

China Tax Center China Tax & Investment Express

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Tax circular

► Q&As on Tax and Fee Reduction Policies (Issue 3 of 2021)

Synopsis

On 23 September 2021, the State Taxation Administration (STA) released Q&As on Tax and Fee Reduction Policies (Issue 3 of 2021) to facilitate taxpayers enjoying preferential tax treatments.

The Q&As cover various practical issues such as the application of preferential tax treatments related to residential rental activities, Value-added Tax (VAT) exemption for small-scale VAT taxpayers, etc.

For example, as prescribed in the prevailing tax rule, a qualified general VAT taxpayer engaging in residential rental businesses may choose to adopt the simplified VAT calculation method for the income derived from leasing qualified properties to lessees who are individuals, i.e., subject to VAT at a collection rate of 5% with a reduced rate of 1.5% (the relevant input VAT shall be disallowed) or adopt the general VAT calculation method at a VAT rate of 9% (the relevant input VAT can be deductible). In this respect, the Q&As further clarify that a qualified taxpayer cannot choose to apply different calculation methods to different lessees. Once the simplified calculation method is adopted, it should apply to all qualified income derived in this regard and cannot be changed within 36 months.

In addition, the Q&As further specify that the “lessees who are individuals” as prescribed in the abovementioned tax rule include natural persons and self-employed industrial and commercial households.

Taxpayers are advised to read the Q&As in detail as well as the first and second issues of Q&As on Tax and Fee Reduction Policies issued in April and May 2021. If in doubt, consultations with tax professionals are always recommended.

You can click this link to access the full content of the Q&As:

<http://www.chinatax.gov.cn/chinatax/n810356/n3010387/c5169261/content.html>

You can click this link to access the full content of the first and second issues of Q&As on Tax and Fee Reduction Policies:

<http://www.chinatax.gov.cn/chinatax/n810356/n3010387/c5163375/content.html>

<http://www.chinatax.gov.cn/chinatax/n810356/n3010387/c5164486/content.html>

Business circulars

► **Notice regarding inspecting the recognition and administration of High-and-new technology enterprises (HNTes) (Guokehuozi [2021] No. 133)**

Synopsis

On 15 September 2021, the National HNTes Recognition and Administration Leading Group Office (hereinafter referred to as the “National Office”) released Guokehuozi [2021] No. 133 (“Circular 133”) to launch a nationwide inspection on the recognition and administration of HNTes undertaken by 36 local HNTes recognition and administration offices (hereinafter referred to as “local offices”).

The inspection has two phases:

- **Phase 1:** Self-inspection, which shall be conducted by local offices from 15 September 2021 to 25 October 2021 (each local office shall submit a self-inspection report covering self-inspection status, main issues and rectification results, etc. to the National Office by 25 October 2021).
- **Phase 2:** Inspection to be conducted by the National Office based on the reports submitted on phase 1.

The inspection shall focus on whether the recognition and administration/supervision performed by the local offices are in line with the prevailing rules and regulations, as well as the implementation of the relevant preferential tax treatments, etc. In particular, the local offices are required to perform review on cases of recognized HNTes and make rectifications if needed:

- For areas with existing HNTes of more than 10,000 , 20% of HNTes shall be selected for review.
- For areas with existing HNTes of not more than 10,000, 30% of HNTes shall be selected for review.

It is indeed an on-going process that HNTes would be reviewed and disqualifications were announced from time to time by local authorities, Circular 133 not only talks about HNTes being reviewed but certain declaration would be coming from local authorities, it is therefore not unreasonable to expect that the local authorities may also go through certain procedure before they make their self-assessments. HNTes should therefore be prepared that they may be reviewed twice from different levels, if any areas are doubtful, consultations with authorities or professionals should be done earlier.

You can click this link to access the full content of Circular 133:

<http://www.chinatorch.gov.cn/kjb/tzgg/202109/a77dbf7e4c6a487e88102bdaf42a659a.shtml>

- ▶ **Notice issued by the People's Government of Hainan Province regarding the "Implementation Plan of the Hainan Free Trade Port (HNFTP) on Deepening the Reform of 'Separating Permits from Business Licenses' and Further Stimulating the Vitality of Market Entities" (Qiongfufu [2021] No. 31)**

Synopsis

To deepen the reform of "Separating Permits from Business Licenses" and further stimulate the vitality of market entities, on 16 September 2021, the People's Government of Hainan Province released Qiongfufu [2021] No. 31 ("Circular 31", i.e., Notice issued by the People's Government of Hainan Province regarding the "Implementation Plan of the HNFTP on Deepening the Reform of 'Separating Permits from Business Licenses' and Further Stimulating the Vitality of Market Entities").

Key features of Circular 31 are as follows:

Reform objectives

Enhance the pilot reform of "Separating Permits from Business Licenses" and promote license reduction and simplified approval in a wider range and more industries. Explore and promote the implementation of the mechanism of "enter with commitment", cancel the permits and approval for areas with mandatory standards, and establish and improve the record-filing system.

Simplified approval

Vigorously promote license reduction and simplified approval, including canceling approval, replacing approval with record filing, implementing notification and commitment mechanism and optimizing approval services for business licensing items.

Reform systems integration

Strengthen the integration and coordination of the reform systems with specific measures including:

- ▶ According to the requirement of "full coverage", all business licensing items shall be incorporated into the list-based administration.
- ▶ Deepen the reform of the commercial registration system.
- ▶ Promote the integration and application of electronic licenses.

Interim- and post-event supervision

Clarify supervision responsibilities and improve supervision rules and methods according to the reform requirements. Further promote the "Internet plus supervision", explore smart supervision, strengthen data sharing in supervision, and use big data, Internet of things and artificial intelligence to accurately warn potential risks.

Relevant parties are advised to make reference to Circular 31 and the reform lists of business licensing items set at the central level and local level as attached for greater details.

You can click this link to access the full content of Circular 31:

<http://www.hainan.gov.cn/hainan/szfwj/202109/1c073ed14d7745ada9a242052e79cf74.shtml>

- ▶ **Notice regarding implementation plan for deepening the reform of "Separating Permits from Business Licenses" and further stimulating the vitality of market entities**

Synopsis

In order to implement Guofa [2021] No. 7 ("Circular 7", i.e., "Notice regarding deepening the reform of 'Separating Permits from Business Licenses' and further stimulating the vitality of market entities"), the State Administration of Foreign Exchange (SAFE) recently formulated and released the "Implementation plan for deepening the reform of 'Separating Permits from Business Licenses' and further stimulating the vitality of market entities" (hereinafter referred to as the "Implementation Plan") to promote the reform of "Separating Permits from Business Licenses" in business licensing items related to foreign exchange administration nationwide.

Key features of the Implementation Plan are as follows:

Administrative approval items

- ▶ Approval for the market access and exit of foreign exchange settlement and sales business of banks, rural credit cooperatives, exchange institutions and non-financial institutions.
- ▶ Approval for the market access and exit of foreign exchange business of non-banking financial institutions such as insurance and securities companies.

Facilitation measures

- ▶ Streamline the material requirements for non-banking financial institutions (excluding insurance companies) to apply for foreign exchange settlement and sales business. Applicants do not need to submit a copy of the approval document for the foreign exchange business issued by the banking regulatory authority.
- ▶ Facilitate the approval of the market access for foreign exchange business of insurance institutions. Applicants may submit the application materials through the government service online system of the SAFE.
- ▶ The government service online system of the SAFE supports the preliminary review, progress query and result query of administrative approval items.
- ▶ Improve the interim- and post-event supervision. Make use of technology to enhance monitoring and analysis, and severely crack down on violations of foreign exchange laws and regulations.

Relevant parties are advised to read the Implementation Plan so as to fully utilize the facilitation measures.

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

<http://www.safe.gov.cn/safe/2021/0918/19874.html>

Customs circular

- ▶ **Order on the “Administrative Regulations of the Customs of the People’s Republic of China (PRC) on the Commodity Classification of Import and Export Goods” (GAC Order [2021] No. 252)**

Synopsis

On 18 September 2021, the General Administration of Customs (GAC) released GAC Order [2021] No. 252 (“Order 252”) to revise the existing Administrative Regulations of the Customs of the PRC on the Commodity Classification of Import and Export Goods which were announced via GAC Order [2007] No. 158 and first revised via GAC Order [2014] No. 218.

The revisions made in Order 252 is mainly due to the institutional reform of the Customs where the functions of inspection and quarantine are combined into the GAC. In this respect, the existing GAC Order [2008] No. 176 (“Order 176”, i.e., Administrative Measures on the PRC Customs laboratory) shall be revoked and the relevant clauses related to commodity classification as prescribed in Order 176 are absorbed and stipulated as Articles 11 to 17 in Order 252.

Apart from the above, key changes made in Order 252 also include:

- ▶ According to Article 2, the national/industrial standard of import/export commodities shall be served as reference for the determination of commodity classifications.
- ▶ According to Article 18, where the Customs finds out that the commodity classification declared by consignees and consigners or their agents are incorrect, the Customs shall re-determine the commodity classification and revise/ revoke the customs declaration form as required.

Order 252 shall become effective on 1 November 2021. Relevant parties are advised to read Order 252 for more details. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of Order 252:

<http://www.customs.gov.cn/customs/302249/2480148/3893428/index.html>

You can click this link to access the full content of Order 158:

http://www.gov.cn/flfg/2007-03/08/content_545613.htm

You can click this link to access the full content of Order 218:

http://www.gov.cn/gongbao/content/2014/content_2684474.htm

You can click this link to access the full content of Order 176:

http://www.gov.cn/flfg/2008-10/16/content_1122283.htm

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

- ▶ **Public notice (PN) regarding expanding the pilot scope for red-chip enterprises to go public in the domestic market (CSRC PN [2021] No. 20)**
http://www.csrc.gov.cn/pub/zjhpublic/zjh/202109/t20210917_405530.htm
- ▶ **Notice regarding further enhancing policy publicity and implementing the support for the development of cultural and tourism enterprises (Banchanyefa [2021] No. 171)**
https://sme.miit.gov.cn/zcfg/art/2021/art_cd6784de6aad48748e40a73273fd9459.html
- ▶ **PN regarding the “Administrative Measures of Beijing Stock Exchange for Investor Suitability (Trial)” (BSE PN [2021] No. 3)**
http://www.beijing.gov.cn/zhengce/zhengcefagui/202109/t20210918_2496933.html
- ▶ **PN regarding “Guidelines of the Beijing Stock Exchange for Investor Suitability Administration” (BSE PN [2021] No. 4)**
http://www.beijing.gov.cn/zhengce/zhengcefagui/202109/t20210918_2496939.html
- ▶ **Notice regarding the approval requirement for the existing online subject-tutoring institutions with record-filling (Jiaojianquanting [2021] No. 2)**
http://www.gov.cn/zhengce/zhengceku/2021-09/18/content_5638310.htm
- ▶ **Notice regarding public opinions consultation on the “Regulation of the People’s Bank of China and the State Administration of Foreign Exchange on the Overseas Loan Business of Banking Financial Institutions (Discussion Draft)”**
<http://www.safe.gov.cn/safe/2021/0918/19875.html>
- ▶ **Outline for Building a Powerful Country with Intellectual Property Rights (2021-2035)**
http://www.gov.cn/zhengce/2021-09/22/content_5638714.htm
- ▶ **Measures for the Supervision and Rating of Commercial Banks**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1008325>
- ▶ **Approval on the implementation plan for promoting the high-quality development of resource-dependent regions during the 14th Five-year Plan period (Guohan [2021] No. 93)**
http://www.gov.cn/zhengce/content/2021-09/23/content_5638897.htm
- ▶ **National Port Development Plan during the 14th Five-year Plan Period**
<http://www.customs.gov.cn/customs/302249/zfxxgk/zfxxgkml34/3896488/index.html>

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