



I. Legal News

The SAT Issues a New Circular to Support the Development of the Private Sector

On November 16th, 2018, the State Administration of Taxation ("SAT") issued the Circular on Implementing Several Measures to Further Support and Serve the Development of the Private Sector (the "Circular").

The Circular is divided into 5 chapters and totals 26 measures. Most of the measures are general and aim to reduce companies' tax burden, facilitate the tax declaration process and effectively implement preferential tax policies. The document reminds that all companies meeting the requirement for preferential tax policies should be treated equally, whereas they are private or public companies. Besides, it proposes that private businesses having business troubles may be allowed to defer tax payments.

The Circular also stresses that the tax declaration procedure should become more and more automatized and electronic. There is a general movement towards the simplification of administrative procedures in China, as the administrative procedures have been often criticized as too complicated and sometimes different from one place to another.

(http://www.chinadaily.com.cn/bizchina/2016-01/23/content_23210408.htm
<http://www.chinatax.gov.cn/n810341/n810755/c3906847/content.html>)

Preferential Tax Policy Further Clarifies "Reinvest Profit in China" and "Tax Refund"

On December 21, 2017, a preferential tax policy was released in which foreign investors are allowed temporarily not be subject to withholding income tax ("WIT") anymore if said foreign investors reinvest profit in China pursuant to specific tax deferral treatment criteria, and the reinvestment under preferential tax policy only applies to investment projects under certain encouraged categories.¹ Then, on September 28, 2018, the applicable scope of reinvestment projects was extended and the applicable scope of reinvestment projects expands to "all projects and fields from which foreign investments are not banned"² as well as further explain what constitutes "reinvest profit in China".

Currently, the State Administration of Taxation has issued an Announcement on Matters Concerning Expanding the Applicable Scope of the Policy of Temporarily Not Levying WIT on Distributed Profits Used by Overseas Investors for Direct Investments which will be retroactively applied from January 1, 2018. To be specific, the following matters are clarified:

1. Making a supplementary payment for the portion of prescribed registered capital of domestic resident enterprises by the foreign investors are clearly defined as a situation of "reinvest profit in China";
2. It is possible to apply for a tax refund to retrospectively enjoy this preferential tax policy under the condition that the foreign investors have not enjoyed "no levying WIT" in fact, but the reinvestment activities were carried out with profits during the period between January 1, 2017 and January 1, 2018 and the requirements for provisionally not levying withholding tax are satisfied.

II. Hot Topic

China Progresses on the World Bank's Doing Business Index

In the latest World Bank Report (Doing Business 2019: Training for Reform) published on October 31st, 2018, China moved up from rank 78 to 46, among 190 countries. This is a noteworthy move since China had been stagnating during the last decade, being ranked around 80 every year.

The report is published yearly by the World Bank and covers issues going from the creation of companies to enforcement of contract or protection of Intellectual Property Rights. According to the 2018 report, China has made significant improvements regarding to establishing a business, the delivery of construction permits, the registration of property, getting electricity, protecting minority investors, paying taxes, as well as expanding its network capacity, etc. The progress is a result of the government campaign to optimize the business environment by cutting bureaucratic red tape, streamlining the cumbersome setup process and eliminating government overlap and inefficiencies. Good examples are the "five-in-one" Business License reform, "One Window, One Form" policy as well as the VAT system reform.

Despite this positive evolution, the study is mainly based on doing business in Shanghai or Beijing, which are the most developed cities in mainland China; business policies and formalities can be dramatically different on other regions in China.

(<http://www.china-briefing.com/news/china-46th-ease-doing-business-rankings-world-bank-report/>)

The African Swine Fever Makes its Way to Shanghai

Early August 2018, the first cases of African Swine Fever (非洲猪瘟 fēizhōu zhūwēn) were reported Liaoning province, China. This was followed by cases across the north-east and more recently even in the south of China and Shanghai. It is unclear how the virus made its way to China but by November

17th, 19 out of China's 31 provinces had been affected by the disease.

The African Swine Fever is a highly contagious and mortal virus which affects only pigs, so far humans are safe. Typically, the infested animal will die within 6 to 10 days after getting into contact with the virus. The mortality rate is 100%.

This virus is an important source of concerns in China for several reasons. Nowadays, China is the world's biggest farmer and consumer of pork. It is home to more than half of the world's pigs, around 700 million. The pork industry has grown in tandem with the country's economy and around two-thirds of China's meat consumption relies on pork. The propagation of the virus could have drastic consequences on the food industry.

This issue raises challenges for the government and particularly for the newly created State Administration for Market Regulation (SAMR), which absorbed, among others, the former China Food and Drug Administration (CFDA). One of the difficulties when dealing with this kind of widespread problem is China's diversity. The territory is very large, and policies are not equally implemented in all regions. A huge part of the pig farming happens in rural areas, in relatively small farms with few animals. The virus has spread through direct contact between animals, contaminated food or people traveling from place to place. In these conditions it can potentially expand very quickly in China.

Right now the authorities are monitoring the outbreaks and thousands of pigs have been culled to try to prevent the virus from spreading. In Taiwan, tourists who illegally bring in meat products will now be fined around USD 9,700, against USD 490 before in an attempt to prevent the virus from getting in the island.

(<https://www.caixinglobal.com/2018-11-20/national-outbreak-of-african-swine-fever-hits-shanghai-101349308.html>
<https://supchina.com/2018/11/15/african-swine-fever-epidemic-is-now-serious/>
<https://medicalxpress.com/news/2017-10-china-threat-haemorrhagic-african-swine.html>
<https://www.theguardian.com/world/2018/oct/24/african-swine-flu-virus-threatens-pork-production-china-chinese-new-year>)

① See our article "New Preferential Tax Policy For Foreign Investors Who Reinvest Profit"

<http://asiallians.com/en/new-preferential-tax-policy-foreign-investors-reinvest-profit/>

② See our article "Four Departments Expand the Applicable Scope of the Preferential Tax Policy for Foreign Investors Who Reinvest Profit" <http://asiallians.com/zh-hans/china-legal-update-four-departments-expand-applicable-scope-preferential-tax-policy-foreign-investors-reinvest-profit/>

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