

CLIENT ALERT

China Tax Policies to Address the COVID-19 Pandemic

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On November 2, 2020, the Chinese State Taxation Administration (STA) revealed that, for the first three quarters of 2020, government receipt of taxes and fees were reduced by RMB 1.366 trillion as a result of government policies to support prevention and control efforts of the COVID-19 pandemic and to promote economic and social development. This is not an insignificant number as the national tax receipt for the same period was less than RMB 12 trillion.

These government policies have wide-ranging effects, and multinational companies should review their China operations to take advantage of any pandemic-related policies as announced by the government and to ensure that any temporary cross-border work arrangements to accommodate employees' personal needs are not incurring unnecessary tax or employment risks for the company. Such arrangements may be put in place because, for example, expat employees are restricted from traveling to the country where they normally work during the pandemic or request to be closer to their families during this period. As a result, employees may be "working from home" in a country that is not where their employment relationship has been established. Such temporary cross border work arrangements with employees during the pandemic should be carefully considered from employment and tax perspectives.

Specifically, the policies that have been announced by China to address the COVID-19 pandemic include the following:

Tax Issues Arising out of the Employment Context

The policies implemented by the Chinese government since the beginning of the pandemic have significantly impacted multinational employers with personnel in China. For example, the temporary change to work from home during the pandemic period calls into question whether such home offices within China can be deemed as "permanent establishment" in bilateral tax treaties as "a fixed place of business where the enterprise conducts all or part of its business."

The Chinese tax authority's position is that, if the change to work from home during the pandemic is intermittent or sporadic, then such temporary home office does not constitute a permanent establishment in tax treaties as "a fixed place of business where the enterprise conducts all or part of its business."

Additionally, the China tax authority has explained that, with the change to work from home during the pandemic, if contracts are signed in China on behalf of the overseas employer in such temporary home offices, the activity is generally considered sporadic and does not satisfy the requirement of permanence and thus does not constitute agency permanent establishment.

In addition to the above tax policies to address the COVID-19 pandemic, the Chinese government has also been providing other incentives to companies at the national and local levels, such as social insurance contribution exemptions or reductions and government-sponsored subsidies, to encourage companies to stabilize their workforce in China.

Below are additional examples of major policy initiatives that the Chinese government has undertaken in response to the COVID-19 pandemic.

Reduction in Value-Added Tax (VAT)

1. Incremental VAT credit balance for enterprises manufacturing protective supplies crucial for pandemic prevention and control may be fully refunded.
2. Income from transportation of protective supplies crucial for pandemic prevention and control is exempt from VAT.
3. Income from public transportation services, daily services and express courier services for daily necessities is exempt from VAT.
 - Public transportation services include ferries, public bus, subway, urban light rail, rental cars, long-distance passenger bus, shuttle bus. Specifically, shuttle bus means passenger land transportation services operating with set routes, times and stops.
 - Daily services mean various service activities to satisfy daily needs of urban and rural residents, including cultural and sports services, educational and medical services, travel and entertainment services, restaurant and hospitality services, residential daily services and other daily services.
 - Courier services mean acceptance of entrustment of letters and parcels from senders to complete the receipt, sorting, dispatch service activities within the promised time limit.
4. Donation of goods to counter the pandemic is exempt from VAT, Consumption Tax, Urban Maintenance and Construction Tax, Education Surcharge, Local Education Surcharge.
5. Film screening services are exempt from VAT.
6. Export VAT refund rate of certain products has been increased.
7. Tiered reduction and exemption of VAT are available for small-scale taxpayers.

Reduction in Enterprise Income Tax (EIT)

1. A one-time pre-tax deduction of EIT is permitted to allow manufacturing enterprises to purchase equipment for the purpose of expanding production capabilities to manufacture key protective supplies to prevent and control the pandemic.
2. Pre-tax deduction of EIT is permitted for the full amount of cash and in-kind donations to charitable organizations or county level and above government departments and state agencies.
3. Pre-tax deduction of EIT is permitted for the full value of donations of goods to hospitals directly undertaking the responsibility of preventing and controlling the pandemic.
4. Enterprises in difficult industries heavily impacted by the pandemic may carry forward losses incurred in 2020 for up to 8 years.

Reduction in Individual Income Tax (IIT)

1. Subsidy and bonus for temporary work to prevent and control the pandemic in accordance with government standards are exempt from IIT.

2. Medicine and protective supplies for the prevention of COVID-19 provided by enterprises to individuals are exempt from IIT.
3. Pre-tax deduction of IIT is permitted for the full amount of cash and in-kind donations to charitable organizations or county level and above government departments and state agencies.
4. Pre-tax deduction of IIT is permitted for the full value of donations of goods to hospitals directly undertaking the responsibility of preventing and controlling the pandemic.

Other Taxes

1. Supplies directly used to prevent and control the pandemic imported by health authorities are exempt from tax. The scope of imported supplies exempt from tax has also been expanded. The expanded imported supplies include reagents, disinfectants, protective equipment, ambulances, pandemic prevention vehicles, disinfectant vehicles, emergency command vehicles.
2. Land use tax for bulk commodity storage facilities of logistics enterprises has been reduced in half.

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