

# GARRIGUES

TAX CHINA

AUGUST 2016



NAME	DATE OF EFFECTIVENESS	GARRIGUES INSIGHT
<p>中俄避免双重征税和防止偷漏税协定及修订议定书生效/ China and Russia Revised Double Taxation Agreement Takes Effect</p>	09/04/2016	<p>Recently, the State Administration of Taxation has issued the Announcement [2016] No.48, which defines the &lt;Agreement between the Government of the People's Republic of China and the Government of the Russian Federation for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and the Protocol&gt; (the "Agreement") as well as &lt;the Protocol Amending the Agreement between the Government of the People's Republic of China and the Government of the Russian Federation for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income&gt; (the "Protocol"), effective from April 9, 2016, that will apply to the income obtained as from January 1, 2017.</p> <p>According to the Announcement, the "approved stock exchange" set out in Paragraph 6 of Article 23 of the Agreement shall be the "Moscow Exchange" for Russia. Compared with the taxation agreement concluded between China and Russia on May 27, 1994, the Agreement and the Protocol are changed in 15 aspects including the tax covered, resident, permanent establishment, associated enterprises, dividends, interest, royalties and capital gains.</p>
<p>中波国际航空运输服务互免增值税协议生效 / Agreement between Poland and China on Reciprocal VAT Exemption of International Air Transportation Services ("Agreement") Takes Effect</p>	01/07/2016	<p>The Agreement stipulates that international air transportation services provided by an air transport enterprise established in one of the States shall be exempted from VAT or any other tax of a similar nature in the other State. According to this provision, China will be exempted from international air transportation services provided by Polish air transport enterprises from the payment of VAT or any tax of a similar nature, while Poland will provide the reciprocal treatment to Chinese air transport enterprises.</p>
<p>关于被盗、丢失增值税专用发票有关问题的公告/ Announcement on Issues Concerning Stolen or Lost Value-added Tax Special Invoice ("Announcement")</p>	28/07/2016	<p>Recently, for the convenience of taxpayers, the State Administration of Taxation has cancelled the regulation that the taxpayer shall announce lost or stolen Special Value-added Tax Invoices invalid on designated media. The Announcement shall be effective as of the date of promulgation, while &lt;Circular of the State Administration of Taxation Concerning Opinions on Handling stolen or lost Value-added Tax special Invoice&gt;( Guo Shui Han [1995] No. 292 ) shall be repealed simultaneously.</p>

NAME	DATE OF EFFECTIVENESS	GARRIGUES INSIGHT
<p>关于扩大内销选择性征收关税政策试点的通知/ Circular on Expanding the Scope of Pilot Program for Policy of Selectively Levying Customs Duties on Commodities in Domestic Market ("Circular")</p>	01/09/2016	<p>According to the Circular, goods manufactured or processed by enterprises within the special customs supervision areas but distributed via the "second line" to the domestic market are, upon the application of enterprises, subject to tariffs levied according to their corresponding imported materials and components or the actual inspection declaration status. The import value-added tax and consumption tax shall be imposed in accordance with regulations. In the Circular, the scope of the pilot program is expanded to other special customs supervision areas (excluding the bonded zones and bonded logistics parks) in provinces (municipalities) where the China (Tianjin, Shanghai, Fujian, Guangdong) Free Trade Zones are located respectively, as well as other five special customs supervision areas, namely the Xin-Zheng Comprehensive Bonded Zone in Henan Province, Wuhan Export Processing Zone in Hubei Province, Xiyong Comprehensive Bonded Zone in Chongqing Municipality, Chengdu High-Tech Comprehensive Bonded Zone in Sichuan Province and Xi'an Export Processing Zone in Shanxi Province.</p>
<p>关于动漫企业进口动漫开发生产用品税收政策的通知/ Circular on Tax Policies Applicable to Cartoon Animation Development and Production Supplies Imported by Cartoon-Animation Enterprises ("Circular")</p>	01/01/2016	<p>According to the Circular, the tax policies of the cartoon animation development and production supplies imported by cartoon-animation enterprises will continue to be valid during the thirteenth five-year plan period. From January 1, 2016 to December 31, 2020, necessary supplies for the independent development and production of direct animation products that need to be imported by cartoon-animation enterprises as designated by relevant departments of the State Council may be exempted from import customs duty and import value-added tax. The provisions clarify that cartoon-animation enterprises shall file an application for tax exemption with the Ministry of Culture by the end of September every year. Four departments shall examine the qualification of the applicants for tax exemption. Prior to the end of November every year, the list of cartoon-animation enterprises that will be entitled to the preferential policies for import tax in the next year shall be published. Where any cartoon-animation enterprise has obtained the qualification for tax exemption by means of false report, the enterprise will be disqualified for import tax exemption upon examination and verification.</p>

NAME	DATE OF EFFECTIVENESS	GARRIGUES INSIGHT
<p>关于保险机构代收车船税开具增值税发票问题的公告/ Announcement on Issuance of Value-added Tax Special Invoice for Vehicle and Vessel Tax Collected by Insurance Institutions (“Announcement”)</p>	01/05/2016	<p>The purpose of this Announcement is to mitigate the impacts brought by the program of value-added tax (“VAT”) in lieu of business tax (“BT”) on taxpayers to the largest extent. Insurance institutions, after the implementation of the program of VAT in lieu of BT, will issue VAT invoice when collecting the premium according to the original operating methods. The Announcement specifies that insurance institutions, as the withholding agents of vehicle and vessel tax, shall clarify the information about the vehicle and vessel tax payment collected in the remarks column when issuing VAT invoice for the vehicle and vessel tax, including the insurance policy number, the taxation period (indicating the year and the month), the amount of vehicle and vessel tax collected, the amount of overdue fine and the total amount etc. According to the Announcement, such VAT invoices can be used by taxpayers as the original certificates for the purpose of financial accounting.</p>
<p>关于融资租赁货物出口退税政策有关问题的通知/ Circular on Issues concerning Export Tax Rebate Policies on Goods under Financing Lease (“Circular”)</p>	02/08/2016	<p>According to the Circular, “the financing lease enterprises, financial lease companies as well as the project subsidiaries established by them”, stipulated in Item 1 of Article 1 of &lt;the Circular of the Ministry of Finance, the General Administration of Customs and the State Administration of Taxation on Carrying out the Pilot Program of Export Tax Rebate Policies on Goods under Financing Lease Nationwide&gt;, shall include financing lease enterprises, financial lease companies as well as the project subsidiaries established by the aforesaid enterprises and companies.</p> <p>The financing lease companies refer to the foreign-invested financing lease companies established under the approval of the Ministry of Commerce, the domestic financing lease enterprises approved jointly by the Ministry of Commerce and the State Administration of Taxation, and financing lease companies approved by the competent provincial commerce authorities authorized by the Ministry of Commerce and by the National Economic and Technological Development Zones, while the financial lease companies refer to the financial lease companies established with the approval of the China Banking Regulatory Commission.</p>

NAME	DATE OF EFFECTIVENESS	GARRIGUES INSIGHT
<p>关于部分营业税和增值税政策到期延续问题的通知/ Circular on Issues concerning the Expiration and Extension of Several Business Tax and Value-added Tax Policies ("Circular").</p>	25/07/2016	<p>According to the Circular, the valid period for, Article 3 of &lt;the Circular of the Ministry of Finance and the State Administration of Taxation on Relevant Tax Policies for Rural Finance&gt;, i.e., "business tax rate shall be reduced to 3% on income from financial and insurance businesses operated by rural credit cooperatives, village/town banks, rural fund mutual-aid cooperatives, loan companies solely initiated and invested by banking institutions, and rural cooperation banks and rural commercial banks whose company's legal person are located in counties (including county-level cities, districts and leagues) and under the level of county", is extended to April 30, 2016.</p> <p>The Circular also points out that &lt;the Circular of the Ministry of Finance and the State Administration of Taxation on Preferential Business Tax Policies for Agriculture-related Loans Granted by the Financial Department of "Agriculture, Countryside and Farmers" of Agricultural Bank of China&gt; shall be effective till April 30, 2016.</p> <p>Furthermore, the Circular clarifies that income derived from commissioned financial insurance services provided by China Post Group Company and its postal enterprises for financial institutions shall be exempted from value-added tax from January 1, 2016 during the implementation period of the pilot program of collecting value-added tax in lieu of business tax.</p>
<p>关于收费公路通行费增值税抵扣有关问题的通知/ Circular on Matters concerning Toll-Based Value-Added Tax Credit Policies for Toll Roads ("Circular")</p>	01/08/2016	<p>According to the Circular, the input value-added tax ("VAT") credit on road, bridge, and gate tolls paid by VAT general taxpayers may be calculated, for the time being, on the basis of the amount indicated in the toll invoice (excluding financial receipts issued by Provincial Department of Finance.)</p> <p>The calculation formula is listed as below: Input VAT credit on highway tolls = the fee amount indicated in the corresponding toll invoice ÷ (1+3%) × 3%; Input VAT credit on tolls for Class I roads, Class II roads, bridges, and gates = the fee amount indicated in the corresponding toll invoice ÷ (1+5%) × 5%.</p> <p>The Circular also clarifies that tolls refer to the fees for passing through roads, bridges, and gates that are instituted and collected by relevant entities in accordance with laws or regulations.</p>

NAME	DATE OF EFFECTIVENESS	GARRIGUES INSIGHT
<p>关于规范税务机关代开发票环节征收地方税费工作的通知/ Circular on Levy of Local Taxes by Local Offices of SAT during Commissioned Issuance of Invoices to Be Regulated ("Circular").</p>	15/08/2016	<p>According to the Circular, local taxes may be collected either directly by local tax authorities or by SAT offices on behalf of local tax authorities. Additionally, the Circular clarifies arrangements for the scope of commissioned issuance, use of invoices, refund of tax payments from the treasury and feedback of relevant information and. It also stipulates that where local offices of SAT are explicitly entrusted to levy tax, SAT offices could levy value-added tax for issuing the invoice on a commissioned basis, as well as levying city maintenance and construction tax, education surcharges, local education surcharges, individual income tax (except for taxpayers who have their own withholding agents) and enterprise income tax on the project department of trans-regional construction enterprises.</p>
<p>关于城市公交企业购置公共汽电车车辆免征车辆购置税的通知/ Circular on the Exemption of Vehicle Purchase Tax for Urban Buses and Trolley Buses Purchased by Urban Public Transport Enterprises ("Circular")</p>	25/07/2016	<p>The Circular stipulates that, firstly, urban buses and trolley buses purchased by urban public transport enterprises are exempted from the vehicle purchase taxes between January 1, 2016 and December 31, 2020.</p> <p>Secondly, where a vehicle previously exempted from tax fails to fall within the scope of tax exemption due to transfer or change of its use, etc., the vehicle purchase tax shall be paid according to Article 15 of the Interim Regulations of the People's Republic of China on Vehicle Purchase Tax.</p> <p>Thirdly, an urban public transport enterprise shall file vehicle purchase tax returns, provide the local tax authorities with the recognition certificates for the urban public transport enterprise and urban buses and trolley buses issued by the competent authorities of the transport at or above the county level where the enterprise is located, and the tax authorities shall handle the tax exemption formalities for such enterprises in accordance with the said certificates. Relevant procedures for handling tax exemption shall be finished before the deadline of March 31, 2021. Enterprises that fail to go through such formalities within the specified time shall not enjoy tax exemption.</p>



**FOR MORE INFORMATION:**

**MANUEL TORRES**

*Partner*

Corporate Law and Commercial Contracts  
Mergers & Acquisitions  
Litigation and Arbitration

[manuel.torres@garrigues.com](mailto:manuel.torres@garrigues.com)

T +86 21 5228 1122

+86 10 8572 0000

**DIEGO D'ALMA**

*Principal associate*

Tax

[diego.dalma@garrigues.com](mailto:diego.dalma@garrigues.com)

T +86 21 5228 1122

+86 10 8572 0000



3205 West Gate Mall - 38 Nanjing Xi Lu  
200041 Shanghai (China)  
T +86 21 5228 1122  
F +86 21 6272 6125  
shanghai@garrigues.com

China World Trade Center 1 Jian Guo Men Wai  
Avenue (Tower 1 – Office 1815)  
Beijing 100004 (China)  
T +86 10 85720000  
F +86 10 85720020  
beijing@garrigues.com

[www.garrigues.cn](http://www.garrigues.cn)