



**V&T Legal Newsflash May to June, 2021**

**China Issued the Second Draft of the Data Security Law, Which Will Result in  
Profound Impact When It Implements**

The 28<sup>th</sup> meeting of the Standing Committee of the 13<sup>th</sup> National People Congress reviewed and issued the Data Security Law of the People's republic of China (Second Draft)(《中华人民共和国数据安全法(草案第二次审议稿)》, the “Law”). If the draft of the Law implements in the future, it will be China's first official data security law, and it will have profound impact on both domestic and foreign organizations and individuals that process data from China. The principal items from the Law includes:

1. Establishing various basic systems for data security management such as data classification and classification management, risk assessment, detection and early warning, and emergency response;
2. Clarifying the data security protection obligations of organizations and individuals that carry out data activities, and implement data security protection responsibilities;
3. Adhering to both security and development, and locking in measures to support and promote data security and development;
4. Establishing systems and measures to ensure the security of government data and promote the openness of government data.

**Please refer to the following link for full text of the Law in Chinese:**

<https://www.chinalawtranslate.com/data-security-law-draft-2/>



## **China Issued the Second Draft of the Personal Information Protection Law to the Public for Protecting Private Information**

The 28<sup>th</sup> meeting of the Standing Committee of the 13<sup>th</sup> National People Congress reviewed and issued the Personal Information Protection law of the People's Republic of China (Second Draft) (《中华人民共和国个人信息保护法（草案二次审议稿）》, the **Law**). The Law specific regulate general rules regarding private information processing and principles for cross-border provision of private information. The Law also clarifies the rights and obligations in personal information processing activities, the department that in charge of protecting from personal information leaking, and clear legal liabilities. The issuance of the Law indicates a new era of privacy and private information protection in China. The enterprise needs to further strengthen the protection of the private information from a comprehensive prospective in order to fully meet compliance requirement, personal rights of customers, and the requirement of the management.

**Please refer to the following link for full text of the Law in Chinese:**

<https://www.secrss.com/articles/30908>



## **Some Non-Taxable Fringe Benefits for Expats in China to Expire Next Year: Prepare for Possible Transition**

Expatriates working in China enjoy various tax-exempt “benefits-in-kind” (BIK) – sometimes referred to as tax-exempt “benefits” or non-taxable “fringe benefits”. BIK are additional compensation, not included in the salary or wages, but paid on a reimbursement and non-cash basis. However, due to the implementation of the Amended PRC Individual Income Tax (IIT) Law and relevant regulations from January 2019, certain non-taxable benefits-in-kind will be replaced by additional itemized deductions for some expatriates, while other non-taxable benefits-in-kind might cease to be exempt from IIT from 2022 due to the three-year transition period introduced by the Notice on the Preferential Policy Convergence Problem (《关于个人所得税法修改后有关优惠政策衔接问题的通知》, the “**Notice**”), which is jointly announced by the Ministry of Finance and the State Tax Administration. According to the Notice, after the three-year transition period, that is starting January 1, 2022, non-China domiciled tax residents will no longer enjoy preferential tax-exemption policies on benefits-in-kind, including housing, language training, and children’s education. Instead, the three categories of benefits-in-kind will be replaced by the corresponding additional itemized deductions (that is, housing rent, continuing education expenses, and children’s education expenses).

**Please refer to the following link for full text of the Notice in Chinese:**

<http://www.chinatax.gov.cn/n810341/n810755/c3978994/content.html>



**The New Rules of Shenzhen Special Economic Zone on Commercial Registration Will Make Shenzhen More Attractive to Foreign Investors, Especially to Hong Kong and Macao Investors.**

On March 1, 2021, the new Rules of Shenzhen Special Economic Zone on Commercial Registration (“深圳经济特区商事登记若干规定”, the “**Rules**”) took effect. The original Rules made in 2012, was lately amended and released on October 29, 2020. The 2020 Rules have simplified the documentation requirements in company establishment registration. It no longer requires the applicants to submit “Notice of Name Pre-Approval”, “Information Materials of Domicile or Business Site” and “Documents of Appointment of the Responsible Persons, Senior Managers, and other relevant members”. Instead, applicants can merely provide this information when they file applications online. The Rules also creates a green channel for Hong Kong and Macao investors by not requiring them setting up foreign invested entities and obtain business licenses in accordance with Chinese foreign investment laws like foreign investors from other countries. Now Hong Kong and Macao investors may directly enter the Shenzhen market, for the first time. It specifically allows Hong Kong and Macau investors to directly complete registration formalities (account opening with bank, tax affairs, Customs, foreign exchange account, examination/approval, and other matters) for engaging in manufacturing or business activities in Shenzhen, as long as their activities are not those included in the Negative List (Special Administrative Measures for Foreign Investment Access). Such investors may obtain business licenses with their existing names as used in Hong Kong or Macao without setting up a new commercial entity in Shenzhen according to Art. 14 of the 2020 Rules. This will save a lot of time and cost for setting up and running a new commercial entity, and make Shenzhen more attractive for foreign investors.

**Please refer to the following link for full text of the Rules in Chinese:**

[http://www.gd.gov.cn/zwggk/wjk/zcfgk/content/post\\_2929286.html](http://www.gd.gov.cn/zwggk/wjk/zcfgk/content/post_2929286.html)



## **Newly-Added Oversea Direct Investment Income of Hainan Incorporated Company Will Be Exempt for Tax**

On April 10<sup>th</sup>, 2021, the Ministry of Finance (财政部) and the State Ministration of Taxation (税务总局) jointly issued “Hainan Free Trade Port Tourism, Modern Service Industry, High-tech Industry Enterprise Income Tax Preferential Catalog” (《海南自由贸易港旅游业、现代服务业、高新技术产业企业所得税优惠目录》, the “**Catalog**”) stating for enterprises that are registered and substantively operating in Hainan Free Trade Port, and whose main business belongs to the items in the catalog, the income derived from newly-added overseas direct investment before 2025 will be exempted from corporate income tax. The catalog includes three major industries: the high-tech industry includes 324 items in 36 categories; the tourism industry includes 14 items in 6 categories; and the modern service industry includes 131 items in 22 categories. Specific income has to meet two criteria to be considered as newly-added overseas direct investment income: First of all, operating income generated from newly established overseas branches; or dividend income from overseas subsidiaries that hold at least 20% of the shares, corresponding to the newly-added overseas direct investment. Secondly, the statutory corporate income tax rate of the invested country(region) is more than 5%.

**Please refer to the following link for full text of the Catalog in Chinese:**

[http://www.hnftp.gov.cn/zcfg/zcwj/bwzc/202104/t20210409\\_3317287.html](http://www.hnftp.gov.cn/zcfg/zcwj/bwzc/202104/t20210409_3317287.html)



## **China Relaxes Entry Restrictions for Foreigners Inoculated with Chinese Vaccines**

Several Chinese embassies recently issued notices on relaxing entry restrictions for passengers who have obtained Chinese COVID-19 shots. These include Belarus, Belgium, Denmark, Gabon, Germany, Hungary, India, Ireland, Italy, Israel, Japan, Norway, Pakistan, the Philippines, Slovakia, Spain, Sri Lanka, South Korea, Switzerland, Thailand, the United States, the United Kingdom, Vietnam, as well as the Office of the Commissioner of the Ministry of Foreign Affairs of China in Hong Kong SAR. Others may shortly follow. According to the notices, starting March 15, 2021, travelers who have received Chinese COVID-19 vaccines and obtained the vaccination certificate will enjoy facilitation for visa applications. Applicants should have been inoculated with COVID-19 vaccines produced in China, either having received two doses of Chinese-made vaccines with the stipulated time gap in between or having received a single-dose of the Chinese-made vaccine at least 14 days prior to the application and obtained the vaccination certificate. When applying for a visa, foreign nationals and their family members visiting China for resuming work and production in various fields will only need to provide the documents required before the COVID-19 pandemic. Which means they no longer need to provide the invitation letter (PU / TE) or the Invitation Verification Notice issued by the foreign affairs offices or the departments of commerce of the provincial (including autonomous regions and municipalities) governments or the headquarters of central state-owned enterprises

**Specific facilitation and requirements may vary from one country to another. Please check the China embassy website in your current country of domicile for exact details.**