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Reference: Guo Fa [2017] No. 39
Issuance date: 16 August 2017
Effective date: N/A

Relevant industries: All
Relevant companies: FIEs
Relevant taxes: All

Potential impacts on businesses:
- Operational costs reduced

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State Council measures to attract foreign investment

On 28 July 2017, an executive meeting of the State Council outlined a series of measures to further boost foreign investment in China [see KPMG *China Tax Weekly Update (Issue 30, August 2017)*]. The most notable measures aim to:

- Relax/eliminate requirements for foreign investors to have Chinese co-investors for their China investments in certain manufacturing and services sectors [see KPMG *China Tax Alert (Issue 23, August 2017)* for details].
- Temporarily permit the deferral of dividend withholding tax (WHT), otherwise levied on the distributed profits of a foreign invested enterprise (FIE), where the relevant amounts are reinvested in 'encouraged' projects. [see KPMG *China Tax Alert (Issue 26, August 2017)* for details].
- Pilot city Corporate Income Tax (CIT) incentives for advanced technology services enterprises (ATSEs) will be expanded nationwide [see KPMG *China Tax Alert (Issue 27, August 2017)* for details].
- Local governments are encouraged to promote the establishment of multinational enterprise ASPAC regional headquarters in China with local tax incentives [KPMG China Tax Alert to follow].
- Improve foreign investment laws [KPMG China Tax Alert to follow].

Building on these measures, the 16 August 2017 issued State Council Circular Guo Fa [2017] No. 39 set out the following guidance:

- Certain sectors will be liberalized further for foreign investment. These include manufacturing of special vehicles and new energy vehicles, vessel design, regional and general aircraft maintenance, international sea transportation, railway passenger transportation, internet services, call centres, brokerage, banking, securities and insurance services. The specific timeframes and route maps for opening up are yet to be clarified.
- Preferential tax treatment will be granted to distributions of overseas income received by Chinese resident enterprises (including regional headquarters of multinational enterprises).
- Measures are being developed to upgrade China's long-standing processing trade by allowing FIEs to provide certain high-tech maintenance services, such as aircraft repair. The pilot program under which this will be permitted will operate in certain national development zones. These include economic and technological development zones, high and new tech development zones, and special customs supervision zones, amongst others. The goal is to move China's processing trade further up global value chains and away from simpler, low margin activities.

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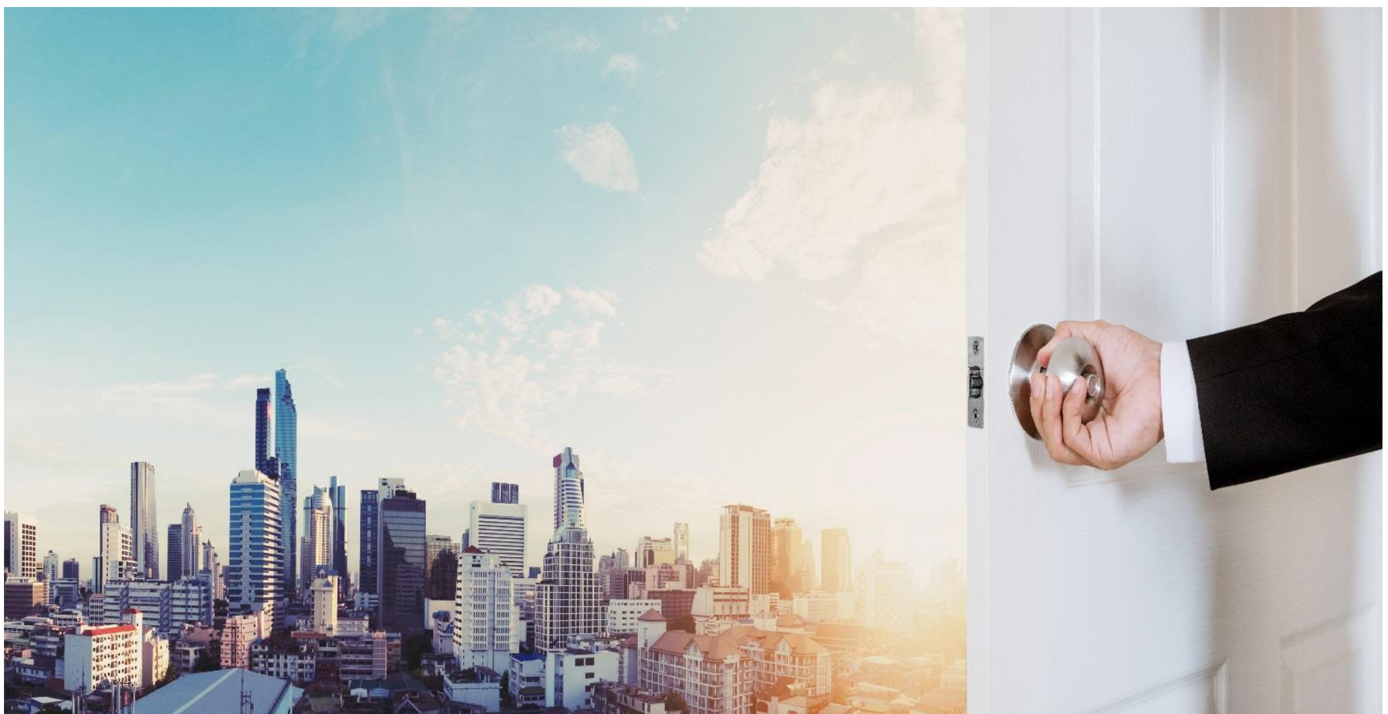
- Policies for the attraction of skilled foreign workers will be improved with work permit issuance to be standardized nationwide from 2018. Qualifying skilled foreigners may be entitled to a multiple entry visa for 5 – 10 years and it may also be possible to apply for a permanent resident permit [The foreign worker China visa application process has been simplified since March 2017, see KPMG *China Tax Alert (Issue 12, May 2017)* for details].
- Measures will be taken to ensure that the China profits derived by foreign investors, whether earned in RMB or foreign currency, can be remitted out of China without restriction.
- Facilitate foreign investors to establish FIEs by way of merger & acquisition (M&A), and encourage the introduction of foreign investment into the shareholding structures of reformed state-owned enterprises (SOEs) [The State Council recently set out a plan for central SOE reform, see KPMG *China Tax Weekly Update (Issue 30, August 2017)* for details].



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Reference: Guo Ban Fa [2017] No. 74
Issuance date: 18 August 2017
Effective date: N/A

Relevant industries: All
Relevant companies: "Going out" enterprises
Relevant taxes: N/A

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced.

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China tightens regulation of outbound investment

In 2016, reports in the global business media opined that the Chinese government was looking exert more effective control over outbound capital flows from China [See KPMG *China Tax Weekly Update (Issue 47, December 2016)* for details]. Ultimately, the State Council on 18 August 2017 issued Guo Ban Fa [2017] No. 74 to further regulate outbound investment. The guidance was jointly issued by the National Development and Reform Commission (NDRC), Ministry of Commerce (MOFCOM), People's Bank of China (PBOC) and Ministry of Foreign Affairs (MFA), setting out the outbound investments that are encouraged, restricted and prohibited:

Encouraged	• Infrastructure and construction projects under the Belt and Road (BRI) initiative. • Outbound investment facilitating China exports of machinery and industrial equipment. • Outbound investment which serves to strengthen investment cooperation with overseas high-tech and advanced manufacturing enterprises. • Outbound investment in overseas research and development (R&D) centres. • Participations in exploration and development of offshore oil and gas, mineral and other energy resources. • Outbound investment in agricultural sector. • Outbound investment in services sectors, such as commerce, trade, culture, logistics. • Set up of branches and overseas service network by qualified financial institutions. These outbound investments are subject to recordal filing, either with NDRC or local commerce administrations.
Restricted	• Outbound investment in jurisdictions that: (i). have no diplomatic relationship with China; (ii). are at war (with China or a third country) or subject to civil war; and (iii). have agreed the restrictions in their bilateral/multilateral treaties or agreements concluded with China. • Outbound investment in real estate, hotels, cinemas, entertainment, sports clubs and other specified restricted sectors. • Set up private equity funds or investment platforms without already having concrete projects planned for overseas; These three items are subject to MOFCOM pre-approval.
Prohibited	• Outbound investment connected with core technologies and products used by the Chinese military industry, where no State pre-approval has been obtained. • Outbound investment made via in-kind contributions of Chinese technologies, techniques or products that are prohibited to be exported.

Prior to this, MOF in June 2017 had issued *Financial Administrative Measures for SOEs Making Outbound Investment*, seeking to upgrade the rigour with which Chinese SOEs evaluate their outbound investments [See KPMG *China Tax Weekly Update (Issue 31, August 2017)* for details].

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Reference: Guo Ke Fa Zheng [2017] No. 211
Issuance date: 21 July 2017
Effective date: N/A

Relevant industries: All
Relevant companies: Enterprises that apply to R&D bonus deduction
Relevant taxes: CIT

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

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R&D "bonus deduction" rules clarified

Cai Shui [2015] No. 119 ("Circular 119"), issued by MOST, MOF and SAT, set out in 2015 the procedure to be followed where local tax authorities object to an enterprise's claim for bonus deduction incentives with respect to its R&D projects. In such case, the tax authorities may request prefectural-level MOST to issue an evaluation opinion concerning the eligibility of the R&D project for the tax incentive.

Building upon Circular 119, on 21 July 2017, MOST, MOF and SAT jointly issued Guo Ke Fa Zheng [2017] No. 211 ("Circular 211"), to further clarify how to deal with tax authority objections to R&D bonus deduction claims:

- Where a tax authority, having received a positive assessment of the tax incentive eligibility of an R&D project from prefectural-level MOST, still objects to this, they may ask for an opinion from provincial-level MOST.
- Local tax authorities may not request an evaluation from MOST at prefectural or provincial levels on (i). Enterprises undertaking research projects that are assigned by government agencies at provincial and ministerial level; and (ii). Multi-year R&D projects that have been evaluated and approved by prefectural MOST in the previous years.

* For more information about the R&D "bonus deduction" policy, you may access the following KPMG publications:

- ❑ *China Tax Alert: Notice of the State Administration of Taxation on Further Implementation of the R&D Expenses Super Deduction Policy (Issue 6, February 2017)*
- ❑ *China Tax Alert: 150% Super Deduction Regulation Update (Issue 3, January 2016)*
- ❑ *China Tax Alert: R&D Super Deduction Regulation Update (Issue 31, November 2015)*

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