

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 the Corporate Income Tax (CIT) policies for promoting the high-quality development of the integrated circuit (IC) industry and software industry (MOF/STA/NDRC/MIIT PN [2020] No. 45)**

Synopsis

According to Guofa [2020] No. 8 ("Circular 8", i.e., Notice regarding certain policies for promoting the high-quality development of the integrated circuit (IC) industry and software industry in the new era), the Ministry of Finance (MOF), Ministry of Industry and Information Technology (MIIT), State Taxation Administration (STA) and National Development and Reform Commission (NDRC) jointly released MOF/STA/NDRC/MIIT PN [2020] No. 45 ("PN 45") to specify the relevant matters from tax implementation perspectives.

Key features of PN 45 include:

Recap of tax preferential treatments announced in Circular 8

Tax preferential treatments	Tax policies in Circular 8	Detailed measures
CIT preferences for IC manufacturing enterprises or projects		
Ten-year CIT exemption for encouraged IC manufacturing enterprises or projects	Encouraged IC manufacturing enterprises or projects producing products with IC line width equal to or less than 28nm with an operation period of 15 years or above can be granted with a ten-year CIT exemption.	<ul style="list-style-type: none">▶ The list of the encouraged IC manufacturing enterprises or projects is to be further stipulated by the NDRC and MIIT together with the MOF and STA.▶ For encouraged IC manufacturing enterprises, the tax holidays are from their first profit making year; while for encouraged IC manufacturing projects, the tax holidays are from their first operating revenue generating year.▶ Income of encouraged IC manufacturing projects should be separately accounted for and periodical expenses should be allocated and apportioned on a reasonable basis.
Five-year CIT exemption followed by a five-year 50% reduction of the statutory CIT rate (i.e., 25%) (hereinafter referred to as the “five plus five tax holiday”) for encouraged IC manufacturing enterprises or projects	Encouraged IC manufacturing enterprises or projects producing products with IC line width equal to or less than 65nm with an operation period of 15 years or above can be granted with a “five plus five tax holiday”.	
Two-year CIT exemption followed by a three-year 50% reduction of the statutory CIT rate (hereinafter referred to as the “two plus three tax holiday”) for encouraged IC manufacturing enterprises or projects	Encouraged IC manufacturing enterprises or projects producing products with IC line width equal to or less than 130nm with an operation period of 10 years or above can be granted with a “two plus three tax holiday”.	
Loss carried forward	Once an enterprise is included in the list of encouraged IC manufacturing enterprises producing products with IC line width equal to or less than 130nm, its losses incurred within the previous five years may be carried forward for a period of extra five years. The total period should not be longer than 10 years.	
CIT preferences for qualified IC design and software enterprises		
“Two plus three tax holiday” for qualified IC design and software enterprises	Encouraged IC enterprises engaging in design, encapsulation, special-purpose materials, testing and software enterprises are entitled to a “two plus three tax holiday” from their first profit making year.	<ul style="list-style-type: none">▶ The criteria of the encouraged IC enterprises engaging in design, encapsulation, special-purpose materials, testing and software enterprises is to be further stipulated by the MIIT together with the NDRC, MOF and STA.▶ The list of the encouraged key IC design and software enterprises is to be stipulated by the NDRC and MIIT together with the MOF and STA.
Five-year CIT exemption plus a reduced CIT rate of 10% for the years following for encouraged key IC design enterprises and software enterprises	Encouraged key IC design and software enterprises can be granted with a five-year CIT exemption plus a reduced CIT rate of 10% for the years following from their first profit making year.	

Transition arrangements

Any enterprises or projects qualified for the following tax preferential policies issued before Circular 8 and started their tax holidays in 2019 or before may still enjoy their tax holidays until the end (please click circular nos. of the respective circular for more details):

<u>CIT preferences as prescribed in earlier tax preferential policies</u>	Details
Five plus five tax holiday for encouraged IC manufacturing enterprises or projects	<ul style="list-style-type: none"> ▶ Upon recognition, IC manufacturing enterprises producing products with IC line width equal to or less than 0.25μm (or with an investment amount exceeding RMB8 billion) and an operation period of 15 years or above are entitled to a “five plus five tax holiday” from their first profit making year commencing prior to 31 December 2017. (Caishui [2012] No. 27) ▶ New IC manufacturing enterprises or projects established on or after 1 January 2018 that produce products with IC line width equal to or less than 65nm (or with an investment amount exceeding RMB15 billion) and an operation period of 15 years or above are entitled to a “five plus five tax holiday” from their first profit making year. (Caishui [2018] No. 27)
Two plus three tax holiday for encouraged IC manufacturing enterprises or projects	<ul style="list-style-type: none"> ▶ Upon recognition, IC manufacturing enterprises producing products with IC line width equal to or less than 0.8μm are entitled to a “two plus three tax holiday” from their first profit making year commencing prior to 31 December 2017. (Caishui [2012] No. 27) ▶ New IC manufacturing enterprises or projects established on or after 1 January 2018 that produce products with IC line width less than 130nm with an operation period of not less than 10 years. (Caishui [2018] No. 27)
Two plus three tax holiday for qualified IC design and software enterprises	<ul style="list-style-type: none"> ▶ Qualifying IC enterprises engaging in encapsulation, testing as well as manufacturing of key IC special-purpose materials and specialized equipment are entitled to a “two plus three tax holiday” from the first profit making year commencing no later than 2017. (Caishui [2015] No. 6) ▶ IC design enterprises and software enterprises that are legally established and meet the relevant criteria are entitled to a “two plus three” tax holiday starting from their first profit making year commencing prior to 31 December 2018. (MOF/STA PN [2019] No. 68) ▶ IC design enterprises and software enterprises that meet criteria as prescribed in Caishui [2012] No. 27 and Caishui [2016] No. 49 are entitled to a “two plus three” tax holiday starting from their first profit-making year before 31 December 2019 and may enjoy a tax-holiday until the end of the period. (MOF/STA PN [2020] No. 29)

As the abovementioned tax circulars became invalid in 2020, enterprises or projects that are qualified for these tax preferences but have not started their tax holiday in 2019 or before shall no longer be able to enjoy these tax preferences from 2020. Instead, they should evaluate if they can be eligible for the new tax preferences as prescribed in Circular 8 and PN 45.

No duplicated benefits

According to PN 45, IC enterprises, projects or software enterprises that possibly entitled to multiple tax preferences as prescribed in PN 45 should only choose to adopt one of the tax preferences with no duplication.

Among these, if an enterprise/project has already started to enjoy multiple tax holidays, the enterprise/project should choose to adopt only one tax preference for the remaining period.

Administration by the relevant government authorities

- ▶ The lists mentioned above, i.e., enterprises/projects eligible to the tax preferences under the aforementioned lists for the previous year, shall be provided to the MOF and STA by the NDRC and MIIT by the end of March of the following year.
- ▶ For the abovementioned tax preferences that are not administered on a list basis or IC enterprises/projects and software enterprises that are enjoying tax holidays according to transition arrangements, the tax authorities shall copy the same to the NDRC and MIIT for verification.

PN 45 took retroactive effect from 1 January 2020. In the meantime, provisions for reduced CIT rates as prescribed in Caishui [2012] No. 27, i.e., reduced CIT rate of 15% for recognized encouraged IC manufacturing enterprises or projects, and a reduced CIT rate of 10% for qualifying key software enterprises and IC design enterprises under the State's plan provided that no CIT exemption applies in the particular year, are revoked simultaneously.

You can click this link to access the full content of PN 45:

http://szs.mof.gov.cn/zhengcefabu/202012/t20201216_3635155.htm

You can click this link to access the full content of Circular 8:

http://www.gov.cn/zhengce/content/2020-08/04/content_5532370.htm

▶ Notice regarding tax filing deadlines in 2021 (Shuizongbanhan [2020] No. 242)

Synopsis

On 9 December 2020, the General Office of STA released Shuizongbanhan [2020] No. 242 ("Circular 242") to clarify tax filing deadlines in 2021 for those taxes reported on either monthly or quarterly basis and within 15 days after the end of each period.

According to Circular 242, tax filing deadlines in 2021 are as follows:

Month	Tax Filing Deadlines
March, July, September, November and December	15th day of the month
January and April	20th day of the month
February	23 February
May	21 May
June	18 June
August	16 August
October	26 October

If the local tax administration departments need to adjust the filing deadlines under special circumstances, they shall report to the STA for record in advance. Taxpayers are encouraged to read Circular 242 for more details and pay attention to notices issued by tax authorities at the local level.

You can click this link to access the full content of Circular 242:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5159893/content.html>

► **PN regarding certain matters related to transferring authority to collect compensation fee of soil and water conservation and other governmental non-tax revenue items (STA PN [2020] No. 21)**

Synopsis

Based on the requirements of central governments on transferring authority to collect governmental non-tax revenue items, the collection duty for several governmental non-tax revenue items will be transferred to tax departments. On 11 December 2020, the STA released STA PN [2020] No. 21 ("PN 21") to clarify relevant matters.

Key features of PN 21 are as follows:

- From 1 January 2021, the collection duty for compensation fee of soil and water conservation (水土保持补偿费), local support fund for reservoir resettlement (地方水库移民扶持基金), fees on emission rights (排污权出让收入) and construction fee for air defense basements at an alternative site (防空地下室易地建设费) shall be transferred to tax departments. The scope, objects and standard of collection shall be determined based on prevailing regulations.
- From 1 January 2021, payers shall complete the filing and payment of compensation fee of soil and water conservation to tax departments on their own.
- From 1 February 2021, payers shall complete the filing and payment of local support fund for reservoir resettlement to tax departments on their own on a monthly basis. The deadline of filing and payment shall be consistent with prevailing regulations.
- From 1 January 2021, payers in the areas that have collected fees on emission rights shall complete corresponding filing and payment to tax departments on their own.
- From 1 January 2021, payers shall complete the filing on their own for construction fee for air defense basements at an alternative site to the tax departments based on a deemed basis confirmed by the civil air defense department.

PN 21 shall become effective on 1 January 2021. Relevant parties are encouraged to read PN 21 for more details.

You can click this link to access the full content of PN 21:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5159792/content.html>

Business circulars

► **Notice regarding the "Negative List for Market Access (2020 Version)" (Fagaitigaigui [2020] No. 1880)**

Synopsis

On 10 December 2020, the NDRC and the Ministry of Commerce (MOFCOM) launched the "Negative List for Market Access (2020 Version)" (hereinafter referred to as the "2020 Negative List") via Fagaitigaigui [2020] No. 1880.

Key features of the 2020 Negative List are as follows:

- Same as that of the 2019 Negative List released via Fagaitigai [2019] No. 1685, the 2020 Negative List is comprised of prohibited items and permitted items. Applications for market access in prohibited items shall be rejected. For investments covered in the permitted items, the market participants shall lodge applications, and the relevant government authorities shall approve or deny the applications according to relevant laws and regulations. Where the industries, sectors and businesses are not in the 2020 Negative List, all investments shall enjoy the same market access conditions.
- A list of prohibited items related to market access as stipulated by laws, regulations, decisions made by the State Council or local regulations is also launched as an appendix of the 2020 Negative List for references of market entities.

- ▶ Comparing to the 2019 Negative List, the 2020 Negative List reduces eight items and covers 123 items in total. Main changes brought by the 2020 Negative List include the follows:
 - ▶ Removes certain requirement on permitted items, such as the approval requirements for asset valuation for forest resources, recognition of institutions conducting mining evaluations, recognition of institutions conducting verification of carbon emissions trading, approval for registration of customs declaration enterprises, etc.
 - ▶ Adjusts the administrative measures by eliminating the scope of 20 items of administrative measures, revises the wordings of 7 items of administrative measures, etc.
 - ▶ Includes certain new items on a prudence basis, e.g., the implementation of access administration of financial holding companies according to Guofa [2020] No. 12 ("Circular 12", i.e., State Council's Decision on regulating the market access of financial holding companies), etc.
 - ▶ Improves the structure of the Negative List for Market Access by supplementing definitions mentioned in the approval items, as well as certain provisions to cope with the industrial structure adjustments.

Relevant investors are encouraged to read the 2020 Negative List for more details. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of the 2020 Negative List:
https://www.ndrc.gov.cn/xxgk/zcfb/ghxwj//202012/t20201216_1252897.html

You can click this link to access the full content of the 2019 Negative List:
http://www.ndrc.gov.cn/qzdt/201911/t20191122_1204469.html

You can click this link to access the full content of Circular 12:
http://www.gov.cn/zhengce/content/2020-09/13/content_5543127.htm

▶ **Decisions on the abolishment and amendment of some administrative regulations (State Council Order [2020] No. 732)**

Synopsis

In order to implement the Foreign Investment Law of the People's Republic of China (PRC), the State Council issued State Council Order [2020] No. 732 ("Order 732") on 29 November 2020 to announce the decisions on the abolishment and amendment of some administrative regulations, which came into effect on the promulgation date of Order 732.

A number of noteworthy modifications mentioned in Order 732 are as follows:

- ▶ **Provisional Regulations on the Statistics and Monitoring of Foreign Debt**
 - ▶ In Paragraphs 2 and 3 of Article 3, the term "foreign-funded banks and Sino-foreign joint venture banks" is amended to "foreign-funded banks".
 - ▶ In Paragraph 1 of Article 5, the term "Sino-foreign joint venture enterprises, Sino-foreign cooperative enterprises and foreign-funded enterprises" is amended to "foreign investment enterprises".

▶ **Administrative Measures for the Assessment of State-owned Assets**

In Paragraph 3 of Article 3, the term "Sino-foreign joint venture enterprises or Sino-foreign cooperative enterprises" is amended to "foreign investment enterprises".

▶ **Regulations of the PRC on the Nationality Registration of Civil Aircraft**

In Subparagraph 2, Paragraph 1 of Article 2, the term "Where there is foreign investment in the registered capital of a legal entity, the proportion of the foreign investment in the registered capital or paid-in capital of the legal entity should not exceed 35%. The voting rights of its representatives in the board of directors and the meeting of shareholders should not exceed 35%. The chairman of the board of directors should be a Chinese citizen" is removed.

► **Administrative Regulations on the Printing Industry**

Article 14 is amended to “The government allows foreign investors and Chinese investors to jointly invest in the establishment of enterprises engaged in publications printing, and also allows the establishment of foreign investment enterprises engaged in the printing of packaging and decoration products.”

► **Administrative Regulations on Audio and Video Products**

In Article 35, the term “Sino-foreign cooperative enterprises” is amended to “foreign investment enterprises”.

► **Administrative Regulations on Publication**

In Article 39, the term “Sino-foreign joint venture enterprises, Sino-foreign cooperative enterprises and foreign-funded enterprises” is amended to “foreign investment enterprises”.

► **Administrative Regulations on Entertainment Venues**

Article 6 is amended to “Foreign investors can establish entertainment venues within the territory of China according to law”.

Relevant foreign investment enterprises are advised to make reference to Order 732 for more details and observe the potential opportunities in relation to these changes. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of Order 732:

http://www.gov.cn/zhengce/zhengceku/2020-12/11/content_5568885.htm

► **Notice regarding further optimizing the business environment to regulate the development of the internet café industry (Wenlvshichangfa [2020] No. 86)**

Synopsis

As the internet café industry has been transforming and upgrading over recent years, to regulate the industry development, the Ministry of Culture and Tourism (MOCT) issued Wenlvshichangfa [2020] No. 86 (“Circular 86”) on 4 December 2020 to clarify relevant administrative measures.

Key features of Circular 86 are as follows:

Optimize the business environment

- Implement the measures for market access: According to the “Special Administrative Measures for Foreign Investment Access (Negative List) (2020 Version)” and other related regulations, foreign investors and investors from Hong Kong Special Administrative Region (SAR), Macao SAR and Taiwan are allowed to invest and establish internet cafés nationwide.
- Implement the requirements of the reform of “separating permits from business licenses”: Further improve the approval method and reduce the approval time.
- Expand the pilot program of the long-term mechanism: Dynamically adjust the scope and policies of the pilot program based on the experience and effectiveness of the pilot, and report to the MOCT for record filing.

Regulate the development of new business models

- Enhance the administration of comprehensive internet cafés: Comprehensive internet cafés should apply for an internet culture business license, implement technical measures for operation and minors’ protection measures.
- Enhance the administration of self-service internet cafés: Business activities for providing internet access services should comply with relevant regulations on fire safety, city administration, network security, etc., and implement real-name authentication, and should not provide internet access services for minors.

Promote the transformation and upgrading of the industry

- ▶ Improve the service capacity of internet cafés.
- ▶ Improve the long-term mechanism for participating in public cultural services.
- ▶ Promote the implementation of national standards for service rating of internet cafés.

Enhance interim- and post-event supervision

- ▶ Investigate and punish unlicensed business activities in accordance with law.
- ▶ Investigate and punish illegal acceptance of minors in accordance with law.
- ▶ Improve access to technical measures for operation.
- ▶ Establish an exit mechanism for market entities.

Enterprises engaged in the internet café industry are advised to read Circular 86 for more details and observe relevant regulations.

You can click this link to access the full content of Circular 86:

http://zwgk.mct.gov.cn/auto255/202012/t20201211_919016.html?keywords=

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

- ▶ **Notice regarding renamed publications import entities continue to enjoy the preferential import-level tax policies in support of the technology innovation during the 13th Five Year Plan period (Caibanguanshui [2020] No. 95)**
http://gss.mof.gov.cn/gzdt/zhengcefabu/202012/t20201214_3634450.htm
- ▶ **PN regarding administrative issues related to the Vehicle Purchase Tax exemption policies for non-transport vehicles with fixed equipment (MIIT/STA PN [2020] No. 20)**
<http://www.chinatax.gov.cn/chinatax/n371/c5159734/content.html>
- ▶ **PN regarding the commencement of a special action on the governance of listed companies (CSRC PN [2020] No. 69)**
http://www.csrc.gov.cn/pub/zjhpublic/zjh/202012/t20201211_387806.htm
- ▶ **Measures for the Supervision of Online Insurance Business (CBIRC Order [2020] No. 13)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=949137&itemId=928>
- ▶ **Notice regarding the list of the 2020 national public service demonstration platforms for small and medium-sized enterprises (Gongyebuqiyehan [2020] No. 326)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/tg/art/2020/art_f194cb77c5454d14a18e4d835ec63457.html
- ▶ **Notice regarding the result of the 2019 assessment of National Technology Business Incubators (Guokehuozi [2020] No. 223)**
<http://www.chinatorch.gov.cn/kjb/tzgg/202012/146b259e71e44dc1b67732df0f0a51d9.shtml>
- ▶ **Approval on the establishment of the Xinjiang Tacheng Key Development and Opening-up Experimental Zone (Guohan [2020] No. 166)**
http://www.gov.cn/zhengce/content/2020-12/15/content_5569563.htm
- ▶ **PN regarding matters related to regulating the cash receipt and payment of RMB (PBOC PN [2020] No. 18)**
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4144232/index.html>

- ▶ **Notice regarding the "Procedural Guidance on Proposal Deliberation for State-owned Equity Directors of Financial Institutions (2020 Revised Version)" (Caijin [2020] No. 110)**
http://jrs.mof.gov.cn/zhengcefabu/gszl/202012/t20201215_3634886.htm
- ▶ **Notice regarding the first batch of guiding cases for administrative enforcement of intellectual property rights (Guozhifabaozi [2020] No. 52)**
http://www.gov.cn/zhengce/zhengceku/2020-12/16/content_5569961.htm
- ▶ **Notice regarding fully implementing the State Council's deployment on the financial support for key foreign-invested enterprises (Shangbanzihan [2020] No. 415)**
<http://images.mofcom.gov.cn/www/202012/20201217141514384.pdf>
- ▶ **PN regarding revising the "Guidelines for Patent Examination" (CNIPA PN [2020] No. 391)**
https://www.cnipa.gov.cn/art/2020/12/14/art_74_155606.html
- ▶ **PN regarding the "Administrative Measures on the Country of Origin of Imported and Exported Goods under the 'Free Trade Agreement between the Government of the PRC and the Government of the Republic of Mauritius'" (GAC PN [2020] No. 128)**
<http://www.customs.gov.cn/customs/302249/2480148/3468487/index.html>



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