



Legal News

I. The Issue of 2019 Negative List for Market Access

The National Development and Reform Commission and the Ministry of Commerce released the Negative List for Market Access (2019 Edition) (the "List")¹ on October 24, 2019.

The List includes 131 items with a decrease of 20 items compared with the 2018 Edition. Specially, the list includes 5 prohibited access items and 126 permitted access items. As for the 5 prohibited access items, one of them is prohibiting development activities that do not meet the requirement of the construction of the main functional areas. It consists of two parts: items listed in the negative list for industrial access in key ecological functional areas of local governments (or the catalogue of prohibition and restriction), and items listed in the negative list for industrial access in main agricultural production areas (or the catalogue of prohibition and restriction). As for the 126 permitted access items, it consists of 105 items in 18 national economic industries, 10 items in the catalogue of Investment Projects List approved by the Government, 7 items in the Prohibited Licensing Catalogue for Internet Market Access, and 4 other matters such as credit supervision².

Comparing to the 2018 Edition, the list has four aspects of changes worth paying attention to.

- First, the list has improved "one nationally uniform negative list" system by incorporating the "negative list for industrial access in key ecological functional areas and main agricultural product producing areas of local countries and abolishing 23 negative lists for market access formulated and issued by regions.

- Second, the list has enriched its content and ensured all legal and effective access measures are embodied in this negative list by incorporating the newly launched measures, adding measures fitting the list's positioning, and further diversifying local measures. For example, the measure such as "fresh milk transportation, fresh milk purchase station license is included in the list.

- Third, the list has continuously shortened its length by cutting down a series of outdated license such as the license of establishment of pension institutions and social welfare institutions and removing some measures incompatible with the list's positioning to continuously shorten its length.

- Lastly, the list has laid solid foundation to realize the goal of "clear at a glance and all in one network" by setting out the authorities in charge of measures and assigning uniform codes to items on the list, which provides absolute clarity and paves a way for handling all related matters on one website.

II. Preferential Tax Policy for Beijing 2022 Olympic and Paralympic Winter Games Unveiled

The Ministry of Finance, the State Taxation Administration and the General Administration of Customs have jointly issued the Announcement on the Preferential Tax Policy for Beijing 2022 Olympic and Paralympic Winter Games (the "Announcement") on November 11, 2019, which will immediately take effect from the date of issuance.

This preferential tax policy aims to gather more and better resources for the hosting of Beijing 2022 Olympic and Paralympic Winter Games. The similar preferential tax policy has been conducted in the 2008 Beijing Olympic and 2010 World Expo. We abstract several essential points as follows.

- First, the income related to the Beijing Winter Olympic Games obtained by the non-resident enterprises among the entities affiliated to the International Olympic Committee ("IOC") shall be exempted from **enterprise income tax**.

- Second, for the income obtained from the Beijing Olympic Winter Games by the Olympic Broadcasting Services, the Olympic Channel Services, the IOC Television and Marketing Services, the Olympic Foundation for Culture and Heritage and the company officially designated to be responsible for Olympic timekeeping, will be exempt from **value-added tax**.

- Third, the designated goods or services provided, as per the agreement, for the Beijing Organizing Committee for the 2022 Olympic and Paralympic Winter Games (the "Organizing Committee") by sponsors, suppliers, franchisees as well as their subcontractors under international sponsorship schemes, global supply schemes and global franchise schemes, will be exempt from **value-added tax and consumption tax**.

- Fourth, in terms of various contracts inked by the entities affiliated to the IOC and the Beijing Organizing Committee for the 2022 Olympic and Paralympic Winter Games, such entities will be exempted from the **payable stamp tax**³.

The list⁴ of the designated goods and services purchased by entities affiliated to the IOC includes accommodation service, advertisement service, electricity power, communication service, real estate leasing services, office construction, renovation and repair services, office equipment and related repair and replacement services, tangible movable property operation and leasing services and so on.

Hot Topics

III. The First International Remote Arbitration Case Handled by Nansha International Arbitration Centre

On November 26, 2019, Guangzhou Arbitration Committee announced that an international commercial dispute had been solved through a remote international arbitration hearing by its branch—Nansha International Arbitration Centre (the "Arbitration Centre"). This is the first case adopted remote international arbitration hearing.

The case was related to a dispute concerning an international sale of goods between a Chinese company as the purchaser and a Cambodian mineral water company as the seller. After the delivery of goods, the Cambodian company didn't receive the payment and thus initiated the arbitration under arbitration clause.

The Arbitration Center made use of the remote trial technology, such as video transmission technology, after balancing the value of this subject matter and the cost of gathering the two parties physically in the Arbitration Center which includes transportation fee, accommodation expense, etc. The remote trial made it possible to reconcile both parties in a convenient and private manner. This case was settled in 15 days through the 2 hours remote hearing⁵, after which the concerning parties even reached a further commercial cooperation on spot.

Guangzhou Arbitration Committee has received 216 cases concerning foreign affairs, including 122 cases involving Hong Kong, 19 cases involving Australia, 16 cases involving Taiwan, 59 cases involving Britain, the United States, Germany, South Korea and other countries⁶. With the aim to better serve the "One Belt One Road" policy, Guangzhou Arbitration Committee tries to develop a matching arbitration system. Specially, Guangzhou Arbitration Committee created the internet arbitration supported by remote hearing technology since 2015 to handle the inconsistency of time and space among most international commercial arbitrations in a more efficient way. Further, parties are offered to choose trial mode and arbitration language. These practices lower the cost of the parties to a great extent and lay a solid legal foundation for the international economical communication.

1. http://drc.changchun.gov.cn/zcfg/201911/t20191125_2047033.html

2. <https://new.qq.com/rain/a/20191125A0G8V000>

3. http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201911/t20191119_3425213.html

4. See the attached list with the Announcement

5. <http://baijiahao.baidu.com/s?id=1651525032543411452&wfr=spider&for=pc>

6. http://news.southcn.com/gd/content/2019-11/27/content_189640738.htm

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