I. Legal News

State Council's Customs Tariff Commission to Adjust Tariffs on Some Imports and Exports from January 1, 2019

The Customs Tariff Commission of the State Council has recently issued the 2019 Plan for Adjustments to Temporary Tariff Rates for Imports and Exports and Other Tax Rates (the "Plan"), which will come into force as of January 1, 2019.

In terms of import duty rate, the Plan expressly states the following major changes:

(1) Temporary tariffs will be implemented on 706 types of imported commodities, among which, 14 items of information technology products will be charged no temporary tariffs as of July 1, 2019;

(2) Zero tariffs will be imposed on some raw materials used to produce drugs and some other goods; and the sliding duty on cotton and the temporary tariff rate on some imported fur will be lowered appropriately; and

(3) Conventional tariff rates to some commodities originating from 23 countries or regions, including New Zealand, Peru, Switzerland, etc., will apply.

In terms of export duty rate, the Plan introduces that 108 items of export commodities including ferrochrome, will be imposed on a temporary tariff. Also, a cancellation of 94 items of export duty rate is regulated in the Plan.

The whole list of temporary tariffs in the Plan can be find in the attachments of the link below:

(http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201812/t20181221_3101662.html)

Draft Foreign Investment Law Released for Public Consultation

The full text of the Foreign Investment Law of the People's Republic of China (Draft) (the "Draft"), deliberated at the Seventh Session of the Standing Committee of the 13th National People's Congress, has recently been released for public consultation by February 24, 2019.

The Draft aims to replace and unify the three current laws concerning foreign investment: Chinese-foreign equity joint ventures law, Chinese-foreign contractual joint ventures law and foreign investment enterprises law. Enterprises with their investment wholly or partially coming from abroad will be collectively referred to as foreign-invested enterprises, instead of being referred to a WFOE (wholly foreign-owned enterprise) or a JV (joint venture) separately.

The foreign investment under the Draft is not limited to foreign investment in the form of enterprises, it refers to direct or indirect investment activity conducted in China by foreign individuals, enterprises or other organizations, including investment in new project, establishing foreign-invested enterprise, obtaining equities or other financial interests, and investment in any other manner stipulated by PRC laws, etc.

The Draft has 6 chapters, including 39 articles. The main contents of the Draft include general rules, investment promotion, protection, management and administration, and legal liabilities.

In terms of promotion, main provisions include but not limited to:

(i) foreign investment is subject to pre-entry national treatment plus negative list management system, which means that except for fields in which foreign investors are prohibited or restricted to invest, rules will be, in principal, equally applicable to foreign and PRC investors in other fields;

(ii) policies regarding enterprise development supported by PRC government are equally applicable to foreign-invested enterprises;

(iii) foreign-invested enterprises are equally involved in government procurement activities;

(iv) foreign-invested enterprises could raise funds through public issuance of stocks, corporate bonds and other securities in accordance with the PRC laws; and

(v) local governments at various levels could formulate foreign investment promotion policies within statutory jurisdiction.

The Draft focuses on the fundamental provisions regarding foreign investment. Detailed provisions may be further promulgated as appropriate or may be referred to in other laws, such as company law.

Based on the principle of actively boosting foreign investment, China will carry out policies in favor of high-level investment liberation and facilitation, establish and improve its mechanisms for the promotion of foreign investment, and create a stable, transparent and foreseeable investment.

(http://www.npc.gov.cn/npc/flcazqyj/2018-12/26/content_2068280.htm)

SAMR Releases Administrative Measures for Electronic Business Licenses (for Trial Implementation)

The State Administration for Market Regulation ("SAMR") has recently issued the Administrative Measures for Electronic Business Licenses (for Trial Implementation) ("Measures"), immediately effective from the date of issuance.

The measures state that the electronic business license system is a nationally uniform identity verification system for market players. The market regulation authority is the statutory body responsible for issuing and managing electronic business licenses and shall not charge any fee from market players for the issue of electronic business licenses. Meanwhile, the Measures expressly state that, an electronic business license will be generated immediately and stored in the electronic business license database upon establishment and registration of a market player. Downloading and using electronic business licenses require the registration of the real identification.

(http://samr.saic.gov.cn/xw/yw/wjfb/201812/t20181219_278408.html)

II. Hot Topics

China and France Held the 6th High Level Economic and Financial Dialogue

Chinese Vice-Premier Hu Chunhua and French Economy and Finance Minister Bruno Le Maire co-chaired the 6th HED on December 7th, 2018 in Paris. Both sides held an in-depth discussion on moving forward macroeconomic policy coordination and global economic governance, concerning environmental issues, third markets and connectivity, trade and investment, industry and major projects cooperation, agriculture and agri-food industry and financial cooperation.

The China-France High Level Economic and Financial Dialogue (HED) is a key platform for bilateral communication and policy coordination on strategic, overarching and long-term issues in the economic and financial fields. The last five rounds of Dialogue were held in November 2013, September 2014, September 2015, November 2016 and December 2017 respectively.

During the 6th HED, both sides reached consensus, in terms of Cooperation on trade and investment, as follows:

(1) President Xi and President Macron agreed that China and France will continue to work actively to implement the China-EU 2020 strategic agenda for cooperation and deepen the China-EU comprehensive strategic partnership in areas of mutual interests, in a spirit of mutual and reciprocal benefit.

(2) Both sides promise to avoid taking measures leading to and protect foreign investors against any form of discrimination in their day-to-day activities including licensing procedures, access to public procurement, public financing, R&D schemes and technical standards-setting. Both sides agree that licensing systems should be risk-based, transparent, timely and predictable. Both sides protect autonomous corporate decisions as the key cornerstone of corporate engagement.

(3) Both sides recognize the important role of intellectual property in promoting innovation and economic growth and underline the mutual benefits of bilateral cooperation in this field. The two sides will organize the Joint Committee Meeting on Intellectual Property in 2019 to share the best practices in IP creation, protection and utilization.

(4) Both sides will continue to welcome initiatives with e-commerce and social media platforms to use reasonable best efforts to adopt appropriate, proactive and preventive actions against suspected IPR violations by relying on available information, technology and resources.

For more information about the content of the dialogue, you can go for the link below:

(http://www.mof.gov.cn/zhengwuxinxi/caizhengxinwen/201812/t20181207_3086471.htm)

China is Offering 50 Percent Unemployment Insurance Refunds for Companies Which Refrain from Redundancy

On December 5, 2018, China’s State Council announced incentive to encourage firms to reduce layoffs as the government looks to enhance employment promotion and stability.

As part of the incentive, China is offering 50 percent unemployment insurance refunds for companies that are refraining from laying off their employees. For those facing temporary operational difficulties but are trying to keep their redundancies to a minimum, the refunds could be higher.

According to the Regulation on Unemployment Insurance published by State Council, enterprises shall pay the unemployment insurance for their employees at a rate of 2% of an employee’s total pre-tax salary in mainland China, while employees contribute around 1% for their unemployment insurance. The specific rate may be modified by local province authorities.

With the incentive, qualified enterprises can receive a 50 percent refund on the total of unemployment insurance contributions made both by the employer and the employee.

(http://www.gov.cn/zhengce/2018-12/05/content_5346018.htm)

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