

Broadening horizons

China Newsletter

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中国下调增值税税率

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近日，中国政府宣布将从 2018 年 5 月 1 日起降低增值税税率。为了响应此举措，国税总局相继发布了一系列文件，对政策实行过程中的具体问题进行了细化。在此背景下，企业在享受降税红利的同时，应如何面对实际操作中产生的新问题，是一个值得探讨的话题。我们总结了以下几点新政对企业的影响以及应对措施：

背景

根据财税[2018]32 号，从 2018 年 5 月 1 日起，制造业等行业增值税税率将从 17 % 降至 16 %，交通运输、建筑、基础电信服务等行业及农产品等货物的增值税税率将从 11 % 降至 10 %。在出口退税方面，原适用 17 % 和 11 % 退税率的货物，其退税率也将相应降低。值得注意的是，针对出口退税的税率调整给出了一个 3 个月的过渡期，即从 2018 年 7 月 31 日起生效。

此外，根据财税[2018]33 号，工商业小规模纳税人年销售额标准统一上调到 500 万元。2018 年 12 月 31 日前，已登记为一般纳税人的企业可转登记为小规模纳税人。

在这些新政的基础上，国税总局又颁布了相关的具体实施细则。其中值得注意的是，根据国税[2018]18 号，对于跨期情形下适用新旧税率的问题，国税总局遵循的是增值税纳税义务发生时间原则，即如果纳税义务发生时间在 2018 年 5 月 1 日之前，则适用 17 % 和 11 % 的旧税率，反之则适用新税率。

影响

合同管理

从采购端来看，随着增值税税率的降低，如果含税采购价格维持不变，将势必导致可抵扣进项税的减少，

China Reduces VAT Rate

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Recently, the Chinese government announced that the VAT rate will be reduced from May 1, 2018. In response to this initiative, the State Administration of Taxation ("SAT") published a series of circulars to tackle the pending issues during the implementation of the policies. In this circumstances, while enjoying the tax preferences, the enterprises are also facing new practical problems. The followings are a summary of impacts of the new policy and how the enterprises should react.

Background

According to Caishui [2018] No.32, from May 1, 2018, the applicable VAT rate for industries such as manufacturing will be reduced from 17 % to 16 %, while the one for industries such as transportation, construction and basic telecommunication will be reduced from 11 % to 10 %. In terms of export tax refund, the goods that previously subject to a tax refund rate of 17 % and 11 % will also experience a reduction of refund rate. It is to note that a transition period of 3 months is given for the adjustment on tax refund rate, which means that the new rate will become effective from July 31, 2018.

In addition, according to Caishui [2018] No.33, the annual sales amount criteria for qualifying as small-scale VAT payers has been upward adjusted to RMB 5 million. Before December 31, 2018, enterprises that have already been registered as general taxpayers are allowed to be re-registered as small-scale taxpayers.

On the basis of these policies, the SAT has also published a few detailed relevant implementation regulation. It is noteworthy that according to Guoshui [2018] No.18, with respect to the problem of adopting old or new VAT rate for cross-period transactions, the SAT sticks to the timing of VAT payment obligation. This means that if the VAT payment obligation occurs prior to May 1, 2018, the old rates of 17 % and 11 % will be applied. On the contrary, if the obligation occurs after May 1, 2018, the new rates of 16 % and 10 % will be effective.

Impacts

Contract management

From a purchasing perspective, in the context of VAT rate reduction, if the tax-inclusive purchase price remains the same, the deductible input VAT will certainly

以及成本的上升。相应地，从销售端来看，如果含税售价不变，企业的收入将增加，销项税额将减少。

然而，除非是面对最终消费者，企业在价值链上一般都同时扮演着采购商和供应商两种角色。也就是说如果下游企业要求企业降低售价，企业肯定也不得不要求自己的供应商降低价格。因此，为了不至于陷入被动局面，积极开展价格谈判是势在必行的。如果对于如何定价不是非常确定，建议可以在合同中约定不含税价格，以避免增值税税率变动的影响。如果增值税纳税义务发生于 5 月 1 日之后，而原合同约定的仍然是 17 %或 11 %的税率，则建议签署补充协议，并按新税率开具发票。

供应商管理

对供应商管理的影响主要体现在两个方面。首先是前文提到的降低采购价格问题，建议企业应及早与现有供应商展开谈判，或者获取其他供应商的报价。

其次，根据财税[2018]33 号，年销售额不满 500 万人民币的一般纳税人可以转为小规模纳税人。由于小规模纳税人的增值税适用 3 %的征收率，企业可抵扣的进项税显著降低。

根据国税[2018]18 号，一般纳税人转登记为小规模纳税人后，自转登记的下期起按照简易计税方法计算增值税，而转登记当期仍按照一般纳税人计税。所以，企业应及时了解供应商纳税人性质的变化情况，并争取在开始简易征收之前完成价格或合同的重新谈判，以避免遭受损失。

出口退税

随着增值税税率的降低，出口退税率也相应作出了调整，但仅限于原出口退税率为 17 %和 11 %的货物。对于原出口退税率低于 17 %的货物，由于增值税税率的降低，征退税差减少，需转入成本的金额也相应减少，企业当然可以享受到更多的优惠。

然而对于原出口退税率为 17 %和 11 %的货物，由于不存在征退税率差，在实行较低退税率之后企业可获

become less than before, resulting in the rise of costs. Accordingly, from a sales perspective, if the tax-inclusive sales price remains the same, the income will increase while output VAT will decrease.

However, unless facing end customers, enterprises usually play the role as suppliers and purchasers simultaneously. This means that if downstream enterprises require price reduction, the enterprises would have to require price reduction from their own suppliers. Therefore, to minimize the risk of falling into a passive situation, actively seeking price negotiation is imperative. It is suggested to use tax-exclusive amount in the contract to avoid the impact of tax rate change, if the pricing method cannot be determined by the time of signing contract. If the VAT payment obligation occurs after May 1, 2018, and a 17 % or 11 % VAT rate has been agreed upon in the original contract, then a supplementary agreement would be necessary and the invoice should be issued with the new VAT rate.

Supplier management

The VAT rate reduction impacts supplier management in two aspects. The first is the problem of purchase price mentioned before. It is suggested to start negotiation with existing suppliers as soon as possible or acquire quotations from other potential suppliers.

Second, according to Caishui [2018] No.33, general tax payers with an annual sales amount of less than RMB 5 million are allowed to be switched to small-scale tax payers. Small-scale tax payers are subject to a VAT charge rate of 3 %, which will lead to a significant reduction of deductible output VAT for the enterprise.

According to Guoshui [2018] No.18, after re-registration as small-scale taxpayers, the enterprises' VAT will be taxed based on simplified calculation method from the next tax collection period. During the collection period where re-registration is approved, they will still be taxed as general taxpayers. As a result, in order to avoid potential losses, the enterprises should be timely informed of the change of suppliers' taxpayer status and attempt to finish price and contract negotiations with them before they start to be taxed as small-scale taxpayers.

Export tax refund

The adjustment on export tax refund rate is limited to the products with refund rates of 17 % and 11 %. For the export of goods with a refund rate below 17 %, as the difference between refund tax rate and VAT collection rate, which should be booked as costs, will be reduced due to the decrease of VAT rate, enterprises will certainly profit from it.

However, as for the goods with refund rates of 17 %

得的退税将会减少。因此建议企业在这三个月的过渡期内完成此类货物的出口，以适用较高的出口退税率。

对于外贸企业，还需要关注购进货物的时间点。在 7 月 31 日前，只有购进时销售方已按 17 %或 11 %缴纳增值税的货物，才可以按照旧税率计算出口退税。如果购进时已按 16 %或 10 %税率计税，则只能适用较低出口退税率。

我们的观察

增值税率的降低对纳税人来说无疑是一个利好，然而在过渡过程中难免会产生各种实际操作方面的问题。其中，有以下几点值得关注的地方：

- 积极开展合同价格谈判，避免成本上升，并着重关注合同中与税率有关的条款；
- 及时梳理现有供应商的纳税身份情况，避免可抵扣进项税的减少；
- 针对征退税率相同的货物，争取在过渡期结束前完成出口，以享受较高退税率；
- 准确把握跨期业务处理口径，确保正确应对各类细节问题。

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and 11 %, since there is no difference between refund tax rate and VAT collection rate, the refunded tax will decline with the reduction of tax refund rate. It is suggested that the enterprises complete the export of such goods during the 3-month transition period in order to be subject to a higher refund rate.

Foreign trade enterprises should pay particular attention to the timing of purchase. Before July 31, only the export of goods that were already taxed with 17 % or 11% VAT rate by the time of purchase is allowed to be subject to old tax refund rates. If these goods were already taxed with 16 % or 10 % VAT rate, they can only be subject to lower refund rates.

Our Observation

The reduction of VAT rate is undoubtedly a benefit for taxpayers. However, during the transition period, the emergence of practical problems is also predictable. Particular attentions should be paid to the following points:

- Active engagement in contract negotiation to avoid the rise of costs. Particularly focusing on tax rate related terms in the contract;
- Timely sorting out of suppliers taxpayer identity to avoid the reduction of input VAT;
- As for goods with the same VAT collection and refund rates, it is suggested to complete export before the end of transition period to enjoy higher refund rate;
- Accurate understanding of the principle for handling cross-period transactions to ensure the detailed problems are dealt with correctly.

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减税降负再放大招

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2018 年 4 月 25 日，国务院决定推出多项减税措施，支持创业创新和小微企业发展。具体内容如下：

- 2018 年 1 月 1 日至 2020 年 12 月 31 日，单位价值不超过 500 万元的仪器、设备，允许一次性计入当期成本费用在计算应纳税所得额时扣除。
- 2018 年 1 月 1 日至 2020 年 12 月 31 日，对年应纳税所得额在 100 万元以下（含 100 万元）的小微企业，减按 50 % 计入应纳税所得，并按 20 % 的税率缴纳企业所得税。将门槛由 50 万元放宽到 100 万元。
- 自 2018 年 1 月 1 日起，取消企业委托境外研发费用不得加计扣除限制。企业委托外部机构或个人开展研发活动发生的费用（包括境内和境外），加计扣除时按照研发活动发生费用的 80 % 作为加计扣除基数。
- 自 2018 年 1 月 1 日起，高新技术企业和科技型中小企业亏损结转年限由 5 年延长至 10 年。
- 自 2018 年 1 月 1 日起，一般企业的职工教育经费税前扣除限额，从 2.5 % 提高至 8 %。
- 自 2018 年 5 月 1 日起，纳税人设立的资金账簿按实收资本和资本公积合计金额征收的印花税减半（原税率为万分之五）。

采取以上措施，预计全年将为企业减轻税负 600 多亿元。

Extensive Tax Reduction Measures in China

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On April 25, 2018, the Chinese State Council decided to introduce several tax reduction measures to support entrepreneurship and innovation, and the development of small enterprises with thin profit ("small enterprises"). The details are as follows:

- From January 1, 2018 to December 31, 2020, new instrument and equipment with a unit price of up to CNY 5 million are permitted to be deducted in a one-off manner as costs and expenses in the current period rather than being depreciated over the years.
- From January 1, 2018 to December 31, 2020, small enterprises with the annual taxable income of less than CNY 1 million (including CNY 1 million) are taxed on 50 % of the taxable income at a reduced rate of 20 %. The threshold is adjusted from CNY 500,000 to CNY 1 million.
- From January 1, 2018, the restriction that the costs resulting from commissioning overseas R&D institutions to conduct R&D activities shall not be super deducted is cancelled. Costs for commissioning external agencies or individuals (including domestic and overseas) to conduct R&D can be calculated as 80 % into the super deduction basis.
- From January 1, 2018, the loss of High New Technology Enterprises ("HNTE") and small technology enterprises can be carried forward to 10 years instead of 5 years in previous regulation.
- From January 1, 2018, the staff education expenses of general enterprises which could be deducted before tax is increased from 2.5 % to 8 %.
- From May 1, 2018, the stamp tax is reduced from 0.05 % to 0.025 % of the sum of paid-in capital and capital reserves.

The above measures are expected to reduce the tax burden by more than CNY 60 billion for the whole year.

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中国社保改革

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更加严格的社保征收时代即将来临。目前，社保费用主要通过 1) “社保征收模式”与 2) “税务代征模式”征收，所以在社保征收方面力度往往不足。在这两种模式下，往往会出现“社保经办机构不掌握职工实际工资数据，却决定社保实际征缴额”与“税务部门通过征收个税掌握职工实际工资数据，却不能决定社保实际征缴额”的情况。而社保局和税务局的数据存放在两个系统，彼此之间信息不透明，税局要把社保信息和交个税的工资比对起来有困难。因此，在这两种模式中，许多企业借此可趁之机，就可以采取“不全员参保”或“不按实际工资数额参保”等降低人力资源成本的方法。

将来，税务征收社保不将是代收，而是税务局的本职工作，这一重大变革会让那些不给员工缴纳社保、不全额缴纳社保、虚假工资申报的企业致命一击。在“税务全责征收模式”下，计算与征收企业的税款和社会保险费都由税务局统一操作，信息完全对称，企业无法漏缴或欠缴社会保险费。

Social Security Reform in China

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The era of stricter social security is coming. Currently, the social securities are levied mainly under two modes: 1) “social security department collection mode” und 2) “tax authority collection mode on behalf of social security department”. Therefore the efforts on social security collection are always insufficient. Under these two modes, it can be often seen that the social security departments have no access to the actual salary information but determine the actual payment amount of social security. On the contrary, tax authorities have access to the salary information by levying Individual Income Tax (“IIT”) but cannot determine the actual payment amount of social securities. The data of social security bureau and tax bureau are stored in two systems which are not transparent to each other, so it is difficult for tax bureau to compare the social security amount with the salary income subject to IIT. These two modes result in that many enterprises take advantage of this opportunity to reduce the cost of human resources by not paying social security for all employees or not paying social security according to the actual salary.

In the future, the collection of social insurances will no longer be performed on behalf of social security department, but it will become the duty of the tax authorities. The enterprises which do not pay social security for employees, not declare full amount of social security or use the false salary information will be extremely vulnerable with this change. Under the “tax authority with full responsibility collection mode”, both calculation and collection of tax and social securi-

对于社保缴纳，有明确规定：

- 如果工资低于社保缴费基数，按照最低标准缴纳；
- 如果高于基数且不高于最高上限，则按照上年本人月平均工资确定；
- 如果高于最高上限，则按照最高上限缴纳。

但实际中，有不少公司的做法是，给员工实际发放工资 10000 元，却按最低工资基数 4279 元交的社保（以 2018 年上海社保缴费基数标准为例），这一做法不符合社保规定。待社保费由税务部门统一征收以后，工资社保能一一对应，企业必须按照实际工资的缴纳社保，因此对于那些不合规操作的企业而言，企业社保负担必将增大。

国家改革方案预计会在今年年底前落实，具体的地方执行规则变化，还需要进一步等待。毫无疑问，这一政策将对每一家企业以及每个个人都将产生深远的影响。未按照规定缴纳社保费的企业应及时进行改正，以免产生由于不合规带来的风险。

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ty will be operated by tax authorities. Because of the completely symmetric information, enterprise will have no way to underpay the social security.

For social insurance payment, it is clearly stipulated that:

- If salary is lower than the base amount of social insurance payment, the social security should be paid according to the lower limit;
- If salary is higher than the base but not higher than the upper limit, the social security should be paid according to the average monthly salary of the previous year;
- If salary is higher than the upper limit, the social security should be paid according to the upper limit.

But there are a number of enterprises that, for example, pay RMB 10,000 as actual salary to employee, but only pay the social security according to the base amount of RMB 4,279 (the social security payment base in Shanghai for year 2018) for the employee. This practice is not in accordance with the stipulations of the social security. After unified collection of social security by tax authorities, social security payment and salary income can be matched to each other. Therefore, it will bring huge burden of social security to the enterprises who are not compliant to the regulations.

The national reform program is expected to be implemented by the end of this year. Specific local implementation rules are still to be published. There is no doubt that this reform will have a profound impact on every enterprise and individual. Enterprises failing to pay social security in accordance with the regulations should correct the problem in a timely manner to avoid the risks due to non-compliance.

企业融资的税务考量

Vivian Yao, Rödl & Partner 中国上海

融资问题是在外商投资企业商业筹划中非常关注的问题。在企业出现融资需求时，通常需要综合考量利率、税负和外债额度等众多相关问题。当涉及到关联融资时，企业还需要额外考虑关联公司之间是否会产生资本弱化的问题。下面我们罗列一些目前在融资过程中企业需要重视的要点，以帮助企业优化其融资战略。

增值税

自 2016 年 5 月 1 日起，金融业被纳入营业税改征增值税试点范围，在考虑融资的税负问题时，也应将增值税纳入考虑。根据财税[2016]36 号文中的相关规定，企业购进的贷款服务，其进项税额不得从销项税额中抵扣。这也就意味着，企业所支付的利息费用在营改增之后需要缴纳 6 % 的增值税，但这部分的进项税金无法作进项税额抵扣。

此外，由于进项税无法抵扣而增加的融资成本会促使企业寻求其他融资方式来降低融资成本。例如，若企业通过贷款方式购买设备，其支付的 6 % 贷款利息增值税无法做进项抵扣。然而，若企业通过融资租赁直租的方式获取设备，则融资租赁费用的增值税可以作进项抵扣，其税率为 17 %。

利率制约和债资比制约

从中国税务角度，借贷受到利率的制约。利率制约是指判别利息水平是否合理。非金融企业向非金融企业借款的利息支出，不超过按照金融企业同期同类贷款利率计算的数额的部分，准予在企业所得税前扣除。

此外，关联融资还受到债资比的限制。债资比制约是

Tax Considerations on Financing of Enterprises

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Financing is one of the most important issues in the business planning of foreign-invested enterprises. When financing demand arises, it is necessary to take a wide range of related issues into account, such as interest rate, tax burden, foreign debt quota, etc. When it comes to the intragroup loans, enterprises should also consider the potential problem of thin capitalization. In the below article, we will list some current issues that need to be considered during the financing process for the purpose of the optimization of financing strategy.

Value-added tax ("VAT")

From 1 May 2016, all business tax taxpayers in the financial industry shall be included in the scope of the pilot scheme and subject to VAT instead of business tax. VAT should also be taken into account when considering the tax burden of financing. According to relevant VAT regulations in Cai Shui [2016] No. 36, the input tax of the purchased loan services shall not be allowed to be deducted from the output tax. This means that the interest expenses paid by enterprises are subject to 6 % VAT. However, this part of VAT is not creditable against the output tax.

In addition, the increase in financing costs due to the non-creditable input tax on interest expenses will prompt the enterprises to seek other financing methods to reduce their costs of using the funds. For example, if the enterprise buys equipment by means of loans, the 6 % VAT on interest expenses is not creditable against the output tax. However, if the enterprise obtains the equipment through direct financing leasing, the VAT on the leasing expenses is creditable against the output tax and the applied VAT rate is 17 %.

Restrictions on interest rate and debt equity ratio

From China tax perspectives, loans are subject to the restriction on interest rates. Interest rate restriction refers to the reasonableness of the interest rates. Interest expenditure incurred by an enterprise shall be deductible before tax, if the interest expenditure for borrowings made by a non-financial enterprise from a non-financial enterprise does not exceed the amount of interest expenditure calculated as per the same-period and same-type loan rate of the financial enterprises.

指判别关联借款总量的合理性。根据财税[2008]121号文的规定，在计算应纳税所得额时，企业实际支付给关联方的利息支出，不超过规定债资比例（金融企业 5:1，其他企业 2:1）的部分，准予扣除。由关联方担保而从第三方金融机构获得的贷款所支付的担保费也受上述关联债资比的限制。

随着中国的反避税调查调整体系的逐渐完整，在最新出台的特别纳税调查调整的办法（2017 年 6 号公告）中，明确扩大了特别纳税调查范围，将在关联借贷下资本弱化的企业纳入调查重点关注企业类型。此外，在现行的转让定价三层文档体系下，企业关联债资比例超过标准比例应当准备资本弱化特殊事项文档，来证明其关联融资安排符合独立交易原则，并说明非关联方是否能够并且愿意接受关联方之间的融资条件、融资金额及利率。准备特殊事项文档给企业带来了额外的合规负担。

外债额度

2016 年起，中国人民银行开始了对外资企业以及中国企业跨境融资管理的改革。银发[2017] 9 号文要求所有在试点地区注册的企业都将从 2017 年 5 月起实行新的跨境融资管理模式（“新模式”），对其他外资企业实行一年过渡期，在这一年中外资企业可以选择实行新模式，或者沿用旧法规。

根据旧法规，企业可将其可举借的境外借款保留在“借款余额”的配额范围内，即批准的外商投资总额与企业注册资本的差额。为计算企业未来跨境融资的可用额度，新模式要求企业先以风险加权方式来计算其实际尚未偿付的跨境融资余额（“加权余额”）。上述加权余额应控制在一个上限范围内，目前规定的上限为企业最新审计报告中披露的企业净资产的两

In addition, intragroup loans are subject to the restrictions on debt-equity ratio. The restriction of debt-equity ratio refers to the reasonableness of the total borrowing amount between related parties. According to Cai Shui [2008] No. 121 which regulates the pre-tax deduction of interest expenses of intragroup loans, in the assessment of the taxable income of an enterprise, interests actually paid by the enterprise to its related parties that do not exceed the stipulated debt-equity ratios (5:1 for financial enterprises and 2:1 for other enterprises) or ratios specified in relevant provisions of the tax law and the implementation regulations shall be allowed to be deducted. Guarantee fees paid to related parties for loans borrowed from third party financial institutions are also subject to the above mentioned restriction on debt equity ratio, if the loans are guaranteed by related parties.

With the gradual development of China's anti-tax avoidance investigation and adjustment system, the scope of special tax investigation is clearly expanded in the latest announcement relating to the administrative measures on special tax investigation and adjustment (Announcement [2017] No. 6). Tax authorities implementing special tax investigation shall especially focus on enterprises with thin capitalization issues in their intragroup loan arrangements. In addition, under the current three-tier approach for transfer pricing documentation, a special issue file for thin capitalization is required for enterprises whose debt-equity ratio exceeds the stipulated ratio in order to demonstrate that the intragroup loan arrangement conforms to the arm's length principle. It should be stated in the special issue file whether an independent enterprise is able and willing to accept the financing terms, amount and interest rate agreed between related parties. The preparation of the special issue file leads to additional compliance burdens for enterprises.

Foreign debt quota

Since 2016, the People's Bank of China has launched a reform process of the administration of cross-border financing, which is applicable not only to foreign invested enterprises ("FIEs") but also to Chinese enterprises. The regulation Yin Fa [2017] No. 9 requested all enterprises registered in the pilot regions to follow the new mode for cross-border financing management ("New Mode") from May 2017, while other FIEs outside those pilot regions were granted another one-year transition period, during which such FIEs may choose to apply the New Mode or old regulations.

According to the old regulations, the feasible amount of foreign debt was limited to the difference between the company's approved total investment amount and the registered capital ("Borrowing Gap"). Regarding the calculation of the amount of feasible foreign debt financing, the New Mode requires enterprises to first

倍。只要加权余额低于上限，企业可以在未经事先批准的情况下自行筹集境外借款，仅需完成合同备案。境外债权人可以是任何境外企业或金融机构，不必是国内债务人的关联方。

值得注意的是，各地在解释及执行这项政策过程中略有差异。我们后续将密切关注各地方主管机关的实际操作要求。

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税务稽查机制及企业应对

Vivian Yao, Rödl & Partner 中国上海

随着国务院落实减政放权，提高执法效率的决策部署，国家税务总局将原来大量审批的涉税项目变更为备案或直接申报方式，极大方便了纳税人。然而，放开事前管理并不意味着纳税人的责任减轻了，相反在某些情况下反而增加了企业的涉税风险。同时，税务局也加强了事后管理的力度，逐步完善税务稽查制度，以实现执法成本最小化和执法效能最大化。在此情形下，企业应及时了解税务稽查抽查和定向审查模式，并对于被稽查到的可能性做好充分准备，积极应对。

calculate their actual outstanding cross-border financing balance in a risk-weighted approach ("Weighted Balance"). Under the New Mode, the Weighted Balance shall be kept below an upper limit, which is currently stipulated to be twice the enterprises' net assets, according to the latest audit report. As long as the foreign financing stays under such upper limit, enterprises may take up foreign debts without pre-approval, only subject to registration. Moreover, foreign creditors do not have to be related parties of the domestic debtors, but can be any foreign enterprises or financial institutions.

It is noteworthy that there is certain discrepancy in the interpretation and implementation of this policy in different region. We will closely follow up the requirements of local authorities in practice.

Tax Inspection Mechanism and Enterprises Reaction

Vivian Yao, Rödl & Partner Shanghai, China

With the State Council to implement the reduced political decentralization, improving the efficiency of law enforcement, the State Administration of Taxation ("SAT") changes approval procedure to filing or direct reporting procedure for a large number of taxation issues, which greatly facilitate the taxpayers. However, the release does not mean that the taxpayer's prior management responsibility to be alleviated, on the contrary, in some cases actually increased the tax-related risks. At the same time, the SAT also strengthens the post-management efforts, and gradually promotes tax inspection system to achieve the minimization of enforcement costs and the maximization of the effectiveness of law enforcement. Under this circumstance, companies should keep the latest information for tax inspection mode, and fully prepared for the possibility of tax inspections and actively make quick

相关法规和背景介绍

在以往的税务稽查中，待查对象的选择夹杂人工因素，且选案和报批过程是在税务部门内部流转，这样确定的待查对象往往会有人质疑不太公平。2015 年，为深化行政体制改革，加快转变政府职能，进一步推进简政放权，国务院颁布《关于推广随机抽查规范事中事后监管的通知》（国发[2015]29 号），大力推广随机抽查。为推进税务稽查随机抽查，增强执法效能，国家税务总局特制定了《推进税务稽查随机抽查实施方案》（税总发[2015]104 号）。随着《方案》的发布，税务稽查对象的选取不再“任性”，而是采用随机抽查方式确定。

随机抽查机制

随机抽查的对象和内容分别为纳税人、扣缴义务人和其他涉税当事人履行纳税义务、扣缴税款义务情况及其他税法遵从情况。所有待查对象，除线索明显涉嫌偷逃骗抗税和虚开发票等税收违法行为直接立案查处的外，均须通过摇号等方式，从税务稽查对象分类名录库和税务稽查异常对象名录库中随机抽取。

随机抽查分为定向抽查和不定向抽查。定向抽查是根据经营规模、税收风险等级等设定抽查条件，不定向抽查是指不设定条件，然后通过摇号等方式，随机抽取确定待查对象名单。对随机抽查对象，税务稽查部门可以直接检查，也可以要求其先行自查，再实施重点检查，或自查与重点检查同时进行。

对重点税源企业，采取定向与不定向抽查相结合的方式，每年抽查比例 20 % 左右，原则上每 5 年检查一轮。对非重点税源企业，采取以定向抽查为主、辅以不定向抽查的方式，每年抽查比例不超过 3 %。对非企业纳税人，主要采取不定向抽查方式，每年抽查比例不超过 1 %。3 年内已被随机抽查的税务稽查对象，不列入随机抽查范围。

response.

Relevant regulations and background

In the past tax inspections, the selection of objects to be inspected was mixed with artificial factors, and the selection and approval process was circulated internally in the tax department, under which the determined objects are questioned to be not fair. In 2015, to deepen the reform of administrative system, speed up the transformation of government functions, and further reduce the political decentralization, the State Council issued the Notice on Promoting Random Inspection to Regulate In-process and Ex Post Supervision (Guo Fa [2015] No.29) to vigorously promote the random inspection. In order to promote the random check of tax inspection and enhance the effectiveness of law enforcement, the SAT formulated the Implementing Proposal for Promoting Random Check of Tax Inspection (Shui Zong Fa [2015] No. 104). With the release of the Implementing Proposal, the selection of tax inspection objects is no longer “willful”, but it is determined by random check.

Random Check Mechanism

The objects and contents of the random check are fulfillment of obligation of tax payment and withholding and other tax compliance, by taxpayers, withholding agents and other tax-related parties. All objects to be inspected must be chosen at random through a lottery from the list of tax inspection objects classification and list of abnormal tax inspection objects, unless those whose clues are apparently suspected of evading tax and falsely making out invoice tax and other taxation offences are directly filed for investigation.

Random check is divided into directional and non-directional inspection. Directional inspection is selected according to conditions like operational scale, tax risk level etc. and non-directional is selected without conditions, and then the objects to be inspected are chosen at random through a lottery. For random check objects, the tax inspection department can directly inspect them or ask them to perform self-check firstly and then carry out the inspection on key issues, or self-check and the inspection on key issues are carried out simultaneously.

Directional random in combination with non-directional inspection shall be adopted for key tax source enterprises. The proportion of random check is about 20 % each year, and the check in principle shall be conducted every five years. For non-key tax source enterprises, the directional inspection is taken as main method and the non-directional inspection as assistance method, which proportion does not exceed about 3 % each year. For non-enterprise taxpayers, non-directional inspection is adopted as main method, which proportion does not exceed 1 % each year. The tax inspection object that has been randomly selected

税务稽查定向重点

随机定向抽查可能重点包括：

- 重点税源企业；
- 新增加优惠项目的企业以及连续享受优惠项目的企业；
- 优惠侵蚀了大部分税基的企业（如会计利润巨大却纳税很少）；
- 风险较大的项目（如享受高新技术优惠的企业、发生大量研发项目的企业）；
- 关联交易金额巨大，模式复杂，利润水平异常的企业；
- 增值税税负、企业所得税税负低于行业平均水平的企业等。

税务稽查可能涉及的项目

涉税项目是税务稽查重点，包括：

- 税收优惠享受是否符合条件；
- 企业关联交易定价政策是否公允；
- 企业日常业务中的常见税务风险点（包括流转税、所得税和小税种在内的所有涉税点）；
- 特殊事宜的税务处理（如特殊税务重组申请、税收协定优惠待遇申请、搬迁并购涉税处理等）；
- 企业亏损弥补（包括境内和境外所得税抵免操作）等。

企业应对

企业首先应及时关注政策变化，定期积极开展自查，对每个涉税的经营项目逐个检查是否合规，如发现问题，应当及时予以纠正，以避免造成不必要的风险负担。其次，企业应规范财务会计处理，对于特殊的税务问题，应及时与税务机关沟通，确保税务处理上的正确性。此外，企业应认真整理涉税资料和相关内部资料，以应对税务机关检查。

within 3 years is not included in the random check scope.

Key objects of tax inspection

Key objects of tax inspection random check may include:

- Key tax source enterprises;
- Enterprises with newly added or continuously enjoying preferential projects;
- Enterprises which most preferential treatment eroding the most of tax base (e.g. with huge accounting profits but very little tax payment);
- Projects with large risks (e.g. high and new technology enterprises, enterprises with a large number of research and development projects);
- Enterprises with related party transactions in huge amount and complex model and with abnormal profit level;
- Enterprises which VAT or CIT burden is lower than the industry average etc.

Possible items involved in the tax inspection

Tax related items are the focus of tax inspection including:

- Whether the tax benefits are eligible;
- Whether the pricing policy of related party transaction is according to arm's length principle;
- Common tax risk items in the daily business (all tax items including turnover tax, income tax and small tax);
- Tax treatment of special matters (e.g. special tax restructuring application, tax benefits application according to double tax treaty, tax treatment of relocation and acquisition, etc.);
- Enterprise loss compensation (including domestic and overseas income tax credit operation) etc.

Enterprises Reaction

Firstly, enterprises should pay attention to the changes of regulation in time and actively carry out self-check on a regular basis, to one by one check whether each tax-related items are in compliance with the laws. Mistakes should be corrected in time if found to avoid the risk of unnecessary tax burden. Secondly, enterprises should regulate financial accounting treatment

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and communicate with tax authorities timely to ensure the correctness of tax treatment. Furthermore, enterprises should carefully prepare and keep tax information and relevant internal documents to deal with the tax inspection.

最近出台的重要法规回顾

国税总局取消企业资产损失报送资料

近日国税总局发布公告，明确取消企业资产损失报送资料，该规定适用于 2017 年度及以后年度企业所得税汇算清缴。企业向税务机关申报扣除资产损失，仅需填报企业所得税年度纳税申报表中的“资产损失税前扣除及纳税调整明细表”，无需再报送资产损失相关资料，相关资料由企业留存备查。

四部门明确集成电路生产企业有关企业所得税政策

2018 年 1 月 1 日后投资新设的集成电路线宽小于 130 纳米，且经营期在 10 年以上的集成电路生产企业或项目，第一年至第二年免征企业所得税，第三年至第五年按照 25 % 的法定税率减半征收企业所得税。

2018 年 1 月 1 日后投资新设的集成电路线宽小于 65 纳米或投资额超过 150 亿元，且经营期在 15 年以上的集成电路生产企业或项目，第一年至第五年免征企业所得税，第六年至第十年按照 25 % 的法定税率减半征收企业所得税。

Recent Important Regulation Highlight

SAT Cancels the Submission of Supporting Materials on Enterprises' Asset Losses

The SAT has recently released an announcement to cancel the request of submission of supporting materials for enterprises' asset losses, which is applicable to the annual CIT return from the year 2017 and thereafter. To declare the deduction of asset losses, an enterprise only needs to fill out and submit the "Breakdown Sheet for Pre-tax Deduction of Asset Losses and Tax Adjustment" in the Annual CIT Return Forms, and does not have to submit detailed supporting materials. Relevant supporting documents should be kept by enterprises themselves for future reference.

Four Authorities Clarify CIT Policies for Integrated Circuit Manufacturers

For an integrated circuit manufacturer or a project that is invested and newly established after January 1, 2018 to manufacture integrated circuits with a linewidth of less than 130 nanometers, with the operation period of more than 10 years, it will be exempt from CIT in the first two years and will be subject to CIT levied at half of the 25 percent statutory tax rate from the third to the fifth year.

For an integrated circuit manufacturer or a project that is invested and newly established after January 1, 2018 to manufacture integrated circuits with a linewidth of less than 65 nanometers, or with the investment more than 15 billion RMB, and with the operation period of

中国将相当幅度降低汽车进口关税

自 2018 年 7 月 1 日起，降低汽车整车及零部件进口关税。将 25 % 和 20 % 的汽车整车税率降至 15 %，将 8 %、10 %、15 %、20 %、25 % 的汽车零部件税率降至 6 %。

more than 15 years, it will be exempt from CIT in the first five years and will be subject to CIT levied at half of the 25 percent statutory tax rate from the sixth year to the tenth year.

China will Considerably Reduce Customs Tariffs on Car Imports

Starting from July 1, 2018, the import customs tariffs on finished automobiles and auto parts will be reduced. The tariff rate for finished automobiles will be reduced from 25 % and 20 % to 15 % and the tariff rate for auto parts will be reduced from 8 %, 10 %, 15 %, 20 %, 25 % to 6 %.

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Broadening horizons

"We must be continuously on alert for new developments to be able to master challenges in the best possible way. With curiosity and an innovative approach, we are creating forward-looking solutions."

Rödl & Partner

"The building of human towers requires each team member to again and again attempt something new. In this way, we are able to rise above the challenge together."

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Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today. „Força, Equilibri, Valor i Seny“ (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

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