

China Tax Newsletter

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Our tax newsletter for this month covers:

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1. Regulations about the Urban Maintenance and Construction Tax, Education Surcharge and Local Education Surcharge Involved in the Refund of Period-end Uncredited Value-added Tax

On July 27, 2018, the Ministry of Finance and the State Administration of Taxation issued the Notice on the Policy for Urban Maintenance and Construction Tax, Education Surcharge and Local Education Surcharge Involved in the Refund of Period-end Uncredited Value-added Tax (Cai Shui [2018] No.80). Pursuant to the circular, the taxpayers who are eligible for the refund of uncredited value-added tax (VAT) at the end of a VAT period under the regulations of the Notice on the Tax Policy Concerning the Refund of Uncredited Value-added Tax for Some Industries in 2018 (Cai Shui [2018] No.70) will be allowed to deduct the refunded VAT amount from the tax (collection) basis of urban maintenance and construction tax, education surcharge and local education surcharge.

2. Vehicle and Vessel Tax Preferential Policies for Energy-saving Vehicles and New Energy Vehicles and Vessels

In order to facilitate the energy saving and encourage the use of new energy, the Ministry of Finance and the State Administration of Taxation issued the Notice on Vehicle and Vessel Tax Preferential Policies for Energy-saving Vehicles and New Energy Vehicles and Vessels (Cai Shui [2018] No.74), in which it is stipulated that the vehicle and vessel tax shall be reduced by half on energy-saving vehicles which meet the relevant criteria, and the new energy vehicles and vessels which meet the criteria are exempted from vehicle and vessel tax.

3. Tax Collection and Administration Regulations of the Tax Preferential Policies for Venture Capital Enterprises and Angel Investors

The Ministry of Finance and the State Administration of Taxation jointly issued the Notice on Tax Policies Relating to Venture Capital Enterprises and Angel Investors (Cai Shui [2018] No.55) on May 14, 2018 so as to promote the tax incentives relating to venture capital enterprises and angel investors, i.e. venture capital enterprises or angel investors invest in a start-up technology enterprise for two years (24 months) may use 70% of the investment amount to offset against the taxable income, from 8 pilot regions to the entire Mainland China.

Type of Investors		Particulars	Implementation Period
Corporate venture capital enterprise		It may use 70% of its investment amount to offset against the taxable income of the corporate venture capital enterprise in the year of its second anniversary of equity holding; the unutilized balance may be carried forward to subsequent tax year(s) for offsetting.	Implemented with effect from January 1, 2018
Limited partnership venture capital enterprise	Legal-person partner	It may use 70% of the investment amount in the start-up technology enterprise to offset against its share of income from the partnership venture capital enterprise; the unutilized balance may be carried forward to subsequent tax year(s) for offsetting.	
	Individual partner	He/she may use 70% of the investment amount in the start-up technology enterprise to offset against his/her share of business income of the partnership venture capital enterprise; the unutilized balance may be carried forward to subsequent tax year(s) for offsetting.	
Angel investor		He/she may use 70% of the investment amount to offset against his/her taxable income from transfer of the equity in the said start-up technology enterprise; the unutilized balance may be carried forward to offset against his/her taxable income from future transfer of the equity of the said start-up technology	Implemented with effect from July 1, 2018

Type of Investors	Particulars	Implementation Period
	<p>enterprise.</p> <p>Where an angel investor invests in multiple start-up technology enterprises in the pilot regions, if one of the start-up technology enterprises is liquidated and he/she has yet to use up 70% of the investment amount to offset against taxable income, he/she may use the unutilized balance to offset against his/her taxable income from transfer of the equity of other start-up technology enterprises within 36 months from the date of deregistration and liquidation.</p>	

Recently, the State Administration of Taxation issued the supporting tax collection and administration policies of Cai Shui [2018] No.55, i.e. Announcement of the State Administration of Taxation on Matters Concerning Tax Policies for Venture Capital Enterprises and Angel Investors (Announcement of the State Administration of Taxation [2018] No.43), which makes further detailed regulations for policy implementation approach, processing procedures, materials required and implementation time.

(1) For the policy implementation approach: It is basically the same between the Announcement of the State Administration of Taxation [2018] No.43 and the Announcement of the State Administration of Taxation on Issues Concerning the Pilot Tax Policies for Venture Capital Enterprises and Angel Investors (Announcement of the State Administration of Taxation [2017] No.20).

(2) For the processing procedures and materials required:

① Regarding enterprise income tax, according to the regulations of the Notice on Issuing the Revised Measures for Handling Enterprise Income Tax Preferences (Announcement of the State Administration of Taxation [2018] No.23), corporate venture capital enterprise and legal-person partners of the venture capital partnership who shall adopt the handling methods of "making independent judgment, declaring for enjoyment and retaining the relevant materials for future reference" when enjoying enterprise income tax preferences, enterprises are no longer required to go through the record-filing formalities.

At the same time, venture capital enterprises are no longer required to provide the Breakdown of Income Distributed to Legal-person Partners of the Venture Capital Partnership to the tax office, but directly provide it to the legal-person partners to future reference.

② Regarding individual income tax, individual partners of venture capital partnership and angel investors still need to go through record-filing formalities and provide the relevant materials at the time of filing the deduction.

(3) Regarding the implementation time, the relevant individual income tax regulations for angel investors shall take effect as of July 1, 2018, and the relevant regulations about corporate venture capital enterprise and venture capital partnership will be valid from January 1, 2018.

Tips from BDO China

Since the deepening implementation of the reform in "streamlining administration, delegating power, strengthening regulation and improving services" for the tax system, eligibility for relevant tax preferences have been changed from pre-examination and approval or pre-filing to "making independent judgment, declaring for enjoyment and retaining the relevant materials for future reference". In combination with the

Announcement of the State Administration of Taxation on Matters Concerning Tax Policies for Venture Capital Enterprises and Angel Investors (Announcement of the State Administration of Taxation [2018] No.43), Notice on Issuing the Revised Measures for Handling Enterprise Income Tax Preferences (Announcement of the State Administration of Taxation [2018] No.23) and other relevant regulations, the procedures and information for the parties to the preferential matters are as follows:

Type of Investor	Processing Procedure	Implementation Time	Implementation Site	Detail Processing Procedure and Materials Required
Corporate venture capital enterprise				<p>Making independent judgment, declaring for enjoyment, and retain the following main materials for future reference:</p> <ol style="list-style-type: none"> 1. Annual certification materials that meet the requirements of venture capital enterprises issued by the National Development and Reform Commission or China Securities Regulatory Commission; 2. The investment contract (agreement), articles of association, relevant proof materials of actual investment when the technology-oriented start-up accepts cash investment; 3. A description of equity percentage of the invested technology-oriented start-up held by the venture capital enterprise and its related parties; 4. The related materials of the invested enterprises to prove that the enterprises are in compliance with the conditions of technology-oriented start-ups: <ol style="list-style-type: none"> (1) A description of number of employees, total assets, annual sales revenue and the proportion of employees with bachelor degree or above at the time of acceptance of the investment; (2) The certification of establishment time that is not more than 5 years at the time of acceptance of the investment; (3) A statement of the fact that the enterprise was not made on the domestic and foreign stock exchanges at the time of acceptance of the investment and within 2 years after acceptance of the investment; (4) A statement of the proportion of total R&D expenses in the total cost in the year of acceptance of investment and the next tax year; 5. Other relevant materials concerning the investment time, investment amount, investment ratio and distribution ratio of the legal-person partners to invest in the venture capital partnership and the Breakdown of Income Distributed to Legal-person Partners of the Venture Capital Partnership accepted by the venture capital partnership's tax authority.
Legal-person partners of the venture capital partnership	<p>Filing of the Tax Return</p> <p>Future Reference</p>	At the time of annual final settlement of enterprise income tax	Enterprise's competent tax authority	
Venture capital partnership	Filing of Investment Deductions	Within three months after the end of the year when the investment in the technology-oriented start-up has been made for two years	Venture capital partnership's competent tax authority	Provide the Record-filing Form of Investment Deductions for Individual Income Tax Purposes of the Venture Capital Partnership

Type of Investor	Processing Procedure	Implementation Time	Implementation Site	Detail Processing Procedure and Materials Required
	Future Reference	Invested in a technology-oriented start-up for two years and after the end of the year to distribute income		Provide the Breakdown of Income Distributed to Legal-person Partners of the Venture Capital Partnership to the legal-person partners.
Individual partners of a venture capital partnership	Filing of Investment Deductions	Within three months after the end of the year when the investment in the technology-oriented start-up has been made for two years	Venture capital partnership's competent tax authority	Provide the Record-filing Form of Investment Deductions for Individual Income Tax Purposes of the Venture Capital Partnership
	Filing of the Tax Return	At the time of filing the annual tax return for individual income tax		Provide the amount of investment deductible in the current year in the Column "Other Deductible Expenses" on the Individual Income Tax Return for Production and Operation Income (Form B) and specify the term "investment deduction" as well.
Angel investor	Filing of Investment Deductions	Within the 15th day of the month following the month when the investment in the technology-oriented start-up has been made for 24 months	Technology-oriented start-up's competent tax authority	Submit the Record-filing Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors together with technology-oriented start-up
	Declaration of Investment Deductions	Within the 15th day of the month following the month when equities of an unlisted technology-oriented start-up are transferred	Technology-oriented start-up's competent tax authority	<ol style="list-style-type: none"> Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors; Record-filing Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors; Where the angel investor needs to offset the uncredited amount of investment made in the past 36 months in another technology-oriented start-up that has been deregistered and liquidated, the investor shall, when filing the tax return, also provide the Record-filing Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors accepted by the competent tax authority of the deregistered and liquidated start-up which specifies the deregistration and liquidation, and the Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors accepted by the tax authority after enjoying the investment deduction policy previously.
	Declaration of Investment Deductions	When an angel investor transfers the listed shares of a technology-oriented start-up	The competent tax authority at the place where the stock exchange is located	Provide the Record-filing Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors and the Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors accepted by the tax authority after his or her investment in such technology-oriented start-up, handle affairs concerning the settlement of tax payments related to transfer of restricted shares and offset the uncredited amount of investment.

Type of Investor	Processing Procedure	Implementation Time	Implementation Site	Detail Processing Procedure and Materials Required
	Filing of Investment Deductions	When the invested technology-oriented start-ups are deregistered and liquidated	Deregistered and liquidated technology-oriented start-up	Submit the Record-filing Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors to register the relevant situations.
	Filing of the Tax Return	Within the 15th day of the month following the transfer of shares	Technology-oriented start-up's competent tax authority	Submit to the tax authority the Self-Declaration Form of Individual Income Tax (Form A) and specify the deductible amount of investment in the current year in the "Others" Column for the "Pre-tax Deductions" on the Self-Declaration Form of Individual Income Tax (Form A), and also specify the term "deduction by investment".
Technology-oriented start-up (Invested enterprises)	Future Reference	N/A	Technology-oriented start-up's competent tax authority	1. Investment contract (agreement) for the cash investment received by technology-oriented start-up; 2. Articles of association of technology-oriented start-up; 3. Evidential materials justifying the capital actually contributed; 4. Documents proving that the invested enterprise meets the conditions for technology-oriented start-ups.
	Filing of Investment Deductions	Within the 15th day of the month following the month when the investment in the technology-oriented start-up has been made for 24 months		Submit the Record-filing Form of Investment Deductions for Individual Income Tax Purposes for Angel Investors together with the angel investor.
	Filing of Investment Deductions	Within 15th day of the subsequent month after the individual shareholder of the invested enterprise is changed, or there are any changes to the equity held by the individual shareholder.		1. Submit to the tax authority the Basic Information Sheet for Individual Income Tax (Form A) that contains information on changes in the individual shareholder. In the event that the individual shareholder is an angel investor, the enterprise shall specify the term "angel investor" in the "Note" Column. 2. Withholding agent shall provide the deductible amount of investment in the current year in the "Others" Column for the "Pre-tax Deductions" on the Report Form for Individual Income Tax Withheld, and also specify the term "deduction by investment".

4. Several Issues concerning the Administration of Value-added Tax

On July 25, 2018, the State Administration of Taxation issued the Announcement on Clarifying Several Issues concerning the Administration of Value-added Tax Levies for Sino-foreign Cooperation in Running Schools (Announcement of the State Administration of Taxation [2018] No.42), and the main contents are as followed:

(1) Where overseas educational institutions and domestic schools engaged in academic education in China carry out Sino-foreign cooperation in running schools, their income from the provision of academic education services are exempted from VAT.

(2) For domestic air ticket agency services offered by air transport sales agencies, the sales

shall be the balance of the full price and additional fees and charges after deduction of the net settlement amount of domestic air tickets and related expenses that customers are charged and paid to air transport enterprises or other air transport sales agencies.

(3) A taxpayer who transfers its supplementary cultivated land indicator through the trading platform established by the provincial land administrative department shall pay VAT at a rate of 6% based on the sales of intangible assets.

(4) Where the trading of a listed company's non-tradable shares formed due to a significant asset restructuring as well as a listed company's bonus or converted shares accrued from the aforesaid shares during the period from the first day when the resumption of trading of the shares to the date of the lifting of the ban is suspended due to the significant asset restructuring, the purchase price shall be the closing price of the trading day preceding suspension of listing of the said listed company's shares due to significant asset restructuring; if the trading of the company's shares has been suspended before the significant asset restructuring, the purchase price shall be the opening price of the stock on the first day of the resumption of trading after the listed company has completed the asset restructuring.

(5) The handling charges or commission income obtained by auction houses for the entrusted auction shall be subject to VAT based on "brokerage services".

(6) If a VAT general taxpayer provides installation services while selling self-produced machinery equipment, the sales for the machinery equipment and installation services shall be separately accounted for. The installation services may be taxed in accordance with the simplified tax calculation method selected for projects with self-supplying materials.

(7) If supplementary invoices need to be issued for business tax-related business of a taxpayer occurring before May 1, 2016, including business for which business tax or supplementary business tax has already been declared, ordinary VAT invoices may be issued. A taxpayer shall keep the relevant materials completely for future reference.

5. Other Tax Collection and Administration Regulations

To assure the smooth progress of the reform of tax collection and administration systems for local offices of the State Administration of Taxation and local tax bureaus, the State Administration of Taxation issued the Announcement on Matters concerning the Use of Ordinary Electronic Value-added Tax Invoices (Announcement of the State Administration of Taxation [2018] No.41), in which it is stipulated that the new invoice supervision seal will be used for the ordinary electronic VAT invoice. In addition, in order to ensure the smooth implementation of tax inspection after the merger of tax authorities, the State Administration of Taxation has formulated the Measures for the Administration of Tax Inspection Certificate. Since January 1, 2019, the new tax inspection certificate will be put into use.

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