



Be prepared – 2012 Year-End China Tax Checklist

Background

2012 is coming to an end, and many enterprises have started preparing their annual financial statements and external audit process. In 2012, the Chinese tax authorities issued a series of important Corporate Income Tax (CIT) and indirect tax regulations, which significantly impact enterprises' tax filings and financial statements. If a corporation fails to meet the tax filing and payment deadlines outlined in these regulations, the tax authorities may impose late payment surcharges and even penalties on the taxpayers or the withholding agents.

To help corporations deal with their tax compliance obligations, we have outlined below a 2012 Year-End China Tax Checklist. The checklist does not purport to be an exhaustive list of key China tax and regulatory matters and is not intended to address the circumstances of any particular individual or entity. In addition, there may be variations among local tax authorities regarding the implementation of the rules.

Corporate Income Tax						
Action	Key points	Deadline/ Effective date	KPMG publication	Y	N	N/A
Prepare and submit the monthly (quarterly) CIT returns	<p><u>CIT Law and Implementation Rules, State Administration of Taxation (SAT) Announcement [2011] No.64 and No.76</u></p> <ul style="list-style-type: none"> Taxpayers are required to use revised quarterly (monthly) provisional CIT returns from 1 January 2012 	Within fifteen days following the end of the month/quarter		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and submit 2012 annual CIT return, and perform reconciliation of quarterly provisional tax payments	<p><u>CIT Law and Implementation Rules</u></p> <ul style="list-style-type: none"> This requirement applies to corporations set up in China as well as foreign corporations that have permanent establishments in China 	31 May 2013		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Qualified software and integrated circuit enterprises shall go through relevant procedures with tax bureaus in charge for tax incentives	<p><u>Cai Shui [2012] No.27 and SAT Announcement [2012] No.19</u></p> <ul style="list-style-type: none"> Qualified software and integrated circuit enterprises are entitled to certain CIT incentives 	30 April 2013	China alert: Technology, Media & Telecommunications Focus Issue 1, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
An advanced and new technology enterprise shall prepare and submit the required documents to the tax authority in charge for record keeping purposes	<p><u>Guo Shui Han [2009] No.203</u></p> <ul style="list-style-type: none"> An advanced and new technology enterprise shall lodge a record with the tax authority in charge in respect of its qualification criteria before the annual CIT filing 	31 May 2013	China alert Issue 47, 2009	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Submit an application to enjoy the preferential 15 percent CIT rate and provide relevant documents to the tax authority in charge	<p><u>Cai Shui [2011] No.58, Cai Shui [2009] No.69 and SAT Announcement [2012] No.12</u></p> <ul style="list-style-type: none"> Qualified enterprises in Western China are eligible for a reduced 15 percent CIT rate 	31 May 2013	China alert Issue 8, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Review Equity Incentive Compensation Plans (EICPs) to ensure the enterprises can deduct qualified expenses	<p><u>Zheng Jian Zi [2005] No.151 and SAT Announcement [2012] No.18</u></p> <ul style="list-style-type: none"> Equity compensation expenses incurred by qualified enterprises with EICPS are generally deductible for CIT purposes as salary compensation. The amount of tax deduction equals the product between (1) the excess of the company stock's market price per share over the strike price on the exercise date and (2) the number of rights 	Effective from 1 July 2012	China alert Issue 13, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	actually exercised					
Submit supporting documents on policy-dictated relocation, relocation plan and other documents to the tax bureau in charge	<p><u>SAT Announcement [2012] No.40</u></p> <ul style="list-style-type: none"> Any income derived from qualified policy-dictated relocation and relevant expenses incurred can be temporarily excluded from taxable income before the entire relocation is complete. The enterprise shall include relocation taxable income into the tax return for the year in which the relocation is complete. 	31 May 2013		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deduct relevant expenses in accordance with the rules when filing CIT return	<p><u>SAT Announcement [2012] No.15</u></p> <ul style="list-style-type: none"> CIT deduction of the following types of expenses is clarified: financing expenses, operating costs of taxpayers providing agent services, commissions and handling charges of telecom enterprises, and entertainment expenses in pre-operating period 	Applies to annual CIT filing for the year of 2011 and afterwards		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Apply to the tax authority in charge for CIT deduction on asset losses	<p><u>SAT Announcement [2011] No.25</u></p> <ul style="list-style-type: none"> These measures broaden the scope of deductible asset losses These measures remove the requirement for obtaining prior approval from the tax authorities for deduction of asset losses The reporting requirements are divided into non-itemised reporting and itemised reporting 	31 May 2013	China alert Issue 13, 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Obtain valid documentary support for costs and expenses	<p><u>SAT Announcement [2011] No.34</u></p> <ul style="list-style-type: none"> Enterprises can provisionally deduct costs and expenses in quarterly CIT filing with documentary support pending, but they should provide the valid support by the time of the annual CIT filing 	31 May 2013	PRC Tax Dashboard Issue 6, 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and submit to the tax authority in charge the required documents that relate to a qualified technology transfer for record keeping purposes	<p><u>Guo Shui Han [2009] No.212</u></p> <ul style="list-style-type: none"> To enjoy the CIT incentives on a technology transfer, an enterprise shall lodge a 	31 May 2013		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	record with the tax authority in charge before filing its annual CIT return					
A venture capital enterprise shall prepare and submit the required documents to tax authority in charge for record keeping purposes	<u>Guo Shui Fa [2009] No.87</u> <ul style="list-style-type: none"> To enjoy the investment tax credit, a venture capital enterprise shall lodge a record with the tax authority in charge before filing its annual CIT return 	31 May 2013		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Notify the relevant tax authorities that a position of special tax treatments on corporate restructuring has been taken (rollover relief)	<u>Circular Caishui [2009] No. 59 and SAT Announcement [2010] No. 4</u> <ul style="list-style-type: none"> Where relevant conditions are satisfied, gains on share transfers, mergers, de-mergers etc. may be eligible to CIT deferral 	31 May 2013	China alert Issue 39, 2009 and China alert Issue 12, 2010	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Enterprises in specific sectors (i.e., financial institutions, securities businesses, credit guarantee institutions for small-medium enterprises, and insurance companies) claim CIT deduction of provisions in annual CIT filing in accordance with new rules	<u>Cai Shui [2012] No.5, Cai Shui [2012] No.11, Cai Shui [2012]No.23, Cai Shui [2012] No.25 and Cai Shui [2012] No.45</u> <ul style="list-style-type: none"> Rules on CIT deduction of provisions in specific sectors are clarified 	31 May 2013	China Alert: Financial Service Focus - Issue 4, 2012 , China Alert: Financial Service Focus- Issue 3, 2012 and China Alert: Financial Service Focus- Issue 2, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Claim deduction of advertising and promotion expenses for CIT purposes in accordance with new rules	<u>Cai Shui [2012] No. 48</u> <ul style="list-style-type: none"> Rules on deduction for advertising and promotional expenses contained in Cai Shui [2009] No.72 regarding selected industries continue to apply with some adjustments for certain arrangements 	31 May 2013	China alert Issue 14, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Assess the applicability of CIT computation method	<u>SAT Announcement [2012] No.27</u> <ul style="list-style-type: none"> An enterprise that is specifically engaged in equity investment should not compute its CIT liability on a deemed basis 	Effective from 1 January 2012		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and be ready to submit 2012 transfer pricing documentation reports and related information	<u>Circular Guo Shui Fa [2009] No. 2</u> <ul style="list-style-type: none"> 'Nine forms' detailing related party transactions shall be submitted with the annual CIT returns Transfer pricing documentation reports should be ready for submission as and when required by the tax authorities 	31 May 2013	China alert Issue 8, 2009	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Apply for approval of tax treaty relief for dividends where applicable	<p>Circulars Guo Shui Fa [2009] No. 124, Guo Shui Han [2009] No. 81, Guo Shui Han [2009] No. 601 and SAT Announcement [2012] No.30</p> <ul style="list-style-type: none"> The applicant shall prove its residency status in the relevant foreign jurisdiction and its beneficial ownership of the dividends. Similar rules apply to loan interest, royalties and capital gains It may be possible for agents and the like to affirmatively declare that they are not the beneficial owners 	When applying to remit dividends	China alert Issue 25, 2009 , China alert Issue 86, 2009 , and China alert Issue 15, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other taxes and levies						
Action	Key points	Deadline/ Effective date	KPMG publication	Y	N	N/A
Perform VAT filing in accordance with new rules for enterprises of relevant industries in pilot locations	<p>Cai Shui [2011] No.110, Cai Shui [2011] No.111 and Cai Shui [2012] No.71</p> <ul style="list-style-type: none"> Shanghai VAT pilot program rolled out to 8 cities/provinces¹ 	Conduct VAT filing in accordance with implementation date of each location	China alert Issue 16, 2012 and China alert Issue 17, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pay or withhold Culture Business Development Levy (CBDL) in accordance with new rules	<p>Cai Zong [2012] No.68</p> <ul style="list-style-type: none"> Taxpayers providing advertising services and withholding agents in the VAT pilot locations shall pay or withhold CBDL at three percent of VATable service revenues 	Effective from 1 January 2012		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Go through new procedures for VAT and Consumption Tax refund (exemption) for exported goods and services	<p>Cai Shui [2012] No.39 and SAT Announcement No.24</p> <ul style="list-style-type: none"> Put the existing export tax refund (exemption) policies into a clear, standardised, and systematic order; create a better environment for export enterprises in terms of tax burden; and simplify reporting procedures 	Certain provisions come into effect retroactively on 1 January 2011 and all other provisions become effective on 1 July 2012	China alert Issue 19, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Apply new procedures for export tax refund	<p>State Administration of Foreign Exchange Announcement [2012] No.1</p> <ul style="list-style-type: none"> Starting from 1 August 2012, the Verification and Cancellation Form will be abolished; enterprises will no longer need to go through the 'Verification and Cancellation' procedures when applying for export tax 	Effective from 1 August 2012		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

¹ 8 cities/provinces include Beijing, Tianjin, Jiangsu, Anhui, Zhejiang (including Ningbo), Fujian (including Xiamen), Hubei and Guangdong (including Shenzhen)

	refund					
Consider indirect tax implications of corporate restructuring	<u>SAT Announcement [2011] No.13 and No.51</u> <ul style="list-style-type: none"> Where relevant conditions are satisfied, transfer of goods is not subject to VAT and transfer of real estate and land use right is not subject to Business Tax (BT) in restructuring 	VAT and BT relief effective from 1 March 2011 and 1 October 2011 respectively	China alert Issue 7, 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consider BT exposure of transferring rights to use natural resources	<u>Cai Shui [2012]No.6</u> <ul style="list-style-type: none"> Transferring the rights to use natural resources within China falls within the scope of Business Tax and is subject to BT 	Effective from 1 January 2012	China Alert: Energy & Natural Resources Focus Issue 2, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and submit 2012 Annual IIT Self Filing Returns	<u>Circular Guoshuifa [2006] No.162</u> <ul style="list-style-type: none"> This filing requirement is applicable to individual taxpayers whose annual income exceed RMB120,000, including non-Chinese residents 	31 March 2013	China alert Issue 35, 2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Make social contributions for qualified foreigners as required	<u>Order No. 16 of the Ministry of Human Resources and Social Security and Ren She Ting Fa [2011] No.113</u> <ul style="list-style-type: none"> Foreigners shall make contributions to pension as well as medical, injury, unemployment and maternity insurance schemes in China. However, the implementation rules have not yet been issued 	Effective from 15 October 2011	China alert Issue 33, 2011	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Non-tax matters						
Action	Key points	Deadline / Effective date	KPMG publication	Y	N	N/A
Consider the possibility of M&A via equity contribution	<u>Ministry of Commerce Decree [2012] No.8</u> <ul style="list-style-type: none"> Clarify rules governing how foreign investors may use equity interest to make capital injection 	Effective from 22 November 2012	China alert Issue 21, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Prepare and submit an annual report	<u>State Council Decree 584</u> <ul style="list-style-type: none"> An representative office is required to submit annual report to the registration authority 	30 June 2013	China alert Issue 21, 2010	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Review visas of expatriates and existing secondment arrangement	<u>New PRC Law on the Administration of Exit and Entry of Individuals</u> <ul style="list-style-type: none"> Integrate different regulations and strengthen enforcement of the administration of exit and entry of foreigners working in China 	Effective from 1 July 2012	China alert Issue 20, 2012	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

KPMG observations

The Chinese government issued a number of important regulations in 2012, clarifying areas of confusion and elaborating on previous regulations by issuing supplementary notices. Enterprises preparing their annual CIT filing should be mindful of new rules on deducting costs, expenses, and provisions, and try to make good use of CIT incentives.

SAT's Announcement [2012] No.30 (Announcement 30) further dwells on the concept of 'beneficial owner' first introduced in Guo Shui Han [2009] No.601 (Circular 601) in the context of enjoying tax treaty benefits. Announcement 30 clarified the process of applying for DTA relief and will likely enhance consistency in local enforcement of Circular 601. There are still continuing areas of complexity, such as whether the substance of parent and sister companies of a DTA benefits claimant may be considered when making the beneficial ownership assessment and to what extent the provisions can be applied retroactively to cases that remained open as of 29 June 2012. Taxpayers should communicate with tax authorities to better understand local interpretations and practices.

Following its initiation in Shanghai on 1 January 2012, the VAT pilot programme has expanded to Beijing, Jiangsu, Anhui, Fujian and Guangdong, with implementation to begin in Tianjin, Zhejiang and Hubei on 1 December 2012. The State Council has also decided to further expand the scope of these reforms in 2013, and select certain sectors for a nationwide launch of the pilot scheme. Apart from the transportation sector and certain modern services industries, which already fall within the scope of VAT pilot program, the telecommunications sector and the construction sector are expected to be included in the expanded scope. Taxpayers should familiarise themselves with the new VAT rules and prepare for any impact created by the VAT reform.

After reviewing feedback on the previously circulated Draft Circular, the MOFCOM approved and issued the Provisional Regulation for Contribution of Equity Interest in Foreign Investment Enterprises (Decree No. 8) this September, seeking to clear up a number of issues in the area. Decree No. 8 provides companies with additional mechanism to conduct reorganisations and reducing restructuring costs. Taxpayers need to fully consider the tax implications of such equity contribution before undertaking these transactions.

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