



# China Tax Newsletter

## January 2020

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## **1. Phase One China-US Economic and Trade Agreement**

Thanks to the concerted efforts of the economic and trade teams of China and the United States, China and the United States signed the Economic and Trade Agreement between the Government of the People's Republic of China and the Government of the United States of America in Washington on the basis of equality and mutual respect. The agreement has nine chapters, including the preamble, intellectual property rights, technology transfer, food and agricultural products, financial services, exchange rates and transparency, trade scale expansion, bilateral assessments and dispute settlement as well as the final articles.

At the same time, the two parties agreed that the United States would fulfill its commitment to cancel tariffs on products from China in different phases and achieve a shift from raising tariffs to lowering tariffs on China, including suspending tariffs originally set for December 15, 2019 and lowering the tariff rate on China already effective on September 1, 2019 from 15% to 7.5%.

## **2. Announcement on Matters concerning the Comprehensive Service Platform for VAT Invoices**

In order to facilitate taxpayers to issue and use Value-added Tax (VAT) invoices, the State Taxation Administration issued the Announcement on Matters concerning the Comprehensive Service Platform for VAT Invoices (Announcement of the State Taxation Administration [2020] No.1). The main content is as follows:

- ① Platform upgrade and function increase: the State Taxation Administration upgraded the VAT invoice selection and confirmation platform to the comprehensive service platform for VAT invoices, providing taxpayers with services such as invoice purpose confirmation, risk reminder and information downloading.
- ② Deadline adjustment of invoice type assessment: except in high-risk situations, tax authorities shall immediately assess the type of the following invoices upon application of taxpayers for invoice type assessment: ordinary VAT invoices, ordinary electronic VAT invoices, ordinary electronic VAT invoices of road tolls, motor vehicle sales invoice and unified invoice for used car sales.
- ③ Missing invoice handling: where taxpayers lose both the invoice page and the crediting page of a special VAT invoice or unified invoice for motor vehicle sales issued, they can use the photocopy of the accounting page of the lost invoice affixed with the special seal for invoices of the seller as the credit voucher, tax refund voucher or accounting voucher of the input VAT.

## **3. Announcement on Policies on Individual Income Tax for Donations for Public Welfare and Charities**

The Ministry of Finance and the State Taxation Administration released the Announcement on Policies on Individual Income Tax for Donations for Public Welfare and Charities (Announcement of the Ministry of Finance and the State Taxation



Administration [2019] No.99), with effect from January 1, 2019. The main content is as follows:

Items	Main Content
Deduction conditions	Where an individual makes donations, through a nonprofit social organization, or state organs such as the government above the county level and the internal department thereof within in the People's Republic of China for public welfare and charity undertakings of education, poverty alleviation and financial help (hereinafter referred to as the public welfare donations), such expenses for public welfare donations can be deducted before the individual income tax in accordance with relevant provisions of the individual income tax law.
Amount determination	<ol style="list-style-type: none"> <li>1. Where monetary assets are donated, the actual donation amount shall prevail;</li> <li>2. Where equity or real estate are donated, the amount deductible shall be determined based on the original value of the equity or real estate owned by an individual;</li> <li>3. Where non-monetary assets other than equity and real estate are donated, the amount deductible shall be determined based on the market price of the non-monetary assets.</li> </ol>
Provisions on the deduction for resident individuals	<ol style="list-style-type: none"> <li>1. Expenses for public welfare donations incurred by resident individuals may be deducted from income from lease of property, property transfer, income from interests and dividends, contingent income (hereinafter referred to as classified income), comprehensive income or business income. Public welfare donation expenses which cannot be fully deducted from one type of income for the current period can be deducted from other types of income according to relevant provisions.</li> <li>2. Where expenses for public welfare donations incurred by an resident individual are deducted from the comprehensive income or business income, the limit for deduction shall be 30 percent of the taxable income of the comprehensive income or the business income of the current year respectively; where the deduction is made from the classified income, the limit for deduction shall be 30 percent of the taxable income of the classified income for the current month;</li> <li>3. An resident individual shall, on their own initiative, determine the order in which expenses for public welfare donations are deducted from their comprehensive income, classified income and business income based on the amount of each type of income, amount of expenses for public welfare donations and applicable tax rates.</li> </ol>
Provisions on the deduction from comprehensive income	<ol style="list-style-type: none"> <li>1. Where resident individuals derive income from wages and salaries, they may opt to deduct expenses for public welfare donations when withholding and prepaying the individual income tax, or when making the annual final settlement. Where they opt to deduct the expenses when withholding and prepaying the individual income tax, they shall calculate the deduction limit in the cumulative withholding method, i.e. the deduction limit for the month when the donation is made shall be 30 percent of the accumulated taxable income ending the month. If individuals obtain wage and salary income from two or more sources, they may opt to deduct the expenses for public welfare donations from one of these sources. Once they opted, the option cannot be changed for the current year.</li> <li>2. Where resident individuals derive income from remuneration for personal services, income from author's remuneration or royalties, the expenses for</li> </ol>



Items	Main Content
	<p>public welfare donations shall not be deducted when resident individuals withhold and prepay individual income tax, but shall be deducted when the final settlement is made.</p> <p>3. Where resident individuals derive income such as annual one-off bonuses or equity incentive and adopt a separate tax calculation method instead of incorporating the income in the comprehensive income pursuant to relevant provisions, the deduction of expenses for public welfare donations shall be handled in accordance with the provisions for the deduction from classified income in the Announcement.</p>
Deductible but not deducted	<p>Expenses for public welfare donations incurred by resident individuals may be deducted from the classified income derived in the month when a donation is made. The expenses of public welfare donations which shall be deducted from the classified income of the current month but not deducted yet may be retrospectively deducted in accordance with the following provisions:</p> <p>1. Where the withholding agent has withheld the individual income tax but has not yet paid the tax, a resident individual may ask the withholding agent for a retrospective deduction and refund of the withheld tax amount.</p> <p>2. Where the withholding agent has withheld and paid the individual income tax, the resident individual may request the withholding agent to apply to the tax authority that collects the tax to correct the declaration and make retrospective deduction within 90 days from the date of making the donation. The tax authority and the withholding agent shall handle the matter.</p> <p>3. Resident individuals who declare tax on their own may make applications to the competent tax authorities for correction of the declaration and retrospective deduction within 90 days from the date of making public welfare donations. Where resident individuals derive multiple types and amounts of classified income in the current month, they shall first deduct the expenses for public welfare donations from one amount of one type. Expenses for public welfare donations already deducted from classified income shall not be adjusted to be deducted from other types of income.</p>
Provisions on the deduction from business income	<p>1. Expenses for public welfare donations incurred by individual businesses shall be deducted from their business income.</p> <p>2. Regarding expenses for public welfare donations incurred by sole proprietorship enterprises and partnership enterprises, the individual investors shall calculate the expenses attributable to each individual investor based on the allocation ratio of the partnership enterprises in the year of the donations (100% for sole proprietorship enterprises). Individual investors shall consolidate expenses for public welfare donations incurred by sole proprietorship enterprises and partnership enterprises attributable to them and other expenses for public welfare donations which they need to deduct from business income and deduct the total expenses from the business income.</p> <p>3. Where taxpayers opt to deduct expenses for public welfare donations from business income, they may opt to deduct the expenses at the time of tax prepayment or at the time of final settlement.</p> <p>4. Where the assessed levying method is adopted for the business income, the expenses for public welfare donations shall not be deducted.</p>
Provisions on the deduction for non-resident individuals	<p>For expenses for public welfare donations incurred by non-resident individuals, the portion that does not exceed 30 percent of their taxable income for the month in which the expenses for public welfare donations incur may be deducted from their taxable income. Expenses for public welfare donations that are not fully deducted may be deducted from the</p>



Items	Main Content
	business income. For expenses for public welfare donations which are deductible from the taxable income of non-resident individuals in accordance with the relevant provisions but not actually deducted, they may make retrospective deduction in accordance with relevant provisions.
Donation documents	When accepting donations from individuals, social organizations for public welfare and state organs shall issue donation receipts in accordance with relevant regulations. Where an individual claims a donation receipt, it shall be issued. Where individuals fail to obtain the donation receipts in time when making donations for public welfare, they may temporarily deduct the expenses for public welfare donations by the bank payment voucher of public welfare donations, and provide the withholding agent with a copy of the bank payment voucher of public welfare donation. Individuals shall supplement donation documents to the withholding agent within 90 days from the date of donation. Where an individual fails to provide the donation documents as required, the withholding agent shall report to the competent tax authority within 30 days. Where government organs, enterprises and public institutions uniformly arrange for employees to make public welfare donations, the taxpayer may deduct expenses for public welfare donations by the donation documents collectively issued and the detailed list of employees.

#### **4. Adjustment of the Policy on Collection of Employment Security Fund for Disabled Persons**

In order to further improve the system of employment security fund for disabled persons, the Ministry of Finance issued the Announcement on Adjusting the Policy on Collection of Employment Security Fund for Disabled Persons (Announcement of the Ministry of Finance [2019] No. 98). The main content is as follows:

- ① The upper limit for the collection criteria of employment security funds for disabled persons shall be 2 times the average wage of the local society. The average wage of the local society is the weighted average of the average wages of the non-private sector employees in the cities and towns of the local society and the average wages of the private sector employees in the cities and towns of the local society.
- ② Where the employing entity accepts disabled persons for employment in the entity by means of labor dispatch in accordance with laws and regulations, the number of disabled persons shall be counted into the number of disabled persons in actual employment and the number of on-the-job workers of one party after the dispatching entity and the accepting entity reach a consensus through signing an agreement. No duplicated counting shall be allowed.
- ③ From January 1, 2020 to December 31, 2022, the employment security funds for disabled persons shall be reduced in multiple bands. Where the rate of employment of disabled persons achieved by the employing entity reaches more than 1% (including 1%), but fails to reach the rate as stipulated by the people's government of the province, autonomous region or municipality directly under the central



government where the entity is located, only 50% of the employment security fund for disabled persons payable as stipulated shall be paid; where the rate of employment of disabled persons achieved by the employing entity is less than 1%, only 90% of the employment security fund for disabled persons payable as stipulated shall be paid;

④ From January 1, 2020 to December 31, 2022, enterprises with fewer than 30 (including 30) on-the-job employees will temporarily be exempted from the employment security fund for disabled persons.

Meanwhile, the State Taxation Administration issued the Announcement on the Amendment to the Application Form for Payment of Employment Security Fund for Disabled Persons (Announcement of the State Taxation Administration [2019] No. 49) and amended the form and fill-in instructions thereof. The amended Application Form for Payment of Employment Security Fund for Disabled Persons shall be applicable to taxpayers who declare and pay the employment security fund for disabled persons in accordance with relevant regulations as of January 1, 2020.

## **5. Announcement on Matters concerning Tax Collection and Administration**

To thoroughly implement the guidelines of the fourth plenary sessions of 19th National Congress of the Communist Party of China (CPC) and the Central Economic Work Conference, further optimize the tax law enforcement methods, improve the tax business environment and boost enterprise growth, with the aim of solving problems, the State Taxation Administration issued the Announcement on Matters concerning Tax Collection and Administration (Announcement of the State Taxation Administration [2019] No. 48) and clarified four matters: (1) cancellation of the requirement on the concurrent payment of outstanding tax and late payment interest; (2) clarification of issues regarding temporary tax registration; (3) optimization of the identification and removal procedures of abnormal taxpayers; and (4) clarification of basic collection and administrative matters in the enterprise bankruptcy liquidation procedures.

## **6. The Tax Treaty between the Government of the People's Republic of China and the Government of New Zealand Took Effect**

The Agreement between the Government of the People's Republic of China and the Government of New Zealand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the protocol took effect on December 27, 2019. It is applicable to tax withheld at source for payment made as of January 1, 2020 or thereafter and other taxes collected in any tax years as of January 1, 2020 or thereafter. The content is as follows:

Relevant Article	Content
Royalties	Royalties arising in one Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State. However, in the event that the beneficial owner of the royalties is a resident of the





Relevant Article		Content
		other Contracting State, the amount taxed shall not exceed 10% of the total amount of the royalties.
Dividends	Tax rate	<p>Dividends paid by a resident enterprise of a Contracting State to a resident of the other Contracting State may be taxed in that other Contracting State. However, in the event that the beneficial owner of the dividends is a resident of the other Contracting State, the amount taxed shall not exceed 5% of the total amount of the dividends if the beneficial owner is an enterprise and directly owns at least 25% of the capital of the enterprise paying the dividends; in other cases, the amount taxed shall not exceed 15% of the total amount of the dividends.</p> <p>With respect to the requirement on the ownership of at least 25% of the capital of the enterprise paying the dividends, the Agreement incorporated the time limit of 365 days of shareholding, namely, the enterprise shall directly own at least 25% of the capital of the enterprise paying the dividend on each day during the period of 365 days, including the dividend payment date (for the calculation of 365 days, shareholding changes due to reorganization of the shareholding enterprise or the enterprise paying the dividends, such as merger or spin-off reorganization, shall not be taken into account).</p>
	Tax exemption provisions	Dividends paid by a resident enterprise of a Contracting State shall not be taxed in that Contracting State if the beneficial owner of the dividends and its related enterprises, jointly hold not more than 25% of the voting rights of the enterprise paying the dividend, directly or indirectly, and the beneficial owner is the government of the other Contracting State.
Interest	Tax rate	Interest arising in one Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State. However, in the event that the beneficial owner of the interest is a resident of the other Contracting State, the tax amount shall not exceed 10% of the total amount of the interest.
	Tax exemption provisions	Interest arising in one Contracting State and obtained by and beneficially owned by a resident of the other Contracting State shall be exempted from tax in the first-mentioned Contracting State, on condition that the transactions between the beneficial owner of the interest and the interest payer fully comply with the arm's length principle, and the beneficial owner is an institution of the other Contracting State (including its administrative region and the local authorities), the Central Bank of the other Contracting State or among the institutions as listed in the Agreement, or any other statutory bodies of one Contracting State which undertakes functions of the government, as the competent authorities of both the Contracting Parties may agree on at any time.
Property transfer		<p>With respect to gains derived by residents of one Contracting party from transfer of shares or similar equities (such as equities of partnership enterprises or trust), if more than 50% of the value of such shares or similar equities derive directly or indirectly from real estates located in the other Contracting State, as defined in Article 6, at any time within 365 days preceding the date of transfer, such shares or similar equities can be taxed in the other Contracting State.</p> <p>Income or gains derived by a resident of one Contracting State from the transfer of his/her shares in a resident company in the other Contracting State may be taxed in that other Contracting State if the recipient of such income or gains has directly or indirectly held at least 25% of the shares of such resident company within 12 months preceding the transfer.</p>



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