

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

- ▶ **Notice regarding the Corporate Income Tax (CIT) preferential policies for enterprises in the Hainan Free Trade Port (FTP) (Caishui [2020] No. 31)**
- ▶ **Notice regarding the Individual Income Tax (IIT) policies for high-end talents urgently needed in the Hainan FTP (Caishui [2020] No. 32)**

Synopsis

Pursuant to the Overall Plan for the Construction of the Hainan FTP (hereinafter referred to as the "Plan") announced on 1 June 2020, the Ministry of Finance (MOF) and STA jointly released Caishui [2020] No. 31 ("Circular 31") and Caishui [2020] No. 32 ("Circular 32") on 23 June 2020 to further specify the CIT and IIT preferential policies outlined in the Plan. (Please refer to CTIE2020022 and our WeChat article posted on 2 June 2020 for details of the Plan.)

Circulars 31 and 32 are effective during the period from 1 January 2020 to 31 December 2024. Key features are as follows:

Taxes	General rules introduced via the Plan	Rules further clarified via Circulars 31 and 32
CIT	<p>Enterprises registered in the Hainan FTP and engaged in substantial business in encouraged industries shall be subject to a reduced CIT rate of 15% starting from 1 June 2020.</p>	<p>A qualifying enterprise should meet <u>all</u> the following conditions:</p> <ul style="list-style-type: none"> ▶ The enterprise is registered in the Hainan FTP; ▶ The enterprise is engaged in encouraged industries¹ and its revenue derived from the encouraged industries accounts for 60% or above of its total revenue; ▶ The effective management of the enterprise is in the Hainan FTP and exercising substantial and overall management and control on business, personnel, accounting and properties, etc. of the enterprise. <p>However, even all the above-mentioned conditions are met, the reduced CIT rate of 15% only applies to:</p> <ul style="list-style-type: none"> ▶ Income allocated to the head office and its branch(es) located in the Hainan FTP; or ▶ Income allocated to the branch(es) located in Hainan FTP if the head office is outside of the Hainan FTP. <p>The allocation of income between the head office and its branches with cross-region operations shall be referred to the prevailing CIT policies.</p>
	<p>For enterprises registered in the Hainan FTP and engaged in tourism, modern services or high-tech industries², any income derived from new outbound direct investments made before 2025 shall be exempt from CIT.</p>	<p>The tax-exempt income derived from new outbound direct investments should meet all the following conditions:</p> <ul style="list-style-type: none"> ▶ The income is the operating profit derived by a newly established overseas branch; or the income is the dividend repatriated from an overseas subsidiary with 20% and more shares owned by the enterprise and corresponding to new outbound direct investments; and ▶ The statutory CIT rate of the jurisdiction that the enterprise is investing in is no less than 5%.
	<p>For all enterprises in the Hainan FTP, qualified capital expenditures may be claimed 100% upfront or accelerated depreciation or amortization can be applied.</p>	<p>Such regulations are further elaborated as follows:</p> <ul style="list-style-type: none"> ▶ Fixed assets (except for real estates or constructions) or intangible assets, which are newly acquired through means of purchase, self-construction, or self-development, with a unit value not exceeding RMB5 million may be claimed 100% for CIT upfront; ▶ Alternatively, the abovementioned newly acquired fixed assets or intangible assets with a unit value exceeding RMB5 million may apply a shortened depreciation/amortization period or an accelerated depreciation or amortization method.
IIT	<p>For high-end or urgently needed talents that work in the Hainan FTP, IIT burden exceeding 15% shall be exempt from IIT.</p>	<p>Circular 32 further clarifies the following issues from implementation perspectives:</p> <ul style="list-style-type: none"> ▶ The IIT exemption shall apply to the individual's consolidated income (i.e., the sum of salaries and wages, remuneration for personal services, authors' remuneration and royalties) that are derived from the Hainan FTP as well as operating income and any talent related subsidy income recognized by the Hainan government authorities. ▶ The abovementioned IIT preferential policy shall be applicable during the annual IIT filing. It means that the withholding agents shall withhold IIT in full and the talents would apply for refunds in the annual IIT filing. ▶ The scope of applicable high-end or urgently needed talents are to be specified in the administrative measures to be stipulated by the Hainan Provincial government.

Circulars 31 and 32 further elaborate the CIT and IIT preferential policies in the Hainan FTP from implementation perspectives, however, certain issues are still to be clarified:

Effective management

According to Circular 31, to engage in substantial business in the Hainan FTP, an enterprise should establish an effective management in the Hainan FTP, i.e., an establishment that exercises in substance an overall management and control over the business, personnel, accounting records and properties, etc. of the enterprise, which is consistent with the definition of "effective management" in the prevailing CIT Law and its Implementation Rules. Although no further details were stipulated in Circular 31 regarding the determination of an effective management in the Hainan FTP, it has been clear that an effective management is not necessarily a head office located in the Hainan FTP. This reflects that the determination of an effective management shall adhere to the principle of "substance over form".

Upfront CIT deduction of newly acquired assets

The policy of one-off CIT deduction of newly acquired fixed assets with a unit value not exceeding RMB5 million seems to replicate the stipulations in Caishui [2018] No. 54 ("Circular 54", i.e., Notice regarding CIT policies on deductions for equipment and devices), which has a current validity of up to the end of 2020. However, according to STA PN [2018] No. 46 ("PN 46", i.e., PN regarding issues related to the implementation of CIT policies on deductions for equipment and devices), which further interpreted Circular 54 from tax administration and implementation perspectives, the term "newly acquired equipment and devices" would include fixed assets which are newly acquired through means of purchase, self-construction, rent under finance lease, donation, investment, asset swap, and debt repayment, etc., as well as used assets newly acquired by taxpayers. It is not unreasonable to assume that the implementation of Circular 31 will follow this previous interpretation. (Please refer to CTIE2018019 and CTIE2018035 for details of Circular 54 and PN 46.)

It is also worth-noting that an accelerated amortization policy is now available to intangible assets newly acquired by enterprises in the Hainan FTP.

IIT preferential policy

As the scope of high-end or urgently needed talents is to be specified in the administrative measures, it is still not clear whether domestic talents can enjoy the IIT preferential policy. In addition, it is important to note that the IIT preferential policy shall only apply in the IIT annual filing, e.g., for relevant individuals, their IIT filed in 2020 shall generate a refund of any IIT burden exceeding 15% when performing the IIT annual filing from 1 March 2021 to 30 June 2021.

We have issued WeChat news articles (in Chinese) to discuss Circulars 31 and 32 in greater detail. For the WeChat news articles, you can follow us on WeChat by scanning the QR Code on the last page of this CTIE and search key words to access the full contents of the articles.

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

¹ *The encouraged industries shall be referenced to the prevailing Guiding Catalogs of Industrial Structure Adjustment (2019 Version), Catalog of Encouraged Industries for Foreign Investment (2019 Version) and Catalog of Newly Added Encouraged Industries in the Hainan FTP which is not yet launched. Should the relevant government authorities make any adjustments to the items covered in the abovementioned Catalogs during the validity of Circular 31, the amended Catalogs shall prevail from their effective dates.*

² *Same as that for the encouraged industries, the scope of tourism, modern services or high-tech industries shall also be referenced to the prevailing Guiding Catalogs of Industrial Structure Adjustment (2019 Version), Catalog of Encouraged Industries for Foreign Investment (2019 Version) and Catalog of Newly Added Encouraged Industries in the Hainan FTP which is not yet launched.*

You can click this link to access the full content of Circular 31:
http://szs.mof.gov.cn/zhengcefabu/202006/t20200630_3540842.htm

You can click this link to access the full content of Circular 32:
http://szs.mof.gov.cn/zhengcefabu/202006/t20200630_3540853.htm

You can click this link to access the full content of the Plan:
http://www.gov.cn/zhengce/2020-06/01/content_5516608.htm

You can click this link to access the full content of Circular 54:
http://www.chinatax.gov.cn/n810341/n810755/c3439412/content.html?from=timeline&wscckey=81068c28a9ffe603_1593599335

You can click this link to access the full content of PN 46:
<http://www.chinatax.gov.cn/n810341/n810755/c3712534/content.html>

You can click this link to access the full content of the Guiding Catalogs of Industrial Structure Adjustment (2019 Version):

<http://www.customs.gov.cn/customs/302249/2480148/2760098/index.html>

You can click this link to access the full content of the Catalog of Encouraged Industries for Foreign Investment (2019 Version):

<http://www.gov.cn/xinwen/2019-06/30/5404701/files/9d2dde75fa054d249dfa16267af42277.pdf>

► **Notice regarding implementation opinions on supporting selling export products in the domestic market (Guobanfa [2020] No. 16)**

Synopsis

To stabilize foreign trade and help businesses engaging in foreign trade overcome the challenging and uncertain situations due to the COVID-19 epidemic, the general office of the State Council released Guobanfa [2020] No. 16 ("Circular 16") on 17 June 2020 to introduce several measures on supporting selling export products in the domestic market.

Of which, the measures related to tax and customs are as follows:

- By the end of 2020, the tax-related application procedures³ for selling export products in domestic markets shall be simplified.
- For processing trade enterprises that are subject to centralized tax collection on domestic sales of goods under processing trade⁴, the reporting for centralized tax collection may be completed within 15 days following the end of each quarter, provided that the reporting is filed within the validity of the customs handbooks and the deadlines of settlement. (According to the prevailing rules as prescribed in GAC PN [2019] No. 218 ("PN 218", i.e., PN regarding simplifying and regulating the handling procedures for facilitating processing trade), the reporting for centralized tax collection for a month should be completed within 15 days after the end of the month.)

Circular 16 also calls on foreign trade enterprises to cooperate with e-commerce platforms to boost domestic sales of export products and introduce a series of supporting measures from commercial perspectives.

It is anticipated that the State Taxation Administration (STA), General Administration of Customs as well as the relevant government authorities will further stipulate and issue formal regulations to promptly respond to Circular 16. We will keep an eye on any further developments and advise you accordingly; please stay tuned.

³ According to the Administrative Measures on Value-added Tax and Consumption Tax Collection for the Export of Goods and Services released via STA PN [2012] No. 24 ("PN 24"), an enterprise should apply for a certification for export goods to be sold domestically with its supervising tax authority by submitting an application form and the relevant invoices, etc. (Please refer to CTIE2012021 for details of PN 24.)

⁴ According to GAC PN [2013] No. 70 ("PN 70", i.e., Notice regarding the centralized tax collection on domestic sales of goods under the processing trade), eligible processing trade enterprises are allowed to sell bonded goods domestically and apply for centralized tax collection with the supervising customs office later. (Please refer to CTIE2014002 for details of PN 70.)

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

http://www.gov.cn/zhengce/content/2020-06/22/content_5521078.htm

You can click this link to access the full content of PN 218:

<http://www.customs.gov.cn/customs/302249/302266/302267/2803723/index.html>

You can click this link to access the full content of PN 24:

<http://www.chinatax.gov.cn/n810341/n810765/n812151/n812411/c1083343/content.html>

You can click this link to access the full content of PN 70:

<http://www.customs.gov.cn/customs/302249/302266/302267/356016/index.html>

Business circulars

▶ **The 2020 Legislative Work Plan of the Standing Committee of the National People's Congress**

Synopsis

On 20 June 2020, the Standing Committee of National People's Congress released the annual legislative work plan for 2020 (hereinafter referred to as the "2020 Legislative Plan"). The 2020 Legislative Plan divides the legislative projects into three categories, i.e., the legislative projects for continuous deliberation, legislative projects for initial deliberation as well as preparatory legislative projects.

Among which, the 2020 Legislative Plan includes the following business and tax related projects:

Legislative projects for continuous deliberation

- ▶ Law on the City Construction Tax
- ▶ Deed Tax Law

Legislative projects for initial deliberation

- ▶ Administrative Penalty Law
- ▶ Administrative Review Law
- ▶ Futures Law
- ▶ Hainan Free Trade Port Law

Preparatory legislative projects

- ▶ Audit Law
- ▶ Anti-money Laundering Law
- ▶ People's Bank of China Law
- ▶ Commercial Bank Law
- ▶ Insurance Law

Relevant enterprises and individuals are encouraged to read the 2020 Legislative Plan for more details. We will keep an eye on any further progress in this regard and bring you the most updated news. Please stay tuned.

You can click this link to access the full content of the 2020 Legislative Plan:

<http://www.npc.gov.cn/npc/c30834/202006/b46fd4cbdbbb4b8faa9487da9e76e5f6.shtml>

- ▶ **Special Administrative Measures for Foreign Investment Access (Negative List) (2020 Version) (NDRC/MOFCOM Order [2020] No. 32)**
- ▶ **Special Administrative Measures for Foreign Investment Access to Pilot Free Trade Zones (Negative List) (2020 Version) (NDRC/MOFCOM Order [2020] No. 33)**

Synopsis

On 23 June 2020, the National Development and Reform Commission (NDRC) and Ministry of Commerce (MOFCOM) jointly released the Special Administrative Measures for Foreign Investment Access (Negative List) (2020 Version) (hereinafter referred to as the "2020 Negative List") and the Special Administrative Measures for Foreign Investment Access to Pilot Free Trade Zones (Negative List) (2020 Version) (hereinafter referred to as the "2020 PFTZ Negative List") via NDRC/MOFCOM Order [2020] No. 32 and NDRC/MOFCOM Order [2020] No. 33 respectively, to cooperate the implementation of the Foreign Investment Law, further improve the business environment for foreign investors, and promote quality economic development with a higher level of opening-up.

Principles of the 2020 revision

The two lists have been revised again since last year without any newly added or tightened restrictions on foreign investments and items in both lists are further reduced, aiming to further expand foreign investment access. Among them, items in the 2020 Negative List are reduced to 33 from 40 and items in the 2020 PFTZ Negative List are reduced to 30 from 37.

Major changes

Compared to the two lists released last year, i.e., the Special Administrative Measures for Foreign Investment Access (Negative List) (2019 Version) (hereinafter referred to as the “2019 Negative List”) and the Special Administrative Measures for Foreign Investment Access to Pilot Free Trade Zones (Negative List) (2019 Version) (hereinafter referred to as the “2019 PFTZ Negative List”), major changes in the two 2020 lists involve various areas as follows: (Please refer to CTIE2019026 for details of the 2019 Negative List and the 2019 PFTZ Negative List.)

▶ Accelerate the opening-up in key areas of service sectors

- ▶ Financial sector: Remove the restrictions on the shareholding ratio of foreign investments in securities companies, securities investment fund management companies, futures companies, and life insurance companies.
- ▶ Infrastructure sector: Remove the requirement that the construction and operation of water supply and drainage pipelines in cities with a population of more than 500,000 people have to be controlled by the Chinese party.

▶ Relax foreign investment access to manufacturing and agriculture sectors

- ▶ Manufacturing sector: The restriction on the shareholding ratio of foreign investment in commercial vehicle manufacturing is relaxed; the regulations that prohibit foreign investments in the smelting and processing of radioactive minerals and production of nuclear fuel are abolished.
- ▶ Agriculture sector: The regulation that requires the selection of new wheat varieties and the production of seeds be held by the Chinese party is relaxed to Chinese shareholding ratio not less than 34%.

▶ Continue to run pilot schemes in free trade zones

- ▶ Pharmaceutical sector: The regulation that prohibits foreign investment in Chinese herbal medicines is abolished.
- ▶ Education sector: Foreign investors are allowed to establish wholly owned vocational education institutions with recognition within the education system.

Coherence and implementation

In addition to further enhance opening-up, the 2020 Negative List is also revised to be coherent with the relevant provisions of the Foreign Investment Law and its implementation regulations. The 2020 Negative List and the 2020 PFTZ Negative List shall become effective on 23 July 2020. The 2019 Negative List and the 2019 PFTZ Negative List shall be abolished at the same time.

We have issued a WeChat news article (in Chinese) to discuss the two negative lists of 2020 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 and search key words to access the full contents of the article.

You can click this link to access the full content of the 2020 Negative List:
https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/202006/t20200624_1231938.html

You can click this link to access the full content of the 2020 PFTZ Negative List:
https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/202006/t20200624_1231939.html

You can click this link to access the full content of the 2019 Negative List:
<https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/201906/W020190905495179303648.pdf>

You can click this link to access the full content of the 2019 PFTZ Negative List:
<https://www.ndrc.gov.cn/fqgz/lywzjw/zcfg/201906/W020190909440860735002.pdf>

▶ **Notice regarding issues related to extending the implementation period of certain policies on social security contributions reduction/exemption (Renshebufa [2020] No. 49)**

Synopsis

On 20 February 2020, the MOF, STA and Ministry of Human Resources and Social Security (MOHRSS) jointly released Renshebufa [2020] No. 11 (“Circular 11”) announcing the temporary reduction and exemption of social insurance contributions borne by enterprises. To further reduce enterprises’ burden, on 22 June 2020, the MOF, STA and MOHRSS jointly released Renshebufa [2020] No. 49 (“Circular 49”) to extend the implementation period of certain policies on social security contributions reduction/exemption. (Please refer to CTIE2020008 for details of Circular 11.)

Key features of Circular 49 are as follows:

- ▶ The exemption of employers’ contributions of basic pension insurance, unemployment insurance and work-related injury insurance (hereinafter referred to as the “three social insurances”) granted by provincial governments for medium, small and micro-sized enterprises shall be extended to the end of December 2020.
- ▶ The preferential policy that halved the employers’ contributions of the three social insurances granted by provincial governments (except for Hubei Province) for other employers (e.g., large enterprises, excluding the government authorities and public institutions) shall be extended to the end of June 2020.
- ▶ The exemption of employers’ contributions of the three social insurances granted by Hubei government for other employers (e.g., large enterprises) shall be extended to the end of June 2020.
- ▶ Where the enterprises are affected by the epidemic with severe difficulties in production and business, they may apply to defer the payment of social insurance premiums to the end of December 2020 without any penalties.
- ▶ The minimum thresholds of pay base for social insurance contributions for year 2020 may be remained at the same level as that for year 2019. The upper limits shall be adjusted in accordance with regulations.
- ▶ Where the self-employed industrial and commercial households have employees and participate in the three social insurances as entities, they may enjoy the same social security contribution reduction/exemption policies as enterprises.
- ▶ Where self-employed industrial and commercial households as well as individuals under flexible employment participate in the basic pension insurance as individuals and have difficulties in paying basic pension insurance premium, they may defer the payment on a voluntary basis.

Relevant enterprises and individuals are encouraged to read Circular 49 for more details.

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

http://www.gov.cn/zhengce/zhengceku/2020-02/21/content_5481861.htm

You can click this link to access the full content of Circular 49:

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5153727/content.html>

▶ **Notice regarding temporary adjustments to the implementation of relevant administrative laws and regulations in the China (Hainan) Pilot Free Trade Zone (Guohan [2020] No. 88)**

Synopsis

To support the reform in the China (Hainan) Pilot Free Trade Zone (hereinafter referred to as the “Hainan PFTZ”), the State Council released Guohan [2020] No. 88 (“Circular 88”) on 18 June 2020 to specify a few temporary adjustments to the implementation of relevant administrative laws and regulations in the Hainan PFTZ.

Among these, Circular 88 specified the temporary adjustments to Article 5.1 of the Regulations of the People’s Republic of China (PRC) on Guarantee for Customs Matters and Article 42 of the Regulations of the PRC on Custom Duty for Import and Export regarding the payment of guarantee for goods that are temporarily entered or exited the territory of the PRC. In this regard, according to Circular 88, guarantee for yachts that are entered the PRC via self-drive boat trips within the Hainan PFTZ shall not be required.

Adjustments are also made to approval authorities for enterprises engaging in passenger ships in the Hainan PFTZ, classification surveys for Chinese international voyage ships registered in the Hainan PFTZ, etc.

The relevant adjustments were effective on the promulgation date of Circular 88, i.e., 18 June 2020 and shall be implemented until 31 December 2024.

You can click this link to access the full content of Circular 88:

http://www.gov.cn/zhengce/content/2020-06/28/content_5522324.htm

You can click this link to access the full content of the Regulations of the PRC on Guarantee for Customs Matters:

http://www.gov.cn/gongbao/content/2019/content_5468946.htm

You can click this link to access the full content of the Regulations of the PRC on Custom Duty for Import and Export:

<http://www.customs.gov.cn/customs/302249/302266/302267/2558681/index.html>

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

- ▶ **Notice regarding a list of headquarters and branches of air transport enterprises subject to consolidated Value-added Tax filing (Caishui [2020] No. 30)**
http://www.gov.cn/zhengce/zhengceku/2020-06/22/content_5521037.htm
- ▶ **Notice regarding the 2020 work of rural and urban residents' basic medical insurance (Yibaofa [2020] No. 24)**
<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5153547/content.html>
- ▶ **Notice regarding certain matters related to exempting annual insurance guarantee fund in 2020 for insurance corporations and branches in Hubei (Yinbaojianbanfa [2020] No 54)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=910938>
- ▶ **Notice regarding non-financial enterprises' report of their foreign financial assets, liabilities and transactions (Huizongfa [2020] No. 43)**
<http://www.safe.gov.cn/safe/2020/0622/16479.html>
- ▶ **Administrative Punishment Measures of the China Banking and Insurance Regulatory Commission (CBIRC Order [2020] No. 8)**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=911640>
- ▶ **Public notice (PN) regarding extending the effectiveness of policies on the reduction and exemption of port construction fees and oil pollution compensation fund (MOF/MOT PN [2020] No. 30)**
http://www.gov.cn/zhengce/zhengceku/2020-06/24/content_5521532.htm
- ▶ **Notice regarding the "Regulations on Accounting Treatments for Rent Reduction and Exemption Related to the COVID-19 Epidemic" (Caikuai [2020] No. 10)**
http://www.gov.cn/zhengce/zhengceku/2020-06/24/content_5521488.htm
- ▶ **Notice regarding the online application for qualification of construction and engineering enterprises (Jianbanbiao [2020] No. 26)**
<http://sme.miit.gov.cn/cms/news/100003/0000000700/2020/6/28/ae27e81ff734439ba2be9d5318f168d7.shtml>
- ▶ **PN regarding the public consultation on the "Notice Regarding Further Optimizing Services for Establishment of Enterprises (Discussion Draft)"**
http://www.samr.gov.cn/hd/zjdc/202006/t20200624_317403.html

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APAC no. 03010624
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