

Seahonor Express

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Legal

Notice on Comprehensively Promoting the Regular Issuance for Real Estate Investment Trusts (REITs) Projects in the Infrastructure Sector

Issued by: National Development and Reform Commission
Issue No.: Fagaitouzi [2024] No.1014
Effective Date: August 1, 2024
Links: https://www.gov.cn/zhengce/zhengceku/202407/content_6964667.htm

The new regulation transitions infrastructure REITs from the previous 'pilot issuance' phase to the current 'regular issuance' phase, including the following principal changes:

- **Expand the REITs asset portfolio:** The range of eligible assets for REITs has been broadened to include new types such as senior care facilities, market-rate rental housing, and coal-fired power plants. The eligibility criteria for tourist attractions have been expanded to 4A levels. Additionally, those supporting facilities or integral to industrial parks, commercial infrastructure and other cultural and tourism sectors, including hotels, ground-floor shops have been added.
- **Emphasize the integrity of underlying assets:** Projects should, as a general rule, encompass all integral and essential components necessary for the functionality of the assets within the scope of the underlying assets. For infrastructure projects within parks, under exceptional circumstances, the percentage of assets excluded from the individual buildings should not exceed 30%, with an absolute maximum threshold set at 50%.
- **Eliminate prescriptive return requirements:** The new regulation has removed the previous mandatory stipulations that the internal rate of return (IRR) must be at least 5% annually throughout the fund's life and that the net cash flow distribution rate must be no less than 3.8%. Instead, the focus has been shifted to ensuring that there are no significant risk factors that could jeopardize the project's long-term stable operation. Furthermore, it is mandatory to fully disclose any substantial renovation, expansion, equipment upgrades, or other activities that may significantly affect the normal functioning of the project within a three-year period following the project's issuance.
- **Broaden flexibility in the allocation of recycled funds:** The new regulation has lifted restrictions on the allocation proportion of funds for new project investments and the acquisition of existing assets. Additionally, the proportion of net recycled funds that can be used to bolster the working capital of the initiators (original equity holders) has been increased from 10% to 15%.
- **Limit government subsidies:** The new regulation imposes limitations on the inclusion of government subsidies within the operational revenue of PPP projects: (1) When government subsidies are considered part of the project's income stream, they must be general industry subsidies, not special subsidies earmarked for specific projects. (2) The annual subsidy amount, as a proportion of the project's total annual revenue over the past three years, should not exceed 15% in principle.
- **Non-involvement in commercial residential properties:** Project initiators, including those involved in rental housing, consumer infrastructure, and senior care facilities, are prohibited from participating in the development of commercial residential properties.
- **Strengthen accountability among all parties:** The initiator (original equity holder) and the fund manager are hereby designated as the 'primary responsible parties' for the project. Disciplinary actions will be

taken against any project participants, intermediary agencies, consulting and evaluation firms, and other relevant entities that submit substandard projects.

Official Reply on Approving the Comprehensive Pilot Program of Further Opening up the Service Sector in Six Cities Including Shenyang

Issued by: State Council

Issue No.: Guohan [2024] No. 110

Effective Date: July 11, 2024

Links: https://www.gov.cn/zhengce/content/202407/content_6962582.htm

The State Council has granted approval to initiate a comprehensive pilot program aimed at expanding the service industry in Shenyang and five other cities, effective from July 11, 2024. This initiative involves a temporary adjustment to the enforcement of certain administrative regulations and departmental rules as detailed below:

| No. | Opened Field | Adjusted Implementation | Pilot Cities |
|-----|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|
| 1 | Non-profit Medical Institutions | Permitted to be jointly funded by a Chinese and a foreign entity. | Shenyang, Wuhan Guangzhou, Chengdu |
| 2 | Non-profit Senior Care Institutions | Permitted to be wholly funded by a foreign investor. | Hangzhou, Chengdu Guangzhou |
| 3 | Travel Agencies | Foreign-invested travel agencies are permitted to operate outbound tourism business (excluding travel to Taiwan) for residents of mainland China. | Shenyang, Nanjing Guangzhou, Chengdu |
| 4 | Value-added Telecommunications | Sino-foreign joint ventures (with foreign equity not exceeding 50%) are permitted to engage in domestic internet virtual private network (VPN) services. | Shenyang, Nanjing Hangzhou, Chengdu Guangzhou |
| | | Foreign-invested enterprises (without foreign shareholding restrictions) are permitted to engage in: 1) Information services (limited to APP stores, excluding prohibited fields); 2) Internet access services. | Shenyang, Nanjing Hangzhou, Chengdu Guangzhou |
| 5 | Social Surveys | Sino-foreign joint ventures (with Chinese shareholding not less than 67%) are permitted to engage in social survey business, and the legal representative must be a Chinese national. | Guangzhou |

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| 6 | Entertainment Industry | The approval authority for foreign investment in operations of entertainment/performance venues, commercial performances with/without foreign performance groups/individuals is delegated to the cultural authorities at the city level. | Nanjing, Hangzhou Wuhan, Chengdu Guangzhou |
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Work Plan on Further Improving the Public Credit Information Repair Mechanism

Issued by: General office of Shanghai Municipal People's Government

Issue No.: Hufuban [2024] No.1014

Effective Date: July 11, 2024

Links: https://www.gov.cn/zhengce/zhengceku/202407/content_6964667.htm

According to the 'Measures for the Administration of Credit Information Repair Following the Remediating of Non-Credit Behavior (Trial)' issued by the National Development and Reform Commission (NDRC) on January 13, 2023, the Shanghai Municipal Government has formulated a specific plan to enhance the mechanism for the repair of public credit information:

- The website of 'Credit China' will process applications for the rectification of administrative penalty information that has been made public on credit portals at all levels, with specific acceptance and reviewing procedures. For administrative penalty information issued by SAMR, the application for credit repair will be handled and reviewed in compliance with the pertinent regulations set forth by SAMR.
- For other dishonesty-related information (excluding administrative penalties) recorded on the public credit platform, the entity may access 'Government Online-Offline Shanghai' to submit applications for credit repair. The system will then allocate these applications to the responsible administrative units or their superior departments for acceptance, review, and provision of repair conclusions. By the end of September 2024, all municipal competent departments must refine the standards for public credit information repair within their respective sectors and ensure these standards are promptly disclosed through the 'Government Online-Offline Shanghai' platform.
- Repair conclusions will be shared with the National Enterprise Credit Information Public Disclosure System (Shanghai) and other department websites. Consequently, it will no longer be displayed in the corporate report of public credit information.

Tax

Announcement on the Enterprise Income Tax Policies for the Digital and Intelligent Transformation of Special Equipment for Energy and Water Conservation, Environmental Protection, and Work Safety

Issued by: Ministry of Finance, State Administration of Taxation

Issue No.: Announcement No.9 [2024] of the Ministry of Finance and State Taxation Administration

Release Date: July 12, 2024

Effective date: January 1, 2024

Links: <https://fgk.chinatax.gov.cn/zcfgk/c102416/c5232952/content.html>

- The investment in the digital and intelligent transformation of special equipment incurred by an enterprise during the period from January 1, 2024, to December 31, 2027, which does not exceed 50% of the original tax base when the special equipment is purchased, may be credited against the taxes payable by the enterprise in the current year at a rate of 10%. If the taxes payable by the enterprise in the current year are insufficient for the credit, the deficiency can be carried forward to subsequent years for a maximum period of five years.
- In this context, the definition of special equipment continues to follow the provisions of Caishui (2018) No.84 and Caishui (2017) No. 71. The transformation investment that enjoys the preferential treatment of this announcement refers to the expenditure incurred by the enterprise during the digital and intelligent transformation process of special equipment (including: data collection, data transmission and storage, data analysis, intelligent control, digital security and protection, etc.), which contribute to the formation of the such special equipment's original value.
- Enterprises that enjoy the tax incentives should actually use the transformed special equipment themselves. If an enterprise does not use the transformed special equipment for a full five years, it should stop enjoying the preferential treatment in the month when it ceases to use it and pay back the enterprise income tax that has been deducted.

Guidelines for Major Preferential Tax Policies for Mergers and Restructurings of Enterprises

Issued by: State Administration of Taxation

Release Date: July 24, 2024

Links: <https://fgk.chinatax.gov.cn/zcfgk/c100022/c5233103/content.html>

- This policy guide mainly includes two documents: the "Guidelines for Major Preferential Tax Policies for Mergers and Restructurings of Enterprises" ("Guidelines") and the "Compilation of Tax Policies and Tax Collection Documents Regarding Mergers and Restructurings of Enterprises in China."
- The Guidelines compile the major preferential tax policies according to the five major types of taxes involved in mergers and restructurings of enterprises, including enterprise income tax, value-added tax, deed tax, land value-added tax, and stamp duty.

Others

Several Measures concerning the Increased Support for Large-scale Equipment Upgrades and Trade-in of Consumer Goods

Issued by: Ministry of Finance, National Development and Reform Commission

Issue No.: Fagaihuanzi [2024] No. 1104

Issue Date: July 24, 2024

Links: https://www.ndrc.gov.cn/xwdt/tzgg/202407/t20240725_1391943.html

- Optimizing the support methods for equipment upgrade projects. The support scope is expanded to cover equipment updates in fields such as energy and power, old elevators, as well as energy-saving, carbon reduction, and safety renovations in key industries. At the same time, the threshold for applying for

ultra-long-term special national bonds funding is reduced, with the requirement that "the total investment in the project must not be less than 100 million yuan" being removed, thus supporting equipment updates for small and medium-sized enterprises.

- Supporting the scrapping and updating of old operational trucks. For the scrapping and subsequent purchase of eligible trucks, an average subsidy of CNY 80,000 per vehicle is provided. For cases where only an update and purchase of eligible trucks occur without scrapping, an average subsidy of CNY 35,000 per vehicle is provided. For cases where only the early scrapping of old operational diesel trucks occurs, an average subsidy of CNY 30,000 per vehicle is provided.
- Raising the standards for subsidies on the scrapping and updating of agricultural machinery. For the scrapping of tractors under 20 horsepower, the maximum single-unit scrapping subsidy has been increased from CNY 1,000 to CNY 1,500. For the scrapping of combine harvesters, seeders, and subsequent purchase of new equipment of the same kind, the scrapping subsidy standards have been raised by up to 50% above the current levels. For the scrapping and subsequent purchase of cotton pickers, the maximum single-unit scrapping subsidy has been increased from CNY 30,000 to CNY 60,000.
- Increasing the rate of fiscal interest subsidy for equipment upgrade loans. The rate of central government's interest subsidy for equipment upgrade loans has been increased from 1 percentage point to 1.5 percentage points. The duration of the interest subsidy is 2 years, with a total scale of CNY 20 billion.

Announcement on Implementing Policies and Measures for Facilitating the Travel of Permanent Residents of the HongKong Special Administrative Region and the Macao Special Administrative Region to Mainland China

Issued by: Exit and Entry Administration of P.R. China
Issue No.: No. 6 of 2024
Issue Date: July 1, 2024
Links: https://s.nia.gov.cn/mps/tztg/202407/t20240702_1802.html

- Starting from July 10, 2024, non-Chinese Hong Kong and Macao permanent residents may apply for the Mainland Travel Permit for Hong Kong and Macao Residents (Non-Chinese Citizens).
- Application documents should be submitted to China Travel Service (Holdings) Hong Kong Limited and China Travel Service (Macao) Ltd., which are authorized by the Exit and Entry Administration of P.R. China.
- This type of permit is valid for 5 years, during which the holder may travel to the mainland of China multiple times, with each stay not exceeding 90 days. The holders shall not work, study, or engage in news coverage activities in the mainland of China with the Permit.

Recent Hot Topics

- Since the issuance of Shanghai's "Huguihuaziyuanyong (2024) No.51", when can enterprises with industrial land successfully complete equity transfers?
- Before 2029, the urban maintenance and construction tax, education surcharge, and local education surcharge may be unified into one local surtax. What impact will this have on the enterprise?
- Since the implementation of the new "Company Law", many existing companies have decided to reduce their registered capital. How should foreign-invested enterprises reduce their registered capital? What difficulties may be encountered in practice?

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