

Issue No. 2022043

18 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

► Guidelines on the interpretation of the “Catalog of Encouraged Industries in Hainan Free Trade Port (2020 Version)”

Synopsis

According to Caishui [2020] No. 31 (“Circular 31”, i.e., Notice regarding the Corporate Income Tax (CIT) preferential policies for enterprises in Hainan Free Trade Port (FTP)), from 1 January 2020 to 31 December 2024, an enterprise registered in Hainan FTP can adopt a reduced CIT rate of 15% provided that:

- The enterprise is engaged in encouraged industries and its revenue derived from the encouraged industries accounts for at least 60% of its total revenue; and
- The effective management of the enterprise is located in Hainan FTP and they exercise substantial and overall management and control on business, personnel, accounting and properties, etc. of the enterprise.

Among these, the scope of encouraged industries mentioned above shall be referenced to the prevailing Guiding Catalog of Industrial Structure Adjustment and Catalog of Encouraged Industries for Foreign Investments, and Catalog of Newly Added Encouraged Industries in Hainan FTP (hereinafter referred to as the “Hainan Catalog of Newly Added Encouraged Industries”).

According to the current practice, relevant taxpayers should perform self-assessment on their eligibility for the CIT preferential treatments before adopting the reduced CIT rate and should keep the relevant supporting documents for further reference. However, in practice, it could be difficult for taxpayers to determine whether their core business activities fit in with the items listed in the Hainan Catalog of Newly Added Encouraged Industries as the descriptions of each item may be brief. In this respect, the Development and Reform Commission of Hainan Province announced the Guidelines on the interpretation of the Hainan Catalog (hereinafter referred to as the “Guidelines”) to provide taxpayers with more details so as to give certainty in claiming the tax preference. On the other hand, the issuance of the Guidelines shall be useful in preventing disputes between taxpayers and tax authorities in this regard.

The Hainan Catalog of Newly Added Encouraged Industries includes 143 items of 14 sectors. The Guidelines refine each item with more details and explanations to avoid confusions.

For instance, the Item 16 of “manufacturing of new energy vehicles” (in accordance with the “Regulations on the Investments and Administration of Automotive Industry”, etc.) is further elaborated as manufacturing of vehicles (including passenger cars, commercial vehicles and special vehicles) that adopt the new power systems, completely or mainly new energy-driven, including pure electric vehicles, plug-in hybrid (including extended range) electric vehicles and fuel cell electric vehicles.

We have issued a WeChat news article on 18 November 2022 (in Chinese only) to discuss the Guidelines in greater detail. For WeChat news article, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE.

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

https://www.hnftp.gov.cn/zczdtx/cyzc/202211/t20221109_3304154.html

You can click this link to access the full contents of Circular 31:

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5153881/content.html>

You can click this link to access the full contents of the Catalog of Encouraged Industries in Hainan Free Trade Port (2020 Version):

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5161229/content.html>

► **Implementation measures on preferential Individual Income Tax (IIT) policies for Guangzhou Nansha (Yuecaiguizi [2022] No. 1)**

Synopsis

To better implement Caishui [2022] No. 29 (“Circular 29”, i.e., Notice regarding preferential IIT policies for Guangzhou Nansha) issued by the Ministry of Finance (MOF) and State Taxation Administration (STA), on 4 November 2022, the Guangzhou Municipal Finance Bureau and Guangzhou Municipal Tax Service, STA jointly clarified relevant implementation measures on the preferential IIT policies for Guangzhou Nansha (hereinafter referred to as the “Measures”) via Yuecaiguizi [2022] No. 1.

Key points of the Measures are summarized as follows:

Rules of IIT reduction and exemption

For Hong Kong Special Administrative Region (“Hong Kong”) and Macau Special Administrative Region (“Macau”) residents who work in Guangzhou Nansha (“Nansha”), IIT burden exceeding their IIT burden that would have been arisen in Hong Kong or Macau shall be exempt.

It is worth noting that taxpayers cannot enjoy both the preferential IIT policy for Nansha and that for overseas high-end or urgently needed talents who work in the Greater Bay Area. But in any case, the Nansha one appears to be more preferential.

Criteria for preferential treatment

- ▶ A resident of Hong Kong/Macau.
- ▶ A Hong Kong/Macau resident who is employed by an enterprise that is registered in Nansha with substantive operation, or provides independent personal services, or engages in business activities in Nansha, and pays IIT in Nansha according to law.
- ▶ A Hong Kong/Macau resident who obeys laws and regulations and has no record of tax violations in the past three years.

Types of individual income eligible for preferential treatment

- ▶ Consolidated income (including wages and salaries, income from labor services, author's remuneration and royalties) sourced from Nansha
- ▶ Business operating income sourced from Nansha
- ▶ Talent subsidy income recognized by local governments of Nansha

Tax refund declaration

Hong Kong/Macau residents who enjoy the preferential treatment shall apply for tax refunds when filing their annual IIT returns.

Implementation period

The implementation period of the Measures is from 1 January 2022 to 31 December 2026.

Relevant individual taxpayers are advised to read the Measures and Circular 29 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 contents of the Measures:

https://www.gz.gov.cn/gfxwj/sbmgfxwj/gzsczj/content/post_8655125.html

You can click this link to access the full contents of Circular 29:

<http://czt.gd.gov.cn/attachment/0/496/496748/3994119.pdf>

Business circulars

- ▶ **Notice issued by Shanghai Municipal People's Government regarding the revised "Regulations on Encouraging Multinational Companies to Establish Regional Headquarters in Shanghai" (Hufugui [2022] No. 17)**

Synopsis

To accelerate the development of a higher-performance headquarters economy and further improve utilization of foreign capital, on 28 October 2022, Shanghai Municipal People's Government released the revised Regulations of Shanghai on Encouraging Multinational Companies to Establish Regional Headquarters (hereinafter referred to as the "2022 Regulations") to increase the breadth, depth, and intensity of the opening-up policy. The 2022 Regulations became effective from 1 November 2022 to 31 October 2027.



Compared to the 2019 version of the same Regulations (hereinafter referred to as the “2019 Regulations”) released via Hufugui [2019] No. 31, the following adjustments in the 2022 Regulations are worth noting:

- ▶ Introducing certain criteria for eligible applicants to apply for establishment of regional headquarters, quasi-headquarters and business unit headquarters (a new type of regional headquarters introduced in 2022 Regulations) in Shanghai (hereinafter collectively referred to as the “RHQs”):
 - ▶ The overseas shareholder should, directly or indirectly, hold no less than 50% shares of the RHQ.
 - ▶ An applicant that files for recognition of a RHQ should have no serious breach of trust within the recent three years or its credibility has been restored.
- ▶ Recognized RHQs shall be eligible for a series of facilitation measures to support RHQs regarding cross-border fund operations, customs clearances, science and technology innovations, commercial registrations, project investments, talent introductions, etc. Some highlights include:
 - ▶ On cross-border fund operations, recognized RHQs shall be eligible for facilitations in cross-border fund pooling, use of foreign exchange earnings from capital projects, as well as cross-border RMB settlement.
 - ▶ On trade facilitation, enterprises are encouraged to engage in offshore trading, distribution centers, bonded maintenance, etc.
 - ▶ On talent, facilitation in entry and exit for talents of RHQs and facilitation in application for permanent residency in China.

Relevant parties are encouraged to read the 2022 Regulations and its official interpretation for more details. We have issued a WeChat news article (in Chinese) on 11 November 2022 setting out extensive discussions on the 2022 Regulations. For the WeChat news article, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE or click the weblink below.

You can click this link to access the full contents of the 2022 Regulations:

<https://www.shanghai.gov.cn/nw12344/20221107/6fa86f4b65554f43bc9633fca378ffa9.html>

You can click this link to access the official interpretation of 2022 Regulations:

<https://www.shanghai.gov.cn/nw12344/20221108/54387dc5a1a746279834f774b2384a15.html>

You can click this link to access the full contents of the 2019 Regulations:

<https://www.sh.gov.cn/dwmygl/20191226/0023-247497.html>

You can click this link to access the full contents of the WeChat article:

<https://mp.weixin.qq.com/s/0-uFsIJVDXcwqon81NCM8Q>

- ▶ **Guidelines on the Recognition and Record-filing of Technologically Advanced Service Companies (TASCs) (Guokehuozi [2022] No. 174)**
- ▶ **Guidelines on the Recognition and Registration of Technology Contracts**

Synopsis

To further promote the standardization of recognition and record-filing of TASCs, the Torch Technology Industry Development Center of the Ministry of Science and Technology (“Torch Center”) issued the “Guidelines on the Recognition and Record-filing of TASCs” via Guokehuozi [2022] No. 174 (“Circular 174”) on 4 November 2022.

Key features of Circular 174 are as follows:

- ▶ Recognized TASCs can enjoy relevant preferential tax policies¹ in accordance with regulations within their validity period of TASC status.

- ▶ Enterprises shall apply for the recognition of TASCs according to their own discretion.
- ▶ The Torch Center conducts the record-filing of TASCs twice a year based on the relevant recognition documents and lists of recognized TASCs issued by the provincial science and technology authorities.
- ▶ Where facts of recognized TASCs have changed, like name change, business scope change, merger, division, reorganization, business transformation and migration, TASCs should submit supporting documents to the National TASCs Administration Platform and report to the provincial science and technology authorities and competent tax authorities within 15 days from the date of change.
- ▶ TASCs that fail to meet the recognition criteria due to condition changes will be disqualified for TASC status from the year of change.
- ▶ TASCs that are found to provide false information or materials for the TASC recognition will be disqualified for their TASC status.

In addition, to further enhance the administration of recognition and registration of technology contracts, the Torch Center released the “Guidelines on the Recognition and Registration of Technology Contracts” (“Guidelines”) on 28 October 2022.

Key features of the Guidelines are as follows:

Entity of technology contract registration

An entity of technology contract registration (“registration entity”) shall be a natural person, legal entity or organization without legal entity status that has full capacity for civil conduct and civil rights.

Recognition and change of technology contracts

Recognition and registration of technology contracts shall be conducted by the seller (by the buyer for import contracts) with the registration agency selected by the seller in its territory. Where the content of a contract needs to be changed, the registration entity shall apply with the original registration authority. Where the change may affect the qualification of the entity for preferential tax treatments², the registration entity shall report to the competent authority on time according to regulations.

Relevant entities are advised to read Circular 174 and Guidelines for details and observe the regulations. If in doubt, consultations with professionals are always recommended.

¹ Relevant preferential tax policies for TASCs include: reduced CIT rate of 15%; annual deduction limit for employee education expenses is up to 8% of total salaries and wages (normally 2.5%). The part of employee education expenses exceeding the limit can be carried forward to future years.

² The preferential tax treatments related to technology contracts of enterprises mainly include: annual income of a resident enterprise derived from technology transfer that does not exceed RMB5 million is exempted from CIT. The CIT on the annual income exceeding RMB5 million shall be entitled to a 50% reduction. Taxpayers that provide technology transfer, technology development and related technical consulting and services are exempted from Value-added Tax.

You can click this link to access the full content of Circular 174:

<http://www.chinatorch.gov.cn/kjb/tzgg/202211/8684dd8e1ffe4b74849d9f86b69cc269.shtml>

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

<http://www.chinatorch.gov.cn/kjb/tzgg/202211/fcbb746198264126b77c110eb235bea4.shtml>

► **Notice regarding replicating and rolling out the pilot reform measures for business environment innovation (Guobanfa [2022] No. 35)**

Synopsis

To further improve the business environment nationwide, the General Office of the State Council released Guobanfa [2022] No. 35 ("Circular 35") on 28 September 2022, announcing the decision to replicate and roll out a batch of pilot reform measures for business environment innovation.

Key reform measures are as follows:

- Further ease unreasonable restrictions such as regional specialization and local protectionism (four items).
- Establish more open, transparent, standardized and efficient market access and exit mechanisms (nine items).
- Constantly improve investment and construction convenience (seven items).
- Support the innovative development of market entities (two items).
- Constantly improve cross-border trade facilitation (five items).
- Maintain fair competition (three items).
- Further strengthen and innovate supervision (five items).
- Protect the property rights and legitimate rights and interests of market entities in accordance with the law (two items).
- Optimize regular enterprise related services (13 items).

Interested parties are advised to make reference to the list attached to Circular 35 for details of the reform measures.

You can click this link to access the full contents of Circular 35:

http://www.gov.cn/zhengce/content/2022-10/31/content_5722748.htm

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

- **Public notice (PN) regarding the "Catalog of Energy Saving & New Energy Vehicles Eligible for Preferential Vehicle and Vessel Tax Policies (44th Batch)", "Catalog of New Energy Vehicles Eligible for Vehicle Purchase Tax Exemption (60th Batch)" (MIIT PN [2022] No. 25)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/gg/art/2022/art_31deed8b536e4f1495402a86fd6fc89a.html
- **PN regarding the "Catalog of Non-transport Special Operations Vehicles Equipped with Fixtures That Are Exempt from Vehicle Purchase Tax" (7th Batch) (STA/MIIT PN [2022] No. 23)**
<http://www.chinatax.gov.cn/chinatax/n371/c5182782/content.html>
- **Opinions on further improving the policy environment to promote the development of private investment (Fagaitouzi [2022] No. 1652)**
https://www.ndrc.gov.cn/xwdt/tzgg/202211/t20221107_1340901.html?code=&state=123

- ▶ **Notice regarding adjusting the fiscal subsidy policy for domestic passenger flights and ensuring the computational work (Caijian [2022] No. 402)**
http://www.gov.cn/zhengce/zhengceku/2022-11/05/content_5724791.htm
- ▶ **Implementation plan on achieving carbon peak in the building materials industry (Gongxinbulianyuan [2022] No. 149)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2022/art_8f6d55dd58d64283937d7fb87e21b666.html
- ▶ **2021 Statistical Bulletin of China's Outward Foreign Direct Investment**
<http://images.mofcom.gov.cn/fec/202211/20221107152537194>.
- ▶ **Notice regarding public opinions consultation on the "Regulations of Tobacco Monopoly on Administrative Penalty Procedures (Discussion Draft)"**
https://www.miit.gov.cn/gzcy/yjzi/art/2022/art_ef1878912c434a2c80103c6fed3ca291.html
- ▶ **PN regarding launching electronic certificates of "Certificate of Active Pharmaceutical Ingredient Exported to the European Union" and "Certificate of Export Sales for Pharmaceutical Products" (NMPA PN [2022] No. 95)**
http://www.gov.cn/zhengce/zhengceku/2022-11/06/content_5725027.htm
- ▶ **Guidelines on the Digital Transformation of Small and Medium-sized Enterprises (Gongxintingxinf [2022] No. 33)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2022/art_9b2c8d695f4e43189588a6716923ce39.html
- ▶ **Notice regarding typical cases of violating the negative list for market access (fourth batch) (Fagaibantigai [2022] No. 907)**
https://www.ndrc.gov.cn/xxgk/zcfb/tz/202211/t20221110_1341065.html?code=&state=123
- ▶ **Development Plan of National High and New Technology Industry Development Zones During the 14th Five-year Plan Period (Guokefaqu [2022] No. 264)**
https://www.most.gov.cn/xxgk/xinxifenlei/fdzdgknr/fgzq/gfxwj/gfxwj2022/202211/t20221109_183360.html
- ▶ **Administrative Measures for Insurance Guarantee Funds (CBIRC/MOF/PBOC Order [2022] No. 7)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1080924&itemId=928>
- ▶ **Three-year Action Plan on Creating a World-class Business Environment in the Yangtze River Delta (Fagaifagui [2022] No. 1562)**
https://www.ndrc.gov.cn/xwdt/tzgg/202211/t20221110_1341092.html?code=&state=123
- ▶ **Approval on implementing certain electronic certificates and licenses in Beijing (Jianbantinghan [2022] No. 374)**
https://www.mohurd.gov.cn/gongkai/fdzdgknr/zfhcxjsbwj/202211/20221110_768828.html
- ▶ **Notice regarding public opinions consultation on the "Administrative Regulations of the Customs of the People's Republic of China on the Declaration of Import and Export Goods (Discussion Draft)"**
<http://www.customs.gov.cn/customs/302452/302329/zjz/4667396/index.html>
- ▶ **Notice regarding the "Specifications on Information Filling in the H2018 Tax Reduction and Exemption Management System" (Shuiguanhan [2022] No. 60)**
<http://www.customs.gov.cn/customs/302249/zfxxgk/zfxxgkml34/4670560/index.html>
- ▶ **PN regarding granting zero-tariff treatment on 98% of taxable goods originated from Afghanistan and other nine countries (Customs Tariff Commission PN [2022] No. 9)**
http://gss.mof.gov.cn/qzdt/zhengcefabu/202211/t20221109_3850543.htm

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 | Building a better working world

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. 03016070
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.

