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CHINA

Chinese Budget 2024/2025

Tax implications under new company law

With the implementation of China's new Company Law on July 1, 2024, businesses will encounter tax consequences.

Under the new company law, it's mandatory for a limited liability company's shareholders to fully pay the subscribed capital within a five-year period, leading to tax consequences related to deducting external loan expenditures.

Should an investor not settle the due capital within the five-year timeframe, the interest occurred from external loans—equal to the interest on the discrepancy between the actual paid-up capital and the capital due in the agreed period—should not be deemed as reasonable expense for the business, and therefore not deductible for corporate income tax calculation.

Consequently, it is advised that companies possessing a significant volume of unpaid capital remain alert while borrowing external loans. It's recommended to proactively collaborate with qualified tax officials to clarify the relevant tax policies and tax treatment, precisely determine the pre-tax deductions for interest costs, and meet corporate income tax duties.

New Tariff Law

China enacts new Tariff Law, effective from December 1, 2024

The introduction of the Tariff Law marks a further crucial phase in China's process to complete tax legislation.

The Tariff Law represents more than just an enhancement of the content in the Import and Export Tariff Regulations. Rather, it further clarifies the content concerning tariff collection, which is presently dispersed among different measures and declarations, and arranges it into legal clauses.

Significant alterations include:

- Numerous current rules and procedures have been upgraded to legal status, including defining the duties of international e-commerce platforms in tariff withholding and executing unified taxation.
- Enhancements have been made to the regulations controlling the origin of goods to more closely match the implementation of tariff rates.
- The deadline for taxpayers to submit applications for refunds of their excessively paid taxes has been extended to 3 years.
- Customs authorities has been formally granted to verify the tax amount due within a three-year period following the payment or release of goods by taxpayers or withholding agents.

- Measures have been introduced to tackle taxpayers' outstanding tax liabilities, including allowing customs to inform immigration authorities to impose exit limitations on taxpayers or their legal agents.
- When actions lead to reduced taxable sums without a justifiable business reason, the nation is now in a position to implement tariff adjustments as a countermeasure.
- New administrative penalty rules have been introduced.

Compiled by Mandy Liu

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Contact: +86 21 6389 8201 Email: m.liu@acclime.com

INDIA

Indian Budget 2024/2025

India's Union Budget for 2024 ushered several pivotal reforms aimed at aligning the country's tax structure with global standards, promoting ease of doing business, and improving investor confidence.

This year's budget introduced significant updates in international taxation, capital gains tax, and other regulatory changes that could shape investment decisions and business strategies.

1. Rationalization of Capital Gains Tax

One of the most anticipated announcements in the 2024 budget was the rationalization of the capital gains tax regime. India has historically maintained a complex system, with varying rates based on asset classes and holding periods. This year, the government took steps to simplify the structure, moving towards a more streamlined system. Key reforms include:

Uniform Long-Term Capital Gains (LTCG) Rate: The government has introduced a uniform LTCG rate of 15% across all asset classes, including equities, real estate, and debt instruments. Previously, different rates were applied depending on the type of asset and the holding period, leading to inefficiencies and confusion among investors.

Period of Holding: Classification of gains into short term and long term has been streamlined into two holding periods of 12 months and 24 months.

2. Revised Transfer Pricing Rules

India's transfer pricing regulations have been updated to bring them closer to international best practices. In alignment with the OECD's Base Erosion and Profit Shifting (BEPS) framework, the budget introduced measures aimed at preventing tax base erosion and profit shifting by multinational enterprises (MNEs).

Key changes include:

Advance Pricing Agreements (APAs): The government has extended the scope of APAs to cover a wider range of transactions, including intra-group financing and digital transactions. This move is expected to reduce litigation and provide certainty to MNEs on their tax liabilities.

Safe Harbor Rules: The budget has revised the safe harbor margins, making it easier for companies engaged in low-risk service activities, such as IT and ITES sectors, to comply with transfer pricing regulations without the need for extensive documentation. These changes enhance India's competitiveness as a destination for global businesses by simplifying compliance procedures and reducing the risk of tax disputes.

GST

Buoyed by GST's success, tax structure to be simplified and rationalised to expand GST to remaining sectors.

TDS Rationalisaton

Further keeping with the agenda of simplification and rationalisation of taxes, withholding tax rates have been simplified as below:

- 5 per cent TDS rate on many payments merged into 2 per cent TDS rate.
- TDS rate on e-commerce operators reduced from one to 0.1 per cent.
- Delay for payment of TDS up to due date of filing statement decriminalized.

Investment

To further bolster investment into the Indian economy from overseas, the below measures have been taken:

- Angel tax for all classes of investors abolished to bolster start-up eco-system.
- Simpler tax regime for foreign shipping companies operating domestic cruises to promote cruise tourism in India.
- Safe harbour rates for foreign mining companies selling raw diamonds in the country.
- Corporate tax rate on foreign companies reduced from 40 to 35 per cent.

Deepening tax base

A goal of the government has been to widen the tax base. This has been done through:

- Security Transactions Tax on futures and options of securities increased to 0.02 per cent and 0.1 per cent respectively.
- Income received on buy back of shares in the hands of recipient to be taxed.

Conclusion

India's 2024 budget signals the country's intent to harmonize its tax regime with global standards while promoting foreign investment and simplifying compliance for multinational and local businesses.

Compiled by Rohan Kochhar

VIKAS KOCHHAR & ASSOCIATES
CHARTERED ACCOUNTANTS

Contact: +91 11 2433 8111 Email: rohankochhar@vkaindia.com

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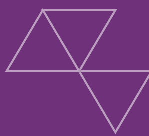

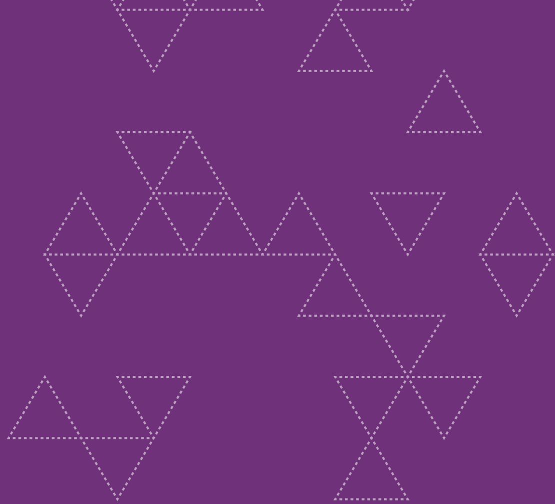

For further information, or to become involved, please contact:

AGN International
Email: info@agn.org | Office: +44 (0)20 7971 7373 | Web: www.agn.org

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