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Announcement on Enterprise Income Tax Policies Issues Concerning the Further Implementation of the Western China Development Strategy

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The State Administration of Taxation issued the Announcement on Enterprise Income Tax (hereinafter referred to “EIT”) Policies Issues Concerning the Further Implementation of the Western China Development Strategy (hereinafter referred to “Announcement”), which is more practical and pursuant to the current preferential tax policies concerning the Western China Development (CaiShui (2011) No. 58).

Policy Review

The Western China Development Strategy began in the year 2001. According to the Notice of the State Council Concerning Several Policies on Carrying out the Development of China’s Vast Western Regions (GuoFa (2000) No.33), the Notice of General Office of State Council on Carrying out the Development of China’s Vast Western Regions Submitted by State Council (GuoBanFa (2001) No.73) as well as the Notice concerning Preferential Policies concerning Western China Development jointly issued by the Ministry of Finance, the State Administration of Taxation and the General Administration of Customs in the year 2011, the main preferential policies include: The domestic enterprise or foreign investment enterprise which met the requirements could enjoy a reduced tax rate of 15% during the period from the year 2001 to 2010; Newly established enterprises set up in the Western Region engaging in transportation, utilities, water conservancy projects, postal service and television broadcasting could enjoy an EIT holiday of “two-year exemption followed by three-year 50% deductions. Foreign investment projects which fell into the encouraged category or the priority category, tariff and import value-added tax were exempted for imported self-use equipment with an amount below the aggregate investment. From the year 2002 to the year 2009, the Ministry of Finance and Administration of Taxation issued GuoShuiFa (2002) No. 47, CaiShui (2006) No. 165, GuoShuiHan (2009)No. 399 and GuoShuiHan (2009) No. 411 etc. in succession to make further restrictions.

Until 2011, the above mentioned preferential policies had been implemented for 10 years. Since after that the reduced tax rate of 15% was supposed to be no longer available, the Ministry of Finance, the State Administration of Taxation and the General Administration of Customs jointly issued the Notice Regarding Implementation of Tax Policies for the Development of Western Regions (CaiShui (2011)No.58), which extended the valid period for the preferential tax rate of 15% to December 31, 2020. The policy of “Equipment imported within the total amount of investment under a project in an encouraged industry for Chinese-funded enterprises, a project in an encouraged industry for foreign-funded enterprises or a project in a priority industry in western China for such an enterprise’s own use shall be exempted from customs duty within the extent as permitted by related policies” is also available.

Up-to-date Changes

The issuance of the Announcement has brought some changes to enterprise income tax issues concerning the development of Western China.

engaging in encouraged industries are subject to EIT at the reduced rate of 15%. The encouraged enterprises refer to enterprises, whose main operation is in the encouraged industries. Thereby 70% of their main operating income has to be derived from these industries. But in practice, it is not clear whether the investment gains are included in the operating revenue, which may cause many difficulties during implementation. According to the Announcement, operating revenue refers to the income including equity investments such as stock dividends, and bonus stipulated in the EIT Law.

Easement of approval management: According to CaiShui (2002) No. 47, enterprises, during the first year of operation, are subject to verification and approval by the provincial tax authorities, while from the second year onward the prefectural or municipal tax authorities are responsible. In accordance with the Announcement, first year enterprises are subject to verification and approval by the competent tax authorities, while from the second year onward, application is only filed for records with the tax authorities. The procedure brings much convenience to the enterprises. For investment projects which cannot be categorized under the encouraged industries, CaiShui (2002) No. 47 clarifies that enterprises are requested by the tax authorities to provide certificates issued by competent administrative authorities of relevant industries of provincial or above provincial level. Thereby the

Announcement only requires that the certificates are issued by the provincial (including sub-provincial) competent administrative authorities or by the delegated authorities of the second level.

Transitional policies before the issuance of the Catalog of Encouraged Industries of the Western Region: Since the Catalog of Encouraged Industries of the Western Region has not promulgated yet, it is hard to verify encouraged enterprises according to CaiShui (2011) No.58. The Announcement stipulates that the Catalogue for Industry Structure Adjustment, the Catalogue for the Guidance of Foreign Investment Industries and the Catalogue of Priority Industries for Foreign Investment in the Central-Western Region could be seen as a reference.

Enjoy preferential policies concurrently: According to the Announcement, an enterprise, which is entitled to both the preferential EIT rate of 15% for the development of the Western Region and the tax incentive policies prescribed in the EIT Law and the implementation measures, as well as the other regulations released by the State Council, may enjoy the above preferential tax treatments concurrently.

For instance, according to Article 88 of the Implementation Measures on EIT Law, the qualifying income derived by an enterprise engaging in any of the environmental protection, energy or water conservation projects shall be exempt from the first three years since the tax year when the first revenue based on production or operation is reported. Thereby the enterprise shall file taxes at the reduced tax rate for year 4 to year 6. Where the enterprise meets the requirements of encouraged enterprises established in Western China, the actual enterprise income tax rate is reduced by 50%. Therefore the tax rate shall be 7.5 % for year 4 to year 6.

Preferential tax rate of branches inside and outside the Western Region: Article 6 of the Announcement stipulates that only the income derived by the branches located in the Western Region can enjoy the preferential EIT rate of 15%. Detailed calculation methods and allocation percentage for the EIT filling can be found in Article 2 of the Notice of Administration of Taxation Regarding Certain Issues Related to Consolidated EIT Filling for Cross-region Operations (GuoShuiHan (2009) No. 221) and the Notice of Administration of Taxation Regarding the Tentative Measures for the Administration and Collection of EIT Filed by Headquarters and Branches Operated Cross-region (GuoShuiFa (2008) No. 28).

Our understanding and suggestions

vestment environment regarding road traffic, transportation, utilities, and water conservancy projects has been well developed. The speed of adjustment of the economic structure has been accelerated. In this circumstance, the valid period for the tax preferential policies has been extended, the approval process has been simplified, and certain operating problems that arose during the implementation of the preferential policies have been solved. Foreign invested enterprises that meet the requirements of the encouraged industries in the Western Region should consider establishing their business operations in that region, where a preferential tax rate is available until the year 2020.

If you have further requests, please do not hesitate to contact us. ECOVIS Ruide has a professional consulting team and professional personnel who can provide further instruction and consulting service.

Supplementary Information

The Western Region refers to Chongqing, Sichuan Province, Guizhou Province, Yunnan Province, Tibet Autonomous Region, Shanxi Province, Gansu Province, Ningxia Autonomous Prefecture of Hui Minorities, Qinghai Province, Xinjiang Uygur Autonomus Region, Production and Construction Corps of Xinjiang, Inner Mongolia Autonomous Region and Guangxi Autonomous Region as well as Xiangxi Autonomous Prefecture of Tujia and Miao Minorities in Hunan Province, Enshi Tujia and Miao Minorities Autonomous Prefecture in Hubei Province and Korean Autonomous Prefecture of Yanbian in Jilin Province.

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