

A large blue and red offshore supply ship is sailing on the ocean. The ship has a complex structure with various equipment and cranes on its deck. The water is a deep blue, and the sky is a lighter blue with some clouds.

# 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

- ▶ **Public notice (PN) regarding clarifications on certain issues related to the preferential Corporate Income Tax (CIT) policies in the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone (Shenzhen Tax Services, STA/Authority of Qianhai PN [2023] No. 4)**

### Synopsis

According to Caishui [2021] No. 30 ("Circular 30", i.e., Notice regarding continuously implementing the preferential CIT policies in the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone), from 1 January 2021 to 31 December 2025, enterprises registered in the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone (hereinafter referred to as "Qianhai") shall be subject to a reduced CIT rate of 15% provided that both of the following conditions are met:

- ▶ The enterprise is engaged in listed industries as prescribed in the preferential CIT catalogues in Qianhai; and
- ▶ Its revenue derived from the listed industries accounts for 60% or above of its total revenue.

The reduced CIT rate of 15% applies to:

- ▶ Income allocated to the head office and its branch(es) located in Qianhai; or
- ▶ Income allocated to the branch(es) located in Qianhai if the head office is outside of Qianhai.

It is worth-noting that, unlike the similar circulars for Hainan Free Trade Port, the Guangdong-Macau In-depth Cooperation Zone in Hengqin and the start-up areas of Nansha, etc., Circular 30 has not literally specified the enterprise's requirement on substantial operations in Qianhai to be qualified for the reduced CIT rate of 15%. However, the Shenzhen Tax Services, State Taxation Administration (STA) and Authority of Qianhai jointly released a PN (hereinafter referred to as "PN 4") on 5 June 2023 to clarify that enterprises in Qianhai should meet the relevant criteria for substantial manufacturing/business operation. Key points as follows:

#### **Key factor I - carrying out manufacturing/business operations in Qianhai**

- ▶ A qualifying enterprise should have its fixed and main manufacturing/business operation premises with necessary manufacturing/business equipment and facilities physically in Qianhai; or should have its effective management in Qianhai that manages and controls a full-scale manufacturing/business operations; and
- ▶ The enterprise exercises an authority to conclude contracts in its own name.

#### **Key factor II - with sufficient staffs in Qianhai**

- ▶ With sufficient staffs working in Qianhai.
- ▶ Salaries and wages of the staffs should be paid via bank accounts set up in Qianhai.
- ▶ Considering its actual business scale, the enterprise should have 3 to 30 staffs working in Qianhai and make contributions to social securities in Qianhai for at least six months in a year.

#### **Key factor III - with accounting records maintained in Qianhai**

A qualifying enterprise should maintain the accounting ledgers, books and financial statements, etc. in Qianhai and the basic deposit account and settlement accounts for major business activities should be opened with commercial banks in Qianhai.

#### **Key factor IV - with assets situated in Qianhai**

A qualifying enterprise should have necessary assets (where the enterprise has title or the use right) physically in use in Qianhai, or its effective management that manages and controls the assets in a full-scale in Qianhai that match with its manufacturing/business scale.

#### **Exception**

Notwithstanding the four key factors stated above, it is stated in the official interpretation that any enterprise falling into either one of the following situations shall be considered disqualified:

- ▶ An enterprise without manufacturing/operational functions only undertakes financial settlements, tax filings, invoicing functions for businesses outside of Qianhai; or
- ▶ An enterprise's registered address was found inconsistent with its actual business operation address and contact person of the enterprise cannot be reached or failed to provide its actual business address after accessed by the government authorities.

Eligible taxpayers in Qianhai should perform self-assessment to determine whether the above CIT preference is applicable and apply for the preferential CIT treatment in the annual CIT filing by filling out the CIT return and a separate Commitment Form of Self-Assessment on Operation Substance (i.e., Attachment of PN 4).

PN 4 became effective on 1 January 2023. Taxpayers are encouraged to read PN 4 for more detail. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full contents of PN 4:

[http://www.sz.gov.cn/cn/xxgk/zfxxqj/tzgg/content/post\\_10636097.html](http://www.sz.gov.cn/cn/xxgk/zfxxqj/tzgg/content/post_10636097.html)

You can click this link to access the full contents of Circular 30:

<https://shenzhen.chinatax.gov.cn/sztax/zcwj/zxwj/202107/f3b8d885725647328f9b6cd83628e93e.shtml>

► **PN regarding the application of the “Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS)” in relation to certain bilateral tax agreements between the People’s Republic of China (PRC) and various countries, including the Republic of Bulgaria (STA PN [2023] No. 9)**

### **Synopsis**

On 7 June 2017, the PRC and 66 other jurisdictions signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (hereinafter referred to as the “MLI”), during a signing ceremony hosted by the Organisation for Economic Cooperation and Development (OECD) in Paris.

Since then, a few countries have successively completed the procedures for the entry into force of the Convention. According to STA PN [2023] No. 9 (“PN 9”) released by the STA on 31 May 2023, as of 30 April 2023, the MLI has been applied to the following six additional tax agreements concluded by the PRC:

- Agreement between the Government of the PRC and the Government of the People’s Republic of Bulgaria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital
- Agreement between the Government of the PRC and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income
- Agreement between the Government of the PRC and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income
- Agreement between the Government of the PRC and the Government of Romania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income
- Agreement between the Government of the PRC and the Government of the Russian Federation for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income
- Agreement between the Government of the PRC and the Government of the Republic of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income

The commencement of the application of the abovementioned six additional tax agreements is determined in accordance with Article 35 of the MLI. Relevant taxpayers may access the synthesized text of the MLI and the relevant tax agreements in the STA’s official website. If any questions, consultations with professionals are always recommended.

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

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5205156/content.html>

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

<http://www.chinatax.gov.cn/n810341/n810770/c1152827/content.html>

You can click this link to access the relevant STA’s synthesized text of the MLI and the relevant DTAs:

<http://www.chinatax.gov.cn/chinatax/n810341/n810770/c5171677/content.html>

- **PN issued by the Sichuan Provincial Tax Service, STA regarding matters related to the provisional Land Appreciation Tax (LAT) rates and the collection of LAT on a deemed basis in Sichuan (Sichuan Tax Services, STA PN [2023] No. 3)**

## Synopsis

To further improve the LAT-related policies, the Sichuan Provincial Tax Service, STA released PN [2023] No. 3 ("PN 3") on 31 May 2023 to specify issues related to the provisional LAT rates and the collection of LAT on a deemed basis in Sichuan Province.

Key features of PN 3 include the following:

### Provisional LAT rates

PN 3 specifies the provisional LAT rates in Sichuan as follows:

Transfer of real properties by real estate developers	Provisional LAT rates
Affordable housing	N/A
Ordinary residential housing <sup>1</sup>	1%
Non-ordinary residential housing <sup>1</sup>	2%
Other housing	2.5%

### Collection of LAT on a deemed basis

PN 3 reiterates that tax authorities are empowered to adopt the deemed basis for the collection of LAT according to the prevailing LAT rules in case the enterprises cannot be taxed on an actual basis.

However, according to PN 3, the deemed basis should be applied in the following order:

**Deemed income** according to assessed value - where the transaction price is obviously low and without any justifiable reasons, etc.

**Deemed deductible items** - where the supporting documents cannot substantiate the costs of construction fees, facilitations, etc.

**Deemed LAT payable** based on sales and deemed collection rate (not applicable to transfer of land use right)

Apart from the above, PN 3 also sets out the deemed collection rates applicable to different types of real properties.

PN 3 will become effective on 1 July 2023 and does not apply to any LAT clearance cases that have been submitted and accepted by the tax authorities. It is worth-noting that many local tax authorities have issued similar administrative measures within their jurisdictions. It is recommended that taxpayers remain vigilant and stay informed about circulars issued by their supervising tax authorities to get familiar with local practices. If in doubt, consultations with professionals are always helpful.

<sup>1</sup> The standard of ordinary residential housing/non-ordinary residential housing in Sichuan should be referred to Chuandishuihan [2005] No. 399 ("Circular 399", i.e., Notice regarding the standard of ordinary residential housing for LAT purpose).

You can click this link to access the full contents of PN 3:

[https://sichuan.chinatax.gov.cn/art/2023/5/31/art\\_8803\\_238204.html](https://sichuan.chinatax.gov.cn/art/2023/5/31/art_8803_238204.html)

You can click this link to access the full contents of Circular 399:

[https://www.sc.gov.cn/sczb/lmfl/bmwjdx/200706/t20070608\\_185460.shtml](https://www.sc.gov.cn/sczb/lmfl/bmwjdx/200706/t20070608_185460.shtml)



- ▶ **2023 Legislative Work Plan of the State Council (Guobanfa [2023] No. 18)**
- ▶ **2023 Key Tasks of the Standing Committee of the National People's Congress (NPC)**

### Synopsis

On 31 May 2023, the State Council announced the annual legislative work plan for 2023 (hereinafter referred to as the "2023 Legislative Plan") that includes the legislative projects to be submitted to the Standing Committee of the NPC for deliberation, the administrative regulations to be formulated or revised, and other legislative projects to be completed. Among them, some key legislative projects related to taxation and business include:

#### Legislative projects for the Standing Committee of the NPC's deliberation (拟提请审议)

- ▶ Draft Customs Duty Law
- ▶ Draft Anti-Money Laundering Law (Revision)

#### Legislative projects prepared to be submitted to the Standing Committee of the NPC for deliberation (预备提请审议)

- ▶ Draft Consumption Tax Law
- ▶ Draft Tax Collection and Administration Law (revision)
- ▶ Draft Commercial Bank Law (revision)
- ▶ Draft Customs Law (revision)

Besides, the Standing Committee of the NPC released the key tasks of 2023 (hereinafter referred to as the "2023 Key Tasks") on 6 June 2023. The 2023 Key Tasks include continuing to improve the legal system of socialist market economy, formulating tax laws such as the Value-added Tax Law, Customs Duty Law, etc., and revising the Company Law and Mineral Resources Law, aiming to provide a solid legal basis for building a modern economic system.

You can click this link to access the full contents of the 2023 Legislative Plan:

[https://www.gov.cn/zhengce/content/202306/content\\_6884925.htm](https://www.gov.cn/zhengce/content/202306/content_6884925.htm)

You can click this link to access the full contents of the 2023 Key Tasks:

<http://www.npc.gov.cn/npc/c30834/202306/acc299fac12a4499b013db36e073e9a0.shtml>

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

- ▶ **Decision on abolishing certain tax regulations (STA Order [2023] No. 55)**  
<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5205094/content.html>
- ▶ **PN regarding the "Catalog of Energy Saving & New Energy Vehicles Eligible for Preferential Vehicle and Vessel Tax Policies (50th Batch)", "Catalog of New Energy Vehicles Eligible for Vehicle Purchase Tax Exemption (66th Batch)", etc. (MIIT PN [2023] No. 13)**  
[https://www.miit.gov.cn/zwgk/zcwj/wjfb/gg/art/2023/art\\_1101e5957b7d4019aa994edb7369c631.html](https://www.miit.gov.cn/zwgk/zcwj/wjfb/gg/art/2023/art_1101e5957b7d4019aa994edb7369c631.html)
- ▶ **Eighteen Measures for Optimizing Stock Market Services**  
[https://www.bse.cn/uploads/1/file/public/202306/20230602210701\\_ygh0ml0i5q.pdf](https://www.bse.cn/uploads/1/file/public/202306/20230602210701_ygh0ml0i5q.pdf)
- ▶ **PN regarding the "Catalog of Goods Prohibited from Import (Eighth Batch)" and the "Catalog of Goods Prohibited from Export (Seventh Batch)" (MOFCOM PN [2023] No. 21)**  
<http://www.mofcom.gov.cn/article/zcfb/zcblgg/202306/20230603414825.shtml>

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