

# 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 matters related to annual Corporate Income Tax (CIT) filing (STA PN [2021] No. 34)**

#### **Synopsis**

To improve tax-related services and reduce administrative burden of both taxpayers and tax authorities, the State Taxation Administration (STA) released STA PN [2021] No. 34 ("PN 34") regarding matters related to annual CIT filing on 31 December 2021.

PN 34 makes certain amendments on several schedules of the 2017 version of annual CIT return forms (launched via STA PN [2017] No. 54 ("PN 54", i.e., PN regarding the issuance of annual CIT return forms (Type A, 2017 Version)), including the basic information form for annual CIT filing (i.e., schedule A000000), the annual CIT return (i.e., schedule A100000) and eight other schedules to reflect the CIT preferential policies announced in 2021, i.e., the CIT preferential treatment for qualified small and micro-sized enterprises, super deduction policy for research and development (R&D) expenses, CIT exemption/reduction for corporate venture capital enterprises in the specific areas of Shanghai Pudong New Area, etc.

It is important to note that, according to PN 34, taxpayers that have prepaid CIT during the provisional CIT filings that exceed the annual CIT calculated in annual CIT return should apply for refund in time, as the overpaid CIT shall not be allowed to offset the CIT payable in the year following.

PN 34 shall apply to the 2021 annual CIT filing (to be completed by the end of May 2022) and onwards. PN 34 also replaces a few previously issued circulars which contradicted with the rules promulgated under PN 34. Taxpayers should be aware of the changes brought by the 2021 annual CIT filing and stay alert to further notice to be released by the local supervising tax authorities. If in doubt, consultations with professionals or tax authorities shall be sought.

You can click this link to access the full content of PN 34:

<http://www.chinatax.gov.cn/chinatax/n362/c5171846/content.html>

You can click this link to access the full content of STA's official interpretation on PN 34:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5171847/content.html>

You can click this link to access the full content of PN 54:

<http://www.chinatax.gov.cn/n810341/n810755/c3029401/content.html>

► **PN regarding improving the Value-added Tax (VAT) policies for comprehensive utilization of resources (MOF/STA PN [2021] No. 40)**

**Synopsis**

To further promote the comprehensive utilization of resources, the Ministry of Finance (MOF) and STA jointly released MOF/STA PN [2021] No. 40 ("PN 40") on 30 December 2021 in respect of the following:

**Simplified VAT calculation method**

Qualifying general VAT taxpayers that engage in renewable resources recycling business may choose to adopt the simplified VAT calculation method in calculating VAT on their income derived from reselling of renewable resources. The applicable VAT collection rate is 3%.

**VAT same time levy and rebate**

General VAT taxpayers may apply the VAT same time levy and rebate policy for their sales of self-produced products made through comprehensive utilization of resources or provision of services in this regard. The VAT Preferential Catalog of Products and Services related to Comprehensive Utilization of Resources (2022 version) (i.e., the attachment of PN 40) prescribed certain criteria have to be met.

It is understood that the promulgation of PN 40 shall relieve certain pressure of recycling enterprises that were facing difficulties in obtaining valid VAT invoices for their purchases. On the other hand, such measure can promote or encourage tax compliance of this industry.

PN 40 shall become effective on 1 March 2022 and replace certain earlier tax policies that may not be in line with PN 40. Relevant taxpayers are encouraged to read PN 40 for details. If in doubt, consultations with professionals are always recommended.

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

<http://www.chinatax.gov.cn/chinatax/n359/c5171843/content.html>

► **Administrative Measures for the Information Disclosure of Entities Seriously Violating Tax Laws or Acting in Bad Faith (STA Order [2021] No. 54)**

**Synopsis**

On 31 December 2021, the STA released the updated Administrative Measures for the Information Disclosure of Entities Seriously Violating Tax Laws or Acting in Bad Faith (hereinafter referred to as the "updated Administrative Measures") via STA Order [2021] No. 54 on its official website, which is the third edition since 2014. The updated Administrative Measures shall become effective on 1 February 2022 and replace the prevailing Measures released via STA PN [2018] No. 54 (hereinafter referred to as the "Prevailing Measures").

The updated Administrative Measures contain 27 articles in five chapters (i.e., the general provisions, determination of parties acting in bad faith, information disclosure, early withdrawal of information disclosure, and supplementary provisions. Key amendments include the following:

- ▶ Revised certain standards for determination of significant tax violations, e.g., a party that obstructs the collection of tax underpayment conducted by tax authorities through transfer or conceal of assets in which the outstanding tax payments exceeded RMB1 million is considered significant tax violation (the threshold is RMB100 thousand as prescribed in the Prevailing Measures), etc.
- ▶ Early suspension of information disclosure may apply if certain criteria are met, e.g., the underpaid taxes, surcharges, penalties have been settled and the relevant information has been disclosed for six months, etc. The early suspension should be approved according to the updated Administrative Measures.
- ▶ However, the early suspension shall not apply to the following situations, unless a prescribed exception is met:
  - ▶ The party once again received tax adjustments or administrative sanctions conducted by tax authorities due to tax evasion, dodging tax payments demanded by the tax authorities, export tax refund fraud, anti-taxation, issuance of false tax invoices, etc., after being regarded as acting in bad faith.
  - ▶ The party was regarded as acting in bad faith twice or more in five years.

The changes made in the updated Administrative measures show the aim not only to tighten the standards for significant tax violations, but also to provide remedy measures and chances for parties acting in bad faith, etc.

Relevant taxpayers are advised to read the updated Administrative Measures for details and observe the regulations.

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

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5171862/content.html>

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

<http://www.chinatax.gov.cn/n810341/n810755/c3914071/content.html>

## ▶ **Decisions on revising the “Administrative Measures for the Formulation of Tax-related Regulatory Documents” (STA Order [2021] No. 53)**

### **Synopsis**

To better protect the legitimate rights and interests of taxpayers, the STA revised the “Administrative Measures for the Formulation of Tax-related Regulatory Documents” (hereinafter referred to as the “Measures”) and released via STA Order [2021] No. 53 on 31 December 2021. Some key revisions to the Measures are summarized as follows:

### **Principles of formulation**

Article 4 is amended to clarify that the formulation of tax-related regulatory documents shall fully reflect the content and requirements of socialist core values.

### **Responsibilities of review**

Article 16 is amended to clarify that tax service departments of tax authorities at all levels are responsible for rights and interests review.

### **Joint review**

Article 19 is amended to clarify the connection between rights and interests review and legality review. The drafting departments of tax-related regulatory documents shall seek opinion from the tax service department as well as the policy and rule department.

### **Matters related to rights and interests review**

Article 22 is newly added to clarify the specific matters and treatment of rights and interests review conducted by the tax service department.

## Expand the scope of rights and interests review

Article 29 is amended to clarify that documents related to the rights and obligations of tax administrative counterparts drafted by tax authorities below the provincial level on behalf of local people's congresses and their standing committees, and the local government shall also be subject to rights and interests review.

## Record-filing review

Article 36 is amended to clarify the responsibilities of relevant departments to conduct record-filing review and rights and interests review.

The revised Measures shall become effective on 1 February 2022.

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

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5171861/content.html>

## ▶ **PN regarding the VAT policy for insurance for exported goods (MOF/STA PN [2021] No. 37)**

### Synopsis

On 22 December 2021, the MOF and STA jointly released MOF/STA PN [2021] No. 37 ("PN 37") to specify the VAT exemption policy for the following cross-border business activities undertaken by domestic entities or individuals:

- ▶ Product liability insurance for export goods
- ▶ Product quality guarantee insurance for export goods

The above VAT exemption policy is valid from 1 January 2022 to 31 December 2025, and the relevant administrative and collection measures in this regard shall be referenced to the prevailing regulations.

PN 37 also applies to any unsettled cases, however, tax paid before the promulgation of PN 37 shall not be refunded.

You can click this link to access the full content of PN 37:

<http://www.chinatax.gov.cn/chinatax/n359/c5171839/content.html>

## Business circulars

## ▶ **Notice regarding public opinions consultation on the "Company Law of the People's Republic of China (PRC) (Revised Draft)"**

### Synopsis

In order to regulate the organization and behavior of companies and protect the legal rights and interests of companies, shareholders and creditors, on 24 December 2021, the Standing Committee of the National People's Congress (NPC) released "Company Law of the PRC (Revised Draft)" (hereinafter referred to as the "Revised Draft") to seek public opinions. The Revised Draft consists of 260 articles in 15 chapters, with about 70 new and revised articles. Some key revisions include:

#### ▶ **Special provisions on state-funded companies**

According to the newly added chapter "Special Provisions on State-funded Companies", the application scope is expanded. In addition to wholly state-owned limited liability company, other types of companies such as state-controlled limited liability company and joint stock company are also included. It is also stipulated that state-funded companies should establish and improve internal supervision and administration and risk control systems according to law.

▶ **Improve the company establishment and exit system**

Improve the company registration system and further simplify the establishment and withdrawal of companies. Improve the company liquidation system and strengthen the obligations and responsibilities of liquidation obligors and members of the liquidation group.

▶ **Optimize the setting of companies' organizational structure**

It is clarified that the board of directors is the executive body of a company and companies are granted greater autonomy in setting up organizational structure.

▶ **Improve companies' capital system**

The authorized capital system is introduced into joint stock companies. In addition, the simple capital reduction system is also introduced.

▶ **Strengthen the responsibilities of controlling shareholders and executives**

A new provision is added: directors or senior executives who cause damage to others due to intentional or gross negligence in the performance of their duties shall jointly bear liability with the company.

The public is encouraged to express opinions on or before 22 January 2022 by logging onto the official websites of NPC ([www.npc.gov.cn](http://www.npc.gov.cn)) or the National Database of Laws and Regulations ([flk.npc.gov.cn](http://flk.npc.gov.cn)).

You can click this link to access the full content of the Revised Draft:  
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff8081817ddb1774017dead7a14c228d>

▶ **Notice regarding launching high-level pilot opening-up of cross-border trade and investment**

**Synopsis**

In order to comprehensively deepen the reform and opening-up, the State Administration of Foreign Exchange (SAFE) issued a notice with regards to the launch of high-level pilot opening-up of cross-border trade and investment in the Lin-gang Special Area of the China (Shanghai) Pilot Free Trade Zone (PFTZ), Nansha Special Area of the China (Guangdong) PFTZ, Yangpu Economic Development Zone of Hainan Free Trade Port and Ningbo Beilun District of Zhejiang Province on 4 January 2022. The pilot policies cover nine capital account reform measures, four current account facilitation measures, and two measures to strengthen risk prevention and regulatory capacity building:

**Capital account reform**

*Broaden the channels of cross-border investment and financing for enterprises:*

- ▶ Support medium, small and micro-sized high and new technology enterprises to independently borrow from abroad up to certain limit.
- ▶ Carry out pilot program of Qualified Foreign Limited Partners (QFLP) and Qualified Domestic Limited Partners (QDLP).
- ▶ Steadily and prudently open cross-border asset transfer business.
- ▶ Carry out pilot program of integrated domestic and foreign capital pool of multinational companies.

*Improve the facilitation of cross-border investment and financing:*

- ▶ Reinvestment by foreign investment enterprises within the territory of China is exempt from registration.
- ▶ The foreign exchange registration of capital account of qualified non-financial enterprises can be directly handled by banks.

- ▶ Expand the use of income under capital account.
- ▶ Qualified enterprises can independently choose the currency of cross-border investment and financing.
- ▶ Appropriately raise the upper limit of overseas lending of non-financial enterprises.

#### Facilitation of current account

- ▶ Facilitate high-quality enterprises' receipt and payment of funds under current account.
- ▶ Support banks to optimize new international trade settlement.
- ▶ Orderly expand the scope of enterprises subject to net settlement of trade balance.
- ▶ Exempt registration of special foreign exchange refunds for trade in goods.

#### Strengthen risk prevention and regulatory capacity building

- ▶ Improve the administrative framework of "macro prudence and micro supervision" in the foreign exchange market.
- ▶ Establish a pilot mistake correction mechanism and a risk response plan.

We have issued a WeChat news article (in Chinese) on 10 January 2022 setting out extensive discussion on the abovementioned pilot policies. For the WeChat news article, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE and search key words to access its full content.

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

<https://www.safe.gov.cn/safe/2022/0104/20430.html>

### Customs circular

#### ▶ **PN regarding expanding the application scope of policies and systems for the Yangpu Bonded Port Area (GAC PN [2021] No. 120)**

##### Synopsis

To further promote the construction of Hainan Free Trade Port, on 30 December 2021, the General Administration of Customs (GAC) released GAC PN [2021] No. 120 ("PN 120") to expand the polices applied to Yangpu Bonded Port Area (GAC PN [2020] No. 73 ("PN 73", i.e., PN regarding the "Regulatory Measures of Customs of the PRC for the Yangpu Bonded Port Area) as well as GAC PN [2020] No. 109 ("PN 109", i.e., Notice regarding the statistic method for Yangpu Bonded Port Area) to Haikou Comprehensive Free Trade Zone and Haikou Airport Comprehensive Free Trade Zone.

The main features of policies that expanded to Haikou Comprehensive Free Trade Zone and Haikou Airport Comprehensive Free Trade Zone include the following:

Sales of goods produced by enterprises engaging in encouraged industries to domestic areas shall be subject to import level VAT/Consumption Tax but exempt from import-level custom duty if:

- ▶ The products were not made from any imported materials/parts; or
- ▶ The products were made from imported materials/parts but the increment of the goods' value from processing took part in Yangpu Bonded Port Area reaching 30%.

According to the Overall Plan for the Construction of the Hainan Free Trade Port (hereinafter referred to as the "Plan"), it is expected that the above policies will be steadily extended to the whole island of Hainan by 2025.

You can click this link to access the full content of PN 120:

<http://www.customs.gov.cn/customs/302249/2480148/4099524/index.html>

You can click this link to access the full content of PN 73:

<http://www.customs.gov.cn/customs/302249/2480148/3109222/index.html>

You can click this link to access the full content of PN 109:

<http://www.customs.gov.cn/customs/302249/2480148/3294851/index.html>

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

[http://www.gov.cn/zhengce/2020-06/01/content\\_5516608.htm](http://www.gov.cn/zhengce/2020-06/01/content_5516608.htm)

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

- ▶ **Notice regarding the revised version of the “Commodity List of Imported Seeds and Species Exempt from VAT” (first batch) (Nongbanwai [2021] No. 1)**  
[http://www.moa.gov.cn/govpublic/GJHZS/202201/t20220105\\_6386358.htm](http://www.moa.gov.cn/govpublic/GJHZS/202201/t20220105_6386358.htm)
- ▶ **PN regarding extending the validity of the “Provisional Measures for the Administration of the Operation of Online Road Freight Transport Platforms” (Jiaoyungui [2021] No. 7)**  
[http://xxgk.mot.gov.cn/2020/jigou/ysfws/202112/t20211231\\_3634305.html](http://xxgk.mot.gov.cn/2020/jigou/ysfws/202112/t20211231_3634305.html)
- ▶ **Notice regarding the “National Basic Catalog of Public Credit Information (2021 Version)” and the “National Basic List of Punishment Measures for Entities and Individuals Acting in Bad Faith (2021 Version)” (Fagaicaijingui [2021] No. 1827)**  
[https://www.ndrc.gov.cn/xxgk/zcfb/ghxwj//202112/t20211231\\_1311142.html](https://www.ndrc.gov.cn/xxgk/zcfb/ghxwj//202112/t20211231_1311142.html)
- ▶ **Marco-prudential Policy Guidelines (Trial)**  
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4437051/index.html>
- ▶ **Notice regarding the “Action Plan for the Innovation and Development of Intelligent Photovoltaic Industry (2021-2025)” (Gongxinbuliandianzi [2021] No. 226)**  
[http://www.gov.cn/zhengce/zhengceku/2022-01/05/content\\_5666484.htm](http://www.gov.cn/zhengce/zhengceku/2022-01/05/content_5666484.htm)
- ▶ **Measures for Cybersecurity Review (2021) (CAC/NDRC/MIIT/MPS/MSS/MOF/MOFCOM/PBOC/SAMR/NRTA/NASSP/SCA Order [2021] No. 8)**  
[http://www.gov.cn/zhengce/zhengceku/2022-01/04/content\\_5666430.htm](http://www.gov.cn/zhengce/zhengceku/2022-01/04/content_5666430.htm)
- ▶ **Notice regarding guiding opinions on the matters related to the hearing of administrative review cases of government information disclosure (Guobanhan [2021] No. 132)**  
[http://www.gov.cn/zhengce/content/2022-01/04/content\\_5666340.htm](http://www.gov.cn/zhengce/content/2022-01/04/content_5666340.htm)
- ▶ **Plan for Building Chongqing and Sichuan into Western Financial Center (Yinfa [2021] No. 312)**  
<http://www.pbc.gov.cn/zhengwugongkai/4081330/4081344/4081395/4081686/4430027/index.html>
- ▶ **Notice regarding the “List of Public Service Items of the National Intellectual Property Administration (1st Edition)” (Guozhifafuzi [2021] No. 36)**  
[http://www.cnipa.gov.cn/art/2022/1/5/art\\_75\\_172603.html](http://www.cnipa.gov.cn/art/2022/1/5/art_75_172603.html)
- ▶ **Notice regarding public opinions consultation on the “Administrative Measures for the Online Marketing of Financial Products (Discussion Draft)”**  
[http://www.cnipa.gov.cn/art/2021/12/31/art\\_75\\_172540.html](http://www.cnipa.gov.cn/art/2021/12/31/art_75_172540.html)
- ▶ **Notice regarding the “Overall Plan for the Pilot Comprehensive Reforms of Market-based Allocation of Factors” (Guobanfa [2021] No. 51)**  
[http://www.gov.cn/zhengce/content/2022-01/06/content\\_5666681.htm](http://www.gov.cn/zhengce/content/2022-01/06/content_5666681.htm)

- ▶ **PN regarding the “Catalogue of Goods Subject to Export Permit Administration (2022)” (MOF/GAC PN [2021] No. 50)**  
<http://www.mofcom.gov.cn/article/zcfb/zcblgg/202112/20211203233746.shtml>
- ▶ **PN regarding the “Catalogue of Goods Subject to Import Permit Administration (2022)” (MOF/GAC PN [2021] No. 49)**  
<http://www.mofcom.gov.cn/article/zcfb/zcblgg/202112/20211203233738.shtml>
- ▶ **Catalogue of Dual-use Goods and Technologies Subject to Import & Export Permits Administration (MOF/GAC PN [2021] No. 48)**  
<http://www.mofcom.gov.cn/article/zcfb/zcblgg/202112/20211203233668.shtml>
- ▶ **PN regarding the trigger level of agricultural products imported from New Zealand for 2022 (GAC PN [2021] No. 122)**  
<http://www.customs.gov.cn/customs/302249/2480148/4101559/index.html>





## 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

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### 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

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APAC no. 03013897  
ED None.

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