

Seahonor Express

Issue 7 July 2024



Contents

Legal

Provisions on Implementing the Registration Administration System for Registered Capital Under the Company Law of the People's Republic of China	1
Several Provisions on the Retroactivity of the Company Law of the People's Republic of China	2
Regulation on Fair Competition Review	3

Tax

Announcement on the Continuation of the Implementation of the Differentiated Individual Income Tax Policies for the Dividends and Bonuses of Companies Quoted on the National Equities Exchange and Quotations (NEEQ)	3
---	---

Accounting

Accounting Law of the People's Republic of China (2024 Revision)	4
--	---

Customs

Notice of Conducting the Pilot Program of Relevant Tax Policies for Temporary Entry for Repair in the China (Shanghai) Pilot Free Trade Zone	5
--	---

Others

Notice of Implementing the Fiscal Interest Subsidy Policies for Equipment Renewal Loans	6
---	---

Recent Hot Topics

What will be the impact on business registration and operations when the Company Law comes into effect on July 1, 2024?	7
Is there any difference between the practical and theoretical approaches to the special tax treatment for equity transfer? How should enterprises apply for the special tax treatment?	7
With the new Accounting Law that comes into effect on July 1, 2024, what measures shall enterprises take to ensure accounting compliance?	7

Legal

Provisions on Implementing the Registration Administration System for Registered Capital Under the Company Law of the People's Republic of China

Issued by: State Council
Issue No.: Guoling No. 784
Effective Date: July 1, 2024
Links: https://www.gov.cn/zhengce/content/202407/content_6960376.htm

The Provisions effectively implement the requirements and regulate the administration on the registration of the registered capital under the new Company Law. The main contents are as follows:

1. A three-year grace period for existing companies

- A three-year grace period for the capital contribution is set for existing companies established before the implementation of the new Company Law, which will run from July 1, 2024 to June 30, 2027.
- For existing limited liability companies, if the remaining capital contribution period is less than five years from July 1, 2027, there is no need to adjust the capital contribution period. If the remaining capital contribution period exceeds five years from July 1, 2027, the remaining capital contribution period shall be adjusted to five years during the grace period, that is, the latest capital contribution period is June 30, 2032.
- The existing companies limited by shares should pay up the full number of shares subscribed for within the three-year transition period.

2. Obligations of public disclosure

- If the company adjusts the amount of capital contribution subscribed and paid in by shareholders, the method and period of capital contribution, or the number of shares subscribed by the promoters, it should, in accordance with the law, make a public disclosure and ensure that the information published is true, accurate and complete.

3. Special labeling and punishment

- For companies that fail to adjust the period of capital contribution and registered capital in accordance with the Provisions, the company registration authority should order them to make corrections. If they fail to make corrections within the deadline, the company registration authority should make a special notation and publicize it to the public.
- Failure to pay the amount of capital contribution or share amount in accordance with the Provisions, or failure of a company to publicize the relevant information in accordance with the law, should result in the company being fined by the company registration authority of a maximum of RMB 200,000 yuan, and a fine of a maximum of RMB 100,000 yuan should be imposed on the directly responsible personnel.

4. Refinement of mandatory deregistration provisions

- If the company fails to apply for deregistration within three years from the date on which the business license is revoked or the company is ordered to close down, the company registration authority may

publicize it through the National Enterprise Credit Information Publication System for a period of not less than 60 days.

- During the announcement period, if the relevant departments, creditors and other interest parties raise objections to the company registration authority, the deregistration procedure shall be terminated.
- If there are no objections after the expiration of the announcement period, the company registration authority may deregister the company and publicize it with a special label.

Several Provisions on the Retroactivity of the Company Law of the People's Republic of China

Issued by: Supreme People's Court of the People's Republic of China

Issue No.: Fashi No. 7 [2024]

Effective Date: July 1, 2024

Links: <https://www.court.gov.cn/fabu/xiangqing/436481.html>

The Provisions have solved the problem of connection and application of the old and new laws after the implementation of the Company Law. While adhering to the principle of non-retroactivity of the Law, the Provisions list the specific provisions for retroactive application according to the revision of the provisions of the Company Law, distinguishing between different situations such as substantive revisions, newly added provisions and specific detailed provisions. It mainly contains:

- General provisions and favorable retroactive rules on the temporal effect of the Company Law. For example, if a company distributes profits to its shareholders in violation of the provisions of the Law before the implementation of the Company Law, resulting in losses to the company, and a dispute arises over liability for damages, the Company Law shall apply. The shareholders shall return the profits distributed in violation of the provisions to the company, and shareholders, responsible directors, supervisors and senior management shall be liable for compensation.
- Favorable retroactive rules for the effectiveness of civil legal acts. For example, if a company makes a resolution to use capital reserves to make up for losses, and a dispute arises regarding the validity of the resolution, the new Company Law shall apply to recognize it as valid.
- Favorable retroactive rules for contract performance. For example, a contract for holding shares of a listed company on behalf of others should be deemed invalid.
- The new law supplements the blank applicable rules in the old law. For example, if a shareholder transfers an equity interest for which it has subscribed but before the expiration of the contribution period, the transferee shall assume the obligation to pay the contribution; if the transferee fails to pay the contribution in full by the due date, the transferor shall assume a supplementary liability for the transferee's failure to pay such contribution by the due date.
- Application of law in disputes over liquidation liabilities. If the legal fact for company liquidation occurred before the implementation of the Company Law, but the effective date of the Company Law has not yet reached 15 days, the Company Law shall apply. The directors assume the role of liquidation obligors of the company, and the timeframe within which they must fulfill their liquidation obligations shall be recalculated from the effective date of the Company Law.

Regulation on Fair Competition Review

Issued by: State Council of the People's Republic of China
Issue No.: Guoling No.783
Effective Date: August 1, 2024
Links: https://www.gov.cn/zhengce/content/202406/content_6957049.htm

Aiming at the prominent problems affecting fair competition in the market, such as local protection, regional blockades, industry barriers, as well as differential treatment of business operators in terms of market access, incentives and subsidies, the Regulation further refines the fair competition review system by listing four types of situations that must not be included in policies and measures. The situations are as follows:

- Market access and exit: there must not contain content that restricts or indirectly restricts market access and exit, such as setting up approval procedures, establishing or granting franchises, and restricting operations in violation of the law.
- Free flow of commodities and factors: there should not contain content that restricts the free flow of commodities and factors, such as restricting the entry of goods from out-of-town or imported goods into the local market, and excluding non-local operators from participating in local government procurement.
- Production and operation costs: without the basis of laws and administrative regulations or without the approval of the State Council, it shall not contain content that affects production and operation costs, such as granting tax concessions and financial incentives to specific business operators.
- Production and operation behavior: there should not contain content that affects production and operation behavior, such as forcing or indirectly forcing business operators to implement monopolistic behaviors, exceeding the legal authority to set government guidance prices, etc.

Tax

Announcement on the Continuation of the Implementation of the Differentiated Individual Income Tax Policies for the Dividends and Bonuses of Companies Quoted on the National Equities Exchange and Quotations (NEEQ)

Issued by: Ministry of Finance, State Administration of Taxation
Issue No.: Announcement No. 8 of 2024 of Ministry of Finance, State Administration of Taxation
Release Date: June 28, 2024
Effective date: July 1, 2024
Links: <https://fgk.chinatax.gov.cn/zcfgk/c102416/c5232671/content.html>

This announcement continues the implementation of the differentiated individual income tax (referred to as “IIT”) policies for dividends and bonuses of companies listed on the National Equities Exchange and Quotations (NEEQ). The main contents are as follows:

- Individuals holding shares of companies listed on NEEQ for more than one year are temporarily exempt from IIT on dividends. For individuals holding shares of companies listed on NEEQ for a period within one month (including one month), their dividend income is fully included in the taxable income; for those holding shares for more than one month up to one year (including one year), their income is temporarily reduced to 50% as the taxable income; the aforementioned income is uniformly taxed at the

IIT rate of 20%.

- When listed companies distribute dividends, individuals holding shares for one year or less (including one year) as of the record date and who have not yet transferred them, are temporarily exempted from IIT; When individuals transfer shares, China Securities Depository and Clearing Corporation Limited (“CSDC”) calculates the taxable amount based on their holding period. Stock custody institutions, such as securities firms, deduct money from individual cash accounts and then pay it to CSDC. CSDC is responsible for making the payment to the listed company within five working days of the following month. The listed company must declare and pay the tax to the competent tax authorities within the statutory reporting period of the month, and should handle the full deduction and declaration for all individuals.
- When an individual transfers shares, the holding period is calculated based on the first-in, first-out principle, which means that the shares acquired first in the securities account are considered to be transferred first.
- For the income from dividends and bonuses obtained by securities investment funds from the listed companies, IIT is levied in accordance with the provisions of this announcement.
- This announcement will be implemented from July 1, 2024, to December 31, 2027. For listed companies and delisted companies that distribute dividends and bonuses, if the date of record is from July 1, 2024, to December 31, 2027, the income from dividends and bonuses will be executed in accordance with the provisions of this announcement.

Accounting

Accounting Law of the People's Republic of China (2024 Revision)

Issued by: Standing Committee of the National People's Congress (NPC)
Issue No.: Decree of the President of the People's Republic of China No. 28
Release Date: June 28, 2024
Effective date: July 1, 2024
Links: http://www.npc.gov.cn/npc/c2/c30834/202406/t20240628_437897.html

The amendments, which are mainly based on the Accounting Law of the People's Republic of China (Revised 2017), further emphasize the importance of enterprises accounting compliance and increase the penalties for violations of the Accounting Law, and the main contents of the amendments are as follows:

- Added provisions on the construction of accounting informatization;
- Added the requirement to integrate the accounting supervision system into the enterprise's internal control system;
- Increased penalties for violations of the Accounting Law, including:
 - 1) For not setting up accounting books in accordance with the law, not filling out or obtaining original documents in accordance with the regulations or filling out or obtaining original documents that do not comply with the regulations, not using the accounting record language or functional currency of the accounts in accordance with the regulations, not keeping the accounting document in accordance with the regulations, resulting in the destruction or loss of the accounting document and other behaviors,

depending on the gravity of the circumstances, and the maximum fine that can be imposed on the unit is between RMB 200,000 and RMB 1,000,000, and the directly responsible managers and other directly responsible personnel may be fined a maximum of RMB 50,000 to RMB 500,000 ;

- 2) For the acts of counterfeiting or falsifying accounting vouchers and accounting books, preparing false financial reports, or concealing or intentionally destroying the accounting vouchers, accounting books and financial reports that should be kept in accordance with the law, and the unlawful gains are more than RMB 200,000, the unit may be concurrently fined between one and ten times the amount of the unlawful gains, and where there are no unlawful gains or the unlawful gains are less than RMB 200,000, a concurrent fine of between RMB 200,000 and RMB 2,000,000 may be imposed; The directly responsible managers and other directly responsible personnel may be fined up to between RMB 500,000 and RMB 2,000,000, depending on the severity of the circumstances;
 - 3) Any person who authorizes, instructs or forces an accounting institution, an accountant or any other person to forge or falsify accounting vouchers or accounting books, to prepare a false financial report, or to conceal or intentionally destroy accounting vouchers, accounting books or financial accounting reports that should be kept in accordance with the law shall, depending on the seriousness of the case, be liable to a fine of not less than RMB 1,000,000 and not more than RMB 5,000,000;
- Penalties for violations of the accounting law will be entered into the credit record in accordance with the relevant state regulations.

Customs

Notice of Conducting the Pilot Program of Relevant Tax Policies for Temporary Entry for Repair in the China (Shanghai) Pilot Free Trade Zone

Issued by: Ministry of Finance, Ministry of Ecology and Environment, Ministry of Commerce, General Administration of Customs, State Administration of Taxation

Issue No.: Caiguanshui No. 18 [2024]

Issue Date: June 27, 2024

Links: <https://fgk.chinatax.gov.cn/zcfgk/c102416/c5232712/content.html>

Based on the requirements of the Overall Plan for Comprehensively Aligning with International High-standard Economic and Trade Rules and Promoting High-level Institutional Opening up of China (Shanghai) Pilot Free Trade Zone (No. 23 [2023], State Council), this notice stipulates the relevant bonded policies for goods temporarily imported for repair by enterprises in the special customs supervision areas within the China (Shanghai) Free Trade Pilot Zone (including the Lingang Special Area). The main content is as follows:

- Goods temporarily allowed to enter the pilot area from abroad for repair are subject to bonded policies and exempt from tariffs, import VAT, and consumption tax upon re-export. However, if such goods are not re-exported but instead sold in domestic market, they must undergo import procedures as required, and tariffs, VAT, and consumption tax will be levied based on the actual inspected condition of the repaired goods according to law;
- The aforementioned policies are only applicable to the Yangshan Special Comprehensive Bonded Zone, Shanghai Pudong International Airport Comprehensive Bonded Zone, Shanghai Waigaoqiao Port

Comprehensive Bonded Zone, Shanghai Waigaoqiao Bonded Zone, and other special customs supervision areas within the China (Shanghai) Pilot Free Trade Zone (including the Lingang New Area) that have been approved by the State Council.

- The scope of goods for the aforementioned repair services includes: (1) goods listed in the catalog of repair products of comprehensive bonded zone established by the Ministry of Commerce, Ministry of Ecology and Environment, and the General Administration of Customs; (2) other goods allowed for bonded repair within the pilot area in accordance with relevant regulations.
- Enterprises within the pilot area applying for the aforementioned repair services should be approved by the management committee of the special customs supervision area where the enterprise is located, in conjunction with the departments of commerce, ecology and environment, and the competent customs. In addition, the list of pilot enterprises should be reported for record to the above Shanghai municipal government departments.

Others

Notice of Implementing the Fiscal Interest Subsidy Policies for Equipment Renewal Loans

Issued by: Ministry of Finance, National Development and Reform Commission, People's Bank of China, National Finance Regulatory Administration
Issue No.: Caijin No. 54 [2024]
Issue Date: June 21, 2024
Links: https://www.gov.cn/zhengce/zhengceku/202406/content_6959323.htm

In accordance with the requirements of the Action Plan for Promoting Large-scale Equipment Renewals and Consumer Goods Trade-ins (Guofa (2024) No. 7) issued by the State Council, relevant regulations have been made regarding the fiscal interest subsidy policies that business entities can enjoy for equipment renewal loans, the main contents are as follows:

- Scope of support: If the business entity implements equipment renewal actions in accordance with the requirements of document of Guofa (2024) No. 7, and is included in the list of alternative projects determined by the relevant departments, and the loans issued by the bank are supported by the People's Bank of China for refinancing related to equipment renewal, the central government will subsidize the interest rate on the bank loans of the business entities.
- Subsidized interest standard: If the loans granted by banks to business entities meet the conditions for reimbursement of refinancing, the central government shall subsidize the principal amount of bank loans to business entities by one percent. The interest subsidy shall be given in accordance with the date when the relevant loan funds are transferred to the supplier's account, and the period of interest subsidy will not exceed 2 years.
- Applicable period: During the period from March 7, 2024 to December 31, 2024, if the business entity signs a loan contract, equipment purchase or renovation service procurement contract, and the relevant loan funds are issued to the operating entity and transferred to the supplier's account, it can enjoy the subsidized interest policy. In conjunction with the utilization of the People's Bank of China's equipment renewal-related refinancing quota, the policy implementation period may be extended as per the situation.

Recent Hot Topics

- What will be the impact on business registration and operations when the Company Law comes into force on July 1, 2024? Shall enterprises amend their articles of association? What are the changes for business registrations?
- Is there any difference between the practical and theoretical approaches to the special tax treatment of equity transfer? How should enterprises explain its reasonable business purpose to the tax bureau?
- The new Accounting Law, which came into effect on July 1, 2024, has increased the penalties for failure to set up accounting books in accordance with the Law or accounting records that do not comply with the provisions (such as failing to use the accounting record language or the functional currency in accordance with the regulations, etc.), and the relevant penalties will be included in the credit record of the enterprise. In response, what measures need to be taken by the enterprise to ensure accounting compliance and avoid possible penalties?

If you are interested in the above topics, please feel free to contact us:

Jane Fan

Head of Legal Service Dept.

☎ 135-0177-7091

✉ fanrong@seahonor.com

Lucy Huang

Head of Accounting & Tax Service Dept

☎ 137-6193-2188

✉ huangyi@seahonor.com

Nikko Chen

Head of Japan Desk

☎ 186-2191-6721

✉ chenhong@seahonor.com

Cynthia Su

Tax Service Contact

☎ 138-1853-0811

✉ suxiaofang@seahonor.com

William Zhu

Audit Service Contact

☎ 139-1751-0923

✉ zhuwei@seahonor.com

Tiffany Tian

Accounting Service Contact

☎ 138-1609-0515

✉ tianfang@seahonor.com

Minnie Gu

HR Service Contact

☎ 139-1713-2663

✉ gumin@seahonor.com