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# ***SAT and SAFE refine the interim and post administration mechanism by establishing information sharing system***

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## ***In brief***

The *Memorandum on promoting the information sharing mechanism and implementation of joint supervision*<sup>1</sup> (“the Memorandum”) was signed by the State Administration of Taxation (SAT) and State Administration of Foreign Exchange (SAFE) on 14 November 2016 in Beijing. According to the Memorandum, the SAT and SAFE will monitor and assess the export tax refund, cross-border tax source and forex collection and remittance, in order to achieve the purpose of information exchange, cross supervision and outcome sharing between two sides. Via the information sharing platform of tax collection and forex administration, tax bureaus will have a better understanding of the enterprises’ cross-border business and its relevant tax issues, which facilitates enhancing their supervision.

The detailed information regarding method of information sharing, frequency of information exchange and how the two platforms of SAT and SAFE interface with each other under the principle of the Memorandum remains to be further clarified. In the meanwhile, it is anticipating whether the process of tax matters relating to forex would be simplified.

In this issue of *China Tax/Business News Flash*, we will briefly introduce how the information sharing mechanisms of SAT and SAFE would push for a more strict supervision, analyse the impact of information sharing on tax payers, look forward to the relevant implementation rules and share our observations and views.

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## ***In detail***

### ***Background***

With the accelerating process of economic globalisation and the substantial growth on quantity and size of enterprises’ forex related tax matters in China, the cross-border tax issue has become a hot topic of the Chinese tax authority and the intentional community.

To strengthen the information sharing between two sides and to improve the interim and post administration mechanism as well as to implement the joint incentive and punishment on

taxpayers, the SAT and SAFE concluded the *Memorandum on promoting the information sharing mechanism and implementation of joint supervision* on 14 November 2016 in Beijing.

According to the limited information disclosed on public channel, the SAT and SAFE will focus on monitoring and assessing those aspects, in respect of export tax refund, cross-border tax source and forex collection and remittance, to achieve the purpose of information exchange, cross supervision and outcome sharing between two sides.

### ***Information sharing supports the supervision***

Before concluding the Memorandum, the information of taxation and forex had been broadly exchanged to ensure the national tax collection work to be carried out in an orderly manner. On one hand, the forex information is the pre-condition to do the relevant tax treatment. For example, the export tax refund mechanism requires the information sharing of forex collection and export tax refund; while before the forex system of trade in good was reformed, obtaining the forex verification sheet from SAFE was necessary to apply

export tax refund. On the other hand, the SAFE (or banks) may not proceed the cross-border business until enterprises clear the tax payable with the in-charge tax bureaus. For example, pursuant to the SAT and SAFE Public Notice [2013] No.40 which stipulates that domestic institutions and individuals who remit forex payments more than equivalent of USD 50,000 must perform record-filing to the in-charge local state tax bureaus for endorsement and obtain the *Record Filing Form for Cross-Border Remittance Regarding Services and Trading*<sup>2</sup>.

Although SAT and SAFE have established some platforms for information exchange, they have not built up a systemic information sharing mechanism due to some reasons. However, the conclusion of the Memorandum filled such gap and prompted the two sides to exchange information in a systematic and normalised manner.

Via the information exchange platform between two sides, SAT and SAFE are able to share the tax collection and forex information, to the extent, enriching the tax and forex data of each side. In this regard, the tax bureaus are able to understand the enterprises' cross-border transaction, identify the relevant tax issues and thus enhance their supervision on certain matters.

From a long-term perspective, the Memorandums will have a positive effect on the big data collection and analysis on economic activities. As a

result, the SAT and SAFE are able to understand the innovative changes of the enterprise and to summarise the frequent tax or forex issues arisen through utilising the shared information, which may facilitate to formulate policies in the future.

### ***The takeaway***

The conclusion of the Memorandum will significantly enhance the information transparency of taxpayers. With the increasingly extensive information of cross-border business obtained by the tax authority, the tax authority will strengthen the supervision on tax related matters. In this regard, the enterprises will be subject to more strict supervision and also face more challenges to be in compliance from tax perspective.

We have witnessed that the in-charge tax authority collected data of cross-border payments from the SAFE reporting system, more specifically, it includes the exact the payment date, payment amount, recipient and even the transaction notes. Based on such information, the tax authority was able to raise their inquiries and investigate each payment in respect of whether the taxes have been paid appropriately.

In addition, tax bureaus are able to monitor the area where they lacked such capability before. For instance, it may be possible in the future for tax bureaus to identify and handle the tax issues with an efficient manner in respect of round-trip investments through special purpose vehicles<sup>3</sup> by

collecting the forex registration information.

Pursuant to the principle of the Memorandum, the detailed implementation rules regarding the method of information sharing, frequency of information exchange and how the two platforms of SAT and SAFE interface with each other remains to be further clarified. In the meanwhile, in the context of open and direct way of information sharing, whether the process of tax matters relating to forex (e.g. record-filing for cross-border payments) could be simplified is to be anticipated.

### ***Endnote***

1. Sourced from SAT website: <http://www.chinatax.gov.cn/n810219/n810729/n811748/c2353068/content.html>
2. For details, please refers to *The Public Notice Jointly Issued by the SAT and SAFE Clarifying Certain Issues on Tax Record-filing in Remitting Outward Payment for Service* (Public Notice [2013]No. 40)
3. For details, please refers to *Notice Issued by the SAFE Simplifying Certain Matters Related to the Foreign Exchange Administration on Outbound Financing, Outbound Investment and Round-tripping Investment by Chinese Residents through Special Purpose Vehicles* (Huifa[2014]No. 37)

## **Let's talk**

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\* These results are based on an independent survey of 130 primary buyers of tax services in China, conducted by research agency Jigsaw Research (Q1-Q4 2015).

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