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# 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

- ▶ **Regulations on Case Handling Procedures for Tax Inspection (STA Order [2021] No. 52)**

### Synopsis

To implement the Law of the People's Republic of China (PRC) on Administrative Penalties (Revised in 2021), effectively protect the legal rights and interests of administrative counterparts, on 12 July 2021, the State Taxation Administration (STA) released the Regulations on Case Handling Procedures for Tax Inspection (hereinafter referred to as the "Regulations") via STA Order [2021] No. 52. The Regulations will take effect on 11 August 2021.

The Regulations include 61 articles in six chapters, i.e., the general principle, selection of cases, inspection, trial, implementation and the appendix.



Key features of the Regulations are as follows:

- ▶ It is specified in Article 11 that processes of tax inspection and enforcement shall be fully documented, so that the processes of filing a case, inspection, review, decision making and enforcement, etc. shall all be traceable.
- ▶ Procedures of collecting electronic data are further specified in Article 23 to ensure that procedures of obtaining evidence are in line with laws and regulations.
- ▶ The plaintiff's rights and obligations are further specified in Articles 15, 20 and 40 to ensure the plaintiff's right to know and defend.
- ▶ It is specified in Article 47 that a tax audit bureau should generally complete the administrative process of a case, issue notice of administrative sanction or make conclusion of no violations within 90 days after the case is being filed. This time frame may be extended upon approval.
- ▶ According to Article 51, where a person subject to enforcement is having financial difficulties, upon approval, the payment of penalty may be settled in installments or postponed.
- ▶ According to Article 58, after a tax audit bureau releases a decision on handling tax issues or notice of administrative sanction, the tax audit bureau may renew its decision/notice if the previous issued decision or notice was revoked by the people's court, the authority of administrative reconsideration or the tax authority decides to revise or revoke the previous decision or notice, etc.

Relevant taxpayers are advised to study the Regulations in detail and understand the implications to their exposures as well as their rights and obligations. If in doubt, consultations with professionals are always recommended.

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

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5166617/content.html>

You can click this link to access the full content of STA's interpretation regarding the Regulations:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5166616/content.html>

▶ **Notice regarding public opinion consultation on the “Public Notice Issued by the STA Regarding Certain Matters Related to the Collection and Administration of City Construction Tax (Discussion Draft)”**

### **Synopsis**

In order to cope with the City Construction Tax (CCT) Law of the PRC (hereinafter referred to as the “CCT Law” which will be effective on 1 September 2021, the STA released the “Notice regarding public opinion consultation on the “Public Notice Issued by the STA Regarding Certain Matters Related to the Collection and Administration of CCT (Discussion Draft)” (hereinafter referred to as the “Discussion Draft”) on its official website on 14 July 2021 to seek public opinion. The consultation of public opinion shall be opened until 13 August 2021.

According to the CCT Law, the refund of input Value-added Tax (VAT) credits brought forward from previous periods can be deducted when determining the tax basis of CCT. In this respect, the Discussion Draft further specified the following tax basis of CCT:

- ▶ CCT should be calculated as follows:

CCT payable for the period = VAT and Consumption Tax (CT) actually paid by a taxpayer according to the relevant tax regulations<sup>1</sup> + the amount of VAT exemption and credit (增值税免抵税额)<sup>2</sup> - refund of input VAT credits brought forward from previous periods (留抵退税额) - VAT and CT directly exempted<sup>3</sup>

- ▶ The “refund of input VAT credits brought forward from previous periods” (hereinafter referred to as the “input VAT refund”) refers to refund of input VAT credits brought forward from previous periods that have already been refunded to a taxpayer according to the prevailing VAT rules, and this deduction shall only be allowed when VAT was calculated under the general calculation method (instead of the simplified calculation method). The exceeded amount of input VAT refund that cannot be fully claimed for CCT calculation in the current period can be carried forward to the following filing periods.

- ▶ The exceeded amount of input VAT refund can also be claimed by small-scale VAT taxpayers for correction or filing of CCT based on their underpaid VAT that should be calculated under the general calculation method. (This rule was not further elaborated in the Discussion Draft, but it is understood that this rule may apply to taxpayers who are converted as small-scale VAT taxpayers from general VAT taxpayers who had calculated VAT on a general calculation basis before.)
- ▶ A taxpayer may claim deduction in CCT filings once it receives input VAT refunds.
- ▶ In case a taxpayer receives VAT and CT refunds for overpayment, the relevant CCT shall be refunded at the same time. However, in case the VAT/CT "Levy First and Rebate Later" (先征后返), "Levy First and Refund Later" (先征后退) and "Same Time Levy and Refund" (即征即退) policies apply, the relevant CCT shall not be refunded unless otherwise specified.

The Discussion Draft also specifies when the CCT liabilities shall be triggered and filed as well as the relevant tax administration and collection matters.

Concerned taxpayers should read the Discussion Draft and are encouraged to express opinions on or before 13 August 2021 by sending mails or logging onto <http://www.chinatax.gov.cn>.

<sup>1</sup> The VAT and CT amount exclude any VAT and CT paid for importation of goods or sales of taxable labor, services and intangible assets by overseas entities and individuals.

<sup>2</sup> The amount of VAT exemption and credit (增值税免抵税额) is calculated for export VAT refund, i.e., under the "Exempt, Credit, refund" Method (免抵退税计算). It refers to VAT payable for domestic sales by a taxpayer that offset by an amount that should have been refunded by the supervising tax authority due to export tax refund. In theory, this amount is still "paid" by the taxpayer instead of being "exempt" due to any preferential VAT policies so the relevant CCT still need to be paid.

<sup>3</sup> VAT and CT directly exempt refers to any VAT and CT exempt due to the prevailing VAT and CT preferential treatments.

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

<http://www.chinatax.gov.cn/chinatax/n810356/n810961/c5166506/content.html>

## Business circulars

- ▶ **Notice regarding the plan of key task division for deepening the reform of "Delegate Power, Streamline Administration and Optimize Government Services" and cultivating and stimulating the vitality of market entities nationwide (Guobanfa [2021] No 25)**

### Synopsis

To further deepen the reform of "Delegate Power, Streamline Administration and Optimize Government Services" and to further optimize the business environment, the general office of the State Council released Guobanfa [2021] No 25 ("Circular 25") on 11 July 2021 to specify the work allocation according to Premier Li's speech on 2 June 2021.

Among these, the following tax and business-related matters are worth-noting:

### Tax related matters

- ▶ Tax authorities shall leverage the technology of big data to actively screen taxpayers that qualify for certain tax preferential treatments and send out push notices to such taxpayers.
- ▶ The pilot of allowing qualifying enterprises to relocate to other provinces with their previous tax credit rating and input VAT brought forward shall be further expanded.
- ▶ Further simplify requirements of ledgers for research and development (R&D) expenses and optimize procedures for recognition of technology contracts to facilitate the application for tax preferential treatment of R&D expenses.
- ▶ The STA shall establish a mechanism to announce tax preferential policies with detailed tax administrative measures, official interpretation at the same time and manage to adjust the tax administration and collection functions in the filing systems timely.

- ▶ Expand the use of consolidated returns for filing of VAT, CT and CCT, Education Surcharges (ES) and Local ES on a nationwide basis.
- ▶ By the end of 2021, enterprises shall be able to handle main tax-related matters via online platform while individual taxpayers shall be able to handle their main tax related matters via apps on their smart phones.

### Business related matters

- ▶ Further expand the scope of simplified deregistration processes to include all market participants (excluding listed companies) that have no unsettled creditor's rights and debts. The announcement period for simplified deregistration shall be reduced from 45 to 20 days. On the other hand, a fault-tolerant mechanism shall be established so that an enterprise that is not eligible for simplified deregistration processes in the past due to being listed in the Directory of Enterprises with Abnormal Operations, etc. may re-apply for the simplified de-registration when it meets the relevant criteria.
- ▶ The Negative List for Market Access (2021 Version) shall be revised and launched by the end of 2021. Pilot run shall be implemented on selected areas to further relax restrictions on market access.
- ▶ The reform for "Separating Permits from Business Licenses" shall be deepened on a nationwide basis, all business-related licensing matters shall be covered in the list management system. Pilots shall be implemented in pilot free trade zones to enhance the reform on a trial basis.
- ▶ Expand the Authorized Economic Operator (AEO) mutual recognition project with countries of the Belt and Road, major trading countries, member countries of the Regional Comprehensive Economic Partnership (RCEP) and Central and Eastern European countries.
- ▶ Fully implement the Foreign Investment Law and its relevant regulations, and clean-up business regulations that are in conflict with the Foreign Investment Law.
- ▶ Improve the Pre-establishment National Treatment mechanism and a Negative List for foreign investments, further reduce items of the Negative list for foreign investments.

The above appears to be an exhaustive list of items, we expect further details will be announced or specific rules will be promulgated, we would 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 25:  
[http://www.gov.cn/zhengce/content/2021-07/20/content\\_5626165.htm](http://www.gov.cn/zhengce/content/2021-07/20/content_5626165.htm)

### ▶ **Opinions on supporting the high-level reform and opening-up in the Pudong New Area and build it into a pioneer area for socialist modernization**

#### **Synopsis**

On 15 July 2021, the Central Committee of the Communist Party of China and the State Council jointly issued opinions on supporting the high-level reform and opening-up in the Pudong New Area (hereinafter referred to as "Pudong") and build it into a pioneer area for socialist modernization (hereinafter referred to as the "Opinions") to clarify the overall development goals of Pudong in the next 15 and 30 years.

Some key supporting tax policies mentioned in the Opinions are summarized as follows:

#### **Exemption of import-level taxes**

In order to promote R&D of key technologies in the fields of integrated circuits, life sciences and artificial intelligence, drugs used in clinical research shall be exempt from import-level taxes. Recognized R&D institutions in Pudong shall be exempt from import-level taxes on equipment imported for self-use and be eligible to claim tax refund for the purchase of domestic-manufactured equipment for self-use.

#### **Preferential Corporate Income Tax (CIT) policies**

- ▶ Qualified enterprises engaged in the production and R&D of core sections in key fields such as integrated circuits, artificial intelligence, biomedicine and civil aviation shall be eligible for a reduced CIT rate of 15% within 5 years from the date of establishment.

- ▶ Carry out pilot CIT incentive schemes for corporate venture capital enterprises (CVCEs) in specific areas of Pudong. To encourage long-term investment, during the pilot period, qualified CVCEs shall be exempt from CIT according to the shareholding ratio of individual shareholders at the end of the year and the dividends obtained by individual shareholders shall be subject to Individual Income Tax in accordance with the regulations.

#### Explore more preferential tax policies

- ▶ Research and explore tax policies that are suitable for overseas investment and offshore business development in qualified areas in Pudong. Research and explore VAT policies to support service exports of enterprises in Pudong if risks are controllable.
- ▶ Promote key enterprises outside special customs supervision zones to carry out bonded maintenance business with high added value, high technology and compliance with environmental protection requirements.
- ▶ Explore tax arrangements for pilot free trade accounts without leading to tax base erosion and profit shifting.
- ▶ Support the Shanghai Futures Exchange to explore the establishment of a national commodity warehouse receipt registration center, carry out futures bonded warehouse receipt business, and provide or implement supporting cross-border financial and tax policies.

Enterprises in related industries in Pudong are advised to read the Opinions for more details and 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 Opinions:

[http://www.gov.cn/zhengce/2021-07/15/content\\_5625279.htm](http://www.gov.cn/zhengce/2021-07/15/content_5625279.htm)

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

- ▶ **PN regarding the catalog of wholly or partially abolished tax-related regulatory documents (STA PN [2021] No. 22)**  
<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5166624/content.html>
- ▶ **Notice regarding the "List of the 2021 Key Tasks for Government Affairs Disclosure in the Tax System (Shuizongbanxuanchuanfa [2021] No. 38)**  
[https://guangdong.chinatax.gov.cn/gdsw/zjfg/2021-07/19/content\\_11fd9fc3d828464c8c3f6c922cf59264.shtml](https://guangdong.chinatax.gov.cn/gdsw/zjfg/2021-07/19/content_11fd9fc3d828464c8c3f6c922cf59264.shtml)
- ▶ **Notice regarding further enhancing the administration of the issuance of special VAT invoices for gold and platinum leasing business**  
<https://www.sge.com.cn/jjsnotice/10001488>
- ▶ **Notice regarding matters related to the implementation of the tax policies for the 18th World Middle School Games and other two international games (Shuiguanhan [2021] No. 70)**  
<http://www.customs.gov.cn/customs/302249/zfxxgk/zfxxgkml34/3772004/index.html>
- ▶ **Measures for Administrative Penalties on Securities and Futures Illegal Acts (CSRC Order [2021] No. 186)**  
[http://www.csfc.gov.cn/pub/zjhpublic/zjh/202107/t20210715\\_401681.htm](http://www.csfc.gov.cn/pub/zjhpublic/zjh/202107/t20210715_401681.htm)
- ▶ **Notice regarding the "Implementation Plan of the Civil Aviation Bureau on Deepening the Reform of 'Separating Permits from Business Licenses' and Further Stimulating the Vitality of Market Entities" (CAAC [2021] No. 31)**  
[http://www.caac.gov.cn/XXGK/XXGK/ZCFBJD/202107/t20210709\\_208368.html](http://www.caac.gov.cn/XXGK/XXGK/ZCFBJD/202107/t20210709_208368.html)
- ▶ **Notice regarding the "Work Guidelines on the Green Development of Outbound Investment and Cooperation" (Shanghehan [2021] No. 309)**  
<http://www.mofcom.gov.cn/article/b/bf/202107/20210703176272.shtml>

- ▶ **Notice regarding the catalog and format requirements of the application materials for the administrative licensing items of non-bank financial institutions**  
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=996726>
- ▶ **Notice regarding a catalog of currently enforceable regulations on foreign exchange administration (as of 30 June 2021)**  
<http://www.safe.gov.cn/zhejiang/2021/0720/1447.html>
- ▶ **Opinions on promoting the high-quality development of the central region in the new area**  
[http://www.gov.cn/zhengce/2021-07/22/content\\_5626642.htm](http://www.gov.cn/zhengce/2021-07/22/content_5626642.htm)
- ▶ **PN regarding abolishing regulations related to the customs clearance procedures of imported goods donated for COVID-19 prevention (GAC PN [2021] No. 57)**  
<http://www.customs.gov.cn/customs/302249/2480148/3768183/index.html>
- ▶ **Notice regarding public opinion consultation on the “Administrative Measures of Customs of the PRC for Comprehensive Bonded Zones (Discussion Draft)”**  
<http://www.customs.gov.cn/customs/302452/302329/zjz/3772677/index.html>



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ED None.

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