

# 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.

\*If you wish to access the previous issues of CTIE and *China Tax & Investment News*, please contact us.

## Tax circulars

- **Public notice (PN) regarding clarifications on policies related to the refund of input Value-added Tax (VAT) credits brought forward from the previous periods for taxpayers engaging in the advanced manufacturing industries (MOF/STA PN [2021] No. 15)**

### Synopsis

According to the Report on the Work of the Government (2021) which specifies that the input VAT credits brought forward from the previous periods for taxpayers engaging in the advanced manufacturing industries shall be refunded in full to further ease the burden of relevant enterprises, the Ministry of Finance (MOF) and State Taxation Administration (STA) jointly released MOF/STA PN [2021] No. 15 ("PN 15") on 23 April 2021 to clarify this tax policy in detail.



Key features of PN 15 are as follows:

### A qualifying taxpayer

From 1 April 2021, a taxpayer engaging in the advanced manufacturing industries<sup>1</sup> that meets all the following criteria may apply for a refund of the incremental input VAT credits brought forward from the previous period:

- ▶ The incremental VAT credit of the taxpayer (compared to the ending balance of VAT credit to be carried forward at the end of March 2019) is greater than zero;
- ▶ The tax credit rating of the taxpayer is “A” or “B”;
- ▶ The taxpayer has not committed any tax refund fraud, export refund fraud or issuance of false special VAT invoices within 36 months prior to the application;
- ▶ The taxpayer has not been penalized twice or more by tax authorities for tax evasion within 36 months prior to the application;
- ▶ The taxpayer has not enjoyed preferential VAT policies of “Same Time Levy and Rebate” or “Levy First and Refund Later” since 1 April 2019.

The application may be lodged in the filing period of May 2021 and onwards.

### Computation of incremental VAT credit

Refundable incremental VAT credit= Incremental VAT credit × Input composition ratio<sup>2</sup>

Relevant taxpayers should read in detail PN 15 as well as MOF/STA/GAC PN [2019] No. 39 (“PN 39”, i.e., PN regarding certain policies for deepening the reform of VAT) and MOF/STA/GAC PN [2019] No. 84 (“PN 84”, i.e., PN regarding clarifications on policies related to the refund of input VAT credits brought forward from the previous periods for certain taxpayers engaging in the advanced manufacturing industries). If in doubt, consultations with professionals are always recommended.

<sup>1</sup> A taxpayer engaging in the advanced manufacturing industries refers to a taxpayer that derives over 50% of operating income from the manufacturing and sales of non-metallic mineral products, general equipment, etc. as categorized in the Industrial Classification and Codes for National Economic Activities. The above ratio of operating income should be determined according to the sales of the taxpayer for 12 consecutive months prior to the application of tax refund. In case the taxpayer has only been operating for 3 to 11 months before the application, the ratio should be determined according to the actual operating period.

<sup>2</sup> The “input composition ratio” refers to the ratio of deducted VAT indicated on special VAT invoices (including unified invoices of motor vehicle sales for tax control), Customs special VAT payment certificates for imports (海关进口增值税专用缴款书) and VAT payment certificates (解缴税款完税凭证) from April 2019 to the taxation period prior to the application over all the deducted input VAT for the same period.

You can click this link to access the full content of the 2021 Report:

[http://www.gov.cn/premier/2021-03/12/content\\_5592671.htm](http://www.gov.cn/premier/2021-03/12/content_5592671.htm)

You can click this link to access the full content of PN 15:

[http://szs.mof.gov.cn/zhengcefabu/202104/t20210428\\_3694211.htm](http://szs.mof.gov.cn/zhengcefabu/202104/t20210428_3694211.htm)

You can click this link to access the full content of PN 39:

<http://www.chinatax.gov.cn/n810341/n810755/c4160283/content.html>

You can click this link to access the full content of PN 84:

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5136446/content.html>

- ▶ **Conditions for enterprises specialized in integrated circuit (IC) design, equipment, materials, packaging and testing encouraged by the state (MIIT/NDRC/MOF/STA PN [2021] No. 9)**
- ▶ **Conditions for software enterprises encouraged by the State (MIIT/NDRC/MOF/STA PN [2021] No. 10)**

## Synopsis

As prescribed in Guofa [2020] No. 8 ("Circular 8", i.e., Notice regarding certain policies for promoting the high-quality development of the IC industry and software industry in the new era) and MOF/STA/NDRC/MIIT PN [2020] No. 45 ("PN 45", i.e., PN regarding the Corporate Income Tax (CIT) policies for promoting the high-quality development of the IC industry and software industry), encouraged IC enterprises engaging in design, encapsulation, special-purpose materials, testing and software enterprises are entitled to a "two plus three tax holiday" (i.e., two-year CIT exemption followed by a three-year 50% reduction of the statutory CIT rate of 25%) from their first profit making year.

In this respect, the Ministry of Industry and Information Technology (MIIT), National Development and Reform Commission (NDRC), MOF and STA jointly released MIIT/NDRC/MOF/STA PN [2021] No. 9 ("PN 9") and MIIT/NDRC/MOF/STA PN [2021] No. 10 ("PN 10") to further clarify the conditions for eligible software enterprises and IC enterprises engaging in design, encapsulation, special-purpose materials and testing to be satisfied for enjoying preferential CIT treatments purposes.

The detailed conditions include the legal status of the enterprises, headcount, ratio of research and development expenses against the total sales income, possession of core intellectual property rights, etc. According to PN 9, IC enterprises engaging in design, encapsulation, special-purpose materials and testing shall preform self-assessment before claiming such tax preference in the CIT filings and keep the relevant supporting documents (as indicated in the attachment of PN 9) for tax authorities' future enquiries. However, such requirements for claiming tax preference for software enterprises encouraged by the State are neither included in PN 10, nor Fagaigaoji [2021] No. 413 ("Circular 413", i.e., Notice regarding standards for formulating the list of IC enterprises, projects and software enterprises eligible for preferential tax policies). Such enterprises are advised to approach their supervising tax authorities to confirm the local practices in this regard.

PNs 9 and 10 took retroactive effect on 1 January 2020. Related parties are encouraged to read PNs 9 and 10 for more details and leverage the benefits. If in doubt, consultations with professionals are always recommended.

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

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

[http://szs.mof.gov.cn/zhengcefabu/202012/t20201216\\_3635155.htm](http://szs.mof.gov.cn/zhengcefabu/202012/t20201216_3635155.htm)

You can click this link to access the full content of PN 9:

[http://www.gov.cn/zhengce/zhengceku/2021-04/26/content\\_5602315.htm](http://www.gov.cn/zhengce/zhengceku/2021-04/26/content_5602315.htm)

You can click this link to access the full content of PN 10:

[https://www.miit.gov.cn/zwgk/zcwj/wjfb/gg/art/2021/art\\_87ebb65cb9ea40a2836bf60d59512475.html](https://www.miit.gov.cn/zwgk/zcwj/wjfb/gg/art/2021/art_87ebb65cb9ea40a2836bf60d59512475.html)

You can click this link to access the full content of Circular 413:

[https://www.ndrc.gov.cn/xxgk/zcfb/tz/202103/t20210330\\_1271030.html](https://www.ndrc.gov.cn/xxgk/zcfb/tz/202103/t20210330_1271030.html)

- ▶ **Notice regarding public opinion consultation on the "Supplementary PN Regarding Matters Related to the Record-filing with Tax Authorities for Outbound Remittance under Service Trade Items (Discussion Draft)"**

## Synopsis

In order to continuously optimize the business environment, on 26 April 2021, the STA and State Administration of Foreign Exchange (SAFE) jointly released the "Supplementary PN Regarding Matters Related to the Record-filing with Tax Authorities for Outbound Remittance under Service Trade Items (Discussion Draft)" (hereinafter referred to as the "Discussion Draft") to seek public opinion. The consultation of public opinion shall be opened until 26 May 2021.



Key features proposed in the Discussion Draft include:

- ▶ For multiple outbound remittances under one contract, the applicant is only required to complete record filing with the supervising tax authority once before the first remittance is made.
- ▶ The following remittance and payments are exempt from the record filing with tax authorities:
  - ▶ Outbound remittances for non-trade and non-business operational payments by the organizations, public institutions, and social organizations funded by the fiscal budget.
  - ▶ Reinvestments made by foreign investors with their legitimate income derived from domestic direct investments (however, as prescribed in the prevailing STA/SAFE PN [2013] No. 40 ("PN 40", i.e., Notice regarding certain issues related to the record filings with tax authorities for foreign exchange payment under service trade items), when foreign investors reinvest in China with their legitimate income derived from domestic direct investments that exceeds USD50,000 for each payment, the investors are required to complete record filings with their supervising tax authorities).
- ▶ An applicant may choose to complete the record filing with the supervising tax authority online or manually with the tax service counter.

Concerned parties should read the Discussion Draft and are encouraged to express opinions on or before 26 May 2021 by sending mails or logging onto <http://www.chinatax.gov.cn>.

You can click this link to access the full content of the Discussion Draft:

<http://www.chinatax.gov.cn/chinatax/n810356/n810961/c5163787/content.html>

You can click this link to access the full content of PN 40:

<http://www.chinatax.gov.cn/n810341/n810755/c3526427/content.html>

- ▶ **Notice regarding import-level tax policies for supporting the development of science popularization during the 14th Five-Year Plan period (Caiguanshui [2021] No. 26)**
- ▶ **Notice regarding the administrative measures of import-level tax policies for supporting the development of science popularization during the 14th Five-Year Plan period (Caiguanshui [2021] No. 27)**
- ▶ **Notice regarding the administrative measures of the import-level tax policies for supporting technology innovation during the 14th Five-Year Plan period (Caiguanshui [2021] No. 24)**

## Synopsis

On 9 April 2021, the MOF, STA and General Administration of Customs (GAC) jointly released Caiguanshui [2021] No. 26 ("Circular 26") to clarify the import-level tax policies for supporting the development of science popularization during the 14th Five-Year Plan period.

Key features of Circular 26 are as follows:

- ▶ From 1 January 2021 to 31 December 2025, the following goods imported by science museums, natural museums, planetariums (observatories), seismic stations, popular science bases of colleges, universities and science research institutions which are opened to public shall be exempted from import-level Custom Duty and VAT:
  - ▶ Tapes or copies related to broadcasting rights of science popularization films/television programs purchased overseas or imported by other ways for self-use.
  - ▶ Goods for science popularization, including equipment, exhibits and special software for science popularization purposes that cannot be produced or meet the requirements domestically.
- ▶ The list of goods related to science popularization films/television programs which are eligible for the above-mentioned tax exemption treatment was attached in Circular 26.

Accordingly, on the same day, the MOF, MIIT, National Radio and Television Administration (NRTA), STA, GAC, Ministry of Science and Technology (MOST) and Publicity Department of the Central Committee of the Communist Party of China (PDCC) jointly released Caiguanshui [2021] No. 27 ("Circular 27") to further specify the administrative measures for the above-mentioned tax policies. Circular 27 clarified the definitions of qualifying import entities and goods, issues related to the lists of tax exemption goods, arrangements on supervision of import entities, etc.

Further to Caiguanshui [2021] No. 23 ("Circular 23", i.e., Notice regarding the import-level tax policies for supporting technology innovation during the 14th Five-Year Plan period) which clarified the preferential tax policies for supporting technology innovation during the 14th Five-Year Plan period, on 16 April 2021, the MOF, MIIT, NDRC, STA, GAC, Ministry of Education, MOST, Ministry of Civil Affairs, Ministry of Commerce (MOFCOM), Ministry of Culture and Tourism and PDCC jointly released Caiguanshui [2021] No. 24 ("Circular 24") to specify corresponding administrative measures.

The requirements on qualifying social research and development (R&D) institutions and foreign-invested R&D centers which are eligible for the import-level tax preferential policies for supporting technology innovation are stipulated in the Attachments I and II of Circular 24 respectively.

Circulars 24, 26 and 27 are valid from 1 January 2021 to 31 December 2025. Related parties are encouraged to read Circulars 24, 26 and 27 for more details and leverage the benefits. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of Circular 26:

[http://www.gov.cn/zhengce/zhengceku/2021-04/26/content\\_5602747.htm](http://www.gov.cn/zhengce/zhengceku/2021-04/26/content_5602747.htm)

You can click this link to access the full content of Circular 27:

[http://gss.mof.gov.cn/qzdt/zhengcefabu/202104/t20210425\\_3691998.htm](http://gss.mof.gov.cn/qzdt/zhengcefabu/202104/t20210425_3691998.htm)

You can click this link to access the full content of Circular 23:

[http://gss.mof.gov.cn/qzdt/zhengcefabu/202104/t20210420\\_3688785.htm](http://gss.mof.gov.cn/qzdt/zhengcefabu/202104/t20210420_3688785.htm)

You can click this link to access the full content of Circular 24:

[http://gss.mof.gov.cn/qzdt/zhengcefabu/202104/t20210427\\_3693272.htm](http://gss.mof.gov.cn/qzdt/zhengcefabu/202104/t20210427_3693272.htm)

## Business circulars

### ► **Notice regarding measures on promoting trade liberalization and facilitation in Hainan Free Trade Port (Shangzimaofa [2021] No. 58)**

#### **Synopsis**

On 23 April 2021, the MOFCOM, MOF, GAC and 17 other central government authorities jointly released Shangzimaofa [2021] No. 58 ("Circular 58") to announce 28 measures on promoting trade liberalization and facilitation in Hainan Free Trade Port (FTP).

Key features of Circular 58 are as follows:

Measures regarding commodity trade include the following:

- Measures to be implemented in Yangpu Free Trade Port on a pilot basis, e.g., importation/exportation of crude oil and refined oil via the "first line" shall not be under the limitation on qualification of enterprises and administration of quantities, etc.
- Encourage the development of second-hand automobile import/export in Hainan FTP.
- Encourage the establishment of a new global/regional offshore international trade center in Hainan FTP.
- Establish a workstation to deal with trade friction and a mechanism of trade adjustment assistance in Hainan FTP.

Measures regarding service trade include the following:

- The record-filing and registration of foreign trade operator shall not be required for entities engaging in technology import/export in Hainan FTP and the scope of qualifying technology import/export operators shall be further expanded.
- Study the reform of removing approval requirements for establishment of auction enterprises and record filing for franchise.
- Promote a service trade innovation pilot in Hainan FTP.
- Consider the development needs of Hainan FTP when negotiating new international cooperation agreements on service trade.

The MOFCOM, MOF, GAC and 17 other central government authorities shall further formulate and announce the detailed policies in this regard. We will keep an eye on any further developments and advise you accordingly; please stay tuned.

You can click this link to access the full content of Circular 58:

<http://www.mofcom.gov.cn/article/zwgk/zcfb/202104/20210403055191.shtml>

You can click this link to access the full contents of official news regarding the press conference on the promulgation of Circular 58:

<http://www.mofcom.gov.cn/xwfbh/20210426.shtml>

## ► **Administrative Measures for Online Livestream Marketing (Trial)**

### **Synopsis**

On 23 April 2021, the MOFCOM, STA, State Administration of Market Regulation and four other central government authorities jointly announced the Administrative Measures for Online Livestream Marketing (Trial) (hereinafter referred to as the “Trial Administrative Measures”).

The Trial Administrative Measures set out the rights and responsibilities of the livestream marketing platforms, live room operators, livestream marketers, and livestream marketer service agencies in five chapters.

Among these, it is worth noting that the livestream marketing platform should remind the live room operators of the following issues:

- The live room operators should complete the registration as market participants or the tax registration.
- The live room operators should accurately declare their income to fulfill tax payment responsibilities and apply for tax preferential treatments according to the prevailing tax laws and regulations.

In addition, the livestream platform should verify the IDs and unified social credit codes, etc. of the live room operators and the livestream marketers, and report the same and other tax-related information of them to the supervising tax authorities. The livestream platform and livestream marketer service agencies should also fulfill tax withholding obligations.

The Trial Administrative Measures shall become effective on 25 May 2021. Relevant parties are encouraged to read the Trial Administrative Measures and stay alert to any further guidelines to be released by their local supervising tax authorities. If in doubt, consultations with professionals are always recommended.

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

[http://www.cac.gov.cn/2021-04/22/c\\_1620670982794847.htm](http://www.cac.gov.cn/2021-04/22/c_1620670982794847.htm)

## **Customs circular**

## ► **Notice regarding public opinion consultation on the “Regulations of the Customs of the People’s Republic of China (PRC) on the Procedures for Handling Administrative Penalty Cases (Discussion Draft)”**

### **Synopsis**

According to the 2021 version of Law of the PRC on Administrative Penalties (hereinafter referred to as the “Administrative Penalties Law”) which shall become effective on 15 July 2021, the GAC released the Discussion Draft on Regulations of the Customs of the PRC on the Procedures for Handling Administrative Penalty Cases (hereinafter referred to as the “Draft Regulations”) to adapt changes of the new Administrative Penalties Law and incorporate the prevailing Regulations of the Customs of the PRC on the Hearing Procedures for Handling Administrative Penalty Cases (updated via GAC Order [2014] No. 218), the Procedures for Handling Administrative Penalty Cases (updated via GAC Order [2014] No. 218) and the Regulations of the Customs of the PRC on the Procedures for Administrative Penalty on Simple Cases (i.e., GAC Order [2010] No. 188). The Draft Regulations were announced on GAC’s official website on 20 April 2021 to seek public opinion, and the consultation of public opinion shall be opened until 21 May 2021.

Among the changes proposed in the Draft Regulations, the followings are worth noting:

- While the customs office is to make the following penalty decisions, the counter parties should be notified with their rights of applying for the hearing process:
  - The penalty to be imposed on a citizen is above RMB10,000 or the customs office shall confiscate illegal gains of the citizen for over RMB10,000.
  - The penalty to be imposed on a legal entity or an organization is above RMB100,000 or the customs office shall confiscate illegal gains of the legal entity/organization for over RMB100,000.

- ▶ The customs office shall confiscate the relevant goods, articles, means of transport used for smuggling purposes.
- ▶ Lower qualification grading and revoke relevant licenses.
- ▶ Order on suspension of business operation, order to shut down the business or impose limitation on the business operation.
- ▶ Other severe administrative penalty.
- ▶ Other situations as prescribed by the laws and regulations.
- ▶ An expeditious process may be applicable to cases with clear facts but not simplified procedures, provided that the counter parties are willing to plead guilty, accept the penalty and certain criteria are met.

Concerned parties should read the Draft Regulations and are encouraged to express opinions on or before 21 May 2021 by sending mails, emailing to [cbw0506@customs.gov.cn](mailto:cbw0506@customs.gov.cn), or logging onto <http://www.customs.gov.cn>.

You can click this link to access the full content of the Draft Regulations:  
<http://www.customs.gov.cn/customs/302452/302329/zjz/3634654/index.html>

You can click this link to access the full content of the Law of the PRC on Administrative Penalties (Revised in 2021):  
<http://www.npc.gov.cn/npc/c30834/202101/08336daf00b84b82b891f39e32326308.shtml>

You can click this link to access the full content of GAC Order [2014] No. 218:  
<http://www.mofcom.gov.cn/article/b/g/201406/20140600637865.shtml>

You can click this link to access the full content of GAC Order [2010] No. 188  
[http://www.gov.cn/flfg/2010-03/02/content\\_1545556.htm](http://www.gov.cn/flfg/2010-03/02/content_1545556.htm)

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

- ▶ **Notice regarding the preferential tax policies for imported exhibits sold during the period of the China International Consumer Products Expo (Caiguanshui [2021] No. 32)**  
[http://gss.mof.gov.cn/gzdt/zhengcefabu/202104/t20210427\\_3693149.htm](http://gss.mof.gov.cn/gzdt/zhengcefabu/202104/t20210427_3693149.htm)
- ▶ **PN regarding the adjustments of tariffs on certain iron and steel products (Shuiweihui PN [2021] No. 4)**  
[http://gss.mof.gov.cn/gzdt/zhengcefabu/202104/t20210428\\_3694144.htm](http://gss.mof.gov.cn/gzdt/zhengcefabu/202104/t20210428_3694144.htm)
- ▶ **PN regarding the cancellation of export tax refund for certain iron and steel products (MOF/STA PN [2021] No. 16)**  
<http://www.chinatax.gov.cn/chinatax/n377/c5163918/content.html>
- ▶ **Notice regarding the export tax refund rate database (2021B Version) (Shuizonghan [2021] No. 77)**  
<http://www.chinatax.gov.cn/chinatax/n377/c5163925/content.html>
- ▶ **Notice regarding the tax policies for the importation of wild animals and plants for breeding and working dogs for military and police during the 14th Five-Year Plan period (Caiguanshui [2021] No. 28)**  
[http://gss.mof.gov.cn/gzdt/zhengcefabu/202104/t20210421\\_3689599.htm](http://gss.mof.gov.cn/gzdt/zhengcefabu/202104/t20210421_3689599.htm)
- ▶ **Notice regarding the "2021 Tax-related Special Action Plan for Promoting the Development of Small and Micro-sized Enterprises" (Shuizongbanfa [2021] No. 23)**  
<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5163977/content.html>
- ▶ **Notice regarding further promoting the high-quality development of financial services for small and micro-sized enterprises in 2021**  
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=979396>
- ▶ **Notice regarding public opinion consultation on the "Regulations on the Classification Standards of Medium and Small-sized Enterprises (Revised Discussion Draft)"**  
[https://www.miit.gov.cn/jgsj/qyj/gzdt/art/2021/art\\_9087ea816daf4f7192ac845d1380cfd7.html](https://www.miit.gov.cn/jgsj/qyj/gzdt/art/2021/art_9087ea816daf4f7192ac845d1380cfd7.html)
- ▶ **PN regarding the standards for filling in the column "country of origin" on the customs declaration form for imports and exports under preferential trade agreements (GAC PN [2021] No. 34)**  
<http://www.customs.gov.cn/customs/302249/2480148/3641439/index.html>

## Contact us

For more information, please contact your usual EY contact or one of the following EY's China tax leaders.

### Author - China Tax Center

Jane Hui  
+852 2629 3836  
jane.hui@hk.ey.com

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### Greater China Tax Leader

Henry Chan  
+86 10 5815 3397  
henry.chan@cn.ey.com

### Our tax leaders by market segment and service areas

#### Martin Ngai (China North)

+86 10 5815 3231  
martin.ngai@cn.ey.com

#### Patricia Xia (China Central)

+86 21 2228 2878  
patricia.xia@cn.ey.com

#### Ho Sing Mak (China South)

+86 755 25028289  
Ho-Sing.Mak@cn.ey.com

#### David Chan (Hong Kong SAR/Macau SAR)

+852 2629 3228  
david.chan@hk.ey.com

#### Heidi Liu (Taiwan)

+886 2 2757 8888  
heidi.liu@tw.ey.com

#### Carrie Tang

Business Tax Services  
+86 21 2228 2116  
carrie.tang@cn.ey.com

#### Vickie Tan

Global Compliance and Reporting  
+86 21 2228 2648  
vickie.tan@cn.ey.com

#### Becky Lai

Tax Policy  
+852 2629 3188  
becky.lai@hk.ey.com

#### Andrew Choy

International Tax and Transaction Services  
+86 10 5815 3230  
andrew.choy@cn.ey.com

#### Travis Qiu

ITTS - Transfer Pricing  
+86 21 2228 2941  
travis.qiu@cn.ey.com

#### Jesse Lv

ITTS - Transaction Tax  
+86 21 2228 2798  
jesse.lv@cn.ey.com

#### Kevin Zhou

Indirect Tax - VAT  
+86 21 2228 2178  
kevin.zhou@cn.ey.com

#### Bryan Tang

Indirect Tax - Global Trade  
+86 21 2228 2294  
bryan.tang@cn.ey.com

#### Patricia Xia

Tax Technology  
and Transformation  
+86 21 2228 2878  
patricia.xia@cn.ey.com

#### Paul Wen

People Advisory Services  
+852 2629 3876  
paul.wen@hk.ey.com



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