



CHINA LEGAL BRIEFING 117

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1. National

Circular on Strengthening Administration on Value-added Tax of Waste Materials

关于加强废旧物资增值税管理有关问题的通知

【Issued by】 State Administration of Taxation

【Subject】 Tax

【Promulgated on】 May 27, 2005

【Source】 <http://www.chinatax.gov.cn/>

The State Administration of Taxation issued this Circular on May 27, 2005 for the purposes of strengthening administration on value-added tax of waste materials.

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- COMPETITION LAW AND INTELLECTUAL PROPERTY LAW
- TAX

There are eleven Articles in total in this Circular. It specifies that all tax authorities in different levels should strictly follow the exemption clauses of State Administration of Taxation "Circular No.60, 2004 on Strengthening Administration on Imposing Value-added Tax of Waste Materials on Waste Materials Collection Units and Waste Materials Using Enterprises" to examine and approve the exemption qualifications of waste materials collection units (hereinafter referred to as "collection units"). Both the general organs and the branches of independent business accounting set up by collection units will be examined and approved respectively. Branches of dependent business accounting in alien lands will be examined and approved by the local tax authorities. Those without examination and approval by tax authorities will not be free of value-added tax.

Collection units need to submit applications together with materials of "(1). Business license of industry and commerce; (2). License of bank of deposit; (3). Certificate for land use of place of business and storage, house property certificate or contract for lease (copy); (4). I.D cards (copy) of corporate representatives and financial auditors."

The Circular also provides that tax authorities should examine and approve after accepting applications, and add signs of exemption to the qualified collection units. Besides, Collection units are required by the Circular to establish complete auditing system, setting up auditing subjects in accordance with relevant regulation. In case operating business of other dutiable commodities, collection units need to audit the dutiable and duty-free commodities respectively and correctly, otherwise they cannot be free of value-added tax. In addition, collection units need to audit respectively according to catalogs of the waste materials, set detail accounts to record the purchasing, sale and storage of the waste materials, and enclose bills of ponderation, bills of check and accept, payment certification as well as freightage certifications on the certification of purchasing and sales.

Circular on Releasing "Provisional Administrative Regulation for Listed Companies to Buy Back Public Shares"

关于发布《上市公司回购社会公众股份管理办法（试行）》的通知

【 Issued by 】 China Securities Regulatory Commission

【 Subject 】 Securities

【 Promulgated on 】 June 16, 2005

【 Effective from 】 June 16, 2005

【 Source 】 <http://www.csrc.gov.cn/>

With a view to standardizing the activities for listed companies to buy back public shares, the CSRC issued this Circular in which the "Provisional Administrative Regulation for Listed Companies to Buy Back Public Shares" (hereinafter referred to as "Regulation") was promulgated and become effective as soon as the Circular was released.

According to the Regulation, China's listed companies are now allowed to buy back their own shares for the first time. The Regulation specifies that when buying back its public shares the listed company should appoint independent financial consultants and law firms to give advices on the buyback of public shares, and these independent financial consultants and law firms shall conduct thorough investigations and present authentic, accurate and complete due diligences on the buyback concerned. The activities of buyback shall also not damage any lawful rights of shareholders or other creditors.

One of the most important parts of this Regulation concerns the basic conditions for the listed companies to buy back their public shares. Article 8 of the Regulation provides that in order to buy back its public shares the listed company shall fulfill the requirements as follows:

- The listed company's stock has been listed for more than one year;
- The listed company has not committed serious illegal activities within the recent one year;
- After the buyback, the listed company shall still be able to continuously do business;
- After the buyback, the distribution of shares of the listed company shall in principle fulfill the requirements of listed company;
- Other regulations from CSRC shall also be complied.

The issuance of the Regulation is seen as China's strongest move so far to boost a market lingering around its lowest levels in eight years. Share prices of many Chinese companies have fallen below their net asset value after a four-year slump. Analysts say that allowing listed companies to buy back their shares will help lift the depressed markets.

People's Bank of China Announcement No. 13 (2005)

中国人民银行公告〔2005〕第13号

【Issued By】 People's Bank of China

【Subject】 Bonds Market

【Promulgated on】 June 13, 2005

【Source】 <http://www.pbc.gov.cn/>

China's central bank announced this Circular on June 13, 2005 that non-financial institutions will now be able to trade bonds in the nation's inter-bank bond market. The loosening is the latest in a series of moves by the authorities to accelerate the development of the bond market, which is expected to play a bigger role in funding economic growth and reduce the economy's over-reliance on the banking system.

In this circular, non-financial institutional investors are allowed to trade bonds with inter-bank bond market participants that have a liquidity provider status and can broker in settlement. The non-financial institutional investors can also enter into reverse bond repurchase agreements with existing participants, which will enable them to provide short-term funding to other investors.

Under this Circular, non-financial institutional investors can trade in the market on their own. In contrast, they were not permitted to do so in the past. This is regarded as very important for the construction of the market.

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