

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

- **Public notice (PN) regarding certain matters related to tax credit evaluation and repair (STA PN [2021] No. 31)**

Synopsis

To optimize the business environment, on top of STA PN [2019] No. 37 ("PN 37", i.e., PN regarding matters related to tax credit rating repair) which offered a chance for certain taxpayers to repair their tax credit ratings, the State Taxation Administration (STA) released STA PN [2021] No. 31 ("PN 31") on 15 November 2021 to expand the scope of taxpayers eligible for tax credit rating repair.



Key features of PN 31 are as follows:

Enterprises eligible for tax credit rating repair

- ▶ The bankrupt enterprise or its manager is in the process of reforming or reconciliation, and has paid up the relevant taxes, surcharges and penalties and rectified any misbehaviors.
- ▶ The enterprise had been directly classified as credit rating D due to significant violation of tax regulations, but the publicity of such information has been suspended or stopped by the STA according to the relevant rules¹. Such enterprise may apply for tax credit rating repair if it has no new violations within the continuous 12-month period before lodging the application.
- ▶ The enterprise was classified as credit rating D due to the reason that it was registered or its operation is supervised by a person who is directly responsible for another enterprise that had been classified as credit rating D. Such enterprise may apply for tax credit rating repair if it has no new violations within the continuous 6-month period before lodging the application.
- ▶ The enterprise was classified as credit rating D due to other violations and has made rectifications and fulfilled the relevant legal responsibilities accordingly. Such enterprise may apply for tax credit rating repair if it has no new violations within the continuous 12-month period before lodging the application.
- ▶ The enterprise's credit rating is retained as D due to its previous year's record, but the enterprise has rectified its misbehaviors, fulfilled the legal responsibilities or the publicity of such information has been suspended or stopped by the STA according to the relevant rules¹. Such enterprise may apply for tax credit rating repair if it has no new violations within the continuous 12-month period before lodging the application.

Detailed scope and standards for the tax credit rating repair are set out in Attachment II of PN 31.

Application for tax credit rating repair

According to PN 31, eligible enterprises may complete the application form (i.e., Attachment I of PN 31) and apply for tax credit rating repair with the supervising tax authority.

Once the application is accepted, the tax credit rating of the enterprise shall be adjusted and reclassified according to Attachment II of PN 31. Unless the enterprise's reclassification application is rejected and remained as a tax credit rating D, it shall be subject to the treatments according to its new tax credit rating upon approval.

Illegal acts exempted from tax administrative punishment in case of first-time violation

Starting from the tax credit rating for year 2021, illegal acts exempted from tax administrative punishment in case of first-time violation shall not be recorded for tax credit rating purpose.

PN 31 became effective on 1 January 2022 and the contents of previous circulars that are contradicting to PN 31 (listed in the last paragraph of PN 31) shall be replaced simultaneously. It is understood that the issuance of PN 31 aims to further optimize the tax credit rating system and encourage more taxpayers to repair their tax credit rating by enhancing their tax compliance.

Relevant taxpayers should read PN 31 for more details and take the initiative to assess and consider applying for tax credit rating repair if applicable, which would allow them to enjoy more incentives and be facilitated with more friendly administrative measures. If in doubt, consultations with professionals are always recommended.

¹ For detailed measures in this regard, please refer to STA PN [2018] No. 54 ("PN 54", i.e., the "Publication Measures of Significant Tax Violation and Dishonesty Cases").

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

<http://www.chinatax.gov.cn/n810341/n810825/c101434/c5170720/content.html>

You can click this link to access the full content of the STA's official interpretation on PN 31:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5170724/content.html>

You can click this link to access the full content of PN 37:

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5139577/content.html>

► **PN regarding the application of tax policies of the Beijing Stock Exchange (MOF/STA PN [2021] No. 33)**

Synopsis

On 14 November 2021, the Ministry of Finance (MOF) and STA jointly released MOF/STA PN [2021] No. 33 ("PN 33") to specify the application of tax policies of the Beijing Stock Exchange.

According to PN 33, the Individual Income Tax (IIT) and Stamp Duty (SD) treatments for the trading of stocks of companies listed in Beijing Stock Exchange shall be referenced to those regarding the trading of stocks of companies listed on the National Equities Exchange and Quotations (also known as the NEEQ or the New Third Board), while the Value-added Tax (VAT) treatments shall be referenced to Caishui [2016] No. 36 ("Circular 36", i.e., Notice regarding the final stage of the VAT pilot arrangements). Please click the circular nos. to access the full contents of the respective circulars:

Taxes	Brief introduction on the tax treatments								
IIT on stock transfer	<ul style="list-style-type: none">On and after 1 November 2018, income derived by individuals from selling stocks (not initial stocks) listed on the NEEQ (i.e., stocks obtained by individuals after the companies had been listed on the NEEQ as well as any bonus stocks or converted stocks bred by the abovementioned stocks), shall be temporarily exempt from IIT.On and after 1 November 2018, income derived by individuals from selling initial stocks of companies listed on the NEEQ shall be subject to IIT at 20% under the category of "income derived from asset transfer". The initial stocks refer to stocks obtained by individuals before the companies have been listed on the NEEQ as well as any bonus stocks or converted stocks bred by the abovementioned stocks <p>(Caishui [2018] No. 137)</p>								
IIT on dividends and bonus-dividends	<p>Individuals, who acquire stocks of companies listed on the NEEQ and derive dividends and bonus-dividends therefrom, are eligible for the following differential IIT policies based on the stock holding period. The taxable income shall be subject to IIT at the rate of 20%.</p> <table><tr><th>Stock Holding Period</th><th>Eligible reduction of taxable income</th></tr><tr><td>One month or less</td><td>0%</td></tr><tr><td>One year or less, but more than one month</td><td>50%</td></tr><tr><td>More than one year</td><td>100%</td></tr></table> <p>(MOF/STA/CSRC PN [2019] No. 78)</p>	Stock Holding Period	Eligible reduction of taxable income	One month or less	0%	One year or less, but more than one month	50%	More than one year	100%
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One month or less	0%								
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IIT on stock options	IIT deferral treatment for qualifying income derived from stock options, equity options, restricted stocks and equity incentives of non-listed companies as well as companies listed on NEEQ. (Caishui [2016] No. 101)
SD	<ul style="list-style-type: none"> ▶ For transfer of preferred stocks related to buy/sell, inheritance and gifts through Shanghai Stock Exchange, Shenzhen Stock Exchange and NEEQ, the transferor shall be subject to SD at 0.1% based on the actual price as indicated in the stock transfer agreement. (Caishui [2014] No. 46) ▶ For transfer of stocks related to buy/sell, inheritance and gifts through NEEQ, the transferor shall be subject to SD at 0.1% based on the actual price as indicated in the stock transfer agreement. (Caishui [2014] No. 47)
VAT	<ul style="list-style-type: none"> ▶ Gains derived by corporate investors for transfer of stocks are subject to VAT at 6% (general VAT taxpayers) or 3% (small-scale VAT taxpayers)² on a net basis as it is regarded as transfer of financial products. ▶ Gains derived by individual investors for transfer of stocks are exempt from VAT. <p>(Circular 36)</p>

Besides, the relevant Corporate Income Tax (CIT) treatments shall be referenced to the prevailing CIT Law and its implementation rules.

Relevant investors are encouraged to read full contents of the abovementioned circulars for details. If in doubt, consultations with professionals are always helpful.

² According to MOF/STA PN [2021] No. 7 ("PN 7", i.e., PN regarding continuously implementing certain preferential tax policies in response to the COVID-19 epidemic), the VAT collection rate for small-scale VAT taxpayers is reduced to 1% from 1 March 2020 to 31 December 2021.

You can click this link to access the full content of PN 33:

http://www.mof.gov.cn/zhengwuxinxi/caizhengxinwen/202111/t20211114_3765597.htm

You can click this link to access the full content of PN 7:

http://www.gov.cn/zhengce/zhengceku/2021-03/23/content_5595078.htm

Business circular

- ▶ **Approval on temporarily adjusting the implementation of relevant administrative regulations in the Lin-gang Special Area of the China (Shanghai) Pilot Free Trade Zone (PFTZ) (Guohan [2021] No. 115)**

Synopsis

On 9 November 2021, the State Council released Guohan [2021] No. 115 (hereinafter referred to as "Circular 115") to approve the temporary adjustments to the implementation of relevant administrative regulations in the Lin-gang Special Area of the China (Shanghai) PFTZ effective from 9 November 2021 through 31 December 2024.

Details of the adjustments are as follows:

Relevant administrative regulations	Adjustments to the implementation
<p>Article 22, Paragraph 2 of the Regulations of the People's Republic of China on International Maritime Transport:</p> <p><i>"Foreign international shipping operators shall not engage in shipping business between Chinese ports, nor shall they lease Chinese ships or exchange shipping spaces to engage in shipping business in disguise."</i></p>	<p>Relevant provisions and implementation are temporarily adjusted as follows:</p> <p><i>In the Lin-gang Special Area of the China (Shanghai) PFTZ, qualified international container liner companies of foreign countries, Hong Kong SAR and Macao SAR are allowed to use their wholly owned or controlled non-five-star flag international ships to carry out pilot of foreign trade container coastal shipping business between Dalian Port, Tianjin Port, Qingdao Port and Yangshan Port Area of Shanghai Port with Yangshan port area of Shanghai port as an international transit port.</i></p>
<p>Article 11 of the Regulations on the Administration of Domestic Waterway Transport:</p> <p><i>"Foreign enterprises, other economic organizations or individuals shall not engage in waterway transport business, nor shall they lease Chinese ships or shipping spaces to engage in water transport business in disguise. The provision shall apply to enterprises, other economic organizations and individuals in the Hong Kong Special Administrative Region (SAR), Macao SAR and Taiwan, except as otherwise prescribed by the State Council."</i></p>	

Relevant departments of the State Council and the Shanghai Municipal People's Government shall adjust relevant rules and regulations and establish appropriate administration systems in accordance with the above adjustments in a timely manner.

You can click this link to access the full content of Circular 115:

http://www.gov.cn/zhengce/content/2021-11/18/content_5651689.htm

Customs circular

► Notice regarding public opinions consultation on the "Measures of the Customs of the People's Republic of China on the Supervision and Administration of Transit Goods (Discussion Draft)"

Synopsis

To safeguard the national sovereignty and interests and strengthen the customs supervision and administration of transit goods, the General Administration of Customs (GAC) prepared the "Measures of the Customs of the People's Republic of China on the Supervision and Administration of Transit Goods (Discussion Draft)" (hereinafter referred to as the "Discussion Draft") and released to the public to seek opinions on 18 November 2021.

Some key points mentioned in the Discussion Draft are summarized as follows:

Prohibited transit goods

The Discussion Draft clarifies the prohibited transit goods including weapons, poisons, drugs, dangerous chemicals, microorganisms, etc.

Transit supervision

Transit goods shall be subject to customs supervision from entry to exit. Without the permission of the customs, no entity or individual may open, withdraw, deliver, ship, exchange, refit, mortgage, transfer or replace the marks.

Transit transport

The carrier should transport the transit goods along the route prescribed by the competent transportation authority from entry to exit of the transit goods. The carrier should also truthfully declare to the customs at the place of entry and go through the customs formalities for transit transport. Transit goods can be transported only after being examined and released by the customs at the place of entry and can be transported out of the country only after going through the domestic transport formalities with the customs at the place of exit.

Relevant parties are encouraged to express opinions on or before 18 December 2021 by sending emails to pangping@customs.gov.cn.

You can click this link to access the full content of the Discussion Draft:
<http://www.customs.gov.cn/customs/302452/302329/zjz/4007873/index.html>

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

- ▶ **Catalog of Technologies Prohibited or Restricted from Import by China (MOFCOM PN [2021] No. 37)**
<http://fms.mofcom.gov.cn/article/a/ae/202111/20211103215354.shtml>
- ▶ **PN regarding certain matters related to administrative licensing items for listed companies and non-listed public companies on the Beijing Stock Exchange (CSRC PN [2021] No. 41)**
http://www.csrc.gov.cn/pub/zjhpublic/zjh/202111/t20211112_408440.htm
- ▶ **Notice regarding public opinions consultation on the “Administrative Regulations of Internet Data Security (Discussion Draft)”**
http://www.cac.gov.cn/2021-11/14/c_1638501991577898.htm
- ▶ **Regulations on the Credit Management of the Culture and Tourism Market (MCT Order [2021] No. 7)**
http://www.gov.cn/zhengce/zhengceku/2021-11/16/content_5651192.htm
- ▶ **Notice regarding the “Implementation Plan for Deepening the Reform of ‘Separating Permits from Business Licenses’” (Jiaozhengfatinghan [2021] No. 18)**
http://www.moe.gov.cn/srcsite/A02/s7049/202111/t20211115_579841.html
- ▶ **PN regarding the “Measures for the Registration of Patent Pledge” (CNIPA PN [2021] No. 461)**
https://www.cnipa.gov.cn/art/2021/11/16/art_74_171449.html
- ▶ **Notice regarding matters related to insurance funds investing in publicly offered infrastructure securities investment funds (Yinbaojianbanfa [2021] No. 120)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1018668&itemId=928>
- ▶ **Notice regarding the second batch of non-financial enterprises’ declaration of external financial assets, liabilities and transactions (Huizongfa [2021] No. 71)**
<http://www.safe.gov.cn/safe/2021/1117/20208.html>
- ▶ **Notice regarding the “Anti-monopoly Compliance Guidance for Enterprises’ Overseas Business Operations” (Guoshijianfanlongfa [2021] No. 72)**
http://www.gov.cn/zhengce/zhengceku/2021-11/19/content_5651797.htm
- ▶ **Notice regarding the “Anti-monopoly Guidance for the Active Pharmaceutical Ingredient Industry” (Guofanlongfa [2021] No. 3)**
http://gkml.samr.gov.cn/nsjg/fldj/202111/t20211118_336969.html

- ▶ **PN regarding clarifying certain rules related to the submission of electronic invoices under domestic letter of credit (PCAC Order [2021] No. 21)**
<http://pcac.org.cn/eportal/ui?pageld=598261&articleKey=613709&columnId=595085>
- ▶ **Notice regarding the “Development Plan of Comprehensive Transportation Services During the 14th Five-year Plan Period” (Jiaoyunfa [2021] No. 111)**
http://www.gov.cn/zhengce/zhengceku/2021-11/18/content_5651656.htm
- ▶ **PN regarding public opinions consultation on the “Implementation Rules of the Administrative Regulations on Commercial Performances (Revised Draft)”**
http://zwgk.mct.gov.cn/zfxxgkml/scgl/202111/t20211118_929067.html



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