

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 circular

- ▶ **Public notice (PN) regarding certain matters related to the deferral of certain taxes and fees payment for the fourth quarter of 2021 for small, medium and micro-sized enterprises in the manufacturing industry (STA PN [2021] No. 30)**

Synopsis

To ease the financial burden for small, medium and micro-sized enterprises engaging in the manufacturing sector, the State Council executive meeting held on 27 Oct 2021 decided to allow deferral of tax payments for the small, medium and micro-sized enterprises engaging in manufacturing sector. Accordingly, the State Taxation Administration (STA) released STA PN [2021] No. 30 ("PN 30") on 29 October 2021 to specify the detailed implementation rules.

Key features of PN 30 are as follows:

Tax payment deferral policy

Qualifying small, medium and micro-sized enterprises engaging in the manufacturing sector, as categorized in the Industrial Classification for National Economic Activities, may be applicable to the following tax payment deferral policy:

Qualifying small, medium and micro-sized enterprises ¹	Tax payment deferral policy
Annual revenue < RMB20 million, i.e. small and micro-sized enterprises	Tax payments (including Corporate Income Tax, Individual Income Tax (except for those withheld according to the prevailing rules), domestic Value-added Tax, domestic Consumption Tax (i.e., excluding those to be collected by Customs offices under the import/export level) as well as the corresponding City Construction Tax, Education Surcharge and Local Education Surcharge) ² for the fourth quarter of 2021 can be deferred for three months.
RMB20 million ≤ Annual revenue < RMB400 million, i.e. medium enterprises	50% of the abovementioned tax payments for the fourth quarter can be deferred for three months.

Determination of annual revenue

The abovementioned annual revenue refers to the VAT taxable revenue of an enterprise, including its gross revenue reported on tax returns, any under-reported revenue identified during tax inspections, as well as any revenue adjusted through tax assessments. Where the revenue is subject to VAT on a net basis, the “net amount” should be adopted in determining the annual revenue. Specifically, the amount of the annual revenue should be determined based on the following periods:

Qualifying small, medium and micro-sized enterprises	Period
An enterprise already established for a year as of 30 September 2021	October 2020 - September 2021
An enterprise established for less than a year as of 30 September 2021	Total revenue from its establishment to 30 September 2021 / months of actual business operations x 12
An enterprise established after 1 October 2021	Revenue for the first reporting period / months of actual business operations x 12

Application for the deferral

Qualifying taxpayers are not required to lodge an application for the tax deferral. Instead, after filing the relevant tax returns online, a message will automatically pop up for qualifying taxpayers to confirm whether they select tax deferral treatment under PN 30. After clicking the “confirm” button, the deadline for the tax payment will be automatically extended for three months.

On the other hand, taxpayers that can only apply for 50% deferral may choose to apply for deferral in full according to the prevailing Law on Tax Administration and Collection (i.e., Article 31) and its implementation rules (i.e., Article 41) if applicable, e.g., a taxpayer does not have sufficient capital for tax payment in the current period.

PN 30 became effective on 1 November 2021, which shall smoothen the cash flow of eligible taxpayers. Notably, the setting of the online election of payment deferral would not only ease administrative burden of taxpayers but also allow more taxpayers (such as those not familiar with the rule of tax practices) to leverage the preferences easily. It is also worth to note that PN 30 does not literally preclude any enterprise taxed on a deemed basis from the tax deferral policy. In case such taxpayers do not see an auto-election pop up, they should consult with their supervising tax authorities for their eligibilities. If in doubt, consultations with professionals are always recommended.

¹ The qualifying small, medium and micro-sized enterprises also include self-employed industrial and commercial households, sole proprietorship enterprises, and partnership enterprises.

² Tax paid by taxpayers for tax invoice issuance by tax authorities on their behalves are not included.

You can click this link to access the full content of PN 30:

<http://www.chinatax.gov.cn/chinatax/n362/c5170139/content.html>

You can click this link to access the full content of the STA's official interpretation on PN 30:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5170140/content.html>

You can click this link to access the full content of the official news regarding the executive meeting:

http://www.gov.cn/premier/2021-10/27/content_5647182.htm

You can click this link to access the full content of the Law on Tax Administration and Collection and its implementation rules:

http://www.npc.gov.cn/wxzl/gongbao/2015-07/03/content_1942889.htm

<http://www.chinatax.gov.cn/n810341/n810755/c3357578/content.html>

Business circulars

► Notice regarding the "Development Plan on Utilizing Foreign Investment during the 14th Five-year Plan Period"

Synopsis

To promote opening-up and attract foreign investments, on 12 October 2021, the Ministry of Commerce announced the Development Plan on Utilizing Foreign Investment during the 14th Five-year Plan Period (hereinafter referred to as the "Plan").

It is worth noting that, according to the Plan, items in the negative lists for foreign investments of national/free trade zones shall be further eliminated while the principle of "allowing foreign investment to enter any sectors that are not prohibited for foreign investment purposes" shall be strictly followed. Specifically, the manufacturing, services and agriculture sectors shall be further opened up for foreign investments and the restrictions for foreign investment ratios shall be steadily removed.

On the other hand, the bar to enter certain major sectors such as telecommunications, internet, education, culture and medical treatments, etc. shall be further relaxed.

We will 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 the Plan:

http://www.gov.cn/zhengce/zhengceku/2021-10/22/content_5644286.htm

► **Decisions of the Standing Committee of Shanghai Municipal People's Congress on the revisions to the "Regulations of Shanghai on Optimizing the Business Environment" (SPCSC PN [2021] No. 91)**

Synopsis

On 28 October 2021, the Standing Committee of Shanghai Municipal People's Congress passed and released the newly revised "Regulations of Shanghai on Optimizing the Business Environment" (hereinafter referred to as the "2021 Regulations").

Key changes in the 2021 Regulations are as follows:

- Paragraph II of Article 5 is newly added: "Pudong New Area should aim at building a leading area for socialist modernization, strengthen the integration of reform systems, and make bold attempts and independent reforms to optimize the business environment."
- New content is added to Article 6: "Promote inter-provincial government services, optimize rules and procedures, strengthen data resource sharing and mutual recognition of electronic certificates, and promote integrated services for each matter."
- Paragraph III of Article 12 is newly added: "Regulate the investigation and handling of enterprise related cases, protect the legitimate rights and interests of enterprises assisting in the investigation and their management personnel and shareholders in accordance with law, and ensure the legitimate operation of enterprises. To implement confiscation and freezing of properties, it shall strictly distinguish among legal entities' property, shareholders' personal properties, illegal income of the persons involved and legitimate property of their families, and shall not confiscate or freeze beyond the authority, scope, amount and time limit. Where the investigation is true, relevant measures shall be adjusted or lifted in accordance with the law in a timely manner."
- New content is added to Paragraph I of Article 17: "Relevant competent authorities shall not restrict enterprises' handling of business licenses or other government services on the grounds of the registered business scope. Moreover, competent authorities shall not punish an enterprise for carrying out business activities that are not subject to special licensing even they are beyond the approved business scope."
- New content is added to Paragraph II of Article 37: "Registration and tax payment for transfer of real estate are combined and handled together in the enterprise zone. Registration windows may take the taxpayer's declared price as the basis for calculation of the Deed Tax and the enterprise taxpayer can obtain the tax payment certificate on the spot after settlement of tax. In the case the price declared is found obviously low in the process of post-supervision, the competent authority shall verify and adjust the tax amount and levy additional tax in accordance with the provisions."
- New content is added to Paragraph II of Article 38: "Promote the establishment of immigration service centers to provide resident foreigners with social integration services such as policy consultation, residence and travel, legal assistance, language and culture, etc. Promote the application of foreigners' permanent residence ID."
- Paragraph II of Article 43 is revised to: "Where creditors' rights and debts have not occurred or have been settled; settlement expenses, employee wages, social security expenses, statutory compensation and taxes (late payment surcharges and fines) have not occurred or have been settled; and all investors have made a written commitment to bear legal responsibility for the authenticity of the above circumstances, deregistration can be handled under simplified procedures."
- Paragraph IV of Article 57 is newly added: "Establish and improve the coordinated mechanism for the interconnection of approval, supervision, law enforcement and justice."

The 2021 Regulations became effective on 28 October 2021. Relevant parties are advised to read the 2021 Regulations for details and observe the regulations. If in doubt, consultations with professionals are always recommended.

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

<http://www.spcsc.sh.cn/n8347/n8467/u1ai239452.html>

- ▶ **Notice regarding public opinions consultation on the “Administrative Measures for the Representative Offices Established by Foreign Patent Agencies in China (Discussion Draft)”**

Synopsis

In order to regulate the establishment of representative offices and business activities of foreign patent agencies in China and to protect their legitimate rights and interests in China, on 26 October 2021, the China National Intellectual Property Administration (CNIPA) prepared the “Administrative Measures for the Representative Offices Established by Foreign Patent Agencies in China (Discussion Draft)” (hereinafter referred to as the “Discussion Draft”) and released to the public to seek opinions.

The Discussion Draft clarifies the application conditions and procedures for foreign patent agencies to apply for the establishment of representative offices in China, the scope of business activities they can engage in and matters related to follow-up supervision.

Furthermore, it is also proposed in the Discussion Draft that a foreign law firm that has been engaging in patent agency services in its home country and applies for the establishment of a representative office in China in the name of foreign patent agency, shall go through the formalities of approval and registration in accordance with the provisions and obtain the approval of the CNIPA. Where a foreign law firm that has established a representative office in China in accordance with the provisions and has been engaging in patent agency services in its home country applies to have the representative office as the representative office of a foreign patent agency at the same time, it may continue to use the name of its approved representative office after submitting relevant materials.

It is also emphasized that the representative offices can equally enjoy the policy measures for supporting the development of intellectual property services in accordance with the law. It is obviously that allowing foreign patent agencies and foreign law firms to establish representative offices of foreign patent agencies in China shows the execution of China government to fulfill commitment to liberalize the domestic market for foreign investment. Relevant parties are encouraged to express opinions on or before 5 November 2021 by sending emails to dailiquanli@cnipa.gov.cn.

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

https://www.cnipa.gov.cn/art/2021/10/26/art_75_170997.html

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

- ▶ **Decision on authorizing the State Council to temporarily adjust the application of relevant provisions of the “Metrology Law of the People’s Republic of China (PRC)” in the pilot cities for business environment innovation**
<http://www.npc.gov.cn/npc/c30834/202110/2054e086b3d84bf899d46c2ff77adfd5.shtml>
- ▶ **Opinions on fully implementing the new development philosophy to achieve carbon peak and carbon neutrality**
http://www.gov.cn/zhengce/2021-10/24/content_5644613.htm
- ▶ **Notice regarding certain matters related to further regulating the online life insurance business of insurance institutions (Yinbaojianbanfa [2021] No. 108)**
http://www.gov.cn/zhengce/zhengceku/2021-10/23/content_5644435.htm
- ▶ **Decision on revising the “Audit Law of the PRC” (Chairman’s Order [2021] No. 100)**
<http://www.npc.gov.cn/npc/c30834/202110/940943e73fff48b2adffd851b35a2f70.shtml>
- ▶ **Notice regarding certain measures for supporting the high-quality development of national culture export bases (Shangfumaohan [2021] No. 519)**
https://sme.miit.gov.cn/zcfg/art/2021/art_2d0df053ec5e497db54389fa831166fd.html
- ▶ **Notice regarding public opinions consultation on the “Anti-monopoly Law of the PRC (Revised Draft)”**
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff8081817ca258e9017ca5fa67290806>

- ▶ **Notice regarding public opinions consultation on the “Law of the PRC on Futures and Derivatives (Draft for Second Review)”**
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff8081817ca2554e017ca6412a900a2c>
- ▶ **Notice regarding implementing the policies on equal treatment of domestic and foreign-invested enterprises in government procurement activities (Caiku [2021] No. 35)**
http://gks.mof.gov.cn/quizhangzhidu/202110/t20211020_3759590.htm
- ▶ **Notice regarding the “High-quality Development Plan for Liaoning Coastal Economic Belt” (Fagaidiqu [2021] No. 1382)**
https://www.ndrc.gov.cn/xxgk/zcfb/tz//202110/t20211026_1300858.html
- ▶ **Notice regarding the action plan to peak carbon dioxide emissions before 2030 (Guofa [2021] No. 23)**
http://www.gov.cn/zhengce/content/2021-10/26/content_5644984.htm
- ▶ **Notice regarding the “E-commerce Development Plan During the 14th Five-year Plan Period” (Shangdianfa [2021] No. 191)**
<http://www.mofcom.gov.cn/article/zcfb/zczh/202110/20211003211545.shtml>
- ▶ **Overall plan for developing international consumption center cities**
<http://www.mofcom.gov.cn/article/ghjh/202110/20211003211499.shtml>
- ▶ **Administrative measures for the reserves for non-life insurance business of insurance companies (CBIRC Order [2021] No. 11)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1014775>
- ▶ **Notice regarding the national plan for the protection and application of intellectual property rights during the 14th Five-year Plan period (Guofa [2021] No. 20)**
http://www.gov.cn/zhengce/content/2021-10/28/content_5647274.htm
- ▶ **Guidelines on the record filling for securities services business of accounting firms (2021 Revised Version)**
http://www.csrc.gov.cn/pub/newsite/kjb/sjypgjgba/202110/t20211022_407423.html
- ▶ **Guidelines on the record-filling for securities services business of asset evaluation agencies (2021 Revised Version)**
http://www.csrc.gov.cn/pub/newsite/kjb/sjypgjgba/202110/t20211022_407424.html
- ▶ **China’s Policies and Actions in Response to Climate Change**
https://www.mee.gov.cn/zcwj/qwywj/202110/t20211027_958030.shtml
- ▶ **Notice regarding the settlement of carbon quotas for the first compliance cycle of the national carbon emissions trading market (Huanbanqihouhan [2021] No. 492)**
https://www.mee.gov.cn/xxgk2018/xxgk/xxgk06/202110/t20211026_957871.html
- ▶ **PN regarding terminating the issuance of GSP certificates of origin for goods exported to the European Union, United Kingdom, Canada, Turkey, Ukraine, and Liechtenstein (GAC PN [2021] No. 84)**
<http://www.customs.gov.cn/customs/302249/2480148/3968366/index.html>



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