



Legal News Review

Two Authorities Adjust VAT Rates (April 8, 2018)

The Minister of Finance (“MOF”) and the State Administration of Taxation (“SAT”) recently issued a circular to adjust the value-added Tax Rates (“VAT Rates”), which has been effective since May 1, 2018. Specifically:

1. for taxpayers who import goods or undertake value-add sales, the previous 11% and 17% tax rates are adjusted to 10% and 16% respectively;
2. deduction rate for agricultural products buyer is lowered from 11% to 10%;
3. for agricultural goods bought for production or sales or for consigned processing, the input of VAT shall be calculated at 12% deduction rate instead of previous 16%.
4. exported goods which were subject to 17% tax rate and tax rebate rate, will apply a lowered 16%, while exported goods and trans-border taxable activities which previously subject to 11% tax rate and tax rebate rate, will apply 10%.

(<http://www.chinatax.gov.cn/n810341/n810755/c3377945/content.html>)

CSRC Officially Issues the Administrative Measures for Foreign Investment in Security Companies (April 28, 2018)

The China Security Regulatory Commission (“CSRC”) has issued the Administrative Measures for Foreign Investment in Security Companies (the “Measures”), effective from the issuance date. Based on the Rules on Establishments of Foreign-invested Securities Companies revised by China Securities Regulatory Commission in 2012, the Measures mainly introduce following amendments:

1. A foreign investor is allowed to control a joint venture securities company. To be specific, it increases the foreign ownership limit in joint venture security companies to “in line with the arrangement made by the State to open China’s Securities sector”. Under the current Arrangement, foreign investors will be able to hold up to a 51 percent of equity in securities firms. The restriction will be removed in 3 years.
2. The initial business scope shall match with its controlling shareholder’s or biggest shareholder’s experience in securities business, while such limit would be eased step by step.
3. An overseas shareholder must be a globally reputable financial institution with satisfying business performance.

(http://www.csrc.gov.cn/pub/zjpublic/zjh/201804/t20180428_337509.htm)

The State Immigration Administration offers Visa-free access for foreigners from 59 countries (including France) to PRC Hainan Province (April 18, 2018)

The visa-free access policy, effective from May 1, 2018, is a move for further all-round and in-depth reform and opening up in Hainan. It widens the scope of countries from which tourists are eligible for the visa-free policy from 26 to 59 countries, prolongs permitted stay of visa-free foreign visitors from previously 15 or 21 days to 30 days. Meanwhile, not only tourists organized by travel agencies, but individual foreign travelers are also eligible to visa-free entry.

(<http://www.mps.gov.cn/n2254996/n2254999/c6105863/content.html>)

The Law of PRC on People’s Jurors released (April 27, 2018)

It is not the first introduction of people’s Jurors system but indeed regulates jurors’ participation in a broad manner, including selection and appointment mechanism, scope of trials to join in, incentives and punishments, and guarantee for the fulfillment of duties.

According to the law of people’s jurors, citizens over 28 years old, with high school degrees or higher education and good virtues could be selected or recommended to be a juror for some specific first instance of criminal cases, civil cases or administrative cases. Compared with previous scope of trial, people’s jurors are firstly allowed to hear the case involving complicated facts, public interests or significant social impacts where suspects are likely to be sentenced to death. A 3 persons’ or 7 persons’ collegiate bench comprising people’s jurors and judges will be formed to hear cases, where in 7 persons’ bench, jurors only give opinions on factual issues, excluding legal issues.

(http://www.npc.gov.cn/npc/xinwen/2018-04/27/content_2053975.htm)

China Social Credit System: Step to a Faithful Society

It has been reported recently that some dishonest civil debtors are not allowed to access to luxurious hotels as a punishment. It provides a glance at China’s endeavor to set up a nationwide social credit system which has been lacking in China for many years.

In 2016, the State Council issued a Guiding Opinion¹ on establishing and improving social credit system by offering joint incentives to acts in good faith and imposing joint punishments against acts in bad faith. With the layout of central government, local governments are now establishing the social credit system, calculating and managing credit information, making it possible for the central government to manage and disclose credit information (including individuals’ and entities’) in one platform, namely, Credit China.

The Credit investigation/report industry is booming under the supervision by People’s Bank of China. One company named Credlink has been granted a license to conduct individual credit report business from April 1, 2018. Its shareholders include National Internet Finance Associate of China, other credit investigation organizations held by Tencent, Alibaba and other internet giants or capital giants.

So far, many courts have publicized list of defaulters to restrict their luxurious consumption, real-estate transactions, etc. The policy brings notable results. It is reported that 17% defaulters chose to fulfill the court order and over 50% tax defaulters paid off tax.²

In addition, it has established national and local public information platforms for credit information calculation, management and inquiry. Taking Beijing for example, according to its legislation, personal credit information is categorized into basic information, good (creditable) information and misconduct information.

Basic information : ID number, education background etc.
Good information : governmental award, charitable donation record etc.
Misconduct information : administrative punishment record, record of liability for severe production or food safety accidents etc.

Legal persons’ credit information will be calculated and managed by industrial and commercial administrative and other public authorities respectively based on their responsibilities, while individuals’ credit information is calculated and managed by economic and IT department. In the meanwhile, privacy concerns have also been taken into account. There are also provisions protecting privacy of credit information subjects. For example, inquiry of those information that is not compulsory to disclose must be permitted in written by the specific individual or entity concerned. Moreover, public servants are not allowed to access that information unless functioning his/her duty.

As for the national social credit system, directed by National Development and Reform Commission and the People’s Bank of China, the National Information Center sets up the Credit China website³ that provides credit disclosing, credit inquiry service and black lists for various misconducts such as environment pollution and cheats in sports. It also updates how state ministries and local branches promote the social credit system establishment.

By all-round effort to building up a social credit system, China is determined to construct a faithful environment where everyone keeps his word and fulfills his obligation with good behavior, thus to improve social efficiency and boost economic development.

^① The Chinses source is available at http://www.gov.cn/zhengce/content/2016-06/12/content_5081222.htm

^② http://www.xinhuanet.com/2018-05/08/c_1122797913.htm

^③ <https://www.creditchina.gov.cn>

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