China Tax Weekly Update

ISSUE 12 | April 2017

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

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

Potential impacts on businesses:

- Risks of being challenged due to cross-border tax anti-avoidance arrangements increased

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

OECD releases tax reports at G20 Leaders' Summit

As highlighted in KPMG *China Tax Weekly Update* (Issue 35, September 2016), in September 2016, the G20 Leaders' Summit was held in Hangzhou, China. The G20 Leaders communique included the following statement:

"We emphasize the effectiveness of tax policy tools in supply-side structural reform for promoting … the benefits of tax certainty to promote investment and trade and ask the OECD and International Monetary Fund (IMF) *to continue working on … tax certainty."*

Further to this, on 18 March 2017, an OECD/IMF report on tax certainty was posted to the OECD's website. The report, published as Annex 1 to the OECD Secretary-General Report to the G20 Finance Ministers (secretary-general report), sets out a number of recommendations for reducing tax law complexity and improving tax policy design, improving tax administration predictability and consistency, and better dispute resolution, including in relation to cross-border taxation. The intent is for the OECD to continue to monitor progress in improving tax certainty across countries and to provide regular updates and suggestions.

The secretary-general report consists of two parts:

Part I is an update report by the OECD Secretary-General regarding the latest development in the international tax agenda, including the joint OECD/IMF Report on Tax Certainty. And this part also includes an update on:

- The G20/OECD Inclusive Framework on BEPS implementation;
- Tax transparency, in particular on automatic exchange of information; and
- Tax and development.

Part II is a Progress Report to the G20 by the Global Forum on Transparency and Exchange of Information for Tax Purposes. This notes that 2017 is a turning point in achieving greater global tax transparency as the first batch of jurisdictions (53 out of 100) will commence automatic exchange of information (AEOI) through the Common Reporting Standard (CRS) from September 2017. China is also a CRS participant, and will commence exchanges in September 2018 with a further 47 jurisdictions.

© 2017 KPMG, a Hong Kong partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. © 2017 KPMG Advisory (China) Limited, a wholly foreign owned enterprise in China and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

Reference: Guo Ban Fa [2017] No. 23
Issuance date: 20 March 2017
Effective date: N/A

Relevant industries: All
Relevant companies: All
Relevant taxes: All

Potential impacts on businesses:

- Keep close eyes on the development of new/revised tax laws

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

2017 legislation work plan of the State Council

As highlighted in KPMG *China Tax Weekly Update (Issue 10, March 2017)*, Mr. Zhang Dejiang, the chairman of the Standing Committee of the National People's Congress (NPC), delivered the committee's work report on 8 March 2017. In this he indicated that, in 2017, China will put existing State Council regulations, such as tobacco tax and vessel tonnage dues, on a statutory basis (i.e., to turn them into laws passed by NPC), will modify the small and medium enterprises promotion law and the securities law, and will enact the e-commerce law.

On 20 March 2017, the State Council issued Guo Ban Fa [2017] No. 23, announcing the 2017 legislation work plan of the State Council. The plan includes 31 urgent items required for deepening reform, as well as 22 items that are aimed to be completed within 2017.

It might be noted that, within the 31 urgent items, alongside the tobacco tax law and vessel tonnage dues law, the revised tax collection and administration (TCA) law is also identified as an urgent item targeted for completion as soon as is practicable. This shows that the central government has prioritised the revised TCA law as one of the top priorities on their to-do-list, and it is expected that the TCA law will be finalised in the near future, most probably within 2017.

* As early as 2015, the legislative office of the State Council had started to solicit public input on the revised TCA law. The revised TCA law would be a significant revision since the existing version was introduced in 1992. The revised version intends to : (i). clarify taxpayer responsibility for self-filing; (ii). clarify tax authority responsibilities in relation to determining tax liabilities; (iii). allow for private tax rulings on a generalized basis in China; (iv). increase required disclosures of tax-related information. In addition, changes will be made, inter alia, to penalty levels and to the statute of limitations.

** It might also be noted that the reform of the individual income tax (IIT) law and real estate tax (RET) legislation, has yet to be included in this State Council plan. Senior Chinese officials had indicated the government's broad intentions in relation to the IIT reform and RET legislation at press conferences held on the sidelines of the 5th session of the 12th NPC, please refer to KPMG *China Tax Weekly Update (Issue 10, March 2017)* for more details.

© 2017 KPMG, a Hong Kong partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. © 2017 KPMG Advisory (China) Limited, a wholly foreign owned enterprise in China and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

China to liberalize rules for foreign-invested banks

Reference: Yin Jian Ban Fa [2017] No. 12
Issuance date: 10 March 2017
Effective date: N/A

Relevant industries: Financial industry
Relevant companies: Foreign-invested banks
Relevant taxes: N/A

Potential impacts on businesses:

- Operational costs reduced
- Compliance costs reduced

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

Under the current regulatory regime, it is unclear that whether foreign-invested banks may undertake businesses in certain business areas. In a circular (Yin Jian Ban Fa [2017] No.12) issued by the China Banking Regulatory Commission (CBRC) on 10 March 2017, the business areas that foreign-invested banks are allowed to engage in are clarified. This covers wholly foreign-invested banks, Chinese-foreign joint venture banks and foreign bank China branches, referred to below as "foreign-invested banks in China", and such allowable business areas include:

- Foreign-invested banks in China, excluding foreign bank China branches, may provide treasury bonds underwriting services, custody services and consultancy services (e.g. financial consultancy services), and no specific license from CBRC is required. Instead, foreign-invested banks in China only need to report regularly to CBRC in relation to such business activity.
- Foreign-invested banks in China may arrange, together with their offshore parent bank groups, to provide a package of comprehensive finance services to "going out" Chinese enterprises. This may include offshore bond issuance, listing, merger and acquisition as well as financing services. Foreign-invested banks in China shall, on an annual basis, report to the Chinese regulatory authorities on their responsibilities and profit distributing mechanism in the cooperation with their parent bank groups.
- Foreign-invested banks in China, excluding foreign bank China branches, may invest in domestic banking financial institutions if the relevant risks can be controlled. That is, a foreign bank may invest in domestic banking financial institutions, through either its offshore parent bank or its corporate bank incorporated in China, provided such investment is in compliance with the existing PRC laws and regulations.

© 2017 KPMG, a Hong Kong partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. © 2017 KPMG Advisory (China) Limited, a wholly foreign owned enterprise in China and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

Reference: Cai Shui [2017] No. 18
Issuance date: 15 March 2017
Effective date: 1 April 2017

Relevant industries: All
Relevant companies: All
Relevant taxes: Certain governmental funds

Potential impacts on businesses:
- Operational costs reduced

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

China to further reduce "non-tax" fiscal burdens

As highlighted in KPMG *China Tax Weekly Update (Issue 10, March 2017)*, Premier Li Keqiang delivered the *2017 Report on the Work of the Government,* at the opening of the 5th session of 12th National People's Congress (NPC) on 5 March 2017. In this he noted that China will significantly reduce enterprise "non-tax" fiscal burdens, which means reducing and regularizing the imposition of various local government fees and mandatory contributions to governmental funds. To put the above into action, on 15 March 2017 the Ministry of Finance (MOF) issued a circular (Cai Shui [2017] No. 18, Circular 18), announcing the abolition/adjustment of certain contributions to governmental funds starting from 1 April 2017:

- Abolish Urban Public Utilities Surcharge (UPUS) and New Wall Materials Special Fund (NWMSF) - UPUS are currently being levied in cities that are chartered by the State Council while NWMSF are being levied in all locations where applicable.
- Adjust policies for collection of handicapped indemnification fee (HIF) for employment of disable persons
  - ❑ Expand the number of small enterprises that are exempt from HIF. Under the existing rules, small enterprises with not more than 20 employees can be exempted from HIF, for the three years from the date of their business registration. Now, MOF has decided to expand the number of enterprises covered by this preferential treatment by providing that small enterprises with no more than 30 employees are also covered.
  - ❑ Establish an upper limit for HIF impositions. Under the existing rules, HIF impositions for an enterprise shall be calculated as the mathematical product of (i) the number of employees and (ii) the percentage difference between the number of disabled employees in the preceding year (as a proportion of total staff) and the local government-set benchmark percentage (this may vary across locations but must be at least 1.5%) and (iii) the annual average salary of employees in-service. An upper limit has been set on HIF impositions by determining the second number as follows:

    (i). for enterprise whose yearly average wage for employees in-service is below three times the local average wage, the HIF will be collected based on employee's yearly average wage; and

    (ii). for enterprise whose yearly average wage for employees in-service is at least three times the local average wage, the HIF will be collected based on three times of the local average wage.

    For Example:

    - In 2016, a Chinese company has 96 qualified employees (all earning 3 times the local average wage). Each of the 96 employees get paid RMB1. The three times of the local average wage in 2016 was RMB0.8
    - The Chinese company did not employ any disable employee in 2016, and the benchmark is 1.5% where the company is located
    - HIF needs to paid in 2017 = 96 (i.e. total number of employees) x (1.5% - 0) x 0.8 = RMB1.15
    - RMB1.15 can be deducted from the taxable income of the company for CIT purposes
- Each region, during the 13th Five-Year-Plan period (i.e., 2016 to 2020), may determine the exemption and suspension of, and relief for, local water conservancy construction funds and local reservoir immigration support funds at will – this is a new development.

© 2017 KPMG, a Hong Kong partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. © 2017 KPMG Advisory (China) Limited, a wholly foreign owned enterprise in China and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

KPMG

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 Asia Pacific
Tel. +86 (10) 8508 7082
khoonming.ho@kpmg.com

Lewis Lu
Head of Tax,
KPMG China
Tel. +86 (21) 2212 3421
lewis.lu@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/Chengdu
Anthony Chau
Tel. +86 (21) 2212 3206
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

Cheng Chi
Tel. +86 (10) 8508 7606
cheng.chi@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

Larry Li
Tel. +86 (10) 8508 7658
larry.y.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

Anthony Chau
Head of Tax,
Eastern & Western Region
Tel. +86 (21) 2212 3206
anthony.chau@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 (571) 2803 8088
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

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

Ling Lin
Tel. +86 (755) 2547 1170
ling.lin@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

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2017 KPMG, a Hong Kong partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. © 2017 KPMG Advisory (China) Limited, a wholly foreign owned enterprise in China and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.