

China Tax Weekly Update

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Reference: Cai Shui [2017]

No. 80

Issuance date: 24 November 2017

Effective date: 1 December 2017

Relevant industries: All

Relevant companies: All

Relevant taxes: Water resources tax

Potential impacts on businesses:

- Compliance costs due to regulatory uncertainties reduced

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Water Resource Tax pilot reform expanded

Since 1 July 2016, a Water Resource Tax pilot program was initiated in Hebei province. This replaced the prior water resource fees with a tax levied on a volume basis. The tax covers both surface water and underground water (see KPMG [China Tax Alert \(Issue 18, June 2016\)](#) for more details).

On 24 November 2017, the Ministry of Finance (MOF), State Administration of Taxation (SAT) and Ministry of Water Resources (MWR) jointly issued Cai Shui [2017] No. 80 ("Circular 80"). Effective from 1 December 2017, the pilot reform will be extended to 9 additional provinces and municipalities, including Beijing, Tianjin, Shanxi, Inner Mongolia, Shandong, Henan, Sichuan, Shaanxi and Ningxia.

Circular 80 clarifies the following:

Taxpayers	<ul style="list-style-type: none"> Enterprises or individuals who extract surface water (from rivers, lakes, reservoirs) and underground water for usage, shall be subject to Water Resource Tax (WRT).
Tax rates	<ul style="list-style-type: none"> Effective from 1 December 2017, water resource fees will be converted to WRT. The WRT rates will continue to follow the tax rates set for the water resource fees as originally imposed in the 9 provinces/municipalities. Circular 80 sets minimum average WRT rates for each pilot area. Different tax rates shall be applied for extraction/use of water from various locations or for various purposes. For example, extraction of underground water from over-extracted areas will be levied at rates ranging from 2 to 5 times the minimum average WRT rate (e.g. the minimum average WRT rate for Beijing is RMB4/m³). For extraction/use of water for special industries, such as car washes, bath centres, golf courses, ski resorts, the highest WRT rate will be applied (i.e., 5 times the minimum average WRT rate).
Tax incentive	<ul style="list-style-type: none"> Tax exemption will be granted to extraction/use of water for agriculture production, water recycling, pumped-storage power generation, etc.,
Tax collection	<ul style="list-style-type: none"> A tax-related information sharing platform and a collaboration mechanism will be set up between local tax authority and administrative authority for water resources. Information on extraction/use of water will be shared between these two government agencies at regular intervals.

* With regard to the Resource Tax reform, please refer to KPMG [China Tax Weekly Update \(Issue 46, November 2017\)](#) for more details.

Reference: SAT
 Announcement [2017] No. 41
 Issuance date: 29 November
 2017
 Effective date: N/A

Relevant industries: All
 Relevant companies:
 Enterprises embark on
 overseas contracting projects
 Relevant taxes: CIT

Potential impacts on
 businesses:

- Compliance risks due to regulatory uncertainties reduced

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Overseas construction foreign tax credit administration

In a bid to encourage Chinese enterprises to embark on overseas contracting projects under the Belt and Road Initiative (BRI), on 29 November 2017, the SAT issued Announcement [2017] No. 41. This clarifies certain issues for claiming foreign tax credit (FTC) for overseas contracting projects. Announcement 41 applies to corporate income tax (CIT) filings from (and including) 2017 onwards.

In particular, Announcement 41 clarifies the following:

- Where a Chinese enterprise (general contractor) embarks on an overseas project (including but not limited to engineering construction, infrastructure construction) by way of a contract arrangement or a consortium, the subcontracting enterprise (or each party to the consortium) may claim the FTC based on the allocation of foreign tax paid. The subcontracting enterprise (or each party to the consortium) will be provided with a tax-paid allocation form issued by the general contractor or the leading party of the consortium for claiming FTC purposes.
- The general contractor or the leading party of the consortium must allocate the foreign tax-paid amount based on a reasonable ratio. Elements such as income and work undertaken by each party, should be taken into consideration.
- The general contractor or the leading party of the consortium is required to perform a recordal filing with the Chinese tax authorities when issuing the tax-paid allocation form. A copy of the tax-paid allocation form should also be submitted by the contracting enterprise (or each party of the consortium) to the local tax authority when claiming the FTC.
- The general contractor or the leading party of the consortium must separately account for each overseas contracting project.

Reference: N/A
 Issuance date: 30 November
 2017
 Effective date: N/A

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

Potential impacts on
 businesses:

- Operational costs reduced

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SAT to strengthen supervision of North China LTBs and STBs

A posting on the SAT's official website indicated that a special office was recently set up by SAT in Beijing to:

- Monitor and check whether state/local tax bureaus (STBs/LTBs) carry out the central government/State Council's decision
- Check whether STBs/LTBs' tax enforcement procedures comply with SAT guidance;
- Audit the finances of state/local tax bureaus (e.g. the STB and LTB staff and IT spending);
- Ensure appropriate use of cross-region audits for major tax cases.

The special office is solely responsible of state/local tax bureaus located in Beijing, Tianjin, Hebei, Shanxi and Inner Mongolia. It aims to reinforce the supervision of tax enforcement and further improve the business and tax environment for taxpayers.

Reference: N/A
 Issuance date: 30 November 2017
 Effective date: N/A

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

Potential impacts on businesses:

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

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Additional OECD guidance on Country-by-Country reporting

On 30 November, the OECD released [additional guidance](#) on the implementation of Country-by-Country (CbC) Reporting (BEPS Action 13). This is the sixth set of CbC guidance provided by the OECD [See KPMG [China Tax Weekly Update \(Issue 36, September 2017\)](#), [\(Issue 29, July 2017\)](#), [\(Issue 16, April 2017\)](#), [\(Issue 48, December 2016\)](#) and [\(Issue 41, November 2016\)](#) for the previous five rounds of CbC guidance issued by the OECD].

The additional guidance addresses a number of specific issues:

- how to report amounts taken from financial statements prepared using fair value accounting;
- how to treat a negative figure for accumulated earnings in Table 1;
- how to treat mergers/acquisitions/de-mergers;
- how to treat short accounting periods; and
- the definition of total consolidated group revenue.

* SAT Announcement [2016] No. 42, issued in July 2016, provides China's CbC reporting administrative guidance. See the KPMG China Tax Alert below:

- [China Tax Alert: State Administration of Taxation \(SAT\) Issued Announcement on the Enhancement of the Reporting of Related Party Transactions and Administration of Contemporaneous Documentation \(Issue 23, July 2016\)](#)

Reference: Hui Zong Fa [2017] No. 59
 Issuance date: 29 November 2017
 Effective date: N/A

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

Potential impacts on businesses:

- Operational costs reduced

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Forex transaction simplification for foreign nationals holding China permanent resident ID

Since 16 June 2017, the Ministry of Public Security (MPS) commenced issuance of new "Foreign Permanent Resident ID Cards" (PR ID cards) to foreign nationals. This follows the foreign nationals permanent resident system reform. The MPS will stop issuing the existing "Foreigner's Permanent Resident Card".

On 29 November 2019, the State Administration of Foreign Exchange (SAFE) issued Hui Zong Fa [2017] No. 59, which clarifies that PR ID cards can be used for forex remittance settlement or forex purchase purposes. This means that a foreigner can more readily convert RMB to (say) USD on remittance out of China or purchase USD (with RMB) that they leave in China. A foreigner who holds a PR ID card, may deal with banks directly to settle forex remittance transactions, or purchase foreign currencies, where the total transaction value is within the annual quota (i.e., US\$50,000). No SAFE approval is required.

* To attract highly skilled overseas workers, China has introduced a string of measures on the administration of exit and entry of foreigners from China. On March 13 2017, the Ministry of Human Resources and Social Security promulgated Order No.32, which streamlines the requirements for Chinese employers to obtain work visas (Z-visas) for foreign employees (see KPMG [China Tax Alert Issue 12, May 2017](#) for more details).

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