



CHINA LEGAL BRIEFING 120

W E N G E R & V I E L I B E I J I N G O F F I C E

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1. National

Announcement No. 45, 2005 on Commodities List under Provisional Administration of Textiles Export

关于公布《纺织品出口临时管理商品目录》的公告2005年第45号

【Issued By】 Ministry of Commerce, General Administration of Customs, State Bureau of Quality and Technical Supervision

【Subject】 Export

【Promulgated on】 July 4, 2005

【Source】 <http://www.mofcom.gov.cn/>

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- COMPETITION LAW AND INTELLECTUAL PROPERTY LAW
- TAX

The Ministry of Commerce announced this Commodities List under "Provisional Administration of Textiles Export" on July 4, 2005 in accordance with item No. 8 of "Provisional Administrative Measures on Textiles Export" and "Sino-Europe Memorandum of Understanding on a Part of Chinese Textiles and Costumes to Europe".

According to the Announcement, the following 10 categories of commodities exported to Europe are under the provisional administration of textiles export:

Category 2: tatting cotton cloth, excluding etamine, loop, pile nap, tulle and other cotton cloths of woven mesh fabric;

Category 4: knitted or crochet hook knitted shirt, T-shirt, light knitted neckline or turnup collar garment and slipover (excluding those of wool and fine furs of animals), underwear and similar product;

Category 5: knitted or crochet hook knitted sport shirt, garment, sleeveless jacket, twinset, wraparound shirt, heavy jackets with jellaba, windcheater and other similar clothes;

Category 6: wool, cotton and synthetic fiber male and boy woven breeches, pants (excluding bathing trunks) and trousers (including casual trousers); female and girl woven trousers and casual trousers; cotton and chemical fiber track - and – field suit not included in category 16 and category 29;

Category 7: knitted, crochet hook knitted and woven wool, cotton and synthetic fiber female and girl blouses, underwear or shirt;

Category 20: non-knitted or crochet hook knitted bedsheet;

Category 26: wool, cotton and synthetic fiber female and girl one-piece dress;

Category 31: knitted, woven or crochet hook knitted circumference;

Category 39: non-knitted and non- crochet hook knitted tablecloth, bath towel and kitchen towel, excluding cotton loop or similar fabric;

Category 115: flax or ramie yarn.

Circular on Administrative Matters of Exemption of Business Tax for Foreign Enterprises and Individuals' Profits Arising from Transfer of Technology into PRC after the Cancellation of Administrative Approval

关于取消税务行政审批后外国企业及外籍个人向中国境内转让技术取得收入免征营业税管理问题的通知

【Issued by】 State Administration of Taxation

【Subject】 Tax

【Promulgated on】 June 23, 2005

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

The State Administration of Taxation released the Circular on June 23, 2005. The Circular provides that regarding the post-administration of exemption of business tax for foreign enterprises and individuals' profits arising from transfer of technology into PRC after the cancellation of administrative approval, Article 18 of the "Notice of the State Administration of Taxation concerning the Follow-up Administration Issues after Canceling and Delegating Some Taxation Administrative Approval Items on Foreign-funded Enterprises, Foreign Enterprises and Foreign Individuals" (hereinafter referred to as "Notice") specifies that "This Notice shall enter into force on July 1, 2004. The unapproved matters occurred prior to the implementation of this Notice shall still be governed by the previous provisions."

To facilitate local administrations of the related matters, the Circular concerned provides additional provisions as follows:

Prior to the execution of the Notice, if the issue has not been *ex officio* approved yet, then it shall only be subject to Article 12 of the Notice and not have to be duly approved. If the business tax has already been paid, then the foreign enterprises or individuals shall present the permission of technology transfer duly approved by the competent authority and the technology transfer contract to the relevant tax authority where they handle the tax return matters in accordance with the "Circular on Tax Issues Related to the Implementation of the Decision of the CPC Central Committee and State Council on Strengthening Technical Innovation".

Circular on Issues Concerning Further Improving the Review Procedures for Capital-raising Application for Establishment of Securities Investment Funds

关于进一步完善证券投资基金募集申请审核程序有关问题的通知

【 Issued by 】 China Securities Regulatory Commission

【 Subject 】 Securities

【 Promulgated on 】 June 16, 2005

【 Effective from 】 June 16, 2005

【 Source 】 <http://www.csrc.gov.cn/>

Pursuant to the "Securities Investment Fund Law of the PRC", "Administrative Measures on Operation of Securities Investment Funds", "Provisional Administrative Measures on the Advisory Committee of Securities Investment Funds (No. 13 [2003] CSRC)" and "Provisional Regulations on the Implementation Procedures for Administrative Permit of the China Securities Regulatory Commission" (hereinafter referred to as the "Procedure Regulations"), the CSRC promulgates this Circular on June 16, 2005 with a view to further improving the review procedures, enhancing the review efficiency and quality, and boosting the healthy and standardized development of the fund market.

According to this Circular, upon accepting a capital-raising application for fund establishment (hereinafter referred to as "capital-raising application"), the China Securities Regulatory Commission (CSRC) will determine, according to the situation, whether or not to organize an expert committee to review the application. As to the capital-raising application submitted to the expert committee, experts shall focus on such factors of the proposed fund as investment management, risk control and so on and independently issue the review opinions, which shall serve as reference for the CSRC.

Article 4 of the Circular also provides that in case a capital-raising application is found with problems such as unrefined design, ill-defined operational conceptions and non-complete risk control system, the CSRC may order the filing fund management to make substantial revisions in accordance with the Article 24 and Article 25 of the Procedure Regulations. If such application has been reviewed by the expert committee, a second review might be required based on the particulars of the foregoing revisions.

Besides, the Circular also states that in the event that the capital-raising application revised is submitted to the expert committee for a second review but found with the same problems as stated above, the CSRC will not grant approval for such application and adopt corresponding regulatory measures according to the situation.

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