



Be Prepared – 2011 Year-End China Tax Checklist

Background

Now that 2012 has commenced, many enterprises have embarked upon the preparation of their annual financial statements and the audit process of the external auditors. The preparation and submission of the annual Corporate Income Tax (CIT) returns and related transfer pricing documentation reports, where applicable, will follow closely. At the same time, enterprises may also have to prepare other returns, for example, Value Added Tax (VAT) and Business Tax (BT) returns to prepare in the earlier part of 2012. To help corporations to deal with their tax compliance obligations, we set out below a 2011 Year-End China Tax Checklist.

When going through the checklist, it is important to note that if a corporation fails to meet the tax filing and payment deadlines set by the relevant tax regulations, the tax authorities may impose penalties and late payment surcharges on the taxpayers or withholding agents. The checklist does not purport to be an exhaustive list of key China tax and regulatory matters and is not intended to address the circumstances of any particular individual or entity. In addition, there may be variations among local tax authorities regarding the implementation of the rules.

Corporate Income Tax						
Action	Key points	Deadline / Effective date	KPMG publication	Y	N	N/A
Prepare and submit the monthly (quarterly) CIT returns in accordance with new rules	<p><u>CIT Law and Implementation Rules, State Administration of Taxation (SAT) Announcement [2011] No.64 and No.76</u></p> <ul style="list-style-type: none"> Taxpayers are required to use revised monthly (quarterly) CIT returns from 1 January 2012 	15 February 2012 or 18 April 2012		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and submit 2011 annual CIT return & reconciliation of quarterly provisional tax payments	<p><u>CIT Law and Implementation Rules</u></p> <ul style="list-style-type: none"> This requirement applies to corporations set up in China as well as foreign corporations that have permanent establishments in China 	31 May 2012		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Apply to the tax authority in charge for CIT deduction on asset losses	<p><u>SAT Announcement [2011] No.25</u></p> <ul style="list-style-type: none"> These measures broaden the scope of deductible asset losses These measures remove the requirement for obtaining prior approval from the tax authorities for deduction of asset losses The reporting requirements are divided into non-itemised reporting and itemised reporting 	31 May 2012	China alert Issue 13, 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Obtain valid documentary support for the relevant costs and expenses	<p><u>SAT Announcement [2011] No.34</u></p> <ul style="list-style-type: none"> Enterprises can provisionally deduct costs and expenses in quarterly CIT filing with documentary support pending, but they should provide the valid support by the end of the annual CIT filing 	31 May 2012	PRC Tax Dashboard Issue 6, 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
An advanced and new technology enterprise shall prepare and submit the required documents to the tax authority in charge for record keeping purposes	<p><u>Guo Shui Han [2009] No.203</u></p> <p>An advanced and new technology enterprise shall lodge a record with the tax authority in charge in respect of the recognition criteria before the annual CIT filing</p>	31 May 2012	China alert issue 47, 2009	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and submit the required documents of a qualified technology transfer to the tax authority in charge for record keeping purposes	<p><u>Guo Shui Han [2009] No.212</u></p> <ul style="list-style-type: none"> To enjoy the CIT incentives on a technology transfer, an enterprise shall lodge a record with the tax authority in charge before filing its annual CIT return 	31 May 2012		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

A venture capital enterprise shall prepare and submit the required documents to tax authority in charge for record keeping purposes	<u>Guo Shui Fa [2009] No.87</u> <ul style="list-style-type: none"> To enjoy the investment tax credit, a venture capital enterprise shall lodge a record with the tax authority in charge before filing its annual CIT return 	31 May 2012		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Notify the relevant tax authorities of special tax treatments of corporate restructuring (rollover relief)	<u>Circular Caishui [2009] No. 59 and SAT Announcement [2010] No. 4</u> <ul style="list-style-type: none"> Where relevant conditions are satisfied, tax on capital gains on share transfers, mergers, de-mergers etc. may be deferred 	31 May 2012	China alert Issue 39, 2009 and China alert Issue 12, 2010	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consider the impact of expiration of rules on CIT deduction of provisions of financial service industry (e.g. banking, insurance and securities)	<u>Cai Shui [2009] No.33, Cai Shui [2009] No.48, Cai Shui [2009] No.62, Cai Shui [2009] No.64 and Cai Shui [2009] No.110, etc.</u> <ul style="list-style-type: none"> Rules on CIT deduction of provisions of specific sectors came to an end on 31 December 2010 	31 December 2010	China alert Issue 42, 2009 and China alert Issue 43, 2009	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consider the impact of expiration of rule on deduction limits for advertising and promotion expenses for selected industries	<u>Cai Shui [2009] No.72</u> <ul style="list-style-type: none"> CIT deduction limits for advertising and promotion expenses for selected industries are increased to 30 percent. The policy came to an end on 31 December 2010 	31 December 2010	China alert Issue 68, 2009	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and have ready for submission 2011 transfer pricing documentation reports and related information	<u>Circular Guo Shui Fa [2009] No. 2</u> <ul style="list-style-type: none"> “Nine forms” detailing related party transactions shall be submitted with the annual CIT returns Documentation reports should be ready for submission as and when required by the tax authorities 	31 May 2012	China alert Issue 8, 2009	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Apply for approval of tax treaty relief for dividends where applicable	<u>Circulars Guo Shui Fa [2009] No. 124, Guo Shui Han [2009] No. 81 & Guo Shui Han [2009] No. 601</u> <ul style="list-style-type: none"> The applicant shall prove residency status in the relevant foreign jurisdiction and beneficial ownership of the dividends. Similar rules apply to loan interest, royalties and capital gains 	When applying to remit dividends	China alert Issue 25, 2009 and China alert Issue 86, 2009	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other taxes and levies						
Action	Key points	Deadline / Effective date	KPMG publication	Y	N	N/A
Perform VAT filing in accordance with new rules for Shanghai enterprises in relevant industries	<p><u>Circulars Cai Shui [2011] No.110 and No.111 and SAT Announcement [2011] No.66</u></p> <p>A pilot program in Shanghai to replace BT with a VAT commencing on 1 January 2012</p>	15 February 2012 if filing on a monthly basis	China alert Issue 40, 2011 and China alert Issue 1, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Apply to the tax authority for refund of BT overpaid or over-withheld on grandfathered leasing contracts	<p><u>Cai Shui [2011] No.48</u></p> <ul style="list-style-type: none"> Lodge a record with the tax authority in charge for obtaining the BT transitional relief by 30 September 2011 Apply for a refund of BT overpaid or over-withheld if it has not been credited by the end of 2011 	Effective from 1 January 2010	China alert: Financial Service Focus Issue 4, 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Apply new rule in obtaining export VAT refunds	<p><u>Guo Shui Han [2011] No.643</u></p> <ul style="list-style-type: none"> Enterprises in the pilot regions (Note 1) are not required to submit paper proof of foreign exchange receipt when applying for export tax refund 	Effective from 1 December 2011		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and submit 2011 Annual IIT Self Filing Returns	<p><u>Circular Guoshuifa [2006] No.162</u></p> <p>This filing requirement is applicable individuals whose annual income exceed RMB120,000, including non-Chinese residents</p>	31 March 2012	China alert Issue 35, 2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Make social contributions for qualified foreigners as required	<p><u>Order No. 16 of the Ministry of Human Resources and Social Security and Ren She Ting Fa [2011] No.113</u></p> <ul style="list-style-type: none"> Foreigners shall make contributions to pension as well as medical, injury, unemployment and maternity insurance schemes in China. However, the implementation rules have not yet been issued 	Effective from 15 October 2011	China alert Issue 33, 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Note 1: Pilot regions include Jiangsu, Shandong, Hubei, Zhejiang (excluding Ningbo), Fujian (excluding Xiamen), Dalian and Qingdao.

Non-tax matters						
Action	Key points	Deadline / Effective date	KPMG publication	Y	N	N/A
Prepare and submit an annual report	<u>State Council Decree 584</u> <ul style="list-style-type: none"> An representative office is required to submit annual report to the registration authority 	30 June 2012	China alert Issue 21, 2010	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

KPMG observations

The enterprises shall be mindful of the change of rules on CIT deduction of asset losses. On the one hand, the newly issue SAT Announcement [2011] No.25 ("the New Measures") have broadened the scope of deductible asset losses and removed the requirement of prior approval for asset, which makes it easier and quicker to obtain deduction on asset losses. On the other hand, the burden of compliance with the deduction rules will be placed squarely on the shoulders of the enterprises under the New Measures. That way, the tax authorities at the local level will be able to focus their attention on high risk targets or areas and deploy their resources to audit those targets accordingly. As such, the enterprises shall put their asset loss claims through vigorous internal verification process and prepare detailed relevant accounting and tax information in anticipation of tax audits.

The issuance of SAT circular 601 on beneficial owner has made the application for approval of reduced withholding tax rates for dividends under the relevant tax agreements or arrangements rather challenging in some cases. The prevailing circulars are silent on some critical issues in practice. We understand the SAT is drafting follow-up circulars to clarify these issues and suggest enterprise keep a close eye on this.

The VAT pilot programme in Shanghai has commenced on 1 January 2012. The reform has significant impacts on both the Shanghai enterprises in transportation and modern services sectors and the enterprises outside Shanghai that purchase services from taxpayers under pilot programme. The pilot programme covers various industries and the circulars addressing issues of specific industries will be released successively. Taxpayers shall also be mindful of the developments in this regard.

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