

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.

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Tax circulars

Administrative Measures of the Shanghai Municipal Tax Service, State Taxation Administration (STA) on Advance Tax Rulings (Trial) (Hushuibanfa [2023] No. 33)

Synopsis

To further standardize the advance tax ruling work in Shanghai and enhance the certainty of applying tax policies, the Shanghai Municipal Tax Service, STA released the "Administrative Measures on Advance Tax Rulings (Trial)" (hereinafter referred to as the "SH Trial Administrative Measures") via Hushuibanfa [2023] No. 33 on 29 December 2023.



The main contents of the SH Trial Administrative Measures include:

Items	Details
Definition of advance tax ruling	An advance tax ruling is a service whereby enterprises, based on the principle of mutual trust between tax authorities and enterprises, apply for advice on the application of tax laws and regulations regarding specific complex tax-related matters plan to occur in the future. Tax authorities would provide written opinions on policy application based on current tax laws and regulations. Advance tax rulings once issued are not disputable or subject to litigation.
Scope of advance tax rulings	Advance tax rulings are applicable to corporate taxpayers in Shanghai. However, tax authorities would not provide advance rulings to the following tax-related matters:
	Matters without a definitive project plan or that will not occur within two years.
	Matters that do not have reasonable business purposes or are explicitly prohibited by relevant national laws and regulations.
	Matters for which current tax laws and regulations have explicit provisions that can be directly applied.
	Other matters that are not applicable for advance tax rulings.
How to apply for an advance tax ruling?	File application in paper through the competent tax authorities; or
	File electronic application through the E-Tax Bureau.

The SH Trial Administrative Measures took effect on its promulgation date, i.e., 29 December 2023.

You can click this link to access the full contents of the SH Trial Administrative Measures: https://shanghai.chinatax.gov.cn/zcfw/zcfgk/zhsszc/202312/t469904.html

Public notice (PN) regarding the pilot implementation of certain import-level tax policies in selected Pilot Free Trade Zones (PFTZs) and Hainan Free Trade Port (FTP) (MOF/MEE/MOC/GAC/STA PN [2023] No. 75)

Synopsis

To implement Guofa [2023] No. 9 (Circular 9, i.e., Notice regarding the pilot launch of certain measures aligned with high-level global economic and trade rules to advance institutional opening-up of PFTZs and FTP), on 27 December 2023, the Ministry of Finance (MOF), Ministry of Ecology and Environment (MEE), Ministry of Commerce (MOC), General Administration of Customs (GAC) and STA jointly released MOF/MEE/MOC/GAC/STA PN [2023] No. 75 (PN 75) to clarify relevant policy measures:

- As for temporary outbound repairs, relevant aircraft and vessels (including relevant parts and components) operated by enterprises registered as independent legal person in the Hainan FTP are exempt from Customs Duty (CD), and import level Value-added Tax (VAT) and Consumption Tax (CT) shall be levied according to regulations.
- For temporary inbound repairs, in the customs special supervision zone between the "first line" and the "second line" of Hainan FTP, enterprises are exempt from CD and import level VAT and CT for certain temporarily imported goods; where the goods are no longer shipped back but converted into domestic sales, import formalities shall be completed as required, and import level CD, VAT and CT shall be levied according to regulations.

With regard to temporarily imported goods, where the relevant goods temporarily enter into Shanghai, Guangdong, Tianjin, Fujian, Beijing PFTZs and Hainan FTP from overseas, the taxpayers who pay a security deposit to the Customs or provide other guarantees equivalent to tax payable at the time of entry may not pay CD, import level VAT and CT temporarily.

Relevant enterprises are encouraged to read PN 75 for more details.

You can click this link to access the full contents of Circular 9: https://www.gov.cn/zhengce/content/202306/content_6889026.htm

You can click this link to access the full contents of PN 75: https://www.gov.cn/zhengce/zhengceku/202312/content 6923408.htm

- Administrative measures of Jiangmen on the implementation of financial subsidy for the preferential Individual Income Tax (IIT) policy in the Guangdong-Hong Kong-Macau Greater Bay Area (GBA) (2023 revised) (Jiangcaigui [2023] No. 2)
- Notice of Jiangmen regarding the commencement of 2023 application for financial subsidy related to the preferential IIT policy in the GBA (Jiangcaizonghan [2023] No. 36)
- Administrative measures of Zhongshan on the implementation of financial subsidy for the preferential IIT policy in the GBA (Zhongcaiguizi [2023] No. 1)

Synopsis

According to Caishui [2019] No. 31 (Circular 31, i.e., Notice regarding the preferential IIT policy for the GBA), from 1 January 2019 to 31 December 2023, overseas high-end and urgently needed talents who work in the GBA shall be eligible for a financial subsidy to recover the portion of their IIT paid in the nine mainland GBA cities¹ that exceeds 15% of their taxable income. The financial subsidy (hereinafter referred to as the "IIT subsidy") paid to the individuals shall be exempt from IIT. Caishui [2023] No. 34 (Circular 34, i.e., Notice regarding the extension of the preferential IIT policy for the GBA) extends the preferential IIT policy until 31 December 2027.

In this regard, the competent government authorities in Jiangmen released Jiangcaigui [2023] No. 2 (Circular 2, i.e., Administrative measures of Jiangmen on the implementation of financial subsidy for the preferential IIT policy in the GBA) and Jiangcaizonghan [2023] No. 36 (Circular 36, i.e., Notice of Jiangmen regarding the commencement of 2023 application for financial subsidy related to the preferential IIT policy in the GBA) on 28 December 2023 and 29 December 2023 respectively, to launch the application for the years 2021 and 2022.

Key features are as follows:

- Applicants who derived consolidated income and operating income in 2021 and 2022 or their withholding agents should access http://jht.jiangmen.gov.cn/ to lodge the application and submit the relevant documentations within the period from 22 January 2024 to 15 March 2024. The application for the years 2021 and 2022 shall be declared separately and the declaration materials for each year shall be submitted individually.
- The maximum amount of the IIT subsidy per taxpayer per tax year shall not exceed RMB5 million.

In addition, the competent government authorities in Zhongshan also released Zhongcaiguizi [2023] No. 1 (Circular 1) on 26 December 2023 to launch the application in Zhongshan for the years 2021 and 2022. The application guidelines of Zhongshan have not been announced yet.

Notably, similar to the regulations in Shenzhen, Huizhou, Dongguan, Zhaoqing Zhuhai, Foshan and Guangzhou, applicants are required to have worked in Jiangmen or Zhongshan for more than 90 days for each of the years 2021 and 2022. Furthermore, according to Circular 36, if the amount of the IIT subsidy exceeds RMB1 million per applicant per tax year, these applicants are also required to submit the form for declaration and registration of IIT preferences (i.e., Appendix 6 of Circular 36) in addition to the application form for the IIT subsidy (i.e., Appendix 2 of Circular 36).

Circular 2 is effective from 28 December 2023 until 31 December 2027. Meanwhile, Circular 1 is effective from its promulgation date, i.e., 26 December 2023 until 31 December 2027.

Applicants in Jiangmen and Zhongshan are encouraged to read the abovementioned circulars for details and assess if they are qualified for the subsidy before applying. If in doubt, consultations with professionals are always recommended.

¹ The nine cities refer to Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing in Guangdong Province.

You can click this link to access the full contents of Circular 31: https://www.gov.cn/xinwen/2019-03/19/content_5374437.htm

You can click this link to access the full contents of Circular 34: https://www.chinatax.gov.cn/chinatax/n363/c5211160/content.html

You can click this link to access the full contents of Circular 2: http://www.jiangmen.gov.cn/bmpd/jmsczj/zwgk/zcwj/content/post 3007306.html

You can click this link to access the full contents of Circular 36: http://www.jiangmen.gov.cn/bmpd/jmsczj/zwgk/tzgg/content/post_3008654.html

You can click this link to access the full contents of Circular 1: http://czj.zs.gov.cn/sy/zcfg/zcwj/content/post_2359489.html

Business circulars

Company Law of the People's Republic of China (2023 Revised) (Chairman Order [2023] No. 15)

Synopsis

The revised Company Law of the People's Republic of China (PRC) was adopted at the seventh meeting of the Standing Committee of the 14th National People's Congress (hereinafter referred to as the "2023 Company Law") on 29 December 2023. The 2023 Company Law was announced via Chairman Order [2023] No. 15 and will come into effect on 1 July 2024.

The 2023 Company Law consists of 266 articles in 15 chapters. Key changes made in the 2023 Company Law include the following:

- Shareholders of a limited liability company are now required to make their capital contributions within a defined time frame:
 - The capital contribution period shall not exceed five years.
 - The abovementioned time frame would also apply to companies that have already been registered and established before the implementation of the 2023 Company Law.
 - However, if the company is unable to pay its debts when due, the company or the creditors shall have the right to require the shareholders to make their capital contributions in advance.
 - Where a shareholder transfers the equity that has subscribed capital contribution but has not reached the deadline for payment, the transferee shall bear the obligation to make the capital contribution. If the transferee fails to make the contribution in full on schedule, the transferor shall bear supplementary liability for the capital contribution.
- Equity interests and creditor's rights are allowed for capital contribution:

Except for capital contributions in cash or in kind with non-monetary assets such as physical assets, intellectual property rights, land use rights as prescribed in the prevailing Company Law, equity interests and creditor's rights are added to the list of allowable non-monetary assets for capital contributions.

Make up for losses with capital reserve

The restriction on capital reserve to be used to make up for a company's losses has been removed, and the order for using the reserves to make up for losses is regulated in the 2023 Company Law, i.e., the discretionary surplus reserve and statutory surplus reserve shall first be used to make up for the company's losses. Any excess losses may be made up by the capital reserve.

Simplified capital reduction system

As mentioned above, a company can use capital reserve to make up for losses. On this basis, if the losses still cannot be made up after utilizing the capital reserve, the company may reduce its registered capital to make up for the losses. In such capital reduction scenarios, there is no need to notify creditors. However, an announcement shall be made on the newspaper or on the national enterprise credit information publicity system within 30 days from the date when the shareholders' meeting makes the resolution to reduce the registered capital.

Clarification of statutory time limit for profit distribution

Within six months from the date of shareholders' resolution

In addition, the 2023 Company Law also relaxes the provisions for setting up one-person limited liability companies, allows the establishment of one-person joint stock limited companies, introduces dormancy registration for companies that are unable to continue operations due to force majeure or other difficulties, the simplified merger system, improves the company establishment and exit systems, and updates requirements for Legal representative position and number of directors on the board.

The 2023 Company Law will become effective on 1 July 2024. Relevant investors and businesses are encouraged to read the 2023 Company Law for details, observe the changes and review whether some of the changes would be helpful for long term corporate strategies.

You can click this link to access the full contents of the 2023 Company Law: http://www.npc.gov.cn/npc/c2/c30834/202312/t20231229_433999.html

You can click this link to access the full contents of the 2018 Company Law: http://www.npc.gov.cn/zgrdw/npc/xinwen/2018-11/05/content_2065671.htm

Guiding Catalog of Industrial Structure Adjustment (2024 Version) (NDRC Order [2023] No. 7)

Synopsis

To promote the high-end, intelligent, and green development of the manufacturing industry, consolidate the leading position of advantageous industries, and build a new high-quality and efficient service industry system, on 27 December 2023, the National Development and Reform Commission (NDRC) announced the "Guiding Catalog of Industrial Structure Adjustment (2024 Version)" (hereinafter referred to as the "2024 Guiding Catalog") via NDRC Order [2023] No. 7, which will take effect from 1 February 2024.

The 2024 Guiding Catalog contains 1,005 items across three categories: 352 encouraged items, 231 restricted items, and 422 elimination items. Compared to the previous version, notable additions to the encouraged category include new industry fields, such as smart manufacturing, agricultural machinery equipment, numerical control machine tools, and network security, which are conducive to industrial optimization and upgrading. Meanwhile, new additions to the restricted and elimination categories cover industry sectors like fire protection and construction areas that fail to satisfy green development and production safety requirements.

The Guiding Catalog stresses to serve as an important basis for steering social investment, government oversight of investment projects, and formulating and enforcing pertinent fiscal, tax, credit, land, import and export policies. The 2024 Guiding Catalog's policy orientation aims to promote high-end, smart, and green manufacturing, reinforce the competitive edge of advantageous industries, accelerate rectifying weaknesses in development-critical domains, and construct a premium, highly efficient new service sector system.

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 2024 Guiding Catalog: https://www.gov.cn/zhengce/zhengceku/202312/content 6923472.htm

Customs circulars

PN regarding matters related to the implementation of the 2024 tariff adjustment plan (GAC PN [2023] No. 196)

Synopsis

On 20 December 2023, the Customs Tariff Commission of the State Council released Customs Tariff Commission PN [2023] No. 10 (PN 10) regarding the tariff adjustment plan for 2024 which took effect on 1 January 2024. Accordingly, the General Administration of Customs (GAC) released GAC PN [2023] No. 196 (PN 196) on 29 December 2023 to specify matters related to the implementation of the 2024 tariff adjustment plan.

Based on domestic needs, adjustments have been made to some tariff items and notes, such as adding tariff items for decorative base paper, high-end steel products. After the adjustments, the total number of tariff items is 8,957.

The tariff items, rates, and the Catalogue of Customs Import and Export Commodity Taxation Declaration Norms (2024) adjusted according to the 2024 Tariff Adjustment Plan can be queried on the GAC portal website for declaration reference.

You can click this link to access the full contents of PN 196: http://gdfs.customs.gov.cn/customs/302249/2480148/5599848/index.html

You can click this link to access the full contents of PN 10: https://gss.mof.gov.cn/gzdt/zhengcefabu/202312/t20231221_3923368.htm

You can click this link to access the full contents of the Catalogue of Customs Import and Export Commodity Taxation Declaration Norms (2024):

http://shanghai.customs.gov.cn/customs/302249/302270/302272/5599939/index.html

Notice regarding public opinions consultation on the "Tariff Law of the PRC (Draft)"

Synopsis

The Tariff Law of the PRC (Draft) (hereinafter referred to as the "Draft Tariff Law") was deliberated in the Sixth Session of the 14th National People's Congress Standing Committee and announced to the public for comments on 29 December 2023. The period for soliciting opinions is 30 days, i.e., until 28 January 2023.

The Draft Tariff Law comprises of 70 articles in seven chapters. No significant changes are made compared to the current regulations as it mainly involves a systematic consolidation of the relevant tariff provisions from the "Customs Law of the PRC" and related regulations, such as the "Regulations on Import and Export Tariffs of the PRC".

Notably, Article 13 stipulates that "the State Council may, according to actual conditions and within the bounds of its commitments, adjust the tariff rates set forth by the National People's Congress Standing Committee, decide on the application of the most-favored-nation tariff rates under special circumstances, adjust the applicable countries or regions and the scope of goods and tariff rates for preferential tariff rates, adjust the general tariff rates, and report these adjustments to the Standing Committee of the National People's Congress for the record." This grants the State Council certain adjustment powers to better utilize the regulatory function of tariffs.

Concerned businesses are suggested to read the Draft Tariff Law and express opinions on or before 28 January 2023 by sending mails or logging onto www.npc.gov.cn or flk.npc.gov.cn.

You can click this link to access the full contents of the Draft Tariff Law: http://www.npc.gov.cn/flcaw/

You can click this link to access the full contents of the Customs Law of the PRC: https://www.caea.gov.cn/n6760401/n6760402/c6827751/content.html

You can click this link to access the full contents of the Regulations on Import and Export Tariffs of the PRC: https://www.gov.cn/zhengce/202203/content 3338222.htm

Notice regarding certain import/export-level tax policies on goods for the Guangdong-Macau In-depth Cooperation Zone in Hengqin (Caiguanshui [2024] No. 1)

Synopsis

To implement the Overall Plan for the Construction of Guangdong-Macau In-depth Cooperation Zone in Hengqin (hereinafter referred to as the "Hengqin Zone") and support the development and opening up of the Hengqin Zone, the MOF, STA and GAC jointly released Caiguanshui [2024] No. 1 (Circular 1) on 3 January 2024.

Circular 1 specifies the CD and tax policies of "free flow through the first line, control at the second line" for goods in the Hengqin Zone. Compared with the current CD and tax policies on importation of goods in the Hengqin Zone, the following adjustments in Circular 1 are worth noting:

- Adjusting from the "first line" relaxation to the "first line" liberalization, expanding the scope of entities and goods eligible for duty-free or bonded policies, and promoting the efficient flow of "first line" goods.
- Optimizing and improving the "second line" control policy. To introduce the preferential policy of exempting CD for value-added processing (i.e., if goods are manufactured in the Hengqin Zone with use of imported materials while the manufacturing activity being a minimum 30% of contribution in terms of value increased, the goods sold to the Chinese mainland through the "second line" shall be CD exempted, import-level VAT and CT shall be levied according to the prevailing regulations), so as to encourage the development of processing and manufacturing in the Hengqin Zone and promote diversified economic development in Macau.

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 1: https://gss.mof.gov.cn/gzdt/zhengcefabu/202401/t20240104 3925050.htm

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

- Catalog of Non-transport Special Operations Vehicles Equipped with Fixtures That Are Exempt from Vehicle Purchase Tax (13th batch) (STA/MIIT PN [2023] No. 19) https://fgk.chinatax.gov.cn/zcfgk/c100012/c5219987/content.html
- Notice regarding tax policies on personal luggage and goods delivery for the Hengqin Zone (Caiguanshui [2024] No. 2)
 - https://gss.mof.gov.cn/gzdt/zhengcefabu/202401/t20240104_3925053.htm
- Guidelines on Enterprises Deregistration (2023 Revised) (SAMR/GAC/STA PN [2023] No. 58)

 https://www.samr.gov.cn/zw/zfxxgk/fdzdgknr/djzcj/art/2023/art_1cda5f346be248e799a3454a93821aa3.ht

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Administrative Measures for Expanding Foreign Exchange Business of Banks (Trial) (SAFE PN [2023] No.
 1)

https://www.gov.cn/zhengce/zhengceku/202312/content 6923403.htm

 Guiding opinions on accelerating the transformation and upgrading of traditional manufacturing industries (Gongxinbuliangui [2023] No. 258)

https://www.gov.cn/zhengce/zhengceku/202312/content 6923270.htm

- PN regarding the "Catalog of Goods Prohibited from Import (ninth batch)" and "Catalog of Goods Prohibited from Export (eighth batch)" (MOFCOM /GAC/MOE PN [2023] No. 63) http://www.mofcom.gov.cn/article/zcfb/zcdwmy/202312/20231203463766.shtml
- Implementation Measures of the National Development and Reform Commission on Administrative Review (NDRC Order [2023] No. 6)

https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/202401/t20240104_1363094.html

- Administrative Measures for Express Market (MOT Order [2023] No. 22) https://xxgk.mot.gov.cn/2020/jigou/fgs/202401/t20240104 3980683.html
- PN regarding the revisions to the "PN on Matters related to the Implementation of the 'Administrative Measures of the Customs of the PRC for Reduction and Exemption of Import and Export Duties" (GAC PN [2023] No. 197)

http://gdfs.customs.gov.cn/customs/302249/2480148/5600683/index.html

Standards of the Customs of the PRC on Discretion for Administrative Penalties (III) (GAC PN [2023] No. 198)

http://gdfs.customs.gov.cn/customs/302249/2480148/5600984/index.html

- Catalog of Goods Subject to Import Permit Administration (2024) (MOFCOM PN [2023] No. 64) http://www.mofcom.gov.cn/article/zcfb/zcdwmy/202312/20231203463753.shtml
- Catalog of Goods Subject to Export Permit Administration (2024) (MOFCOM/GAC PN [2023] No. 65) http://www.mofcom.gov.cn/article/zcfb/zcdwmy/202312/20231203463828.shtml
- PN regarding the 2024 "Catalog of Dual-use Goods and Technologies Subject to Import & Export Permits Administration" (MOFCOM/GAC PN [2023] No. 66)

 http://www.mofcom.gov.cn/article/zcfb/zcdwmy/202312/20231203463916.shtml
- PN regarding further optimizing the administration of goods entering and exiting comprehensive bonded zones (GAC PN [2023] No. 200) http://www.customs.gov.cn/customs/302249/302266/302267/5605028/index.html
- PN regarding exempting businesses from submitting the paper "Cargo Manifest for Entry-exit by Land of Mainland and Hong Kong Customs" (GAC PN [2023] No. 199)

 http://www.customs.gov.cn/customs/302249/302266/302267/5603406/index.html
- Measures of the Customs of the PRC on the Supervision and Administration of Hengqin Zone (GAC PN [2023] No. 202)

http://www.customs.gov.cn/customs/302249/2480148/5611270/index.html



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