

Interpreting the key updates and changes in the consultation draft of the Tax Collection and Administration Law

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Issue 2

In brief

On March 28, 2025, the State Taxation Administration (STA) and the Ministry of Finance (MOF) jointly issued *the Consultation Draft of the Tax Collection and Administration Law of the People's Republic of China* (the "Consultation Draft")¹, intending to comprehensively revise the current *Tax Collection and Administration Law*². The deadline for soliciting opinions is **April 27, 2025**.

The current Tax Collection and Administration Law, which came into effect in 1993 and was comprehensively revised in 2001 and with certain articles amended in 2013 and 2015 to align with the business system reforms. It is the guiding law for tax collection and administration in China. In 2015, the Legislative Affairs Office of the State Council released the *Draft Amendment to the Tax Collection and Administration Law (Consultation Draft)*³, but the revision was not completed due to immature conditions at that time. The improvement of the tax collection and administration system is of great significance. This revision is the most significant reform in nearly 24 years, covering aspects such as tax late payment surcharges, tax refunds, recovery of overdue taxes, tax inspections, enforcement measures for natural persons, tax remedies, anti-tax avoidance rules, tax-related information exchange, tax supervision of platforms, tax evasion and penalties. It has important implications not only for corporate taxpayers and tax authorities but also for natural person taxpayers, platform operators, and other government agencies besides the tax authorities. PwC will also submit our feedback to contribute to the revision of the *Tax Collection and Administration Law*.

In detail

The Consultation Draft introduces 16 new articles, removes 4 articles, and amends 69 articles. PwC has compiled the key revisions and shares our preliminary observations:

Tax Collection and Refund

1. Tax Collection in Accordance with the Law [referring to Articles 5 and 36 of the Consultation Draft, the same applies hereinafter]

Key Revisions: Newly added provisions. The in-charge tax authorities under the State Council should strengthen the uniformity and standardization of tax law enforcement across regions. Local people's

governments at all levels, relevant departments, units, or individuals cannot impose tax revenue targets on tax authorities. Any decision on tax preference which violates the regulations shall be deemed invalid.

PwC Observations: As enterprises expand their operations, there is a growing demand for the uniformity of tax law enforcement across regions. The emphasis on “uniformity and standardization” in the Consultation Draft is conducive to avoiding law enforcement differences among regions. Whether it is the tax treatment of emerging industries, the policy interpretation of controversial issues, or the tax law enforcement procedures and the imposition of tax administrative penalty, it is expected that the uniformity of substantive and procedural rule would be achieved.

The Consultation Draft prohibits local governments at all levels from imposing tax revenue targets on tax authorities. On one hand, it prevents over-collection of taxes. On the other hand, it also prohibits illegal and unauthorized tax preferences. This is consistent with the principle stated in the recently issued *Implementation Measures for the Regulations on Fair Competition Review*, which stipulates that “without legal basis or approval from the State Council, tax preferences shall not be granted to specific operators”. In the future, enterprises need to pay more attention to how to utilize the existing tax preferences within the framework of the current national policies. For regional-specific tax preferential policies such as those in the Guangdong-Hong Kong-Macao Greater Bay Area or western China), compliance with substantive business operations and other compliance requirements must also be ensured.

2. Establish and Improve the Tax Credit System [Article 7]

Key Revisions: Newly added provisions. Use of the national tax credit information system to provide convenience to compliant taxpayers, withholding agents, and other parties. Violations of the tax laws will be recorded in the national tax credit information system and subject to joint disciplinary measures.

PwC Observations: Currently, according to the *2016 Cooperation Memorandum of Understanding on Joint Disciplinary Measures against Parties Concerned in Major Taxation Violations*, tax authorities regularly share information on major taxation violations and the parties involved to more than 30 departments that have signed the memorandum through the credit information sharing platform to enforce joint disciplinary measures. In addition to tax-related measures, the disciplinary actions also include prohibiting certain high-consumption activities, restricting access to government-supplied land, strengthening inspection and quarantine supervision, prohibiting participation in government procurement activities, prohibiting the application of customs-certified enterprise management, and strengthening foreign exchange controls. It can be expected that the scope and actions of joint disciplinary measures will be further refined in the future. Taxpayers need to maintain good tax credit records. Otherwise, they may face operational restrictions.

3. Standardize the Tax Collection on a deemed basis [Article 39]

Key Revisions: Newly added provisions. The tax authorities under the State Council should establish a nationwide unified mechanism for tax collection on a deemed basis, clarifying the specific procedures and methods for determining the taxable amount.

PwC Observations: The statutory applicable scenarios for tax collection on a deemed basis in the Consultation Draft remain unchanged. In practice, there have been cases where parties to specific capital transactions and certain industries taxpayers took advantage of the deemed basis tax collection loophole to avoid taxes. Some industrial parks use tax collection on a deemed basis as a tool for investment promotion, resulting in tax havens. It is worth noting that the *Implementation Measures for the Regulations on Fair Competition Reviews* also prohibits “indirectly supporting certain taxpayers in underpaying or avoiding taxes by tax collection on a deemed basis in specific industrial parks”. The Consultation Draft echoes this stance, demonstrating the country's determination to rectify and standardize tax collection on a deemed basis. We also expect that the tax authorities may introduce a nationwide unified mechanism for tax collection on a deemed basis in the form of departmental regulations. Taxpayers currently adopting or have previously adopted tax collection on a deemed basis should review whether they meet the statutory requirements. Where compliance risks exist, early remediation is advised.

4. Tax Late Payment Surcharges [Articles 41 and 42]

Key Revisions: Change the Chinese expression of “tax late payment surcharges”, from “滞纳金” to “税款滞纳金”, while maintaining the daily rate of 0.05% of the overdue amount. Circumstances where tax authorities of provincial or higher level may approve waiver or exemption of tax late payment surcharges are newly added, including: 1) force majeure events; 2) re-payment is required due to changes in the tax deposit location, tax category attributes or collection authorities; 3) payment of taxes beyond statute of limitations; 4) other circumstances.

PwC Observations: Regarding whether the late payment surcharge is subject to the restriction in the *Administrative Coercion Law* which caps the late payment surcharges at the amount of the monetary payment obligation, the practical treatments vary among local tax authorities, while different opinions also exist between tax authorities and court rulings. The prevailing view in tax late payment surcharge cases included in the People's Court Case Database is that the late payment surcharges imposed by the tax authorities to enforce taxpayers to fulfill their statutory tax payment obligations is an administrative enforcement measure adopted by the tax authorities, and should therefore comply with the *Administrative Coercion Law*. Under this view, the amount of tax late payment surcharges shall not exceed the amount of taxes. According to the requirements of the Supreme People's Court, "courts at all levels must refer to the case database when hearing cases and make judgments with reference to similar precedents in the database". Therefore, this case is of great reference value for taxpayers and the tax authorities in law enforcement practices. The change in the Chinese expression of "tax late payment surcharges" in the Consultation Draft indicates the legislators' intent to exclude tax late payment surcharges from the restriction of the *Administrative Coercion Law*, meaning that there will no longer be upper limit for late payment surcharges. This stance is inconsistent with the view of the Supreme People's Court. Although the Consultation Draft is still in the stage of soliciting opinions, it remains to be seen whether the tax authorities may tighten their enforcement practices when handling similar cases in the future.

Regarding the situation 2) of waiver or exemption of tax late payment surcharges, the prior practice is that if taxpayers or withholding agents pay taxes to the wrong place or authority and refund-repayment processes were required for correction, late payment surcharges may occur. The protection of this clause will facilitate more compliant tax remittance. The meaning of situation 3) "waiver or exemption of tax late payment surcharges for paying taxes beyond statute of limitations" is not very clear. If the statute of limitations has expired, the tax authorities lose their right to recover taxes, and taxpayers generally will not take the initiative to make supplementary tax payment. Moreover, whether situation 3) only applies to the situation of voluntary tax payment beyond statute of limitations? Or if it also applies to the tax payment of tax evasion/resistance/fraud cases beyond 3 or 5 years? In addition, in practice, currently tax authorities below the provincial level can generally exempt tax late payment surcharges, but the Consultation Draft clearly states that the right to waive or exempt tax late payment surcharges lies with the provincial or higher level tax authorities. In the future, it will be more difficult to obtain exemptions.

5. New Regime for Recovering Tax Arrears from Investors [Article 56]

Key Revisions: If investors abuse the independent status of legal persons or the limited liability of investors by means, such as, fraudulent withdrawal of capital or deregistration, resulting in the tax authorities being unable to recover unpaid, underpaid taxes, or over-refunded taxes from taxpayers, and where the circumstances are serious, the tax authorities have the right to recover taxes and late payment surcharges from the investors.

PwC Observations: Currently, at the administrative law level, tax authorities are not authorized to recover a company's tax arrears from its investors. However, according to the *Company Law*, "where a shareholder abuses the company's independent status as a legal person or the limited liability of shareholders to evade debts, thereby seriously harming the interests of the creditors of the company, the shareholder shall bear joint and several liability for the debts of the company". The *Supreme People's Court's Judicial Interpretations on Several Issues Concerning the Application of the Company Law (II)* also mentions that if a company is deregistered based on fraudulent liquidation reports, its shareholders and actual controllers shall bear corresponding compensation liabilities for debts. In cases of simplified deregistration, where shareholders falsely declare that all debts have been settled, they shall bear joint and several liability for debts incurred before the deregistration. Therefore, even after a company is deregistered, tax authorities can still pursue tax arrears from the company's shareholders based on the *Company Law*. Court precedents have supported such claims by tax authorities. The Consultation Draft directly incorporates the concept of "disregard of corporate personality" into the *Tax Collection and Administration Law*, and tax authorities no longer need to rely on the *Company Law* or resort to litigation for recovering tax payment. Relevant entities and their investors should pay special attention to settling tax obligations before deregistration. In addition, this clause does not explain what "serious circumstances" are and whether investors' liability should be limited to their investment amounts. We expect these issues to be addressed in future clarifications.

6. No Tax Refund Allowed for Over-payment in Special Circumstances [Article 59]

Key Revisions: Newly added provisions. Tax authorities of provincial or higher level, based on requests from the relevant national departments or with evidence, may decide not to refund taxes if taxpayers over-declare and pay taxes for purposes such as obtaining financing, pursuing IPO, inflating performance, or obtaining qualifications.

PwC Observations: Under the current *Tax Collection and Administration Law*, taxpayers who over-pay taxes can generally apply for a refund within 3 years. Previously, there were cases where taxpayers inflated their revenue to increase performance

by overpayment, and later sought to correct filings, due to abandoning the IPO plan or other reasons, thereby qualifying for a tax refund. The Consultation Draft clearly states that taxes over-paid under the above-mentioned circumstances will not be refunded, and the decision-making power lies with the provincial tax authorities. However, if taxpayers have made corrections to their financial statements according to the requirements of relevant departments (e.g., CSRC), the taxes paid based on the obsolete filings lack a valid taxation basis. Thus it is debatable whether refunds should be disallowed. In addition, how should the provincial tax authorities support their “evidence-based determinations”? How to distinguish between intentional profits inflation and actual accounting errors? It is worth noting that the *Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in the Handling of Criminal Cases of Endangering Tax Collection and Management* issued in 2024 clearly stated that “inflating performance, financing, or obtaining loans, etc., without the intention of defrauding tax credits and causing no actual tax loss, shall not be convicted as the crime of fraudulently issuing VAT special invoices or other tax-refund/credit instruments.” However, the Consultation Draft denies refunds under such circumstance.

7. Priority of Tax Claims [Article 52]

Key Revisions: In the current *Tax Collection and Administration Law*, tax claims take priority over unsecured claims. For secured claims, the “first-in-time” rule applies. If tax arrears occur before the establishment of the security interests, the tax claims take priority over mortgages, pledges, and liens. The Consultation Draft deletes the provision regarding the priority of taxes over liens. In addition, the Consultation Draft also clarifies that in the case of enterprise bankruptcy, the priority of tax claims shall be determined in accordance with the *Enterprise Bankruptcy Law*.

PwC Observations: As a statutory security interests, the liens primarily arise because the holders of liens enhance the value of the collateral, and the claims they assert align with such value added. In practice, tax authorities face significant challenges and disputes when attempting to enforce tax claims against lien-based collateral. The removal of this provision is reasonable.

In the case of bankruptcy, inconsistencies existed between the current *Tax Collection and Administration Law* and the *Enterprise Bankruptcy Law* regarding the repayment order of bankruptcy properties have frequently led to disputes. The Consultation Draft clarifies that in this case, it should be handled in accordance with the *Enterprise Bankruptcy Law*, placing tax and social security contribution claims in the same priority order, subordinate to secured claims and employee wages but superior to ordinary bankruptcy claims. Insufficient properties for full repayment within the same tier will trigger proportionate distribution. This provision is of great significance for resolving disputes between tax authorities and other creditors in bankruptcy cases and for recovering tax arrears.

8. Tax Arrears of Natural Persons [Articles 45 and 67]

Key Revisions: In the current *Tax Collection and Administration Law*, administrative enforcement measures apply to “taxpayers and withholding agents engaged in production or business operations”. The Consultation Draft removes the limitation of “engaged in production or business operations”, authorizing tax authorities to enforce administrative measures against the property of natural persons with tax arrears, but a more stringent approval procedure is required (general enforcement is approved by the director of the county-level tax bureau, and enforcement against natural persons must be approved by the director of the municipal level tax bureau).

PwC Observations: Previously, there was a theoretical dispute over whether enforcement measures only applied to taxpayers engaged in production or business operations. The Consultation Draft clearly authorizes tax authorities to implement administrative enforcement measures against the property of natural persons, improving the tax authorities' ability to manage and collect taxes from natural persons, especially high-net-worth individuals.

9. Expanding the Scope of Restrictions on Outbound Travel [Articles 51 and 68]

Key Revisions: Previously, Restrictions on Outbound Travel only applied to taxpayers with tax arrears and their legal representatives. The Consultation Draft expands the restrictions to include the principal responsible persons and actual controllers of such taxpayers. In addition, even in the absence of tax arrears, tax authorities may restrict the outbound travel of the above mentioned key individuals involved in investigations of major suspected tax violations.

PwC Observations: The expanded restrictions on outbound travel will apply more broadly than before, effectively targeting the actual controllers and principal responsible persons behind enterprises that previously attempt to evade their responsibility by appointing nominal legal representatives. However, how to define “principal responsible persons” needs to be further clarified.

Anti-tax Avoidance Rules

10. Expand the Scope for Related Party Transactions [Article 40]

Key Revisions: The arm's length principle for related parties has been expanded from “between enterprises” to cover transactions between enterprises and enterprises, enterprises and natural persons, natural persons and natural persons. The business transactions between the taxpayers and their related parties should be priced in accordance with the arm's length principle. Unless otherwise provided by law, if a taxpayer or its related party fails to follow this principle in pricing or fee arrangements, resulting in a reduction of the taxpayer's or its related party's tax payable, taxable income, or taxable profits, the tax authorities have the right to make reasonable adjustments.

PwC's Observations: Currently, the scope of related parties defined under the *Corporate Income Tax Law* is relatively broad, including enterprises, other organizations, or individuals. The Individual Income Tax Law also introduced the arm's length principle in its 2018 revision. However, other tax categories (e.g., VAT, consumption tax) lack explicit rules on related-party transactions. As the overarching law governing tax administration for all tax types, the expansion of the scope of related party transaction rules implies that in the future, more attention needs to be paid to the reasonableness of pricing in some transactions involving natural persons. In addition, the Consultation Draft clearly states that if a transaction reduces not only the taxpayer's own tax liability but also that of its related parties, the tax authorities also have the right to adjust. Therefore, enterprise groups and even natural persons need to holistically consider the rationality of related party transaction arrangements to avoid investigations and adjustments.

11. Introduction of General Anti-Tax Avoidance Rules (GAAR) [Article 40]

Key Revisions: A new provision has been added, stating that “if a taxpayer implements an arrangement without a reasonable commercial purpose to reduce, exempt, or defer tax payments, or to increase or accelerate tax refunds, the tax authorities are authorized to make reasonable adjustments.”

PwC's Observations: Currently, only the *Corporate Income Tax Law* and the **Individual Income Tax Law** has GAAR provisions. Moreover, in comparison with the *Corporate Income Tax Law*, the Consultation Draft expands the scope further by explicitly including arrangements that “increase or accelerate tax refunds”. The introduction of GAAR in the Consultation Draft implies that tax arrangements for all tax categories shall have reasonable commercial purposes, otherwise, they may face adjustments by the tax authorities. However, how to assess the “commercial purpose” is rather difficult in practice and poses challenges for both the tax authorities and taxpayers. According to the *Administrative Measures on the General Anti-Avoidance Rule (Trial)* issued in 2014, under the *Corporate Income Tax* system, GAAR cases shall be initiated and concluded by the STA. While the Individual Income Tax system lacks detailed substantive or procedural guidelines. Therefore, the application of GAAR still requires significant regulatory development to fill the gaps.

Inspection and Remedy

12. Tax Inspection [Articles 62 and 64]

Key Revisions: The scope of tax inspections and inquiries has been expanded from “taxpayers and withholding agents” to “other parties”. It is clearly stated that the tax authorities can verify the relevant ledgers and materials of the taxpayers' payment counterparties, notify platform operators and electronic payment service providers to provide tax-related information, replicate taxpayers' property registration information and identity information. At the same time, the taxpayers' registered addresses, goods storage facilities, relevant logistics enterprises, settlement accounts for fund transfers and securities transactions, and payment accounts of non-bank payment institutions have been included in the scope of tax inspections. In addition, for taxpayers who keep accounts electronically, it is clarified that the tax authorities are authorized to access the relevant application systems to inspect electronic accounting records.

PwC's Observations: The scope of “other parties” is not clearly defined and is expected to include relevant parties such as taxpayers' transaction counterparties. The Consultation Draft grants the tax authorities the right to inspect payment accounts of non-bank payment institutions such as Alipay and WeChat Pay. The provision allowing access to electronic accounting systems marks a major advancement in tax authorities' capabilities in collecting evidence. Relevant information holders also have a legal obligation to cooperate with the tax authorities to provide information.

13. Remedy Channels [Article 101]

Key Revisions: The request of tax clearance before administrative reconsideration is cancelled. Taxpayers are no longer required to pay taxes or provide guarantees before applying for tax administrative reconsideration. However, tax clearance (including taxes and tax late payment surcharges, or providing corresponding guarantees) before tax administrative litigation is

still required, and the People's Court shall accept the case only upon presentation of a tax payment certificate or guarantee certificate issued by the tax authorities.

PwC's Observations: This revision helps to protect taxpayers' rights to seek remedies. According to the *2024 Report on the Construction of a Rule-of-law Government by the STA*⁴, in 2024, 5,243 tax administrative reconsideration cases were processed nationwide, and 1,739 new tax administrative litigation cases were filed at the first instance. These figures are increasing annually. The Consultation Draft addresses the strong public demand to eliminate the tax clearance requirement before administrative reconsideration, better protecting taxpayers to realize tax remedy. It may also elevate the level of tax administrative reconsideration and litigation cases nationwide.

Information Exchange, Supervision, and Preservation

14. Exchange of Tax-Related Information [Articles 6, 18, 19, and 20]

Key Revisions: A tax-related information inquiry mechanism among State Council departments shall be established. The tax authorities can “obtain information by inquiring about taxpayers' identities, accounts, fund flows, and import/export records through departments such as public security, financial regulatory authorities, customs”. The information on establishment, modification, registration, deregistration, revocation, and cancellation of businesses of market regulatory authorities and other registration departments needs to be shared with the tax authorities. Where the tax authorities can obtain data and information through real-time sharing with relevant departments, they shall not require taxpayers or withholding agents to resubmit such information.

PwC's Observations: Going forward, the tax authorities will be granted greater authority and additional channels to cross-check tax returns. The interconnected network of third-party information creates an enhanced tax supervision mechanism, imposing higher requirements on taxpayers' compliance and documentation. It may even lead to a situation where the tax authorities know more about taxpayers than their own financial and tax personnel.

15. Routine Supervision of the Platform Economy [Articles 29, 62, and 72]

Key Revisions: Newly added provisions. E-commerce platform operators and other online trading platform operators shall report the information of the identify of in-platform operators and personnel, as well as their tax-related information. They shall also handle relevant tax-related matters such as tax filings for in-platform operators and personnel in accordance with the regulations of the tax authorities under the State Council. Those who fail to report information as required may face a fine up to RMB 2 million and an order to suspend operations for rectification. Failure to submit tax filings for in-platform operators and personnel may be subject to a fine of 50% to 3 times the amount of unpaid or underpaid taxes of in-platform operators and personnel.

PwC's Observations: Article 29 of the Consultation Draft requires platforms to file tax declarations for their personnel. According to China's current tax laws, platforms generally do not have the withholding obligation for enterprises and individual business operators. However, they have the withholding obligation for individual income tax of unregistered natural person operators. Given that the requirement for platforms to file tax returns for all operators may be impractical, we suspect that Article 29 is not intended to expand the tax filing requirements for platforms. The exact scope of these obligations will depend on further regulatory developments.

The specific categories of “tax-related information” that platforms are required to submit remain undefined and await further regulatory clarification. Tax supervision over the platform economy has been strengthened in recent years. At the end of 2024, the STA issued the *Consultation Draft on the Provisions on Reporting Tax-Related Information by Internet Platform Enterprises*, requiring reporting information such as business profiles and income of operators and personnel. Are these requirements the “tax-related information” mentioned above? The Consultation Draft may aim to provide a legal basis under the *Tax Collection and Administration Law* to support such reporting obligations. Notably, the 2 million fine (apart from penalties for fraudulently invoicing) is the most severe monetary penalty in the entire Consultation Draft. It reflects the policymakers' attention on the transparency of tax-related information for platforms. However, it also triggers controversy over whether the penalties are proportionate.

16. Preservation of Tax-Related Documents [Article 27]

Key Revisions: The current *Tax Collection and Administration Law* requires “taxpayers and withholding agents engaged in production or business operations” to preserve tax-related documents. The Consultation Draft has removed the expression “engaged in production or business operations”.

PwC's Observations: This revision implies that natural persons must now retain tax payment certificates and other tax-related documents, such as agreements and vouchers for special additional deductions during annual Individual Income Tax reconciliation. According to the *Implementation rules of the Tax Collection and Administration Law*, accounting books, accounting vouchers, statements, tax payment certificates, invoices, export certificates, and other relevant tax-related materials should generally be preserved for 10 years. This may pose a challenge for natural persons, and it also reflects a shifting focus toward natural persons by tax authorities in tax administration.

Legal Liabilities

17. Expand the Definition of “Tax Evasion” and Add a Catch-All Clause [Article 73]

Key Revisions: The term “tax fraud” in the current *Tax Collection and Administration Law* has been replaced by “tax evasion”, to align with the term of “crime of tax evasion” in the *Criminal Law*. The following situations have been refined and classified as tax evasion: 1) Tampering with, forging, or illegally deleting tax-related electronic data such as electronic vouchers and electronic invoices, or parameters and rules of tax-related accounting software; 2) Fabricating fraudulent tax calculation bases, fraudulently listing expenses, transferring or concealing income/property, or using or impersonating others’ identities to split income; 3) Illegally enjoying tax preferences by providing fraudulent materials; 4) Failing to file tax returns for taxable activities with significant tax liabilities, if the taxpayer is legally registered; 5) Failing to file tax returns for taxable activities with significant tax liabilities after being notified by tax authorities, if the taxpayer is either not legally registered, or exempt from registration requirements; 6) Other tax evasion behaviors stipulated by laws or administrative regulations.

PwC's Observations: The Consultation Draft has refined the situation of “refusing to file tax returns after being notified by the tax authorities or filing fraudulent tax returns” in the current *Tax Collection and Administration Law*, setting specific scenarios 4) and 5) according to the status of establishment registration. For “the registered taxpayer who fails to file tax returns for taxable activities with significant tax liabilities”, it shall be directly determined as tax evasion without considering whether they have been notified by the tax authorities. This change imposes higher compliance requirements on corporate financial and tax personnel. For the taxpayer who is either not legally registered or exempt from registration requirements engaged in taxable activities with significant tax liabilities, the premise of “failing to file tax returns after being notified by the tax authorities” still applies. This provides certain protection for natural persons who are not required to register but have underpaid taxes. A catch-all clause 6) has also been added. However, the definition of “significant tax liabilities” in tax evasion behaviors remains to be clarified.

18. Mitigate the Penalties for “Failure to Pay or Underpay Taxes Due to Non-Filing of Tax Returns” Other than Tax Evasion [Article 74]

Key Revisions: It is clarified that for situations of “failure to pay or underpay taxes due to non-filing of tax returns” other than tax evasion, they can be categorized into in three tiers. The first tier only involves the recovery of taxes and late payment surcharges. For the second tier with relatively serious circumstances, a fine of up to 50% of the unpaid taxes may be imposed. For the third tier with severe circumstances, a fine of 50% to 100% of the unpaid taxes may be imposed.

PwC's Observations: The current *Tax Collection and Administration Law* recovers taxes and late payment surcharges and imposes a fine of 50% to five times the amount of unpaid taxes for both “tax fraud (tax evasion)” and “failure to pay or underpay taxes due to non-filing of tax returns”, without consideration of the intent or severity. This revision in the Consultation Draft provides a lenient, tiered penalty system, which is more taxpayer-friendly and grants the tax authorities certain discretionary power. However, the definitions of “relatively serious circumstances” and “severe circumstances” still need to be further clarified.

19. New Provisions on Mitigation, Reduction, or Waiver of Penalties [Article 87]

Key Revisions: A new provision has been added stating “Taxpayers, withholding agents, and other parties who voluntarily correct tax-related violations or cooperate with the tax authorities in investigating and handling tax-related violations, penalties may be mitigated, reduced, or waived depending on the circumstances.”

PwC's Observations: This regulation is expected to encourage parties to proactively rectify violations. Based on the current tax administrative penalty discretion guidelines in various regions of China, we speculate that relevant considerations may include the parties' attitude towards cooperation or correction, their initiative in payment of taxes, social impact and consequences of the violation, the number of violations occurring within the past years, and the amount involved in the violations.

20. Strengthen the Penalties for Invoice-Related Violations [Articles 82 and 83]

Key Revisions: The penalty for illegal printing of invoices or forgery of electronic invoices has been increased from a maximum fine of RMB 50,000 to RMB 500,000. The penalty for failure to install or use tax control devices, or damaging or modifying them

without authorization has been raised from a maximum fine of RMB 10,000 to RMB 500,000. Fraudulent invoicing may incur a fine of up to RMB 5 million.

PwC's Observations: Invoice-related violations have always been a key focus of the tax authorities. Increasing the penalties for invoice-related violations is expected to serve as a stronger deterrent against such violations, reflecting the principle of proportionate punishment.

21. New Obligations for Non-Bank Payment Institutions [Articles 43, 45, 62, and 86]

Key Revisions: Remittances and the balance of payment accounts of non-bank payment institutions have been included in the scope of administrative enforcement measures. The penalties for non-bank payment institutions that refuse to comply with tax authorities' inspections of payment accounts or decisions to freeze or transfer funds have been clarified.

PwC's Observations: The current *Tax Collection and Administration Law* only stipulates the cooperation obligations and penalties for banks and other financial institutions. In line with emerging economic practices, the Consultation Draft incorporates non-bank payment institutions into the scope of the *Tax Collection and Administration Law*. Relevant institutions need to pay attention to fulfilling their tax-assistance obligations and establish relevant internal compliance procedures moving forward.

The takeaway

According to the *Legislative Plan of the 14th National People's Congress Standing Committee (NPCSC)* released in 2023, the *Tax Collection and Administration Law* is classified as Class One legislative project, meaning it is a draft law with relatively mature conditions and is scheduled for submission to the NPCSC for deliberation during the term from March 2023 to March 2028. After soliciting opinions, if the Consultation Draft submitted by the STA and the MOF can be approved at the State Council level, it will be submitted to the NPCSC for deliberation. Generally, major tax regulations require at least two rounds of deliberation, with each round involving public consultation, before being put to a vote. To track the revision progress of the *Tax Collection and Administration Law*, stakeholders could pay attention to the *State Council's Annual Legislative Work Plan* and the *NPCSC's Annual Legislative Work Plan*, released in May or June each year.

As the most comprehensive revision of the *Tax Collection and Administration Law* in nearly 24 years, the Consultation Draft keeps pace with the times, incorporating many highlights of emerging economies and resolving disputes in tax remedy and bankruptcy taxation. However, the highly anticipated advance tax ruling, which is being promoted and practiced in various regions, and was also reflected in the *Draft Amendment to the Tax Collection and Administration Law* issued by the Legislative Affairs Office of the State Council in 2015, has not been included this time. It appears that the legislative conditions for advance tax ruling are still not mature, and it remains in a phase of regional explorations and experience accumulation. However, taxpayers are still eagerly hoping that advance tax ruling can be included in the *Tax Collection and Administration Law* to provide legal certainty for tax treatments of major and complex transactions.

PwC will collect feedback from all parties and submit our proposed revisions to the MOF and the STA. We also welcome you to share observations, suggestions, and cases with us. We can collectively voice these concerns to policymakers and jointly promote the improvement of the tax collection and administration system.

Endnote

1. The Notice Soliciting Public Opinions on the Consultation Draft of the Tax Collection and Administration Law Jointly Issued by the MOF and STA in 2025
<https://www.chinatax.gov.cn/chinatax/n810356/n810961/c5239263/content.html>
2. The current Tax Collection and Administration Law of the People's Republic of China
<https://fgk.chinatax.gov.cn/zcfgk/c100009/c5195081/content.html>
3. The Draft Amendment to the Tax Collection and Administration Law of the People's Republic of China (Consultation Draft) issued by the Legislative Affairs Office of the State Council in 2015
<https://www.chinatax.gov.cn/chinatax/n810219/n810724/c1448892/content.html>
4. 2024 Report on the Construction of a Rule-of-Law Government by the STA
<https://www.chinatax.gov.cn/chinatax/n810214/c102374/c102386/c5239367/content.html>

Let's talk

For a deeper discussion of how this impacts your business, please contact **PwC's China Tax and Business Service Team:**

Charles Lee
China Tax Leader
+86 (755) 8261 8899
charles.lee@cn.pwc.com

Jeff Yuan
China Tax Markets Leader
+86 (21) 2323 3495
jeff.yuan@cn.pwc.com

Rex Chan
China North Tax Leader
+86 (10) 6533 2022
rex.c.chan@cn.pwc.com

Alan Yam
China Central Tax Leader
+86 (21) 2323 2518
alan.yam@cn.pwc.com

Jeremy Ngai
China South (incl. Hong Kong SAR) Tax Leader
+852 2289 5616
jeremy.cm.ngai@hk.pwc.com



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For more information, please contact:

Long Ma
+86 (10) 6533 3103
long.ma@cn.pwc.com

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