

China Tax Weekly Update

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Reference: Cai Shui [2018] No. 5
Issuance date: 8 January 2018
Effective date: 8 January 2018

Relevant industries: All
Relevant companies: Export enterprises
Relevant taxes: VAT

Potential impacts on businesses:

- Operational costs reduced

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

Enhanced export tax refund rules

On 8 January 2018, the Ministry of Finance (MOF), General Administration of Customs (GAC) and State Administration of Taxation (SAT) jointly issued [Announcement on Enhancing the Tax Refund Policy for Departure Ports](#) (Cai Shui [2018] No. 5, "Circular 5"). Circular 5 enhances and extends the existing tax refund rules set out in Cai Shui [2014] No. 53 ("Circular 53"), and came into effect from its date of issuance.

Per Circular 53, tax refunds may be obtained for exported containerized cargo provided that all of the following conditions are met [the tax eligible for refund is the input VAT paid by the exporter, and attributable to the exported goods].

- The container cargo must be shipped from eight "start shipment ports" (see below) and be declared for export from those ports. The shipment must be transported by a qualified transportation enterprise; and
- The container cargo must firstly be shipped *directly* (the "direct shipping limitation") to Shanghai Yangshan bonded ports (the "departure port"), and then depart from that port to its final overseas destination.

The eight "start shipment ports" are: Longtan port in Nanjing, Taicang port in Suzhou, Liangyungang port in Liangyungang, Zhujiaoqiao port in Wuhu, Chengxi port in Jiujiang, Qianwan port in Qingdao, Yangluo port in Wuhan and Chenglingji in Yueyang.

Circular 5 builds on Circular 53 and makes some enhancements:

- **Add five additional "start shipment ports"** in Luzhou port in Luzhou, Guoyuan port in Chongqing, Yunchi port in Yichang, Yongjia port in Zhang Jiagang and Langshan port in Nantong. This brings the total "start shipment ports" to 13.
- **Add a new "departure port"** in Shanghai Waigaoqiao port in addition to Shanghai Yangshan bonded port.
- **Set three ports as "stopover ports"** in Longtan port in Nanjing, Yangluo port in Wuhan and Taicang port in Suzhou. Additional goods can be loaded at these ports but unloading is not allowed.

The designation of these 'stopover ports' is coupled with a relaxation of the "direct shipping limitation" set out in Circular 53. As long as a qualified vessel commences its journey in a "start shipment port" and makes its way to designated "departure port" for onward dispatch, it may collect further goods at the designated stopover ports and these may avail of the export tax refund.

- **Redefine qualified export enterprise and transportation enterprise**

- In order to qualify for the export refund regime, the export enterprise needs to be classified as a Category 1 or 2 enterprise for export tax refund/exemption purposes. These are the higher categories under the four category system, and based on the enterprise's general tax credit rating (which can range from A to D) and historic tax compliance status, amongst other factors

See KPMG [China Tax Weekly Update \(Issue 29, August 2016\)](#) for details of the export tax refund/exemption rating regime. For details of the broader tax credit rating system, see KPMG [China Tax Weekly Update \(Issue 45, December 2016\)](#), [\(Issue 27, July 2016\)](#), [\(Issue 15, April 2016\)](#) and [\(Issue 6, February 2016\)](#) for details.

The enterprise also needs to be categorised as a 'general enterprise' or 'certified enterprise', such as an 'authorized economic operator' (AEO), for customs credit rating purposes, in order to qualify for the export refund regime.

China Customs places business operators into the following four categories, based on their compliance performance and a thorough risk management analysis, namely:

- Senior certified enterprises;
- General certified enterprises;
- General enterprises; and
- Discredited enterprises.

The credit rating of an enterprise will be an important factor when Customs decides whether to inspect a given cargo and investigate certain business operators. The better the rating, the lower the inspection rate.

- In order for the export enterprise to qualify for the export fund regime, the transportation enterprise that they utilize also needs to be categorised as a 'general enterprise' or 'certified enterprise' for customs credit rating purposes, and have a general tax credit rating at level B or above.

The enhanced export refund/exemption regime is being rolled out in parallel with other such initiatives to facilitate international trade. On 13 September 2017, SAT issued Announcement [2017] No. 35, setting out a simplified export tax refund (exemption) procedures for foreign trade integrated services enterprises (see KPMG [China Tax Weekly Update \(Issue 40, October 2017\)](#) for details).

Reference: SAT
Announcement [2018] No. 6
Issuance date: 29 January
2018
Effective date: 1 February
2018

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

Potential impacts on
businesses:

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

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VAT general taxpayer registration changes

On 29 January 2018, the SAT issued [SAT Announcement \[2018\] No. 6](#) ("Announcement 6"). This provides more guidance for implementing the [Administrative Measures for Registration of VAT General Taxpayer Status](#) (SAT Order No. 43, the "2017 Measures"), which was issued in December 2017.

The 2017 Measures made revisions to the 2010-issued SAT [Administrative Measures for Recognition of General VAT Taxpayers Status](#) (SAT Order No. 22), and moved VAT general taxpayer registration from a pre-approval to a simpler recordal process. It came into force from 1 February 2018 (see KPMG [China Tax Weekly Update \(Issue 2, January 2018\)](#) for details).

Announcement 6 makes the following clarifications to the 2017 Measures:

- VAT registration threshold determination requirements are clarified for the case where a taxpayer, concurrently engages both (i) in the sale of goods, provision of processing, repair and assembly labour services (hereinafter referred to as "taxable goods and labour services") and (ii) in the sale of services, intangible assets or immovable properties (hereinafter referred to as "taxable activities"). For VAT registration threshold determination purposes, the sales amount (i) for taxable goods and labour services, and (ii) for taxable activities must be separately calculated. The taxpayer must register for VAT if either of the two sale amounts exceeds the standard RMB5 million threshold set for VAT general taxpayer registration.
- Taxpayers may use their VAT general taxpayer registration form (endorsed by the tax authorities) to evidence, that they are a general VAT taxpayer, to other government authorities who may seek such confirmation.
- Announcement 6 further defines terms, such as "operation period", "sales amount declared for tax payment", "undeclared sales amount detected in tax inspection", set out in the 2017 Measures.

In respect of China VAT system development, Mr. Xiao Jie, the Chinese Minister of Finance, in his article entitled "[Speeding up the Establishment of the Modern Fiscal System](#)" published in the People's Daily newspaper on 20 December 2017, highlighting the further steps that China will take. In particular:

- Enhance the VAT reform according to tax neutrality principle, including:
 - Improve the VAT credit chain;
 - Simplify the VAT rate structure;
 - Improve VAT policies, such as VAT export refund rules;
 - Place VAT on a statutory basis (i.e., replacing the State Council-issued VAT regulation by statutory law).

(See KPMG [China Tax Weekly Update \(Issue 50, December 2017\)](#) for details)

Reference: GAC
Announcement [2018] No. 14
Issuance date: 31 January
2018
Effective date: 1 February
2018

Relevant industries: All
Relevant companies:
Enterprises engaged in
imports and exports
Relevant taxes: Imported
VAT / Customs duty

Potential impacts on
businesses:

- Compliance risks due to regulatory uncertainties reduced

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Implementation rules for customs advance rulings

China Customs introduced an advance ruling regime with the issuance of [Interim Administrative Measures on Advancing Rulings](#) (GAC Order No. 236, the "2017 Interim Measures") in December 2017.

According to the 2017 Interim Measures, effective from 1 February 2018, an applicant may, prior to its actual import or export of goods, apply for an advance ruling. In particular, an advance ruling can be obtained for: (i) classification of goods imported or exported; (ii) place of origin determination, or qualification of goods as original products; (iii) determination of dutiable value and valuation methods for imported goods (see KPMG [China Tax Weekly Update \(Issue 4, January 2018\)](#) for details).

On 31 January 2018, GAC issued [Announcement \[2018\] No. 14](#) ("Announcement 14") for guidance on the implementation of the 2017 Interim Measures, including:

- Procedures and documentation requirements for advance ruling application.
- Exceptional cases in which an advance ruling can be applied for within the 3 month period preceding the scheduled time for import / export (normally the application must be made 3 months or more in advance). These include cases where:
 - ❑ The application date is less than 3 months from the actual import/export date due to force majeure or policy adjustment;
 - ❑ The applicant completes its initial registration with China Customs less than 3 months before the scheduled time of import/export.

Advance ruling decisions will be published (e.g. on the website of China Customs), except those containing trade secrets.

- Effective from 1 February 2018, Customs will no longer accept the applications for classification of goods to be imported / exported, confirming dutiable value and place of origin (as these older confirmation procedures are being replaced by the advance rulings system).

With regard to the detailed analysis and interpretation on Announcement 14 and the 2017 Interim Measures, please read the following KPMG publications:

- ❑ [China Tax Alert: China Customs Issued an Announcement Regarding the Implementation of the PRC Customs Provisional Administrative Measures on Advance Ruling \(Issue 2, January 2018\)](#)
- ❑ [China Tax Alert: China Customs Issued the Interim Administrative Measures on Advance Ruling \(Issue 1, January 2018\)](#)

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

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

Potential impacts on businesses:

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

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

OECD: Multilateral risk assessment pilot program

On 23 January 2018, the OECD announced a new [pilot program](#) for multilateral risk assessment of large multinational entity (MNE) groups. The pilot program - the [International Compliance Assurance Program](#) (ICAP) - is a voluntary program that will use country-by-country (CbC) reports and other information to facilitate co-operative multilateral engagements between MNE groups and multiple tax administrations. The goal is to provide early tax certainty and assurance for both taxpayers and tax administrations.

By facilitating a multilateral discussion between MNE groups and multiple tax administrations, ICAP should improve the effective use of information (such as the CbC report, Master file and Local file, etc.) available for risk assessments. In the longer term, this should result in fewer disputes entering into mutual agreement procedures (MAP).

ICAP is being piloted by eight FTA (OECD's Forum on Tax Administration) member tax administrations, namely Australia, Canada, Italy, Japan, the Netherlands, Spain, the United Kingdom, and the United States. A multilateral assessment of specific international tax risks posed by each MNE group in the pilot program is scheduled to begin during the first half of 2018 and to be completed within 12 months.

A [handbook](#) which provides more detail on the program and the procedure for the pilot was also launched. According to the handbook, the program focuses mainly on assessing permanent establishment (PE) and transfer pricing risks and aims to provide companies with certainty on their international tax risks. At the end of the risk assessment process, each covered tax administration would issue a letter, outlining the covered risks where the tax administration has been able gain to assurance and any identified tax risks.

ICAP does not provide MNE groups with the legal certainty that could be achieved through, for example, an advance pricing agreement. ICAP facilitates an open discussion between MNE group and tax administrations, and facilitates obtaining tax certainty in respect of MNE cross-border activities and transactions.

* China has yet to participate in the pilot program. If China were to participate, at some later point, it could provide greater tax certainty for MNEs operating in China, as well as for Chinese MNEs operating overseas. For more information about transfer pricing and CbC report, please read the following KPMG publications:

- ❑ An article entitled "TP in China: all the data in the world" in [China Looking Ahead \(7th edition\)](#)
- ❑ [China Tax Alert: State Administration of Taxation \(SAT\) Issued Announcement on the Enhancement of the Reporting of Related Party Transactions and Administration of Contemporaneous Documentation \(Issue 23, July 2016\)](#)
- ❑ [China Tax Alert: State Administration of Taxation Issued Announcement on the Enhancement of Administration of APA \(Issue 28, October 2016\)](#)



Other recent regulatory and tax circulars:

- ❑ [SAT's Announcement on the release of tax filing form for environmental protection tax](#) (SAT Announcement [2018] No. 7, issued on 27 January 2018)
- ❑ [MOF, GAC and SAT's notice on adjustment of tax preferential policies for imports of natural gas](#) (Cai Guan Shui [2017] No. 41, issued on 15 January 2018)

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

Lewis Lu

Head of Tax,
KPMG China
Tel. +86 (21) 2212 3421
lewis.lu@kpmg.com

Beijing/Shenyang/Qingdao Vincent Pang

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

Tianjin

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

Shanghai/Nanjing/Chengdu

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

Hangzhou

John Wang
Tel. +86 (571) 2803 8088
john.wang@kpmg.com

Guangzhou

Lily 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

Vincent Pang

Head of Tax,
Northern Region
Tel. +86 (10) 8508 7516
+86 (532) 8907 1728
vincent.pang@kpmg.com

Cheng Chi

Tel. +86 (10) 8508 7606
cheng.chi@kpmg.com

Conrad TURLEY

Tel. +86 (10) 8508 7513
conrad.turley@kpmg.com

Milano Fang

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

Tony Feng

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

Flora Fan

Tel. +86 (10) 8508 7611
flora.fan@kpmg.com

John Gu

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

Rachel Guan

Tel. +86 (10) 8508 7613
rachel.guan@kpmg.com

Helen Han

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

Michael Wong

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

Josephine Jiang

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

Henry Kim

Tel. +86 (10) 8508 5000
henry.kim@kpmg.com

David Ling

Tel. +86 (10) 8508 7083
david.ling@kpmg.com

Li Li

Tel. +86 (10) 8508 7537
li.li@kpmg.com

Lisa Li

Tel. +86 (10) 8508 7638
lisa.li@kpmg.com

Thomas Li

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

Larry Li

Tel. +86 (10) 8508 7658
larry.y.li@kpmg.com

Lucia Liu

Tel. +86 (10) 8508 7570
lucia.j.liu@kpmg.com

Alan O'Connor

Tel. +86 (10) 8508 7521
alan.oconnor@kpmg.com

Shirley Shen

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

Joseph Tam

Tel. +86 (10) 8508 7605
laiyi.tam@kpmg.com

Joyce Tan

Tel. +86 (10) 8508 7666
joyce.tan@kpmg.com

Cynthia Xie

Tel. +86 (10) 8508 7543
cynthia.py.xie@kpmg.com

Christopher Xing

Tel. +86 (10) 8508 7072
christopher.xing@kpmg.com

Irene Yan

Tel. +86 (10) 8508 7508
irene.yan@kpmg.com

Adams Yuan

Tel. +86 (10) 8508 7596
adams.yuan@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

Vivian Zhou

Tel. +86 (10) 8508 3360
v.zhou@kpmg.com

Central China

Anthony Chau

Head of Tax,
Eastern & Western Region
Tel. +86 (21) 2212 3206
anthony.chau@kpmg.com

Yasuhiko Otani

Tel. +86 (21) 2212 3360
yasuhiko.otani@kpmg.com

Johnny Deng

Tel. +86 (21) 2212 3457
johnny.deng@kpmg.com

Cheng Dong

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

Chris Ge

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

Chris Ho

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

Henry Wong

Tel. +86 (21) 2212 3380
henry.wong@kpmg.com

Jason Jiang

Tel. +86 (21) 2212 3527
jason.t.jiang@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

Karen Lin

Tel. +86 (21) 2212 4169
karen.w.lin@kpmg.com

Benjamin Lu

Tel. +86 (21) 2212 3462
benjamin.lu@kpmg.com

Christopher Mak

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

Naoko Hirasawa

Tel. +86 (21) 2212 3098
naoko.hirasawa@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

Tanya Tang

Tel. +86 (25) 8691 2850
tanya.tang@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 (571) 2803 8088
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

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

Jason Yu

Tel. +86 (21) 2212 3316
jim.yu@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

Eric Zhang

Tel. +86 (21) 2212 3398
eric.z.zhang@kpmg.com

Kevin Zhu

Tel. +86 (21) 2212 3346
kevin.x.zhu@kpmg.com

Southern China

Lily Li

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

Vivian Chen

Tel. +86 (755) 2547 1198
vivian.w.chen@kpmg.com

Nicole Cao

Tel. +86 (20) 3813 8619
nicole.cao@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

Aileen Jiang

Tel. +86 (755) 2547 1163
aileen.jiang@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

Sisi Li

Tel. +86 (20) 3813 8887
sisi.li@kpmg.com

Mabel Li

Tel. +86 (755) 2547 1164
mabel.li@kpmg.com

Kelly Liao

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

Patrick Lu

Tel. +86 (755) 2547 1187
patrick.c.lu@kpmg.com

Grace Luo

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

Ling Lin

Tel. +86 (755) 2547 1170
ling.lin@kpmg.com

Maria Mei

Tel. +86 (592) 2150 807
maria.mei@kpmg.com

Chris Xiao

Tel. +86 (755) 3813 8630
chris.xiao@kpmg.com