



To keep pace with the latest Value-Added Tax reform, the Chinese government made amendments to the Provisional Regulations of Business Tax (“BT”) on 14 November 2008 and revised its Detailed Implementation Rules on 15 December 2008.

Key Changes

Highlights of the key changes are summarized as follows:

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We’re passionate about tax. We collaborate and share knowledge, capitalising on our collective expertise to provide our clients with high quality, tailored advice that helps relieve the pressures associated with making complex tax decisions.

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- Changes on BT liability scope

The most significant change on BT is where levying principle from where the service is performed to where the entity or individual is established or domiciled. Previously, only services performed within the territory of China were subject to BT. The new Detailed Implementation Rules of BT defines that entities and individuals located within the PRC who are providing or receiving the BT taxable services are subject to the BT. Relevant changes are summarized as below:

Scenario	Service Provider	Service Recipient	Place Where Services Rendered	New Principle	Old Principle
A	In China	In China	Outside China	BT-taxable	No
B	In China	Outside China	Outside China	BT-taxable	No
C	Outside China	In China	Outside China	BT-taxable	No
D	Outside China	Outside China	In China	No	BT-taxable

Another change is that the new BT rules eliminate the rule of levying BT on the net interest income for sub-lending business. In previous BT practice, for foreign currency sub-lending business, the interest paid to the upper-stream lender can be deducted from the total interest income generated from the sub-lending business. Under the new Provisional Regulation of BT, the foreign currency sub-lending should be calculated on the total interest income without any deduction.

In addition, insurance service for exported goods by an insurance company within the territory of China was exempted from BT.

- Revisions on administration

- The liability to pay BT arises when the business proceeds are received or when the supporting documents to claim it is obtained.
- The location for BT payment should be the place where the business establishment is located or resident.
- Taxpayer can file BT on a quarterly basis and the filing deadline is extended from 10th to 15th.

- Others

- Empower the tax authorities to make tax adjustments: If the transaction price of service,

intangible assets transition and estate sales is obviously low and without proper justification, the tax authorities have the right to access the turnover as the tax basis and they can refer to the average price for a similar transaction of other taxpayers in recent period.

- Remove the detailed description of taxable items from the table of tax scope and rate attached to the Provisional Rules of BT.

Comments

The new BT rules provide an easing in BT compliance burden as that BT on services should be reportable and payable at where the taxpayer is located. However, the most radical change is that services where either the provider or the recipient of the service is in mainland China should be subject to BT. This literal application of the new BT rules will result in a Chinese service provider being subject to BT on all services income regardless of where the services are performed, as well as a foreign service provider being subject to BT on services income sourced in China. Taxpayers should review their business model and BT filing practice in regarding the implications of the new BT rules.

Should you need any assistance on the relevant tax advisory or planning, Hendersen will be glad to help.

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