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**C&A ADVISORS**

Tax, Accounting & Advisory

斯纳安企业管理咨询

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**NEWSLETTER**

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LATEST NEWS FROM CHINA



## Newsletter

Latest news from China  
Issue n.14 – November 2016

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## 1. SAT Clarifies Income Taxes on Equity Incentives and Technology Shares

News Category: Tax

SAT Announcement [2016] No. 62

Title: *Announcement of the State Administration of Taxation on Issues Concerning the Collection and Administration of Tax on Income from Stock Incentives and Technology Appraised as Capital Stock*

Promulgator: SAT

Promulgation Date: September 28<sup>th</sup>, 2016

Effective Date: September 1<sup>st</sup>, 2016

The State Administration (SAT) has released an Announcement on the Issues concerning the Collection and Administration of Income Tax on Equity Incentives and Technology Shares, effective as of September 1<sup>st</sup>, 2016.

The Announcement regards individual income tax administration and collection: non-listed firms may set a plan of equity incentives, but the number of employees holding "salary incomes" is held to the full withholding declaration, firms will provide coverage for the six months prior to stock equity activation, also restricted stock lapse or stock rewards may remain available. In addition to this clause, record-filing of enterprises are also arranged in the Announcement.

The second aspect of the Announcement includes the Circular of the Ministry of Finance, stating that once verified, technology shares chosen to apply, will now require tax collection.

**You can read the complete news at:**

<http://www.chinatax.gov.cn/n810341/n810755/c2278626/content.html>

## 2. Developments to Tax Handling Procedures Provide Technical Support and Taxpayer Facilitation

News Category: Tax

Shui Zong Fa [2016] No. 111

Title: *Opinions on the Implementation of Handling Tax Matters Filed in Real Names*

Promulgator: SAT

Promulgation Date: July 19<sup>th</sup>, 2016

Effective Date: July 19<sup>th</sup>, 2016

The Opinions focus on three aspects of tax handling developments: the reasonable design of tax matter handling procedures, enhanced information technical support and maximum taxpayer facilitation, specifically these matters will initially be applied to situations involving high risk and eventually cover other cases.

Tax authorities have demonstrated explicit inclusion in order to portray the scope of the tax filer. The Opinions are aimed to promote transparency between the tax payer and tax authorities.

**You can read the complete news at:**

[http://yy.hnds.gov.cn/hnhh/zwgk/qjgk/jgsz/jci/ht/sszc/content\\_766907.html](http://yy.hnds.gov.cn/hnhh/zwgk/qjgk/jgsz/jci/ht/sszc/content_766907.html)

### 3. New Policy Issued to improve the Administration of Advance Pricing Arrangements

News Category: TAX  
SAT Announcement [2016] No. 64  
Title: *Announcement of the State Administration of Taxation on Improving Matters Related to the Administration of Advance Pricing Arrangements*  
Promulgator: SAT  
Promulgation Date: October 11, 2016  
Effective Date: December 1, 2016

The Announcement clarifies and structures applications regarding the administration of advance price arrangements which becomes effective December 1<sup>st</sup>, 2016.

This Announcement delegates authorities which are responsible for accepting advance pricing arrangement and clarifies that this acceptance will go to tax authorities responsible for special tax adjustments. According to the Announcement, the date that the tax authorities give the filing enterprise the Notice on Taxation Matters will be the date the advanced pricing arrangement begins to count to the taxable year after adjustment.

The Announcement also includes articles about authorities' refusal of letters of intent, the monitoring and execution of formalities related to analysis and evaluation, and makes a commitment that advanced pricing arrangements made after April 1, 2016 will be covered as compulsory spontaneous information exchange that will be subjected to regular information exchange with relevant countries as taxpayers are informed of the requirements.

**You can read the complete news at:**  
<http://www.chinatax.gov.cn/n810341/n810755/c2292979/content.html>

### 4. Agent Business Rules for Annual Tax Return of Enterprise Income Tax Issued

News: Tax  
Zhong Shui Xie Fa [2016] No.056  
Title: *Circular on Issuing Three Practice Rules including the Agent Business Rules for Annual Enterprise Income Tax Return*  
Promulgator: China Certified Tax Agents Association  
Promulgation Date: October 31, 2016  
Effective Date: October 31, 2016

The CCTAA has set six chapters with 63 articles of rules in regards to the materials required when filing for tax returns.

The new rules cover many details for enterprises to be aware of. They now say that tax firms will analyze the basic information of agent businesses and declaration materials provided by the principals, paying special attention to six categories of information in the tax year including financial statements and audit conclusions.

The rules also say that, for adjusted items subject to assessed deductions, special attention will be paid to particulars on the occurrence of items subject to deductions for tax adjustment purposes, the financial accounting, and the amount confirmed to be adjusted for the tax purpose according to taxation provisions.

**You can read the complete news at:**  
<http://www.cctaa.cn/zczd/zxwj/2016-10-31/CCON16900000010003.html>

## 5. GAC Calls for new Implementation of Customs Audit Regulations

News: Customs

Order of the General Administration of Customs  
No.230

Title: *Implementing Measures for the Regulations of the People's Republic of China on Customs Inspections*

Promulgator: GAC

Promulgation Date: September 26, 2016

Effective Date: November 1, 2016

Effective November 1<sup>st</sup>, GAC improved the Measures on customs audit regulations through clarifying the enforcement of the laws and protecting the rights and interests of independent firms.

The new Measures begin by adding self-disclosure related content regarding the treatment of violations. It adds that minor violations which are quickly fixed can avoid penalty and customs supervision violations will result in lighter punishment. However, failure to abide by new provision can result in the enterprises credit score being affected.

The new Measures also give new provisions regarding audits conducted by third-party agencies, saying it may trust professional accounting organizations when looking over their own audits.

Furthermore, the Measures go into detail about the jurisdiction of customs audits. They say that for times when the place of registration of the auditee and the place of goods declaration are different, the customs audit may be conducted by the customs of the place where the goods are being declared.

**You can read the complete news at:**

<http://www.customs.gov.cn/publish/portal0/tab399/info823478.htm>

## 6. China Ends Trade Ban on Italian Pork

News: Customs

AQSIQ Announcement [2016] No. 93

Title: *Announcement of the Administration of Quality Supervision, Inspection, and Quarantine of the Ministry of Agriculture regarding the lifting on the ban on Swine Vesicular Disease in the Northern Region of the Republic of Italy*

Promulgator: AQSIQ

Promulgation Date: September 19, 2016

On September 19<sup>th</sup>, the Administration of Quality Supervision, Inspection, and Quarantine lifted its Swine Vesicular Disease related ban on nine regions of northern Italy. This move opens the Chinese markets to Italian pork manufacturers, which has been closed for the past 17 years.

The regions which can now export pork to China are:

- Liguria
- Piemonte
- Valle d'Aosta
- Lombardia
- Trentino-Alto Adige
- Friuli-Venezia Giulia
- Veneto
- Emilia-Romagna
- Marche

The above mentioned area encloses 80% of the Italian national pork meat production and the end of the trade ban represents a turning point in the future development of this industry. This goal has been reached after ten years of negotiations which required sending various technical and health records issued by the Italian Ministry of Health, plus various technical and institutional missions in China.

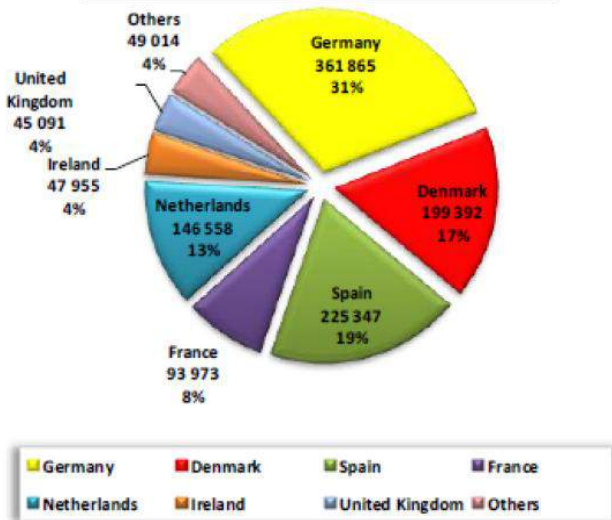
The new measure is not into effect yet, the two governments are still waiting for the official signing of a protocol agreement, the creation of a health certificate that relays the protocol's term and a final inspection made in Italy by Chinese technicians.



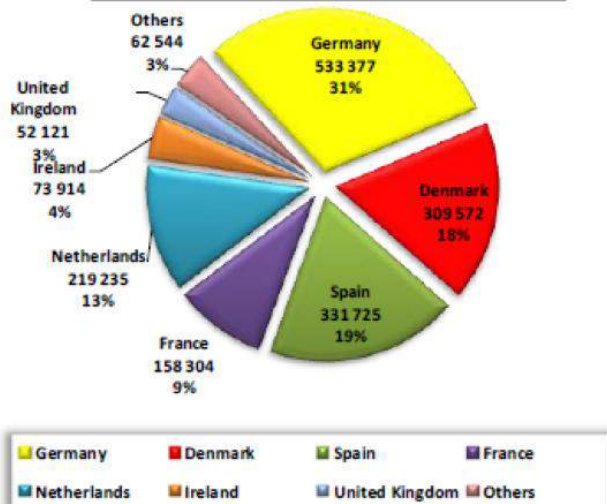
China is the biggest importer of EU pork products with a 48% market share, 90% of which is represented by fresh meat, frozen meat, and offal.

The biggest pork exporters in the EU countries are Germany, Spain and Denmark.

**Main EU MS exporting pigmeat to China  
(In tonnes CW)**



**Main EU MS exporting pigmeat to China  
(In '000 €)**



In the first seven month of the current year, Beijing imported a record amount of 2.4 tons of living swine, fresh and frozen pig meat, offal and pork-based products with an estimated value of 4.4 billion Euros. This represents a total increase of 36.7% in volume and value compared to this time last year. Due to the supply shortage, the demand of EU pork exports in China have increased by 106% in volume and by 123% in value compared to the same moment the previous year.

Hong Kong is the second largest destination for the EU pork exports, and has experienced an increase of 19% in volume and 44% in value.

The ASSICA, Associazione Industriali delle Carni e dei Salumi, is the Italian national trade association established within Confindustria in charge of representing companies involved in the production of Italian Salumi (pork and beef), pork slaughtering, and in the processing of other meat-based foodstuffs (corned beef, fats and lard, etc.) and according to them, this new opening policy represents a huge opportunity for Italy.

Even at an early stage (although limited to some specific regions) China's opening to Italian exports of pig meat, fat and offal, could generate 50 million Euros in exports turnover which will give Italy the chance to regain some ground over its main European competitors.

**You can read the complete news at:**

[http://www.aqsiq.gov.cn/xxgk\\_13386/jlqg\\_12538/zjgg/2016/201609/t20160922\\_474427.htm](http://www.aqsiq.gov.cn/xxgk_13386/jlqg_12538/zjgg/2016/201609/t20160922_474427.htm)

## 7. China and Portugal Agree to Upgrade Economic Ties

News: CORPORATE/LEGAL

Title: *Participants of the China-Portuguese-speaking Countries Forum Sign the MOU on Capacity Cooperation and Hold Seminar*

Promulgator: Minister of Commerce

Promulgation Date: October 11, 2016

On October 11<sup>th</sup>, China and Portugal held talks to discuss upgrading economic cooperation by enhancing investment and trade. Both countries agreed it is in their best interests to cooperate with one another and work out a way to increase alliances.

The two countries signed a Memorandum of Understanding, focusing on increasing third-party market cooperation. Chinese Premier Li Keqiang also called for enhanced cooperation in agriculture, infrastructure, and auto manufacturing, seen as most important for joint economic development. Also mentioned at the forum were ways to constantly improve the platform role of Macau and how to strengthen the integration of bilateral trade and their overall economic relationship.

Both sides agreed that this conference will result in increased trade and economic cooperation between China and Portuguese-speaking countries. After the talks, the two countries signed bilateral documents on finance, energy and telecommunication.

**You can read the complete news at:**

[http://english.mofcom.gov.cn/article/zt\\_cv/lanmua/201610/20161001412880.shtml](http://english.mofcom.gov.cn/article/zt_cv/lanmua/201610/20161001412880.shtml)

## 8. China Supports SMEs through Promotion Act

News Category: Corporate / Legal

Title: *Small and Medium-sized Enterprise Promotion Law (Draft Revision)*

Promulgator: National People's Congress Standing Committee

Promulgation Date: November 16, 2016

On October 31<sup>st</sup>, a draft amendment supporting small and medium sized businesses (SMEs) was submitted for review to the National People's Congress (NPC) Standing Committee. The draft law has been published on the NPC website, and will be open for public comments until the deadline December 14<sup>th</sup>, 2016.

Upon approval and implementation, this SME Promotion Act will aim to assist all firms, but most specifically SMEs, through inclusive finance, IPR protection, alleviating administrative burdens and regulating both government and state-owned enterprise payments to SMEs.

SMEs have been the backbone of the growing Chinese economy, making up for the majority of the 21.9 million companies in China and accounting for 99.6% of all firms in industry, specifically.

In the past, these small-medium businesses have struggled due to "blind development", according to legislator Li Andong, SMEs seek quick success but fail to maintain stability in the long run. The amendment under review will implement government support to SMEs during development stages, in order to sustain long term economic vitality.

In addition to problems arising during the development stages, financial obstacles have also been present within SMEs. In a network survey, 43% of small business respondents experienced financing difficulties. The SME Promotion Act has divided the existing SME law of "financial support" into two categories, now "financial support" and "financial promotion".

As a means of strengthening the financial infrastructure of SME firms, the new act will provide Pratt & Whitney financial services, innovative financial services and security methods, in order to develop direct financing, a multi-level capital market, and also the establishment of social credit collection and evaluation systems.

In a recent article from the EU SME Centre, executive advisors weighed in how China's economic restructuring will affect SMEs in 2016 and into the future. The article explains that in order to promote growth, China strives to automatize SME supply chains to improve efficiency, grow domestic consumption and open outbound Chinese investment to other economies. The article encourages European businesses to "grab the opportunities to service new Chinese investors".

**You can read the complete news at:**

[http://www.npc.gov.cn/npc/flcazqj/2016-11/15/content\\_2002095.htm](http://www.npc.gov.cn/npc/flcazqj/2016-11/15/content_2002095.htm)

## 9. MIIT Releases Development Plan for Industrial Innovation Capacity

News Category: Corporate / Legal

Gong Xin Bu Gui [2016] No. 344

Title: *Circular of the Ministry of Industry and Information Technology on Issuing the Development Plan for Industrial Technology Innovation Capacity (2016-2020)*

Promulgator: Ministry of Industry and Information Technology

Promulgation Date: October 21, 2016

Effective Date: October 21, 2016

The Ministry of Industry and Information Technology issued the Development Plan for Industrial Technology Innovation Capacity (2016-2020) (The "Plan") on October 31st. The Plan aims to enforce both the China Manufacturing 2025 and the 13th Five Year Plan, in order to spur industrial and technologic innovation over the next four years.

The Plan is outlined with improvements by 2020 in the following categories: the industrial innovation system, the leading role of enterprises in technology innovation, development of critical technologies, enterprise application for intellectual property rights, the comprehensive standardization system and the abilities of innovation zones.

The Plan is highlight by the three specific areas of electronic information manufacturing, communication and software and technology services. These initiatives aim to set a precedent of technological innovation, development and maturity for years to come.

**You can read the complete news at:**

<http://www.miit.gov.cn/n1146295/n1652858/n1652930/n4509650/c5331368/content.html>



## 10. Multiple Laws set to be abolished to streamline Business Development

News Category: Corporate / Legal

Title: *China intends to amend the Foreign Trade Law and other 12 laws to promote decentralization*

Promulgator: the 24th Session of the Standing Committee of the Twelfth National People's Congress

Promulgation Date: October 31<sup>st</sup>, 2016

In attempt to streamline administrative and delegate powers, on October 31<sup>st</sup>, the 24<sup>th</sup> Session of the Standing Committee of the Twelfth National People's Congress discussed amendments to 12 foreign trade laws. To expedite business registration logistics, the draft proposes an abolition of certain administration examinations, approval items and professional qualifications.

Specifically, the draft proposes to abolish the following:

- approval of international projects;
- verification of temporarily imported or exported products;
- sports competitions national record approval;
- meteorological facility project's verification and approval;
- organizational standard approval for weather altering operations;
- any approval for meteorological material, (these approvals will now be granted by the State Council in accordance with to the Foreign Trade Law, the Customs Law, the Sports Law and the Meteorology Law; and those regarding the port entry and departure visas of vessels sailing on domestic routes);
- permission of transactions of non-state-owned records;
- the process of approving investments to be acquired by foreign partners in Sino-foreign cooperative joint ventures before income tax payments;
- the approval process of hazardous waste transfers between districts of a single province;
- coal mine enterprise set up approval, (decided by local authorities according to the Maritime Traffic Safety Law); and

- all of the following laws: Archival law, the Law on Sino-Foreign Cooperative Joint Ventures, the Law on the Prevention and Control of Environmental Pollution Caused by Solid Waste, the Law on the Coal Industry and the Highway Law.

**You can read the complete news at:**

[http://news.xinhuanet.com/politics/2016-10/31/c\\_1119822383.htm](http://news.xinhuanet.com/politics/2016-10/31/c_1119822383.htm)

## 11. Violations of Labor Protection Laws to be Published Nationally

News: HR

Order of the Ministry of Human Resources and Social Security of the PRC No.29

Title: *Measures for Publicizing Acts in Material Violation of Labor Protection Laws*

Promulgator: Ministry of Human Resources and Social Security

Promulgation Date: September 1, 2016

Effective Date: January 1, 2017

On September 1<sup>st</sup>, the Ministry of Human Resources and Social Security released new rules regarding labor law violations. The new laws are meant to deter any employer, foreign or domestic, from violating labor and employment laws. They have decided to do this by publicizing significant violations in labor authorities' portals as well as newspapers, TV, and other media each quarter at the city level and twice a year at the national level. The publicized information will be:

- Violator's full name, unified social credit code (or registration number), and address;
- The name of the legal representative or person-in-charge;
- The facts of the violation;
- The authorities' decision regarding the violation.

Violations which will be publically published mainly include:

- Refusal to pay correct sums for labor;
- Failure to purchase social insurances or pay social insurance premiums;
- Violations of working hours and vacation time;
- Violations of special provisions for female employees and underage employees.

Information about violations will also be put on the MOHRSS Administration Department's online portal, the employer's legal compliance file, the MOHRSS credit system, and shared with other governmental departments.

The only information which won't be published as a result of a violation is information vital to state security, trade secrecy, and personal information.

There are no exceptions when it comes to reporting violations which is a good move to hold every company accountable. The bad PR that will come from labor violations being published will hurt reputations and make consumers question a company's ethics. If a company is unsure whether or not it is in compliance with labor laws, it's important to check and stay in compliance because the new Measures are effective starting already as of January 1<sup>st</sup>, 2017.

**You can read the complete news at:**

[http://www.mohrss.gov.cn/gkml/xxgk/201609/t20160909\\_246849.html](http://www.mohrss.gov.cn/gkml/xxgk/201609/t20160909_246849.html)

## 12. Hong Kong and Korea Reach an Agreement on Income Tax

News Category: Hong Kong

Title: HK, Korea Tax Treaty in Force

Promulgator: Hong Kong Inland Revenue Department

Promulgation: September 30, 2016

Effective Date: Korea January 1, 2017 and Hong Kong April 1, 2017

Released on September 30th, Hong Kong and Korea have reached an agreement on a treaty regarding income tax. Including the avoidance of double taxation and prevention of fiscal evasion, the Treaty came into effect September 27th after each side completed their respective ratification processes.

The treaty will effect tax payers of Korea January 1st, 2017 and April 1st, 2017 for those of Hong Kong. Highlights of the treaty including:

- **Permanent Establishment (PE):** Any construction or installation projects lasting more than 12 months must be declared as a PE, in regards to the *Organization for Economic Co-operation and Development Model Treaty*. Also the treaty clarifies that services provided through a Contracting Party are deemed taxable;
- **Exemption or reduction of tax on dividends, interests and royalties:** Passive income from Korea by Hong Kong Residents is held to reduce tax rates. For income from Hong Kong by a Korean resident, there is no withholding tax, yet still a 4.95% domestic holding rate;
- **Capital gains:** Aside from goods derived from the alienation of transportation of trade over international traffic or movable property, Korea receives a taxing right of capital gains on domestic goods. Hong Kong is exempt from domestic tax if the capital gains are through investments in nature or sourced outside Hong Kong;

- **Other income:** exclusive resident jurisdiction taxation;
- **Mutual agreement procedure:** Cases of double taxation may be presented within three years by residents of either Hong Kong or Korea;
- **Anti abuse provisions:** If a deal seeks to take advantage of the treaty, in regards to any tax, tax benefits will be completely denied.

**You can read the complete news at:**

<http://www.ird.gov.hk/eng/ppr/archives/16093001.htm>

### 13. Consultation of Measures to Counter Base Erosion and Profit Shifting Launched

News: Hong Kong

Title: *Consultation of Measures to Counter Base Erosion and Profit Shifting Launched*

Promulgator: Inland Revenue Department of the Hong Kong Special Administrative Region

Promulgation Date: October 26, 2016

Effective Date: October 26, 2016

On October 26<sup>th</sup>, the Hong Kong Government launched a consultation exercise to gauge views on the implementation of measures by the Organization for Economic Co-operation and Development (OECD) to counter base erosion and profit shifting (BEPS) of enterprises.

The BEPS plan was first released by G20 and OECD in 2013 as a response to international tax challenges. The ultimate goal of the system is to restore confidence in tax systems and level the playing field for companies through 15 action plans. These plans primarily aim to eliminate the gaps and mismatches in tax laws between countries that allow multinational companies to avoid paying taxes which gives them an unfair advantage over domestic competitors.

The top priority is to have participating members implement four minimum standards which are countering harmful tax practices, preventing treaty abuse, imposing country-by-country reporting requirements, and improving the cross-border dispute resolution regime.

The challenge for Hong Kong now is to maintain its "simple and low tax regime" while complying with these new standards. Hong Kong's tax regime has been a major reason for its economic success and competitiveness so it will be interesting to see if they are able to maintain the same level of competitiveness after the BEPS actions are implemented.

They maintain that by periodic reviews by the Inland Revenue Department and keeping a highly transparent system, they will ensure they are not offering any harmful tax practices.

As for the impact on business, Hong Kong has said that the proposed amendments serve to reinforce the regime to enhance clarity and certainty. It's meant to be a counter to BEPS strategies used by multinational enterprises and should not have a significant impact on small and medium enterprises. There will be a new transfer pricing documentation requirement for relevant companies operating in Hong Kong, however, companies can get exemption if they meet specified criteria. The OECD developed a three-tiered approach to transfer pricing documentation using a master file, local file, and CbC report. This means enterprises will have to consistently show transfer pricing position and provide useful information for assessing risk.

- The master file will give a high-level overview of the group of enterprises which is to be made available to all relevant tax administrations;
- The local file will have all detailed transactional transfer pricing information specific to every jurisdiction the enterprise is in;
- The CbC report will contain information like revenue, profits, tax paid, number of employees, stated capital, retained earnings, and tangible assets for every jurisdiction the enterprise is in.

Hong Kong recognizes that as an international financial center and responsible member of the international community, its implementation of the BEPS package is very important. This consultation will end on December 31<sup>st</sup>, 2016, after which the government will work to introduce the relevant amendments and bills in mid-2017.

**You can read the complete news at:**

<http://www.fstb.gov.hk/tb/en/docs/BEPS-ConsultationPaper-e.pdf>

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*The information provided by this newsletter does not purport to be comprehensive and is for general information only. The newsletter is not intended to convey or constitute professional advice. You should not act upon any such information without first seeking qualified professional counsel on your specific matter.*



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