Foreign Invested Travel Agencies

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Overseas tourist destinations are becoming increasingly popular among Chinese people who are fond of traveling in their leisure time. In line with the growing outbound tourist trend, many foreign-invested travel agencies have recently entered China's ever-growing tourism market. As a result, Chinese citizens are now utilizing foreign agencies to organize and arrange trips to overseas destinations.

In 2003, Japan Airlines established the first foreign-invested travel agency (FITA) in China. Soon after, major players in the tourism industry like JTB Corporation and American Express Travel Ltd also opened branches in China. So far, most of the top ten tourist companies in Asia and Europe have opened China offices. Those forerunners of FITAs invested in China because they envisioned a promising future for China's outbound tourism market.

Statistics show that more than 140 countries have become tourist destinations for Chinese nationals. In 2009, the revenue for overseas trips for Chinese nationals reached $43 billion. Over 54 million Chinese will travel overseas in 2010, and will generate more than $55 billion in revenue. Malaysia's Minister of

Tourism has projected that by 2020 Chinese overseas travelers will surpass 1 billion.

However, until recently FITAs were heavily restricted in China. FITAs could only engage in domestic tours and inbound trips, and were prohibited from organizing overseas trips for Chinese nationals. The recent "Provisional Measures Governing Outbound Tours Operated by Sino-Foreign Joint Venture Tourist Agencies," issued by the Ministry of Commerce on September 7, 2010, has eliminated many of these restrictions. According to the measures, qualified FITAs will now have the ability to organize overseas trips for Chinese nationals. Qualification can be obtained through application to the Ministry of Tourism. Once the application is approved, FITAs also need to file semi-annual reports with the Ministry of Tourism pending general information about the overseas trips they have organized.

These measures along with the lowering of the registered capital requirement for FITAs from 4 million RMB to 300,000 RMB make it clear that China's government is encouraging increased foreign direct investment through FITAs. Nevertheless, several factors must be assessed before participating in FITA investments:

First, the market for organizing overseas trips has only been opened for joint venture FITAs. FITAs registered as wholly foreign owned enterprises (WFOEs) are not included in the new measures. As a result, investors who want to make investment through FITAs must pursue these interests through a joint venture.

Second, according to Article 5 of the measures, the government has set a low quota for qualifying FITAs. Therefore, it is advisable to start the application process sooner rather than later.

Finally, China has recently enacted a new Tort Liability Law. Greatly favoring consumers, this new law imposes extensive restrictions and liability for travel agencies. For example, under the Law, travel agencies may be liable to consumers for damages resulting from third-party attraction sites or transportation providers. Thus, in addition to the business considerations, it is necessary to fully analyze all legal risks before investing in China's growing tourism market.

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