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*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 certain matters related to the administration of taxpayers' credit rating (STA PN [2020] No. 15)**

Synopsis

According to the prevailing tax policies, credit ratings for covered taxpayers shall be classified as A, B, C, D and M¹, such ratings would subject the taxpayers to more preferential or stricter administrative measures.

To further optimize the tax and business environment, and improve the system of credit rating for taxpayers, on 13 September 2020, the State Taxation Administration (STA) released STA PN [2020] No. 15 ("PN 15", i.e., PN regarding certain matters related to the administration of taxpayers' credit rating) to further stipulate the following matters:

- A branch that does not possess independent accounting system apart from its head office may voluntarily apply for its own credit rating by submitting an application form to the supervising tax authority for year 2020 onwards. In other words, such branch could be granted with a different credit rating and subject itself to a different administrative measure, e.g. a more preferential one that allows the branch to collect an increased volume of special Value-added Tax invoices in one go.

- ▶ Adjusted rating rules for year 2020 onwards:

Previous tax credit rating rules as prescribed in STA PN [2014] No. 40 ("PN 40")	New tax credit rating rules as prescribed in PN 15
If an enterprise has no record of non-recurring index <u>for the current year</u> (i.e., has not been through tax audits), the starting point for the enterprise shall be 100 points. If no, the starting point shall be 90. (Please refer to CTIE2014028 for details of PN 40.)	If an enterprise has no record of non-recurring index <u>for the recent three years</u> (i.e., has not been through tax audits), the starting point for the enterprise shall be 100 points. If no, the starting point shall be 90.

- ▶ Adjusted measures for taxpayers classified with credit rating D:

Previous measures as prescribed in PN 40	New measures as prescribed in PN 15
Once a taxpayer is classified as credit rating D, <u>the classification shall be retained for two years and the taxpayers are not allowed to be classified as credit rating A in the third year.</u>	<p>Starting from the classification for year 2019, the following adjusted measures shall apply to taxpayers with credit rating D:</p> <ul style="list-style-type: none"> ▶ For a taxpayer who has been classified as credit rating D according to the relevant evaluation indexes, the taxpayer shall lose 11 points in the next year's classification instead of retaining its credit rating D for the next year. The supervising tax authorities shall then adjust the taxpayers' credit rating for year 2019 before 30 November 2020. ▶ For a taxpayer who has been directly classified as credit rating D², its classification result shall be retained for two years and the taxpayers are not allowed to be classified as credit rating A in the third year.

- ▶ A taxpayer may apply for review of its classification result in March of the following year by submitting the re-evaluation form for tax credit to its supervising tax authority.

PN 15 shall become effective on 1 November 2020, previous stipulations conflicted with contents of PN 15 shall be revoked accordingly. Taxpayers are encouraged to read PN 15 for more details and pay attention to the changes.

¹ Taxpayers with rating M refer to newly set up enterprises, or enterprises with no operating income during a calendar year with scores of 70 or above according to the relevant evaluation indicators.

² According to PN 40, taxpayers committed significant tax violations (e.g., tax evasion, export tax refund fraud, etc.) shall be directly classified as credit rating D.

You can click this link to access the full content of PN 15:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5156715/content.html>

You can click this link to access the full content of PN 40:

<http://www.chinatax.gov.cn/n810341/n810755/c1150610/content.html>

- ▶ **PN regarding extending the first set of exclusions to the goods originating from the United States that are imposed with the first round of additional tariffs (Customs Tariff Commission PN [2020] No. 8)**

Synopsis

According to Customs Tariff Commission PN [2019] No. 6 ("PN 6", i.e., PN regarding the first set of lists of goods originating from the United States to be excluded from the first round of additional tariffs), goods in the lists of PN 6 shall not be imposed with additional tariffs against the US Section 301 from 17 September 2019 to 16 September 2020. (Please refer to CTIE2019037 for details of PN 6.)

Further to PN 6, on 14 September 2020, the Customs Tariff Commission of the State Council released Customs Tariff Commission PN [2020] No. 8 ("PN 8") to extend the exclusion period for above-mentioned goods.

According to PN 8, for the 16 goods as listed in the attachment of PN 8, the exclusion period as prescribed in PN 6 shall be extended for one year, i.e., those goods shall not be imposed with additional tariffs against the US Section 301 from 17 September 2020 to 16 September 2021.

Relevant parties are encouraged to read PN 8 for more details. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 6:

http://www.gov.cn/xinwen/2019-09/11/content_5429145.htm

You can click this link to access the full content of PN 8:

http://www.gov.cn/zhengce/zhengceku/2020-09/15/content_5543541.htm

Business circulars

- ▶ **Decision on regulating the market access of financial holding companies (Guofa [2020] No. 12)**
- ▶ **Provisional measures for the supervision and regulation on financial holding companies (PBOC Order [2020] No. 4)**

Synopsis

To strengthen the supervision and regulation on financial holding companies and prevent systemic financial risks, on 11 September 2020, the State Council issued Guofa [2020] No. 12 ("Circular 12", i.e., Decision on regulating the market access of financial holding companies) and introduced several administrative measures as follows:

- ▶ Implement access administration to financial holding companies. Non-financial enterprises, natural persons or recognized legal persons within the territory of the People's Republic of China (PRC) holding or actually controlling two or more different types of financial institutions and fulfilling the conditions specified in Circular 12 should apply to the People's Bank of China (PBOC) for approval for establishing a financial holding company.
- ▶ Conditions and procedures for the establishment of a financial holding company are prescribed, including the conditions of registered capital, shareholders, actual controllers, and management, as well as relevant provisions for the process of registration and equity transfer.

Following the release of Circular 12, on the same day, the PBOC issued the “Provisional Measures for the Supervision and Regulation on Financial Holding Companies” (hereinafter referred to as the “Measures”) via PBOC Order [2020] No. 4 to further clarify relevant matters of the supervision and regulation on financial holding companies, among which some noteworthy key points include:

Definition of “financial holding company”

The “financial holding company” as mentioned in the Measures refers to a limited liability company or a joint stock limited company that establishes, holds or actually controls two or more different types of financial institutions in accordance with laws, and merely carries out equity investment management but does not directly engage in business activities.

Establishment and approval

- ▶ Non-financial enterprises, natural persons, and recognized legal persons that actually control two or more different types of financial institutions and meet the asset requirement specified in the Measures should establish a financial holding company.
- ▶ To get approved for the establishment of a financial holding company, an applicant must also meet the relevant conditions of registered capital, shareholders, actual controllers, management, etc.

Corporate governance and synergies

- ▶ A financial holding company should have a concise, clear and penetrable shareholding structure, identifiable actual controllers, ultimate beneficiaries and reasonable hierarchy of legal person which are all in line with its own capital scale, management capabilities, and risk control level.
- ▶ Cross shareholdings between financial institutions that are controlled by a financial holding company are not allowed.
- ▶ The entity should establish and improve risk isolation mechanism of the group, regulate and enhance synergies, and focus on the protection of customer information.

Consolidated management and risk management

A financial holding company should comprehensively and continuously control the corporate governance, capital, and leverage ratios of the holding institutions within the scope of consolidated management and effectively identify, measure, monitor and control the overall risk of the financial holding group.

Supervision and regulation

- ▶ The PBOC shall conduct consolidated supervision and regulation on financial holding companies in accordance with laws, administrative regulations, decisions of the State Council and the Measures.
- ▶ Establish an information sharing mechanism between the PBOC and relevant authorities.
- ▶ The PBOC can conduct on-site inspections of financial holding companies, inquire staff, check and copy documents and materials, and check electronic data systems.

Both Circular 12 and the Measures shall come into effect on 11 November 2020. Relevant corporations are advised to observe the regulations. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of Circular 12:

http://www.gov.cn/zhengce/content/2020-09/13/content_5543127.htm

You can click this link to access the full content of the Measures:

<http://www.pbc.gov.cn/tiaofasi/144941/144957/4093006/index.html>

Customs circulars

- ▶ **Notice regarding public opinion consultation on the “Administrative Regulations of the Customs of the PRC on the Commodity Classification of Import and Export Goods (Discussion Draft)”**
- ▶ **PN regarding the decision on commodity classifications for year 2020 (GAC PN [2020] No. 108)**

Synopsis

On 14 September 2020, the General Administration of Customs (GAC) announced the “Administrative Regulations of the Customs of the PRC on the Commodity Classification of Import and Export Goods (Discussion Draft)” (hereinafter referred to as the “Discussion Draft”) on its official website to seek public opinion.

Key changes made in the Discussion Draft include:

- ▶ To determine the classification of a commodity, the Customs shall perform assessment based on its nature, composition, content and structure of the import/export commodities to draw a conclusion for the basis of law enforcement, before discharging the commodity.
- ▶ Where the consignee and consigner disagree with Customs' conclusion, the consignee and consigner may bring the matter to the Customs in writing within 15 days upon receiving the conclusion from the Customs. The Customs should then decide whether a reassessment should be conducted within 10 days.

Concerned businesses are encouraged to read the Discussion Draft for more details and express opinions on or before 14 October 2020 by sending emails to zhang_nan@customs.gov.cn or logging onto www.customs.gov.cn.

On the other hand, the GAC released GAC PN [2020] No. 108 (“PN 108”) on 15 September 2020 to announce the decision on commodity classifications for year 2020 which shall become effective on 1 October 2020.

You can click this link to access the full content of the Discussion Draft:

<http://www.customs.gov.cn/customs/302452/302329/zjz/3283312/index.html>

You can click this link to access the full content of PN 108:

<http://www.customs.gov.cn/customs/302249/2480148/3287222/index.html>



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

- ▶ **Notice regarding the implementation rules on portfolio insurance asset management products and other two circulars (Yinbaojianbanfa [2020] No. 85)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=928237>
- ▶ **Reply to certain issues of applicable laws related to the dispute over internet intellectual property (IP) (Fashi [2020] No. 9)**
<http://www.court.gov.cn/fabu-xiangqing-254921.html>
- ▶ **Guiding opinion on the trial of civil cases related to IP of e-commerce platforms (Fafa [2020] No. 32)**
<http://www.court.gov.cn/fabu-xiangqing-254931.html>
- ▶ **Notice regarding public opinion consultation on "Certain Regulations on Enhancing the Supervision of Private Equity Funds (Discussion Draft)"**
http://www.csfc.gov.cn/pub/zjhpublic/zjh/202009/t20200911_383020.htm
- ▶ **Opinions on enhancing the integrated development of private economy in the new era**
http://www.gov.cn/zhengce/2020-09/15/content_5543685.htm
- ▶ **Opinions on enhancing the punishment on infringement of intellectual property rights in accordance with law (Fafa [2020] No. 33)**
<http://www.court.gov.cn/fabu-xiangqing-255591.html>
- ▶ **Guiding opinions on promoting the digitalization of confirmations for accounting firms (Caikuai [2020] No. 13)**
http://gkml.samr.gov.cn/nsjg/bzjss/202009/t20200916_321706.html
- ▶ **Notice regarding enhancing the supervision and regulation of microfinance companies (Yinbaojianbanfa [2020] No. 86)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=929448>
- ▶ **Notice regarding deepening the reform of "delegate power, streamline administration and optimize government services" and promoting booming development of the performing arts market (Wenlvshichangfa [2020] No. 62)**
http://www.gov.cn/zhengce/zhengceku/2020-09/16/content_5544020.htm
- ▶ **Notice regarding guiding opinions on enhancing the follow-up supervision on cancelling and delegating administrative approval items (2020 Version) (Guonengfafagai [2020] No. 42)**
http://zfxgk.nea.gov.cn/2020-08/24/c_139377938.htm
- ▶ **PN regarding matters related to adjustments to the supervision of water/air transport vehicles of inward/outward transportations (GAC PN [2020] No. 107)**
<http://www.customs.gov.cn/customs/302249/2480148/3287066/index.html>

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