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*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.

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Tax circulars

- ▶ **Public notice (PN) regarding implementation standards for certain Stamp Duty (SD) policies (MOF/STA PN [2022] No. 22)**
- ▶ **PN regarding matters related to implementing the “SD Law of the People’s Republic of China (PRC)” (STA PN [2022] No. 14)**
- ▶ **PN regarding matters related to preferential policy coordination after the implementation of the SD Law (MOF/STA PN [2022] No. 23)**

Synopsis

Since the SD Law of the PRC (hereinafter referred to as the “SD Law”) became effective on 1 July 2022 and replaces the previous SD Provisional Regulations simultaneously, the Ministry of Finance (MOF) and State Taxation Administration (STA) released a series of SD-related circulars to smoothen the implementation of the SD Law.

Among these, MOF/STA PN [2022] No. 22 ("PN 22", i.e., PN regarding implementation standards for certain SD policies) released by the MOF and STA on 12 June 2022 specifies the following issues:

Items	Detailed provisions
SD payers	<ul style="list-style-type: none"> ▶ For conclusion of taxable documents, SD payers should be any entities or individuals that hold direct responsibilities or liabilities of the taxable documents. ▶ For entrusted loan agreements, SD payers should be trustees and borrowers, not trustors¹. ▶ For buy/sell contracts or instruments for transfer of properties through auction, SD payers should be the owners and buyers of the auction target, not the auctioneers.
Particular situations where SD should be levied	<p><u><i>Taxable documents concluded overseas</i></u></p> <p>SD shall be levied on taxable documents concluded outside of the PRC², if:</p> <ul style="list-style-type: none"> ▶ The subject matter of the taxable document is a real property situated in the PRC. ▶ The subject matter of the taxable document is equity of a PRC resident enterprise. ▶ The subject matters of the taxable document are movable assets or trademark, copyright, patent and know-how and the seller or buyer is in the PRC (except for the situation where an overseas entity or individual sells movable assets or trademark, copyright, patent and know-how to a domestic entity or individual and such subject matters shall only be used abroad). ▶ Where the subject matter of the taxable document is provision of services, either the service provider or buyer is in the PRC (except for the situation where the overseas entity/individual provides services to a domestic entity/individual and such services are rendered abroad). <p><u><i>No buy-sell contracts have been concluded</i></u></p> <ul style="list-style-type: none"> ▶ SD should be levied if the enterprises have not concluded any buy-sell contract but their business relationship of buying and selling and their relevant responsibilities and liabilities are determined by placing orders and requisitions, etc. <p><u><i>Buy-sell of electricity</i></u></p> <ul style="list-style-type: none"> ▶ Contracts for buy-sell of electricity between power plants and power grids, or between different power grids should be subject to SD under the item of buy-sell contract.



Items (Cont'd)	Detailed provisions (Cont'd)
Determination of tax basis for SD	<ul style="list-style-type: none"> ▶ Where two or more taxpayers are involved in one SD taxable contract or instrument and the taxable amount for each taxpayer is not specified in the document, the tax basis for SD for each taxpayer should be spread evenly according to the amount listed in the document (excluding the amount of Value-added Tax (VAT)). ▶ In case the amount listed in the taxable contract/instrument is different from the actual settlement amount: <ul style="list-style-type: none"> ▶ If the amount listed in the taxable contract/instrument would stay unchanged, the tax basis for SD should be the amount listed in the taxable contract/instrument. ▶ If the amount listed in the taxable contract/instrument shall be revised, the tax basis for SD should be the revised amount. Accordingly, the taxpayer should file additional SD, or apply for SD refund or utilize the overpaid SD against any future SD payables. ▶ In case a taxpayer had overpaid/underpaid SD due to the reason that the amount of VAT listed on the taxable document is wrongly calculated, the taxpayer should file additional SD, or apply for SD refund or utilize the overpaid SD against any future SD payables. ▶ Tax basis for SD for transfer of equity should be the amount listed on the instruments for the transfer of equity (disregarding the amount of subscribed capital that have not been paid up). ▶ In case the amount indicated on the taxable document is in other currencies, the tax basis for SD should be converted into RMB at the RMB middle price of the conclusion date of the document. ▶ SD paid for contracts/instruments that finally are not executed would not be refundable or allowed to be offset against future SD payable. ▶ Overused SD stamps shall not be refunded or set off against any future SD payables. ▶ SD for domestic multimodal transportations: <ul style="list-style-type: none"> ▶ Where the total freight for domestic multimodal transportation is settled at the port of embarkation, the taxpayers should be both parties who settle the freight at the port of embarkation (e.g., consigner and carrier). ▶ Where the freight for domestic multimodal transportation is charged at each phase of the trip, the tax basis for SD should be freight of each phase and filed by relevant parties who settle the freight.

PN 22 also lists out the situations where SD should not be levied (e.g., effective legal documents by the people's courts, etc.) or eligible for an exemption (e.g., E-commerce businesses as prescribed in the PRC E-commerce law, etc.)

Besides, the MOF and STA released MOF/STA PN [2022] No. 23 ("PN 23", i.e., PN regarding matters related to preferential policy coordination after the implementation of the SD Law) on 27 June 2022 to list out the preferential SD policies to be continued on and after 1 July 2022 and lists of preferential SD policies became abolished or invalid from 1 July 2022.

For detailed SD collection and administrative arrangements, taxpayers may refer to STA PN [2022] No. 14 ("PN 14", i.e., PN regarding matters related to implementing the "SD Law of the PRC") released by the STA on 28 June 2022.

Taxpayers are encouraged to read the abovementioned circulars for greater details. If in doubt, timely consultations with professionals are highly recommended. We have also issued a WeChat news article (in Chinese) to discuss the relevant SD policies in greater detail. For the WeChat news article, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE and search key words to access the full contents of the alert.

¹ For example, where an entrusted loan organized between a borrower and a lender (i.e., the trustor) by an agent bank (i.e., the trustee), the borrower and the agent bank are subject to SD for signing the entrusted loan agreement, while the lender is not.

² The filing arrangements for SD taxpayers in overseas are further specified in PN 14.

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

<http://www.npc.gov.cn/npc/c30834/202106/ac04259fbbc24b9581156b81d3c76275.shtml>

You can click this link to access the full content of PN 22:

<http://www.chinatax.gov.cn/chinatax/n367/c5176914/content.html>

You can click this link to access the full content of PN 23:

<http://www.chinatax.gov.cn/chinatax/n367/c5176915/content.html>

You can click this link to access the full content of PN 14:

<http://www.chinatax.gov.cn/chinatax/n367/c5176919/content.html>

► **PN regarding the implementation on tax treaties and protocols between the PRC and Congo (Brazzaville), Angola and Rwanda (STA PN [2022] No. 13)**

Synopsis

On 27 June 2022, the STA released STA PN [2022] No. 13 ("PN 13") to announce the implementation on Agreement between the Government of the PRC and the Government of the Republic of Congo for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance (hereinafter referred to as the "PRC-Congo DTA"), Agreement between the PRC and the Republic of Angola for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance (hereinafter referred to as the "PRC-Angola DTA") and Agreement between the Government of the PRC and the Government of the Republic of Rwanda for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance (hereinafter referred to as the "PRC-Rwanda DTA") and the relevant protocols.

Key features of the three tax treaties are briefly introduced as follows:

Items	PRC-Congo DTA	PRC-Angola DTA	PRC-Rwanda DTA
Conclusion date	5 September 2018	9 October 2018	7 December 2021
Effectiveness	Became effective on 6 July 2022 and will be applicable to taxes withheld at source from income derived on or after 1 January 2023, and other taxes for any tax year or accounting period beginning on or after 1 January 2023.	Became effective on 11 June 2022 and will be applicable in respect of income derived during the taxable years beginning on or after 1 January 2023.	Became effective on 25 June 2022 and will be applicable in respect of income derived during the taxable years beginning on or after 1 January 2023.

Items (Cont'd)	PRC-Congo DTA (Cont'd)	PRC-Angola DTA (Cont'd)	PRC-Rwanda DTA (Cont'd)
Permanent establishment (PE)			
Construction PE ³	A period of more than six months	A period of more than 183 days	A period of more than six months in any 12-month period commencing or ending in the fiscal year concerned
Installation /structure ⁴	N/A	A period of not less than 90 days	A period of more than 183 days in any 12-month period commencing or ending in the fiscal year concerned
Withholding tax (WHT) rates			
Dividends	5%/10%/exempt ⁵	5%/8%/exempt ⁶	7.5%
Interest	10%/exempt ⁷	8%/exempt ⁸	8%/exempt ⁸
Royalties	5%	8%	10%
Technical services ⁹	N/A	5%	10%
Capital gains			
Gains from disposal of shares in a land-rich company	Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50% of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.	Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50% of their value directly or indirectly from immovable property, as defined in Article 6 (income from immovable property), situated in that other State.	Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50% of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

Concerned investors and businesses are advised to read the relevant DTAs for details. If in doubt, consultations with professionals are always helpful.

³ The construction PE refers to a building site or construction or installation project and constitutes a PE only if it lasts for a certain period of time.

⁴ An installation or structure used in the research or exploration for natural resources located in a Contracting State provided that the installation or structure continues for a prescribed period of time.

⁵ According to the PRC-Congo DTA, in cases where the beneficial owner of the dividends arising in a Contracting State is a company which holds directly at least 25% of the capital of the company paying the dividends, the WHT rate shall not exceed 5%. For all other cases, the WHT rate shall not exceed 10%. However, dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be exempt from tax in the first-mentioned State if the beneficial owner of the dividends is the Government of the other Contracting State or political subdivisions, local authorities, etc.

⁶ According to the PRC-Angola DTA, the WHT rate shall not exceed 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10% of the capital of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganization, such as a merger or divisive reorganization, of the company that holds the shares or that pays the dividend). In all other cases, the WHT rate shall not exceed 8% of the gross amount of the dividends. However, dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be exempt from tax in the first-mentioned State if the beneficial owner of the dividends is the Government of the other Contracting State or political subdivisions, local authorities thereof, etc.

⁷ According to the PRC-Congo DTA, in cases where the beneficial owner of the interest arising in a Contracting State is a resident of the other Contracting State, the WHT rate shall not exceed 10%. However, interest arising in a Contracting State and paid to the Government of the other Contracting State or political subdivisions, local authorities thereof, etc., shall be exempt from tax in the first-mentioned State.

⁸ According to the PRC-Angola DTA and the PRC-Rwanda DTA, in cases where the beneficial owner of the interest arising in a Contracting State is a resident of the other Contracting State, the WHT rate shall not exceed 8%. However, WHT shall be exempt for interest arising in a Contracting State and paid to the Government of the other Contracting State or political subdivisions, local authorities thereof, etc.

⁹ The PRC-Angola DTA and PRC-Rwanda DTA both include an uncommon article (i.e., Fee for technical services) which reserves the right to tax fee for technical services (i.e., any payment in consideration for any service of a managerial, technical or consultancy nature except for certain prescribed payments) at source. This article has only been included in a few DTAs entered into by the PRC, e.g., the PRC-India DTA.

You can click this link to access the full content of PN 13:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5176966/content.html>

You can click this link to access the full content of the PRC-Angola DTA and its Protocol:

<http://www.chinatax.gov.cn/chinatax/n810341/n810770/c5176185/content.html>

You can click this link to access the full content of the PRC-Congo DTA and its Protocol:

<http://www.chinatax.gov.cn/n810341/n810770/c3731498/content.html>

You can click this link to access the full content of the PRC-Rwanda DTA and its Protocol:

<http://www.chinatax.gov.cn/chinatax/n810341/n810770/c5171624/content.html>

► **PN regarding simplifying the procedures of tax matters related to the business closure and deregistration of market entities (STA PN [2022] No. 12)**

Synopsis

To further optimize the business environment, the STA released STA PN [2022] No. 12 (“PN 12”) on 14 June 2022 to simplify the procedures of tax matters related to the business closure and deregistration of market entities.

Key features of PN 12 are as follows:

Simplified declaration

Tax report and tax declaration of market entities to close business are simplified. Specific measures include:

- For a market entity to stop business due to natural disasters, public health issues or social security incidents, etc., it only needs to conduct record-filing with the registration authority in accordance with the regulations. There is no need to report to the tax authority.
- Market entities to stop business can simplify their Corporate Income Tax (CIT) declaration in the following ways:
 - For an enterprise that established branches and pays provisional CIT on a monthly basis, where the head office conducts business closure, the head office and all branches can change to pay provisional CIT quarterly from the next quarter. Where a branch conducts business closure, the head office and all branches shall not change the provisional CIT declaration period.

- ▶ For an enterprise that has not established branches and pays provisional CIT on a monthly basis, where the enterprise conducts business closure, it can change to pay provisional CIT quarterly from the next quarter.
- ▶ A market entity to stop business that pays provisional Individual Income Tax (IIT) on a monthly basis can change to pay provisional IIT quarterly from the next quarter.
- ▶ Market entities to stop business can choose to pay Resource Tax by declaration (excluding Water Resource Tax).

The above simplified tax declaration methods are not applicable to market entities that are under abnormal status identified by tax authorities during the period of business closure until the abnormal status is lifted.

Simplified handling of tax clearance documents

Self-employed industrial and commercial households registered after the implementation of the reform of the integration of business license and tax registration certificate, which have never handled any tax related matters or once handled but never received invoices or applied for invoices issuance on their behalf, and do not owe any taxes, are eligible for simplified deregistration and are exempted from tax clearance certificates.

In addition, market entities that are ruled by the people's court for compulsory liquidation may apply to the tax authority for the issuance of a tax clearance document with the ruling of the people's court to terminate the compulsory liquidation procedure. The tax authority shall issue the tax clearance document immediately.

PN 12 will become effective on 14 July 2022. Relevant market entities are advised to read PN 12 for 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 PN 12:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5176916/content.html>

- ▶ **PN regarding extending the eighth set of exclusions to the goods originating from the United States that are imposed with additional tariffs (Customs Tariff Commission PN [2022] No. 7)**

Synopsis

According to Customs Tariff Commission PN [2021] No. 9 ("PN 9", i.e., PN regarding extending the sixth set of exclusions to the goods originating from the United States that are imposed with additional tariffs), goods in the list of PN 9, i.e., the sixth set of exclusions to the goods originating from the United States shall not be imposed with additional tariffs until 30 June 2022. In this respect, on 28 June 2022, the Customs Tariff Commission released Customs Tariff Commission PN [2022] No. 7 ("PN 7") to extend this exclusion.

Accordingly, 124 types of goods listed in the attachment of PN 7 shall continue to be excluded from additional tariffs imposition against the US Section 301 measures from 1 July 2022 to 15 February 2023.

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

http://gss.mof.gov.cn/gzdt/zhengcefabu/202206/t20220628_3822626.htm

You can click this link to access the full content of PN 9:

http://www.gov.cn:8080/zhengce/zhengceku/2021-12/24/content_5664439.htm

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

- ▶ **Notice regarding public opinions consultation on the "Regulations on the Prohibition of Monopolistic Agreements (Discussion Draft)"**
https://www.samr.gov.cn/hd/zjdc/202206/t20220625_348148.html

- ▶ **PN regarding public opinions consultation on the “Regulations on the Review of Concentration of Business Operators (Discussion Draft)”**
https://www.samr.gov.cn/hd/zjdc/202206/t20220624_348144.html
- ▶ **PN regarding public opinions consultation on the “Regulations on the Standards for Declaring Concentration of Business Operators (Revised Discussion Draft)”**
http://www.samr.gov.cn/hd/zjdc/202206/t20220625_348149.html
- ▶ **Notice regarding public opinions consultation on the “Regulations on Prohibiting Abuse of Dominant Market Position (Discussion Draft)”**
http://www.samr.gov.cn/hd/zjdc/202206/t20220627_348155.html
- ▶ **Notice regarding public opinions consultation on the “Regulations on Prohibiting the Abuse of Administrative Power to Eliminate or Restrict Competition (Discussion Draft)”**
http://www.samr.gov.cn/hd/zjdc/202206/t20220627_348159.html
- ▶ **Notice regarding public opinions consultation on the “Regulations on Prohibiting the Abuse of Intellectual Property Rights to Eliminate or Restrict Competition (Discussion Draft)”**
http://www.samr.gov.cn/hd/zjdc/202206/t20220627_348161.html
- ▶ **Decision on amending the “Anti-monopoly Law of the PRC” (Zhuxiling [2022] No. 116)**
<http://www.npc.gov.cn/npc/c30834/202206/e42c256faf7049449cdfaabf374a3595.shtml>
- ▶ **Implementation opinions on implementing the “Opinions on Fully Implementing the New Development Philosophy to Achieve Carbon Peak and Carbon Neutrality” (Jiaoguihuafa [2022] No. 56)**
https://xxgk.mot.gov.cn/2020/jigou/zhghs/202206/t20220624_3659984.html
- ▶ **PN regarding incorporating exchange-traded open-end funds into interconnection arrangements (CSRC PN [2022] No. 39)**
<http://www.csrc.gov.cn/csrc/c101954/c3876121/content.shtml>
- ▶ **Notice regarding further supporting the development of enterprises to serve real economy (Shenzhengshang [2022] No. 575)**
http://www.szse.cn/aboutus/trends/news/t20220624_594237.html
- ▶ **Notice regarding further improving services for foreign-funded enterprises (Yaojianzongkewaihan [2022] No. 361)**
<https://www.nmpa.gov.cn/xxgk/fgwj/gzwj/gzwjzh/20220627171348198.html>
- ▶ **Administrative Regulations on Internet User Account Information (CAC Order [2022] No. 10)**
http://www.cac.gov.cn/2022-06/26/c_1657868775042841.htm
- ▶ **Notice regarding the “Special Action Plan on Rectifying Illegal Enterprise-related Charges” (Fagaijiage [2022] No. 964)**
https://www.ndrc.gov.cn/xxgk/zcfb/tz//202206/t20220628_1328983.html
- ▶ **List of Administrative Approval Items of the Ministry of Industry and Information Technology (2022 Version) (MIIT PN [2022] No. 14)**
https://wap.miit.gov.cn/zwgk/zcwj/wjfb/gg/art/2022/art_561bbcb5208b4584843ec9cf150d15d8.html
- ▶ **Notice regarding the “Implementation Plan on Supporting Hongkong and Macao Drug Market Authorization Holders to Produce Drugs in Nine Mainland Cities of the Greater Bay Area (GBA)” and “Implementation Plan on Supporting Hongkong and Macao Medical Device Registrant to Produce Medical Devices in Nine Mainland Cities of the GBA” (Yaojianzongkewai [2022] No. 63)**
<https://www.nmpa.gov.cn/xxgk/fgwj/gzwj/gzwjzh/20220629171101193.html>
- ▶ **Notice regarding the launch of the online unified supervision and administration platform for the CPA industry (Caiban [2022] No. 32)**
http://kjs.mof.gov.cn/gongzuotongzhi/202206/t20220629_3823240.htm

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