



Hong Kong Institute of  
**Certified Public Accountants**  
香港会计师公会

# Meeting notes

**The State Administration of Taxation  
and  
The Hong Kong Institute of Certified Public Accountants**

2013

## **Foreword**

The Hong Kong Institute of Certified Public Accountants ("Institute" or "HKICPA") was very pleased to hold its annual meeting with the State Administration of Taxation ("SAT") on 19 July 2013 to discuss and exchange views on various taxation issues.

The following is a translation of the meeting notes prepared, in Chinese, by the Institute. Please note that the meeting notes reflect the views of the SAT officials attending the meeting only and will not be binding on the relevant local tax bureaus. Please also note that some of the information in the notes about Value-added Tax ("VAT") reform will not be up-to-date as new circulars on the subject have been issued since the meeting took place. Relevant circulars should be referred to for the latest position of the VAT reform. Professional advice should be sought before applying the content of these notes to your particular situation. If there are differences in the interpretation between the English and Chinese versions, reference should be made to the Chinese version.

## **Meeting Notes**

### **List of discussion topics**

#### **A. Corporate income tax ("CIT")**

- A1. Fluctuation of fair market value and deduction of depreciation charge for investment property
- A2. Share incentive plan ("SIP")
- A3. Service fees and management fees
- A4. Foreign income tax paid
- A5. Offsetting the profits of overseas branches with losses in China

#### **B. Taxation arrangement between Mainland China and Hong Kong**

- B1. Referral letter for issuing tax residency certificate of Hong Kong Special Administrative Region
- B2. Exchange of information
- B3. Application for tax refund under Circulars 30 and 124

#### **C. Cross-border reorganizations**

- C1. Criteria for special tax treatment
- C2. Definition of "equity" and "transfer" in Guoshuihan [2009] No. 698
  - (a) Transfer of equity other than ordinary shares, such as preference shares
  - (b) Would distribution of shares as dividend in-species be considered as a "transfer"?
- C3. Would indirect transfer be substantively considered as direct transfer?
  - (a) Could a special purpose vehicle, which is formed purely for the purpose of an investment platform for its subsidiaries around the world, be considered as having a substantive business operation?

- (b) Fulfilling the requirements of substantive business operation
- C4. Determination of whether an equity transfer would recognize actual gains on transfer
- C5. Questions on Caishui [2009] No. 59
  - (a) Relaxing the requirements of 75% of acquired entities' equities / assets
  - (b) 100% direct and indirect holding
  - (c) The relationship between Circulars 698 and 59
  - (d) Common control
- C6. Calculation of withholding taxes arising from indirect transfer
- C7. Reorganization
  - (a) Special reorganization treatment
  - (b) Valuation report

#### **D. Permanent establishments**

- D1. Announcement 19
  - (a) Taxable presence issues arising from an overseas entity which also takes part in the appraisal of the job performance of its secondees who are working in mainland China
  - (b) Inconsistencies between Announcement 19 and Circular 75
  - (c) Relationship between payment of Individual Income Tax ("IIT") and CIT
- D2. Determination of six-month threshold in tax treaties

#### **E. Funds and shares**

- E1. Qualified Foreign Institutional Investors, RMB Qualified Foreign Institutional Investors and RMB Funds (Qualified Foreign Limited Partner, "QFLP")

#### **F. Individual income tax**

- F1. Announcement 16
  - (a) Extension of double taxation avoidance to include income from stock options
  - (b) Application for foreign tax credit

#### **G. Converting Business Tax ("BT") to VAT**

- G1. Royalties and rentals paid for cross-border transactions
- G2. Tax exemption application procedures for export of services
- G3. Scope of VAT pilot scheme
- G4. Taxable services fully consumed outside China
- G5. Transition policy for technology transfer
- G6. Transfer out of input VAT on tax exempt items

## **H. Other**

- H1. Application for Chinese tax resident status by foreign incorporated enterprises
- H2. Differences in implementation standards and judgments of tax authorities in different locations
  - (a) Various practices in the VAT pilot scheme