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CONTENTS

Legal Express in China

Company Law

- 22 Administrative Fees to Be Exempted For Small & Micro-Enterprises From 2012
- SASAC Again Orders Central Enterprises to Clarify Their Offshore Asset
- SAIC Requires Implementation of Corporate Merger & Spin-Off Registration

Environmental Protection

- “12th Five-Year Plan” for Development of Trade in Services Outlined
- NDRC Seeks Comments on Automobile Parts Manufacturers
- MOFCOM Initiates Trade Barrier Investigation into U.S. Subsidies for Renewable Energy Sector

Intellectual Property

- Aigo Wins Patent Suit against Toshiba
- Mainland and HK Signed Their First Agreement on IP Cooperation

Tax

- Shanghai Raises Its VAT and Business Tax Thresholds
- MOFCOM Proposes to Amend Import Tariff on Chemical Fertilizers within Quota
- Second Protocol to DTA between Mainland and Macau Takes Effect
- DTA Between China and Syrian Officially Implemented

Trade, Customs & Manufacture

- MOFCOM Initiates Trade Barrier Investigation into U.S. Subsidies for Renewable Energy Sector
- MOFCOM to Issue New Policies to Expand Imports

Company Law

22 Administrative Fees to Be Exempted For Small & Micro-Enterprises From

The Ministry of Finance and National Development and Reform Commission have issued the “Notice on Exempting Small and Micro-Enterprises from Certain Administrative and Institutional Fees”, deciding that from 1 January 2012 to 31 December 2014, small and micro-enterprises will be exempted from 22 administrative and institutional fees in connection with those listed in the categories of management, registration and certification, including enterprise registration fee, fee for issuance of tax invoices, Customs control and administrative fee, fee for the certificate of origin of goods and the agricultural machinery supervision fee.

SASAC Again Orders Central Enterprises to Clarify Their Offshore Assets

The State-owned Assets Supervision and Administration Commission (SASAC) on 10 November released its Notice on Effectively Carrying out the Work Relating to Final Account Management and Statement Preparation for Central Enterprises in 2011, which requires central enterprises to clarify the number, management hierarchy, equity structure, and operational and financial situations of their offshore subsidiaries, clean up the ownership relations and division of the management responsibilities, and sort out the basic information concerning their seconded personnel, employees’ remuneration, capital management, bank account, etc. The Notice also requires a strengthening of the final account auditing management of central enterprises’ offshore subsidiaries, which shall in principle have their final accounts audited by intermediary agencies.

SAIC Requires Implementation of Corporate Merger & Spin-Off Registration

The State Administration for Industry and Commerce (SAIC) has released the “Opinions on Effectively Implementing Corporate Merger and Spin-Off Registration in Support of Corporate Mergers and Restructurings”. The Opinions reaffirm the government's attitude of supporting mergers, spin-off and restructurings of all kinds of enterprises. A company may implement merger, spin-off and restructuring in many forms and may choose the form of the restructured company. Interested companies are encouraged to complete the restructuring registration together with the relevant alteration of the registered entries simultaneously, and may agree on the amount of the registered capital, number of shares and contributions by shareholders at their discretion.

Environmental Protection

“12th Five-Year Plan” for Development of Trade in Services Outlined

The Ministry of Commerce (MOFCOM) has recently released the Outline of the “12th Five-Year Plan” for the Development of Trade in Services. The Plan specifies that the country will give priority to the development of 30 areas regarding trade in services during the “12th five-year period”, including tourism, information technology, trade in technology, sea transport, banking and other financial services, medical treatment and biological medicines, cooperation in overseas labour services, contract engineering, etc. The Plan encourages the involvement of foreign investment in areas concerning software development, cross-border outsourcing and logistics, extension of imports of modern services, and the introduction of advanced technologies and

management experience in design, research and development, and marketing.

NDRC Seeks Comments on Automobile Parts Manufacturers

The Department of Resource Conservation and Environmental Protection under the National Development and Reform Commission (NDRC) has made an announcement to seek comments on the designation of automobile parts manufacturers by 6 December 2011. The public may give comments regarding the following circumstances: 1. whether the remanufactured products meet the required standards; 2. whether manufacturers directly purchase “Five-Used Auto Parts” (engine, gearbox, transmission, frame and bridge) from scrap car disassembly factories; 3. whether auto enterprises remanufacture other enterprises’ parts without authorization; 4. whether products go to market without being labeled as remanufactured; 5. whether manufacturers illegally import from abroad old car parts to use in reproducing products; 6. whether they use remanufactured parts to produce new autos; and 7. whether the remanufacture causes serious environmental pollution, etc.

MOFCOM Initiates Trade Barrier Investigation into U.S. Subsidies for Renewable Energy Sector

The Ministry of Commerce (MOFCOM) has issued announcement No.69 to initiate a trade barrier investigation into the renewable energy supportive policies and subsidy measures of the United States from 25 November 2011. The products involved in this barrier investigation are renewable energy products, mainly including products, equipment, and their components and parts relating to the utilization of renewable energies including wind energy, solar energy, hydraulic energy, etc.

Intellectual Property

Aigo Wins Patent Suit against Toshiba

The judgment in the litigation brought by the Aigo Digital Technology Co. Ltd. (Aigo) against Toshiba (China) Co., Ltd. (Toshiba) for violating patents which it owns for USB PLUS has been officially announced. Xi'an Intermediate People's Court of Shaanxi province ruled that Toshiba shall cease to sell some of its notebook computers which use Aigo's patent for USB PLUS technology, and pay RMB200,000 in damages to Aigo for the infringement. Aigo says that it independently researched and developed the disputed USB PLUS and has been granted 8 patents for the technology. Aigo has indicated that it will appeal the ruling because it feels that the damages are insufficient.

Mainland and HK Signed Their First Agreement on IP Cooperation

On 16 November, the State Intellectual Property Office (SIPO) and the Intellectual Property Department of the Hong Kong SAR (IPD) signed their first agreement in Hong Kong to strengthen cooperation in the area of intellectual property. The agreement mainly covers the exchange of information on laws, publicity, education and automation services, staff training by the SIPO upon the IPD request, exchange of information and publications, assisting enterprises in upgrading themselves by promoting the concepts and trends of IP trading, and co-organizing exhibitions, seminars, technical exchanges and conferences.

Tax

Shanghai Raises Its VAT and Business Tax Thresholds

The Shanghai Municipality has recently issued the Notice on Raising the Thresholds for Value-added Tax and Business Tax with retroactive effect from 1 November 2011. It is clarified that the VAT thresholds upon the adjustment will be: 20,000 yuan of monthly sales volume in the case of sale of goods; 20,000yuan of monthly sales volume in the case of sale of taxable services; and in the case of payment of tax on a transaction-by-transaction basis, 500 yuan of the sales volume per transaction (daily), and that the business tax thresholds upon the adjustment will be: 20,000 yuan of the monthly business volume in the case of payment of tax in regular periods; and in the case of payment of tax on a transaction-by-transaction basis, 500 yuan per transaction (daily).

MOFCOM Proposes to Amend Import Tariff on Chemical Fertilizers within Quota

The Ministry of Commerce (MOFCOM) has amended the instrument, "Interim Measures on the Import Tariff on Chemical Fertilizers within the Quota" and renamed the instrument "Measures on the Administration of the Import Tariff on Chemical Fertilizers within Quota", which is now under public consultation for members of the public to give their feedback by 7 December 2011. The draft amendments specify that the MOFCOM shall be in charge of the administration of the total quota, allocation of the quota and coordination in implementing the relevant rules.

H.S Code and Proposed Tariff Rates

H.S Code	Commodity Categories	In-Quota Tariff Rate (%)
31021000	Urea, whether or not in aqueous solution	1%
31052000	Mineral or chemical fertilizers, containing the three fertilizing elements nitrogen, phosphorus and potassium.	1%
31053000	Diammonium phosphate (DAP)	1%

Second Protocol to DTA between Mainland and Macau Takes Effect

The State Administration of Taxation (SAT) has recently made an announcement to put the Second Protocol to the "Arrangement between the Government of the People's Republic of China and the Government of the Macau Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income" into effect on 8 October 2011 such that affected income derived on or after 1 January 2012 will fall within the scope of the Second Protocol, which has removed Article 26 of the Arrangement.

DTA between China and Syrian Officially Implemented

The State Administration of Taxation (SAT) has announced that the "Agreement between the Government of the People's Republic of China and the Government of the Syrian Arab Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income" shall come into force as of 1 September 2011 and be applicable to income derived under the Agreement on or after 1 January 2012.

Trade, Customs & Manufacture

MOFCOM Initiates Trade Barrier Investigation Into U.S. Subsidies For Renewable Energy Sector

The Ministry of Commerce (MOFCOM) has issued announcement No.69 to initiate a trade barrier investigation into the renewable energy supportive policies and subsidy measures of the United States from 25 November 2011. The products involved in this barrier investigation are renewable energy products, mainly including products, equipment, and their components and parts relating to the utilization of renewable energies including wind energy, solar energy, hydraulic energy, etc.

MOFCOM to Issue New Policies to Expand Imports

Shen Danyang, spokesperson of the Ministry of Commerce, said in a meeting that China's foreign trade has been basically balanced and this situation will continue until the end of this year. The Ministry will continue to follow the existing policies and measures for encouraging expansion of imports which have been implemented for the past two years. In addition to expanding imports by applying appropriate macroeconomic policies, improving public administration and facilitating trade activities, the Ministry will attempt to take measures to improve the types and quality of imported goods.

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