

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 tax policy for the pilot real estate investment trusts (REITs) in the infrastructure sector (MOF/STA PN [2022] No. 3)**

Synopsis

To support the pilot of REITs, on 26 January 2022, the Ministry of Finance (MOF) and State Taxation Administration (STA) jointly released MOF/STA PN [2022] No. 3 ("PN 3") to clarify the tax policy for the pilot REITs in the infrastructure sector.



Key features of PN 3 are as follows:

► Prior to the set-up of an infrastructure REIT

Where an original equity holder makes an infrastructure investment in a project company and obtains equity interest of the project company in return, the following special tax treatment can be applied:

	Tax basis	Recognition of income /Corporate Income Tax (CIT) effect
For project company obtaining the infrastructure assets from the equity holder	The tax basis for infrastructure assets acquired is the same as the original tax basis of the infrastructure assets before the transfer.	No taxable income to be recognized and thus no CIT
For the original equity holder obtaining equity interest of the project company	The tax basis of the acquired equity interest of the project company is the same as the original tax basis of the infrastructure assets before the transfer.	

► For the set-up of an infrastructure REIT

Where the original equity holder transfers the equity interest of the project company to an infrastructure REIT which results in asset valuation increment:

	CIT effect
Original equity holder	<ul style="list-style-type: none"> ► CIT for the asset valuation increment may be deferred until the completion of fund raising and payment for the equity transfer is done. ► For the asset valuation increment raised from the interest of the REIT subscribed by the original equity holder according to the strategic placement, CIT may be deferred until the actual transfer of REIT interest.

► Ongoing transactions

Where the original equity holder subscribes additional interest in the same infrastructure REIT from the secondary market, the disposal of interest held according to the strategic placement should be determined according to the “first in, first out” principle.

PN 3 took retroactive effect from 1 January 2021 and applies to the pilot infrastructure REIT projects designated by the China Securities Regulatory Commission and National Development and Reform Commission (NDRC). Tax treatments for the operation and distribution of infrastructure REITs shall still be referred to the prevailing tax policies.

It is anticipated that the issuance of PN 3 shall further promote the development of infrastructure REITs as now the application of special tax treatment related to infrastructure REITs in the restructuring phase is simplified without having to satisfy all the required conditions as prescribed in Caishui [2009] No. 59 (“Circular 59”, i.e., Notice regarding CIT treatments for corporate restructuring). In addition, the deferral of CIT payment as prescribed in PN 3 shall also help to smooth the cash flow of original equity holders. This may also be helpful for building up momentum in raising private capital for infrastructure projects.

Relevant businesses are encouraged to read PN 3 for more details and leverage the benefits. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 3:
http://szs.mof.gov.cn/zhengcefabu/202201/t20220129_3785838.htm

You can click this link to access the full content of Circular 59:
<http://www.chinatax.gov.cn/chinatax/n362/c25375/content.html>

▶ **PN regarding public opinions consultation on the “Notice Regarding Formulating the List of Integrated Circuit (IC) Enterprises or Projects and Software Enterprises Eligible for Preferential Tax Policies in 2022 (Discussion Draft)”**

Synopsis

To further boost the development of IC and software industry, the NDRC released the Notice Regarding Formulating the List of IC Enterprises or Projects and Software Enterprises Eligible for Preferential Tax Policies in 2022 (Discussion Draft) (hereinafter referred to as the “Discussion Draft”) on 29 January 2022 to seek public opinion. The consultation of public opinion shall be opened until 28 February 2022.

The Discussion Draft generally follows the scope and criteria of IC enterprises/projects and software enterprises as prescribed in Fagaigaoji [2021] No. 413 (“Circular 413”, i.e., Notice regarding standards for formulating the list of IC enterprises, projects and software enterprises eligible for preferential tax policies) and further quantifies the detailed application documents and filing requirements.

Among these, it is worth-noting that the Discussion Draft proposes for the 2022 online filing (i.e., the online filing to be completed within the period from 25 March to 16 April of each year and submit the relevant supporting documents via the information reporting system as prescribed in Circular 413), enterprises shall not be given extension to the deadline for submission of audited financial statements. Instead, such taxpayers should make sure they can submit the audited financial statements before 16 April 2022.

In addition, due to the adjustments of recognition for national key IC design enterprises and software enterprises, any IC design enterprises or software enterprises that failed to apply for the 2020 CIT preferential treatments for national key software and IC design enterprises in the 2021 online filing, if with justifiable reasons, may reapply for the tax preference from 15 March 2022 to 21 March 2022 via the information reporting system. Such enterprises shall be required to submit supporting documents for 2020, e.g., audited financial statements for 2020, etc.

Concerned parties are suggested to read the Discussion Draft and are encouraged to express opinions on or before 28 February 2022 by emailing to jcdlrj@ndrc.gov.cn or logging onto <http://www.ndrc.gov.cn>. And for those who missed the above 2020 preference, do stay alert and get prepared for the possibility of claiming back the benefits within the narrow period in mid-March.

You can click this link to access the full content of the Discussion Draft:
https://www.ndrc.gov.cn/hdjl/yjq/202201/t20220129_1313940.html?code=&state=123

You can click this link to access the full content of Circular 413:
http://www.gov.cn/zhengce/zhengceku/2021-03/30/content_5596739.htm

▶ **Opinions on launching the “2022 Action Plan for Simplifying Tax Procedures for Taxpayers” (Shuizongnafufa [2022] No. 5)**

Synopsis

To further deepen the reform of “Delegate Power, Streamline Administration and Optimize Government Services”, strengthen tax supervision, and continuously optimize the tax business environment, on 11 January 2022, the STA released opinions on launching the “2022 Action Plan for Simplifying Tax Procedures for Taxpayers” via Shuizongnafufa [2022] No. 5 (“Circular 5”).

Key features of Circular 5 are as follows:

Introduce new reform and innovation measures, continue to deepen the construction of smart taxation system, and promote more standardized law enforcement, more convenient services, more accurate supervision and more controllable risks. Specific measures include:

▶ **Quick response**

Promote the sharing of knowledge base across the country, optimize and upgrade the intelligent consultation function of “12366” (tax service hotline), and quickly respond to taxpayers’ demands. Further promote the electronic push notification of tax-related documents and gradually achieve contactless delivery.

▶ **Timely delivery of policies**

Optimize the push notification of preferential tax policies, realize system integration, accurate positioning and intelligent push notification of preferential tax policies, and increase the push of policy interpretation and practical guide to operations.

▶ **Real-time problem solving**

Actively expand the interactive tax services of tax handling channels, e.g., electronic tax bureau, and solve the problems encountered by taxpayers in real time.

▶ **Improve online tax services**

Expand the scope of contactless services and continue to expand the list of online tax services.

▶ **Streamline procedures**

Simplify the invoice application process and related documents. Release the list of the first batch of national tax service items to further facilitate taxpayers to handle tax matters across regions. Carry out the pilot application of blockchain for real estate registration and further promote the sharing of real estate registration and tax information.

▶ **Reduce required materials**

Carry out the pilot program of consolidated filing of CIT, property and behavior taxes, further unify the collection periods of different types of taxes to reduce the number of tax filings. Release the second batch of tax certification items that are subject to notification and commitment system and further reduce supporting materials that are required to be submitted. Change the enjoyment of land value-added tax preference from record filing to the way of self-determination and declaration, and retention of documents for future reference.

▶ **Facilitate large enterprises**

Provide tax certainty services for large enterprises, pilot the data interconnection between tax authorities and enterprises, and reduce the taxation cost of large enterprise groups. Timely push industrial preferential tax policies through online channels.

▶ **Support small and medium-sized enterprises**

Expand the pilot service scope of bonus bill push on tax and fee reduction for small and micro-sized enterprises. Deepen and regulate the “bank-tax interaction” cooperation.

▶ **Optimize law enforcement**

Promote the unified standards of tax law enforcement among regions and release the second batch of national unified items subject to “first-time penalty exemptions for minor violations” in the field of tax administrative penalties.

► **Protect legitimate rights and interests**

Carry out legal activities such as review of tax regulatory documents, consultation on tax disputes, organizing mediation and issuance of opinions, etc., promote dispute resolution and protect the legitimate rights and interests of taxpayers.

► **Promote interaction of departments**

Deepen the data sharing between tax and customs authorities, optimize the electronic tax bureau, improve the tax-related data sharing mechanism, and reduce the demand for repeated submissions of taxpayers.

You can click this link to access the full content of Circular 5:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5172428/content.html>

Business circular

► **Opinions on certain special measures for relaxing market access to build Shenzhen into a pilot demonstration area of socialism with Chinese characteristics (Fagaitigai [2022] No. 135)**

Synopsis

To support building Shenzhen into a pilot demonstration area of socialism with Chinese characteristics, the Ministry of Commerce (MOFCOM) and NDRC jointly released Fagaitigai [2022] No. 135 (“Circular 135”) on 24 January 2022 to set out 24 special measures for relaxing market access in certain sectors, including technology, finance, medication, education sectors, etc.

Among these, according to Circular 135, the market access restrictions for the communications industry shall be further relaxed to steadily open basic telecommunications businesses and support qualifying satellite application enterprises in applying for satellite-related basic telecommunications business operating permit or cooperating with enterprises with relevant qualifications to carry out satellite mobile communication businesses and satellite fixed communication businesses on a nationwide basis. In addition, the communications operators in Shenzhen, Hong Kong and Macao shall be encouraged to provide innovative communications products to cut down the roaming charges.

It is also mentioned in Circular 135 that the relevant central government authorities shall further optimize the market environment for infrastructure REITs, which including further exploring tax policies for infrastructure REITs, supporting the implementation of the infrastructure REIT pilots and reducing the burden of enterprises and investors.

We will keep an eye on any further developments and advise you accordingly, please stay tuned.

You can click this link to access the full content of Circular 135:

https://www.ndrc.gov.cn/xxgk/zcfb/tz//202201/t20220126_1313250.html

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

► **PN regarding adjusting the technical requirements of energy-saving and new energy vehicle products eligible for preferential Vehicle and Vessel Tax policies (MIIT/MOF/STA PN [2022] No. 2)**

https://wap.miit.gov.cn/jgsj/zbys/gzdt/art/2022/art_5c29284a72ef491298e1299d83c87ea8.html

► **Notice regarding the action plan for high-quality development of environmental protection equipment manufacturing industry (2022-2025) (Gongxinbujie [2021] No. 237)**

http://www.gov.cn/zhengce/zhengceku/2022-01/22/content_5669858.htm

- ▶ **Guiding opinions on accelerating the construction of cyclic utilization system of waste materials (Fagaihuanzi [2022] No. 109)**
https://www.ndrc.gov.cn/xxgk/zcfb/tz/202201/t20220121_1312656.html?code=&state=123
- ▶ **Opinions on supporting and guaranteeing the construction of the Guangdong-Macao In-Depth Cooperation Zone in Hengqin (Fafa [2022] No. 4)**
<https://www.court.gov.cn/fabu-xiangqing-343311.html>
- ▶ **Opinions on fully supporting and deepening the reform and opening-up of the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone (Fafa [2022] No. 3)**
<https://www.court.gov.cn/fabu-xiangqing-343321.html>
- ▶ **Regulations on the trial of civil compensation cases arising from false statement in securities market (Fashi [2022] No. 2)**
<https://www.court.gov.cn/fabu-xiangqing-343221.html>
- ▶ **Notice regarding the comprehensive work plan for energy conservation and emission reduction during the 14th Five-year Plan period (Guofa [2021] No. 33)**
http://www.gov.cn/zhengce/content/2022-01/24/content_5670202.htm
- ▶ **Notice regarding the 2022 National Intellectual Property Administrative Protection Work Plan (Guozhifabaozi [2022] No. 5)**
http://www.gov.cn/zhengce/zhengceku/2022-01/25/content_5670302.htm
- ▶ **Notice regarding the “Technology Innovation Action Plan on Promoting High-quality Development for the Construction of Common Prosperity Demonstration Zone” (Guokefaqu [2022] No. 13)**
http://www.most.gov.cn/xxgk/xinxifenlei/fdzdgnr/fgzc/gfxwj/gfxwj2022/202201/t20220125_179168.html
- ▶ **Notice regarding the development plan of the construction industry during the 14th Five-year Plan period (Jianshi [2022] No. 11)**
https://www.mohurd.gov.cn/gongkai/fdzdgnr/zfhcxjsbwj/202201/20220125_764285.html
- ▶ **PN regarding expanding the opening-up of Chongqing Port (MOT PN [2022] No. 7)**
https://xxgk.mot.gov.cn/2020/jigou/haishi/202201/t20220124_3638115.html
- ▶ **Implementation Measures for the Hearing of Financial Administrative Penalties (MOF Order [2022] No. 109)**
http://tfs.mof.gov.cn/caizhengbuling/202201/t20220124_3784602.htm
- ▶ **Guiding opinions on the high-quality implementation of the Regional Comprehensive Economic Partnership (RCEP) agreement (Shangguojifa [2022] No. 10)**
<http://gjs.mofcom.gov.cn/article/dongtai/202201/20220103239468.shtml>
- ▶ **Notice regarding constantly and strictly regulating patent applications (Guozhifabaozi [2022] No. 7)**
http://www.gov.cn/zhengce/zhengceku/2022-01/26/content_5670517.htm
- ▶ **Guiding opinions on the digital transformation of the banking and insurance industries (Yinbaojianbanfa [2022] No. 2)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1034763>
- ▶ **Administrative Measures for the Due Diligence, Retention of Identity Information and Transaction Records of Clients of Financial Institutions (PBOC/CBIRC/CSRC Order [2022] No. 1)**
<http://www.pbc.gov.cn/tiaofasi/144941/144957/4460304/index.html>
- ▶ **Opinions on supporting Guizhou to blaze a new path for the western development campaign in the new era (Guofa [2022] No. 2)**
http://www.gov.cn/zhengce/content/2022-01/26/content_5670527.htm
- ▶ **Notice regarding launching pilot insurance compensation mechanism for the application of the 2021 first batch of key new materials (Gongxingtianyuanhan [2022] No.8)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2022/art_4d07e14186cc43679b707a6c5d890030.html

- ▶ **Notice regarding the plan for the modernization of the market regulation during the 14th Five-year Plan period (Guofa [2021] No. 30)**
http://www.gov.cn/zhengce/content/2022-01/27/content_5670717.htm
- ▶ **Notice regarding the “Regulations of the China National Intellectual Property Administration on the Credit Management in Intellectual Property Rights” (Guozhifabaozi [2022] No. 8)**
https://www.cnipa.gov.cn/art/2022/1/27/art_75_172971.html
- ▶ **Notice regarding the “Administrative Measures for Self-inspection Reports of Accounting Firms” (Caikuai [2022] No. 2)**
http://kjs.mof.gov.cn/zhengcefabu/202201/t20220128_3785587.htm
- ▶ **Notice regarding matters related to overseas loan business of banking financial institutions (Yinfa [2022] No. 27)**
<http://www.pbc.gov.cn/tiaofasi/144941/3581332/4463609/index.html>
- ▶ **Notice regarding launching the pilot program of bank confirmation (Caikuai [2022] No. 5)**
http://kjs.mof.gov.cn/gongzuotongzhi/202201/t20220129_3785950.htm
- ▶ **Notice regarding a catalog of currently enforceable main regulations on foreign exchange (as of 31 December 2021)**
<https://www.safe.gov.cn/safe/2022/0129/20552.html>
- ▶ **PN regarding adjusting certain matters related to co-ship transport of domestic and foreign trade containers and coastal piggyback of international ships (GAC PN [2022] No. 12)**
<http://www.customs.gov.cn/customs/302249/2480148/4154207/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

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.

© 2022 Ernst & Young, China.
All Rights Reserved.

APAC no. 03014008
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.

