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Tax circulars

- ▶ **Public notice (PN) regarding issues related to the preferential Corporate Income Tax (CIT) policies for enterprises in Hainan Free Trade Port (Hainan Provincial Tax Services, STA PN [2020] No. 4)**

Synopsis

Pursuant to the Overall Plan for the Construction of the Hainan Free Trade Port (FTP) (hereinafter referred to as the "Plan") and Caishui [2020] No. 31 ("Circular 31", i.e., Notice regarding the CIT preferential policies for enterprises in the Hainan FTP) issued by the Ministry of Finance (MOF) and State Taxation Administration (STA), the Hainan Provincial Tax Services, STA released its PN [2020] No. 4 (hereinafter referred to as "Hainan PN 4") on 31 July 2020 to further specify practical issues related to the implementation of Circular 31. (Please refer to CTIE2020022, CTIE2020026 and our WeChat article posted on 2 June 2020 for details of the Plan and Circular 31.)

Key features of Circular 31 and PN 4 are set out below:

| Items | CIT preferential policies in Circular 31 | Issues further elaborated in Hainan PN 4 |
|------------------|--|---|
| Reduced CIT rate | <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 January 2020.</p> | <p>Hainan PN 4 further clarifies that the qualified enterprises cover not only resident enterprises and branches of resident enterprises registered in Hainan FTP but also establishments and premises constituted in Hainan FTP by non-resident enterprises.</p> |
| | <p>An enterprise should meet <u>all of</u> the following conditions to get qualified:</p> <ul style="list-style-type: none"> ▶ The enterprise is registered in the Hainan FTP. ▶ The enterprise is engaged in encouraged industries and its revenue derived from the encouraged industries accounts for 60% or above of its total revenue. (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 Hainan FTP which is not yet launched.) ▶ The effective management of the enterprise is in Hainan FTP and exercises substantial and overall management and control on business, personnel, accounting and properties, etc. of the enterprise. | <p>A qualified enterprise can apply reduced CIT rate of 15% in the monthly/quarterly CIT filing and the following documents should be maintained for future references:</p> <ul style="list-style-type: none"> ▶ An explanation related to the enterprise's core business that should fall into the respective items of the relevant catalogues and account for 60% or above of its total revenue; ▶ A report regarding the enterprise's substantial business elements that include the total assets, revenues, headcounts, salary costs as well as the ratio of those figures belonging to a presence that set up in Hainan FTP. |
| | <p>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 Hainan FTP; or ▶ Income allocated to the branch(es) located in Hainan FTP if the head office is outside of 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> | <ul style="list-style-type: none"> ▶ For an enterprise with its head office located in Hainan FTP, only the head office and its branch(es) located in Hainan FTP (except for any third-tier branch or below located in Hainan FTP which was established by a second-tier branch or below that located outside of Hainan FTP) shall be considered for the eligibility of the reduced 15% CIT rate. In this respect, the revenue derived from the encouraged industries by the head office and branch(es) located in Hainan FTP should account for 60% or above of their total revenue. Revenue of any branch(es) that are located outside of Hainan FTP shall be disregarded. ▶ For an enterprise with its head office located outside of Hainan FTP, only its branch(es) located in Hainan FTP (except for any third-tier branch or below located in Hainan FTP which was established by a second-tier branch or below that located outside of Hainan FTP) shall be considered for the eligibility of the reduced 15% CIT rate. The head office and branch(es) that are located outside of Hainan FTP shall be disregarded. In this respect, the revenue derived from encouraged industries by the branches located in Hainan FTP should account for 60% or above of their total revenue. |

| Items (cont'd) | CIT preferential policies in Circular 31 (cont'd) | Issues further elaborated in Hainan PN 4 (cont'd) |
|--|--|--|
| <p>CIT exemption for new outbound direct investments</p> | <p>For enterprises registered in Hainan FTP and engaged in tourism, modern services or high-tech industries, any income derived from new outbound direct investments made from 1 January 2020 to 31 December 2024 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 not less than 5%. | <ul style="list-style-type: none"> ▶ The tax-exempt new outbound direct investments should happen within the period from 1 January 2020 to 31 December 2024. ▶ The tax-exempt income may be generated from newly established overseas branches, newly established overseas enterprises, capital increase of existing overseas enterprises or acquisition of overseas enterprises. <p>The CIT exemption for new outbound direct investments should be applied during the annual CIT filing and supporting documents regarding the eligibility of such exemption should be maintained for future references.</p> |
| <p>Upfront CIT deduction and accelerated depreciation /amortization policies</p> | <p>For all enterprises in Hainan FTP, qualified capital expenditures may be claimed 100% upfront or accelerated depreciation or amortization can be applied.</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. | <p><u>Applicable taxpayers</u></p> <p>In addition to the contents prescribed in Circular 31, Hainan PN 4 specified that second-tier branches as well as establishments/premises of non-resident enterprises which are subject to CIT at an actual basis may apply 100% upfront or accelerated depreciation or amortization.</p> <p><u>Accelerated depreciation/amortization</u></p> <ul style="list-style-type: none"> ▶ Where a shortened depreciation/amortization period is applied, the shortened period for newly acquired assets should not be shorter than 60% of the period stipulated in the Implementation Rules of the CIT Law. For used assets, the shortened depreciation/amortization period for newly acquired assets should not be shorter than 60% of the period stipulated in the Implementation Rules of the CIT Law minus their used life. ▶ Where an accelerated depreciation or amortization method is applied, the enterprise may either adopt the double declining balance method or the sum-of-years'-digits method. <p>Once the depreciation/amortization method and period are chosen, they cannot be altered.</p> <p><u>When to apply</u></p> <p>A taxpayer may apply the upfront CIT deduction or accelerated depreciation/amortization method during the monthly/quarterly CIT filing and the following documents should be maintained for future references:</p> <ul style="list-style-type: none"> ▶ Supporting documents regarding the acquisition of the assets (e.g. tax invoices, documents related to the installment payment, etc.); ▶ Relevant accounting vouchers; ▶ Accounting ledgers showing the differences of tax and accounting treatments for such assets. |

Hainan PN 4 shall be implemented from 1 January 2020 to 31 December 2024. In case the taxpayers failed to apply the relevant CIT preferential treatments before the issuance of Hainan PN 4 and Circular 31, they may still apply the preferences in the upcoming monthly/quarterly CIT filing or the 2020 annual CIT filing.

You can click this link to access the full content of Hainan PN 4:

http://hainan.chinatax.gov.cn/xxgk_6_1/31128075.html

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 the Plan:

http://www.gov.cn/zhengce/2020-06/01/content_5516608.htm

► **PN regarding adjusting certain methods for the withholding of Individual Income Tax (IIT) (STA PN [2020] No. 13)**

Synopsis

To further stabilize employment and reduce IIT burden of newly employed individuals during the provisional IIT filings, the STA released STA PN [2020] No. 13 ("PN 13") on 28 July 2020 to specify the following arrangements:

IIT withholding for wages and salaries

According to the prevailing Administrative Measures on the Withholding and Declaration of IIT (Trial) (hereinafter referred to as the "Trial Administrative Measures") released via STA PN [2018] No. 61, where a withholding agent (e.g., the employer) pays wages to a resident individual, the withholding agent should withhold IIT according to the provisional withholding method below and complete IIT filing for IIT withholding:

- Provisional withholding tax payable for the current month = (Cumulative provisional withholding taxable income × Provisional withholding tax rate - Quick reckoning deduction) - Cumulative tax exemptions - Cumulative provisional tax withheld
- Cumulative provisional withholding taxable income = Cumulative income - Cumulative non-taxable income - Cumulative standard deduction - Cumulative special deductions - Cumulative specific additional tax deductions - Cumulative other deductions as stipulated by laws and regulations
- Cumulative standard deduction is calculated at multiplying RMB5,000 by the number of months from the first month to the current month in the current tax year during which the employee is employed by the current employer

To reduce IIT burden of newly employed individuals, according to PN 13, a resident individual who receives salary for the first time during a calendar year (which means that he/her has not received any salary or recurring remuneration from labor services during the year), the deductible cumulative standard deduction may be calculated at the standard deduction (i.e., RMB5,000) multiplied by the number of months from the first month of the year to the current month in the current tax year even the individual was not employed during those previous months.

IIT withholding for remuneration for labor services

Where a full-time student receives remuneration from labor services from an internship program, his/her IIT for the internship program may be withheld according to the above provisional withholding method as prescribed in the Trial Administrative Measures. As elaborated in the official interpretation of PN 13 from the STA, for IIT withholding for remuneration for labor services for full-time students, the calculation method may be simplified as follows:

Provisional withholding tax payable for the current month = (Cumulative income - Cumulative standard deduction) × Provisional withholding tax rate - Quick reckoning deduction - Cumulative provisional tax withheld

Among these, the cumulative standard deduction is calculated at multiplying RMB5,000 by the number of months from the first month to the current month in the current tax year during which the full-time students are working in the internship program.

For instance, where a full-time student was accepted to an internship program in July 2020 and receives RMB5,000 as remuneration from labor services, according to the provisional withholding method, the cumulative standard deduction shall be RMB5,000. In this respect, the provisional withholding tax payable for July 2020 shall be zero. In case this individual would not receive any consolidated income during the year, he/she would not be required to file annual IIT.

Self-evaluation

A taxpayer should perform self-evaluation to assess whether he/she is qualified for the above arrangements and provide the relevant supporting documents to the withholding agent, so that the withholding agent may withhold IIT according to PN 13. The relevant supporting documents shall be maintained by both the taxpayer and the withholding agent for future references, and the taxpayer himself/herself shall be responsible for authenticity, accuracy and integrity of documents provided to the withholding agent.

Effectiveness

PN 13 took retroactive effect from 1 July 2020. Any involving taxpayers that were employed to full-time jobs or accepted to internship programs before 1 July 2020 and have their IIT over-withheld may apply for a refund during the annual IIT filing.

You can click this link to access the full content of PN 13:

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5154948/content.html>

You can click this link to access the full content of STA's official interpretation of PN 13:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5154947/content.html>

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

<http://www.chinatax.gov.cn/n810341/n810755/c3960540/content.html>

► **Notice regarding the CIT policies for key industries in the China (Shanghai) Pilot Free Trade Zone Lin-gang Special Area (Caishui [2020] No. 38)**

Synopsis

According to Guofa [2019] No. 15 ("Circular 15", i.e., Notice regarding the Overall Plan of Lin-gang Special Area in China (Shanghai) Pilot Free Trade Zone) issued by the State Council, on 13 July 2020, the MOF and STA jointly released CIT policies for key industries in the China (Shanghai) Pilot Free Trade Zone Lin-Gang Special Area via Caishui [2020] No. 38 ("Circular 38"). (Please refer to CTIE2019032 for details of Circular 15.)

Key features of the policies are as follows:

Eligible legal entities that are engaged in core products and technology of key industries such as integrated circuits, artificial intelligence, biomedicine, and civil aviation in the Special Area and carry out substantive production or research and development (R&D) activities, are subject to a reduced CIT rate of 15% within 5 years from the date of establishment.

The abovementioned conditions include:

- Legal entities that are registered in the Special Area (excluding those that move in) after 1 January 2020 and carry out substantive production or R&D activities in the key industries listed in the "Catalog of Core Products and Technology of Key Areas of Integrated Circuits, Artificial Intelligence, Biomedicine and Civil Aviation in the Special Area" (hereinafter referred to as the "Catalog", see attached in Circular 38);
- At least one key product (technology) is included in the enterprise's primary R&D or sales products; and
- Any one of the following conditions:
 - The investment entity of the enterprise ranks among the tops of influence in the international market and the technology ranks among the tops of the industry;
 - The investment entity of the enterprise is in a leading position in the domestic market and the technology is in a leading position in the industry; or

- ▶ Any one of the following conditions:
 - ▶ The enterprise has leading talents and core team members who have been engaged in scientific research and production in the relevant field for an extended period of time;
 - ▶ The enterprise has key technologies and the capacity to establish an independent intellectual property system for its main products;
 - ▶ The enterprise has the capacity to promote the diversification of core suppliers in the industry chain and to drive domestic industrial upgrading;
 - ▶ The enterprise has high-end supply capacity and the core technical indicators have reached an international or domestic leading position;
 - ▶ The enterprise's R&D achievements (technology or products) are adopted by international and domestic first-line terminal equipment manufacturers or close substantive cooperation is established (capital, scientific research, projects, etc.);
 - ▶ The enterprise obtains technology or industrialization special funds from national or provincial governments, government investment funds or investment from renowned investment and financial institutions.

The above policies became effective from 1 January 2020. Eligible legal entities that registered in the Special Area before 31 December 2019 and are engaged in substantive production or R&D activities in the key industries listed in the Catalog may apply this policy from 2020 till the end of the five-year term of establishment.

Relevant enterprises in the Special Area are advised to read Circular 38 carefully so as to fully enjoy the tax benefits. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of Circular 38:

http://czj.sh.gov.cn/zys_8908/zcfg_8983/zcfb_8985/sszc_8998/20200731/7b47d6fe57814605bde67b05a611f3d9.html

▶ **Notice regarding the “Implementation Rules of the Administrative Measures for the Import-level Tax Policies on Key Technology Equipment” (Gongxinbuliancai [2020] No. 118)**

Synopsis

According to Administrative Measures for the Import-level Tax Policies on Key Technical Equipment (KTE) (hereinafter referred to as the “Administrative Measures”), the key components and raw materials imported for producing state encouraged KTE and products by qualifying enterprises and nuclear power project owners shall be exempt from Custom Duty and import-level Value-added Tax. (Please refer to CTIE2020004 for details of Administrative Measures.)

Further to the Administrative Measures, on 24 July 2020, the MOF, Ministry of Industry and Information Technology, National Energy Administration, STA and General Administration of Customs jointly released the “Implementation Rules of the Administrative Measures for the Import-level Tax Policies on KTE” (hereinafter referred to as the “Implementation Rules”) via Guoxinbuliancai [2020] No. 118.

The Implementation Rules specify matters related to enterprises and projects for applying the status of receiving the import-level tax exemption (hereinafter referred to as the “tax-exemption status”) and consist of five chapters, i.e., General Principle, Application Procedures for Tax-exemption Status, Review Procedures for Tax-exemption Status, Matters Related to Stipulation and Revision of Catalogues and Other Matters.

According to the Implementation Rules, the recognition work for enterprises and nuclear power project owners to apply for tax-exemption status shall be conducted once a year while the review on the tax-exemption status shall be conducted triennially. Where the enterprises and nuclear power project owners newly apply for the tax-exemption status, they shall complete corresponding application report between 1 August and 31 August based on the relevant catalogues to be executed from 1 January of the following year. Where the enterprises and nuclear power project owners have been previously approved and received the import-level tax exemption in 2020 (excluding those newly applied and obtained the tax-exemption status in 2020) are required to submit a report, on or before, 31 August 2020.

The Implementation Rules shall become effective from 1 August 2020 and Gongxintingliancai [2016] No. 40 ("Circular 40", i.e., Notice regarding the adjustment of certain acceptance and procedural matters related to import-level tax policies for the importation of KTE and machinery) shall be revoked simultaneously. (Please refer to CTIE2016011 for details of Circular 40.)

Relevant enterprises and nuclear power project owners are encouraged to read Implementation Rules for more details and make preparation for the application or review procedures for the tax-exemption status.

You can click this link to access the full content of Administrative Measures:
http://www.gov.cn/zhengce/zhengceku/2020-01/14/content_5468912.htm

You can click this link to access the full content of Implementation Rules:
<http://www.miit.gov.cn/n1146295/n1652858/n1652930/n3757018/c8037193/content.html>

You can click this link to access the full content of Circular 40:
<http://www.miit.gov.cn/newweb/n1146285/n1146352/n3054355/n3057278/n4704593/c5207880/content.html?&tsrlhzcrcfey>

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

- ▶ **Notice regarding the "List of 2020 Key Tasks for Government Affairs Disclosure of Tax System" (Shuizongbanfa [2020] No. 34)**
<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5154941/content.html>
- ▶ **Notice regarding the "Regulation on the Application for Government Information Disclosure of Tax Authorities" (Shuizongbanfa [2020] No. 35)**
<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5154999/content.html>
- ▶ **Notice regarding expanding the pilot scheme for further opening-up of the service sector (Shangzihan [2020] No. 212)**
http://www.gov.cn/xinwen/2020-07/26/content_5530188.htm
- ▶ **Notice regarding further stabilizing employment in the second half of year 2020 (Fagaibanjiuye [2020] No. 557)**
https://www.ndrc.gov.cn/xxgk/zcfb/tz//202007/t20200724_1234493.html
- ▶ **Notice regarding the "Administrative Measures for the Record Filing of Security Service Business Conducted by Accounting Firms" (Caikuai [2020] No. 11)**
http://kjs.mof.gov.cn/zhengcefabu/202007/t20200724_3556275.htm
- ▶ **Notice regarding the key tasks for work on cost reduction in 2020 (Fagaiyunxing [2020] No. 1183)**
https://www.ndrc.gov.cn/xxgk/zcfb/tz/202007/t20200728_1234637.html
- ▶ **Guiding opinions on promoting the collaborative development of intelligent construction and industrialization of the construction industry (Jianshi [2020] No. 60)**
http://www.mohurd.gov.cn/wjfb/202007/t20200728_246537.html
- ▶ **Notice regarding improving the informatization and regulating the registration of market entities (Shijianzhu [2020] No. 85)**
http://gkml.samr.gov.cn/nsjg/djzcyj/202007/t20200729_320322.html
- ▶ **Notice regarding enhancing the administration on the refund of non-tax charges (Caiku [2020] No. 23)**
http://gks.mof.gov.cn/guihangzhidu/202007/t20200728_3557661.htm
- ▶ **Notice regarding the implementation work on bilateral and regional free trade agreements**
<http://www.mofcom.gov.cn/article/h/redht/202007/20200702986036.shtml>
- ▶ **Collection of Policies for Responding to the COVID-19 Epidemic and Promoting Economic Development (July 20 - July 26)**
<http://www.mofcom.gov.cn/article/b/fwzl/202007/20200702987438.shtml>
- ▶ **Implementation opinions on enhancing public entrepreneurship and innovation to further promote reform and stabilize employment (Guobanfa [2020] No. 26)**
http://www.gov.cn/zhengce/content/2020-07/30/content_5531274.htm
- ▶ **Decision on revising the "Administrative Regulations on Manufacturing Enterprises and Product Access of New Energy Vehicles" (MIIT Order [2020] No. 54)**
<http://www.miit.gov.cn/n1146290/n1146402/n1146440/c8037915/content.html>

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