

CHINA TAX NEWSLETTER

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PROMULGATION OF THE ADMINISTRATIVE MEASURES ON ENTITLEMENT OF NON-RESIDENT TAXPAYERS TO TREATMENT UNDER TAX TREATIES

Administrative Measures on Entitlement of Non-resident Taxpayers to Treatment under Tax Treaties (hereinafter referred to as "new Measures") is the updated version of the circular Administrative Measures on Entitlement of Non-residents to Treatment under Tax Treaties (Trial Implementation) (Guo Shui Fa [2009] No. 124).

The new Measures features the following five changes:

- 1) The scope of application is enlarged. In addition to the originally applicable clauses of a tax treaty, the new Measures enlarges the scope to include the international transport clauses and international transport agreement of a tax treaty.
- 2) The administrative examination and approval is canceled. The new Measures removes the requirement that a non-resident taxpayer shall apply for administrative examination and approval for applicability to the clauses on dividends, interest, royalties and capital gains stipulated in a tax treaty. A non-resident taxpayer that satisfies the criteria for entitlement to tax treaty benefits may, at the time of tax declaration or withholding declaration through a withholding agent, enjoy the tax treaty benefits. The tax authorities will implement follow-up administration on the non-resident taxpayer entitled to the benefits and the withholding agent.
- 3) The information needed to be submitted is simplified. A non-resident taxpayer may voluntarily provide any other materials to prove that they satisfy the criteria for entitlement to tax treaty benefits.
- 4) Rights and obligations are explicitly stipulated. The new Measures has clearly defined the rights and obligations of non-resident taxpayers, withholding agents and competent tax authorities.
- 5) The administration procedure is postponed. After the administrative examination and approval is canceled, the tax authorities will supervise the entitlement of non-resident taxpayers to tax treaty benefits during or after tax declaration.

The new Measures will come into effect on 1 November 2015.

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PROMULGATION OF TAX POLICIES AFTER IMPLEMENTATION OF THE WIDENED SCOPE FOR 50% REDUCTION OF ENTERPRISE INCOME TAX ON SMALL LOW-PROFIT ENTERPRISES

During 1 October 2015 and 31 December 2017, small low-profit enterprises meeting the stipulated criteria are eligible for the preferential policy of 50% reduction of enterprise income tax regardless of whether the enterprises adopt the method of tax collection based on their accounts or upon assessment, i.e. "For small low-profit enterprises whose annual taxable income is greater than RMB200,000 but not more than RMB300,000, the enterprise income tax shall be calculated based on 50% of the income multiplied by the applicable tax rate of 20%."

A small low-profit enterprise may voluntarily declare to enjoy the policy of 50% reduction of enterprise income tax. There is no need to go through any governmental formalities for entitlement. The filing procedure is deemed completed when a small low-profit enterprise fills out related columns such as the columns for "Total Asset, Number of Employees, Industry, Restricted and Prohibited Industries" in the annual enterprise income tax declaration forms for the final settlement of enterprise income tax.

AMENDMENTS TO CAI SHUI [2015] NO.3 BY THE MINISTRY OF FINANCE

Recently, the Ministry of Finance re-issued the circular Notice on Issues Concerning Financial Enterprises' Pre-tax Deduction of Loss Reserves for Agriculture-related Loans and Loans Issued to SMEs (Cai Shui [2015] No. 3, hereinafter referred to as "the Notice") in which amendments to certain contents had been made.

According to the Notice, clause 1 of the original circular Cai Shui [2015] No. 3:

"Where a financial enterprise, in accordance with the Guiding Principles for Risk-based Loan Classification (Yin Fa [2001] No. 416), sets aside the loss reserve at any of the following ratios after classifying its agriculture-related loans and loans to SMEs on the basis of risk levels, the loss reserve is allowed to be deducted at the calculation of the taxable income"

had been revised to:

"Where a financial enterprise, in accordance with the Guidelines for Risk-based Loan Classification (Yin Jian Fa [2007] No. 54), sets aside the loss reserve at any of the following ratios after classifying its agriculture-related loans and loans to SMEs on the basis of risk levels, the loss reserve is allowed to be deducted at the calculation of the taxable income".

FURTHER IMPROVEMENTS TO ENTERPRISE INCOME TAX POLICIES ON ACCELERATED DEPRECIATION OF FIXED ASSETS

For fixed assets newly procured by enterprises in the four key industries, namely light industry, textile, machinery and automobile after 1 January 2015, the enterprise may opt for a reduced depreciation period or adopt an accelerated depreciation method.

Enterprises in the four key industries shall mean enterprises undertaking business in the aforesaid industries as their principal activities, whose principal activities of the year when fixed assets are put into use constitute 50% (exclusive) of the enterprise's total income.

For apparatus and equipment newly procured by small low-profit enterprises in the four key industries after 1 January 2015 and used in research and development as well as manufacturing and business operation:

- (1) where the unit value does not exceed RMB1 million, the full amount thereof is allowed to be deducted in a one-off manner as costs and expenses when computing the taxable income amount and therefore, depreciation by year is not needed;
- (2) where the unit value exceeds RMB1 million, the enterprise may opt for a reduced depreciation period or adopt an accelerated depreciation method.



Where an enterprise opts for a reduced depreciation period pursuant to the preceding provisions, the minimum depreciation period shall not be shorter than 60% of the depreciation period stipulated in Article 60 of the Implementation Regulations for the Enterprise Income Tax Law of the People's Republic of China; where an enterprise adopts an accelerated depreciation method, it may adopt the double declining balance method or the sum-of-the-years' digits method.

CIRCUMSTANCES WHERE REAL ESTATE SALES INVOICE IS NOT REQUIRED FOR DECLARATION OF DEED TAX

Under the following circumstances, the tax authorities will not require a taxpayer to provide the real estate sales invoice when declaring deed tax:

(1) where a taxpayer is unable to obtain a real estate sales invoice in the event of transfer of land title or real estate ownership pursuant to a legal document of a People's Court or an arbitration committee which has taken effect;

(2) when a taxpayer is going through the deed tax declaration formalities for a newly-built commodity housing but is unable to obtain a real estate sales invoice because the real estate development enterprise selling the newly-built commodity housing has completed cancellation of tax registration or is listed by the tax authorities as an abnormal enterprise.

The preceding provisions shall come into effect from 25 September 2015.

PROMULGATION OF THE PREFERENTIAL POLICY OF 50% REDUCTION OF VEHICLE PURCHASE TAX FOR PASSENGER VEHICLES OF 1600 CC OR LOWER DISPLACEMENT

As approved by the State Council, passenger vehicles of 1600 cc or lower displacement purchased during 1 October 2015 and 31 December 2016 are eligible for the reduced tax rate of 5% on vehicle purchase tax.

NATIONWIDE LAUNCH OF THE REGISTRATION SYSTEM OF "THREE-IN-ONE CERTIFICATE, ONE LICENSE WITH ONE CODE"

Starting from 1 October 2015, the registration system of "three-in-one certificate, one license with one code" is launched nationwide.

For a newly established enterprise or specialized farmers cooperative, it does not need to obtain the tax registration certificate by registering with the tax authorities after it obtains the business license with a unified social credit code for legal persons and other organizations which is issued by the administration for industry and commerce. After an enterprise completes the supplementary information collection, it can use the business license with the unified code as the tax registration certificate when dealing with tax matters.

If an enterprise, registered under the mode of "three-in-one certificate, one license with one code", wants to deregister, the enterprise shall apply to settle all tax payments with the competent tax authorities first and fill out the Tax Settlement Declaration Form. The enterprise may declare for the tax settlement with either the national tax authority or the local tax authority. The tax authority accepting the declaration shall transmit the information of tax settlement declaration to the other tax authority. The competent national and local tax authorities then process the settlement according their responsibilities within the required time limit.



OFFSETTING OF ENTERPRISE INCOME TAX PERMITTED BY THE LOCAL TAX AUTHORITIES OF SHENZHEN

Starting from the enterprise income tax prepayment declaration for the 3rd quarter of 2015, taxpayers can offset the enterprise income tax payable against the enterprise income tax overpaid in previous years when declaring the quarterly or annual enterprise income tax with the local tax authorities of Shenzhen (trans-regional enterprises paying tax on a consolidated basis can only apply for tax refund for the tax overpaid).

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(1) The negative number filled out by a taxpayer in the line "Income tax amount to be supplemented (refunded)" in the annual enterprise income tax declaration forms is the amount of tax to be offset.

(2) Tax overpaid in recent three years can be used directly for offsetting. For tax overpaid for more than three years, a taxpayer is required to submit the special declaration and explanation as stipulated in clause 6 of the Announcement of the State Administration of Taxation on Several Tax Treatment Issues Relating to Taxable Income Amount for Enterprise Income Tax Purpose (Announcement of the State Administration of Taxation [2012] No. 15).

(3) A taxpayer does not need to make payment when declaring the quarterly or annual enterprise income tax. The taxpayer shall go to the service hall of the competent local tax authority within the declaration period and complete the tax offsetting formalities.

(4) Tax offsetting is allowed only within the period for declaration of quarterly or annual enterprise income tax. It is not allowed for overdue or late declaration.

(5) Tax offsetting is not allowed for taxpayers paying tax on a consolidated basis or were relocated to other regions. However, these taxpayers can apply for tax refund for the tax overpaid.



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JESSE WANG

Tel: +86-755-82900993

E-mail: jesse.wang@bdo.com.cn / info@bdo.com.cn

JASON HU

Tel: +86-755-82966512

E-mail: jason.hu@bdo.com.cn

ROBERT PEDERSEN

Partner, International Tax Services

Tel: 212-885-8398

E-mail: rpetersen@bdo.com

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