

New Preferential Policies from the Chinese Government on Foreign-Invested Enterprises to mitigate the impact of the COVID-19 Pneumonia (Source: CMS)

The novel coronavirus epidemic (“**COVID-19**”) affects all parts of the economy, including the operation and investment activities of foreign-invested enterprises (“**FIE**”) in China. In such context, the Chinese government has issued a series of preferential policies in order to help businesses to better cope with potential difficulties. The following is a summary of the key preferential policies that companies may be interested in and should pay attention to.

1. Governmental support in improving services for FIEs and attracting foreign investment

On 10 February 2020, the General Office of the Ministry of Commerce of the People’s Republic of China (“**MOFCOM**”) promulgated the *Circular on Improving Services for Foreign-invested Enterprises and Strengthening the Attraction of Investment to Actively Respond to the Novel Coronavirus Pneumonia* (“**Circular**”), for the purpose of assisting and supporting FIEs in virus control and resumption of work and attracting foreign investment.

Local governments, such as the People’s Government of Shanghai Municipality (“**Shanghai Government**”), on 8 February 2020 have also issued various sets of measures to assist companies through the COVID-19 pneumonia (“**Shanghai 28 Measures**”). These measures took effect on the same day and apply to both domestic enterprises and FIEs.

a) Actively Assisting FIEs in Resumption of Business with Targeted Assistance Suiting the FIEs’ Conditions to Be Adopted

- (1) The *Circular* first calls for efforts from the Chinese governments at all levels to support FIEs in resuming normal production and operation in an orderly manner. The FIEs engaged in production of medical protective clothing, respirators, goggles and other protective supplies (“**Key Supplies**”), especially, shall arrange to resume production and to reach full capacity as soon as possible, under unified arrangements for urgent circumstances.
- (2) For all FIEs, the *Circular* confirms that the Chinese governments at all levels will assist the FIEs to purchase necessary protective supplies, and in implementation of internal prevention and control measures in response to the COVID-19 pneumonia. With the use of the reporting system in regard to foreign investment, the Market Supervision Administration (“**MSA**”) at both the national level and the local levels shall strengthen the coordination, and shall better analyse, early warn and grasp in a timely manner the impacts of the COVID-19 pneumonia on FIEs. The MSAs are required to make full use of informatization methods as well as strengthen the communication mechanism between the MSAs and the associations of FIEs and foreign chambers of commerce. More precise policies suiting the specific conditions of each and every FIE will be categorized and implemented later on the basis of such information.
- (3) Local governments, for example the Shanghai Government, have made arrangements to repair the affected companies’ social credit. In accordance with the *Shanghai 28 Measures*, for companies participating in anti-epidemic work, their delay in delivery of goods, delay in repayment of loans and delay in implementation of contracts will not be reported to and recorded in the social credit system. The same also applies for delay in payment of employees’ social insurance contributions should such affected social insurance be duly paid within 3 months after the epidemic is over.

b) Continuously improving the business environment with financial assistance increased for normal operation

- (1) The *Circular* re-emphasizes the full implementation of the *Foreign Investment Law*, its implementing measures and other policies such as the *Opinions of the State Council on Further Improving the Use of Foreign Capital*, in order to create a more stable, fair, transparent and predictable investment environment. Under the principle of fair treatment, the Chinese government will sort out all the recent policies on stabilizing the businesses of FIEs, on ensuring the work of employees of FIEs and on guiding the FIEs in making full use of all kinds of financial assistance policies in finance, taxation, social security, employment and governmental procurement.
- (2) Local policies, for example the *Shanghai 28 Measures*, have confirmed the possibility of providing low-cost finance assistances to affected enterprises including FIEs with the interest rate reduced to at least 25 basis points below the prime rate. Shanghai's guaranteed loans in policy finance will increase by at least RMB 3 billion in 2020 while the fees for new applications lodged by qualified micro, small and medium-sized enterprises shall be cut to 0.5% yearly.
- (3) The *Shanghai 28 Measures*, at the same time, provide that the rent of premises for operation purpose shall be adjusted if such premises are owned by State-owned enterprises and are leased by small and medium-sized enterprises. These qualified small and medium-sized enterprises will be exempted from paying their rent in February 2020 and March 2020.

c) Various measures on stabilizing employment

- (1) The *Circular* requests that the competent governmental departments shall coordinate the resolution of difficulties of the FIEs in resuming production, for example, promotion of the effective connection between labour demand and labour supply by the use of online platforms, and resolution of the FIEs' difficulties by properly dealing with the complaints lodged by the FIEs.
- (2) As we have already mentioned in our earlier newsletter dated 12 February 2020, "**Coronavirus Outbreak: Follow-up updated policies on companies' HR management**" and our newsletter dated 7 February 2020 "**Coronavirus Outbreak: What can companies do in HR management during the epidemic period?**", the Chinese governments at all levels issued some policies to support the stabilization of employment.
- (3) Following these policies, local governments such as the Shanghai Government has also mentioned in the *Shanghai 28 Measures* the followings:
 - Companies in Shanghai including FIEs are encouraged to arrange the working time of their employees flexibly.
 - If a company meets certain requirements such as no lay-off of its employees or its lay-off rate is low enough, such company can receive subsidies from the Shanghai Government, amounting to 50% of the unemployment insurance premium paid by the company and its employees in the past year.
 - Affected companies in Shanghai providing online occupational trainings for employees during the periods of stop of work can enjoy training subsidies in the amount of 95% of the actually incurred training fees.
 - The failure of a company to duly handle its employees' social insurance registration and contribution matters due to the COVID-19 pneumonia can be made up within 3 months after the epidemic is over.
 - For the year of 2020, the employees' medical insurance rate paid by the employers in Shanghai shall be lowered by 0.5 percent.

d) Strengthening service for major foreign investment projects, and innovating and optimizing the means of attracting and introducing investments

- (1) The *Circular* further asks the Chinese governments at all levels to keep tracking the process of ongoing major foreign investment projects and to promote the signing and implementation of such projects as quickly as possible. To minimise the impact of the COVID-19 pneumonia, the relevant governmental departments will strengthen its service for major investment projects by strengthening communication, optimising online governmental services, establishing fast channels of governmental services, increasing protection of foreign investors in terms of use of land, labour and use of utilities, etc. and by resolving the major difficulties in such project in a timely manner. These relevant governmental departments, as required by the *Circular*, shall also compile and publish guidelines, project information and relevant data information of foreign investment to provide foreign investors with more services and conveniences.
- (2) The MOFCOM, has also mentioned in the *Circular* that the Chinese government will attract and introduce foreign investment by leveraging the advantages of online platforms. Through various means such as online negotiations, video conferences and online signing, the competent governmental departments are encouraged to improve their reserved project databases for early-stage communication with foreign investors, and to innovate and optimize the means of attracting and introducing investment.

2. Financial and tax support

The Ministry of Finance (“**MOF**”) and the State Administration of Taxation (“**SAT**”), together with the General Administration of Customs (“**GAC**”) in certain cases, have recently and jointly released the following key announcements which provide various preferential tax treatments to reduce the impact of the coronavirus situation:

- *MOF, GAC and SAT Announcement [2020] No. 6*
- *MOF and SAT Announcement [2020] No. 8*
- *MOF and SAT Announcement [2020] No. 9*
- *MOF and SAT Announcement [2020] No. 10*
- *SAT Announcement [2020] No. 4*

The main contents are listed below.

a) Import tax exemption for donated supplies

- (1) Foreign-donated supplies which are used to prevent and control the COVID-19 pneumonia can be exempt from import taxes, including import duty, import VAT and import Consumption Tax, during the period from 1 January 2020 to 31 March 2020.
- The scope of qualified supplies includes not only those listed in the *Provisional Measures of Import Tax Exemption of Charitable Donations* (“**Provisional Measures**”) but also such additional supplies as reagents, disinfection stuff, protective supplies, ambulances, COVID-19 prevention vehicles, disinfection vehicles and emergency coordination vehicles.
 - The scope of qualified donors includes not only those listed in the *Provisional Measures* but also such additional donors as domestic government bodies, enterprises, social organizations, individuals as well as foreign nationals travelling to or residing in China who / which donate the supplies from abroad or special customs-supervised zones and those domestic enterprises conducting processing trade business.

- The scope of beneficiaries includes not only those listed in the *Provisional Measures* but also provincial-level administrations of civil affairs and their designated entities. Unknown beneficiaries are also qualified beneficiaries.

(2) The import tax exemption also applies to the supplies directly imported, regardless whether received by donation or purchased, by the administrations of hygiene and health for preventing and controlling the COVID-19.

(3) Import taxes can be refunded if the taxes have already been paid for importing the qualified supplies.

b) Policies in respect of key protective supplies

(1) If enterprises producing key protective supplies for COVID-19 prevention and control purposes ("**Key Supplies**") acquire new equipment in order to enhance the production capacity, the cost of the equipment can be deducted against the enterprises' taxable incomes in a one-off manner (without depreciation during the use life) for PRC Corporate Income Tax ("**CIT**") purposes. The name lists of manufacturers of Key Supplies are determined by the provincial administrations under the National Development and Reform Commission ("**NDRC**") and the Ministry of Industry and Information Technology ("**MIIT**").

(2) The manufacturers of Key Supplies can apply for full refund of incremental uncredited input VAT on a monthly basis. The "incremental uncredited input VAT" refers to the uncredited input VAT balance exceeding the balance as at the end of December 2019.

(3) Revenues obtained by the taxpayers for transporting Key Supplies are exempt from VAT.

(4) The policies under this Section b) took effect retroactively from 1 January 2020. The ending date of enforcement is yet to be announced.

c) Policies supporting the adversely affected industries

(1) The enterprises of those industries severely affected by the COVID-19 are allowed to carry the tax loss of 2020 forward to the following 8 years, compared with 5 years under the CIT Law, for credit against the taxable incomes for CIT purposes. The industries severely affected by the COVID-19 include transportation, food serving, catering and tourism. The main business revenue of the qualified enterprises of these industries should account for more than 50% of their total revenue of 2020.

(2) Revenues obtained by the taxpayers from providing public transportation services, lifestyle services and courier services delivering the life necessities are exempt from VAT.

(3) The policies under this Section c) took effect retroactively from 1 January 2020. The ending date of enforcement is yet to be announced. The VAT payers can self-declare VAT exemption in the filing returns directly without going through special recordal procedures.

d) Policies on donations for preventing and controlling the COVID-19

(1) Cost of donating cash and supplies through social welfare organizations, governments of county level or above and other government bodies for preventing and controlling the COVID-19 can be fully deducted from the taxable incomes for CIT or Individual Income Tax ("**IIT**") purposes.

(2) Cost of directly donating supplies to the hospitals which prevent and treat the COVID-19 can be fully deducted from the taxable incomes for CIT or IIT purposes. Acceptance letters issued by the hospitals should be obtained as tax deduction vouchers.

(3) Donation of self-produced products or products from consignment processing or the goods bought from suppliers for preventing and controlling the COVID-19 through social welfare organizations, governments of county level or above and other government bodies, or direct donation of the products and goods above to the hospitals which prevent and treat the Epidemic, is exempt from VAT, Consumption Tax and the associated surcharge taxes.

(4) The policies under this Section d) took effect retroactively from 1 January 2020. The ending date of enforcement is yet to be announced. The taxpayers can self-declare VAT and Consumption Tax exemption in the filing returns directly without going through special recordal procedures.

e) Relevant IIT policies

(1) Temporary working allowances and bonuses obtained by medical workers participating in COVID-19 prevention and control and anti-epidemic workers in accordance with the criteria stipulated by the governments are exempt from IIT.

(2) Medicines, healthcare supplies and protection supplies offered by the employers to the individuals for prevention of the COVID-19 are exempt from IIT.

(3) The policies under this Section e) took effect retroactively from 1 January 2020. The ending date of enforcement is yet to be announced.

3. Customs clearance support and import tax reduction policies

a) Customs clearance support

The GAC has released *GAC Announcement [2020] No. 17*. According to this announcement, the Customs offices shall set up quick passes to accept the import clearance of donated goods such as medicines, disinfection supplies, prevention and protection supplies, treatment device. In urgent cases, the goods can be released first and the customs clearance formalities can be fulfilled later. Especially for importing donated goods under the *Provisional Measures*, in urgent cases, the goods can be released first and the formalities for import tax reduction or exemption can be fulfilled later.

b) Import tax reduction for specific goods in relation to the Sino-US trade war

The Tariff Commission of the State Council has issued the notice *Shui Wei Hui [2020] No. 6*, under which those goods originated from the USA and imported according to the import tax exemption requirements under *MOF, GAC and SAT Announcement [2020] No. 6* are not subject to the incremental import taxes which are additionally levied due to the Sino-US trade war. The incremental import taxes which have already been levied can be refunded. Referring to the enforcement period of *MOF, GAC and SAT Announcement [2020] No. 6*, the above policy of exemption of the incremental import taxes takes effect during the period from 1 January 2020 to 31 March 2020.

4. Streamlined tax administration

The tax filing deadline in February 2020 has been postponed from mid-February to 24 February 2020 due to the COVID-19. In some epidemic-ridden regions such as Hubei Province, the filing deadline is even postponed to March 2020. During the period of prevention and control of the COVID-19, it is suggested by the SAT that online and remote tax service channels should be offered to the taxpayers. If onsite services are necessary, the physical visits to the tax authorities should be subject to advanced appointments and be made in a dispersed manner.

During the period of prevention and control of the COVID-19, taxpayers applying for export tax

refund through online systems can get the recordal feedbacks or certificates from online systems directly after the tax authorities review the electronic data. The written certificates shall be sent by the tax authorities via post if the written certificates are required by the taxpayers. Onsite services are offered by the tax authorities only based on advanced appointments and accepted by the tax authorities in a dispersed manner.