owes payable taxes of CNY10,000 or more, and hinder taxation authorities from collecting such taxes by means of transferring or concealing properties;

(3) a taxpayer defrauds the State of export tax rebates;

(4) a taxpayer refuses to pay taxes by means of force or threat;

(5) a taxpayer falsely issues special value-added tax invoices or other invoices to defraud export tax rebates or tax deductions;

(6) a taxpayer falsely issues general invoices of 100 pieces or above in quantity or with the amount totaling CNY400,000 or above;

(7) any entity or individual, without authorization, prints, falsifies, or alters invoices; illegally manufactures anti-fake products for invoices; or falsifies supervisory seals for invoices;

(8) a taxpayer conducted actions of tax evasion, evasion of overdue taxes collection, defrauding export tax rebates, refusal to pay tax, false issuance of invoices, etc., and is defined by the tax authorities as taxpayers which refuse to perform tax obligations and spin out of control of tax authorities;

(9) any case involves in serious offence and has significant social influence.

5. Tax Preferential Policies for Incubators of Technology Firms, University Science Parks and Coworking Spaces

To further encourage entrepreneurship and innovation, the Ministry of Finance, the State Administration of Taxation, the Ministry of Science and Technology and the Ministry of Education issued the Tax Policies for Incubators of Technology Firms, University Science Parks and Coworking Spaces (Cai Shui [2018] No.120). During the period between January 1, 2019 and December 31, 2021, for incubators of technology firms of national and provincial level, university science parks, and coworking spaces registered with the State, the real estate and land used by themselves or provided by them to incubated entities free of charge, through leasing or by other means, will be exempt from real estate tax and urban land use tax; and the income derived from their incubation services offered to incubated entities will be exempt from value-added tax.

6. Exemption of Enterprise Income Tax and Value-Added Tax for Interest Income Derived by Overseas Organizations from Investing in China Bond Market

With a view to promoting the opening-up of the bond market, the Ministry of Finance and the State Administration of Taxation issued the Notice on Policies on Enterprise Income Tax and Value-added Tax for Overseas Organizations Investing in China Bond Market (Cai Shui [2018] No.108). During the period from November 7, 2018 to November 6, 2021, the interest income earned by an overseas organization from its bond investment in China bond market will be temporarily exempt from enterprise income tax and value-added tax.

This temporary enterprise income tax exemption policy shall not apply to the bond interest income obtained by the organization or establishment set up in China by an overseas organization, of which the income has an actual connection with the organization or establishment.

7. Shenzhen Tax Bureau Adjusted Taxable Income Rate for Enterprise Income Tax Levied upon Assessment

In order to regulate the assessment, levying and collection of enterprise income tax after the reform of the state and local tax bureaus, the Shenzhen Tax Service, State Administration of Taxation has promulgated the Notice of the State Administration of Taxation on the Promulgation of the Measures for Assessment, Levying and Collection of Enterprise Income Tax (for Trial Implementation) (Guo Shui Fa [2008] No.30). From January 1, 2019 (the period of levy upon assessment), the taxable income rate for resident enterprises that adopt the method of paying enterprise income tax upon assessment in Shenzhen (including Shenzhen-Shantou special cooperation zone) shall be implemented according to the lowest rate set by the State Administration of Taxation, with detailed rates set out in the following table:

Industry	Taxable Income Rate (%)
Agriculture, Forestry, Husbandry and Fishery	3
Manufacturing	5
Wholesaling and Retailing	4
Transportation	7
Construction	8
Food and Beverage	8
Entertainment	15
Others	10

8. Launch of New Supervisory Seal for Invoices and General Invoice in Shenzhen

To improve the general invoice management in the reform of tax collection and administration system of state and local tax bureaus, the Shenzhen Tax Service, State Administration of Taxation issued the Announcement on the Launch of New Supervisory Seal for Invoices and General Invoice (Announcement of the Shenzhen Tax Service, State Administration of Taxation [2018] No.15), deciding to launch the new supervisory seal for invoices and general invoice. The invoices printed under the supervision of the former Shenzhen State Tax Bureau can continue to be used until December 31, 2018. After that, taxpayers should hand in the blank invoices printed under the supervision of the former Shenzhen State Tax Bureau for destroying before March 31, 2019.

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