

China Tax Weekly Update

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

Potential impacts on businesses:

- Operational costs reduced
- Risks of being challenged due to cross-border tax anti-avoidance arrangements reduced

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China tax policies to support “Belt and Road” initiative

A news posting on the website of the State Administration of Taxation (SAT) has detailed a speech made by Mr. Wang Jun, Director of the SAT, at the “Belt and Road” Forum, held in Beijing on 14 and 15 May 2017. In his speech he recapped on the measures taken so far by the SAT to strengthen tax cooperation amongst countries along the Belt and Road. He also further elaborated on the SAT’s future plans to better serve the Belt and Road initiative, already set out in some detail in Shui Zong Fa [2017] No. 42 (Circular No. 42) of 24 April 2017. See KPMG [China Tax Weekly Update \(Issue 18, May 2017\)](#) for details.

In terms of the existing steps taken by the SAT, Mr. Wang noted that:

- (i). China’s tax treaty network, with 106 agreements, already covers almost all the Belt and Road countries, with 54 relevant treaties;
- (ii). China’s tax policymakers have developed various tax measures specifically to serve the Belt and Road;
- (iii). A series of 59 investment tax guides have been developed to assist ‘going out’ companies, and all Belt and Road countries will be covered by end 2017;
- (iv). China has assigned a number of tax officials to various countries (including Belt and Road countries) and international organisations to drive collaboration;
- (v). Together with the OECD, China has set up a multilateral tax centre in Yangzhou (announced March 2016). This is the first established in a non-OECD country. It has already provided 14 training sessions to nearly 300 tax officials from developing countries along the Belt and Road.

Building on the policy plans set out in Circular No. 42, Mr. Wang set out further details of planned China initiatives as well as aspirations for measures to be taken by Belt and Road countries, both unilaterally and through agreements with China and other Belt and Road countries:

- Improve domestic tax systems to eliminate double tax and other obstacles to cross-border trade and investment. Mr. Wang linked this to the G20 goal of “making tax policy more growth-friendly” through greater tax neutrality and transparency. In this regard, Circular No. 42 had noted China’s plans to improve and simplify VAT export refund/exemption rules and procedures, improve CIT foreign tax credit rules, and streamline issuance of China tax residence certificates;

- Countries shall accelerate tax treaty signing processes and improve the implementation of treaties, including through tax dispute resolution measures. In this regard, Circular No. 42 had noted that China plans to monitor that Chinese residents are actually obtaining the benefits to which they are entitled under China's treaties, monitor tax disputes with foreign tax authorities, and promote use of the mutual agreement procedure (MAP);
- China will work with other countries to establish a tax cooperation mechanism for the Belt and Road, as well as a communication platform for liaison amongst these countries' tax authorities. This had also been flagged in Circular No. 42.
- Going further than Circular No. 42, Mr. Wang noted that China would promote tax policy harmonization among the relevant countries, as well as multilateral cooperation on tax collection.

Mr. John Veihmeyer and Mr. Honson To, Chairman of KPMG International and Chairman of KPMG China respectively, both participated in the Belt and Road Forum and Mr. John Veihmeyer were interviewed by CCTV 2 and Bloomberg. You may click the following links for more:

- ❑ [KPMG Global Chairman, John Veihmeyer, Attends Inaugural Belt and Road Forum for International Co-operation in Beijing](#)
- ❑ [KPMG Global Chairman, John Veihmeyer: Full of Confidence in China's economic prospects](#)

Reference: Guo Ban Fa [2017] No. 41
 Issuance date: 12 May 2017
 Effective date: N/A

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

Potential impacts on businesses:

- Operational costs reduced

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Consolidated China business registrations

As highlighted in KPMG *China Tax Weekly Update (Issue 19, May 2016)*, *(Issue 26, July 2016)*, and *(Issue 11, March 2017)*, there has been an ongoing program to simplify and consolidate the various business licenses, registrations and permits which new enterprises in China must obtain. This falls under the "three/five licenses into one, one license one code" program, which has been rolled out on a nationwide basis since 1 October 2016. The end result of this work is that the State Administration for Industry and Commerce (SAIC) aims to have a single registration ("multiple licenses into one") by 1 October 2017.

Since the business licence simplification program began, different provincial and municipal governments have been taking variant approaches. In particular, government authorities in different locations in China have been combining differing numbers of licenses into one (e.g. 6 into 1, 7 into 1 and even 34 into 1). To push ahead with the initiative in a nationally consistent manner the State Council on 12 May 2017 issued Guo Ban Fa [2017] No. 41 (Circular No. 41) with accompanying guidance. This clarifies how the "multiple licenses into one" policy is to be developed beyond the "five licenses into one, one license one code" policy for corporate enterprises and "two licenses into one" policy for sole traders:

- **Corporations:** Under the "Five licenses into one, one license one code" policy the business license, the tax registration, organization code, social insurance registration and statistics registration license shall be all certified at the same time. An enterprise is only required to complete the business registration with its local administration of industry and commerce and get a unified social credit code.
- **Sole trader:** Under the "Two licenses into one" policy a sole trader is only required to complete the business registration with its local administration of industry and commerce and it then obtains a business license with a unified social credit code. There is no need for a new sole trader to separately register with the local tax bureau.

Reference: Guo Fa [2017]
No. 32
Issuance date: 11 May 2017
Effective date: N/A

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

Potential impacts on
businesses:

- Operational costs reduced

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Administrative pre-approval items further reduced

As highlighted in KPMG *China Tax Weekly Update (Issue 19, May 2016)*, the executive meeting of the State Council held on 18 May 2016 included various measures on promoting business system reform. This encompassed a further reduction of the instances in which operating pre-approvals are required from various government ministries/agencies prior to the business registration of an enterprise with the Administration of Industry and Commerce.

Subsequently, the State Council on 7 May 2017 issued Guo Fa [2017] No. 32, setting out five situations which will now be governed by post-approvals, in the place of the pre-approvals previously applying. The transition to a post-approvals system means that an enterprise is permitted to first obtain a business license with the Administration of Industry and Commerce and then obtain any necessary special approvals from the relevant authorities (e.g. from the department of health for medical products). These include:

- (i). Set up of a pawn shop and its branches – subject to post-approval by administration for commerce at the provincial level;
- (ii). Set up of China-foreign joint venture or cooperative printing enterprises. Set up of a wholly-foreign owned enterprise for conducting packaging, decoration and printing businesses – subject to post approval by the press, publication and broadcasting department of the provincial people's government;
- (iii). Set up an enterprise that engages in publication printing – subject to post approval by the press, publication and broadcasting department of the provincial people's government;
- (iv). Set up of a permanent representative office by a foreign airline – subject to post-approval by the Civil Aviation Administration (CAA);
- (v). Production of civil aircrafts (including engines and propellers) that are subject to approval or permission by the CAA.

* In June 2016, the SAIC has issued a Circular to reduce the number of instances in which pre-approval will be needed before business registration. See KPMG [China Tax Weekly Update \(Issue 27, July 2016\)](#) for more details.

Reference: N/A
 Issuance date: 2 May 2017
 Effective date: 1 June 2017

Relevant industries: Network operation
 Relevant companies: Network products/services providers
 Relevant taxes: N/A

Potential impacts on businesses:

- Risks of non-compliance due to sale of network products and provision of services increased

You may click [here](#) to access full content of the circular.

New China Cybersecurity Law – Security review of purchases of network products and services

As highlighted in KPMG [China Tax Weekly Update \(Issue 43, November 2016\)](#), a Cybersecurity Law was adopted by China's National People's Congress (NPC) in November 2016 and it will come into effect from 1 June 2017.

The Cybersecurity Law sets out various security obligations for network products/service providers and network operators. The collection and overseas transmission of a large range of data types, sourced in China, comes under heavy regulation under the new law.* The law sets out particularly demanding requirements for key information infrastructure facilities (KIIFFs). The law provides that *"any purchase of network products and services by an operator of KIIFFs, which may pose a risk to national security, is subject to national security review. The review will be conducted by the Cyberspace Administration of China together with competent departments of the State Council."*

Subsequently, the Cyberspace Administration of China (CAC) on 2 May 2017 released the trial Measures for the Security Review of Network Products and Services ("trial measures"). The trial measures will take effect from 1 June 2017, which clarify, inter alia, that:

- Important network products and services purchased by operators of network and information systems, which may pose a risk to national security, shall be subject to cybersecurity review. The scope of review has been expanded, relative to the Cybersecurity Law, from operators of KIIFFs to operators of all network and information systems, where there may be risk to national security.
- The Cybersecurity Review Office shall identify operators that are subject to review, and arrange for third-party organisations and expert panels to carry out cybersecurity reviews for network products and services. The identification of the operators for scrutiny will be based on the requirements of the State, recommendations of national industry associations and user feedback. The review results shall be publicized or otherwise circulated.
- The authorities and ministries in charge of financial, telecommunications, energy, transport and other key industries and sectors shall, pursuant to the work requirements of the State for cybersecurity review, organise and carry out security review for network products and services within their respective industry or sector, in the place of the Cybersecurity Review Office.
- The authorities and ministries in charge of protecting KIIFFs in the public communications and information services, energy, transport, water resources, financial, public services and government e-services sectors etc., shall determine whether the network products and services purchased by operators of these industries or sectors may pose a risk to national security. If yes, the network products and services shall be subject to cybersecurity review.

* With regard to the system for protection of the security of KIIFFs, the Cybersecurity Law provides that *"The personal information and key data collected and generated in China by the operators of KIIFFs should be stored within China. Information which needs to be provided to overseas parties for business reasons shall be subject to security evaluation. The security evaluation shall be carried out based on the measures that are developed by the Cyberspace Administration of China and the State Council"*. In April 2017, the CAC released the draft Measures for the Security Evaluation of Personal Information and Key Data to be Transferred out of China to seek public comments. See KPMG [China Tax Weekly Update \(Issue 15, April 2017\)](#) for more details.

Reference: CAC Order No. 1
 Issuance date: 2 May 2017
 Effective date: 1 June 2017

Relevant industries: Internet-based news information services sector

Relevant companies: Internet-based news information services providers

Relevant taxes: N/A

Potential impacts on businesses:

- Compliance risks due to provision of internet-based news information services increased

You may click [here](#) to access full content of the circular.

Revised rules for internet-based news information

On 2 May 2017, the CAC issued the revised Measures for Internet-based News Information Services (CAC order No. 1, hereinafter referred as to the “revised measures”). The revised measures, which are intended to support the new Cybersecurity Law issued on 7 November 2016, make revisions to the [old measures](#) issued in 2005. The changes reflect the rapid development of internet-based news information services in the last decade. The revised measures provide the following:

- **Definition of ‘news’:** “News information” includes reports and comments relating to social and public affairs such as politics, economy, military affairs and foreign affairs, as well as relevant reports and comments on social emergencies.
 “News information” was defined as “news information about current and political affairs” in the old measures – the changes reflect the growth of social media in the last decade.
- **Licenses to provide news:** In order to provide internet-based news information services to the public via internet websites, applications, forums, blogs, public accounts, instant communication tools, live-streaming, etc., the service providers shall obtain an internet-based news information service license from the CAC. It is prohibited to provide internet-based news information services without a license, or news beyond the licensed scope.

In the old measures “Internet news information services” was defined as “internet news information services includes publication of news information, provision of electronic bulletin board services for current and political affairs and distribution of communications on current and political affairs to the public, through the internet”. The changes in the new measures bring news disseminated through further channels within the scope of the licensing requirement. This means that, for example, various news commentators operating through weblogs, including in relatively informal capacity, will be prohibited from disseminating their commentary without the necessary license.

- **Specific services in scope:** “Internet-based news information services” include:
 - i. Internet-based news information collecting, editing and publishing services,
 - ii. News reproduction services; and
 - iii. Transmission platform services.

Persons applying for a license for internet-based news information collecting, editing and publishing services must be news agencies (including group entities) or entities under the control of news publicity public authorities, generally including newspapers, radios, TV stations, etc. Provision of internet-based news information services shall be subject to licensing and recordal filing with the administration for telecommunications.

In the old measures, service providers were divided into news agencies and non-news agencies. This classification approach is eliminated in the revised measures. Instead, the new rules divide the internet-based news information services into the three categories (i), (ii) and (iii) set out above. Services under type (i) shall only be provided by news agencies, and other types of services can be provided by all legal persons, subject to licensing.

- **No foreign involvement in news:** No organisation may establish internet-based news information service agencies in the form of Sino-foreign joint ventures, Sino-foreign cooperative ventures or wholly foreign-owned enterprises. Any cooperation in relation to internet-based news information services between internet-based news information service agencies and domestic/overseas Sino-foreign joint ventures, Sino-foreign cooperative ventures or wholly foreign-owned enterprises shall be reported to the CAC for security assessment – this remains unchanged from the old measures.
- **Transmission platform services:** Internet-based news information service providers who provide users with internet-based news information transmission platform services shall require users to provide real identity information. They must enter into an agreement with the users registered on their platforms to specify the rights and obligations of both parties. For those service providers that establish public accounts for users, internet-based news information service providers shall review account information, service qualification and service scope of the users, and shall conduct recordal filing with the local cyberspace administration at the provincial level where they are located. These are all new requirements for internet-based news information service providers that supply transmission platform services.
- **Content violations:** Internet-based news information service providers who discover that there is content (including content supplied by their users), supplied through their service, in violation of the regulations must take immediate measures. This may include stopping transmission of the information and/or deleting the information. They must keep relevant records and report the case to the relevant authorities.
- **New technology features:** Where internet-based news information service providers adopt new technologies, adjust or add functions to allow recording of public opinion or facilitate social mobilization, then they must report to the CAC or the local cyberspace administrations at the provincial level, autonomous region or centrally-administered municipality for security assessment.
- **No tampering with official news content:** Internet-based news information service providers and their employees shall not seek improper benefits by editing, releasing, reprinting or deleting news information to intervene with the presentation of, or the search results relating to, officially produced news information. When reprinting news information, Internet-based news information service providers shall reprint the news information released by central news agencies, news agencies directly under the charge of provinces, autonomous regions or centrally-administered municipalities and other entities within the scope prescribed by the State.

The revised measures will be in force from 1 June 2017.

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