



China Tax Newsletter

August 2014

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1. New Versions of VAT Invoices Will be Put into Use from 1 August 2014

Amendments have been made to the original versions of the special value-added tax (“VAT”) invoices and the ordinary VAT invoice. Meanwhile, the anti-forgery technology had been enhanced for the special VAT invoice and the special VAT invoice for freight transport services.

2. Taxpayers Engaged in Indirect Provision of International Freight Forwarding Services Are Exempt from VAT

Pursuant to Cai Shui [2013] No. 106, taxpayers providing international freight forwarding services can be exempted from the VAT. Recently, the State Administration of Taxation (“SAT”) issued another circular, specifying that taxpayers engaged in indirect provision of international freight forwarding services are also exempt from the VAT.

3. Cancellation of Import Bonded Policy under Processing Trade for Steel Products

Starting from 31 July 2014, imported steel products of 78 tariff numbers will no longer be eligible for import bonded policy under processing trade. Tariff and import taxes will be imposed on these products.

4. The SAT Further Specifies Criteria for Determining the False Billing of Special VAT Invoices

Pursuant to Announcement of the State Administration of Taxation [2014] No. 39 that is released recently, behaviors meeting all of the following criteria do not fall into the category of false billing of special VAT invoices, and the input VAT of the invoice can be used to offset against the output VAT:

- (1) The taxpayers sell goods, or provide VAT taxable labor services or taxable services to the invoice recipients;
- (2) The taxpayers had obtained the proceeds of the sold goods or the provided taxable labor services or taxable services, or documents of title to the proceeds;
- (3) Contents of the special VAT invoices issued by the taxpayers to the invoice recipients pursuant to related regulations comply with the actual conditions of the sold goods or the provided taxable labor services or taxable services, and the special VAT invoiced are legally obtained by and issued in the name of the taxpayers.

Tips from BDO China

(1) The core requirement is that the transactions are actually conducted, that is, the taxpayers truly sell goods or provide labor services or taxable services to the invoice recipients. Details are as follows: the taxpayers should have title to the goods, including those obtained in the manner of “sales after purchases”; if an affiliate sells goods or provides labor services or taxable services to an invoice recipient in the name of the affiliated party, the affiliated party is deemed to sell goods or provide labor services or taxable services to the invoice recipient.

(2) Here the emphasis is still laid on the consistency among the goods, proceeds, and invoice. However, as circular 39 only stipulates criteria for determining behaviors that do not fall into the category of false billing of special VAT invoices, it is not the case that behaviors that do not meet the criteria are false billing of special VAT invoices.

5. New Rules on Reporting Outbound Investment and the Income Therefrom for Enterprises

Pursuant to Guo Shui Fa [2008] No. 114, enterprises shall report the information about outbound investment to the competent tax authorities. The recently released Announcement of the State Administration of Taxation [2014] No. 38 further specifies the contents and manners regarding the submission of information about the outbound investment and the income therefrom. Details are as follows:

- (1) If an enterprise falls under one of the three circumstances, it shall fill out and submit the Report Form of the Information on the Holding of Shares in Foreign Enterprises by Resident Enterprises at the time of filing tax returns for prepayment of enterprise income tax;
- (2) If the enterprise falls under one of the two circumstances, it shall fill out and submit the Report Form of the Information on the Controlled Foreign Enterprises when filing the annual enterprise income tax returns;
- (3) The enterprise shall submit the required information about the income from the outbound investment within the period specified by the tax authorities. If difficulties are met, the enterprises may apply for a deferred filing.

Tips from BDO China

- (1) Where a non-resident enterprise establishes an office or business premise in China, and obtains income that is generated from outside China but has actual connection with the office or business premise, the relevant information shall be reported with reference to this Announcement.
- (2) Acceptance of the information reported by enterprises does not mean that the competent tax authorities approve the information. The enterprises shall be fully liable for the authenticity, integrity and accuracy of the information reported.

6. The SAT Promulgates the Interim Measures for the Administration of Taxes on International Transportation Business of Non-Resident Enterprises

Announcement of the State Administration of Taxation [2014] No. 37 puts forward the following regulations regarding tax registration, administration of tax collection, entitlement to treatment under tax treaties, etc. for non-resident enterprises engaged in international transportation business:

- (1) Administration of tax registration: the non-resident enterprises can go through the tax registration formalities with the domestic port they choose;
- (2) Administration of tax collection: where a non-resident enterprise has not completed the tax registration formalities or has not accurately and actually filed its taxable income, the payer who directly pays the freight, such as the domestic consignor, freight forwarding company, etc., shall act as the withholding agent; the enterprise income tax can be declared and collected in the manner of truthful declaration, assess and levy, and withholding by designated withholding agent according to different circumstances;
- (3) Administration of entitlement to treatment under tax treaties: the certificate of residential identity issued by the competent tax authority of the other contracting state shall be provided and the enterprises shall complete the filing formalities according to Guo Shui Fa [2009] No. 124.

7. VAT Rates Are Simplified and Consolidated and the Unified Rate Is 3%

Pursuant to the original regulations, VAT general taxpayers can calculate and pay VAT at the rate of 4% or 6% according to the simplified VAT calculation formula for certain business. The VAT rates are unified and adjusted to 3% starting from 1 July 2014 pursuant to the new circular.

8. Differentiated Individual Income Tax Policies Are Promulgated for Dividends and Bonuses Distributed by Companies Quoted on the National Equities Exchange and Quotations

Cai Shui [2012] No. 85 stipulates that differentiated individual income tax policies are applicable for dividends and bonuses distributed by listed companies. In Cai Shui [2014] No. 48 that is released recently, differentiated individual income tax policies are also applicable for dividends and bonuses distributed by companies quoted on the National Equities Exchange and Quotations.

Tips from BDO China

(1) A company quoted on the National Equities Exchange and Quotations refers to an unlisted public company whose shares are quoted on the National Equities Exchange and Quotations for public transfer.

(2) Details of the differentiated individual income tax policies are as follows: if the shareholding period is one month or less, the dividends and bonuses obtained shall be included in the taxable income; if the shareholding period is more than one month but less than one year (including one year), 50% of the dividends and bonuses obtained shall be temporarily included in the taxable income; if the shareholding period is more than one year, 25% of the dividends and bonuses obtained shall be temporarily included in the taxable income.

9. Cancellation of Advance Filing of Cost Objects for Real Estate Development Enterprises

Pursuant to Guo Shui Fa [2009] No. 31, cost objects shall be reasonably determined by a real estate development enterprise prior to the commencement of work and filed with the competent tax authorities for record. The filing requirement is now cancelled and replaced by the measure of submitting a special report on the cost objects by the enterprises at the time of filing the annual enterprise income tax returns.

10. VAT and Consumption Tax Policies for Hengqin and Pingtan During Development

Main policies on tax refund and exemption are as follows:

(1) Tax refund: goods sold by domestic parties to Hengqin and Pingtan for production purposes are deemed to be exported and are eligible for VAT and consumption tax refund, except for those not eligible for tax refund pursuant to related regulations;

(2) Tax exemption: goods in Hengqin and Pingtan are eligible for VAT and consumption tax refund if they are traded between companies located in their respective areas. However, goods traded between the preceding companies for commercial real estate development projects in their respective areas and those traded by companies whose tax refund or exemption qualification is cancelled are subject to the VAT and consumption tax pursuant to related regulations.

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