



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

Meeting notes

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

2018

Foreword

The Hong Kong Institute of Certified Public Accountants (“Institute” or “HKICPA”) held its annual meeting with the State Administration of Taxation (“SAT”) at No. 5 Yangfangdian West Road of Haidian District in Beijing on 25 June 2018. Yu Shuchun, Deputy Counsel of the SAT, and leaders of the relevant divisions and offices welcomed HKICPA's delegates. Ms. Mabel Chan, the immediate past president of the HKICPA, expressed gratitude to the SAT for attending the meeting and believed that the meeting could enhance the communication between the HKICPA and the SAT.

The following are summary notes of the meeting prepared by the Institute. These notes represent the understanding of the Institute's delegates with respect to the responses from the SAT and do not necessarily represent the SAT's official position on the matters discussed. Accordingly, the notes should be used as a reference only and are not intended to be legally binding on any person. Advice should be sought from a professional before applying the contents of the summary notes. If there are discrepancies between the English and the Chinese versions, reference should be made to the Chinese version.

The Institute would also like to thank Deloitte for assigning a representative to take notes for the meeting.

Meeting Notes

A. Enterprise Income Tax ("EIT")

1. Insurance commission
2. Application of Public Notice No.7 ("PN7") to Non-resident Enterprises on transferring listed shares of companies listed overseas
3. Partnerships
 - a. Does a partner in a partnership constitute a permanent establishment ("PE") in the PRC?
 - b. Dividends
 - c. Interpretation of partnerships established in accordance with foreign (regional) law
4. Temporary suspension of withholding tax requirements on foreign Investors
5. Restructuring/ Reorganization
 - a. Safe harbour rule
 - b. How to calculate "3 Years"
6. State Administration of Taxation Public Notice [2017] No. 37 ("PN37")
 - a. Receipt by instalments
 - b. "Zero-Tax" declaration
 - c. Additional interest/ late payment surcharge
 - d. Withholding obligation of non-resident enterprises

B. Value-added tax ("VAT")

1. Network platform software/services consumed entirely outside China
 - a. Software as a service
 - b. Consumed entirely outside China
2. Tax on enterprises with head office and branches

C. Beneficial owners

1. Interpretation of Public Notice No.9 (2018) of the State Administration of Taxation on issues relating to "Beneficial Owner" ("BO") in tax treaties ("PN9")
 - a. Objective indicators
 - b. Item 5, article 2 of PN9
 - c. Article 8 of PN9
 - d. Impact of outsourcing on the identification of BOs

D. Transfer pricing

1. Master File
 - a. Disclosure requirements
 - b. Expectations on the contents of the master files
 - c. "Free-rider"