



I. Legal News

Criteria Amended for Publishing Serious Tax Evasion

PRC State Administration of Taxation has amended Measures on the Release of Information About Major Tax Offense Cases (the "Measures") recently and it will come into force on January 1, 2019.

The Measures amends the criteria of what constitutes serious tax evasion, a sign that China is getting serious in the fight against tax evasion.

One dramatic adjustment is the threshold of overdue taxes evaded by the taxpayers: if a taxpayer evades the overdue taxes amounting to more than RMB 100,000, it will be regarded as a serious tax offense; however, previously, the threshold was RMB 1 million. In addition, enterprises which refuse to perform tax obligations and out of supervision of tax authorities (out of contact) shall also be regarded as having committed a serious tax offense.

Information of serious tax evasion will be published online and upon expiration of a 3-year period as of the date of release, the information of serious tax evasion will be removed automatically¹. An important change in the Measures is that the mandatory duration of publicity has been extended from 2 years to 3 years.

The official website for checking all published serious tax evasion is <http://hd.chinatax.gov.cn/xxk/>

(<http://www.chinatax.gov.cn/n810341/n810755/c3914071/content.html>)

The GAC Modifies 45 Rules to Streamline the Customs Clearance Formalities

On November 23rd, 2018, the General Administration of Customs ("GAC") has issued the Order No.243 to release the Decision on Amending Some Regulations (the "Decision") with immediate effect.

The Decision modifies 45 regulations in order to streamline the Customs clearance formalities. A digital reform is introduced. Specifically, according to the amendment on the 45 regulations, relevant licensing certificates granted by the Customs will be automatically checked and verified based on the electronic data system instead of checking the original certificates submitted by companies every time.

Due to the reshuffling of several PRC government bodies in 2018, the names of certain governmental bodies are also changed accordingly.

(<http://www.customs.gov.cn/customs/302249/302266/302268/2113149/index.html>)

II. Hot Topic

Bioethical Concerns Raised Upon Claim of PRC First Genetically Modified Babies

"With genetic engineering, we will be able to increase the complexity of our DNA, and improve the human race. But it will be a slow process, because one will have to wait about 18 years to see the effect of changes to the genetic code."² If we take S. Hawking's words for granted, we should be able to see these effects by 2036. Indeed, on the 26th of November 2018, a Chinese scientist named He Jiankui (贺建奎) posted a video in which he claims that the first genetically edited babies, a pair of twin girls, were born healthy a few weeks ago. Their genome has been edited to make them immune to the HIV virus.

As Hong Kong is hosting the second International Summit on Human Gene Editing this week, this revelation caused a shock in the scientific community in China and abroad. A letter published on Weibo (The most visited China-based microblogs) and signed by more than 120 Chinese scientists has openly condemned the experiment, its illegality and the potential consequences.

Gene editing on humans is banned in most countries as the technology is still experimental and DNA changes can pass to future generations, with potentially unforeseen side-effects. Among the arguments against the use of such technology on humans is also the inability to obtain consent from those future generations who would be edited. Besides these considerations, it also raises social concerns and ethical debates. Would it further increase the growing inequalities gap in our countries? Could it create different casts of humans?

On the other side, one of the main arguments for the development of this technology is that there are millions of babies who are born with a serious disease of genetic or partially genetic origin.

It is important to stress that there are many ways to regulate this area. In European countries any intervention in the human germline is prohibited. In other countries there are funding restrictions on embryo research. In the USA gene therapy is treated and controlled as a biological drug, or device, which means it is submitted to numerous safety standards.

For now, most countries have adopted a precautionary principle, in the absence of scientific consensus on the absence of risk we shall not proceed to modification of the human genome. It is a principle which has been written down in both the "UNESCO – 2005 Universal Declaration on Bioethics and Human Rights" and the Council of Europe's "Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine" effective from 1999.

In China, even if there is no legislation prohibiting this kind of experiment, there is a set of guidelines that were adopted in 2003 by the Food and Drug Administration, the "Guidelines for Human Gene Therapy Research and its Products", and which in practice ban human gene modification³.

The reality of He Jiankui's claim has not been verified yet. For example, the Shenzhen Southern University of Science and Technology, where he holds an associate professorship, announced that it had been unaware of the research project and that He Jiankui had been on leave without pay since February 2018. In addition, on Tuesday this week, the Health Commission of Guangdong Province also announced that a special group was set up in Shenzhen to conduct a comprehensive investigation of the "genetically edited babies".

(<https://www.chinadaily.com.cn/a/201811/26/WS5bfbcafaa310eff30328b1ef.html>
<https://baijiahao.baidu.com/s?id=1618175790469821288&wfr=spider&for=pc>
<http://www.bioworld.com/content/claim-first-gene-edited-babies-draws-outrage-skepticism-calls-regulation-0>
<https://issues.org/the-legal-and-regulatory-context-for-human-gene-editing/>)

Constitution Week Campaign

From December 2nd to 8th, 2018, China will hold its first Constitution Week Campaign with the theme "to respect the Constitution, learn the Constitution, abide by the Constitution, safeguard the Constitution and apply the Constitution", according to a Circular jointly issued by the Publicity Department of the Central Committee of the Communist Party of China, the Ministry of Justice and the National Office for Law Popularization.

The circular called for enhancing the legal education and awareness of Chinese citizens, especially the young people. It also underlines the role of leading officials and civil servants in the promotion of the Chinese Constitution.

Chinese society wasn't traditionally as dependent on law as western countries are. It has long been based on Confucian philosophy, people's behavior was to be controlled through moral education. At first, resolving a dispute in front of tribunals wasn't very natural for a lot of people because it could imply public shaming and loss of "face". There have been regular efforts by the Chinese authorities to enhance the rule of law, or rule by law, since 1978.

China's current Constitution was adopted on December 4th, 1982, thus, December 4th is actually "Constitution Day" in China. The text was amended in 1988, 1993, 1999, 2004 and in 2018. The last amendment incorporated, among others, Xi Jinping's thought on Socialism with Chinese Characteristics for a New Era in the Constitution.

(<http://english.sina.com/china/p/2018-11-27/detail-ihmutuec4073843.shtml>)

- ① Information of serious tax evasion can also be removed once the tax authority has confirmed that overdue taxes in question have been paid.
- ② Interview with Stephen Hawking by Roger Highfield on the 18th of October 2001
- ③ International Regulatory Landscape and Integration of Corrective Genome Editing into In Vitro Fertilization , Motoko Araki and Tetsuya Ishii, Reproductive Biology and Endocrinology (November 24, 2014)

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