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Relevant industries: Cross-border e-commerce
Relevant companies: Enterprises engaged in cross-border e-commerce business
Relevant taxes: N/A

Potential impacts on businesses:

- Operational costs reduced

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

Cross-border e-commerce zones for 22 more cities

Since March 2015, China's State Council has approved the set up of 13 cross-border e-commerce comprehensive pilot zones (CECPZs) in Tianjin, Shanghai, Chongqing, Hefei, Zhengzhou, Guangzhou, Chengdu, Dalian, Ningbo, Qingdao, Shenzhen, Suzhou and Hangzhou (see KPMG *China Tax Weekly Update (Issue 2, January 2016)* for details). The export and import of goods through these zones is facilitated by a range of policies, making these gateways for China's cross-border e-commerce traffic.

Taking a further step, at an executive meeting of the State Council on 13 July 2018, Premier Li Keqiang announced that China will set up more CECPZs in 22 cities, bringing the total number to 35. These include Beijing, Hohhot, Shenyang, Changchun, Haerbin, Nanjing, Nanchang, Wuhan, Changsha, Nanning, Haikou, Guiyang, Kunming, Xi'an, Lanzhou, Xiamen, Tangshan, Wuxi, Weihai, Zhuhai, Dongguan and Yiwu.

This is in line with the decision made by the State Council in September 2017 to extend the successful roll out of existing CECPZs to more cities across China. The intent of this expanded policy is to:

- Share nationwide the acquired commercial experience of established online and offline cross-border e-commerce platforms in the CECPZs.
- Share nationwide the best practices developed in CECPZs for regulating information sharing, financial services, intelligent logistics, risk control, statistic/monitoring and e-commerce operators' credit.

(see KPMG *China Tax Weekly Update (Issue 38, September 2017)* for details).

It is anticipated that more cities will be selected as CECPZs, and eventually the pilot program will be extended to the whole country.

Further reading:

In 2016, the Ministry of Finance (MOF), State Administration of Taxation (SAT) and General Administration of Customs (GAC) jointly issued Cai Guan Shui [2016] No. 18 ("Circular 18") setting out a new import tax policy for cross-border B2C e-commerce. Circular 18 requires that e-commerce B2C imports shall be deemed as "goods" rather than "postal articles" and be subject to Import Customs Duty, Import VAT and Import Consumption Tax (see KPMG *China Tax Weekly Update (Issue 12, April 2016)* for details).

Prior to the introduction of this system, the taxation of e-commerce B2C imports had been less well administered, with items subject to a postal tax for which collection mechanisms were somewhat deficient. The new system facilitates e-commerce B2C import clearance, at the same time as it leverages e-commerce platform support to collect tax.

To implement the new policies, in 2016 the MOF and ten other authorities jointly issued two lists of retail goods permitted for import in cross-border e-commerce transactions ("Permitted Import Lists"):

- Products imported under cross-border B2C e-commerce transactions, and covered by the Permitted Import Lists, were to be subject to the Circular 18 tax rules.
- It was also provided that products purchased online, and held in bonded zones in anticipation of sale, would be subject to China Inspection and Quarantine (CIQ) clearance procedures and notification when entering bonded zones from overseas – the relevant products were also set out on the Permitted Import Lists.
- Certain products included on the Permitted Import Lists, such as cosmetics, infant formula milk powder, and health foods, were to be subject to initial import licensing approval, registration or filing requirements (see KPMG *China Tax Weekly Update (Issue 14, April 2016)* and *(Issue 15, April 2016)* for details). Circular 18 and the two Permitted Import Lists were originally to take effect from 8 April 2016.

In response to the complexity created by the limited number of products on the initial lists, the State Council has repeatedly (on four occasions) approved deferrals for implementing the requirements set out in the Permitted Import List. The requirements have now been suspended until the end of 2018 (see KPMG *China Tax Weekly Update (Issue 38, September 2017)* for details).

Read the following KPMG publications on the Circular 18 import tax policies for cross-border e-commerce:

- *China Tax Alert: China's New Import Tax Policies for Cross-border E-commerce worth the attention of the whole industry (Issue 14, March 2016)*
- *China Tax Alert: The Chinese Government Introduced New Policies to Regulate Cross-Border E-Commerce Retail Import Business and the Imported Articles (Issue 15, April 2016)*

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

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

Potential impacts on businesses:
- Operational costs reduced
- Compliance cost reduced

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State Council cuts red tape to foster business

On 18 July 2018, at an executive meeting of the State Council, Premier Li Keqiang announced measures to cut red tape and facilitate business:

- Abolish pre-approval requirements for 17 administrative items, such as:
  - ❑ Establishment of retirement homes;
  - ❑ Approval of foreign investment in road transport industry;
  - ❑ Work permits for people from Hong Kong, Macau and Taiwan.
- Integration, by the end of 2018, of service provision by customs offices and the China Inspection and Quarantine (CIQ) authorities. This includes unified declaration documentation and joint on-site enforcement by both these government authorities. Other measures include simplified registration procedures for consignees and consigners of imported/exported goods. Going forward, customs offices will deal with business registration matters using information/data collected by other government authorities, such as market regulatory authorities, local MOFCOM etc. This will relieve businesses of the burden of duplicated provision of such information/data to multiple authorities.
- Accelerate the rollout of simplified approval procedures for new investment projects. This would apply to investments made by both Chinese and foreign investors. Under the simplified procedures, which will replace the previous pre-approval procedures, an enterprise is required to submit a written confirmation to the relevant government authority stating that it : (i) meets all the requirements set out in published guidance by the governmental authorities (such as the National Reform and Development Commission) to carry out the project; and (ii) accepts that it may be subject to interim and follow-up inspections by the relevant regulatory authorities, as well as penalty in case of violations.

  The new approach is being piloted in certain regions (such as Zhejiang and Chengdu), with an ultimate goal of allowing investment projects to be commenced, nationwide, without any pre-approvals.
- Roll out a new negative list concerning market access for all private enterprises in China, covering both domestic and foreign owned enterprises. This list is separate from the recent 2018 nationwide and FTZ negative lists, which concern the Chinese economic sectors into which foreign enterprises can invest (see KPMG *China Tax Weekly Update (Issue 26, July 2018)* for details). Rather, this list deals with the industries open to private enterprise and those still limited to state owned enterprises (SOEs) – the private enterprise access is being progressively widened over time.
- Ensure punishment of rule violations such as production and sale of counterfeit products, as well as illegal administrative charges, i.e., local governments and authorities imposing charges not permitted by the central government.

Reference: SAT Announcement [2018] No. 40
Issuance date: 13 July 2018
Effective date: 1 January 2018 to 31 December 2020

Relevant industries: All
Relevant companies: small enterprises
Relevant taxes: CIT

Potential impacts on businesses:

- Operational costs reduced

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

Tax preferences for small enterprises clarified

As highlighted in KPMG *China Tax Weekly Update (Issue 28, July 2018)*, the MOF and SAT on 11 July 2018 jointly issued Cai Shui [2018] No. 77. This clarifies that from 1 January 2018 to 31 December 2020, eligible small enterprises whose taxable income falls under RMB1 million, may qualify for a reduced 10% effective corporate income tax (CIT) rate. Under this incentive, 50% of their income is taxed at a CIT rate of 20%. The threshold was previously RMB500,000.

Subsequently, on 13 July 2018, the SAT issued Announcement [2018] No. 40 ("Announcement 40") further clarifying CIT collection matters:

- Eligible small enterprise, no matter whether they are subject to CIT on an accounts assessment basis or on a deemed income basis, are entitled to enjoy this preferential CIT treatment.
- Announcement 40 clarifies that small enterprises shall prepay CIT on a quarterly basis, with details on the application of the preferential rate in the following situations:
  - A small enterprise subject to CIT on an accounts assessment basis, or on a fixed rate basis, or on a fixed amount basis;
  - An enterprise which did not qualify for small enterprise treatment in the prior tax year but expects to qualify in the current tax year;
  - An enterprise which is newly set up in the current year and expects to qualify for small enterprise treatment in the same year.

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

Relevant industries: All
Relevant companies: MNEs
Relevant taxes: Offshore indirect transfers of assets

Potential impacts on businesses:
- Compliance risks due to regulatory uncertainties reduced
- Compliance costs increased

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

Global toolkit on offshore transfers - public consultation

At the request of the G20, the Platform for Collaboration on Tax (PCT), which is a joint initiative of the IMF, OECD, UN and World Bank Group, has been preparing a series of "toolkit" reports. These are intended to help guide developing countries in the implementation of international tax policies options of greatest relevance to such countries. This includes taxation of offshore indirect transfers (OITs) of assets, for which a new draft toolkit has recently been released.

The PCT previously sought, before October 2017, public feedback on a prior draft of this report (see KPMG *China Tax Weekly Update (Issue 32, August 2017)* for details). That draft generated significant interest and comments, now reflected in the new draft. Comments are sought by 24 September 2018.

This report and toolkit concludes that:

- The country in which the underlying asset is located may wish to tax gains derived from the OITs. Such treatment might be applied to wider classes of assets, including those generating location specific rents i.e., economic rents that exceed the minimum required by investors and which are not available in other jurisdictions. This may include telecom licenses, and other rights issued by the government.
- The provisions of both the OECD and UN Model Tax Conventions (MTCs) suggests there is wide acceptance that capital gains tax of OITs of immovable assets could be imposed by the location country (i.e., the country where the asset is located).
- There is a need for a more uniform approach by countries that choose to tax OITs in order to bring greater tax certainty. The two main approaches to taxing OITs by the location country where the OIT is: (i) treated as a deemed disposal of the underlying asset; and (ii) treated as a being made by the seller, offshore, but the gain derived on the transfer is sourced in the location country. The report does not state the general preference, but rather this will depend case by case consideration by each country considering such policies.

There is considerable diversity in how countries are approaching the taxation of OITs. Most OECD countries follow the OECD MTC, but not all; US, Peru and China are all noted to deviate from both the OECD and UN MTCs.

China’s SAT has issued guidance to regulate offshore indirect transfer of assets:

- SAT Announcement [2015] No. 7 (“Announcement 7”) was issued in February 2015. It replaced the original indirect offshore equity disposal reporting and taxation rules in Guo Shui Han [2009] No. 698 (‘Circular 698’), promulgated in 2009, with a substantially new and more comprehensive approach. It links the determination of targeted transactions to the General Anti-tax Avoidance Rules (GAAR), the guidance for which sets out detailed procedures for case establishment and adjudication. Announcement 7 has had a major impact on merger and acquisition (M&A) transactions and corporate restructurings undertaken by multinational enterprises involving China enterprises and assets (see KPMG *China Tax Alert Issue 3, February 2015* for details).
- Shui Zong Han [2015] No. 68 was issued in May 2015, which providing guidance for the Chinese tax authorities’ administration and implementation of the indirect offshore disposal rules in Announcement 7. It ensures that Announcement 7 cases are governed by the procedural rules and framework set out under the GAAR (see KPMG *China Tax Alert Issue 13, May 2015* for details).

Other recent regulatory and tax circulars:

- SAT’s announcement on release of tax filing forms for tobacco tax (SAT Announcement [2018] No. 39, issued on 11 July 2018)

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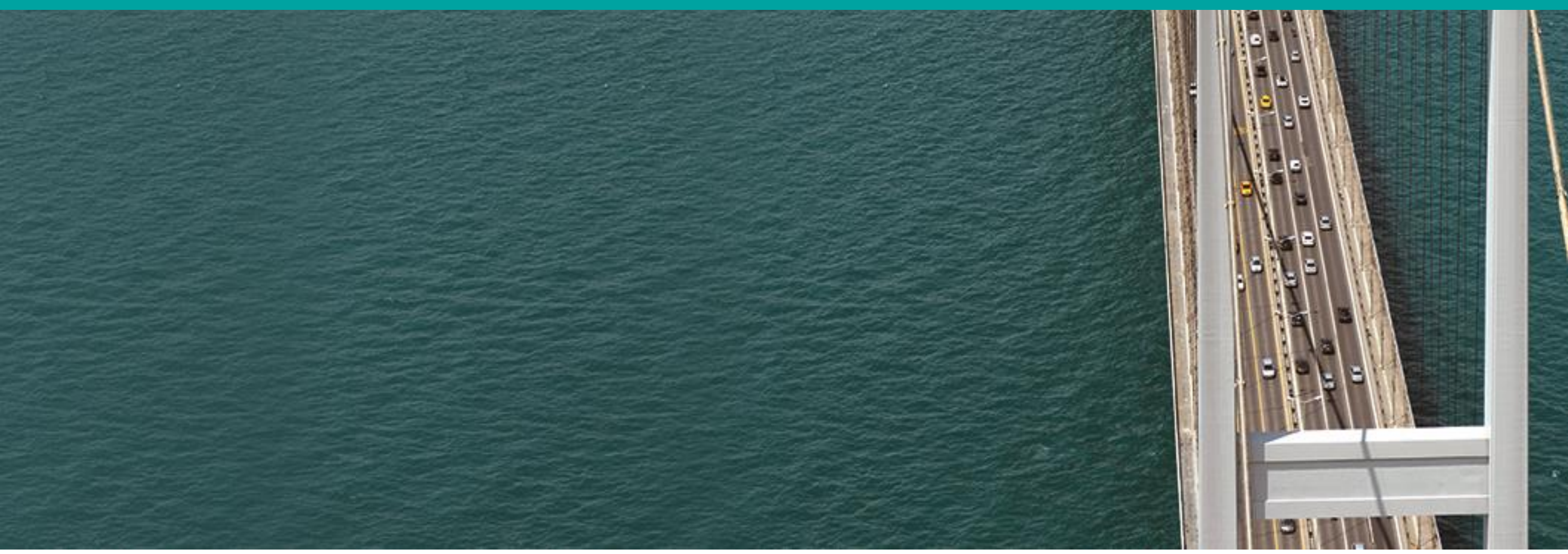

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