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法律法规简报 2020-08-27

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Two Laws Adopted for Implementation as of 1st September 2021

一、最高法：民间借贷利率司法保护上限定为“一年期 LPR 的 4 倍” 2020.08.19

SPC Caps the Legal Private Lending Interest Rate Ceiling at "Four Times One-year LPR"



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日前，最高人民法院下发《关于修改〈关于审理民间借贷案件适用法律若干问题的规定〉的决定》（下称《决定》），自 2020 年 8 月 20 日起施行。

Recently, the Supreme People's Court ("SPC") has issued the Decision on Revising the Provisions on Several Issues concerning the Application of Law in the Trial of Private Lending Cases (the "Decision") for implementation as of 20th August 2020.

《决定》依照《中华人民共和国民法典》的最新精神，对原规定进行了修改，主要有以下三个方面：一是尊重当事人意思自治，依法确认和保护民间借贷合同的效力。二是调整民间借贷利率的司法保护上限，推动民间借贷利率与经济社会发展水平相适应。三是认真贯彻落实民法典，促进民间借贷规范平稳健康发展。

The Decision has, in accordance with the latest spirit of the Civil Code of the People's Republic of China, made modifications to the original provisions in the following three aspects: 1. respecting the autonomy of will of the parties, confirming and protecting the validity of private lending contracts in accordance with the law; 2. adjusting the ceiling of private lending rate protected by law, to match with economic and social development; 3. conscientiously implementing the Civil Code to promote the steady and healthy development of private lending.

根据《决定》，以中国人民银行授权全国银行间同业拆借中心每月 20 日发布的一年期贷款市场报价利率（LPR）的 4 倍为标准确定民间借贷利率的司法保护上限，取代原“以 24% 和 36% 为基准的两线三区”的规定，大幅度降低民间借贷利率的司法保护上限。

According to the Decision, the maximum legal private lending interest rate is capped at four times that of the one-year market-based loan prime rate (LPR) issued by the National Interbank Funding Center authorized by the People's Bank of China on the 20th of each month, instead of the original method determining such rate based on 24% and 36%, which greatly reduces the ceiling of legal private lending rate.

(Source: <http://www.court.gov.cn/fabu-xiangqing-249031.html>)



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二、两部门就《鼓励外商投资产业目录(2020年版)》征求意见 2020.07.31

Two Departments Seek Comments on Catalog of Industries for Encouraged Foreign Investment (2020 Edition)

日前, 国家发展和改革委员会、商务部联合发出《鼓励外商投资产业目录(2020年版)(征求意见稿)》(下称《征求意见稿》), 现向社会征求意见, 意见反馈截止于8月30日。

Recently, the National Development and Reform Commission ("NDRC") and the Ministry of Commerce ("MOFCOM") have jointly issued the *Catalog of Industries for Encouraged Foreign Investment (2020 Edition) (Draft for Comment)* (the "*Draft for Comment*") to solicit comments from the public before 30th August 2020.

根据《征求意见稿》, 本次修订总体考虑是条目上只增不减。与2019年版相比, 增加125条, 修改76条(主要是扩展原条目涵盖领域)。《征求意见稿》主要修订内容如下: 一是进一步鼓励外资参与制造业高质量发展。全国目录新增或扩展原材料、零部件、终端产品制造等条目。二是鼓励外资投向生产性服务业。全国目录新增或扩展研发设计、商务服务、现代物流、信息服务等条目。三是鼓励外资投向中西部地区。中西部目录根据各地扩大开放和招商引资需要, 新增或扩展了有关条目。中西部目录内的部分会展、物流、电子商务相关条目调入全国目录。

In accordance with the *Draft for Comment*, this revision in general adds items without removing items. As compared with the 2019 Edition, 125 items are added, and 76 ones are amended (mainly expanding fields covered by original items). The *Draft for Comment* has made the following main revisions: 1. Further encouraging the participation of foreign capital in the high-quality development of manufacturing industry. Concerning the national catalog, items about the manufacturing of raw materials, components and parts as well as terminal products are added or expanded. 2. Encouraging the investment of foreign capital into productive service industry. Regarding the national catalog, items about research and development design, commercial services, modern logistics, information services, etc. are added or expanded.



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3. Encouraging the investment of foreign capital into the Central-Western Region. With respect to the catalog for the Central-Western Region, relevant items are added or expanded as per greater opening-up and investment attraction demands of all places. Some items about exhibitions, logistics and e-commerce in the catalog for the Central-Western Region are transferred into the national catalog.

(Source: https://hd.ndrc.gov.cn/yjzx/yjzx_add.jsp?SiteId=340)

三、七部门发文加强政府性融资担保机构监管

2020.08.05

Seven Authorities Strengthen Supervision of Government-backed Financing Guarantee Agencies

近日，中国银行保险监督管理委员会等七部门发布《关于做好政府性融资担保机构监管工作的通知》（下称《通知》）。

Recently, seven authorities including the China Banking and Insurance Regulatory Commission ("CBIRC") have issued the *Circular on Working Effectively on the Supervision of Government-backed Financing Guarantee Agencies* (the "Circular").

《通知》主要内容如下：一是开展政府性融资担保机构确认工作。二是要求政府性融资担保机构聚焦支小支农主业，稳步提高小微企业和“三农”融资担保在保余额占比。三是促进提升政府性融资担保机构服务质效。四是加强监管指导。

The *Circular* mainly includes the following content: 1. carrying out the identification of government-backed financing guarantee agencies; 2. requiring government-backed financing guarantee agencies to focus on their main business of supporting small businesses and agriculture, and to steadily increase the proportions of financing guarantee for small and micro businesses, agriculture, rural areas, and farmers in the guaranteed balance; 3. improving the service quality and efficiency of government-backed financing guarantee agencies; and 4. strengthening supervision and guidance.



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其中,《通知》强调,政府性融资担保机构应当加强自身建设,改善内部管理、优化正向激励、创新担保产品、提高服务效能,推动建立“能担、愿担、敢担”的长效机制。在外部环境及政策方面,应当加强统筹协调,鼓励银行积极与政府性融资担保机构合作,落实风险分担机制,完善政府性融资担保机构绩效评价体系,落实支小支农贷款担保降费补贴政策。

The *Circular* stresses that government-backed financing guarantee agencies shall strengthen self-construction, improve internal management, optimize positive incentives, innovate guarantee products and improve service efficiency to promote the establishment of a long-term mechanism, which enables the government-backed financing guarantee agencies to be "able, willing and dare to provide guarantee". In terms of external environment and policy, it is imperative to strengthen the planning and coordination, encourage banks to engage in active cooperation with government-backed financing guarantee agencies, implement the risk sharing mechanism, improve the system for performance assessment of government-backed financing guarantee agencies, and implement the subsidy policy for fee cut regarding the loan guarantee for supporting small businesses and agriculture.

(Source: <http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=922004>)

四、城市维护建设税法和契税法获通过 明年 9 月 1 日起施行 2020.08.11

Two Laws Adopted for Implementation as of 1st September 2021

近日,第十三届全国人民代表大会常务委员会第二十一次会议表决通过《中华人民共和国城市维护建设税法》(下称《城市维护建设税法》)和《中华人民共和国契税法》(下称《契税法》),均自 2021 年 9 月 1 日起施行。

The *Law of the People's Republic of China on Urban Maintenance and Construction Tax* (the "*Law on Urban Maintenance and Construction Tax*") and the *Law of the People's Republic of China on Deed Tax* (the "*Law on Deed Tax*") have been recently adopted at the 21st meeting of the Standing Committee of the 13th National People's Congress upon voting, for implementation as of 1st September 2021.



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《城市维护建设税法》平移了现行税率，与《城建税暂行条例》相比，其变化体现在取消了专项用途规定，同时增加了增值税留抵退税涉及城建税的相关规定。为规范城建税征管，《城市维护建设税法》还明确城建税的纳税义务发生时间、扣缴义务人、扣缴义务发生时间等。

The *Law on Urban Maintenance and Construction Tax* adopts the current tax rate. Compared with the *Interim Regulations on Urban Maintenance and Construction Tax*, changes are reflected in the cancellation of the provisions on urban maintenance and construction tax for special purpose, as well as the addition of relevant provisions on the urban maintenance and construction tax involved in the refund of uncredited value-added tax. In order to standardize the collection and management of urban maintenance and construction tax, the *Law on Urban Maintenance and Construction Tax* also specifies the time when the obligation of paying urban maintenance and construction tax arises, the withholding agents for urban maintenance and construction tax, and the time when the obligation of withholding urban maintenance and construction tax arises.

与《契税暂行条例》相比，《契税法》适当拓展了税收优惠政策，简化了纳税申报，增加了退税规定，以及将契税申报和缴纳时间合二为一。《契税法》还授权省、自治区、直辖市可以对不同主体、不同地区、不同类型的住房权属转移确定差别税率。

Compared with the *Interim Regulations on Deed Tax*, the *Law on Deed Tax* appropriately expands preferential tax policies, simplifies tax declaration procedures, adds provisions on tax refund, and combines the declaration time and payment time for deed tax into one. The *Law on Deed Tax* also authorizes provinces, autonomous regions and municipalities directly under the Central Government to determine differential tax rates for the transfer of housing ownership of different entities, in different regions and for different types of houses.

(Source:

<http://www.npc.gov.cn/npc/c30834/202008/8b6736277e12430088e3dfec05e89a6a.shtm>

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