

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.

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Tax circulars

- **Notice regarding the pilot Corporate Income Tax (CIT) policies for corporate venture capital enterprises in the specific areas of Shanghai Pudong New Area (Caishui [2021] No. 53)**

Synopsis

To further promote the development of venture capital, the Ministry of Finance (MOF), State Taxation Administration (STA), National Development and Reform Commission and China Securities Regulatory Commission jointly released Caishui [2021] No. 53 ("Circular 53") on 8 September 2021 to specify the pilot CIT policies for corporate venture capital enterprises in the specific areas of Shanghai Pudong New Area, i.e., China (Shanghai) Free Trade Pilot Zone, and Pudong and Zhangjiang Science City of Lingang New Area in the China (Shanghai) Free Trade Pilot Zone (hereinafter referred to as the "specific areas")¹.

Key features of Circular 43 are as follows:

Preferential CIT policies

According to Circular 43, corporate venture capital enterprises in the specific areas shall enjoy the following preferential CIT policies:

Applicable income	Period of shareholding	Preferential CIT policies	Calculation for CIT exemption amount
Income derived from transfer of equity that has reached certain holding period and contributing to more than 50% of the annual total income from equity transfer	More than three years	The corporate venture capital enterprise shall be subject to CIT at a 50% reduction based on its individual shareholders' shareholding ratio at the year end	Individual shareholders' shareholding ratio at the year-end x Annual CIT payable ÷ 2
	More than five years	The corporate venture capital enterprise can be exempt from CIT based on its individual shareholders' shareholding ratio at the year end	Individual shareholders' shareholding ratio at the year-end x Annual CIT payable

Qualifying corporate venture capital enterprises

To be eligible for the above preferential CIT policies, both of the following conditions should be met:

- ▶ The enterprise is registered within the specific areas and is a resident enterprise taxed on an actual basis.
- ▶ The enterprise complies with the Provisional Measures for the Administration of Corporate Venture Capital Enterprises or the Provisional Measures for the Supervision and Administration of Private Equity Funds and completed the required record filing procedures.

It is worthy to note that the same pilot CIT policies have already been implemented in the Zhongguancun National Independent Innovation Demonstration Zone since 1 January 2020 under Caishui [2020] No. 63 ("Circular 63", i.e., Notice regarding the pilot run of the CIT policies for corporate venture capital enterprises in the Zhongguancun National Independent Innovation Demonstration Zone). In general, the pilot CIT policies would encourage the qualifying corporate venture capital enterprises to maintain long-term investments, so that the "double taxation" effect on their individual shareholders who would have been taxed both at corporate level (i.e., on the Income derived from transfer of equity) and shareholders' level (i.e., 20% Individual Income Tax (IIT) on dividends) shall be mitigated.

Circular 53 became effective from 1 January 2021. Where income derived from equity transfers conducted in the execution period of Circular 53 for the equity investments made before 1 January 2021 and meets the requirements of Circular 53, it shall be subject to the tax policies as prescribed in Circular 53. Taxpayers and investors are encouraged to read Circular 53 for more details to leverage the benefits. If in doubt, consultations with professionals are always recommended.

¹ The geographic range of the specific areas are stated clearly in the circulars mentioned in Circular 53.

You can click this link to access the full content of Circular 53:

http://czj.sh.gov.cn/zys_8908/zcfg_8983/zcfb_8985/sszc_8998/20211102/b0c1b50c4bc5418a8c9cfd7915724faa.html

You can click this link to access the full content of Circular 63:

<http://czj.beijing.gov.cn/zwx/tztq/202102/P020210201343789231081.pdf>

You can click this link to access the full content of the Provisional Measures for the Administration of Corporate Venture Capital Enterprises:

http://www.gov.cn/flfg/2005-11/15/content_99008.htm

You can click this link to access the full content of the Provisional Measures for the Supervision and Administration of Private Equity Funds:

http://www.gov.cn/zhengce/2014-08/21/content_5023863.htm

- ▶ **Notice regarding certain measures for further deepening the reform of “Delegate Power, Streamline Administration and Optimize Government Services” and stimulating and cultivating the vitality of market entities in the field of taxation (Shuizongzhengkefa [2021] No. 69)**

Synopsis

In order to advance the reform of “Delegate Power, Streamline Administration and Optimize Government Services”, the STA released 15 measures for further deepening the reform in the field of taxation (hereinafter referred to as the “Measures”) via Shuizongzhengkefa [2021] No. 69 on 12 October 2021.

Key features of the Measures are as follows:

Reduce institutional costs

- ▶ Simplify the procedures for enjoying preferential tax policies. Simplify the handling of Land Appreciation Tax exemption and implement the measures to facilitate enterprises to enjoy the preferential CIT policies of super deduction for eligible research and development (R&D) expenditures.
- ▶ Expand the pilot procedures for inter-provincial relocation of enterprises. For a qualified enterprise with A-level or B-level tax credit to relocate, relevant information of the enterprise shall be immediately released by the departure tax authority of to the entrance tax authority, and this newly in charge tax authority will instantly go through the access procedures. The original qualification information including tax credit level and equity information including input Value-added Tax credits brought forward from the previous periods can all be transferred.
- ▶ Constantly promote certification reduction to facilitate enterprises and the public. Conduct information sharing and interdepartmental collaboration to promote the cancellation of another batch of tax certification items by the end of 2021.

Optimize tax law enforcement and regulation

- ▶ Constantly optimize tax law enforcement. Study and formulate the rules of “First-time Penalty Exemptions for Minor Violations of Tax Law” for tax administration and strictly implement the list of relevant items.
- ▶ Strengthen regional coordination in tax law enforcement. Promote the unified standards of tax law enforcement among regions and promote the exchange of law enforcement information and mutual recognition of law enforcement results within the Beijing-Tianjin-Hebei region, Yangtze River Delta region and Chengdu-Chongqing Economic Circle by the end of 2021.
- ▶ Strengthen the administration of IIT on equity incentives and strictly implement relevant IIT policies.

Facilitate tax matters handling

- ▶ Optimize the quick implementation of preferential tax policies and enhance the timeliness, certainty and consistency of policy implementation.
- ▶ Optimize the services for the certainty of tax policies. Optimize the responsiveness for hot issues raised in the “12366” taxpayer service platform, quick turnaround on complex tax questions, and improve the services for the certainty of tax policies.

- ▶ Improve the service level of electronic tax bureau. Strengthen the integration of taxpayers' tax software and build a national standardized and unified mobile terminal of electronic tax bureau.
- ▶ Constantly improve electronic tax refund by exploring an automatic monitoring and notification system , allowing one-click confirmation, online application and online tax refund.

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

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5170138/content.html>

▶ **China Advance Pricing Arrangement Annual Report (2020)**

Synopsis

On 29 October 2021, the STA released the China Advance Pricing Arrangement (APA) Annual Report (2020) in both Chinese and English versions (hereinafter referred to as the “2020 APA Report”), which is already the 12th edition of the APA annual report published by the STA.

The 2020 APA Report introduces the implementation procedures and practice development which contains data pertaining to the period from 1 January 2005 to 31 December 2020. According to the 2020 APA Report, as of 31 December 2020, Chinese tax authorities have concluded 116 unilateral APAs and 90 bilateral APAs; in which 15 unilateral and 14 bilateral APAs were concluded in 2020. Out of the 14 bilateral APAs signed in 2020, 9 were signed with Asian countries (regions), 2 with North American countries, 2 with European countries and 1 with an Oceanian country. Most of the APAs signed in 2020 still involve the manufacturing industry, which demonstrates the role of taxation in serving real economy.

It is worth noting that the 2020 APA report shall not be regarded as a legal basis for enterprises or the Chinese tax authorities to negotiate or conclude an APA.

You can click this link to access the full content of the 2020 APA Report:

<http://www.chinatax.gov.cn/chinatax/n810214/n810606/c5170101/content.html>

Customs circulars

- ▶ **Notice regarding matters related to the implementation of the “Measures of the Customs of the People’s Republic of China (PRC) for Administering Enterprises Credit for Completing Registration and Record Filing” (Shuqifa [2021] No. 104)**
- ▶ **Public notice (PN) regarding the “Standards of the Customs for Advanced Certified Enterprises” (GAC PN [2021] No. 88)**
- ▶ **PN regarding the “Measures of the Customs of the PRC for the Administering Enterprises Credit for Completing Registration and Record Filing” and templates of relevant legal documents (GAC PN [2021] No. 86)**

Synopsis

According to the Measures of the Customs of the PRC on the Enterprise Credit Management for Customs Registration and Record Filing (hereinafter referred to as the “New Measures”, released via GAC Order [2021] No. 251) which reclassifies enterprises into the advanced authorized enterprises (高级认证企业), enterprises acting in bad faith (失信企业), as well as other enterprises that subject to general administrative measures, the General Administration of Customs (GAC) released Shuqifa [2021] No. 104 (“Circular 104”) on 28 October 2021 to clarify several issues from implementation perspectives.

Key features of Circular 104 include the followings:

- ▶ Circular 104 sets out the general administrative measures for other enterprises (i.e., the attachment of Circular 104). On top of this, advanced authorized enterprises shall be able to adopt the convenient measures as prescribed in Shuqifa [2021] No. 16 ("Circular 16", i.e., Notice regarding the "Catalog of Administrative Measures for Customs Certified Enterprises").
- ▶ Enterprises that have been classified as enterprises acting in bad faith according to the previous Measures of the Customs of the PRC for the Administration of Enterprise Credit (hereinafter referred to as the "Previous Measures" released via GAC Order [2018] No. 237) may be reclassified according to the Measures:
 - ▶ In case the enterprises are reclassified as enterprises acting in bad faith under the New Measures, the effective date of the classification should be the date of classification under the Previous Measures.
 - ▶ In case the enterprises do not fall under Article 22 of the New measures (i.e., the criteria for the recognition of enterprises acting in bad faith), the enterprises shall no longer be subject to the measures for enterprises acting in bad faith.
- ▶ Circular 104 also specifies the documentation requirements for the application for credit repair as well as other miscellaneous issues.

The GAC also announced GAC PN [2021] No. 86 ("PN 86", i.e., "Administrative Measures of the Customs of the PRC for the Credit of Enterprises Completing Registration and Record Filing" and templates of relevant legal documents) and GAC PN [2021] No. 88 ("PN 88", i.e., PN regarding the "Standards of the Customs for Advanced Certified Enterprises") on 28 October and 1 November 2021 to further specify the relevant issues. All the three circulars became effective on 1 November 2021 to cope with the New Measures. Relevant enterprises are advised to read the circulars 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 Circular 104:

<http://www.customs.gov.cn/customs/302249/zfxxgk/zfxxgkml34/3977755/index.html>

You can click this link to access the full content of Circular 16:

<http://gkml.customs.gov.cn/tabid/1165/InfoID/47674/Default.aspx>

You can click this link to access the full content of PN 86:

<http://www.customs.gov.cn/customs/302249/2480148/3975048/index.html>

You can click this link to access the full content of PN 88:

<http://www.customs.gov.cn/customs/302249/2480148/3979341/index.html>

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

<http://www.customs.gov.cn/customs/302249/2480148/3871763/index.html>

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

http://www.gov.cn/gongbao/content/2018/content_5291372.htm

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

- ▶ **Administrative Measures for the Total Loss-absorbing Capacity of Global Systemically Important Banks (PBC/CBIRC/MOF Order [2021] No. 6)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1015182>
- ▶ **PN regarding export quota of commodities in 2022 (MOC PN [2021] No. 35)**
<http://www.mofcom.gov.cn/article/zcfb/zcblgg/202110/20211003212910.shtml>

- ▶ **PN regarding public opinions consultation on the “Guidelines of Internet Platform Classification and Grading (Discussion Draft)” and the “Guidelines for Internet Platforms Implementing Entities’ Responsibilities (Discussion Draft)”**
http://www.samr.gov.cn/hd/zjdc/202110/t20211027_336137.html
- ▶ **Notice regarding certain opinions on promoting the living service industry to make up for shortcomings and improve people’s quality of life (Guobanhan [2021] No. 103)**
http://www.gov.cn/zhengce/content/2021-11/02/content_5648192.htm
- ▶ **PN regarding the non-state crude oil import quota, application conditions and procedures of 2022 (MOC PN [2021] No. 36)**
<http://www.mofcom.gov.cn/article/zcfb/zcblgg/202111/20211103213869.shtml>
- ▶ **Decision on the 2020 National Science and Technology Award (Guofa [2021] No. 22)**
http://www.gov.cn/zhengce/content/2021-11/03/content_5648645.htm
- ▶ **Notice regarding the work summary of the evaluation of the 2021 Technology-based Medium and Small-sized Enterprises (Guokehuozi [2021] No. 154)**
<http://www.chinatorch.gov.cn/kjb/tzgg/202111/233dd502aab1455892e1b878a66c7c80.shtml>
- ▶ **PN regarding the “Measures on the Application for the Overseas Registration and Administration of Export Food Manufactures” (GAC PN [2021] No. 87)**
<http://www.customs.gov.cn/customs/302249/2480148/3976149/index.html>
- ▶ **Notice regarding the “Implementation Measures of the Customs for Market Supervision and Law Enforcement Matters Subject to ‘Dual Random Inspections and Public Release’” (Shubanzonghan [2021] No. 18)**
<http://www.customs.gov.cn/customs/302249/zfxxgk/zfxxgkml34/3981298/index.html>



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