SINO-BRIDGE
Consulting Group

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Further Industries Entitled to Accelerated Depreciation

The Ministry of Finance ("MOF") and State Administration of Taxation ("SAT") together released Caishui [2015] No.106 on 16th September 2015, to add four crucial industries, i.e. light industries, textile, machinery and automobile, to the list eligible for accelerated depreciation. And SAT Announcement [2015] No.68, released on 25th September 2015, specified the requirements for accelerated depreciation treatments. Highlights of Announcement No. 68 are:

- Enterprises falling into these new crucial industries are allowed to speed up the depreciation charges for tax purpose for fixed assets (including self-constructed assets) purchased on or after 1st January 2015.

- Entitlement to accelerated depreciation is subject to prime operating revenue derived from the relevant industry accounting for over 50 percent of total annual revenue of the relevant enterprise.

- For small or low-profit enterprises in these four industries, the cost of an eligible fixed asset purchased on or after 1st January 2015 and used for R&D, production and management can be 100 percent tax deductible if it is below RMB 1 million. If the relevant fixed asset costs more than RMB 1 million, the eligible enterprises can opt for a shortened depreciation life or accelerated depreciation.

- For new fixed assets, the minimum depreciation periods have to be at least 60 percent of the required depreciation periods stipulated in the relevant laws and regulations. For used assets, the minimum depreciation periods have to be at least 60 percent of the required depreciation periods stipulated in the relevant laws and regulations after taking out the periods the relevant fixed assets had been used for.

This policy will improve the cash flow of enterprises and so could facilitate further investment in the relevant industries, thus likely to enhance the global competitiveness of the manufacturing sector of China.

New Procedures for Non-resident Taxpayers Claiming Tax Treaty Benefits

SAT released, on 11th September 2015, SAT Public Notice [2015] No.60, "Administrative Measures on Non-resident Taxpayers Claiming Tax Treaty Benefits" introducing a new mechanism of self-assessment for non-resident taxpayers to check on their eligibility for tax treaty benefits. It replaces the existing Guoshuifa [2009] No.124 and will take effect on 1st November 2015. The highlights of these new Administrative Measures are:

- The cancellation of pre-approval and recordal process;
- The simplification and standardization of documents required;
- Clarification on the obligations of non-resident taxpayers and their tax withholding agents;
- Emphasis on post-tax filing examination by Chinese tax authority giving them the right to investigate on cases suspected of improper claim for tax treaty benefits.

In our views, the launch of this notice will simplify claim procedures. However, non-resident taxpayers or their tax withholding agents are reminded to have adequate procedures and documentation in preparation for any investigation by the Tax Authority at any time.

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Transfer Pricing and Special Tax Adjustment Discussion Draft for Public Comments

SAT released a discussion draft on Implementation Measures of Special Tax Adjustment ("the Discussion Draft") for public comments on 17th September 2015 aiming at upgrading the former trial version and integrating some other regulations released in recent years and proposals in Base Erosion and Profit Shifting ("BEPS") actions of G20/OECD. It is anticipated that the Discussion Draft will be finalized by the end of 2015, which is intended to revise and refine the prevailing Guoshuifa [2009] No.2. The Discussion Draft is a significant document which implicates a tougher stand of SAT, spells out the approach for transfer pricing investigations and introduces new requirements on Transfer Pricing ("TP") documentation. Below are some of the highlights:

- The Discussion Draft expands the concept of related parties:
  - Introducing specific formula to judge whether a loan relationship involves related parties
  - Assessment of the existence of related party relationship can go back three generations of family relationships.
  - Relatives of senior executives, secretary of the board, financial controller, chief accountant, assistant department manager are brought into the scope for assessment of related party relationship.

- Introducing "Value creation attribution method" and "Asset evaluation method to augment the existing five TP methods acceptable for consideration by the Tax Authority.

- Country-by-Country reporting is asked for.

- There are two new chapters to regulate the management of intangibles and intra-group services.

Deepening SOE Reform

The State Council issued a guideline, Guofa [2015] No. 54, on 14th September 2015 to deepen the reform of State-owned Enterprises (SOEs). The key provisions are:

- China will modernize SOEs, enhance state assets management, promote mixed ownership and prevent the erosion of state assets.
- The allowance for mixed ownership carries the implications that SOEs could have participation in its equity from foreign investors, SOE employees and non-state capital including that from domestic private investors.
- Foreign enterprises and non-state firms will be encouraged to become capital stakeholders through various ways including buying into the equity, subscribing for convertible bonds and conducting share swaps.
- During the reform, about 50 percent of China's SOEs would likely be opened for mixed ownership. They could come from electric power, oil, gas, railway, civil aviation, telecommunication and military industries.
- Some monopolized industries in electricity, and railway sectors and companies closely related to national security are however not in the list for reform through mixed ownership.
- China will improve the supervision over state-owned assets to secure reasonable returns on state-owned assets.

China's E-Commerce Platform for Foreign Enterprises

China is the biggest e-commerce market all over the world turning out USD71.8 billion worth of cross-border transactions which accounts for 35 percent of the world's e-commerce turnover.

According to a recently released report on cross-border e-commerce by Accenture, China is expected to become the world's biggest cross-border B2C market by 2020. China's largest online marketplace Tmall.com Global (owned by Alibaba Group) and JD.com provide platforms for foreign enterprises and international brands to sell directly to Chinese consumers without any presence in China.

- CBA readers may wish to explore ways for them or their clients to have a share of this "big cake". With experience gained from assisting our clients to this end, Sino-Bridge is in a good position to cater to your needs in this regard. Take Tmall.com Global as an example. If a foreign enterprise wants to set up a store on Tmall.com Global platform, we can help them steer through all the requirements and secure maximum support from Tmall.com.

Service Highlight

The Chinese government has been making continuing efforts to converge the domestic regulations with international practices to attract foreign investors. With the rapid development of E-commerce in China, foreign investors can tap into the China market expeditiously even without physical presence in China. Our professional team will be pleased to learn of how we could assist you to this end and beyond. Please contact our Marketing Executive, Ms. Yannes Lam at (852) 3579 8745 or yanneslam@sinobridge-consulting.com to let us take you through our service approach.

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