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China Tax Center

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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.

*If you wish to access the previous issues of CTIE and *China Tax & Investment News*, please contact us.

Tax circulars

- ▶ **Guidelines on interpretation of the "Catalog of Industries in Guangzhou Nansha Eligible for Preferential Corporate Income Tax (CIT) Policies (2022 Version)" (Suinankaiguanhan [2023] No. 2)**
- ▶ **Public notice (PN) regarding matters related to substantive operations of enterprises in encouraged industries in the Guangzhou Nansha Pilot Zone (Discussion Draft)**

Synopsis

According to Caishui [2022] No. 40 ("Circular 40", i.e., Notice regarding preferential CIT policies for Nansha district in Guangzhou) which is effective from 1 January 2022 to 31 December 2026, enterprises registered in pilot areas of Nansha¹ and engaged in substantial business in encouraged industries shall be subject to a reduced CIT rate of 15% provided that both of the conditions below are met:

- ▶ 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") 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 pilot areas of Nansha exercising substantial and overall management and control on business, personnel, accounting, and properties, etc.

However, even all the above-mentioned conditions are met, the reduced CIT rate of 15% only applies to:

- Income allocated to the qualifying head office and its branch(es) located in the pilot areas of Nansha; or
- Income allocated to the qualifying branch(es) located in the pilot areas of Nansha if the head office is not within the areas.

Among these, the scope of encouraged industries mentioned above shall be referenced to the Nansha Catalog (i.e., the appendix of Circular 40). 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 Nansha Catalog as the description of each item may be brief. In this respect, the Administrative Committee of the Nansha Economic and Technological Development Zone promulgated the Guidelines on interpretation of the "Catalog of Industries in Guangzhou Nansha Eligible for Preferential CIT Policies (2022 Version)" (hereinafter referred to as the "Guidelines") via Suinankaiguanhan [2023] No. 2 on 25 February 2023 to provide taxpayers with more details so as to give certainty in claiming the tax preference. The issuance of the Guidelines shall also be useful in preventing disputes between taxpayers and authorities in this regard.

Subsequently on 28 February 2023, the Nansha tax service under the State Taxation Administration, Finance Bureau of Nansha, Nansha Administration for Market Regulation and Nansha Administration and Law Enforcement Bureau jointly announced the PN regarding matters related to substantive operations of enterprises in encouraged industries in the Guangzhou Nansha Pilot Zone (Discussion Draft)" (hereinafter referred to as the "Discussion Draft") to seek public opinion. The consultation of public opinion shall be opened on or before 30 March 2023.

Similar to that for Hainan, the Discussion Draft proposes detailed clarifications on the key criteria for substantial management and operations as follows:

Key factor I - carrying out manufacturing/business operations in the pilot areas of Nansha

- A qualifying enterprise should have its fixed and main manufacturing/operation premises with necessary equipment and facilities physically in the pilot areas of Nansha; or its effective management in the pilot areas of Nansha that manages and controls a full-scale manufacturing/business operations (i.e., the operational decisions, financial decisions and human resources decisions); and
- The enterprise exercises an authority to conclude contracts in the name of itself.

Key factor II - with enough staffs in the pilot areas of Nansha

- A qualifying enterprise should have sufficient staffs working in the pilot areas of Nansha and labor contracts/agreements should be concluded between the enterprise and the staffs.
- Salaries and wages of the staffs should be paid via bank accounts set up in Nansha District.
- Specifically, considering its actual business scale, the enterprise should have three to 30 staffs working in the pilot areas of Nansha and they should contribute to social securities as required.

Key factor III - with accounting records maintained in the pilot areas of Nansha

A qualifying enterprise should maintain the accounting ledgers, accounting books and financial statements, etc. in the start-up areas of Nansha and the basic deposit account and settlement accounts for major business activities should be opened with commercial banks in Nansha District.

Key factor IV - with assets situated in the start-up areas of Nansha

A qualifying enterprise should have necessary assets (where the enterprise has title or the use right) physically in use in the start-up areas of Nansha that match with its manufacturing/business scale.

Exception

Notwithstanding the four key factors stated above, it is proposed in the Discussion Draft that any enterprise that falls into either of the following situations shall be determined as disqualified:

- ▶ An enterprise has no manufacturing/operational functions but only undertakes the tasks of financial settlement, tax filings, invoicing for the businesses outside the pilot areas of Nansha; or
- ▶ An enterprise's registered address was found inconsistent with its actual business address and contact person of the enterprise cannot be reached or failed to provide its actual business address after accessed by the government authorities.

A taxpayer should perform self-assessment to determine whether the above CIT preferential treatment is applicable and apply for the tax preferential treatment in the annual CIT filing by filling out the CIT return and a separate Commitment Form for Substantial Business Evaluation (i.e., the attachment of the Discussion Draft). Meanwhile, the taxpayer should also maintain the relevant documents supporting the substantial management and operations of the enterprise (e.g., leasing contract for the business premise, board resolutions regarding decisions on business operation) for future reference.

Concerned investors should read the Discussion Draft and are encouraged to express opinions on or before 30 March 2023 by making phone calls, sending mails or emailing to 970370248@qq.com.

Our business tax services has issued a WeChat news article (in Chinese) on 6 March 2023 to discuss the Guidelines 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 or click the weblink below.

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 Macau by further deepening the open-up of Nansha district in Guangzhou*), the three pilot areas refer to Nansha Bay, Qingsheng Hub Cluster, and Nansha Hub Cluster.

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

http://www.gzns.gov.cn/zwqk/zwdt/content/post_8824827.html

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

https://guangdong.chinatax.gov.cn/gdsw/gznssw_tzgg/2023-02/28/content_c3a6553918884966af954cde8a9f866c.shtml

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/zhengceku/2022-06/14/content_5695623.htm

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

<https://mp.weixin.qq.com/s/aTWRCeb95SSLgtfCoPsfNQ>



Business circulars

► Report on the Work of the Government (2023)

Synopsis

On 5 March 2023, Premier Li Keqiang delivered the Report on the Work of the Government (2023) (hereinafter referred to as the “Report”) at the opening of the first session of the 14th National People’s Congress. The Report reviewed the overall economic developments in 2022 and the past five years and set forth the plan for national economic developments in 2023. Some highlights from the Report are summarized as follows.

A review of the work in 2022 and over the past five years

In the past year:

- Gross domestic product (GDP) of the year increased by 3% on a year-on-year basis.
- Refunds of input Value-added Tax credit brought forward from previous periods exceeded RMB2.4 trillion, newly implemented tax and fee cuts amounted to more than RMB1 trillion, and deferred tax and fee payments of over RMB750 billion.
- Fostered new modes and new forms of consumer spending and adopted measures such as reducing and exempting Vehicle Purchase Tax (VPT) to boost spending on automobiles. As a result, sales of new-energy vehicles surged by 93.4%.

In the past five years:

- Implemented large-scale tax and fee reductions. Tax cuts and fee reductions totaled RMB5.4 trillion and RMB2.8 trillion respectively.
- Leveraged market-based mechanisms to encourage enterprise innovations. The super-deduction for research and development (R&D) expenses was increased on several occasions, particularly for manufacturing enterprises and technology-based small and medium-sized enterprises, with super-deduction ratios rising from 50% and 75% respectively, to 100% for both.
- GDP increased to RMB121 trillion with an annual growth rate of 5.2% over the past five years.
- Average yearly urban jobs growth was more than 12.7 million.

Targets for 2023

- GDP growth to reach 5%.
- Urban jobs to grow 12 million.
- Consumer price index (CPI) to increase around 3%.

Recommendations for the work of government in 2023

- Expand consumption

Stabilize spending on big-ticket items and promote recovery in consumption of consumer services.

- Attract foreign investment

Intensify efforts to attract and utilize foreign investment. Expand market access and continue to open up the modern services sector. Provide a level playing field for foreign investment enterprises.

► **Fiscal policy**

Enhance the intensity and effectiveness of proactive fiscal policy. A deficit ratio of 3% has been projected for this year.

► **Tax and fee policies**

Improve preferential tax and fee policies, extend and further refine policies on tax and fee cuts, tax refunds, and tax deferrals.

► **Monetary policy**

Implement a prudent monetary policy to provide support for the real economy.

► **Key industries**

Promote the transformation and upgrading of traditional industries. Focus on key industrial chains in the manufacturing sector, pool quality resources and make concerted efforts to achieve breakthroughs in core technologies in key fields. Cultivate and strengthen strategic emerging industries, including high-end equipment, biomedicine, new energy vehicles, photovoltaic, wind power. Promote the sound and sustainable development of the platform economy.

► **Employment**

Take concrete measures to fully implement the employment-first policy and place a higher priority on promoting the employment of youth, particularly college graduates.

Interested parties are advised to read the Report for greater details. We will keep an eye on any follow-up policy measures in relevant aspect and update you accordingly. Please stay tuned.

We plan to issue a WeChat news article (in Chinese) soon to discuss the Report in greater detail. Please stay tuned.

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

<http://lianghui.people.com.cn/2023/n1/2023/0306/c452482-32637378.html>

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

► **Measures on the Standard Contract for Outbound Transfer of Personal Information (CAC Order [2023] No. 13)**

http://www.cac.gov.cn/2023-02/24/c_1678884830036813.htm

► **Opinions on Enhancing the Collaborative Protection of Intellectual Property Rights (Guozhifabaozi [2023] No. 3)**

https://www.cnipa.gov.cn/art/2023/2/24/art_75_182287.html

► **PN regarding abolishing certain regulatory documents (SAMR PN [2023] No. 5)**

https://gkml.samr.gov.cn/nsjg/fjs/202302/t20230224_353447.html

► **Notice regarding public opinions consultation on the “Opinions on Financial Support for the Development of Rental Housing Market (Discussion Draft)”**

<http://www.pbc.gov.cn/tiaofasi/144941/144979/3941920/4803643/index.html>

- ▶ **Measures on Registration and Record-filing of Private Equity Investment Funds (Zhongjixiefa [2023] No. 5)**
https://wwwamac.org.cn/aboutassociation/gyxh_xhdt/xhdt_xhyw/202302/P020230224638620129627.pdf
- ▶ **Notice regarding further improving the service functions of mobile applications (Gongxinbuxinguanhuan [2023] No. 26)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art_261ee9a52be545c09dc4323a45e8631f.html
- ▶ **Notice regarding promoting the application of electronic licenses and certificates in the cultural and tourism market (Banshichangfa [2023] No. 14)**
http://www.gov.cn/zhengce/zhengceku/2023-02/28/content_5743653.htm
- ▶ **Administrative Measures on the Service Industry Development Fund (2023) (Caijian [2023] No. 9)**
http://jjs.mof.gov.cn/zhengcefagui/202302/t20230228_3869818.htm
- ▶ **Notice regarding commencement of the 2022 statistical survey of cross-border e-commerce (Tongjihan [2023] No. 8)**
<http://www.customs.gov.cn/customs/302249/zfxxgk/zfxxgkml34/4858874/index.html>



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