

Investment Opportunities of Hainan Free Trade Port

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On June 1, 2020, the CPC Central Committee and The State Council issued the *General Plan for the Construction of Hainan Free Trade Port* (“*General Plan*”). Then “Hainan Free Trade Port” has quickly become a hot topic of public opinion and continued to attract more attention¹. After that, in June 2021, the Standing Committee of the National People's Congress passed the *Hainan Free Trade Port Law*, which provides legal guarantee for the construction and development of Hainan Free Trade Port from the aspects of trade freedom, investment freedom and convenience, fiscal and tax system, ecological environmental protection, industrial development and talent support.

The natural and industrial characteristics of Hainan determine the development direction of Hainan Free Trade Port. The Hainan Free Trade Port is not just to become a new economic growth pole for China, or to become the second Hong Kong, **instead, it shall be built into an international free trade port that develops service industry to carry out service trade and meet consumer demand.**

The promulgation of the *General Plan* and the *Hainan Free Trade Port Law* conducive to creating a first-class business environment for legalization, internationalization and facilitation of Hainan Free Trade Port to further enhance the determination and confidence of enterprises, especially foreign-invested enterprises, to cultivate Hainan in the long term. Next, we will briefly analyze the advantages of foreign investment in Hainan Free Trade Port from four aspects: foreign exchange, taxation, talents, and land use.

I. Preferential regulations and policies for foreign exchange business of foreign-invested enterprises in Hainan

At present, in addition to the following foreign exchange facilitation policies introduced by Hainan, the foreign exchange procedures still follow national regulations:

1. Capital Project Income Payment²: no need to provide authenticity proof

¹ The framework of the General Plan is designed as the “6+1+4” system: the freedom and convenience in 6 aspects (free and convenient trade, free and convenience of investment, free and convenient cross-border capital flow, access freedom and facilitation, transportation freedom and facilitation, secure and orderly data flow); 1 system (modern industrial system); 4 mechanism (tax, rule of law, social governance, risk prevention and control.) Reference from the official website of Hainan Free Trade Port http://www.hnftp.gov.cn/zcfg/zcwj/zyzc/202006/t20200602_3023773.html

² Only pilot areas are supported by preferential policies for capital project income payment, pilot areas include the China Great Bay Area, Shanghai, Zhejiang province and Hainan Province. Reference from the *Notice by the State Administration of Foreign Exchange of Further Facilitating Cross-border Trade and Investment (No. 28 [2019] of the State Administration of Foreign Exchange)* <http://www.safe.gov.cn/safe/2019/1025/14469.html> and the *Notice by the Hainan Branch of the State Administration of the Pilot Program of Facilitating Trade Foreign Exchange Revenue and Expenditure* <http://www.safe.gov.cn/hainan/2020/0624/1216.html>

- materials to the bank with each payment in advance
2. Foreign exchange innovation business policy: the foreign debt registration on a case-by-case basis is cancelled, credit assets can be transferred to abroad, and foreign exchange registration procedures for foreign direct investment are simplified with no request on submitting business report information.
 3. Establishing a multi-functional free trade account, implementing fully free convertibility of capital accounts in stages, and changing the bank's authenticity review from ex ante to ex post.
 4. Supporting the capital exchange and market interconnection between the Hainan Pilot Free Trade Port and Hong Kong and Macau.
 5. Realizing the province-wide coverage of 5G network and building a "Smart Financial Comprehensive Service Platform".

II. Preferential Policies for Corporate Income Tax

- For the encouraged industry enterprises registered in Hainan Free Trade Port and conducting substantive operations, Corporate Income Tax may be levied at a reduced tax rate of 15%.
- For the recognized "Corporate Income Tax" and "Value-Added Tax" for the part of Hainan Province local share, a tiered reward ranging from 30% to 80% may be given.
- Highlighting the tax incentives of "zero tariff", "low tax rate" and "tax simplification and merger".

Details as below:

1. For the encouraged industry enterprises registered in Hainan Free Trade Port and conducting substantive operations, Corporate Income Tax may be levied at a reduced tax rate of **15%**.
 - a) Generally, the Corporate Income Tax rate is 25%. In comparison, the 10% Corporate Income Tax preference is very great. If an enterprise's annual pre-tax profit is 100 million yuan, then the enterprise can save about 10 million yuan in tax burden each year.
 - b) The encouraged industries including:
 - i. tourism infrastructure construction and tourism information services
 - ii. construction and operation of tourism, ecology, and cultural theme hotels
 - iii. Entertainment Venue Operation
 - iv. Sports, Health and Leisure Services
 - v. development of health and medical tourism and sports tourism
 - c) Confirmation Method of Encouraged Industry Enterprises:

- i. Register in the Hainan Free Trade Port area is a Must.
 - ii. The engaged main business scope belongs to the encouraged industry that meets the substantive operating conditions, and the main business income should account for more than 60% of the total business income³.
 - iii. The enterprise must be substantively operated. Substantive operation means that the actual management organization of the company is located in the Hainan Free Trade Port, and implements substantive and comprehensive management and control over the production and operation, personnel, accounting, and property.
2. Value-Added Tax and Corporate Income Tax: Enjoy a tiered reward in Hainan Province local share part

For the two taxes which enterprises subject to (Value-Added Tax and Corporate Income Tax) identified by the local authority, the enjoyed tie is as below:

- a) 30% reward for less than 300,000 yuan;
 - b) 35% reward, for 300,000 to 600,000 yuan;
 - c) 40% reward for 600,000 to 1 million yuan;
 - d) 50% reward for more than 1 million yuan;
 - e) 80% reward for more than 5 million yuan.
3. Exempting Corporate Income Tax on income from new overseas direct investment of tourism, modern service, and high-tech industries established in Hainan Free Trade Port before 2025.
4. If an enterprise newly purchases fixed assets or intangible assets exceeding RMB 5 million, it is allowed to be included in the cost at one time, and the depreciation and amortization may be shortened and accelerated.
5. While operating the island as a whole custom, simplify and merge taxes and fees are simplified and merged in accordance with the law, such as advance Value-Added Tax, consumption tax, vehicle purchase tax, urban maintenance and construction tax, and education surcharges.

III. Preferential policies for foreigners in Hainan Free Trade Port

Foreign talents may apply for Hainan Talent Certification. The high-end talents in short supply enjoy the highest Individual Income Tax rate as 15%. The work permit of foreign talents is subject to negative list approach. Foreign talents may participate in national social insurance, and have the qualification of house purchasing. They may also enjoy subsidies for

³ Reference from *Notice of Preferential Income Tax Policies for Enterprises in Hainan Free Trade Port*(No. 31 [2020] of the Ministry of Finance and the State Taxation Administration).
<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5153881/content.html>

leasing on the premise while meeting the related conditions and their children may join public schools.

1. Only high-end talents in short supply may enjoy the tax preference⁴
2. High-ends talents in short supply, the Individual Income Tax⁵ will be deducted or exempted: **If their actual tax burden exceeds 15%, the exceeding parts of the Individual Income Tax will be exempted⁶**. The higher the income of the foreign talents, the greater the tax incentives.
 - a) Before 2035, to individuals who have lived in Hainan Free Trade Port for more than 183 days in a tax year, the Individual Income Tax may be levied at progressive tax rates of 3%, 10% and 15% on the comprehensive incomes and business incomes derived from Hainan Free Trade Port.
 - b) The talents Individual Income Tax policy at the current stage shall be implemented until 2025, which is, high-end talents in short supply working in Hainan Free Trade Port may be exempted from Individual Income Tax in their exceeding part if their actual tax burden exceeds 15%⁷.
3. Foreign talents may apply for the recognition of Hainan high-level talents to enjoy the IIT preferential policies.
4. The work permit of foreign nationals can be classified into three categories to simplify the process.
5. Foreign talents may participate in national social insurance and medical social insurance.
6. Foreign talents who have paid Individual Income Tax or social insurance for more than 12 months in Hainan and whose family members do not own a house property in Hainan may apply for purchasing a property in Hainan.
7. Foreign talents may enjoy rent-free residence in talents apartments and subsidies policies for leasing or purchasing houses.
8. Children of foreign talents may enjoy joining public schools.

IV. The policy supporting for land use in Hainan Free Trade Port

Lower the cost of land using, enjoy a 60% discount on the benchmark land

⁴ Reference from the *Notice of Issuing the Interim Measures of Hainan Free Trade Port for the List-based Administration of High-end Talents and Talents in Short Supply Entitled to Preferential Personal Income Tax Treatment by the People's Government of Hainan Province* (No. 41 [2020] of the People's Government of Hainan Province)

http://hainan.chinatax.gov.cn/ssxc_3_5_1/28128761.html

⁵ Reference from the *Notice of the Individual Income Tax Policies for High-End and Urgently-Needed Talents in Hainan Free Trade Port* (No. 32 [2020] of the Ministry of Finance and the State Taxation Administration)

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5153893/content.html>

⁶ Reference from the *Notice of the Individual Income Tax Policies for High-End and Urgently-Needed Talents in Hainan Free Trade Port* (No. 32 [2020] of the Ministry of Finance and the State Taxation Administration)

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5153893/content.html>

⁷ Reference from the General Plan for the Construction of Hainan Free Trade Port: Article 7, Paragraph 2, Part 3 Arranged in Steps and Phases.

http://www.hnftp.gov.cn/zcfg/zcwj/zyzc/202006/t20200602_3023773.html

price and enjoy the preference on land using in "case by case" way.

1. For headquarters economic projects and large-scale amusement facilities and ancillary theme hotels that play a significant industrial driving role, the benchmark land price may be determined in accordance with 60% of the current benchmark land price corresponding to the land usage.
2. Communicate with the local investment promotion departments to discuss the preferential land use policy in "case by case" way.

V. Summary

From above, we understand that Hainan Free Trade Port construction policy dividends continue to be released, Hainan Free Trade Port business environment continues to be improved, Hainan Free Trade Port market is more open to the world-class business environment, efforts are always been made to improve the business environment, which further enhance the confidence of investment of foreign enterprises. Building a law-based, internationalized, convenient, fair, transparent and predictable business environment is an important goal of the construction of Hainan Free Trade Port. It is important to stick on legal consideration, legal methodology to promote trade and investment liberalization and facilitation, and treat state-owned enterprises, private enterprises, domestic and foreign enterprises, and enterprises of all sizes as equals.

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