

Streamlined tax administration on non-resident enterprises

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In Brief

- » China issued “Announcement for Amendment to related Administrative Measures for Corporate Income Tax (CIT) Collection” (“Announcement 22”), which will take effect from 1 June 2015.
- » Announcement 22 has amended three tax rules to support and cope with the latest measures in removing approval procedures and strengthening tax administration.



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In detail

China State Administration of Taxation (SAT) issued Announcement 22 on 17 April 2015, effective on 1 June 2015. It has amended some tax administrative measures of three previous tax circulars, as said below.

- » Amendment to Guo Shui Fa [2010] No. 19 — “Administrative Measures for Deemed CIT Collection for Non-resident Enterprises”

Chinese tax authorities are empowered to adopt the deemed collection method to levy taxes on non-resident enterprises, which cannot calculate profit-based taxes. The deemed collection method is not based on taxpayers’ application, but upon tax authorities’ discretion. Therefore, corresponding amendments are made to the “approval” terms in Guo Shui Fa [2010] No. 19. Meanwhile, the appendix (i.e. the CIT assessment form) has also been modified.

After the amendment, the “deemed collection method” and “deemed profit rate” required in the assessment form will be filled out and confirmed by tax authorities directly. This is a drastic change to the previous practice (i.e. filled out by taxpayers and assessed by tax authorities).

- » Amendment to SAT Announcement [2011] No. 45 — “Trial Administrative Measures for CIT on Overseas Incorporated Domestically Controlled Enterprises” (OIDCE)

Announcement 22 has clarified that the tax authority of OIDCE will be the same one of its Chinese investor. Thus, there is no longer the need to seek any approval for selection or the change of a tax authority.

- » Amendment to SAT Announcement [2013] No. 72 — “SAT Announcement for CIT Special Treatment on Non-Resident Enterprises’ Share Transfer”

Previously, if non-resident enterprises fail to register with Chinese tax authorities for enjoying a favorable CIT treatment for a share transfer, they will be subject to general CIT treatment. Announcement 22 has rephrased that if non-resident enterprises fail to register a transaction for preferential CIT treatment, the tax authorities should remind the taxpayers of such registration. Thus, this amendment has removed the “disguised approval” phenomenon in tax administration.

WTS observation

The said amendments are good news to non-resident enterprises. Non-resident enterprises should not be too overjoyed, and are advised to observe if the approvals are replaced by other administrative procedures or registration forms instead in practice.

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