

China Tax Regulation Update

November 2011

Circular Number	Issuance Date	Effective Date	Topic	What is new?
Circular Caishui [2011] No. 88	2011-10-10	2011-01-01	Import duty and import VAT exemption for equipments purchased by R&D centres	<p>According to the Circular, qualified foreign invested R&D centres (“R&D centres”) can apply for import duty and import VAT exemption for importation of qualified R&D equipments. They can also apply for a full refund of the input VAT paid for qualified local R&D equipments. The Circular is valid from 1 January 2011 to 31 December 2015.</p> <p>This Circular continues the same tax incentives provided by the previous Circular Caishhui [2009] No. 115 which expired on 31 December 2010. Its aim is to continue to encourage foreign R&D centre investment in China, which is viewed as important to China’s long-term economic growth.</p> <p>The Circular provides detailed criteria and also a general guidance on the application procedures. However, local authorities of commerce still need to come up with more detailed measures on the procedures.</p> <p>R&D centres are normally not VAT payers and may have to absorb the VAT paid for the purchase of equipments as costs. It is, therefore, essential for them to be exempted from import VAT or to obtain VAT refund for domestically purchased equipment.</p> <p>R&D centres shall pay close attention to this new development and apply for such tax incentives where</p>

China Tax Regulation Update

				applicable.
Circular Caishui [2011] No. 100	2011-10-13	2011-1-1	VAT treatment on income earned from sales of self-developed software products	<p>According to this Circular, software companies selling their self-developed software products are entitled to a so-called “refund after payment” VAT policy. After paying VAT at 17% (output VAT – input VAT), if the VAT paid exceeds 3% of the turnover, the excessive VAT amount will be refunded. Such VAT treatment also applies to imported software products sold after localization by the taxpayer as well as software products embedded in hardware.</p> <p>The Circular was issued to continue the above-mentioned VAT treatments stipulated in Caishui [2000] No.25 which expired on 31 December 2010.</p> <p>The Circular provides details on matters such as definition and category of qualified software products as well as calculation method of the VAT refund amount.</p>
SAT Announcement [2011] No. 51	2011-9-26	2011-10-1	Business Tax (“BT”) treatment on restructurings	<p>According to the Announcement, transfer of intangibles and real estates in connection with a restructuring is not subject to BT, if a business (including the relevant tangible and intangible assets and liabilities as well as the employees) is being transferred by means of merger, split, asset sale or swap, etc.</p> <p>The SAT had already clarified in Announcement [2011] No.13 on 18 February 2011 that the above-mentioned restructuring is also not subject to VAT.</p> <p>However, since the above two regulations provide no</p>

China Tax Regulation Update

				further details, there are still certain technical difficulties to implement them. E.g. if VAT does not apply, no VAT invoices shall be issued to the transferee. In such case, it is unclear whether the previous input VAT paid by the transfer is still creditable.
Ministry of Finance Announcement [2011] No. 65	2011-10-28	2011-11-1	Amendments on the Implementation Rules of the Provisional Regulations on VAT and BT	The Amendments substantially raised the turnover thresholds for VAT and BT. Since such turnover thresholds apply only to individuals, the amendments will mainly benefit individual traders and service providers. They may be exempted from VAT and BT due to the increased thresholds.
Circular Caishui [2011] No. 99	2011-10-10	2011-10-10	Corporate Income Tax ("CIT") treatment on income from interests on railway construction bonds	The Circular stipulates that interest income on railway construction bonds issued in 2011, 2012 and 2013 can enjoy a 50% CIT reduction.

This information is provided for general information purposes only and does not constitute legal or professional advice. Copyright by CMS, China.

For further information, please contact:

Charlie Sun

Head of Tax Practice Area Group
E charlie.sun@cmslegal.cn

T +86 21 6289 6363
F +86 21 6289 0731