

## PUBLIC VERSION

**11 PROGRAM 11: PREFERENTIAL TAX POLICIES FOR FIEs IN STATE HIGH- OR NEW-TECHNOLOGY INDUSTRIAL DEVELOPMENT ZONES, AND FOR ADVANCED TECHNOLOGY ENTERPRISES INVESTED IN AND OPERATED BY FIEs**

The GOC notes that this alleged program covers two separate programs, namely:

- (a) Preferential tax policies for FIEs in State high or new technology industrial development zones – please refer to the GOC's response to Program 22 below; and
- (b) Advanced technology enterprises invested in and operated by FIEs – this program will be addressed here.

**D1.1 Provide details of the program including the following.****(a) Policy objective and/or purpose of the program.**

To encourage foreign investors to invest in China in the fields of advanced technology projects.

**(b) Legislation under which the subsidy is granted.**

This program was previously granted under the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise* ("the Foreign Enterprise Tax Law"), and the *Rules for the Implementation of the Foreign Enterprise Tax Law*.

**(c) Nature or form of the subsidy.**

Tax preferential treatment

**(d) When the program was established.**

1991

**(e) Duration of the program.**

The program was in operation from 1991 through to 31 December 2007.

**(f) How the program is administered and explain how it operates.**

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The program is administered by the State Administration of Taxation in conjunction with other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions.

Applicants must apply for a certification of advanced technology project from the relevant authority. Once the certificate is obtained, the applicant should file the certificate with the tax authority concerned for its record, and thereafter the enterprise may then request the application of the preferential tax rate in the normal course of its income tax assessment.

(g) To whom and how is the program provided.

Upon approval of its applications by the local tax authorities, a ~~Chinese-foreign~~ equity joint venture recognized as an advanced-technology enterprise with an operation period exceeding 10 years may enjoy three more years of half-reduced income tax on top of the two free-three half preferential income tax rate.

(h) The eligibility criteria in order to receive benefits under the program.

Enterprises will receive benefits under the program if they satisfy the requirements outlined in Article 75.1(8) of the *Rules for the Implementation of the Foreign Enterprise Tax Law* **Attachment 95**.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise ("the Foreign Enterprise Tax Law") (Repealed)*  
**Attachment 93**

*Rules for the Implementation of the Foreign Enterprise Tax Law* **Attachment 95**

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

**D1.4** Identify the GOC department or agency administering the program.

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Authority: State Administration of Taxation  
Address: No 5, Yangfangdian West Road, Haidian District, Beijing,  
People's Republic of China, 100038  
Authority: Ministry of Commerce of the People's Republic of China  
Address: No.2 Dong Chang'an Avenue Beijing, People's Republic of  
China, 100731

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the POI.

- D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

An enterprise's eligibility is assessed on the basis of their standard annual income tax reporting. Enterprises indicate on standard reporting documents whether they are seeking to be considered under this program and quote the figure they expect to be reduced.

Copies of the standard income tax assessment forms have been provided in Attachment 96.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

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Upon receipt of standard income tax reporting the competent authority examines the submitted materials to determine whether they are complete and properly documented.

The competent authority will assess complete materials in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the reduction or exemption. If the enterprise does not meet the relevant criteria the reduction or exemption will not be provided.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the enterprise meets the eligibility criteria outlined in D1.1(h) the enterprise will receive the legislated reduction.

There are no specific approval documents, successful enterprises simply receive the reduction as a matter of course.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the enterprise does not meet the eligibility criteria it will not be afforded the preferential tax rate and will not enjoy the reduction.

There is no specific, single purpose disapproval document or form.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods.

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(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

Upon approval of its application by the local tax authorities, a Chinese-foreign joint venture recognized as an advanced-technology enterprises, with an operation period exceeding 10 years, may enjoy three more years of half-reduced income tax rate on top of the two free-three half preferential income tax rate.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is determined by direct reference to the relevant regulations and laws. Please refer to the above response to D1.1(g) for a discussion of these criteria.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2, no further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the enterprise meets the eligibility criteria discussed above the enterprise will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official

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document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not record such data and as such is unable to respond to this question.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The *Enterprise Income Tax Law* was adopted at the fifth session of the Tenth National People's Congress on 16 March 2007, and it came into effect on 1 January 2008. This program is not included in the law.

According to *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax* as of 1 January 2008 enterprises that previously enjoyed the preferential policies of reduced tax rates shall

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be gradually transitioned to the statutory tax rate over a 5 year period after the implementation of the Income Tax Law.

In particular the enterprises that enjoyed a tax rate of 15% are subject to the following increases:

- 18% in 2008;
- 20% in 2009;
- 22% in 2010;
- 24% in 2011; and
- 25% in 2012.

The program will be completely terminated at the expiration of transitional period in 2012.

**PUBLIC VERSION****12 PROGRAM 12 100% REFUND OF INCOME TAX PAID ON DIRECT REINVESTMENT**

The GOC confirms that this program was established in 1991 under the *Implementation Regulation of FIE Income Tax Law*, which was repealed on 1 January 2008, without there being any transitional period. Therefore, the questions under this program are not applicable.

Accordingly the GOC can readily advise that none of the responding companies applied for or benefited from this program and that there was no impact on the production and sale of the subject goods during the investigation period.



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## 13 PROGRAM 13: PREFERENTIAL TAX POLICIES FOR ENTERPRISES TRANSFERRING TECHNOLOGY

The GOC submits that this is a very broad description. However, to cooperate with the investigation, the GOC advises that there is a similar preferential tax policy in Article of the *Enterprise Income Tax Law of the PRC Attachment 79*. Article 27 provides that "*The enterprise income tax on the following incomes may be exempted or reduced... (4) The incomes incurred from the transfer of technologies, which meets the relevant requirements*".

None of the responding companies have applied for, or received or benefited from this program.

Australian Customs is invited to reconsider the accuracy of the information provided in the petition in regard to this alleged program, and to ask further questions of the GOC as may be necessary.

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## 14 PROGRAM 14: PREFERENTIAL TAX POLICIES FOR ENTERPRISES MAKING LITTLE PROFITS

D1.1 Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

To encourage the development of small-scale and low-profit enterprises ("SLEs").

(b) Legislation under which the subsidy is granted.

*Enterprise Income Tax Law of the People's Republic of China* **Attachment 79**  
*Regulations on the Implementation of Enterprise Income Tax Law* **Attachment 95**  
*Circular on the Preferential Policy on Corporate Income Tax of Small-Scale and Low-Profit Enterprises* (Cai Shui [2009] No. 133) **Attachment 99**  
*Circular on the Continuous Implementation of the Preferential Policy on the Corporate Income Tax of Small-Scale and Low-Profit Enterprises* (Cai Shui [2011] No. 4) **Attachment 100**

(c) Nature or form of the subsidy.

Preferential tax treatments, which include two segments:

- 1 for all eligible SLEs, the applicable income tax rate shall be 20%;
- 2 for SLEs with taxable annual income lower than RMB30,000, the taxable income shall be half of the actual income.

(d) When the program was established.

- 1 1 January 2008;
- 2 1 January 2010.

(e) Duration of the program.

- 1 From 2008 to present
- 2 From 2010 to present.

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(f) How the program is administered and explain how it operates.

The program is administered by the State Administration of Taxation in conjunction with other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that apply for a tax reduction do so in the normal course of their income tax assessment.

(g) To whom and how is the program provided.

- 1 The program is available to enterprises making little profit. Such enterprises are those that meet the following conditions, and are not engaged in restricted or prohibited industries.
  - industrial enterprises which have an annual taxable amount not exceeding RMB 300,000, employ not more than 100 employees, and have a total asset of not more than RMB30 million;
  - any other enterprises with an annual taxable amount of not more than RMB300,000, not more than 80 employees, and a total asset of not more than RMB10 million.
- 2 Eligible enterprises with taxable annual income less than RMB30,000 may deduct their income by half as the basis for taxable income calculation, and pay their corporate income taxes at a rate of 20%.

(h) The eligibility criteria in order to receive benefits under the program.

Please see above response to D1.1(g).

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

Please refer to response to the question D.1.1(b).

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

**D1.4** Identify the GOC department or agency administering the program.

Authority: Ministry of Finance of the People's Republic of China  
Address: No 3, South Three Alley of Sanli River, Xicheng District, Beijing  
China, 100820  
  
Authority: State Administration of Taxation  
Address: No 5, Yangfangdian West Road, Haidian District, Beijing China,  
100038

**D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

**D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the POI.

**D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There is no specific application form for this program.

An enterprise's eligibility is assessed on the basis of its standard annual income tax report.

The applicant shall indicate on the standard tax report documents whether it is seeking to be considered under this program and quote the figure it expects to be

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reduced or exempted.

Copies of the standard income tax assessment forms have been provided in  
**Attachment 96**

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Upon receipt of standard income tax report form, the competent authority examines the submitted materials to determine whether they are complete and properly documented.

The competent authority will assess the application in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the reduction or exemption. If the enterprise does not meet the relevant criteria the reduction or exemption will not be provided.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the enterprise meets the eligibility criteria outlined in D1.1(h) the enterprise will receive the legislated reduction.

There are no specific approval documents.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the enterprise does not meet the eligibility criteria it will not be afforded the preferential tax rate and will not enjoy the reduction or exemption.

There is no specific, single-purpose disapproval document or form.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

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(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

Eligibility for this program is not limited to designated regions.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

This program is available to enterprises which meet following conditions:

- (a) an industrial enterprise shall have an annual taxable amount not exceeding RMB300,000, not more than 100 employees and a total asset of more than RMB30 million;
- (b) any other enterprise shall have an annual taxable amount of not more than RMB300,000, have not more than 80 employees, and a total asset of not more than RMB10 million.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

Please see above response to D1.1(h) for an explanation of the criteria determining the size of the benefit.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2. No further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a

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benefit or is final approval contingent upon the government agency or authority that administers the program?

If the enterprise meets the eligibility criteria discussed above the enterprise will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and companies benefiting from this program

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not keep such data

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

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For the first segment of the policy, The GOC does not anticipate any changes.

For the second segment of this policy, the GOC advises that starting from 2012, the threshold taxable annual income triggering application is raised from RMB30,000 to RMB60,000.



**PUBLIC VERSION****15 PROGRAM 15: PREFERENTIAL TAX POLICIES FOR ENTERPRISES WITH FOREIGN INVESTMENT IN THE BORDER CITIES**

This program was established in 1992 under a series of State Council Notices which provided a preferential income tax rate of 24%.

It was repealed on 1 January 2008, with only a one year transitional period.

The GOC confirms that this program has ceased to be effective since 1 January 2009.

Accordingly the GOC can readily advise that none of the responding companies have applied for or benefited from this program and that there has been no impact on the production and sale of the subject goods during the investigation period.

**PUBLIC VERSION****16 PROGRAM 16: PREFERENTIAL TAX POLICIES FOR FIEs IN CENTRAL AND WESTERN CHINA**

Please see above response to Program 5. The GOC believes that these are the one and the same "program".

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17 PROGRAM 17: PREFERENTIAL TAX POLICIES FOR FIEs ESTABLISHED IN THE  
PUDONG AREA OF SHANGHAI

D1.1 Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

To encourage foreign investment and enhance development of the relevant area.

(b) Legislation under which the subsidy is granted.

*Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94*

*Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (Repealed) (the "Foreign Enterprise Tax Law") Attachment 93*

*Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise Attachment 95*

(c) Nature or form of the subsidy.

Preferential tax treatment

(d) When the program was established.

1 July 1991

(e) Duration of the program.

The program was in operation from 1991 through to 31 December 2007.  
Transitional provisions are now in operation until 2012.

(f) How the program is administered and explain how it operates.

The program is administered by the State Administration of Taxation in conjunction with other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that apply for a tax reduction do so

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in the normal course of their income tax assessment.

(g) To whom and how is the program provided.

The income tax on enterprises with foreign investment of a production nature established in Pudong area of Shanghai as well as enterprises with foreign investment engaged in energy resources and transport construction projects such as airport, ports, railways, highways and power stations shall be levied at the reduced rate of fifteen percent.

Enterprises with foreign investment engaged in energy resources and transport construction projects such as airport, ports, railways, highways and power stations where the period of operations is fifteen years or more may be exempt from enterprise income tax from the first year to the fifth year starting from the year beginning to make profit and subject to enterprise income tax at a rate reduced by one half for the sixth year through the tenth year.

(h) The eligibility criteria in order to receive benefits under the program.

The income tax on enterprises with foreign investment in coastal economic open zones, in the old urban districts of cities where the Special Economic Zones or the Economic and Technological Development Zones are located or in other regions defined by the State Council, within the scope of energy, communications, harbor, wharf or other projects encouraged by the State, may be levied at the reduced rate of fifteen percent.

Enterprises with foreign investment established in the Pudong New Area of Shanghai and engaged in construction projects such as airports, ports, railways, highways and power stations where the period of operations is 15 years or more shall, following application by the enterprise and approval thereof by the tax authorities of the municipality of Shanghai and commencing with the first profit-making year, be exempt from enterprise income tax from the first year to the fifth year and subject to enterprise income tax at a rate reduced by one half for the sixth year through the tenth year.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Foreign Enterprise Tax Law (repealed) Attachment 93*

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*Rules for the Implementation of the Foreign Enterprise Tax Law Attachment 95*  
*Enterprise Income Tax Law 2008 Attachment 79*  
*Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94*

- D1.3. Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4 Identify the GOC department or agency administering the program.

Authority:	Ministry of Finance
Address:	3 South Three Alley of Sanli River, Xicheng District, Beijing 100820
Authority:	Administration of Taxation
Address:	6 Jianguomen Avenue, Dongcheng District, Beijing 100730
Authority:	Ministry of Commerce
Address:	No.2 Dong Chang'an Avenue, Beijing, 100731

- D1.5 Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6 Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the investigated period.

- D1.7 Answer the following questions regarding the application process:

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(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There is no specific application form.

An enterprise's eligibility is assessed on the basis of their standard annual income tax reporting. Enterprises indicate on standard reporting documents whether they are seeking to be considered under this program and quote the figure they expect to be reduced or exempted.

Copies of the standard income tax assessment forms are provided in **Attachment 96**

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Upon receipt of standard income tax reporting the competent authority examines the submitted materials to determine whether they are complete and properly documented.

The competent authority will assess complete materials in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the application. If the application does not satisfy the relevant criteria the application will be rejected.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Please see above response to D1.1(h) for an explanation of the criteria for assessment.

There are no specific approval documents, successful enterprises simply receive the reduction or exemption as a matter of course.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the applicant does not meet the eligibility criteria it will not be accorded the preferential tax rate and will not receive a reduction or exemption.

There is no specific, single-purpose disapproval document or form.

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**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is available to enterprises established in the Pudong area of Shanghai.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

This program is available to any enterprise or industry that has an element of foreign investment. As foreign investment can occur in any enterprise, group of enterprises or industry this program is not limited to any particular.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

Please see above response to D1.1(h) for an explanation of the criteria determining the size of the benefit.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to B1.2, no further legal instruments govern the

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application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the applicant meets the eligibility criteria discussed above the applicant will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the GOC and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not record such data and as such is unable to respond to this question.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.



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**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

*According to Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax as of 1 January 2008 enterprises that previously enjoyed the preferential policies of reduced tax rates shall be gradually transitioned to the statutory tax rate over a 5 year period after the implementation of the Income Tax Law.*

*In particular the enterprises that enjoyed a tax rate of 15% shall be subject to the following increases:*

- 18% in 2008;*
- 20% in 2009;*
- 22% in 2010;*
- 24% in 2011; and*
- 25% in 2012.*

*Enterprises that previously enjoyed tax rate of 24% shall immediately be subject to a 25% rate as of 2008.*

*The program will be completely terminated when the transitional period expires at 31 December, 2012*

**PUBLIC VERSION****18 PROGRAM 18: PREFERENTIAL TAX POLICIES FOR DOMESTIC COMPANIES AND  
FIES IN THE WESTERN REGIONS**

Please see responses to Program 5, as the GOC believes that these are one and the same program.

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**PUBLIC VERSION****19 PROGRAM 19: PREFERENTIAL TAX POLICIES FOR FIEs IN THE THREE GORGES OF YANGTZE RIVER ECONOMIC ZONE**

This program was established in 1992 under a series of State Council Notices, which provided a preferential income tax rate of 24%.

It was repealed on 1 January 2008, with only a one year transitional period.

The GOC confirms that this program has ceased to be effective since 1 January 2009.

Accordingly the GOC can readily advise that none of the responding companies have applied for or benefited from this program and that there has been no impact on the production and sale of the subject goods during the investigation period.

**PUBLIC VERSION****20 PROGRAM 20: PREFERENTIAL TAX POLICIES FOR ENTERPRISES ESTABLISHED IN  
POVERTY STRICKEN AREAS**

The GOC confirms that this program was established in 1994 under the Notice of State Administration of Taxation, which provided a preferential income tax rate to enterprises in poor areas.

It was repealed on 1 January 2008 without any transitional period. Therefore, the questions under this program are not applicable to this proceeding.

Accordingly the GOC can readily advise that none of the responding companies have applied for or benefited from this program and that there has been no impact on the production and sale of the subject goods during the investigation period.

## PUBLIC VERSION

**21 PROGRAM 21: GRANTS FOR ENCOURAGING THE ESTABLISHMENT OF HEADQUARTERS AND REGIONAL HEADQUARTERS WITH FOREIGN INVESTMENT**

**D1.1** Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

Increasing global market access, improving the investment environment and promoting economic development.

(b) Legislation under which the subsidy is granted.

*Provisions of Guangzhou Municipality on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters Attachment 101*

(c) Nature or form of the subsidy.

Grant and preferential tax treatment.

(d) When the program was established.

2006

(e) Duration of the program.

2006 to 2010

(f) How the program is administered and explain how it operates.

This program is administered by the local commerce authority of Guangzhou. Specifically this program is one of accrediting Chinese offices of foreign owned enterprises as headquarters or regional headquarters. The Foreign Trade and Economic Cooperation Administrative Department of Guangzhou Municipality ("FTEC") is responsible for such certification.

Such accreditation provides the enterprises with the opportunity to be paid a once off cash grant for "Headquarters" accreditation of RMB5 million or for "Regional Headquarters" of RMB2 million. The program refers to other benefits which would naturally or legally accrue from having Guangzhou as the location of headquarters,

## PUBLIC VERSION

however these are not cash benefits.

(g) To whom and how is the program provided.

This program benefits the enterprise itself as well as its management staff in the conduct of their business in China.

(h) The eligibility criteria in order to receive benefits under the program.

This program is available to enterprises established in the Guangzhou Municipality by a foreign investor.

To qualify as "Headquarters", the facility must control all the operations and management of any enterprises it is invested in both in China and internationally. Only one enterprise Headquarters is permitted in the Guangzhou Municipality.

To qualify as "Regional Headquarters" the facility must control operations and management of some or all enterprises in which it invests within a certain area of China.

The types of companies that can qualify as Headquarters or Regional Headquarters may be investment companies, management companies, research and development centres and production enterprises.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Provisions of Guangzhou Municipality on Encouraging Foreign Investors to Set up Headquarters and Regional Headquarters Attachment 101*

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

**D1.4** Identify the GOC department or agency administering the program.

Authority: Bureau of Foreign Trade and Economic Cooperation of Guangzhou Municipality

## PUBLIC VERSION

Address: 10th Floor, International Trade Edifice, 158 Dongfeng West Road,  
Guangzhou, 510170

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The local authority maintains record of payment documents.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2006 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the POI.

- D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

- (a) In order to apply for consideration under this program an enterprise must file with the Municipal FTEC Administrative Department the following materials:
- (1) an application letter signed by the enterprise's representative;
  - (2) the authorisation document on the establishment of the headquarters or regional headquarters, signed by the parent company's representative; copies of the approval certificate, business license and capital verification report of the enterprise;
  - (3) the credit standing certificate, copy of the registration document, and certificate of the parent company's representative;
  - (4) a list of the enterprises approving the management and services of the headquarters or regional headquarters (accompanied by the enterprise approval certificate, and photocopies of the business license and capital verification report);

**PUBLIC VERSION**

- (5) the authorisation document provided by the parent company to the headquarters or regional headquarters representative, and the identity certificate of said representative;
  - (6) any other materials as prescribed from time to time in relevant laws, rules and regulations.
- (b) For newly established companies applying for accreditation the following additional material are required:
- (1) the articles of association and feasibility research report for the enterprise;
  - (2) a copy of the certificate of lawfulness of the source of company site;
  - (3) the parent company's three most recent years balance sheets;
  - (4) a list of the members of the parent company's board of directors; and
  - (5) any other materials as prescribed from time to time in relevant laws, rules and regulations.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

There is no standard form of application required, rather the legislative instruments stipulate that an application letter signed by the enterprise's legal representative complete with supporting documentation will constitute an application.

Upon receipt of an application the Municipal FTEC Administrative Department will, within 15 working days, assess the application for accreditation. If the enterprise satisfies the relevant criteria the accreditation must be approved and an accreditation certificate issued to the applicant enterprise.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the application is approved, it means that the applicant has satisfied the relevant eligibility criteria.

There are no specific approval documents.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.



## PUBLIC VERSION

If the application is denied it is because the applicant did not satisfy the relevant eligibility criteria.

There are no specific disapproval documents.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is available to enterprises or industries whose headquarters or regional headquarters are located within the Municipality of Guangzhou.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is determined by direct reference to the relevant regulations and laws.

**PUBLIC VERSION**

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, the applicant will generally receive a benefit.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit granted is determined exclusively by established criteria found in the applicable law.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not record such data and as such is unable to respond to this question.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

**PUBLIC VERSION**

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The GOC advises that this named program has ended.

## PUBLIC VERSION

## 22 PROGRAM 22: PREFERENTIAL TAX TREATMENTS FOR NEW HI-TECH ENTERPRISES (NHTES) IN SPECIAL ZONES

D1.1 Provide details of the program including the following.

(i) Policy objective and/or purpose of the program.

To encourage foreign investors to invest in China in the fields of high or new technology and to promote the development of high or new technology industry in China.

(j) Legislation under which the subsidy is granted.

This program was previously granted under the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise* ("the Foreign Enterprise Tax Law"), the *Rules for the Implementation of the Foreign Enterprise Tax Law* and the *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax*.

(k) Nature or form of the subsidy.

Tax preferential treatment

(l) When the program was established.

1991

(m) Duration of the program.

The program was in operation from 1991 through to 31 December 2007. Transitional provisions are now in operation until 2012.

(n) How the program is administered and explain how it operates.

The program is administered by the State Administration of Taxation in conjunction with other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that apply for a tax reduction do so in the normal course of their income tax assessment.

**PUBLIC VERSION**

(o) To whom and how is the program provided.

Chinese-foreign equity joint ventures recognized as new and high-technology enterprises and established in new and high-technology industrial development zones approved by the State Council, with the operation period exceeding 10 years may, upon approval of their applications by the local tax authorities, enjoy exemption from enterprise income tax for the first and second profit-making years.

(p) The eligibility criteria in order to receive benefits under the program.

Enterprises will receive benefits under the program if they satisfy the requirements outlined in Article 7 of the Foreign Enterprise Income Tax Law and Article 75 of the Rules for the Implementation of the Foreign Enterprise Tax Law.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94*

*Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise ("the Foreign Enterprise Tax Law") (Repealed) Attachment 93*

*Rules for the implementation of the Foreign Enterprise Tax Law Attachment 95*

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

**D1.4** Identify the GOC department or agency administering the program.

Authority:	Ministry of Finance of the People's Republic of China
Address:	No 3, South Three Alley of Sanli River, Xicheng District, Beijing, People's Republic of China, 100820
Authority:	State Administration of Taxation
Address:	No 5, Yangfangdian West Road, Haidian District, Beijing,

## PUBLIC VERSION

People's Republic of China, 100038

Authority: Ministry of Commerce of the People's Republic of China  
Address: No.2 Dong Chang'an Avenue Beijing, People's Republic of  
China, 100731

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies ~~were~~ in receipt of benefits under the program during the POI.

- D1.7** Answer the following ~~questions~~ regarding the application process:

(a) Describe ~~the~~ application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There is no specific application form.

An enterprise's eligibility is assessed on the basis of its standard annual income tax reporting. Enterprises indicate on standard reporting documents whether they are seeking to be considered under this program and quote the figure they expect to be reduced or exempted.

Copies of the standard income tax assessment forms have been provided in **Attachment 96**.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

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Upon receipt of standard income tax reporting the competent authority examines the submitted materials to determine whether they are complete and properly documented.

The competent authority will assess complete materials in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the reduction or exemption. If the enterprise does not meet the relevant criteria the reduction or exemption will not be provided.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the enterprise meets the eligibility criteria outlined in D1.1(h) the enterprise will receive the legislated reduction or exemption.

There are no specific approval documents. Successful enterprises simply receive the reduction or exemption as a matter of course.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the enterprise does not meet the eligibility criteria it will not be afforded the preferential tax rate and will not enjoy the reduction or exemption.

There is no specific, single-purpose disapproval document or form.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods

## PUBLIC VERSION

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

Chinese-foreign equity joint ventures recognized as new and high-technology enterprises and established in new and high-technology industrial development zones approved by the State Council, with the operation period exceeding 10 years may, upon approval of their applications by the local tax authorities, enjoy exemption from enterprise income tax for the first and second profit-making years.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is determined by direct reference to the relevant regulations and laws. Please refer to the above response to D1.1(g) a discussion of this criteria.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2, no further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the enterprise meets the eligibility criteria discussed above the enterprise will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official



## PUBLIC VERSION

document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not record such data and as such is unable to respond to this question.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The *Enterprise Income Tax Law* was adopted at the fifth session of the Tenth National People's Congress on 16 March 2007, and it came into effect on 1 January 2008. This program is not included in the law.

According to *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax* as of 1 January 2008 enterprises that previously enjoyed the preferential policies of reduced tax rates shall

**PUBLIC VERSION**

be gradually transitioned to the statutory tax rate over a 5 year period after the implementation of the Income Tax Law.

In particular the enterprises that enjoyed a tax rate of 15% are subject to the following increases:

- 18% in 2008;
- 20% in 2009;
- 22% in 2010;
- 24% in 2011; and
- 25% in 2012.

The program will be completely terminated when the transitional period expires at 31 December, 2012.

**PUBLIC VERSION**

- 23 **PROGRAM 23: PREFERENTIAL POLICIES IN INDUSTRIAL ZONES IN CHINA INCLUDING ECONOMIC & TECHNOLOGICAL DEVELOPMENT ZONES (ETDZ), HIGH & NEW TECHNOLOGICAL DEVELOPMENT ZONES (HIGH TECH PARKS), EXPORT PROCESSING ZONES (EPZ), SPECIAL ECONOMIC ZONES (SEZ), FREE TRADE COOPERATION ZONES (FTZ), INDUSTRIAL ZONES (IZ) AND EXPORT PROCESSING ZONES (EPZ) - PROVINCES INCLUDE BEIJING, DALIAN, FUJIAN, GUANGDONG, GUANGZHOU, LIANYUNGANG, NANTONG, NINGBO, QINGDAO, QINHUANGDAO, SHANGHAI**

The GOC submits that the description of this "program" is overly broad and vague.

The GOC has trouble in understanding what program is alleged under the catch-all description of a variety of "preferential policies".

The GOC respectfully request Customs to reconsider the accuracy of the information provided in the application.

Nonetheless, to assist Customs with the investigation, the GOC submits the opinion that this may refer to Programs which the GOC addresses in this GQ response, eg, Programs 6, 11, 16, 17, 19, and 22.

**PUBLIC VERSION****24 PROGRAM 24: PREFERENTIAL POLICIES IN XINZHUANG INDUSTRIAL ZONE,  
SHANGHAI**

The GOC submits that the description of this "program" is broad and vague.

The GOC has trouble in understanding what program is alleged under the catch-all description of a variety of "preferential policies".

Under Chinese law, income tax, VAT and customs duty, which seem to be covered under this "program", can only be levied or exempted under the authority of the central government. GOC cannot clarify this allegation and would invite Australian Customs to check the accuracy of the information being provided by the applicant.

In any event none of the responding companies are located in Xinzhuang industrial zone, Shanghai, and as such none would have applied for or received any benefits under this alleged program.

## PUBLIC VERSION

### 25 PROGRAM 25: PREFERENTIAL POLICIES IN SHANGHAI

The GOC submits that the description of this "program" is broad and vague.

The GOC has trouble in understanding what program is alleged under the catch-all description of a variety of "preferential policies".

In any event none of the responding companies are located in Shanghai, and as such none would have applied for or received any benefits under this alleged program.

**PUBLIC VERSION****26 PROGRAM 26: PREFERENTIAL POLICIES IN WEIHAI ECONOMIC DEVELOPMENT,  
HIGH-TECH INDUSTRY DEVELOPMENT AND EXPORT PROCESSING ZONES,  
SHANDONG PROVINCE**

The GOC submits that the description of this "program" is broad and vague.

The GOC has trouble in understanding what program is alleged under the catch-all description of a variety of "preferential policies".

In any event none of the responding companies are located in these regions, and as such none would have applied for or received any benefits under this alleged program.

**PUBLIC VERSION****27 PROGRAM 27: TAX INCENTIVES FOR MANUFACTURING FIES IN JIANGSU PROVINCE**

The GOC submits that the description of this "program" is broad and vague.

The GOC has trouble in understanding what program is alleged under the catch-all description of "tax incentives".

Under Chinese law, income tax, VAT and customs duty, which seem to be covered under this "program", can only be levied or exempted under the authority of the central government. GOC cannot clarify this allegation and would invite Australian Customs to check the accuracy of the information being provided by the applicant.

In any event none of the responding companies are located in Jiangsu province, and as such none would have applied for or received any benefits under this alleged program/s.

## PUBLIC VERSION

## 28 PROGRAM 28: PREFERENTIAL TAX RATES IN GUANGZHOU, GUANGDONG PROVINCE

The GOC submits that the description of this "program" is broad and vague.

The GOC has trouble in understanding what program is alleged under the catch-all description of a variety of "preferential tax rates".

Under Chinese law, income tax, VAT and customs duty, which may covered under this "program", can only be levied or exempted under the authority of the central government. GOC cannot clarify this allegation and would invite Australian Customs to check the accuracy of the information being provided by the applicant.

Preferential tax rates in Guangzhou would be the same as those of general application in China.



## PUBLIC VERSION

## 29 PROGRAM 29: PATENT AWARD OF GUANGDONG PROVINCE

D1.1 Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

To encourage innovation and the generation of associated patents.

(b) Legislation under which the subsidy is granted.

2009 Guangdong Patent Award Implementation Proposal

(c) Nature or form of the subsidy.

Grant

(d) When the program was established.

2009

(e) Duration of the program.

2009 to the present

(f) How the program is administered and explain how it operates.

This program is administered by the Guangdong Province Department of Intellectual Property and Department of Personnel. The Guangdong Patent Award Appraising and Electing Committee and Appraising and Electing Offices and Expert Committee are established under the Guangdong Province Department of Intellectual Property. The Expert Committee includes technical, economic, legal and management experts.

(g) To whom and how is the program provided.

The Departments grant "Guangdong Patent Golden Award" and "Guangdong Patent Excellence Award" after applications are assessed. These awards include an Award Certificate and a bonus to the successful patent holder or operation institute. Guangdong Province Department of Intellectual Property will in turn recommend the

**PUBLIC VERSION**

successful enterprises to the China Patent Award competition.

- (h) The eligibility criteria in order to receive benefits under the program.

There are two areas in which an application can be made - innovations and utility models patent or industrial design.

- (a) An application under the innovations and utility models patent head must establish that the product in question:
- is skilfully constructed and innovative with high creation and technical level;
  - contributes to technical improvement and creation.
  - the patent has created or have the potential to bring significant economic or social benefit;
  - the patent holder has significantly protected the patent.
- (b) An application under the industrial design head must establish that:
- the industrial design has reached high level at shape, pattern and colour;
  - application of this industrial design has brought or has the potential to bring significant economic or social benefit;
  - the patent holder has significantly protected the patent.

- D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

2009 Guangdong Patent Award Implementation Proposal Attachment 102

- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4** Identify the GOC department or agency administering the program.

Authority: Guangdong Province Department of Intellectual Property

## PUBLIC VERSION

Address: 100 Xianlie Middle Road, Guangzhou, Guangdong province  
Authority: Guangdong Province Department of Personnel  
Address: No.305 of Dongfeng Middle Road, Guangzhou

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2006 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the POI.

- D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

An enterprise can either directly apply to the Department of Intellectual Property Bureau, Department of Personal or apply to be recommended by a provincial related institute for consideration for this program. Institutes that choose to recommend an enterprise make that recommendation to the Electing Committee.  
There is no standard application form.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

The Expert Committee will assess final applications and make comments to the Guangdong Patent Award Appraising and Electing Committee who will make the final determination as to successful enterprises.

## PUBLIC VERSION

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

A successful applicant will have satisfied the relevant eligibility criteria to a higher degree than other applicants.

Upon determination of the successful enterprises the results will be published and open for public comment for 15 days.

Provided there are no reasonable objections the Guangdong Province Department of Intellectual Property and Department of Personnel will publish the award items and institutes granted the awards on Nanfang Daily and broadly promote the awards and winners.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If an applicant is unsuccessful it is because the applicant they either did not satisfy the relevant eligibility criteria or did not satisfy it to the extent that other applicants did.

There are no specific disapproval documents.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent upon the use of domestic over export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent upon the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

## PUBLIC VERSION

The award is available to enterprises located in Guangdong Province.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is determined by direct reference to the relevant regulations and laws.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the applicant meets the eligibility criteria discussed above the application will be considered and assessed in relation to other applications received.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

## PUBLIC VERSION

There are no contractual agreements between the Government of China and companies benefiting from this program.

- D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not keep such data.

- D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

- D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The GOC does not anticipate any changes to the program at this time.

## PUBLIC VERSION

**30 PROGRAM 30: TERMINATION OF TAX REFUND POLICIES FOR FIES ON THEIR PURCHASE OF DOMESTICALLY MANUFACTURED EQUIPMENT**

The GOC notes that both the applicant and Australian Customs have acknowledged the non-existence/non-operative status of this program.

The GOC confirms that this program was terminated on 31 Dec 2007 under the *Circular of the State Administration of Taxation concerning Stopping the Implementation of the Policy of Enterprises Income Tax Deduction and Exemption for Investment by Purchasing Domestically Produced Equipment Attachment 103*

Therefore this program ceased to be effective before the investigation period.

## PUBLIC VERSION

## 31 PROGRAM 31: EXEMPTION OF TARIFF AND IMPORT VAT FOR IMPORTED TECHNOLOGIES AND EQUIPMENTS

D1.1 Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

The policy objective of the program is to attract foreign investment and to encourage domestic investment, and the introduction of foreign advanced technology equipment and industry technology upgrades.

(b) Legislation under which the subsidy is granted.

*Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment Attachment 104*

(c) Nature or form of the subsidy.

Tax exemption.

(d) When the program was established.

29 December 1997.

(e) Duration of the program.

Exemption of tariff:	29 December 1997 - Present.
Exemption of VAT:	29 December 1997 - 31 December 2008

(f) How the program is administered and explain how it operates.

Qualified enterprises receive a certificate either directly from the National Development and Reform Commission (NDRC) or its provincial branch depending on the scale of the enterprise and other factors including whether the project was reviewed by NDRC before business registration.

Enterprises present the certificates and other customs clearance documents to their local customs authorities in order to receive tariff and VAT exemptions on eligible equipment imports.



(g) To whom and how is the program provided.

This program is available to all enterprises. FIEs are eligible if the project is covered under the preferential or restrictive-B categories of *Catalogue for the Guidance of the Foreign Investment Industries 2004 Attachment 105* (now replaced by the *Catalogue for the Guidance of the Foreign Investment Industries 2007 Attachment 87*) and domestic enterprises are eligible if the project falls within the *Current Catalogue of Key Industries, Products and Technologies The Development of Which is Encouraged by the State Attachment 85*

Qualifying enterprises can be exempted from paying tariffs and/or VAT on purchases of selected imported equipment if it is for self-use and the equipment is not listed in the *Directory of Imported Commodities of Non-Tax-Exemption to be Used in Domestic Invested Projects* or the *Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects*.

(h) The eligibility criteria in order to receive benefits under the program.

- (a) Domestic enterprises – the equipment relating to the project concerned must be listed in the *Current Catalogue of Key Industries, Products and Technologies the Development of Which is Encouraged by the State*. In addition, the equipment must be for the applicant's own use and the value of the equipment must be within the total amount of investment in the domestic project. Finally, any equipment that is imported and listed in the *Directory of Imported Commodities of Non-Tax Exemption to be Used in Domestic Invested Projects* is not eligible for exemption under this program.
- (b) Foreign invested enterprises – the equipment relating to the project concerned must align with projects listed in the "encouraged" category of the *Catalogue for the Guidance of the Foreign Investment Industries*. In addition, the equipment must be for the applicant's own use and the value of the equipment must be within the total amount of investment in the foreign project. Finally, any type of equipment that is imported and listed in the *Directory of Imported Commodities of Non-Tax Exemption to be Used in Foreign Invested Projects* is not eligible for exemption under this program.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

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*Circular of the State Council on Adjustment of Imported Equipment Taxation Policies*  
**Attachment 104**

*Catalogue for the Guidance of the Foreign Investment Industries 2004* **Attachment 105**

*Catalogue for the Guidance of the Foreign Investment Industries 2007* **Attachment 87**

*Catalogue of Key Industries, Products and Technologies The Development of Which is Encouraged by the State* **Attachment 85**

*Directory of Imported Commodities of Non-Tax-Exemption to be Used in Domestic Invested Projects (2002)* **Attachment 106**

*Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects (2002)* **Attachment 107**

*Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects (2008)* **Attachment 88**

- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4** Identify the GOC department or agency administering the program.

Authority:	National Development and Reform Commission
Address:	36 South Yuetan Street, Xicheng District, Beijing 100824
Authority:	General Administration of Customs
Address:	6 Jianguomen Avenue, Dongcheng District, Beijing 100730

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

## PUBLIC VERSION

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

[CONFIDENTIAL TEXT DELETED]

**D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There are no application fees charged by the authority.

Please refer to **Attachment 108** for a blank copy of application form. This form is used for both FIE and domestic enterprise applications.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

The competent authority examines the application forms submitted by enterprises. Applications are approved or denied based upon whether the applicants have adequately documented both the project eligibility and the imported article eligibility under the program. If the application is in order, it will be approved and the applicant will receive a certificate.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the application is approved, it means that the applicant has satisfied the relevant eligibility criteria.

There are no specific approval documents.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the application is denied it is because the applicant did not satisfy the relevant eligibility criteria.

## PUBLIC VERSION

There are no specific disapproval documents.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is not limited to particular designated regions.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is determined by direct reference to the relevant regulations and laws.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2, no further legal instruments govern the

## PUBLIC VERSION

application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the applicant meets the eligibility criteria discussed above the applicant will receive the certificate from NDRC, no further discretion is exercised by the administering agency.

Upon presentation of an NDRC issued certificate Customs will make a decision on whether the enterprises may receive the benefit.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

This is a tax reduction relief program established by the laws and regulations or other official documents and there is no contractual agreement between the Government of China and the companies that are receiving the benefits.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not keep such data.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

## PUBLIC VERSION

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

No changes are currently anticipated to the tariff exemptions, which continue in operation.

Exemption of VAT was terminated on 1 January 2009. The last day that a company could receive benefits under this program was 31 December 2008. The GOC provides a copy of the relevant notification at **Attachment 109**

## PUBLIC VERSION

## 32 PROGRAM 32: FULL REFUND OF VAT TO FIEs ON PURCHASING UNUSED DOMESTIC EQUIPMENT WITH CURRENCY IN CHINA

D1.1 Provide details of the program including the following.

(a) Policy objective and/or purpose of the program;

To encourage foreign funded projects to use domestically-manufactured equipment.

(b) Legislation under which the subsidy is granted.

*Notice of the State Administration of Taxation and the National Development and Reform Commission on Printing and Distributing the "Trial Implementation Measures on Tax Refund Administration for the Purchase of Home-made Equipment for Foreign-funded Projects" No. 111 [2006] of the State Administration of Taxation ("the Domestic Tax Refund Notice") Attachment 110*

(c) Nature or form of the subsidy.

Tax refund.

(d) When the program was established.

2006

(e) Duration of the program.

2006 through to 2008

(f) How the program is administered and explain how it operates.

The applicable VAT refund regulations are administered by local branch offices of the State Administration of Taxation in accordance with the terms of Domestic Tax Refund Notice.

(g) To whom and how is the program provided.

## PUBLIC VERSION

The refund is available to:

- (a) foreign-funded enterprises affirmed as general value-added tax payers;
- (b) foreign-funded enterprises engaging in transport or common dwelling house development; and
- (c) Chinese-foreign cooperative enterprises engaging in marine petroleum exploration and exploitation (subject to the provisions of the Domestic Tax Refund Notice).

Foreign-funded enterprises are defined to include Chinese-foreign joint venture enterprises, Chinese-foreign cooperative enterprises and wholly foreign-owned enterprises.

Refunds are applicable to purchases of Chinese-made equipment for the foreign-funded projects that fall into the encouraged category in the *Catalogue of Industries for Guiding Foreign Investment Attachment 87* and the *Catalogue of Priority Industries for Foreign Investment in the Central-Western Region Attachment 111* provided the product purchased is not listed in the *Catalogue of Imported Commodities for Foreign-funded Projects Not Exempted from Tax Attachment 89*

- (h) The eligibility criteria in order to receive benefits under the program.

In order to be eligible for the refund a company must establish that:

- (a) it is a foreign-funded enterprises as defined in Article 3 of the Domestic Tax Refund Notice;
- (b) the project is a foreign-funded project that the project within an encouraged category as defined in Article 4 of the Domestic Tax Refund Notice;
- (c) the equipment purchased has been produced within the territory of the People's Republic of China as outlined in Article 5 of the Domestic Tax Refund Notice and is not listed in the *Catalogue of Imported Commodities for Foreign-funded Projects Not Exempted from Tax Attachment 89*

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.



## PUBLIC VERSION

*Notice of the State Administration of Taxation and the National Development and Reform Commission on Printing and Distributing the "Trial Implementation Measures on Tax Refund Administration for the Purchase of Home-made Equipment for Foreign-funded Projects" No. 111 [2006] of the State Administration of Taxation ("the Domestic Tax Refund Notice")* **Attachments 110**

*According to Notice of the Ministry of Finance and the State Administration of Taxation on Stopping the Implementation of the Policy of Refunding Tax to Foreign-funded Enterprises for Their Purchase of Home-made Equipment (No.176 [2008] of the Ministry of Finance)* **Attachment 112**

*Notice of the State Administration of Taxation and the National Development and Reform Commission on the Relevant Tax Refund Policies for Foreign-funded Projects that Purchase Home-made Equipment (No.121 [2008] of the State Administration of Taxation)* **Attachment 113**

- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see **Attachment 114** for a blank copy of the standard form application.

- D1.4** Identify the GOC department or agency administering the program.

Department:	National Development and Reform Commission
Address:	No.38, Yuetan South Street, Xicheng District, Beijing, 100824
Department:	State Administration of Taxation
Address:	No.5 Yangfangdian West Road, Haidian District, Beijing, 100038

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2006 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the

**PUBLIC VERSION**

benefit or concession granted (monetary and/or non-monetary) under the program.

[CONFIDENTIAL TEXT DELETED]

**D1.7** Answer the following questions regarding the application process:

- (a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

Enterprises shall first apply for a "Letter of Confirmation of Foreign-funded Project Conforming to State Industrial Policies" from the relevant Development and Reform Commission. Within 30 days after obtaining the letter of confirmation the enterprise will submit the following documents to the local competent tax refund authority to apply for registration for the tax refund for the purchase of home-made equipment:

- (a) a photocopy of its business license;
- (b) a photocopy of its tax registration certificate;
- (c) an original copy of the Letter of Confirmation of the Foreign-funded Project Conforming to State Industrial Policies; and
- (d) other documents required by the taxation authority.

- (b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

After receiving an application the relevant tax refund authority must check the "Letter of Confirmation of the Foreign-funded Project Conforming to State Industrial Policies" to ensure the product is not listed in the *Catalogue of Imported Commodities for Foreign-funded Projects Not Exempted from Tax*, examine the relevant vouchers, and conduct an on-site investigation to verify the purchase of equipment and determine the tax amount indicated on the VAT invoices.

If the "Letter of Confirmation of the Foreign-funded Project Conforming to State Industrial Policies" is not consistent with the relevant Catalogues, the application for refund will be denied. Discrepancies in information are reported to the State Administration of Taxation.

Applications by foreign-funded enterprises that are general value-added tax payers will not be approved unless the information on the VAT invoices is accurate.

Applications by foreign-funded enterprises engaging in transport or common dwelling

## PUBLIC VERSION

house development or Chinese-foreign cooperative enterprises engaging in marine petroleum exploration and exploitation will not be approved unless the information on the VAT invoices is accurate and the tax returns for the goods listed have been filed according to the relevant provisions.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the application meets required criteria, the application will be approved.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the application fails to meet required criteria, the application will be disapproved.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is contingent upon use of domestic over imported goods. Refund of VAT is only available for purchase of domestically produced equipment.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is not limited to enterprises or industries located within designated area.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

**PUBLIC VERSION**

This program is not limited to any enterprises or group of enterprises, or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

An enterprise that meets the eligibility criteria will receive the refund provided the information provided is determined to be accurate at the time of examination.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please refer to above response at D1.2

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

No. No agency or authority discretion determines receipt of the refund, once the eligibility criteria is met and the accuracy of the information confirmed the refund will be provided

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the refund is exclusively determined by the Domestic Tax Refund Notice, being the full amount of the VAT paid

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the GOC and the companies. That is receiving the benefits under this program.

## PUBLIC VERSION

- D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not keep such data

- D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

The GOC does not keep such data

- D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

According to Notice of the Ministry of Finance and the State Administration of Taxation on Stopping the Implementation of the Policy of Refunding Tax to Foreign-funded Enterprises for Their Purchase of Home-made Equipment (No.176 [2008] of the Ministry of Finance) the legal basis for this program, i.e. Notice of the State Administration of Taxation and the National Development and Reform Commission on Printing and Distributing the "Trial Implementation Measures on Tax Refund Administration for the Purchase of Home-made Equipment for Foreign-funded Projects" (No. 111 [2006] of the State Administration of Taxation) has been terminated.

The transitional policies are included in Notice of the State Administration of Taxation and the National Development and Reform Commission on the Relevant Tax Refund Policies for Foreign-funded Projects that Purchase Home-made Equipment  
Attachment 113

## PUBLIC VERSION

### 33 PROGRAM 33: PREFERENTIAL TAX TREATMENT FOR CASTING AND FORGING PRODUCTS

The GOC confirms that this program was established in 2003 under the *Interim Regulation of Enterprise Income Tax*.

This was repealed on 31 December 2005, without there being any transitional period.

The GOC can readily confirm that none of the responding companies were in receipt of any benefits under the program during the investigated period.

**PUBLIC VERSION****34 PROGRAM 34: PREFERENTIAL TAX TREATMENT TO DIES PRODUCT**

The GOC confirms that this program was initiated in 1997 under a series of notices of the State Administration of Taxation. These expired on 31 December 2008.

The GOC can readily confirm that none of the responding companies were in receipt of any benefits under the program during the investigated period.

Please refer to *Circular of Stopping Implementation of Some Expired Taxation Regulatory Document Attachment 115*

## PUBLIC VERSION

35 PROGRAM 35: MATCHING FUNDS FOR INTERNATIONAL MARKET DEVELOPMENT  
FOR SMES

D1.1 Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

To support the development of SMEs and encourage their export-readiness through capacity building to reduce the risks confronted by SMEs.

(b) Legislation under which the subsidy is granted.

*Circular of the Ministry of Finance, the Ministry of Foreign Trade and Economic Cooperation Concerning Printing and Distributing the Measures for the Administration of International Market Developing Funds of Small and Medium-Sized Enterprises for Trial Implementation Attachment 116*

*Detailed Rules for the Implementation of the Measures for Administration of International Market Developing Funds of Small and Medium-Sized Enterprises C for provisional implementation ("the Detailed Rules") Attachment 117*

The above legislations have been substituted in 2010 by: *Measures for Administration of International Market Developing Funds of Small and Medium Sized Enterprises ("the Market Developing Funds Measure") Attachment 118*

(c) Nature or form of the subsidy.

Grant

(d) When the program was established.

2000

(e) Duration of the program.

2000 to present

(f) How the program is administered and explain how it operates.

The program is administered by Ministry of Finance and Ministry of Commerce with



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the assistance of other competent authorities, and is implemented by the local finance and foreign trade authorities within their respective jurisdictions.

Enterprises that apply for market development funds file their application and supporting documentation with the foreign trade authority for examination. If the application is approved the applicant receives the benefits.

(g) To whom and how is the program provided.

Pursuant to Article 6 of the *Market Development Fund Measure* the program is available to small-and medium-sized enterprises that are independent legal persons with capacity to manage an import or export business.

(h) The eligibility criteria in order to receive benefits under the program.

Pursuant to Article 6 of the *Market Development Fund Measure* an applicant must meet the following requirements in order to receive the grant:

- (a) have legal personality according to law;
- (b) have the capacity to manage an import or export business;
- (c) have exports in the previous year of USD15 million (before 2010) or USD45 million (after 2010) or less;
- (d) have sound financial management systems and records;
- (e) have employees who specialise in foreign trade and economic business who possess the basic skills of foreign trade and economics; and
- (f) have a solid market development plan.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

Please see D1.1(b)

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.1(b).

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D1.4 Identify the GOC department or agency administering the program.

Authority:	Ministry of Finance
Address:	3 South Three Alley of Sanli River, Xicheng District, Beijing 100820
Authority:	Ministry of Commerce
Address:	2 Dong Chang'an Avenue, Beijing, 100731

D1.5 Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Local authorities keep the payment document.

D1.6 Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2006 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

[CONFIDENTIAL TEXT DELETED]

D1.7 Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There are two types of application that can be made: an application for approval of project funding or an application for project implementation.

For a project funding application eligible enterprises submit the relevant application form **Attachment 119** and supporting documentation to the Small-and Medium-Sized Enterprise Office or the local foreign trade and economic departments requesting funding under the following years project funding plan.

For a project implementation application eligible enterprises must, according to the approved annual project funding plan, submit the relevant application form **Attachment 120** and supporting documentation to the Small-and Medium-Sized Enterprise Office or to the local foreign trade and economic departments for project

## PUBLIC VERSION

implementation 30 days before the project is set to begin.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

In analyzing and approving project funding applications, relevant authorities may hire engineering, financial, accounting and/or appraisal advisers to take part. After assessment of applicants the Ministry of Finance and the Ministry of Foreign Trade and Economic Cooperation provide a written reply to the applicant detailing the project funding plan of the following year. The Ministry of Foreign Trade and Economic Cooperation then makes a public announcement on the specific contents of the project funding plan. After this announcement eligible applicants must make relevant preparations according to the project funding plan.

With respect to project implementation applications, the Ministry of Foreign Trade and Economic Cooperation or the local foreign trade and economic departments directly examine and reply to applications which are included in the annual project fund plan within 10 days.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the application is approved, it means that the applicant has satisfied the relevant eligibility criteria.

There is no specific form that approvals are to take rather the *Detailed Rules* simply provide that the Ministry "reply in an appropriate manner" (see Articles 30 and 33).

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the application is approved, it means that the applicant has satisfied the relevant eligibility criteria.

There is no specific form that disapprovals are to take rather the *Detailed Rules* simply provide that the Ministry is required to "reply in an appropriate manner" (see Articles 30 and 33) **Attachment 117**

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

Program eligibility does not demand a minimum level of export performance by an enterprise rather eligibility is limited to enterprise that exported USD45,000,000 or less of merchandise in the previous year. This figure represents a high export turnover and in practical effect captures the majority of exporters.

Provided the applicant satisfies this criterion, eligibility does not depend on the enterprise achieving any particular level of export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is not limited to particular designated regions.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

Pursuant to Article 12 of the *Measure*, funds advanced under this program must not exceed 50% of the total project cost.

For SMEs in the western regions and for marketing activities carried out in accordance with the market diversity strategy outlined in Article 12 of the *Measure*, program funding may be as high as 70% of total project expenditure.

## PUBLIC VERSION

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2, no further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the applicant meets the eligibility criteria discussed above the applicant will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

Please see above response to D1.9(a).

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and the companies that are receiving the benefits under the program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not keep such data.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

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**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

There are no anticipated changes to the program

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## 36 PROGRAM 36: "INNOVATIVE EXPERIMENTAL ENTERPRISE GRANT"

*Innovative Experimental Enterprise Grant of Zhejiang Province.*

D1.1 Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

To accelerate technology development in Zhejiang province.

(b) Legislation under which the subsidy is granted.

*Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprises. Attachment 121*

(c) Nature or form of the subsidy.

Grant.

(d) When the program was established.

20 July 2007

(e) Duration of the program.

2007 to the present.

(f) How the program is administered and explain how it operates.

The program is administered in accordance with the *Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprises*.

Preliminary assessments are conducted by the municipal Science and Technology Bureau, Economic and Trade Commissions, Finance Bureau, State Property Management Commission, Financial Affairs Office, Quality and Technology Supervision Bureau, and General Trade Union, after which applications are submitted to the science and technology bureau for final assessment.

The program is administered by the administrative office of Science and Technology

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Bureau of Zhejiang province.

(g) To whom and how is the program provided.

There have been 150 enterprises selected for this program (50 enterprises in 2007 and 100 enterprises in 2008) to date. Selected enterprises fall into six categories:

- (a) high and new technology enterprises at the provincial or higher levels;
- (b) medium/small-size scientific and technological enterprises;
- (c) agricultural technology enterprises;
- (d) key and leading enterprises;
- (e) patent demonstration enterprises; and
- (f) enterprises reorganised from non-profit scientific research institutions.

(h) The eligibility criteria in order to receive benefits under the program.

Eligible enterprises are those that are:

- (a) independent economic entities with reasonable asset-liability ratios, consistent earnings over the past 3 years, with an increasing market share;
- (b) well placed to undertake research and development activities with a provincial or new and high-tech technology centre available and proven relationships with colleges and scientific research centres;
- (c) investing at least 5% of annual sales income;
- (d) using intellectual property rights to protect major products; and
- (e) strongly committed to technological innovation and protection with previous technological achievements.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprises Attachment 121*

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.



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Please see above response to D1.2.

**D1.4** Identify the GOC department or agency administering the program.

Authority: Administrative Office of Science and Technology of Zhejiang  
Province  
Address: 33 Huan Cheng Xi Street, Xi Hu district, Hangzhou 311722

**D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

Local authority keeps the payment document.

**D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2006 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the POI.

**D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

Any enterprise is free to apply for this program by submitting an Innovation Pilot Enterprise Scheme of Zhejiang Province Application Form (see pages 7 to 9 of the *Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprises*) along with the requisite supporting documentation including an expert evaluation report prepared on the basis of an on-site inspection.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

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Any enterprise may apply for benefits under this program. Application is made by way of an Innovation Pilot Enterprise Scheme of Zhejiang Province Application Form which will be preliminarily assessed by the municipal Science and Technology Bureau, Economic and Trade Commissions, Finance Bureau, State Property Management Commission, Financial Affairs Office, Quality and Technology Supervision Bureau, and General Trade Union.

The application will then be submitted to the provincial Science and Technology Department to assess and evaluate the proposed projects for capability, input, performance and potential of innovation. This assessment will be made jointly with the departments mentioned above as well as relevant experts. This is the final stage of assessment after which successful pilot projects will be announced.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the application is approved, it means that the applicant has satisfied the relevant eligibility criteria.

There are no specific approval documents.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the application is denied it is because the applicant did not satisfy the relevant eligibility criteria.

There are no specific disapproval documents.

D1.8. Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

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This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is available to enterprises operating in Zhejiang Province.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to particular enterprises or industries or groups thereof, rather it is focussed on the innovation capacity of enterprises across the industrial spectrum and is available to a wide range of enterprises including those engaged in agriculture, marketing, productive, manufacture and research and development institutes.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is assessed under the *Work Implementation Scheme of Zhejiang Province on Setting Up Innovative Enterprises* and is based on the expenditure of the enterprise on technological development, equipment and staff training.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2, no further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

Applicants that meet the eligibility criteria can obtain grant of funds, no further steps are required. Eligibility and the resulting benefit is based purely on whether or not the

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applicant has satisfied the eligibility criteria.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

If the applicant meets the eligibility criteria discussed above the applicant will receive the benefit.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not record such data and as such is unable to respond to this question.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The GOC does not anticipate any changes to the program at this time.

**PUBLIC VERSION****37 PROGRAM 37: SPECIAL SUPPORT FUND FOR NON-STATE-OWNED ENTERPRISES  
(NSOEs)**

The GOC is not aware of the existence of this program and with the limited information provided is unable to distinguish its features. Therefore the GOC cannot provide a useful response to questions in regard to this "program".