China Tax Weekly Update

ISSUE 4 | January 2017

Reference: Guo Fa [2017] No. 5
Issuance date: 17 January 2017
Effective date: N/A

Relevant industries: All
Relevant companies: FIEs
Relevant taxes: N/A

Potential impacts on businesses:
- Restrictions on investments may be reduced

You may click here to access full content of the circular.

Measures to boost foreign investment in China

As highlighted in KPMG *China Tax Weekly Update (Issue 2, January 2017)*, the State Council's executive meeting on 28 December 2016 chaired by Premier Li Keqiang approved new guidelines to further attract foreign investment. To complement this, on January 2017, the State Council published the new policy on foreign investment (Guo Fa [2017] No. 5) setting out 20 measures including, inter alia:

Further opening up of Chinese market	• The Catalogue for Guiding Foreign Investment in China and its associated regulations will be revised to relax restrictions on foreign investment and operations in the Chinese service, manufacturing and mining sectors. • Relaxation of limitations on foreign investment in China operations for financial institutions, securities companies, investment funds, companies engaged in futures, insurance companies, insurance intermediaries, accounting firms, architecture bureaus and rating firms. Sectors such as telecommunications, Internet, culture, education and transportation will incrementally be opened up. • Restrictions on foreign investment in operations in China for the manufacturing of railway equipment, motorcycles, fuel ethanol production and oil processing etc. will be removed. Investment access to the Chinese mining industry will be relaxed, and oil and gas projects in cooperation with foreign investors will be changed from a prior approval system to a filing system. • Foreign investors are to be encouraged to invest in high-end manufacturing, intelligent machinery, green technology, industrial design, engineering consulting services, modern logistics, and inspection and certification services in China. • Foreign capital will have greater possibilities to participate in energy, water conservancy, environmental protection, and utility businesses in China via franchise agreements. • The government will support cooperation between Chinese and foreign enterprises/research institutions in relation to research and development (R&D). Foreign investors are encouraged to establish R&D centres, enterprise technology centres and post-doctoral research stations in China. Foreign-invested enterprises (FIEs) may participate in Chinese state scientific programmes.

Further opening up of Chinese market (cont'd)	• Allow FIEs to join the national science and technology program. Where highly skilled expatriates who hold permanent resident permits set up a high tech business in China, they can get the same government support/subsidies as an enterprise set up by a Chinese person.
Creation of level playing field	• All government departments are prohibited from imposing extra restrictions on FIEs, in addition to those currently applying to FIEs. • Conduct examinations, pursuant to the grant of business licenses and qualifications to FIEs, according to the same standards and processing timetables as equivalent examinations for Chinese-invested enterprises. • Chinese-funded enterprises and FIEs should also get equal access to participate in the standardization reform of China. • Foreign investors may equally compete with Chinese-funded enterprises to tender for government procurement contracts. • The policy also aims to strictly protect the intellectual property rights of FIEs. • FIEs will be given more access to the capital market in China and may be listed and issue corporate bonds and convertible bonds etc. in certain capital markets. • The minimum registered capital requirement for FIEs will be removed to bring it in line with Chinese-funded enterprises unless otherwise provided by laws and regulations.
Increase efforts to attract foreign invest-ment	• Local governments are allowed to form preferential policies to support foreign-invested projects that can facilitate employment, economic development and technology innovation in their locality, and reduce the costs for the investment and operation of FIEs. • China will revise the "Catalogue of Priority Industries for Foreign Investment Central and Western China" and expand the scope of sectors and industries encouraged by the government. In central and western parts of China, foreign investment in "encouraged category" enterprises, such as high-end manufacturing, will enjoy additional financing, land and taxation incentives. • Foreign multinational companies are encouraged to set up regional headquarters, procurement centers and clearing centers in China to carry out centralized capital and foreign currency operations. The foreign exchange system will be reformed to accommodate enhanced foreign debt management by FIEs. • Unify the policies on inbound borrowing of foreign currency for both Chinese and foreign enterprises, and simplify the administration of foreign exchange settlement for enterprises. • Continue to provide priority access to land for encouraged foreign-invested industrial projects which use land intensively. • Promote the "Negative List" system (under the "special administrative measures for foreign investment access") for the administration of foreign investment registrations, and simplify the procedures for establishment and alteration of FIEs. Move forward the construction of free trade zones (FTZs), and leverage the successful experience gained from the FTZs to expand the scope of innovations piloted in the FTZs.

Reference: Yin Ban Fa [2017] No. 10
Issuance date: 13 January 2017
Effective date: 17 April 2017

Relevant industries: Financial sector
Relevant companies: Third-party payment Institutions
Relevant taxes: N/A

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced
- Compliance costs increased
- Cash flow burden increased

You may click here to access full content of the circular.

China to regulate third-party payment businesses

On 13 October 2016 the State Council issued several measures to better regulate internet finance, with Guo Ban Fa [2016] No. 21 ("Circular 21"). According to Circular 21, third-party payment businesses, and non-bank payment institutions are not allowed to seize customer prepayments*, and the prepayment accounts should be opened at the People's Bank of China (PBOC) or qualified commercial banks with no interest. To implement this, on 13 January 2017, the PBOC issued Yin Ban Fa [2017] No. 10. This requires that the deposit management of customer prepayments shall be carried out in a centralized way, and highlights the following:

- Starting from 17 April 2017, any payment institutions shall deposit a certain proportion of customer prepayments into a designated deposit account with an appointed bank. For the time being, no interest shall accrue on funds deposited in such account. The proportion of prepayments which must be deposited in this manner are set out as ranges: (i). online payment services: 12% - 20%; (ii). bank card acceptance business: 10% - 18%; (iii). prepaid card issuance and acceptance: 16% - 24%. Where non-bank payment institutions obtain multiple payment service permits, they shall be subject to a higher proportion for deposit for their entire customer deposits through all channels.
- The PBOC will determine the proportion of prepayments to be deposited by a payment institution on the basis of the business type and the latest classification rating of the payment institution, subject to adjustment according to needs of administration.
- The amount of customer prepayments to be deposited by a payment institution with the PBOC/banks shall be calculated on the basis of the daily average balance of such prepayments for the previous quarter, and the depository payment proportion applicable to the payment institution, subject to adjustment on a quarterly basis.
- The customer prepayments deposited by a payment institution with a commercial bank shall neither be included in the general deposit nor the base for deposit reserve.

* Customers' prepayments refer to money balances temporarily held by the payment institutions, which do not constitute proprietary assets of the payment institutions. For example, Wechat balances and Ali pay balances are both customers' prepayments.

Reference: N/A
Issuance date: 13 January 2017
Effective date: 16 January 2017

Relevant industries: Internet
Relevant companies: Online App stores
Relevant taxes: N/A

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced
- Compliance costs increased

You may click here to access full content of the circulars.

China tightens app store regulations

Based on news published on the website of the Cyberspace Administration of China (CAC), the CAC recently issued a notice, applicable from 16 January 2017, under which app stores in China are required to register with the country's top cyberspace regulator. This is on the asserted basis that some apps that have been found to spread illegal information, violate user rights and/or constitute security risks, and the move is intended to curb the spread of malware and illegal information on mobile phones. The news highlights:

- App stores shall perform registration/de-registration for: (i). business operations; (ii). alternation of registered items; and (iii). service cessation.
- App stores shall submit hardcopy and softcopy materials to perform the registration/de-registration with the cyberspace regulator at the location in which its ICP (Internet Content Provider) is registered or where its ICP permit was collected.

* The full content of the notice has yet to be published. We will continue to follow this.

Reference: Guo Fa [2016] No. 81
Issuance date: 18 January 2017
Effective date: N/A

Relevant industries: All
Relevant companies: All
Relevant taxes: RET, UTLUT, CIT

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

You may click here to access full content of the circulars.

Tax incentives for private education

On 18 January 2017, the State Council issued Guo Fa [2016] No. 81, setting out measures to facilitate the sound development of private education, including a series of preferential tax policies:

- Exemptions from Real Estate Tax (RET) and Urban and Township Land Use Tax (UTLUT) for enterprises running schools and kindergartens in respect of the properties and lands where the schools/kindergartens are location.
- Non-for-profit private schools may be exempted from Corporate Income Tax (CIT)
- Charitable donations made by enterprises and individuals to education, can be deducted for CIT and IIT purposes.

To complement this, authorities, such as Ministry of Education, Ministry of Human Resources and Social Security, State Administration for Industry & Commerce etc. jointly issued *Implementation Rules for Classified Registration of Private Schools* and *Implementation Rules for Overseeing Profit-making Private Schools*. These clarify the specific issues for classified registration of private schools and set-up of profit-making private schools.

Reference: N/A
Issuance date: N/A
Effective date: N/A

Relevant industries: All
Relevant companies: All
Relevant taxes: Arable Land Occupation Tax

Potential impacts on businesses:

- Smooth transition
- Tax burden basically remain unchanged

You may click here to access full content of the circular.

Laws on arable land occupation tax

On 16 January 2017, China's Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly publicized a *draft Arable Land Occupation Tax (ALOT) Law ("the Draft")* to solicit the public comments, which are welcomed before 14 February 2017.

Compared with the existing State Council-issued rules for ALOT, the rules will be set out in statutory law issued by the National People's Congress (NPC), with the framework of the existing tax system and tax burden remaining basically unchanged. However, in the *Draft*, there are still some adjustments made, relative to the existing provisions. The proposed changes are driven by economic and social developments in China, advances in tax collection, and build upon the basis of the current implementation rules for ALOT.

Taxpayers and taxable items	• Under the *Draft*, the designated taxpayers subject to ALOT are the same as under the existing rules, i.e., organisations or individuals, that occupy arable land in order to construct buildings or engage in non-agricultural development, shall be payers of ALOT. • Under the *Draft*, arable land occupied for the creation of irrigation and water conservancy facilities will not be subject to ALOT. This is in line with current implementation rules for ALOT. The rest of the taxable items are the same as those prescribed in the existing rules.
Tax basis	• The ALOT shall be computed based on the actual area of arable land occupied by the taxpayer. ALOT shall be levied and collected in a one-off manner according to the stipulated applicable tax rates. This is the same as provisions in the existing rules. The difference is that the formula to calculate the tax payable amount is provided in the *Draft*.
Tax rates	• In the *Draft*, provisions on the tax rates remain unchanged, i.e., ALOT shall be levied based on fixed tax rates. Four tax rates are set according to the area of arable land per capita.
Tax incentives	• In the *Draft*, tax reliefs apply to certain items in relation to national economy or public welfare, in addition to those were granted in the existing rules.

* ALOT law will become the 6th tax law in China, alongside *Tax Collection and Administration Law*, *Corporate Income Tax Law*, *Individual Income Tax Law*, *Vehicle and Vessel Tax Law* and *Environmental Protection Tax Law*. According to the legislation plan issued by the China's National People's Congress (NPC) in 2015, more existing State Council regulations such as on real estate tax, VAT, resource tax, custom duty and vessel tonnage dues, will be put on a statutory basis in the near future (i.e., to turn them into laws passed by NPC).

Contact Us

For any enquiries, please send to our public mailbox: taxenquiry@kpmg.com or contact our partners/directors in each China/HK offices.

Khoonming Ho
Head of Tax,
KPMG China
Tel. +86 (10) 8508 7082
khoonming.ho@kpmg.com

Beijing/Shenyang
David Ling
Tel. +86 (10) 8508 7083
david.ling@kpmg.com

Tianjin
Eric Zhou
Tel. +86 (10) 8508 7610
ec.zhou@kpmg.com

Qingdao
Vincent Pang
Tel. +86 (532) 8907 1728
vincent.pang@kpmg.com

Shanghai/Nanjing
Lewis Lu
Tel. +86 (21) 2212 3421
lewis.lu@kpmg.com

Chengdu
Anthony Chau
Tel. +86 (28) 8673 3916
anthony.chau@kpmg.com

Hangzhou
John Wang
Tel. +86 (571) 2803 8088
john.wang@kpmg.com

Guangzhou
Lilly Li
Tel. +86 (20) 3813 8999
lilly.li@kpmg.com

Fuzhou/Xiamen
Maria Mei
Tel. +86 (592) 2150 807
maria.mei@kpmg.com

Shenzhen
Eileen Sun
Tel. +86 (755) 2547 1188
eileen.gh.sun@kpmg.com

Hong Kong
Karmen Yeung
Tel. +852 2143 8753
karmen.yeung@kpmg.com

Northern China

David Ling
Head of Tax,
Northern Region
Tel. +86 (10) 8508 7083
david.ling@kpmg.com

Andy Chen
Tel. +86 (10) 8508 7025
andy.m.chen@kpmg.com

Yali Chen
Tel. +86 (10) 8508 7571
yali.chen@kpmg.com

Conrad TURLEY
Tel. +86 (10) 8508 7513
conrad.turley@kpmg.com

Milano Fang
Tel. +86 (532) 8907 1724
milano.fang@kpmg.com

Tony Feng
Tel. +86 (10) 8508 7531
tony.feng@kpmg.com

John Gu
Tel. +86 (10) 8508 7095
john.gu@kpmg.com

Rachel Guan
Tel. +86 (10) 8508 7613
rachel.guan@kpmg.com

Helen Han
Tel. +86 (10) 8508 7627
h.han@kpmg.com

Michael Wong
Tel. +86 (10) 8508 7085
michael.wong@kpmg.com

Josephine Jiang
Tel. +86 (10) 8508 7511
josephine.jiang@kpmg.com

Henry Kim
Tel. +86 (10) 8508 5000
henry.kim@kpmg.com

Li Li
Tel. +86 (10) 8508 7537
li.li@kpmg.com

Lisa Li
Tel. +86 (10) 8508 7638
lisa.h.li@kpmg.com

Thomas Li
Tel. +86 (10) 8508 7574
thomas.li@kpmg.com

Simon Liu
Tel. +86 (10) 8508 7565
simon.liu@kpmg.com

Alan O'Connor
Tel. +86 (10) 8508 7521
alan.oconnor@kpmg.com

Vincent Pang
Tel. +86 (10) 8508 7516
+86 (532) 8907 1728
vincent.pang@kpmg.com

Naoko Hirasawa
Tel. +86 (10) 8508 7054
naoko.hirasawa@kpmg.com

Shirley Shen
Tel. +86 (10) 8508 7586
yinghua.shen@kpmg.com

Joseph Tam
Tel. +86 (10) 8508 7605
laiyiu.tam@kpmg.com

Joyce Tan
Tel. +86 (10) 8508 7666
joyce.tan@kpmg.com

Jessica Xie
Tel. +86 (10) 8508 7540
jessica.xie@kpmg.com

Cynthia Xie
Tel. +86 (10) 8508 7543
cynthia.py.xie@kpmg.com

Christopher Xing
Tel. +86 (10) 8508 7072
christopher.xing@kpmg.com

Irene Yan
Tel. +86 (10) 8508 7508
irene.yan@kpmg.com

Jessie Zhang
Tel. +86 (10) 8508 7625
jessie.j.zhang@kpmg.com

Sheila Zhang
Tel: +86 (10) 8508 7507
sheila.zhang@kpmg.com

Tiansheng Zhang
Tel. +86 (10) 8508 7526
tiansheng.zhang@kpmg.com

Tracy Zhang
Tel. +86 (10) 8508 7509
tracy.h.zhang@kpmg.com

Eric Zhou
Tel. +86 (10) 8508 7610
ec.zhou@kpmg.com

Central China

Lewis Lu
Head of Tax,
Eastern & Western Region
Tel. +86 (21) 2212 3421
lewis.lu@kpmg.com

Alan Garcia
Tel. +86 (21) 2212 3509
alan.garcia@kpmg.com

Cheng Chi
Tel. +86 (21) 2212 3433
cheng.chi@kpmg.com

Yasuhiko Otani
Tel. +86 (21) 2212 3360
yasuhiko.otani@kpmg.com

Johnny Deng
Tel. +86 (21) 2212 3457
johnny.deng@kpmg.com

Cheng Dong
Tel. +86 (21) 2212 3410
cheng.dong@kpmg.com

Marianne Dong
Tel. +86 (21) 2212 3436
marianne.dong@kpmg.com

Chris Ge
Tel. +86 (21) 2212 3083
chris.ge@kpmg.com

Chris Ho
Tel. +86 (21) 2212 3406
chris.ho@kpmg.com

Henry Wong
Tel. +86 (21) 2212 3380
henry.wong@kpmg.com

Jason Jiang
Tel. +86 (21) 2212 3527
jason.jt.jiang@kpmg.com

Flame Jin
Tel. +86 (21) 2212 3420
flame.jin@kpmg.com

Sunny Leung
Tel. +86 (21) 2212 3488
sunny.leung@kpmg.com

Michael Li
Tel. +86 (21) 2212 3463
michael.y.li@kpmg.com

Karen Lin
Tel. +86 (21) 2212 4169
karen.w.lin@kpmg.com

Christopher Mak
Tel. +86 (21) 2212 3409
christopher.mak@kpmg.com

Henry Ngai
Tel. +86 (21) 2212 3411
henry.ngai@kpmg.com

Ruqiang Pan
Tel. +86 (21) 2212 3118
ruqiang.pan@kpmg.com

Amy Rao
Tel. +86 (21) 2212 3208
amy.rao@kpmg.com

Wayne Tan
Tel. +86 (28) 8673 3915
wayne.tan@kpmg.com

Tanya Tang
Tel. +86 (25) 8691 2850
tanya.tang@kpmg.com

Rachel Tao
Tel. +86 (21) 2212 3473
rachel.tao@kpmg.com

Janet Wang
Tel. +86 (21) 2212 3302
janet.z.wang@kpmg.com

John Wang
Tel. +86 (21) 2212 3438
john.wang@kpmg.com

Mimi Wang
Tel. +86 (21) 2212 3250
mimi.wang@kpmg.com

Jennifer Weng
Tel. +86 (21) 2212 3431
jennifer.weng@kpmg.com

Grace Xie
Tel. +86 (21) 2212 3422
grace.xie@kpmg.com

Bruce Xu
Tel. +86 (21) 2212 3396
bruce.xu@kpmg.com

Jie Xu
Tel. +86 (21) 2212 3678
jie.xu@kpmg.com

Robert Xu
Tel. +86 (21) 2212 3124
robert.xu@kpmg.com

Yang Yang
Tel. +86 (21) 2212 3372
yang.yang@kpmg.com

William Zhang
Tel. +86 (21) 2212 3415
william.zhang@kpmg.com

Dylan Jeng
Tel. +86 (21) 2212 3080
dylan.jeng@kpmg.com

Hanson Zhou
Tel. +86 (21) 2212 3318
hanson.zhou@kpmg.com

Anthony Chau
Tel. +86 (21) 2212 3206
anthony.chau@kpmg.com

Michelle Zhou
Tel. +86 (21) 2212 3458
michelle.b.zhou@kpmg.com

Southern China

Lilly Li
Head of Tax,
Southern Region
Tel. +86 (20) 3813 8999
lilly.li@kpmg.com

Penny Chen
Tel. +1 (408) 367 6086
penny.chen@kpmg.com

Vivian Chen
Tel. +86 (755) 2547 1198
vivian.w.chen@kpmg.com

Sam Fan
Tel. +86 (755) 2547 1071
sam.kh.fan@kpmg.com

Joe Fu
Tel. +86 (755) 2547 1138
joe.fu@kpmg.com

Ricky Gu
Tel. +86 (20) 3813 8620
ricky.gu@kpmg.com

Fiona He
Tel. +86 (20) 3813 8623
fiona.he@kpmg.com

Angie Ho
Tel. +86 (755) 2547 1276
angie.ho@kpmg.com

Aileen Jiang
Tel. +86 (755) 2547 1163
aileen.jiang@kpmg.com

Cloris Li
Tel. +86 (20) 3813 8829
cloris.li@kpmg.com

Jean Li
Tel. +86 (755) 2547 1128
jean.j.li@kpmg.com

Sisi Li
Tel. +86 (20) 3813 8887
sisi.li@kpmg.com

Mabel Li
Tel. +86 (755) 2547 1164
mabel.li@kpmg.com

Kelly Liao
Tel. +86 (20) 3813 8668
kelly.liao@kpmg.com

Patrick Lu
Tel. +86 (755) 2547 1187
patrick.c.lu@kpmg.com

Grace Luo
Tel. +86 (20) 3813 8609
grace.luo@kpmg.com

Maria Mei
Tel. +86 (592) 2150 807
maria.mei@kpmg.com

Eileen Sun
Tel. +86 (755) 2547 1188
eileen.gh.sun@kpmg.com

Michelle Sun
Tel. +86 (20) 3813 8615
michelle.sun@kpmg.com

Bin Yang
Tel. +86 (20) 3813 8605
bin.yang@kpmg.com

Lixin Zeng
Tel. +86 (20) 3813 8812
lixin.zeng@kpmg.com

Hong Kong

Ayesha M. Lau
Head of Tax, Hong Kong
Tel. +852 2826 7165
ayesha.lau@kpmg.com

Chris Abbiss
Tel. +852 2826 7226
chris.abbiss@kpmg.com

Darren Bowdern
Tel. +852 2826 7166
darren.bowdern@kpmg.com

Yvette Chan
Tel. +852 2847 5108
yvette.chan@kpmg.com

Lu Chen
Tel. +852 2143 8777
lu.l.chen@kpmg.com

Rebecca Chin
Tel. +852 2978 8987
rebecca.chin@kpmg.com

Wade Wagatsuma
Tel. +852 2685 7806
wade.wagatsuma@kpmg.com

Natalie To
Tel. +852 2143 8509
natalie.to@kpmg.com

Matthew Fenwick
Tel. +852 2143 8761
matthew.fenwick@kpmg.com

Sandy Fung
Tel. +852 2143 8821
sandy.fung@kpmg.com

Charles Kinsley
Tel. +852 2826 8070
charles.kinsley@kpmg.com

Stanley Ho
Tel. +852 2826 7296
stanley.ho@kpmg.com

Becky Wong
Tel. +852 2978 8271
becky.wong@kpmg.com

Barbara Forrest
Tel. +852 2978 8941
barbara.forrest@kpmg.com

John Kondos
Tel. +852 2685 7457
john.kondos@kpmg.com

Kate Lai
Tel. +852 2978 8942
kate.lai@kpmg.com

Travis Lee
Tel. +852 2143 8524
travis.lee@kpmg.com

Irene Lee
Tel. +852 2685 7372
irene.lee@kpmg.com

Alice Leung
Tel. +852 2143 8711
alice.leung@kpmg.com

Jocelyn Lam
Tel. +852 2685 7605
jocelyn.lam@kpmg.com

Ivor Morris
Tel. +852 2847 5092
ivor.morris@kpmg.com

Benjamin Pong
Tel. +852 2143 8525
benjamin.pong@kpmg.com

Malcolm Prebble
Tel. +852 2684 7472
malcolm.j.prebble@kpmg.com

David Siew
Tel. +852 2143 8785
david.siew@kpmg.com

Murray Sarelius
Tel. +852 3927 5671
murray.sarelius@kpmg.com

John Timpany
Tel. +852 2143 8790
john.timpany@kpmg.com

Lachlan Wolfers
Tel. +852 2685 7791
lachlan.wolfers@kpmg.com

Steve Man
Tel. +852 2978 8976
steve.man@kpmg.com

Curtis Ng
Tel. +852 2143 8709
curtis.ng@kpmg.com

Daniel Hui
Tel. +852 2685 7815
daniel.hui@kpmg.com

Karmen Yeung
Tel. +852 2143 8753
karmen.yeung@kpmg.com

Erica Chan
Tel. +852 3927 5572
erica.chan@kpmg.com

Adam Zhong
Tel. +852 2685 7559
adam.zhong@kpmg.com

kpmg.com/cn