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2. Service Highlight

Implementing DTA

between China and Chile

The State Administration of Taxation (“SAT”) issued SAT Announcement [2016] No.79 on 11th December 2016, announcing that the Agreement between the Government of the People’s Republic of China and the Government of the Republic of Chile

for the Elimination of Double Taxation and the Prevention of Tax Evasion and Avoidance with Respect to Taxes on Income (“the DTA”) had come into force on 8th August 2016 and would be fully implemented on 1st January 2017. The highlights in the DTA are summarized as follows:

- The DTA applies to Individual Income Tax (“IIT”) and Corporate Income Tax (“CIT”) in China and taxes covered by the Income Tax Act in Chile;
- A person shall not be entitled to any relief or exemption under the DTA if the person other than an individual is a resident of both China and Chile (“Contracting States”) but without mutual agreement by the competent authorities of the Contracting States;
- A concept of “being connected to an enterprise” has been implemented in this DTA for the determination of a Permanent Establishment;
- Tax charged shall not exceed 10% of the gross amount of dividends from China;
- Tax charged shall not exceed 4% of the gross amount of interest derived from loans granted by banks, insurance companies and other financial institutions;

- In other situations, tax charged shall not exceed 15% and 10% of the gross amount of interest derived from 2017 to 2018 and from 2019 onward respectively;
- Tax charged shall not exceed 2% of the gross amount of royalties for the use of or the right to use industrial, commercial or scientific equipment. For all other cases, the tax rate of 10% would be applied.

The implementation of the DTA demonstrates China's intention to develop a closer relationship with Chile through tax cooperation. The DTA would allow multinational corporations ("MNCs") which operate in these two countries to benefit from significant tax savings. MNCs operating in these two countries should review their business practices to assess how they can make the most out of the DTA.

Further Clarifications on VAT Reform

The Ministry of Finance ("MOF") and the State Administration of Taxation ("SAT") jointly released Caishui [2016] No.140 on 21st December 2016, detailing several retrospective tax policy clarifications for certain industries which have transitioned from Business Tax ("BT") to Value Added Tax ("VAT"). These industries include financial services, real estate, education and lifestyle services. This Circular came into force retrospectively on 1st May 2016 when the VAT Reform was extended to the whole country. The key clarifications are summarized as follows:

- VAT charged on the returns on principal-protected financial products is at 6% while no VAT will be charged on the returns on non-principal-protected financial products;
- Income derived from held-to-maturity asset management products (e.g. funds, trusts and management products) is not considered to be within the scope of financial products trading which is subject to 6% VAT. It is instead subject to the previous rule above;
- Asset managers will be the VAT taxpayers for the taxable activities that occur during the operation of asset management;

- Scope of the deduction of the “purchase price of land use rights” for real estate companies has been expanded to include resettlement compensation, primary land development costs and land alienation returns;
- Take-away and delivery services are subject to 6% VAT instead of 17%;
- Provision of meeting venues in the hospitality industry is subject to 6% VAT;
- Transportation in tourist sites is subject to 6% VAT instead of 11%;
- An alternative simplified 3% VAT rate method may be applied to the provision of educational support services;
- The alternative simplified 3% VAT rate method may also be applied to the provision of some services or sales of intangible assets (e.g. R&D and technical services, information technology services, authentication and consultation services, sales of technology and copyright and technology transfer) for non-enterprise organizations.

The above clarifications can ease the burden and uncertainty that taxpayers previously faced with regards to determining the applicable rate of VAT. A lower rate of VAT can now be applied under certain specified situations.

Implementing Environmental Protection Tax Law

On 25th December 2016, the Environmental Protection Tax Law (“the Law”) was finally approved by the Standing Committee of the National People's Congress (“NPC”) after the release of its initial draft in September 2016. For an overview of the initial draft, please refer to China Business Advisory 2016 Issue 9. The Law will take effect on 1st January 2018. The major differences between the Law and its initial draft are highlighted as follows:

- The scope of taxable pollutants is clarified and subject to the items mentioned in “Table of Environmental Protection Tax (“EPT”) items and rates” and “Taxable pollutant items and the table of corresponding equivalent value”;
- In addition to the tax levied being halved when the concentration of taxable airborne pollutants and water pollutants is lower than 50% of the state or local standards, the Law

added that 25% of tax will be exempted when the concentration of the above pollutants is lower than 70% of the stipulated standards.

In order to facilitate the implementation of the Law and minimize disruption to the operations of tax payers, a one-year buffer period will be granted to tax payers. The implementation of the law demonstrates the government's determination to become an increasingly eco-friendly economy.

Promotion Plan of Policy for Extending the Responsibility of Producers

With a desirable outcome of trial implementation of the policy for extending the responsibility of producers ("the Policy") on several electrical and electronic manufacturers, the General Office of the State Council released Guobanfa [2016] No.99 on 25th December 2016 with details on the plan to widen the scope of the Policy ("the Plan"). The plan consists of the aim, the scope of responsibility, relevant industries and timeline of the procedure. The highlights of the Plan are summarized as follows:

- The aim of the Plan is to systemize the entire Policy at a preliminary level by 2020 while the system of policies and regulations is expected to be fully developed by 2025;
- The scope of responsibility will be:
 - To consider the impact of the selection of raw materials and procedure of manufacturing, packaging, selling, using, recycling and disposing on the environment;
 - To increase the use of reprocessed raw material;
 - To regulate the mode and procedure of recycling and reusing;
 - To disclose key information about materials, parts used and content of hazardous substance;
- The adoption of the Plan will be mandatory for businesses operating in the manufacturing industry of electrical appliances, electronics, automobiles, lead-acid battery and paper based composite package for beverages;

- Pilots will be determined and launched in 2017 and regulations, guidance and other policies will be finalized by 2019.

This is one of the key points of the structural supply-side reform that China is currently focusing on. It is high likely that the Policy will be expanded to other manufacturing industries in the future. Although the Policy may impose additional burden on manufacturing enterprises, preferential policies such as finance and technical support have also been introduced to assist enterprises in adopting the Policy. Similar to the Environmental Protection Tax Law, this move evidences China's effort to encourage businesses to become more environmentally friendly. It is expected that this move would benefit the society as a whole in the long run.

Service Highlight

With Chinese New Year fast approaching, Sino-Bridge would like to wish our readers a healthy and prosperous Year of the Rooster! Kung Hei Fat Choy! Our Marketing Executive, Ms. Kimme Chan, would very much look forward to hearing from you at (852) 3579 8745 or kimmechan@sinobridge-consulting.com for any assistance or support we could provide you with.

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