



China Tax Newsletter

July 2019

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1. Continuing with Differentiated Individual Income Tax Policies for Dividends and Bonuses Distributed by Quoted Companies on the National Equities Exchange and Quotations

The Ministry of Finance, the State Taxation Administration and the China Securities Regulatory Commission jointly issued the differentiated individual income tax policies for dividends and bonuses distributed by quoted companies on the National Equities Exchange and Quotations (hereinafter referred to as "NEEQ") in 2014. The effective period of the policies is from July 1, 2014 to June 30, 2019. On July 12, 2019, the above-mentioned three departments issued another notice on continuing implementing the differentiated individual income tax policies for dividends and bonuses distributed by quoted companies on NEEQ.

① Content of the differentiated individual income tax policies for dividends and bonuses distributed by quoted companies on NEEQ

Where individuals have held the shares in a quoted company on NEEQ for a period of one month or less, their dividends and bonuses obtained shall be all included in the taxable income; if the shareholding period is more than one month but less than one year (inclusive), temporarily 50% of the dividends and bonuses obtained shall be included in the taxable income; the rate of individual income tax applicable to the aforesaid income is 20%. If the shareholding period is more than one year, the dividends and bonuses obtained shall be temporarily exempt from individual income tax. When an individual transfers his/her shares, the shareholding period shall be computed under the principle of "first-in, first-out", i.e. the shares first obtained in his/her securities account are deemed as those to be transferred first.

Shareholding Period (P)	Preferential Policy	Actual Tax Rate
P≤1 month	Dividends and bonuses obtained shall be all included in the taxable income	20%
1 month <P≤1 year	50% of the dividends and bonuses obtained shall be included in the taxable income	10%
P>1 year	Dividends and bonuses obtained shall be temporarily exempt from individual income tax	0%

② Collection administration of the differentiated individual income tax policies for dividends and bonuses distributed by quoted companies on NEEQ

When a NEEQ-quoted company distributes dividends and bonuses, if individuals have held the shares for less than one year (inclusive) till the date of record and the shares are still not transferred, the NEEQ-quoted company shall temporarily not withhold their individual income tax. When they transfer the shares, the China Securities Depository and Clearing Corporation Limited (hereinafter referred to as the "CSDC") shall compute the actual tax payable based on their shareholding periods, and the tax payables shall be deducted from their capital accounts and transferred to the CSDC by a securities company or other stock custody institution. The CSDC shall transfer the tax payables to the NEEQ-quoted company within the first five working days in the next month, and the NEEQ-quoted company shall, during the statutory declaration period in the month when the tax amount is



received, declare and pay the individual income tax for all its shareholders subject to such tax and in full amount to the competent tax authority.

The dividends and bonuses obtained by an individual or a securities investment fund from a NEEQ-quoted company which was originally quoted on the STAQ System or the NET System (hereinafter referred to as the "STAQ/NET-quoted company") and a delisted company which is quoted on the NEEQ shall be subject to the individual income tax in accordance with this Notice; however, the dividends and bonuses of restricted shares obtained from a delisted company which is quoted on the NEEQ shall be subject to the individual income tax in accordance with the relevant provisions of the Notice on Issues Relating to Implementation of Differentiated Individual Income Tax Policies for Dividends and Bonuses of Listed Companies (Cai Shui [2012] No.85).

2. Preferential Tax and Fee Policies for Community-based Domestic Service Sectors of Elderly Care, Child Care and Household Services

The Ministry of Finance, the State Taxation Administration, the National Development and Reform Commission, the Ministry of Civil Affairs, the Ministry of Commerce and the National Health Commission jointly released the Announcement on Preferential Tax and Fee Policies for Community-based Domestic Service Sectors of Elderly Care, Child Care and Household Services (Announcement of the Ministry of Finance, the State Taxation Administration, the National Development and Reform Commission, the Ministry of Civil Affairs, the Ministry of Commerce and the National Health Commission [2019] No.76) so as to boost the development of community-based domestic service sectors of elderly care, child care and household services. According to the announcement, organizations which provide elderly care, child care or household services to communities can enjoy the following preferences:

- ① Income from provision of elderly care, child care or household services to communities shall be exempted from value-added tax (VAT).
- ② For income from provision of elderly care, child care or household services to communities, only 90% of the income is included in the taxable income and subject to the enterprise income tax (EIT).
- ③ Transferees of properties or land which are used for the provision of or elderly care, child care or household services to communities shall be exempted from deed tax.
- ④ Properties or land used for the provision of elderly care, child care or household services to communities shall be exempted from registration fees for immovable property, cultivated land development fees, land re-cultivation fees, and idle land fees. Construction projects used for the provision of or elderly care, child care or household services to communities shall be exempted from urban infrastructure fees. Where air-raid basements cannot be built due to geological conditions, such properties and land shall be exempted from the air-raid basement relocation fees.



- ⑤ Properties or land obtained by organizations, which provide elderly care, child care or household services to communities, through leasing or uncompensated use or owned by themselves and used for the purpose of elderly care, child care or household services are exempted from property tax and urban land use tax.

The announcement is effective from June 1, 2019 to December 31, 2025.

3. Protocol Amending the Agreement Between the Government of the People’s Republic of China and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Protocol Thereto Came into Effect

Protocol Amending the Agreement Between the Government of the People’s Republic of China and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Protocol Thereto Signed at New Delhi on 18th July, 1994 was signed at New Delhi on November 26, 2018 and came into effect on June 5, 2019. It applies to income - on the part of China - generated from January 1, 2020 or subsequent tax years, and income - on the part of India - generated from April 1, 2020 or subsequent fiscal years. The main articles amended are as follows:

Articles Involved	Main Changes	Details Before the Amendment	Details after the Amendment
Persons covered	Adding provisions on fiscally transparent entities	(No relevant content)	Income derived by or through an entity or arrangement that is established in either Contracting State and that is treated as wholly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State only to the extent that the income is treated, for the purposes of taxation by that State, as the income of a resident of that State. This Agreement shall not affect the taxation, by a Contracting State, of its residents (except for specific articles as specified in the Protocol)
Resident	Modifying the rules of determining the residential identity of double residents	Where a person other than an individual is a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which its head office is situated.	Where a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavor to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Agreement. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.



Articles Involved	Main Changes	Details Before the Amendment	Details after the Amendment
Permanent establishment of construction engineering	Deleting “together with other such sites, projects or activities, if any)” and adding anti-misuse provisions preventing contract splitting	A building site or construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activities (together with other such sites, projects or activities, if any) continue for a period of more than 183 days.	<p>A building site or construction, installation or assembly project or supervisory activities in connection therewith, but only if such site, project or activities last more than 183 days. For the sole purpose of determining whether the 183 day period referred to as above has been exceeded.</p> <p>1. Where an enterprise of a Contracting State conducts activities in the other Contracting State at a place that constitutes a building site or construction, installation or assembly project and these activities are conducted during one or more periods of time that in the aggregate do not exceed 183 days, and</p> <p>2. Connected activities are conducted at the same building site or construction, installation or assembly project of the other Contracting State during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first mentioned enterprise.</p> <p>These different periods of time shall be added to the period of time during which the first-mentioned enterprise has conducted activities at that building site or construction, installation or assembly project.</p>
Permanent establishment of services	Emphasizing on “the same project” when determining the time periods of services furnishing and stipulating the time threshold	The furnishing of services other than technical services as defined in Article 12 (Royalties and Fees for Technical Services), by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, but only to the extent that activities of that nature continue within that other Contracting State for a period or periods aggregating more than 183 days.	The furnishing of services other than technical services as defined in Article 12 (Royalties and Fees for Technical Services), by an enterprise of a Contracting State through employees or other personnel in the other Contracting state, but only to the extent that activities of that nature continue for the same or connected project within that other Contracting State for a period or periods aggregating more than 183 days within any twelve-month period commencing or ending in the tax year concerned.
Business profits	Changing the description of the article	If the enterprise conducts business in the other Contracting State through a permanent establishment situated therein, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as is directly or indirectly attributable to that permanent establishment. The provisions of this paragraph shall, however, not apply if the enterprise proves that the above activities could not have been undertaken by the permanent establishment or have no relation with the permanent establishment.	If the enterprise conducts business in the other Contracting State through a permanent establishment situated therein, the profits of the enterprise may be taxed in the other Contracting State, but only so much of them as is attributable to that permanent establishment.



Articles Involved	Main Changes	Details Before the Amendment	Details after the Amendment
Interests	Changing the descriptions of the article and clarifying the definition of "Central Bank" for both the Contracting States	Interest arising in a Contracting State and derived by the Government of the other Contracting State, a political subdivision, a local authority and the Central Bank thereof or any financial institution wholly owned by that Government, or by any other resident of that other Contracting State with respect to debt-claims indirectly financed by the Government of that other Contracting State, a political subdivision, a local authority, and the Central Bank thereof or any financial institution wholly owned by that Government shall be exempt from tax in the first-mentioned Contracting State.	Interest arising in a Contracting State and paid to the Government of the other Contracting State, a political subdivision or a local authority, the Central Bank thereof or any financial institution wholly owned by that Government, or paid on loans guaranteed or insured by the Government of the other Contracting State, a political subdivision or a local authority, the Central Bank thereof or any financial institution wholly owned by that Government, shall be exempt from tax in the first-mentioned State. In addition, the Protocol specifies that the term "Central Bank" means, in the case of China, the People's Bank of China, and in the case of India, the Reserve Bank of India and lists financial institutions in both Contracting States which are entitled to the above-mentioned tax exemption.
Entitlement to benefits	Adding provisions of "entitlement to benefits", namely, test regarding main purposes	(No relevant content)	Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

4. The State Taxation Administration Amended the Measures for Administration of Taxation Service Complaints

In order to standardize the administration of taxation service complaints, and guarantee lawful interests of taxpayers, the State Taxation Administration has recently amended the Measures for Administration of Taxation Service Complaints (hereinafter referred to as "Measures"). The main changes are as follows:

- ① Expanding the scope of the complainants: Including payers of fees in the scope of complainants of tax services.
- ② Clarifying the business boundaries: Sorting out the acceptance scope of the complaints of tax services and further clarifying the boundary between complaints and whistle-blowing for tax services.
- ③ Clarifying the scope of acceptance: Reclassifying and describing complaints on service quality and efficiency and complaints on infringement on interests of taxpayers to give more details and facilitating implementation.
- ④ Reducing the handling time:
 - a. Reducing the time for various handling by 50%: Reducing the time for



acceptance and review from 2 working days to 1 working day. Reducing the handling time for complaints on service quality and efficiency and complaints on infringement on interests of taxpayers from 20 working days to 10 working days. Reducing the handling time for complaints on service statements and actions from 10 working days (originally for complaints on service attitude) to 5 working days; and

b. Detailing the simplified procedures for complaints (instant closing of complaint work orders) to accelerate the complaint handling.

- ⑤ Building the quick handling mechanism: Completion of complaint handling within 3 working days from the date of acceptance. The mechanism applies to complaints on service quality and efficiency of taxpayers' non-enjoyment of tax preferences which they are entitled to due to unskilled grasping of tax laws and regulations by tax authorities and their staff and complaints on services in relation to individual income tax filed by natural persons and complaints on services in relation to social insurance fees and levying and payment of non-tax government revenues.
- ⑥ Standardizing the complaint handling processes.
- ⑦ Adding the review step: If the complainants believe that the handling results are unfair, they can apply to the tax authorities at a higher level for review.

5. The State Taxation Administration Drafted the Law on Land Appreciation Tax of the People's Republic of China (Draft for Comments)

In order to implement the law-based taxation principle, the Ministry of Finance and the State Taxation Administration drafted the Law on Land Appreciation Tax of the People's Republic of China (Draft for Comments) (hereinafter referred to as "Draft for Comments"). The main content is as follows:

① Expanding the taxation scope

The Draft for Comments includes transferring of collectively-owned land use rights, constructions on the lands and their attachments, or input of collectively-owned land use rights, constructions on the lands and their attachments for the purpose of capital contribution or equity investment in the taxation scope.

② Expanding the scope of tax reduction and exemption

The Draft for Comments stipulates that for construction of social security housing for sale by taxpayers, if the added value does not exceed 20% of the amount of deductibles, the taxpayers shall be exempt from the land appreciation tax.

③ Cases of tax reduction and exemption for transferring of collectively-owned land, input of collectively-owned land for the purpose of capital contribution or equity investment

In accordance with the Draft for Comments, governments of provinces, autonomous regions and direct-controlled municipalities may determine to grant the tax



reduction or exemption on land appreciation tax for transferring of collectively-owned land use rights, constructions on the lands and their attachments, or input of collectively-owned land use rights, constructions on the lands and their attachments for the purpose of capital contribution or equity investment by taxpayers in regions where the real estate markets are relatively underdeveloped or land prices are relatively low and shall report to the standing committee of the people's congress at the same level for filing.

④ No classification into self-settlement and settlement required by tax authorities

The Draft for Comments no longer classifies the tax settlement into self-settlement and settlement required by tax authorities. Taxpayers shall make settlements by themselves when the conditions for land appreciation tax settlement are met.

⑤ Different tax payment time limits for different types of taxpayers

The Draft for Comments stipulates that for taxpayers engaged in real estate development, they shall declare and prepay the land appreciation tax within 15 days after the end of the month when the tax payment liabilities occur and make final settlement of the land appreciation tax within 90 days after the settlement conditions are met. For other taxpayers, they shall declare and pay the land appreciation tax within 30 days from the date of the occurrence of tax payment liabilities.

6. Shenzhen Adjusted the Benchmarks for Pre-individual-income-tax Deduction and Exemption for 2019

According to the Gazette on the Annual Average Wage of Employees in Urban Entities in Shenzhen in 2018 released by the Shenzhen Municipal Bureau of Statistics, the Shenzhen Tax Service, State Administration of Taxation adjusted the tax exemption benchmark of the one-off compensation income received by individuals in Shenzhen for termination of employment with the employer to CNY335,127 (335,127 inclusive, the same hereinafter) and adjusted the monthly pre-individual-income-tax deduction benchmark for housing fund, enterprise annuity and occupational annuity to CNY27,927. The new benchmarks are effective from June 1, 2019 (period of the tax payment).

7. The Ministry of Finance Released Interpretation of the Government Accounting Standards No.1

The Ministry of Finance released the Interpretation of the Government Accounting Standards No.1, on July 16, 2019. The interpretation is effective from January 1, 2019.



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