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NEWSLETTER

LATEST NEWS FROM CHINA



Newsletter

Latest news from China
Issue n.2 – February 2018

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1. Expansion of Tax Incentive for Advanced Technology Service Enterprises Nationwide

News Category: TAX

Cai Shui [2017] No.79

Title: *Circular on Extending the Enterprise Income Tax Policies for Advanced Technology Service Enterprises for Nationwide Implementation*

Promulgator: MOF; SAT; MOFCOM; MOST; NDRC

Promulgation Date: November 2nd, 2017

Effective Date: January 1st, 2017

To further stimulate the growth of foreign capital and create a higher level of open environment for foreign investors, in August 2017 the [Circular of the State Council on Several Measures to Boost the Growth of Foreign Investment \(Guo Fa \[2017\] No.39\)](#) addressed 22 Measures, setting forth a series of objectives for formulating fiscal and tax incentives, including: extending the *Corporate Income Tax (CIT)* incentives for **Technological Advanced Service Enterprises (TASEs)** in China.

The Circular Cai Shui [2017] n.79 has been recently released as a further step, to extend this CIT incentive nationwide effective retroactively from 1 January 2017, it will allow **more high-tech and high value-added service enterprises to enjoy the preferential tax policies.**

The **incentive** includes the following:

- Advanced technology service enterprises are subject to enterprise income tax (EIT) at a rate of 15% (the statutory rate being 25%); and
- A deduction applies to employees' education expenditure (up to 8% of the total salary and wages), provided that certain requirements are met.

The **services that are eligible for the incentive** include:

- Information technology outsourcing (ITO): software development, information technology development services, information systems operation and maintenance;
- Technical business process outsourcing (BPO): business process design services, business operations management, operation services, supply chain management services; and

- Knowledge process outsourcing (KPO): research on intellectual property, research and development and testing of pharmaceutical and biotechnological products, product research and development, industrial design, analytics and data mining, design and development of animation and online games, education development course, engineering design, etc.

Previously, the tax incentive was applicable only to certain designated cities, such as Beijing, Tianjin, Dalian, Harbin, Daqing, Shanghai, Nanjing, Suzhou, Wuxi, Hangzhou, Hefei, Nanchang, Xiamen, Jinan, Wuhan, Changsha, Guangzhou, Shenzhen, Chongqing, Chengdu and Xian.

You can read the complete news at:

http://www.most.gov.cn/kjbgz/201712/t20171212_136749.htm

2. VAT Clarifications for Transport and Asset Management

News Category: TAX

Cai Shui [2017] No.90

Title: *Circular on Value-added Tax Policies on the Deduction of Input Tax on the Rental of Fixed Assets and Other Affairs*

Promulgator: MOF, SAT

Promulgation Date: December 25th, 2017

Effective Date: December 25th, 2017

The Circular clarifies VAT policies for the determination of sales revenue from loan services and transfer of certain financial products by asset managers, earned after supplying asset management products. Particularly, the Circular provides

- Input VAT credit treatment for:
 - Fixed assets and immovable property rented by taxpayers;
 - Toll fees for roads, bridges and floodgates paid by taxpayers.
- Output VAT on the following taxable revenues:
 - Ticket revenue from sale of transportation tickets where customers do not use the tickets within their validity period;
 - Service fees charged by taxpayers for handling ticket refunds for customers.
- VAT payment and collection administration on provision, by air transportation agencies, of agency services for international flight air tickets.

You can read the complete news at:

<http://www.chinatax.gov.cn/n810341/n810755/c2982217/content.html>

3. Profits to Overseas Investors Used for Direct Investment now Temporarily Free from Withholding Tax

News Category: TAX

Cai Shui [2017] No.88

Title: *Circular on Policy Issues*

concerning Temporarily Not Levying the Withholding Tax on Distributed Profits Used by Overseas Investors for Direct Investment

Promulgator: MOF; SAT; MOFCOM; NDRC

Promulgation Date: December 21st, 2017

Effective Date: January 1st, 2017

The Circular states that, where profits distributed by a resident enterprise within the territory of China to an overseas investor are used by such investor for direct investment into the encouraged-category of investment projects in the PRC, the tax deferral policy shall apply, without the collection of the withdrawing tax on a temporary basis, if relevant requirements are fulfilled.

Overseas investors temporarily not subject to the withholding tax must meet four requirements, whereby it is also specified the relevant "*profits obtained by the overseas investor are returns of equity investment, such as dividends and bonus, generated from retained income that has been actually distributed by the Chinese resident enterprise to the investor*".

Furthermore, the Circular states that, if an overseas investor is eligible for but does not enjoy such preferential policy in fact, it could file an application for enjoying the policy within three years from the date the relevant tax payment is made in practice, and the amount of tax paid will be refunded.

You can read the complete news at:

http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201712/t20171228_2789812.html

4. Clarifications on Withholding Tax Policy for Overseas Investors' Direct Investment with Distributed Profits

News Category: TAX

SAT Announcement [2018] No.3

Title: *Announcement of the State Administration of Taxation on Issues Concerning the Implementation of the Policy of Temporarily Not Levying the Withholding Tax on Overseas Investors' Direct Investment with Distributed Profits*

Promulgator: SAT

Promulgation Date: January 2nd, 2018

Effective Date: January 1st, 2017

The Announcement states that the business activities, as specified in the fourth item of Article 2 of the *Circular on Issues Concerning the Policy of Temporarily Not Levying the Withholding Tax on Overseas Investors' Direct Investment with Distributed Profits* [see News n. 3 here above], include four types, such as "manufacturing products or offering services", and one or more economic activities in connection with the encouraged category of investment projects.

Further, the Announcement provides that if part of the investment made by an overseas investor in a single Chinese resident enterprise has enjoyed the policy of temporarily not levying the withholding tax, but the other part of this investment has not yet, and such overseas investor intends to dispose of a proportion of the whole investment, it shall be deemed that the part of investment that has enjoyed the preferential tax policy is disposed of in the first place.

The Announcement also provides for the materials overseas investors shall submit, tax affairs that shall be handled by enterprises distributing profits, and the liability due by an overseas investor that has illegally enjoyed the policy of being temporarily free from the withholding tax.

You can read the complete news at:

<http://www.chinatax.gov.cn/n810341/n810755/c3033019/content.html>

5. SAT Clarifies Administration of the Registration of General VAT Taxpayers

News Category: TAX

SAT Announcement [2018] No.6

Title: *Announcement of the State Administration of Taxation on Several Matters concerning Administration of the Registration of General Value-added Tax Payers*

Promulgator: SAT

Promulgation Date: January 29th, 2018

Effective Date: February 1st, 2018

The Announcement specifies the criteria to identify the "operation period", "sales volume specified in tax returns" and "fixed production sites or business premises" as mentioned in the [Administrative Measures for the Registration of General Taxpayers of Value-added Tax](#).

According to the Announcement, a taxpayer that sells goods, provides processing, repairs or maintenance services, and sells services, intangible assets and real property concurrently, shall separately calculate the sales revenues of taxable goods and labor services and those of taxable behavior, to which the criteria of the registration of general VAT taxpayers shall apply respectively; the taxpayer shall go through formalities to register itself as a general VAT taxpayer, pursuant to applicable rules, as long as either of the said sales revenues exceed the designated threshold.

In addition, the Announcement states that the *Form of Registration of a General VAT Taxpayer*, which is returned to and retained by the taxpayer after verified by the tax authority, can function as the evidence that the taxpayer has acquired the capacity as a general VAT taxpayer.

You can read the complete news at:

<http://www.chinatax.gov.cn/n810341/n810755/c3261412/content.html>

6. China Lifts Foreign Investment Bans in Chinese FTZ

News Category: Corporate/Legal

Guo Fa [2017] No.57

Title: *Decision of the State Council on Temporarily Adjusting Certain Provisions of Relevant Administrative Regulations, Documents of the State Council and Departmental Rules Approved by the State Council within Pilot Free Trade Zones*

Promulgator: State Council

Promulgation Date: December 25th, 2017

Effective Date: Effective

According to the recently published regulation, certain restrictions have been lifted in the free trade zones in China and, among others, there are major developments in the entertainment sector.

We list some below for your reference (from the *Appendix - Catalogue of Certain Provisions of the Relevant Administrative Regulations, Documents of the State Council and Departmental Rules Approved by the State Council that the State Council Decides to Temporarily Adjust within Pilot Free Trade Zones*):

2. Regulations on the Administration of Printing Industry

Allow the establishment of enterprises with foreign investment engaged in the operations of printing other printed matters with the relevant administrative measures to be formulated by the competent department of press and publication under the State Council.

5. Regulations on the Administration of Entertainment Places

Suspend the implementation of the related contents and allow the establishment of solely foreign-funded entertainment places which may provide services in pilot free trade zones, with the relevant administrative measures to be formulated by the competent culture department under the State Council.

7. Regulations on Travel Agencies

Suspend the implementation of the related contents and allow qualified Sino-foreign equity travel agencies registered within pilot free trade zones to engage in providing outbound tourism (other than to Taiwan) business services to Chinese mainland residents, with the relevant administrative measures to be formulated by the competent travel department under the State Council.

12. Catalogue for the Guidance of Foreign Investment Industries(Revised in 2017)

Suspend the implementation of the related contents and allow foreign investors to engage in the design, manufacturing and maintenance of general aircraft at the level of 6 ton with no more than nine seats by means of wholly foreign investment; cancel the restriction on proportion of investment in the design and manufacturing of civil helicopters at the level of 3 ton or more

15. Administrative Regulations of the People's Republic of China on Foreign-Invested Banks

Suspend the implementation of the related contents and cancel the restriction, in terms of the number of years of business starting, for business institution of a foreign-invested bank to conduct any Renminbi business.

16. Suspend the implementation of the related contents and cancel the restriction, in terms of the number of years of business starting, for business institution of a foreign-invested bank to conduct any Renminbi business

Suspend the implementation of the related contents and allow foreign investor and investors from Taiwan to establish solely-funded performance brokerage institutions to serve provinces and municipalities directly under the Central Government where pilot free trade zones have been set up, with the relevant administrative measures to be formulated by the competent culture department under the State Council.

The relevant government authorities will formulate implementation rules to guide the practice in the free trade zones.

You can read the complete news at:

http://www.gov.cn/zhengce/content/2018-01/09/content_5254764.htm

7. New Deadlines for China Work Permits Renewals

News Category: HR

Title: *New requirement about foreigner's work permit published*

Promulgator: SAFEA

Promulgation Date: December 7th, 2017

Effective Date: February 28th, 2018

According to the Announcement of the *State Administration of Foreign Experts Affairs* (SAFEA), all foreigners are required to submit their application for Chinese work permit renewal **30 days ahead of the expiration of their permits**. Those who fail to comply will be denied renewal and must start a new application for a work permit.

The Announcement was issued by the SAFEA, not the regional Foreign Experts Bureau, so **it applies to any city in China**. Under the new regulation, every applicant should clearly know how many days one should prepare for work permit renewal before the current permit expires. Persons applying only a few days before their expiration date for a work permit renewal will absolutely be unable to work.

Applicants should leave sufficient time for the work permit renewal (2-3 months are recommended). Also, preparing documents in advance is recommended. For work permit renewals, proof of non-criminal record and supportive documentation for working experience in an overseas country are not needed; others requirement are the same as for first-time applications.

You can read the complete news at:

<http://fwp.safea.gov.cn/lhCmsArticleDisController.do?cmsArticleContentPage&artId=bb7f31e7602742ad01603044292c01bc>

8. Hong Kong and ASEAN Sign Free Trade Agreement

News Category: Hong Kong News

Title: *Free Trade Agreement between Hong Kong, China and the Association of Southeast Asian Nations*

Hong Kong S.A.R. and the Association of Southeast Asian Nations (ASEAN) signed a *Free Trade Agreement* (FTA) and a related *Investment Agreement* on November 12th, 2017.

The Agreements are comprehensive in scope, encompassing trade in goods, trade in services, investment, economic and technical co-operation, dispute settlement mechanism and other related areas. The Agreements will bring legal certainty, better market access and fair and equitable treatment in trade and investment, thus creating new business opportunities and further enhancing trade and investment flows between Hong Kong and ASEAN.

The Agreements will also extend Hong Kong's FTA and Investment Agreement network to cover all major economies in Southeast Asia. They are expected to enter into force on 1 January 2019 the earliest, subject to completion of the necessary procedures.

You can read the complete news at:

<https://www.tid.gov.hk/english/ita/fta/hkasean/index.html>
http://gia.info.gov.hk/general/201711/12/P2017111200313_271678_1_1510478934815.pdf

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