

# 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

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

## 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 \(7<sup>th</sup> edition\)](#)
- ❑ [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)

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