

April 9th, 2020

## # China – Measures taken by the Chinese central government

To cope with the crisis originated by the COVID-19 pandemic, the central government has taken strict control measures, including but not limited to traffic control, spring festival extension, and work and school resumption delay. These protective yet restrictive measures cause concerns among companies.

To minimize the adverse impacts of the COVID-19 pandemic in China, the central government has introduced major supporting policies to both domestic and foreign invested enterprises (the “FIEs”).

### 1. GENERAL POLICIES APPLICABLE TO DOMESTIC ENTERPRISES AND FIEs

#### I.1. LABOUR AND SOCIAL INSURANCE POLICIES

##### I.1.1. LABOUR

The Chinese authorities have been concerned in maintaining employment during and after the COVID-19.

There was no particular new regulation as far as labour laws were concerned, however, the principles have reminded to the employers as follows:

- 1-the employers shall maintain regular wages and salaries
  - -to all the employees during the extra leave days which have been ordered by the Chinese authorities after the official new year leave and during the shutting down period of factories and offices
  - -to all the employees who are under quarantine, who cannot be back to work, who are working from home, or who have to stay at home to deal with children under 18
- 2-the employers can apply for temporary unemployment only if they can prove that the situation cannot be avoided (factories are shut down, quarantine measures are implemented, decrease of turnover is very important).

In addition to the existing regulations, the central authorities urge employers to find agreement with the employees on these principles.

In case of temporary unemployment, the responsibility of the cost of wages and salaries is borne by the employer. However, after one month, the wages and salaries can be reduced within the limit of the local minimum wage: that is RMB 2 480 (Euros 332.4) for example in Shanghai.



### **I.1.2. SOCIAL INSURANCE**


The State Council has issued the Decision of its Executive Meeting of the State Council to Reduce and Remit the Social Insurance Expenses of Enterprises at Different Stages and to Implement the Policy of Delaying the Payment of Housing Fund for Enterprises effective on February 18, 2020

Main principles are

- To reduce the contribution of enterprises' endowment insurance, unemployment insurance and work-related injury insurance in stages, so as to reduce the impact of the epidemic on enterprises, especially small and medium-sized enterprises, so that there is a buffer period for enterprises to resume production. Except for Hubei, the above three fees can be exempted for small and medium-sized micro enterprises from February to June, and can be reduced by half for large enterprises from February to April; Hubei Province can be exempted for all kinds of insured enterprises from February to June.
- Before the end of June, the enterprise can apply for delaying the payment of housing provident fund. During this period, no overdue treatment will be made for the provident fund loans that the employees fail to repay normally due to the impact of the epidemic.
- To guarantee the basic life of the unemployed: the State Council will promptly include those affected by the epidemic into the scope of employment assistance, and ensure that unemployment insurance benefits are paid in full and on time. We will support the development of temporary public welfare posts in areas with severe epidemics, and use unemployment insurance funds to provide unemployment benefits to the unemployed.

Ministry of Human Resources and Social Security, Ministry of Finance and the State Taxation Administration have jointly issued the Notice on the Reduction and Exemption of Social Insurance Premiums of Enterprises in Stages effective on February 20, 2020, which main content is as follows:

- Since February 2020, provinces, autonomous regions, municipalities directly under the central government (except Hubei Province) and Xinjiang production and Construction Corps (hereinafter referred to as "the Province") can exempt the payment (the part undertaken by enterprise) of three social insurance units of small and medium-sized micro enterprises according to the situation affected by the epidemic and the capacity of fund, with the exemption period not exceeding 5 months; for large enterprises and other insured units (excluding governmental institutions), the payment (the part undertaken by enterprise) of the three social insurance units can be collected in half and the period of reduction shall not exceed 3 months.
- Since February 2020, Hubei Province can exempt the payment of the parts undertaken by enterprises of the 3 types of social insurance of all types of insured units (excluding governmental institutions), with the exemption period not exceeding 5 months.
- Production and operation of enterprises with serious difficulties, can apply for a deferred payment of social insurance premiums. The delay period of in principle is not more than 6 months, and overdue fee is exempted for the delay period.

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- To ensure that the social insurance rights and interests of the insured are not affected, the enterprise shall fulfill the obligation of withholding and paying the individual contributions of the employees in accordance with the law, and the social insurance agency shall record the individual rights and interests properly.


## **I.2. TAX AND FOREIGN EXCHANGE POLICIES**

Ministry of Finance, State Taxation Administration have jointly issued an Announcement on Tax Policies in Support of Prevention and Control of the Epidemic Situation Caused by Novel Coronavirus Pneumonia (Announcement No.8) effective on January 1, 2020, which main principles are as follows :

- The costs of relevant equipment newly purchased for capacity expansion by enterprises that manufacture key supplies indispensable for prevention and control of the pneumonia outbreak could be counted, on a lump-sum basis, into the costs and expenses for the current period and are deductible before the calculation of enterprise income tax.
- Enterprises that manufacture key supplies indispensable for prevention and control of the pneumonia outbreak may file applications with the competent tax authorities, on a monthly basis, for a refund of all incremental tax credits of value-added tax (VAT).
- The incremental tax credits for the purpose of this Announcement mean newly-added tax credits at the end of a period compared to the end of December 2019.
- The income obtained by taxpayers from transportation of key supplies indispensable for prevention and control of the pneumonia outbreak will be exempt from VAT.
- The losses incurred in 2020 by enterprises engaged in those industries getting into difficulty as a result of the epidemic may be carried forward for a period of up to eight years, instead of the previous five years. The enterprises engaged in difficult industries include those in the four sectors of transportation, catering, accommodation and tourism (tourism includes the two sectors of travel agencies & relevant services and scenic spots management). Specific judging criteria shall be implemented according to the Industrial Classification of National Economic Activities. In 2020, the main business income of enterprises in difficult industries must account for at least 50% of the total income (excluding non taxable income and investment income).
- The income obtained by taxpayers from the provision of public transportation services and daily life services and from the provision of express delivery services for daily necessities of residents will be exempt from VAT.

Ministry of Finance, and State Taxation Administration have jointly issued an Announcement on the Tax Policy for Donations in Support of Prevention and Control of the Epidemic Situation Caused by Novel Coronavirus Pneumonia (Announcement No.9) effective on January 1, 2020, which main content is as follows:

- Where enterprises or individuals donate cash or articles to cope with the epidemic situation caused by the novel coronavirus pneumonia outbreak through non-profit social organizations,




or state organs such as the people's governments at or above the county level and their departments, such donations are allowed to be fully deducted from taxable income.

- Where enterprises and individuals directly donate articles to hospitals undertaking epidemic prevention and control tasks to cope with the epidemic situation caused by the novel coronavirus pneumonia, such donations are allowed to be fully deducted from taxable income.
- Donors may handle the matters relating to pre-tax deduction by virtue of the donation receipt issued by a hospital undertaking the task of epidemic prevention and control.
- Where entities and individual businesses donate goods self-produced, processed on a consignment basis or purchased through public welfare social organizations, or through state organs such as the people's governments at the county level or above and the departments thereof, or directly to hospitals undertaking epidemic prevention and control tasks to cope with the epidemic situation caused by novel coronavirus infected pneumonia, the VAT, consumption tax, urban maintenance and construction tax, education surcharge and local education surcharge shall be exempted.

State Taxation Administration has issued an Announcement on Matters Concerning the Administration of Tax Levy in Support of Prevention and Control of the Epidemic Situation Caused by Novel Coronavirus Pneumonia (Announcement No.4 of the State Taxation Administration) effective on February 10, 2020, which main principles are as follows:

- According to the Announcements No. 8 and No. 9, if a taxpayer is entitled to VAT and consumption tax exemption, it may file for tax exemption independently without going through the relevant record-filing formalities for tax exemption, but the relevant proof materials should be retained for future inspection.
- During epidemic prevention and control period, a taxpayer may declare export tax refund (exemption) for all its exported goods and services as well as cross-border taxable acts by submitting electronic data online. Upon acceptance of a declaration, the tax authorities may handle export tax refund (exemption) if it is found upon examination that the taxpayer is not suspected of obtaining export tax refund fraudulently, and should promptly notify the taxpayer of the results through online feedback.
- If a manufacturer of key supplies for epidemic prevention and control is entitled to the lump-sum pre-tax deduction policy for corporate income tax according to Article 1 of the Announcement No.8, it should refer to the Announcement of the State Taxation Administration on Issues concerning the Implementation of Corporate Income Tax Policies for Deduction of Equipment and Appliances (Announcement [2018] No.46) for preferential policies. The manufacturer should, at the time of filing a tax return, fill in the relevant information in the row "Lump Sum Deduction of Fixed Assets" in the enterprise income tax return form.
- Enterprises in difficult industries severely affected by the epidemic that apply the policy of extending the carry-over period for losses in accordance with Article 4 of the Announcement No.8 should submit the Policy Statement on Applying the Policy of Extending the Carry-over





Period for Losses via the electronic tax bureau at the time of final settlement of enterprise income tax in 2020.

- If a taxpayer's income can be exempted from VAT according to the Announcement No.8, the urban maintenance and construction tax, education surcharge and local education surcharge will be exempted accordingly.


The "non-profit social organizations" under Article 1 of the Announcement No.9 refer to the social organizations that are eligible for pre-tax deduction of public welfare donations according to the law.

Where an enterprise enjoys the full amount pre-tax deduction policy stipulated in the Announcement No. 9, it should conduct "self-assessment, filing for policy entitlement and retention of the relevant materials for future inspection", and state the full amount deduction of donation in the corresponding rows in the enterprise income tax return form.

Enterprises and individuals receiving the letters of acceptance of donations issued by designated hospitals for epidemic prevention and control should retain such letters by themselves for future reference as the basis for pre-tax deductions.

Ministry of Finance, General Administration of Customs and State Taxation Administration have jointly issued an Announcement on Tax Exemption Policies for Imported Materials for the Prevention and Control of Epidemic Situation Caused by Novel Coronavirus Pneumonia effective on February 1, 2020, which main content is as follows:

- Goods and materials imported by competent health departments for epidemic prevention and control will be exempted from duties. The department (bureau) of finance at the provincial level shall, in concert with the competent health department at the provincial level, determine the list of importers and the list of imported materials, and inform the local customs directly under the General Administration of Customs and the tax authorities at the provincial level in writing at the places where the importers are located.
- Taxes shall be refunded to the tax-free imported materials under this Announcement if they have been collected. In particular, for those imported with tax paid and for which no deduction of input VAT has been declared yet, the formalities for refunding the levied import duties and import VAT and consumption tax may be handled with the Customs on the strength of the Proof of Non-deduction of Input Value-added Tax on Imported Goods for Prevention and Control of New Coronavirus Infection Pneumonia Epidemic issued by the competent tax authorities; where the deduction of input VAT has been declared, only the formalities for refunding the levied import duties and import consumption tax may be handled with the Customs. Relevant importers shall complete formalities for the tax refund with the Customs by September 30, 2020.
- For tax-free imported goods and materials under this Announcement, they may be released after registration and before completion of relevant formalities required.




State Taxation Administration has issued a Circular on Several Measures for Giving Full Play to the Functional Role of Taxation to Contribute to Winning the Battle Against the Epidemic effective on February 10, 2020 which stated the following principles:

- **To make clear the online tax service items.** The State Administration of Taxation summarizes and publishes the online list of tax related items. Local tax authorities shall actively inform taxpayers and payers that all items in the list can be handled at home and online, and shall not require taxpayers and payers to go to the tax service hall or the administrative service hall to handle the relevant businesses listed in the list.
- **Many diversified non-contact handling methods.** While expanding online tax payment services, local tax authorities should actively provide other non-contact tax payment channels for taxpayers and payers. To continue to expand the business scope of "online application and distribution by mail" invoices, paperless declaration of export tax refund (exemption) and delivery of materials by fax, mail and electronic means, and expand the coverage of non-contact tax payment.
- **To extend the time limit for tax declaration and payment according to law.** On the basis of extending the tax declaration period in February, taxpayers, affected by the epidemic, who still have difficulties in handling the declaration can apply for further extension according to law. In severe epidemic areas, taxpayers and withholding agents who pay vehicle purchase tax and other tax returns on a case-by-case basis may postpone their tax returns if they are unable to do so within the prescribed time limit due to the epidemic situation.
- **To handle tax deferment according to law.** For enterprises, especially small and micro enterprises, which are seriously affected by the epidemic, the tax authorities shall timely approve their application for tax deferment according to the law, and actively help enterprises to alleviate the financial pressure.

State Taxation Administration has issued a Circular on Optimizing the Tax Payment Service to cooperate in the Prevention and Control of Epidemic Situation Caused by Novel Coronavirus Pneumonia on January 30, 2020 which main content concerns the extension of the period for filing tax returns as required by epidemic prevention and control.

For taxpayers and withholding agents that file tax returns on a monthly basis, the statutory time limit for filing tax returns in February 2020 will be extended to February 24, 2020 throughout the whole nation. In Hubei and other areas affected by serious epidemics, the time limit may be extended appropriately depending on the circumstances. The specific time limit will be determined by provincial taxation bureaus and reported to the State Taxation Administration for record-filing. Where taxpayers and withholding agents affected by the epidemic still have difficulties in handling the matters after the time limit for filing tax returns in February 2020 is extended, they may apply for further extension according to the law. At the same time, the tax authorities at all localities shall adopt the corresponding measures beforehand to ensure that the tax control equipment of taxpayers can be normally used and the VAT invoices can be normally obtained and issued after the extension of the tax declaration and payment period.



State Administration of Foreign Exchange has issued a Circular on Establishing the Green Channel of Foreign Exchange Policy in Support of Prevention and Control of Epidemic Situation Caused by Novel Coronavirus Pneumonia effective on January 27, 2020 which principles are as follows:

- When enterprises handle foreign exchange settlement and payment of receipts under capital accounts related to epidemic prevention and control, they do not need to submit documents and materials in advance and one by one, and the bank shall strengthen the post inspection on the truth of the use of enterprise funds.
- If there is a real need for epidemic prevention and control, the limit of foreign debts borrowed by enterprises can be cancelled, and foreign debt registration can be applied online through the "online application system for administrative affairs service of the State Administration of foreign exchange" (<http://zfw.safe.gov.cn/asone/>), so as to facilitate enterprises to carry out cross-border financing.


### **I.3. RENT PREFERENTIAL POLICIES**

On the national level, the National Development and Reform Commission issued a *Notice on Encouraging Trade Associations and Chambers of Commerce to Support Private SMEs to Resume Production* (the "NDRC Notice") on February 29, 2020. Article 5 of the NDRC notice provides that the government will coordinate with state-owned property and entrepreneurial innovation demonstration bases to implement rent relieve for enterprises that encounters difficulties especially the SMEs. Trade associations and chambers of commerce in the fields of commercial real estate and real estate services should advocate member enterprises to reduce the rents for SMEs.

On the provincial level, rent preferential policies have been established more enforceable and practical. Hereby are described the main principles applicable in Shanghai, as a reference.

The People's Government of Shanghai Municipality has issued Several Policies and Measures of Shanghai Municipality on All-out Efforts in Epidemic Prevention and Control to Support and Serve Enterprises for Their Stable and Sound Development on February 8, 2020 which provide the many following principles:

Where SMEs lease commercial premises (including various development zones, industrial parks, entrepreneurial bases and high-tech business incubators) from SOEs in this Municipality to engage in production and operation activities, the rent for two months in February and March shall be exempted first; where the enterprises lease indirectly, the rent reduction or exemption shall be ensured so as to ultimately benefit the small- and medium-sized enterprises that actually operate. SOEs are encouraged to benefit small and medium-sized enterprises as much as possible by means of reduction, exemption, postponement of payment and other methods after negotiation, and the relevant impact of reduction of revenues shall be recognized in the assessment of operating performance. Various types of market operators such as large commercial buildings, shopping malls, parks etc. are encouraged to reduce or exempt rent for lessees operating as entities. Where an enterprise that takes the initiative to reduce or exempt real estate or land rent for tenants has genuine difficulties in paying real estate tax or urban



land use tax, it may apply for reduction or exemption from the corresponding real estate tax or urban land use tax.

Shanghai State Owned Assets Supervision and Administration Commission has issued Detailed Rules for the Implementation for Shanghai State-owned Enterprises on Reductions and Exemptions for Rental of Small and Medium-sized Enterprises effective on February 11, 2020 which state the following principles:

- Where SMEs lease operating real estate from SOEs to engage in production office work and business operation activities, the rent for two months in February and March shall be exempted first by the SOEs which own the real estate.
- For SMEs which still have difficulties after the 2 months rent exemption, the SOEs groups shall clearly indicate the standard of the rent relieve standard to provide further supports for such SMEs.
- The districts and relevant SOEs that have introduced and announced their own reduction and exemption policies before this Rules should make the relevant policies correspondent with each other. The districts and related enterprises are encouraged to negotiate with the SMEs to help them actually solve the problems. The rent relieving standard announced by districts and related SOEs before shall not lower than the standard of this Rules.
- In the case of indirect renting of operating property from SOEs in Shanghai, the sub-lessor should not enjoy this reduction and exemption policy in principle. Among them: if the sub lessor is an SOE, it shall be implemented in accordance with the relevant provisions of Promulgating Several Policies and Measures of Shanghai Municipality on All-out Efforts in Epidemic Prevention and Control to Support and Serve Enterprises for Their Stable and Sound Development; if the sub-lessor is not an SOE, the relevant authorities should urge the sub-lessor to implement the rent reductions and exemptions to the actual operating lessees, so as to ensure that the SMEs who operate business actually could benefit ultimately.


## 2. II. SPECIAL POLICIES APPLICABLE TO FIE'S

Along with general supporting policies, the committees of commerce at national level and at local levels (the “COFCOM”) have been focusing on FIEs and foreign invested activities and have adopted supporting rules to reassure and stimulate foreign investment in China. Please find below an overview of COFCOM supporting policies for FIEs during COVID-19, in order to bring more comfort to foreign investors in China.

### 1. SUPPORTING POLICIES AT NATIONAL LEVEL

On February 7, 2020, the General Office of the Ministry of Commerce promulgated the *Notice on Actively Responding to the Novel Coronavirus-infected Pneumonia and Strengthening the Services for*





*Foreign-funded Enterprises and Investment Promotion (the “General Office Notice”).* The General Office Notice specifies supporting measures in the following dimensions for FIEs:

- Positively assist FIEs in order to resume normal production and operation;
- Intensify services for foreign-funded projects;
- Innovate and optimize investment promotion methods;
- Provide targeted support in light of local conditions;
- Constantly optimize the business environment.

Eleven days later, the Ministry of Commerce promulgated some additional specific incentives for FIEs during COVID-19 pandemic. On February 20, 2020, the Ministry of Commerce promulgated the *Notice on Effectively Stabilizing Foreign Trade and Foreign Investment and Promoting Consumption in Coping with the Epidemic of Novel Coronavirus-infected Pneumonia (the “Notice”).*


Besides reiterating the above five dimensions, the Notice further provides below comforting measures for FIEs:

- The Council for the Promotion of International Trade (CCPIT) and chambers of commerce are advised in providing Force Majeure Certificates to prove that a FIE or a foreign-invested project failed to perform the contract on time due to the COVID-19 pandemic. The Force Majeure Certificate will be an important evidence for companies to prove their non-performance, partial performance or delay in performance in commercial transactions.
- For foreign-related economic and technical exhibitions that have been examined and approved or filed by the COFCOM, if the cancellation or delay has been decided due to the impact of the COVID-19 pandemic, the company may cancel or adjust the exhibition time on the COFCOM uniform platform.

Furthermore, on March 24, 2020, the Ministry of Commerce promulgated the *Notice on Prevention and Control of the Epidemic of Novel Coronavirus and Economic Development in the National Economic Development Zone (the “NEDC-oriented Notice”).* The NEDC-oriented Notice provides that:

- The NEDC government should put more effort in attracting investment and stabilizing business during this special period.
- The NEDC government should propose the task of landing the new foreign-funded projects by opening the green channels for the foreign investments, communicate and cooperate with the foreign local government and investment promotion institution.
- Increase special funds for foreign economic and trade development to support the work of stabilizing foreign trade and foreign investment in NEDC in the central and western regions and Northeast China.

Except the above policies, on April 1, 2020, the Ministry of Commerce issued a *Notice on Further Reform and Opening Up to Stabilize Foreign Investment during the Epidemic* to emphasize again the importance of the function of foreign investment and the necessity to improve the supporting



measures. All the aforementioned notices underline that it is imperative to effectively implement laws and regulations including *the Foreign Investment Law* and its *Implementing Regulations*. COFCOM at all levels are also aimed at guiding FIEs to effectively make full use of various supporting policies and measures to deal with the COVID-19 pandemic. Under this policy regime, FIEs will be treated equally as domestic companies and will be assured under the compliant mechanism in case of any discrimination. Equal application of supporting policies will also be implemented to FIEs.

## 2. SUPPORTING POLICIES AT LOCAL LEVELS

The General Office Notice and the Notice stress that in light of local conditions, efforts should be made by local COFCOMs to refine and elaborate special policies to support FIEs in dealing with the impact of the COVID-19 pandemic, putting more efforts on stabilizing foreign investment and timely reporting such different measures and practices to the Ministry of Commerce. Consequently, the Ministry of Commerce will decide to promote and share these measures and practices with other regions in China.

Up until today, DS has observed COFCOMs in Gansu, Hebei, and Zhejiang provinces, each taking its special policies for FIEs during COVID-19 pandemic.

- **Gansu province:** The local COFCOM shall push forward projects-in-progress, further comprehensive application of Gansu government affairs services, deal with relevant formalities for foreign investment projects on applicable online platform, utmost reduce the timeline for examination and approval on the premise of compliance, and coordinate related departments in land use, environmental assessments, construction permits, and water and electricity supply in order to intensify protection and safeguard foreign investment, and minimize the impact of the COVID-19 pandemic.
- **Hebei province:** The local COFCOM shall coordinate and solve difficulties and problems encountered in the resumption of production of FIEs, take the initiative to strengthen communication between FIEs and relevant departments, and help FIEs to solve difficulties in procurement of raw materials and transportation of goods to the maximum extent. Further, the local COFCOM shall actively meet requirements for prevention and control of the COVID-19 pandemic and assist world top 500 FIEs as well as other large FIEs in Hebei province and local authorities.
- **Zhejiang province:** The local COFCOM shall make its best endeavors to dynamically cope resumption of work with COVID-19 pandemic status, and strive for full resumption of work of FIEs and major foreign-funded projects by the end of February, with a work resumption rate of over 75%, except in high-risk areas. Further, the local COFCOM shall assist to solve the problem of labor shortage, make full use of the Internet, hold online job fairs, expand recruitment channels, coordinate and help FIEs to arrange their employees from other places to resume work by means of direct buses and chartered buses.

Moreover, the local COFCOM shall coordinate implementation of various policies to reduce costs and burdens, actively promote implementation of tax reductions, rent reductions, and social security tax reductions and defer payments for FIEs, and do their best to help FIEs tide over difficulties. The local COFCOM is also required to simplify procedures for confirming resumption of production, adopt a list of epidemic prevention and control measures, implement management



of “*record-filing system + negative list + commitment system*”, provide convenient services for resumption of production of FIEs and foreign invested projects, and refrain from restricting resumption of production by means of examination and approval.

Meanwhile, the local COFCOM will establish a green channel for approval of foreign-invested projects, speed up tax-free application process for equipment imported from foreign-funded projects, improve business environment for foreign investment, and deepen reform to encourage foreign investment by “*onsite visiting at most once*”. The local COFCOM shall promote service innovation for foreign-funded projects, and shall ensure a “*maximum time of 80 days*” from foreign project code assignment to completion of inspection and obtaining of approval, and further improve the facilitation of foreign investment.

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