

# Chinese tax changes affecting the international shipping community



**George Pachatouridis**  
**Claims Assistant**

+44 20 7522 7501  
george.pachatouridis@ctplc.com

Recent developments in the People's Republic of China (PRC) tax law in relation to International Transportation Business (ITB) have attracted increasing concern and attention from the international shipping community. This article offers a brief practical guide on the main aspects of the new regulations and the changes these bring about.

## **Why the new regulations?**

On 30 June 2014, the China State Administration of Taxation (CSAT) issued the 'Notice on Provisional Measures on the Collection of Tax on Non-Resident Enterprises Engaged in International Transportation Business' (2014 No 37 Notice). This came into effect on 1 August 2014. The Notice seeks to tighten the tax regulations for 'non-resident taxpayers' who benefit from the 'international transportation business'. The tax treatment and administrative procedures in the Notice could therefore have a significant impact on members.

## **Scope of 'international transportation business'**

Clause 2 of Notice no 37 clarifies that 'international transportation business' includes the transportation of passengers, cargo or post in and out of Chinese ports by non-resident companies through vessels, aircraft or space slots. The clause further clarifies that voyage chartering or time chartering, with the purpose of income generation, shall be classified as 'international transportation business'.



### Advice

- Members should prudently examine the terms regarding tax payment obligations, when entering into transportation agreements, to seek best protection of their interests.
- Members should familiarise themselves with the new provisions and be ready to comply with them.
- Members will need to be aware of the possibility that their Chinese counterparty may act as a withholding agent to collect the due taxes.
- Members will need to check if their registered country has any tax treaty with China by which they can be protected from the new tax burdens.
- Alerts will be issued via our website and Twitter to communicate major updates.

### Tax registration procedure

The Notice requires non-resident companies to register with the local tax authority within 30 days of concluding an agreement or obtaining operation qualification. Non-resident companies may complete tax registration either by themselves or through their appointed local agents. If a non-resident enterprise fails to register and pay tax, Chinese authorities can appoint the enterprise's Chinese counterparty as the withholding agent and require such agent to withhold the tax amount from its payment to the non-resident taxpayer and instead pay the same to the local tax authority. If the withholding agent fails to do so, the tax authorities should recover the tax amount from the non-resident tax payer and should impose a significant fine on the withholding agent.

### Taxable income

Taxable income shall be calculated by deducting 'deductible expenses' from the actual income received from the provision of the transportation services. 'Deductible expenses' consist of the reasonable expenses incurred to earn the revenue received. To claim deductible expenses, supporting documentation must be submitted to the authorities.

### Double Taxation Treaties

Non-resident enterprises may be able to benefit from reduced or waived enterprise income tax due to a double taxation treaty between their nation and China. To arrange this, the foreign enterprise should apply for an official confirmation of the applicability of that treaty from the relevant tax authority. Taxpayers, who have paid the tax but are actually entitled to tax treaty treatment, can apply for a refund of the overpaid tax within three years after payment.

### Conclusion

Obviously, this regulation is intended to streamline and tighten the collection of tax on non-resident taxpayers engaged in international transportation business in China, they are expected to face a higher tax burden from the Chinese tax authorities unless protected by applicable tax treaties.

However, it is important to note that the new regulations are in their infancy. At this stage, there remain many uncertainties in the application of the Notice and quite a few issues need to be clarified. The new regulations are acknowledged as 'Interim Measures' and further clarification from the Chinese tax authorities is awaited.

The Standard Club will closely monitor this issue and keep members apprised of developments with further alerts where necessary.

This article is intended to provide only general guidance on the above issues. This should not be construed as specific legal advice in Chinese tax law. Instead the aim is to assist the club's members in identifying the issues requiring consideration and on deciding what further enquiries or advice should be sought either from the club or preferred lawyers.