

Issue No. 2022042

11 Nov 2022

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 circulars

- ▶ **Notice regarding preferential Corporate Income Tax (CIT) policies for Nansha district in Guangzhou (Caishui [2022] No. 40)**

Synopsis

To promote comprehensive cooperation among Guangdong, Hong Kong and Macao by further deepening the open-up of Nansha district in Guangzhou (hereinafter referred to as "Nansha"), on 25 September 2022, the Ministry of Finance (MOF) and State Taxation Administration (STA) jointly released Caishui [2022] No. 40 ("Circular 40") to specify the preferential CIT policies for Nansha, which would be effective from 1 January 2022 to 31 December 2026.



Preferential CIT policies for Nansha

For your easy reference, the preferential CIT policies of Circular 40 are outlined as follows:

Preferential CIT policies	Details as specified in Circular 40 and its official guidelines
<p>Enterprises registered in start-up areas of Nansha¹ and engaged in substantial business in encouraged industries shall be subject to a reduced CIT rate of 15%.</p>	<p>A qualifying enterprise should meet both of the following conditions:</p> <ul style="list-style-type: none"> ▶ The enterprise is engaged in encouraged industries prescribed in the 2022 Catalog of CIT Preferential Treatments for Enterprises of Nansha (hereinafter referred to as the "Nansha Catalog", see appendix of Circular 40) and its revenue derived from the encouraged industries accounts for 60% or above of its total revenue; and ▶ The effective management of the enterprise is physically in the start-up areas¹ of Nansha and exercises substantial and overall management and control on business, personnel, accounting, and properties, etc. of the enterprise. <p>However, even all the above-mentioned conditions are met, the reduced CIT rate of 15% only applies to:</p> <ul style="list-style-type: none"> ▶ Income allocated to the qualifying head office and its branch(es) located in the start-up areas of Nansha; or ▶ Income allocated to the qualifying branch(es) located in the start-up areas of Nansha if the head office is not within the areas. <p>The allocation of income between the head office and its branches with cross-region operations shall be referred to the prevailing CIT policies.</p>
<p>Extension of tax loss carry-forward period²</p>	<p>From 1 January 2022, where an eligible enterprise registered in Nansha is recognized as a High-and-new Technology Enterprise (HNTE) or a Technology-based Small and Medium-sized Enterprise (TSME), it is allowed to carry forward its unutilized tax losses incurred for a period up to 13 years. More specifically, if the qualifying enterprise has tax losses incurred within eight preceding years before it being recognized as a HNTE or TSME, the unutilized tax losses can be carried forward for a period up to 13 years.</p> <p>The above-mentioned eligible HNTES or TSMEs should meet both of the following criteria:</p> <ul style="list-style-type: none"> ▶ It is engaging in key high-and-new technology industries listed in the Nansha Catalog, i.e., 35 industries listed under the section of key high-and-new technology industries including the areas of artificial intelligence and integrated circuit, life and health, high-end equipment, energy saving and environmental protection. ▶ Its revenue derived from the key high-and-new technology industries accounts for 60% or above of its total revenue.



A summary of similar regional preferential CIT treatments

To provide an easy reference for investors and enterprises, we summarized the following prevailing preferential CIT treatments of Nansha and other popular areas in brief (please note that the preferential CIT treatments of the relevant areas may be subject to different criteria, such as different scope of encouraged industries, please click the links of the table below to access the detailed rules):

Areas	Preferential CIT treatments			
	Reduced CIT rate of 15% for qualifying enterprises	Extended tax loss carry-forward period	100% upfront claim of qualified capital expenditures (unit value not exceeding RMB5 million) ³ and accelerated depreciation or amortization of qualified capital expenditures (unit value exceeding RMB5 million)	CIT exemption of income derived from eligible new outbound direct investments
<u>Nansha</u> (Valid from 1 January 2022 to 31 December 2026)	√	√	N/A	N/A
<u>Hainan Free Trade Port (FTP)</u> (Valid from 1 January 2020 to 31 December 2024)	√	N/A	√	√
<u>Hengqin (Zhuhai)</u> (Became effective from 1 January 2021)	√	N/A	√	√
<u>Pingtan</u> (Valid from 1 January 2021 to 31 December 2025)	√	N/A	N/A	N/A
<u>Qianhai</u> (Valid from 1 January 2021 to 31 December 2025)	√	N/A	N/A	N/A
<u>Lingang (Shanghai)</u> (Became effective from 1 January 2020 ⁴)	√	N/A	N/A	N/A
<u>Western regions</u> (Valid from 1 January 2021 to 31 December 2030)	√	N/A	N/A	N/A

It is noteworthy that the above-mentioned regions (except for the western regions) also provide Individual Income Tax (IIT) reductions/subsidies to eligible talents, Hong Kong/Taiwan/Macau residents. Investors and enterprises may consider leveraging these regional tax incentives based on their own business needs and structures. If in doubt, consultations with tax professionals are always recommended.

¹ According to Guofa [2022] No. 13 ("Circular 13", i.e., Notice regarding an overall plan for promoting comprehensive cooperation among Guangdong, Hong Kong and Macao by further deepening the open-up of Nansha district in Guangzhou), the three start-up areas refer to Nansha Bay, Qingsheng Hub Cluster, and Nansha Hub Cluster.

² According to Caishui [2018] No. 76 ("Circular 76", i.e., Notice regarding extension of the tax loss carry-forward period of HNTEs and TSMEs) which stipulated that, from 1 January 2018, an enterprise which is recognized as an HNTE or TSME in the current year with unutilized tax losses incurred in the previous five years may carry forward such losses for a period up to 10 years (extended from five years as prescribed in the CIT Law).

³ Except for the ones for Hainan FTP and Hengqin as stated in the table, during the fourth quarter of 2022, all HNTEs in Mainland China are allowed to claim an upfront 100% CIT deduction for their expenses incurred for purchasing equipment/appliances in the fourth quarter of 2022 with an extra 100% deduction.

⁴ Qualifying enterprises may enjoy the preferential CIT treatments within five years from the date of their establishments.

You can click this link to access the full contents of Circular 40:

<http://czt.gd.gov.cn/attachment/0/505/505708/4038210.pdf>

You can click this link to access the full contents of Circular 13:

http://www.gov.cn/zhengce/content/2022-06/14/content_5695623.htm

You can click this link to access the full contents of Circular 76:

http://www.gov.cn/zhengce/zhengceku/2018-12/31/content_5441921.htm

► PN regarding IIT policies on private pensions (MOF/STA PN [2022] No. 34)

Synopsis

Further to Guobanfa [2022] No. 7 ("Circular 7", i.e., Opinions on promoting the development of individual pension), the MOF and STA jointly released MOF/STA PN [2022] No. 34 ("PN 34") on 3 November 2022 to specify the IIT policies on private pensions.

Key features of PN 34 are illustrated in the table below:

Phases	IIT treatments
Individuals make contributions to eligible private pensions products ⁵	<ul style="list-style-type: none"> ▶ The contributions can be deducted from consolidated income/operating income for IIT purpose at a cap of RMB12,000 per year per person. ▶ Timing of deduction <ul style="list-style-type: none"> ▶ For wages and salaries, the contributions can be deducted during either the provisional IIT filing or the annual IIT filing. ▶ For remunerations for personal services, author's remuneration, royalty or operating income, the contributions can be deducted during the annual IIT filing.
Generation of investment income in the personal accounts of private pensions	Not subject to IIT for the time being
Drawing from the personal accounts of private pensions	<ul style="list-style-type: none"> ▶ Subject to IIT at the rate of 3% under the category of salaries and wages. ▶ IIT should be withheld by the commercial banks where the personal accounts of private pensions were opened.

The above IIT treatment is to defer the IIT payment to the phase of drawing the private pensions at 3% which is the lowest IIT rate under the category of wages and salaries.

PN 34 took retroactive effect from 1 January 2022 within the scope of pilot cities to be announced by the central government authorities. PN 34 shall also apply to Shanghai, Fujian and Industrial Park of Suzhou which have been under the pilot of commercial pension insurance IIT deferral scheme.

⁵ According to the Implementation Measures for Private Pensions released via Renshebufa [2022] No. 70 ("Circular 70"), the individuals may choose to make contributions to eligible financial products such as saving deposits, wealth management products, commercial pension insurance, and public funds.

You can click this link to access the full contents of Circular 7:

http://www.gov.cn/zhengce/content/2022-04/21/content_5686402.htm

You can click this link to access the full contents of PN 34:

http://www.gov.cn/zhengce/zhengceku/2022-11/05/content_5724790.htm

You can click this link to access the full contents of Circular 70:

http://www.mohrss.gov.cn/xxgk2020/fdzdgknr/shbx_4216/ylbx/202211/t20221104_489352.html

► **Implementation opinions on supporting Shenzhen to explore innovative fiscal policy and administrative systems (Caiyu [2022] No. 139)**

Synopsis

To support Shenzhen to explore innovative fiscal policy and administrative systems, on 27 October 2022, the MOF issued relevant implementation opinions via Caiyu [2022] No. 139 ("Circular 139").

Key features of Circular 139 are as follows:

Support the establishment of a fiscal policy system to ensure the quality of public services

- Encourage Shenzhen to improve the financial stability guarantee mechanism for livelihood supply services.
- Establish and improve the administrative system of livelihood policy filing and expenditure lists.
- Enhance support for education, medical care, affordable housing, public cultural facilities, etc.
- Ensure the progress on carbon peaking and carbon neutralization. Promote efficient resource utilization and green and low-carbon development.

Support the establishment of a fiscal policy system to promote high-quality economic development

- Encourage social forces to donate to government science funds or science and technology programs.
- Explore fiscal and tax policies to encourage enterprises to increase investment in technology.
- Encourage Shenzhen to establish a subsidy and reward mechanism for scientific instruments and equipment sharing.
- Support to accelerate the construction of a modern industrial system for the future.
- Support Shenzhen to strengthen cooperation with national funds and support key industries to strengthen industrial chains.
- Support Shenzhen to build an international consumption center. Implement the policies of inbound and outbound duty-free stores.

Support Shenzhen to accelerate the establishment of a modern fiscal and tax system

- Support Shenzhen to take the lead in tax reforms and provide more replicable experience for other regions.

- ▶ Promote close cooperation in technology and complementary advantages between Shenzhen and Hong Kong.
- ▶ Promote the interconnection of financial markets in the Guangdong-Hong Kong-Macau Greater Bay Area.

Support Shenzhen to explore effective ways to improve the efficiency of fiscal administration

- ▶ Constantly optimize the law-based business environment.
- ▶ Promote the application of electronic licenses and certificates in the reform of government procurement.
- ▶ Support Shenzhen to take the lead in exploring the mechanism of the institute of certified public accountants to improve audit quality. Promote the high-quality development of the certified public accountant industry.
- ▶ Support Shenzhen to build new-type of financial think tanks and build platforms to attract high-end financial talents.

Interested parties are advised to read Circular 139 for details.

You can click this link to access the full contents of Circular 139:

http://yss.mof.gov.cn/zhengceguizhang/202210/t20221031_3848934.htm

Business circular

- ▶ **Notice regarding public opinions consultation on the "Administrative Reconsideration Law of the People's Republic of China (PRC) (Revised Draft)"**

Synopsis

To implement the "Plan for the Reform of Administrative Reconsideration System", the Standing Committee of the National People's Congress (NPC) deliberated the "Administrative Reconsideration Law of the PRC (Revised Draft)" (hereinafter referred to as the "Revised Draft") and released to seek public opinions on 31 October 2022.

The Revised Draft consists of 86 articles in seven sections. Some key revisions are summarized as follows:

Principles and responsibilities

- ▶ Improve the provisions of administrative reconsideration authorities and enhance the responsibility of administrative reconsideration organs to lead administrative reconsideration. (Article 4)
- ▶ Strengthen the capacity building and guarantee of administrative reconsideration. (Articles 5 to 8)

Scope of application

- ▶ Expand the scope of accepting cases for administrative reconsideration, e.g., clarifying that those who disagree with administrative agreements and government information disclosure can apply for administrative reconsideration. (Article 10)
- ▶ Expand the scope of administrative reconsideration as a prerequisite before taking an administrative action, e.g., clarifying that those who refuse to accept the administrative penalty decision made on the spot according to law should first apply for administrative reconsideration. (Article 22)
- ▶ Clarify the application of simplified procedures. (Articles 50 and 52, Article 71)

Acceptance conditions and trial procedures

- ▶ Clarify the acceptance conditions of administrative reconsideration and add the mechanism of materials supplement and correction. (Articles 28, 29 and 32)
- ▶ Clarify that administrative reconsideration organs can mediate cases based on the principle of legality and willingness. (Article 34)
- ▶ Improve the rules of evidence for administrative reconsideration. (Section 2, Chapter 4)
- ▶ For general procedures, the way of handling cases is revised from written review to hearing opinions in person, online or by phone. For major and complex cases, the mechanism of hearing and administrative reconsideration committee is newly added. (Articles 46 to 49)
- ▶ Improve the procedures and handling of the examination of standard documents attached to an application for administrative reconsideration. (Articles 55 to 57)

Supervision

The supervision systems are improved by supplementing the administrative reconsideration opinion, interview notification, and notification of the administrative reconsideration decision, etc. (Articles 73 to 76)

Interested parties are encouraged to express opinions on or before 30 November 2022 by logging onto the official websites of related departments (i.e., www.npc.gov.cn or flk.npc.gov.cn).

You can click this link to access the full contents of the Revised Draft:

<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff808181841e0f040184278b40ee0cd7>

Customs circular

- ▶ **PN regarding the "Standards of the Customs for Advanced Authorized Enterprises" (GAC PN [2022] No. 106)**

Synopsis

According to the prevailing rules, the General Administration of Customs (GAC) classifies enterprises based on their credit rating into the advanced authorized enterprises (高级认证企业), enterprises acting in bad faith (失信企业), and other enterprises. Enterprises with the advanced authorized enterprise status are by definition the Authorized Economic Operator (AEO) in China, which are eligible to various facilitation measures for trade in goods according to the AEO mutual recognition agreements signed by China, including customs clearance convenience and trade safety.

To promote the development of social creditability system and deepen the reform of "Delegate Power, Streamline Administration and Optimize Government Services", the GAC released the updated Standards of the Customs for Advanced Authorized Enterprises (2022 Version) (hereinafter referred to as the "2022 Standards") via GAC PN [2022] No. 106 on 28 October 2022. The 2022 Standards automatically replaces the one for 2021 (the "Previous Standards").

Apart from the general standards (i.e., appendix II of the 2022 Standards), the 2022 Standards have one list of criteria for enterprises engaging in various business activities (i.e., appendix III of the 2022 Standards) to replace the eight separate lists of criteria for different types of enterprises as announced via the Previous Standards. By doing so, the items of criteria under the 2022 Standards are further consolidated and simplified, which make the total items of standards in the 2022 cut down from 269 to 94 items as compare with the Previous Standards.

Relevant enterprises are encouraged to read the 2022 Standards and perform a self-assessment before applying for the recognition of advanced authorized enterprises to enjoy the trade facilitation. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full contents of the 2022 Standards:
<http://www.customs.gov.cn/customs/302249/2480148/4658463/index.html>

You can click this link to access the full contents of the Previous Standards:
<http://www.customs.gov.cn/customs/302249/2480148/3979341/index.html>

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

- ▶ **PN regarding the commodities export quota for 2023 (MOFCOM PN [2022] No. 32)**
<http://www.mofcom.gov.cn/article/zcfb/zcblgg/202210/20221003363245.shtml>
- ▶ **Rules of Market Making on the Science and Technology Innovation Board (Zhongzhengjinf [2022] No. 38)**
http://www.sse.com.cn/lawandrules/sselawsrules/stock/trading/star/c/c_20221028_5710834.shtml
- ▶ **Notice regarding public opinions consultation on the "Legislation Law of the PRC (Revised Draft)"**
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff808181841e0f04018427a0ce4f0d27>
- ▶ **Notice regarding public opinions consultation on the "Real Estate Registration Law" (Discussion Draft)**
http://gi.mnr.gov.cn/202210/t20221031_2763476.html
- ▶ **Notice regarding allowing the central institutions of higher learning, scientific research institutions, enterprises, and public institutions in the core area of Zhongguancun National Independent Innovation Demonstration Zone (Haidian Park) to apply the "Regulations of Beijing on Promoting the Transformation of Scientific and Technological Achievements" (Guokebanqu [2022] No. 116)**
https://www.most.gov.cn/xxgk/xinxifenlei/fdzdgknr/qtwj/qtwj2022/202210/t20221028_183297.html
- ▶ **Construction plan of high-quality development demonstration sites in Jiashan County of Zhejiang in the new development stage (Fagaidiqu [2022] No. 1529)**
https://www.ndrc.gov.cn/xwdt/tzgg/202211/t20221101_1340662.html?code=&state=123
- ▶ **PN regarding matters related to optimizing the operation of the "12386" service platform (CSRC PN [2022] No. 45)**
<http://www.csrc.gov.cn/csrc/c101954/c6240030/content.shtml>
- ▶ **Action plan for the integrated development of virtual reality and application (2022-2026) (Gongxinbuliandianzi [2022] No. 148)**
https://www.miit.gov.cn/zwgk/zcwl/wjfb/tz/art/2022/art_775aaa3f77264817a5b41421a8b2ce22.html
- ▶ **PN regarding the non-state crude oil import quota, application conditions and procedures of 2023 (MOFCOM PN [2022] No. 34)**
<http://www.mofcom.gov.cn/article/zwgk/gkzfb/202211/20221103364557.shtml>
- ▶ **PN regarding matters related to the tax collection on electronic cigarettes (GAC PN [2022] No. 102)**
<http://www.customs.gov.cn/customs/302249/2480148/4654039/index.html>
- ▶ **PN regarding the declaration requirements for the tariff code of phthalocyanine pigments (GAC PN [2022] No. 104)**
<http://www.customs.gov.cn/customs/302249/2480148/4656938/index.html>
- ▶ **Notice regarding public opinions consultation on the "Administrative Measures of the Customs of the PRC on Export Supervision Warehouses and Goods Stored Therein (Discussion Draft)"**
<http://www.customs.gov.cn/customs/302452/302329/zjz/4663687/index.html>
- ▶ **Notice regarding public opinions consultation on the "Administrative Measures of the Customs of the PRC on Bonded Warehouses and Goods Stored Therein (Discussion Draft)"**
<http://www.customs.gov.cn/customs/302452/302329/zjz/4663507/index.html>
- ▶ **Notice regarding public opinions consultation on the "Administrative Measures on the Inspection of Import Vehicle Commodities (Discussion Draft)"**
<http://gdfs.customs.gov.cn/customs/302452/302329/zjz/4657373/index.html>

Contact us

For more information, please contact your usual EY contact or one of the following EY's China tax leaders.

Greater China Tax Leader

Vickie Tan

+86 21 2228 2648

Vickie.Tan@cn.ey.com

Our tax leaders by service segment

Andrew Choy

International Tax and Transaction Services

+86 10 5815 3230

Andrew.Choy@cn.ey.com

Becky Lai

Tax Policy

+852 2629 3188

Becky.Lai@hk.ey.com

Alan Lan

Global Compliance and Reporting

+86 10 5815 3389

Alan.Lan@cn.ey.com

Jesse Lv

ITTS - Transaction Tax

+86 21 2228 2798

Jesse.Lv@cn.ey.com

Travis Qiu

ITTS - Transfer Pricing

+86 21 2228 2941

Travis.Qiu@cn.ey.com

Chuan Shi

Tax Technology and Transformation

+86 21 2228 4306

Chuan.Shi@cn.ey.com

Carrie Tang

Business Tax Services

+86 21 2228 2116

Carrie.Tang@cn.ey.com

Bryan Tang

Indirect Tax - Global Trade

+86 21 2228 2294

Bryan.Tang@cn.ey.com

Paul Wen

People Advisory Services

+852 2629 3876

Paul.Wen@hk.ey.com

Kevin Zhou

Indirect Tax - VAT

+86 21 2228 2178

Kevin.Zhou@cn.ey.com

Our tax leaders by service areas

Andrew Choy (China North)

+86 10 5815 3230

Andrew.Choy@cn.ey.com

Ho Sing Mak (China South)

+86 755 2502 8289

Ho-Sing.Mak@cn.ey.com

Wilson Cheng (Hong Kong SAR/Macau SAR)

+852 2846 9066

Wilson.Cheng@hk.ey.com

Heidi Liu (Taiwan)

+886 2 2757 8888

Heidi.Liu@tw.ey.com

Author - China Tax Center

Jane Hui

+852 2629 3836

Jane.Hui@hk.ey.com

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients, nor does it own or control any member firm or act as the headquarters of any member firm. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

© 2022 Ernst & Young, China.
All Rights Reserved.

APAC no. 03016011
ED None.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com/china

Follow us on WeChat

Scan the QR code and stay up-to-date with the latest EY news.

