

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 certain matters related to the deduction of charitable donations made through charitable mass organizations for income tax purposes (MOF/STA PN [2021] No. 20)

Synopsis

To fully implement the Corporate Income Tax (CIT) Law and Individual Income Tax (IIT) Law and their implementation regulations, on 2 June 2021, the Ministry of Finance and (MOF) State Taxation Administration (STA) jointly released MOF/STA PN [2021] No. 20 ("PN 20") to clarify certain matters related to the deduction of charitable donations made through charitable mass organizations (CMOs) for income tax purposes.



Key features of PN 20 are as follows:

- Where enterprises or individuals make donations to support public welfare and charitable affairs in accordance with relevant laws and regulations through qualifying CMOs, the donations are deductible in calculating taxable income in accordance with relevant tax laws.
- CMOs shall meet all the following conditions to be qualified for the tax deduction:
 - CMOs shall meet the criteria stipulated in Item I to Item VIII under Article 52 of Implementation Regulations of the CIT Law, i.e., the CMOs shall be legally registered and qualified as legal persons; the CMOs shall be non-profit oriented and established for charitable causes; all assets and their appreciations of CMOs shall be owned by the legal persons, etc.
 - The institutional establishment is directly administered by relevant government departments at the county level or above.
 - Donation revenues and related expenditures are separately accounted for, and the annual expenditures on public welfare and charitable affairs are not less than 70% of the total donation revenues for three consecutive years prior to submission of the application.
- The qualification for deduction of charitable donations for IIT and CIT purposes shall be applicable nationwide and valid for three years.
- PN 20 stipulated regulations for the recognition on the amount of donations:
 - Where CMOs receive donations of monetary assets, the amount of donations shall be recognized based on the amount actually received.
 - Where CMOs receive donations of non-monetary assets, the amount of donations shall be recognized based on their market value.

PN 20 also specified the definition of public welfare and charitable affairs as well as CMOs, regulations on the recognition of CMOs' qualification, relevant reporting documents, rules on disqualification of CMOs, donation receipts, etc.

PN 20 became effective on 1 January 2021, Caishui [2009] No. 124 ("Circular 124", i.e., Notice regarding issues related to the deduction of charitable donations made through CMOs for income tax purposes) was revoked simultaneously.

The unsettled cases of CMOs' recognition for year 2020 as well as the year before will be subject to the above regulations. Where the CMOs' qualifications were due at the end of 2020, their qualification for 2021 to 2023 shall be recognized from 1 January 2021.

Relevant parties are encouraged to read PN 20 for more details. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 20:

http://szs.mof.gov.cn/zhengcefabu/202106/t20210603_3714132.htm

You can click this link to access the full content of Circular 124:

<http://www.chinatax.gov.cn/n810341/n810765/n812166/n812602/c1086652/content.html>

- ▶ PN regarding the "Administrative Measures on Value-added Tax (VAT) Refund for the Beijing 2022 Olympic and Paralympic Winter Games and Related Test Events" (STA PN [2021] No. 13)

Synopsis

In order to support the hosting of the Beijing 2022 Olympic and Paralympic Winter Games and related test events (hereinafter referred to as "2022 Olympic Winter Games") and to optimize the tax environment, on 27 May 2021, the State Taxation Administration (STA) announced the administrative measures on VAT refund for the 2022 Olympic Winter Games via STA PN [2021] No. 13 ("Measures").

Key features of the Measures are as follows:

- During the period from 1 June 2019 to 31 December 2022, the International Olympic Committee and International Paralympic Committee and their related entities (hereinafter referred to as the “VAT refund application entities”) can apply to the tax authorities in accordance with the provisions of the Measures for the VAT refund on the purchase of designated goods or services (see MOF/STA/GAC PN [2019] No. 92 (“PN 92”) for the list) in China incurred due to their work related to the 2022 Olympic Winter Games.
- VAT refund application entities can either apply for VAT refunds on their own or voluntarily entrust tax professional service agencies, other entities or individuals to apply for VAT refunds on their behalf.
- The VAT refund application period is from 1 July 2021 to 31 March 2023.
- VAT refund application entities shall submit VAT refund application materials through the Beijing E-tax Bureau of the STA or the tax service offices designated by the STA. For the first-time application, the application materials shall include: tax-specified invoices (paper or electronic) issued from 1 June 2019 to 31 December 2022, VAT refund application form (see Annex 1 of the Measures) and VAT refund certificates (see Annex 2 of the Measures). Where a tax agent is entrusted to apply for VAT refunds, an entrustment agreement shall also be submitted.
- Where the invoice provided meets the VAT refund conditions for the 2022 Winter Olympic Games and there is no potential tax risks in respect of VAT, the competent tax authority of the seller shall complete the review within 10 working days from the date of receipt of the VAT refund application and issue a “Notice of Taxation Matters” to approve the VAT refund.
- VAT refund application entities that are registered in China may either apply for VAT refunds for the 2022 Olympic Winter Games or claim input VAT deduction/ declare export VAT refunds/apply for refunds of input VAT credits brought forward from previous periods in accordance with regulations. VAT refund application entities can receive VAT refunds through their domestic RMB bank settlement account or that of the third party entrusted.

The Measures shall become effective on 1 July 2021. VAT refund application entities are advised to read the Measures carefully for more details about the VAT refund process. If in doubt, consultations with professionals are always recommended.

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

<http://www.chinatax.gov.cn/chinatax/n359/c5164802/content.html>

You can click this link to access the full content of PN 92:

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5140116/content.html>

Business circular

- ▶ Notice regarding deepening the reform of “Separating Permits from Business Licenses” and further stimulating the vitality of market entities (Guofa [2021] No. 7)

Synopsis

On 19 May 2021, the State Council released Guofa [2021] No. 7 (“Circular 7”) to further expand the business registration reform of “Separating Permits from Business Licenses” (hereinafter referred to as the “reform”) nationwide and enhance the level of reform in pilot free trade zones (hereinafter referred to as the “PFTZs”).

Key features of Circular 7 include:

| Items | Details |
|-------------------------------------|---|
| Targets of the reform | <ul style="list-style-type: none"> From 1 July 2021, all business activities of enterprises that are required to obtain permits shall be administered based on the lists attached in Circular 7. By 2022, protocols shall be set out for engaging in business activities for industries that are required for permits, in which a loosen entry shall be available for the businesses but they shall be under strict supervision once entered. |
| Measures to be taken for the reform | <ul style="list-style-type: none"> <p>Removing certain approval requirements</p> <p>Permits for 68 items in sectors of foreign investment and foreign trade, construction, etc. shall no longer be subject to approval on a nationwide basis. On top of this, permits for 14 additional items shall no longer be subject to approval on a pilot basis in the PFTZs. In this respect, business entities (i.e., enterprises, as well as self-employed industrial and commercial households, and specialized farmers' cooperatives) engaging in these items are allowed to start business operations in these fields once they obtain their business licenses.</p> <p>For example, for foreign investment telecommunication enterprises, permits for engaging in telecommunication services (basic telecommunication services) shall be removed.</p> <p>Record filing instead of approval</p> <p>Permits of 15 items in sectors of trading, education and training, etc. shall be subject to the record filing instead of approval. On the other hand, permits for 15 items in sectors of education, banking and insurances, etc. shall be subject to the record filing instead of the approval on a pilot basis in the PFTZs.</p> <p>For example, the approval for the permits for customs declaration entities shall be replaced with the record filing procedure. Most of the items shall be subject to record filing afterwards, which means the enterprises shall be allowed to engage in these business activities after obtaining their business licenses. For the items, their record filings are required to be completed in advance, the enterprises should still complete the record filing before engaging in such business activities.</p> <p>Notification and Commitment Mechanism</p> <p>37 items in sectors of agriculture, manufacturing, consumption, telecommunication, etc. shall be subject to the notification and commitment mechanism on a nationwide basis, while 40 items shall be subject to the notification and commitment mechanism on a pilot basis in the PFTZs.</p> <p>By implementing the notification and commitment mechanism, the government authorities shall notify the applicants regarding the relevant requirements which are feasible and quantified without setting any unclear conditions, such as other documents/information to be required by the authorities, etc., as well as the legal responsibilities of any false commitments made by the applicants. Where the applicants make written commitments to undertake the legal responsibilities for making any false commitments, the government authorities shall no longer require the submission of certain application documents and allow the applicants to submit certain required documents only after the application is being handled.</p> <p>Improving services for applications</p> <p>For certain matters that require the enterprises to obtain permits, government authorities shall further ease burdens of the applications by delegating approval rights to local authorities, simplifying application conditions, etc.</p> |
| Enhance supporting policies | <ul style="list-style-type: none"> Include all matters related to permits for enterprises under lists administrations, and the relevant government authorities shall determine the measures for reform and the relevant supervision measures for each item. Continue to promote the business registration reform of "applying for a business license prior to obtaining relevant operation permit", regulate the registration of business scope, etc. Promote the use of electronic licenses and permits. A full digitalization of licenses and permits shall be in place by the end of 2022. |

Relevant enterprises and individuals are advised to study Circular 7 to understand the measures of the reform and the impact it may bring about. If in doubt, consultations with professionals are always helpful.

You can click this link to access the full content of Circular 7:

http://www.gov.cn/zhengce/content/2021-06/03/content_5615031.htm

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

- ▶ PN regarding the “Measures for the Administrative Adjudication of Major Patent Infringement Disputes” (CNIPA PN [20201] No. 426)
http://www.gov.cn/zhengce/zhengceku/2021-05/29/content_5613827.htm
- ▶ PN regarding matters accepted for administrative adjudication of major patent infringement disputes (CNIPA PN [2021] No. 427)
http://www.gov.cn/zhengce/zhengceku/2021-05/29/content_5613828.htm
- ▶ The 2021 Legislative Work Plan of the China Banking and Insurance Regulatory Commission
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=986812>
- ▶ PN regarding public opinion consultation on the “Administrative Regulations on Reinsurance Business (Discussion Draft)”
http://www.gov.cn/hudong/2021-05/29/content_5613808.htm
- ▶ Guiding opinions on enhancing the eco-environment source prevention and control for high energy-consuming and high-emission projects (Huanhuanping [2021] No. 45)
http://www.gov.cn/zhengce/zhengceku/2021-06/01/content_5614531.htm
- ▶ Guiding opinions on enhancing eco-environment protection and promoting high-quality development in pilot free trade zones (Huanzonghe [2021] No. 44)
https://www.mee.gov.cn/xxgk2018/xxgk/xxgk03/202105/t20210531_835481.html
- ▶ Notice regarding the pilot run of the mobile terminal of the unified platform of the Ministry of Commerce
<http://www.mofcom.gov.cn/article/h/redht/202106/20210603066818.shtml>
- ▶ Notice regarding adjusting the application scope of the “Regulations on Accounting Treatment for Rent Reductions During the COVID-19 Epidemic” (Caikuai [2021] No. 9)
http://kjs.mof.gov.cn/gongzuotongzhi/202106/t20210602_3713042.htm
- ▶ Notice regarding further enhancing the policy support for the development of travel agencies (Wenlvshichangfa [2021] No. 60)
http://zwgk.mct.gov.cn/zfxxgkml/scgl/202106/t20210602_924950.html



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