

China Tax Weekly Update

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Reference: Yin Fa [2017]
No.278
Issuance date: 18 December
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Relevant industries: All
Relevant companies:
Financial institutions, non-
resident individuals and
enterprises
Relevant taxes: IIT / CIT

Potential impacts on
businesses:

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

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Global tax information exchange rollout guidance

Countries around the world are in the process of rolling out the global “Standard for Automatic Exchange of Financial Information in Tax Matters” (“AEOI Standard”). This is also referred to as the Common Reporting Standard (“CRS”). This standard, developed by the OECD and endorsed by the G20, will see countries around the world engaging in automatic exchanges of taxpayer account information in support of more effective tax enforcement. Financial institutions (as well as other organisations with financial fiduciary roles) in each participating country are obliged to identify their non-resident account holders, and report details of their income and balances to their the financial institution’s tax authority; the latter then engages in the global information exchanges.

China has also been making progress with the CRS rollout, aiming for commencement of information exchanges in 2018. In May 2017, six government authorities, including SAT, Ministry of Finance (MOF) and PBOC issued the *Measures on the Due Diligence of Non-resident Financial Account Information in Tax Matters* as Announcement [2017] No. 14 (“the Measures”).

The Measures took effect from 1 July 2017 and oblige financial institutions in China to conduct due diligence procedures to identify the financial accounts of non-resident individuals and enterprises, as well as collect and report relevant information to SAT. Financial institutions had to complete CRS registration by 31 December 2017 and must provide annual reporting of the required financial account information by 31 May each year (see KPMG [China Tax Weekly Update \(Issue 21, May 2017\)](#) for details).

Subsequently, on 18 December 2017, the Peoples’ Bank of China (PBOC), State Administration of Taxation (SAT) and State Administration of Foreign Exchange (SAFE) jointly issued [Yin Fa \[2017\] No. 278](#). This sets out further guidance (“Implementation Guidance”) to facilitate the implementation of the Measures. The Implementation Guidance further clarifies certain basic definitions, due diligence requirements for individual/entity accounts, and other compliance requirements. In particular, the Implementation Guidance clarifies the following:

- Account holders are required to (i) co-operate with banks in their due diligence work; (ii) self-certify the country in which they are a tax resident; (iii) provide banks with relevant information as set out in the Measures - the information must be accurate and complete; and (iv) assume liabilities and risks associated with non-compliance with the Measures.
- Information, declared on the CRS self-certification form by an individual account holder, will be considered as inconsistent with information provided to the bank for other purposes in the following situations:

- 1) CRS self-certification identity information is inconsistent with the identity information provided by the account holder for the initial opening of the current account and for anti-money laundry (AML) procedures.
 - 2) An individual is declared in the CRS self-certification as a PRC tax resident but the account holder is a foreigner or holds an overseas ID type / address / telephone number (this includes Hong Kong, Macau and Taiwan).
 - 3) An individual is declared in the CRS self-certification as a non-resident, but the country (region) of the person's nationality, ID type, or place of abode, provided by the account holder, is inconsistent with the country (region) he has declared as his tax residence.
 - 4) Any other inconsistencies identified between the CRS self-certification information and other information obtained by the bank.
- Information on the self-certification form, provided by an entity account holder, will be considered inconsistent with other information provided to the bank in the following instances:
 - 1) CRS self-certification identity information is inconsistent with the identify information provided by the account holder for the initial opening of the current account and for AML procedures.
 - 2) An entity is declared as a PRC tax resident but the account holder is a foreign registered entity or holds an overseas ID type / address / telephone number (this includes Hong Kong, Macau and Taiwan).
 - 3) An entity is declared as a non-resident for tax purposes, but the country (region) of account holder's registration address or its actual business address is inconsistent with country (region) which the account holder has declared as its tax residence.
 - 4) Where an investment entity is declared as a passive non-financial entity and its tax residence country (region) is not committed to implementing the AEOI Standard.
 - 5) Any other inconsistencies identified between the CRS self-certification information and other information obtained by the bank.
 - Where entities (including partnerships) are declared as non-residents for tax purposes, banks should ask these entities to complete the self-declaration based on information of where their effective place of management is located.
- * With regard to the detailed content and impact of the Measures, you can read the following publications:
- ❑ [*China Tax Alert: Measures on the Due Diligence of Non-resident Financial Account Information in Tax Matters \(AEOI Standard / CRS in China\) \(Issue 16, May 2017\)*](#)
 - ❑ An article entitled: **A brave new world in tax transparency: CRS in China, Hong Kong and Taiwan** in [*China Looking Ahead \(7th edition\)*](#) (produced by KPMG China association with the International Tax Review)

Reference: SAT Order No. 43
 Issuance date: 29 December 2017
 Effective date: 1 February 2018

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

Potential impacts on businesses:

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

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Simplified VAT general taxpayer registration measures

On 29 December 2017, SAT issued [Administrative Measures for Registration of VAT General Taxpayer Status](#) (SAT Order No. 43, the "2017 Measures"). The 2017 Measures made revisions to the 2010-issued SAT [Administrative Measures for Recognition of General VAT Taxpayers Status](#) (SAT Order No. 22). It will come into force on 1 February 2018.

In recent years, the Chinese government has been pursuing a program of replacing administrative pre-approvals with simple registration requirements, coupled with more targeted and effective follow-up audit and review processes.

In the VAT space, it was already decided in 2015 that pre-approval for recognition of VAT general taxpayer status would be replaced by a simple registration requirement; see State Council Circular Guo Fa [2015] No.11 and SAT [Announcement \[2015\] No. 18](#). However, until now, SAT Order No. 22 had remained in place, with their pre-approval requirements. These are now to be replaced, with the 2017 Measures focussing on the move to simple registrations. When a taxpayer registers for general taxpayer status, it will be accepted as a general taxpayer as long as the submitted information is verified by its in-charge tax bureau (i.e., the tax authorities must accept the registration so long as the submitted information is consistent with the information the taxpayer supplied at the time of its original taxpayer registration).

In comparison to SAT Order No. 22, the key changes in the 2017 Measures are as follows:

Special rules for taxable sales	<ul style="list-style-type: none"> • Per China VAT regulations, a taxpayer must register for VAT once annual taxable sales exceed the standard RMB5 million threshold set for VAT general taxpayer registration. Order No. 22 clarifies that, in determining whether this level has been exceeded, annual VAT taxable income from service provision, or from sales of intangible assets or immovable property, must be calculated on a gross basis (e.g. with respect to financial product transfers, purchase consideration for disposed items must be added back to the disposal gains/losses and the full sales consideration included in the VAT taxable amount). • Also for the purposes of determining whether this level has been exceeded, annual VAT taxable income excludes amounts earned from one-off sales/transfers of intangible assets.
Registration timing and procedures	<ul style="list-style-type: none"> • A taxpayer must register for VAT once annual taxable sales exceed the standard RMB5 million threshold set for VAT general taxpayer registration. This must be done within 15 days from expiry of the monthly (or quarterly) filing period in which the sales exceed this level; • Where the taxpayer fails to complete the registration within the given time, the in-charge tax authority should send the taxpayer a notice within 5 days from the expiry of the stipulated period. This should inform the taxpayer to complete the relevant formalities within 5 days;

Registration timing and procedures (cont'd)	<ul style="list-style-type: none"> Where the taxpayer still fails to do so, the taxpayer should calculate its VAT payable for the following month based on its sales amount and the VAT rates. No input VAT credit is allowed until the relevant formalities are completed.
General taxpayer effective date	<ul style="list-style-type: none"> The 2017 Measures provide that a taxpayer may elect its general taxpayer status to come into force either in the first day of the month in which the taxpayer completes the registration, or the first day of the following month. The election can be made at the time of registration.

Reference: State Council Decree No. 693
Issuance date: 25 December 2017
Effective date: 1 January 2018

Relevant industries: All
Relevant companies: Enterprises, public institutions and other producers and business operators that discharge taxable pollutants into the environment directly
Relevant taxes: EPT

Potential impacts on businesses:

- Get prepared for implementation of environmental protection tax
- Tax burden not increased after the conversion

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

Environmental protection tax implementation rules

On 25 December 2017, State Council issued [Implementation Regulations on Environmental Protection Tax Law](#) (State Council Decree No. 693, hereinafter referred to as "Implementation Rules"), which comes into effect from 1 January 2018.

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 districts [See KPMG [China Tax Weekly Update \(Issue 1, January 2017\)](#) for details].

To facilitate the implementation of the law, the Implementation Rules clarifies the following:

- Scope of taxpayers and taxable pollutants, as well as calculation methods for the taxable pollutants;
- Tax exemption (reduction) cases; and
- Tax collection matters.

In particular, the Implementation Rules specify the operation of the information sharing mechanism between the administration authorities for environmental protection and the tax authorities.

* To facilitate the implementation of the EPT law in the specific case of the offshore energy industry, SAT and the State Oceanic Administration (SOA) on 27 December 2017 issued the [Measures for Filing and Collection of EPT for Marine Engineering \(SAT Announcement \[2017\] No. 50\)](#). This clarified the taxpayers, taxable pollutants and other tax collection matters, effective from 1 January 2018.

** See KPMG [China Tax Alert \(Issue 5, January 2017\)](#) for more details of the EPT law, its impacts as well as legislation progress.

*** Also see an article entitled: **The future is green: EPT in China** in [China Looking Ahead \(7th edition\)](#) (produced by KPMG China association with the International Tax Review)

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