



LEGAL INFORMATION INTERNATIONAL BUSINESS

Jun. 2023 (No. 5)



Shanghai International Enterprises Business Consulting & Service Co., Ltd.
Tel: 021-63265522

目录

LEGAL NEWS EXPRESS

01 Notice on Printing and Distributing Several Measures to Help Small, Medium and Micro Enterprises in Shanghai to Steady Growth, Adjust Structure and Strengthen Capabilities

02 Notice on Enterprises Reporting 2023 Housing Provident Fund Payment Base in Advance through the "Government Online-Offline Shanghai" Platform

03 Decision on Amending Some Regulations by the General Administration of Customs (No. 263)

04 Opinions on Promoting the Stable Scale and Optimum Structure of Foreign Trade by the General Office of the State Council

05 Contract Administrative Supervision and Management Measures Issued by the State Administration for Market Regulation

【ATTENTION】

The publication is not legal advice. If you seek professional advice, please contact

SIBCO Legal dept.

legal@sibco-bc.com

021-63265522



LEGAL INFORMATION
2023

LEGAL NEWS EXPRESS

01 Notice on Printing and Distributing Several Measures to Help Small, Medium and Micro Enterprises in Shanghai to Steady Growth, Adjust Structure and Strengthen Capabilities

In order to implement Several Measures to Help Small, Medium and Micro Enterprises to Stabilize Growth, Adjust Structure and Strengthen Capabilities by the Office of the State Council Leading Group for Promoting the Development of Small and Medium-sized Enterprises, help small, medium and micro enterprises in Shanghai to alleviate difficulties and achieve high-quality development, a series of measures are hereby formulated. The main contents of which are as follows :

1. Support Innovation and Development of SMEs

(1) Strengthen the cultivation of newly certified and specialized SMEs. Rewards given by each district to these SMEs shall not be less than 100,000 yuan, and to those called "Little Giant" shall not be less than 300,000 yuan.

(2) Support enterprises to "upgrade from small to large then turn from large to strong". For the high-tech enterprises within validity period that become "Four Tops" for the first

time, city-urban linkage will give them a one-time reward about 5% of the R&D investment in the previous year, up to 500,000 yuan.

(3) Support the innovation and transformation of scientific and technological achievements. Implement the special action of scientific and technological achievements to empower SMEs. For the qualified technological SMEs, an additional 30% can be added to the original policy support amount for the transformation of high-tech achievements.

2. Strengthen Financial Empowerment Services for SMEs

(1) Reduce the cost of corporate credit guarantee loans. In the fourth quarter of 2022, SMEs that are guaranteed by the Municipal SME Policy Financing Guarantee Fund Management Center and obtain inclusive loans from commercial banks in Shanghai for the first time will be given a 2% interest discount subsidy, which is up to 200,000 yuan for each

enterprise. Implement the National Financing Guarantee Fee Reduction Reward and Subsidy Policy for Small and Micro Enterprises in 2023, and the average guarantee fee rate of government financing guarantee institutions should remain below 1% (contain 1%).

3. Increase Bailout Efforts to SMEs

(1) Support enterprises to stabilize and expand jobs. For the employers as enterprises, social organizations and individual businesses in Shanghai, who have recruited those registered as unemployed more than 3 months or 2023 college graduates in Shanghai with signed labor contracts more than 1 year, and paid social insurance premiums in accordance with the regulations, a one-time employment subsidy of 2,000 yuan per person will be given.

(2) Reduce the labor cost of enterprises. Implement the policy on deferred payment of social insurance premiums in stages, employers can pay deferred social insurance premiums in installments or monthly before December 31, 2023, and late payment fees will be waived during the supplementary payment period.

Implement the policy of gradually reducing social insurance premium rates for unemployment and work-related injuries.

(3) Implement various tax and fee support policies. In 2023, small-scale value-added taxpayers with monthly sales of less than 100,000 yuan will be exempted from VAT, and the taxable sales income that applies to small-scale taxpayers with a 3% levy rate will be levied at a reduced 1% levy rate. From 2023 to 2024, the annual taxable income of qualified small and low-profit enterprises will be included in the taxable income at a reduced rate of 25%, and the corporate income tax will be paid at a tax rate of 20%. From January 1, 2022, if the R&D expenses actually incurred in the R&D activities of small and medium-sized technology-based small and medium-sized enterprises does not form intangible assets and is included in the current profit and loss, 100% of the actual deduction will be deducted before tax; if intangible assets is formed, 200% of the cost of intangible assets shall be amortized before tax.

02 Notice on Enterprises Reporting 2023 Housing Provident Fund Payment Base in Advance through the "Government Online-Offline Shanghai" Platform

In order to continuously optimize the business environment, enterprises that meet the

social insurance premium declaration requirements and have paid housing provident funds until April 2023, can handle the combined declaration of social insurance premiums and housing provident fund contributions and wages for 2023 through "Comprehensive Tax Declaration" of the "Government Online-Offline Shanghai" platform. Fill in information such as the average monthly salary of employees in 2022 and the payment and deposit ratio of housing provident fund, and complete the declaration of social insurance premiums and housing provident fund payment wages at the same time.

From July, the consolidated declaration enterprises whose housing provident fund has been paid until June 2023 can log on to the "Government Online-Offline Shanghai" platform to check the adjustment results of the housing provident fund base.

From July, the units that have not handled the consolidated declaration can independently make the adjustment of the housing provident fund base in 2023 through the original channels such as Shanghai Housing Provident Fund Network and Unit Housing Provident Fund Online Business Handling System.

03 Decision on Amending Some Regulations by the General Administration of Customs (No. 263)

In order to implement the spirit of the 20th National Congress of the Communist Party of China, support the high-quality development of bonded warehouses and export supervision warehouses, and improve the relevant requirements for spot checks and inspections of imported and exported commodities, the General Administration of Customs decided to amend three regulations of the Regulations on the Administration of Bonded Warehouses and Stored Goods by the Customs of the People's Republic of China, the Management Measures

on Export Supervision Warehouses and Stored Goods by the Customs of the People's Republic of China and the Administrative Measures for Spot Inspection and Inspection of Imported and Exported Commodities. The specific contents are as follows:

1. The Regulations on the Administration of Bonded Warehouses and Stored Goods by the Customs of the People's Republic of China are amended as follows:

(1) Amend "The following goods can be stored in bonded warehouses with customs'

approval" in Article 5 to "The following bonded goods and other goods that have not completed customs formalities can be stored in bonded warehouses".

(2) Amend the first paragraph of Article 8 to: "Obtain the qualification as a business entity".

(3) Amend Article 17 to: "If there has any change in the events as the name, entity type, and bonded warehouse name of the bonded warehouse operating enterprise, the enterprise shall go through the modification procedures with the competent customs, within 30 days since the change."

"Where the bonded warehouse changes its address, storage area (volume), etc., the operating enterprise shall submit a change application to the competent customs in advance and go through the modification procedures.

"Where the bonded warehouse changes its warehouse type, it shall be handled in accordance with Chapter II of the Provisions, which is about the establishment of bonded warehouse. The customs shall cancel the registration before the modification, and take back the original Bonded Warehouse Registration Certificate."

(4) Add a new paragraph as the second paragraph of Article 23: "If the bonded warehouse goods have gone through the customs formalities, the consignee and

consignor shall leave the bonded warehouse within the time limit specified by the customs. It is agreed that the departure can be postponed."

(5) Add a new paragraph as Article 30: "Where the consignee or consignor fails to remove the bonded warehouse goods that have completed the customs formalities from the bonded warehouse within the prescribed time limit, the customs shall order them to make corrections, and may give a warning or impose a fine of less than 10,000 yuan."

2. The Management Measures on Export Supervision Warehouses and Stored Goods by the Customs of the People's Republic of China are amended as follows:

(1) Amend the first paragraph of Article 9 to: "Obtain the qualification as a business entity, and the business scope includes warehousing operations"; delete the second paragraph.

(2) Amend Article 19 to: "If there has any change in the events as the name, entity type of the export supervision warehouse operating enterprise or name of the export supervision warehouse, the enterprise shall go through the modification procedures with the competent customs, within 30 days since the change."

"Where the export supervision warehouse changes its address, storage area, etc., the operating enterprise shall submit a change application to the competent customs in advance and go through the modification

procedures.

"Where the export supervision warehouse changes the warehouse type, it shall be handled in accordance with Chapter II of the Provisions, which is about the establishment of bonded warehouse."

(3) Delete "In addition to submitting relevant documents in accordance with customs regulations, the consignor or its agent shall also submit the List of Goods Entering the Warehouse under Export Supervision Warehouse filled out by the warehouse operating enterprise." in the first paragraph of Article 26.

(4) Add a new paragraph into Article 28 as the second one: "If the goods in the export supervision warehouse have gone through the import formalities, they shall be lifted out of the export supervision warehouse within the time limit specified by the customs. Under special circumstances, the departure can be delayed with the consent of the customs."

(5) Add a new article as Article 34: "If the consignee or consignor fails to lift the goods from the export supervision warehouse that have been carried forward to the import formalities within the prescribed time limit, the customs shall order it to make corrections and may issue a warning, or a fine of not more than 10,000 yuan."

3. The Administrative Measures for Spot Inspection and Inspection of Imported and Exported Commodities are amended as follows:

(1) Amend Article 16 to: "After sampling, the inspectors shall seal the samples, fill out the sampling form and sign it; and the unit under spot inspection shall sign or affix the official seal on the sampling form. In special cases, the form has to be confirmed by the customs."

This decision will come into effect on July 1, 2023.

04 Opinions on Promoting the Stable Scale and Optimum Structure of Foreign Trade by the General Office of the State Council

Foreign trade is an important part of the national economy. Promoting stable scale and optimal structure of foreign trade plays an

important supporting role in stabilizing growth and employment, building a new development pattern, and promoting high-quality

development. In order to fully implement the spirit of the 20th National Congress of the Communist Party of China, make greater efforts to promote the stable scale and optimized structure of foreign trade, and ensure the realization of the goals and tasks of promoting stability and improving quality of imports and exports, opinions are hereby put forward with the approval of the State Council. The main contents of which are as follows:

1. Strengthen trade to promote market expansion

(1) Facilitate the exchange of cross-border business personnel. Strengthen external communication, improve the efficiency of APEC business travel card processing, and increase efforts to promote the smooth application of visa channels for business personnel from other countries and improve processing efficiency.

2. Stabilize and expand the scale of key products' import and export

(1) Expand the import of advanced technology equipment. Accelerate the revision of the catalog to encourage the imports of technologies and products, further improve the accuracy of the import discount policy, and guide enterprises to expand the import of the advanced technology equipment in short supply in China.

3. Increase fiscal and financial support

(1) Increase import and export credit

support. Commercial financial institutions further enhance the service capabilities of branches in the central and western regions in terms of trade financing and settlement. Encourage banks and insurance institutions to expand cooperation in insurance policy financing and credit enhancement, and increase support for financing and credit enhancement of small, medium and micro foreign trade enterprises.

(2) Better play the role of export credit insurance. Further expand the scale and coverage of export credit insurance. Increase the support for new business forms and models such as cross-border e-commerce, accelerate the expansion of industrial chain underwriting, further expand the underwriting coverage of small, medium and micro foreign trade enterprises, and optimize underwriting and claim settlement conditions.

(3) Optimize cross-border settlement services. Encourage financial institutions to innovate and improve foreign exchange derivatives and cross-border RMB business, further expand the scale of RMB settlement for cross-border trade, and better meet the needs of foreign trade companies for exchange rate hedging and cross-border RMB settlement.

4. Accelerate the innovation and development of foreign trade

(1) Promote the healthy, sustainable and innovative development of cross-border

e-commerce. Support foreign trade enterprises to expand sales channels and cultivate independent brands through new formats and models such as cross-border e-commerce. Accelerate the introduction of cross-border e-commerce intellectual property protection guidelines to guide cross-border e-commerce companies to prevent intellectual property risks. Build an online comprehensive service platform in the cross-border e-commerce comprehensive pilot zone and play its role well, and guide enterprises to make good use of tax policies and measures related to cross-border e-commerce retail exports.

5. Optimize the environment for foreign trade

development

(1) Improve the level of trade facilitation. Steadily implement diversified tax guarantees to help enterprises reduce burdens and increase efficiency. Increase the credit cultivation of foreign trade enterprises, so that more foreign trade enterprises that meet the certification standards can become "Authorized Economic Operators" (AEO) by the customs. Further facilitate the handling of export tax rebates, promote the realization of export tax rebate declaration customs declaration forms and invoices "free of filling and reporting", and better serve the foreign trade enterprises.

05 Contract Administrative Supervision and Management Measures Issued by the State Administration for Market Regulation

In order to better perform the duties entrusted by the Civil Code, maintain the order of the market economy, and protect national interests, social public interests, and the legitimate rights and interests of consumers, the State Administration for Market Regulation has revised and promulgated the Contract Administrative Supervision and Management Measures, which will be officially implemented

on July 1, 2023. The main contents of the Measures are as follows:

1. While entering into contracts with consumers by standard clauses, business operators shall draw consumers' attention to the quantity and quality of goods or services, price or fees, time limit and method of performance, safety precautions and risk warnings, after-sales service, civil liability, and

other contents that have significant interests with consumers, in prominent ways such as separate notices, bold fonts, pop-up windows, etc., and make the explanations in accordance with consumers' requirements.

The notices, statements, store notices, etc. pre-drawn by the operator and specify the rights and obligations of both parties to the contract, are deemed to be standard clauses.

2. While entering into contracts with consumers, business operators shall not use standard clauses or other means to make provisions to reduce or exempt their own responsibilities. The following contents shall not be included in:

(1) Exempting or mitigating the liability that operator should bear in accordance with the law for causing personal injury to consumers;

(2) Exempting or reducing the liability that operator should bear in accordance with the law for causing consumer property losses due to intentional or gross negligence;

(3) Exempting or mitigating the responsibilities that operator should bear in accordance with the law about repairing, remaking, replacing, returning, supplementing the quantity of goods, refunding the payment for goods and service fees, etc. for the goods or services it provides;

(4) Exempting or reducing the liability that

operator should bear in accordance with the law for breach of the contracts;

(5) Exempting or mitigating the obligations of the operator to perform assistance, notification, and confidentiality according to the nature and purpose of the contract;

(6) Other content that exempts or mitigates the operator's own responsibilities.

3. While entering into contracts with consumers, business operators shall not use standard clauses or other methods to aggravate consumers' responsibilities, exclude or limit their rights. The following content shall not be included in:

(1) Requiring consumers to bear liquidated damages, or the damages exceeding the statutory amount or a reasonable amount;

(2) Requiring consumers to bear business risks that should be borne by business operators according to the law;

(3) Excluding or restricting the right of consumers to independently choose goods or services according to the law;

(4) Excluding or restricting the rights of consumers to modify or terminate the contract according to the law;

(5) Excluding or restricting the rights of consumers to request payment of liquidated damages or damages according to the law;

(6) Excluding or restricting the rights of

consumers to complain, report, request mediation, apply for arbitration, and initiate litigation according to the law;

(7) The operator unilaterally enjoys the right of interpretation or final interpretation;

(8) Other contents that aggravate consumers' responsibilities, exclude or restrict their rights.

4. When a business operator concludes a contract with a consumer, the contract shall generally include the main contents stipulated in the first paragraph of Article 470 in the Civil Code, and clarify the main rights and

obligations of both parties.

Where the contract is in a written form, business operator shall hand over not less than one written contract signed by both parties to the consumer for retention.

Where the contract in an electronic form, business operator shall clearly, comprehensively and clearly inform consumers of the steps to conclude the contract, precautions, downloading methods, etc., and ensure that consumers can read and download it conveniently and completely.

(THE END)



SERVICE CREATES VALUE

CONSULTING CREATES EDGE



FLOOR 19, JINTIANDI INTERNATIONAL BUILDING

NO. 998 RENMIN ROAD, HUANGPU DISTRICT, SHANGHAI, CHINA (200021)

TEL: +86-21-63265522 FAX: +86-21-63262166

WWW.SIBCO-BC.COM

