

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 extension of Deed Tax (DT) policies for supporting the reorganization and restructuring of enterprises and public institutions (MOF/STA PN [2021] No. 17)**

Synopsis

On 26 April 2021, the Ministry of Finance (MOF) and State Taxation Administration (STA) jointly released MOF/STA PN [2021] No. 17 ("PN 17") to extend the DT policies for reorganization and restructuring of enterprises¹ and public institutions.



Key features of PN 17 are as follows:

Types of reorganizations	DT policies
Restructuring of enterprises	<p>The title transfer of land use rights and real properties from a pre-restructuring enterprise to a post-restructuring enterprise shall be exempt from DT after the entire restructuring², provided that:</p> <ul style="list-style-type: none"> ▶ Original investors of the pre-restructuring enterprise retain more than 75% equity of the post-restructuring enterprise; and ▶ Rights and obligations will be inherited by the post-restructuring enterprise.
Restructuring of public institutions	<p>The title transfer of land use rights and real properties of a public institution, which will be transformed into an enterprise after the restructuring according to relevant provisions of the People's Republic of China (PRC) shall be exempt from DT, provided that the original investors of the public institution retain more than 50% equity of the post-restructuring enterprise after the restructuring.</p>
Merger	<p>In a merger of companies, in accordance with the prevailing laws and agreements, land use rights and real properties obtained by a post-merger company shall be exempt from DT provided that the original investors of the pre-merger companies retain.</p>
Split	<p>In a split, according to the prevailing laws and agreements, land use rights and real properties obtained from a pre-split company shall be exempt from DT provided that the original investors are unchanged³ after the split.</p>
Bankruptcy	<ul style="list-style-type: none"> ▶ Where an enterprise goes bankrupt according to the prevailing laws and regulations, and the titles of the land use rights and real properties are transferred to its creditors (including its employees) as payment of debts, DT shall be exempt. ▶ Where an enterprise goes bankrupt and the titles of its land use rights and real properties are obtained by a non-creditor, DT shall be exempt if the non-creditor assumes the employment contracts with all employees of the bankrupt enterprise for no less than three years. ▶ Where an enterprise goes bankrupt and the titles of its land use rights and real properties are obtained by a non-creditor, DT shall be subject to a 50% reduction if the non-creditor assumes employment contracts with more than 30% of employees of the bankrupt enterprise for no less than three years.
Transfer of assets	<ul style="list-style-type: none"> ▶ Where the state-owned asset administration departments or local governments at the county level or above adjust or reallocate the state-owned lands or real properties of an enterprise, DT related to the transfer of land-use rights and real properties shall be exempt. ▶ During reorganization or restructuring of enterprises, DT shall be exempt if the transfer is between the enterprises held by the same investor (including transfers between a parent company and its wholly-owned subsidiaries, between two subsidiaries wholly-owned by a company, or between a natural person and his/her sole proprietorship or one-person limited liability company). ▶ The title transfer of land use rights and real properties of a parent company to its wholly owned subsidiary shall be exempt from DT if the purpose of the transfer is capital increase.

Types of reorganizations (Cont'd)	DT policies (Cont'd)
Debt-to-equity swap	A transfer of land-use rights and real properties during a debt-to-equity swap approved by the State Council shall be exempt from DT.
Transfers or investments	DT shall be levied where the land use rights of a piece of land previously allocated to a pre-restructuring enterprise or a public institution by the government is acquired by way of transfers or investments by the State.
Share transfers	DT shall not be levied on share transfers of a company if the ownership of land use rights and real properties remains unchanged.

Effectiveness

PN 17 is effective between 1 January 2021 and 31 December 2023 and applies to any relevant unsettled matters occurred before the promulgation of PN 17. Any taxpayers who are qualified for the DT exemption policies as prescribed in PN 17 but have already paid the relevant DT in 2021 before the issuance of PN 17 may apply for tax refunds.

¹ The enterprises mentioned in PN 17 refer to enterprises legally established in the PRC.

² Pursuant to the Company Law of the PRC, entire restructuring means that, a non-company enterprise is restructured as a limited liability company (LLC) or a joint stock company (JSC), or a LLC is restructured as a JSC, or a JSC is restructured as a LLC.

³ "The original investors are unchanged" means that the original investors still retain equities in the post-restructuring company after the restructuring but the ratio of equities they retained may be varied.

You can click this link to access the full content of PN 17:

http://szs.mof.gov.cn/zhengcefabu/202105/t20210514_3702235.htm

► PN regarding clarifications on certain administrative issues related to the refund of input Value-Added Tax (VAT) credits brought forward from the previous periods for taxpayers engaging in the advanced manufacturing industry (STA PN [2021] No. 10)

Synopsis

According to MOF/STA PN [2021] No. 15 ("PN 15", i.e., PN regarding clarifications on policies related to the refund of input VAT credits brought forward from the previous periods for taxpayers engaging in the advanced manufacturing industries), the STA released STA PN [2021] No. 10 ("PN 10") on 28 April 2021 to further clarify the following issues from tax collection and administration perspectives:

- A qualified taxpayer that meets the criteria as prescribed in PN 15⁴ should apply for a refund of the incremental input VAT credits brought forward from the previous period in full according to:
 - The application, handling, approval and refund processes shall still be referenced to STA PN [2019] No. 20 ("PN 20", i.e., PN regarding matters related to the refund of input VAT credit brought forward from the previous periods).
 - Article 3 of STA PN [2019] No. 45 ("PN 45", i.e., PN regarding clarifications on certain VAT related issues), i.e., input VAT to be transferred out after 1 April 2019 and prior to the tax refund should not be excluded from the deductible VAT indicated on special VAT invoices (including unified invoices of motor vehicle sales for tax control), the Customs special VAT payment certificates for imports (海关进口增值税专用缴款书) and VAT payment certificates (解缴税款完税凭证) when calculating the input composition ratio.
- The application form for tax refund (offset) is updated and announced as an attachment of PN 10.

PN 10 became effective on 1 May 2021. The previous versions of the application form for tax refund (offset) as announced via PN 20 and STA PN [2019] No. 31 (“PN 31”, i.e., PN regarding clarifications on certain issues related to VAT collection and administration) were revoked accordingly. Relevant taxpayers are advised to read in detail PNs 15, 10, 20 and 45. If in doubt, consultations with professionals are always recommended.

⁴ According to PN 15, from 1 April 2021, a taxpayer that derives over 50% of operating income from the manufacturing and sales of non-metallic mineral products, general equipment, etc. as categorized in the Industrial Classification and Codes for National Economic Activities and meets all the following criteria may apply for a refund of the incremental input VAT credits brought forward from the previous period:

- ▶ The incremental VAT credit of the taxpayer (compared to the ending balance of VAT credit to be carried forward at the end of March 2019) is greater than zero;
- ▶ The tax credit rating of the taxpayer is “A” or “B”;
- ▶ The taxpayer has not committed any tax refund fraud, export refund fraud or issuance of false special VAT invoices within 36 months prior to the application;
- ▶ The taxpayer has not been penalized twice or more by tax authorities for tax evasion within 36 months prior to the application;
- ▶ The taxpayer has not enjoyed preferential VAT policies of “Same Time Levy and Rebate” or “Levy First and Refund Later” since 1 April 2019.

You can click this link to access the full content of PN 10:

<http://www.chinatax.gov.cn/chinatax/n359/c5164022/content.html>

You can click this link to access the full content of the STA’s official interpretation of PN 10:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5164025/content.html>

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

http://szs.mof.gov.cn/zhengcefabu/202104/t20210428_3694211.htm

You can click this link to access the full content of PN 20:

<http://www.chinatax.gov.cn/n810341/n810755/c4308939/content.html>

You can click this link to access the full content of PN 45:

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5142086/content.html>

▶ **PN regarding certain issues related to the implementation of Corporate Income Tax policies (CIT) for third-party enterprises engaging in pollution prevention and control (STA/NDRC/MEE PN [2021] No. 11)**

Synopsis

According to MOF/STA/NDRC/MEE PN [2019] No. 60 (“PN 60”, i.e., PN regarding the CIT policy for third-party enterprises engaging in pollution prevention and control), qualifying third-party enterprises engaging in preventing and controlling pollution (hereinafter referred to as the “third-party enterprises”) shall be subject to CIT at a reduced rate of 15%. To better implement the preferential CIT policy for third-party enterprises, on 29 April 2021, the STA, National Development and Reform Commission (NDRC) and Ministry of Ecology and Environment (MEE) jointly released STA/NDRC/MEE PN [2021] No. 11 (“PN 11”) to clarify the relevant issues.

Key features of PN 11 are as follows:

Method for applying the preferential policy

Where third-party enterprises enjoy the preferential CIT policy as prescribed in PN 60, they shall perform self-valuation to determine whether they have met all criteria to be eligible for the preferential CIT policy. If so, the enterprise may apply the preferential policy and keep the relevant supporting documents for further reference.

Supporting documents

PN 11 listed the supporting documents that shall be kept by third-party enterprises for further reference, including the clarification of enterprises for having at least one year of practical experience in continuous engagement in operating environmental pollution control facilities, relevant contracts and revenue vouchers, etc.

Administrative issues

Tax authorities shall conduct administrative work for third-party enterprises that enjoy the preferential policy in accordance with regulations. Where tax authorities doubt over the third-party enterprises' qualification on meeting the requirement as prescribed in Items 5 and 6 of Article 2 in PN 60, the information may be reported to ecology and environment department or development and reform department at the same level for further verification.

PN 11 shall become effective from 1 June 2021. Third-party enterprises are encouraged to read PN 11 for more details. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 60:

<http://www.chinatax.gov.cn/n810341/n810755/c4292184/content.html>

You can click this link to access the full content of PN 11:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5164229/content.html>

▶ **PN regarding certain matters related to the calculation of the emission of taxable pollutants for Environmental Protection Tax (EPT) purposes (MEE/MOF/STA PN [2021] No. 16)**

Synopsis

To better implement the Environmental Protection Tax Law, on 28 April 2021, the MOF, STA and MEE jointly released MEE/MOF/STA PN [2021] No. 16 ("PN 16") to confirm the matters related to the calculation of the emission of taxable pollutants for EPT purposes.

Key features of PN 16 are as follows:

- ▶ The calculation method for different entities was clarified in PN 16:

Situation	Calculation method on emission of taxable pollutants
Entities are subject to management of pollutant discharge licensing	Apply the pollutant emission coefficient and material balance method specified in the technical specification for application and issuance of pollutant permit (hereinafter referred to as the "technical specification").
	Where the pollutant emission coefficient is not clarified in the technical specification, the entities shall apply the pollutant emission coefficient method specified in the system for emission source statistical investigation (hereinafter referred to as the "investigation system").
Entities are not subject to management of pollutant discharge licensing	Apply the pollutant emission coefficient method specified in the investigation system.

- ▶ Where the above-mentioned calculation method is not feasible, the local competent department at the provincial level shall stipulate the sampling-based measuring method.

PN 16 became effective from 1 May 2021. Relevant parties are encouraged to read PN 16 for more details. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 16:

http://www.mee.gov.cn/xxgk2018/xxgk/xxgk01/202104/t20210430_831400.html

Business circulars

▶ **Notice regarding public opinion consultation on the “Law of the PRC on Hainan Free Trade Port (Second Draft for Review)”**

Synopsis

On 26 April 2021, the Draft Hainan Free Trade Port (FTP) Law (hereinafter referred to as the “Draft Law”) was submitted to the Standing Committee of the 13th National People’s Congress (NPC) for the second review. The full contents of the Draft Law were announced on the official website of the NPC to seek public opinion. The consultation of public opinion shall be opened until 28 May 2021.

The Draft Law contains 57 articles in eight chapters which covers the facilitation and liberation of trade, facilitation and liberation of investments, financial and tax system, environmental protection, industries development and supporting policies for talents, etc.

Among them, the following items proposed in the Draft Law are worth-noting:

- ▶ Except for those required to be examined or subject of the management of approvals and licenses, import goods and articles to Hainan FTP shall be discharged by the Customs in accordance with the relevant regulations.
- ▶ During the development and construction phase of Hainan FTP, the central government of China shall provide adequate financial supports to Hainan FTP with regards to the practical situations and the tax reform in Hainan.
- ▶ Hainan FTP shall be established as a center of international tourism and consumption, the tourism industries shall be boost with deep integration of tourism, cultural and sports industries, healthcare industries and elderly care industries, etc.
- ▶ A cross-border capital flow management system shall be established in Hainan FTP to cope with the high-level liberation of trade and investment, items under capital accounts shall be further opened-up in phrases.
- ▶ A negative list management scheme shall be implemented for foreigners working in the PRC and loosened entry/exit and work permit policies shall be introduced.

Concerned parties should read the Draft Law and are encouraged to express opinions on or before 28 May 2021 by sending mails or logging onto www.npc.gov.cn.

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

<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff80818178f90e4d01791b2f30b72704>

▶ **Decisions on authorizing the State Council to temporarily adjust the application of certain laws and regulations in Pilot Free Trade Zones (PFTZs)**

Synopsis

In order to deepen the reform of “Delegate Power, Streamline Administration and Optimize Government Services” and to further optimize the business environment, on 29 April 2021, the Standing Committee of the NPC announced the Decisions on authorizing the State Council to temporarily adjust the application of certain laws and regulations in PFTZs (hereinafter referred to as the “Decisions”), including the Law of the PRC on Promoting Private Education, the Law of the PRC on Commercial Banks, the Insurance Law of the PRC, etc.

The Decisions shall become effective on 1 July 2021 and be valid for three years. Relevant parties should read the Decision for more details.

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

<http://www.npc.gov.cn/npc/c30834/202104/b362326aec5f419a917d3a4ca73f77a8.shtml>

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

- ▶ **PN regarding the exemption of Corporate Income Tax for enterprises producing and assembling special supplies for the disabled (MOF/STA/MCA PN [2021] No. 14)**
http://szs.mof.gov.cn/zhengcefabu/202105/t20210511_3700180.htm
- ▶ **Notice regarding the import-level tax policies for the exploration, development and utilization of energy resources during the 14th Five-Year Plan period (Caiguanshui [2021] No. 17)**
http://www.gov.cn/zhengce/zhengceku/2021-04/30/content_5604214.htm
- ▶ **Notice regarding the administrative measures of import-level tax policies for the exploration, development and utilization of energy resources during the 14th Five-Year Plan period (Caiguanshui [2021] No. 18)**
http://www.gov.cn/zhengce/zhengceku/2021-04/30/content_5604207.htm
- ▶ **Notice regarding tax policies for the importation of seed sources during the 14th Five-Year Plan period (Caiguanshui [2021] No. 29)**
http://gss.mof.gov.cn/qzdt/zhengcefabu/202104/t20210430_3695523.htm
- ▶ **Notice regarding the implementation of financial policies to further support the development of market entities including performance enterprises and travel agencies (Wenlvchanyefa [2021] No. 41)**
http://www.gov.cn/zhengce/zhengceku/2021-05/03/content_5604529.htm
- ▶ **Notice regarding clarifications on the regulatory requirements for foreign-funded banks on large risk exposures of their parent bank groups**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=981215>
- ▶ **Notice regarding public opinion consultation on the “Law of the PRC on Data Security (Second Draft for Review)”**
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff80818178f9100801791b3c96374eef>
- ▶ **Notice regarding public opinion consultation on the “Law of the PRC on Futures (Draft)”**
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff80818178f9100801791b69a3425052>
- ▶ **Notice regarding public opinion consultation on the “Law of the PRC on Personal Information Protection (Second Draft for Review)”**
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff80818178f9100801791b35d78b4eb4>
- ▶ **Opinions on the administration of the record-filing of steel and iron smelting projects (Fagaichanye [2021] No. 594)**
https://www.ndrc.gov.cn/xxgk/zcfb/tz//202105/t20210506_1279236.html
- ▶ **Notice regarding public opinion consultation on the “Draft Amendment to Certain Provisions on Regulating the Patent Applications (Discussion Draft)”**
http://www.cnipa.gov.cn/art/2021/5/6/art_75_159129.html
- ▶ **Notice regarding the key tasks for work on cost reduction in 2021 (Fagaiyunxing [2021] No. 602)**
https://www.ndrc.gov.cn/xxgk/zcfb/tz//202105/t20210510_1279500.html
- ▶ **Letter on approving the pilot program of opening up patent agency business in Guangzhou Development Zone (Guozhibanhanyunzi [2021] No. 393)**
https://www.cnipa.gov.cn/art/2021/5/7/art_551_159203.html

- ▶ **PN regarding public opinion consultation on the “Notice regarding the adjustment of matters related to the approval for entertainment venues and business premises for internet service (Discussion Draft)”**
http://zwgk.mct.gov.cn/zfxxqkml/scgl/202105/t20210507_924311.html

- ▶ **Notice regarding public opinion consultation on the “Notice regarding Further Regulating the Registration of E-commerce Operators (Discussion Draft)”**
http://www.samr.gov.cn/hd/zjdc/202105/t20210507_329234.html

- ▶ **Notice regarding deepening the reform of “Delegate Power, Streamline Administration and Optimize Government Services” and optimizing the business environment in the field of intellectual property (Guozhifafuzi [2021] no. 10)**
https://www.cnipa.gov.cn/art/2021/5/11/art_75_159302.html

- ▶ **PN regarding public opinion consultation on the “Decision on Amending Certain Regulations in Accordance with the Newly Revised Administrative Penalties Law (Discussion Draft)”**
http://www.samr.gov.cn/hd/zjdc/202105/t20210511_329371.html

- ▶ **Approval on the pilot program of cross-border e-commerce retail import of pharmaceuticals in Henan Province (Guohan [2021] No. 51)**
http://www.gov.cn/zhengce/content/2021-05/12/content_5606009.htm

- ▶ **PN regarding public opinion consultation on the “Administrative Measures on Credit Repair (Trial) (Discussion Draft)”**
https://hd.ndrc.gov.cn/yjzx/yjzx_add.jsp?SiteId=359

- ▶ **Notice regarding opinions on the pilot program of recognition of and assistance to Hong Kong bankruptcy proceedings**
<http://www.court.gov.cn/fabu-xiangqing-302041.html>

- ▶ **Notice regarding implementing the preferential tax policies for imported exhibits sold during the period of the China International Consumer Products Expo (Shubanshuihan [2021] No. 2)**
<http://gkml.customs.gov.cn/tabid/1165/InfoID/48630/Default.aspx>

- ▶ **Notice regarding the “2021 Key Tasks for Government Affairs Disclosure of the Customs” (Shubanhuan [2021] No. 20)**
<http://gkml.customs.gov.cn/tabid/1165/InfoID/48647/Default.aspx>



Contact us

For more information, please contact your usual EY contact or one of the following EY's China tax leaders.

Author - China Tax Center

Jane Hui
+852 2629 3836
jane.hui@hk.ey.com

Greater China Tax Leader

Henry Chan
+86 10 5815 3397
henry.chan@cn.ey.com

Our tax leaders by market segment and service areas

Martin Ngai (China North)

+86 10 5815 3231
martin.ngai@cn.ey.com

Patricia Xia (China Central)

+86 21 2228 2878
patricia.xia@cn.ey.com

Ho Sing Mak (China South)

+86 755 25028289
Ho-Sing.Mak@cn.ey.com

David Chan (Hong Kong SAR/Macau SAR)

+852 2629 3228
david.chan@hk.ey.com

Heidi Liu (Taiwan)

+886 2 2757 8888
heidi.liu@tw.ey.com

Carrie Tang

Business Tax Services
+86 21 2228 2116
carrie.tang@cn.ey.com

Vickie Tan

Global Compliance and Reporting
+86 21 2228 2648
vickie.tan@cn.ey.com

Becky Lai

Tax Policy
+852 2629 3188
becky.lai@hk.ey.com

Andrew Choy

International Tax and Transaction Services
+86 10 5815 3230
andrew.choy@cn.ey.com

Travis Qiu

ITTS - Transfer Pricing
+86 21 2228 2941
travis.qiu@cn.ey.com

Jesse Lv

ITTS - Transaction Tax
+86 21 2228 2798
jesse.lv@cn.ey.com

Kevin Zhou

Indirect Tax - VAT
+86 21 2228 2178
kevin.zhou@cn.ey.com

Bryan Tang

Indirect Tax - Global Trade
+86 21 2228 2294
bryan.tang@cn.ey.com

Patricia Xia

Tax Technology
and Transformation
+86 21 2228 2878
patricia.xia@cn.ey.com

Paul Wen

People Advisory Services
+852 2629 3876
paul.wen@hk.ey.com

Catherine Li

Financial Services
+86 10 5815 3890
catherine.li@cn.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.

© 2021 Ernst & Young, China.
All Rights Reserved.

APAC no. 03012458
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.

