

China Business Advisory

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TABLE OF CONTENTS

1. China Updates

- ✧ Discussion Draft of the Amendment to Individual Income Tax Law
- ✧ Consolidation of State and Local Tax Authorities
- ✧ Further Upgrade of the Negative List for Foreign Investment Access
- ✧ Revision of Policy regarding FIE Establishment and Alteration

2. Service Highlight

Discussion Draft of the Amendment to Individual Income Tax Law

The National People's Congress (“NPC”) of the People’s Republic of China (“PRC”) released the Discussion Draft of the Amendment to Individual Income Tax (“IIT”)

Law on 29th June 2018, which represents the seventh amendment to the IIT Law of PRC since its first introduction in 1980. Some of the highlights are summarized as below:

- Clarification of the concept and criteria of residential identity for IIT
 - ✓ Introduction of the classification of resident and non-resident individuals;
 - ✓ The time of residence in China shall be taken as the criterion for determining if an individual is resident or non-resident, and will be adjusted from the current full year to 183 days.
- Implementation of comprehensive taxation for partial labor income, optimization and adjustment of the structure of IIT

- ✓ Income from wages and salaries, labor remuneration, remuneration, royalties and 4 other kinds of labor income have been included in the scope of comprehensive taxation as comprehensive income;
- ✓ The gap of excess progressive tax has been widened which now ranges between 3% and 45%.

- Increase in the threshold for deduction of expenses, cancellation of the additional deductions of expenses and addition of a special deduction for comprehensive income
 - ✓ The threshold for the deduction of expenses for Comprehensive Income will be increased from RMB3.5k/month (RMB42k /year) to RMB5k/month (RMB60k /year);
 - ✓ Cancellation of the original RMB1.3k/month additional deductions of expenses applicable to the eligible taxpayers;
 - ✓ Addition of a special deduction that is closely related to people's lives, such as children's education expenditures, continued education expenditures, medical expenses for serious illness, interest on housing loans and rents, etc.

- Addition of anti-tax avoidance clauses for IIT
 - ✓ The tax authorities have the right to implement a taxation adjustment with reasonable methods for individuals exhibiting tax avoidance behaviors such as failure to transfer property according to an arm's length principle without reasonable causes, tax avoidance by taking advantage of overseas tax havens, use of unreasonable commercial arrangements to obtain improper tax benefits, etc.

- Annual IIT final settlement for comprehensive income

- ✓ Establishment of the Taxpayer Identification Number system;
- ✓ IIT of comprehensive income of resident individuals shall be calculated on an annual basis and withheld or prepaid by the withholding agents by month or per declaration. Meanwhile, resident individuals shall apply for IIT annual settlement 6 months within the end of the year;
- ✓ IIT of comprehensive income of non-resident individuals shall be calculated and paid on by month or per declaration and it will not be necessary to apply for IIT annual settlement.

The amendment to IIT Law is expected to come into force on 1st January 2019. Both enterprises and individuals, especially expatriates working in China and individuals with cross-border income or asset arrangements, should timely re-examine their resident status, consider their tax return obligations and review tax planning arrangement to reduce relevant tax liability and non-compliance risks.

Consolidation of State and Local Tax Authorities

On 15th June 2018, all state and local tax authorities at the provincial and independent-plan city level nationwide announced a merger. As a result, 36 new provincial tax authorities were established, which marked a key step in the reform to the tax collection and administration system. On the same day, State Administration of Taxation (“SAT”) issued SAT Announcement [2018] No.32 (“Announcement 32”) to deal with the transitional issues related to the consolidation of state and local tax authorities, which were independent governmental departments in most parts of China.

The significance of the consolidation is as follows:

- Simplified process and improved efficiency of collection and management of tax authorities;
- Reduced cost on policy study, equipment purchase, system maintenance, personnel allocation and tax filings of taxpayers;
- Promotion of enterprises tax compliance management on tax administration matters with timely communication between enterprises and tax authorities;
- Easier access to information of taxpayer as it is managed by one system, which will greatly reduce bureaucracy and facilitate tax compliance administration.

Further Upgrade of the Negative List for Foreign Investment Access

In order to promote trade and investment liberalization and facilitation, create a more convenient and attractive investment environment and further promote steady growth of foreign investment in China, the State Council (“SC”) issued Guofa [2018] No.19 on 15th June 2018, which put forward that China will revise and issue the Special Administrative Measures for Foreign Investment Access (“negative list”) for both Pilot Free Trade Zones (“FTZs”) and other areas of the nation respectively before 1st July 2018. For areas not included in the negative list, no restrictions of access of foreign investment will apply.

- The negative list applicable nationwide (version 2018)
 - ✓ National Development and Reform Commission (“NDRC”) and Ministry of Commerce (“MOC”) jointly issued the negative list applicable nationwide (Version 2018) on 28th June 2018, which introduced a total of 22 open measures related to manufacturing, finance, transportation, infrastructure, agriculture, energy and resources, etc.
 - ✓ The new national negative list reduced 15 open measures based on the national negative list in "Catalogue of Foreign-Invested Industries Guidance (Version 2017)" and further narrowed down the scope of examination and approval of foreign investment.

- ✓ The new national negative list will be effective from 28th July 2018 onward.

- The negative list applicable in FTZs (Version 2018)
 - ✓ The negative list applicable to FTZs was revised and jointly released by the NDRC and MOC on 30th June 2018. On the basis of Version 2018 of the national negative list, the new FTZs' negative list has launched some new measures in agriculture, mining, culture, and value-added telecommunications sectors to relax further.
 - ✓ The new FTZs' negative list also includes 13 more explicit entry requirements for mining, transportation, post service, legal services, culture, education and entertainment, etc.
 - ✓ The new negative list applicable to the FTZs will be effective from 30th July 2018 onward.

Revision of Policy regarding FIE Establishment and Alteration

The MOC released MOC Order [2018] No. 6 (“Order 6”) on 29th June 2018 to revise the original “Provisional Regulations on Record Filings for the Establishment and Alteration of Foreign-invested Enterprises (“FIEs”)” published as MOC Order [2017] No. 2. The revised version became effective on 30th June 2018.

According to Order 6, where the establishment of FIEs does not involve the areas in the negative list, the establishment information of FIEs shall be submitted online for record filing when applying for the establishment registration with the Industry and Commerce Administration Department (“AIC”).

Besides, non-foreign-invested enterprises which are transformed into FIEs by means of merger and acquisition, absorption and merger, shall also submit the change information online for record filing when applying for the alteration of registration in AIC.

In summary, the promulgation of Order 6 will facilitate foreign direct investments entering China. The procedures have become simpler and quicker, and it is expected to bring lower costs and improve efficiency for FIEs.

Service Highlight

The Chinese government has been incurring continuous effort to improve domestic regulations and simplify the administrative processes to enhance the business environment for foreign investors. More positive changes in policies and regulations are expected to follow. Sino-Bridge is always well prepared and pleased to help investors to exploit the full potential of their business. Our Marketing Executive, Ms. Kimme Chan, would like to hear from you at (852) 3579 8745 or kimmechan@sinobridge-consulting.com to learn of how we could assist you to realize your business plan.

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