

China Business Advisory

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A New Opportunity Popped Up for Shenzhen

Shenzhen, one of the four largest developed modern first-tier cities (Beijing, Shanghai, Guangzhou and Shenzhen) in China, started as a small fishing village adjacent to Hong Kong in 1980 as one of the first Economic Special Zones. Thanks to the Reform and Opening-up Policy of China, Shenzhen will

be able to progress to a new level. A fundamental guideline was announced by the Central Committee of the Communist Party of China and the State Council on 18th August 2019 to proclaim that the nation will support Shenzhen in establishing a demonstration pilot zone (“DPZ”) for socialism with Chinese characteristics. This move is for promoting business environment in the Guangdong-Hong Kong-Macao Greater Bay Area and enforcing the practice of “one country, two systems” policy aiming to transcend China’s reform and opening-up practice to a higher and more comprehensive level.

The strategic orientation of Shenzhen DPZ is to be a summit of high-quality development, a demonstration city of rule of law and civilization, a model of people’s livelihood and happiness and a pioneer of sustainable development. The following



Shenzhen, Image Source: Sohu.com

objectives have been set for the development of Shenzhen DPZ:

- By 2025, Shenzhen will be one of the global top cities in terms of economic strength and quality of development with world-class intensity of research and development investment and innovation capability. Cultural soft power should be enhanced significantly and public services and quality of ecological environment should reach international advanced level.
- By 2035, Shenzhen will become a national example of high-quality development with global leading economic competitiveness and world-wide influential innovation and entrepreneurship. It will also be a model to build a powerful modern socialist country.
- By midcentury, Shenzhen is expected to turn herself into a global outstanding city in her competitiveness, innovation and influence.

Some overall elaboration of each point of the strategic orientation are given as well in the above guideline while, as usual, detailed and specific policies and regulations are supposed to come out one after another subsequently. This move is worth serious attention of enterprises and investors although there is not much specific information revealed yet. We will be on close watch for the latest developments and keep our readers posted.

Amended Double Taxation Agreement between China and India Taking Effect

China and India signed a protocol in November 2018 to amend the double taxation agreement (“DTA”) previously signed in 1994. The State Administration of Taxation (“SAT”) of China recently announced that this amended version has come into force from 6th June 2019 after completion of necessary domestic legal procedures and will be applicable to incomes in fiscal years commencing 1st January 2020 and afterwards in China and 1st April 2020 and afterwards in India.

The critical changes of the new version of the DTA are as follows:

- **Title.** The title of the DTA was revised to include prevention of tax avoidance.
- **Persons covered.** The following content regarding a wholly fiscally transparent entity or arrangement has been added:

“For the purposes of this Agreement, income derived by or through an entity or arrangement that is established in either Contracting State and that is treated as wholly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State only to the extent that the income is treated, for the purposes of taxation by that State, as the income of a resident of that State.

This Agreement shall not affect the taxation, by a Contracting State, of its residents except with respect to the benefits granted under paragraph 2 of Article 9, paragraph 2 of Article 18 and Articles 19, 20, 21, 23, 24, 25 and 27.”

- **Resident.** The principle to determine the residency of a person other than an individual who is a resident of both countries has been amended and the latest stipulation is:

“3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavor to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.”

- **Permanent Establishment.** The statement of “other such sites, projects or activities” relating to a building site or construction, installation or assembly project or supervisory activities has been deleted to clarify the scope. And some detailed rules to apply the 183-day rule for this have been integrated to prevent abuse. Moreover, the calculation of 183 days of furnishing services other than technical services as defined as royalties and fees for

technical services was now restricted to “for the same or connected project” and “within any twelve-month period commencing or ending in the fiscal year concerned.”

- **Business Profit.** The first paragraph in this section has been simplified and clarified to be consistent with other standard DTAs.
- **Interest.** Lists of banks and entities under the terms of “Central Bank” and “any financial institution wholly owned by the Government of the other Contracting State” in both countries are added.
- **Entitlement to Benefits.** A separate paragraph has been inserted into Article 27 of the DTA as the following to prevent treaty shopping:

“Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.”

Further Measures for the Convenience of Taxpayers

On 23rd July 2019, SAT released a circular, Shuizonghan [2019] No. 223, to announce ten administrative measures to provide convenience to taxpayers. These measures consist of:

1. **Promotion of list-mode administration of tax preferential policies.** The tax authority will publish a list of tax preferential policies based on which taxpayers can make their own judgement and apply for benefits at their own discretion. They are not required to submit supporting documents or obtain pre-approval unless upon request by the tax authorities.
2. **Expansion of paperless filing of tax refund for export.** Provincial tax authorities will expand paperless filing of tax refund for export to more export enterprises on a voluntary basis.

3. **Upgrading functions of the VAT invoice verification platform.** The logging-in interface of every province for invoice verification will be integrated and taxpayers will be able to track most invoices issued within the last five years.
4. **Reminder services for VAT credit.** The tax system will remind taxpayers of the invoices information for credit in the current period to reduce the chance of losses resulting from failure to observe credit filing deadline.
5. **Tolerance of incomplete documents.** For certain tax matters, the tax authorities will allow the review procedures to proceed with incomplete supporting documents provided that the documents are not essential for the review and the incomplete documents are subsequently submitted.
6. **Standardization and unification of self-service tax matters.** The tax authorities will unify and standardize the functions, interface and administration of tax self-service terminals targeting that 90% of standard tax matters could be using these terminals in the future.
7. **Pilot program for tax certificate.** The tax authorities will choose some areas to explore a pilot program to allow taxpayers to apply for tax certificates without submission of supporting documents provided that the taxpayers were well informed of the procedures and requirements and signed a declaration of compliance with them.
8. **Online unlocking of tax disk.** The upgraded VAT invoice administration system will allow taxpayers to apply for unlocking the tax disk online when the tax disk is locked due to abnormal operations.
9. **Combination of filing of Urban and Township Land-Use Tax and Real Estate Tax.** The forms and filing deadlines of the two taxes would be merged together to simplify tax filing procedures.
10. **Information sharing.** The tax authorities will enhance communication with the market regulation authorities to obtain information of legal representatives of taxpayers through information sharing when the companies are established so that taxpayers do not need to register with the tax authorities again to simplify the setting up process.

All the above measures are decided based on listening to voices of taxpayers and review of the practice of the tax authorities in the first half year of 2019. The implementation of the above measures will allow enterprises to enjoy more convenience while easing administrative burden of the tax authorities.

Service Highlight

The global environment has been changing recently with significant uncertainties and challenges emerging for many businesses. In order to attract more investments, China's government has been striving for deeper reform and more opening-up to the world by means of promulgating new policies, regulations, and measures constantly. Our professional team have been helping our clients not only in catching and understanding such fresh contents but also in integrating them into the business of the clients and the local practices from both short-term and long-term perspectives. Need any assistance or help in doing business in/with China, our Marketing Executive, Ms. Rika Wong, is always at your service at email rikawong@sinobridge-ge-consulting.com or call (852) 3579 8745.

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