



TAX LAW

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 circular

- Interpretation of certain issues concerning the application of law in handling criminal cases related to tax collection and administration (Fashi [2024] No. 4)

Synopsis

"Interpretation of certain issues concerning the application of law in handling criminal cases related to tax collection and administration" (hereinafter referred to as the "Interpretation") was successively approved in the 1911st meeting of the Judicial Committee of the Supreme People's Court on 8 January 2024, and the 25th meeting of the 14th Procuratorial Committee of the Supreme People's Procuratorate on 22 February 2024. The Interpretation was announced to the public on 15 March 2024 via Fashi [2024] No. 4 and became valid from 20 March 2024.



The Interpretation comprises 22 articles focusing on effectively combating tax crimes, highlighting key aspects such as:

- The Interpretation sets out conviction and sentence standards for relevant crimes, particularly addressing 14 offenses threatening tax collection and management, which includes:
 - Adjusting the standards for convictions and punishments of tax offenses, such as raising the threshold for tax evasion convictions.
 - Clarifying the standards for convictions and punishments of various invoice-related crimes, such as forgery, illegal sale, purchase, and issuance of false invoices.
- Following the principle of appropriate punishment on crimes, the Interpretation limits the crime of issuing false VAT special invoices to target behaviors exploiting the core function of using these invoices to offset tax payments, excluding actions falsely inflating performance, financing, or loans from this category of crime.
- The Interpretation explicitly identifies signing “dual contracts” (“阴阳合同”) as a method of tax evasion and lists eight manifestations of “fraudulent reporting of exports” to combat fraudulent export tax refunds.
- The Interpretation introduces leniency policies by back payment of taxes and recovery of tax losses:
 - Specifying the deadline for taxpayers to settle back taxes before criminal proceedings is initiated.
 - Ensuring tax authorities approving delays or installment payments to prevent situations where tax evasion is difficult to rectify due to short deadlines.
 - Defendants actively paying taxes and compensating for losses can receive lenient penalties, and minor offenses may not lead to prosecution or punishment.
 - Where taxpayers evade tax payments and tax authorities do not issue recovery notices in accordance with the law, criminal responsibility will not be pursued.

On the other hand, the Interpretation establishes guidelines for penalizing corporate tax offenses and addresses related issues. It defines conviction and sentencing criteria for corporations involved in tax crimes, applying standards similar to those for individual criminal offenses.

As listed out in the Interpretation, a series of previous interpretations issued by the Supreme People’s Court and Supreme People’s Procuratorate that contradict are superseded upon the effectiveness of the Interpretation on 20 March 2024. If there are any judicial interpretations issued by the Supreme People’s Court and the Supreme People’s Procuratorate that conflict with the Interpretation, the Interpretation will take precedence.

Taxpayers are encouraged to read the Interpretation for more information.

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

https://www.spp.gov.cn/xwfbh/wsfbt/202403/t20240318_649715.shtml

Business circular

- Action plan on further promoting high-standard opening up to attract and utilize foreign investment (Guobanfa [2024] No. 9)

Synopsis

On 19 March 2024, the General Office of the State Council delivered an action plan on further promoting high-standard opening up to attract and utilize foreign investment (hereinafter referred to as the “Action Plan”) via Guobanfa [2024] No. 9 to further promote highly intensified opening up to attract and utilize foreign investment.

The Action Plan unveils 24 actions from five aspects to intensify attraction of foreign investment, i.e., market access, policy support, fair competition and supportive environment, element circulation and improving rules. Key information of the Action Plan are as follows:

Expand market access for foreign investment

- Reduce the negative list for foreign investment access that includes remove restrictions on foreign investment access in the manufacturing industry and further open up the telecommunications and medical fields
- Liberalize the pilot for foreign investment access in the field of scientific and technological innovation
- Expand the access of foreign-invested financial institutions in banking and insurance
- Expand the business scope of foreign-invested financial institutions
- Deeply implement the pilot program for domestic investment by Qualified Foreign Limited Partners (QFLPs)

Increase policy support to enhance the attractiveness of foreign investment

- Expand the catalog of encouraged industries for foreign investments and the lists of foreign investment projects
- Implement tax support policies, including:
 - For projects re-invested by foreign investment enterprises, importing qualifying equipment for their own use will be exempted from tariffs.
 - Tax preferential policies supporting overseas investors investing in China's bond market will be better implemented

Optimize the fair competition environment

- Clean up policies that hinder a unified market and fair competition
- Enhance services for foreign investment enterprises, such as simplify their data reporting requirements

Smooth the flow of innovation factors and promote innovation cooperation between domestic and foreign investment enterprises

- Optimize the management of foreigners' work and residence permits in China

Improve domestic regulations to better align with international high-standard economic and trade rules

- Strengthen the protection of intellectual property rights of foreign investment enterprises

Relevant parties are encouraged to refer to the Action Plan for more information. We will closely monitor any further developments and provide you with timely updates. Please stay tuned.

We have issued a WeChat news article (in Chinese) on 24 March 2024 to discuss the Action Plan 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.

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

https://www.gov.cn/zhengce/content/202403/content_6940154.htm

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

<https://mp.weixin.qq.com/s/90AY63cTthEgh3DAiBnlw>

- ▶ Public notice (PN) regarding matters related to extending the validity of customs advance ruling decisions (GAC PN [2024] No. 32)

Synopsis

To further enhance the predictability of enterprises' import and export trade activities and optimize the business environment, the General Administration of Customs (GAC) issued GAC PN [2024] No. 32 (PN 32) on 15 March 2024.

Key points are as follows:

- Extending the validity of customs advance ruling decisions

According to the Provisional Administrative Measures of the Customs of the People's Republic of China on Advance Ruling (hereinafter referred to as the "Advance Ruling Measures"), customs advance ruling decisions are valid for three years. While PN 32 further clarifies that an original applicant may apply to the Customs for extension of the original customs advance ruling decision before its expiration. Notably, the applicant shall file the application within 30 to 90 days before the expiration date of the decision, and the relevant contents of customs affairs and commodities involved shall be consistent.

- Expanding the scope of applicants for advance ruling

The Advance Ruling Measures specify the applicant for advance ruling as "a foreign trade operator related to actual import and export activities with record-filing in the Customs", while PN 32 clarifies that foreign exporters or producers are allowed to apply for advance ruling in the China (Shanghai) Pilot Free Trade Zone (including the Lin-gang Special Area). It is worth noting that for advance ruling applied by the overseas applicants, the consignees of the imported goods cannot use the customs advance ruling decisions when importing the relevant goods.

- In accordance with the above amendments, the format of the customs advance ruling decision has been changed accordingly.

PN 32 will be effective on 1 May 2024. Relevant parties are encouraged to read PN 32 for greater details. We will closely monitor any further developments and provide you with timely updates. Please stay tuned.

You can click this link to access the full contents of PN 32:

<http://www.customs.gov.cn/customs/302249/2480148/5758598/index.html>

You can click this link to access the full contents of the Advance Ruling Measures:

<http://www.customs.gov.cn/customs/302249/zfxgk/hggzk/4054195/index.html>

- ▶ PN regarding matters related to the administration of bonded business in Guangdong-Macau In-depth Cooperation Zone in Hengqin (Gongbei Customs PN [2024] No. 2)

Synopsis

To further standardize the management of bonded business in the Guangdong-Macau In-depth Cooperation Zone in Hengqin (hereinafter referred to as "Hengqin"), the Gongbei Customs (which oversees customs matters for Zhuhai and Zhongshan cities) issued Gongbei Customs PN [2024] No. 2 (PN 2) on 21 February 2024, specifying matters related to the administration of bonded business in Hengqin in accordance with Caiguanshui [2024] No. 1 (Circular 1, i.e., Notice regarding certain import or export-level tax policies on goods for Hengqin) and GAC PN [2023] No. 202 (PN 202, i.e., Notice on customs policies on import and export taxation of goods in Hengqin).

PN 2 aims to standardize the management of bonded operations in Hengqin, such as the detailed provisions regarding the management system, requirements for enterprises, customs account management, processing trade, logistics distribution, and other aspects of bonded operations. These regulations are designed to ensure the smooth operation of bonded operations, regulate the business activities of enterprises, and ensure that the bonded operations in Hengqin comply with regulatory requirements.

PN 2 shall come into force on the day when Hengqin was officially sealed as a special customs zone with relaxed entry rules but customs control on exit, i.e., allowing tax-exempted benefits and free movement within the zone, effective on 1 March 2024. Relevant businesses are encouraged to refer to PN 2 for further details.

You can click this link to access the full contents of PN 2:

http://gongbei.customs.gov.cn/gongbei_customs/374280/fdzdgknr19/4262598/xyx30/5758195/index.html

You can click this link to access the full contents of Circular 1:

https://gss.mof.gov.cn/gzdt/zhengcefabu/202401/t20240104_3925050.htm

You can click this link to access the full contents of PN 202:

<http://gdfs.customs.gov.cn/customs/302249/2480148/5611270/index.html>

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

- ▶ Opinions on Strengthening Supervision of Listed Companies (Trial)
<http://www.csrc.gov.cn/csrc/c100028/c7467850/content.shtml>
- ▶ Opinions on strengthening the supervision of listing activities to improve the quality of listed companies (trial)
<http://www.csrc.gov.cn/csrc/c100028/c7467848/content.shtml>
- ▶ Opinions on strengthening the supervision of securities brokers and public fund companies to accelerate the construction of first-class investment banks and institutions (trial)
<http://www.csrc.gov.cn/csrc/c100028/c7467858/content.shtml>
- ▶ Regulations on On-site Inspection of IPO Enterprises (2024) (CSRC PN [2024] No. 1)
<http://www.csrc.gov.cn/csrc/c101954/c7467951/content.shtml>
- ▶ Decisions on the amendment and abolishment of certain administrative regulations (State Council Order [2024] No. 777)
https://www.gov.cn/zhengce/content/202403/content_6939590.htm
- ▶ Administrative Measures for Consumer Finance Companies (NFRA Order [2024] No. 4)
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1155386>
- ▶ PN regarding public opinions consultation on the “Anti-monopoly Compliance Guideline for Business Operators (Discussion Draft)”
https://www.samr.gov.cn/hd/zjdc/art/2024/art_329596c01e1644d3b19fea6b3c111e00.html
- ▶ PN regarding adjusting the requirements for customs declaration of imported and exported goods (GAC PN [2024] No. 30)
<http://www.customs.gov.cn/customs/302249/2480148/5756916/index.html>

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