

Legal Guarantee Mechanisms for Optimizing the Business Environment of Hainan Free Trade Port

Shurui Xiao^{1, 2, a}, Haipeng Mo^{1, 2}, Baiqing Xu³

¹Hainan Vocational University of Science and Technology, Haikou, 571126, China

²Hainan Guangzhe Law Firm, Haikou, 571126, China

³Hainan Rural Commercial Bank, Haikou, 570200, China

^a819139925@qq.com

Abstract: Being the sole free trade port in China, the Hainan Free Trade Port boasts distinctive geographical and policy benefits. Following the introduction and enforcement of China's Hainan Free Trade Port Law, Hainan has established a comprehensive legal framework that fosters trade, investment, and financial liberalization and convenience, thereby offering market entities a business climate that is equitable, clear, and foreseeable. In tandem with this, Hainan has pioneered systemic advancements in areas such as simplified administrative approval processes, park administration, and mechanisms for resolving international commercial disputes. Additionally, Hainan has cultivated a robust legal atmosphere through the promotion of legal knowledge, oversight of law enforcement practices, and societal collaboration. This paper delves into the legal underpinnings that enhance the business environment within Hainan's free trade port, examining its legal foundations, systemic innovations, and the progress and impact of the legal environment's development. The legal safeguard mechanisms of the Hainan Free Trade Port not only bolster the enhancement of the business environment but also offer significant insights for the ongoing process of reform and opening up in China.

Keywords: Hainan Free Trade Port, Business Environment, Legal Protection, Institutional Innovation, Rule of law

1. Introduction

Hainan, as China's largest special economic zone and sole free trade port, possesses distinctive geographical and policy benefits. Foreign investors prioritize policy stability when considering entry into Hainan's free trade port. The enactment and implementation of China's Hainan Free Trade Port Law have enshrined the port's preferential policies in legal terms, progressively establishing a legal system that aligns with the national legal framework, international standards, and the specific conditions of the free trade port, thus fostering a just, transparent, and predictable legal environment [1]. This is aimed at bolstering investor confidence, particularly that of foreign investors, in Hainan's free trade port. Currently, the development of Hainan's free trade port is tasked with the new objective of establishing a new open frontier characterized by heightened openness, an improved business environment, and an enhanced radiating effect. In recent years, Hainan Province has adhered to the principle of prioritizing legislation, facilitating a precise and effective linkage between legislative and reformative decisions. The province has effectively utilized its authority to formulate general local laws and regulations, as well as special economic zone and free trade port regulations, emphasizing systemic integration innovation. This has led to a well-crafted system design that integrates international high-standard economic and trade rules with Chinese and Hainan-specific characteristics.

Efficient and orderly advancement in the construction of Hainan's free trade port legal and regulatory system is being promoted, thereby supporting the high-level opening up and high-quality development of Hainan's free trade port within the framework of the rule of law. Creating a first-class business environment is the core task and key to the construction of Hainan's free trade port, and is a clear requirement put forward by the Party Central Committee. Hainan should "speed up the formation of a legal, international and convenient business environment and a fair, open, unified and efficient market environment".

2. Legal Basis for Optimizing the Business Environment of Hainan Free Trade Port

At present, China's overall tax system is complicated, the number of taxes is significantly larger than that of other typical free trade ports, the tax base is crossed, and the tax system structure is complex, which cannot respond to the development needs of free trade ports. As an active attempt to explore a new tax system model in China, the simplified tax system scheme of Hainan free trade port will become the most significant institutional advantage of Hainan in international competition. The second is to cross the tax and customs [2].

In China, the customs are responsible for the collection and management of customs duties, while the tax authorities are responsible for other taxes. The free trade port is a special area where international and domestic economic activities converge. Domestic tax and import tax are inseparable, and the two are intertwined and connected. Therefore, the tax system design of Hainan free trade port crosses the customs and tax. Third, new tax work will be generated. The construction of the system inside and outside Hainan free trade port will inevitably require it to build a special customs supervision area for customs closure operation throughout the island. Specifically, it requires the construction of a customs supervision area of "first-line liberalization, second-line control and freedom within the island". The setting of the first-line and second-line will inevitably generate some new tax businesses. For example, goods entering the mainland from Hainan free trade port will be treated as imports. When goods enter Hainan free trade port from the mainland, they will be treated as domestic trade and refunded. These new businesses urgently need to establish a system to regulate. In order to create a fairer investment environment, we should constantly improve the anti tax avoidance laws and measures. It is suggested to further clarify the identification method of the relationship between affiliated enterprises, that is, the proportion of indirectly held shares is allowed to be multiplied by the proportion of shares held by each layer. Strengthen the negotiation and signing of the advance pricing agreement with the enterprise: first, from the perspective of the enterprise, it can effectively avoid the risk of overpaying taxes due to the adjustment of the normal internal transaction price of the enterprise by the tax authorities; Second, from the perspective of the tax authorities, it can improve the management efficiency and accurately achieve the tax management objectives, and simplify the procedures for signing the advance pricing agreement and the application content; Strengthen the tax credit management of enterprises, jointly monitor between departments, timely find tax loopholes, maintain market stability, and create a truly free investment market. Or set up special tax avoidance agencies, form an anti-tax avoidance cooperation mechanism, set up an organization team with professional quality to supervise tax avoidance behavior, and improve the anti-tax avoidance ability through various ways [3]. We can also refer to the relevant legal systems of other international free trade ports, make full use of the legislative power of the special economic zone, and form a complete legal guarantee system for Hainan free trade port, which will escort the implementation of policies and the use of foreign direct investment

3. Institutional Innovation for Optimizing the Business Environment of Hainan Free Trade Port

3.1 Innovation of Minimalist Examination and Approval System

The government and relevant departments should promote and implement the negative list of foreign investment access in Hainan free trade port, relax the special list management system of market access in Hainan free trade port, comprehensively implement the minimalist examination and approval investment system, implement the market access commitment system, and enhance the convenience of market access. Minimalist examination and approval refer to the establishment and improvement of the linkage mechanism of examination and approval, supervision, law enforcement and credit based on the construction of social credit system by the people's governments at or above the county level and their relevant departments or key park management agencies, and the implementation of one notification, one commitment, one acceptance, one examination and approval, one certificate and joint verification. Reform measures to streamline the examination and approval items and processes to the maximum extent and improve the efficiency of examination and approval. Hainan free trade port carries out minimalist examination and approval, follows the principles of simplification, unification, integrity, efficiency, convenience, and openness, and further promotes the quality and efficiency of examination and approval services to achieve "one thing efficiently" in more fields and in a wider scope. The municipal, county, and autonomous county people's governments are tasked with implementing the reform of simplified administrative examination and approval processes, as designated by the provincial people's governments,

for specific industries and related matters. They are responsible for transferring and publicly announcing the administrative examination and approval functions and authorities. The competent departments of the relevant industries at the county level or above within the people's governments must undertake roles including policy guidance, development planning, investigation and referral of illegal activities, supervision and management, and service management for the industries and related matters that correspond to the delegated administrative examination and approval functions and powers. When the administrative examination and approval service department or the administrative body of a key park exercises centralized administrative examination and approval functions and powers, it should use a dedicated seal for administrative examination and approval. The dedicated seal for administrative examination and approval used by the administrative examination and approval service department or the administrative body of a key park shall hold the same legal weight as the administrative seal or the dedicated seal for administrative examination and approval that is applied by the decision of the competent department of the relevant industry within the people's government at or above the county level [4].

3.2 Innovation of Legalization of Park Management

In accordance with the requirements of building Hainan's free trade port and developing new quality productive forces, the park should dock with international high-standard economic and trade rules, take system integration and innovation as the guide, promote high-quality development in international action, development and construction, industrial development, investment promotion, scientific and technological innovation, and integration of port, industry and city, so as to promote the development of the park. We will build industrial clusters focusing on digital economy, modern logistics, oil and gas exploration and production services, and advanced manufacturing, and carry out pilot projects in exploring new business models to create innovative development clusters of modern industrial systems. Support the park to link up the regional coordinated development layout of Haikou Economic Circle, and promote the integrated and coordinated development with the surrounding areas in terms of spatial layout, infrastructure, industrial development, tourism culture, business environment, open cooperation, public services, ecological and environmental protection. The management organization shall adjust and optimize the management system and mechanism according to the needs of the development and construction of the park [5]. The provincial government's relevant departments and units, including those in charge of development and reform, business environment, natural resources and planning, industry and information technology, ocean affairs, science and technology, finance, housing and urban-rural development, and financial management, are tasked with providing specific guidance, coordination, and services for the park's construction and development in line with their respective duties. Support will be extended to areas such as industrial growth, business environment enhancement, infrastructure development, scientific and technological innovation, finance and taxation, land use, financial services, and talent development. Efforts will be made to support the park's digital trade development, optimize market access in new digital economy sectors, promote international mutual recognition of digital certificates and electronic signatures, and facilitate the delivery and settlement processes of digital trade.

3.3 Innovation of International Commercial Dispute Settlement Mechanism

With the acceleration of the construction of Hainan Free Trade Port, more and more Chinese and foreign enterprises are pouring into Hainan, and foreign-related commercial disputes are bound to show an increasing trend. In this context, it is an urgent need for Hainan free trade port to settle in enterprises to build an international commercial dispute settlement mechanism that is compatible with the free trade port. Benchmark international rules and speed up the completion of shortcomings. Our province actively encourages and supports qualified chambers of commerce, trade associations, and commercial arbitration institutions to establish international commercial mediation organizations. It also promotes the innovation of the service trade management system through various models such as "mediation + litigation," "mediation + arbitration," and "domestic mediation + foreign-related mediation" to build an international commercial dispute resolution mechanism with Hainan characteristics. Additionally, our province has enacted the Regulations on Diversified Dispute Resolution in Hainan Province, which establishes a diversified international commercial dispute resolution mechanism through local legislation. Hainan has set up four international commercial mediation centers, initially forming a diversified international commercial mediation pattern characterized by "professional institutions leading, local government support, and guidance from competent authorities." The rule of law is the best business environment. The influx of capital and the launch of several high-quality projects will continue to provide

new impetus for the high-quality construction and development of the Hainan Free Trade Port. The government focus on trade and investment liberalization and facilitation, and enhance international exchanges in the business environment through standard alignment, information sharing, personnel exchanges, and law enforcement coordination. To formulate laws, regulations and administrative normative documents concerning trade, investment, and other related management activities, we should assess whether they conform to the international agreements to which China is a party and strengthen the integration with the international prevailing rules.

4. Suggestions for Optimizing the Business Environment of Hainan Free Trade Port

4.1 Continue to Improve the Incentive Policy of Enterprise Income Tax and Enhance the International Competitiveness of the Tax System

At present, compared with other inland provinces, the incentive policy of enterprise income tax in Hainan Free Trade Port is more attractive to foreign investment, but compared with advanced free trade ports, its competitiveness in attracting FDI inflows is still weak. Moderate tax competition is conducive to attracting the inflow of foreign direct investment. Therefore, we should continue to improve the incentive policy of enterprise income tax. On the premise of adhering to the bottom line of 15% low tax rate (which is also the requirement of the global investment strategy for the lowest tax rate of countries and regions), we can make an issue of tax base and tax amount. In view of the fact that there is a certain lag in the implementation effect of the policy of exemption from enterprise income tax for the income obtained from new overseas direct investment, it is suggested that the effect of the policy of exemption from enterprise income tax for the income obtained from new overseas direct investment should be brought into full play before the closure of the customs, the scope of application of the policy can be moderately increased, and the tropical characteristic and high-efficiency agriculture should be included in the tax-free category. The proportion of tax-free equity participation in the world is 10%, and a few EU member States have even reduced this proportion to 5% in order to encourage enterprises to invest abroad. Therefore, Hainan can follow the international standard and reduce the proportion of overseas equity participation that can enjoy the tax-free policy to 10%; the scope of tax-free income is extended to the property income, interest and royalties generated from the disposal of shares of foreign affiliated enterprises. After the closure, the tax exemption policy for overseas direct investment income will be allowed to continue, and the scope will be extended to all enterprises. In addition, we should strengthen the publicity of the policy and expand the awareness of the policy, especially the investment promotion departments should grasp the practical application of the policy. For the relatively backward central and western regions, the original preferential tax support for enterprise income tax can be added. For demand-oriented enterprises that can bring positive changes in economic indicators, they can be given appropriate superimposed preferential treatment, or starting from the economically weak regions, different types of foreign-funded enterprises can be encouraged to set up factories here in a pilot way, and then extended to the whole province. We can also consider referring to the "pioneer enterprises" set up by the Singapore preferential policy division to implement tax relief for eligible foreign-funded enterprises for an appropriate number of years, and encourage investment in cities with less development power. Formulate incentive policies for corporate income tax that fit the actual situation of different regions, and relax the carry over period, so as to boost the total investment in different regions and narrow the regional gap. In this process, it can also drive the flow of population resources and alleviate the possible pressure of population agglomeration. In addition to the above policy recommendations, in order to formulate more diversified forms of corporate income tax policy incentives, we can also refer to the diversified settings of corporate income tax incentives in other international free trade ports to form our own comparative advantages

4.2 Make Full Use of the Incentive Policy of Enterprise Income Tax and Give Full Play to Its Role in Attracting Foreign Investment

No matter how good the policy is, the key is to implement it effectively and give full play to the expected effect of the policy. For the enterprise income tax incentive policies that have been promulgated, the relevant government departments should actively prepare for the promotion and implementation of the work. In order to give full play to the unique geographical advantages of Hainan Free Trade Port, expand its links with the global market and attract more high-quality foreign capital to invest and set up

factories in Hainan, it is necessary to make full use of the preferential policies of enterprise income tax. It mainly includes: At present, Hainan has refined and identified the key points of the catalogue of encouraged industries according to the Guidelines for Definition. In order to improve the service level and realize the liberalization and facilitation of investment, we can refer to the practice of Shenzhen Qianhai Shenzhen-Hong Kong Modern Service Industry Cooperation Zone to provide "list-based" services. Foreign-funded enterprises that can definitely enjoy the enterprise income tax incentive policy are included in the "white list" and can enjoy the preferential policy with confidence; enterprises that can definitely not enjoy the preferential policy are included in the "black list" and are not recommended to enjoy the preferential policy; The relevant enterprises that are difficult to define are included in the "grey list" and transferred to the dispute mediation link, and the tax authorities request the development and reform departments to assist in judging, and eventually they are classified as "white list enterprises" or "black list enterprises" for management. This kind of supporting list management service helps to eliminate the concerns of foreign-funded enterprises and reduce the uncertainty of investment. Continuously optimize substantive operational standards. Firstly, we should continue to enhance the operability of law enforcement by tax authorities, so that taxpayers can more clearly understand the substantive business connotation, deal with the relationship between Hainan Free Trade Port rules and international rules and domestic rules, clarify the key elements, and avoid tax avoidance for enterprises to invest here. The main judgment indicators of innovative substantive operation enterprises, for example, do not rely on whether they can manage and control enterprises as the main measure, but return to the grasp of personnel, set a certain proportion of the number of enterprise executives and staff to judge. Secondly, the substantive operation is judged according to the core business activities of the industry. Considering the matching degree between the substantive operation of enterprises, industry characteristics and personnel, it is suggested that the taxation principle of the place where economic activities occur and the place where value is created should be followed in policy determination, the core income-generating behavior of the target industry should be defined, the core business activities should be carried out in the free trade port area and undertaken by the Hainan free trade port entity, and whether there are enough full-time employees should be verified. Finally, relevant departments should strengthen communication and guidance, and regularly carry out inspection and certification in order to rectify in time. Optimize the catalogue of encouraged industries, fully implement the 15% income tax policy, and increase support for investment and development; allow one-time deduction or accelerated depreciation for the capital expenditure of production factors of qualified enterprises, and focus on the carry-over of losses of enterprises in the initial stage. For the investors who are restricted by the ability to pay taxes and cannot effectively carry out investment, we can try to implement the cash flow tax system in Hainan Free Trade Port, and gradually promote it in the form of pilot projects under the premise of strengthening supervision; guide the scope of tax preferences to transit from the positive list to the negative list, and expand the scope of application.

4.3 Adopt Diversified Forms of Incentives to Improve the Pertinence of Policies for Foreign Direct Investment

The strategic arrangement of Hainan Free Trade Port is different from the development mode of other international free trade port. For example, Hong Kong, China, Singapore, and other free trade ports in China have gradually transited to modern industries based on fully developing processing trade, with a long time and a relatively mature level of development. Due to different factors of the times, Hainan implements leapfrog development, and its goal is to directly develop modern service industry and high-tech industry. This special development mode significantly increases the difficulty of the construction of Hainan Free Trade Port. If the policy is too biased towards the development of high value-added industries and the areas with good basic conditions in the province, then some essential basic and small and micro enterprises will be squeezed by resources from home and abroad to varying degrees. Although the Hainan provincial government emphasizes in the policy promulgation that it will further expand the preferential catalogue of enterprise income tax in 2035, increase support for manufacturing enterprises, and gradually optimize the catalogue of industries encouraged by foreign investment, these are still in the oral arrangement, how to balance the development path is lacking, and it is difficult for enterprises to form a consistent force between preferential and negative lists. Therefore, it is necessary to make detailed analysis, suit the remedy to the case, improve the pertinence of the policy, and adopt more diverse forms of tax incentives. In terms of industrial structure optimization, in order to form a high-quality development pattern, in terms of industrial development planning and the introduction of foreign-funded enterprises, we are required not only to attach importance to modern industries, but also to prevent the excessive transfer of basic manufacturing industries to avoid excessive imbalance in industrial development. From the current development situation, the scale of investment in the tertiary industry in

Hainan Province has changed significantly, and the development of tourism and modern service industry, as well as the virtual industry of digital economy, has a certain proportion. In this regard, we can further adjust the tax preferential policies for high-tech enterprises, referring to the tax preferential policies for domestic small and micro enterprises and the principle of deduction and collection of different ranges of small and medium-sized enterprises in Singapore, and suggest that, without changing the statutory tax rate, we should consider drawing lessons from the relevant incentive policies for small and micro enterprises to reduce the taxable income. Improve the policy attractiveness of enterprise income tax to multi-scale investment behavior. In addition, for the newly established Hainan Free Trade Port enterprises, more flexible tax preferential policies can be adopted, especially for encouraging investment in environmental protection and innovation areas, to increase the coverage of policies and better attract enterprises to invest. We can also consider encouraging enterprises to inject capital into public welfare undertakings to reduce the tax burden of enterprises and attract more high-quality enterprises to enter Hainan Free Trade Port. Within the same tax rate support and appropriate scope, the taxable income should be reduced and levied to reduce the tax burden of enterprises. Under the background of global tax reduction and in order to maintain the long-term development goal of comprehensive competitiveness, we should also revise the tax policies of basic industries such as manufacturing and different types of resource-consuming enterprises, consider further subdividing the industries, and aim at industries that need government support and revision at different time points. We can formulate targeted tax incentives, reduce the income tax rate appropriately for the introduction of foreign capital in special industries, and guide different foreign-funded enterprises to invest and set up factories here on the premise of ensuring fair development.

5. Conclusion

The establishment of the Hainan Free Trade Port serves as a vital initiative to further China's reform and opening-up agenda, with the refinement of the business environment being central to its successful development. Hainan has achieved notable advancements in trade liberalization, investment facilitation, and the innovation of its fiscal and taxation systems. Concurrently, the province's institutional breakthroughs in simplified examination and approval processes, park management, and the international commercial dispute resolution mechanism have delivered efficient and convenient services to market entities, thereby bolstering investor confidence. Moreover, through the promotion of legal awareness, the standardization of law enforcement supervision, and coordinated social governance, Hainan has fostered a robust legal environment that underpins the ongoing enhancement of its business climate. Nevertheless, the development of the Hainan Free Trade Port remains in its exploratory phase. Looking ahead, there is a need to further enhance the legal protection framework, elevate the standard of the rule of law, and drive the internationalization, facilitation, and legalization of the business environment.

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