



CHINA LEGAL BRIEFING 44

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1. *National*

State Council Decision on Export Tax Rebate

On 13 October 2003, State Council released Decision Reforming Existent Export Tax Rebate Regime (“关于改革现行出口退税机制的决定”). This decision reforms the existent export tax rebate regime from five aspects. First, the rebate rate will be lowered for most products, to which five categories of rate, namely 17%, 13%, 11%, 8%, 5%, will be applied respectively. However, the industries for which exportation is encouraged will not be affected. Second, central government will extend more support for export tax rebate by using the surplus of import VAT and income tax. Third, the expenditure for export tax rebate will be shared by central and local governments on the ratio of 75% : 25%. Fourth, foreign trade administration will be further reformed by encouraging production enterprises to make exportation on their own right and developing foreign trade agency business. Fifth, the overdue export tax rebate will be compensated by central government. (www.xinhuanet.com)

Policy Paper on EU

On 13 October 2003, China released its Policy Paper on European Union (“中国对欧盟政策文件”), setting out its policies towards European Union in the following five years. As far as finance is concerned, China acknowl-

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ges its commitment under WTO agreements and will examine in a positive manner the applications from EU insurance companies for starting business in China. Moreover, China will encourage more EU securities companies, fund management institutions and institutional investors to conduct business in China by consummating rules relevant to securities, enhancing market supervision and developing investment cooperation.

(www.fmprc.gov.cn)

PBC Regulation on Bureau De Change

On 8 October 2003, People's Bank of China released Provisional Rules on Bureau of Change ("外币代兑机构管理暂行办法"), which will take effect as of November 1. According to this regulation, bureau de change refers to an enterprise legal person, authorized by domestic banks which have the capacity of conducting foreign exchange business including converting, sale and purchase, to engage in change of foreign currencies. The business scope of the said bureau de change will be limited to changing cash and traveler's check of convertible currencies to RMB for individuals. (www.safe.gov.cn)

MII to Enact Anti-Monopoly Rules

Mr. LOU Qinjian, Vice Minister of Ministry of Information Industry indicated at the 5th Fair for High and Innovative Technology that his ministry would enact rules against prospective monopoly brought about by the wave of merger and acquisition of Chinese information enterprises following the accession to WTO. He also pointed out that the blueprinted rules would be equally applied to Chinese enterprises in this industry which seek overseas take-over. (www.law-star.com)

CSRC Consultation Paper on Recommendation

Recently, China Securities Regulatory Commission circulated draft Provisional Rules on Recommendation System for Public Offering of Securities ("证券发行上市保荐制度暂行办法") for comments. According to the draft rules, recommendation must be conducted by institutions and individuals who have registered at CSRC to do so. Institutions seeking registration for recommendation business shall have the qualification of leading underwriter. The recommenders shall exercise due diligence investigating initiators, big shareholders and actual controllers. They shall continually urge the issuers to implement their obligations of sound management, disclosure, etc. For initial public offering, the responsibilities of recommenders will last for the remainder of the year of offering and the following two years. For new public offering and convertible bond, their responsibilities will last for the remainder of the year of offering and the next year. (www.csrc.gov.cn)

CBRC Consultation Paper on Financial Derivatives

Recently, China Banking Regulatory Commission released its draft Provisional Measures on Administration of Derivatives Business of Financial Institutions (“金融机构衍生产品交易业务管理暂行办法”) for comments. According to the draft rules, CBRC will be the supervisory body for derivative business. Financial institutions may not conduct such business unless and until they have obtained approval from CBRC. The businesses covered by this rules include forward, futures, swap, options and other transactions having the nature of derivatives. The trading of foreign exchanges other than spot exchange will be treated as derivative business and subject to this regulation. (www.cnlawservice.com)

2. *Local*

Beijing Municipality Regulation on Real Estate Transfer

On 25 September 2003, Beijing municipal government promulgated Provisions on Administration of Real Estate Transfer (“北京市城市房地产转让管理办法”), which will take effect as of December 1. According to this regulation, in case of advance sale of commercial housing, the price of residence units shall be decided on inner acreage; for office buildings and units for business purposes, their prices may be calculated on the basis of construction acreage, inner acreage or unit. Moreover, persons not holding permanent residence permit will not be required to undergo approval procedure in purchasing commodity premises. To protect consumers from misrepresentation, the regulation makes it mandatory to disclose the communal acreage. Furthermore, the constructor may not change pre-determined project plan unless it has reached an agreement with the affected purchasers and got approval from competent authorities. To simplify transaction, the sale contract will be no longer subject to registration at the real estate exchange. (www.law-lib.com)

Guang zhou Decision on Market Access

On 1 August 2003, Guangzhou Municipal Government released Decision on Further Removing Restrictions on Market Access to Accelerate Economic Development

(“关于进一步放宽市场准入条件加快经济发展若干规定”). According to this decision, registered capital may be declaratory for a period of three years by allowing enterprises whose registered capital is under RMB 500,000 to make contribution in installments. The initial contribution shall be no less than 15% and RMB 30,000. Furthermore, the percentage of contribution in the form of intellectual property rights and know-how may be up to 60% of total registered capital. In the case of high technology accredited by administrations of technology above city level, its percentage in total registered capital is unlimited. (www.law-lib.com)

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