

China Business Advisory

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2. Service Highlight

China to Enhance its Appeal to Foreign Investment (Cont.)

The State Council of the People's Republic of China ("State Council") has promptly released a notice coded Guofa [2017] No.39 ("Notice No.39") on 8th August 2017 to elaborate on the decision made on

28th July 2017 at a State Council executive meeting (See "China Business Advisory 2017 Issue 8"). Five major improvements have been noted in Notice No.39.

- Easing of limitations of market threshold for Foreign Investment Enterprise ("FIE")
 - Nationwide implementation of the "Negative List" approach which has been successfully implemented in the Free Trade Zones ("FTZs");
 - Expansion of the scope of industries open to FIE;
- Preferential policies in respect of finance and taxation
 - Allowing the deferral of Corporate Income Tax ("CIT") for profit directly reinvested in eligible industries;

- Nationwide implementation of the CIT incentives which are currently only applicable to advanced technology service enterprises in pilot cities;
- Introducing preferential treatments for regional head offices of multinational corporations in China;
- Financial support for FIEs to develop technologies and green projects in western and northeast China;

- Improvement of the overall investment environment of National Development Areas

- Improvement of the foreign talents system
 - Improving the work permit system for expatriates with an expansion of the scope of foreign talents and extension of the working visa period;

- Optimizing commercial conditions
 - Improving laws and services to protect FIEs in areas such as systematic legislation, overseas remittance and intellectual property;
 - Encouraging foreign investors to take part in domestic company restructurings with easier procedures and less restrictions.

Implementation of the Bilateral Social Security Treaty between China and the Netherlands

The Bilateral Social Security Treaty (the “Treaty”) and its Memorandum of Understanding (“the Memorandum”) signed on 12th September 2016 came into force on 1st September 2017. The key points are recapped as follows:

- The authorities managing the Social Security System
 - Ministry of Human Resources and Social Security in China (“MHRSS”);
 - Ministry of Social Affairs and Employment in the Netherlands (“MSAE”);

- The scope of exemption
 - Basic Pension Insurance and Unemployment Insurance in China;
 - General Old Age Pensions (“AOW”), Surviving Dependents Benefit (“ANW”) and Unemployment Benefit (“WW”) in the Netherlands;

- The people entitled to the exemption
 - Dispatched employees, seaman, aircraft employees, civil servants, diplomatists, consulate employees and their accompanying family members, who have paid Social Security in one contracting country will be entitled to the exemption from the other contracting country.

- The first period of exemption for dispatched employees is five years with a possible extension of no more than one year

To date, China has signed similar treaties with Germany, Korea, Denmark, Finland, Canada, Switzerland, France and Spain. It is evident that China is actively taking action to reduce the burden placed on FIEs and expatriate employees by international social security.

Updated Measure of Investigation on Operations without Certificates or Licenses

The State Council released State Council Order No. 684 (“Order No.684”) on 6th August 2017, which will come into force and replace State Council Order No.370 (“Order No.370”) on 1st October 2017. Order No.684 is designed to regulate the fast-changing market in China. The updates are highlighted as follows:

- Exclusion of the operating activities below from the conduct of operations without licenses
 - Sale of agricultural and side-line products, daily necessities or allowed services making use of individual skills conducted in appointed locations and specified period of time;
 - Operating activities that by law and regulations do not need to have certificates or licenses;

- Maximum penalty for operations without licenses has been reduced from RMB500,000 to RMB10,000

- Information about entities or individuals carrying out operations without certificates or licenses will be shared among different governmental departments. An indication of the operations without certificates or licenses will be made on their credit records. This could affect the use of public services such as bank loan application and cross-border migration

Although Order No.684 has eased the control and monetary punishment on non-compliant business operations, its revised penalty could potentially pose long-term negative impact on the operations of the violators.

Execution of United Nations Resolution 2371 against North Korea Nuclear Tests

In accordance with the unanimous-agreed United Nations Resolution 2371 (“Resolution 2371”), the Ministry of Commerce issued MOC Announcement [2017] No.47 (“Announcement No.47”) on 25th August 2017 and jointly issued MOC & Customs Announcement [2017] No.40 (“Announcement No.40”) on 14th August 2017 with Customs that come into force immediately to sanction North Korea over its nuclear tests. The key sanction activities are specified as follows:

- Prohibiting the set-up of new joint ventures (“JV”) or cooperative entities with North Korean entities or individuals, new wholly-foreign owned enterprises (“WFOE”) and the expansion of existing entities through additional investments, whether or not acting for or on behalf of the government of North Korea, unless such JVs, WFOEs or cooperative entities have been approved by the Committee of United Nations in advance on a case-by-case basis
- Prohibiting the procurement of coal, iron, iron ores, plumbum, plumbum ores and aquatic products

The vote for sanction in the Resolution 2371 and the prompt actions indicate that China is a country which acts for and contributes to the improvement of international safety.

Service Highlight

The Chinese government has been incurring continuous effort to improve its commercial environment for foreign investors. Sino-Bridge can help our clients stay on top of the fast changing regulations of China in order to make the most out of these changes. For more information on how Sino-Bridge can be of assistance to you, please contact our Marketing Executive, Ms. Kimme Chan, via landline (852) 3579 8745 or email kimmechan@sinobridge-consulting.com.

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