

China Business Advisory

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Changes to the regulations on cosmetic industry

In the wake of recent food issues, both the governing authorities and regulations related to the cosmetic industry have undergone significant changes in the past year or so. These include making the State Food and Drug Administration (“SFDA”) and General Administration of Quality Supervision, Inspection and Quarantine (“AQSIQ”) the main authorities responsible for the administration of the industry and the release of a series of new

regulations including the following:

- Regulations on acceptance of administrative permits application of cosmetic products took effect on 1st April, 2010;
- Administrative measures on the inspection work in respect of cosmetic administrative permits was released on 11th February, 2010;
- Regulation and guidance on naming of cosmetic products was announced on 5th February, 2010;
- Administrative measures on the qualification of inspection institutions regarding cosmetic administrative permits came out on 11th February, 2010;
- Key points and guidance on the technical assessment to cosmetic products became effective on 1st April, 2011;
- Regulations on technical requirements on cosmetic products came into effect on 1st April, 2011;
- Guidance Notes dated on 12th May, 2011 on the regulations on assessment on new raw materials of cosmetic products and the need to apply for their registration is to be effective on 1st July, 2011;

Moreover, some exposure drafts, for instance, for the administrative rules on labeling of cosmetic products and for the regulations with regard to termination of and application for cosmetic products

administrative permits and deregistration, are being put on the authority's website (<http://www.sfda.gov.cn>) open for comments.

Further clarification on VAT credit in respect of import business

State Administration of Taxation (“SAT”) in 2009 kicked off a pilot scheme in some locations, such as Hebei, Henan, Guangdong and Shenzhen, to verify VAT Receipts from the Customs Authority for the purpose of allowing the relevant VAT credit within a time limit. To apply for VAT credit, tax payers have to submit necessary information and documents to tax authority within 180 days from the date the VAT receipt is issued by the Custom Authority. The VAT credit could be applied for upon satisfactory verification with the Customs Authority. However, some tax payers had some misunderstanding on this and failed to apply for it within the stipulated time limit. Recently SAT released a special circular, Guoshuihan [2011] No. 196, to clarify that tax payers who have failed to apply for VAT credit within the stipulated 180-day period but have satisfactory verification results can have an additional opportunity to apply for credit before 15th June 2011 beyond which the relevant input VAT could not be claimed any more in the future. Some other points such as those on unsatisfactory verification results are also explained in this circular.

How to calculate IIT on annual bonus when the employer bears it?

In early 2005, SAT issued a circular, Guoshuifa [2005] No. 9, to stipulate how to calculate the Individual Income Tax (“IIT”) on one-off annual bonus. However, the situation in practice is more complicated. Some employers decide to bear the whole or part of it. SAT released the Pronouncement No. 28 in 2011 to clarify the points in question. IIT borne by employers is defined as part of the employee's bonus and two different formulas are given to calculate the IIT in case the employers bears certain amount or percentage respectively. The rationale is the need to gross up the IIT borne by the employers to arrive at the deemed taxable income. This new regulation became effective on 1st May, 2011.



“Exempt, offset and refund” method for claiming export VAT refund applied to more enterprises

There have been two different export tax refund methods applied to manufacturing and non-manufacturing enterprises in China. The one applied to manufacturing enterprises is called “exempt, offset and refund” method, which is more complicated but reasonable. SAT released its Pronouncement No. 18 in March 2011 to expand the application scope of such method to certain

transactions in enterprises which operate the following businesses and have been registered over 2 years.

The effective date was 1st May, 2011 and the stipulated transactions cover:

- Export of own developed and designed products manufactured by other enterprises;
- Export of products under own brand the production of which is outsourced to overseas subcontractors;
- Export of products with self-developed and designed software embedded into procured hardware;
- Other situations stipulated by SAT;

Service Highlight

The deadline, end of May or June, for the following is around the corner:

- Corporate Income Tax (“CIT”) annual settlement
- Annual joint inspection (i.e. for renewal of different operational certificates)
- Annual reporting for Representative Office (“RO”)

We would like to remind our readers to take timely and proper actions to these ends. Please feel free to contact May Lau, our Marketing Executive at maylau@sinobridge-consulting.com for any advice and help you wish to have.

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