

China Tax Weekly Update

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Reference: Cai Shui [2017]
No. 79
Issuance date: 2 November
2017
Effective date: 1 January
2017

Relevant industries: Service
outsourcing industry
Relevant companies: ATSEs
Relevant taxes: CIT

Potential impacts on
businesses:

- Operational costs reduced

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full content of the circular.

Tax incentives for advanced technology services enterprises expanded

An executive meeting of the State Council on 28 July 2017 outlined a series of measures to further boost foreign investment in China. One of the measures is to expand the pilot city Corporate Income Tax (CIT) incentives for advanced technology services enterprises (ATSEs) nationwide. Currently, the ATSE incentives are available for enterprises registered in 31 pilot cities (see [KPMG China Tax Alert \(Issue 27, August 2017\)](#) for details).

On 2 November 2017, the Ministry of Finance (MOF), State Administration of Taxation (SAT), Ministry of Commerce (MOFCOM), Ministry of Science and Technology (MOST) and National Development and Reform Commission (NDRC) jointly issued Cai Shui [2017] No. 79 (Circular 79). Circular 79 clarifies that the following CIT incentives for ATSEs extend nationwide from 1 January 2017:

- An ATSE, upon recognition, may qualify for 15% reduced CIT rate (standard rate is 25%); and
- Staff education expenses not exceeding 8% of the total amount of salary shall be deductible for CIT purposes (this is an increase from 2.5% under the CIT Law). The excess amount can be carried forward to the following years.

The ATSE recognition criteria and scope are in line with the pilot scheme (see KPMG [China Tax Weekly Update \(Issue 44, November 2016\)](#) for details).

Circular 79 clarifies the following procedures for ATSE applications:

- A qualified enterprise is required to make an application with the provincial-level MOST. The provincial-level MOST shall review the application along with provincial-level MOFCOM, MOF, Tax and NDRC, and the list of recognized ATSEs shall be publicized on the relevant MOST's platform;
- The qualified ATSEs are also required to file basic enterprise information on a system set up by MOFCOM (this is a specific application program for managing service outsourcing information).

According to Circular 79, provincial-level recognition authorities shall formulate their ATSE recognition measures before 31 December 2017 and recognize ATSEs pursuant to the measures. The ATSEs recognized for 2017 in the 31 pilot cities may continue to enjoy the preferential CIT treatment until the end of 2017. From 1 January 2018, their recognition shall follow the provincial-level measures where they are located.

Reference: Cai Shui [2017] No. 78
 Issuance date: 1 November 2017
 Effective date: 17 November 2017

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

Potential impacts on businesses:

- Effective tax burden reduced

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Continuance of existing tax incentive for Shanghai-Hong Kong Stock Connect

On 1 November 2017, MOF, SAT and the China Securities Regulatory Commission (CSRC) jointly issued Cai Shui [2017] No. 78 (Circular 78). This extends the existing individual income tax (IIT) incentive for Shanghai-Hong Kong Stock Connect as set out in [Cai Shui \[2014\] No. 81](#) (Circular 81). This was originally scheduled to expire on 16 November 2017.

Circular 78 clarifies that mainland individual investors will continue to be temporarily exempt from IIT on gains arising from disposal of Hong Kong stocks invested in via Shanghai-Hong Kong Stock Connect. The exemption will continue for a period of three years, i.e., from 17 November 2017 to 4 December 2019.

* In relation to Shenzhen-Hong Kong Stock Connect, a 2016-issued Circular [Cai Shui \[2016\] No. 127](#) has also regulated that share trading gains on Hong Kong stocks derived by mainland individual investors, may temporarily be subject to IIT exemption from 5 December 2016 to 4 December 2019.

Shanghai-Hong Kong Stock Connect and Shenzhen-Hong Kong Stock Connect were officially launched from November 2014 and December 2016 respectively. With regard to the tax treatment for transactions undertaken through these two Stock Connects, please read the following KPMG publications:

- ❑ [China Tax Alert: Shenzhen-Hong Kong Stock Connect – Transaction tax treatment clarified \(Issue 1, January 2017\)](#)
- ❑ [China Tax Alert: Clarification of tax position of Shanghai-Hong Kong Stock Connect programme and QFIs/ RQFIs \(Issue 29, November 2014\)](#)

Reference: SAT Announcement [2017] No. 38
 Issuance date: 30 October 2017
 Effective date: 17 June 2017

Relevant industries: All
 Relevant companies: Enterprises with cross-border transactions
 Relevant taxes: CIT / IIT

Potential impacts on business:

- Effective tax burden reduced

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New China-Romania DTA comes into force

On 30 October 2017, SAT issued Announcement [2017] No. 38 (Announcement 38) to clarify the *Agreement between the Government of the People's Republic of China and the Government of Romania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income* ("new China – Romania DTA") has formally entered into force on 17 June 2017, and shall apply to income derived after 1 January 2018.

The new China – Romania DTA was signed in July 2016, making certain revisions to the existing China – Romania DTA ("old DTA") which was signed in 1991 (see KPMG [China Tax Weekly Update \(Issue 35, September 2016\)](#) for comparison between new and old DTA).

The new China-Romania DTA is considered the "best" China DTA in terms of the preferential withholding tax rates provided under the treaty. Romania is at the western end of the 'Belt and Road' targeted for enhanced economic cooperation and investment under China's Belt and Road Initiative (BRI). It progressively appears that, in the Romania DTA as well as in other recent treaties, China is pursuing a strategic improvement in the terms of its BRI DTAs.

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