

税务快讯之粤港澳大湾区系列

深圳前海企业所得税优惠政策延续与更新 ——德勤的实践观察与建议

因我不同
成就不凡

始于 1845

粤港澳大湾区包括中国广东省的 9 个城市（广州、深圳、珠海、佛山、中山、东莞、肇庆、江门、惠州）以及香港和澳门 2 个特别行政区。截至 2019 年，粤港澳大湾区在面积、人口、发明专利公开量等指标上已经位列全球湾区前茅，未来大湾区可能继续在政策利好的推动作用下，逐渐建设成为世界级的城市群和大都市圈¹。

2021 年 5 月 27 日，财政部、国家税务总局发布了《关于延续深圳前海深港现代服务业合作区企业所得税优惠政策的通知》（以下简称“财税[2021]30 号”或“新政策”）²，明确对设立在前海深港现代服务业合作区（“深圳前海”或“前海合作区”）的符合条件的企业继续减按 15% 税率征收企业所得税。

在此基础上，国家税务总局深圳市税务局于 2021 年 7 月 2 日发布了《国家税务总局深圳市税务局关于发布深圳前海深港现代服务业合作区企业所得税优惠政策操作指引的通告》（以下简称“操作指引”）²，进一步明确申报流程、优化纳税服务、规范管理方式。

背景

财税[2021]30 号文件是《财政部、国家税务总局关于广东横琴新区、福建平潭综合实验区、深圳前海深港现代服务业合作区企业所得税优惠政策及优惠目录的通知》（以下简称“财税[2014]26 号”或“原政策”）

的延续政策，原政策已于 2020 年 12 月 31 日失效，此次发布的新政策除了延续原政策下深圳前海的优惠之外，亦对企业享受前海优惠政策的适用条件进行了修订。

本文将简要介绍新政策的修订内容，从税务和商务的角度分享我们的专业观点、实践观察与建议。

新政策的主要变化

与原政策相比，新政策的主要变化有以下三点：

1. 企业所得税 15% 优惠税率的政策执行期延长，新政策自 2021 年 1 月 1 日起执行至 2025 年 12 月 31 日；
2. 根据前海的产业发展方向，更新和调整了企业所得税优惠目录，在原优惠目录的基础上进行修订，新增商务服务业大类³；
3. 修改优惠产业项目的主营业务收入占比条件，将主营业务收入占收入总额的要求比例从“70%以上”降至“60%以上”。

观察与建议

（一）前海产业结构的发展预期

随新政策发布的《企业所得税优惠目录（2021 年版）》⁴ 中，包含现代物流业、信息服务业、科技服务业、文化创意产业和商务服务业五类产业。其中，信息服务业的变化较为显著，并新增了商务服务业。

信息服务业在原政策基础上新增**区块链、虚拟现实、增强现实、人工智能和工业互联网**等新一代信息技术研发与服务，有利于前海的信息服务业在深圳以及粤港澳大湾区夯实的高科技和新兴产业基础上进一步向**前沿、高端细分领域**拓展。

商务服务业为新增产业，特别有利于吸引香港以及跨国专业服务机构入驻前海服务于粤港澳大湾区乃至中国内地的客户，有助于推动**管理咨询、法律、会计、税务、人力资源、资产评估、信用服务、知识产权**等专业商务服务在前海的发展。

（二）前海市场准入和营商环境的创新

根据 2020 年 8 月通过修订的《深圳经济特区前海深港现代服务业合作区条例》，前海积极创新建立与境外专业服务业人才互认机制和境外专业服务业市场准入试点，探索允许具有境外职业资格的专业人才经备案后在前海合作区提供服务，其在境外的从业经历可视同国内从业经历⁵，例如：

- 在工程建设领域，已经列入香港特别行政区政府发展局认可名册的建筑业专业机构和已经列入香港特别行政区相关注册纪录册的专业人士，经深圳前海管理局备案后，可以对应内地资质在前海合作区提供工程建设领域专业服务。
- 在其他专业服务领域，具有境外职业资格和金融、会计、法律、设计、专利代理、导游等领域的专业人才可以依法在前海合作区提供服务，其在境外的从业经历可以视同境内从业经历。

另外，法治环境方面，在深圳前海注册的港澳台及外资企业，可以协议选择民商事合同适用的法律（例如：可以采用香港普通法作为民商事合同适用的法律）。相应的，这将给前海设立的港澳台及外资企业从事业务提供便利，也为提供外国法律服务的专业人才在前海提供更多潜在业务机会。

同时，内地与港澳之间签署的 CEPA 协议（即《内地与港澳关于建立更紧密经贸关系的安排》及相关补充协议）亦将持续便利港澳企业在前海开展投资与经营。

可以预期，在市场准入和法制环境方面所作出的模式创新并结合企业所得税 15%优惠税率及其他政府支持政策，前海将向国内外的投资者提供更加富有吸引力的营商环境。

（三）企业享受新政策优惠的企业所得税申报衔接

根据现行法规与实践，前海的企业所得税优惠仅需要满足行业和主营业务收入标准即可享受，享受优惠政策方式和留存备查资料要求相对清晰和明确。企业所得税优惠遵循“自行判别、申报享受、相关资料留存备查”的征管方式，纳税人无需取得审批或进行备案，即可自行在企业所得税季度预缴和年度汇算清缴时申报享受优惠。

据此，企业自 2021 年第二季度预缴申报开始，即可根据自身 2021 年度的实际情况自行判断是否符合新政策下的优惠适用条件，并相应进行纳税申报：

- 若判断符合条件，则可以自第二季度预缴申报开始自行享受优惠；
- 若判断不符合条件，则可以自第二季度开始就当年累积应税所得按 25%或其他适用税率（适用于具备享受其他税收优惠资格的情形）的企业所得税税率进行纳税申报；即便第一季度已按照原政策自行享受优惠，亦不会产生滞纳金或罚款。

在企业所得税年度汇算清缴之后，深圳前海税务局将会同深圳前海管理局适时开展后续管理。届时，享受优惠的企业需要根据相关部门的要求提交各项资料，并按照要求的形式提供说明（如现场答辩），从而为其符合优惠适用条件提供证明。因此，**企业在自行判别时应当做好充分的分析与评估、适用优惠时应当制备留存备查资料以应对后续管理要求。**

实操中，企业自行判断主营业务是否属于优惠目录中规定的产业项目可能存在一定困难；对此，操作指引中也明确了税务机关为协助纳税人解决这类问题将提供更优质的政策服务，即企业遇到这类问题时可向前海税务局反馈诉求，前海税务局可提供“清单式”服务，降低企业税收遵从风险。

（四）实质性运营要求及转让定价考量

近年来，实质性运营已成为税务机关在判断企业享受优惠政策合理性时的重点关注问题。尽管深圳前海新政策并未规定享受优惠政策的企业须在人员、办公场所和资产等方面满足实质性运营的要求，但是，基于当前的政策制定及实操征管趋势，我们预计未来将对企业的“在地经营”提出更高的要求。

深圳前海管理局自 2019 年起即开始推行“归巢行动计划”⁶，并随即印发了《深圳前海深港现代服务业合作区促进企业回归办公用房租金补贴办法》（深前海规[2019]8 号⁷），对在前海合作区内注册经营的符合条件的公司给予租金补贴扶持，扶持比例最高达实际租金的 50%、可连续补贴 3 年，每年补贴最高金额可达 500 万元。随着深圳前海的基础设施和办公物业环境越发完善，营商环境不断升级，企业可以考虑进一步充实在前海的实质性运营安排，同时也能充分享受“归巢行动计划”下的扶持政策。

此外，从转让定价角度而言，缺乏运营实质的企业所承担的功能、风险通常较为有限，其在集团价值链中仅能提供有限的价值贡献。因此，企业在制定与前海企业相关的转让定价政策时，应当充分考虑前海企业实质运营情况以及在集团交易中所实际承担的功能风险，注意整体转让定价安排的合理性。

（五）其他优惠政策

除了企业所得税优惠政策外，入驻深圳前海的企业还可以结合实际情况申请享受其他优惠政策，包括但不限于如下：

- **粤港澳大湾区境外高端人才和紧缺人才个税财政补贴**
对在深圳市工作的符合条件的境外人才，按其在深圳市缴纳的个人所得税已缴税额超过其按应纳税所得额的 15% 计算的税额部分，给予免税补贴。
- **深圳前海深港现代服务业合作区人才发展引导专项资金奖励**⁸
按标准对前海产业发展作出突出贡献的有关人才给予资金奖励，奖励对象包括一般支持对象和其他支持对象，按照支持对象上一年度在前海直接经济贡献的金额标准分级给予资金支持。
- **深圳前海深港现代服务业合作区总部企业资金扶持**⁹
经认定的各类型前海总部企业，可申请总部集聚资金扶持。举例而言，经认定的综合型企业总部，给予 2000 万元总部集聚扶持；与市政府签订协议另有约定的，按 2000 万元或市政府扶持标准的 50% 较高者予以扶持。金融、现代物流、专业机构、独角兽和港资等总部企业亦有机会申请资金扶持。

综上所述，我们建议已入驻和拟计划入驻深圳前海的企业应充分理解财税[2021]30 号文件的要求并注意新旧优惠目录的调整，谨慎判断企业对优惠政策条件的适用性，充分考虑合规遵从的程序和资料要求。同时，企业应充分了解深圳前海现行的各项优惠扶持政策并及时关注相关政策的延续及更新情况，结合前海产业政策的发展趋势，充实前海公司的运营实质、降低潜在的转让定价风险。

德勤中国将持续关注深圳前海的政策发展、分享专业观点与实践观察，协助企业合理规划在深圳前海区域的发展的同时为深圳前海优惠政策的实施及各产业的长足发展提供专业助力，敬请关注。

德勤中国充分关注粤港澳大湾区的整体区域规划以及相关地区的支持政策，我们将保持与粤港澳大湾区的政府、商会以及各类企业密切沟通，也欢迎相关政府部门和投资者以及企业与我们进行富有针对性的沟通和讨论；德勤中国会积极提供与粤港澳大湾区相关的一揽子的全方面专业服务和工具支持，助力各地政府提高营商环境和各行业投资者实现更多的粤港澳大湾区的投资、合作机会及创商业模式。

德勤中国也将积极针对粤港澳大湾区举办相关市场活动和发布专业看法，敬请关注德勤中国的微信、Facebook 以及官网的最新信息。

注释：

1 中国国际贸易促进委员会网站数据。

2 具体请参见国家税务局深圳市税务局网站：

<https://shenzhen.chinatax.gov.cn/sztax/zcwj/zxwj/202107/f3b8d885725647328f9b6cd83628e93e.shtml>

<https://shenzhen.chinatax.gov.cn/sztax/zcwj/zcjd/202107/fc4e823da7ce415bbc66910ec4f50f11.shtml>

3 新旧企业所得税优惠目录的内容对比如下（未发生变化的条款不再列示）：

前海深港现代服务业合作区 企业所得税优惠目录 (2014 年版)	前海深港现代服务业合作区 企业所得税优惠目录 (2021 年版)
<p>一、现代物流业</p> <p>1. 供应链解决方案设计、订单管理与执行、虚拟生产、信息管理、资金管理、咨询服务等供应链管理服务</p> <p>2. 在岸、离岸的物流外包服务</p>	<p>一、现代物流业</p> <p>1. 供应链解决方案设计、订单管理与执行、虚拟生产、信息管理、资金管理、咨询服务等供应链管理创新服务</p> <p>2. 物流外包服务</p>
<p>二、信息服务业</p> <p>1. 电信增值业务应用系统开发</p> <p>2. 电子认证、电子商务、电子政务技术研发</p> <p>3. 信息安全技术研发服务</p> <p>4. 数据挖掘、数据分析、数据服务及数字化资源开发</p> <p>5. 新一代移动通信网，基于 IPv6 的下一代互联网技术研发</p> <p>6. 卫星通信技术研发</p> <p>7. 通用软件、行业应用软件、嵌入式软件的研发与服务</p> <p>8. 云计算、物联网、高可信计算、智能网络、大数据等技术研发与服务</p>	<p>二、信息服务业</p> <p>1. 增值电信业务应用系统开发</p> <p>2. 电子商务与电子政务技术研发与服务</p> <p>3. 信息安全技术研发服务(包括但不限于可信计算、电子认证服务等)</p> <p>4. 新一代移动通信网，基于 IPv6 等技术的下一代互联网技术研发</p> <p>5. 卫星通信与导航技术研发</p> <p>6. 通用软件、行业应用软件、嵌入式软件的研发与服务</p> <p>7. 云计算、边缘计算、物联网、区块链、高性能计算、大数据等技术研发与服务</p> <p>8. 虚拟现实(VR)、增强现实(AR)、人工智能等技术研发与服务</p> <p>9. 工业互联网、车联网、智能穿戴等信息技术研发与服务</p>
<p>四、文化创意产业</p> <p>1. 平面设计、包装设计、广告设计、室内设计、景观设计、工业设计、服装设计等创意设计服务</p> <p>2. 文化信息资源开发</p>	<p>四、文化创意产业</p> <p>1. 视觉传达设计，建筑、景观及室内设计，工业设计，时装设计，高端工艺美术设计等创意设计及服务</p> <p>2. 文化信息资源开发及创作服务</p>
	<p>五、商务服务业</p> <p>1. 管理咨询、城市规划、工程管理、节能环保等专业服务</p> <p>2. 法律服务</p> <p>3. 会计、税务、资产评估服务</p> <p>4. 资信调查与评级、征信等信用服务</p> <p>5. 国际会议、品牌展会、展业展览及相关服务</p> <p>6. 人力资源与人力资本服务及其他专业服务</p> <p>7. 知识产权代理、转让、登记、鉴定、检索、分析、评估、运营、认证、咨询等服务</p> <p>8. 国际邮轮运营管理服务</p>

4 在 2014 版目录发布后，深圳前海管理局随即发布了优惠产业认定操作指引《前海深港现代服务业合作区企业所得税优惠产业认定操作指引（试行）》（深前海[2015]152 号），在优惠目录基础山对优惠产业范围提供了更详细的定义，并明确了认定要点。在 2018 年和 2020 年两次对原优惠产业认定操作指引进行了续期。目前深圳前海管理局尚未就新政策发布对应的优惠产业认定操作指引，德勤将持续关注后续指引的发布。

5 具体办法将由深圳前海管理局会同相关行业主管部门另行制定。

6 《深圳前海深港现代服务业合作区促进企业归巢三年行动方案（2019-2021年）》（深前海[2019]140号）。

7 深前海规[2019]8号文件自2019年7月1日实施，有效期至2023年12月31日。2021年4月深圳前海管理局发布了《深圳前海深港现代服务业合作区办公用房专项资金实施管理办法（征求意见稿）》，目前意见征集已结束。

8 政策原文件《深圳前海深港现代服务业合作区人才发展引导专项资金实施细则（试行）》（深前海规[2018]1号）有效期至2020年12月31日，现已失效，2021年4月深圳前海管理局发布了《深圳前海深港现代服务业合作区人才发展专项资金实施管理办法（征求意见稿）》，目前意见征集已结束。

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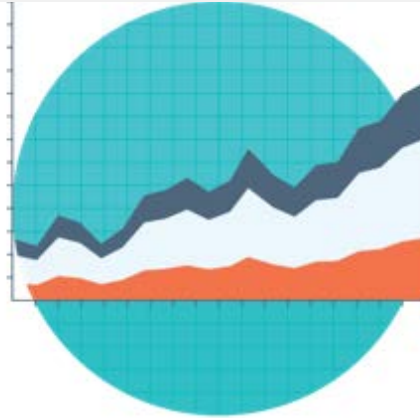
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Tax Research on Guangdong-Hong Kong-Macau Greater Bay Area Series

Extension and update of preferential enterprise income tax policy in Qianhai, Shenzhen— Deloitte’s practical observations and suggestions



On 27 May 2021, China’s Ministry of Finance and the State Taxation Administration (STA) released a Notice on Extension of Preferential Enterprise Income Tax Policy in the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone (Caishui [2021] No. 30), which modifies and extends the tax incentive of a reduced enterprise income tax (EIT) rate of 15% to eligible enterprises established in the Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone (Qianhai) to 31 December 2025.

On 2 July 2021, the Shenzhen Municipal Taxation Bureau of the STA released a Notice on Issuing the Operational Guide for Preferential EIT Policy in Qianhai. The operational guide clarifies the filing process, optimizes taxation services, and standardizes tax administration.

This tax incentive previously governed by Caishui [2014] No. 26 was expired on 31 December 2020. Caishui [2021] No. 30 provides an extension of the tax incentive and also revises the applicable conditions.

This article will briefly introduce the updates of the tax incentive and share our professional views, practical observations and suggestions from the perspectives of taxation and business.

Key changes

The key changes to the tax incentive are summarized as follows:

1. The tax incentive has been extended from 31 December 2020 to 31 December 2025;
2. The tax incentive applies to qualified enterprises engaged in encouraged businesses (as prescribed in the Catalogue for the preferential EIT policy in Qianhai) as their primary business (the Catalogue has been recently updated in accordance with industry development in Qianhai, e.g., to include a sub-catalogue of "business services"); and
3. Qualified enterprises must generate revenue from their encouraged primary business that amounts to more than 60% of total revenue (reduced from 70% under the original tax incentive).

Observations

(1) Industry development in Qianhai

The updated Catalogue includes five sub-catalogues of encouraged industries: modern logistics, information services, scientific and technological services, cultural and creative businesses, and business services. Many changes have been made to the sub-catalogue of "information services" and the sub-catalogue of "business services" is newly added.

The sub-catalogue of "information services" adds various new items related to information technology research and development, such as **blockchain, virtual reality, augmented reality, artificial intelligence, and industrial internet**, which are conducive to further expanding the **frontier and high-end subdivisions within Qianhai's information service industry**.

The sub-catalogue of "business services" is particularly conducive to attracting Hong Kong and multinational professional service agencies to establish in Qianhai to serve clients in the Guangdong-Hong Kong-Macau Greater Bay Area (GBA) and Mainland China. It is helpful to promote the development of professional business services such as **management consulting, legal, accounting, taxation, human resources, asset evaluation, credit services, and intellectual property rights** in Qianhai.

(2) Qianhai's market access and investment environment

According to the updated regulations for Qianhai that were passed in August 2020, a pilot mechanism has been established to recognize overseas service professionals, and Qianhai provides market access to qualified professionals to render services in Qianhai. Their overseas experience can be regarded as the same as domestic experience; for example:

- In the field of construction engineering, professional agencies that are included in the Development Bureau of the Government of the Hong Kong Special Administrative Region's approved list and professionals who are registered in Hong Kong may provide professional services in Qianhai corresponding to their qualification in Mainland China (after filing with the Qianhai Administration Bureau); and
- Similar arrangement is also applicable to other professional services fields, e.g. finance, accounting, legal, design, patent agency, and tour guide services.

In terms of the legal environment, Hong Kong, Macau, Taiwan, and foreign-funded enterprises registered in Qianhai may choose the law applicable to civil and commercial contracts by agreement (for example, Hong Kong common law may be chosen as the governing law for civil and commercial contracts). This will facilitate the business of Hong Kong, Macau, Taiwan, and foreign-funded enterprises established in Qianhai as well as providing potential business opportunities for professionals who provide foreign legal services in Qianhai.

The closer economic partnership arrangement between Mainland China and Hong Kong and Macau will continue to facilitate Hong Kong and Macau enterprises to invest and operate in Qianhai.

It can be expected that the model innovations in market access and legal environment combined with the 15% preferential EIT rate and other government support policies will provide investors a more attractive business environment in Qianhai.

(3) Filing procedures to obtain preferential EIT rate

According to the current regulations and practices, enterprises may obtain the 15% preferential EIT rate by engaging in an encouraged primary business and meeting the primary business income threshold. Taxpayers may file for the tax incentive during the quarterly prepayment and annual settlement of EIT without pre-approval or application. Relevant supporting documentation must be retained for future inspection by the relevant authorities.

Since the 2021 Q2 tax filing, enterprises may assess whether they meet the conditions for the tax incentive based on their actual situation in 2021 and prepare tax filings accordingly:

- If the enterprise considers that it has met the conditions, the preferential EIT rate will apply starting from the Q2 tax filing for the accumulated taxable income of the current year; or

- If the enterprise considers that it has not met the conditions, it can file at the 25% tax rate (or other applicable tax rate) for the accumulated taxable income of the current year in the Q2 tax filing (no penalty or surcharge will be imposed even if the enterprise adopted the preferential tax rate in the Q1 tax filing).

After the EIT annual tax filing and settlement, the Qianhai Taxation Bureau and Qianhai Administration Bureau will carry out follow-up review in due course. At that time, enterprises that have applied the tax incentive will need to submit various documents and provide clarification upon request. Therefore, **enterprises should prepare an analysis when assessing if they meet the requirements for the tax incentive and prepare and retain documents to deal with potential enquiries for follow-up review.**

In practice, it may be difficult for enterprises to judge whether their primary business activity falls under the specified items in the Catalogue. In this regard, the operational guide clarifies that Qianhai Taxation Bureau will provide assistance to help taxpayers resolve this issue and reduce their compliance risks.

(4) Business substance requirements and transfer pricing considerations

In recent years, business substance has become a key concern when tax authorities are assessing a taxpayer's eligibility for preferential policies. Although the tax incentive for the preferential EIT rate does not require business substance, e.g., personnel, premises, and assets, based on current trends, it is expected that the tax authorities will put forward more requirements for substance in local business operations in the future.

In 2019, the Qianhai Administration Bureau implemented the "Homecoming Action Plan" and issued regulations (Shenqianhaigui [2019] No. 8) providing rent subsidies to qualified enterprises registered and operating in Qianhai. The subsidy is up to 50% of actual rent expenses, up to three years with an annual cap of RMB 5 million. With the improvement of infrastructure and the business environment in Qianhai, enterprises may consider to further expand their business operations in Qianhai and to enjoy the favorable policies under the "Homecoming Action Plan".

In addition, from a transfer pricing perspective, enterprises with limited business substance usually undertake limited functions and risks and contribute limited value in the group value chain. Therefore, when planning transfer pricing policies related to enterprises in Qianhai, the group needs to fully consider the actual business operations of the Qianhai enterprises as well as their functions and risks assumed in the group's related party transactions, to justify the reasonableness of the overall transfer pricing arrangements.

(5) Other preferential policies

Apart from the preferential EIT rate, enterprises in Qianhai may apply for other preferential policies based on actual conditions, including but not limited to the following:

- For qualified foreign talent working in Shenzhen, tax-exempt individual income tax (IIT) subsidies may be granted for the portion of the IIT paid in Shenzhen that exceeds 15% of the taxable income;
- Talent who has made outstanding contributions to the development of Qianhai's industry may be granted a special fund reward according to the amount of direct economic contribution made in Qianhai by the talent in the previous year; and
- Various types of recognized headquarters incorporated in Qianhai may be eligible for governmental financial support, for example, certain comprehensive headquarters may be granted RMB 20 million or 50% of the local government's support standard (whichever is higher). In addition, headquarters of finance businesses, modern logistics businesses, professional institutions, unicorn companies, or Hong Kong-funded enterprises may be eligible for governmental financial support under certain circumstances.

Enterprises that are established (or are planning to establish) in Qianhai should understand the requirements of Caishui [2021] No. 30 (particularly the updates to the Catalogue), assess their eligibility for the preferential EIT rate, and adhere to all compliance procedures. At the same time, enterprises should be aware of other preferential policies in Qianhai and any extensions and updates of relevant policies in a timely manner. Enterprises should also consider building in more business substance in Qianhai and reduce potential transfer pricing risks.

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