

CHINA TAX NEWSLETTER

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PROMULGATION OF THE CATALOGUE OF ENCOURAGED INDUSTRIES IN WESTERN CHINA

With effect from 1 October 2014, where the main business of an enterprise located in Western China falls under one of the newly-added encouraged industries as specified in the Catalogue of Encouraged Industries in Western China and its revenue from main business for the current year accounts for more than 70% of its total revenue, the enterprise may pay enterprise income tax at a reduced rate of 15%.

Where it is difficult to define whether the main business of an enterprise falls under the encouraged industries as specified in the Catalogue of Encouraged Industries in Western China, the tax authorities may require the enterprise to provide the documentation issued by the provincial (or sub-provincial) development and reform authorities or other authorized authorities. The specific items of the main business and the corresponding clauses in the Catalogue of Encouraged Industries in Western China shall be clearly stated in the documentation.

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ADMINISTRATIVE APPROVAL REPLACED BY REGISTRATION WHEN APPLYING FOR THE GENERAL VAT TAXPAYER QUALIFICATION

With effect from 1 April 2015, registration as general value-added tax (VAT) taxpayer is required when a VAT taxpayer is applying for the general VAT taxpayer qualification. The VAT taxpayer shall complete the registration by submitting the General VAT Taxpayer Qualification Registration Form to its competent tax authorities.

FURTHER REGULATED AND STRENGTHENED ADMINISTRATION OF TRANSFER PRICING IN RESPECT OF EXPENSES PAID BY AN ENTERPRISE TO ITS OVERSEAS RELATED PARTY

Any expense paid by an enterprise to its overseas related party shall be in compliance with the arm's length principle, otherwise, the tax authorities may, within 10 years from the year when the transaction occurs, impose special tax adjustments on the transaction.

When an enterprise pays expenses to its overseas related party, the competent tax authorities may require the enterprise to file the contract or agreement concluded with the related party as well as the relevant information that can prove the transaction's authenticity and compliance with the arm's length principle.

Any expense paid by an enterprise to its overseas related party, which does not perform functions and bear risks and has no substantial business activities, shall not be deducted from taxable income of the enterprise.

TIPS FROM BDO CHINA

(1) Payment of expenses by an enterprise to its overseas related party falls into the scope of enterprise business activities and therefore, can be made without the permission of tax authorities. However, the competent tax authorities may, according to the actual situation, require the enterprise to provide the contract or agreement concluded with the overseas related party as well as the relevant information that can prove the transaction's authenticity and compliance with the arm's length principle within the designated time limit, so that the tax authorities can exam the transaction to see if it complies with the arm's length principle.

(2) In the case of an enterprise receiving labor services from its overseas related party, the labor services shall be analyzed based on the beneficial principle, i.e. analysis of whether the labor services bring direct or indirect economic benefits to the enterprise. Expenses for the received beneficial labor services can be paid in accordance with the arm's length principle; expenses paid for the received non-beneficial labor services shall not be deducted from taxable income of the enterprise.

(3) When an enterprise needs to pay royalties to its overseas related party for using an intangible asset such as technology, brand, etc., the enterprise shall analyze functions performed, assets invested, and risks assumed by relevant related parties in the development, value promotion, maintenance, protection, application, and promotion of the involved intangible asset, so as to determine the economic interests to which each related party is entitled by taking into account the degree of contribution made by each related party to the value of the intangible asset. If the royalties paid by the enterprise to the related party, which only owns the legal ownership of the intangible asset but does not contribute to the value thereof, are not in compliance with the arm's length principle, such royalties shall not be deducted in computing the taxable income of the enterprise.

EXPANDED SCOPE OF SMALL LOW-PROFIT ENTERPRISES ELIGIBLE TO REDUCE TAXABLE INCOME BY HALF WHEN COMPUTING ENTERPRISE INCOME TAX

Starting from 1 January 2015 to 31 December 2017, small low-profit enterprises whose annual taxable income is less than RMB200,000 (including RMB200,000) are eligible to reduce their income by 50% when computing the taxable income and apply the enterprise income tax rate of 20%.

TIPS FROM BDO CHINA

Formulas for computing the number of employees and total assets have been altered. The number of employees and total assets are determined based on their respective average quarterly mean value of the year. The new calculation formulas are as follows:

$$\text{Quarterly mean value} = \frac{(\text{Opening balance of the quarter} + \text{closing balance of the quarter})}{2}$$

$$\text{Average quarterly mean value of the year} = \frac{\text{Sum of the quarterly mean values of the year}}{4}$$

For enterprises starting or terminating business in the middle of a year, the actual operating period shall be regarded as a tax year when calculating the preceding indicators.

ADJUSTMENTS TO BUSINESS TAX POLICIES FOR TRANSFER OF HOUSING BY INDIVIDUALS

With effect from 31 March 2015, if a person sells a house he/she has bought less than two years ago, business tax shall be levied in full; if a person sells a non-ordinary house he/she has bought two years or more ago, business tax shall be levied on the basis of the balance of his/her sales revenue deducting the purchase price thereof; and if a person sells an ordinary house he/she has bought two years or more ago, business tax shall be exempted.


NATIONWIDE IMPLEMENTATION OF THE INSTALLMENT TAX POLICY FOR INDIVIDUAL INVESTMENTS WITH NON-MONETARY ASSETS

As individual investments with non-monetary assets occur concurrently with the transfer of non-monetary assets, the realized income derived from the transfer of non-monetary income shall be recognized at the time of such transfer and acquisition of the equity interest of the invested enterprise. The income derived from the transfer of non-monetary assets shall be recognized based on the assessed fair value thereof. The amount of taxable income is the balance after deducting the original value of the assets and reasonable taxes and dues from the income derived from the transfer of non-monetary assets. The income derived from the transfer of non-monetary assets is subject to individual income tax under the item of "income from transfer of property".



An individual shall file tax returns with the competent tax authorities within the first 15 days of the month following the investments with non-monetary assets. If it is difficult for the taxpayer to pay individual income tax in a lump sum, he/she may reasonably make an installment plan and file such plan with the competent tax authorities, after which he/she shall pay by installment individual income tax within five calendar years (inclusive) from the occurrence of the aforesaid taxable act.

The installment policy provided herein comes into effect on 1 April 2015.



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