

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.

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Tax circulars

- ▶ **Tariff Law of the People's Republic of China (PRC)**
- ▶ **Tariff Schedule of the PRC**

Synopsis

On 26 April 2024, the Tariff Law of the PRC (hereinafter referred to as the "Tariff Law") was approved by the Standing Committee of the 14th National People's Congress. The Tariff Law will take effect from 1 December 2024 and supersede the prevailing Regulations of the PRC on Import and Export Duties simultaneously.



The overall tax burden level remains unchanged as compared to the existing tariff system. The Tariff Law comprises of 72 articles in seven chapters and the key features are as follows:

Tax scope	<ul style="list-style-type: none"> ▶ Goods permitted to be imported or exported by the PRC and inbound articles
Taxpayers	<ul style="list-style-type: none"> ▶ Consignees of imported goods, consignors of exported goods, and carriers or recipients of inbound articles
Withholding agents	<ul style="list-style-type: none"> ▶ E-commerce platform operators engaging in cross-border e-commerce retail imports, logistics companies, and customs declaration enterprises ▶ Entities and individuals that are obligated by laws and regulations to withhold or collect tariffs
Tariff items and rates	<ul style="list-style-type: none"> ▶ Tariff items and rates are stipulated in the Tariff Schedule of the PRC. The types of rates mainly include: <ul style="list-style-type: none"> ✓ most-favored-nation rates, conventional rates, preferential rates and general rates for imports ✓ rates for exports ✓ tariff rate quota (TRQ) rates and provisional rates for specific imports and exports
Tariff calculation	<ul style="list-style-type: none"> ▶ Specific, ad valorem, or compound (i.e., a combination of both)
Preferential treatments	<ul style="list-style-type: none"> ▶ Import or export goods and inbound articles subject to tariff reduction or exemption as stipulated in the Tariff Law ▶ The State Council may formulate preferential policies under special circumstances
Administration and collection	<ul style="list-style-type: none"> ▶ The collection of tariffs can be managed in the mode of separating the release of goods from tariff amount determination ▶ Taxpayers or withholding agents may choose a customs office to declare and pay tariffs according to the provision of the Law ▶ Tariff payment can be made on a consolidated basis provided certain conditions are met ▶ Taxpayers may have up to three years (instead of one year under the prevailing Regulations) to claim a refund upon their discovery of an overpayment of tariffs

The announcement of the Tariff Law marks another step forward in China's tax legislation. To date, among China's 18 types of taxes, five of them have yet to be legislated, i.e., Value-added Tax (VAT), Consumption Tax, Land Appreciation Tax, Urban Land Use Tax, and Real Estate Tax.

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

http://www.npc.gov.cn/npc/c2/c30834/202404/t20240426_436843.html

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

https://www.gov.cn/zhengce/zhengceku/202404/content_6947938.htm

You can click this link to access the full contents of the Regulations of the PRC on Import and Export Duties:

https://www.gov.cn/gongbao/content/2017/content_5219152.htm

► **Public notice regarding matters related to the “reverse invoicing” by resource recycling enterprises to natural persons who sell scrapped products**

Synopsis

China's State Taxation Administration (STA) recently issued Public Notice [2024] No. 5 (“PN 5”), launching the “reverse invoicing” mechanism for scrapped products transactions. Specifically, effective from 29 April 2024, if a natural person sells scrapped products to a qualified resource recycling enterprise, the enterprise may issue an invoice to such seller.

Key definitions of PN 5 are as follows:

► **Scrapped products**

Scrapped products refer to goods that are produced in the process of social production or livelihood consumption and have lost all or part of their use value.

► **Issuers of invoices**

The issuers refer to qualified entities and self-employed industrial and commercial households engaged in resource recycling business.

► **Recipients of invoices**

The recipients refer to natural persons who sell self-used or purchased scrapped goods with cumulative sales under the reverse invoicing not exceeding RMB5 million within 12 consecutive months.

► **Pre-tax deduction**

Where a special VAT invoice is issued by a resource recycling enterprise that subject to general VAT calculation method, the enterprise may claim an input VAT credit and also deduct the relevant expenditures for Corporate Income Tax (CIT) purposes. If an ordinary VAT invoice is issued, it may serve as a pre-CIT deduction proof.

► **Preferential tax treatments**

Natural person sellers may enjoy preferential policies such as

- ✓ VAT exemption for small-scale taxpayers whose monthly sales are below RMB100,000
- ✓ A reduced VAT rate of 1% for taxable income that should be subject to 3% levy rate

Qualified resource recycling enterprises can enjoy the VAT same time levy and rebate policy.

► **Tax filing**

Resource recycling enterprises shall make declaration and payment of VAT and its surcharges, as well as Individual Income Tax (IIT) on behalf of the natural person sellers.

Natural person sellers shall file the annual IIT reconciliation with the competent tax authority at the place of business operations by 31 March of the year following the invoicing year.

You can click this link to access the full contents of PN 5:

<https://fgk.chinatax.gov.cn/zcfqk/c100012/c5223292/content.html>

► **Public notice regarding IIT treatments for equity incentive plans offered by listed companies**

Synopsis

On 17 April 2024, the Ministry of Finance and the STA jointly issued PN 2 to clarify IIT policies relating to equity incentives of listed companies.

For the stock options, restricted shares and equity incentives granted to individuals by domestic listed enterprises, the IIT on the income derived therefrom can be paid by installments within 36 months from the date of exercising the stock options, the lifting of restricted shares or the acquisition of equity incentives. If a taxpayer resigns from the job that offered the incentives during the said period, he or she shall settle all taxes prior to resignation.

The abovementioned “domestic listed enterprises” refer to enterprises whose shares are listed and traded on the Shanghai Stock Exchange, Shenzhen Stock Exchange and Beijing Stock Exchange.

PN 2 takes effect from 1 January 2024 to 31 December 2027. Taxpayers who exercise options after 1 January 2023 and have not yet paid all the taxes may apply the provision under PN 2, and the period for tax payments in installments shall commence from the date of exercise.

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

<https://fgk.chinatax.gov.cn/zcfgk/c102416/c5223339/content.html>

► **Public notice regarding extending the 14th set of exclusions to the goods originating from the United States that are imposed with additional tariffs**

Synopsis

The Customs Tariff Commission of China’s State Council announced PN 3 to extend the tariff exclusions on 124 products from the United States to 30 November 2024. The exclusions were set to expire on 30 April 2024.

The exclusions cover a wide range of products, including but not limited to:

- ✓ Rare earth metal ore
- ✓ Gold ore
- ✓ Medical disinfectants
- ✓ High-speed television camera
- ✓ Night vision digital camera
- ✓ Navigation radar equipment

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

https://gss.mof.gov.cn/gzdt/zhengcefabu/202404/t20240429_3933822.htm

► Guidelines on preferential tax/fee policies for supporting the manufacturing industry

Synopsis

To facilitate businesses in the manufacturing sector to fully enjoy preferential policies, the STA released the Guidelines on preferential tax/fee policies for supporting the manufacturing industry (hereinafter referred to as the “Guidelines”). The Guidelines cover 31 preferential tax and fee policies, and can be mainly classified into three categories (some examples quoted):

- **Specific incentives: preferential tax policies for specific products**
 - ✓ VAT same time levy and rebate policy for qualified software products
 - ✓ Consumption Tax exemption for eligible batteries and coatings
- **Inclusive incentives: preferential policies for all qualified manufacturing enterprises**
 - ✓ Super deduction of research and development expenses for CIT purposes
 - ✓ Accelerated depreciation or amortization of fixed assets or purchased software
- **Regional incentives: preferential policies for qualified enterprises established in in specific areas**
 - ✓ A reduced CIT rate of 15% for encouraged industrial enterprises located in the western region
 - ✓ A reduced CIT rate of 15% for encouraged industrial enterprises registered and engaged in substantive operations in Hainan Free Trade Port

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

<https://fgk.chinatax.gov.cn/zcfgk/c100022/c5223015/content.html>

► Regulations on Simplified Procedures for Tax Administrative Reconsideration in Shanghai (Trial)

Synopsis

In order to build a more business-friendly tax environment, the Shanghai Municipal Tax Service issued the Regulations on Simplified Procedures for Tax Administrative Reconsideration in Shanghai (Trial) (hereinafter referred to as the “Trial Regulations”). Effective from 17 April 2024, eligible cases can be subject to the simplified reconsideration procedures.

Under the simplified procedures, tax authorities shall make an administrative reconsideration decision within 30 days (instead of 60 days under the general procedures) from the date of accepting the application.

The simplified procedures may apply to cases:

- where the administrative act is made on the spot
- involving tax amount, social insurance premiums, or non-tax income of less than RMB3,000
- involving other amounts of less than RMB3,000
- where its information is already fully disclosed by government
- in which all parties concerned agree to apply the simplified procedures

It should be noted that if the case is found to fall under the prescribed circumstances that general reconsideration procedures should be applied, the procedure would be changed accordingly.

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

<https://shanghai.chinatax.gov.cn/zcfw/zcfgk/node92/202404/t471557.html>

► **Policy measures for further supporting overseas institutions to invest in China's domestic sci-tech enterprises**

Synopsis

China's 10 central authorities jointly issued circular Shangcaifa [2024] No. 59 ("Circular 59"), introducing policy measures to encourage overseas institutions to invest in China's domestic sci-tech enterprises.

Circular 59 covers a total of 16 specific measures in four aspects and the key points are as follows:

► **Optimizing administrative services**

- ✓ Streamline the process to improve approval efficiency for Qualified Foreign Institutional Investors (QFII) and Renminbi Qualified Foreign Institutional Investors (RQFII)
- ✓ Improve foreign exchange management for direct investments

► **Strengthening financing support**

- ✓ Support qualified overseas institutions to issue RMB bonds in China and invest in the sci-tech sector
- ✓ Enable sci-tech enterprises invested by overseas institutions to issue corporate credit bonds according to relevant laws and regulations

► **Enhancing cooperation and exchanges**

- ✓ Establish platforms to better serve overseas institutions
- ✓ Facilitate the entry and exit of relevant personnel

► **Improving exit mechanisms**

- ✓ Facilitate overseas listings of sci-tech enterprises
- ✓ Support mergers and acquisitions of sci-tech enterprises by listed companies
- ✓ Promote the pilot in transfer of private equity and venture capital interests
- ✓ Streamline process for enjoying tax treaty benefits by overseas institutions that receive dividends from listed companies in China

Detailed rules are expected to be released. Please stay tuned.

You can click this link to access the full contents of Circular 59:

<http://www.mofcom.gov.cn/article/xwfb/xwrcxw/202404/20240403504440.shtml>

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

- ▶ **Public notice regarding the Land Appreciation Tax policies related to the reform of rural collective property rights system**
https://szs.mof.gov.cn/zhengcefabu/202404/t20240425_3933505.htm
- ▶ **Public notice regarding applying preferential tariff rates under the Free Trade Agreement to certain imported goods originating from Ecuador**
http://gss.mof.gov.cn/gzdt/zhengcefabu/202404/t20240419_3933100.htm
- ▶ **Public notice regarding certain policy measures for further facilitating entry and exit**
https://www.cnbayarea.org.cn/policy/policy%20release/policies/content/post_1240216.html
- ▶ **16 measures for capital market to better serve the high-level development of sci-tech enterprises**
<http://www.csrc.gov.cn/csrc/c100028/c7474995/content.shtml>
- ▶ **Guiding opinions on promoting the high-quality development of green insurance**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1159506>
- ▶ **Three-year action plan on digital commerce (2024-2026)**
<http://www.mofcom.gov.cn/article/gztz/202404/20240403506347.shtml>
- ▶ **Administrative Review Procedures of the State Administration of Foreign Exchange (2024)**
<https://www.safe.gov.cn/safe/2024/0426/24279.html>
- ▶ **Anti-monopoly Compliance Guidelines for Business Operators (2024)**
https://www.samr.gov.cn/zw/zfxxgk/fdzdgknr/jzxcxs/art/2024/art_2d4b1705feb41c38856dda554e84857.html
- ▶ **Notice regarding public opinions consultation on the “Accounting Law of the PRC (Revised Draft)”**
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff8081818e750883018f18667a120e3e>
- ▶ **Public notice regarding adjusting the “Catalog of Precursor Chemicals Exported to Specific Countries/Regions”**
<http://www.mofcom.gov.cn/article/zcfb/zcblgg/202404/20240403505105.shtml>
- ▶ **Administrative measures on the place of origin of import and export goods under the “Free Trade Agreement Between the Government of the People’s Republic of China and the Government of the Republic of Ecuador”**
<http://www.customs.gov.cn/customs/302249/2480148/5847264/index.html>



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