China Tax Weekly Update

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Reference: Announcement [2016] No. 40 by MOF and other 10 authorities / GAC Announcement [2016] No. 25 and No. 26
Issuance date: 7 April 2016
Effective date: 8 April 2016

Relevant industries: Cross-border B2C e-commerce
Relevant companies: Enterprises engaged in cross-border B2C e-commerce
Relevant taxes: Import and Export Customs Duty / Import VAT / Import Consumption Tax

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced
- Existing operating model may need to be reconsidered

You may click the circular titles to access full content of the circulars.

New implementation rules for cross-border B2C e-commerce

As mentioned in KPMG *China Tax Weekly Update (Issue 12, April 2016)*, China has implemented import tax policies for products imported in cross-border B2C e-commerce transactions (Cai Guan Shui [2016] No. 18, "Circular 18"). China has also revised the classification of imported articles and adjusted corresponding import tax rates (Shui Wei Hui [2016] No. 2, "Circular 2") from 8 April 2016. To facilitate the implementation of the new policies, on 7 April, Ministry of Finance (MOF), General Administration of Customs (GAC) and other authorities released another 3 cross-border B2C e-commerce related announcements, all of which will take effect from 8 April 2016.

❑ *Announcement on Releasing the List of Retail Goods Imported in Cross-Border E-commerce Transactions (Announcement [2016] No.40 by MOF and other 10 authorities, "Announcement No. 40")*

- Announcement No. 40 issued the list of retail goods imported in cross-border e-commerce transactions ("the List"). The List contains 1142 products with 8-digit HS code. Most of them are consumer goods in demand in the domestic market and meet relevant regulatory requirements and can be imported via couriers and post mails, including food and beverage, garments, household appliances, cosmetics, diapers, children's toys, insulation cups
- Products imported in cross-border B2C e-commerce transactions which fall within the List shall be subject to Circular 18 from 8 April 2016. Personal articles which do not fall under cross-border B2C e-commerce transactions (for instance, unaccompanied luggage or gifts from relatives and friends) as well as the e-commerce B2C imports without information on transaction, payment and logistics being provided, shall still be subject to the existing rules (postal tax or import taxes on general trade transactions)
- On 13 April 2016, the Customs Department of MOF made explanation on certain products with exceptional circumstance set out in the list. Such products include "Formula milk powder" and "Cosmetics". Please click here to access the detailed explanation

- ❑ *GAC's Announcement on Revision of the Classification List of Imported Articles of the PRC and the Dutiable Value List of Imported Articles of the PRC (GAC Announcement [2016] No.25, "Announcement No. 25")*
  - Pursuant to Circular 2, GAC made adjustments to classifications and tax rates set forth in the Classification of Inbound Articles of the PRC and the Dutiable Value List of the Inbound Articles of the PRC issued under Announcement [2012] No. 15. The principles for article classification and dutiable value determination remain unchanged
- ❑ *GAC's Announcement on Supervision of Retail Products Imported and Exported in Cross-border E-commerce Transaction (GAC Announcement [2016] No. 26. "Announcement No. 26")*
  - On the basis of Circular 18 and Announcement No. 40, GAC further issued Announcement No. 26. This clarifies the supervision measures for e-commerce enterprises and individuals which carry out cross-border e-commerce transactions through e-commerce platforms as well as to transmit their electronic transaction information to customs

Enterprises management	• An enterprise engaged in cross-border B2C e-commerce business shall submit certain materials (such as a copy of its corporate business license, a copy of its organization code certificate) to the in-charge customs authority where the enterprise is located before undertaking business
Customs clearance management	• Before declaration for B2C imports, e-commerce enterprises or platforms, payment agencies and logistics service providers shall submit information about the transaction, payment and logistics to the customs authorities through the cross-border e-commerce customs clearance service platform • Inbound and outbound couriers and postal enterprises may be entrusted by e-commerce enterprises and payment agencies to submit the information to the customs, as long as they provide written promise that they assume liability for the authenticity of the information submitted • E-commerce enterprises or their agents shall submit the Manifest for Declaring Imported and Exported Goods in Cross-Border E-commerce Transaction ("the Manifest") to the customs. Exportation can adopt "Release by Manifest, Declare through Consolidation", whereas importation by the mode of "Release by Manifest"
Tax collection and administration	• Goods imported under cross-border e-commerce transaction are subject to import customs duty, import VAT and consumption tax. The dutiable value is the actual transaction prices, including retail price, freights and insurance premium • On-line shopper is the due taxpayer. E-commerce enterprise, e-commerce platforms and logistics service providers registered with the customs authorities are the withholding agents and pay the taxes on behalf of shoppers

Tax collection and administration (Cont'd)	• Customs will levy the tax on e-commerce B2C imports that are meet the regulatory requirements on a consolidation basis. But the withholding agents shall provide sufficient duty guarantee to customs. If the return, revision or withdraw of declaration do not occurred within 30 days upon the release by customs, the withholding agents shall complete the tax payments in the period of 31st to 45th days (This is presumably to facilitate the 30 day refund policy.)
Return management	• Under cross-border e-commerce model, e-commerce enterprises and their agents are allowed to apply for returning goods. Returned goods should be transported to the sites of customs supervision in their original status within 30 days upon the release by customs. In this case, the corresponding import taxes shall not be levied, and the annual shopping quota of an individual should be adjusted

- In addition to the above, Announcement No. 26 also clarifies other specific supervision issues on products imported or exported in cross-border e-commerce transaction such as logistics control

* With regard to the potential impact of aforesaid regulations to cross-border e-commerce, you may click to access the following KPMG *China Tax Alerts*:

- ❑ *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)*
- ❑ *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)*

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

Relevant industries: All (especially for industries of construction, real estate, financial and lifestyle services)
Relevant companies: All (especially for enterprises engaged in construction, real estate, finance and lifestyle services)
Relevant taxes: VAT

Potential impacts on businesses:

- Preparation of VAT reform needs to speed up for specific industries
- Need to pay attention to the impact of regulatory changes for other industries
- Effective tax burden reduced

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

Updates on VAT reform by MOF and SAT

Recent news published on the official website of the Central Government of the PRC noted that, Mr. Shi Shaobin, the deputy minister of MOF, and Mr Wang Kang, the deputy director of the State Administration of Taxation (SAT) briefed the State Council on the VAT reform status in a meeting held on 12 April 2016. They made the following observations.

- Preparation work for VAT reform are being carried out smoothly, 80% of which have been completed. All the VAT reform related interpretation guidance has been issued, including 16 regulations in relation to tax collection and administration. Hand-over work on tax collection and administration between state tax bureau and local tax bureau are drawing to a close. 70% of taxpayers completed the registration with state tax bureau and over 0.4 billion invoices that are needed by taxpayers in May have been distributed to all local level tax authorities as scheduled
- 15 measures were introduced to strengthen the tax services on VAT reform, including:
  - Extend the deadline for tax payment for VAT filing of June 2016 from 15 June to 25 June (This is a one-off extension)
  - Cancel the VAT authentication process for general VAT taxpayers with class A or B tax credit rating from 1 May (taxpayers who are newly included in VAT reform, they may exempt from the VAT invoice authentication within 3 months starting from 1 May)
  - Launch the green channel of VAT reforms in the taxation service halls across the country
- MOF is arranging an interim mechanism for the division of central and local tax revenue from VAT. This aims to keep the current central and local revenue division
- Simplification and combination of VAT rates will not be considered until work is undertaken on putting VAT on a statutory basis. As noted in an earlier Weekly Update, in 2016 the Chinese government will initiate a program of placing existing tax rules, including the VAT rules on a statutory footing. The timing of the simplification of VAT rates will also depend on the operation status of VAT, change status of tax burden and requirements of economic development

* With regard to the detailed VAT reform interpretation guidance, you may click to access KPMG *China Tax Weekly Update (Issue 13, April 2016)* for details.

* On the occurrence of the Circular 36 announcement, KPMG immediately issued a series of China Tax Alerts to provide an overview of the high level policies and general impacts across all industries. Focusing on construction, real estate, finance and lifestyle services, at the same time, we also issued specific alerts for each of the three major industries affected by these changes. You may click the following links to read:

- *China Tax Alert: China's new VAT rates & rules – High level policies and general impacts across all industries (Issue 9, March 2016)*
- *China Tax Alert: China's new VAT rates & rules – Financial Services impacts (Issue 10, March 2016)*
- *China Tax Alert: China's new VAT rates & rules – Lifestyle Services impacts (Issue 11, March 2016)*
- *China Tax Alert: China's new VAT rates & rules - Real Estate & Construction industry impacts (Issue 12, March 2016)*

Reference: SAT Announcement [2016] No. 22
Issuance date: 7 April 2016
Effective date: N/A

Relevant industries: All
Relevant companies: Enterprises that need to claim export tax refund / exemption
Relevant taxes: VAT / Consumption Tax

Potential impacts on businesses:
- Compliance costs reduced

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

SAT extends the claim deadline for export tax refund / exemption in 2016

SAT issued Announcement [2016] No. 22 to extend the declaration deadline for export tax refund and exemption related business in 2016. According to the current provisions, where goods and services were exported after 1 January 2015, specific procedures much be followed to be entitled to tax refund and exemption. The export enterprise shall claim the export tax refund and exemption with its in-charge state tax bureau within the deadline for tax payment for VAT filing of April 2016. The key extended deadlines are:

- The deadline for claiming for export tax refund and exemption is extended from the deadline for declaring for payment of VAT of April 2016 to the deadline for declaring for payment of VAT of June 2016. In case of failure to claim export tax refund and exemption within the deadline, the application will no longer be accepted by the in-charge state tax bureau, and the enterprises shall declare for tax exemption as required in July 2016; in case of failure to declare for tax exemption as required, the enterprises shall declare for tax payment as required
- The deadline for applying for annual write-off of import processing is extended from 20 April 2016 to 20 June 2016. The deadline for applying for tax emption write-off of export goods processed with contract processing is extended from 15 May 2016 to 15 July 2016
- The deadline for issuing the Certificate of Goods Exported by Agent is extended from 15 April 2016 to 15 June 2016; the deadline for issuing the Certificate of Goods Exported under Entrustment is extended from 15 March 2016 to 15 May 2016

Reference: Shui Zong Han [2016] No. 145
Issuance date: 31 March 2016
Effective date: N/A

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

Potential impacts on businesses:
- Compliance costs reduced

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

SAT clarifies issues on entrusting local tax authorities to collect VAT and issue VAT invoice

As mentioned in KPMG *China Tax Weekly Update (Issue 13, April 2016)*, SAT issued *Announcement on Entrusting the Local Tax Authorities to Collect Taxes and Issue VAT Invoices after the VAT Reform (SAT Announcement [2016] No. 19, "Announcement 19"*) on 7 April 2016. Announcement 19 clarifies that after the implementation of the VAT reform, the local tax authorities shall continue to be responsible for handling the declaration of tax filing and payment with respect to the sales of acquired immovable properties by taxpayers and the lease of immovable properties by individuals. This used to be dealt with by the local tax authorities under the BT rules before the transition from BT to VAT. The local tax authorities will also be responsible for issuing the relevant VAT invoices.

After issuance of Announcement 19, SAT issued Shui Zong Han [2016] No. 45 to further clarify the followings:

- State tax bureau is the in-charge tax authority for VAT
- After VAT reform, the local tax bureaus are temporarily entrusted to handle certain matters including acceptance of VAT filing, taxable price assessment, tax collection and filing of preferential tax treatment as well as issuance of invoices in connection with the sale of acquired immovable properties by the taxpayers and lease of immovable properties by individuals
- Where an application is made for entrusted issuance of invoices for the sale of acquired immovable properties by the taxpayers and lease of immovable properties by individuals, the local tax bureau that collects the taxes on behalf shall issue the special VAT invoices or the ordinary VAT invoices

Reference: Jing Jian Fa [2016] No.116
Issuance date: 6 April 2016
Effective date: 6 April 2016

Relevant industries: Construction Industry in Beijing
Relevant companies: Construction enterprises in Beijing
Relevant taxes: VAT

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

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

Beijing adjusts pricing basis of construction projects for VAT reform

As mentioned in KPMG *China Tax Weekly Update (Issue 7, February 2016)*, the Ministry of Housing and Urban-Rural Development issued Jian Ban Biao [2016] No. 4 on February 2016. This proposed a reference method to adjust the pricing basis of construction projects and the relevant tax calculation following the VAT reform of the construction industry on the basis of 11% of proposed VAT rate.

Pursuant to Jian Ban Biao [2016] No. 4 and Cai Shui [2016] No. 36, Beijing Municipal Commission of Housing and Urban-Rural Development issued Jing Jian Fa [2016] No.116 on 6 April 2016 and adjusted the pricing basis of construction projects on housing properties and infrastructures in Beijing municipality. The existing pricing basis include standards of project list pricing, quota of budget and administrative measures on project cost etc.

* With regard to impacts to construction industry on new VAT policies, you may click to access KPMG *China Tax Alert: China's new VAT rates & rules - Real Estate & Construction industry impacts (Issue 12, March 2016)* to understand more.

Reference: SAT Announcement [2016] No. 20
Issuance date: 31 March 2016
Effective date: 31 March 2016

Relevant industries: Securities Industry
Relevant companies: Securities companies which carry out securities marginal trading
Relevant taxes: Business Tax

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

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

SAT clarifies Business Tax issues on securities marginal trading

On 31 March 2016, SAT issued Announcement [2016] No. 20 ("Announcement 20"), in which certain Business Tax (BT) issues on securities marginal trading have been clarified. Announcement 20 will take effect from the date of issuance.

- Securities marginal trading are outlined as follows: securities company signs securities marginal trading contract with the clients, and open special funds account and designated securities lending account in their own name, that will be used for lending the funds and securities to clients. Securities company will then charge the fees to clients. The business departments that were set up at various locations by securities company are allowed to do some assistant works such as collecting the application, inputting client's data in the system and opening accounts, etc.
- Securities company as the taxpayer of BT on the securities marginal trading, it shall declare to the in-charge tax authority in the place where the organization is located for BT payment on the income it derives from the securities marginal trading; the cross-region business departments set up by the securities company are not the taxpayers of BT on the securities marginal trading and therefore shall not pay the BT on the income derived by them from the securities marginal trading

Reference: Shui Zong Han [2016] No.148
Issuance date: 31 March 2016
Effective date: N/A

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

Potential impacts on businesses:

- Risks of being challenged due to non-compliance issues increased

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

SAT strengthens management on key tax sources and high-risk items of CIT

On 31 March 2016, SAT issued Shui Zong Han [2016] No. 148 and decided to carry out the comprehensive management works for key tax sources and high-risk items of Corporate Income Tax (CIT) starting from 2016. State tax bureaus and local tax bureaus at provincial level shall plan to build up CIT risk management teams according to their actual situation. The key works of CIT risk management team are as follows:

CIT issues of enterprises which are major taxpayers	• Work out lists of key industries for CIT and enterprises which are major taxpayers by tax bureaus at provincial level • Study the production and operation characteristics and profit-making mode of key industries and enterprises which are major taxpayers; analyze the business income, cost of production and period expenses of sample enterprises; know well the input and output relationship of main products; find out status of outbound investment and investment income in recent years; explore tax risk points • Compare the following information with financial and accounting data, information on other types of taxes, announcement of listed company, advertising information, to verify whether the information on one tax related issue that from different channels are consistent: - Industry benchmark of key industries and enterprises which are major taxpayers - Tax collection data - CIT annual filing data over the years - Tax information from third party • Focus on high-risk items of key tax sources enterprises such as whether tax incentive entitlement, assets losses, non-taxable income, policy-based relocation, special reorganization, tax loss utilization and foreign tax credit are comply with the tax law • Follow up and guide part of enterprises which are major taxpayers to cope with the high-risk tax issues
High-risk CIT items	• List out basic data and their changes in recent 3 years to 5 years for high-risk items (including preferential policies, cross-year matters, restructuring, assets losses and consolidated tax filing) of enterprises other than key industries and enterprises which are major taxpayers, classify high-risk items based on different dimensions, know well risk point, links that risk occurred frequently and key issues of each high-risk item, pass the risk points to relevant department • Explore the regularity and develop template or guidance to cope with risk items, follow up coping status of high-risk item and increase accuracy and efficiency

Reference: Shui Zong Fa [2016] No. 41, No. 42 and No. 50
Issuance date: 23 March 2016, 25 March 2016 and 5 April 2016
Effective date: N/A

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

Potential impacts on businesses:
- Compliance costs reduced

You may click the link in the content to access full content of the circular.

SAT improves tax services and government transparency

Recently, SAT issued 3 circulars and decided to improve the tax service system, promote the cooperation between State Tax Bureau (STB) and Local Tax Bureau (LTB) in construction of tax service hall as well as to bring up some suggestions to increase government transparency.

- *SAT Issues Notice on Improvement of the Tax Service System (Shui Zong Fa [2016] No. 41, "Circular 41")*
  - 5 tax service systems will be improved under Circular 41. Circular 41 has not only set out the detailed requirements for each tax service system, but also required tax authorities at various locations to further work out feasible implementation plan according to their situation
- *SAT Issues Notice to Promote the Cooperation between STB and LTB in Construction of Tax Service Hall (Shui Zong Fa [2016] No. 42, "Circular 42")*
  - Circular 42 clarifies that the co-operative tax service hall by STB and LTB may be in three ways: STB sets up windows in LTB and vice versa, STB and LTB establish one tax service hall jointly, STB and LTB are stationed in one government affairs service center at same time. The co-operative tax service hall shall be able to deal with major tax related matters. Before end of 2016, it shall also to achieve the new tax service model that one tax matter may be accepted by either STB or LTB, taxpayers do not need to make multiple trips to different authorities and they may get feedback within a short time
- *SAT Issues Opinions to Increase Government Transparency (Shui Zong Fa [2016] No. 50, "Circular 50")*
  - Circular 50 clarifies the requirements for 14 government affairs that need to be more open, including increase the transparency of tax administrative power, tax laws and regulations, tax collection and enforcement, tax service and self-construction, etc.

Reference: Fa Gai Jing Ti [2016] No. 442
Issuance date: 2 March 2016
Effective date: N/A

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

Potential impacts on businesses:
- Restrictions on investments may reduced
- Compliance costs reduced

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

Draft negative list for market entry (Trial) released

On 2 March 2016, National Development and Reform Commission (NDRC) and Ministry of Commerce (MOFCOM) jointly issued Fa Gai Jing Ti [2016] No. 442 to publish *Draft Negative List for Market Entry (Trial)* ("the Draft"). The Draft will be piloted in Tianjin, Shanghai, Fujian and Guangdong.

- The Draft sets forth 328 items of negative list of market entry to industries, areas and businesses subject to investment ban or restrictions, including 96 items to which entry is banned and 232 items to which entry is restricted
- 328 items listed in the Draft as at 31 December 2015. After 1 January 2016, if there will be revision on administrative approval items or Catalogue for Guidance on Industrial Restructuring and Catalogue of Investment Projects Subject to the Approval of Government, as well as new regulation on industries, areas and business subject to investment ban or restrictions, the latest regulations and provisions shall prevail
- The Draft is a trial version, NDRC and MOFCOM will revise it when necessary
- The provincial government in the pilot areas shall propose plans in relation to pilot grogram on implementation of "negative list" system for market entry. The plans shall be implemented upon approval by the State Council

Reference: MOFCOM Announcement [2016] No. 8
Issuance date: 9 April 2016
Effective date: 10 April 2016

Relevant industries: Import and export industries
Relevant companies: Enterprises that import unbleached sack paper
Relevant taxes: Import VAT / Anti-dumping duties

Potential impacts on businesses:
- Effective tax burden increased

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

MOFCOM issues final ruling on the anti-dumping investigations against imports of unbleached sack paper

In MOFCOM Announcement [2016] No. 8 released on 9 April 2016, the MOFCOM issued final ruling on the anti-dumping investigations against import of unbleached sack paper (originally produced in the U.S., the EU and Japan). The final ruling are as follows:

- There was dumping of imports of unbleached sack paper originated in the U.S., the EU and Japan, and China's domestic unbleached sack paper industry was substantially damaged, and there was causal relationship between the dumping and the substantive damage
- Importer shall pay anti-dumping duties to China Customs when importing unbleached sack paper originated in the U.S., the EU and Japan from 10 April 2016. The rates of the anti-dumping duties are from 14.9% to 29%. The anti-dumping duties shall be levied by means of ad valorem on the basis of dutiable value authorized by China Customs, and the formula is: Anti-dumping duties = dutiable value authorized by China Customs x rate of anti-dumping duties. The import VAT shall be levied by means of ad valorem with the dutiable value authorized by China Customs plus the tariff and anti-dumping duties as the taxable value
- The implementation period of levying anti-dumping duties on imports of unbleached sack paper originated in the U.S., the EU and Japan shall be 5 years starting from 10 April 2016

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