



China Tax Newsletter

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1. Circular on Preferential Policies Concerning the Carryover and Pre-tax Deduction of Expenditures for Public Welfare Donations for Calculation of Enterprise Income Tax

The Ministry of Finance and the State Administration of Taxation jointly issued the Notice on the Policy Concerning the Carryover and Pre-tax Deduction of Expenditures for Public Welfare Donations for Calculation of Enterprise Income Tax (Cai Shui [2018] No. 15) on February 11, 2018. Main contents of the circular are as follows:

- (1) For the donations, made by an enterprise through non-profit social groups (for which the qualification of pre-tax deduction of public welfare donations have been granted) or the people's governments at or above the county level as well as departments and directly affiliated authorities thereof for the purpose of charitable activities and public welfare undertakings, they may be deducted in full from the taxable income if not higher than 12 percent of the annual total profits of the enterprise; however, if higher than 12 percent, the part in excess of 12 percent of the annual profits may be carried forward to the next three years for deduction when the taxable income is calculated, counting from the year subsequent to the year when the donations occur.
- (2) In deducting the expenditures of public welfare donations, the enterprise shall deduct firstly the donations carried forward from the previous years and then those made in the current year.

The Notice shall come into force as of January 1, 2017. Regarding public welfare donations made between September 1, 2016 and December 31, 2016, the Notice may apply if any portion of such donations has not been deducted for the enterprise income tax purpose in 2016.

2. Deed Tax Policies for Continued Support of the System Reform and Reorganization of Enterprises and Public Institutions

In order to provide continued support to the system reform and reorganization of enterprises and public institutions, the Ministry of Finance and the State Administration of Taxation jointly issued the Notice on Relevant Deed Tax Policies for Continued Support to Enterprises and Public Institutions for Their System Reform and Reorganization (Cai Shui [2018] No. 17, hereinafter referred to as the "Notice"). The Notice promulgates the deed tax collection and exemption policies under specific conditions for nine types of reorganizations, i.e. system reform of enterprises, system reform of public institutions, merge of companies, division of companies, enterprise bankruptcy, transfer of assets, debt-for-equity swaps, transfer of allotted land or capital contribution with such allotted land, and transfer of company equity (shares). Compared with the Notice of the Ministry of Finance and the State Administration of Taxation on Deed Tax Policies for Further Supporting the System Reform and Reorganization of Enterprises and Public Institutions (Cai Shui [2015] No. 37), the main contents of the Notice are as follows:

- (1) With regard to the transfer of assets, it is added that where a parent company increases the registered capital of its wholly-owned subsidiaries with the ownership of land and buildings, it shall be deemed transfer of the ownership of land and buildings and exempt from the deed tax.
- (2) Other policies have remained unchanged, only the validity period is extended.

The Notice shall be implemented from January 1, 2018 to December 31, 2020. For the deed taxes involved in the system reform and reorganization of enterprises and public institutions

that have not been handled yet before the promulgation of the Notice, the Notice may apply if the system reform and reorganization comply with the provisions of the Notice.

3. Tax Policies in Support of the Opening-up of the Crude Oil Futures Market and Other Commodity Futures Markets

In order to support the opening-up of the crude oil futures market and other commodity futures markets, the Ministry of Finance, the State Administration of Taxation and the China Securities Regulatory Commission jointly issued the Notice on Tax Policies in Support of the Opening-up of the Crude Oil Futures Market and Other Commodity Futures Markets (Cai Shui [2018] No. 21, hereinafter referred to as the "Notice") which shall come into force as of March 13, 2018. The main contents of the Notice are as follows:

- (1) For overseas institutional investors (including overseas brokerage agencies) which have no offices or premises within the territory of China or which have offices or premises within the territory of China but whose income have no de facto relationship with such offices or premises, their income from crude oil futures trading in China (excluding income from physical delivery) is temporarily exempted from enterprise income tax; commission income obtained by overseas brokerage agencies from the provision, outside the territory of China, of domestic crude oil futures brokerage service for overseas investors does not fall within service income derived from China and thus is exempted from enterprise income tax.
- (2) As from the date of the opening-up of crude oil futures market, income of overseas individual investors from investment in domestic crude oil futures shall be temporarily exempted from individual income tax within three years.

4. Operating Instructions for the Administration of Checking Value-added Tax Filings (for Trial Implementation)

In order to further strengthen and standardize the administration of checking value-added tax (VAT) filings, improve the quality of tax declaration, and optimize taxation services, the State Administration of Taxation has formulated the Operating Instructions for the Administration of Checking Value-added Tax Filings (for Trial Implementation) (hereinafter referred to as "Instructions"). The Instructions stipulates that:

- (1) The scope of information for checking includes VAT tax returns and the annexes, information of VAT invoices issued by VAT general taxpayers and small-scale taxpayers, information of vouchers obtained by VAT general taxpayers for which input VAT is deductible, information of tax payment made by the taxpayers, information of filings made by taxpayers for entitlement to preferential VAT treatments, and other information required for checking.
- (2) The main contents of the checking include: checking within tax return forms, checking of documents against tax return forms, and checking of tax return forms against tax payments. Checking within tax return forms means to check the logical relationship of the information within and among/between the forms of a VAT tax return and its annexes. Checking of documents against tax return forms means to check the VAT invoices issued in the current period, the vouchers for deducting input VAT, the filing information for VAT preferential treatments, etc. of a taxpayer against the information listed in the tax return forms. Checking of tax return forms against tax payments means to check the amount of tax payable declared by a taxpayer against the amount of tax actually paid in the current period. This is mainly to check whether the declared amount of tax payable has been paid on time and in full.

Pursuant to the Notice of the State Administration of Taxation on Issues Concerning the Implementation of the Operating Instructions for the Administration of Checking Value-added Tax Filings (for Trial Implementation) (Shui Zong Han [2018] No. 94), the Instructions shall come into force as of May 1, 2018 instead of March 1, 2018.

5. Adjustment on the Tax Collection Standard and the Corresponding Applicable Range of Urban Land Use Tax in Shenzhen

The Shenzhen Local Taxation Bureau issued the Announcement on the Adjustment of the Grade and Range of Urban Land Use Tax (Shenzhen Local Taxation Bureau [2017] No. 3, hereinafter referred to as the “Announcement”). The revisions are as follows:

- (1) Reduce the classification of urban land. The land grades in Shenzhen were adjusted from six to five, as the original sixth-grade land and fifth-grade land were merged into fifth-grade land. Simultaneously the land grade of Dongmen Shopping District was revised from 1 to 2.
- (2) Appropriately reduce the land use tax collection standards. The collection standards of urban land use tax in Shenzhen were amended from 30, 21, 13, 9, 5, 3 (unit of measurement: RMB/square meter) to 15, 12, 9, 6, 3 (unit of measurement: RMB/square meter).
- (3) Provide tax preference for industrial land. The tax collection standards of industrial land under the fifth-grade land are 8, 6, 5, 3, 2 (unit of measurement: RMB/square meter).

The taxpayer who has overpaid the urban land use tax in 2017 can apply for a tax credit against the tax payable in the future or a direct refund of the tax overpaid. The Announcement will be implemented from January 1, 2017 and will be valid for 5 years. If the relevant provisions previously issued are inconsistent with the contents of the Announcement, the Announcement shall prevail.

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