



# China Tax Newsletter

November 2019

Our tax newsletter for this month covers:

1. List of Civil Groups to Which Their Donors are Eligible for Pre-Tax Deduction of the Donations Made to Them for Public Welfare in 2019.....	1
2. Issues concerning Assessment and Collection of Enterprise Income Tax for Retail Export Enterprises in Cross-border E-commerce Comprehensive Pilot Zones .....	1
3. Public Service Platform of Value-added Tax E-invoice Went Online.....	2
4. Issues concerning the Administration of Abnormal VAT Credit Vouchers.....	2
5. Matters Concerning Equity Incentives among Listed Companies Controlled by Central Enterprises .....	4
6. Matters relating to the Recovery of Tax Payment Credit .....	5
7. Adjusting the Declaration Requirements for Goods Entering and Leaving the Zones (Sites) under Special Customs Supervision under Preferential Trade Agreements .....	5
8. Reducing Certifications for People's Convenience and Improving Services in the Field of Foreign Trade .....	6



## **1. List of Civil Groups to Which Their Donors are Eligible for Pre-Tax Deduction of the Donations Made to Them for Public Welfare in 2019**

In accordance with the Enterprise Income Tax Law of the People's Republic of China and the Implementation Regulations for the Enterprise Income Tax Law of the People's Republic of China, the Ministry of Finance and the State Taxation Administration released the Announcement on Confirmation of the Eligibility for Pre-tax Deduction of Donations for Public Welfare Made to Civil Groups such as Red Cross Society of China for 2019 (Announcement of Ministry of Finance and State Taxation Administration [2019] No.89). The list of groups to which their donors are eligible for pre-tax deduction of the donations made to them for public welfare in 2019 is as follows:

- ① Red Cross Society of China;
- ② All-China Federation of Trade Unions;
- ③ China Soong Ching Ling Foundation;
- ④ China International Talent Exchange Foundation.

## **2. Issues concerning Assessment and Collection of Enterprise Income Tax for Retail Export Enterprises in Cross-border E-commerce Comprehensive Pilot Zones**

In order to support the robust development of cross-border e-commerce, promote the innovation of foreign trade mode, the State Taxation Administration released the Announcement on Issues concerning Assessment and Collection of Enterprise Income Tax for Retail Export Enterprises in Cross-border E-commerce Comprehensive Pilot Zones (Announcement of Ministry of Finance and State Taxation Administration [2019] No.36), issues concerning the assessment and collection of enterprise income tax of cross-border e-commerce retail export enterprises (hereinafter referred to as "cross-border e-commerce enterprises") in cross-border e-commerce comprehensive pilot zones (hereinafter referred to as "comprehensive pilot zones") are hereby announced as follows.

- ① Measures of assessment and collection of enterprise income tax shall apply to cross-border e-commerce enterprises in the comprehensive pilot zones which can meet all the following conditions:
  - An enterprise which is registered in the comprehensive pilot zones and registered the export dates, names, measuring units, quantities, unit prices and amounts of exported goods on the cross-border e-commerce comprehensive online service platform at the place of registration.
  - E-commerce export has been declared for the exported goods at the Customs of the comprehensive pilot zones.
  - Valid procurement certificates have not been obtained for exported goods and the enterprise is entitled to the value-added tax and consumption tax



exemptions.

- ② Cross-border e-commerce enterprises in the comprehensive pilot zones which adopt the method of assessment and collection of enterprise income tax shall calculate the accurate total revenue and adopt the taxable income rate. The taxable income rate shall be at 4%.

### **3. Public Service Platform of Value-added Tax E-invoice Went Online**

According to the work arrangement of the State Taxation Administration and the Notice on Go-live of the Public Service Platform of Value-added Tax (VAT) E-invoice, the Shenzhen Tax Service, State Taxation Administration made the public service platform of VAT e-invoice (hereinafter referred to as “Public Service Platform”) go live on November 10, 2019. The main content is as follows:

- ① Taxpayers who only need to issue ordinary VAT invoices (including printed and electronic, the same below) may get a tax UKey for free in any tax service hall and issue ordinary VAT invoices through the public service platform.
- ② Taxpayers who need to issue special VAT invoices, invoices of motor vehicle sales and second-hand car sales shall issue VAT invoices through the original channel and method.
- ③ Taxpayers may download the invoice issuing software of the public service platform of VAT e-invoice and the OFD reader for VAT e-invoice on the website of the Shenzhen Tax Service, State Taxation Administration.

### **4. Issues concerning the Administration of Abnormal VAT Credit Vouchers**

In order to boost modernization of the tax administration system and the tax administration capabilities, improve the tax regulatory system, prevent falsified invoice issuing, maintain tax order, optimize business environment and protect the lawful interests of taxpayers, the State Taxation Administration hereby promulgated the Announcement on Administration of Abnormal VAT Credit Vouchers (Announcement of the State Taxation Administration [2019] No. 38). The main content is as follows:

- (1) The following special VAT invoices shall be included in the scope of abnormal VAT credit vouchers (hereinafter referred to as “Abnormal Vouchers”):
  - ① Where a tax-control dedicated device is lost or stolen, the special VAT invoices recorded in it which are not issued or issued yet the invoice information has not been uploaded to the tax administration system.
  - ② Special VAT invoices for which an abnormal taxpayer did not declare to tax authorities or did not pay tax in accordance with relevant regulations.
  - ③ Special VAT invoices which are identified as “inconsistency”, “some copies missing” or “invalid” in the comparison and verification of the VAT invoice management system.



- ④ After big data analysis by the State Taxation Administration and the tax authorities at provincial level, special VAT invoices are suspected as falsified or consumption tax is not paid in accordance with relevant provisions.
  - ⑤ Special VAT invoices falling into the scope stipulated in item (1) of Article 2 of the Announcement of the State Taxation Administration on Issues concerning Accreditation of the Special VAT Invoices Issued by Missing Enterprises (Announcement of the State Taxation Administration [2016] No. 76).
  - ⑥ Where general VAT taxpayers declare tax credit of abnormal vouchers, if they meet the following two conditions: a) the accumulated amount of input VAT of abnormal vouchers accounts for 70% or more of the total input VAT amount of all the special VAT invoices in the same period; and b) the total amount of input VAT of abnormal vouchers exceeds RMB 50,000, the special VAT invoices issued by these taxpayers are included in the scope of abnormal vouchers.
- (2) Where special VAT invoices obtained by a general VAT taxpayer are included in the scope of abnormal vouchers, the following provisions shall apply:
- ① Where input VAT credit has not been declared for these vouchers, the corresponding input VAT is temporarily not allowed to be credited. Where input VAT credit has been declared, unless otherwise specified, the corresponding input VAT amount shall be transferred out.
  - ② Where the application for export rebate is not submitted or submitted but yet not handled, unless otherwise specified, the export rebate is temporarily not allowed. Where a taxpayer entitled to the VAT exemption, credit and refund policy has already handled the export rebate, it shall transfer the input VAT indicated on the special VAT invoices included in the scope of abnormal vouchers out. Where a taxpayer entitled to the VAT exemption and refund policy has already handled the export rebate, the tax authority shall retrieve the tax refunds corresponding to the special VAT invoices included in the scope of abnormal vouchers in accordance with relevant regulations.
  - ③ Where a taxpayer subject to consumption tax takes purchased consumer products with tax paid or consumer products by commissioned processing with tax paid as raw materials and continues to produce taxable consumer goods, if tax credit for the consumption tax already paid for the raw materials has not been declared, temporarily the consumption tax paid is not allowed to be credited; if the tax credit has been declared, the taxpayer shall offset the credited amount against the consumption tax amount allowed to be credited for the current period. Where the amount for the current period is not sufficient for offsetting, the taxpayer shall make supplementary payment for the shortfall.
  - ④ Where a taxpayer has question about the abnormal vouchers identified by tax authorities, it can file applications to the competent tax authority for verification. After verification, if the conditions on input VAT credit or export rebate as stipulated in relevant regulations can be met, the taxpayer can continue to declare for credit or export rebate.



## **5. Matters Concerning Equity Incentives among Listed Companies Controlled by Central Enterprises**

In order to fully motivate core and backbone talents and boost development of high quality for central enterprises, the China's State-owned Assets Supervision and Administration Commission (SASAC) released the Notice on Matters Concerning Further Implementation of Equity Incentives among Listed Companies Controlled by Central Enterprises (hereinafter referred to as "Listed Company") (Guo Zi Fa Kao Fen Gui [2019] No. 102). The main content is as follows:

- ① For listed companies with small and medium-sized market capitalization and listed innovative tech companies, the proportion of the equities granted in the initial equity incentive plan to the total share capital of the company may be floated from 1% to the highest 3%. Where the total number of equities granted by a listed company in two years generally accounts for less than 3% of the total share capital of the company, the proportion may be raised to not more than 5% due to special circumstances such as significant strategic transformation.
- ② The exercising price of stock options and stock appreciation rights shall be determined at a fair market value. The price for granting the restricted stocks shall be not less than 50% of the fair market value. Where the fair market value of stocks is lower than the net asset value per share, the price of the restricted stocks granted shall be determined at the rate of no less than 60% of the fair market value in principle.
- ③ For domestic and overseas listed companies, the value of equities granted to directors and senior management shall be not higher than 40% of the total numeration (including value of equities granted) at the time of granting. The gains actually obtained by equity incentive recipients belong to investment gains. No upper limit will be set for the gains.
- ④ Where a Sci-Tech innovation board listed company grants equity incentives in the form of restricted shares, if the price granted is lower than 50% of the fair market value, the company shall extend the lock-up period and the unlocking period to an extent appropriate and set the performance objective for unlocking at not below the average performance of the company for the recent three years or 75th percentile in the same industry.
- ⑤ Where a Sci-Tech innovation board listed company which does not make a profit grants equity incentives, restricted shares shall be granted at not less than 60% of the fair market value. Before the listed company can make a profit, the ratio of equities which can be unlocked shall not exceed 40% of the total number of equities granted. Where the company is in national key strategic industries, or it takes a long period to make a profit due to industry characteristics, the company shall explicitly apply for adjustment of equity unlocking arrangement in the equity incentive plan.



## **6. Matters relating to the Recovery of Tax Payment Credit**

For the purpose of encouraging and guiding taxpayers to enhance their awareness of taxpaying with integrity in accordance with the law and actively correcting discreditable taxpaying conduct, the State Taxation Administration released the Announcement on Matters relating to the Recovery of Tax Payment Credit (Announcement of the State Taxation Administration [2019] No. 37) in accordance with the Guiding Opinions of the General Office of the State Council on Accelerating the Building of a Social Credit System to Establish a New Credit-based Regulatory Mechanism (Guo Ban Fa [2019] No.35). The main content is as follows:

Where an enterprise taxpayer that is included in the administration of tax payment credit satisfies any of the following circumstances, it may file an application to the competent tax authority for recovery of tax payment credit within the prescribed time limit:

- ① The taxpayer did not declare or pay taxes or file the materials within the statutory time limit but supplemented the tax declaration, payment and filing thereafter.
- ② The taxpayer did not pay or fully pay the tax, late payment interests and penalties in accordance with the investigation conclusion of the tax authority and did not constitute a crime. The tax payment credit level of the taxpayer is rated as D and the taxpayer fully paid the tax or supplemented the tax payment within 60 days after the expiring of the period explicitly stated in the investigation conclusion of the tax authority.
- ③ The taxpayer has fulfilled relevant legal obligations and the tax authority has removed the abnormal status for the taxpayer.

## **7. Adjusting the Declaration Requirements for Goods Entering and Leaving the Zones (Sites) under Special Customs Supervision under Preferential Trade Agreements**

In order to further improve the business environment and facilitate the entitlement to Customs duty preferences for domestic sales from special Customs supervision zones and bond supervision sites (hereinafter referred to as "Zones (Sites)") under preferential trade agreements, the General Administration of Customs decided to adjust the declaration requirements for goods entering and leaving the zones (sites) under preferential trade agreements and released the Announcement on Adjusting the Declaration Requirements for Goods Entering and Leaving the Zones (Sites) under Special Customs Supervision under Preferential Trade Agreements (Announcement of the General Administration of Customs [2019] No. 178). The main content is as follows:

Where a taxpayer files an application to adopt the agreed tax rate or preferential tax rate for imported goods leaving the zones (sites) for domestic sales, except for circumstances as stipulated in Article 3 of this Announcement, when the goods enter the zones (sites) from outside China, the consignee or agent shall fill in the import customs declaration form in accordance with the relevant requirements under the preferential trade agreements and may opt to declare the documents of place of



origin by the method of “Paperless Customs Clearance” or “Paper Customs Declaration”.

Where the taxpayer selects the “Paperless Customs Clearance” method, the importer shall handle declaration of place of origin in accordance with the appendixes of the Announcement of the General Administration of Customs [2017] No. 67.

Where the taxpayer selects the “Paper Customs Declaration” method, the importer shall submit paper documents of place of origin in accordance with the existing regulations.

## **8. Reducing Certifications for People's Convenience and Improving Services in the Field of Foreign Trade**

The Ministry of Commerce has thoroughly reviewed and cleared a batch of certification items set forth in the regulations and regulatory documents issued by it in accordance with the deployment of the Central Committee of the Communist Party of China (“CPC”) and the State Council on the reduction of certificates for the convenience of the people and the optimization of service (see the Announcement of the Ministry of Commerce [2019] No. 13). For the purpose of facilitating the implementation of the above-mentioned policies and measures in the field of foreign trade, further strengthening the regulatory awareness, improving the service style, and preventing enterprises from still being required to provide the proof which has been canceled, the Ministry of Commerce released the Notice on Ensuring Effective Work on Reducing Certifications for People's Convenience and Improving Services in the Field of Foreign Trade (Shang Mao Han [2019] No. 626). The main content is as follows:

### ① Certification items canceled as from March 18, 2019.

Application	Certification items canceled
Record-filing and registration of foreign trade operators	When foreign trade operators apply for record-filing and registration with the Ministry of Commerce or institutions as delegated by it, they will no longer need to submit the property notarization proof and capital credit standing certificates.
License approval for import and export of goods restricted by the State	When foreign trade operators file application to the Ministry of Commerce or institutions as delegated by it for Export License of the People's Republic of China (hereinafter referred to as “Export License”), they will no longer need to submit the proof of overseas exhibition attendance.
Automatic import licensing	When foreign trade operators file application to the Ministry of Commerce or institutions as delegated by it for Automatic Import License of the People's Republic of China (hereinafter referred to as “Automatic Import License”), they will no longer need to submit evidence materials of authorized operation and manufacturing license and the Form of Record-filing and Registration of Foreign Trade Operators.



## ② Certification items with evidence submitting method adjusted

Application	Certification items canceled
License approval for import and export of goods restricted by the State	When foreign trade operators file application to the Ministry of Commerce or institutions as delegated by it for Export License of the People's Republic of China (hereinafter referred to as "Export License") to go through formalities of import of key waste electromechanical products, they will no longer need to submit the proof of qualification of renovation business, but need to provide a written commitment letter instead.
Automatic import licensing	When foreign trade operators file application to the Ministry of Commerce or institutions as delegated by it for Automatic Import License of the People's Republic of China (hereinafter referred to as "Automatic Import License") to go through formalities of import of electromechanical products (purchased through international bidding), they will no longer need to submit Notice on Bid Evaluation Result of International Bidding, but need to provide a notification letter on bid-winning instead.

## ③ Certification items cancelled in administrative approval

Application	Certification items canceled
License approval for import and export of goods restricted by the State	When foreign trade operators apply for import and export licenses, they will no longer need to submit the Form of Record-filing and Registration of Foreign Trade Operators.
Automatic import licensing	When foreign trade operators apply for automatic import license, they will no longer need to submit the Form of Record-filing and Registration of Foreign Trade Operators.
Accreditation of the qualification of import and export under state trade	When foreign trade operators apply for the qualification of import and export under state trade or permitted quantity of import and export not under state trade, they will no longer need to submit the following evidence materials: Form of Record-filing and Registration of Foreign Trade Operators; written approval or evidence of compliance with the state laws and regulations; performance evidence of crude oil import; and evidence of production in recent three years.
Quota approval of import and export of goods restricted by the state	When foreign trade operators apply for export quota, they will no longer need to submit the Form of Record-filing and Registration of Foreign Trade Operators. Qualification of registered farm of live pigs supplied to Hong Kong and the evidence of annual average export capacity of over 6000 live pigs supplied to Hong Kong for three consecutive years will no longer be submitted for the application of export quota (live pigs supplied to Hong Kong). Qualification of the tender enterprise will no longer be submitted for the application of export bidding quota.

## ④ Other certification items cancelled

Application	Certification items canceled
Others	Evidence of business operation and production capacity of processing trade enterprises is cancelled. Instead, processing trade enterprises shall fill in the form of basic information and make true and valid commitments.





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