

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

► Stamp Duty Law of the People's Republic of China (PRC)

Synopsis

On 10 June 2021, the Stamp Duty (SD) Law of the PRC (hereinafter referred to as the "SD Law") was officially announced by the Standing Committee of the 13th National People's Congress (NPC).

The SD Law shall become effective on 1 July 2022 and replace the prevailing SD Provisional Regulations simultaneously. The SD Law contains 20 articles which cover the definition of taxpayers, taxable scope, SD rates, tax basis and the preferential SD treatments, etc. Basically, no fundamental changes were made to the current SD system.



Key features of the SD Law are as follows:

SD rates

Taxable items	SD rates as prescribed in the SD Law	Prevailing SD rates
SD rates to be reduced		
Paid-up capital and capital reserves recorded in accounting books	0.25‰	0.5‰ ¹
Processing contracts	0.3‰	0.5‰
Transportation contracts		
Instruments for the transfer of trademark, copyright, patent and know-how		
Construction contracts		0.5‰ (construction engineering survey and design contracts) 0.3‰ (construction and installation engineering contracts)
Other accounting books	Removed	RMB 5 on each accounting book ¹
Licenses	Removed	RMB 5 on each license
SD rates to stay unchanged		
Loan contracts	0.05‰	
Finance leasing contracts		
Purchases/sales contracts	0.3‰	
Technical contracts		
Instruments for granting land use rights (i.e., 土地使用权出让书据, users obtain land use rights from the nation, usually via governments at the county level and above)	0.5‰	
Instruments for the transfer of land use rights, ownership of real estates, constructions (except for the transfer of rights for contractual management of lands (土地承包经营权) or land operating rights (土地经营权转移))		
Instruments for the transfer of equity (except for those subject to SD under the category of security trading)		
Security trading contracts	1‰ only chargeable on the transferor	
Rental/storage/custodian/property insurance contracts	1‰	

New changes that are worth-noting

- ▶ SD rate on transfer of trademark, copyright, patent and know-how

There has not been much changes made in the officially announced SD Law compared to the last version of Draft SD Law which was submitted to the Standing Committee of the 13th NPC for deliberation on 27 February 2021. One notable change is that the SD rate on instruments for the transfer of trademark, copyright, patent and know-how shall be reduced to 0.3‰ compared to 0.5‰ as prescribed in the prevailing SD Provisional Regulations, and the change had not been proposed in the Draft SD Law. This is understood as an incentive to further boost innovation of enterprises.

- ▶ Value-added tax (VAT)

As prescribed in the SD Law, the taxable amount in taxable contracts/instruments that are subject to SD should not include any VAT amount specified in the contracts/instruments. This clause was also included in the Draft SD Law.

There may be a concern as this clause may also imply that any taxable documents without specification of VAT amount shall have the entire amount subject to SD, which might cause controversies between the taxpayers and tax authorities. To avoid unnecessary tax exposures, it is important for taxpayers to indicate the contract price and respective VAT amount separately in taxable contracts/instruments.

- ▶ SD-exemption for electronic orders between e-commerce businesses and individual buyers

In the Draft SD Law, a tax-exemption was included for electronic orders between e-commerce businesses and buyers. Nevertheless, the applicable scope of the exemption is further tightened and would only apply to electronic orders between e-commerce businesses and buyers who are individuals in the SD Law. In other words, for electronic orders between e-commerce businesses and buyer individuals, both the sellers and the buyers are exempt from SD, while such orders between e-commerce businesses and other buyers (e.g., entities, enterprises, etc.) shall still be subject to SD.

However, one additional uncertainty that needs to be clarified is whether the “buyer individuals” in the SD Law refer to both natural persons and self-employed industrial and commercial households as in many prevailing laws and regulations, the wording “individuals” (个人) would include both of them.

We have issued a WeChat news article on 17 June 2021 (in Chinese only) to discuss the SD Law in greater detail, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE and search keywords to access the full content of the WeChat news article.

¹ According to the prevailing Provisional Regulations on SD, the applicable SD rate for the aggregated amount of paid-up capital and capital reserves recorded in accounting books was subject to SD at 0.05%. However, according to Caishui [2018] No. 50 (“Circular 50”, i.e., SD reduction and exemption on accounting books), from 1 May 2018, such amounts are eligible for a 50% reduction. Circular 50 also specifies that other accounting books which were subject to SD at RMB5 per book according to the prevailing Provisional Regulations on SD are exempt from SD, such changes are also adopted in the SD Law.

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

<http://www.npc.gov.cn/npc/c30834/202106/ac04259fbbc24b9581156b81d3c76275.shtml>

You can click this link to access the full content of the prevailing Provisional Regulations on SD:

<http://www.chinatax.gov.cn/chinatax/n367/c1476/content.html>

You can click this link to access the full content of Circular 50:

<http://www.chinatax.gov.cn/chinatax/n367/c13973826/content.html>

▶ 2021 Regulation Formulation Plan of Tax Administrations

Synopsis

On 8 June 2021, the Department of Policies and Regulations of the State Taxation Administration (STA) announced the 2021 Regulation Formulation Plan of Tax Administrations (hereinafter referred to as the “2021 Plan”) on its official website.

Key features of the 2021 Plan are as follows:

Class I stipulation projects

- ▶ Revise the Administrative Measures for the Stipulation of Tax-related Regulatory Circulars.
- ▶ Stipulate the Regulations on Procedures for Handling Tax Inspection Cases.
- ▶ Stipulate the Publication Measures of Significant Tax Violation and Dishonesty Cases.

Class II stipulation projects

- ▶ Stipulate the Administrative Measures of Protection on Personal Information Relating to Tax and Fee for Taxpayers and Fee Payers.
- ▶ Revise the Implementation Rules of Administrative Measures of the PRC for Invoices.
- ▶ Revise the Administrative Measures of Tax Registration.

The 2021 Plan also clarified the departments which are responsible for the above-mentioned projects. Related parties are encouraged to read the 2021 Plan for more details. We will keep an eye on any further progress in this regard and bring you the most updated news. Please stay tuned.

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

<http://www.chinatax.gov.cn/chinatax/n810214/n810606/c5165102/content.html>

Business circulars

- ▶ **Notice regarding certain matters related to authorizing tax authorities to collect four types of non-tax revenue (Caizong [2021] No. 19)**

Synopsis

Subsequent to the transfer of responsibilities of collection of social securities, idle land charges and urban garbage disposal fees to tax authorities, the Ministry of Finance (MOF), STA, People's Bank of China (PBOC) and Ministry of Natural Resources (MNR) jointly released Caizong [2021] No. 19 (“Circular 19”) on 21 May 2021 to announce the transfer of responsibilities of collection of the following types of non-tax revenue to the tax authorities:

- ▶ Land use right transfer fee (土地使用权出让收入)
- ▶ Specific charge for mineral resources (矿产资源专项收入)
- ▶ Sea area usage fee (海域使用金)
- ▶ Uninhabited islands usage fee (无居民海岛使用金)

From 1 July 2021, the transfer of collection responsibilities shall be carried out on a pilot basis in a few selected pilot areas, e.g., Shanghai, Hebei province, Yunnan province, etc. On 1 January 2022, the pilot shall be expanded on a nationwide basis.

Upon the transfer, relevant information shall be shared by the competent departments under the MNR to the tax authorities at the same level, and the tax authorities shall share the information related to the collection of such fees/charges to the local finance bureaus, competent departments under the MNR and local branches of the PBOC.

It is worth-noting that, according to Circular 19, the chargeable scope, payers, administration and reduction/exemption policies of the abovementioned fees shall not be changed due to the transfer.

Relevant enterprises should read Circular 19 and note the local practices to be announced by the supervising tax authorities for more details.

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

http://zhs.mof.gov.cn/zhengcefabu/202106/t20210604_3714865.htm

► **Law of the PRC on Hainan Free Trade Port (FTP) (Chairman Order [2021] No. 85)**

Synopsis

The Law of the PRC on Hainan Free Trade Port (“FTP Law”) was adopted on 10 June 2021 at the twenty-ninth session of the Standing Committee of the 13th NPC.

The FTP Law contains 57 articles in eight chapters, covering trade liberalization and facilitation, investment liberalization and facilitation, financial and tax system, environmental protection, industrial development and talent support, etc. Among them, some noteworthy items are as follows:

Trade liberalization and facilitation

- Goods can be freely imported and exported between overseas and Hainan FTP, except for those listed as prohibited or restricted. The customs shall supervise in accordance with law.
- Implement policies for facilitating customs clearance and simplifying the procedures of goods circulation in Hainan FTP.
- Implement a “negative list” system for cross-border trade in services in Hainan FTP.

Investment liberalization and facilitation

- Comprehensively implement the simplified investment approval system, strengthen the protection of property rights, guarantee fair competition, and build an open, transparent and predictable investment environment.
- Implement the mechanism of “pre-access national treatment plus negative list” for foreign investment in Hainan FTP.
- Relax market access in Hainan FTP.

Financial and tax system

During the development and construction phase of Hainan FTP, the central government shall provide adequate financial supports (including tax reduction and exemption, consolidated tax filing, etc.) to Hainan FTP in light of actual situations and tax reforms.

Environmental protection

Formulate an ecological environment access list and implement strict entry and exit administration for environmental safety access to prevent pollution and protect ecological environment.

Industrial development and talent support

Build Hainan FTP into an international tourism and consumption center, promote the deep integration of tourism, cultural and sports, healthcare and elderly care industries to cultivate new forms and models of tourism.

Implement more open policies for talents and residents, and implement the “negative list” mechanism for the administration of foreigners’ work permits.

Relevant parties are advised to read the FTP Law carefully so as to fully utilize the benefits offered. If in doubt, consultations with professionals are always recommended.

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

<http://www.npc.gov.cn/npc/c30834/202106/eec9070dd18e4b0190cd2abb9345442d.shtml>

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

- ▶ **Public notice regarding the “Catalog of Non-transport Special Operations Vehicles Equipped with Fixtures That Are Exempt from Vehicle Purchase Tax” (second batch) (STA/MIIT PN [2021] No. 14)**
<http://www.chinatax.gov.cn/chinatax/n371/c5165153/content.html>
- ▶ **Notice regarding public opinion consultation on the “Anti-Money Laundering Law of the PRC (Revised Discussion Draft)”**
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4259722/index.html>
- ▶ **Notice regarding the implementation plan of the notification and commitment mechanism for certification items (Zhengjianbanfa [2021] No. 45)**
http://www.csrc.gov.cn/pub/zjhpublic/G00306211/202106/t20210604_399076.htm
- ▶ **Notice regarding the “Development Plan for the Cultural Industry During the 14th Five-Year Plan Period” (Wenlvchanyefa [2021] No. 42)**
http://zwgk.mct.gov.cn/zfxqgkml/cyfz/202106/t20210607_925033.html
- ▶ **Implementation opinions on enhancing the credit supervision in key areas (Guoshijianxinfā [2021] No. 28)**
http://gkml.samr.gov.cn/nsjg/xyjgs/202106/t20210608_330344.html
- ▶ **Notice regarding the governance standards for banking and insurance institutions**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=989061>
- ▶ **Provisional Measures for the Implementation of Recovery and Disposal Plans of Banking and Insurance Institutions**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=989402>
- ▶ **Data Security Law of the PRC (Chairman Order [2021] No. 84)**
<http://www.npc.gov.cn/npc/c30834/202106/4f2cc373ace04ab98a1e309c8959867d.shtml>
- ▶ **Anti-foreign Sanctions Law of the PRC (Chairman Order [2021] No. 90)**
<http://www.npc.gov.cn/npc/c30834/202106/ea3e5a684a814ce387da94d505731c04.shtml>
- ▶ **Decisions on authorizing the Shanghai Municipal People’s Congress and its Standing Committee to formulate regulations of the Pudong New Area**
<http://www.npc.gov.cn/npc/c30834/202106/9566bd58b477461483314c22ce449015.shtml>
- ▶ **Notice regarding public opinion consultation on the “Auditing Law of the PRC (Revised Draft)”**
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff80818179c0e42e0179f4465441042c>

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