



Newsletter

Update

June 30, 2023

- **GACC and Uzbekistan Custom AEO Mutual Recognition Arrangement**
- **Ministry of Finance: The Total Scale of Vehicle Purchase Tax Reduction and Exemption Will Reach RMB 520 Billion from 2024 to 2027**
- **A Batch of Policies and Measures to Promote the Sustained Recovery of the Economy Will Be Released**
- **Shanghai Issues Three-year Action Plan to Facilitate High-quality Development of Manufacturing Industry**
- **China Will Continue to Improve Legal System of Business Environment and Introduce a Stronger Policy to Attract More Foreign Investment**
- **China Takes Comprehensive Policy in Eight Aspects to Cut Costs in Real Economy Enterprises**
- **China and Argentina Sign Cooperation Plan to Jointly Promote BRI Construction**
- **GACC Plans to Revise Proactive Disclosure System for Further Expanding the Scope of Application**

Article(s)

- **How to Change the Use of Development Land in China**

Update

GACC and Uzbekistan Custom AEO Mutual Recognition Arrangement

On May 18, 2023, Yu Jianhua, minister of General Administration of Customs China (GACC), and Kudratov, minister of Investment Department of the Republic of Uzbekistan, signed the *Arrangement between GACC and the Customs Committee under Ministry of Economy and Finance of the Republic of Uzbekistan on Mutual Recognition of the Program of Authorized Economic Operators* (the “Arrangement”) at the China-Central Asia Summit, marking that GACC has become the first mutual recognition partner of Uzbekistan customs for AEO.

With the implementation of the Arrangement, AEO enterprises in both countries will enjoy a lower inspection rates for imported goods, priority inspection for goods requiring physical inspection, establishment of enterprise coordinators, priority customs clearance after international trade interruptions

and resumption, and other facilitation measures to help AEO enterprises greatly compress cargo clearance time, significantly reduce enterprise storage, logistics and other trade costs, and further enhance the level of trade facilitation between the two countries.

Ministry of Finance: The Total Scale of Vehicle Purchase Tax Reduction and Exemption Will Reach RMB 520 Billion from 2024 to 2027

On June 21, the State Council policy briefing was held at the State Council Information Office to introduce the situation of promoting high-quality development of new energy automobile industry.

Xu Hongcai, vice-minister of Ministry of Finance, introduced the policies unveiled by Ministry of Finance for development of NEV industry, including the policy of exempting purchase tax for NEVs from September 1, 2014 with the approval of the State Council. The policy has been extended to December 31, 2023 for three times in 2017, 2020 and 2022. By the end of 2022, China had exempted purchase tax of over RMB 200 billion under the policy. It is expected to exempt the tax of over RMB 115 billion in total in 2023. Moreover, China also exempts vehicle and vessel tax for NEVs, and exempts sales tax for pure electric vehicles.

China has also decided to extend the policy of exempting and reducing purchase tax for NEVs to the end of 2027 to further consolidate and expand the development of the NEV industry. It is roughly estimated that the amount of tax reductions and exemptions from 2024 to 2027 will reach RMB 520 billion.

A Batch of Policies and Measures to Promote the Sustained Recovery of the Economy Will Be Released

Premier Li Qiang chaired on June 16, 2023 the State Council executive meeting, which mulled a batch of policies to promote sustained recovery of the economy, adopted the *Action Plan to Support Financing for Technology-based Enterprises and the Regulation on the Supervision and Administration of Private Investment Funds* (Draft), and discussed and adopted in principle the *Academic Degree Law of the People's Republic of China* (Draft).

Policies mulled at the meeting centered on four aspects, including improving macroeconomic policies, expanding effective demand, strengthening and optimizing the real economy, and preventing and resolving risks in key fields. It urged policies and measures with conditions to be unveiled and implemented promptly. It is noted that the source management should be strengthened for outstanding issues in the private investment fund industry, regulatory bottom lines should be set, and illegal financial activities such as illegal fund-raising in the name of “private investment funds” should be severely cracked down. It also instructed to implement differentiated supervision and administration over different types of private investment funds, especially venture capital funds, and move faster to unveil specific policies to promote the development of venture capital funds.

Shanghai Issues Three-year Action Plan to Facilitate High-quality Development of Manufacturing Industry

On May 18, 2023, Shanghai Municipal People's Government released the Three-year Action Plan of Shanghai Municipality on Facilitating the *High-quality Development of the Manufacturing Industry* (2023-2025), which will take effect on May 18, 2023, setting out 22 key tasks in six aspects.

The Plan proposed the need to consolidate and improve the key advantageous industries. Establishing four industry clusters worth RMB 1 trillion each for electronic information, health, automobile, and high-end equipment, and two industry clusters worth RMB 500 billion each for advanced materials and fashion consumer goods. It plans to support clusters of specialized, refinement, differential and innovative enterprises ("SRDI enterprises") to grow stronger, implement a plan to foster SRDI enterprises, and drive small and medium-sized enterprises to improve their competitiveness. It seeks to have 10,000 SRDI enterprises at the municipal level and 1,000 SRDI enterprises at the national level, and 50 single champion enterprises and products in the manufacturing industry. It will also strive to create about ten featured clusters at national level. The Plan proposed to deepen the empowerment of industrial Internet applications, build 30 benchmarking platforms for the industry-specific industrial internet, cultivate 40 enterprises of "industrial empowerment chain master" in a gradient, and accelerate the innovative application of industrial meta-universe, etc. It also urges to promote energy conservation and carbon reduction in key industries, implement the industrial carbon peaking plan, and achieve the goal of saving one percent of energy on average every year.

China Will Continue to Improve Legal System of Business Environment and Introduce a Stronger Policy to Attract More Foreign Investment

On June 14, 2023, State Council held the policy briefing, at which Yuan Da, deputy secretary-general of National Development and Reform Commission ("NDRC"), briefed on the progress made in deepening the reform in key areas of business environment and answered reporters' questions. The relevant leaders of General Administration of Customs, State Taxation Administration, General Administration of Municipal Supervision also attended the policy briefing and answered reporters' questions.

Focusing on the outstanding issues reflected by enterprises, NDRC will accelerate the introduction of targeted policy measures in batches to deepen reforms in key areas of business environment, with a focus on deepening market-oriented reforms, fully safeguarding fair competition, strengthening the rule of law to support and enhance the level of internationalization, and NDRC will formulate Regulations on Fair Competition Review and Rules for Fair Competition Review in Bidding, tender to abolish the policies and measures that hinder construction of unified national market and fair competition, and launch special campaign to rectify key issues in bidding, said by Yuan Da. In promoting construction of a higher level of open economy new system, State Council will study and introduce policies and measures to attract foreign investment with greater vigor, reasonably reduce the negative list of foreign investment access, and further improve the promotion of foreign investment and services.

China Takes Comprehensive Policy in Eight Aspects to Cut Costs in Real Economy Enterprises

According to a statement from National Development and Reform Commission ("NDRC") on June 13, 2023, NDRC, Ministry of Finance ("MOF") and other two state organs have jointly released the *Circular*

on *Cutting Costs in 2023* (the “Circular”), calling for implementation of 22 tasks in eight aspects.

The Circular emphasizes the need to enhance the accuracy and relevance of tax and fee preferential policies, improve the quality and effectiveness of financial services to the real economy, continue to reduce systemic transaction costs, ease the pressure on enterprise labor costs, reduce the cost of raw materials for enterprises sites, promote the quality and efficiency of logistics and reduce costs, improve the efficiency of enterprise capital turnover, and stimulate enterprises to explore internal potential. The Circular calls for implementing support policies for implementing taxation, the first (set) insurance compensation and other support policies, and introducing targeted tax and fee reduction policies in areas such as science and technology innovation and key industrial chains, actively promoting amendments of the bidding law and government procurement law to further regulate government procurement practices, striving to break the unreasonable restrictions and barriers set for enterprises of different ownership, foreign enterprises, continuing to implement the policy of phased reduction of unemployment insurance and work injury insurance rates, the implementation period is extended to the end of 2024.

China and Argentina Sign Cooperation Plan to Jointly Promote BRI Construction

On June 2, 2023, representatives of the governments of China and Argentina signed the *Cooperation Plan between the Government of the People’s Republic of China and the Government of the Republic of Argentine on Jointly Promoting the Construction of the Belt and Road* (“B&R”) (the “Cooperation Plan”) in Beijing.

The Cooperation Plan comprehensively implements the important consensus of the leaders of China and Afghanistan on the high-quality construction of B&R, follows the principle of “Common Business, Common Construction and Sharing”, adheres to the concept of “Openness, Green and Clean”, aims at high standards, sustainability and benefits for people’s livelihood, focuses on policy communication, facility connection, smooth trade, capital integration and people-to-people contact, and deepens mutually beneficial cooperation between the two sides in the fields of infrastructure, energy, economy and trade, finance and humanities.

GACC Plans to Revise Proactive Disclosure System for Further Expanding the Scope of Application

On June 29, 2023, GACC solicited public comments on the *Announcement of GACC on Handling Matters Related to Proactive Disclosure Violations* (Exposure Draft). The deadline for feedback is July 29, 2023.

This revision is to further expand the scope of proactive disclosure, extend tax-related violations to customs violations and add circumstances affecting the application of proactive disclosure in some fields of customs violations, affecting the field of management of national export tax rebates, accuracy of customs statistics, order of customs supervision, inspection and quarantine. This revision further relaxes the time limit for proactive disclosure. The time limit for voluntary disclosure to customs within one year after the occurrence of tax-related violations is relaxed to within eighteen months after six months. This revision further relaxes the conditions for the “same” violation of customs regulations to be voluntarily disclosed to the customs again.

Article(s)

How to Change the Use of Development Land in China

by Ran An

In China, all land is owned by the state and farmers, and individuals and entities can only obtain the right to use the land. Generally, developers obtain the right to use land through the assignment of land use right that local governments assign state-owned development land to developers with compensation at different prices according to land use stipulated in the assignment contract. Due to past housing booms, residential land tends to be worth more than land for other uses, such as land for industrial, educational and commercial. Therefore, developers may try to change the use of land in practice to obtain higher returns.

The assignor and the urban planning administrative authorities

The approval department for the use of development land is the government's planning department. Development land is used for residential, commercial, industrial or other purposes, and the right to delineate it lies with the urban planning administrative authorities.

In accordance with Article 18 of the *Law of the People's Republic of China on Administration of Urban Real Estate* (2019 Amendment), where a land user needs to change the land use stipulated in the land use right assignment contract, it shall obtain the consent of the assignor (the land administration department of the local government) and the urban planning administrative authorities of the local government; an agreement on change of land use right assignment contract shall be concluded or a new land use right assignment contract shall be concluded; the land use right assignment fee shall be adjusted accordingly.

Therefore, if a developer changes the land use, it must re-sign the assignment contract and obtain the approval of the assignor and the government's planning department.

The local government

In accordance with Article 56 of the *Land Administration Law of the People's Republic of China* (2019 Amendment), where there is a genuine need to change the use of development land, the change shall obtain the consent of the natural resources administrative department of the local government, and seek the approval from the local government which has approved the land use previously. Also, in the *Notice of the State Council on Strengthening the Management of State-Owned Land Assets*, the land user who needs to change the originally approved land use, must seek approval from the local government according to law.

Hence, land use change requires not only the consent of the competent departments under the government, but also the approval of the local government itself.

Re-assigning

In addition to assignment, land users may also obtain development land use rights through free allocation. In principle, land use rights obtained through allocation cannot be used for commercial purposes unless changing the use of the allocated lands. After the process, these lands acquire the same nature as the assigned land.

In accordance with Article 13 of the *Law of the People's Republic of China on Administration of Urban Real Estate* (2019 Amendment) , the assignment of land use rights may be carried out in the form of auction, tender, or negotiation between two parties.

In practice, local governments usually require the allocated land that has been changed in use to enter the market for open transactions. In addition, even for development land whose use rights have been assigned, local governments may require the use rights of these lands to be re-assigned through public means such as auctions when the land use changes.

The adjustment of the land use right assignment fee

According to relevant laws and administrative regulations, there are no specific and operable provisions on how to deal with the assignment fee after the change of the development land use. During the process of changing the land use, if the developer and the assignor have reached an agreement on the adjustment of the assignment fee by re-signing the assignment contract or signing a supplementary agreement, it shall be performed in accordance with the contract or the supplementary agreement.

In accordance with Article 5 of the *Interpretation of the Supreme People's Court on the Application of Law in the Trial of Cases Involving Contract Disputes over the Right to Use State-owned Land* (2020 Amendment), the developer or the assignor can sue the court and request to adjust the land use right assignment fee according to the standard for the same land use at the time of the lawsuit, which means the developer and the assignor can seek legal remedies if they fail to reach an agreement on the adjustment of the land assignment fee.

In practice, local governments generally refer to the clearly stipulated benchmark land price and standard guiding land price for the same land use as the basis for adjusting land assignment fees, and determine payable land assignment fees by paying the land price difference.

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