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

Potential impacts on businesses:
- Threshold for foreign investments lowered

You may click here to access full content of the keynote speech and click here to access full content of the measures for opening up in banking sector.

China to further open up to foreign investment

On 10 April 2018, Chinese President Xi Jinping made a keynote speech at the opening ceremony of the Boao Forum for Asia (BFA) Annual Conference 2018. According to President Xi, China will engage in further opening up of China's economy, and to put the following measures in place in the near future:

- **Significantly broaden market access**. With regard to the financial sector, China will lower foreign investment limitations in the banking, securities, and insurance sectors. Specifically, China will (i) accelerate the opening up of the insurance sector; (ii) relax restrictions on the establishment of foreign-invested financial institutions; (iii) allow foreign-invested financial institutions to engage in a greater range of business activities in China; and (iv) open up more areas to Chinese and foreign financial market cooperation. For the manufacturing sector, China will relax the foreign equity ownership limits in the automotive, shipbuilding and aviation sectors.
- **Create a more attractive investment environment**. China will (i) enhance alignment with international economic and trade rules, increase transparency, strengthen property rights protection, deal with disputes by process of law, encourage competition and tackle monopoly power; (ii) complete revision of the "negative list" for foreign investment, and fully implement the "pre-establishment national treatment plus negative list" approach across the country by June 2018.
- **Strengthen protection of intellectual property (IP) rights**. China will re-organize the State Intellectual Property Office to improve its officers' law enforcement capabilities and intensify law enforcement.
- **Take the initiative to expand imports**. In 2018, China will significantly reduce customs duty for imported automobiles (currently 25%). Reduction of customs duty, at the same time, will also apply to certain imported commodities. China will increase imports to take account of consumer needs and seek faster progress towards joining the WTO Government Procurement Agreement.

Following on President Xi's speech, on 11 April, Mr. Yi Gang, governor of the People's Bank of China ("PBOC") announced a string of opening up measures for the financial sector and a timetable for the opening up. The following measures, covering banking, insurance, securities and wealth management sectors, will be implemented in the coming months:

- Remove the foreign equity ownership holding requirement for Chinese-funded banks and financial asset management companies. Currently, there is a 20% limit for a single foreign investor and a 25% limit for several foreign investors collectively. In future, both foreign investors and domestic investors making investments in Chinese banks (which are primarily SOEs) will be subject to the same equity limitations. Under the existing rules, any enterprise or individual intending to purchase more than 5% of the total amount of shares of a commercial bank shall be subject to pre-approval by the banking supervision and administration authority of the State Council (i.e., CBIRC). Also, foreign banks will be allowed to set up branches and subsidiaries at the same time within Chinese territory.
- Lift the ceiling on foreign equity ownership in securities, fund management, futures and life insurance companies to 51% (currently 49% for the former three ones and 50% for life insurance companies). China will eliminate all equity ownership limits once this initial relaxation to 51% has been in place for three years (i.e., where the relaxation to 51% is in place from 2018 to 2020, the full relaxation will take effect from 2021).
- Relax the domestic shareholder requirement in joint-venture securities companies, i.e., the existing requirement 'at least one of the domestic shareholders must be a securities company' will be abolished.
- Expand the existing daily quota under the Stock Connect program between mainland China and Hong Kong, i.e., from 1 May 2018, the Northbound daily quota will be increased from RMB13 billion to RMB52 billion for each of the Shanghai Connect and the Shenzhen Connect schemes, and the Southbound daily quota will be increased from RMB10.5 billion to RMB42 billion for each of the Shanghai Connect and the Shenzhen Connect schemes.
- Allow foreign-invested insurance brokers to engage in the same range of business activities as their Chinese counterparts.

The following measures will be introduced before the end of 2018:

- Encourage foreign investors to make investments in the trust, financial leasing, auto finance, money brokerage and consumer finance sectors.
- Impose no restriction on foreign equity ownership for new financial asset investment and wealth management companies established by commercial banks.
- Substantially expand the business scope of foreign-invested banks.
- Align the allowed business scope for both Sino-foreign joint-ventures and Chinese-funded securities companies. This means that, in future, both Sino-foreign joint-ventures and Chinese-funded securities companies may undertakes the same businesses.
- Abolish the requirement that foreign-invested insurance companies must have had representative offices in China for two years, before they set up businesses in China.

Prior to President Xi's speech, China had already opened the third-party payment sector to foreign investment. In March 2018, the PBOC set out the access and regulatory policies for foreign investment in payment services sector (see KPMG *China Tax Weekly Update (Issue 12, March 2018)* for details).

Also, the State Administration of Foreign Exchange (SAFE) issued a statement on 11 April 2018 that it would work with other government authorities to push the reform of the Qualified Domestic Institutional Investor (QDII) regime and improve the macro-prudential management of the program. This can be seen as China taking another step in opening up the financial market.

All of the above-said measures are in line with the commitments that China had made at the China-US economic meeting held in November 2017 as well as the directions for opening up set out by CBRC in December 2017 (see KPMG *China Tax Weekly Update (Issue 45, November 2017)* and *(Issue 49, December 2017)* for details).

Reference: SAT Announcement [2018] No. 14
Issuance date: 4 April 2018
Effective date: 20 May 2018

Relevant industries: All
Relevant companies: Enterprises with related transactions
Relevant taxes: CIT

Potential impacts on businesses:

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

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

Simplified TP documentation procedures

In the 2016-issued SAT Announcement 42, the State Administration of Taxation (SAT) rolled out the BEPS Action 13 TP documentation structure to China, which consists of the Local File and the Master File, but with an additional Chinese 'Special Documentation'. Subsequently, on 4 April 2018, SAT issued Announcement [2018] No. 14 ("Announcement 14"), setting out the rules for preparation and submission of contemporaneous documentation. Announcement 14 applies from 20 May 2018.

Building on Announcement 42, Announcement 14 sets out simplified rules for the submission of the Master File. In particular, where a Chinese group meets the threshold to prepare the Master File, and enterprises within the group have in-charge tax authorities located in two or more provinces, the group may select the in-charge tax authority of any enterprise for submission of the Master File.

Where an enterprise of the group is required by its in-charge tax authority to submit the Master File, the enterprise may be exempted from submitting the Master File if an explanation in written form can be provided to the in-charge tax authority. The explanation must show that the company group has initiatively submitted the Master File to another local tax authority elsewhere in China. To avail of this treatment, Master File must have been submitted before the taxpayer is subjected to a special tax investigation on audit.

With regard to the detailed information and the tax impact of Announcement 42, you may read the following KPMG publication:

- *China Tax Alert: SAT issues Announcement on the Enhancement of the Reporting of Related Party Transactions and Administration of Contemporaneous Documentation (Issue 23, July 2016)*

Reference: Cai Shui [2018] No. 22
Issuance date: 2 April 2018
Effective date: 1 May 2018

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

Potential impacts on businesses:
- Operational costs reduced

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

Preferential IIT treatment for private retirement plans

On 2 April 2018, five authorities jointly issued Cai Shui [2018] No. 22 ("Circular 22") to pilot preferential individual income tax (IIT) treatment (the so-called "Exemption-Exemption-Taxation system") for commercial endowment insurance plans. The five authorities include the Ministry of Finance (MOF), SAT, Ministry of Human Resources and Social Security (MOHRSS), China Banking and Insurance Regulatory Commission (CBIRC) and China Securities Regulatory Commission (CSRC).

From 1 May 2018, the preferential IIT treatment will be piloted in Shanghai, Fujian (including Xiamen) and Suzhou Industrial Park for a one year trial period. Circular 22, in particular, clarifies the following:

In the pilot areas, (i) contributions to an eligible commercial endowment insurance plan, which are deposited in an individual retirement account (IRA), are allowed to be deducted for IIT purposes, subject to certain limits. This would make the income contributed to the plan effectively "exempt" at time of contribution; (ii) investment gains generated by the funds in the IRA would be treated as tax exempt; and (iii) IIT would apply when the amounts in the IRA are withdrawn at retirement.

When calculating IIT, the contributions may be deducted as follows:

- For individuals obtaining wages and salaries or compensation for the provision of continuous services: The premiums paid for the commercial endowment insurance products may be deducted when calculating IIT for that month, and the deduction is limited to 6% of the monthly wages, salaries and compensation received or RMB1,000, which is lower.
- For sole traders deriving income from business operations as well as sole traders, owners of sole proprietorship enterprises, and partners in partnership enterprises, deriving income from leases or provision of contract services to enterprises or public institutions: The premium paid to the commercial endowment insurance products, may be deducted when calculating IIT for that year, and the deduction is limited to 6% of the annual taxable income or RMB12,000, whichever is lower.

The premiums paid by taxpayers cannot be deducted when calculating IIT without obtaining the documentary proof issued by the public platform for sharing insurance industry data and information, under the administration of the CBIRC. A list of endowment insurance products that are eligible for the preferential IIT treatment will be issued by MOF, MOHRSS and SAT.

When an individual qualifies to withdraw pension payments, 75% of the payment should be subject to IIT at 10% while the remaining 25% is tax exempt. The IIT on 75% of the pension payments must be withheld by the insurance company.

Circular 22 also sets out the specific rules on the covered taxpayers, the IRA and the information registration on the platform.

Developing this system is seen to be important in the context of China's aging society. This is also in line with the IIT reform proposed by MOF during the meetings of the National People's Congress, held in March 2018, in which tax deductions for personal outlays, such as children's education and medical expenses, were set as goals. Other proposed reform measures include:

- Raising the entry threshold for IIT, currently RMB3,500 for Chinese residents and RMB4,800 for expatriates.
- Consolidated IIT calculations and filings, in place of the current schedular system. Individual income including salaries and wages, and independent service income, will be consolidated for the tax calculation.

(See KPMG *China Tax Weekly Update (Issue 10, March 2018)* for details).

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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/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
karmen.yeung@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.h.li@kpmg.com

Larry Li
Tel. +86 (10) 8508 7658
larry.y.li@kpmg.com

Lucia Liu
Tel. +86 (10) 8508 7570
lucia.jj.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.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

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

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

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

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

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.z.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 8999
lilly.li@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.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

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

Hong Kong

Curtis Ng
Head of Tax, Hong Kong
Tel. +852 2143 8709
curtis.ng@kpmg.com

Ayesha M. Lau
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

Wade Wagatsuma
Tel. +852 2685 7806
wade.wagatsuma@kpmg.com

Natalie To
Tel. +852 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. +852 2143 8790
john.timpany@kpmg.com

Lachlan Wolfers
Tel. +852 2685 7791
lachlan.wolfers@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

Eva Chow
Tel. +852 2685 7454
eva.chow@kpmg.com

Alexander ZEGERS
Tel. +852 2143 8796
zegers.alexander@kpmg.com

kpmg.com/cn