

# 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 the implementation of certain Deed Tax (DT) related matters (MOF/STA PN [2021] No. 23)

### Synopsis

On 11 August 2020, the Standing Committee of the National People's Congress adopted the DT Law of the People's Republic of China ("DT Law") that will become effective on 1 September 2021. In order to implement the DT Law, the Ministry of Finance (MOF) and State Taxation Administration (STA) jointly released MOF/STA PN [2021] No. 23 ("PN 23") on 30 June 2021 to further clarify certain DT related matters from implementation standpoint.



Key features of PN 23 are as follows:

Items	Certain issues clarified in PN 23
Transfer of titles of lands/real properties	<ul style="list-style-type: none"> <li>• Taxable transfer of titles of lands and real properties refers to the transfer of land use right and ownership of real properties.</li> <li>• For transfer of titles of lands/real properties due to the following situations, the transferee should pay DT according to the relevant regulations: <ul style="list-style-type: none"> <li>• Changes of ratio of co-ownership of the immovable assets</li> <li>• Changes of co-owners</li> </ul> </li> <li>• Transfers of titles of lands/real properties due to the effectiveness of legal documents issued by the people's courts, board of arbitration, or supervisory authorities, etc.</li> </ul>
Clarifications of tax basis	<ul style="list-style-type: none"> <li>• Where a transferee had obtained the land use right through land allocation (划拨) and re-obtained the land use right through transfer upon approval, the DT payable should be calculated based on the amount of land transfer fee paid.</li> <li>• Where a transferee had obtained the land use right through land allocation, the real properties on the land are approved to be transferred afterwards and the nature of acquisition of land use right is changed to "transfer", the DT payable should be calculated based on the amount of land transfer fee paid as well as the agreed price for the transfer of the real properties.</li> <li>• Where a transferee had obtained the land use right through land allocation, the real properties on the land are approved to be transferred afterwards and the nature of acquisition of land use right is unchanged, the DT payable should be calculated based on the amount of the agreed price for the transfer of the real properties.</li> <li>• Where the land use right is transferred with the buildings and constructions on the land (including real properties under construction, as well as any other construction, etc.), the DT payable should be calculated based on total price paid by the transferee.</li> <li>• For the transfer of land use right, the DT payable should be calculated based on the land transfer fee, compensations paid for the land, resettlement subsidy, compensations for attachments on land/crops, facilities, and other economic interests, etc.</li> <li>• For the transfer of housing ancillary facilities (e.g., parking lots, storerooms, etc.) that are in the same unit of the real properties, the DT payable should be calculated on the total price to be paid by the transferee at the same DT rate of the real properties. For the transfer of the housing ancillary facilities that are in the different unit of the real properties, the DT payable should be calculated on the agreed price stated in the contract at the applicable local DT rate.</li> <li>• For the transfer of decorated real properties, the decoration fee should be included in total price to be paid by the transferee for DT calculation.</li> <li>• For swap of land use rights/real properties, where prices of the swapped land use rights/real properties are the same, the DT payables of both parties shall be zero. If prices for the swap are not equal, the party who will pay the difference should calculate and pay DT based on the difference.</li> <li>• Tax basis of DT does not include Value-added Tax (VAT).</li> </ul>
Situations for triggering time of DT	<ul style="list-style-type: none"> <li>• For transfer of titles of land use rights/real properties due to the effectiveness of legal documents issued by the people's court, board of arbitration, or supervisory authorities, etc., the triggering time of DT is the date of the legal documents become effective.</li> <li>• Where the reduced/exempt DT should be repaid due to changes of usage of lands and real properties, the triggering time is the date the usage of lands and real properties changed.</li> <li>• Where land transfer fee should be paid due to changes of status of lands, floor area ratios, etc., the triggering time of DT is the date of the change.</li> </ul> <p>Where registration is not required to the titles of the land use rights/real properties for the abovementioned situations, the taxpayers are required to file and pay DT within 90 days after DT is triggered.</p>

PN 23 also specifies a few situations that DT would be exempt, and relevant documentation/information for DT payment as well as certain situations where refund of DT shall be applicable.

PN 23 shall become effective on 1 September 2021 and certain rules that contradict with that of PN 23 (as listed in PN 23) shall be replaced simultaneously.

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

[http://www.gov.cn/zhengce/zhengceku/2021-07/08/content\\_5623279.htm](http://www.gov.cn/zhengce/zhengceku/2021-07/08/content_5623279.htm)

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

<http://www.chinatax.gov.cn/chinatax/n375/c5155444/content.html>

- Notice regarding public opinion consultation on the “PN Regarding Certain Matters Related to the Tax Services, Collection and Administration of DT (Discussion Draft)”

## Synopsis

In order to implement the DT Law and other related regulations, further optimize tax services, and regulate the collection and administration of DT, the STA drafted “PN Regarding Certain Matters Related to the Tax Services, Collection and Administration of DT (Discussion Draft)” (hereinafter referred to as the “Discussion Draft”) and released it to the public to seek opinions on 5 July 2021.

The Discussion Draft consists of 12 articles, clarifying certain tax collection and administration matters such as tax filing, tax calculation, tax basis, tax refund, tax services optimization. Some key points are summarized as follows:

Unit for declaration	To facilitate taxpayers’ understanding and the implementation of tax collection and administration, it is clarified that property unit shall be the basic unit for DT declaration.
Tax calculation	<ul style="list-style-type: none"> <li>• Where the ownership of land use rights and/or real properties is transferred by means of investment (equity) or debt repayment, the determination of applicable DT rate and tax basis shall be referenced to the transfer or sale of land use rights or real properties.</li> <li>• Where the ownership of land use rights or real properties is transferred by means of reward or transfer without price, the determination of applicable DT rate and tax basis shall be referenced to the transfer of land use rights or real properties as a gift.</li> </ul>
Tax basis	The DT basis shall not include VAT.
Taxable consideration	Tax authorities shall refer to the market price and adopt the methods of real estate valuation to reasonably determine taxable consideration according to law.
Supporting documents	Supporting materials include a taxpayer’s identity certificate, land use right and real property ownership transfer contract, payment vouchers, etc. Where the tax exemption and reduction conditions are met, relevant materials shall be attached or retained for future reference.
Tax refund	A taxpayer who applies to the tax authority for refund of DT paid in accordance with law shall provide the identity certificate and a copy of the tax payment certificates (or relevant materials for different situations).
Information confidentiality	Tax authorities should keep confidential all the information and business secrets of taxpayers that they obtain in the process of tax collection and administration.
Optimize process and simplify materials	Tax authorities should continue to optimize the process of DT declaration and payment, and are encouraged to obtain taxpayers’ information through information sharing.



Taxpayers may express opinion on or before 4 August 2021 by logging onto the official websites of the STA ([www.chinatax.gov.cn](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/c5166177/content.html>

## Business circulars

- ▶ Notice regarding deepening the reform of “Separating Permits from Business Licenses” (Gongxinbuzhengfahan [2021] No. 159)

### Synopsis

To deepen the reform of “Separating Permits from Business Licenses”, on 29 June 2021, the Ministry of Industry and Information Technology released Gongxinbuzhengfahan [2021] No. 159 (“Circular 159”), announcing the reform measures on 18 business-related licensing matters in industry and information technology area, which include cancelling approval directly, implementing notification and commitment mechanism, optimizing approval service, etc.

The reform measures specified in Circular 159 shall be implemented nationwide or in the pilot free trade zones (PFTZs) from 1 July 2021. Among the measures, it is worth nothing that the following approvals shall be cancelled nationwide:

- The approval on foreign investment in telecommunication service (the basic telecommunication service)
- The approval on foreign investment in telecommunication service (type I value-added telecommunication service)
- The approval on foreign investment in telecommunication service (type II value-added telecommunication service)

The “Examination Decision on Foreign Investment in Telecommunication Service” shall not be issued any more. Relevant examination work on foreign investment shall be incorporated in the approval process for telecommunication service licenses. Enterprises engaging in relevant business no longer need to conduct above-mentioned administrative licensing matters and provide corresponding licenses.

The implementation issues for the reform measures on 18 business-related licensing matters are also listed in Circular 159. Related parties are encouraged to read Circular 159 for more details.

You can click this link to access the full content of Circular 159:  
[http://www.gov.cn/zhengce/zhengceku/2021-07/04/content\\_5622375.htm](http://www.gov.cn/zhengce/zhengceku/2021-07/04/content_5622375.htm)

- ▶ Notice regarding fully exerting functions and deepening the reform of “Separating Permits from Business Licenses” (Guoshijianzhufa [2021] No. 36)

### Synopsis

In order to ensure the high-quality implementation of the reform of “Separating Permits from Business Licenses” in the national market supervision system from 1 July 2021 and to further enhance the reform in the PFTZs, the State Administration for Market Regulation (SAMR) released Guoshijianzhufa [2021] No. 36 (“Circular 36”, i.e., Notice regarding fully exerting functions and deepening the reform of “Separating Permits from Business Licenses”) on 26 June 2021.

Key features of Circular 36 are as follows:

#### Full coverage of the reform of “Separating Permits from Business Licenses”

The SAMR has formulated detailed provisions on the reform measures and interim- and post-event supervision measures such as cancelling the review and approval of business licensing items, replacing the review and approval with record filing, implementing the notification and commitment mechanism, etc. (see Annex 1 of Circular 36).

#### Further expand pilot reforms in the PFTZs

The SAMR has made regulations on the reform targets, licensing conditions, materials, procedures and regulatory measures (see Annex 2 of Circular 36). The market regulatory authorities of the PFTZs should optimize and adjust the implementation of policies so as to ensure smooth implementation of pilot reforms.

#### Strengthen the collection and application of enterprise information

According to the “Information Technology Plan of Market Regulatory Authorities for Deepening the Reform of ‘Separating Permits from Business Licenses’” (see Annex 3 of Circular 36), local market regulatory authorities should ensure that information of enterprise registration, business license, etc. can be collected and shared through the National Enterprise Credit Information Publicity System.

Relevant parties are advised to read Circular 36 for more details.

You can click this link to access the full content of Circular 36:

[http://gkml.samr.gov.cn/nsjg/djzcj/202107/t20210706\\_332327.html](http://gkml.samr.gov.cn/nsjg/djzcj/202107/t20210706_332327.html)

## Customs circular

- ▶ PN regarding implementing the notification commitment mechanism for the certification of exemption and reduction of delayed declaration surcharges (GAC PN [2021] No. 51)

### Synopsis

To further optimize the business environment, on 5 July 2021, the General Administration of Customs (GAC) released GAC PN [2021] No. 51 (“PN 51”) to implement notification commitment mechanism for certification of exemption and reduction of delayed declaration surcharges.

### Definition

PN 51 clarified the definition of notification commitment mechanism for certification of exemption and reduction of delayed declaration surcharges. Where the consignees of imported goods (hereinafter referred to as the “applicants”) apply for exemption and reduction of delayed declaration surcharges, Customs should inform them about the approval criteria and required supporting documents on a one-time basis. The applicants shall promise in writing that they meet the application requirements and are willing to take the legal liability for false promises. Customs shall handle the matters related to exemption and reduction of delayed declaration surcharges based on the commitment of applicants.

The notification commitment mechanism shall be applicable to following situations:

- The delayed declaration of imported goods is caused as the governmental competent departments change the relevant trade administrative regulations and require consignees to further complete the relevant formalities or delay the issuance of licenses.
- The imported goods for delayed declaration are the imported materials or other special goods gratuitously granted or donated between governments or by international organizations for purposes of disaster relief or public welfare.
- The delayed declaration is caused by reasons attributable to the work of relevant judicial or administrative and law enforcement departments, which make consignees unable to complete the declaration within the prescribed period.

## Administrative matters

PN 51 also clarified the required application materials, issues that shall be informed by Customs, matters for applicants' confirmation and commitment, etc. It is worth-noting that the applicants would not be granted with notification commitment within two years when their commitment is different from the actual situations.

PN 51 shall become effective from 1 August 2021. Related parties are encouraged to read PN 51 for more details.

You can click this link to access the full content of PN 51:

[http://www.customs.gov.cn/harbin\\_customs/467898/467899/3760270/index.html](http://www.customs.gov.cn/harbin_customs/467898/467899/3760270/index.html)

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

- ▶ Notice regarding the export tax refund rate database (2021A Version) (Shuizonghan [2021] No. 39)  
<http://shanghai.chinatax.gov.cn/zcfw/zcfgk/jckss/202107/t458800.html>
- ▶ Notice regarding policies for refueling the flights entering and exiting Hainan Free Trade Port with bonded aviation oil (Caiguanshui [2021] No. 34)  
[http://gss.mof.gov.cn/gzdt/zhengcefabu/202107/t20210708\\_3733243.htm](http://gss.mof.gov.cn/gzdt/zhengcefabu/202107/t20210708_3733243.htm)
- ▶ Notice regarding further improving the pilot program of real estate investment trusts (REITs) in the infrastructure sector (Fagaitouzi [2021] No. 958)  
[https://www.ndrc.gov.cn/xwdt/tzgg/202107/t20210702\\_1285342.html](https://www.ndrc.gov.cn/xwdt/tzgg/202107/t20210702_1285342.html)
- ▶ Guiding opinions on accelerating the cultivation and development of high-quality manufacturing enterprises (Gongxinbulianzhengfa [2021] No. 70)  
[https://www.ndrc.gov.cn/xwdt/tzgg/202107/t20210702\\_1285342.html](https://www.ndrc.gov.cn/xwdt/tzgg/202107/t20210702_1285342.html)
- ▶ Opinions on strictly cracking down illegal securities activities in accordance with law  
[http://www.gov.cn/zhengce/2021-07/06/content\\_5622763.htm](http://www.gov.cn/zhengce/2021-07/06/content_5622763.htm)
- ▶ Notice regarding the development plan of circular economy during the 14th Five-Year Plan period (Fagaihuanzi [2021] No. 969)  
[https://www.ndrc.gov.cn/xwdt/tzgg/202107/t20210707\\_1285530.html](https://www.ndrc.gov.cn/xwdt/tzgg/202107/t20210707_1285530.html)
- ▶ Notice regarding the commencement of the scheme for improving financial service capacity for medium, small, and micro-sized enterprises (Yinfa [2021] No. 176)  
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4282490/index.html>
- ▶ Notice regarding the "Implementation Rules on the Fair Competition Review System" (Guoshijianfanlonggui [2021] No. 2)  
[http://gkml.samr.gov.cn/nsjg/fldj/202107/t20210708\\_332422.html](http://gkml.samr.gov.cn/nsjg/fldj/202107/t20210708_332422.html)
- ▶ Notice regarding public opinion consultation on the "Guidelines on the Code of Conduct for Foreign Exchange Market Transactions (Discussion Draft)"  
<http://www.safe.gov.cn/safe/2021/0707/19336.html>
- ▶ Notice regarding the "Commerce Development Plan During the 14th Five-Year Plan Period"  
<http://www.mofcom.gov.cn/article/zwgk/gztz/202107/20210703174101.shtml>

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ED None.

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