

# Beijing piloting advance tax rulings to optimise the tax business environment

May 2024  
Issue 11

---

## In brief

On 18 April 2024, the Beijing Municipal Tax Service issued the *Measures for Advance Tax Rulings of Beijing Municipal Tax Service, State Taxation Administration (Trial)*<sup>1</sup> (JingShuiBanFa [2024] No. 8, hereinafter referred to as the “Measures”), which took effect on the same day. The advance tax ruling regime will help enterprise taxpayers in Beijing to obtain tax certainty on the application of tax policies to proposed complex and material tax matters and assist these enterprises in better evaluating tax costs and making informed business decisions.

---

## In detail

### Background

An advance tax ruling seeks to promote tax certainty and reduce tax disputes. Although there is no national advance tax ruling system in place, local tax authorities have in recent years sought to provide advance rulings as a customised service for large enterprises, with greater efforts made in this year. For example, the Shanghai Municipal Tax Service issued the *Administrative Measures for Advance Tax Rulings of Shanghai Municipal Tax Service (Trial)* at the end of 2023, and the Maoming Municipal Tax Service issued the *Notice Regarding Implementing the Advance Tax Rulings Mechanism for Complex Tax Matters of Large Enterprises* in April 2024. The Measures issued by Beijing Municipal Tax Service will also contribute to the continuous optimisation of the business environment and provide taxpayers with greater tax certainty in Beijing. For more details of local efforts made in advance tax rulings, please refer to *China Tax/Business News Flash* Issue 20 of 2022 and Issue 1 of 2024<sup>2</sup>.

### Scope of application of the Measures

According to the Measures, “advance tax ruling” is a tax service provided by the tax authorities to enterprises to clarify in writing the application of existing tax laws, regulations, rules and regulatory documents (hereinafter referred to as “tax policies”) to specific complex and material tax matters that may arise. We summarise the scope of application as follows:

**Taxpayers:** The Measures is applicable to enterprise taxpayers based in Beijing. In other words, it does not apply to natural person taxpayers and taxpayers based in other provinces/cities. Therefore, in case of a transaction involving taxpayers from both Beijing and other provinces/cities, the advance tax ruling obtained by the Beijing-based enterprises will only be effective for the tax treatment in Beijing, and will not be effective for the taxpayers from other provinces/cities.

**Tax types:** The Measures does not explicitly limit the applicable tax types. Therefore, common types of taxes, such as Corporate Income Tax (CIT), Individual Income Tax (IIT) Withholding, Value-added Tax (VAT), Consumption Tax and Stamp Duty, can be ruled on in respect of how they are applied to the specific circumstances. However, as tax authorities are not in charge of taxes on imports and exports such as tariffs and import VAT that are collected and administered by Customs, such types of taxes should not be applicable under the Measures.

**Matters:** The Measures applies to specific complex and material tax matters that are “expected to take place in the future” for enterprises. In terms of “materiality”, the Measures does not mention the thresholds for the transaction amount or the taxable amount, and enterprises may be subject to an advance confirmation with the tax authorities in this regard. In addition, the Measures defines some circumstances to which the advance ruling does not apply, including:

- Matters without a definite plan or matters that will not occur within the next 24 months. This means that enterprises can apply for advance tax ruling on planned transactions that are to be conducted within 24 months to clarify the tax treatment.
- Advance ruling is not applicable in cases where there are already clear provisions in existing tax laws and regulations that can be directly applied, and where there are no provisions in existing tax policies and need to be legislated. For example, asset transfers as part of a business combination that are clearly exempt from VAT by tax regulations is not eligible for advance ruling; nor is a new type of transaction, which is not regulated under the existing tax policies and requires to be legislated. In other words, the advance ruling is a way of interpreting how the tax treatment should be applied to the transaction within the framework of existing tax policies.
- Matters with the same characteristics as those completed by the applicant in the previous years are not eligible for the advance ruling if these previously completed matters are under discussion with the tax authorities and no conclusion has been reached on the tax treatment. Therefore, relevant matters under the negotiation process between tax authorities and enterprises are not eligible for advance ruling.
- Advance ruling should not be applied to matters that have no reasonable commercial purpose or that are prohibited by national laws and regulations. Therefore, advance ruling is not applicable where the purpose of an enterprise’s proposed transaction is to avoid paying tax.

### Request, acceptance, review and decision on advance ruling

**Processes:** An advance ruling involves four steps: request, acceptance, review and decision. The enterprises listed in the 1000 Business Groups in Beijing, as determined by the *Public Notice Issued by the STA Releasing the <Administrative Measures on the List of “1,000 Business Groups”>*<sup>3</sup> (STA Public Notice [2017] No. 7), shall submit their requests to the **First Branch of Beijing Municipal Tax Service**. Requests accepted by the First Branch are subject to the decision of the Beijing Municipal Tax Service. Other taxpayers should submit their request information to the tax service office of the **in-charge tax authority**, and the in-charge tax authority should be in charge of the acceptance of the request. In principle, the ruling should be made by the **office at the district level**. If it is confirmed that a conclusion cannot be reached by the office, the request may be transferred to the Beijing Municipal Tax Service. The tax authority who accepts the request will issue an *Advance Tax Ruling Opinion* to the applicant. The Measures does not mention the duration of each step and the internal procedures for review. Thus, applicants are advised to communicate with the tax authorities in advance for time estimation.

**Documents:** The applicant should submit the following materials, including the *Application Form for Advance Tax Rulings*, the *Notice of Consent on Advance Tax Rulings*, necessary documents of approval or ruling by relevant authorities (if any), relevant supporting materials such as specific plans, contracts, agreements, meeting minutes, feasibility study reports, approval documents of the matters to be implemented, and accounting treatment of the parties involved. It should be noted that in the *Application Form for Advance Tax Rulings*, the applicant must specify the matters, impacts on operation and taxation, the information of enterprises involved, the expected time of occurrence, and preferred treatment to apply based on the tax policy. In other words, it requires the applicant to have a relatively clear tax analysis of the matter, so that the tax authorities can make the tax decision more efficiently.

### Enforcement and follow-up administration of advance rulings

The Measures does not mention whether the advance rulings are legally binding on the tax authorities and taxpayers. Under the current tax system, advance rulings are “customised tax service initiatives” for enterprises, not “administrative actions” that materially affect the rights and obligations of enterprises and are therefore not subject to reconsideration or litigation. However, the ruling opinion can be relied upon as the *Advance Tax Ruling Opinion* is stamped by the tax authorities, and the Measures stipulates that ruling opinions apply to the tax matters specified by the applicant in the application form. It must be noted that the opinion of advance ruling applies only to the transaction for which such rulings have been requested by the applicant. Even if

other taxpayers have similar transaction or the same taxpayer has other unruléd transactions, the ruling cannot be directly applied.

In addition, if the matter is not implemented, undergoes substantive changes or is completed, the applicant should notify the in-charge tax authority, and the in-charge tax authority will follow up on the advance ruling and the actual business activities of the applicant in the meantime. It should be noted that advance tax rulings will expire automatically in certain circumstances. The details are summarised in the table below:

Stage	Circumstance	Effect	Requirements for applicants
Upon application	Taxpayer provides illegitimate, inauthentic, inaccurate or incomplete information		Not applicable
After obtaining a ruling opinion	Changes in the tax policy on which the ruling was based have a substantive effect on the ruling opinions		Not applicable
	Applicants object to the advance tax ruling opinion		Not applicable
Upon implementation of the transaction	The actual tax matter occurred is inconsistent with what is stated in the application.	Decision expires automatically	In the event of a substantive change in the matters for which an advance tax ruling has been requested, the applicant should inform the in-charge tax authority in writing within 30 days and may submit a new application in respect of the matters that are expected to occur subsequently.
	The relevant businesses or transactions for which a ruling has been requested are carried out, while the tax treatment does not follow the ruling opinion.		If the matter has been completed (regardless of whether tax treatments have been applied in accordance with the ruling opinion), the applicant should notify the in-charge tax authority in writing within 30 days.
No transaction implemented	The relevant businesses or transactions for which a ruling has been requested have not been carried out within 24 months from the issue date of the ruling.		In the event that the matter for which an advance tax ruling has been requested is no longer implemented (regardless of whether it is within 24 months or not), the applicant should inform the in-charge tax authority in writing within 30 days and may submit a new application in respect of the matters that are expected to occur subsequently.

## The takeaway

The Measures released by the Beijing Municipal Tax Service will greatly enhance tax certainty and reduce tax risks for enterprises, especially for enterprises with frequent M&A transactions, seeking IPOs or planning to venture into new markets. The advance tax ruling regime is new to the market and is still in a trial phase. Moreover, matters to be ruled are generally complicated, which require tax authorities to devote considerable resources for assessment. Therefore, it is important for enterprises to conduct a pre-application in-depth analysis and communication with the tax authorities at the initial phase. Enterprises seeking for such rulings should take early actions.

In 2015, the Legislative Affairs Office of the State Council solicited public opinions on the *<Amendment to the Tax Collection and Administration Law (Draft for Public Opinions)>*, referring to the establishment of “advance tax ruling system”. The revision plan was suspended at that time due to immature conditions. We are pleased to see that the *Legislative Plan of the Standing Committee of the 14th National People's Congress (NPC)* reiterates the revision of the *Tax Collection and Administration Law* as the first category of items to be submitted for deliberation during the term of office under relatively mature conditions. Moreover, the *Legislative Work Plan of the State Council for the Year 2024* has also included the *<Draft Amendment to the Tax Collection and Administration Law>* as an item to be submitted for deliberation by the NPC Standing Committee. At present, a number of provinces and cities have already implemented advance tax rulings on a trial basis, and PwC also expects that the amendments of the *<Tax Collection and Administration Law>* will reconsider the establishment of an advance tax ruling system at the national level, so as to achieve tax certainty and consistency for cross-provincial transactions as soon as possible.

---

## Endnote

---

1. *Circular on Issuing the Measures for Advance Tax Rulings by Beijing Municipal Tax Service, State Taxation Administration (Trial)*  
<http://beijing.chinatax.gov.cn/bjswj/sszc/zxwj/202405/58a543c23f1b4b85b6b15f83be850199.shtml>
2. *China Tax/Business News Flash Issue 20 of 2022: Exploring cross-regional tax advance rulings to better support the national strategy for coordinated regional development*  
<https://www.pwccn.com/zh/china-tax-news/2022q3/chinatax-news-aug2022-20.pdf>  
  
*China Tax/Business News Flash Issue 1 of 2024: Interpreting the taxation breakthrough in 2024: Shanghai piloting advance tax rulings to enhance tax certainty*  
<https://www.pwccn.com/en/china-tax-news/2024q1/chinatax-news-jan2024-1.pdf>
3. *Public Notice Issued by the STA Releasing the <Administrative Measures on the List of “1,000 Business Groups”>* (STA Public Notice [2017] No. 7)  
<https://fgk.chinatax.gov.cn/zcfgk/c100012/c5194719/content.html>

---

## Let's talk

---

For a deeper discussion of how this impacts your business, please contact **PwC's China Tax and Business Service Team**:

Charles Lee  
China Tax Lead Partner  
+86 (755) 8261 8899  
charles.lee@cn.pwc.com

Spencer Chong  
China Tax Markets Leader  
+86 (21) 2323 2580  
spencer.chong@cn.pwc.com

Rex Chan  
China North Tax Leader  
+86 (10) 6533 2022  
rex.c.chan@cn.pwc.com

Alan Yam  
China Central Tax Leader  
+86 (21) 2323 2518  
alan.yam@cn.pwc.com

Jeremy Ngai  
China South Tax Leader  
+852 2289 5616  
jeremy.cm.ngai@hk.pwc.com



## One-stop tax information platform of Shui Jie 3.0 version Your exclusive tax think tank



- For Android users, please scan the QR code to access to Tencent App store
- Shui Jie web portal - <https://shuijie.pwccn.com>

In the context of this News Flash, China, Mainland China or the PRC refers to the People's Republic of China but excludes Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan Region.

The information contained in this publication is for general guidance on matters of interest only and is not meant to be comprehensive. The application and impact of laws can vary widely based on the specific facts involved. Before taking any action, please ensure that you obtain advice specific to your circumstances from your usual PwC's client service team or your other tax advisers. The materials contained in this publication were assembled on 21 May 2024 and were based on the law enforceable and information available at that time.

This China Tax and Business News Flash is issued by **PwC's National Tax Policy Services** in Mainland China and Hong Kong, which comprises a team of experienced professionals dedicated to monitoring, studying and analysing the existing and evolving policies in taxation and other business regulations in Mainland China, Hong Kong, Singapore and Taiwan. They support PwC's partners and staff in their provision of quality professional services to businesses and maintain thought-leadership by sharing knowledge with the relevant tax and other regulatory authorities, academics, business communities, professionals and other interested parties.

For more information, please contact:

Long Ma  
+86 (10) 6533 3103  
[long.ma@cn.pwc.com](mailto:long.ma@cn.pwc.com)

Please visit PwC's websites at <http://www.pwccn.com> (China Home) or <http://www.pwchk.com> (Hong Kong Home) for practical insights and professional solutions to current and emerging business issues.

# [www.pwccn.com](http://www.pwccn.com)

© 2024 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see [www.pwc.com/structure](http://www.pwc.com/structure) for further details.