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Tax circulars

► Public notice (PN) regarding Corporate Income Tax treatments related to the restructuring of enterprises owned by the whole people (SAT PN [2017] No. 34)

Synopsis

To further utilize tax policies to promote the reform of state-owned enterprises, the State Administration of Taxation (SAT) released SAT PN [2017] No. 34 (“PN 34”) on 22 September 2017 to specify Corporate Income Tax (CIT) policies for the restructuring of enterprises owned by the whole people (hereinafter referred to as the “EOWP”).
Key features of PN 34 are as follows:

Deferred CIT treatment

According to PN 34, the valuation gains arising from the assets appraisal (hereinafter referred to as “asset appreciation”) during the process of restructuring of EOWP are not required to form part of the current year’s taxable income for CIT purposes. For assets with value appreciation, the original tax basis shall carry over. In addition, it should be noted that the depreciation/amortization of such appraised assets shall not be deductible for CIT purposes.

Qualifying restructuring

PN 34 only applies to the EOWP restructuring falling within the scope of “simple changes of legal form” as stipulated in Caishui [2009] No. 59 ("Circular 59"). More specifically, the restructuring of an EOWP to a wholly state-owned enterprise or a wholly state-owned subsidiary (hereinafter referred to as the "SOE") shall be qualified for the deferred CIT treatment as stated in PN 34. (Please refer to CTIE2009004 and Transaction Tax Alert no. 2009001 for details of Circular 59.)

Documentation requirement

It is good news that there will be no document submission requirement for qualifying SOE enjoying the above-mentioned tax treatment. Instead, the SOE should retain the asset appreciation documentation for future reference.

Effectiveness of PN 34

PN 34 shall be applicable to the annual CIT filing for the year 2017 and onward. For qualifying restructuring occurs prior to the 2017 annual CIT filing and the relevant CIT treatments have not been finalized, PN 34 shall also apply.

You can click this link to access the full content of PN 34:
http://www.chinatax.gov.cn/n810341/n810755/c2838316/content.html

You can click this link to access the full content of Circular 59:
http://www.chinatax.gov.cn/n810341/n810755/c1228299/content.html

State Council executive meeting announced decisions on promoting the development of small and micro-sized enterprises (SMEs)

Synopsis

The executive meeting (hereinafter referred to as the “Meeting”) of the State Council, presided over by Premier Li Keqiang on 27 September 2017, announced the decisions on providing more favorable financial and tax policies to further boost the development of SMEs in China.

The tax policies announced at the Meeting are as follows:

From 1 December 2017 to 31 December 2019, interest income derived by financial institutions for extending loans to SMEs and self-employed industrial and commercial households shall be exempt from Value-added Tax (VAT). In addition, the maximum VAT-free lending quota for each business will be increased from RMB100,000 to RMB1 million.
The two current preferential tax policies as listed below shall be extended until the end of year 2020:

- Stamp Duty exemption for loan contracts entered into by SMEs
- VAT exemption for SMEs with monthly sales revenue not exceeding RMB30,000

In addition to the above tax policies, the Meeting also mentioned that certain financial measures shall be put forward to support SMEs, mainly including:

- To promote the establishment of inclusive finance departments of large-scale state-owned banks at the grassroots levels
- To grant target cuts to qualifying commercial banks
- To set up a national financing guarantee fund as soon as possible
- To establish a policy-oriented agricultural credit guarantee system that covers provinces, cities and counties in three years
- To relax restrictions for applicants of interest subsidy for startup loans
- To accelerate the application of high-end technologies such as big data and cloud computing, so as to provide timely and convenient financial services to SMEs

The Meeting only provides guiding directions. It is reasonable to expect that a series of circulars covering more details will be promulgated in near future. We shall keep you posted if there is any further development in this regard.

You can click this link to access the full content of the Meeting:
http://www.gov.cn/premier/2017-09/27/content_5228004.htm


Synopsis


According to Circular 71, as the enterprises’ eligibilities for CIT preferential treatments are now under the record filing management, taxpayers should make their own judgments as to whether the relevant equipment purchased and used should be eligible for the preferential tax treatment (i.e., a tax credit of 10% of the purchase price is granted for the year of purchase, the excess can be carried forward for the following five years). In practice, a taxpayer shall be able to be eligible for the tax credit once the record filing procedure is completed. However, the supervising tax authority shall be empowered to claw back the tax credit in case the taxpayer is found not qualified for the preferential tax treatment during courses of risk management, tax audit and tax assessment performed by tax authorities.
The 2008 version of Catalogues of Energy and Water Conservation Equipment/Environmental Protection Equipment qualified for CIT Preferential Treatment (hereinafter referred to as the “2008 Catalogues”) released via Caishui [2008] No. 115 has been abolished since 1 October 2017. Any equipment purchased by enterprises from 1 January 2017 to 30 September 2017 which are in line with the contents of 2008 Catalogues shall still be eligible for the CIT preferential treatment.

You can click this link to access the full content of Circular 71 and the 2017 Catalogues: 
http://www.miit.gov.cn/n1146285/n1146352/n3054355/n3057542/n3057545/c5821283/content.html

You can click this link to access the full content of the 2008 Catalogues:  
http://www.chinatax.gov.cn/n810341/n810765/n812171/n812695/c1191416/content.html

**Business circular**

► **Notice regarding opinions on the expansion of the business registration reform (Guofa [2017] No. 45)**

**Synopsis**

In December 2015, the State Council announced Guohan [2015] No. 222 (“Circular 222”) to initiate the pilot reform of business registration in Shanghai Pudong New Area. In order to create a sound business environment to further promote investments, the State Council released Guofa [2017] No. 45 (“Circular 45”) on 22 September 2017, copying and rolling out the measures implemented in Shanghai Pudong New Area (hereinafter referred to as the “pilot measures”) to ten Pilot Free Trade Zones (PFTZs)¹ from the issuance date of Circular 45 to 21 December 2018. (Please refer to CTIE2016001 for details of Circular 222.)

According to Circular 45, the reform on business registration in ten PFTZs will focus on the following four aspects:

► Cleaning up and regulating various administrative licensing items
► Strengthening the interim and post event supervision
► Accelerating the promotion of information sharing
► Further promoting the reform of business registration and certificates integration

In addition, upon approval from provincial-level people’s governments, the pilot measures may also be implemented in certain national zones including the National Innovation Demonstration Zones, National High-and-New Technological Industries Development Zones, State-level Economic and Technological Development Zones and State-level New Areas.

Relevant investors and enterprises should be aware of the possible changes in the business registration requirements and seek help from professionals if in doubt.

¹ Ten PFTZs refer to PFTZs located in municipalities and provinces including Tianjin, Liaoning, Zhejiang, Fujian, Henan, Hubei, Guangdong, Chongqing, Sichuan and Shanxi.

You can click this link to access the full content of Circular 45:  
http://www.gov.cn/zhengce/content/2017-09/28/content_5228228.htm

You can click this link to access the full content of Circular 222:  
http://www.gov.cn/zhengce/content/2015-12/29/content_10519.htm
Other business, customs and tax related circulars recently announced by central government authorities:

► PN regarding the revised simplified documents used for tax administrative punishment (SAT PN [2017] No. 33)
  http://www.chinatax.gov.cn/n810341/n810755/c2838286/content.html

► Notice regarding the “Administrative Measures on Import-level Tax Exemption for the Importation of Appliance, Apparatus and Equipment by Various Research Institutions for Scientific, Technological Research and Education Purposes” (Guokefazheng [2017] No. 280)

► Supplementary notice regarding VAT refund for commodities and services purchased by foreign embassies (consulates) and their attaches in China (Caishui [2017] No. 74)
  http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201709/t20170929_2715550.html

► Decision on the abolishment of a batch of administrative licensing items (Guofa [2017] No. 46)
  http://www.gov.cn/zhengce/content/2017-09/29/content_5228556.htm

► Notice regarding opinions on the expansion of the business registration reform (Gongshanggezi [2017] No. 162)

► Notice regarding certain transitional policies after the cancellation of approval procedures for the qualification for undertaking overseas contractor projects (Shangbanhehan [2017] No. 390)

► Notice regarding matters related to the promotion of the healthy development of foreign trade enterprises providing a wide range of export related services (Shangmaohan [2017] No. 759)

► Notice regarding a catalogue of enterprise-related deposits of departments under the State Council (Gongxinbulianyunxing [2017] No. 236)
  http://www.miit.gov.cn/n1146295/n1652858/n1652930/n4509650/c5818297/content.html

► Decision on the abolishment and modification of certain regulations (MOFCOM Order [2017] No. 3)
  http://www.mofcom.gov.cn/article/b/c/201709/20170902650171.shtml?mType=Group

► PN regarding the implementation of the UN Security Council Resolution No.2375 (MOFCOM/GAC Order [2017] No. 52)

► PN regarding the public opinion consultation on the “Administrative Regulations on Enterprise Name Registration (Discussion Draft)”
Contact us
For more information, please contact your usual EY contact or one of the following of EY’s China tax leaders.

Office Tax Leaders
- Martin Ngai (Beijing)  
  +86 10 5815 3231  
  martin.ngai@cn.ey.com
- J oanne Su (Xi’an)  
  +86 10 5815 3380  
  joanne.su@cn.ey.com
- Andrew Chen (Nanjing)  
  +86 21 2228 2385  
  andrew.jp.chen@cn.ey.com
- Rio Chan (Guangzhou/Changsha)  
  +86 20 2881 2878  
  rio.chan@cn.ey.com
- Fisher Tian (Tianjin)  
  +86 22 2281 3520  
  fisher.tian@cn.ey.com
- Samuel Yan (Dalian/Shenyang)  
  +86 10 5815 3226  
  samuel.yan@cn.ey.com
- Lucy Wang (Qingdao)  
  +86 10 5815 3809  
  lucy-c.wang@cn.ey.com

Service Line Tax Leaders
- Andrew Choy (International Tax)  
  +86 10 5815 3230  
  andrew.choy@cn.ey.com
- Becky Lai (Tax Policy)  
  +852 2629 3188  
  becky.lai@hk.ey.com
- J esse Lv (Transaction Tax)  
  +86 21 2228 2798  
  Jesse.lv@cn.ey.com
- Paul Wen (People Advisory Services)  
  +852 2629 3876  
  paul.wen@hk.ey.com
- Kenneth Leung (Indirect Tax)  
  +86 10 5815 3808  
  kenneth.leung@cn.ey.com
- Travis Qiu (Transfer Pricing)  
  +86 21 2228 2941  
  travis.qiu@cn.ey.com

Sector Leaders
- Catherine Li (Financial Services)  
  +86 10 5815 3890  
  catherine.li@cn.ey.com
- Gary Chan (Real Estate)  
  +86 10 5815 2816  
  gary.chan@cn.ey.com
- Alan Lan (Energy & Resources)  
  +86 10 5815 3389  
  alan.lan@cn.ey.com
- Audrie Xia (Consumer Products)  
  +86 21 2228 2886  
  audrie.xia@cn.ey.com
- Martin Ngai (Technology, Media, Telecommunications)  
  +86 10 5815 3231  
  martin.ngai@cn.ey.com
- Walter Tong (Automotive & Transportation)  
  +86 21 2228 6888  
  walter.tong@cn.ey.com
- Vickie Tan (Life Science)  
  +86 21 2228 2948  
  vickie.tan@cn.ey.com
- Raymond Zhu (Government & Public Sector)  
  +86 21 2228 2860  
  raymond.zhu@cn.ey.com
- Henry Chan  
  +86 10 5815 3397  
  henry.chan@cn.ey.com

Greater China Tax Leader  
- Andrew Choy (International Tax)  
  +86 10 5815 3230  
  andrew.choy@cn.ey.com

Author - China Tax Center
- J ane Hui  
  +852 2629 3836  
  jane.hui@hk.ey.com
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