

GARRIGUES

NEWSLETTER
TAX CHINA

MARCH 2017



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国家税务总局关于发布《特别纳税调查调整及相互协商程序管理办法》的公告/
Announcement of State Administration of Taxation on Issuance of Administrative Measures on Special Tax Investigation and Adjustment as well as Mutual Negotiation Procedures ("Announcement")

01/05/2017

The Announcement consists of the following contents:

- Special tax investigation (Article 2 to 14, 23 to 29 and 37 to 46);
- Factors for comparative analysis and transfer pricing methods (Article 15 to 22)
- Specific clauses for intangible assets (Article 30 to 33);
- Specific clauses for services (Article 34 to 36); and
- Negotiation procedures (Article 47 to 61).

Newly introduced administrative measures in relation to the special tax investigation include:

- The right of tax authorities to conduct Special Tax Investigation on non-resident enterprises
- Restrictions on changes in tax matters during Special Tax Investigation
- More Flexibility in statistical calculation methods;
- Special tax adjustment o hidden and cancelled out related party transactions;

Regarding the comparative analysis and transfer pricing methods, the Announcement has added the followings:

- The degree of fulfillment of contractual obligation;
- The consideration of synergy as one of the factors for comparable analysis;
- The consideration of regional factors as reasonable factors for profit distribution, such as cost savings and market premium;
- Comparable and non-controllable pricing method;
- The applicability of net profit method for intangible assets with significant values;
- A range of valuation methods; and
- Other methods that conforms to an arm's length principal.

Improvements have been made in the clauses for intangible assets based on Announcement 16 of State Administration of Taxation (2015). For example, the Announcement requires that the royalty fee received or paid by an enterprise shall match the economic benefits

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flow into the enterprise from the intangible assets. Focuses on the royalty fee have been expanded from the outbound related party payment to inbound related party receipt.

The Announcement also defines that the concept of beneficial service and exclude certain services as beneficial service. Direct and indirect methods for determining the transaction price of related party service.

The rules for negotiation procedures for the special tax adjustment are detailed in the Announcement, while the negotiation procedures related to explain or implement the tax treaty clauses will remain effective in accordance to Announcement 56 of State Administration of Taxation (2013).

A separate newsletter in relation to the Announcement will be issued in more details, containing the detailed rules and the interpretation of said rules.

关于2016年度第一批公益性社会团体捐赠税前扣除资格名单的公告/
Announcement of the First Batch of Qualifying Name List for Tax Deductible Charitable Social Group Donation in 2016

18/01/2017

The name list of Charitable Social Groups for the first batch could be found at the website of the Ministry of Commerce.

国家税务总局所得税司关于2016年度企业研究开发费用税前加计扣除企业所得税纳税申报有关问题的通知/
Announcement of the State Administration of Taxation on Issues Concerning the Pre-tax Super Deduction Policy for Corporate Research and Development ("R&D") Expenses in 2016

23/01/2017

A number of verification rules are set for the "Breakdown Form" and "Summary Form" in the annual tax filing returns in terms of R&D expenses. In the case that a certain figure in one of the said forms does not match another figure in a specified box of the said forms, the system will report the mistake.

LAW BRIEF

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全国人民代表大会常务委员会关于修改《中华人民共和国企业所得税法》的决定/

Decision of the Standing Committee of the National People's Congress on Revising the Law of the People's Republic of China on Enterprise Income Tax

24/02/2017

Article Nine of the Law of the People's Republic of China on Enterprise Income Tax is revised as below:

The charitable donation made by an enterprise that falls within 12% of the total annual accounting profit may be deducted from taxable income. The portion of donation that exceeds 12% of the said profit is allowed to be deducted from taxable income in the following three years.

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关于清理规范一批行政事业性收费有关政策的通知/

Circular on Policies of Eliminating and Regulating a Number of Administrative and Institutional Fees

15/03/2017

I. As from April 1, 2017, 41 types of administrative and institutional fees prescribed by the Central Government will be eliminated or ceased. The fee standards for trademark registration will be reduced by 50%.

II. The river administration fee, as one of the local tax surcharges in some regions (such as Shanghai), will not be charged since April 1, 2017.

III. The complete list could be found on the website of the Ministry of Finance.

海关总署公告2017年第12号 - - 关于进一步扩大税收征管方式改革试点范围的公告/

Announcement of the General Administration of Customs [2017] No.12 -- Announcement on Further Expanding the Scope of the Pilot Reform of Tax Collection and Administration Approach

01/04/2017

The scope of the pilot reform is expanded to commodities in Chapter 72 to 85 and Chapter 90 of "People's Republic of China Import and Export Tariff", which are declared by means of paperless declaration and are imported into nationwide ports by sea, road or air.

Other matters shall comply with General Notice No. 62 of 2016 issued by the General Administration of Customs.

OTHER TAX NEWSLETTER

1. 关于“十三五”期间在我国海洋开采石油（天然气）进口物资免征进口税收的通知 /

Circular on Exempting the Taxes on Imported Goods and Materials for Exploiting Offshore Petroleum (Natural Gas) in China during the 13th Five-Year Plan Period

2. 中华人民共和国海关关于最不发达国家特别优惠关税待遇进口货物原产地管理办法/

Administrative Measures of the Customs of the People's Republic of China on the Origin of Imported Goods under the Special Preferential Tariff Treatment to the Least Developed Countries

3. 关于取消、调整部分政府性基金有关政策的通知/

Announcement on the Cancellation and Adjustment of Part of Government Funds

4. 海关总署公告2017年第13号 - - 关于修订《中华人民共和国海关进出口货物报关单填制规范》的公告/

Announcement of the General Administration of Customs [2017] No.13 -- Announcement on Revision to the Specifications on People's Republic of China Customs Import and Export Declaration Form

5. 海关总署公告2017年第14号 - - 关于执行《中西部地区外商投资优势产业目录（2017年修订）》的公告/

Announcement of the General Administration of Customs [2017] No.14 -- Announcement on Implementing the Catalog of Priority Industries for Foreign Investment in the Central-Western Region (Revised in 2017)

6. 国家税务总局关于发布《研发机构采购国产设备增值税退税管理办法》的公告/

Announcement of the State Administration of Taxation on Releasing the Measures for the Administration of Value Added Tax Refund regarding Domestic Equipment Purchased by R&D Institutions

7. 关于集成电路企业增值税期末留抵退税有关城市维护建设税教育费附加和地方教育附加政策的通知/

Notice on the Carry Forward Input Value Added Tax and Tax Refund of Integrated Circuit Enterprises in terms of the City Construction Tax, Education Surcharges and Local Education Surcharges

8. 国家税务总局关于进一步做好增值税电子普通发票推行工作的指导意见/

Instruction of the State Administration of Taxation on Further Promotion of Electronic General Value-added Tax Invoices

SOURCES

1. <http://www.chinatax.gov.cn/>
2. <http://www.mof.gov.cn/index.htm>
3. <http://www.customs.gov.cn>

DISCLAIMER

The purpose of the tax newsletter is to provide our clients an insight in the recent tax development in Mainland China. However, it cannot be guaranteed that all tax newsletter is covered due to the limitation of comprehensive legal databases in China and possible delay or omission on the issuance of latest newsletter by the source websites. The tax newsletter is issued in summary exclusively for information and should not be used or relied upon as a substitute for detailed advice. Accordingly, Garrigues accepts no responsibility for any loss that occurs to any party who acts on the information contained herein without further consultation with us.

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