

CHINA TAX NEWSLETTER

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CLARIFICATION OF PRE-TAX DEDUCTION OF EDUCATION EXPENSES FOR EMPLOYEES OF HIGH-TECH ENTERPRISES

Since 1 January 2015, employee education expenses incurred by a high-tech enterprise shall be allowed to be deducted when computing taxable income amount for enterprise income tax purpose for the portion which does not exceed 8% of the total wages and salaries; the excess portion shall be carried forward to subsequent tax years for deduction.

High-tech enterprises shall mean enterprises registered in China which are subject to levying and collection according to their accounting books and recognized as high-tech enterprises.

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COMMENCE OF JOINT REPORTING OF ANNUAL INVESTMENT OPERATION INFORMATION BY FOREIGN INVESTMENT ENTERPRISES IN 2015

The foreign investment enterprises that are duly established and registered within the territory of China and have legal person status shall, during 16 July 2015 to 15 October 2015, fill in the report on investment operation information in 2014 by logging in the System for Joint Reporting of Annual Investment Operation Information by Foreign Investment Enterprises and Sharing Nationwide (<http://lhnb.gov.cn/>).

The foreign investment enterprises established upon approval in 2015 can fill in the annual investment operation information from the next year.

ADJUSTMENT OF CERTAIN PRE-TAX DEDUCTIONS AND EXEMPTION STANDARDS OF INDIVIDUAL INCOME TAX IN SHENZHEN

The following pre-tax deductions and exemption standards of individual income tax ("IIT") in Shenzhen have been adjusted since 1 July 2015 (the taxable period):

(1) The monthly average salary based on which employers and employees in Shenzhen pay and deposit housing provident fund shall be not more than RMB18,163. The portion of housing provident fund paid in excess of this standard shall be included into the wages and salaries of the individual and be subject to IIT.

(2) The IIT exemption limit of one-time compensation between employee and employer for termination of labor relation has been adjusted to RMB217,953 (included), the portion paid in excess of this standard shall be subject to IIT.

RELEASE OF PROVISION ON LEVYING AND COLLECTION OF INDIVIDUAL INCOME TAX ON ELECTRONIC RED ENVELOPES

The cash-filled electronic red envelopes received by individuals from a company shall be subject to IIT under the item of contingency income and the IIT shall be withheld by the company which dispatches the red envelopes.

The noncash-filled electronic red envelopes which can only be used when purchasing goods (products) or services of the company which dispatches the envelopes, including all kinds of consumption coupons, cash coupons, tokens, discount coupons, etc., and the cash-filled electronic red envelopes refunded by a company to individuals when purchase of goods or services arrive at certain limit, are not subject to IIT.

The cash-filled electronic red envelopes dispatched between individuals are not subject to IIT.

TIPS FROM BDO CHINA

The electronic red envelopes dispatched by a company to employees shall be deemed bonuses and included into "salaries and wages" on which IIT is to be withheld according to tax law.

FURTHER STANDARDIZATION OF LEVYING AND COLLECTION OF INDIVIDUAL INCOME TAX OF THE PERSONNEL WHO PERFORM CROSS-PROVINCE CONSTRUCTION WORK IN THE BUILDING AND INSTALLATION INDUSTRY

To further standardize the levying and collection of IIT of the building and installation industry and resolve the issue of double taxation of certain companies of the industry, the State Administration of Taxation promulgates the Announcement [2015] No. 52, which shall be implemented with effect from 1 September 2015.

(1) Clarifying the tax payment location: The IIT on salaries and wages of personnel, who perform cross-province construction work in the building and installation industry, will be withheld by their company and submitted to the tax authorities where the construction site locates.

(2) Clarifying the provisions on withholding IIT: A construction company which performs cross-province construction work shall fulfill the obligation of filing the withholding IIT returns for all persons in full amounts on the salaries and wages paid to these persons that are engaged in the project. For those companies which perform the obligation of filing the withholding IIT returns for all persons in full amounts, the local tax authorities where the project locates shall not levy IIT based on assessment.

(3) Clarifying relevant requirements upon tax authorities: The announcement requires the tax authorities where the project locates and the tax authorities where the withholding agent locates to strengthen the information transmission and communication and coordination so as to avoid double taxation and to protect the rights of taxpayers.

Meanwhile, the announcement clarifies that the provisions of this announcement are also applicable to the levying and administration of IIT of personnel working for projects in the same province but in cities other than the registered city of the construction and installation company.

PROMULGATION OF THE PRACTICE AND OPERATIONAL GUIDELINES FOR ACCREDITATION OF INDUSTRIES ENTITLED TO ENTERPRISE INCOME TAX PREFERENTIAL POLICIES IN QIANHAI SHENZHEN-HONG KONG MODERN SERVICE INDUSTRY COOPERATION ZONE OF SHENZHEN

The enterprises which have declared and enjoyed the enterprise income tax ("EIT") preferential policies for the enterprises registered in Qianhai shall need the proof documents from the Administration Authority of Qianhai Shenzhen, if it is difficult for tax authorities to identify whether or not their main operating activities fall into the scope classified in the Preferential Enterprise Income Tax Catalogues of Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone of Shenzhen.

After the enterprises of Qianhai receive written notice from tax authorities which requires them to provide the accreditation of preferential industries, they shall prepare documents as required by the guidelines and submit to the Administration Authority of Qianhai Shenzhen (via E-Station Service Center) to apply for the accreditation of preferential industries. After the Administration Authority of Qianhai has collected all relevant application documents, it will issue proof documents of accreditation to the applicant enterprises within 15 working days. If the main operating activities of the applicant enterprises fail to be accredited as within the preferential scope, the Administration Authority of Qianhai will issue a written notice to inform them.

The guidelines shall be effective from 1 August 2015 and valid for 5 years.

AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF CHILE FOR THE ELIMINATION OF DOUBLE TAXATION AND THE PREVENTION OF TAX EVASION AND AVOIDANCE WITH RESPECT TO TAXES ON INCOME

The Government of the People's Republic of China has signed an agreement with the Government of the Republic of Chile in San Diego for the elimination of double taxation and the prevention of tax evasion and avoidance with respect to Taxes on Income on 25 May 2015, which has not taken effect until now.

TIPS FROM BDO CHINA

The main contents of the tax treaty between China and Chile are follows:

- ▶ The term "permanent establishment" of a building site, a construction, assembly or installation project shall include:
 - 1) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months;
 - 2) an enterprise that performs services in the other Contracting State, for a period or periods exceeding in the aggregate 183 days in any twelve-month period, and these services are performed through one or more individuals who are present and performing such services in that other State.
- ▶ (2) Dividends, interest and royalties paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be subject to the following limits in withholding EIT rates:
 - 1) Dividends: If the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.
 - 2) Interests: If the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed: 4 per cent of the gross amount of the interest derived from loans granted by banks, insurance companies and other financial institutions, and 10 per cent of the gross amount of the interest in all other cases.
 - ▶ (3) Royalties: If the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed: 2 per cent of the gross amount of the royalties for the use of, or the right to use, industrial, commercial or scientific equipment; 10 per cent of the gross amount of the royalties in all other cases.



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