

China Tax Weekly Update

ISSUE 48 | December 2017



Reference: State Council Decree No. 691

Issuance date: 19 November 2017

Effective date: 1 December 2017

Relevant industries: All

Relevant companies: All

Relevant taxes: VAT

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced.

You may click [here](#) to access full content of the circular.

Business tax finally abolished following VAT reform

Since 2012, the Chinese Business Tax (BT) tax regime, which formerly applied to most service provision and other supplies made in China, has been transitioning to Value Added Tax (VAT) (i.e., "VAT reform"). BT has now been fully replaced by the expanded VAT regime.

From 1 May 2016, VAT expanded to cover the construction and real estate services, financial services and lifestyle services. On 19 November 2017, the State Council issued a decree No. 691 abolishing the *Provisional Regulation for BT* and amending the *Provisional Regulations for VAT*. The decree No. 691 comes into force on its promulgation date.

There are no new policies set out in the revised VAT provisional regulation and the current transitional rules for the VAT reform will still be applied. Officials from the State Council, Ministry of Finance (MOF) and State Administration of Taxation (SAT) indicated that, the relevant government authorities will improve the VAT policies and continue to draft the VAT law, which will ultimately put VAT on a statutory basis in China.

Reference: SAT
 Announcement [2017] No. 43
 Issuance date: 26 November
 2017
 Effective date: 1 January
 2018

Relevant industries:
 Construction sector
 Relevant companies:
 Construction enterprises
 Relevant taxes: VAT

Potential impacts on
 businesses:
 • Tax compliance costs
 reduced

You may click [here](#) to access
 full content of the circular.

VAT filings simplified for construction services

On 14 September 2017, the SAT issued Shui Zong Fa [2017] No.101 ("Circular 101") setting out 30 measures to further simplify Chinese tax administration procedures.

One of the measures is to simplify the recordal filing procedures for construction services subject to the simplified VAT method* (see KPMG [China Tax Weekly Update \(Issue 38, September 2017\)](#) for other measures in this space).

The SAT issued Announcement [2017] No. 43 ("Announcement 43") on 26 November 2017 to further clarify the following requirements:

- A simplified 'one-off' recordal filing now applies to a general VAT taxpayer whose provision of construction services is subject to the simplified VAT method (including where this is on an elective basis). This means that, where a taxpayer completes the recordal filing with its in-charge tax authority (where the taxpayer is located) prior to its first simplified VAT filing, then a recordal filing would not be required for further supplies of other types of (simplified VAT method-covered) construction services by the same enterprise. This requirement also applies to supplies of construction service made outside the registered tax district of the taxpayer (i.e. the recordal filing need only be filed with the in-charge tax authority where the taxpayer is located).
- General VAT taxpayers must keep copies of construction permits / contracts for recordal filing procedures, and to supply in case of audit.

* Pursuant to Appendix II of Caishui [2016] No. 36, where a general VAT provides a construction service, the construction service may be subject to the 3% simplified calculation method (no input VAT credit will be applied) if it falls within the following situations:

- Construction service for an existing construction project which either: (i) has a construction permit in place on or before 30 April 2016; or (ii) if there is no construction permit, then a construction contract with a start date on or before 30 April 2016;
- Construction services where the construction company only provides labour services;
- Construction services where the principal provides equipment and materials (this covers the case of a subcontractor working for a principal).

Another Circular Cai Shui [2017] No. 58 provides that, where a general contractor constructs the foundation and main structure of a residential building, and where the general contractor purchases all (or part of) the steel, concrete, masonry materials and prefabricated parts itself, the general contractor may also be subject to the VAT simplified calculation method (not on an elective basis).

** In September 2017, SAT, the Ministry of Housing and Urban-Rural Development (MOHURD) and MOF had jointly issued Shui Zong Fa [2017] No. 99, which sets out guidelines for the construction sector that transitioned from BT to VAT. This aims to address issues arising in the construction sector, e.g., difficulties in obtaining invoices for claiming input VAT credit, applying simplified VAT method, or prepayment of tax for cross-region construction (See KPMG [China Tax Weekly Update \(Issue 40, October 2017\)](#) for details).

You may access the following KPMG publications for VAT policies for construction sector and their impacts:

- [China Tax Alert: China's new VAT rates & rules – Real Estate & Construction industry impacts \(Issue 12, March 2016\)](#)

Reference: N/A
 Issuance date: 5 December 2017
 Effective date: N/A

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

Potential impacts on businesses:

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

You may click [here](#) to access full content of the circular.

EU lists non-cooperative tax jurisdictions

On 5 December 2017, the European Union (EU) released the first ever list of non-cooperative tax jurisdictions (i.e. the blacklist). In total, 17 countries failed to meet the agreed tax good governance standards. In addition, 47 countries have committed to addressing deficiencies in their tax systems and to meet the required criteria, following contact with the EU.

The idea of an EU list was originally conceived by the European Commission and subsequently taken forward by Member States. Compilation of the list has prompted active engagement from many of the EU's international partners.

Special consideration has been given to developing countries. To avoid being blacklisted, the 47 countries committed to improving their transparency standards should meet EU criteria by the end of 2018, or 2019 for developing countries without financial centres. The European Commission also expects Member States to continue towards strong and dissuasive countermeasures for listed jurisdictions.

The 17 listed non-cooperative tax jurisdictions includes, *inter alia*, Macao SAR, Korea (Republic of), UAE, and Barbados. Hong Kong and Taiwan fall into the jurisdictions being invited to effectively address the deficiencies. A first interim progress report should be published by mid 2018. The EU list will be updated at least once a year.

Reference: N/A
 Issuance date: 4 December 2017
 Effective date: N/A

Relevant industries: All
 Relevant companies: MNEs
 Relevant taxes: CIT

Potential impacts on businesses:

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

You may click [here](#) to access full content of the circular.

OECD peer review on tax ruling exchanges

As part of continuing efforts to improve tax transparency and the international tax framework, the OECD has released the first analysis of individual countries' progress in [spontaneously exchanging information on tax rulings](#) in accordance with Action 5 of the BEPS package of measures released in October 2015.

The first annual report on the exchange of information on rulings evaluates how 44 countries, including all OECD members and all G20 countries, are implementing one of the four new minimum standards agreed in the OECD/G20 BEPS Project.

A key aim of the project was to increase transparency, which resulted in a new minimum standard to ensure that information on certain tax rulings is exchanged between relevant tax administrations in a timely manner (Action 5). This minimum standard requires tax administrations to spontaneously exchange information on rulings that have been granted to a foreign related party of their resident taxpayer or a permanent establishment which, in the absence of exchange, could give rise to BEPS concerns. As a minimum standard, all members of the [Inclusive Framework on BEPS](#) have committed to implement this standard, and to have their compliance with the standard reviewed and monitored by their peers.

The standard covers rulings such as advance pricing agreements (APAs), permanent establishment rulings, related party conduit rulings, and rulings on preferential regimes. More than 10,000 relevant rulings were identified up to the end of 2016.

The next annual peer review will cover all members of the Inclusive Framework except for the developing countries that requested a deferral of their review to 2019.

* In February 2017, the OECD had released documents setting standards and processes for peer review of the adoption of the BEPS minimum standards applicable under BEPS Action 13 on country-by-country reporting (CBCR) and BEPS Action 5 on the compulsory spontaneous exchange of information on tax rulings. See the following KPMG publication for more details:

□ [China Tax Weekly Update \(Issue 5, February 2017\)](#)

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

Relevant industries:
 Industries related to ocean engineering
 Relevant companies:
 Enterprises engaging in ocean engineering
 Relevant taxes: EPT for ocean engineering

Potential impacts on businesses:
 • Compliance risks due to regulatory uncertainties reduced

You may click [here](#) to access full content of the circular.

Environmental protection tax for offshore energy sector

On 25 December 2016, the Environmental Protection Tax (EPT) Law was approved by the Standing Committee of the 12th National People's Congress, and will be effective from 1 January 2018. It is intended that the conversion from pollutant discharge fee to tax should not raise enterprise fiscal burdens.

The law adopts the current standards for pollutant discharge fees as a lower range. Provincial level governments now have the authority to raise tax above this level based on the environmental situation in their jurisdictions [See KPMG [China Tax Weekly Update \(Issue 1, January 2017\)](#) for details].

To facilitate the implementation of the law in the specific case of the offshore energy industry, SAT and the State Oceanic Administration (SOA) recently issued the draft *Measures for Filing and Collection of EPT for Marine Engineering* to solicit public comments before 30 November 2017. The draft measures, in particular, clarify the following:

- The draft measures apply to enterprises, public institutions and other producers and business operators engaging in offshore petroleum/natural gas exploitation within China's inland waters, territorial sea, contiguous zones, exclusive economic zones, continental shelves and other sea waters, and discharging taxable pollutants into the ocean environment.
- The taxable pollutants include airborne pollutants, water pollutants and solid wastes, and EPT will be levied based on different calculation methods.
- EPT for marine engineering shall be calculated on a monthly basis and be filed on a quarterly basis. EPT can be filed and paid once a discharge of taxable pollutants occurs where it is impossible to calculate and pay EPT at regular intervals.
- EPT for marine engineering shall be paid to taxpayer's in-charge offshore petroleum tax administration sub-bureau where the taxpayer is located. Where a taxpayer falls under administration by two offshore petroleum tax administration sub-bureaus, SAT will determine which sub-bureau to take on the EPT collection role for the taxpayer.
- A mechanism for tax-related information sharing and collaboration shall be set up between government authorities in charge of ocean administration and tax authorities.

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

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

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

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

Lisa Li
Tel. +86 (10) 8508 7638
lisa.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

Lucia Liu
Tel. +86 (10) 8508 7570
lucia.j.liu@kpmg.com

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

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

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

Northern China

Vincent Pang
Head of Tax,
Northern Region
Tel. +86 (10) 8508 7516
+86 (532) 8907 1728
vincent.pang@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

Flora Fan
Tel. +86 (10) 8508 7611
flora.fan@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

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

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

Lisa Li
Tel. +86 (10) 8508 7638
lisa.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

Lucia Liu
Tel. +86 (10) 8508 7570
lucia.j.liu@kpmg.com

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

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

Adams Yuan
Tel. +86 (10) 8508 7596
adams.yuan@kpmg.com

Jessie Zhang
Tel. +86 (10) 8508 7625
jessie.l.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

Vivian Zhou
Tel. +86 (10) 8508 3360
v.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

Benjamin Lu
Tel. +86 (21) 2212 3462
benjamin.lu@kpmg.com

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

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

Naoko Hirasawa
Tel. +86 (21) 2212 3098
naoko.hirasawa@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

Jason Yu
Tel. +86 (21) 2212 3316
jim.yu@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

Eric Zhang
Tel. +86 (21) 2212 3398
eric.zhang@kpmg.com

Kevin Zhu
Tel. +86 (21) 2212 3346
kevin.x.zhu@kpmg.com

Southern China

Lilly Li
Head of Tax,
Southern Region
Tel. +86 (20) 3813 8899
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

Nicole Cao
Tel. +86 (20) 3813 8619
nicole.cao@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.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

Chris Xiao
Tel. +86 (755) 3813 8630
chris.xiao@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

Nicole Zhang
Tel. +86 (20) 3813 8644
nicole.ll.zhang@kpmg.com

John Timpany
Tel. +86 (21) 2143 8790
john.timpany@kpmg.com

Hong Kong

Curtis Ng
Head of Tax, Hong Kong
Tel. +86 (21) 2143 8709
curtis.ng@kpmg.com

Ayesha M. Lau
Tel. +862 2826 7165
ayesha.lau@kpmg.com

Chris Abiss
Tel. +862 2826 7226
chris.abiss@kpmg.com

Darren Bowdern
Tel. +862 2826 7166
darren.bowdern@kpmg.com

Yvette Chan
Tel. +862 2847 5108
yvette.chan@kpmg.com

Lu Chen
Tel. +862 2143 8777
lu.i.chen@kpmg.com

Wade Wagatsuma
Tel. +862 2685 7806
wade.wagatsuma@kpmg.com

Natalie To
Tel. +862 2143 8509
natalie.to@kpmg.com

Elizabeth DE LA CRUZ
Tel. +852 2826 8071
elizabeth.delacruz@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

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. +862 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

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