

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 enhancing super deduction to support technology innovation (MOF/STA/MOST PN [2022] No. 28)**

Synopsis

On 7 September 2022, Premier Li Keqiang chaired the State Council executive meeting (hereinafter referred to as the “meeting”) and introduced certain preferential tax policies to support enterprises’ investment in innovation.

To respond to the meeting, the Ministry of Finance (MOF), State Taxation Administration (STA) and Ministry of Science and Technology jointly released MOF/STA/MOST PN [2022] No. 28 (“PN 28”) on 22 September 2022 regarding the increment of super deduction to support technology innovation.

Key features are as follows:

Corporate Income Tax (CIT) deduction for newly purchased equipment/appliances

High-and-new technology enterprises (HNTEs) are allowed to claim an upfront 100% CIT deduction for their expenses incurred for purchasing equipment/appliances in the fourth quarter of 2022 with an extra 100% deduction. The implementation of this policy shall be subsidized by the central and local finance.

For your easy reference, we have illustrated the key features of this preferential treatment in the table below:

Items	Details
Applicable enterprises	Enterprises with HNTE status at the fourth quarter of 2022 regardless whether they are in a profit or loss position.
Qualifying equipment/appliances	<ul style="list-style-type: none">▶ The equipment/appliances should be acquired during the fourth quarter of 2022:<ul style="list-style-type: none">▶ For fixed assets acquired with cash (except for those acquired by installments or on credit), the date of acquisition should be determined according to the date of invoice issuance.▶ For fixed assets acquired by installments or on credit, the acquisition date should be the date of arrival.▶ For self-constructed fixed assets, the acquisition date shall be the date of completion of the construction.▶ The above equipment/appliances refer to fixed assets other than real properties and structures.
Application	<ul style="list-style-type: none">▶ A taxpayer should perform self-assessment to determine their eligibilities and apply for the tax preferential treatment in the provisional/annual CIT filing.▶ In the meantime, the taxpayer should keep all relevant supporting documents for records for 10 years.

Increment of super deduction ratio of research and development (R&D) expenses

During the fourth quarter of 2022, the super deduction ratio of R&D expenses for all eligible enterprises that are currently allowed to claim a 175% super deduction¹ shall be increased to 200%.

According to PN 28, when calculating the deductible R&D expenses for the fourth quarter, an enterprise may choose either of the two options below:

- ▶ Adopt the actual amount of R&D expenses incurred in the fourth quarter; or
- ▶ Adopt the pro-rata amount of R&D expenses for the fourth quarter, i.e., calculate the fourth quarter R&D expenses based on the following formula:

$$\text{Actual R\&D expenses incurred in 2022} \times \text{Number of months of business operation from 1 October 2022} / \text{Actual months of business operation in 2022}^2$$

Accordingly, an eligible enterprise is allowed to claim a 175% super deduction for the first three quarters of 2022 and a 200% super deduction for the fourth quarter of 2022.

Of note, for most enterprises that operate and invest in R&D activities during 2022 (not invest in the fourth quarter only), choosing to adopt the actual amount of R&D expenses or the pro-rata amount of R&D expenses for the fourth quarter would have different impact on the total deductible R&D expenses for 2022.

We have issued a WeChat news article (in Chinese) on 30 September 2022 to discuss the abovementioned preferential tax policies with greater details. For the WeChat news article, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE or click the weblink below.

¹ Under the current rules, except for qualifying manufacturing enterprises and technology-based small and medium-sized enterprises that are eligible to claim a 200% super deduction, all other eligible enterprises (except for those engaging in tobacco manufacturing, accommodation and catering, real estate, leasing and commercial services, entertainment, and other industries to be specified by the MOF and STA) may claim a 175% super deduction.

² However, it was not stated in PN 28 whether any days/months of business suspension due to force majeure can be excluded when calculating the actual months of business operation in 2022. Taxpayers that have business suspension during 2022 may consult with their supervising tax authorities if in doubt.

You can click this link to access the full contents of PN 28:

http://www.gov.cn/zhengce/zhengceku/2022-09/27/content_5712999.htm

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

https://mp.weixin.qq.com/s/4N_ICZl2GWXPVW2AFWbeXQ

You can click this link to access the official news of the meeting:

http://www.gov.cn/premier/2022-09/08/content_5709067.htm

- ▶ **Supplementary PN issued by the Hainan Provincial Tax Service, STA, Finance Department of Hainan Province and Hainan Provincial Administration for Market Supervision regarding matters related to enterprises in encouraged industries engaging in substantive operations in Hainan Free Trade Port (FTP) (Hainan Provincial Tax Service, STA/Finance Department of Hainan Province/Hainan Provincial Administration for Market Supervision PN [2022] No. 5)**

Synopsis

According to the prevailing rules, qualifying enterprises registered in Hainan FTP and engaged in substantial business in encouraged industries shall be subject to a reduced CIT rate of 15%. To be qualified for this CIT preferential treatment, an enterprise is required to meet certain criteria, including having “substantial manufacturing/business operations” in Hainan FTP.

On 22 September 2022, the Hainan Provincial Tax Service, STA, Finance Department of Hainan Province and Hainan Provincial Administration for Market Supervision jointly released their PN [2022] No. 5 (“PN 5”) to further elaborate the four key factors for the determination of “substantial manufacturing/business operations” and other relevant requirements:

Key factor I – carrying out manufacturing/business operations in Hainan FTP

According to PN 5, manufacturing/business operations refer to either of the following situations:

- ▶ From a business operation perspective – a qualifying enterprise should have its fixed and main manufacturing/business operation premises with necessary manufacturing/business operation equipment and facilities in Hainan FTP; or
- ▶ From a managerial perspective – a qualifying enterprise should have its effective management in Hainan FTP that manages and controls the full-scale manufacturing/business operations and exercises an authority to conclude contracts in the name of the enterprise.



On top of this, the official interpretation issued by the Hainan Provincial Tax Service, STA (hereinafter referred to as the “official interpretation”) further specifies the term of “effective management that manages and controls the full-scale manufacturing/business operations” as follows:

Effective management that manages and controls the full-scale manufacturing/business operations	Making manufacturing/operational decisions (such as formulating plans, controls, review, and evaluations)
	<p>Making financial decisions (such as borrowing/granting loans, financing, and management of financial risks)</p> <p>However, in case the group has set up a centralized financial center for the whole group, the enterprise in Hainan FTP would need to maintain the financial function at least in one of the following to demonstrate that it has made financial decisions in Hainan FTP:</p> <ul style="list-style-type: none"> ▶ Borrowing loans ▶ Granting loans ▶ Financing ▶ Financial risks management
	Making human resources related decisions (such as staff hiring/dismissal, compensation plans)

Key factor II - with enough staff in Hainan FTP

According to PN 5, a qualifying enterprise should have sufficient staff working in Hainan FTP and their salaries and wages are paid via bank accounts set up in Hainan FTP.

Specifically, considering its actual business scale, the enterprise should have three to 30 staff each resides in Hainan FTP for 183 days or more cumulatively in a year.

Key factor III - with accounting records maintained in Hainan FTP

According to PN 5, a qualifying enterprise should maintain the accounting ledgers, accounting books and financial statements, etc. in Hainan FTP. The basic deposit account and settlement accounts for major business activities should be opened with commercial banks in Hainan FTP.

Key factor IV - with assets situated in Hainan FTP

According to the official interpretation, a qualifying enterprise should have necessary assets in Hainan FTP for manufacturing/business operation purpose.

However, certain assets under the title of an enterprise are not required to be physically situated in Hainan FTP due to industry/asset characteristics, such as vehicles/vessels of transportation enterprises.

Exception

Notwithstanding the four key factors stated above, it is stated in PN 5 that any enterprises that fall into either of the following situations shall be determined as disqualified:

- ▶ An enterprise without manufacturing/operational functions but only undertakes financial settlement, tax filings, invoicing functions for the mainland businesses; or
- ▶ An enterprise’s registered address was found inconsistent with its actual business address and contact person of the enterprise cannot be reached or failed to provide its actual business address after accessed by the government authorities.

Application to the CIT preferential treatment in Hainan FTP

A taxpayer should perform self-assessment to determine whether the above CIT preferential treatment is applicable and apply for the tax preferential treatment in the annual CIT filing by filling out the CIT return and a separate Commitment Form for Substantial Business Evaluation (i.e., the attachment of PN 5).

The taxpayer shall be responsible for the authenticity, accuracy and completeness of the tax return and relevant supporting documents. It is important to note that the CIT preferential treatment claimed and received by the taxpayer shall be subject to ex-post verification.

PN 5 shall be effective from 1 January 2023 to 31 December 2024, and also apply to the determination of “business substance requirement” for Individual Income Tax (IIT) preferential treatment purpose as prescribed in Qiongfufu [2022] No. 31 (“Circular 31”, i.e., Provisional Administrative Measures on the List of High-end Talents and Urgently needed Talents Who are eligible for IIT Preferential Policies in Hainan FTP).

Our Global Compliance and Reporting team has issued a WeChat news article (in Chinese) on 8 October 2022 discussing the abovementioned CIT preferential tax policies in Hainan FTP in greater detail. For the WeChat news article, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE or click the weblink below.

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

http://hainan.chinatax.gov.cn/xxgk_6_1/27142633.html

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

<http://plan.hainan.gov.cn/sfgw/c100602/202202/1fcd9da4d9d54f1e9ef186e81b06db1d.shtml>

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

<https://mp.weixin.qq.com/s/LJm0IOav5SQholh94ufvsg>

You can click this link to access the full contents of Circular 31:

<https://www.hainan.gov.cn/hainan/rczcwj/202209/5bdb30e9245444a29f882c09b088f053.shtml>

► **PN regarding IIT policies related to supporting residents' housing exchange and purchases (MOF/STA PN [2022] No. 30)**

Synopsis

To support residents to improve their housing conditions, on 30 September 2022, the MOF and STA jointly introduced relevant IIT policies on residents' housing exchange and purchases via MOF/STA PN [2022] No. 30 (“PN 30”).

According to PN 30, from 1 October 2022 to 31 December 2023, taxpayers who sell their own residences and repurchase residences in the same city within one year after the current residences were sold can claim a tax refund for IIT paid on the sales of their current residence. The refund calculation method is as below:

- Where the purchase price of the newly purchased residence is higher than or equal to the transfer price of the current one,

Tax refund amount = IIT paid on the sale of the current residence

- Where the purchase price of the newly purchased residence is lower than the transfer price of the current one,

Tax refund amount = Purchase price of the newly purchased residence / Transfer price of the current residence × IIT paid on the sale of the current residence

The noteworthy points for the preferential treatment are as follows:

- ▶ To be eligible for this preferential policy, the residences sold and those newly repurchased by taxpayers should be located in the same city. "Same city" refers to all administrative divisions under the jurisdiction of the same municipality, sub-provincial city, or prefecture-level city.
- ▶ Taxpayers who sell their own residences should be the owner or one of the owners of the newly purchased residences. For the sales of residences jointly held by multiple owners or the newly purchased ones jointly held by multiple owners, the transfer price or the purchase price shall be determined according to the taxpayers' share of property rights.
- ▶ Taxpayers eligible for the preferential tax policy shall provide legal and effective housing sales and purchase contracts and other relevant materials required by the competent tax authority to handle tax refund upon the approval of the competent tax authority.

Taxpayers are advised to read PN 30 for details. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full contents of PN 30:

<http://www.chinatax.gov.cn/chinatax/n363/c5181858/content.html>

▶ **The State Council executive meeting to defer payments of certain administrative fees and deposits to further reduce burdens on market entities**

Synopsis

On 26 September 2022, Premier Li Keqiang chaired the State Council executive meeting (hereinafter referred to as the "executive meeting"), in which certain preferential policies were introduced to enhance government services, promote the development of the self-employment sector and further reduce burdens on market entities.

The following preferential IIT policies for private pensions that are supported by policies and commercial operations shall take retroactive effect from 1 January 2022:

- ▶ Personal contributions to pension shall be deductible from IIT purpose at the cap of RMB12,000 per year per person;
- ▶ Investment income from the pension shall not be subject to IIT for the time being; and
- ▶ The effective tax burden for collection of pension benefits shall be reduced from 7.5% to 3%.

Other preferential policies are introduced to enhance government services and reduce burdens on market entities:

- ▶ Defer payments of certain administrative fees and deposits; and
- ▶ Expand the scope of government services that can be handled inter-provincially (e.g., e-payment of tax, issuance of tax payment certificates, declaration of social security contributions).

It is anticipated that the respective government authorities shall further formulate and announce the relevant policies in response to the executive meeting. We will keep an eye on any further developments and advise you accordingly, please stay tuned.

You can click this link to access the official news of the executive meeting:

http://www.gov.cn/premier/2022-09/27/content_5713007.htm

► **PN regarding extending the Vehicle Purchase Tax (VPT) exemption policy for new energy vehicles (MOF/STA/MIIT PN [2022] No. 27)**

Synopsis

To support the development of new energy vehicle (NEV) industry and boost the sales of NEVs, on 18 September 2022, the MOF, STA and Ministry of Industry and Information Technology (MIIT) jointly issued MOF/STA/MIIT PN [2022] No. 27 ("PN 27") to extend the exemption of VPT on NEVs.

According to PN 27, NEVs (pure electric vehicles, plug-in hybrid vehicles and fuel cell vehicles) purchased from 1 January to 31 December 2023, which are included in the "Catalog of NEVs Eligible for VPT Exemption" ("Catalog"), shall be exempt from VPT. The date of purchase should be determined based on the date that the valid vouchers such as the uniform invoice for motor vehicle sales or the special payment letter for customs duties were issued. NEVs that have been included in the Catalog before 31 December 2022 can continue to apply the VPT exemption policy in accordance with PN 27.

Relevant taxpayers are advised to read PN 27 for details to fully enjoy the preferential policy.

You can click this link to access the full contents of PN 27:

http://www.gov.cn/zhengce/zhengceku/2022-09/26/content_5712586.htm

Business circular

► **Notice regarding matters related to further implementing the phased deferral of social security contributions (Renshetingfa [2022] No. 50)**

Synopsis

Previously, according to Renshebufa [2022] No. 31 ("Circular 31", i.e., Notice regarding expanding the scope of the temporary deferral of social security contributions), a deferral policy is applicable to the three social security contributions (i.e., employees' basic pension insurance, unemployment insurance and work-related injury insurance contributions) by employers in certain industries (e.g., catering, retail, tourism, civil aviation, highway, waterway and railway transportation industries).

To further implement the requirements of Circular 31, the General Office of the STA, General Office of the MOF, Ministry of Human Resources and Social Security and General Office of the National Development and Reform Commission jointly released Renshetingfa [2022] No. 50 ("Circular 50") on 22 September 2022 to further expand the scope of the deferral policy.

Accordingly, medium, small, and micro enterprises, self-employed industrial and commercial households (as employers) and public institutions/various social organizations (participating in employees' basic pension insurance) that are suffering economic crisis due to the COVID-19 epidemic may apply to defer the payment of the three social security contributions as of the end of 2022.

Upon the expiry of the deferral policy, the relevant employers shall repay the deferred social security contributions in installments or by month by the end of 2023 with no surcharge.

Relevant parties are advised to read the abovementioned circulars for details and fully leverage the deferral policy. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full contents of Circular 50:

http://www.gov.cn/zhengce/zhengceku/2022-09/24/content_5711686.htm

You can click this link to access the full contents of Circular 31:

http://www.gov.cn/zhengce/zhengceku/2022-06/01/content_5693308.htm

- ▶ **Measures of the Customs of the People's Republic of China (PRC) on the supervision and administration of goods in transit (GAC Order [2022] No. 260)**

Synopsis

To safeguard the national sovereignty and interests and strengthen the customs supervision and administration of goods in transit, on 26 September 2022, the General Administration of Customs (GAC) announced Measures of the Customs of the PRC on the supervision and administration of goods in transit (hereinafter referred to as the "Measures") via GAC Order [2022] No. 260.

According to the Measures, goods in transit, i.e., goods shipped from abroad and continue to be shipped to a different country via land routes within the PRC's territory, shall be subject to customs supervision from entry to exit. Without the permission of the customs, no entity or individual may open, withdraw, deliver, ship, exchange, refit, mortgage, pledge, lien, transfer or replace the marks, use for other purposes, or conduct other disposal.

The carrier should transport such goods along the route prescribed by the competent transportation authority from entry to exit. The carrier should also truthfully declare to the customs at the place of entry and go through the customs formalities for transit transportation. Goods in transit can be transported only after being examined and released by the customs at the place of entry and can be transported out of the country only after going through the domestic transport formalities with the customs at the place of exit.

The Measures shall become effective on 1 November 2022.

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

<http://gdfs.customs.gov.cn/customs/302249/2480148/4597408/index.html>

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

- ▶ **PN regarding the "Catalog of Non-transport Special Operations Vehicles Equipped with Fixtures That Are Exempt from Vehicle Purchase Tax" (6th Batch) (STA/MIIT PN [2022] No. 18)**
<http://www.chinatax.gov.cn/chinatax/n371/c5181809/content.html>
- ▶ **Opinions on deepening the reform of the administration of electronics and electrical industry (Guobanfa [2022] No. 31)**
http://www.gov.cn/zhengce/content/2022-09/23/content_5711385.htm
- ▶ **Decisions on revising certain administrative approval regulations (CBIRC Order [2022] No. 5)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1074419>
- ▶ **Regulations for the supervision and administration on enterprises implementing entities' responsibility of food safety (SAMR Order [2022] No. 60)**
https://gkml.samr.gov.cn/nsjg/fqs/202209/t20220926_350321.html
- ▶ **Notice regarding certain policy measures for supporting the steady development of foreign trade (Shangmaofa [2022] No. 152)**
<http://www.mofcom.gov.cn/article/zcfb/zcdwmy/202209/20220903351830.shtml>
- ▶ **Administrative measures on investment subsidy projects for comprehensive passenger terminals (Jiaoguihuafa [2022] No. 95)**
https://xxgk.mot.gov.cn/2020/jigou/zhghs/202209/t20220927_3686308.html
- ▶ **Administrative Regulations on International Road Transport (MOT Order [2022] No. 31)**
https://xxgk.mot.gov.cn/2020/jigou/fqs/202209/t20220928_3687083.html

- ▶ **PN regarding deferring certain administrative charges for enterprises and self-employed industrial and commercial households (MOF/NDRC PN [2022] No. 29)**
http://szs.mof.gov.cn/zt/mlqd_8464/2013yljfc/202209/t20220929_3843657.htm
- ▶ **Notice regarding further supporting the development of small and medium-sized enterprises in the field of highway construction (Jiaobangonglu [2022] No. 59)**
http://www.gov.cn/zhengce/zhengceku/2022-09/29/content_5713628.htm
- ▶ **Notice regarding accelerating and promoting the pilot run of market procurement trade method (Shangmaohan [2022] No. 479)**
<http://www.mofcom.gov.cn/article/zcfb/zcdwmy/202209/20220903352609.shtml>
- ▶ **Guiding opinions on promoting the healthy development of movable property and rights financing (Yinbaojianfa [2022] No. 29)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1075590&itemId=928>
- ▶ **Notice regarding phased adjustments to differentiated housing credit policies**
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4671913/index.html>
- ▶ **PN regarding the pilot online verification of the “Tariff Quota Certificate of the People’s Republic of China on Agricultural Products” and other two certificates (GAC/NDRC/MOFCOM PN [2022] No. 92)**
<http://www.customs.gov.cn/customs/302249/2480148/4599304/index.html>
- ▶ **Implementation rules on the 2023 import tariff quotas of sugar, wool and wool tops (MOFCOM PN [2022] No. 25)**
<http://www.mofcom.gov.cn/article/zwgk/gkzcfb/202209/20220903352597.shtml>



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