

China Business Advisory

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Implications of marketing activities on Individual Income Tax (“IIT”)

In an increasingly competitive business environment, it is important that enterprises differentiate themselves from their competition and one of the ways to do so is through “marketing” which is a broad term. It includes various modes and means, such as discounts, gifts, coupons or goods offered to customers or prospective customers. Caishui [2011] No. 50 was released by State Administration of Taxation (“SAT”) and Ministry of Finance

(“MOF”) on 9th June 2011 stating the implications of marketing activities on IIT.

This new regulation is applicable to marketing activities by means of discount, gifts, sweepstakes, cash, coupons, goods, services, etc. (hereinafter referred to as “gifts”) of all enterprises and entities including government institutions and social organizations (hereinafter referred to as “enterprises”).

Individuals are however exempted from IIT on receipts of marketing perks in the form of:

- discount on selling prices
- complimentary products or services, e.g. offer of free mobile phones when paying for certain access fees;
- free gifts gained from certain cumulative consumption points;

Individuals are subject to pay IIT on receipt of gifts in the following conditions:

- Given on a random basis during business promotion or advertising campaigns
- Given in annual meetings, seminars, celebrations and other activities;
- Awarded through an additional opportunity of prize drawing;

If the gift given is self-produced products (services), the taxable income would be the market price. On

the other hand if it is purchased goods (services), the taxable income will be determined by the purchase price. This circular became effective on the day it was released.

Preferential policy with regard to importing activities of the animation industry

According to the circular, Caiguanshui [2011] No. 27, jointly issued by Ministry of Finance (“MOF”), General Administration of Customs (“GAC”) and SAT on 19th May, 2011, import of goods by qualified enterprises in the animation industry for direct development and production of cartoon or animation products can be exempted from customs duty and Value Added Tax (“VAT”). This policy aims to promote healthy and rapid development of China's emerging animation industry and enhance the capability of independent innovation. The provisional valid period of this policy is between 1st January, 2011 and 31st December, 2015.

Business Tax (“BT”) continues to be exempted for cross-border leases

On 10th June, 2011, SAT and MOF jointly released a notice, Caishui [2011] No. 48, which states that overseas entities and individuals could continue to enjoy the preferential transition policy where income derived from old contracts of cross-border equipment leasing will be exempted from BT. “Old contracts” refers to contracts (of finance lease and operating lease) signed before 31st December, 2008 (inclusive), and contracts that meet certain other criteria, such as:

- Contract is in written form and the lease period is more than 365 days;
- The stipulated annual rental in the contract should not be less than RMB500,000;
- No changes to the subject equipment, lease period and other terms;
- The domestic lessee pays the rent stipulated in the contract to the overseas owner, or pays rent through its overseas subsidiaries to the owner, before 31st December, 2009;

Relevant supporting documents are also requested to be submitted to the tax authority in charge for filing before 30th September, 2011.

Restrictions on commercial prepaid card business

In recent years, the commercial prepaid card market has been growing rapidly alongside a booming economy and IT industry in China. However, this also became a convenient means for money laundering, tax evasion and bribery. In order to regulate the commercial prepaid card market more effectively, the State Council issued a notice, Guobanfa [2011] No. 25, stipulating new measures to control the issuance and purchase of commercial prepaid cards which include:

- Establishment of real-name registration system;
- Application of non-cash purchase rules;
- Establishment of certain nominal value limits to the cards;

It also states that inspections will be carried out on various government departments before the end of this year. This demonstrates the government's intention to prevent illegal activities from distorting the market. It is expected that more similar regulations are forthcoming.

Service Highlight

It is in the middle of the year now. We believe most of the enterprises are reviewing and assessing their performance in the first half year, and revising the plan for the second half. Should you need any assistance with resolving problems you have encountered in operating your business in China to position you better for the remainder of this year, please do not hesitate to contact Mary Li, our Marketing Executive at maryli@sinobridge-consulting.com for any advice and help you wish to have.

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