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Insight: Introduction to Singapore's Taxation System and a Discussion on the Economic Substance Test for Chinese Enterprises' Cross-border Investments

By Ivy Yang

From August 29 to September 12, 2024, the Huangpu District Judicial Bureau and Lawyers' Working Committee jointly organized the Singapore International Legal Services Practice Workshop. Our firm's partner, Lawyer Ivy Yang, was honored to represent the firm and participate the workshop in Singapore. Through two weeks of study and on-site visits, she gained a comprehensive understanding of Singapore's legal system, financial regulation, and tax environment. Based on her communication with local tax authorities and intermediary organizations, as well as her experience handling cross-border tax cases between China and Singapore in recent years, the author now offers an initial sharing on Singapore's tax policies and the tax-related issues encountered in cross-border economic activities.

1. Overview of Major Taxes and Relevant Policies in Singapore

According to Section 2(1), Chapter 134 of Singapore's Income Tax Act, a tax resident of Singapore for a given Year of Assessment is defined as:

- **Individuals:** A person who has resided, stayed, or worked (excluding as a company director) in Singapore for a period of 183 days or more in the previous year of assessment, with reasonable temporary absences not counting against the 183 days.
- **Companies or Entities:** Companies or entities whose management and control functions are located within Singapore.

(A) Corporate Income Tax

(1) Taxpayer entities

There are two categories of corporate income taxpayers: resident and non-resident enterprises. In Singapore, the classification of a tax-paying entity is determined by the location where the enterprise's control and management functions are exercised, rather than its place of registration. To be specific, an enterprise registered in Singapore may not necessarily be considered a resident enterprise; only if the control and management functions of the enterprise are performed in Singapore can it be considered a resident enterprise (even if it is not registered in Singapore). If the control and management functions are carried out outside Singapore, such enterprises are regarded as non-resident enterprises in Singapore. This includes foreign-registered enterprises conducting business in Singapore, Singapore offices established in Singapore but with management and/or control located overseas, and Singapore branches of foreign enterprises.

Non-resident enterprises may be subject to withholding tax on certain types of income sourced from Singapore (such as interest, royalties, and rental income). In addition, non-resident companies may not be eligible for certain tax incentives that are specifically tailored for resident companies (such as tax exemptions schemes for newly established enterprises).

(2) Tax Rate

Currently, Singapore applies a unified corporate income tax policy, with a corporate tax rate of 17%. Companies in Singapore, whether resident or non-resident, are taxed at the same uniform rate of 17% on their taxable income. This tax rate is not subject to geographical restrictions and applies to both local and foreign companies.

Singapore adopts a single-tier tax system, where dividends distributed by resident enterprises to their shareholders are not subject to additional taxation. Moreover, Singapore applies an exemption policy on capital gains (no capital gains tax is levied), including profits from the sale of fixed assets, foreign exchange gains from capital transactions, insurance proceeds, etc. For multinational groups, income derived from the disposal of foreign investments and received in Singapore is subject to tax. However, if the entity has economic substance in Singapore, it may be eligible for tax exemption.

(3) Tax Exemption Schemes: To encourage entrepreneurship and support business growth, Singapore has introduced a tax exemption scheme for new start-up companies and a partial tax exception scheme for companies.

a) **New Start-up Company Tax Exemption Scheme:** This scheme is applicable to newly incorporated companies that are tax residents of Singapore (excluding investment holding companies and companies undertake property development for sale, investment, or both). Under this scheme, for the first three consecutive years of assessment, the company is entitled to a 75% tax exemption on the first S$100,000 of normal chargeable income, and a 50% tax exemption on the next S$100,000 of normal chargeable income. Commencing from the fourth year of assessment, the company will no longer qualify for this scheme; however, it will be eligible for the partial tax exemption scheme.

b) **Partial Tax Exemption Scheme:** All companies, including companies limited by guarantee, are eligible for this scheme, unless they are claiming the tax exemption for new start-up companies. The relief is as follows: the first S$10,000 of chargeable income is 75% exempt, and the next S$190,000 is

50% exempt.

(B) Individual Income Tax

In Singapore, the individual income tax rates are dependent on an individual's tax residency status. Taxpayers are classified into residents and non-residents.

(1) **Resident Individuals:** Resident individuals in Singapore are subject to a progressive tax rate system for personal income tax, with the highest rate currently set at 24% on income exceeding SGD 1,000,000..

(2) **Non-resident Individuals:**

- **Employment Income:** Employment income of non-resident individuals is taxed at a flat rate of **15%** or at the applicable progressive tax rates for residents, whichever results in a higher tax liability.

- **Director's Fees, Consultancy Fees, and Other Income:** Non-resident individuals are taxed at a rate of **24%** on these types of income. This tax rate applies to all income, including rental income, pensions, and director's fees, except for employment income and certain types of income subject to reduced withholding tax rates.

- **Withholding Tax on Non-resident Individuals' Income:** Specific types of income earned by non-resident individuals are subject to withholding tax at the time they are due and payable. The applicable withholding tax rate depends on the nature of the income and the relevant tax year.

(C) Goods and Services Tax (GST)

The Goods and Services Tax (GST) is a tax imposed on the importation of goods, as well as on the supply of nearly all goods and services within Singapore.

The current GST rate in Singapore is 9%. GST-registered businesses are required to charge GST at the rate of 9% on all taxable supplies of goods and services made in Singapore, unless such supplies are subject to a zero rate or are exempt under the GST legislation.

Exempt supplies include the provision of financial services, the supply of digital payment tokens, the sale and lease of residential properties, the importation and local supply of investment-grade precious metals, and out-of-scope supplies. Out-of-scope supplies include the sale of goods that are not brought into Singapore, sales made within Free Trade Zone (FTZ) and Zero GST Warehouse, and private transactions.

(D) Withholding Tax

Withholding tax is a key feature of Singapore's taxation system. Under the withholding tax regime, a payer is required to withhold tax on certain payments made to non-resident enterprises or non-resident professionals (e.g., royalties, interest, and technical service fees), and remit the withheld tax to the Inland Revenue Authority of Singapore (IRAS).

Non-resident enterprises withholding tax rates:

Nature of Income	Tax Rate
Interest, commissions, fees or other payments in connection with any loan or indebtedness	15%
Royalties or other lump sum payments for the use of movable properties (e.g. intellectual property)	10%
Payments for the use of or the right to use scientific, technical, industrial, or commercial knowledge or information	10%
Rent or other payments for the use of movable properties	15%
Royalties and other payments made to authors, composers or choreographers	24%
Technical assistance and service fees, management fees	17% (Current Corporate Income Tax Rate)
Proceeds from the sale of any real property by a non-resident property trader	15%
Distribution of taxable income made by a Real Estate Investment Trust	10%

(REIT) to a unit holder who is a non-resident non-individual	
Time, voyage and bareboat charter fees for the charter of ships	Nil

Non-resident professionals' withholding tax rates:

A non-resident professional is a foreign expert who resides in Singapore for no more than 183 days and is an individual who exercises any professional skill under a service contract. The specific standards for withholding tax payment are as follows:

Nature of Income	Tax Rate
Payment to non-resident director	24%
Payments to non-resident professionals / firm (unincorporated business)	15% on gross income or prevailing non-resident individual rate on net income
Payments to non-resident public entertainer	15% of total income
Commission/payment to non-resident international market agent (Applicable to casino marketing arrangement as defined under the Casino Control Act)	3%

(E) Avoidance of Double Taxation

Singapore has entered into Double Taxation Agreements ("DTAs") with multiple countries, designed to prevent both companies and individuals from being subject to double taxation in two different jurisdictions. For enterprises operating in countries with which Singapore has a tax treaty, they can not only eligible for exemptions from double taxation but may also benefit from reduced withholding tax rates. However, the specific application of these benefits depends on the type of services provided by the enterprise and the relevant provisions of the applicable DTA.

The Tax Treaty between Singapore and China, along with its Protocol, was signed on

April 18, 1986. On July 11, 2007, both parties signed a revised agreement to avoid double taxation on income and prevent tax evasion, together with an updated protocol. A second protocol to the agreement was signed on August 24, 2009. The treaty and its protocols, including the second protocol, came into effect on January 1, 2008, and December 11, 2009, respectively.

2. Impact of the BEPS Project and OECD Legislation on Singapore's Tax Environment

(A) Focus of BEPS and OECD Legislation on “Minimum Tax Rates” and “Economic Substance”

In September 2013, the leaders of G20, at the St. Petersburg Summit, issued a communiqué announcing the implementation of the Base Erosion and Profit Shifting (BEPS) project, and tasked the Organization for Economic Co-operation and Development (OECD) with leading the initiative. BEPS refers to the strategies used by multinational companies to exploit differences in tax systems and mismatches in tax rules across jurisdictions, in order to make taxable profits "disappear" or be shifted to low-tax jurisdictions, thereby reducing their global tax burden. The BEPS project comprises 15 action plans covering areas such as digital economy, hybrid mismatches, controlled foreign company (CFC) rules, interest deductions, and harmful tax practices. The OECD established a task force to draft the "Multilateral Convention to Implement Tax Treaty Measures to Prevent Base Erosion and Profit Shifting" (the "Convention"). The Convention text was officially adopted on November 24, 2016. China deposited its instrument of ratification for the Convention on May 25, 2022. Under Article 34 of the Convention (on its entry into force), the Convention became effective for China on September 1, 2022, which is the first day of the month following the three-month period from the deposit of the instrument of ratification.

On October 8, 2021, the BEPS Inclusive Framework issued a Statement on the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy, commonly referred to as the "Two-Pillar" solution. This solution is an extension of BEPS 1.0 and aims to further address the tax challenges posed by the digitalization of the economy. Pillar One focuses on resolving the allocation of taxing rights in the context of the digital economy, while Pillar Two seeks to ensure that multinational corporate groups are subject to at least a minimum level of tax in all jurisdictions, often referred to as the Global Minimum Tax Rules.

Economic substance and the Global Minimum Tax Rate are key components of the BEPS project. Under these provisions, companies registered in low-tax jurisdictions must demonstrate sufficient economic substance locally in order to benefit from tax incentives, and they must comply with the global minimum effective tax rate of 15% as set out in Pillar Two.

(B) Changes in Singapore's Economic Substance Legislation: Adequacy of Economic Substance

On October 3, 2023, the Singapore Parliament passed an amendment to the Income Tax Act of 1947, introducing Section 10L. This new section stipulates that, effective from January 1, 2024, gains from the sale or disposal of foreign assets will be subject to tax, if such gains are received in Singapore by enterprises without adequate economic substance locally. The amendment aligns Singapore's tax practices with the OECD's anti-tax avoidance norms, aiming to combat harmful tax practices and ensure that tax obligations are appropriately linked to substantive economic activities.

Under Section 10L, "despite anything in this Act, gains from the sale or disposal by an entity (called in this section the seller entity) of a relevant group of any movable or immovable property situated outside Singapore at the time of such sale or disposal or any rights or interest thereof (called in this section a foreign asset), that are received in Singapore from outside Singapore, are treated as income chargeable to tax under section 10(1)(g) for the year of assessment relating to the basis period in which the gains are received in Singapore". That is to say, certain gains from the sale or disposal of foreign assets are subject to tax when received in Singapore. However, if the entity has sufficient economic substance in Singapore, the income from the sale or disposal of foreign assets (excluding intellectual property) will not be treated as income chargeable to tax in Singapore.

In this section, an entity refers to: (i) any legal person (including limited liability partnership) but not an individual; (ii) a general partnership or limited partnership; or (iii) a trust.

The determination of economic substance is based on the actual management and effective control of the entity, considering the following factors:

(1) **For a pure equity-holding entity**:

- "The entity submits to a public authority any return, statement or account required under the written law under which it is incorporated or registered, being a return, statement or account which it is required by that law to submit to that authority on a regular basis;"
- the operations of the entity must be managed and performed in Singapore (whether by its employees or by such other persons where the activities performed by other persons for the entity are under the direct and effective control of the entity);
- the entity must have sufficient human resources and premises in Singapore to conduct its operations.

(2) **For non-pure equity-holding entities**:

- The operations of the entity must be managed and conducted in Singapore (whether by its employees or by other persons where the activities performed by such other persons for the entity are under the direct and effective control of the entity.
- The entity must have sufficient economic substance in Singapore, taking into account the following considerations:
  - the number of full-time employees (or other persons managing or executing the entity's operations) in Singapore;
  - the qualifications and experience of those employees or other persons;
  - the business expenses incurred by the entity during its operations in Singapore;
  - whether the key business decisions of the entity are made by persons in Singapore.

It is important to note that if the proposed sale or disposal of foreign assets is expected to occur within one (1) year from the application date, an application for an advance ruling may be made to confirm whether the economic substance is adequate.

In addition to implementing economic substance measures to meet OECD anti-tax avoidance standards, Singapore will also begin implementing the Global Minimum Tax Rule (15% minimum effective tax rate) in 2025. The implementation of this rule will impact Singapore's current tax policies, so companies with plans to invest in Singapore should monitor these changes closely.

(C) Determination of Economic Substance in China

Chinese enterprises operating in Singapore must not only consider the impact of Singapore's economic substance legislation but also be aware of China's relevant provisions regarding the economic substance of multinational investment enterprises to avoid the risk of double taxation in practice.

(1) Corporate Income Tax: Determination of Controlled Foreign Corporations (CFC) and Effective Management

In 2008, the *Corporate Income Tax Law* of the People's Republic of China incorporated the fundamental principles of economic substance into the provisions on Controlled Foreign Corporations (CFCs) and Effective Management. According to Article 45 of the Income Tax Law, a Controlled Foreign Corporation (CFC) refers to a foreign corporation established in a jurisdiction where the actual tax burden is less than 50% of the tax rate specified in Article 4, Paragraph 1 of the Income Tax Law, and which is controlled by resident enterprises or by a combination of resident enterprises and resident individuals, and does not distribute or reduces the distribution of profits, except for legitimate business reasons.

The determination of the Effective Management of an enterprise affects its classification as a resident enterprise. According to the *Corporate Income Tax Law* and its relevant implementation regulations, the residency status of a foreign-registered enterprise in China depends on whether the entity that exercises substantial management over the enterprise's production, operations, personnel, accounting, assets, and other matters is within the territory of China.

Additionally, Article 2 of the *State Administration of Taxation's Notice on the Determination of Foreign-Registered Chinese-Controlled Enterprises as Resident Enterprises Based on the Effective Management Standard* (State Taxation Administration Circular [2009] No. 82) states "a foreign-registered Chinese-controlled enterprise that meets all the following conditions simultaneously shall, in accordance with the provisions of Article 2, Paragraph 2 of the *Corporate Income Tax Law* and Article 4 of the Implementation Regulations, be determined as a resident enterprise with its Effective Management in China and subject to corporate income tax on income sourced both within and outside China:

- the senior management personnel responsible for the daily operations and business management of the enterprise, as well as the location where the senior management functions are carried out, are primarily situated within China;

- the enterprise's financial decisions (such as loans, financing, financial risk management, etc.) and personnel decisions (such as appointments, dismissals, compensation, etc.) are made by entities or individuals within China, or require approval from entities or individuals in China;

- the enterprise's principal assets, accounting books, company seals, minutes of board meetings and shareholder meetings, and other related documents are located or stored within China;

- more than half (including half) of the directors or senior executives with voting rights are ordinarily resident in China."

Furthermore, Article 3 of State Taxation Administration Circular [2009] No. 82 stipulates: "In determining the Effective Management, the principle of substance over form must be followed."

(2) Individual Income Tax: General Anti-Tax Avoidance Rules

According to Article 8 of the *Individual Income Tax Law*, effective from January 1, 2019: "In any of the following circumstances, the tax authorities have the right to make tax adjustments using reasonable methods:

- where transactions between an individual and their related parties do not comply with the Arm's Length Principle and reduce the individual's or their related parties' tax liabilities without legitimate reasons;

- where an enterprise controlled by a resident individual, or jointly controlled by a resident individual and a resident enterprise, is established in a country or region with significantly low tax rates, and, without legitimate business reasons, profits attributable to the resident individual are not distributed or are reduced in distribution;

- where an individual implements other arrangements without legitimate business purposes to obtain improper tax benefits.

If tax adjustments are made in accordance with the preceding paragraph and additional taxes are owed, the tax authorities shall collect the overdue tax, along with any interest required by law."

Article 8 of the *Individual Income Tax Law* introduces key anti-tax avoidance principles, including the *Arm's Length Principle* (ALP)**,** *Controlled Foreign Corporation* (CFC) rules**,** and *General Anti-Tax Avoidance Rules* (GAAR). These are systematic anti-tax avoidance provisions and their inclusion in the *Individual Income Tax Law* marks a significant step in Chinese tax administration's oversight of residents' involvement in offshore investments. In particular, the CFC rules are undoubtedly a sword hanging over domestic investors who use offshore Special Purpose Vehicles (SPVs) to invest in foreign assets.

In July 2014, the OECD published the ***Standard for Automatic Exchange of Financial Account Information in Tax Matters*** (hereinafter referred to as the *Standard*), which provides a strong legal basis for enhancing international tax cooperation and combating cross-border tax evasion. The *Standard* consists of two parts: the ***Model Competent Authority Agreement*** **(MCAA)** and the ***Common Reporting Standard*** **(CRS)**. The CRS sets out the requirements and procedures for financial institutions to identify, collect, and report the financial account information of non-resident individuals and entities to tax authorities. Under the CRS, financial institutions in participating jurisdictions are required to report account information to the tax authorities, which will then facilitate the exchange of information between the jurisdictions.

Both China and Singapore are signatories committed to participating in the CRS information exchange mechanism. Therefore, when Chinese enterprises engage in cross-border investments in Singapore, they should carefully consider the differences in tax policies between the two countries, as well as their respective determinations of "economic substance", and pay close attention to the relevant OECD regulations to ensure the proper structuring of transactions.

Q&A: How Should the Producer's Name and Address Be Listed on the Garment Industry Certificate of Conformity?

By Lawrence Sun

Recently, I encountered a legal inquiry regarding the listing of companies on the garment certificate of conformity. A group's Dalian branch applied for trademark X, established a new clothing brand, and commissioned a factory in Qingdao for production. Meanwhile, the group also set up a company in Shanghai to manage the online sales of garments. To create a premium and sophisticated brand image, the company inquired whether it would be permissible to list only the Shanghai company as the distributor on the garment certificate of conformity, without indicating the Dalian branch or the Qingdao factory. To address this legal question, I conducted relevant research, and this article will provide a brief analysis of the issue.

1. Legal Provisions

Article 27, Paragraph 1 of the *Product Quality Law of the People's Republic of China* (2018 Amendment) (hereinafter referred to as the *Product Quality Law*) stipulates that the labeling on a product or its packaging must be truthful and comply with the following requirements:

(1) There must be a certificate of product quality inspection compliance;

(2) The product name, as well as the name and address of the producer, must be clearly marked in Chinese;

(3) Depending on the product's characteristics and usage requirements, the product specifications, grade, as well as the names and content of key ingredients, must be marked in Chinese; any information that consumers need to be aware of in advance must be indicated on the outer packaging or provided in advance through other materials;

(4) Products with a limited shelf life must clearly indicate the production date and safety usage period or expiration date in a prominent position;

(5) Products that can be damaged or may pose a safety risk to personal or property safety due to improper use, must carry a warning label or a Chinese-language warning statement.

Article 54 of the *Product Quality Law* provides that if the labeling of the product does not comply with the requirements set forth in Article 27, the authorities shall order correction. For products with packaging, if the labeling fails to comply with the provisions of Paragraphs (4) and (5) of Article 27, and the violation is serious, the authorities may order the cessation of production and sale and impose a fine of up to 30% of the value of the illegally produced or sold products. If there are illegal profits, these profits will be confiscated.

2. Legal Analysis

First, with respect to the interpretation of "producer" as stated in Article 27, Paragraph 1, Item 2 of the *Product Quality Law*, there are two prevailing views regarding whether it refers to the actual manufacturer or the commissioning party:

- **The first view** holds that the "producer" specifically refers to the entity engaged in actual production activities and therefore the certificate of conformity should not list a commercial enterprise without production capabilities.

- **The second view** argues that the "producer" refers to the entity responsible for the product's quality, not necessarily limited to the entity performing the physical production. The reasons for this view are primarily based on the following two points:

  (1) Article 9 of the *Product Labeling Regulations* issued by the State Administration for Technical Supervision in November 1997 (document no. 172 [1997]) stated that "the product label should include the name and address of the producer. The producer’s name and address should be those of a legally registered entity capable of assuming responsibility for product quality... In cases where the product is processed by a third party at the request of a commissioning party, and the third party is not responsible for sales, the name and address of the commissioning party should be listed on the product." However, this document was repealed on July 2, 2014, by the General Administration of Quality Supervision, Inspection and Quarantine in the *Announcement on the Publication of Effective Normative Documents in Force and the Repeal of Certain Normative Documents* (2014 No. 70).

  (2) The *Supreme People's Court's Reply Regarding Whether Victims in a Product Infringement Case Can File a Civil Lawsuit Against the Trademark Owners as Defendants* (Amendment 2020, document no. 20 [2020]) stipulates that any enterprise or individual that displays its name, trademark, or other recognizable identifiers on a product, indicating it is the product’s manufacturer, is considered a "producer" under the *Civil Code of the People's Republic of China* and the *Product Quality Law of the People's Republic of China*.

In practice, some regional administrative authorities support the second viewpoint mentioned above. For example, in a case investigated by the Mo Cheng branch of the Changshu City Market Supervision Administration in Jiangsu Province (where a consumer requested a return, refund and compensation on the ground that the producer listed on the certificate of conformity was a commercial enterprise without manufacturing qualifications), the authority held that the company had truthfully marked its name, address, and contact details, thereby fulfilling its obligation to clearly indicate the producer's name and address. Furthermore, the company was able to provide the quality inspection report for the complained product, and no substantial infringement on the consumer's legal rights was found. Therefore, the company was not in violation of the law, and the claim for punitive compensation for the service recipient was not supported. The Taiyuan Market Supervision Administration in Shanxi Province also expressed agreement with this viewpoint.

Additionally, we can refer to another two regulations. Article 9 of the *Cosmetic Labeling*

Management Regulations (Order No. 100 of the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China) states that “for cosmetics produced through commissioned manufacturing, if the commissioning enterprise holds the production license for the cosmetics being processed, it shall indicate the name and address of the commissioning enterprise, as well as the name of the commissioned enterprise, or may choose to only list the name and address of the commissioning enterprise. If the commissioning enterprise does not hold the production license for the processed cosmetics, the name and address of the commissioning enterprise, as well as the name of the commissioned enterprise must be listed." Article 8 of the *Food Labeling Management Regulations* (2009 Revision)" stipulates that for food products produced through commissioned manufacturing, where the commissioned enterprise does not take responsibility for external sales, the name and address of the commissioning enterprise must be indicated. For food products under production license management, if the commissioning enterprise holds the relevant production license for the processed food, it shall list the name and address of the commissioning enterprise and the name of the commissioned enterprise, or may choose to only list the name and address of the commissioning enterprise." In both two regulations mentioned above, when the commissioning enterprise holds the production license for the product being processed, listing the name of the commissioned enterprise is optional in addition to the required listing of the commissioning enterprise’s name and address.

Finally, I made a phone inquiry to the relevant department of the Market Supervision Administration of Pudong New District, Shanghai. The staff informed us that both the actual manufacturer and the commissioning enterprise should be listed on the garment certificate of conformity.

Returning to the client’s inquiry, the Dalian company, as the commissioning party, must be listed on the certificate of conformity. The Shanghai company, being neither the actual manufacturer nor the commissioning party, should not be listed on the certificate. Should the group wish to list the Shanghai company on the certificate of conformity without indicating the Dalian company or the Qingdao factory, it may transfer the brand to the Shanghai company and have the Shanghai company commission the Qingdao factory for production. In such a case, listing only the Shanghai company on the certificate of conformity may be permissible.

Regulatory Updates

1. **" Implementation Measures for the Pilot Program of Water Resource Tax Reform" (Finance and Taxation [2024] No. 28)**

In order to implement the principles of the 20th National Congress of the Communist Party of China and the Second and Third Plenary Sessions of the 20th Central Committee, as well as to adhere to the relevant provisions of the Resource Tax Law of the People's Republic of China and the Water Law of the People's Republic of China, the

Ministry of Finance, the State Taxation Administration, and the Ministry of Water Resources have jointly issued the Implementation Measures for the Pilot Reform of the Water Resource Tax (hereinafter referred to as the "Measures"). The Measures aim to strengthen the management and protection of water resource while promoting their efficient, sustainable, and safe utilization. These Measures will take effect on December 1, 2024, marking the commencement of the comprehensive implementation of the pilot reform to transition the water resource fee to a tax.

The **Measures** provide specific provisions regarding key elements of the water resources tax system, including taxpayers, taxable basis, tax amount standards, and tax incentives.

a) **Taxpayers and Taxable Basis**: The taxpayer for the water resource tax is the unit or individual that directly extracts water resources from rivers, lakes (including reservoirs, water diversion, transfer, and allocation projects, etc.), and groundwater. The water resources tax is levied based on the taxable basis, which is the volume of water extracted.

b) **Tax Amount Standards**: Water resource tax is applied differentiated based on the water resource conditions, type of water use, and economic development factors. The State has established a minimum average tax amount standard for all provinces, autonomous regions, and municipalities, ensuring a consistent baseline across all regions. The specific applicable tax amounts are determined by the relevant provincial, autonomous regional, or municipal authorities. Additionally, a higher tax amount is to be set for the extraction of groundwater and for water extraction from areas facing severe water shortages or overuse.

c) **Tax Incentives**: Water resources tax will be exempted in five specific circumstances, including the use of water for agricultural production within prescribed limits. For agricultural water use exceeding the prescribed limits and for water used in rural centralized drinking water projects, local authorities are authorized to grant tax reductions or exemptions. Furthermore, taxpayers who meet the national water use efficiency standards (advanced quotas) will be eligible for a reduction in the water resources tax.

d) **Revenue Allocation**: Following the reform, all water resource tax revenue will be allocated to local governments (whereas previously, water resource fee revenue was shared between central and local governments on a 1:9 ratio), which will enhance local fiscal autonomy.

e) **Tax Administration**: To standardize and enhance the administration of water resources tax collection, the coordinated tax collection mechanism between tax authorities and water administration departments will be improved. Additionally, the oversight of taxpayers' water measurement facilities will be strengthened.

2. **"Announcement on the Comprehensive Promotion and Adoption of Digital Electronic Invoices for Railway Passenger Transport" (Announcement No. 8, 2024, by the State Administration of Taxation, Ministry of Finance, and China State Railway Group Co., Ltd.)**

In line with the **"Opinions on Further Deepening Tax Collection and Administration Reform"** issued by the General Office of Central Committee and State Council in 2021, which calls for the orderly promotion of electronic invoices in sectors such as railways and civil aviation, and to implement the aforementioned requirements, the **State Administration of Taxation**, **Ministry of Finance**, and **China State Railway Group Co., Ltd.** jointly issued the **"Announcement on the Comprehensive Promotion and Adoption of Digital Electronic Invoices for Railway Passenger Transport"** (Announcement No. 8, 2024). The implementation of this initiative will reduce the cost of invoice use, improve the efficiency of invoice management, and meet passengers' demand for convenient access to electronic invoices (railway electronic tickets).

Passengers may log into their 12306 accounts (including the website and mobile app, hereinafter referred to as "12306") to obtain their electronic invoice (railway electronic ticket) within 180 days after completing their journey or paying for ticket changes and cancellations. If the 180-day period has elapsed, the provisions agreed upon between the passenger and the railway transport enterprise shall apply. The railway transport enterprise shall issue the electronic invoice (railway electronic ticket) through 12306 and deliver it to the passenger via 12306, by email, or through other electronic means. Passengers can query, download, or print the electronic invoice (railway electronic ticket) through 12306.

Currently, electronic invoice (railway electronic ticket) services are provided for domestic passenger transport ticket sales, refunds, and changes processed through the railway ticket sales and reservation system. The service is not provided for non-real-name tickets, emergency paper tickets, or China Railway Silver Tong Card/E-Ticket System tickets, etc.

3. **"Work Rules for the Handling Fair Competition Review Complaints" (Announcement No. 45, 2024 by the State Administration for Market Regulation)**

To fully implement the **decisions of the Third Plenary Session of the 20th Central Committee** regarding strengthening the rigid constraints on fair competition reviews and building a unified national market, the **State Administration for Market Regulation** has drafted the **"Work Rules for the Handling Fair Competition Review Complaints"** (hereinafter referred to as the "Work Rules") in accordance with the provisions of the Fair Competition Review Regulation (hereinafter referred to as the "Regulation").

In June 2024, the State Council reviewed and released the Regulation, which officially came into effect on August 1, 2024. Article 22 of the Regulation stipulates: Any organization or individual may report violations of the Regulation to the market supervision and administration departments. Upon receiving a complaint, the market supervision and administration departments shall promptly process the complaint or refer it to the relevant departments for handling.

The market supervision and administration departments shall make public the contact details (such as phone numbers, mailboxes, or email addresses) for receiving complaints.

The Work Rules consist of four parts, with 27 articles in total. The main contents include:

a) **General Requirements**: This section mainly sets out the legislative purpose, scope of application, division of functions among market supervision and administration departments at different levels, principles for handling complaints, the authority of market supervision and administration departments at different levels in handling fair competition review complaints, the channels for reporting, and the rights and obligations of complainants.

b) **Investigation Mechanism**: This section mainly defines the requirements for complaint registration, the subjects of investigation under different circumstances, situations in which complaints will not be processed, the materials that need to be provided during the investigation, cases of failure to implement or improperly implement the review procedures, violations of review standards, the need to hear opinions from relevant parties, investigation deadlines, and conditions for concluding investigations.

c) **Supervision and Management**: This section mainly outlines the circumstances under which reminders and urgings should be made, the situations and methods for conducting interviews, the responsibilities of relevant personnel and coordination between administrative and disciplinary functions, the procedures for handling issues arising from higher-level regulatory guidance, the coordination mechanism with antitrust enforcement and supervision, public and media supervision, the aggregation and analysis of complaint-handling information, and confidentiality requirements and other relevant matters.

4. **Administrative Measures for the Taxation of Import and Export Goods through the Customs of the People's Republic of China (General Administration of Customs Decree No. 272)**

On October 28, 2024, the General Administration of Customs promulgated the "Administrative Measures for the Taxation of Import and Export Goods through the Customs of the People's Republic of China" (hereinafter referred to as the "Measures"), which will be implemented from **December 1, 2024**, alongside the "Customs Law of the

People's Republic of China" (hereinafter referred to as the "Customs Law").

The revisions to the Measures focus primarily on the terminology for the taxable entity, the applicable scenarios, and the scope of the law, among other aspects, and are designed to align with and complement the Customs Law.

Key revisions:

a) **Terminology for the Taxable Entity and Types of Taxes Collected at the Import Stage**

The term "tax obligor " will be changed to "taxpayer". Taxes collected by Customs at the import stage will include Value-Added Tax (VAT) and Consumption Tax. The Comprehensive Tax Administration Leadership Group will serve as the coordinating group to guide the collection and management of Customs taxes.

b) **Cross-Border E-Commerce Operator, Customs Confidentiality Obligations, and Electronic Payment**

The operator of a cross-border e-commerce platform will be the withholding agent for customs duties and customs-collected taxes at the importation stage. The confidentiality obligations of the Customs are refined. Customs and its personnel must maintain confidentiality regarding the trade secrets and personal privacy of taxpayers and withholding agents. Adapting to the trend of electronic payments, the Measures specify that taxpayers and withholding agents are allowed to use electronic payment methods to settle taxes.

c) **Update of Applicable Regulation**: The specific provisions in the Customs regulations regarding commodity classification, customs valuation, and origin management will be simplified and referred to as “relevant provisions”. The applicable regulation, the Customs Tariff Regulations, will be replaced with the Customs Law.

d) **Tax Rates and Tax Assessment Rate**: The import and export tax rates will be based on the date the taxpayer or withholding agent completes the declaration, rather than the date Customs accepts the declaration, with the tax assessment rate incorporated into the calculation of the tax rate. For goods that arrive at the designated destination before clearance, if Customs approves a prior declaration, the applicable tax rate will be that in effect on the date the transport vehicle arrives at the destination, and the tax assessment rate will be based on the date the declaration was submitted.

e) **Formula**: A formula for calculating the tariff tax amount under the composite tax assessment rate has been added, along with formulas for calculating the import value-added tax (VAT) and consumption tax.

f) The applicability of certain provisions has been expanded, including the addition of circumstances under which taxpayers may submit a written request to Customs for a tax refund or tax guarantees.

In addition to the changes listed above, the Measures have been further amended to address additional details.

ForTran News

1. October 18, 2024 – Attorney Ivy Yang was invited by Century Chunqin Garden and CITIC Securities to attend the "Equity Exit and Legal Practice Forum".
2. October 25, 2024 – Lawyers from ForTran Law Firm went to Dianshan Lake and Jinze historic town for a team-building event.
3. October 2024 – Attorney Ben Lu, invited by the Xuhui District Lawyers' Work Committee, attended the "Exchange Meeting on the Development and Branding of Small and Medium-sized Law Firms in Xuhui District".