



中国注册税务师协会

THE CHINA CERTIFIED TAX AGENTS ASSOCIATION



Transparency in Tax Policy: Significant Progress and Current Challenge

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THE CHINA CERTIFIED TAX AGENTS ASSOCIATION

August 5, 2022. Beijing.

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Since 1994, Mr. Ji Feng began his service in tax collection, taxpayer management and tax audits at Foreign Taxation Office WUXI city branch of State Taxation Administration (STA).

In 2006, after ten years in field operations, he was selected to work in the headquarter of STA and spent eight years in international cooperation, tax treaty negotiations and interpretations, non-resident taxation management and outbound taxation monitoring. He was involved in treaty negotiations or renegotiations with UK, France, Germany, Japan, Mexico, Czech, Mauritius, Barbados, etc. He took an active role in drafting and implementing tax circulars such as circular 698 of 2009 and initialing QFII taxation rules. He gave lectures to local tax officials nationwide and 12366 hotline staff on international taxation issue time after time. He participated in OECD meetings five times in Paris, OECD training courses twice in Vienna and field trainings on foreign taxation in Canada and Australia. Listed as team member of STA BEPS working panel.

During his Deloitte career starting from March 2014, he has successfully assisted our clients in settling many sophisticated and disputable tax issues, especially in international tax field.

He has a US LLM degree in taxation and bears certificates of Chinese Lawyer Qualification, Registered Tax Agent and Top-level Accountant.

Transparency in Tax Policy

□ Main Content:

- ❖ Tax Legislation: Historical Development
- ❖ Law Interpretation: Elaborated Explanation
- ❖ Information Exchange: Fast Automation
- ❖ Private Ruling: Keeping Pace with Times

Tax Legislation: Historical Development

□ Legislation Law

- ❖ The basic tax system shall only be enacted by the law:
- ❖ If not been enacted by law so far, the National People's Congress or its Standing Committee, according to actual needs, has the authority to make a decision and authorize the State Council to enact administrative regulations on part of those affairs;

List of current effective tax laws and regulations in China

(as of July 31, 2022)

	Amount	Contents	
Tax laws	13	Fundamental law	Enterprise Income Tax Individual income Tax
		General law	Procedural: The Tax Collection and Administration Substantial: Vehicle and Vessel tax, Vehicle purchase tax, Tobacco tax, Environmental protection tax, Deed tax, Cultivated Land Occupation tax, Urban Maintenance and Construction tax, Resource tax, Ship tonnage, Stamp Duty
Administrative regulations	6	Provisional Regulations on the value added tax, the consumption tax, the Tariffs, the urban land use tax, the land value added tax, the real estate tax of PRC	
Ministerial regulations		The implementation measures for tax laws and regulations, etc.	
Normative documents		The executive interpretation and implementation procedures for tax laws, regulations and departmental rules	

Law Interpretation: Elaborated Explanation

□ Special requirements during Tax Circular drafting

- ❖ When the draft Circular is submitted for review, the drafting department shall provide the interpretation document at the same time, including
 - the background and purpose of the draft circular, the key points and difficult-to-understand points of the content, the necessary examples and the requirements of the measures to be implemented

Circular Interpretation: Official Website of STA

The screenshot shows the official website of the State Taxation Administration (STA) in Chinese. The browser address bar displays the URL: www.chinatax.gov.cn/chinatax/n810341/n810760/common_zqjd_list.html. The website header features the STA logo and name, a search bar, and a navigation menu with categories: 总局概况, 信息公开, 新闻发布, 税收政策, 纳税服务, 税务视频, and 互动交流. The main content area is titled '政策解读' (Policy Interpretation) and contains a list of articles with their titles and dates. A sidebar on the right lists '最新文件' (Latest Documents) and '媒体观点' (Media Views).

国家税务总局
State Taxation Administration

请输入关键字 搜索

本站热词: 减税降费 个税 增值税 小微企业 发票

总局概况 信息公开 新闻发布 税收政策 纳税服务 税务视频 互动交流

首页 > 税收政策 > 政策解读

政策解读

- 关于《国家税务总局关于延长2022年7月份增值税留抵退税申请时间的公告》的... [07-13]
- 关于《国家医保局 财政部 国家税务总局关于做好2022年城乡居民基本医疗保障... [07-08]
- 关于《国家税务总局关于中国与刚果(布)、安哥拉、卢旺达等国双边税收协定... [06-30]
- 关于《国家税务总局关于实施〈中华人民共和国印花税法〉等有关事项的公告》... [06-29]
- 关于《国家税务总局关于简化办理市场主体歇业和注销环节涉税事项的公告》的... [06-29]
- 关于《国家税务总局关于扩大全额退还增值税留抵税额政策行业范围有关征管事... [06-07]
- 关于《国家税务总局关于企业预缴申报享受研发费用加计扣除优惠政策有关事项... [05-31]
- 关于《国家税务总局关于进一步便利出口退税办理 促进外贸平稳发展有关事项的... [04-29]
- 关于《国家税务总局 工业和信息化部关于发布〈免征车辆购置税的设有固定装置... [04-28]
- 3岁以下婴幼儿照护专项附加扣除填报“五步走” [03-29]
- 关于《国家税务总局关于修订发布〈个人所得税专项附加扣除操作办法(试行)〉... [03-28]
- 财政部税政司 税务总局所得税司有关负责人就落实3岁以下婴幼儿照护个人所得税... [03-28]
- 关于《国家税务总局关于小规模纳税人免征增值税等征收管理事项的公告》的解读 [03-24]
- 关于《国家税务总局关于小型微利企业所得税优惠政策征管问题的公告》的解读 [03-24]

最新文件

- 关于延长2022年7月份增值税留抵退税申请时间的公告[07-08]
- 关于搞活汽车流通 扩大汽车消费若干措施的通知[07-05]
- 2022年新的组合式税费支持政策指引[07-01]
- 关于阶段性缓缴职工基本医疗保险单位缴费的通知[06-30]
- 关于做好2022年城乡居民基本医疗保障工作的通知[06-30]
- 关于交易型开放式基金纳入内地与香港股票市场交易互联互通机制[06-30]
- 关于实施《中华人民共和国印花税法》等有关事项的公告[06-28]
- 关于印花税法实施后有关优惠政策衔接问题的公告[06-27]

媒体观点

- [人民网]税收大数据搭桥 小龙虾产业

Case Study: Announcement of the STA [2018] No.9

In order to implement the treaties for the avoidance of double taxation signed by the government of the People's Republic of China with foreign parties (hereinafter referred to as the "tax treaties"), issues concerning the determination of status of "beneficial owners" under the articles with respect to dividends, interest and royalties in the tax treaties are hereby announced as follows:

I. "Beneficial owners" refer to persons who possess the ownership of and the right of control over their proceeds or rights or property based on which the proceeds are generated.

II. When the status of residents of a counterparty who need to enjoy the treatment under the tax treaties (hereinafter referred to as the "applicants") as "beneficiary owners" is determined, a comprehensive analysis shall be conducted based on the factors set out in the present article and in combination with the actual conditions of specific cases. In general, the following factors are not conducive to the determination of an applicant's status as a "beneficial owner":

1. The applicant is obliged to pay 50% or above of the proceeds within 12 months upon receipt of the proceeds to residents of a third country (region). The obligation includes agreed obligation and the circumstance where there is no agreed obligation but the payment fact has been formed.

2. The business activities engaged in by the applicant do not constitute substantive business activities. Substantial business activities include substantive manufacturing, distribution, management and other activities. Whether the business activities engaged in by the applicant are substantive shall be judged according to the functions actually performed and the risks assumed by the applicant.

The substantive investment holding and management activities engaged in by the applicant may constitute substantive business activities. Where the applicant engages in the investment holding and management activities that do not constitute substantive business activities and engages in other business activities at the same time, if the other business activities are not significant enough, such business activities do not constitute substantive business activities.

Case Study: Interpretation of the Announcement of STA [2018] No.9

关于《国家税务总局关于税收协定中“受益所有人”有关问题的公告》的解读

2018年02月06日 来源：国家税务总局办公厅

【字体：大 中 小】 打印本页

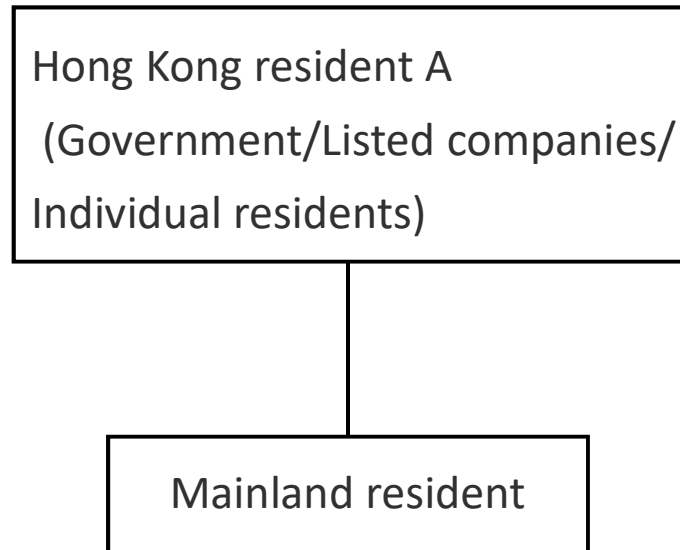
一、公告出台背景

为规范税收协定股息、利息、特许权使用费条款中“受益所有人”概念的应用，税务总局先后下发《国家税务总局关于如何理解和认定税收协定中“受益所有人”的通知》（国税函〔2009〕601号，以下简称“601号文件”）、《国家税务总局关于认定税收协定中“受益所有人”的公告》（国家税务总局公告2012年第30号，以下简称“30号公告”）等文件，明确“受益所有人”的条件和判定标准，在防范协定滥用中发挥了重要作用，但是也遇到了一些问题。

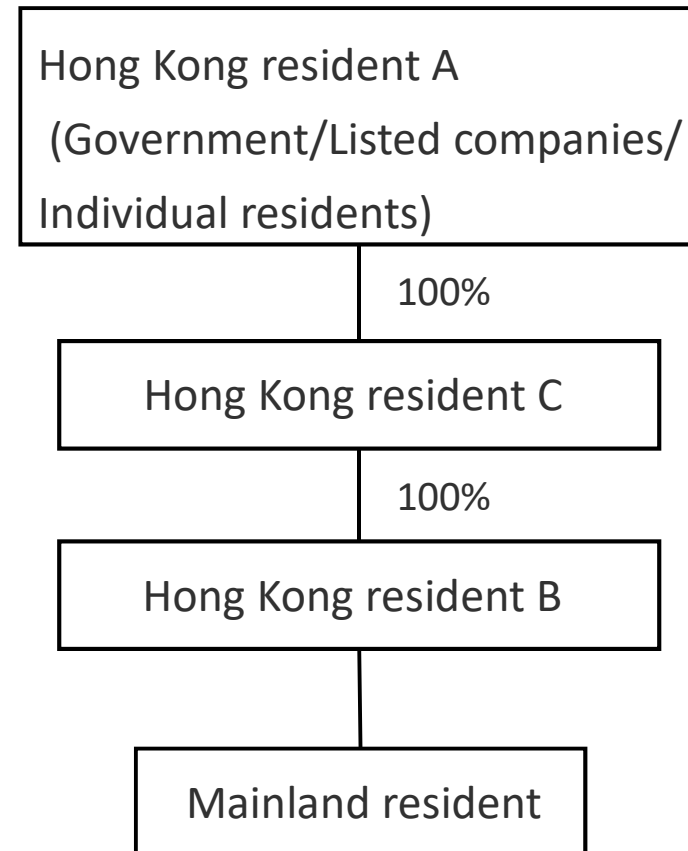
为加强税收协定执行工作，进一步完善“受益所有人”规则，税务总局发布了《国家税务总局关于税收协定中“受益所有人”有关问题的公告》（以下简称“公告”）。公告一方面旨在允许没有滥用协定目的和结果的案件得以享受税收协定待遇，并提高其享受税收协定待遇的确定性，减少征纳双方成本，进一步优化营商环境；另一方面借鉴“税基侵蚀与利润转移”（BEPS）第六项行动计划（防止税收协定待遇的不当授予）成果，提高“受益所有人”判定标准的刚性，对滥用协定风险较高的安排进行更加有效的防范。公告对601号文件和30号公告部分规定进行了修订，同时延续了601号文件和30号公告的部分规定。

Case Study: Elaborated by 6 Holding Structure Diagrams

Example 1

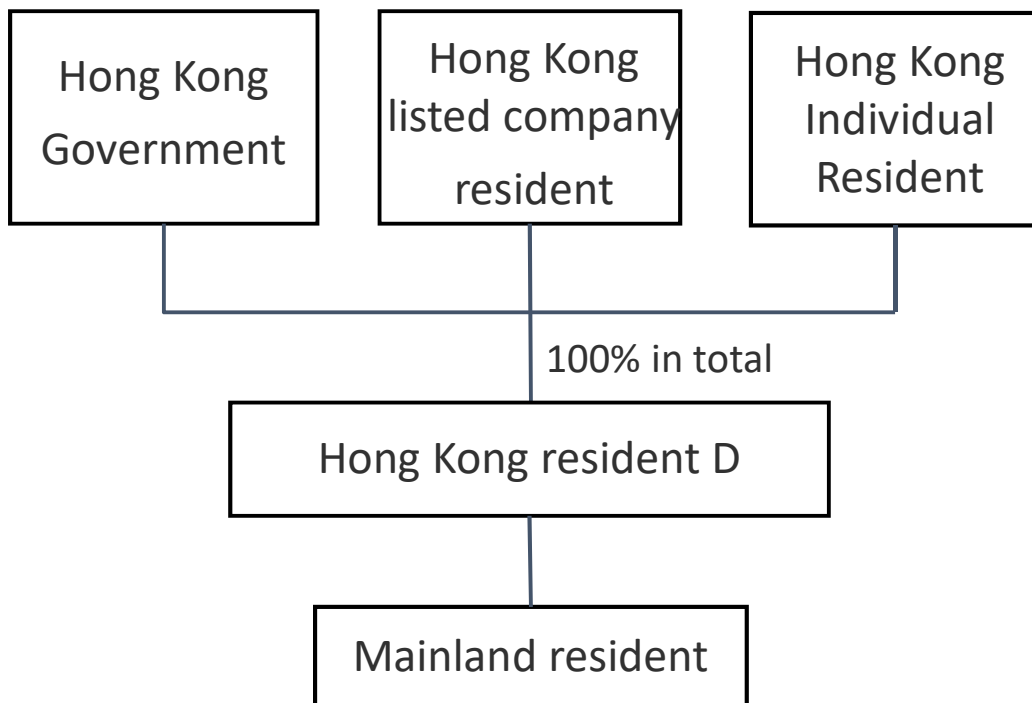


Example 2

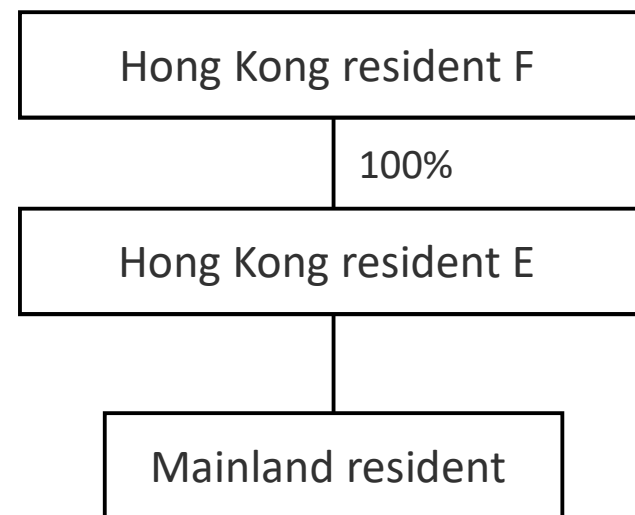


Case Study: Interpretation of the Announcement of STA [2018] No.9

Example 3

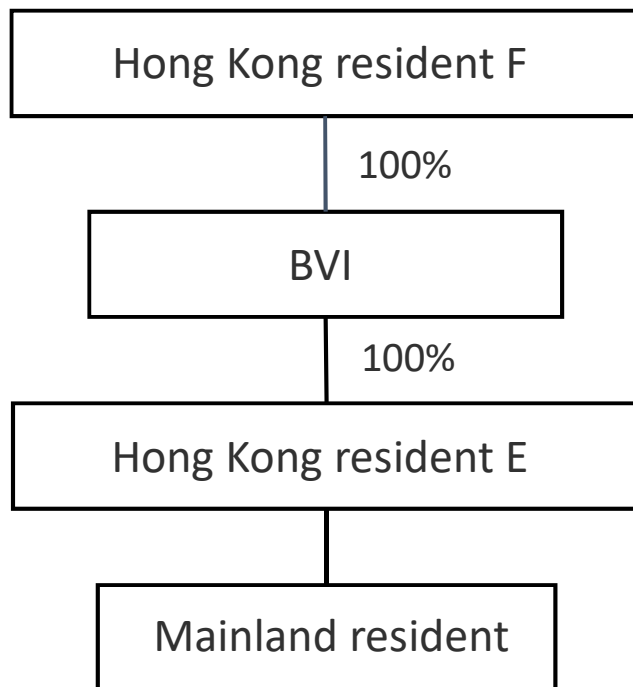


Example 4

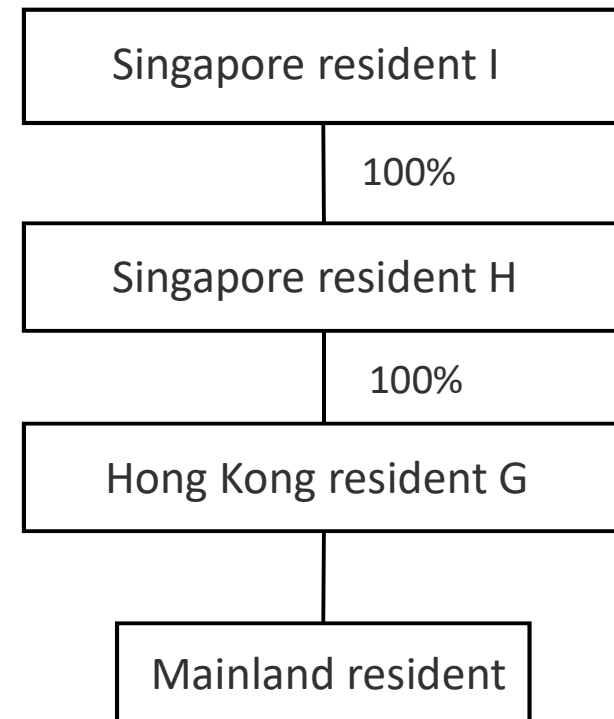


Case Study: Interpretation of the Announcement of STA [2018] No.9

Example 5



Example 6



Article 26 of China-Japan DTA: Information Exchange

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is not contrary to the provisions of this Agreement, or for the prevention of fiscal evasion with respect to such taxes. The exchange of information is not restricted by Article 1. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities, including courts, involved in the assessment or collection of the taxes covered by this Agreement or the determination of appeals in relation thereto.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; or
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Information Exchange: Fast Automation

- Standard for Automatic Exchange of Financial Account Information in Tax Matters
- ❖ In September 2014, China promised to implement the Standard for Automatic Exchange of Financial Account Information in Tax Matters (Hereinafter referred to as "Standard") formulated by the OECD, entrusted by the G20. It aims to improve tax transparency by strengthening global tax cooperation and crack down on tax evasion and avoidance behavior taking advantage of overseas accounts.

Information Exchange: Fast Automation

□ Standard for Automatic Exchange of Financial Account Information in Tax Matters

- ❖ This exchange refers to the financial institutions of one country (region) identifying the accounts opened by individuals and enterprises of tax residents of another country (region) in the institution through due diligence procedures, and submitting the name, taxpayer identification number, address, account number, balance, interest and dividend and income from the sale of financial assets of the above accounts to the competent authorities of the country (region) where the financial institutions are located on an annual basis. Then, the tax authorities of the country (region) and the tax authorities of the country of residence of the account holder carry out information exchange, and finally realize the effective supervision of cross-border tax sources by countries (regions).

Information Exchange: Fast Automation

□ Standard for Automatic Exchange of Financial Account Information in Tax Matters

- ❖ China has implemented the first Automatic Exchange of Financial Account Information in Tax Matters in September 2018.
- ❖ China has illustrated the image as a responsible country and it will help to create a fair and transparent international business environment.

Private Ruling: Keeping Pace with Times

- The Operating Procedures for Replies to Individual Tax Cases (for Trial Implementation) (2012)
 - ❖ Article 2 Replies to individual tax cases refer to the replies made by the tax authorities as how to apply tax laws, regulations, rules or normative documents to certain matters of some taxation counterparts

Private Ruling : Wal-Mart acquires Trust Mart

国家税务总局

关于沃尔玛收购好又多股权事项的批复

税总函〔2013〕82号

【字体：大 中 小】 打印本页

深圳市国家税务局：

你局《关于沃尔玛收购好又多股权事项的请示》（深国税发〔2012〕76号）收悉。美国沃尔玛公司通过设立在英属维尔京群岛的MMVI CHINA INVESTMENT CO. LTD公司收购同样设立在英属维尔京群岛的BOUNTEOUS COMPANY LIMITED公司（以下简称BCL公司），实现对中国境内多家好又多公司的间接收购所涉及的相关税收问题，经研究，批复如下：

一、根据《企业所得税法》（中华人民共和国主席令第63号）第四十七条和《国家税务总局关于加强非居民企业股权转让所得企业所得税管理的通知》（国税函〔2009〕698号）第六条的规定，对2008年1月1日后完成的股权转让交易，依据其经济实质认定为BCL公司股东（BOUNTEOUS HOLDING COMPANY LIMITED公司，以下简称BHCL公司）直接转让中国境内企业股权，BHCL公司负有中国企业所得税法规定的纳税义务。

二、根据《国家税务总局关于非居民企业所得税管理若干问题的公告》（国家税务总局公告2011年第24号）第六条（五）的规定，BHCL公司应分别到各好又多公司企业所得税主管税务机关申报和缴纳税款。

国家税务总局

2013年2月21日

Private Ruling: Facing Challenges

- The Operating Procedures for Replies to Individual Tax Cases (for Trial Implementation) (2012)
 - ❖ In terms of total amount, the number of private ruling is relatively limited;
 - ❖ For certain issues, tax authority tends to solve it by promulgating more tax circulars and guidelines.

Interactive Discussion