

China Business Advisory

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Revised VAT Implementation Rules on Cross Border Services

On 18th March 2015, the State Administration of Taxation (“SAT”) issued Announcement 16 of 2015 (“Announcement”) to enhance the regulation of expense payments to overseas related parties with due emphasis on the following:

- The tax authorities can request enterprises to provide contracts or agreements to support that the relevant expenses are genuine and charged at arm’s length and impose adjustments on those that are not
- Enterprises making payments to overseas related parties that have not provided services or borne any risk or for which there is no substance will not be allowed to deduct such payments in the determination of its Corporate Income Tax (“CIT”) payable
- Payments for the following to overseas related parties are not allowed to be deducted in the determination of CIT payable:
 - Services unrelated to the business operations or functional risk undertaken by the enterprise making the payments;
 - Services for control, management or monitoring for the purposes of securing the investment interests in the enterprise making the payments;
 - Services already obtained from third parties or performed internally by the enterprise making the payments;
 - Services received as subsidiary of the group but not specifically from the related party receiving the payment;

- Services already compensated for from other related party transactions; and
- Services that do not result in direct or indirect economic benefits to the enterprise making the payments.
- Enterprise paying for license fees to related parties for intangible assets that do not result in value creation for the enterprise will not be allowed to deduct such payments in the determination of its CIT payable
- Enterprise establishing a holding company or financing company overseas for the purposes of obtaining financing or listing and paying license fees for the benefits created from the financing and listing activities are not allowed to deduct such payments in the determination of its CIT payable
- Tax authorities may impose tax adjustments within 10 years from the year of the transactions if payments for them to overseas related parties do not meet the arm's length principle
- The regulations became effective from the date of the Announcement.

Rules for Online Retail Transactions Using Third Party Platform

On 24th December 2014, the Ministry of Commerce (“MOFCOM”) issued Order 7 of 2014 (“Order”) to promote healthy development of online retail activities and at the same time protect the interests of the parties engaged in online retail transactions using third party platform.

The Order required platform operators to publicly disclose and file with the authorities their rules on responsibility and risk allocation, protection of intellectual property, credit assessment, consumer rights protection, information disclosure, prevention and discontinuance of illegal information and transaction dispute settlement. The operators are required to display these rules in a conspicuous location in the home page of their website for over 7 days asking for comments before implementation of any amendment to them. They are also required to file new/amended rules within 7 days of implementation with MOFCOM who will offer free public enquiry through its filing system. The operators are required to allow reasonable transitional measures for implementation of rules that have significant impact on online retailers and consumers.

There will be public announcement of platform operators who fail to comply with the Order.

The Order has become effective since 1st April 2015.

One Belt, One Road Vision

In the Boao Forum last month, China's president, Xi Jinping, put to the participants his vision of "One Belt (Silk Road Economic Belt), One Road (Maritime Silk Road)" for the development of the Asian economy.

Essentially, One Belt includes countries in Central Asia, West Asia, the Middle East, and Europe integrating them into a cohesive economic area through building infrastructure, increasing cultural exchanges, and broadening trade.

One Road is a complementary initiative aimed at investing and fostering collaboration in Southeast Asia, Oceania, and North Africa, through several contiguous bodies of water – the South China Sea, the South Pacific Ocean, and the wider Indian Ocean area.

According to an article by The Economist China has given the idea a real push in the past few months by "putting its money where Mr Xi's mouth is". It has promised to inject US\$50 billion into its brainchild, Asian Infrastructure Investment Bank ("AIIB"), and earmarked a further US\$40 billion for a "Silk Road fund". While certain countries such as America and some of its allies, Malaysia, Indonesia and India are skeptical of the intentions of China, many are receptive to the concept behind AIIB in the belief that it will bring economic development to the region alongside the infrastructure development investment opportunities.

Service Highlight

China has managed to sustain strong and longtime economic growths and is still one of the most attractive markets to investors in other parts of the world. With more than two decades of dedicated operation in China, we are in a privileged position and are keen to help investors to exploit their full potentials from their business presence in China. Our Marketing Executive, Ms. Yannes Lam, would like to hear from you at (852) 3579 8745 or yanneslam@sinobridge-consulting.com as to what we could do to this end.

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