

AGN TAXPRESSO

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CHINA

THE IMPACT OF ELECTRONIC INVOICES ON CHINA ENTERPRISES

The Chinese expanded the pilot program in 2022 to start issuing and accepting fully digitalized e-fapiao across the country. Fully digitalized e-fapiao will reduce the tax administration cost, bring efficiency to tax payers and also improves the tax supervision system.

We summarized the fully digitalized e-fapiao's implications to companies doing business in China:

1. More intelligent tax supervision through big data and transparency

Following the launch of the fully digitalized e-fapiao, more enterprise data will be centrally stored by the tax office, monitoring will become more comprehensive. China tax system will transit from “control of taxation with invoices” to “governance according to numbers”.

Through the data sharing from various departments, backed by big data, the nationwide “data portrait” for every business can be realized. Enterprise's information will become very transparent in front of the tax office.

2. How will the full implementation of electronic invoices affect businesses?

While fully digitalized e-fapiao provide new opportunities for taxpayers, they will also present a range of challenges and some potential risks for taxpayers such as transitional procedures, systems and data adjustments. Under the new system, once a firm has a tax compliance issue, this will affect the amount of invoice the firm can issue and consequently affect the firm's revenue.

a. Challenges for managing business invoices:

In the transitional period in which paper and electronic invoices coexist, firms must not only ensure the accurate and timely issuance of various invoices externally, but also to strengthen internal control management at the receiving end of invoices to ensure compliance with the use of invoices and to avoid potential tax risks.

b. Invoice entry and archiving:

The number of electronic invoices will rise sharply. Entering and filing electronic invoices has become a significant problem for businesses. Many companies are not currently perfect in this area of management. Businesses need to improve the management capabilities of electronic invoices (duplication check, authenticity verification, entry, and filing), as well as reconstruct and optimize the new reimbursement, accounting, and filing process for full electronic invoices.

3. In the new tax environment, how should firms react?

a. Improve the electronic invoice entry and filing workflow:

Strictly implement the management requirements of electronic accounting files, and the original electronic documents of electronic invoices must be archived. The financial department should start the invoice ledger and electronic invoice filing work as soon as possible, otherwise the accumulation of workload will be difficulty of making up.

b. Strengthen risk management:

Manage the risk of price and tax separation rules at the sales end, the risk of sales invoicing process, and the delivery risk of invoices. Manage the risk at the receiving side, the risk of the invoicing supplier, and the risk of the application of invoices based on business.

c. Speed up the system upgrade and improve the management level of digital invoice tax:

The digital invoice management platform can help enterprises solve invoice issues and improve management efficiency. Enterprises should take advantage of the opportunity to actively deploy invoice management upgrade.

On the billing side, make full use of policy opportunities, get rid of the restrictions of tax control equipment, realize centralized billing management at low cost and quickly, and improve billing efficiency and service capabilities.

At the receiving end, actively deploy the upgrade of the reimbursement process, promote the automatic management of the entire process of invoice acquisition, collection, inspection, and selection.

Complied by Mandy Liu on 23 June 2023



INDIA

CAPITAL GAINS OF NON-RESIDENTS:

Angel tax, also known as the “angel investment tax,” refers to a tax provision in India that affects startups and angel investors. It was introduced in 2012 as part of Section 56(2)(viib) of the Income Tax Act, 1961, and aimed to curb money laundering and discourage the use of unaccounted funds.

The provision stated, if a startup in India issues shares to an Indian resident at a price exceeding the fair market value (FMV) of the shares, the excess amount is considered income and subject to tax. The FMV is determined by the tax authorities as per prescribed valuation methodologies, and if they deem the investment to be above the fair value, the excess amount is treated as income and taxed at a rate of 30% (plus applicable surcharges and cess).

This provision has been a matter of concern for startups and angel investors because it sometimes led to a situation where genuine investments were being taxed. Many startups receive angel investments at high valuations due to their growth potential.

To address this, the Indian government took measures to provide relief to startups from angel tax. In 2018, the government introduced certain exemptions and relaxations for startups, where exemptions could be availed subject to certain conditions.

FINANCE ACT 2023:

The Finance Bill, 2023 introduced a significant amendment to the Angel Tax provision. As per the Bill, the words ‘being a resident’ are to be omitted from clause (vii-b) of sub-section (2) of Section 56 of the Income Tax, 1961 (the “Amended Section 56”). Once this amendment was to take effect in relation to the assessment year 2024-25, unlisted, privately held companies will have to make sure that the laws are complied with in relation to share issuances to or funding from persons resident outside India as the exemption was withdrawn.

THE FEEDBACK:

Startups and the Indian Venture Capital industry, which were already struggling to navigate the funding winter made strong representations to the government that this provision would create unnecessary difficulty in raising foreign capital as foreign investors might be wary in the absence of clear regulations. It was believed that due to certain bad actors, genuine business interests were being hampered.

GRANT OF RELIEF:

The Department of Direct Taxes via the Exclusion Notification provided that angel tax provisions will not be applicable in case where consideration for issuance of shares is received from the following classes of persons:

1. Government and Government related investors such as central banks, sovereign wealth funds (“SWFs”), international or multilateral organizations or agencies including entities controlled by the Government or where direct or indirect ownership of the Government is 75% or more;

2. Banks or entities involved in insurance business where such entity is subject to applicable regulations in home jurisdiction;
3. Any of the following entities, which is a resident of any specified country (21 countries notified) and such entity is subject to applicable regulations in home jurisdiction ("Specified Entities");
 - a. Including USA, UK, Germany, France among others.
4. Entities registered with SEBI as Category-I Foreign Portfolio Investors ("FPIs");
5. Endowment funds associated with a university, hospitals or charities;
6. Pension funds created or established under the law of the foreign country or specified territory;
7. Broad based pooled investment vehicle or fund where the number of investors in such vehicle or fund is more than fifty and such fund is not a hedge fund or a fund which employs diverse or complex trading strategies.

There have also been new rules regarding valuation methodology for entities have been proposed. In addition, a price matching mechanism has been provided. The Draft Valuation Notification provides that where any consideration is received by an Unlisted Company for issue of shares, from any non-resident entity specified in the Exclusion Notification, the price of the equity shares corresponding to such consideration may be taken as FMV of such equity shares for resident and non-resident investors subject to certain conditions. Price matching for resident and non-resident investors has also been specified in case where the Unlisted Company receives investment from VCC or VCF or specified AIF.

EXPECTED IMPACT

The exemptions provided are being welcomed with open arms by the industry. The exclusion of investments made by government related investors including SWFs from angel tax provisions is welcome. Investment funds established in jurisdiction which are not specifically exempted above affected and foreign investors from these jurisdictions might be affected and it would be better if foreign portfolio investors irrespective of jurisdiction are exempted. However, the price matching mechanism is expected to provide much relief in such cases.

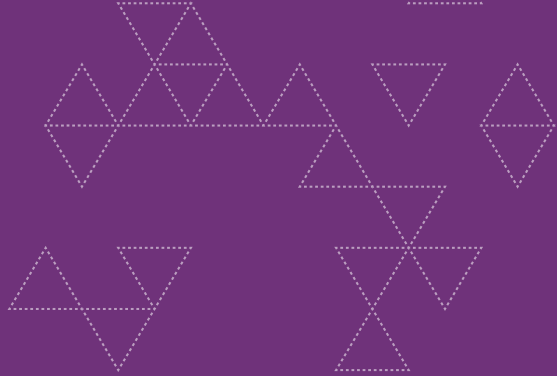
The proposed changes proposed are a positive step and provides relief to industry.

Compiled by Rohan Kochhar on 26 June 2023

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