



Hong Kong Institute of
Certified Public Accountants
香港会计师公会

Meeting notes

**The State Administration of Taxation
and
The Hong Kong Institute of Certified Public Accountants**

2014

Preface

The Hong Kong Institute of Certified Public Accountants ("Institute" or "HKICPA") held its annual meeting with the State Administration of Taxation ("SAT") at No.5 Yangfangdian West Road of Haidian District, Beijing on 25 July 2014. Yu Shuchun, Deputy Counsel of the SAT and leaders of relevant Divisions and Offices welcomed the HKICPA delegates. Clement Chan, the president of HKICPA, expressed gratitude to the SAT for taking time to attend this meeting, and shared his belief that it would improve the development of mutual communication between HKICPA and the SAT.

The following is a translation of the meeting notes prepared, in Chinese, by the Institute. Please note that the notes represent the understanding of the Institute's delegates with respect to the responses from the SAT and do not necessarily represent the SAT's official opinion. Therefore, the notes are not intended to be a legally-binding or a definitive interpretation. Professional opinion should be sought before applying the content of these notes to your specific situations. If there are differences in the interpretation between the English and Chinese versions, reference should be made to the Chinese version.

HKICPA wishes to thank the delegate from PwC for taking the meeting notes.

Meeting notes

Discussions

A. Transformation from Business Tax ("BT") regime to Value Added Tax ("B2V") regime

- A1. Intangible assets
- A2. Circular No.52
 - (a) VAT issues on collection and payment on behalf of related companies
 - (b) Calculation of VAT on different services in a single contract
- A3. Circular No.43
 - (a) Calculation of VAT on telecommunication services
 - (b) Whether the market price of the free of charge goods included in telecommunication services should be considered
- A4. VAT Exemption on cross-border services
 - (a) Inconsistency between the service recipient and the service beneficiary
 - (b) The objects of assurance and consulting services
 - (c) How to define the term "physical goods within China"
 - (d) Definition of "assurance and consulting services"
 - (e) Review of intra-group consulting and management services
 - (f) Tax exemption on cross-border services and outsourcing services
- A5. Deemed sales on cosmetics samples
- A6. VAT exemption on international transportation agency

B. Corporate Income Tax (“CIT”)

- B1. Equity transfer of domestic enterprises by non-resident enterprises
 - (a) Tax settlement issue
 - (b) Public Notice No.40
 - (c) Tax exemption treatment under China-HK Double Tax Arrangement (“DTA”)
- B2. CIT issue on raising funds through hybrid instruments
 - (a) How to define the five conditions in Public Notice No. 41
 - (b) Cross-border investment
- B3. CIT issue on share incentive mechanisms
 - (a) Tax deduction issue concerning the payment of equity expenses to domestic listed companies
 - (b) Tax deduction issue concerning the payment of equity expenses to overseas listed companies
- B4. Deduction of employees’ Individual Income Tax (“IIT”) borne by enterprises
- B5. Income tax treatment of partnership enterprises
 - (a) Tax exemption policy on dividends
 - (b) Taxation on overseas corporate partners
- B6. Interest paid for borrowing money from non-financial enterprises and individuals
 - (a) How to interpret the financial institution’s lending rates for the same type of loans offered during the same period
 - (b) Thin capitalization
 - (c) Valid supporting documents for the CIT deduction of interest expenses

C. Cross-border taxation

- C1. Tax treatment for corporate merger and acquisitions (“M&As”)
- C2. Determination of the beneficial owner
- C3. Whether the transfer of property and land use rights fall into the taxable scope of Land Value-Added Tax (“LAT”) and Business Tax (“BT”)
- C4. Circular Guo Shui Han [2009] No.698
 - (a) Supplementary regulations
 - (b) Whether indirect transfer applies to special tax treatment

D. Stock

- D1. Qualified Foreign Institutional Investor (“QFII”) and Reminbi QFII (“RQFII”)
 - (a) CIT issue
 - (b) Tax treaty
 - (c) Retroactive principle
 - (d) Offsetting loss against gain

D2. Shanghai-Hong Kong Stock Connect

- (a) Latest development
- (b) CIT issue
- (c) Tax treatment of A-share investment by individuals

E. Tax treaty

E1. The effective date of tax treaty

F. IIT

F1. The policy of introducing special tax treatment to IIT

G. Others

G1. The deductibility of royalty expenses

G2. Application of certain tax regulations throughout the nation

G3. Stamp duty ("SD") issues

- (a) Whether overseas companies would be required to pay SD in China
- (b) How overseas companies could report and pay the SD