

# China Business Advisory

2016 Issue 9

September 2016

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### 2. Service Highlight

## China Open up Market Access for Private Securities Fund Management Business

The 49% shareholding (owned by foreign investors) limit for private securities fund management are to be withdrawn pursuant to the 7<sup>th</sup> and 8<sup>th</sup>

Round of Sino-US Strategic and Economic Dialogue and the 7<sup>th</sup> Sino-UK Economic and Financial Dialogue. Accordingly, on 30<sup>th</sup> June 2016, Asset Management Association of China (“AMAC”), a fund industry social organization established by China Securities Regulatory Commission (“CSRC”), issued “Q&A on private securities fund registration (No.10)” (“Q&A No.10”) which set out the requirements for foreign investors to set up Wholly Foreign-owned Enterprises (“WFOE”) and Joint Venture (“JV”) to undertake private securities fund management business, including management business in the secondary market.

Under Q&A No.10, foreign investors are now allowed to setup WFOEs to participate in domestic asset management business in China provided that they can meet the following requirements:

- Meeting the requirements specified in the relevant laws and regulations in China;
- The private securities fund management company should be established in Mainland China;

- The foreign shareholder of the company should be an approved or licensed financial institution in its home country and its home country has entered into Memorandum of Understanding on Securities Regulatory Cooperation (“MOU”) with CSRC or institutions recognized by CSRC; and
- The foreign shareholder of the company and the company per se were not severely punished by any supervisory and judiciary organizations in the last three years.

### **Simplification of Monitoring Procedures for Processing Trade Operations**

The Ministry of Commerce (“MOC”) and General Administration of Customs (“GAC”) jointly announced on 25<sup>th</sup> August 2016 (“Announcement [2016] No. 45”) for the abolishment of examination and approval procedures currently in use for monitoring processing trade operations. Monitoring will be replaced by in-process and post-process supervision mechanism. On 26<sup>th</sup> August 2016, the General Office of MOC issued Shangbanmaohan [2016] No. 720 to specify and clarify the new arrangements. Key highlights of the announcements include:

- Abolishment of examination and approval for processing trade contracts, including the domestic sale of bonded imported materials and parts for use in processing trade or finished products from processing trade;
- Under the new mechanism, Processing Trade Enterprises (“PTEs”) can apply for the establishment or alteration of the Processing Trade Manual (Ledger) in local Customs by providing valid “Certificate of Operating Condition and Production Capacity (for PTEs)”, issued by competent commercial departments or administrative committees of Customs Special Supervision Zones (“CSSZ”);
- For domestic sale of bonded imported materials outside of CSSZ, customs will collect taxes and interest on postponed tax in accordance with rules and regulations accordingly; and

- The new Processing Trade Enterprises Operating Condition and Production Capacity Certification System will be applied across the whole country.

With effect from 1<sup>st</sup> September 2016, these policies are expected to help enterprises to streamline compliance procedures and lower regulatory compliance costs, with a view to facilitate the development of processing trade in China.

### **Environmental Protection Tax Law (Draft)**

On 3<sup>rd</sup> September 2016, the Standing Committee of National People’s Congress (“NPC”) released “Environmental Protection Tax Law of PRC (draft)” (“the Draft”) for public consultation up to 5<sup>th</sup> October, 2016.

The Draft introduced a new Environmental Protection Tax (“EPT”) to be levied on the payers of pollutant discharge fees, under the following categories:

- Airborne pollutants;
- Water pollutants;
- Solid wastes;
- Noise pollution.

There are preferential policies for EPT indicated in the Draft which are highlighted as follows:

- Tax exemption for taxable pollutants discharged from agricultural production (other than large-scale breeding);
- Tax exemption for taxable pollutants discharged by moving pollution sources including motor vehicles, railway locomotive, non-road mobile machinery, ships and aircrafts;

- Tax exemption for taxable pollutants discharged by lawful urban wastewater and urban domestic waste centralized treatment plants which complied with discharge standards (other than pollutants discharged by industrial sewage treatment plants);
- Tax exemption for solid wastes substantially used by tax payers;
- Tax exemption for other circumstances approved by the State Council; and
- Half tax levied where the concentration of taxable airborne pollutants and water pollutants are lower than 50% of the state or local standards.

China shows its determination to achieve sustainable development and a healthier living environment. The Draft indicated that payers will be subject to higher penalties for infringement in the future with the introduction of the new law.

## **New DTA between China and Romania**

The State Administration of Taxation announced on 17<sup>th</sup> August 2016 the signing of “Agreement between the People’s Republic of China and Romania for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance” (“DTA”) on 4<sup>th</sup> July 2016. Comparing with the previous DTA signed on 16<sup>th</sup> January 1991, the new DTA including comprehensive modifications and updates in different aspects. The key changes are summarized as below:

- The definition of residence includes three more categories namely “place of incorporation”, “place of effective management” and “place of registration” and excludes the original category “place of head office”;

- In terms of Permanent Establishment
  - Replace “6 months” by “183 days” in any consecutive 12 months for furnishing of services;
  - Modify the seven circumstances that the term “Permanent Establishment” shall not be deemed to include; and
  - Elaborate on the circumstances where an enterprise shall not be deemed to have a permanent establishment in a Contracting State if it only carries on business in that State through an independent agent.
- Withholding Tax on eligible dividends will be reduced to 3%;
- In terms of Interest
  - Withholding Tax on eligible interest will be reduced to 3%;
  - Modify the three circumstances that Withholding Tax on interest can be exempted:
    - ✓ in respect of indebtedness arising as a consequence of the sale on credit of any equipment, merchandise or services; or
    - ✓ on any loan of whatever kind granted by a financial institution of that other State; or
    - ✓ to that other State or a political subdivision, local authority or administrative – territorial unit thereof, or any entity wholly or majority owned by that other State.
- Withholding Tax on eligible royalties will be reduced to 3%; and
- For Independent Personal Services and Income from Employment, the “aggregate 183 days in a calendar year” in the previous DTA is replaced by “aggregate 183 days in any twelve-month period”.

This new DTA includes many preferential terms that have not appeared in other DTAs. Multinational enterprises in China and Romania may leverage on these preferential terms accordingly.

## Service Highlight

It is obvious that China government has not only kept improving the domestic regulations and simplifying the process of official approvals to enhance the business environment for foreign investors, but also kept building co-operative relationships with other countries via mutually beneficial agreements. Sino-Bridge is always well prepared and pleased to help investors to exploit their full potentials from their business presence in China. Our Marketing Executive, Ms. Kimme Chan, would like to hear from you at (852) 3579 8745 or [kimmechan@sinobridge-consulting.com](mailto:kimmechan@sinobridge-consulting.com) to learn of what we could assist you on your plan.

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