China Tax Alert

Issue 3, January 2020

Individual income tax policy on charitable donations confirmed

Regulations discussed in this issue:

- "Ministry of Finance and the State Taxation Administration Announcement on Individual Income Tax Policy in relation to Charitable Donations" (Ministry of Finance and the State Taxation Administration Announcement 99 of 2019, hereinafter referred to as "Announcement 99")

On 30 December 2019, the Ministry of Finance and the State Taxation Administration jointly issued the "*Ministry of Finance and the State Taxation Administration Announcement on Individual Income Tax Policy in relation to Charitable Donations*" (Ministry of Finance and the State Taxation Administration Announcement 99 of 2019, hereinafter referred to as "Announcement 99"). The policy will be retroactively applied from 1 January 2019.

According to the current Individual Income Tax ("IIT") Law of the People's Republic of China ("PRC"), the amount of charitable donations made in support of education, poverty alleviation and relief via social welfare charitable organisations and public authorities in PRC, may be deducted from their pre-tax income subject to a cap of 30 percent of the taxpayer's taxable income. Certain donations as regulated by the State Council are fully tax deductible. Under the income categorisation framework of the new IIT system, Announcement 99 further clarifies the relevant IIT policy in respect of individual donations as well as standardises the tax deduction claims process and corresponding time schedule, which encourages taxpayers to make charitable donations.

Main contents and our analysis

Scope of the policy

Announcement 99 sets out provisions on IIT deductions for individuals who donate to social welfare organisations[1] and public authorities (at county government level or above) within PRC in support of education, poverty alleviation and relief.

Value of donations

Form of donations	Value of donations
Monetary assets	Actual value of donation
Equity and real estate	Original value (at acquisition)
Other non-monetary assets	Market value

[1] Charitable organisations, other social organisations and public communities which are legally established or registered and are qualified to receive tax-deductible donations under the relevant regulations and procedures.

Deductible income and limits

Taxpayer residency status	Deductible income	Limit of tax deduction
Residents	Comprehensive income	30% of annual taxable income
	Business operating income from self-employment	30% of annual taxable income
	Categorised income (income from lease of property, income from transfer of property, income from interest dividends and incidental income)	30% of annual taxable income
Non-residents	Tax deduction is allowed on the amount not exceeding 30% of one's monthly taxable income received in the month of donation. Any excess donation can be deducted from self-employment business operating income.	

Where tax deductions are claimed under **comprehensive income** by **tax residents**:

Types of income	Timing of claim
Salary income	Withholding / Annual Reconciliation
Independent personal service income, author's remuneration and income royalty income	Annual Reconciliation
Income not incorporated into comprehensive income and taxed separately such as annual bonus and equity incentives	Refer to treatment for categorised income

Provisions for pre-tax deductions against business operating income from self-employment

Sole traders	Deduct from operating income
Sole proprietorship and partnership	Individual investors shall apportion the total donations based on the profit-sharing ratio of the partnership business (100% if it is a sole proprietorship enterprise). Individual investors shall combine the donations made under the sole proprietorship, partnership and other donations claimable under operating income, and claim the full donations under operating income.
Time of deduction	Withholding or Annual Reconciliation
Non-deductible situations	Where deemed operating income applies to the business

Catch-up deduction claim

Where allowable deductions have not been claimed via the standard process, catch-up claims can be made as follows:

Circumstances	Catch-up claim method
Tax withholding applied but tax unsettled	Submit claim to withholding agent and apply tax refund
Tax withholding applied and tax settled	Apply amendment tax filing to claim deductions via withholding agent within 90 days from the date of donation
Self-filing taxpayers	Apply amendment tax filing to claim deductions within 90 days from the date of donation
Charitable donations made between 1 January 2019 and publication date of Announcement 99 (30 December 2019) which are claimable under categorised income	Apply for retroactive deduction to tax authorities through withholding agent by 31 January 2020.

Documentation requirements

Evidential documents	• Individuals who claim deductions via the withholding agent shall inform the withholding agent of the amount deductible and provide copies of the donation receipt and other evidential documents • Individuals may provide bank transfer records as temporary proof of the donation, and supply the full proof to the withholding agent within 90 days from the date of the donation. Where he full proof is not provided, the withholding agent should report to the tax authorities within 30 days • Where government departments, institutions and businesses organise employees to make collective donations, taxpayers can provide the proof of full donation and employee list • Individuals should retain evidential documents for five years
Declaration form	Individuals or withholding agents shall submit the "Schedule of Individual Income Tax Deductions for Charitable Donations".

KPMG Observation

Announcement 99 clarifies the relevant requirements on tax deductible donations following the introduction of the new IIT law. The following aspects should be noted by withholding agents and individual taxpayers:

Withholding agents

The withholding agent shall apply allowable tax deduction during the tax withholding process according to the relevant regulations, and fulfill the relevant notification, information collection and reporting obligations. At the same time, organisations should establish relevant internal management and operational processes as soon as possible, and communicate with employees to align responsibilities and obligations of both parties.

Individual taxpayers

Prior to making any donations, individuals shall confirm whether the donation is within the scope of pre-tax deduction, obtain donation receipts, and provide the relevant documents to the withholding agent on a timely basis. The evidential documents should be properly retained.

Resident taxpayers with multiple sources of income can self-determine the order of tax deduction against comprehensive income, categorised income and self-employment business operating income. Individuals may carry out relevant tax calculations and planning based on their personal circumstances.

Meanwhile, we also notice certain details in Announcement 99 remain to be clarified, for example:

- The announcement suggests that the value of donations made in the form of non-monetary assets (other than equity and reals estate properties) should be determined according to the market price of the assets. However, there is considerable uncertainty in terms of practical valuation of such assets, and this requires further clarification.

- According to the relevant regulations, donations are only tax deductible if made to charitable organisations published by the relevant authorities. However, where donations are made prior to the publication of the official list, the relevant tax treatment needs further clarification.

KPMG will continue to closely follow the relevant policies on tax deductible donations, and proactively discuss policy developments and share our practical experiences with the tax authorities. We welcome organisations and taxpayers to contact us for the latest information on individual taxation.

If you have any questions in the above practices, you are welcome to consult KPMG.


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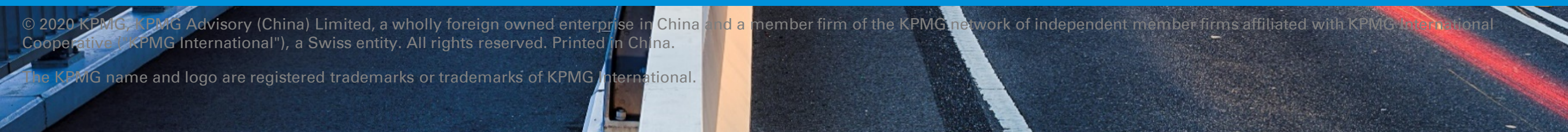

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