

China Tax Center China Tax & Investment Express

*China Tax & Investment Express (CTIE)** brings you the latest tax and business announcements on a weekly basis. We selected some comparatively key announcements to provide for a synopsis and we also provide a link that leads you to the full content of each latest announcement (in Chinese). Please feel free to contact your EY client service professionals for further assistance if you find the announcements have an impact on your business operations.

CTIE does not replace our *China Tax & Investment News** which will continue to be prepared and distributed to provide more in-depth analyses of topical tax and business developments in China.

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Tax circulars

- **Public notice (PN) regarding matters related to the deduction of advertising and business promotion expenses for Corporate Income Tax (CIT) purposes (MOF/STA PN [2020] No. 43)**

Synopsis

On 27 November 2020, the Ministry of Finance (MOF) and State Taxation Administration (STA) jointly issued MOF/STA PN [2020] No. 43 ("PN 43") to clarify relevant rules of the deduction of advertising and business promotion expenses for CIT purposes.

Key features of PN 43 are as follows:

- **Enterprises engaging in cosmetics manufacturing or sales, pharmaceutical manufacturing or beverage manufacturing (excluding alcohol manufacturing)**

Incurred advertising and business promotion expenses are deductible at up to 30% of the total sales income of the year for CIT purposes. The excess amount can be carried forward and deducted in succeeding tax years.

- ▶ **Related enterprises that signed an advertising and business promotion expense sharing agreement (hereinafter referred to as the “sharing agreement”)**

The amount of advertising and business promotion expenses incurred by one related party (“Party A”) not exceeding the prescribed cap can either be deducted by itself for CIT purposes or can be deducted by another related party (“Party B”) in part or in whole according to the sharing agreement. When calculating the total advertising and business promotion expenses allowed for CIT deduction for Party B, i.e., the prescribed cap, it can exclude the portion allocated from Party A. In other words, Party B can deduct its own 30% cap expense in full plus the portion allocated from Party A calculated based on Party A’s 30% revenue.

- ▶ **Tobacco manufacturing enterprises**

Advertising and business promotion expenses incurred by tobacco manufacturing enterprises are entirely not deductible for CIT purposes.

The issuance of PN 43 can be viewed as an extension of the provisions that are stipulated by Caishui [2017] No. 41 (“Circular 41”, i.e., Notice regarding the CIT deduction for advertising and business promotion expenses) which is valid until 31 December 2020. Enterprises that claim CIT deduction of advertising and business promotion expenses can now continue to use the same calculation method. PN 43 will take effect from 1 January 2021 to 31 December 2025. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 43:

http://www.gov.cn/zhengce/zhengceku/2020-12/09/content_5568501.htm

You can click this link to access the full content of Circular 41:

http://szs.mof.gov.cn/zhengcefabu/201705/t20170531_2611605.htm

- ▶ **PN regarding further simplifying and optimizing certain Individual Income Tax (IIT) withholding rules (STA PN [2020] No. 19)**

Synopsis

To stabilize employment and further boost consumption, the STA released STA PN [2020] No. 19 (“PN 19”) on 4 December 2020 to further simplify the IIT withholding rules for certain eligible taxpayers.

Key features of PN 19 include:

Eligible taxpayers and the simplified IIT withholding rules

Eligible taxpayers	<p>An eligible taxpayer shall meet all the following criteria:</p> <ul style="list-style-type: none"> ▶ The resident taxpayer’s IIT for salaries/wages for the entire previous calendar year was withheld by the same withholding agent; ▶ The resident taxpayer’s annual salaries/wages (including annual bonus) for the previous calendar year, before deducting any expenses and exemption, does not exceed RMB60,000; and ▶ The resident taxpayer is still working with the same employer from January of the current year.
Simplified IIT withholding rules for eligible taxpayers	<ul style="list-style-type: none"> ▶ For an eligible taxpayer, his/her withholding agent may deduct the full amount of standard deduction, i.e., RMB60,000 in January in calculating his/her IIT payable. In other words, IIT for such taxpayer shall only be withheld in the month and any months following when his/her aggregated salaries/wages exceeds RMB60,000 (under the circumstance that any other prescribed deductions are not considered). ▶ The withholding agent should complete IIT declaration for “all employees on full amount” (全员全额扣缴申报) and a proper remark should be made for the eligible taxpayers in the IIT withholding return, i.e., “IIT was properly declared for the taxpayer for each month of the previous year and his/her previous year’s annual income was less than RMB60,000”.

The issuance of PN 19 is to further ease tax reporting for tax withholding agents and cash flow burden for taxpayers who receive annual salaries/wages under the deduction threshold. This arrangement can avoid the individual paying provisional IIT during the monthly withholding period but need to apply for IIT refunds later in annual filing as certain larger amounts of salaries/wages received in certain months may have triggered the IIT withholding liabilities under the current IIT withholding rules.

Implementation

PN 19 will become effective on 1 January 2021 and also apply to resident taxpayers who receive labor service income and have their IIT withheld based on the IIT provisional withholding method (e.g., insurance agents).

IIT taxpayers or withholding agents are suggested to read PN 19 for more details and assess whether they are eligible for the new rules. If in doubt, consultations with professionals are always helpful.

You can click this link to access the full content of PN 19:

<http://www.chinatax.gov.cn/chinatax/n363/c5159450/content.html>

► **PN regarding the “Administrative Measure on Value-added Tax (VAT) Refunds for International Cargo Vessels” (STA PN [2020] No. 18)**

Synopsis

To regulate the administration on VAT refunds for international cargo vessels, on 2 December 2020, the STA released the Administrative Measure on VAT Refunds for International Cargo Vessels (hereinafter referred to as the “Administrative Measures”) via STA PN [2020] No. 18.

Administrative Measures consist of 16 articles and the key features are as follows:

Scope of VAT refunds

- Vessels purchased by transportation enterprises and meet requirements as prescribed in Article I of Caishui [2020] No. 41 (“Circular 41”, i.e., Notice regarding VAT policies for international cargo vessels in Hainan Free Trade Port) or Article II of Caishui [2020] No. 52 (“Circular 52”, i.e., Notice regarding VAT policies for international cargo vessels in China (Shanghai) Pilot Free Trade Zone Lin-gang Special Area) can apply the VAT refund policies (hereinafter referred to as the “vessel VAT refund”) in accordance with Administrative Measures.
- The VAT refund amount shall be the VAT amount indicated on the special VAT invoice of the vessel received by the transportation enterprises.

Requirements on record filing

- Where a transportation enterprise applies for the vessel VAT refund for the first time, it shall complete the corresponding record filing with its supervising tax authority by providing documents and digital data as prescribed in Administrative Measures.
- Where a transportation enterprise had completed the record filing for vessel VAT refund but becomes not qualified according to the requirements as prescribed in Circular 41 or Circular 52, it may complete the record filing for the changes with its supervising tax authority within 30 days from the date when the condition has changed.

Application for VAT refunds

- The filing deadline of transportation enterprises for vessel VAT refund shall be the VAT filing period from the first day of the following month after purchasing the vessels to 30 April of the next year.
- Transportation enterprises shall lodge the application for vessel VAT refund with their supervising tax authorities by providing documents and digital data as prescribed in Administrative Measures in the filing periods of VAT refunds.
- If the special VAT invoices of the vessels received by transportation enterprises have been used for input VAT credit, the transportation enterprises should not apply for the vessel VAT refund. If the special VAT invoices have been used for the vessel VAT refund, they shall not be used for input VAT credit.

- ▶ In case transportation enterprises become not qualified for VAT refund requirements as prescribed in Circular 41 or Circular 52, the refunded VAT shall be repaid to their supervising tax authorities during the tax filing period of the month following the disqualification according to the formula below:

Refunded VAT to be repaid = VAT indicated on the special VAT invoice of the vessel x [(Original value - Accumulated depreciation) ÷ Original Value]

The Administrative Measures shall be applicable to transportation enterprises that meet the requirements of Circular 41 and received the Registration Certificate on Ownership of Vessel (i.e., 船舶所有权登记证书, hereinafter referred to as the "Certificate") with a validity from 1 October 2020 to 31 December 2024 or meet the requirements of Circular 52 and received the Certificate with a validity from 1 November 2020 to 31 December 2024.

It is worth noting that, as of the publication date of this article, Circular 52 has not been published via government authorities' official websites. In this regard, we will keep an eye on any further development and advise you accordingly, please stay tuned.

You can click this link to access the full content of Circular 41:

http://www.hnft.gov.cn/zcfg/zcwj/bwzc/202009/t20200921_3292327.html

You can click this link to access the full content of the Administrative Measures:

<http://www.chinatax.gov.cn/chinatax/n359/c5159448/content.html>

Other business and customs-related publicly announced by central government authorities in the past week:

- ▶ **Implementation Outlines on the Construction of Legal Society (2020-2025)**
http://www.beijing.gov.cn/zhengce/zhengcefaui/202012/t20201208_2159197.html
- ▶ **PN regarding the updated lists of valid, invalid, amended and abolished regulatory documents (CNIPA PN [2020] No. 389)**
https://www.cnipa.gov.cn/art/2020/12/4/art_74_155439.html
- ▶ **Notice regarding public opinion consultation on the "Government Procurement Law of the People's Republic of China (Revised Discussion Draft)"**
http://tfs.mof.gov.cn/zhengcefabu/202012/t20201204_3632547.htm
- ▶ **2020 Report on Service Imports of China**
http://www.gov.cn/xinwen/2020-12/08/content_5568476.htm
- ▶ **Notice regarding the "Administrative Regulations on Code Standards of the Information System of the State Administration of Foreign Exchange" (Huizongfa [2020] No 91)**
<http://www.safe.gov.cn/safe/2020/1209/17775.html>
- ▶ **PN regarding a catalog of abolished regulatory documents (SAMR PN [2020] No. 56)**
http://gkml.samr.gov.cn/nsjg/bgt/202012/t20201209_324229.html
- ▶ **PN regarding a catalog of abolished documents (SAMR PN [2020] No. 58)**
http://gkml.samr.gov.cn/nsjg/bgt/202012/t20201209_324230.html
- ▶ **Reply on the creation of the domestic area code and customs statistical economic zone code for the Henan Civil Rights Bonded Logistics Center (Type B) (Tongjihan [2020] No. 66)**
<http://gkml.customs.gov.cn/tabid/1165/InfoID/46011/Default.aspx>

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