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Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment

GuoFa [1997] No.37

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For purposes of further expanding foreign capital utilization, inducting advanced technologies and equipment from abroad, promoting adjustments in industries structures and technological advancement and maintaining the sustained, rapid and healthy development of the national economy, the State Council has decided that as of January 1, 1998, tariffs and import link value-added tax shall be exempted within the prescribed scope with respect to import equipment of domestic investment projects and foreign business investment projects the development of which is encouraged by the state. The relevant questions are hereby notified as follows:

I. Scope of Tax Exemption for Import Equipment

(1) Tariffs and import link value-added tax shall be exempted with respect to import equipment for their own use within the total amount of investment in foreign business investment projects that transfer technology and are consistent with the category of encouragement and the restricted B category under the Catalog of Industries Guidance for Foreign Business Investment, with the exception of commodities listed in the Catalog of Import Commodities for Foreign Business Investment Projects with no Tax Exemption.

Reference shall be made to the preceding paragraph in the implementation of the import equipment for their own use by projects utilizing foreign government loans and loans of international financial institutions and import equipment provided by foreign businesses for processing trade without evaluation, that is, tariffs and import link value-added tax shall be exempted with the exception of the commodities listed in the Catalog of Import Commodities for Foreign Business Investment Projects with no Tax Exemption.

(2) Tariffs and import link value-added tax shall be exempted with respect to import equipment for their own use within the total amount of investment of domestic investment projects in line with the Current Catalog of Key Industries, Products and Technologies the Development of Which is Encouraged by the State, with the exception of the commodities listed in the Catalog of Import Commodities for Domestic Investment Projects with no Tax Exemption.

(3) Tariffs and import link value-added tax shall likewise be exempted with respect to technologies and matching components and parts imported along with the equipment in accordance with the contracts for projects in line with the aforesaid provisions.

(4) Tax reduction and exemption for import equipment outside the aforesaid prescribed scope shall be decided upon by the State Council.

II. Administration of Tax Exemption for Import Equipment

(1) Existing relevant provisions of the state shall still be observed in terms of examination and approval authority and procedures for feasibility study of investment projects. Above-ceiling projects shall be subject to examination and approval by the State Planning Commission or the State Economic and Trade Commission respectively. Below-ceiling projects shall be subject to examination and approval of people's governments at the provincial level, the departments concerned under the State Council, people's governments of municipalities separately listed on the State plan and enterprise groups undergoing experiment by the state authorized by the State Council. However, foreign business investment projects shall be subject to examination and approval in pursuance of the Interim Provisions for Direction Guidance for Foreign Business Investment. In making official replies to feasibility studies, the examination and approval authorities shall issue a letter of confirmation in uniform format for projects in line with the encouragement category and the restricted B category of the Catalog for Guidance for Foreign Business Investment Industries, or the Current Catalog of Key Industries, Products and Technologies the development of which is Encouraged by the State, or projects utilizing foreign government loans and loans of international financial institutions. For below-ceiling projects, the letter of confirmation shall be submitted along with the feasibility study according to the nature of investment in the project to the State Planning Commission or the State Economic and Trade Commission respectively for the record. Units violating the provisions of examination and approval shall be dealt with seriously.

(2) A project unit shall complete the formalities for import duty exemption at the competent customs office on the strength of the letter of confirmation issued by the examination and approval authority of the project feasibility study, among them foreign business investment projects must go through the formalities on the strength of approval documents for the establishment of enterprises of the departments of foreign economic relations and trade and the business licenses issued by the departments of industry and commerce administration. Units of processing trade shall go through the formalities of import duty exemption for the import of equipment provided by foreign businesses without evaluation on the strength of the approved contract for processing trade. The customs office shall carry out examination and verification in accordance with those formalities and with reference to the Catalog of Commodities not Eligible for Tax Exemption.

(3) The General Administration of Customs shall make uniform numbers, establish a data bank, strengthen auditing, enforce stringent supervision and control over projects approved for tax exemption and actively cooperate with the departments concerned in conducting successful verification.

(4) All units concerned should pay attention to the simplification of operations links and examination and approval procedures, accelerate the speed of examination and approval so as to ensure the implementation of this major policy of tax exemption and render it effective.

III. Tax Exemption for Import Equipment for Transfer Projects

(1) For import equipment for technological transformation projects approved in accordance with the prescribed procedures of the state prior to March 31, 1996, import duty and import link value-added tax shall be exempted as of January 1, 1998 according to the scope of tax reduction and exemption for equipment previously approved. The project units shall go through the formalities of tax exemption at the competent customs office on the strength of the original approval documents.

(2) For import equipment for foreign business investment projects and domestic investment projects the establishment of which was approved in accordance with the prescribed procedures of the state between April 1, 1996 and December 31, 1997, as well as the import equipment for projects utilizing foreign government loans and loans of international financial institutions, the import duty and import link value-added tax shall be exempted as of January 1, 1998 with the exception of the import commodities not eligible for tax exemption expressly defined by this Provision. The project units shall go through the formalities of tax exemption at the competent customs office on the strength of the original approval documents.

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