



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 the “super input Value-added Tax (VAT) credit” policy for advanced manufacturing enterprises (MOF/STA PN [2023] No. 43)**

Synopsis

To promote high-quality development of the advanced manufacturing industry, the Ministry of Finance (MOF) and State Taxation Administration (STA) jointly released MOF/STA PN [2023] No. 43 (“PN 43”) on 3 September 2023.

According to PN 43, from 1 January 2023 to 31 December 2027, advanced manufacturing enterprises¹ are eligible for an extra 5% “super input VAT credit”, i.e., these enterprises may credit their eligible input VAT at 105%.



However, export of goods/services² or provision of cross-border taxable services by advanced manufacturing enterprises are not eligible for the super input VAT credit, and the corresponding input VAT credit should be excluded from the calculation of super input VAT credit. In case an advanced manufacturing enterprise has input VAT credit that cannot be allocated between its domestic and exportation/cross-border sales, the following formula shall be adopted:

Input VAT credit not eligible for super input VAT credit = Total input VAT credit that cannot be allocated between its domestic and exportation/cross-border sales × Revenue derived from export of goods (services) or cross-border taxable services in the current period ÷ Total sales revenue in the current period

It is notable that lists of advanced manufacturing enterprises shall be determined by provincial/municipal industry and information technology departments in conjunction with other relevant departments.

Except for the policy as prescribed in PN 43, the prevailing “super input VAT credit” policies also include the following (please click on the circular numbers for details):

Prevailing “super input VAT credit” policies		Applicable period	Circular Nos.
Eligible taxpayers	Percentage of extra “super input VAT credit”		
General VAT taxpayers engaging in lifestyle services ³	An extra 10% “super input VAT credit”, i.e., eligible input VAT may be credited at 110%.	From 1 January 2023 to 31 December 2023	MOF/STA PN [2023] No. 1
General VAT taxpayers engaging in manufacturing services ⁴	An extra 5% “super input VAT credit”, i.e., eligible input VAT may be credited at 105%.		
General VAT taxpayers engaging in Integrated Circuit design, manufacturing, equipment, materials, packaging, and testing	An extra 15% “super input VAT credit”, i.e., eligible input VAT may be credited at 115%.	From 1 January 2023 to 31 December 2027	Caishui [2023] No. 17
General VAT taxpayers manufacturing and selling advanced industrial machinery products			Caishui [2023] No. 25

Relevant taxpayers are advised to observe PN 43 for more information and fully leverage the benefits offered. If in doubt, consultations with professionals are always recommended.

¹ The advanced manufacturing enterprises refer to general VAT taxpayers of high and new technology enterprises (including their unincorporated branches) in the manufacturing industry.

² According to the prevailing VAT rules, the term “export of goods/services” refers to the export of goods, repair, and processing services.

³ “General VAT taxpayers engaging in lifestyle services” refer to taxpayers whose aggregate sales derived from lifestyle services (i.e., culture and sports services, education and medical services, tourism and entertainment services, catering and accommodation services, daily services for individuals, and other lifestyle services) exceed 50% of their total sales.

⁴ “General VAT taxpayers engaging in manufacturing services” refer to taxpayers whose aggregate sales derived from postal services, telecommunication services and modern services (such as research and development, information technology services, logistics services and certification and consulting services) and lifestyle services exceed 50% of their total sales.

You can click this link to access the full contents of PN 43:

<https://www.chinatax.gov.cn/chinatax/n359/c5211663/content.html>

► **Central government authorities extended the implementation of a few tax policies**

Synopsis

To encourage innovation and green development, the central government authorities have recently announced a batch of extended preferential tax policies, extending the implementation of certain tax policies until 31 December 2027.

For your easy reference, we have summarized these tax policies in the table below (please click on the circular numbers for details):

Circular Nos.	Details
MOF/STA PN [2023] No. 37 , i.e., PN regarding the Corporate Income Tax (CIT) deduction policy for equipment and devices ⁵ purchases	<p>From 1 January 2024 to 31 December 2027:</p> <ul style="list-style-type: none"> ► If the unit value of the newly acquired fixed assets <u>does not exceed RMB5 million</u>, an enterprise may claim a CIT deduction in one go for the acquired device or equipment. ► If the unit value of the newly acquired device or equipment <u>exceeds RMB5 million</u>, the enterprise should still refer to the prevailing rules.
MOF/MOFCOM/STA PN [2023] No. 41 , i.e., PN regarding the VAT policies related to the purchase of equipment by research and development (R&D) institutions	<p>Qualifying domestic/foreign invested R&D institutions purchased domestically manufactured equipment shall be eligible for a full refund of VAT from the month following which recognition was granted by the relevant government authorities <u>until 31 December 2027</u>.</p>
MOF/STA/MOST/MOE PN [2023] No. 42 , i.e., PN regarding extending certain tax policies related to the technology business incubators (TBIs), university science parks and makerspaces	<p>Qualifying national/provincial TBIs, university science parks and national makerspaces (that have completed the record filing procedures for makerspaces as required) shall be eligible for the following preferential tax policies during the period from <u>1 January 2024 to 31 December 2027</u>:</p> <ul style="list-style-type: none"> ► Real estates and lands used by qualifying TBIs, university science parks and national makerspaces or rented, provided for free to their incubated targets (i.e., business start-ups) shall be exempt from Real Estate Tax and Urban Land Use Tax. ► Income derived by qualifying TBIs, university science parks and national makerspaces from provision of incubation services⁶ to their incubated targets shall be exempt from VAT, provided that such income is accounted for separately from other types of income.
MOF/STA/NDRC/MEE PN [2023] No. 38 , i.e., PN regarding certain CIT policies for third-party enterprises engaged in pollution prevention and control	<p>From <u>1 January 2024 to 31 December 2027</u>, qualifying third-party enterprises that are appointed by sewage enterprises or government authorities to be responsible for the operation and maintenance of environmental pollution control facilities (including continuously monitoring systems) shall be subject to CIT at a reduced rate of 15%.</p>
MOF/STA PN [2023] No. 36 , i.e., PN regarding extending the preferential Resource Tax (RT) policy for backfill coal mining	<p>From <u>1 September 2023 to 31 December 2017</u>, coal obtained through backfill mining substitution can adopt a 50% RT reduction.</p>

We have issued a WeChat news article on 11 September 2023 (in Chinese only) to discuss the abovementioned tax preferential policies and PN 43 in greater detail. You can follow us on WeChat by scanning the QR Code on the last page of this CTIE and search keywords or click the following link to access the full contents of the WeChat news article. We will keep an eye on any further developments and advise you accordingly, please stay tuned.

⁵ Equipment and devices refer to fixed assets (except for real estate or construction).

⁶ Incubation services refer to agency services, operating rental services and R&D services, information technology services, as well as attestation and consultation services provided to incubated targets.

You can click this link to access the full contents of the WeChat news article:
<https://mp.weixin.qq.com/s/j4wyUjJBWVS5jjMfuQ4M6Q>

► **Agreement Between the Government of the People's Republic of China (PRC) and the Government of the Kingdom of Norway (Norway) for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance**

Synopsis

On 12 May 2023, the governments of the PRC and Norway signed a new version of the "Agreement Between the PRC and Norway for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance" (hereinafter referred to as the "new PRC-Norway DTA") and its protocol. The new PRC-Norway DTA aims to further promote mutual investment and technology transfer between the two countries.

By the effectiveness of the new PRC-Norway DTA, the prevailing Agreement Between the Government of Norway and the Government of the PRC for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital (hereinafter referred to as the "1986 PRC-Norway DTA") signed on 25 February 1986, shall be replaced.

Key features of the new PRC-Norway DTA include:

Permanent establishment (PE)

Compared with the 1986 PRC-Norway DTA, some adjustments are made regarding the constitution of Construction PEs and Service PEs:

- Construction PE - a building site, or construction, assembly or installation project, but only if such site or project or activities last more than 12 months (instead of "lasting more than six months" as prescribed in the 1986 PRC-Norway DTA).
- Service PE - the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged for such purpose, but only if activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than 183 days within any 12-month period (instead of "six months in any 12-month period" as prescribed in the 1986 PRC-Norway DTA).

Also, the new PRC-Norway DTA further elaborates on how to determine the above-mentioned 12-month period.

Business profits

Regarding the determination of profits of a PE, the contents of Article 7.3 simplified the fact that all related expenses incurred for the purposes of the PE are deductible, regardless of where the expenses are incurred.

Withholding tax (WHT) rates

Items	WHT rates under the new PRC-Norway DTA	WHT rates under the 1986 PRC-Norway DTA
Dividends ⁷	5%/10%	15%
Interest ⁸	10%/exempt	
Royalties	10%	

Capital gains

Items	Taxation rights
Gains derived from the alienation of shares or comparable interests of land-rich companies	May be <u>taxed in the other Contracting State</u> if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived <u>more than 50%</u> of their value directly or indirectly from <u>immovable property</u> situated in that other State.
Gains derived from the alienation of shares or comparable interests of non-land-rich companies	May be taxed in that <u>other State</u> if the alienator, at any time during the 365 days preceding such alienation, held directly or indirectly at least <u>25% of the capital</u> of that company.

Principal Purpose Test

The new PRC-Norway DTA includes a new Principal Purpose Test provision, i.e., Article 27, that a benefit under the new PRC-Norway DTA shall not be granted if the main purpose of any arrangements is to obtain tax benefits and not for genuine economic or commercial reasons.

As a common practice, the STA shall release a public notice (PN) regarding the effectiveness and enforcement of a DTA once the two contracting states complete the necessary legal procedures. We will keep an eye on any further developments, please stay tuned.

⁷ According to the new PRC-Norway DTA, if the beneficial owner is a company which directly holds at least 25% of the capital of the company paying the dividends throughout a 365-day period including the dividend payment date, then the WHT rate shall be 5%. In all other cases, the WHT rate shall be 10%.

⁸ According to the new PRC-Norway DTA, interest may be subject to taxation in the Contracting State if the beneficial owner of the interest is a resident of the other Contracting State. In such cases, the WHT rate shall not exceed 10%. However, the WHT may be exempt if the interest is beneficially owned by the Government of a Contracting State or paid on loans guaranteed or insured by the Government of a Contracting State.

You can click this link to access the full contents of the new PRC-Norway DTA and its protocol:

<https://www.chinatax.gov.cn/chinatax/n810341/n810770/c5205201/content.html>

You can click this link to access the full contents of the 1986 PRC-Norway DTA:

<https://www.chinatax.gov.cn/n810341/n810770/c1153116/content.html>

► PN regarding extending the tax policies on the return of exported goods in cross-border e-commerce (MOF/GAC/STA PN [2023] No. 34)

Synopsis

According to the previously issued MOF/GAC/STA PN [2023] No. 4 ("PN 4", i.e., PN regarding tax policies on cross-border e-commerce returned export goods), by 30 January 2024, return of goods exported under cross-border e-commerce (i.e., HS codes 1210, 9610, 9710 and 9810) shall be subject to the following treatments if they are returned within six months after exportation due to goods redundant or return of sales (except for food products):

- Import-level Customs Duty (CD), VAT and Consumption Tax (CT) are exempted.
- Any CD imposed at the time of the previous exportation shall be refunded while the relevant VAT and CT shall be handled as that for domestic sales.
- Where export tax refund treatment was applied for the previous exportation, the refunded taxes should be returned.

To further accelerate the development of cross-border e-commerce and support emerging business models in this sector, the MOF, GAC and STA jointly released MOF/GAC/STA PN [2023] No. 34 ("PN 34") on 22 August 2023 to extend the aforementioned tax treatments until 31 December 2025.

Other matters unspecified in PN34 shall still be referenced to PN 4. Relevant taxpayers are encouraged to read PN 4 and PN 34 for more details and observe the regulations. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full contents of PN 34:
https://www.gov.cn/zhengce/zhengceku/202308/content_6901040.htm

You can click this link to access the full contents of PN 4:
http://www.gov.cn/zhengce/zhengceku/2023-02/02/content_5739772.htm

Business circulars

► **The Legislation Plan of the Standing Committee of the 14th National People's Congress (NPC)**

Synopsis

The Legislation Plan of the Standing Committee of the 14th NPC (hereinafter referred to as the "Legislation Plan") was announced on 8 September 2023 which outlined the "overall blueprint" for China's legislative work in the next five years.

The Legislation Plan includes three categories of legislative projects:

Categories	Contents
Drafts of Laws that are planned to be submitted for deliberation during the current term	This category includes 79 drafts, e.g.,: <ul style="list-style-type: none">► The VAT Law (submitted for deliberations)► The CT Law► The Customs Duty Law► The Revised Administrative Reconsideration Law (approved in September 2023)► The Revised Company Law (submitted for deliberations)► The Revised Tax Collection and Administration Law
Drafts of Laws that require expedited deliberation	This category includes 51 drafts, e.g.,: <ul style="list-style-type: none">► Elderly Care Services Law► The Revised Social Insurance Law
Legislative projects that are still in the process of research and exploration	The category includes legislative projects related to the standardization of non-tax revenue, government debt, transfer payments, and other fiscal tax systems, etc.

It is worth-noting that the Real Estate Tax Law and Inheritance Tax Law have not been explicitly included in the Legislative Plan. We will monitor any further developments and provide updates accordingly. Please stay tuned.

You can click this link to access the full contents of the Legislation Plan:
<https://mp.weixin.qq.com/s/979PyTEDpGemiLImDVsxAA>

► **Notice regarding public opinions consultation on the "Company Law of the PRC (Third Draft Amendment)"**

Synopsis

The Company Law of the PRC (Third Draft Amendment) (hereinafter referred to as the "Third Draft Amendment") was submitted to the Standing Committee of the 14th NPC for further deliberation and subsequently was announced on 1 September 2023 to seek public comments. The consultation of public opinion shall be opened for 30 days.

The Third Draft Amendment aims to strengthen regulations regarding controlling shareholders and actual controllers and provide enhanced protection of shareholders' rights. One notable change proposed in the Third Draft Amendment is the improvement of the registered capital contribution registration system, which stipulates that the registered capital of a limited liability company should be fully paid by shareholders within five years from the date of incorporation.

Concerned parties are encouraged to read the Third Draft Amendment and express their opinions on or before 30 September 2023 either by sending mails or logging onto the official websites of the NPC (www.npc.gov.cn) or the National Database of Laws and Regulations (flk.npc.gov.cn/).

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

<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff8081818a1cb709018a49c960946d08>

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

- ▶ **Notice regarding certain transitional issues related to the pilot program of Individual Income Tax-deferred commercial pension insurance and the private pension scheme (Jingui [2023] No. 4)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1125910>
- ▶ **The Foreign State Immunity Law of the PRC (Chairman Order [2023] No. 10)**
http://www.npc.gov.cn/npc/c2/c30834/202309/t20230901_431424.html
- ▶ **The Administrative Reconsideration Law of the PRC (2023 revised version) (Chairman Order [2023] No. 9)**
http://www.npc.gov.cn/npc/c2/c30834/202309/t20230901_431409.html
- ▶ **Work plan for stabilizing the growth of the automobile industry (2023-2024) (Gongxinbuliantongzhuang [2023] No. 145)**
https://www.gov.cn/govweb/zhengce/zhengceku/202309/content_6901733.htm
- ▶ **Work plan for stabilizing the growth of the mechanical industry (2023-2024) (Gongxinbuliantongzhuang [2023] No. 144)**
https://wap.miit.gov.cn/jgsj/zbys/wjfb/art/2023/art_d5f937d4965f429c9f611b698ede74da.html
- ▶ **Opinions on the high-quality construction of Beijing Stock Exchange**
<http://www.csrc.gov.cn/csrc/c100028/c7429809/content.shtml>
- ▶ **Joint Statement between the PRC and the Republic of Benin on the Strategic Partnership**
https://www.gov.cn/yaowen/liebiao/202309/content_6901569.htm
- ▶ **Work plan for stabilizing the growth of the power equipment industry (2023-2024) (Gongxinbuzhongzhuang [2023] No. 119)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art_8662c743aeb24c67aa58be8e18b1f189.html
- ▶ **Opinions on improving efficiency of government services based on the national integrated government service platform (Guobanfa [2023] No. 29)**
https://www.gov.cn/zhengce/content/202309/content_6902008.htm
- ▶ **Action plan on stabilizing the growth of electronic information manufacturing industry for year 2023-2024 (Gongxinbuliandianzi [2023] No. 132)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2023/art_6ec44841d92a49729b9c04a91b5f89f9.html
- ▶ **PN regarding implementing the mutual recognition of "Authorized Economic Operator (AEO)" between the Customs of China and South Africa (GAC PN [2023] No. 111)**
<http://www.customs.gov.cn/customs/302249/2480148/5310790/index.html>
- ▶ **Notice regarding launching the pilot scheme of the export control of dual-use items in certain Pilot Free Trade Zones (Shanganguanhan [2023] No. 446)**
<http://aqygzj.mofcom.gov.cn/article/zcgz/gzgf/202309/20230903438283.shtml>

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

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.

© 2023 Ernst & Young, China.
All Rights Reserved.

APAC no. 03018349
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.

