

China Insight – Chinese Tax Regulation Update



Circular Number	Issuance Date	Effective Date	Topic	What is new?
General Administration of Customs ("GAC") Announcement [2024] No. 168	2024-11-26	2024-12-01	Measures for tax assessment of smuggled goods	<p>To enhance the fairness and accuracy of taxation in cases of suspected smuggling, the GAC has issued the Announcement. Prohibited goods such as drugs, weapons, counterfeit cash and the goods restricted from import such as hazardous wastes are not governed by this Announcement, as the punishments of smuggling these goods are not measured by the tax evasion amounts. Key attention needs to be paid to the following items:</p> <ul style="list-style-type: none"> • Customs-issued tax assessment conclusions can serve as the basis in smuggling cases for administrative penalties and as the evidence for criminal charges once reviewed by investigative and judicial bodies. • Dutiable value of smuggled goods is primarily determined based on the transaction price of the smuggled goods. If the transaction price is unavailable, alternative valuation methods under the normal customs valuation measures shall apply. In particular, in case price-minus method is adopted, the basis of the price from which the costs and profits are deducted shall be the domestic wholesale price recognized by the qualified institutions and the post-import profits and expenses for deduction shall be 20% of the dutiable values. • Similar to the normal treatment of sale of bonded goods within the supervision period, in case smuggling is involved in sales of bonded goods, the dutiable value shall be the original import price portioned by the remaining time

				<p>for supervision accounting for the total supervision period.</p> <ul style="list-style-type: none"> The applicable HS code classification, tariff rates and exchange rates at the date when the smuggling act occurred shall apply in calculating the evaded tax. If the date when the smuggling act occurred cannot be determined, those elements of the date of discovery shall apply.
Announcement [2024] No. 21 jointly issued by the Ministry of Finance and the State Administration of Taxation ("SAT")	2024-12-12	2024-01-01	Nationwide roll-out of the Individual Income Tax ("IIT") policy of individual pension contributions	<p>The IIT deferral policy of individual pension contributions will be implemented nationwide from 1 January 2024. This policy has been implemented in pilot areas such as Shanghai, Fujian, Suzhou Industrial Park, etc. since 1 January 2022 before the nationwide implementation.</p> <p>This deferral policy refers to an incentive policy under which (1) individual contributions to personal pension accounts are eligible for pre-IIT deduction up to an annual limit of RMB 12,000; (2) investment returns within the account are exempt from IIT; and (3) upon withdrawal, the withdrawn pensions, treated as "salaries and wages" for IIT purposes, are separate from comprehensive income and subject to a flat IIT rate of 3%.</p> <p>The pre-IIT deductions shall be claimed against the certificates issued by the Individual Pension Information Management Service Platform. For withdrawals, the commercial bank holding the pension account shall act as the IIT withholding agent.</p>
SAT Announcement [2024] No. 13	2024-12-16	2025-01-01	<p>Effectiveness of the double taxation treaties ("DTTs") between China and Argentina and Gabon</p> <p>Effectiveness of the protocol of amendment to the Sino-Austria DTT and its protocol</p> <p>Application of Multilateral Instruments to more DTTs</p>	<p>According to the Announcement, the scope of application of the Multilateral Convention to Implement Tax Treaty-related Measures to Prevent Base Erosion and Profit Shifting ("MLI") has been expanded to cover the following DTTs as of 30 November 2024:</p> <ul style="list-style-type: none"> Sino-Mongolian DTT Sino-Papua New Guinean DTT Sino-Vietnamese DTT Sino-Armenian DTT Sino-Tunisian DTT Sino-Azerbaijani DTT <p>In addition, the Sino-Argentine DTT, Sino-Gabonese DTT and the protocol of amendment to the Sino-Austrian DTT and its protocol have entered into force</p>

				<p>and will apply to the incomes received on and after 1 January 2025.</p> <p>The main provisions of the Sino-Argentine DTT are summarized as below:</p> <ul style="list-style-type: none"> • It is clarified that incomes that are derived by or through tax transparent entities or arrangements of one contracting state and are treated as the incomes of the tax residents of that state are eligible for the treaty benefits offered by the other contracting state. • The time threshold of construction permanent establishments ("PEs") is set as 6 months and of normal service PEs is set as 183 days during any consecutive 12-month period. • In the case of inbound investment from the standpoint of China, no more preferential dividend Withholding Tax ("WHT") will be given (i.e., the WHT rate of 10% stipulated in the PRC domestic law will apply), unless the beneficial owner of the dividend income is an institution owned or controlled by Argentine government so that the reduced dividend WHT rate of 5% will apply. From the standpoint of Argentina, apart from the same treatment given to the institutions owned or controlled by the Chinese government, the upper limit of dividend withholding tax rate is set at 10% in the event that the beneficial owner of the dividend income is a company directly holding at least 25% capital of the dividend payer for 365 consecutive days, otherwise 15% applies. • Except for the tax-exempted interest incomes derived from the commercial credit rights, preferential loans granted by the banking enterprises and the interests paid to certain government-sponsored loans, in the case of inbound investment from the standpoint of China, no more preferential interest WHT will be given (i.e., the WHT rate of 10% stipulated in the PRC domestic law will apply) and in the case of inbound investment from the standpoint of Argentina, the upper limit of interest withholding tax rate is set at 12% in the event that the beneficial owner of the interest income is a PRC tax resident. • Royalties derived from one contracting state and paid to the tax resident of the other contracting state are taxable in the former state with capped rates as long as the beneficial owner of the royalty income is a tax resident of the other contracting state:
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				<ul style="list-style-type: none"> • Royalties derived from one contracting state and paid to the tax resident of the other contracting state are taxable in the former state with capped rates as long as the beneficial owner of the royalty income is a tax resident of the other contracting state: <ul style="list-style-type: none"> ○ 7.5% for royalties related to copyrights, patents, trademarks, or industrial, commercial, or scientific knowledge; ○ 5% for royalties relating to research, technical, financial, accounting or tax-related support. • Capital gains derived by a tax resident of one contracting state from the transfer of shares can be taxed in the other contracting state if over 50% of the value of the transferred shares comes directly or indirectly from the immovable properties in the other state. <p>Compared with the old statements of the Sino-Austrian DTT and its protocol, the protocol of amendment mainly brought the following changes:</p> <ul style="list-style-type: none"> • It is clarified that incomes that are derived by or through tax transparent entities or arrangements of one contracting state and are treated as the incomes of the tax residents of that state are eligible for the treaty benefits offered by the other contracting state. • The time threshold of construction PEs is extended from 6 months to 12 months. • The cap of dividend withholding tax rate is reduced from the original 7% to 5% if the beneficial owner directly holds at least 25% shares with voting rights of the company paying the dividends or is a government entity, central bank or wholly government-owned entity of the other contracting state. • The protocol expands the scope of situations where interest incomes are exempt from withholding taxes. In particular, the interests paid to government entities, central banks or wholly government-owned or authorized entities of the other contracting state is exempt from withholding taxes. In addition, it is clarified that the interests arising from the debts due to sales-on-credit of any equipment, commodities or services shall be taxed only in the state of which the interest recipient is a tax resident.
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