



# China Tax Newsletter

March 2019

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## 1. Three Departments Jointly Released Policies for Deepening the VAT Reform

On March 20, 2019, the Ministry of Finance, the State Taxation Administration and the General Administration of Customs released the Announcement on Policies for Deepening the VAT Reform (Announcement of the Ministry of Finance, the State Taxation Administration and the General Administration of Customs [2019] No. 39). Value-added tax (VAT) policies will be adjusted as follows from April 1, 2019:

### (1) VAT rate adjustment

For general VAT taxpayers' (hereinafter referred to as "taxpayers") sales activities or imports that are subject to VAT at an existing applicable rate of 16% or 10%, the applicable VAT rate is adjusted to 13% or 9% respectively.

For the agricultural products purchased by taxpayers to which an existing 10% deduction rate is applicable, the deduction rate is adjusted to 9%; and for the agricultural products purchased by taxpayers for production or commissioned processing, which are subject to VAT at 13%, the input VAT will be computed at a 10% deduction rate.

### (2) Export rebate rate adjustment

For the exportation of goods or labor services that are subject to VAT at 16%, with the applicable export rebate at the same rate, the export rebate rate is adjusted to 13%; and for the exportation of goods or cross-border taxable activities that are subject to VAT at 10%, with the export rebate at the same rate, the export rebate rate is adjusted to 9%.

For the goods purchased by overseas visitors to which the applicable VAT rate is 13%, the departure tax rebate rate is 11%; and for the goods purchased by overseas visitors to which the applicable VAT rate is 9%, the departure tax rebate rate is 8%.

### (3) Input VAT on the real estate or the real estate under construction in progress obtained may be credited in the current year

As from April 1, 2019, input VAT on the real estate or the real estate under construction in progress obtained by taxpayers will not be required to be credited in two years. However, the input VAT to be credited that has not been fully credited yet according to aforesaid provisions may be credited against the output VAT in the tax period from April 2019.

### (4) Input VAT of taxpayers that purchase domestic passenger transportation services can be credited against its output VAT

Where a taxpayer purchases domestic passenger transportation services, the input VAT obtained is allowed to be credited against its output VAT.

### (5) Additional credit policy for production or livelihood services

From April 1, 2019 to December 31, 2021, taxpayers engaged in production or livelihood services are allowed to add 10% over the originally creditable input VAT of the current period for offsetting against the tax payable.



(6) The pilot system for refunding the period-end excess VAT paid

The pilot system for refunding the period-end excess VAT paid will take effect on April 1, 2019. Any taxpayer who meets the criteria may make an application to competent tax authorities for the refund of its incremental overpaid VAT. Any taxpayer's incremental excess VAT paid that is allowed to be refunded in the current period should be computed under the following formula:

Refundable incremental excess VAT paid = incremental excess VAT paid × proportion of input VAT × 60%

In addition, the State Taxation Administration released the Announcement on Matters Relating to Adjustments to VAT Filing (Announcement of the State Taxation Administration [2019] No. 15) which adjusts the filing of VAT returns. The VAT returns after the adjustment will take effect from the tax period of April 2019.

## **2. Announcement of the State Taxation Administration on Matters Relating to Deepening the VAT Reform**

In order to further clarify issues related to VAT reform such as invoice issuing adjustment, one-time deduction of real estate and information required for applying the additional credit policy, the State Taxation Administration released the Announcement of the State Taxation Administration on Matters Relating to Deepening the VAT Reform (Announcement of the State Taxation Administration [2019] No. 14), which lays out stipulations for below matters:

(1) Method of issuing red-letter or blue-letter invoices for sales discount, suspension or return

For VAT invoices that have already been issued at the original applicable rate of 16% or 10% by general VAT taxpayers prior to the VAT rate adjustment, if red-letter invoices are required due to sales discount, suspension or return, red-letter invoices should be issued at the original applicable rate; if it is necessary to reissue VAT invoices due to errors in the invoices already issued, correct blue-letter invoices should be issued anew after red-letter invoices are issued at the originally applicable rate.

(2) Method of issuing VAT invoices retroactively

For VAT taxable sales activities for which VAT invoices have not been issued by taxpayers before the VAT rate adjustment, if it is necessary to issue VAT invoices retroactively, the originally applicable rate of 16% or 10% shall apply.

For VAT taxable sales activities for which VAT invoices have not been issued by taxpayers before the VAT rate adjustment in 2018 and VAT invoices are required to be issued retroactively, the invoices shall be issued at the originally applicable rate of 17% or 11% in accordance with the provisions in the Announcement of the State Taxation Administration on Several Value-added Tax Issues Such As Issues Related to Unifying the Criteria for Small-scale Taxpayers (Announcement of the State Taxation Administration [2018] No. 18).



### (3) Method of computing input VAT due to the usage change of real estate purchased by taxpayers

Where real estate for which input VAT has been credited suffer abnormal losses or used instead for taxable items under the simplified tax computation method, VAT-exempt items, items for collective welfare or personal consumption, the non-creditable input VAT shall be computed under the following formula and deducted from the input VAT for the current period:

Non-creditable input VAT = input VAT already credited × net value rate of real estate

Net value rate of real estate = (net value of real estate ÷ original value of real estate) × 100%

Creditable input VAT = input VAT computed or indicated in the VAT deduction proof × net value rate of real estate

### (4) Information required for taxpayers to enjoy the additional credit policy

Taxpayers engaged in production or livelihood services to which the additional credit policy applies should, at the time of determining their eligibility for the aforesaid policy for the first time in a year, submit the Declaration of Eligibility for the Additional Credit Policy through e-tax bureaus (or at the tax service halls). If a taxpayer eligible for the aforesaid policy engages in postal services, telecommunication services, modern services or livelihood services concurrently, it should, based on the type of services from which it derives the highest percentage of income, select the industry to which it belongs in the Declaration of Eligibility for the Additional Credit Policy.

## **3. Two Departments Specified the Criteria for Determining the Residence Time of Individuals without Domicile in China**

On March 14, 2019, the Ministry of Finance and the State Taxation Administration released the Announcement on the Criteria for Determining the Residence Time of Individuals without Domicile in China (Announcement of the Ministry of Finance and the State Taxation Administration [2019] No. 34), which clarifies the criteria for determining the residence time of individuals who do not have a domicile in China (hereinafter referred to as “non-domiciled individuals”).

From January 1, 2019, for a non-domiciled individual who has resided in China for 183 days in total in a tax year, if the number of accumulated days of residence in China in each of the previous six years has exceeded 183 days and there is no single departure for more than 30 days in a single year, his/her income from both domestic and overseas sources in the tax year shall be subject to individual income tax in China; if the number of accumulated days of residence in China in any of the previous six years is less than 183 days or a single departure is more than 30 days, his/her income derived from outside China and is paid by an overseas entity or



individual in the tax year is exempt from individual income tax. The starting year of the previous six years begins from the year of 2019 and thereafter.

For a non-domiciled individual, the number of accumulated days of residence in China in a tax year shall be computed based on the number of accumulated days the individual has stayed in China. The day of stay in China lasting for 24 hours will be counted into the number of days of residence in China. Otherwise, it will not be counted into the said number.

#### **Tips from BDO Tax**

For the purpose of computation of the number of days of residence in China, a day for which an individual stays in China for less than 24 hours shall be computed as 0 day. Otherwise, it shall be computed as 1 day. For the purpose of computation of number of working days in China, a day for which an individual works in China for less than 24 hours shall be computed as 0.5 day. Otherwise, it shall be computed as 1 day.

#### **4. Announcement on Individual Income Tax Policies for Non-resident Individuals and Non-domiciled Resident Individuals**

On March 14, 2019, the Ministry of Finance and the State Taxation Administration released the Announcement on Individual Income Tax Policies for Non-resident Individuals and Non-domiciled Resident Individuals (Announcement of the Ministry of Finance and the State Administration of Taxation [2019] No. 35), which clarifies individual income tax policies relating to non-resident individuals and non-domiciled resident individuals (hereinafter referred to collectively as "non-domiciled individuals") as follows:

##### **(1) Source of income**

Income from wages and salaries derived by an individual, which is attributed to working period in China (hereinafter referred to as "domestic"), shall be income from wages and salaries sourced domestically. In the case of a non-domiciled individual who holds positions concurrently in domestic and overseas organizations or only holds position in an overseas organization, a day for which he/she stays in China for less than 24 hours shall be computed as half day for the purpose of computation of number of working days in China. In the case of a non-domiciled individual who holds positions concurrently in domestic and overseas organizations or only holds position in an overseas organization, if he/she works both in China and overseas during the current period, the income from wages and salaries of domestically sourced and overseas sourced shall be computed in accordance with the ratios of the number of domestic and overseas working days for which wages and salaries are attributed, to the number of calendar days in the current period. The number of working days overseas shall be computed in accordance with the number of calendar days in the current period minus the number of working days in China in the current period.

Where the source of multiple-month bonus or income from equity incentive derived by non-domiciled individuals are determined pursuant to the provisions on source of



income from wages and salaries, if a non-domiciled individual receives multiple-month bonus or income from equity incentive when performing or executing duties in China, the portion attributed to his/her overseas working period shall be deemed income from wages and salaries sourced overseas; if a non-domiciled individual receives bonus or income from equity incentive after he/she has ceased performing or executing duties in China and left China, the portion attributed to his/her working period in China shall be deemed income from wages and salaries sourced in China.

Author's fee paid or borne by domestic enterprises, institutions or organizations shall be deemed income sourced in China.

## (2) Computation of amount of income from wages and salaries of non-domiciled individuals

Where a non-resident individual resides in China for not more than 90 days cumulatively during a tax year, only the wages and salaries paid or borne by his/her employer in China during the working period in China shall be subject to individual income tax. Where a non-resident senior executive resides in China for not more than 90 days cumulatively during a tax year, his/her income from wages and salaries paid or borne by an employer in China shall be subject to individual income tax; income from wages and salaries not paid or borne by an employer in China shall not be subject to individual income tax.

Where a non-resident individual resides in China for more than 90 days but less than 183 days cumulatively during a tax year, the income from wages and salaries attributed to his/her working period in China shall be subject to individual income tax; the income from wages and salaries derived by him/her which is attributed to his/her working period overseas shall not be subject to individual income tax. Where a non-resident senior executive resides in China for more than 90 days but less than 183 days cumulatively during a tax year, his/her income from wages and salaries shall be subject to individual income tax, except for the portion which is attributed to his/her working period overseas and not paid or borne by an employer in China.

Where a non-domiciled resident individual resides in China for 183 days or more cumulatively per tax year for less than six consecutive years, if he/she satisfies the preferential criteria stipulated in Article 4 of the Implementation Regulations for the Individual Income Tax Law of the People's Republic of China, his/her income from all wages and salaries shall be subject to individual income tax, except for the portion which is attributed to his/her working period overseas and paid by an overseas organization or individual.

Where a non-domiciled resident individual resides in China for 183 days or more cumulatively per tax year for six consecutive years or more, if he/she does not satisfy the preferential criteria stipulated in Article 4 of the Implementation Regulations for the Individual Income Tax Law of the People's Republic of China, his/her income from wages and salaries derived in China and overseas shall be subject to individual income tax.

The aforesaid cases can be summarized using below formula for computation of wage and salary income amount of the current month:



Resident Identity	Cases		Applicable Formula
	Days of Residence (D)	Senior Executive	
Non-Resident	$D \leq 90$	No	$\begin{aligned} & \text{Wage and salary income amount of the current month} = \text{Total amount of wages and salaries of the current month sourced in and outside China} \\ & \times \frac{\text{Wage and salary amount paid in China in the current month}}{\text{Total amount of wages and salaries of the current month sourced in and outside China}} \\ & \times \frac{\text{Number of working days in China during the working period to which the current month's wages and salaries are attributed}}{\text{Number of calendar days of the month to which the current month's wages and salaries are attributed}} \end{aligned}$
	$D \leq 90$	Yes	$\text{Wage and salary income amount of the current month} = \text{Wage and salary income amount paid or borne in China in the current month}$
	$90 < D \leq 183$	No	$\begin{aligned} & \text{Wage and salary income amount of the current month} = \text{Total amount of wages and salaries of the current month sourced in and outside China} \\ & \times \frac{\text{Number of working days in China during the working period to which the current month's wages and salaries are attributed}}{\text{Number of calendar days of the month to which the current month's wages and salaries are attributed}} \end{aligned}$
	$90 < D \leq 183$	Yes	$\text{Wage and salary income amount of the current month} = \text{Total amount of wages and salaries of the current month sourced in and outside China}$
Resident	$183 < D \leq 6 \text{ years}$	/	$\begin{aligned} & \times \left[ 1 - \frac{\text{Wage and salary amount paid outside China in the current month}}{\text{Total amount of wages and salaries of the current month sourced in and outside China}} \right] \\ & \times \frac{\text{Number of working days outside China during the working period to which the current month's wages and salaries are attributed}}{\text{Number of calendar days of the month to which the current month's wages and salaries are attributed}} \end{aligned}$
	$D \geq 6 \text{ years}$	/	$\text{Wage and salary income amount of the current month} = \text{Total amount of wages and salaries of the current month sourced in and outside China}$

### (3) Computation of individual income tax amount for non-domiciled individuals

The formula for computation of the tax payable amount for annual comprehensive income of non-domiciled resident individuals deriving comprehensive income is as follows:

Tax payable amount for annual comprehensive income = (annual wage and salary income amount + annual income amount of remuneration for labor services + annual income amount of author's fee + annual income amount of royalties - expense deductions - special deductions - special additional deductions - other deductions determined pursuant to the laws)  $\times$  applicable tax rate - quick deduction

Where a non-domiciled resident individual is a foreign national, if he/she has claimed deduction for eight allowances and subsidies such as housing allowance, child education fee, language training fee, etc. pursuant to the provisions when computing wage and salary income amount before January 1, 2022, he/she shall not claim special additional deduction concurrently.

For income from wages and salaries derived by a non-resident individual in the current month, the income amount of the current month shall be computed pursuant to the provisions, and the balance after deducting expense deductions pursuant to the provisions of the Tax Law from the income amount of the current month shall be his/her taxable income amount. The Table of Tax Rates for Monthly Converted Comprehensive Income shall apply for computation of tax payable amount.

For the multiple-month bonus or income from equity incentive received by a non-resident individual within a month, the corresponding current month income amount shall be computed separately pursuant to the provisions, and shall not be aggregated with other wages and salaries of the current month; such amount shall



be apportioned over six months for tax computation purpose, with no expense deduction, and subject to the Monthly Tax Rate Table for computation of tax payable amount.

## **5. Abolished the Approval Procedures for the Consolidated Payment of Enterprise Income Tax by Non-resident Enterprises for Their Own Establishments and Premises**

The Seventh Session of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China amended the first paragraph of Article 51 and abolished the approval procedures for the consolidated payment of enterprise income tax by non-resident enterprises for their own establishments and premises (hereinafter referred to as "Establishments and Premises"). In order to clarify matters relating to the consolidated payment of enterprise income tax by non-resident enterprises for their own establishments and premises, the State Taxation Administration released the Announcement on Matters Concerning the Consolidated Payment of Enterprise Income Tax by Non-Resident Enterprises for Their Own Establishments and Premises (Announcement of the State Taxation Administration [2019] No. 12), which clarifies all the criteria which the non-resident enterprises that make consolidated payment of enterprise income tax shall satisfy continuously in the year of consolidated payment, and information and relevant materials which the non-resident enterprises should submit when making the first tax declaration, quarterly prepayment declaration as well as annual settlement and payment.





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Jesse Wang

Partner, Tax and Advisory

Tel: +86-755-82900993

Mobile: +86-138 0883 9880

WeChat : see the QR code on the right

Email: [jesse.wang@bdo.com.cn](mailto:jesse.wang@bdo.com.cn) | [tax@bdo.com.cn](mailto:tax@bdo.com.cn)



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