



## Culture Business Development Levy (CBDL) regulations after VAT reform has been further clarified

### Regulations discussed in this issue:

- Supplementary Notice on the Imposition of CBDL after VAT Pilot Program, Cai Zong [2012] No. 96 (Circular No. 96), issued by the Ministry of Finance, the State Administration of Taxation on 3 December 2012, effective on 1 January 2012.
- Notice on the Imposition of CBDL after VAT Pilot Program, Cai Zong [2012] No. 68 (Circular No. 68), issued by the Ministry of Finance, the State Administration of Taxation on 29 August 2012, effective on 1 January 2012.
- Announcement on relevant filing issues of CBDL after VAT Pilot Program (Announcement 51), issued by the State Administration of Taxation on 4 December 2012, effective from VAT reform implementation date for each of the pilot location

### Background

Circular No. 68 and No. 96 are supporting measures under the background of VAT reform, and clarified the controversial issues of the calculation base of CBDL after VAT reform. Meanwhile, as the CBDL are collected associated with VAT, Circular No.68 also indicates that the CBDL should be collected by the state tax bureaus, instead of the local tax bureaus, considering the efficiency of tax administration and collection. The State Administration of Taxation (SAT) also issued Announcement 51 on the filing procedure of CBDL after the VAT Pilot Program.

Taxpayers who have settled the CBDL based on the verbal confirmation with the local tax bureau in charge should re-calculate the CBDL payable, settle the payments to the state tax bureau in charge, and apply for the refund from the respective local tax bureau.

### The historical evolution of the CBDL

According to The Notice Issued by the Ministry of Finance and the SAT Regarding "The Interim Procedures of the Administration of the CBDL", (Cai Shui Zi[1997] No. 95), effective from 1 January 1997, taxpayers who are liable for Business Tax for revenue from advertising or entertainment businesses are the payers of the CBDL. The collection of the CBDL was included in the financial budget management, and a separate special fund should be set up to manage the CBDL.

The CBDL payable should be three percent<sup>1</sup> of the Business Taxable revenue from advertising or entertainment businesses.

<sup>1</sup> Upon approved from the State Council, the calculation base of certain cities can be higher than three percent, e.g. In Shanghai. The CBDL ratio of advertising taxpayers in Shanghai was 4% during the period from 1 September 1998 to 31 December 2010

### **Using the sales revenue (inclusive of VAT) as the calculation base of the CBDL**

Before the issuance of Circular No.68 and No.96, some of the local tax bureaus in VAT reform pilot areas continue the collection of the CBDL, and the tax treatments on whether the calculation base should be inclusive of VAT or exclusive of VAT are different in different tax authorities.

Circular No. 68 only indicates that the calculation base of the CBDL is the sales revenue. Considering the controversial opinion regarding whether the term “sales revenue” refers to the sales revenue exclusive of VAT, Circular No. 96 further clarifies that the term “sales revenue” refers to the total payment, including the VAT and others expenses, received by advertising taxpayers. That is, sales revenue here is inclusive of VAT.

### **It is permissible to use the net revenue after the deduction of advertising placement expenses as the calculation base**

Circular No. 96 clarifies that taxpayers can deduct the advertising placement expenses paid to other advertising companies or publishers in or outside of the VAT reform pilot cities from the gross sales revenue and use the net revenue as the calculation base of the CBDL. This is the extension of the existing policies under the Business Tax regime.

### **Changing the administration and collection authority to the state tax bureaus**

In addition, the administration and collection authority of the CBDL also changes from the local tax bureaus to the state tax bureaus after the VAT reform. Considering that some local tax bureaus already collected the CBDL before the issuance of Circular No. 68 and 96, the tax authorities in each VAT reform pilot cities are issuing notices successively to allow taxpayers applying for the CBDL refund from the local tax bureau in charge.

### **KPMG observations**

Circular No. 96 clarifies that the sales revenue should be inclusive of VAT, which may not be same with the understanding of taxpayers’ and some local tax bureaus. As a result, taxpayers have to re-calculate the CBDL payable and make the payment to the state tax bureau in charge.

Taxpayers who need to deduct the advertising placement expenses from the gross sales revenue should pay attention to obtain the valid invoices, i.e. VAT invoices and Business Tax invoices to substantiate the deduction of the expenses; otherwise, the relevant advertising placement expenses cannot be deducted. If advertising placement expenses are paid to foreign vendors, taxpayers should request the tax bureau to issue VAT invoices on behalf of the foreign vendors when withholding the VAT.

Besides, Circular No. 68 and No. 96 apply to advertising taxpayers who have already participated in the VAT reform. After the entertainment industry is also included in the scope of VAT reform, it is likely that the Ministry of Finance and the State Administration of Taxation would also issue the further notices applicable to entertainment taxpayers.

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