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Reference: SAT Announcement [2018] No. 15
Issuance date: 10 April 2018
Effective date: 2017 CIT annual filing and onwards

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

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

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Simplified rules for asset loss reporting

On 10 April 2018, the State Administration of Taxation (SAT) issued Announcement [2018] No. 15 ("Announcement 15"). This simplifies the reporting requirements, which were stated in SAT Announcement [2011] No. 25 ("Announcement 25"), for declaration of asset losses for corporate income tax (CIT) purposes.

Announcement 15 applies from the 2017 CIT annual filing (i.e., in May 2018) onwards and clarifies that:

- When enterprises make a declaration to the tax authorities on their asset losses, the enterprises are only required to submit a form, which accompanies the CIT annual filing, declaring the asset losses. However, other supporting documents, such as accounting and tax related materials, will not be required. Nonetheless, enterprises in such situation are still required to keep the materials on file, in case of audit (the collection and collation of the materials must comply with the requirements set out in Announcement 25).
- Enterprises must keep the materials intact, and ensure the authenticity and legality of the materials.

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

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

Potential impacts on businesses:
- Restriction on foreign investment may be lowered

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NDRC to revise the "negative list" for foreign investment

At the Boao Forum for Asia Annual Conference held on 10 April 2018, President Xi Jinping pledged that China will further open up its economy, with revision of the "negative list" for foreign investment planned by June 2018 (see KPMG *China Tax Weekly Update (Issue 15, Apirl 2018)* for other measures).

On 17 April 2018, the National Development and Reform Commission (NDRC) set out the direction of the revision:

- Plan to release two new "negative lists" nationwide and for free trade zones (FTZs) respectively, by June 2018. The foreign investment restrictions under the FTZ negative list will be more relaxed than the nationwide list.

- The new list would not only include the already announced opening measures for the financial and automobile sectors, but also a string of measures for the energy, resources, infrastructure, transportation and professional services sectors.
- The new list would include opening measures for 2018 and the coming years. This may grant transitional periods to the sectors concerned and increase the predictability of the opening up.
- The new list would focus on the opening up of the manufacturing sector. For example:
  - A 5 year liberalization timeframe will be set for the automobile sector, i.e., foreign equity ownership limits (currently 50%) for special vehicles and new energy vehicles will be removed in 2018, commercial vehicles in 2020 and passenger vehicles in 2022. Also in 2022, the limitation on a foreign investor, whereby it may only set up two joint venture entities (JV) for passenger vehicles and two JVs for commercial vehicles, will be eliminated.
  - Foreign equity ownership limits (currently 49%) for the shipbuilding sector will be eliminated in 2018. This would apply to enterprises engaged in ship design, manufacturing or repair.
  - Foreign equity ownership limits for the aviation sector will be eliminated in 2018. The types include: trunk airliner, regional aircraft, general-purpose plane, helicopter, unmanned aerial vehicle and aerostatics. Currently, the aviation sector is either subject to 49% foreign equity holding requirements or must be set up in the form of an equity joint venture or cooperative joint venture.

The existing 2017 negative list for FTZs (issued on 5 June 2017) provides an overview of the sectors in which foreign investment is permitted (including subject to pre-approval where controlling stakes must be held by a Chinese party) or prohibited in FTZs. These include sectors such as metal ore and non-metallic mineral mining, aviation manufacturing, ship building, automobile manufacturing, rail transportation equipment manufacturing, communications equipment manufacturing, mineral smelting and calendaring, pharmaceutical manufacturing, road transport, water transport , internet and related services, banking services, insurance business, accounting and auditing, statistics and survey, education, press and publication, radio and television, financial information, culture and entertainment (see KPMG *China Tax Weekly Update (Issue 25, June 2017)* for details).

On 28 June 2017, the NDRC and the Ministry of Commerce ("MOFCOM") jointly issued the Catalogue of Industries for Guiding Foreign Investment (2017 revisions) (the "2017 Catalogue"). The layout of the Catalogue has been realigned to conform with the new "negative list" system. This covers the restricted and prohibited industries, as well as the encouraged industries for which special requirements exist (e.g. requirements for Chinese business partner equity participation in the invested enterprise, requirement for local Chinese senior executives). This allows for simple MOFCOM recordals to be made for investments in industries where foreign investment is encouraged or permitted, with pre-approvals limited to industries where investment is restricted (see KPMG *China Tax Alert (Issue 21, June 2017)* for details).

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