



## Newsletter

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May 30, 2023

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## Update

### **Notice on Matters Relating to Implementation of the Regional Comprehensive Economic Partnership Agreement for the Philippines**

On May 24, 2023, General Administration of Customs China (GACC), in accordance with the *Measures for the Administration of Origin of Import and Export Goods under the Regional Comprehensive Economic Partnership Agreement of the Customs* (GACC Order No. 255, hereinafter referred to as the “Measures”), hereby announces the relevant matters as follows:

According to the relevant provisions of the *Regional Comprehensive Economic Partnership Agreement* (“Agreement”), the Agreement would come into force for the Philippines on June 2, 2023. The Philippines is added to the member parties mentioned in Article 2 of the Measures, and the *Special Goods List mentioned in Article 14 of the Measures is added to the Special Goods List for Export to the Philippines*. This Notice shall be effective from June 2, 2023.

## **SAMR Revised Measures for the Administrative Supervision and Administration of Contracts**

On May 26, 2023, State Administration for Market Regulation (“SAMR”) released the revised *Measures for the Administrative Supervision and Administration of Contracts* (the “Measures”), which will take effect on July 1, 2023.

The Measures aim to further consolidate the law-based supervision and administration of contracts with the measures such as tightening the regulation of behaviors that making use of contracts to disrupt market order, endanger national interests and social public interests; enhancing regulation of standard terms; stepping up administrative guidance; specifying the methods for investigation and punishment of contract-related illegal acts and the legal responsibilities; and applying heavier punishment against such illegal acts.

## **Special Action on Value Creation for SMEs in Quality, Standards and Brands**

On May 22, 2023, nine departments including Ministry of Industry and Information Technology, National Development and Reform Commission and Ministry of Human Resources and Social Security jointly issued the *Special Action on Value Creation for Small- and Medium-Sized Enterprises through Quality Standards and Branding (2023-2025)* (the “Special Action”), which would take effect on May 22, 2023, setting clear goals of significantly enhancing the awareness of quality, standards and brands among small and medium-sized enterprises (“SMEs”), continuously improving overall efficiency, constantly increasing the contribution of quality, standards and brands to the development of SMEs, and effectively promoting the specialized and innovative development of SMEs.

The Special Action sets forth 15 key tasks, including enhancing the awareness of quality, standards and brands; establishing advanced quality management systems; promoting digital quality management; raising product quality level; pushing forward product quality grading; preventing and controlling quality risks; enhancing standardization capabilities; supporting participation in standards formulation; strengthening the role of standards integration and development; and driving the evaluation of quality standards and brand value.

## **Special Action to Intelligently Empower SMEs in Scientific and Technological Achievements**

On May 22, 2023, Ten departments, including Ministry of Industry and Information Technology, National Development and Reform Commission and Ministry of Science and Technology, jointly issued the *Special Action for the Intelligent Empowerment of Small and Medium-sized Enterprises through scientific and technological achievements (2023-2025)* (the “Special Action”), which would take effect on May 22, 2023. The Special Action plan proposes to improve project results database and enterprise demand database, improve intelligent empowerment platform system, select a group of high-quality scientific and technological achievements evaluation as well as transfer and transformation institutions, and promote implementation and industrialization of a batch of advanced and applicable scientific and technological

achievements by small and medium-sized enterprises (“SMEs”) by 2025.

The key tasks specified in the Special Action plan include promoting the “normalized” aggregation of research results, implementing “precise” connectivity between supply and demand, and accelerating the “systematic” layout of services. The Special Action Plan also specifically calls for increasing openness and sharing of scientific and technological achievements data, continuously carrying out the action of “deep intelligence empowerment”, promoting cooperation between small, medium and large-sized enterprises, and strengthening collaboration between industry, academia, and research institutions.

### **State Council Issued Revised Commercial Cryptography Management Regulations**

On May 24, 2023, the Chinese government’s website released the revised *Regulations on the Management of Commercial Cryptography* (the “Regulations”), which will be effective from July 1, 2023.

The Regulations aim to: (i) improve the management system of commercial cryptography; (ii) promote science and technology innovation and standardization for commercial cryptography, establish a sound mechanism to promote commercial cryptographic science and technology innovation, protect intellectual property rights in the field of commercial cryptography, support the science and technology achievements transformation and industrial application of the achievements in commercial cryptography; (iii) establish a sound testing and certification system for commercial cryptographic, clarify the commercial cryptographic testing, certification body qualification approval conditions, procedures and practice norms; (iv) strengthen the use of electronic authentication services cryptographic and e-government electronic authentication service activities management, clear establishment of electronic authentication trust mechanism to promote mutual trust and mutual recognition of electronic authentication services; (v) regulate the import and export management of commercial cryptography, implement a list-based management for import licensing and export control of commercial cryptography, provide for the approval process; (vi) promote application of commercial cryptography, and clarify requirements for the use of commercial cryptography for key information infrastructure, as well as requirements for national security review.

### **Construction Plan for the Pilot Zone of Science & Technology Innovation and Financial Reform in Beijing Zhongguancun**

On May 16, 2023, the People’s Bank of China and other departments jointly issued the *General Plan for the Construction of Science & Technology Innovation and Financial Reform Pilot Zone in Beijing Zhongguancun National Independent Innovation Demonstration Zone* (the “Plan”), which has been effective since May 16, 2023. The Plan specifies 27 key tasks in seven aspects.

The key tasks include: accelerating the improvement of science & Technology innovation and financial products and service methods, optimizing the science & Technology innovation and financial market system, boosting Fintech innovation and application, and optimizing the science and innovation financial ecological environment. The Plan requires for better utilization of the preferential corporate income tax policies for corporate venture capital enterprises in the Beijing Zhongguancun National Independent Innovation Demonstration Zone, severe crackdown on illegal financial activities such as illegal

fundraising and insider trading, and tightened monitoring and alerts of money laundering, terrorist financing and tax evasion. Regarding safeguard measures, the Plan proposes to increase policy support by granting more credit to Science & Technology innovative enterprises and optimizing the collection and use of financial funds.

### **Action Plan for the Coordinated Development of the Industry in the Beijing-Tianjin-Hebei Region was Issued**

According to a statement made by Ministry of Industry and Information Technology (“MIIT”) on May 23, 2023, the MIIT along with the relevant departments of the State Council jointly released the *Action Plan for the Coordinated Development of the Industry in the Beijing-Tianjin-Hebei Region* (the “Action Plan”), which proposes key tasks in eight aspects.

The key tasks include improving the regional industrial division and the distribution of productivity, upgrading the industrial base and modernizing the industrial chain, enhancing the overall efficiency of the regional industrial innovation system, jointly creating new advantages of the digital economy, accelerating shifts towards green and low-carbon energy, promoting the integration of quality brand standards, cultivating and expanding high-quality enterprises, and deepening high-level industrial open cooperation. The Action Plan supports Beijing, Tianjin and Hebei to jointly develop a number of small and medium-sized enterprises (“SMEs”) and “little giant” enterprises that are specialized, fine, peculiar and innovative, and cultivate and develop an industrial cluster that consists of a batch of more competitive SMEs.

### **NMPA to Strengthen Management of Entrusted Production in Marketing Authorization Holders**

On May 24, 2023, National Medical Products Administration (“NMPA”) released the *Circular on Strengthening Management of Entrusted Production in Marketing Authorization Holders* (Exposure Draft) (the “Circular Draft”) for public comment until June 23, 2023.

The Circular Draft calls for strengthening licensing and quality management of entrusted production, as well as supervision and inspection of marketing authorization holders that entrust production. It requires provincial drug regulatory departments to inspect an applicant on the site, with the focus placed on the particulars of the applicant’s staffing in key positions, the construction of quality management system and their management of entrusted production. It is clarified that a marketing authorization holder should set up a management division with clear responsibilities, equip itself with the management personnel that are in line with its drug production and operation scale, step up its management of the incoming inspection of raw materials, auxiliary materials, packaging materials and containers that are in direct contact with drugs, and enhance its management of the ex-factory inspection of preparation products.

# Article(s)

## **ShenZhen/GBA Tax Incentives Policies for Foreign Employees**

by *Esther Lin*

This article will introduce relevant laws and regulations regarding tax incentive measures for foreign employees in SZ/GBA, as well as the requirements for application of such tax incentives.

### **A. Regulations Introduction**

#### **a. State Regulation**

On March 14, 2019, the Ministry of Finance and State Administration of Taxation jointly issued the *Notice on Individual Income Tax Incentives for Guangdong-Hong Kong-Macau GBA* (the “State Notice”), which clarified that Guangdong Province and Shenzhen Municipality shall, in accordance with individual income tax difference between Mainland and Hong Kong, grant subsidy for overseas (including Hong Kong, Macau and Taiwan, same hereinafter) high-end talents and talents in short supply working in the GBA, and such subsidy shall be exempted from individual income tax. The scope of application of this State Notice shall include nine municipalities in the Greater Bay Area Pearl River Delta (the “Nine Municipalities in PRD”), namely Guangzhou Municipality, Shenzhen Municipality, Zhuhai Municipality, Foshan Municipality, Huizhou Municipality, Dongguan Municipality, Zhongshan Municipality, Jiangmen Municipality and Zhaoqing Municipality of Guangdong Province.

#### **b. Shenzhen Regulations**

In 2020, Shenzhen Municipal Finance Bureau jointly issued the *Notice on the Implementation of Preferential Individual Income Tax Policies for the Guangdong-Hong Kong-Macau GBA* (the “SZ Notice 1”), which stipulated that the overseas high-end talents and talents in short supply working in Shenzhen will be granted subsidies based on the difference in individual income tax burden between Mainland and Hong Kong, and the subsidies shall be exempted from individual income tax. Within a tax year, an applicant may apply for the subsidy for individual income tax for the current year after deducting the estimated tax amount from the amount of the tax paid.

In the same year, Shenzhen Municipal Finance Bureau jointly issued the *Notice on Continuing to Implement the Preferential Individual Income Tax Policies in the Guangdong-Hong Kong-Macao GBA* (the “SZ Notice 2”), which stipulates that for overseas high-end talents and talents in short supply working in the GBA, if the portion of the personal income tax paid by them in the Nine Municipalities in PRD exceeding 15% of their taxable income, the people’s governments of the Nine Municipalities in PRD shall grant financial subsidies, which shall be exempt from individual income tax.

It is noted that all regulations mentioned above shall remain effective until December 31, 2023.

### **B. Relevant Requirements for Applicant**

According to the SZ Notice 1, SZ Notice 2 and the *Guidelines for the Application for Individual Income Tax Subsidies for Overseas High-end Talent and Talent in Short Supply in Shenzhen for Tax Year 2020* (the “Guidelines”) issued by Shenzhen Authority in August 2021, there are several requirements for the application of Tax Subsidies:

a. Identity Requirements for Applicant

An applicant shall meet any of the following identity requirements:

1. Permanent resident of Hong Kong or Macao, subject to the permanent identity card of Hong Kong or Macao resident and the Mainland Travel Permit for Hong Kong and Macao Residents;
2. Mainland resident who settles down in Hong Kong or Macao (having his/her Mainland household registration cancelled), subject to the identity card of Hong Kong or Macao resident and the Mainland Travel Permit for Hong Kong and Macao Residents;
3. Hong Kong resident (excluding dependants) under the Hong Kong’s Admission Schemes for Talent, Professionals and Entrepreneurs, subject to the Hong Kong resident identity card, Mainland resident identity card and the relevant entry document issued by the Hong Kong Immigration Department;
4. Taiwan resident, subject to the Mainland Travel Permit for Taiwan Residents;
5. Person with foreign nationalities, subject to the passport or foreigner’s permanent residence permit;
6. Overseas returnee who has obtained the right of long-term residence in a foreign country;
7. Overseas Chinese.

b. Working Requirements for Applicant

1. An applicant works in Shenzhen and meets any of the following requirements:
  - (1) The applicant has concluded a labor (employment) contract with an employer in Shenzhen.
  - (2) The applicant is dispatched by an overseas employer which has concluded a dispatch contract with the accepting entity in Shenzhen.
  - (3) The applicant provides independent personal services and has concluded a service contract with a taxpayer in Shenzhen.
2. The applicant has worked in Shenzhen for at least 90 accumulative working days in the tax year.
3. Where an employer of the applicant is changed, and the applicant has worked for the employer meeting the requirements for declaration for at least 90 days in the tax year, the applicant may make a declaration through the said employer, and the said employer shall cooperate in the declaration.

c. Qualification Requirements for Applicant

An applicant shall meet any of the following requirements:

1. Shortlisted candidate of major talent projects of the State, the Province or the Municipality.
2. Overseas high-level talent recognized by the State, the Province or the Municipality.
3. Talent holding a “Guangdong talent card” of Guangdong Province.
4. Talent holding a work permit for foreigners working in China (Type A or Type B) or a confirmation letter for high-end foreign talent.
5. Member of a scientific research team and manager above the middle level of a major innovation

platform at the national, provincial or municipal level.

6. Member of a scientific research and technology team or manager above the middle level in an institution of higher learning, scientific research institution, hospital or public health institution, or member of a team undertaking a major vertical project under research at the municipal level or above, or a leader for a key discipline or key specialty at the municipal level or above, as well as a medical and health technical backbone talent.
7. Manager at or above the middle level, scientific research team member, technical and skill backbone and excellent young talent of a headquarters enterprise, a global top 500 enterprise or a high-tech enterprise, a large-sized key enterprise, a listed enterprise or a “specialized, refined, featured and innovative” enterprise.
8. Manager at or above the middle level, scientific research team member, technical and skill backbone and excellent young talent, employed or starting a business in a key industry or key field in Shenzhen.

The above Requirements 1 to 3 shall be based on the certificates or relevant accreditation documents issued by national, provincial or municipal government departments, and the validity period of the relevant certificates shall not be used as a restrictive condition for application (except for those that have been revoked); “members of a scientific research team, managers at or above the middle level, technical and skill backbone and excellent young talent” as mentioned in Paragraphs 5 to 8 shall be independently identified by the employer and subject to the written statements or commitments provided by the employer.

d. Tax payment requirements for applicant

1. He/she pays taxes in Shenzhen in accordance with the law, and the tax amount paid in Shenzhen is greater than the estimated tax amount (see the “Computation Method for Individual Income Tax Subsidies” for details).
2. He/she shall authorize the acceptance organ to inquire about tax payment information from the relevant authorities.

## C. Conclusions

For overseas high-end talents and talents in short supply working in Shenzhen or GBA, if the portion of the personal income tax paid by them exceeding 15% of their taxable income, the local governments of the Nine Municipalities in PRD shall grant financial subsidies, which shall be exempt from individual income tax. However, all Notices mentioned in this article only remain effective until December 31, 2023.

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