

China Tax Weekly Update

ISSUE 17 | May 2016

Reference: Cai Shui [2016]
No. 49
Issuance date: 4 May 2016
Effective date: 1 January
2015

Relevant industries:
Software and integrated
circuit (IC) industries
Relevant companies: IC
manufacturing enterprises,
IC design enterprises,
software enterprises, key
software and IC design
enterprises listed in the State
planning layout (collectively
called software enterprises
and IC enterprises)
Relevant taxes: CIT

Potential impacts on
businesses:

- Compliance risks due to regulatory uncertainties reduced

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

Preferential Corporate Income Tax (CIT) policies for software and integrated circuit (IC) enterprises

Currently certain software and IC enterprises enjoy preferential CIT policies* under the *Notice on CIT policies for further encouraging the development of software and IC industries (Cai Shui [2012] No. 27, "Circular 27")* issued by Ministry of Finance (MOF) and State Administration of Taxation (SAT). To supplement these policies, the MOF and SAT have now jointly issued Cai Shui [2016] No. 49 ("Circular 49") to upgrade these:

- Software and IC enterprises which enjoy the preferential policies specified in Circular 27, should make recordal filings with the tax authority in charge at the time of the CIT annual filing. The recordal filings shall be made in accordance with the *SAT Announcement on Measures to Handle Matters Concerning Preferential Policies of CIT (SAT Announcement [2015] No. 76)*, and the documents listed in the appendix of Circular 49 shall be submitted as the recordal filing documents. (Pre-approvals for software and IC enterprises to enjoy the CIT incentives were abolished in 2015. These recordal filings are replacing the pre-approvals to give the tax authorities information for follow-up procedures.)
- After the software and IC enterprises have enjoyed the relevant preferential policies, the tax authorities will turn to the National Development and Reform Commission (NDRC) and the Ministry of Industry and Information Technology (MIIT) for post-examination. If the software and IC enterprises are found to be not qualified to enjoy the preferential policies after the examination, the preferential treatments will be clawed back by the tax authorities in accordance with the *Tax Collection and Administration Law*.
- The provincial tax authorities shall provide name list and the relevant recordal documents to NDRC and MIIT before March 20th and June 20th each year in two batches. And NDRC and MIIT shall revert to the tax authorities with their examination results within two months.
- The conditions for qualified IC manufacturing enterprises, IC design enterprises and software enterprises have not been significantly amended in Circular 49. However, the relevant conditions for key IC design enterprises and key software enterprises listed in the State planning layout are amended in Circular 49.

The period for preferential tax treatment shall be calculated from the first profit-making year. If the software and IC enterprises are not qualified to enjoy the preferential policies in the first profit-making year, they can enjoy the relevant preferential tax treatments from the year when they meet the relevant criteria, but only within the remaining years.

According to Circular 27, the main preferential CIT policies that can be enjoyed by eligible software and IC enterprises are as follows:

- With respect to IC manufacturing enterprises with the circuit line width less than 0.8 micro-meters (inclusive), they will be exempt from CIT for the first and second years, and entitled to a 50% tax reduction at the statutory rate of 25% for the third to fifth years. The preferential tax treatment is entitled starting from the first profit-making year (before 31 December 2017) until the expiration of the preferential period.
- With respect to IC manufacturing enterprises with the circuit line width less than 0.25 micro-meters or total investment of more than 8 billion yuan, they can pay CIT at a reduced rate of 15%. Where the operation period exceeds 15 years, the enterprises will be exempt from CIT for the first to fifth years, and entitled to a 50% tax reduction at the statutory rate of 25% for the sixth to tenth years. The preferential tax treatment is entitled starting from the first profit-making year (before 31 December 2017) until the expiration of the preferential period.
- With respect to IC design enterprises newly established within China and eligible software enterprises, they will be exempt from CIT for the first and second years, and entitled to a 50% tax reduction at the statutory rate of 25% for the third to fifth years. The preferential tax treatment is entitled starting from the first profit-making year (before 31 December 2017) until the expiration of the preferential period.
- Key software enterprises and key IC design enterprises listed in the State planning layout may pay CIT at a reduced rate of 10%, if they are not entitled to CIT exemption for the current year.

Reference: SAT
Announcement [2016] No. 27
/ Shui Zong Han [2016] No.
187 / 190 and Jiao Ban Gong
Lu [2016] No. 66
Issuance date: 28 April 2016
to 5 May 2016
Effective date: N/A

Relevant industries: All
(especially for industries of
construction, real estate,
finance and consumer
services)

Relevant companies: All
(especially for enterprises
which are engaged in
construction, real estate,
finance and consumer
services)

Relevant taxes: VAT

Potential impacts on
businesses:

- Compliance risks due to regulatory uncertainties reduced

You may click the circular
titles to access full content
of the circulars.

Further rules on VAT reform from SAT and MOT

In order to help better implement the new VAT rules *Measures for Implementation of the Pilot Program of VAT Reform (Cai Shui [2016] No. 36, "Circular 36")*, the SAT and the Ministry of Transport (MOT) issued more rules in relation to the VAT reform recently. Issues such as the new VAT filing returns, new rates for export refunds, use of VAT invoices on transfer of immovable properties, and pricing basis of highway projects, have all been clarified.

□ [SAT issues notice to amend the VAT filing returns \(SAT Announcement \[2016\] No. 27, "Announcement 27"\)](#)

- Recently, the Ministry of Finance (MOF) and SAT have issued some VAT reform related rules to clarify the new VAT policies. For this, the SAT issued SAT Announcement [2016] No. 27 to amend the VAT filing returns and the appendices. The relevant completion notes have been modified too.
- Announcement 27 will take effective from 1 June 2016.

□ [SAT issues new rates of export refund for 2016 \(Shui Zong Han \[2016\] No. 187\)](#)

- As Circular 36 brought a number of new service lines into the VAT, this also put a number of these services in line to obtain a refund of VAT on export. Consequently, the SAT issued the database for new rates of export refund (Edition B for 2016). The SAT requires the state tax authorities at all locations to download the database from the server of the SAT, upgrade their database accordingly and distribute it to the export enterprises in time.

□ [SAT clarifies the copies of VAT invoices used for the transfer of ownership of immovable properties \(Shui Zong Han \[2016\] No. 190\)](#)

- Taxpayers shall use the six-linked copies of VAT special invoice or five-linked copies of VAT general invoices when they are engaged in the sales of immovable properties. The invoices can be issued by the taxpayers themselves or the tax authorities on behalf of the taxpayers. When taxpayers go through the property transfer procedures which require the invoices, they can use the sixth-link of copy of the VAT special invoice or the third-link of copy of the VAT general invoice.

□ [MOT issues notice on adjustment of the pricing basis under VAT reform of highway construction projects \(Jiao Ban Gong Lu \[2016\] No. 66, "Circular 66"\)](#)

- Circular 66 adjusts the pricing basis of highway construction programs which are newly built or rebuilt after 1 May 2016. It also clarifies issues on investment estimate, budgetary estimate, budget preparation and management. (The circular is issued by MOT for the purpose of regulating on the pricing basis of highway construction projects and how much the construction companies can charge for the construction of highways.)
- After the VAT reform, construction cost of highway projects shall be calculated in the rule that the price and the tax are separate. The project cost shall be calculated using the following formula:

$$\text{Project cost} = \text{pre-tax project cost} \times (1+11\%)$$

$$= (\text{Direct project cost (including labor cost, material cost, construction machinery cost)} + \text{other project cost} + \text{planning fees} + \text{management fees} + \text{profits}) \times (1+11\%)$$

All the costs are calculated in price (rate) excluding VAT (creditable as input VAT).

Besides, the Shanghai State Tax Bureau (STB) issued 5 circulars in relation to VAT reform on 30 April 2016. The circulars clarify the issues in respect of taxpayers providing construction services, transferring immovable properties and carrying out operating lease of immovable properties across districts within Shanghai. There is also one circular clarifying the VAT invoice issuance issues for the lease of immovable properties by individuals.

- ❑ [*Shanghai STB issues notice on VAT collection and administration for cross-district construction services \(Shanghai STB Announcement \[2016\] No. 3\)*](#)
- ❑ [*Shanghai STB clarifies certain VAT collection issues for construction industry \(Shanghai STB Announcement \[2016\] No. 4\)*](#)
- ❑ [*Shanghai STB issues notice on VAT collection and administration for cross-district transfer of immovable properties \(Shanghai STB Announcement \[2016\] No. 5\)*](#)
- ❑ [*Shanghai STB issues notice on VAT administration for cross-district operating lease of immovable properties \(Shanghai STB Announcement \[2016\] No. 6\)*](#)
- ❑ [*Shanghai STB issues notice on VAT invoice issuance for the lease of immovable properties by individuals \(Shanghai STB Announcement \[2016\] No. 7\)*](#)

* The State Council, the Ministry of Finance and the SAT had recently issued many circulars for the implementation of Circular 36. You may click KPMG *China Tax Weekly Update* [*Issue 13*](#), [*Issue 14*](#), [*Issue 15*](#) and [*Issue 16*](#) to understand the details.

** On the occurrence of the Circular 36 announcement, KPMG immediately issued a series of China Tax Alerts to provide an overview of the high level policies and general impacts across all industries. Focusing on construction, real estate, finance and lifestyle services, at the same time, we also issued specific alerts for each of the three major industries affected by these changes. You may click the following links to read:

- ❑ [*China Tax Alert: China's new VAT rates & rules –High level policies and general impacts across all industries \(Issue 9, March 2016\)*](#)
- ❑ [*China Tax Alert: China's new VAT rates & rules –Financial Services impacts \(Issue 10, March 2016\)*](#)
- ❑ [*China Tax Alert: China's new VAT rates & rules –Lifestyle Services impacts \(Issue 11, March 2016\)*](#)
- ❑ [*China Tax Alert: China's new VAT rates & rules -Real Estate & Construction industry impacts \(Issue 12, March 2016\)*](#)

Reference: Hui Fa [2016] No. 7

Issuance date: 29 April 2016

Effective date: 29 April 2016

Relevant industries: All

Relevant companies:

Enterprises carrying out foreign exchange businesses

Relevant taxes: N/A

Potential impacts on businesses:

- Operational costs reduced
- Risks of being challenged due to non-compliance issues increased

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

SAFE facilitates trade and investment and improves verification procedures

On 29 April 2016, the State Administration of Foreign Exchange (SAFE) issued Hui Fa [2016] No. 7 ("Circular 7"). This sets out 9 new measures relating to 4 aspects of SAFE's work to further facilitate trade and investment and improve verification procedures. The circular took effective from 29 April 2016. Main contents of the circular are as follows:

<p>Simplify the administration of foreign currency receipts in goods trade for class A enterprises</p>	<ul style="list-style-type: none"> • Foreign currency receipts, received by class A goods exporting enterprises as consideration for their goods exports, now are subject to streamlined procedures. Under Circular 7, these receipts now do not need to be deposited into a special account to be examined by SAFE, prior to further deposit into an operating account of the enterprise. This had been the existing system for receipts from goods exports prior to Circular 7. Instead, the relevant receipts can be deposited directly into the foreign exchange current account of the exporting enterprise or be converted into RMB and be deposited in the enterprise's RMB current account. The simplified rules do not apply to return remittance businesses and offshore trading businesses.
<p>Unify the administration policies for Chinese domestic enterprises and foreign enterprises for foreign debt settlement</p>	<ul style="list-style-type: none"> • Foreign debts borrowed by Chinese domestic non-financial enterprises can now be converted into RMB and used in China, in accordance with the provisions of the administration of foreign debts for foreign invested enterprises (FIEs). (Based on Administrative Measures for External Debt Registration (Hui Fa [2013] No. 19), the previous provision prior to Circular 7 is only foreign debts borrowed by FIEs can be converted into RMB and used in China. Foreign debts borrowed by domestic financial institutions and Chinese non-financial companies cannot be converted into RMB and used in China.)
<p>Regulate the administration of direct investment foreign currency profits repatriation</p>	<ul style="list-style-type: none"> • For enterprises registered within China which apply to repatriate profits in excess of USD 50K, banks should examine the relevant documents on a genuine basis, including board resolution of the profit distribution (or profit distribution resolution by partners), original copy of the tax recordal filing, and financial statements in support of the distributed profit. • After the remittance of each profit repatriation, banks shall mark in the relevant tax recordal filing forms for the actual amount and date of the remittance.
<p>Measures to regulate the risk warning of goods trade</p>	<ul style="list-style-type: none"> • Branches of the SAFE could send a risk warning letter to enterprises of which cash flow does not match with the goods flow significantly or cash flow is significant in one way. They can require the enterprises to provide explanations within 10 working days. • For those enterprises which do not provide explanations in time or cannot provide reasonable explanations and the relevant supporting documents, the SAFE will list them as class B enterprises and they will be subject to a more strict supervision. • Class B enterprises could be reclassified to class A when the relevant indicators become normal for 3 continuous months.

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

Relevant industries: All
 Relevant companies:
 Multinational enterprises
 Relevant taxes: All

Potential impacts on
 businesses:

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

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

The 10th FTA meeting to be held in May in Beijing

As mentioned in KPMG [China Weekly Tax Update \(Issue 8, March 2016\)](#), the SAT will further push forward the G20 tax reform projects, such as BEPS and automatic exchange of information at the upcoming Forum of Tax Administration (FTA) in Beijing.

Recent news published on the official website of the SAT noted that, Ms. Wang Xiaoyue, the deputy head of international taxation department of SAT, briefed the journalists on the background and major topics of the 10th FTA in a meeting held on 28 April 2016.

Ms. Wang explained that the 10th FTA will be hosted by China from 11th May to 13th May in Beijing. With the approval of the Chinese central government, the 10th FTA is also to conduct supporting activities for the G20 summit in 2016, also to be hosted in China. There are four topics to be discussed at the FTA, including implementation of BEPS results, international tax cooperation and information exchange, tax collection and administration and outlook of FTA, and capability building of tax collection and administration.

In addition, Ms. Wang also shared the SAT's efforts on FTA projects:

- The SAT has acted as vice-chairman of the 10th work team of the Directorate for Financial and Enterprise Affairs of the OECD. The SAT has also been involved a member of automatic exchange of information team and common transmission system technology group of OECD
- SAT has assigned personnel to participate in the information exchange on global anti-tax avoidance and collaboration network. The SAT also took part in other work such as bilateral information exchange and multilateral projects, etc.
- SAT has also been engaged in studying the *Tax Internal Control Framework* for large enterprises, which is used for as reference to compile China's own *Tax Internal Control Framework* with Chinese characteristics for Chinese large enterprises
- SAT has taken part in high-level analysis work with China's efforts and experiences on tax analysis being shared

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