



LEGAL INFORMATION

INTERNATIONAL BUSINESS

Mar. 2023 (No. 2)



Shanghai International Enterprises Business Consulting & Service Co., Ltd.
Tel: 021-63265522

目录

【ATTENTION】

The publication is not legal advice. If you seek professional advice, please contact

SIBCO Legal dept.
legal@sibco-bc.com
021-63265522

LEGAL NEWS EXPRESS

01 Announcement on the Tax Policies for Exported and Returned Commodities in Cross-Border E-Commerce by the Ministry of Finance, the General Administration of Customs, and the State Administration of Taxation

02 Announcement on the Matters about Handling Final Settlement and Payment of Individual Comprehensive Income of Individual Income Tax in 2022 by the State Administration of Taxation

03 Interpretation on Several Measures to Steady Growth, Adjust Structure and Strengthen Capabilities of Small, Medium and Micro Enterprises

04 Announcement on the Full implementation of Electronic Patent Certificates

05 Confidentiality and File Management Rules Matched with Overseas Listing Filing Management System Revised and Released



LEGAL INFORMATION
2023

LEGAL NEWS EXPRESS

01 Announcement on the Tax Policies for Exported and Returned Commodities in Cross-Border E-Commerce by the Ministry of Finance, the General Administration of Customs, and the State Administration of Taxation

In order to accelerate the development of foreign trade's new form and promote the high-quality development of trade, the tax policy for cross-border e-commerce export returns is hereby announced as follows:

1. For the goods (excluding food) returned to China in their original condition within 6 months from the date of export due to slow-selling or return reasons under cross-border e-commerce customs supervision codes (1210 bonded e-commerce, 9610 e-commerce, 9710 cross-border e-commerce B2B direct export, 9810 cross-border e-commerce export overseas warehouse) within one year from the issuance of this Announcement, import duties, and import value-added tax and consumption tax is exempted; export duties that have been collected will be refunded, and the value-added tax and consumption tax that have been collected shall be implemented in accordance

with the relevant tax regulations on the return of domestic sales of goods. Among them, the export commodities under the supervision code 1210 should be returned to the outside of the territory within 6 months from the date of departure from the special customs supervision area or the bonded logistics center (Type B) leaving the area.

2. For the commodities that meet the requirements of Article 1, if the export tax refund has been processed, the enterprise shall make up the refunded tax according to the current regulations. Enterprises should apply for exemption from import duties, import value-added tax and consumption tax, and refund of export duties on the basis of the Export Goods Tax Paid/Not Refunded Certificate issued by the competent tax authority.

3. "Returned in its original state" stipulated in Article 1 means that the minimum

commodity form when the exported goods are returned into the country should be basically the same as the original export form, with no addition of accessories or parts, and no processing or modifying, but it can still be regarded as "original" after unpacking, inspection, installation, commissioning, etc.; the returned imported goods should not have been used, except for the situation that only after trial can be found to be of poor quality or can be proved to the return by the customer.

4. For the commodities that meet the provisions of Articles 1, 2 and 3, enterprise shall submit export commodity declaration list, export declaration form, or explanation to the reason for the return and other materials proving that the commodity is indeed returned

due to unsalable or return reasons, taking the legal responsibility for the material's authenticity. For the goods returned due to slow sales, enterprise should provide a "self-declaration" as the explained material to make a promise; for the rejected goods to be returned, enterprise should provide return records (including the record on the cross-border e-commerce platform), return agreement, etc. as the explained materials. According to this, the customs will handle the formalities such as return and tax exemption.

5. Tax evasion, tax fraud and other violations of laws and regulations by enterprises shall be dealt with in accordance with relevant national laws and regulations.

02 Announcement on the Matters about Handling Final Settlement and Payment of Individual Comprehensive Income of Individual Income Tax in 2022 by the State Administration of Taxation

According to the Individual Income Tax Law, the Tax Collection Management Law and their implementation regulations, the State Administration of Taxation issued an announcement on the matters related to the settlement and payment of comprehensive income of individual income tax in 2022

(hereinafter referred to as the Final Settlement), the main contents are as follows :

1. Main Content of Final Settlement

After the end of 2022, resident individuals (hereinafter referred to as taxpayers) need to summarize the income of the four

comprehensive incomes obtained from January 1 to December 31, 2022, including wages and salaries, labor remuneration, author remuneration, and royalties. After deducting expenses of 60,000 yuan, special deductions, special additional deductions, other deductions determined by law, and donations to eligible public welfare and charitable causes, the comprehensive income personal income tax rate is applied and the quick deduction is subtracted (see the attachment of the official website for the tax rate table) to calculate the final The amount of tax payable, minus the prepaid tax amount in 2022, to obtain the refundable or payable tax amount, and declare to the tax authority and handle the tax refund or tax payment.

The specific calculation formula is as follows:
Refundable or payable tax amount equals [(comprehensive income - 6,000 yuan - special deductions such as "three insurances and one housing fund" - special additional deductions such as children's education - other deductions determined by law - eligible charitable donations) × applicable Tax rate - quick deduction] - prepaid tax

The final settlement does not involve the taxpayer's classified income such as property leasing, and the income that is not included in the comprehensive income for tax calculation according to regulations.

2. Situations where Settlement is not Required

Taxpayers who have prepaid individual

income tax in accordance with the law in 2022 and meet one of the following circumstances do not need to go through settlement:

(1) Taxes need to be paid for final settlement, but the annual comprehensive income does not exceed 120,000 yuan;

(2) The amount of tax to be paid for final settlement does not exceed 400 yuan;

(3) The prepaid tax amount is consistent with the final tax payable amount;

(4) Those who meet the conditions for tax refund on final settlement but do not apply for tax refund.

3. Circumstances where Settlement is Required

Taxpayers are required to go through settlement if any of the following situations are met:

(1) The prepaid tax amount is greater than the final tax payable amount and a tax refund is applied for;

(2) The comprehensive income obtained in 2022 exceeds 120,000 yuan and the amount of tax repayment required for final settlement exceeds 400 yuan.

If the incorrect income item is applied or the withholding agent fails to perform the withholding obligation in accordance with the law, resulting in under-declaration or failure to declare comprehensive income in 2022, the taxpayer shall handle the final settlement

according to the law.

4. Pre-tax Deduction Available

For the following pre-tax deductions that will occur in 2022, taxpayers can report or make supplementary deductions during the settlement period:

(1) Eligible medical expenses for serious illnesses of taxpayers, their spouses and minor children;

(2) Eligible special additional deductions for child care for infants and young children under 3 years old, children's education, continuing education, housing loan interest or housing rent, and support for the elderly, as well as deduction of expenses, special deductions, and other deductions determined by law;

(3) Qualified donations to public welfare and charitable causes;

(4) Qualified personal pension deduction.

Taxpayers who obtain comprehensive income and business income at the same time may claim a deduction of 60,000 yuan in comprehensive income or business income, special deductions, special additional deductions, and other deductions determined by law, but repeated declarations for deductions are not allowed.

5. Processing Time

The 2022 annual settlement processing time

is from March 1 to June 30, 2023. Taxpayers without domicile in China who leave the country before March 1 can apply before departure.

6. Handling Method

Taxpayers can freely choose the following handling methods:

(1) Do it yourself.

(2) Through the employed unit (including the unit that withholds and prepays the individual income tax of its labor service remuneration according to the accumulative withholding method) to handle it on its behalf.

If the taxpayer requests, the unit shall handle the final settlement and payment on his or her behalf, or train and guide the taxpayer to complete the final settlement declaration and refund (make up) tax. For the handling by unit, the taxpayer should confirm with the unit in writing or electronic before April 30, 2023, and provide supplementary information such as comprehensive income earned outside the unit, related deductions, and tax benefits in 2022, being responsible for the authenticity, accuracy and completeness of the submitted information. If the taxpayer fails to confirm with, the unit shall not handle it.

(3) To entrust a trustee (including tax-related professional service agencies or other units and individuals) to handle the matter, the taxpayer must sign a letter of authorization with the trustee. After the unit or trustee handles the final

settlement for the taxpayer, it shall inform the taxpayer of the handling situation in a timely manner. If the taxpayer finds that there is an error in the final settlement declaration information, he may request the unit or trustee to correct the declaration, or he may correct the declaration by himself.

7. Tax Refund

In order to facilitate tax refunds, taxpayers whose comprehensive annual income in 2022 does not exceed 60,000 yuan, that have prepaid individual income tax, can choose to use the simple declaration function provided by the individual tax APP and website to conveniently handle tax refunds.

03 Interpretation on Several Measures to Steady Growth, Adjust Structure and Strengthen Capabilities of Small, Medium and Micro Enterprises

Recently, the Office of the State Council Leading Group for Promoting the Development of Small and Medium-sized Enterprises issued Several Measures to Steady Growth, Adjust Structure and Strengthen Capabilities of Small, Medium and Micro Enterprises (hereinafter referred to as "Several Measures"). The interpretation of its main content and implementation is as follows:

1. Purpose

Several Measures introduces relevant measures, which mainly focus on the current difficulties in production, operation and structural upgrading faced by small, medium and micro enterprises, to further promote stable growth and expectations, and strive to

strengthen the ability of small, medium and micro enterprises to adjust their structures, achieving high-quality development.

2. Background

At present, the foundation of China's economic recovery is not yet solid. In order to promote the development of small, medium and micro enterprises, enhance their core competitiveness, stimulate their innovation vitality and development momentum, improve quality and efficiency, and enhance the ability to resist risks, Several Measures proposes 15 specific measures in two aspects about further promoting stable growth and expectations, and making structural adjustment and strengthening capabilities of small and medium-sized

enterprises, based on "take in account both bailout and service, and combine structural adjustment with capability strengthening".

3. Specific measures to promote stable growth and expectations

Several Measures aims at the current production and operation difficulties faced by small, medium and micro enterprises, to put forward 7 measures to further promote stable growth and expectations, from policy support, financing promotion, expanding demand, ensuring the supply and price of bulk raw materials, and strengthening public services, and in terms of extending policies, increasing credit, reducing costs, expanding demand, strengthening services, and protecting rights and interests, etc., which will comprehensively stimulate the vitality and confidence of market players. Among them, it is clearly proposed to increase the reserved share of government procurement projects for small and medium-sized enterprises to more than 40% in stages until the end of 2023, and continue to increase support for government procurement to promote the development of small and medium-sized enterprises; it is proposed to effectively expand market demand and implement a strong Investment to promote consumption policies and measures, support small and medium-sized enterprises to participate in the construction of national

scientific and technological innovation projects, promote the expansion of the consumption of automobiles, green smart home appliances, and the sending of green building materials and new energy vehicles to the countryside, carry out cross-border matchmaking activities, and solve the problem of small and medium-sized enterprises' orders; it is proposed to increase public service supply and public opinion guidance, improve the service system for small and medium-sized enterprises at the national, provincial, city, and county levels, to play the role of socialized public service institutions.

4. Specific measures to promote structural adjustment and strengthen capabilities of small, medium and micro enterprises

To improve the core competitiveness of small, medium and micro enterprises, Several Measures proposes 8 measures to promote structural adjustment and strengthen capabilities of small, medium and micro enterprises. Aiming at the key links in the transformation and upgrading of small, medium and micro enterprises, including scientific and technological achievements to accelerate intelligence, digital empowerment and transformation, quality standards and brand value enhancement, intellectual property protection capabilities, talent and financial support, etc., the development of specialization and specialization on small and medium-sized

enterprises is promoted through improving the gradient cultivation system for high-quality small and medium-sized enterprises; help small and medium-sized enterprises to enhance their core competitiveness through the implementation of three special actions of "scientific and technological achievements empowering small and medium-sized enterprises", "digital empowering small and medium-sized enterprises" and "quality standards and brand empowering small and medium-sized enterprises"; increase support for talent development by optimizing the evaluation of professional titles for small and medium-sized

enterprises, implementing the "school-enterprise double employment" system, etc.; increase direct financing support for high-quality small and medium-sized enterprises, through giving full play to the role of Beijing Stock Exchange, the National Small and Medium Enterprise Development Fund, and the National Science and Technology Achievement Transformation Guidance Fund, etc. At the same time, a series of specific measures have also been put forward in terms of strengthening the use and protection of intellectual property rights and promoting the development of characteristic industrial clusters of small and medium-sized enterprises.

04 Announcement on the Full implementation of Electronic Patent Certificates

In order to implement the decision-making and deployment on strengthening the construction of digital government by the Party Central Committee and the State Council, and continuously improve the level of informatization and facilitation of patent examination services, the State Intellectual Property Office will fully implement the electronic patent certificate system from

February 7, 2023 (including the same day).

If the party applies for and obtains the patent authorization in electronic form, he or she should download the electronic patent certificate through the patent business handling system; and if in paper form, he or she should download the certificate according to the method notified in the Notice of Obtaining the Electronic Patent Certificate.

05 Confidentiality and File Management Rules Matched with Overseas Listing Filing Management System Revised and Released

In order to support the overseas listing of enterprises in accordance with laws and regulations, and match the Trial Measures for the Administration of Overseas Issuance and Listing of Securities by Domestic Enterprises ("Trial Measures for Management"), Securities Regulatory Commission jointed with the Ministry of Finance, the State Secrets Bureau, and the State Archives to amend the Regulations on Confidentiality and Archives Management Related to Issuing Securities and Listing Overseas (No.29 [2009]), which is going to form the Regulations on Strengthening Confidentiality and Archives Management Related to Overseas Issuance of Securities and Listing by Domestic Enterprises ("Regulations") and will come into force simultaneously with the Trial Measures for Management from March 31, 2023. This revision mainly includes:

1. Connect with the Trial Measures for Management to adjust the scope of application, which involved direct and indirect overseas listing of enterprises. That is, Article 2 in the

Regulations of, "Domestic enterprises include domestic joint stock companies that are directly issued and listed overseas and domestic operating entities that are indirectly issued and listed overseas."

2. To provide clearer and clearer guidelines for the confidentiality and file management of relevant entities in overseas listing activities. The Regulations require domestic enterprises to comply with relevant laws and regulations such as confidentiality, while providing and disclosing documents to securities companies, accounting firms and other securities service agencies and overseas regulatory agencies during the process of overseas issuance and listing, or when providing and disclosing documents through their overseas listing entities.

3. Improve cross-border regulatory cooperation arrangements to provide institutional guarantees for safe and efficient cross-border regulatory cooperation. It is clarified that if overseas securities regulatory agencies and relevant competent departments

propose to conduct inspections or investigate and collect evidence of domestic enterprises and domestic securities companies and securities domestic enterprises, they shall pass cross-border regulatory approvals. Securities Regulatory Commission or relevant competent authorities have to provide necessary assistance

service agencies that provide corresponding services for domestic enterprises in relation to overseas issuance and listing activities of in accordance with the bilateral and multilateral cooperation mechanism to provide institutional guarantees for safe and efficient cross-border regulatory cooperation.

(THE END)



SERVICE CREATES VALUE

CONSULTING CREATES EDGE



FLOOR 19, JINTIANDI INTERNATIONAL BUILDING

NO. 998 RENMIN ROAD, HUANGPU DISTRICT, SHANGHAI, CHINA (200021)

TEL: +86-21-63265522 FAX: +86-21-63262166

WWW.SIBCO-BC.COM

