

Issue No. 2022045
2 Dec 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

► China Advance Pricing Arrangement Annual Report (2021)

Synopsis

On 21 November 2022, the State Taxation Administration (STA) released the China Advance Pricing Arrangement (APA) Annual Report (2021) in both Chinese and English versions (hereinafter referred to as the "2021 APA Report"), which is the 13th edition of the APA annual report published by the STA.



The 2021 APA Report introduces the implementation procedures and practice development of China's APA program, which contains data pertaining to the period from 1 January 2005 to 31 December 2021. According to the 2021 APA Report, as of 31 December 2021, Chinese tax authorities have concluded 125 unilateral APAs and 101 bilateral APAs; in which nine unilateral and 11 bilateral APAs were concluded in 2021. Out of the 11 bilateral APAs signed in 2021, eight were signed with Asian countries (regions), two were signed with North American countries and one was signed with European country. Most of the APAs signed in 2021 continue to involve the manufacturing industry, which demonstrates the role of taxation in serving real economy.

It is worth-noting that the 2021 APA Report shall not be regarded as a legal basis for enterprises or the Chinese tax authorities to negotiate or conclude an APA.

Our Transfer Pricing Team has issued a TP alert on 2 December 2022 via email to subscribed clients and WeChat post to discuss the 2021 APA Report in greater detail. For more information, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE or contact our professionals to subscribe our tax alerts.

You can click this link to access the full contents of the 2021 APA Report:

<http://www.chinatax.gov.cn/chinatax/n810214/n810606/c5182942/content.html>

- ▶ **Notice regarding the list of pilot cities and regions to implement the private pension scheme (Renshetingshan [2022] No. 169)**
- ▶ **Provisional measures for the administration of private pension business of commercial banks and wealth management companies (Yinbaojiangui [2022] No. 16)**
- ▶ **Notice regarding matters related to insurance companies carrying out private pension business (Yinbaojiangui [2022] No. 17)**

Synopsis

Further to Guobanfa [2022] No. 7 ("Circular 7", i.e., Opinions on promoting the development of private pension), the General Offices of the STA, Ministry of Finance and Ministry of Human Resources and Social Security jointly released Renshetingshan [2022] No. 169 ("Circular 169") on 17 November 2022 to launch the private pension scheme in a list of pilot cities and areas of 31 provinces/autonomous regions/municipalities, including Beijing, Tianjing, Guangzhou, Shenzhen and Haikou, etc. from 17 November 2022.

To promote the development of the third pillar of pension insurance system and regulate its administration, the China Banking and Insurance Regulatory Commission (CBIRC) released Yinbaojiangui [2022] No. 16 ("Circular 16") on the same day to clarify the scope of private pension business and put forward specific requirements for personal accounts of private pensions and relevant products. It also specified the types of private pension financial products and the requirements to be met by commercial banks and wealth management companies.

Besides, on 21 November 2022, the CBIRC also released Yinbaojiangui [2022] No. 17 ("Circular 17") to encourage insurance companies to carry out private pension business. According to Circular 17, qualifying annuity insurance, endowment insurance and other insurances shall be offered to the participants of the private pension schemes by certain insurance companies.

Given the incentives of the tax deferral policy for participating in the private pension schemes, i.e., the contributions can be deducted from consolidated income/operating income for Individual Income Tax purpose at a cap of RMB12,000/year/person and shall be taxed at 3% upon withdrawal, the Individual taxpayers of the pilot cities and areas are encouraged to read abovementioned circulars for details and perform a self-assessment before enrolling for private pension scheme. We will keep an eye on any further developments and advise you accordingly, please stay tuned.

You can click this link to access the full contents of Circular 169:

http://www.mohrss.gov.cn/xxgk2020/fdzdgknr/shbx_4216/y/bx/202211/t20221125_490711.html

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

<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1082274&itemId=928>

You can click this link to access the full contents of Circular 17:
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1082639>

Business circulars

► **Approval on establishing Cross-border E-commerce Comprehensive Pilot Zones (CECPZs) in 33 cities and regions (Guohan [2022] No. 126)**

Synopsis

On 24 November 2022, the State Council released Guohan [2022] No. 126 ("Circular 126") to announce the approval on establishing CECPZs in 33 cities and regions including Langfang, Cangzhou and Baotou, etc., which is the seventh batch of cities and regions for establishing CECPZs since the first one that was established in Hangzhou in 2015. The number of cities and regions approved for establishing CECPZs is now 165 in total.

To stimulate the vitality of cross-border e-commerce market entities and further promote the development of cross-border e-commerce industry, a batch of support policies for CECPZs have been provided by relevant government authorities to facilitate customs clearance, simplify declaration and approval and implement preferential tax treatments, e.g., exempting Value-added Tax (VAT) and Consumption Tax (CT) on qualified cross-border e-commerce retail export goods in the CECPZs¹, levying Corporate Income Tax (CIT) on qualified enterprises in the CECPZs on a deemed basis².

Interested parties are advised to read Circular 126 for details. If in doubt, consultations with professionals are always recommended.

We plan to issue a WeChat news article (in Chinese) setting out extensive discussions on Circular 126. For more information, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE.

¹ According to Caishui [2018] No. 103 ("Circular 103", i.e., Notice regarding the tax policies for export retail goods of CECPZs), goods exported by qualified cross-border e-commerce enterprises (registered in a CECPZ and relevant information is properly recorded) without valid vouchers for the purchase of goods may be exempt from VAT and CT from 1 October 2018.

² According to STA PN [2019] No. 36 ("PN 36", i.e., Public notice (PN) regarding levying CIT on retail export enterprises in CECPZs on a deemed basis), qualified cross-border e-commerce enterprises (registered in a CECPZ and relevant information is properly recorded) are subject to CIT at a deemed rate of 4% from 1 January 2020 (i.e., CIT payable of a qualified cross-border e-commerce enterprise = Taxable revenue x 4% x Applicable CIT rate).

You can click this link to access the full content of Circular 126:
http://www.gov.cn/zhengce/content/2022-11/24/content_5728554.htm

You can click this link to access the full content of Circular 103:
<http://www.chinatax.gov.cn/n810341/n810755/c3766983/content.html>

You can click this link to access the full content of PN 36:
<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5139578/content.html>



► **Notice regarding the application of the 2022 national technology business incubators (Guokehuozi [2022] No. 194)**

Synopsis

On 18 November 2022, the Torch High Technology Industry Development Center of the Ministry of Science and Technology (hereinafter referred to as the “Torch Center”) issued a notice concerning the application of the 2022 national technology business incubators (hereinafter referred to as the “NTBIs”) via Guokehuozi [2022] No. 194 (“Circular 194”).

According to Circular 194, to apply for the NTBI status of this year, an incubation institution must be registered and started operation before 31 October 2019. The applicants shall log onto “Information Service System of Technology Entrepreneurship Incubation Institutions” (<https://tyrz.chinatorch.org.cn/hjjsmp/a/login#fhqqy>) to fill in the information online. The science and technology authorities at the provincial level shall nominate the applicants to the Torch Center for further review by 15 December 2022.

Recognized NTBIs can enjoy certain preferential tax policies, including: the real estate and land provided for their own use, free of charge or leased to incubated entities shall be exempt from Real Estate Tax and Urban Land Use Tax; the income obtained from providing incubation services shall be exempt from VAT.

Enterprises planning to apply for NTBIs status are advised to read Circular 194 for details and submit the application in time.

You can click this link to access the full contents of Circular 194:

<http://www.chinatorch.gov.cn/kjb/tzgg/202211/28d8c15a8f8e4af480c470c701e6c607.shtml>

Customs circular

► **PN regarding the recognition standards of tax matters declaration under the “Standards of the Customs for Advanced Authorized Enterprises” (GAC PN [2022] No. 114)**

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 for various facilitation measures for trade in goods according to the AEO mutual recognition agreements signed by China, including customs clearance convenience and trade safety.

Further to GAC PN [2022] No. 106 (“PN 106”, i.e., PN regarding the “Standards of the Customs for Advanced Authorized Enterprises”), the GAC released GAC PN [2022] No. 114 (“PN 114”) on 17 November 2022 to specify how to determine an applicant’s eligibility to advanced authorized enterprises status under the standards as listed in PN 106.

Accordingly, it is specified in PN 114 that the enterprises applying for advanced authorized enterprise status should declare their commodity names, specifications, tariff number columns, prices, and countries of origin truthfully, accurately and completely. The supervising customs shall examine whether the standards are met. More specifically, according to PN 114, where an enterprise does not have underpaid taxes or the amount of tax underpaid does not exceed RMB100,000, the applicant shall be considered meeting the relevant standards.

Relevant enterprises are encouraged to read the abovementioned circulars for details before applying for the status to enjoy trade facilitation. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full contents of PN 114:

<http://www.customs.gov.cn/customs/302249/2480148/4686447/index.html>

You can click this link to access the full contents of PN 106:

<http://www.customs.gov.cn/customs/302249/2480148/4658463/index.html>

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

- ▶ **PN regarding the third batch of anti-cancer drugs and rare disease drugs that are applicable to preferential Value-added Tax policies (MOF/GAC/STA/NMPA PN [2022] No. 35)**
<http://www.chinatax.gov.cn/chinatax/n359/c5182941/content.html>
- ▶ **Administrative Measures for Acceptance, Discounting and Rediscounting of Commercial Bills of Exchange (PBOC/CBIRC Order [2022] No.4)**
<http://www.pbc.gov.cn/tiaofasi/144941/144957/4715325/index.html>
- ▶ **Overall plan on the construction of technology innovation and financial reform pilot zones in Shanghai, Nanjing, Hangzhou, Hefei and Jiaxing (Yiinfu [2022] No. 260)**
<http://www.pbc.gov.cn/zhengwugongkai/4081330/4406346/4693549/4716513/index.html>
- ▶ **Notice regarding promoting the pilot experience of standardized management reform on administrative record-filing (Guobanhan [2022] No. 110)**
http://www.gov.cn/zhengce/content/2022-11/18/content_5727708.htm
- ▶ **Regulations on fund management requirements for foreign institutional investors in China's bond market (Yinfu [2022] No. 258)**
<http://www.pbc.gov.cn/zhengwugongkai/4081330/4406346/4693545/4713898/index.html>
- ▶ **Decisions on the Establishment of 29 National Demonstration Zones for Import Trade Promotion and Innovation**
<http://www.mofcom.gov.cn/article/gztz/202211/20221103364469.shtml>
- ▶ **Notice regarding further promoting the standardized development of public-private partnership (PPP) (Caijin [2022] No. 119)**
http://www.gov.cn/zhengce/zhengceku/2022-11/18/content_5727758.htm
- ▶ **PN regarding implementing certification for personal information protection (SAMR/CAC PN [2022] No. 37)**
https://gkml.samr.gov.cn/nsjg/rzjgs/202211/t20221118_351801.html
- ▶ **Notice regarding regulating the income distribution of infrastructure real estate investment trusts (REITs) (Shangzhenghan [2022] No. 2131)**
http://www.sse.com.cn/lawandrules/guide/reits/c/c_20221118_5712252.shtml
- ▶ **Guiding opinions on the high-quality construction of a "specialized, sophisticated, distinctive and innovative enterprises" board of regional equity markets (Zhengjianbanhan [2022] No. 840)**
https://www.miit.gov.cn/xwdt/gxd/sjdt/art/2022/art_1bbae62bb1784ffe93d6ad5f625ce51c.html
- ▶ **Notice regarding the change of registration of self-employed industrial and commercial households operators (Shijianzhufa [2022] No. 102)**
http://www.rencheng.gov.cn/art/2022/11/18/art_38705_2755996.html
- ▶ **Guidelines for credit repair in the cultural and tourism market (Banshichangfa [2022] No. 172)**
http://www.gov.cn/zhengce/zhengceku/2022-11/22/content_5728220.htm
- ▶ **PN regarding public opinions consultation on the "Anti-unfair Competition Law of the People's Republic of China (Revised Discussion Draft)"**
https://www.samr.gov.cn/hd/zjdc/202211/t20221121_351812.html
- ▶ **Notice regarding matters related to adding Shijiazhuang Air Port as a drug import port (Yaojianzongyaozhu [2022] No. 91)**
<https://www.nmpa.gov.cn/xgk/fgwj/gzwj/gzwjyp/20221122120102137.html>
- ▶ **Notice regarding shoring up the recovery of industrial economy (Gongxinbulianyunxing [2022] No. 160)**
https://mp.weixin.qq.com/s/Ffgthag2WLjROID_9-SO2A
- ▶ **Notice regarding record-filings of patented products (Guozhibanhanyunzi [2022] No. 985)**
http://www.gov.cn/zhengce/zhengceku/2022-11/24/content_5728529.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

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