國楓律師事務所
GRANDWAY LAW OFFICES

Newsletter

Update

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Article(s)

Update

CBIRC: Standardizing Credit and Financing Charge to Reduce Overall Cost of Enterprises Financing

The China Banking and Insurance Regulatory Commission ("CBIRC") and other 5 agencies have jointly issued the Circular on Further Regulating Credit and Financing Charges to Reduce Overall Financing Costs for Enterprises (the "Circular"), with effect from June 1, 2020.

The Circular regulated requirements for different financing steps, the internal control and supervision of fee charging, supervisory synergy between departments and the offering of positive incentives.

According to the Circular, in the credit sector, it will abolish fees charged by some enterprises, refine existing regulations such as prohibiting loan and deposit linking and compulsory bundling, and encourage Banks to carry out credit examination in advance; in the loan assistance link, banks are required to clarify their own fees, strengthen the management of third-party institutions, and evaluate the fees of cooperative institutions.

Government Assistance in China Amid the COVID-19 Epidemic

We compiled the Chinese government's newly announced assistance to COVID-19 in May.

1. MOF & STA: tax and fee policies in support of epidemic prevention and control shall be extended to the end of 2020.

The Ministry of Finance ("MOF") and the State Taxation Administration ("STA") have jointly issued the Announcement on the Expiration Dates of Tax and Fee Policies in Support of Epidemic Prevention and Control and Security of Supplies (the "Announcement") on 30th May.

According to the Announcement, the tax and fee relief policies stipulated in the Notice No. 9 - No.11 of 2020 from the MOF and the STA shall be extended till December 31, 2020.

2. MOF & CAAC: monetary support announced to Chinese and foreign air carriers

The MOF and the Civil Aviation Administration of China ("CAAC") have recently issued a circular, which reads during the period of epidemic prevention and control, monetary support will be provided to: (1) the aircraft cabin loading and refitting schemes implemented in accordance with the design scheme approved by CAAC airworthiness certification department; (2) international cargo flights without passengers between the domestic airports in China (excluding Hong Kong, Macao and Taiwan region) and international cargo flights without passengers as of April 1, 2020.

3. SAMR: 16 measures in four aspects issued to urge program on quality enhancement and promote regular epidemic prevention and control.

The State Administration for Market Regulation ("SAMR") issued 16 measures on 19th May, which stated the illegal production and sale of epidemic prevention products and raw materials, such as masks, shall be severely punished among online and offline producers and operators of all kinds. The measures also calls for greater efforts to regulate and crack down on unfair competition practices such as counterfeiting, confusion and false publicity of epidemic prevention products, and guides enterprises to establish and improve mechanisms for protecting trade secrets.

Negative List (2020) for Foreign Investment Released

On June 24, 2020, National Development and Reform Commission (“NDRC”) and Ministry of Commerce of the People’s Republic of China (“MOFCOM”) jointly released “Negative List for Foreign Investment Access Special Management Measures 2020” and “Negative List for Foreign Investment Access Special Management Measures in Free Trade Zone 2020” (“Negative List”), which shall go into effect as of July 23, 2020.

The restricted items of Negative List 2020 for FTZ have been decreased from 37 to 30 and for the rest of China have been down from 40 to 33. The highlights are as follows:

1. Removing the foreign equity limitation. In financial sector, Negative List removes the foreign equity limitation of futures company, securities company, security investment fund company and life insurance company.

2. Accelerating the process of opening up in the service industry. In the field of infrastructure, Negative List lifted the restriction that the construction and management of water supply and drainage networks in cities with a population of above half a million must be hold by Chinese investors. The restrictions of investing in ATC and postal service management would also be released.

3. Easing market access to manufacturing and agriculture. In the manufacturing sector, the restrictions on the share ratio of foreign investment in commercial vehicle manufacturing will be lifted, and the regulations prohibiting foreign investment in the smelting, processing and nuclear fuel production of radioactive minerals will be eliminated. In the agricultural field, the selection and breeding of new wheat varieties and the production of seeds must be relaxed from Chinese holding to a share ratio of not less than 34%.

4. Continuing the open pilots in FTZ. FTZs continue to play as a role of pioneer further opening-up. In the medicine sector, the regulations prohibiting foreign investment in traditional Chinese medicine decoction pieces were cancelled. In the field of education, wholly foreign-owned enterprises are allowed to establish vocational education institutions of academic system.

5. Negative List’s exemption. The foreign investment access for certain foreign investments may not be applicable to the

Negative List after being reviewed and approved by the relevant competent department of the State Council.

Pilots for Supervision of Cross-Border E-Commerce B2B Export

On June 12, 2020, General Administration of Customs (“Customs”) issued the “Announcement on the Pilot for Supervision of Cross-Border E-commerce B2B Export” (“Announcement”), which would be implemented on July 1, 2020in 10 customs districts including Beijing, Tianjin, Guangzhou etc.

The Announcement stated that in the aspect of enterprise management, cross-border e-commerce enterprises, cross-border e-commerce platform enterprises, logistics enterprises and other domestic enterprises participating in the cross-border B2B business should register to the location customs as per the relevant regulation of customs declaration unit; in regard to the customs clearance management, cross-border e-commerce enterprises or its entrusted agent declaration enterprises, domestic cross-border e-commerce platform enterprises and logistics enterprises should submit declarations data and transmit electronic information to the local customs by “Single Window ” or “Internet plus Customs” of international trade, and take corresponding legal responsibility to the authenticity of the data.

SAFE Optimizing Foreign Exchange Policies for New Forms of Trade

The State Administration of Foreign Exchange ("SAFE") has recently issued the Notice of the State Administration of Foreign Exchange on Supporting the Development of New Forms of Trade (the "Notice"), effective from 20th May.

The main contents of the Notice include:

1. expanding the settlement channels for new forms of trade business;
2. facilitating the fund settlement for cross-border e-commerce export funds;
3. optimizing the cross-border advance payment of taxes and fees related to cross-border e-commerce;
4. satisfying individual settlement demands in foreign trade;
5. improving the fund settlement for market purchase trade;
6. supporting integrated foreign trade service enterprises in handling, on a commission basis, the receipt of foreign currency paid for exports;
7. making it convenient for enterprises to handle foreign exchange matters remotely;
8. optimizing the declaration of receipt and payment of foreign exchange in small-amount transactions; and
9. keeping track of the innovative development of new forms of trade business

The Notice optimizes the foreign exchange settlement model for new forms of trade, expands the scope of account receipts and payments, promotes more online business transactions, and improves the efficiency of cross-border settlement while reducing the overall cost of market players, said an official of the SAFE.

Article(s)

Brief Analysis of Hainan Free Trade Port Policy

by Jenny Chu

On June 1, the Chinese government released a Masterplan for Hainan Free Trade Port (“Masterplan”), aiming to gradually build the southern island province as China's largest special economic zone and become a high-level free trade port with global influence.

The Masterplan takes "free and convenient trade", "free and convenient investment", "zero tariff", "low tax rate", "tax reduction", "strong rule of law", "first-line liberalization & second-line control" as the key words, demonstrating China's determination to develop an open economy.

1.Timeline

According to the Masterplan, Hainan Free Trade Port will gradually achieve the following development goals by 2035:

By 2025	**To implement of the just-in-time market access system:** Formulating a special list of market access liberalization for Hainan Free Trade Port and a negative list of foreign investment access; Clarifying the geographical scope of the business operations of foreign-invested enterprises established in the specific service sectors that have been opened up first; Establishing and improving systems for national security review, environmental standards for industry access, and a social credit system, and fully implement the system of “minimal review and approval”; Deepening the reform to separate certificates from licenses; Establishing and improving the process supervision system based on credit supervision and compatible with the negative list management. **To facilitate overseas financing:** Supporting domestic enterprises registered in Hainan Free Trade Port to issue stocks overseas in accordance with domestic and overseas financing plans; Giving priority to supporting enterprises to raise funds by issuing bonds overseas and delegating the management of the foreign debt registration system to the Development and Reform departments of Hainan Province; The foreign exchange registration for overseas listing of enterprises in Hainan Free Trade Port shall be handled directly by the bank.
By 2035	**To further improve the opening-up policy and relevant institutional arrangements:** Fully expanding access to investment, except in areas involving national security, social stability, red lines for ecological protection, and major public interests; In the fields with mandatory standards, the investment system of "standard system + commitment system" shall be established, and the market subjects can carry out investment and operation activities when they make commitment to meet the relevant requirements. To facilitate overseas financing: Non-financial enterprises that meet certain conditions are allowed to borrow foreign debt independently according to actual financing needs, so as to realize full convertibility under foreign debt of non-financial enterprises in Hainan Free Trade Port.

2.Opening up restrictions on foreign investment

The Masterplan has clarified the restrictions on foreign investment in telecom business, healthcare, education and finance. In contrast to the Negative List (2020) and the Pilot Free Trade Zone Negative List (2020), the Masterplan shows more open regulations on foreign investment.

Telecom	Opening up value-added telecommunications services, and step by step cancel the equal-share ratio system for foreign investors; Enterprises with entity registration and service facilities in Hainan Free Trade port are allowed to carry out online data processing and transaction processing services for the whole region and international of the free trade port, and gradually develop businesses nationwide under the premise of security and control; Opening basic telecommunications services; Carrying out pilot projects for the interaction of Internet data, international submarine cables and

	landing sites were built, and an international Communications import and export Bureau was set up.
Healthcare	Supporting Hainan in vigorously introducing high-quality medical resources from abroad; Studying and supporting the construction of a regional medical center in Hainan.
Education	Allowing overseas high-level universities and vocational colleges in the field of science, industry, agriculture and medicine to independently run schools and set up international schools in Hainan Free Trade Port; Encouraging key domestic universities to introduce well-known foreign institutions to set up Chinese-foreign cooperatively-run schools with independent legal person status in Hainan Free Trade Port.
Finance	Qualified overseas securities fund and futures trading institutions shall be supported to establish wholly-owned or joint-equity financial institutions in Hainan Free Trade Port.

3.Preferential tax policy

On June 30, the Ministry of Finance issued the Notice on Preferential Policies for Enterprise Income Tax in Hainan Free Trade Port (the "Notice"), which levied enterprise income tax at a reduced rate of 15% for enterprises in encouraged industries registered in Hainan Free Trade Port and substantially operating.

According to the Notice, income derived from new overseas direct investment by enterprises in tourism, modern service industries and high-tech industries set up in Hainan Free Trade Port shall be exempted from enterprise income tax.

Enterprise	For the encouraged industrial enterprises registered in Hainan Free Trade Port with actual operation, the enterprise income tax will be levied at a reduced tax rate of 15%; Income from new overseas direct investment by tourism, modern service industry and high-tech enterprises set up in Hainan Free Trade Port shall be exempted from enterprise income tax; For enterprises set up in Hainan Free Trade Port, newly purchased fixed assets or intangible assets whose value does not exceed RMB 5 millions are allowed to be included in current cost in a lump sum and be deducted when calculating the amount of payable income; whose value exceeds RMB 5 million, the depreciation and amortization period can be shortened or the depreciation and amortization can be accelerated.

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