China Tax Weekly Update

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Relevant industries: All (especially for industries of construction, real estate, finance and consumer services)
Relevant companies: All (especially for enterprises which are engaged in construction, real estate, finance and consumer services)
Relevant taxes: VAT / BT

Potential impacts on businesses:

- Preparation of VAT reform needs to speed up for specific industries
- Effective tax burden reduced

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

VAT reform fully implemented from 1 May 2016 and effective tax burden of all industries shall be reduced

On 5 March 2016, Premier Li Ke Qiang of the State Council announced in *the Work of the Government* at the opening of the National People's Congress that VAT reform will be fully implemented in 2016. The construction, real estate, financial services and lifestyle services industries will all be subject to VAT with effect from 1 May 2016. The VAT incurred for purchase of new immovable properties will be included into the scope of creditable input VAT for all enterprises at the same time, to ensure that effective tax burden of all industries shall be reduced.

On the occurrence of the policy announcement, KPMG immediately issued a newsletter, "*KPMG's response to China's tax reform initiatives*", to explain the key impacts on multinational businesses. You may click here to read the details.

To set out detailed analysis of the impact of the final full implementation of the VAT reforms, and key issues for the relevant industries, KPMG also immediately issued a "*China Tax Alert: China's Value Added Tax expanded to fully replace Business Tax in major new announcement* "*(Issue 7, March 2016)*. You may click here to read the details. The announcement by Premier Li precedes the release of detailed implementation rules, which are expected imminently. Upon their release, KPMG will be issuing a further China Tax Alert.

The Work of the Government also mentioned that certain government funds will be abolished, stopped and combined. The government will also expand the exemption of relevant government funds and administrative and institutional fees.

With regard to the other finance and tax issues which *the Work of the Government* mentioned, we will provide more details in next issue of KPMG *China Tax Weekly Update*.

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Relevant industries: All
Relevant companies: Multinational enterprises
Relevant taxes: All

Potential impacts on businesses:

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

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

Global tax cooperation reaches new high. All non-G20 countries and jurisdictions are invited to join

Based on a recent news published on the website of the State Administration of Taxation (SAT), the G20 Finance Ministers and Central Bank Governors Meeting was held in Shanghai from 26 to 27 February. Taking global tax cooperation as one of its eight major topics, the Meeting has reached a consensus that becomes a highlight of the Communiqué of the Meeting.

- The Communiqué endorses an inclusive framework in relation to the implementation of Base Erosion and Profit Transfer (BEPS) project on a global scale. It encourages all non-G20 countries and jurisdictions who promise to implement the BEPS project, including developing countries, to join the framework on an equal footing.

  This inclusive framework will provide for non-G20 members and jurisdictions to participate as BEPS Associates in an extension of the OECD's Committee on Fiscal Affairs. As BEPS Associates, they will work on an equal footing with the OECD and G20 members on the remaining standard-setting under the BEPS Project, as well as the review and monitoring of the implementation of the BEPS package.

  OECD reported more details of the inclusive framework on its official website, you may click here to access the full content.

- The Communiqué calls on all financial centres and tax jurisdictions to implement the global standard for information exchange on request as well as for Automatic Exchange of Information by 2017 or at the end of 2018. It also calls on all countries to join the *Multilateral Convention on Mutual Assistance in Tax Collection and Administration (MCMATCA).*

  In our KPMG China Tax Weekly Update (Issue 4, February 2016), we have mentioned that the SAT has issued SAT Announcement [2016] No. 4 to clarify that the MCMATCA will be applicable to China on 1 February 2016. China shall start to implement the MCMATCA on 1 January 2017. You may click here to understand the details.

- The Communiqué reiterates an intent to help developing economies strengthen tax collection and management construction, to ensure the levying of taxes on profits earned in places where economic activities happen and where value is created.

The SAT has made positive contributions to global tax cooperation across all of the dimensions on which the Communiqué focuses, including:

- As partner and member of steering group of BEPS, the SAT participated in depth in the design and development of the inclusive framework.
- The SAT completed the procedures required for enforcement of MCMATCA and entered into the related *Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information.*
- In collaboration with OECD, the SAT set up a multilateral tax centre in Yangzhou, which is the first one established in non-G20 country. It is set to become an important platform to provide training to tax officials, to strengthen tax management in developing countries as well as to implement the BEPS achievements.

In addition, the SAT will further push forward the G20 tax reform projects, such as BEPS and automatic exchange of information at the upcoming Forum of Tax Administration in Beijing. You may click here to access the official website of the G20 2016 to understand more details.

Reference: State Council Order No. 666
Issuance date: 6 February 2016
Effective date: 1 March 2016

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

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

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

State Council eliminates tax pre-approvals and amends foreign investment procedures for telecoms and insurance sectors

On 1 March 2016, the State Council issued the *Decision on Revision of Certain Administrative Laws and Regulations (State Council Order No. 666, hereinafter referred as "the Decision").* The Decision shall become effective from the date of issuance.

The *Decision* revised certain clauses of 66 administrative laws and regulations. The following is a list of some of them which are related to tax, customs and administration on registration of company, etc. The specific revisions are mainly related to the removal of approval process and change to pre- or post-registration process.

- Article 13 of *Provisional Regulations of the People's Republic of China on Value-added Tax*
- Article 43 of *Implementation Regulations for the Law of the People's Republic of China on Administration of Tax Collection*
- Article 39 of *Regulations of the People's Republic of China on Import and Export Duties*

Revisions in the following two circulars relate to the change of foreign investment requirements of the telecommunication and insurance industries:

Article 16 of *Administrative Provisions on Foreign-funded Tele-communications Enterprises*	The main Chinese investor of a foreign-funded telecommunications enterprise shall present the "Approval Certificate for Foreign Investment Enterprises" ~~to apply for a "Telecommunications Business Permit" from the industry and information technology authorities of the State Council~~. The main Chinese investor of the foreign-funded telecommunications enterprise shall present the "Approval Certificate for Foreign Investment Enterprises" ~~and the "Telecommunications Business Permit"~~ to complete registration formalities for foreign-funded telecommunications enterprise with the administration for industry and commerce.	The main Chinese investor of a foreign-funded telecommunications enterprise shall present the "Approval Certificate for Enterprises" <u>to apply for registration with the administration for industry and commerce first, then present the "Approval Certificate for Enterprises" and "Business License" to apply for permit for telecommunication business with the industry and information technology authorities of the State Council</u>.
Item 1, Article 20 of *Regulations of the People's Republic of China on the Administration of Foreign Investment Insurance Companies*	Unless the CIRC issues approval, a foreign investment insurance company may not carry out the following business transactions with its associated enterprises: ~~(1) outward or inward business of reinsurance;~~ (2) buying and selling of assets or other transactions.	Unless the CIRC issues approval, a foreign investment insurance company may not carry out the buying and selling of assets or other transactions with its associated enterprises.

Reference: Guo Fa [2016] No.16
Issuance date: 26 February 2016
Effective date: N/A

Relevant industries: All
Relevant companies: All
Relevant taxes: CIT / IIT

Potential impacts on businesses:
- Effective tax burden reduced

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

The State Council issues provisions to facilitate the transformation of scientific and technological results

As mentioned in the previous KPMG *China Tax Weekly Update (Issue 6, February 2016)*, on 17 February 2016, the Standing Committee meeting of the State Council determined the polices and measures to support the transformation of scientific and technological results, encouraging the research and development (R&D) institutions and colleges and universities established by the State to transfer the scientific and technological results to enterprises or other organizations. The transfer could be made in transfer of ownership, licensing or investment after valuation.

On 26 February, the State Council issued several provisions in Guo Fa [2016] No.16, which encourages R&D institutions, colleges and universities, enterprises and other innovation subjects as well as scientific and technical personnel to transfer or transform their scientific and technological results. The main provisions are:

- Encourages R&D institutions and colleges and universities to transfer their scientific and technological results to enterprises or other organizations by means of transfer, licensing or investment after valuation. The R&D institutions and colleges and universities established by the State may make decision on their own to select the transfer methods (i.e., transfer of ownership, licensing or investment after valuation) on their scientific and technological results. Approval and record filing will not be required, unless the State secret or national security are involved.
- A proportion not less than 50 percent of the total reward for transfer of a scientific and technological result shall be set aside for completers of scientific and technological results and persons who have made significant contributions to transfer of the results.
- Strengthens the supports to R&D institutions, colleges and universities, and personnel with outstanding performance on transfer of scientific and technological results. Expands the tax preferential policies piloted in the national independent innovation demonstration zones (NIIDZs) nationwide and implements the existing tax polices for promoting the transformation of scientific and technological results well. Explores and develops the tax policies to support enterprises and individuals to transform scientific and technological results.

You may click here to access KPMG *China Tax Weekly Update (Issue 6, February 2016)* to know more about the relevant tax preferential policies which are expanded nationwide from the NIIDZs as well as the existing tax policies for promoting the transformation of scientific and technological results.

Reference: Cai Zi [2016] No. 4
Issuance date: 26 February 2016
Effective date: 1 March 2016

Relevant industries: Technology
Relevant companies: State-owned science and technology enterprise
Relevant taxes: N/A

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced
- Operational costs increased

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

Incentives for state-owned science and technology enterprises expanded to whole country

Recently, the Ministry of Finance, Ministry of Science and Technology, State-owned Assets Supervision and Administration Commission of the State Council formulated the "Provisional Measures regarding Incentives of Equity and Dividend for the State-owned Science and Technology Enterprises" (the "*Provisional Measures*"), on the basis of the pilot measures for Zhongguancun National Independent Innovation Demonstration Zone. The Provisional Measures shall take effect from 1 March 2016 nationwide.

You may click here to access full content of *Notice on Measures for Implementing Incentives of Equity and Dividend by the Located Enterprises in Zhongguancun National Independent Innovation Demonstration Zone.*

- "State-owned science and technology enterprise" refers to the unlisted science and technology enterprise with corporate capacity in China which is owned and/or controlled by the State (inclusive of State-owned enterprises listed on the national equities exchange and quotations). "State-owned science and technology enterprises" are specified as below: (1) Institution transformed into enterprises, high and new technology enterprises recognized by the State; (2) Technology enterprises invested by the colleges and universities and scientific research institutions; (3) Technology service institutions identified at the state and provincial level.
- Where the enterprise established for less than 3 years, it may not provide incentives such as equity reward and post dividend.
- The incentives target to the key technical and managerial personnel who have entered into the labour contract with the enterprise. The enterprise may not provide the equity or dividend incentives to all employees. The supervisors and independent directors shall not participate in equity or dividend incentive plans.

In addition to the above, the implementation conditions, incentive plan management, financial management involved in incentive plan implementation, change of property right and other relevant contents have also been clarified in the *Provisional Measures*.

Reference: Shui Zong Fa [2016] No. 23 / SAT Announcement [2016] No. 10
Issuance date: 24 February 2016
Effective date: N/A

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

Potential impacts on businesses:
- Compliance costs reduced

You may click here to access full content of Shui Zong Fa [2016] No. 23 and here to access full content of SAT Announcement [2016] No. 10.

SAT implements the State Council's decision on cancellation of 152 administrative approval items

As mentioned in KPMG *China Tax Weekly Update (Issue 7, February 2016)*, on 19 February 2016, the State Council issued Guo Fa [2016] No. 9 (Circular 9), to cancel 152 administrative approval items that the central authority had delegated to local governments. Among the 152 cancelled administrative approval items this time, 17 of them are tax related items, including: tax authority approval of the registration of persons as withholding agents, tax authority approval of a taxpayer's choice of in-charge tax authority, tax authority approval of preferential CIT policies for venture capital enterprises, tax authority approval to use reorganization tax relief for equity transfers by non resident enterprises.

Accordingly, the State Administration of Taxation (SAT) issued Shui Zong Fa [2016] No.23 on 24 February 2016, requiring local tax authorities at all levels shall implement the State Council's decision seriously and comprehensively. Administrative approval procedures are not to be retained in a disguised form. It also requires that the local tax authorities at all levels shall revise the relevant provisions, tables, certificates, forms, books and procedures for tax collection and administration in due course. They must also strengthen the transitional arrangements and in-process and post administration on the cancelled items.

In addition, Circular 9 has also cancelled the Licenses for sales of stamp duty receipts on behalf of tax authorities. The SAT, therefore, issued Announcement [2016] No.10 and removed it from the catalogue of administrative approval items which was released in SAT Announcement [2015] No.87.

Reference: Guo Fa [2016] No. 11
Issuance date: 3 February 2016
Effective date: N/A

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

Potential impacts on businesses:
- Compliance costs reduced

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

State Council collates and standardizes the 2nd batch of 192 administrative approval items which involve intermediary services

The State Council collated the administrative approval items which involve intermediary services again, and on 3 February 2016, issued Guo Fa [2016] No. 11 to determine that 192 intermediary service items will no longer be deemed as the elements for acceptance of administrative approvals, thereof:

- 48 service items that provided by accounting firms, including audit of financial statements of the financial institutions getting into the national inter-bank lending market, auditing (capital verification) of insurance brokerage institution set-up, audit of liquidation report of foundation de-registration, etc.
- 14 administrative items that approved by State Administration of Foreign Exchange, including overseas lending granted by domestic enterprises, direct investments in China by foreign investors, overseas direct investments of domestic institutions, foreign-invested fund management companies and foreign exchange business of non-banking financial institutions, etc.

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

Relevant industries: All
Relevant companies: All
Relevant taxes: CIT / VAT / IIT

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

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

SAT's replies on tax-related suggestions and proposals from NPC and CPPCC

Recently, the State Administration of Taxation (SAT) made replies to 6 tax-related suggestions and proposals that received from the third session of twelfth National People's Congress (NPC) and Chinese People's Political Consultative Conference (CPPCC) and publicized them on its website. For the suggestion of having staff transport allowance and heating subsidies included in the accounts for costs and expenses, the SAT's replies are:

- According to *Accounting Standards for Business Enterprises No.9 - Employee Compensation*, the staff transport allowance and heating subsidies incurred by the enterprises, shall be included in the corresponding accounts for costs and expenses based on employees' departments for accounting purpose.
- According to Article 3 of *Notice of SAT on Issues Relating to Deduction of Wages and Salaries and Staff Welfare Expenses by Enterprises (Guo Shui Han [2016] No.3*), the staff transport allowance and heating subsidies are classified as staff welfare expenses and qualified for pre-tax deduction for Corporate Income Tax (CIT) purpose in accordance with the tax laws.
- With regard to the eligible staff welfare expenses, may be deemed as the wages and salaries and qualified for pre-tax deduction for CIT purpose according to SAT Announcement [2015] No.34, this will help taxpayers, to a large extent, solve or ease the overrun of welfare expenses. (*Announcement of the SAT on Issues Relating to Pre-tax Deduction of Enterprise Expenses such as Wages and Salaries and Staff Benefits etc (SAT Announcement [2015] No.34)* clarifies that staff welfare subsidies included in an enterprise's employee wage and salary system and paid out together with wages and salaries which comply with the provisions in relation to "Reasonable wages and salaries" in Article 1 of Guo Shui Han [2009] No. 3, may be deemed as wage and salary expenses incurred by the enterprise and qualify for pre-tax deduction pursuant to the provisions.)

In addition, the SAT has also replied to the below 5 tax-related suggestions and proposals:

- Suggestion on tax payment and use of invoice by pharmaceutical industry
- Suggestion on standardization of tax inspection in accordance with the laws
- Suggestion on enactment of *Security Law for Tax Information* to protect the tax resources of China
- Proposal on improvement of tax policies for equity incentive of listed companies
- Proposal on improvement and perfection of VAT invoice system

You may click here to access SAT's replies in detail on the abovementioned 5 tax-related suggestions and proposals.

MOC, MOF and SAT Issue Name list of Animation Enterprises Recognized in 2015 (Wen Chan Han [2016] No.76)

On 15 February 2016, the Ministry of Culture (MOC), the Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly issue the name list of 61 animation enterprises recognized in 2015. The eligible enterprises may enjoy the exemption of import duty, "refunded upon collection" policy if the actual VAT burden in excess of 3% and "exemption for two years and 50% reduction for three years" policy for CIT in accordance with the relevant laws and regulations.

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

MOF and SAT Clarifies Tax Incentive Policies for Insurance Security Fund (Cai Shui [2016] No.10)

On 3 February 2016, the Ministry of Finance (MOF) and the State Administration of Taxation (SAT) issued Cai Shui [2016] No. 10 and clarified that the exemption of Corporate Income Tax, Business Tax and Stamp Duty for certain income derived by China Insurance Protection Fund Co., Ltd as well as certain taxable instruments shall be continued.

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

Beijing State Tax Bureau Issues the Announcement on Cancellation of VAT Invoice Authentication Process for Taxpayers with Class A Tax Credit Rating

As mentioned in KPMG China Tax Weekly Update (Issue 6, February 2016), the State Administration of Taxation issued Announcement [2016] No. 7 on 14 February 2016, to cancel the VAT invoice authentication process for general VAT taxpayers with class A tax credit rating. You may click here to understand the details.

Accordingly, Beijing State Tax Bureau, on 29 February, issued the Announcement and released the URL and *Instruction Manual* of inquire platform for VAT invoice, guiding taxpayers to operate in the platform.

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

KPMG

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 China
Tel. +86 (10) 8508 7082
khoonming.ho@kpmg.com

Beijing/Shenyang
David Ling
Tel. +86 (10) 8508 7083
david.ling@kpmg.com

Tianjin
Eric Zhou
Tel. +86 (10) 8508 7610
ec.zhou@kpmg.com

Qingdao
Vincent Pang
Tel. +86 (532) 8907 1728
vincent.pang@kpmg.com

Shanghai/Nanjing
Lewis Lu
Tel. +86 (21) 2212 3421
lewis.lu@kpmg.com

Chengdu
Anthony Chau
Tel. +86 (28) 8673 3916
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

David Ling
Head of Tax,
Northern Region
Tel. +86 (10) 8508 7083
david.ling@kpmg.com

Vaughn Barber
Tel. +86 (10) 8508 7071
vaughn.barber@kpmg.com

Andy Chen
Tel. +86 (10) 8508 7025
andy.m.chen@kpmg.com

Yali Chen
Tel. +86 (10) 8508 7571
yali.chen@kpmg.com

Milano Fang
Tel. +86 (532) 8907 1724
milano.fang@kpmg.com

Tony Feng
Tel. +86 (10) 8508 7531
tony.feng@kpmg.com

John Gu
Tel. +86 (10) 8508 7095
john.gu@kpmg.com

Helen Han
Tel. +86 (10) 8508 7627
h.han@kpmg.com

Naoko Hirasawa
Tel. +86 (10) 8508 7054
naoko.hirasawa@kpmg.com

Josephine Jiang
Tel. +86 (10) 8508 7511
josephine.jiang@kpmg.com

Henry Kim
Tel. +86 (10) 8508 5000
henry.kim@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

Thomas Li
Tel. +86 (10) 8508 7574
thomas.li@kpmg.com

Simon Liu
Tel. +86 (10) 8508 7565
simon.liu@kpmg.com

Paul Ma
Tel. +86 (10) 8508 7076
paul.ma@kpmg.com

Alan O'Connor
Tel. +86 (10) 8508 7521
alan.oconnor@kpmg.com

Vincent Pang
Tel. +86 (10) 8508 7516
+86 (532) 8907 1728
vincent.pang@kpmg.com

Shirley Shen
Tel. +86 (10) 8508 7586
yinghua.shen@kpmg.com

State Shi
Tel. +86 (10) 8508 7090
state.shi@kpmg.com

Joseph Tam
Tel. +86 (10) 8508 7605
laiyiu.tam@kpmg.com

Michael Wong
Tel. +86 (10) 8508 7085
michael.wong@kpmg.com

Jessica Xie
Tel. +86 (10) 8508 7540
jessica.xie@kpmg.com

Irene Yan
Tel. +86 (10) 8508 7508
irene.yan@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

Central China

Lewis Lu
Head of Tax,
Eastern & Western Region
Tel. +86 (21) 2212 3421
lewis.lu@kpmg.com

Anthony Chau
Tel. +86 (21) 2212 3206
anthony.chau@kpmg.com

Cheng Chi
Tel. +86 (21) 2212 3433
cheng.chi@kpmg.com

Cheng Dong
Tel. +86 (21) 2212 3410
cheng.dong@kpmg.com

Marianne Dong
Tel. +86 (21) 2212 3436
marianne.dong@kpmg.com

Alan Garcia
Tel. +86 (21) 2212 3509
alan.garcia@kpmg.com

Chris Ge
Tel. +86 (21) 2212 3083
chris.ge@kpmg.com

Chris Ho
Tel. +86 (21) 2212 3406
chris.ho@kpmg.com

Dylan Jeng
Tel. +86 (21) 2212 3080
dylan.jeng@kpmg.com

Jason Jiang
Tel. +86 (21) 2212 3527
jason.jt.jiang@kpmg.com

Flame Jin
Tel. +86 (21) 2212 3420
flame.jin@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

Christopher Mak
Tel. +86 (21) 2212 3409
christopher.mak@kpmg.com

Henry Ngai
Tel. +86 (21) 2212 3411
henry.ngai@kpmg.com

Yasuhiko Otani
Tel. +86 (21) 2212 3360
yasuhiko.otani@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

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 (21) 2212 3438
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

Henry Wong
Tel. +86 (21) 2212 3380
henry.wong@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

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

Southern China

Lilly Li
Head of Tax,
Southern Region
Tel. +86 (20) 3813 8999
lilly.li@kpmg.com

Penny Chen
Tel. +1 (408) 367 6086
penny.chen@kpmg.com

Vivian Chen
Tel. +86 (755) 2547 1198
vivian.w.chen@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

Ryan Huang
Tel. +86 (20) 3813 8621
ryan.huang@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

Kelly Liao
Tel. +86 (20) 3813 8668
kelly.liao@kpmg.com

Grace Luo
Tel. +86 (20) 3813 8609
grace.luo@kpmg.com

Maria Mei
Tel. +86 (592) 2150 807
maria.mei@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

Hong Kong

Ayesha M. Lau
Head of Tax, Hong Kong
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

Rebecca Chin
Tel. +852 2978 8987
rebecca.chin@kpmg.com

Matthew Fenwick
Tel. +852 2143 8761
matthew.fenwick@kpmg.com

Barbara Forrest
Tel. +852 2978 8941
barbara.forrest@kpmg.com

Sandy Fung
Tel. +852 2143 8821
sandy.fung@kpmg.com

Stanley Ho
Tel. +852 2826 7296
stanley.ho@kpmg.com

Daniel Hui
Tel. +852 2685 7815
daniel.hui@kpmg.com

Charles Kinsley
Tel. +852 2826 8070
charles.kinsley@kpmg.com

John Kondos
Tel. +852 2685 7457
john.kondos@kpmg.com

Kate Lai
Tel. +852 2978 8942
kate.lai@kpmg.com

Jocelyn Lam
Tel. +852 2685 7605
jocelyn.lam@kpmg.com

Alice Leung
Tel. +852 2143 8711
alice.leung@kpmg.com

Steve Man
Tel. +852 2978 8976
steve.man@kpmg.com

Ivor Morris
Tel. +852 2847 5092
ivor.morris@kpmg.com

Curtis Ng
Tel. +852 2143 8709
curtis.ng@kpmg.com

Benjamin Pong
Tel. +852 2143 8525
benjamin.pong@kpmg.com

Malcolm Prebble
Tel. +852 2684 7472
malcolm.j.prebble@kpmg.com

Nicholas Rykers
Tel. +852 2143 8595
nicholas.rykers@kpmg.com

Murray Sarelius
Tel. +852 3927 5671
murray.sarelius@kpmg.com

David Siew
Tel. +852 2143 8785
david.siew@kpmg.com

John Timpany
Tel. +852 2143 8790
john.timpany@kpmg.com

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

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

Christopher Xing
Tel. +852 2978 8965
christopher.xing@kpmg.com

Karmen Yeung
Tel. +852 2143 8753
karmen.yeung@kpmg.com

Adam Zhong
Tel. +852 2685 7559
adam.zhong@kpmg.com

kpmg.com/cn