



Legal News:

1. Reduced Contribution Rate of Two Social Insurance Funds Extended until April 30, 2022

In China, the employer and the employee shall make contributions to the social insurance funds, and each month, the employer is responsible for withholding the contribution of the employee from his/her gross salary. Specifically, there are in total 5 kinds of social security funds, which are pension fund, unemployment fund, medical fund, occupational injury fund, and maternity fund. Some of them are the ones to be paid solely by the employer, and some of them are the ones to be paid by the employer and employee collectively.

Due to the Covid-19 epidemic, from February 2020 to the end of 2020, a series of temporary reduction/exemption policies were gradually implemented in China for the following three funds in order to ease the enterprises' burden¹, and it is reported that during 2020, the total reduction of the above three funds reaches RMB 1.64 trillion yuan.

- Pension fund
- Unemployment fund
- Occupational injury fund

According to an announcement of PRC Ministry of Human Resources and Social Security just published on February 24, 2021, the expiry date of the reduction policy on **unemployment fund** and **occupational injury fund** shall be extended to April 30, 2022². It is also noteworthy that as the **pension fund** is not included, as of January 1, 2021, enterprise shall pay normal contribution rate on the pension fund.

We hereby list the current contribution rate of the above three funds applicable in 2021 for your reference, and you can find that the contribution rates of unemployment fund and occupational injury fund are still the reduced rates with small percentage:

Social Security Funds	Contribution Rate (percentage of employee's salary)	
	Employer	Employee
Pension	16%	8%
Unemployment fund	0.8%	0.2%
Occupational injury fund	0.2%-1.9% ³	N/A

Asiallians will keep an eye on any further preferential policy released on social security and keep you posted.

http://www.mohrss.gov.cn/SYRlzyhshbzb/dongtaixinwen/_buneiyaowen/rsxw/202102/t20210224_410063.html

2. Broadened Catalogue of Encouraged Industries of Western China

Previously, China has introduced a tax preferential policy for enterprises incorporated in Western China, in which an enterprise simultaneously meeting the following pre-conditions shall be entitled to enjoy a reduced corporate income tax rate of 15%.⁴

- The Enterprise was incorporated in Western China⁵;
- The enterprise's primary business activities are within the Catalogue of Encouraged Industries of Western China (to be adjusted dynamically);
- The revenue of the enterprise's primary business constitutes more than 60% of its total revenue.

Currently, the encouraged industries are updated in Catalogue of Encouraged Industries of Western China 2020, which will be enter into force as of March 1, 2021. We list some eye-catching newly added encouraged industries for your reference.

Chongqing City	<ul style="list-style-type: none"> • Development and manufacturing of sound-and-fire proof doors and windows as well as its accessories. • Jewelry processing. • Development and manufacturing of toys. • Manufacturing of cosmetics.
Sichuan Province	<ul style="list-style-type: none"> • Pilot training. • Manufacturing of automobile and its accessories.
Guizhou Province	<ul style="list-style-type: none"> • Manufacturing of elevator. • Cross-border trade. • Manufacturing of laptops.
Yunnan Province	<ul style="list-style-type: none"> • Cross-border e-commerce retail. • Manufacturing of organic tea and coffee. • Vaccine industry.
Tibet Province	<ul style="list-style-type: none"> • Manufacturing of ethnic handicraft. • Hotel and catering. • Cultural and art service industry.
Shaanxi Province	<ul style="list-style-type: none"> • Manufacturing of AI equipment. • Manufacturing of robot.
Gansu Province	<ul style="list-style-type: none"> • Sports performance, construction of sports stadium. • Operation of medical institutions.
Ningxia Province	<ul style="list-style-type: none"> • Processing food. • Service outsourcing;
Xinjiang Province	<ul style="list-style-type: none"> • Manufacturing of wine and beverage. • Manufacture and sale of musical instruments. • 5G Internet construction.
Inner Mongolia Province	<ul style="list-style-type: none"> • Imported wood processing. • Processing of wool & cotton textile. • Electronic information manufacturing industry.
Guangxi Province	<ul style="list-style-type: none"> • Processing of clothes. • Manufacturing of furniture.

Should you want to check if your business activities fall within the scope of any encouraged industries in any western region, Asiallians can assist you, feel free to send your request at asiallians@asiallians.com.

https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/202101/t20210126_1265779.html

II. Case: Injunctions Awarded in Favor of Burberry Against Chinese Trademark Infringers

In February 2021, Suzhou Intermediate People's Court awarded an injunction against Baneberry⁶ who had a dispute with the famous brand Burberry. Consequently, Baneberry was ordered to stop using its trademarks as well as prohibited from conducting any related marketing activities.

The case is interesting as:

- (1) Injunctions are effectively awarded before the final judgement is issued (currently the case is still under trial).
- (2) The infringer's trademarks are registered trademarks in China.

In China, after receipt of an injunction application, the court has the discretion to accept it or not⁷. In this case, according to the news released by Suzhou Intermediate People's Court, the court ruled in favor of Burberry for the following reasons:

(1) Burberry is a well-known trademark

Before the registration of the logo Baneberry, Burberry were already well known in China. As a well-known trademark with high reputation, the plaintiff has a great chance of success.

(2) Baneberry has obvious malicious purpose

Although the trademarks "Baneberry" are registered in China, the pattern appearing on Baneberry's clothing as well as the logo are similar with the ones of Burberry. In Baneberry's advertisement, it declared that Burberry is originated from England and is the most symbolic and classic British lattice. This kind of misleading advertisement is obviously malicious and will result in actual confusion to Chinese consumers.

(3) Burberry provided corresponding guarantee

The court expressed that Burberry has already provided corresponding guarantee, although the amount is not disclosed. In addition, it also states that the court may order Burberry to add corresponding guarantee pursuant to actual situation.

(4) It is urgent to award an injunction

Currently, the infringers already opened 40 physical stores as well as online stores in China to shrink Burberry's market share. The court deems that failure to award an injunction on time may cause irreparable damage to Burberry, cause actual confusion among Chinese consumers, as well as weaken the significance/ identifiability of well-known trademark of Burberry.

Should you want to know more details about how to apply an injunction in China, please feel free to send a request at asiallians@asiallians.com.

http://www.zjrmfy.suzhou.gov.cn//fypage/toContentPage/_xwzx/82a07a4877c8b5f10177cc7461050001

1. See our previous legal update: <http://asiallians.com/china-legal-update-negative-list-2020-ftz-negative-list-2020-newly-released-ndrc-mofcom/>

2. Not the exemption policy, but only the reduction policy will be extended.

3. Different city and different industry apply different percentage, please have a detailed check with the local government.

4. See: http://szs.mof.gov.cn/zhengcefabu/202004/t20200426_3504576.htm

5. The following areas are within the scope of Western China: Chongqing City, Sichuan Province, Guizhou Province, Yunnan Province, Tibet Province, Shaanxi Province, Gansu Province, Qinghai Province, Ningxia Province, Xinjiang Province, Inner Mongolia Province, Guangxi Province, Yanbian Area in Jilin Province, Enshi area in Hubei Province, Xiangxi area in Hunan Province and Ganzhou city in Jiangxi Province.

6. Baneberry is a brand owned by Chinese companies and the infringers are Shanghai Xinboli Trading Co., Ltd, Shentu Clothing Shanghai Co., Ltd, Kunshan Development Pengyazhong Clothing shop.

7. Article 100 and 101 of PRC Civil Procedure Law.

Feel free to contact asiallians@asiallians.com for more information.

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