

China alert

Tax and regulatory developments

TAX

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China issues updated Catalogue of incentives for foreign-invested projects located in central and western China

In Brief

- Foreign-invested projects that gained approval before the effective date of the updated Catalogue can continue to enjoy the relevant incentives, such as reduced Corporate Income Tax (CIT) rate and customs duty-free importation of equipment. However, they will need to complete the relevant filing procedures with Customs before 31 December 2009.
- Foreign-invested projects that remain in the construction stage can also enjoy these incentives if they qualify under the updated Catalogue and obtain a Project Confirmation Letter from the relevant authorities.

Relevant regulation discussed in this issue:

Catalogue of Foreign Investment Advantageous Industries in Central and Western China (2008 version), jointly issued by the NDRC and MOFCOM on 23 December 2008, effective from 1 January 2009 onwards

Main changes in the updated Catalogue

The updated Catalogue is based on the 2004 version, as well as on the Catalogue of Foreign Investment Advantageous Industries in Liaoning Province. It covers 411 favoured industries in the different provinces, cities and autonomous regions and broadens the scope of industries covered by supportive policies.

- **Optimising industry structure and encouraging industry upgrade**

Certain industries, such as those involved in producing electric gauges and spare digital machinery parts, have been removed from the updated Catalogue.

Medical services, education, advanced precision manufacturing, R&D and production of new energy equipment and production of new-type cement with daily productivity over 4,000 tons have been added to the updated Catalogue. In addition, manufacturing of auto parts and machinery have been further itemised in the updated Catalogue.

Valued-added telecommunication services have been added to the updated Catalogue, but investment in that sector by foreign investors must strictly adhere to the framework laid down in China's commitments on its entry into the World Trade Organisation.

- **Protection and exploration of mineral resources**

To protect and explore mineral resources more efficiently, the production of barium salts and strontium salts, and the exploration and processing of certain minerals such as nickel, molybdenum, tungsten, titanium and borax have been removed. In contrast, synergistic utilisation and deep processing of silica, non-metal minerals and nonferrous metals have been added to the updated Catalogue.

KPMG observation

- **CIT incentives under West Development Policy**

According to the relevant regulations issued by the State Council and the relevant authorities, Foreign Investment Enterprises (FIEs) in western China can enjoy the reduced income tax rate of 15 percent from 2001 to 2010 provided they:

- fall within the industries listed in the Catalogue; and
- derive more than 70 percent of their revenue from their main business activities.

This incentive can be enjoyed until 2010 under the new CIT Law. Potential investors planning to invest in western China should consult the updated Catalogue to make the most of the incentive policies available.

As a transitional measure between the updated Catalogue and its previous version, projects under construction can adopt the updated Catalogue. In the previous update of the Catalogue, in 2004, the policy was to use the “updated catalogue for new enterprises, previous catalogue for old enterprises”. The approval date of a feasibility study report (or a contract and Articles of Association) was used to determine which version of the Catalogue would apply. The same approach should also be applicable to this latest update.

- **Exemption of customs duty for imported equipment**

Qualified FIEs involved in the industries listed in the previous Catalogue and the Catalogue of Foreign Investment Advantageous Industries in Liaoning Province could enjoy exemption from customs duty and value-added tax (VAT) on the importation of equipment for self-use within their total investment.

According to newly revised Provisional VAT Rules (effective from 1 January 2009 onwards), input VAT associated with purchase of equipment can be offset against output VAT. Therefore, this implies that the above-mentioned VAT exemption for imported equipment has been abolished.

As mentioned in Announcement [2008] No. 43, jointly issued by the Ministry of Finance, Customs and the State Administration of Taxation, qualified FIEs approved before 1 January 2009 can still enjoy exemption from customs duty for imported equipment for self-use, including the corresponding technology, accessories and spare parts. According to

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the latest notice issued by Customs, these FIEs need to complete the relevant filing procedures with Customs before 31 December 2009.

Foreign-invested projects that remain in the construction stage and that did not qualify under the previous Catalogue and the Catalogue of Foreign Investment Advantageous Industries in Liaoning Province but fall within the updated Catalogue can enjoy the customs duty-free incentive. However, they need to obtain a Project Confirmation Letter from the relevant authorities. These companies should therefore apply for such a letter well in advance if they wish to import equipment free from customs duty.

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