

## Chapter 10

### Tax Administration and Collection

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## TAX REGISTRATION

### ¶10-0100 Taxpayers engaging in production or business operations

Taxpayers engaging in production or business operations shall submit an application for tax registration to the local tax authorities within 30 days from obtaining a business license, or within 30 days from the commencement of their tax payment obligations (*Regulations on Implementation of Administration of Tax Collection*) (RIATC, Art 12). Tax authorities shall, on the date of receipt of the application, complete the registration and issue a tax registration certificate (ALLCT, Art 15).

In practice, the *Tax Service Norms for Tax Authorities Nationwide (Version 3.0)* eased the requirements on deadline and documents of tax registration. Taxpayers can take the tax registration till handling tax-related matters for the first time. In addition, the duplicating documents submission is replaced as confirmation (supplement or revise, if any) of the registration information through e-tax bureau or tax service halls. The relevant information is shared by the department of administration for market regulation and other external systems. After completion of the tax registration, the business license can be used instead of the tax registration certificate, and the tax registration certificate for enterprises shall no longer be issued.

Tax registration shall be completed at the place of production or business operations, or at the place where the taxpayer has tax payment obligations. If a taxpayer relocates to a new location which is under the jurisdiction of another tax authority, it shall complete deregistration formalities with the original tax authorities before applying for tax registration with the relevant tax authorities at the new location. Under certain circumstances, taxpayers can apply for amendments to tax registration for the purpose of relocation and changing the competent tax authorities (see ¶10-0120).

If a taxpayer temporarily undertakes production or business operations in another province (including provinces, autonomous regions, municipalities and cities specifically designated in the State plan), it shall fill in the Report Form for Cross-regional Tax-related Matters with the tax authorities at the place of organization (*Bulletin of the State Taxation Administration on Clarifying Matters Concerning the Management of Report and Inspection for Cross-regional Tax-related Issues*) (Bulletin of STA (2018) No. 38, Art 1). Then it shall report the cross-regional tax-related matters to and be inspected by the tax authority at the place of operation when first carries out tax-related matters at the place of operation (Bulletin of STA (2018) No. 38, Art 4).

The period of validity for above reporting and inspection is limited to the performance period for a cross-regional operation contract. If the contract is deferred, the taxpayer concerned may complete the formalities for the extension of the period of validity with the tax authority at the place of the operation or organization (Bulletin of STA (2018) No. 38, Art 2).

When the cross-regional business activities are completed, the tax payable and other tax-related matters at the place of operation shall be settled and the Feedback Form for Tax-related Matters at the Place of Operation shall be submitted to the tax authority at the place of operation. The taxpayer concerned will not be required to give feedback to the tax authority at the place of the organization separately (Bulletin of STA (2018) No. 38, Art 5).

*Bulletin of the State Taxation Administration* (2011) No. 21 stipulated that the taxpayer who should obtain the business license but fail to do so, or who do not need to obtain business license and should get approvals from relevant authorities but fail to obtain such approval shall apply for registration with the tax authorities at the place of operation within 30 days from the date on which the tax liability arises.

According to *the Tax Service Norms for Tax Authorities Nationwide (Version 3.0)*, the taxpayer who fail to or do not need to obtain business license, shall submit the Report Form for Basic Information of Taxpayers (Withholding Agents) and the ID card of legal representative (the person in charge or proprietor) to complete the formality for "Identity Information of Taxpayer (Withholding Agent)" which is equivalent to tax registration. When it

is necessary, the tax registration certificate, temporary tax registration certificate or tax withholding registration certificate will be issued.

The abovementioned registration requirements apply to enterprises, enterprise branches located in other provinces or municipalities, industrial and commercial sole proprietors and institutions engaging in production or business operations (ALLCT, Art 15). Tax registration for individual taxpayers is subject to different provisions (see ¶10-0140).

According to the circular (*Guiding Opinions of the General Office of the State Council on Accelerating the Registration Reform of Consolidating Multiple Certificates into One Certificate*) (Guobanfa (2017) No. 41), on the basis of the former registration reform of consolidating five certificates of companies or specialized farmer cooperatives into one certificate, including the business license, organization code certificate, tax registration certificate, social insurance registration certificate, and statistical registration certificate (“Five in One and One Code for One License”), and consolidating the business license and the tax registration certificate of industrial and commercial sole proprietors into one license (“Two into One”), other certificates and licenses related to registration and record-filing of enterprises (including industrial and commercial sole proprietors and specialized farmer cooperatives) shall be further consolidated into one business license (“Multiple in One and One Code for One License”). The certificates and licenses that have been consolidated shall no longer be issued.

## ¶10-0110 Withholding agents

A tax withholding agent is required to submit an application for tax withholding registration to the relevant tax authorities within 30 days from the commencement of withholding obligations (RIATC, Art 13). The withholding agent shall fill in the Report Form of Basic Information for Taxpayers (Tax Withholding Agents) with the tax authorities of the organization to complete the procedure of tax registration.

## ¶10-0120 Amendments to tax registration

Where there are changes to tax registration details (e.g. change of address, registered capital or scope of business), the taxpayer shall apply to update the registration of the relevant amendments with the tax authorities. This shall be done within 30 days of the changes being made or, if the changes are required to be registered with the department of administration for market regulation, within 30 days of such registration (RIATC, Art 14, *The Tax Service Norms for Tax Authorities Nationwide (Version 3.0)*).

If a taxpayer relocates to a new residence or business premise which is under the jurisdiction of another tax authority, the taxpayer shall deregister

its original tax registration and apply for tax registration with the tax authorities at the new location within 30 days (RIATC, Art 15). With the continuous improvement on the tax and business environment, when relocating to another municipal or district in the same province, taxpayers can apply to change the registration of the residence or business premise with the tax authority, and do not need to deregister its original tax registration (*Several Opinions of the State Taxation Administration on Further Deepening "Decentralization-Control-Service" Reform in Taxation System and Optimizing Tax Environment*) (shuizongfa (2017) No. 101, Art 2). Further, the above regulation is applicable to the relocation of enterprises across provinces within the regional of the Yangtze River Delta ("YRD"). Where an enterprise whose tax credit rating is Grade A or B relocates to a new residence or business premise across provinces within the YRD region, the taxation authorities concerned may handle the application for changing the registration of the residence or business premise for the enterprise meeting the relevant conditions (*Notice of the State Taxation Administration on Measures for Supporting and Serving the Integrated Development of the Yangtze River Delta Region*) (Shui Zong Han (2019) No. 356).

## ¶10-0130 Cancellation of registration

Under certain circumstances, a taxpayer shall be required to complete deregistration with the tax authorities. If deregistration is required, the taxpayer shall first settle all taxes in arrears, overdue tax surcharge and other outstanding penalties with the tax authorities. Upon deregistration, the taxpayer shall hand over the invoices, tax registration certificate, if any and any other tax documents. (RIATC, Art 16)

### Termination of tax payment obligations

A taxpayer's obligation to pay tax will cease upon its dissolution, bankruptcy, revocation or other circumstances in which the taxpayer ceases to operate or exist. If this occurs, the taxpayer shall submit the relevant certificate to the tax authorities for deregistration.

This shall be done before the taxpayer's registration with the department of administration for market regulation or any other department is cancelled. If such cancellation of registration is not applicable, the deregistration shall be completed within 15 days from the date of approval or announcement of the termination (RIATC, Art 15).

### Relocation and change of tax authorities

If a taxpayer relocates to a new residence or business premises which is under the jurisdiction of another tax authority, the taxpayer shall deregister

its original tax registration and apply for tax registration with the tax authorities at the new location (RIATC, Art 15).

The cancellation of registration shall be done prior to the relocation or the cancellation or amendment of registration with the department of administration for market regulation and the new tax registration shall be done within 30 days.

Under certain circumstances, taxpayers can apply for amendments to tax registration for the purpose of relocation and change the tax authorities in charge (see ¶10-0120).

### **Revocation of business license**

A taxpayer whose business license is revoked by the department of administration for market regulation shall apply for deregistration with the tax authorities within 15 days from the revocation of the business license (RIATC, Art 15). This also applies to revocation of business license by other authorities.

### **¶10-0140 Individual taxpayers**

An individual shall present his/her valid identification document to tax authorities or the withholding agents, and submit the relevant basic information when handling tax-related matters for the first time in China (*Bulletin of the State Taxation Administration on Matters Relating to Individual Taxpayer Identification Number*) (Bulletin of the STA (2018) No. 59).

### **¶10-0150 Non-residents doing business in China**

STA issued "*Provisional Administrative Measures on the Tax Administration of Construction Contract projects and Service Provisions for Non-residents*" (Decree (2009) No. 19) (hereinafter "Measures") on 20 January 2009, which regulates the administration of tax collection from non-residents carrying out construction contract projects or providing services in China. The Measures have been effective from 1 March 2009.

### **Registration**

The non-resident enterprise who is engaged in the construction contract projects and labour services in China shall perform the tax registration procedure with the tax authority where the projects are located, within 30 days from the signing of the project contract or agreement. The non-resident enterprise shall also submit the copies of the project completion certificate, acceptance certificate and other related documents to the

competent tax authority within 15 days after the completion of such projects and perform the tax deregistration formalities.

In addition, pursuant to the Measures, the PRC contracting party will also be responsible for providing relevant information on the various stages of the project (e.g. alteration to the contract, receipt of payment vouchers, etc.) and will need to perform withholding tax registration where withholding obligation arises.

Articles 13 and 21 of the Measures stipulate that, when a non-resident enterprise files its EIT and VAT returns, it must submit a project report, financial report or financial position statement and other information required. In addition, a report shall also be submitted with the following information relating to foreign individuals involved in the construction project or services:

- name;
- nationality;
- date of entry into and exit from China;
- period during which the work was carried out in China;
- location;
- job description;
- remuneration package;
- mode of payment; and
- related expenses incurred, etc.

For the non-resident involved contracts with the contract amount over RMB50 million, the tax authority will pay special attention on the supervision and administration of the tax collection.

## ACCOUNT BOOKS AND RECORD KEEPING

### ¶10-0200 Requirement to keep account books

Taxpayers engaging in production or business operations are required to establish “account books” within 15 days from the issuance of business license or the commencement of tax payment obligations (RIATC, Art 22). Account books include general ledgers, detailed accounts, journals and other auxiliary account records. General ledgers and journals shall be in bound copies. Where a taxpayer has implemented a computerised accounting system, the complete set of computer-generated accounting records in hard copy is regarded as account books.

In addition to establishing account books, taxpayers engaging in production or business operations shall submit documentation on their finance and accounting systems or procedures to the tax authorities within 15 days from obtaining the tax registration certificate (RIATC, Art 24).

Small scale taxpayers who are incapable to establish accounting books may engage professional institutions or accounting personnel that are approved to act as accounting agents to establish the accounting books and handle accounting transactions on their behalf (RIATC, Art 23).

### **¶10-0210 Withholding agents' account books**

A withholding agent is required to establish and maintain respective account books of tax withheld and tax collected according to different types of tax. Such records shall be established within 10 days from the commencement of tax withholding obligation (RIATC, Art 25).

### **¶10-0220 Computerised accounts**

Taxpayers and withholding agents may keep their accounts in a computerised form provided that the computerised accounting system complies with Chinese regulations and is able to compute income or gains accurately and completely. Before implementing a computerised accounting system, a taxpayer shall file records of the accounting software, user manual and other relevant materials with the tax authorities (RIATC, Art 24). The complete set of computer-generated accounting records in hard copy shall be regarded as account books.

### **Implementation of tax control facilities**

Taxpayers shall install and implement tax control facilities in accordance with requirements of the tax authorities, to transmit data and materials stipulated by the tax authorities (RIATC, Art 28).

### **¶10-0230 Language and currency of accounts**

Account books, vouchers and statements shall be kept in the Chinese language. They may also be kept simultaneously in the local common ethnic language for autonomous regions (RIATC, Art 27).

Foreign investment enterprises and foreign enterprises may keep accounts simultaneously in the Chinese language and a foreign language. Either Renminbi or a foreign currency may be used for preparation of accounts. Tax, however, is computed in Renminbi.



## ¶10-0240 Period for which accounts shall be kept

Account books, vouchers, statements, tax payment certificates and other relevant tax records shall be kept by taxpayers and withholding agents for at least 10 years (RIATC, Art 29).

# TAX RETURNS AND PAYMENT OF TAX

## Individuals

### ¶10-0300 Report and payment of tax on withholding basis

Individual income tax is reported and paid on a withholding basis through “withholding agents”. Individual or units which pay taxable income for a taxpayer are deemed to be “withholding agents” and shall withhold and remit the tax payable by the taxpayer to the tax authorities.

In certain circumstances (e.g. if income is received but there is no withholding agent), an individual taxpayer will be required to file tax returns and pay tax personally. See ¶10-0310 for more on self-reporting procedures.

#### Withholding obligations

Withholding agents shall withhold tax from the following types of taxable income paid to individuals:

- wages and salaries;
- remuneration for personal services;
- remuneration for manuscripts;
- royalties;
- interest income and dividends;
- income derived from leasing properties;
- income derived from the assignment or transfer of properties; and
- contingency income.

Tax shall be withheld and remitted from all taxable “payments”. This includes payments in cash, payments by remittance, payments by account transfer and payments in the form of marketable securities, payments in kind and other forms (IITIR, Art 24).

The amount of tax to be withheld shall be calculated using the methods and formulae set out at ¶13-0630 and following. In addition to the tax withheld,

a withholding agent is also required to remit to the tax authorities any overdue tax surcharge or penalties which may apply.

### **Administrative obligations**

Withholding agents are required to remit withheld tax to the State Treasury promptly and to keep itemised records of tax withheld for future reference (IITIR, Art 24).

Tax withheld each month or each payment by a withholding agent shall be remitted to the State Treasury within 15 days after the end of the month. Documents shall also be submitted to the tax authorities within 15 days after the end of the month (IITL Art 14; Bulletin of STA (2018) No. 61 Arts 3 and 5). The following documents shall be submitted:

- Individual Income Tax Withholding Return;
- Individual Income Tax Basic Information Form (A) (which is applicable to initially withheld).

If a withholding agent fails to set up or keep the books on the withheld taxes or keep the vouchers on the withheld taxes or the relevant materials, the withholding agent can be fined from RMB2,000 to RMB5,000 in serious cases (ALLCT, Art 61). See Chapter 11 *Investigation, Disputes and Penalties* for details.

A withholding agent who is unable to submit the required documents on time may apply to the tax authorities for an extension of time. Tax authorities at county level or above may grant an extension of time if satisfied that the withholding agent was unable to meet the time limit under special circumstances (ALLCT, Art 27).

### **Service fee**

A handling fee equal to 2% of the amount of tax withheld is paid to withholding agents. The withholding agent may use the handling fee receipt to offset expenditure incurred on withholding tax or to reward tax handling personnel.

Individuals who receive the 2% service fee for acting as withholding agents are provisionally exempt from individual income tax on the amount of the fee (*Caishuizi* (1994) No. 20).

### **Disputes with tax authorities**

If a withholding agent has a dispute with tax authorities regarding the payment of tax, the withholding agent may apply to the superior tax authorities to review the case. Such an application may be made only after the withholding agent has made tax payments and paid any applicable

surcharges or provided a full guarantee as determined by the original tax authorities. (ALLCT, Art 88).

For more on the resolution of disputes with tax authorities, refer to Chapter 11 *Investigation, Disputes and Penalties*.

### **Offences and penalties**

Withholding agents may be penalised for defaults and offences in compliance matters including:

- fails to set up or keep the books on the withheld taxes or keep the vouchers on the withheld taxes or the relevant materials (ALLCT, Art 61);
- fails to submit the Report and other materials to tax authorities on its withholding activities by the stipulated deadline (ALLCT, Art 62).

See Chapter 11 *Investigation, Disputes and Penalties* for applicable penalties.

### **¶10-0310 Self-reporting by individual taxpayers**

Individual income tax is generally reported and paid through withholding agents (see ¶10-0300). However, an individual taxpayer shall lodge his/her own tax return and pay tax personally:

- 1) where the taxpayer obtains consolidated income and needs to make final settlement;
- 2) where taxable income is received for which there is no withholding agent;
- 3) where taxable income is received for which the withholding agent does not withhold tax;
- 4) where the taxpayer receives income derived from outside China;
- 5) where the taxpayer has migrated overseas and cancelled his/her household registration in China;
- 6) where a non-resident individual derives wages and salaries from two or more sources in China; or
- 7) under any other circumstance stipulated by the State Council (IITL, Art 10).

Withholding agents shall submit the individual information whose income is withheld thereby, the amount of income paid, deductible items and amount, details and total amount of tax withheld, as well as other relevant tax information to the tax authorities in charge within 15 days after the end

of the month (IITIR, Art 26). In addition, the information about individual income and withheld tax shall be provided to taxpayers (IITL, Art 10).

### Location and time limit of self-reporting

*Bulletin of the State Taxation Administration on Issues Relating to Self-reporting of Individual Income Tax* (Bulletin of the STA (2018) No. 62) stipulated the location and time limit of self-reporting about final settlement as follows:

- Consolidated income

A taxpayer who receives consolidated income and falls under any of the following circumstances shall complete final settlement formalities:

- where the taxpayer receives two or more sources of consolidated income, and the balance of the annual consolidated income amount exceeds RMB60,000 after deducting special deductions;
- where the taxpayer receives one or more items of income from remuneration for personal services, remuneration for manuscripts and royalties, and the balance of the annual consolidated income amount exceeds RMB60,000 after deducting special deductions;
- where the prepaid tax amount in a tax year is less than the tax payable amount; or
- where the taxpayer applies for tax refund.

A taxpayer who is required to complete final settlement formalities shall make tax declaration with the tax authority in charge at the location of employer within 1 March to 30 June of the following year. Where a taxpayer is employed by two or more employers, he/she shall make tax declaration with the tax authority in charge at the location of one of the employers. Where a taxpayer does not have an employer, he/she shall make tax declaration with the tax authority in charge at the location of household registration or habitual residence.

In addition, STA issued Bulletin (2019) No. 44 on 31 December 2019 that clarifies more details about final settlement of individual income tax on consolidated income of 2019. A taxpayer may opt for the following handling methods for final settlement:

- handles on his/her own;
- handled on his/her behalf by the withholding agent with respect to wages and salaries or ongoing remuneration from personal services;

- handled by trustee with authorization of taxpayers (e.g. tax affairs agent, or another organization or individual).
- Income from business operation

A taxpayer receiving income from business operation shall compute individual income tax on a yearly basis, declare and prepay tax with the tax authority in charge at the location of business management within 15 days after the end of month or quarter, and complete final settlement formalities with the tax authority in charge at the location of business management before 31 March of the following year. A taxpayer receiving business operation income from two or more sources shall opt to complete annual consolidated declaration with the tax authority in charge at one of the places of business management.

- Income for which tax is not withheld by withholding agents

Where a taxpayer receives taxable income for which tax is not withheld by a withholding agent, the taxpayer shall make tax declaration in accordance with the following circumstances:

- A resident individual receiving consolidated income shall make tax declaration pursuant to the rules of consolidated income as mentioned above;
- A non-resident individual receiving income from wages and salaries, remuneration for personal services, remuneration for manuscripts and royalties shall make tax declaration with the tax authority in charge at the location of the withholding agent before 30 June of the following year. Where there are more than two withholding agents who have not made tax withholding, the non-resident individual shall make tax declaration with the tax authority in charge at the location of one of the withholding agents. Where a non-resident individual leaves China before 30 June of the following year (with the exception of temporary departure), he/she shall make tax declaration before leaving.
- A taxpayer receiving interest, dividends, income derived from leasing properties, income derived from transferring of properties and contingency income shall make tax declaration with the tax authorities in charge before 30 June of the following year. Where the tax authorities notify a taxpayer to remit the tax payment within a stipulated deadline, the taxpayer shall pay tax within that deadline.

- Income derived from outside China

A resident individual receiving income derived from outside China shall make tax declaration with the tax authority in charge at the location of his/her employer in China within 1 March and 30 June of the following year. Where the resident individual does not have an employer in China, he/she shall make tax declaration with the tax authority in charge at the location of household registration or habitual residence in China. Where the location of household registration in China is different from the place of habitual residence in China, the resident individual shall select to make tax declaration with the tax authority in charge of either place. A taxpayer who has no household registration in China shall file tax returns with the tax authority in charge of the place of habitual residence in China.

- Migration overseas and cancellation of household registration in China

Where a taxpayer migrates overseas and cancels his/her household registration in China, he/she shall make tax declaration and settlement with the tax authority in charge at the location of household registration prior to application for cancellation of household registration.

- Non-resident individual derives wages and salaries from two or more sources in China

Where a non-resident individual receiving wages and salaries from two or more sources in China, he/she shall make tax declaration with the tax authority in charge at the location of one of the employers within 15 days of the following month.

For more on time limits for tax returns and payment, see ¶10-0320.

## ¶10-0320 Time limits for returns and tax payments

Except for the rules of self-reporting stated in Bulletin of the STA (2018) No. 62, Articles 11 to 14 of IITL stipulated the general time limits for returns and tax payments.

- Consolidated income

Resident individuals deriving consolidated income shall compute individual income tax on a yearly basis. Where there is a withholding agent, the withholding agent shall withhold and prepay tax on a monthly basis or based on each payment. Where there is a need

for final settlement, the taxpayer shall conduct it from 1 March to 30 June of the following year.

Where non-resident individuals derive wages and salaries, remuneration for personal services, remuneration for manuscripts and royalties, the tax payable shall be withheld and prepaid by withholding agent on a monthly basis or based on each payment, if any, and be exempted from final settlement.

- Income from business operation

Taxpayers deriving income from business operation shall compute individual income tax on a yearly basis, lodge tax returns and prepay tax with the tax authorities within 15 days after end of month or quarter, and complete final settlement within 31 March of the following year.

- Interest, dividends, property leasing income, property transferring income, etc.

Taxpayers receiving interest income and dividends, income derived from leasing properties, income derived from the transfer of properties and contingency income shall compute individual income tax on a monthly basis or based on each payment. Where there is a withholding agent, the withholding agent shall withhold tax on a monthly basis or based on each payment.

- Income received with no withholding agent

Where taxable income is received for which there is no withholding agent, the taxpayer shall lodge tax return and pay tax personally within 15 days after the end of the month.

- Income for which tax is not withheld by withholding agents

Where taxable income is received for which the withholding agent does not withhold tax, the taxpayer shall pay tax before 30 June of the following year. If the taxpayer is notified by the tax authorities to pay tax by a certain deadline, the taxpayer shall pay tax within that deadline.

- Income from sources outside China

A resident individual who receives income derived from outside China shall declare and pay tax from 1 March to 30 June of the following year.

- Non-resident individuals derive wages and salaries from two or more sources in China

A non-resident individual who derives wages and salaries from two or more sources in China shall declare and pay tax within 15 days of the following month.

- Migration overseas and cancellation of household registration in China

Where a taxpayer has migrated overseas and cancelled his/her household registration in China, he/she shall settle tax payment before cancellation of his/her household registration in China.

Tax withheld by a withholding agent on a monthly basis or based on each payment shall be remitted to the State Treasury within 15 days after the end of the month, and documents shall also be submitted to the tax authorities.

## ¶10-0330 Tax returns to be filed by individual taxpayers

There are a number of different prescribed tax returns for individual income tax to be used according to the taxpayer's circumstances (Bulletin of STA (2018) No. 62; Bulletin of STA (2019) No. 7; Bulletin of STA (2019) No. 46):

- *Individual Income Tax Basic Information Form (A)* — used by *withholding agents* to provide basic information of relevant taxpayers. The form shall be filed by the withholding agent within 15 days after the end of the month for initial declaration or change in taxpayer's basic information.
- *Individual Income Tax Basic Information Form (B)* — used to provide the *taxpayer's* own basic information. The form shall be filed for initial declaration or change in individual basic information.
- *Individual Income Tax Withholding Return* — used by *withholding agents* to declare the withholding of income tax (see ¶10-0300). The return shall be filed by the withholding agent within 15 days after the end of the month.
- *Individual Income Tax Return (A)* — used by *individual taxpayers* as below:
  - where taxable income is received for which the withholding agent does not withhold tax, the return shall be filed by the taxpayers before 30 June of the following year (Art 3);
  - where a taxpayer derives income from interest, dividends, income from leasing property, income from transferring property and contingent income in the year of cancellation of



- household registration, the return shall be filed by the taxpayer prior to cancellation of household registration (Art 5); or
- where a non-resident individual derives wages and salaries from two or more sources in China, the return shall be filed by the taxpayers within 15 days after the end of the month (Art 6).
  - *Individual Income Tax Annual Return (A) (simplified version) (Q&A version)* — used by *resident individual* derived consolidated income to make the final settlement. The Return A applies to resident individual only deriving domestic consolidated income and it shall be filled from 1 March to 30 June of the following year. If a resident individual only derives domestic consolidated income and no more than RMB60,000, he/she shall fill the simplified version. In addition, the above taxpayers can choose to fill Q&A version for easy understanding.
  - *Individual Income Tax Annual Return (B)* — used by *resident individual* deriving overseas income. The Return B shall be filled from 1 March to 30 June of the following year along with the *Details of Individual Income Tax Credit for Overseas Income*.
  - *Individual Income Tax Return for Income from Business Operation (A) (B) (C)* — used by *taxpayers* deriving income from business operation. The Return A shall be filed by the taxpayers within 15 days after the end of month or quarter, and the Return B shall be filed by the taxpayers before 31 March of the following year. The Return C applies to the taxpayers deriving income from business operation from two or more sources.
  - *Individual Income Tax Deduction and Exemption Item Reporting Form* — used by *individual* who has deduction and exemption items of individual income tax. The form shall be filled by withholding agents to declare the withheld tax or by taxpayers on self-reporting.
  - *Application Form for Commission of Withholding* — applicable to the withholding agent's application for IIT withholding commission.
  - *Record Form of Unitary Investment Fund Accounting Method of Partnership Venture Capital Enterprise, IIT Withholding Return for Partnership Venture Capital Enterprise at the Unitary Investment Fund Accounting method* — used by *venture capital enterprise*. The Record Form shall be filled with the tax authorities in charge to record the accounting method. The IIT Withholding Return shall be filled before March 31 of the following year by venture capital enterprise, when it conducts the withholding return for equity transfer income of previous year.

## Enterprises

### ¶10-0340 Quarterly provisional returns and payments

The tax authorities shall determine if an enterprise makes enterprise income tax provisional payments on a monthly or quarterly basis (EITIR, Art 127).

An enterprise shall, within 15 days after the end of each month or quarter, file provisional enterprise income tax returns and make provisional tax payments to the tax bureau (EITL, Art 54).

Where an enterprise makes provisional enterprise income tax payments on a monthly or quarterly basis in accordance with Art 54 of the EITL, it shall make provisional tax payments based on actual profits in the month or quarter. Where there are difficulties in making provisional tax payments based on actual profits in the month or quarter, the enterprise may make provisional tax payments based on the average monthly or quarterly taxable income of the last tax year, or based on any other method as approved by the tax authorities. Once the method of determining the provisional tax payments has been confirmed, that method must continue to be used within the tax year (EITIR, Art 127).

Regardless of whether an enterprise incurs profits or losses in a tax year, the enterprise shall file the provisional enterprise income tax returns in accordance with Art 54 of the EITL (EITIR, Art 128).

Enterprises which have special difficulties in meeting the tax payment deadline may apply for a deferral of tax payment (see ¶10-0440). The maximum period of deferral is three months.

### ¶10-0350 Annual returns and final settlement

The enterprise shall submit annual enterprise income tax returns and settle the final tax payment within five months after the end of each tax year.

Financial statements and other relevant information shall be submitted together with the enterprise income tax returns in accordance with regulations. (EITL, Art 54).

Regardless of whether an enterprise incurs profits or losses in a tax year, the enterprise shall file the annual enterprise income tax return, financial statements and any other documents as stipulated by the tax authorities in accordance with Art 54 of the EITL (EITIR, Art 128).

The provisional tax already paid in advance by quarterly/monthly installments is set off against the annual tax payment. Any overpayment shall be refunded (see ¶10-0550).

Should an enterprise have difficulty in filing the return within the prescribed time limit, an application shall be made to the tax authorities within the time limit explaining the reason for the delay. Upon approval by the tax authorities, the time limit may be extended (see ¶10-0420).

### **¶10-0360 Consolidated and combined reporting and payment for multiple establishments**

China's tax laws and regulations generally do not allow the consolidated reporting and payment of tax by corporate groups of foreign investment enterprises unless otherwise provided by the government authorities of State Council in charge of taxation.

When a resident enterprise within China sets up one or more operating units that are not separate legal entities, it shall combine the income of the home office and units and pay the computed enterprise income tax thereon (EITL, Art 50).

#### **Consolidated declarations and payments for non-resident enterprises**

Non-resident enterprises deriving income in accordance with para 2 of Art 3 of the EITL shall pay tax at the location of its establishment. A non-resident enterprise which has two or more establishments in China, may, upon approval of the tax bureau, select the principal establishment to handle the combined payment of tax (EITL, Art 51).

A principal establishment as cited in Art 51 of the EITL refers to establishments which satisfy all of the following conditions (EITIR, Art 126):

- (1) Taking on the responsibility of managing and supervising the manufacturing or business operations of the other establishments; and
- (2) Keeping full and complete accounting records and supporting documents that accurately reflect revenue, cost, expenses and profits or losses of each establishment.

#### **Combined declarations and payments for resident enterprises**

Where an enterprise computes and pays enterprise income tax on a combined basis, it shall account for the combined taxable income based on

administrative measures, the details of which will be separately tailored by the government authorities of the State Council in charge of finance and taxation (EITIR, Art 125).

*Bulletin of the State Taxation Administration* (2012) No. 57 provides additional guidance on the filing obligations and the settling of EIT liability by enterprises whose head offices and branches are located in different provinces (including provinces, autonomous regions, municipalities and cities specifically designated in the State plan) in China. The Bulletin took effect on 1 January 2013 and elaborated on the principle of “combined calculation – respective supervision – provisional local payment – consolidated settlement – tax revenue transfer” as follows:

- “Combined calculation”: The taxable profits and tax payable must be computed based on the total results of the head office and its branches.
- “Respective supervision”: The head office and its branches are subject to the management and supervision of the tax authorities at the locations where they are registered.
- “Provisional local payment”: The head office and its branches are required to make monthly/quarterly tax filings with the relevant tax authorities and pay provisional taxes locally in accordance with the Rules.
- “Consolidated settlement”: Within five months after the end of the tax year, the head office should calculate the difference between the enterprise’s annual income tax payable and the sum of tax provisionally paid by the head office and branches during the year. The difference shall be the amounts of enterprise income tax to be paid by or refunded to the head office and branches, which shall be allocated according to the allocation method specified under the Bulletin. The head office and branches shall pay to the state treasury their respective allocated share of enterprise income tax or receive from state treasury their respective enterprise income tax refunds.
- “Tax revenue transfer”: The MOF will allocate and transfer the tax revenue deposited into the temporary account of the central government to the relevant local government accounts based on certain coefficient factors.