

Circular Number	Issuance Date	Effective Date	Topic	What is new?
SAT Draft Regulation	2014-7-3	n.a.	SAT seeks public opinion on the draft <i>Administrative Measures on General Anti-tax-avoidance</i>	On 3 July 2014, the State Administration of Taxation ("SAT") publicized its draft <i>Administrative Measures on General Anti-tax-avoidance</i> ("the Measures") and seeks public opinion. According to Article 47 of the <i>PRC Corporate Income Tax Law</i> ("the <i>PRC CIT Law</i>"), in case a tax reduction arrangement of an enterprise lacks proper business purpose, the competent tax authority is entitled to make an adjustment based on reasonable methods. Such stipulation is normally referred to as the "general anti-avoidance rule". Since the enactment of the <i>PRC CIT Law</i> on 1 January 2008, various regulations have been issued by the SAT to address specific topics under the general anti-avoidance rule. E.g. an indirect transfer of shares in a Chinese company may be regarded and taxed as an actual transfer of the shares in the Chinese company, if the off-shore intermediary holding structure lacks business substance. Similarly, a foreign company holding equity investment in China may be denied from enjoying the relevant low tax treaty rate for dividends, if such foreign company lacks business substance and, therefore, does not qualify as the beneficiary owner of the dividends. The SAT now plans to issue the <i>Measures</i> to cover similar cases in a more general way. The draft <i>Measures</i> cover various topics which include the following: • Applicable scope of the <i>Measures</i> (domestic transactions are excluded). • Features of general anti-avoidance cases; • Adjustment methods; • Procedural requirements of general anti-avoidance investigations (SAT approval is required to launch and close a general anti-avoidance case). The draft <i>Measures</i> show the SAT's intention to fight against tax planning (in particular for cross-border transactions) which is in line with the tax law but lacks proper business reasons. Taxpayers as well as tax advisors shall pay close attention to the regulation development in this respect. It is essential that a tax planning arrangement is supported by justifiable business rationale. On the other hand, it also remains to be seen whether PRC tax authorities may in the future abuse their rights to deny proper tax saving arrangements.
SAT Announcement [2014] No. 36 Caishui [2014] No. 57	2014-06-27 2014-6-13	2014-07-01 2014-07-01	Simplified VAT rates	Under the PRC VAT regulations, certain transactions are subject to VAT at flat tax rates without the application of the input-output credit mechanism. E.g. sales of self-used machines (where no input VAT was claimed) were subject to VAT at 4% (and the calculated VAT could be reduced by 50%). Some other transactions were subject to VAT at flat tax rates of 6% or 4%. Starting from 1 July 2014, the 4% and 6% flat VAT collection rates (without the application of the input-out credit mechanism) have been unified to 3%. In particular, for sales of self-used machines (where no input VAT was claimed), VAT shall be calculated at 3% but paid at 2%. I.e. VAT payable = sales price (VAT inclusive) / (1+3%) x 2%. In the past, VAT = sales price (VAT inclusive) / (1+4%) x 4% x 50%.
SAT Letter [2014] No. 239	2014-06-04	2014-06-04	SAT urges local tax authorities to facilitate export VAT refund process in order to encourage exportation	In the face of China's slowed-down economy, SAT issued a letter to local tax authorities urging them to facilitate export VAT refund processes in order to encourage exportation. E.g. it was emphasised in the letter that no export VAT refund application shall be delayed due to the Government's budget reasons.
SAT Announcement [2014] No. 37	2014-06-30	2014-08-01	<i>Administrative Measures on Non-Tax-Resident International Transportation Companies</i>	The <i>Measures</i> provide procedural guidance on the corporate income tax ("CIT") issues of non-tax-resident enterprises ("non-TRE") deriving international transportation income from China. The Measures request such enterprises to be registered with the PRC tax authority of one of the ports they use. PRC CIT shall then be centrally declared by the enterprise with such tax authority. Otherwise, without a tax registration, normally the payer of the freight shall act as the tax withholding agent. Foreign transportation companies (e.g. airline companies, shipping companies) shall pay close attention to the <i>Measures</i> in order to (1) comply with PRC tax law; (2) apply for treaty protection; and (3) handle PRC tax issues in a more efficient and smooth way.