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Tax circulars

► Notice regarding the adjustments of Value-added Tax (VAT) rates (Caishui [2018] No. 32)

► Notice regarding the unified threshold for small-scale VAT taxpayers (Caishui [2018] No. 33)

Synopsis

To respond to the Meeting (hereinafter referred to as the “Meeting”) of the State Council Standing Committee on 28 March 2018 chaired by the Chinese Premier Le Keqiang, the Ministry of Finance (MOF) and State Administration of Taxation (SAT) released Caishui [2018] No. 32 (“Circular 32”) and Caishui [2018] No. 33 (“Circular 33”) on 4 April 2018 to adjust the relevant VAT policies from 1 May 2018. (Please refer to CTIE2018013 and China Indirect Tax Alert published on 30 March 2018 for details of the Meeting.)
Key features of Circular 32 and Circular 33 are as follows:

**Adjustments of VAT rates**

For sales activities subject to VAT or importation of goods which are subject to VAT at 17% or 11% currently, the applicable VAT rates shall be adjusted to 16% and 10% respectively.

**Adjustments of input VAT recovery in connection with the purchase of agricultural products**

- Where a taxpayer purchases agricultural products in which the input VAT credit is calculated with an 11% deduction rate, the deduction rate shall be adjusted to 10% according to Circular 32.

- Where a taxpayer purchases agricultural products for deep-processing of products that are subject to VAT at 16% for sale or under commissioned processing, the input VAT recovery in connection with the purchase of agricultural products shall be calculated with a 12% deduction rate.

**Adjustments of export tax refund rates**

- For exportation of goods which currently are subject to VAT at 17% with an applicable export refund at the same rate, the export refund rate should now be adjusted to 16%. For exportation of goods or cross-border taxable activities that are currently subject to VAT at 11% with export refund also at 11%, the export tax refund rate shall be adjusted to 10%.

- For goods and cross-border sales of services to be exported by foreign trade enterprises by 31 July 2018:
  - Where the relevant goods and cross-border sales of services are taxed at the pre-adjusted VAT rates, the pre-adjusted export tax refund rates should be adopted for export tax refund purposes.
  - Where the relevant goods and cross-border sales of services will be taxed at the adjusted VAT rates according to Circular 32, the adjusted export tax refund rates should be adopted accordingly.

The effectiveness of the adjustments of export tax refund rates and the date of exportation of goods/sales of cross-border taxable activities should be referred to the exportation date indicated on the customs declaration forms for exportation of goods or the issuance date of invoices for exportation.

**Small-scale VAT taxpayers**

According to Circular 33, from 1 May 2018, for small-scale VAT taxpayers, their annual VAT-taxable sales should not exceed the threshold of RMB5 million.

Entities or individuals that have been registered as general VAT taxpayers according to Article 28 of the prevailing Implementation Rules of the PRC VAT Provisional Regulations (hereinafter referred to as the “VAT Implementation Regulations”) may be converted back to small-scale VAT taxpayers by 31 December 2018 with their uncredited input VAT transferred out.

**Effectiveness**

Both Circular 32 and Circular 33 shall become effective on 1 May 2018. In case of any conflicts of VAT rates, deduction rates, export tax refund rates between the contents of Circular 32 and that of any circulars previously issued, Circular 32 shall prevail.
Our observations

For illustration purposes, we have summarized the VAT rates effective from 1 May 2018 in the below table for your easy reference:

<table>
<thead>
<tr>
<th>No.</th>
<th>Sales of goods/provision of taxable activities</th>
<th>VAT rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sales of goods, labor, leasing of tangible movable assets or importation of goods other than those stipulated in Items 2, 4 and 5</td>
<td>16%</td>
</tr>
</tbody>
</table>
| 2   | Transportation, postal, basic communications, construction, leasing of immovable assets, transfer of land use rights, as well as sales or importation of the following goods:  
  i. Agricultural products such as food grains, edible vegetable oils and salt  
  ii. Tap water, heat, air conditioning, hot water, coal gas, liquefied petroleum gas, natural gas, dimethyl ether, methane gas, coal products for residents  
  iii. Books, newspapers, magazines, audio-visual products, electronic publications  
  iv. Feeds, chemical fertilizers, agricultural chemicals, agricultural machinery and covering plastic-film for farming  
  v. Other goods as regulated by the State Council | 10%      |
| 3   | Sales of services and intangible assets, other than those stipulated in Items 1, 2 and 5                    | 6%       |
| 4   | Exportation of goods, except as otherwise stipulated by the State Council                                 | 0%       |
| 5   | Cross-border sales of services and intangible assets as prescribed by the State Council                    | 0%       |

A number of ground-breaking VAT rule changes were announced at the Meeting on 28 March 2018. The issuance of Circular 32 and Circular 33 has elaborated on most of them from tax implementation perspectives except for the measure for refund of excess input VAT of qualifying advanced manufacturing and modern services as well as electricity grid enterprises that was also announced in the Meeting. It is expected that the MOF and SAT shall further stipulate related details in a tax circular. Moreover, as a usual practice, the SAT may further release public notices for the implementations of Circulars 32 and 33. We will keep an eye on any further progress in this regard and bring you the most updated news.

1 According to Article 28 of the prevailing VAT Implementation Regulations, small-scale VAT taxpayers are defined as follows:

- For taxpayers engaging in goods production or provision of taxable services or taxpayers mainly engaging in goods production or provision of taxable services and concurrently engaging in the wholesale or retail of goods (i.e., 50% or above of their annual revenue are derived from goods production or provision of taxable services), their annual sales amount subject to VAT is no more than RMB500,000;

- For taxpayers, except for those as prescribed above, their annual taxable sales amount is no more than RMB800,000.

You can click this link to access the full content of Circular 32:
http://www.chinatax.gov.cn/n810341/n810755/c3377945/content.html

You can click this link to access the full content of Circular 33:
http://www.chinatax.gov.cn/n810341/n810755/c3377957/content.html

You can click this link to access the full content of the VAT Implementation Regulations:
http://www.chinatax.gov.cn/n810341/n810765/n812156/n812459/c1185880/content.html

You can click this link to access the full content of the official News regarding the Meeting:
http://www.gov.cn/premier/2018-03/28/content_5278110.htm
Notice regarding issues related to Environmental Protection Tax (EPT) (Caishui [2018] No. 23)

Synopsis

According to the EPT Law of the People’s Republic of China (hereinafter referred to as the “EPT Law”) and its Implementation Rules (hereinafter referred to as the “Implementation Rules”), the MOF, SAT and Ministry of Ecology and Environment jointly released Caishui [2018] No. 23 (“Circular 23”) on 30 March 2018 to further specify certain relevant issues. (Please refer to CTIE2016050, China Tax & Investment News Issue No. 2017001 and CTIE2018002 for details of the EPT Law and its Implementation Rules.)

Key features of Circular 23 include:

Calculation of the emission of taxable air pollutants and water pollutants

Where a taxpayer appoints a monitoring authority to monitor its emission of taxable air pollutants and water pollutants and there is multiple data detected for one type of pollutant discharged from one drain over the course of a month, the emission of the taxable air pollutants should be calculated based on the average amount of the emission of taxable pollutants detected; while the taxable water pollutants should be the weighted average value with respect to the flow capacity as detected. Where there is no emission of taxable pollutants detected during the timeline in the current month as required by the competent departments, the emission of taxable pollutants detected in the most recent month can be adopted.

Calculation of the equivalent amount of water pollutants

The equivalent amount of taxable water pollutants should be calculated by dividing the emission of taxable pollutants by the equivalent value of the pollutants.

Calculation of the emission of taxable solid wastes and issues related to EPT filing

Emission of taxable solid wastes should be the amount of taxable solid wastes generated in the current period minus the amount of taxable solid wastes stored, disposed, and used for comprehensive utilization purposes.

Proper documents should be submitted to the tax authorities during EPT filings to substantiate the amounts of taxable solid wastes generated, stored, disposed and used for comprehensive utilization purposes. Taxpayers should also maintain management accounts and relevant documents in this regard for records.

Calculation of the taxable noise

Taxable noise exceeding the prescribed decibels should be subject to EPT at the applicable tax amount. Where an entity has multiple noises detected which are exceeding the prescribed decibels, the detected noise with the highest decibels shall be subject to EPT.

As the first EPT tax filing shall be completed in April, EPT taxpayers should read Circular 23 carefully to ensure compliance.

You can click this link to access the full content of Circular 23:
http://www.mof.gov.cn/mofhome/shuizhengsi/zhengwuxinxi/zhengcefabu/201804/t20180403_2858758.html

You can click this link to access the full content of the EPT Law:

You can click this link to access the full content of the Implementation Rules:
http://hd.chinatax.gov.cn/guoshui/action/GetArticleView1.do?id=10859402&flag=1
Notice regarding Resource Tax (RT) reduction on shale gas (Caishui [2018] No. 26)

Synopsis

To promote the appropriate utilization of shale gas, the MOF and SAT jointly released Caishui [2018] No. 26 ("Circular 26") on 29 March 2018 to announce the RT reduction policy as follows:

From 1 April 2018 to 31 March 2021, shale gas which is subject to RT at 6% shall be eligible for a 30% reduction on RT.

You can click this link to access the full content of Circular 26: http://www.mof.gov.cn/mofhome/shuizhengsi/zhengwuxinxi/zhengcefabu/201804/t20180403_2858759.html

Business circulars

Notice regarding the “Provisional Measures on Dynamic Adjustment of Model Cities in China for Service Outsourcing” (Shangfumaohan [2018] No. 102)

Synopsis

According to Caishui [2014] No. 59 ("Circular 59", i.e., Notice regarding the improvement of Corporate Income Tax (CIT) policies for Technology Advanced Service Companies (TASCs)), recognized TASCs located in the 21 model cities shall apply for the following preferential CIT policies as prescribed in Circular 59 from 1 January 2014 to 31 December 2018 (please refer to CTIE2014045 for details of Circular 59):

► Reduced CIT rate of 15%;
► Employee education expense deduction limited to a cap of 8% of total salaries and wages (generally 2.5%), any excess amounts may be carried forward to future years.

Furthermore, the relevant government authorities jointly released Caishui [2016] No. 108 ("Circular 108") on 12 October 2016 to extend the preferential CIT policies for TASCs to 10 additional model cities in China for service outsourcing from 1 January 2016 to 31 December 2018. At last, on 2 November 2017, Caishui [2017] No. 79 ("Circular 79", i.e., Notice regarding expanding the preferential CIT policies related to TASCs on a nationwide basis) was released to extend the pilot nationwide with retroactive effectiveness from 1 January 2017. (Please refer to CTIE2016045 and CTIE2017044 for details of Circulars 108 and 79.)

Although the abovementioned preferential CIT policies are no longer only applicable to TASCs in the model cities, enterprises in the model cities are still applicable to various supporting measures, such as financial supports. On 15 March 2018, the MOF, SAT, Ministry of Industry and Information Technology, National Development and Reform Commission, State Administration of Foreign Exchange, Ministry of Education, Ministry of Science and Technology, Ministry of Human Resources and Social Security, and Ministry of Commerce (MOFCOM) jointly released the Provisional Measures on Dynamic Adjustment of Model Cities in China for Service Outsourcing (hereinafter referred to as the “Provisional Measures”) via Shangfumaohan [2018] No. 102.

As prescribed in the Provisional Measures, the list of model cities shall be subject to dynamic adjustment according to the results of comprehensive evaluations on the model cities carried out by professional institutions appointed by the MOFCOM. The MOFCOM shall provide guidance to model cities with respect to the different classifications according to the division of economic regions by the National Bureau of Statistics, i.e., the east region, mid-west region and north-east region. A model city listed as the last place of the evaluation result of the respective region for two consecutive years will be eliminated from the list of model cities.
The Provisional Measures became effective on its promulgation date, i.e., 15 March 2018. Relevant enterprises should be familiar with the local supporting measures available to them and stay alert to any changes in this regard.

You can click this link to access the full content of the Provisional Measures:

You can click this link to access the full content of Circular 79:
http://www.chinatax.gov.cn/n810341/n810755/c2908867/content.html

You can click this link to access the full content of Circular 108:
http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201611/t201611110_2455050.html

You can click this link to access the full content of Circular 59:

Notice regarding issues related to the integration of annual reports (Gongshangqijianzi [2018] No. 42)

Synopsis

To ease the administrative burden of enterprises, the State Administration of Industry and Commerce (SAIC) and General Administration of Customs (GAC) jointly released Gongshangqijianzi [2018] No. 42 (“Circular 42”) on 22 March 2018 to launch an integrated annual report system.

Starting from the 2017 annual report which is to be launched on 1 May 2018 and due on 31 August 2018, all customs declaration entities, processing/manufacturing enterprises and enterprises imported equipment receiving tax reduction/exemption (including self-employed industrial and commercial households, farmer specialized cooperatives) that registered with the Customs should submit an integrated annual report via the National Enterprise Credit Information Publicity System. Annual report submission to the customs' platforms or manual submission are no longer required.

According to Circular 42, enterprises that have not submitted their annual reports as of 31 August shall be listed in Directory of Enterprises with Abnormal Operations or marked as abnormal operations in their records (except for those that have submitted their annual reports to the local bureaus under the SAIC before the launch of the integrated annual report system). Starting from the 2018 annual report, the period for submission will be 1 January to 30 June of each year.

Relevant businesses should read Circular 42 carefully and submit their integrated annual reports on time.

You can click this link to access the full content of Circular 42:
http://www.waizi.org.cn/doc/32785.html

Public notice (PN) regarding the launch of bonded goods verification checklist (GAC PN [2018] No. 23)

Synopsis

On 26 March 2018, the GAC released GAC PN [2018] No. 23 (“PN 23”) to launch the bonded goods verification checklist which shall be used as a document for processing trade and bonded supervision business for the Golden Customs Project Phase II (金关二期).
According to PN 23, enterprises engaging in processing trade or under bonded supervision that have already set up ledgers for bonded businesses under the Golden Customs Project Phase II are required to report data of bonded goods verification checklist for inward and outward goods, transportation of goods from/into the customs supervision zones, bonded supervision premises, as well as bonded transactions where the goods are transported between customs supervision zones, bonded supervision premises and processing trade enterprises. After reporting of the relevant data, the relevant enterprises should complete the customs declaration procedures according to the actual business transactions.

After the launch of the bonded goods verification checklist, enterprises are no longer required to complete customs declaration procedures for the following transactions:

- Transfer of scraps under processing trade
- Obsolescence of goods under processing trade (with no income derived from the disposal)
- Transfer of non-priced equipment for processing trade

Various issues regarding simplification of customs declaration procedures in this regard are also addressed in PN 23.

PN 23 shall become effective on 1 July 2018. Customs which have launched pilot run in this regard may also refer to PN 23 before 1 July 2018 for the relevant issues.

You can click this link to access the full content of PN 27:

PN regarding expanding the applicable scope of “self-declaration and filing of import-level taxes” mode (GAC PN [2018] No. 24)

Synopsis

On 29 October 2016, the GAC released GAC PN [2016] No. 62 (“PN 62”) to launch a pilot reform of customs’ tax collection and administration (hereinafter referred to as the “pilot”). Under the pilot, import and export enterprises importing commodities covered in the pilot are allowed to complete the customs declaration and file the import-level taxes according to procedures as prescribed in PN 62 by themselves. Later, GAC released GAC PN [2016] No. 73, GAC PN [2017] No. 12 (“PN 12”) and GAC PN [2017] No. 25 (“PN 25”) to expand the scope of the pilot steadily. (Please refer to CTIE2016043, CTIE2016048, CTIE2017012 and CTIE2017026 for details of PN 62, PN 73, PN 12 and PN 25.)

According to the latest PN 25, from 1 July 2017, the integrative customs clearance reform shall apply to all import commodities in the Customs Import and Export Tariff (hereinafter referred to as the “Tariff”) by means of all types of transportations in all ports nationwide.

On 29 March 2018, the GAC released GAC PN [2018] No. 24 (“PN 24”) to further expand the scope by covering customs declarations for importation under preferential trade agreements.

PN 24 became effective on 10 April 2018, other relevant issues shall still be referenced to PN 62.

You can click this link to access the full content of PN 24:

You can click this link to access the full content of PN 62:
http://www.customs.gov.cn/publish/portal0/tab49564/info826981.htm
Notice regarding the suspension of tariff concessions for certain imported commodities originated from the United States (Shuiweihui [2018] No. 13)

Synopsis

To safeguard China's interests due to Section 232 which the US shall impose tariffs on imported steel and aluminum products, the Customs Tariff Commission of the State Council released Shuiweihui [2018] No. 13 (“Circular 13”) on 1 April 2018 to suspend tariff concessions for certain imported commodities originated from the United States (US).

According to Circular 13, China shall suspend tariff concessions on seven categories of 128 imported goods originating from the US. Those imported goods shall be subject to additional Customs Duties (CD) at 15% or 25%, i.e., the importation of 120 items of commodities such as fruits and products shall be subject to additional CD at 15%, while the importation of eight items of commodities such as pork shall be subject to additional CD at 25%.

Circular 13 became effective on 2 April 2018. The prevailing policies for bonded trading and tax exemption remain unchanged.

You can click this link to access the full content of Circular 13:
http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201609/t20160930_2431097.html

Other tax and business related circulars recently announced by central government authorities:

PN regarding matters related to strengthening the administration of the catalog of new energy vehicles eligible for Vehicle Purchase Tax exemption (MIIT/MOF/SAT PN [2018] No. 17)
http://www.miit.gov.cn/newweb/n1146295/n1652858/n1652930/n4509607/c6115342/content.html

Notice regarding certain opinions of the China Securities Regulatory Commission on launching the pilot schemes of issuing stocks or depository receipts by innovative enterprises in China (Guobanfa [2018] No. 21)
http://www.gov.cn/zhengce/content/2018-03/30/content_5278689.htm

Notice regarding the “Measures on Scientific Data Management” (Guobanfa [2018] No. 17)
http://www.gov.cn/zhengce/content/2018-04/02/content_5279272.htm

Notice regarding issues related to regulating financial enterprises’ investment and financing for local governments and state-owned enterprises (Caijin [2018] No. 23)
http://jrs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201803/t20180330_2857297.html

Notice regarding the “Regulations on Renminbi Cross-border Inter-bank Payment System Business” (Yinfa [2018] No. 72)

Notice regarding opinions on reforming and improving policies in the supply and usage of generic drugs (Guobanfa [2018] No. 20)
http://www.gov.cn/zhengce/content/2018-04/03/content_5279546.htm
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