

Webinar on the Legal and Tax implications of the COVID-19 outbreak



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Legal Implications for Business Operators



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Legal Implications for Business Operators

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9th March, 2020

Frequently Asked Questions

- Our company/factory cannot operate at full capacity and therefore faces breach of contract with customers, is there anything we can do?

→ invoking Force Majeure Clause

Force Majeure Events

Definition

- ✓ Unforeseeable
- ✓ Unavoidable
- ✓ Insurmountable

→ The scope of Force Majeure Events in contracts are usually specified in more details

Force Majeure Events

Things to look out for when invoking FM clauses:

- Notification to the other Party
- Collect proof of the specific impact on your business
- Establish a plausible chain of evidence

→ A simple piece of news coverage will not help you much in court

Frequently Asked Questions

- Are there any government incentives we could rely upon to alleviate the operation/financial difficulty of the company?
- Yes. There are a wide range of available policies, most of which aim to relieve the financial burdens of companies: bank loans with better interest rates and various policies for reducing tax burdens and internal cost of the operation etc.

Incentive Policies

A few things to pay attention to:

- National policy vs. Local policy
- Confirmation with the specific authority
- Unreasonable requests from local government



Thank you very much for your attention.

For more questions, feel free to contact us at:

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Are you ready for the tax relief – COVID-19?



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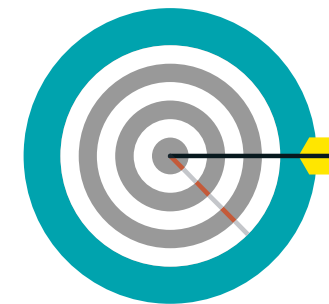


Are you ready for the tax relief – COVID-19?

March 2020

Agenda

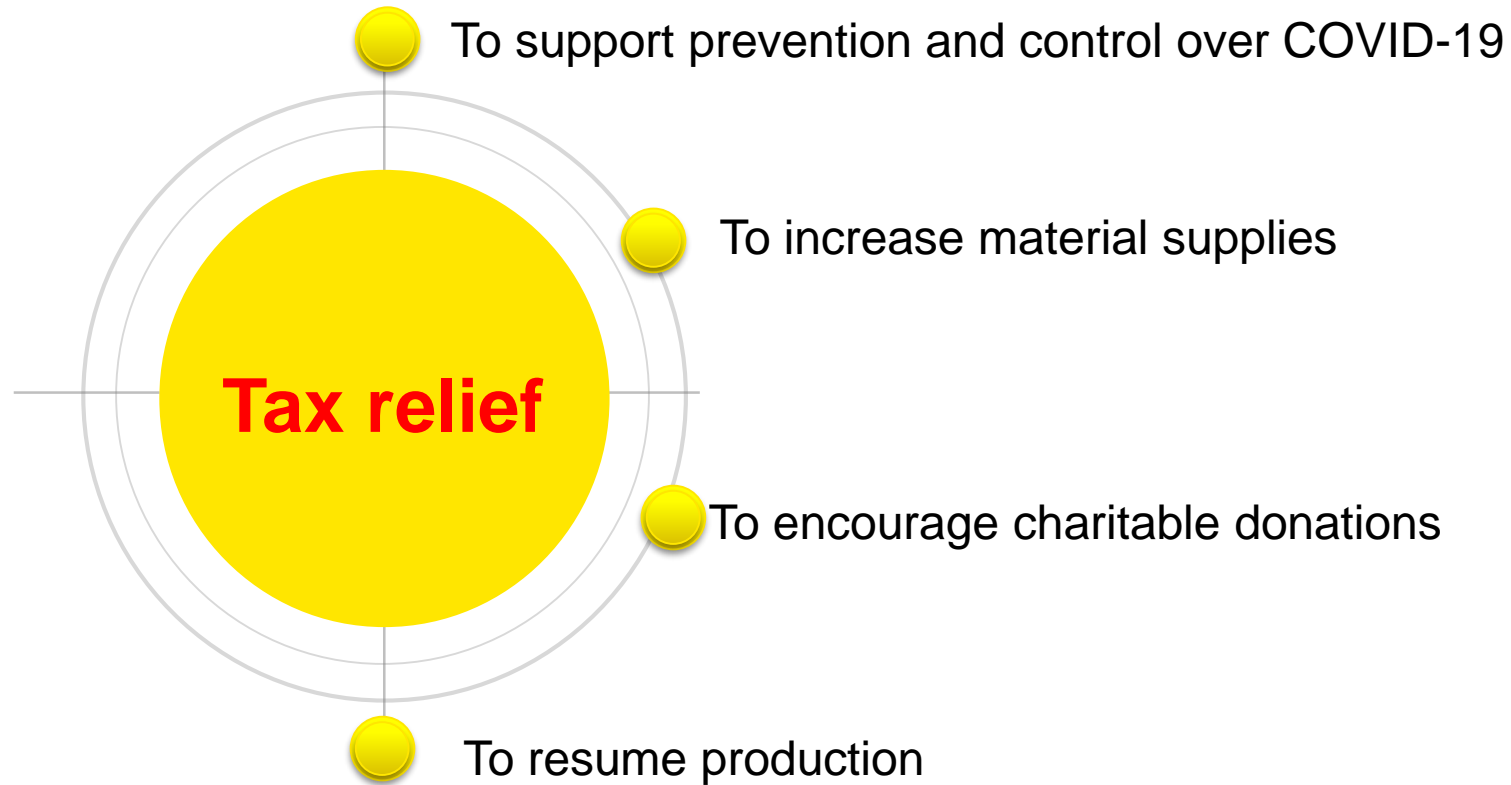
- ▶ **Tax relief**
- ▶ **Tax administrative measures**
- ▶ **Social security contribution relief**
- ▶ **Other local relief measures**



Tax relief



Briefing on tax relief



Source: Guidelines for the Preferential Tax Policies for Supporting the Prevention and Control of the Epidemic of COVID-19)

To support prevention and control over COVID-19

► Individual Income Tax (IIT) exemption

Taxpayers	Tax relief	Note
<ul style="list-style-type: none">• Individuals	<ul style="list-style-type: none">• Temporary additional allowance and bonus obtained by medical personnel and other epidemic prevention personnel who participate in the epidemic prevention and control are exempt from IIT.• Medicines, medical supplies and protective equipment (excluding cash) provided to individuals by entities for the epidemic prevention and control are exempt from IIT.	<ul style="list-style-type: none">• IIT-free temporary additional allowance and bonus shall be in compliance with government's standards. <div data-bbox="1630 873 2132 996">Tax regulations</div> <ul style="list-style-type: none">• Public Notice regarding IIT policies for supporting the prevention and control of the epidemic of COVID-19 (MOF/STA PN [2020] No. 10)• Effective date: 1 Jan 2020

To increase material supplies

- ▶ One-off deduction of new equipment for corporate income tax (CIT)
- ▶ Incremental input value added tax (VAT) refund

Taxpayers	Tax relief	Application requirements
<ul style="list-style-type: none">• Enterprises engaging in manufacturing of key epidemic prevention-related supplies and necessities (in-scope supplies); and• These enterprises shall be recognized by the following authorities either at state level or province level (in-scope manufacturers):<ul style="list-style-type: none">• National Development and Reform Committee (“NDRC”)• Ministry of Industry and Information Technology (“MIIT”)	<ul style="list-style-type: none">• Equipment purchased for expanding production capacity is allowed to be one-off deducted in the same period for CIT purposes.• Can apply for a full refund of the incremental input VAT credits incurred after the end of December 2019 on a monthly basis.	<ul style="list-style-type: none">• In-scope supplies :<ul style="list-style-type: none">NDRC list<ul style="list-style-type: none">• Medical emergency supplies• Living suppliesMIIT list<ul style="list-style-type: none">• Medical emergency supplies• In-scope manufacturers to be recognized by:<ul style="list-style-type: none">• National Development and Reform Committee (“NDRC”); or• Ministry of Industry and Information Technology (“MIIT”)

To increase material supplies

- ▶ **One-off deduction of new equipment for CIT**
- ▶ **Incremental input VAT Refund**

Tax administration

- Where the policy of one-off deduction for CIT purposes is applicable, enterprises should fill in the relevant information in line of the “One-off Deduction of Fixed Assets” in the CIT return.
- Where the refund policy of incremental input VAT credits is applicable, taxpayers should apply to the competent tax authorities for a refund of the incremental input VAT credits after completion of the current VAT declaration within the filing period.

Tax regulations

- Public notice regarding tax policies for supporting the prevention and control of the epidemic of COVID-19 (MOF/STA PN [2020] No. 8)
- Public notice regarding certain tax collection and administration matters related to the prevention and control of the epidemic of COVID-19 (STA PN [2020] No. 4)
- Circular of the General Office of the National Development and Reform Commission on Working Effectively on Administration of the List of Enterprises Manufacturing Key Supplies for Epidemic Prevention and Control (Fa Gai Ban Cai Jin [2020] No. 176)
- Notice regarding clarifying the scope of key supplies for prevention and control of the COVID-19 epidemic (Fa Gai Ban Cai Jin [2020] No. 145)
- Effective date: 1 Jan 2020

To increase material supplies – in-scope supplies

► In-scope supplies are subject to dynamic adjustments

NDRC list

Medical emergency supplies

1. Medical protective clothing, isolation suits, isolation masks, medical and protective masks, medical goggles, COVID-19 test box, negative pressure ambulance, sterilizer, sanitizer supplies, infrared thermometer, intelligent monitoring system, important medical supplies such as detection systems, related medical devices, alcohol and drugs.
2. Important raw materials and auxiliary materials, equipment and parts required for the production of the above supplies.
3. Communication equipment in response to the epidemic.

Living supplies

1. Tent, quilt, coat, folding bed and other relief materials.
2. Key food supplies including grain, cooking oil, salt, sugar, and "vegetable basket" products such as vegetables, meat, eggs, milk, and aquatic products, as well as convenient and quick-frozen food and other essential necessities.
3. Agricultural supplies such as vegetable seeds, young birds and poultry breeders, aquatic seedlings, feed, fertilizers, seeds, pesticides, etc.

MIIT list

Medical emergency

1. Drugs
2. Reagents
3. Sterilizer, sanitizer and relevant main raw materials, packaging materials required for the production
4. Protective articles and relevant main raw materials, equipment required for the production
5. Special vehicles, equipment, instruments and key components
6. Equipment required for the production of the above supplies

Source:

Notice regarding clarifying the scope of key supplies for prevention and control of the COVID-19 epidemic (Fa Gai Ban Cai Jin [2020] No. 145)

The list of key COVID-19 epidemic preventative supplies (medical emergency) issued by MIIT

To increase material supplies

► VAT exemption

Taxpayers	Tax relief	Tax administration
<ul style="list-style-type: none">• Taxpayers engaging in:<ul style="list-style-type: none">• transportation of key epidemic prevention-related supplies and necessities• public transportation services• lifestyle services• necessity delivery services (deliver services to residents)	<ul style="list-style-type: none">• Income derived from transportation of key epidemic prevention-related supplies and necessities is exempt from VAT.• Income derived from providing public transportation services, lifestyle services and necessity delivery services (deliver services to residents) is exempt from VAT.	<ul style="list-style-type: none">• Taxpayers who enjoy the exemption of VAT in accordance with the relevant provisions may declare the exemption without record filing and should retain the relevant information for future reference.
		Tax regulations
		<ul style="list-style-type: none">• Public notice regarding tax policies for supporting the prevention and control of the epidemic of COVID-19 (MOF/STA PN [2020] No. 8)• Public notice regarding certain tax collection and administration matters related to the prevention and control of the epidemic of COVID-19 (STA PN [2020] No. 4)• Effective date: 1 Jan 2020

To encourage charitable donation

► Full deduction for CIT/IIT purposes

Taxpayers	Tax relief	Tax regulations
<ul style="list-style-type: none">• Enterprises and individuals	<ul style="list-style-type: none">• Funds and goods donated through non-profit social organizations, governments at or above county level, or their departments, by businesses or individuals for epidemic prevention and control can be deducted in full for CIT or IIT purposes.• Goods donated directly to the hospitals that undertake tasks of epidemic prevention and control by businesses or individuals for epidemic prevention and control are allowed to be deducted in full for CIT or IIT purposes.	<ul style="list-style-type: none">• Public notice regarding tax policies on donations for supporting the prevention and control of the epidemic of COVID-19 (MOF/STA PN [2020] No. 9)• Public notice regarding certain tax collection and administration matters related to the prevention and control of the epidemic of COVID-19 (STA PN [2020] No. 4)• Effective date: 1 Jan 2020

To encourage charitable donation

- ▶ **VAT/Consumption Tax (CT) and local tax/surcharge exemption (Relevant input VAT shall be transferred to P&L)**

Taxpayers	Tax relief	Tax administration
<ul style="list-style-type: none">• Enterprises and self-employed industrial and commercial households	<ul style="list-style-type: none">• Donations of goods through non-profit social organizations, governments at or above county level or their departments for supporting the epidemic prevention and control, or directly to the hospitals that undertake tasks of epidemic prevention and control, are exempt from VAT, CT, Urban Maintenance and Construction Tax, Education Surcharge, and Local Education Surcharge (local tax/surcharge).	<ul style="list-style-type: none">• Taxpayers who enjoy the exemption of VAT and CT in accordance with the relevant provisions may declare the exemption without record filing and should retain the relevant information for future reference.• VAT and CT that should be exempted but have been already levied may be refunded or deducted respectively from VAT and CT payable by the taxpayer in the future.
		<div data-bbox="1630 939 2132 1061">Tax regulations</div> <ul style="list-style-type: none">• Public notice regarding tax policies on donations for supporting the prevention and control of the epidemic of COVID-19 (MOF/STA PN [2020] No. 9)• Public notice regarding certain tax collection and administration matters related to the prevention and control of the epidemic of COVID-19 (STA PN [2020] No. 4)• Effective date: 1 Jan 2020

To encourage charitable donation

► Customs duty, import-level VAT and CT exemption

Taxpayers	Tax relief	Tax regulations
<ul style="list-style-type: none">• Importers	<ul style="list-style-type: none">• Imports of donated goods for preventing and controlling respiratory illness caused by the new coronavirus are exempt from customs duty, import-level VAT and CT.• The scope of tax-exempt imports of donations is expanded.	<ul style="list-style-type: none">• Public notice regarding the exemption of import duties, import-level VAT and CT for goods imported for preventing and controlling respiratory illness caused by the new coronavirus (MOF PN [2020] No. 6)• Effective date: 1 Jan to 31 Mar 2020

To resume production

► Tax losses carried forward from 5 years to 8 years for CIT

Taxpayers	Tax relief	Tax administration
<ul style="list-style-type: none">• Enterprises operating in the following industries greatly affected by the COVID-19<ul style="list-style-type: none">• transportation• catering• accommodation• tourism (travel agency and relevant services, scenic spots management)	<ul style="list-style-type: none">• The maximum carryover period of losses incurred in 2020 by enterprises in certain difficult industries that are seriously affected by the COVID-19 epidemic is extended to 8 years.	<ul style="list-style-type: none">• Where the extension policy of the 8-year carryover period of losses is applicable, taxpayers should submit a statement for extending the period of loss carryover through the E-tax bureau at the time of 2020 annual CIT filing. <div data-bbox="1630 939 2132 1062">Tax regulations</div> <ul style="list-style-type: none">• Public notice regarding tax policies for supporting the prevention and control of the epidemic of COVID-19 (MOF/STA PN[2020] No. 8)• Public notice regarding certain tax collection and administration matters related to the prevention and control of the epidemic of COVID-19 (STA PN [2020] No. 4)

To resume production

► VAT reduction/exemption for small-scale VAT payers

Taxpayers	Tax relief	Tax regulations
<ul style="list-style-type: none">• Small-scale VAT payers	<ul style="list-style-type: none">• Reduction of the VAT applicable to small-scale VAT payers from 3% to 1% from March to May 2020 nationwide (exclusive of Hubei province)• Revenue exclusive of VAT=revenue inclusive of/ (1+1%)• VAT exemption for small-scale VAT taxpayers in Hubei Province from March to May 2020	<ul style="list-style-type: none">• Announcement on the Value-added Tax Policy in Support of Resumption of Work and Business among Individual Businesses (Announcement of the Ministry of Finance and State Taxation Administration [2020] No. 13)• Announcement of the State Taxation Administration on Matters Concerning Administration of Tax Collection in Support of Resumption of Work and Business among Individual Businesses (State Taxation Administration [2020] No. 5)• Effective date: 1 Mar to 31 May 2020

Tax administrative measures



Tax Administrative Measures

► Extended tax filing deadline

Emergency	Measures	Application procedure
<ul style="list-style-type: none">• Taxpayers cannot submit tax returns before deadline due to force majeure (e.g. COVID-19)• Example: Accountant is quarantined from factory that he/she cannot calculate tax payable for Feb 2020.	<ul style="list-style-type: none">• Feb tax filing deadline postponed to 23 Mar 2020 nationwide• Taxpayers can apply for a further extension after 23 Mar:<ul style="list-style-type: none">• Application submitted before 23 Mar• Case by case• Pre-approval• Still need to pay tax for certain amount (e.g. tax paid for Jan 2020) before 23 Mar• Tax clearance before extended deadline• May not impose late payment interest, penalty, tax credit rating downgrade or blacklist if proper written explanation is accepted by tax authority even if taxpayers fail to apply for extension before 23 Mar.	<ul style="list-style-type: none">• Beijing Tax Authority http://beijing.chinatax.gov.cn/bjs/wjwz/nsfw/bszn/sbns/yqsbns/201911/t20191107_429690.html
		Tax regulations
		<ul style="list-style-type: none">• Rules of the Law on the Administration of Tax Levying• Notice regarding further extending the tax filing deadline for the period of February 2020 (Shui Zong Han [2020] No. 27)• Notice regarding further extending the tax filing deadline for the period of March 2020 (Shui Zong Han [2020] No. 37)

Tax Administrative Measures

► Extended tax payment deadline

Emergency	Measures	Application procedure
<ul style="list-style-type: none">• Taxpayers encounter one of the following circumstances:<ul style="list-style-type: none">• Incurring substantial losses due to COVID-19 and operations greatly affected;• Short of cash to pay taxes after settling payroll and social security contribution• Example: Unable to pay tax due to cash shortage	<ul style="list-style-type: none">• Taxpayers can apply for a deferral tax payment for a maximum of three months<ul style="list-style-type: none">• Application submitted before deadline• Case by case• Pre-approval• Bank statement of all bank accounts, payroll, social security, financial statements shall be kept in place	<ul style="list-style-type: none">• Beijing Tax Authority <p>http://beijing.chinatax.gov.cn/bjs/wjwz/nsfw/bszn/sbns/yqsbns/201911/t20191107_429691.html</p>
		Tax regulations
		<ul style="list-style-type: none">• Rules of the Law on the Administration of Tax Levying• Interpretation by the Beijing taxation bureau on the measures for the prevention and control of the epidemic

Tax Administrative Measures

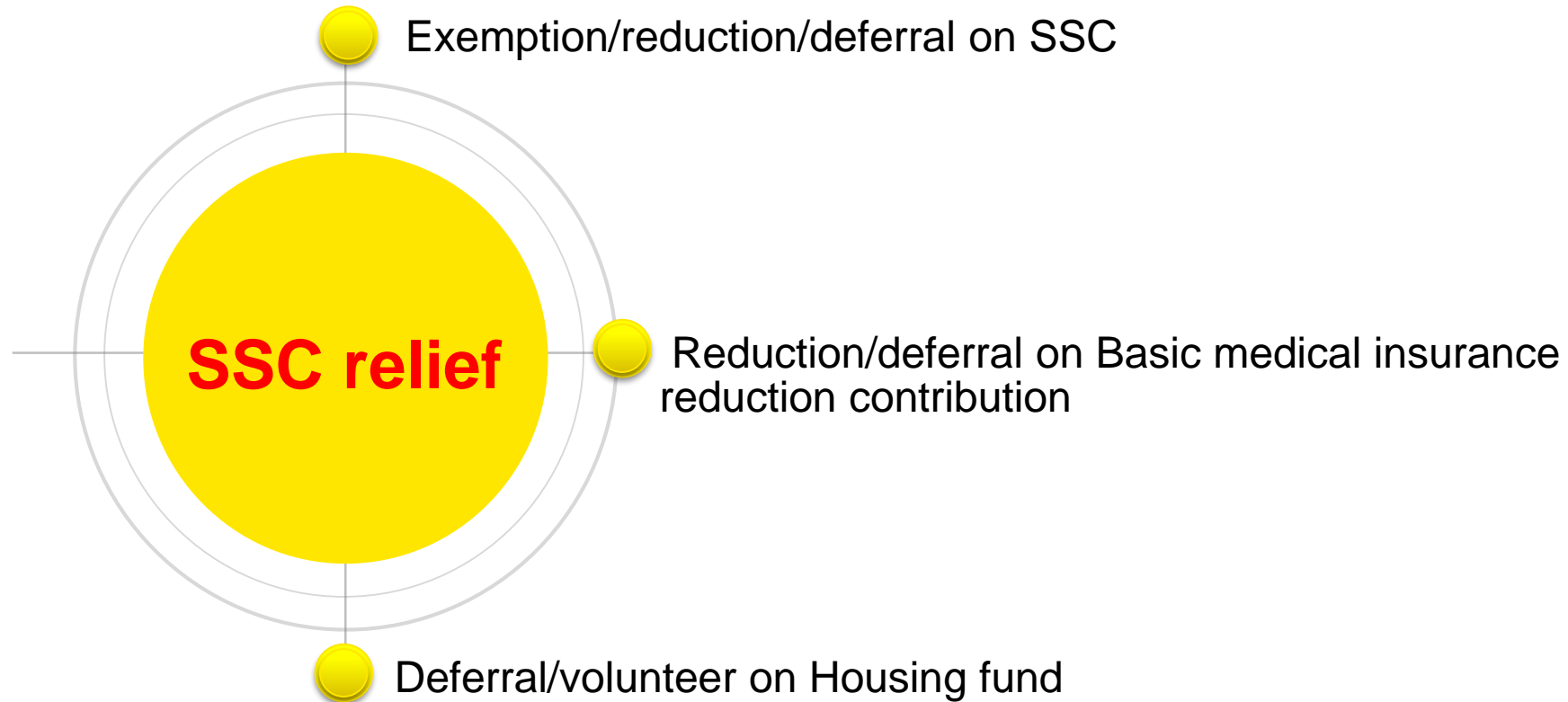
► Contactless services to taxpayers by tax authorities

Emergency	Measures	Useful link
<ul style="list-style-type: none">• Taxpayers cannot visit tax office	<ul style="list-style-type: none">• Tax via internet plus local mail<ul style="list-style-type: none">• Various modules containing 185 tax tasks in E-tax bureau• Blank invoices ordered via E-tax bureau and couriered to taxpayers• Invoices issued by E-tax bureau on behalf of taxpayers• Special treatments for export tax refund<ul style="list-style-type: none">• E-data review only• Avoid face to face meetings, onsite visits• Tolerance principle applied in certain areas (容缺原则)	<ul style="list-style-type: none">• State Taxation Administration http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5143687/content.html
		Tax regulations
		<ul style="list-style-type: none">• Circular of the State Taxation Administration on Working Effectively on Tax Refund (Exemption) for Exports during the Period of Prevention and Control of the Novel Coronavirus Pneumonia (COVID-19) Epidemic (Shui Zong Han [2020] No. 28)

Social security contribution (“SSC”) relief



Briefing on SSC relief



SSC relief

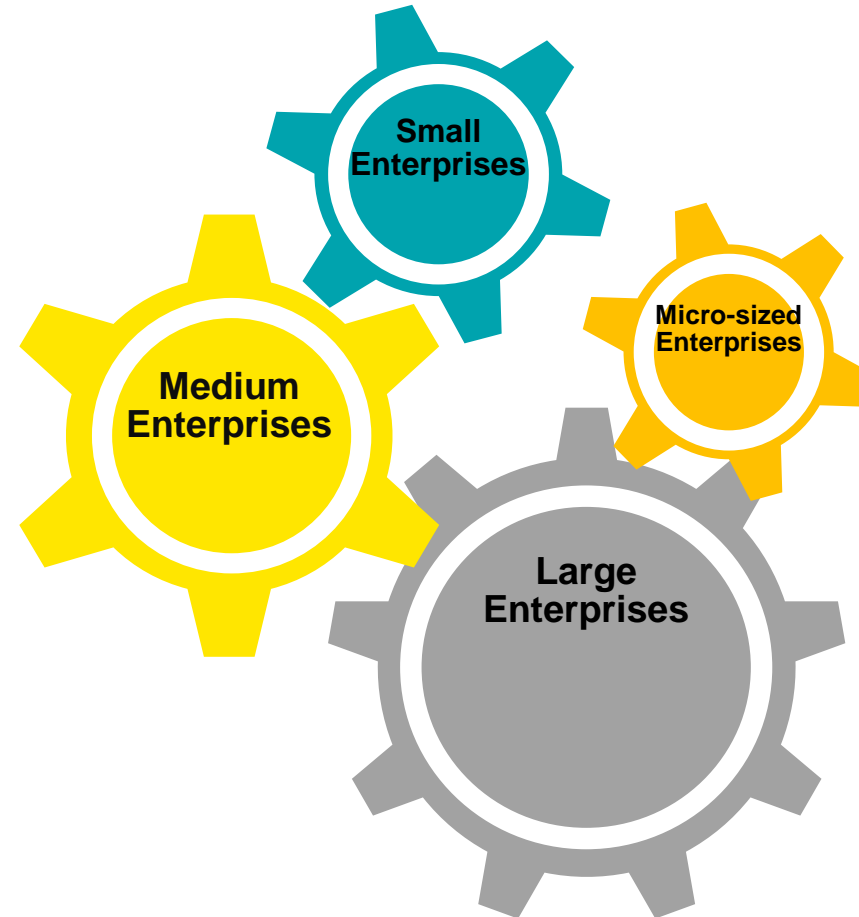
► Exemption/reduction/deferral on SSC (to be implemented according to local regulations)

Employer	SSC exemption	Regulations
<ul style="list-style-type: none">• Medium, small and micro-sized enterprises (“MSMEs”) nationwide (excluding the ones registered in Hubei province)• All employers in Hubei province (excluding the government authorities and public institutions)	<ul style="list-style-type: none">• Employer’s contribution to pension, unemployment and work-related injury may be exempted for the period from Feb. to Jun. 2020 (5 months)	<ul style="list-style-type: none">• Circular of the Ministry of Human Resources and Social Security, the Ministry of Finance and the State Taxation Administration on Provisionally Reducing and Exempting the Social Insurance Contributions Borne by Enterprises (Ren She Bu Fa [2020] No. 11)• Circular on Printing and Distributing the Provisions for Classification Standards of Small and Medium-sized Enterprises (Gong Xin Bu Lian Qi Ye [2011] No. 300)
Employer	SSC reduction	
<ul style="list-style-type: none">• Large enterprises and other employers nationwide (excluding the ones registered in Hubei province or the government authorities and public institutions)	<ul style="list-style-type: none">• Employer’s contribution to pension, unemployment and work-related injury may be reduced to 50% for the period from Feb. to Jun. 2020 (5 months)	
Employer	SSC deferral	
<ul style="list-style-type: none">• Enterprises greatly affected by COVID-19	<ul style="list-style-type: none">• Employers could apply to defer the payment of SSC without incurring late payment penalties for maximum 6 months.• Employers shall still withhold the employees’ contribution.	

SSC relief- MSME classification

- ▶ Enterprises are classified into: -
 - ▶ Large enterprises
 - ▶ Medium enterprises
 - ▶ Small enterprises
 - ▶ Micro-sized enterprises
- ▶ Classification factors:
 - ▶ Headcount
 - ▶ Revenue
 - ▶ Total assets
 - ▶ Industry

Circular on Classification Standards of Small and Medium-sized Enterprises (Gong Xin Bu Lian Qi Ye [2011] No. 300)



SSC relief

► **Reduction/deferral on basic medical insurance for employees (to be implemented according to local regulations)**

Employer	Basic medical insurance reduction	Regulations
<ul style="list-style-type: none">• All entities	<ul style="list-style-type: none">• Employer's contribution to basic medical insurance may be reduced to 50% for maximum 5 months	<ul style="list-style-type: none">• Guiding Opinions of the National Healthcare Security Administration, the Ministry of Finance and the State Taxation Administration on Provisionally Reducing the Employees' Basic Medical Insurance Contributions (Yi Bao Fa [2020] No. 6)
Employer	Basic medical insurance deferral	
<ul style="list-style-type: none">• Enterprises greatly affected by COVID-19	<ul style="list-style-type: none">• Employers could apply to defer the payment of basic medical insurance without incurring late payment penalties for maximum 6 months.• Employers shall still withhold the employees' contribution.	

SSC relief

► Deferral/volunteer on housing fund (to be implemented according to local regulations)

Employer	Housing fund deferral	Regulations
<ul style="list-style-type: none">Enterprises affected by COVID-19	<ul style="list-style-type: none">Employers could apply to defer the payment of the housing fund contribution before the end of June 2020, without incurring late payment penalties. Employees can still apply to use the housing fund as usual even if their employers have not paid the corporate part for them on time.	<ul style="list-style-type: none">Notice of the ministry of housing and urban-rural development, the ministry of finance and the people's bank of China on the implementation of phased support policies for housing fund in response to COVID-19 (Jian Jin [2020] No. 23)
Employer	Volunteer on housing fund	
<ul style="list-style-type: none">Enterprises registered in the areas most or greatly affected by COVID-19 as recognized by governments	<ul style="list-style-type: none">Employers can voluntarily contribute housing fund before 30 Jun 2020 upon negotiation with employees. Those who continue to contribute could determine the ratio by themselves.	

Other local relief measures



Other local relief measures

► Rental waiver for MSMEs

Beijing	Rental waiver/Reduction	Regulations
<ul style="list-style-type: none">MSMEs which rent state-owned properties	<ul style="list-style-type: none">In operating or in closure of business based on government's request but without layoffs or with fewer layoffs - rental waiver for Feb. 2020;For office use - rental may be reduced to 50% for Feb. 2020	<ul style="list-style-type: none">The notice of the state-owned assets supervision and administration commission of Beijing on the implementation of the Jing Zheng Ban Fa [2020] No. 7 to reduce/exempt the rental for medium, small and micro-sized businesses
Shanghai	Rental waiver	<ul style="list-style-type: none">Detailed implementation rules on rental reduction/exemption for medium and small enterprises by state-owned enterprises issued by the Shanghai municipal government
<ul style="list-style-type: none">MSMEs which rent state-owned properties	<ul style="list-style-type: none">Rental may be waived for Feb. and Mar. 2020Further rental waiver may apply to MSMEs which are still experiencing difficulties	



Q&A



The better the question. The better the answer.
The better the world works.

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ED None

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Q&A



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