

# China's State Council Issues New Policies to Boost Foreign Investment in China

April 6th, 2010.

Several Opinions on Further Improving the Work of Utilizing Foreign Investment (the "Opinions") were issued by the State Council of China (the "State Council") on April 6th, 2010.

The promulgation of the Opinions aim at improving the quality and standard of use of foreign investment, streamlining the foreign investment regulatory system and encouraging the further development of foreign investment in China.

The Opinions will most likely influence the enactment of new laws and regulations in the following months.

The Opinions mainly include the following contents:

1. To optimize the use of foreign investment:

- a. The Catalogue of the Guidance of Foreign Investment Industries (the "Catalogue") will be amended, in order to encourage foreign investment in high-end manufacturing, new high-tech industry, modern services industry, new energy and energy saving environmental protection industry.
- b. The qualified projects under the "encouraged" category will benefit from discounted land prices at 70% of the statutory minimum price according to the "Standard of the minimum price of land for industrial use".
- c. The foreign investment towards the high-tech companies will be encouraged continuously and the identification of the High-tech companies will be improved.
- d. Multinational companies will be encouraged to establish regional headquarters, R&D centers, procurement centers, finance management centers and accounting centers, and other functional institutes in China.

Facilities necessary for R&D of qualified foreign R&D centers shall be exempted from custom duties and value-added tax as well as consumption tax at the time of importation before December 31st, 2010.

2. To guide the foreign investment to central and western regions:

- a. Labor-intensive projects category will be increased in "The Catalogue of the Advantage Industries of Foreign Investment in Central and Western Regions". Foreign investors will be encouraged to invest labor-intensive industries which shall meet the requirement of environment protection in central and western regions.

- b. Preferential tax policies shall be offered to the qualified foreign and local companies in these regions.
- c. The government departments, including Administration of Industry and Commerce, tax, foreign exchange, social security and other relevant authorities, will perfect the administration services, in order to facilitate the administrative procedures for the companies.

Foreign banks will be encouraged to establish branches or representative offices and operate their business in the central west regions.

3. To promote the Diversification of forms of foreign investment:

- a. Foreign investors are encouraged to reform and merge with local companies by means of equity participation or M&A.

The listed companies in A stock market are encouraged to introduce foreign strategic investors.

- b. Foreign investors are encouraged to establish venture capital companies and private equity funds in China, and better exit regimes will be implemented.

- c. Qualified foreign invested companies are supported to list in the domestic stock market, issue corporate bonds and middle-term negotiable instruments in China.

The scope of offshore companies which could issue RMB bonds in China will be expanded.

4. To intensify the reform of foreign investment management system:

- a. Projects which total investment is less than US\$300 million under the "permitted" or "encouraged" categories will be approved by the local government, except the projects which shall be approved by State Council according to "The Catalogue of Invested Projects Approved by the Government" (Previously, this threshold was US\$100 million).

The establishment of foreign investment companies which provide services (except financial and telecom services) will be approved by the local governments.

- b. The approval contents and procedures of foreign invested companies will be simplified, and the approval duration limit shall also be shortened.

5. Conclusion

The Opinions reflect that China will significantly improve its foreign investment environment and perfect the foreign investment supporting system. The main changes set forth in the Opinions are considered as policy goals rather than specific measures. Series of corresponding regulation amendments and new practical measures will be implemented to follow up the promulgation of the Opinion. Therefore, the Opinion will surely lead to a new trend of reforms in China's foreign investment regulatory system.

Multinational companies and potential foreign investors will benefit from the effect of the Opinion and they should pay attention to the following changes with respect to the foreign investment in China.