



China Tax Newsletter

July 2018

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1. Extending the Length of Years from 5 Years to 10 Years for High-tech Enterprises and Technology-oriented Small- and Medium-sized Enterprises to Carry Forward Their Losses

To support the development of high-tech enterprises and technology-oriented small- or medium-sized enterprises, the Ministry of Finance and the State Administration of Taxation issued the Notice on Extending the Length of Years for High-tech Enterprises and Technology-oriented Small- and Medium-sized Enterprises to Carry Forward Their Losses (Cai Shui [2018] No.76). From January 1, 2018, an enterprise, which becomes qualified as a high-tech enterprise or a technology-oriented small- or medium-sized enterprise in the current year, may carry forward the losses incurred in preceding five years before it gains such qualification. The portion of such losses that has not been offset can be carried forward to the subsequent ten years, instead of five years, for offset.

2. Upper Limit of Taxable Income Raised to CNY1 Million for Small Low-profit Enterprises

For the purpose of further supporting the development of small low-profit enterprises, the Ministry of Finance and the State Administration of Taxation issued the Notice on Further Expanding the Coverage of the Preferential Income Tax Policy for Small Low-profit Enterprises (Cai Shui [2018] No.77) and the Announcement on Matters Concerning the Administration of Tax Collection for Implementing the Policy of Further Expanding the Coverage of the Preferential Income Tax Policy for Small Low-profit Enterprises (Announcement of the State Administration of Taxation [2018] No.40). Main contents of the circulars are as follow:

(1) During the period from January 1, 2018 to December 31, 2020, the previous CNY500,000 upper limit of the annual taxable income of a small low-profit enterprise is doubled to CNY1 million, and the income of the enterprise will be counted in the taxable income at 50%, the half-reduced rate.

(2) Any eligible small low-profit enterprise, no matter whether it pays tax based on account examination or assessment, is entitled to the half-reduced tax collection policy after providing relevant information in their tax returns if its taxable income is lower than CNY1 million (inclusive).

(3) Eligible small low-profit enterprises are all required to make advanced payments of enterprise income tax on a quarterly basis. Where an enterprise has enjoyed the half-reduced tax collection policy when it makes the advanced payment of tax but fails to satisfy the criteria of small low-profit enterprises at the time of the annual final settlement, it shall make a supplementary payment of tax in accordance with applicable provisions.

(4) Where a small low-profit enterprise should have enjoyed the half-reduced tax collection policy under Announcement No.40 when it makes the advanced payment of tax in the first quarter of 2018 and thus overpays enterprise income tax, the overpaid amount may be offset against the advanced payments of tax due of the subsequent quarters.

3. Tax Authorities Will Complete the Refund of Uncredited Value-added Tax for 18 Major Industries by the End of September, 2018

To add impetus to high-quality economic growth, the Ministry of Finance and the State Administration of Taxation issued the Notice on the Tax Policy Concerning the Refund of Uncredited Value-added Tax for Some Industries in 2018 (Cai Shui [2018] No.70). The main contents are as below:

(1) Industries eligible for the refund of uncredited period-end VAT cover advance manufacturing industries, such as the equipment manufacturing industry, modern service sector, such as the research and development services, and power grid enterprises. In addition, the tax credit ratings of eligible taxpayers shall be Class A or Class B.

(2) The amount of uncredited period-end VAT to be refunded in the current period shall be calculated by the uncredited period-end VAT of the taxpayer in the preceding period prior to the tax refund application and the refund ratio, and the upper limit is the uncredited VAT at the end of 2017.

4. Adjustment of Tax Base for Tobacco Tax

To ensure the effective implementation of the Tobacco Tax Law of the People's Republic of China, the Ministry of Finance and the State Administration of Taxation issued the Notice on Defining the Tax Base for Tobacco Tax (Cai Shui [2018] No.75). The total amount actually paid by a taxpayer to purchase tobacco includes the tobacco purchase price paid by the taxpayer to the tobacco production and sales units and individuals and the extra-price subsidy. Among them, the extra-price subsidy is calculated on the basis of 10% of the tobacco purchase price.

In addition, according to the provisions of the State Administration of Taxation [2018] No.39, the new tobacco tax return will be adopted from August 1, 2018.

5. Announcement on Matters Concerning the MFN Treatment under Interest Clauses of the China-Chile Tax Treaty

Through exchange of letters, the competent tax authorities of Chile and China confirmed on April 16, 2018 and June 6, 2018 respectively that, the condition for the application of paragraph 3 in article 10 of the Protocol of the Agreement between the Government of the People's Republic of China and the Government of the Republic of Chile for the Elimination of Double Taxation and the Prevention of Tax Evasion and Avoidance with respect to Taxes on Income (hereinafter referred to as "the Agreement"), which establishes a most-favored nation clause (hereinafter referred to as "the MFN treatment") upon interest, has been fulfilled.

(1) After the application of the MFN treatment, the interest clauses of the Agreement incorporate 2 cases where "the tax so charged shall not exceed 4% of the total interest" if the beneficial owner of the interest is:

① An enterprise substantially deriving its gross income from the active and regular conduct of lending or finance business involving transactions with unrelated parties, where the enterprise is unrelated to the payer of the interest. For the purposes of this clause, the term "lending or finance business" includes the business of issuing letters of credit, providing guarantees or providing credit card services;

② An enterprise that sold machinery or equipment, where the interest is paid with respect to indebtedness arising as part of the sale on credit of such machinery or equipment.

Notwithstanding the provisions of the above items, if interest is paid as part of an arrangement involving back-to-back loans or other arrangement that is economically equivalent and intended to have a similar effect to an arrangement involving back-to-back loans, such interest may be taxed in the Contracting State in which it arises, but the tax so charged shall not exceed 10% the gross amount of the interest.

(2) After the application of the MFN treatment, the interest clauses of the Agreement will incorporate a case where the 5% lower source tax rate is applied, that is, the interest derived from bonds or securities that are regularly and substantially traded on a recognized securities market.

6. Integration of the National and Local Taxation Offices and Reform of the Tax Collection and Administration System

On July 20, 2018, the General Office of the Central Committee of the Communist Party of China and the General Office of the State Council issued the Plan for Reforming the Collection and Administration System of National Taxes and Local Taxes (hereinafter referred to as the "Reform Plan"). The Reform Plan lays out specific arrangements on completion of key reform tasks, such as establishment of new taxation offices and transfer of collection and administration duties on social insurance premiums and non-tax revenues, and clearly defines that the premiums of social insurance, such as basic pension insurance, basic medical care insurance, unemployment insurance, work injury insurance and maternity insurance, shall be collected by the taxation department. At the same time, the scope of non-tax revenue collection and administration duties to be transferred to the taxation department shall be determined on a reasonable basis according to the principle of offering more convenient services to people and improving efficiency.

In order to meet the needs of integration of the national and local taxation offices and reform of the tax collection and administration system, the State Administration of Taxation has also issued announcements in succession for corresponding adjustments.

Links of related announcements are as follows:

- ▲ Plan for Reforming the Collection and Administration System of National Taxes and Local Taxes issued the General Office of the Central Committee of the Communist Party of China and the General Office of the State Council, which is available at:
 - http://www.gov.cn/zhengce/2018-07/20/content_5308075.htm
- ▲ Announcement on Revising Some Regulatory Documents of Taxation (Announcement of the State Administration of Taxation [2018] No.31), which is available at:
 - <http://www.chinatax.gov.cn/n810341/n810755/c3518540/content.html>
- ▲ Announcement on Revising the Format of the Statement of Deposit Account Numbers of Taxpayers (Announcement of the State Administration of Taxation [2018] No.35), which is available at:
 - <http://www.chinatax.gov.cn/n810341/n810755/c3565223/content.html>
- ▲ Announcement on Amending the Relevant Instruments for Fixed Amount Information Collection of Individual Industrial and Commercial Households (Announcement of the State Administration of Taxation [2018] No.36), which is available at:
 - <http://www.chinatax.gov.cn/n810341/n810755/c3565264/content.html>
- ▲ Announcement on Clarifying Matters Concerning the Administration of Applications for and Inspection of Cross-regional Tax-related Affairs (Announcement of the State Administration of Taxation [2018] No.38), which is available at:
 - <http://www.chinatax.gov.cn/n810341/n810755/c3565286/content.html>

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