

China Business Advisory

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Further development on the RMB Cross-border Settlement Scheme

Further to the various regulations and measures with regard to the RMB Cross-border Settlement Scheme we brought to attention of our readers in previous editions, Ministry of Commerce (“MOC”) issued a circular on foreign investments with RMB subject to it being derived from legitimate sources and the investment not in securities, entrusted loan and financial derivatives except those allowed by this regulation. Other provisions are also spelled out in this circular which became

effective on the day of release. This Circular was supported by the subsequent release by People’s Bank of China, the Central Bank, of regulations necessary to allow the conduct of activities contemplated by the Circular.

Resource Tax reform across the country

The State Council released its Decree No.605 on 30th September, 2011 for the reform on current Resource Tax System after the pilot implementation in Xinjiang Province. Under this Decree sales of crude oil and natural gas nationwide would be subject to a Resource Tax of between 5% and 10% based on sales value rather than quantity which is the current practice. Tax on coking coal and rare earth would increase. According to explanation from the government, the move is for conserving resources, containing damage to the environment and rationalizing the tax burden across different types of enterprises. It is also interpreted as a measure to increase revenues of local governments borne by relevant industries and enterprises eventually. The new regulation will be effective on 1st November, 2011.

More flexibility on setting off input Value Added Tax (“VAT”)

According to the relevant existing VAT regulations, deductible vouchers (VAT Special Invoice, Customs VAT Receipt, Freight Invoice, etc.) which carry input VAT are required to be verified under the official system within 180 days from the date of issuance for the relevant taxes to be available for setting off against VAT due from sales. However, State Administration of Taxation (“SAT”) issued its Decrees No. 49 and No. 50 in the middle of September to provide some flexibility in this regard. From 1st October, 2011, VAT underlying deductible vouchers issued after 1st January 2007 not having been verified by the deadline may still be allowed for set-off with valid reasons such as natural disaster, burglary, courier delay, lawsuit, accidents, force majeure, etc. This will however need to go through set procedures and be subject to approval by the relevant tax authority.

Preferential VAT policy on software enterprises

Ministry of Finance (“MOF”) and SAT jointly released a circular, Caishui [2011] No. 100, on 13th October, 2011 which was effective retrospectively from 1st January, 2011. Under this circular VAT due from sales of eligible software enterprises to be eventually paid to the Tax Authority after setting off the relevant input VAT will be limited to 3% of the relevant taxable income. Definition of software products, criteria for qualification, calculation method and other requirements are also given in this regulation.

Local Education Surcharge commences in Beijing next year

Following the unification of Education Surcharge we highlighted in our 2010 December edition, MOF approved the application by Beijing Municipal Government to levy from 1st January 2012 a 2% local Education Surcharge, additional to current 3% state contribution. Education Surcharge is arrived at based on VAT, Business Tax (“BT”) and Consumption Tax (“CT”) paid by tax payers.

Significant VAT and Business Tax (“BT”) reform next year in Shanghai

Some media reported that the State Council has planned to kick off a pilot scheme in Shanghai next year to reform current VAT and BT systems, which is expected to cover:

- Replacing BT by VAT for several industries;
- Introduce VAT rates, say, 11% and 6% in addition to the current rates of 17% and 13%;
- The relevant VAT will solely be for the funding of the relevant local government

Transportation and some other service industries might be the target of the first phase of the scheme

which is to some degree aimed at resolving the confusion and conflicts between VAT and BT in certain situations under the current practice.

Service Highlight

Chinese government has been striving for the continuous improvement of its regulatory system and has it converged with that of the well developed international communities. Inherent with the process are frequent changes which will lead to unwelcome uncertainties. Investors need to be fully aware of them and do what are possible to minimize their risk exposure. Please give a call to Mary Li, our Marketing Executive, on 00852 3579 8745 or email her at maryli@sinobridge-consulting.com for any help you may need in this regard and beyond.

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