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Regulations on Network Data Security Management

Issued by: State Council
Issue No.: Order of No. 790 State Council
Release Date: September 30, 2024
Effective date: January 1, 2025
Links: https://www.gov.cn/zhengce/zhengceku/202409/content_6977767.htm

The Regulation refines the principled norms and systems stipulated in the three fundamental laws in data protection: the Cybersecurity Law, the Data Security Law, and the Personal Information Protection Law. The main contents are as follows:

1. General compliance obligations of network data processors

- It is required to establish and improve network data security management systems and emergency response plans for security incidents.
- For network data processors using automated tools (such as web crawlers) to access and collect network data, new obligations have been added to assess the impact and process the special categories of personal information in compliance with regulations.
- For network data processors providing generative artificial intelligence services, a requirement has been raised to strengthen the security management of training data.

2. Provisions on personal information protection

- Network data processors shall regularly conduct audits to ensure compliance with personal information processing regulations, either internally or by entrusting a professional institution.
- Network data processors that process the personal information of more than 10 million individuals are required to comply with the compliance obligations of significant data processors.

3. Important data security system

- It is clarified that data which has not been identified or publicly catalogued as important data does not require a security assessment for cross-border transfer.
- It is required that the network data security officer for important data processors be a member of the management team.
- For important data processors, new requirements have been added including ex ante risk assessments, annual risk assessments and submission of the annual reports.

4. Provisions on cross-border security management of network data

- New provisions allow network data processors to transfer personal information overseas without undergoing a security assessment, standard contract filing, or personal information protection certification, provided that such transfer is essential for fulfilling statutory duties or legal obligations.

5. Obligations of network platform service providers

- The criteria for large-scale network platforms based on user volume have been clarified (i.e., having

more than 50 million registered users or more than 10 million monthly active users).

- It specifies the content requirements for the annual social responsibility report on personal information protection published by large-scale network platform service providers.

Special Administrative Measures for Foreign Investment Access (Negative List) (2024 edition)

Issued by: National Development and Reform Commission, Ministry of Commerce
Issue No.: Decree No. 23 of National Development and Reform Commission and the Ministry of Commerce
Release Date: September 6, 2024
Effective Date: November 1, 2024
Links: https://www.gov.cn/zhengce/202409/content_6973047.htm

In the 2024 edition of the Negative List, the number of restrictive measures has been reduced from 31 to 29, with restrictions on investment access in the manufacturing sector have been eliminated. The two deleted items are as follows:

- The printing of the publication shall be controlled by the Chinese party;
- It is prohibited to invest in the application of steaming, stir-frying, broiling, calcining and other processing technologies of prepared pieces of traditional Chinese medicine or the production of confidential prescription products of proprietary Chinese medicine.

Notice on the Pilot Work of Expanding Openness in the Medical Sector

Issued by: Ministry of Commerce, National Health Commission, National Medical Products Administration
Issue No.: Shangzihan [2024] No. 568
Release Date: September 7, 2024
Links: https://www.gov.cn/zhengce/zhengceku/202409/content_6973072.htm

The content of the Notice are as follows:

- Foreign-invested enterprises are allowed to engage in technology development and technology application in human stem cell, gene diagnostic and therapeutic for product registration for marketing and production in four FTZs/FTPs (Beijing, Shanghai, Guangzhou and Hainan);
- It is proposed to allow the establishment of wholly foreign-owned hospitals (except for Chinese medicine, and excluding mergers and acquisitions of public hospitals) in Beijing, Tianjin, Shanghai, Nanjing, Suzhou, Fuzhou, Guangzhou, Shenzhen and Hainan Island. Specific conditions, requirements and procedures for the establishment of wholly foreign-owned hospitals will be announced separately.

Decision on Amending the Regulations of Shanghai Municipality on Optimizing Business Environment

Issued by: Standing Committee of the Shanghai Municipal People's Congress
Issue No.: Announcement of the Standing Committee of the Shanghai Municipal People's Congress
Release Date: September 27, 2024
Effective Date: November 1, 2024
Links: <https://www.shrd.gov.cn/n8347/n8467/u1ai267794.html>

This revision is based on the 2023 edition of the Regulations of Shanghai Municipality on Optimizing Business Environment. The major changes are as follows:

- A business entity can carry out business activities outside its registered domicile. In this case, the enterprise may decide on its own whether or not to apply for registration of another business entity in the same city;
- Deepen the development of the whole-process integrated government service platform (“One-Stop Service Online”), promote the mechanism of integrated process of related matters, addressing defective matters upon commitment, coordinating services for across-region matters, and the precise assistance in policy matters. These approaches will enhance the standardization, normalization, and overall facilitation of government services.

Tax

Announcement on Stamp Tax Policies Regarding Enterprise Reform and Restructuring as well as the Reform of Public Institutions

Issued by: Ministry of Finance, State Administration of Taxation
Issue No.: Announcement No.14 (2024) of the Ministry of Finance and State Taxation Administration
Release Date: August 27, 2024
Effective date: October 1, 2024
Links: <https://fgk.chinatax.gov.cn/zcfgk/c102416/c5234299/content.html>

The announcement primarily clarifies various stamp tax regulations applicable during the process of enterprise reform and restructuring as well as the reform of public institutions (referred to as "enterprise restructuring"):

1. Regarding business account books

- For new enterprises established during the process of enterprise reorganization, the paid-in capital in the newly opened business account books shall not be subject to double stamp tax, provided that the capital has already been taxed once.
- The combined amount of additional paid-in capital and capital reserve resulting from the conversion of corporate debt to equity shall be subject to stamp tax. However, in cases of debt-to-equity conversions occurring within restructuring projects approved by the State Council, the aforementioned matters are exempt from stamp tax.

- The combined amount of additional paid-in capital and capital reserve resulting from the valuation increase during the process of enterprise restructuring shall be subject to stamp tax.
- If other accounting items of an enterprise are converted into paid-in capital or capital reserve, stamp tax shall be paid.

2. Regarding various taxable contracts

- Various taxable contracts established before the enterprise restructuring but not yet fully executed, which are inherited by the restructured entity without changing the original tax basis, will not be subject to double stamp tax.

3. Transfer documents of property rights are exempt from stamp tax in the following circumstances:

- Property transfer documents established during enterprise reform, merger, division, bankruptcy liquidation, and the reform of public institutions;
- Property transfer documents established as a result of administrative adjustments to land use rights, ownership of houses, and equity, carried out by county-level or higher people's governments or their departments responsible for state asset management, in accordance with regulations
- Property transfer documents established for the internal transfer of land use rights, ownership of buildings and structures, and equity within the same investment entity.

Announcement on the Issuance of the "Administrative Penalty Discretionary Benchmark for the North China Region"

Issued by: State Taxation Administration Beijing Municipal Tax Bureau / Tianjin Municipal Tax Bureau / Hebei Provincial Tax Bureau / Shanxi Provincial Tax Bureau / Inner Mongolia Autonomous Region Tax Bureau

Issue No.: Announcement No. 3 of 2024 by State Taxation Administration Beijing Municipal Tax Bureau / Tianjin Municipal Tax Bureau / Hebei Provincial Tax Bureau / Shanxi Provincial Tax Bureau / Inner Mongolia Autonomous Region Tax Bureau

Release Date: September 14, 2024

Effective date: December 1, 2024

Links: <http://beijing.chinatax.gov.cn/bjswj/sszc/zxwj/202409/3622cf37565e4ba9adcc14a424401b64.shtml>

To promote the unification of enforcement standards across regions, the tax bureaus of the five provinces and municipalities in the North China have jointly formulated the "Administrative Penalty Discretionary Benchmark for the North China Region" (referred to as the "Discretionary Benchmark"). The specific provisions are as follows:

- Applicable provinces and municipalities: Beijing, Tianjin, Hebei Province, Shanxi Province, Inner Mongolia Autonomous Region.
- Collective deliberation provision: Where the proposed penalty decision is inconsistent with the corresponding penalty range stipulated in the "Discretionary Benchmark," it shall be decided through collective deliberation.
- The tax authority should clearly state the application circumstances of the administrative penalty discretionary benchmark in the penalty decision document.

- For tax violations that occurred before the implementation of the "Discretionary Benchmark" and for which the tax authority has not yet made an administrative penalty decision, they shall be handled according to the original regulations, except where handling them according to the "Discretionary Benchmark" would be more favorable to the tax administrative counterpart.

Recent Hot Topics

- The National Unified Service Management Platform for Accounting Professionals is scheduled to officially launch in 2025. What impacts will this launch have on enterprises and financial professionals?
- Following the implementation of the new Company Law, how should enterprises handle the tax treatment when using capital surplus reserve and paid-in capital to offset accumulated losses?
- The State Council's measures for the phased delay of the statutory retirement age will take effect from January 1, 2025. How should enterprises adjust their internal rules and regulations in response to this change?

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