

## Guangdong Further Boosts Foreign Investment

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On 1<sup>st</sup> December 2017, Government of Guangdong Province promulgated "the Notice to further promote opening-up and actively utilize foreign investment (Yuefu [2017] No.125) (hereinafter "Circular No.125")<sup>1</sup>", with the intention of promoting fair competition between foreign and domestic companies as well offering incentives attracting foreign investment, which takes immediate effect.

### BACKGROUND

As the third-largest recipient of FDI throughout the world, China was injected the investment amount of US\$139 billion in 2016. However, along with economic slowdown, increase of labour cost as well as overproduction, FDI remains stagnant in recent years. In fact, the growth of actual amount of FDI stuck at 4% on average for the past three years until 2016.

As one of the most opened up areas in China, Guangdong province successfully achieved an economic growth due to extraordinary number of FDI after the opening-up. However, growth of FDI slowed recently, as FDI in 2016 was US\$23.3 billion, dropped by 13.1% from US\$26.9 billion in 2015, which is interpreted as a declining trend.

In order to tackle the above situation, China takes effort to appeals for FDI which is no doubt vital to substantial growth of economy. On 12<sup>th</sup> January 2017, the State Council issued "the notice about the measures of expanding opening and positively use foreign investment" (Guofa [2017] No.5) (hereinafter "Circular No.5")<sup>2</sup>. Soon after in August, the State Council promulgated "the notice about measures of promoting foreign investment growth" (Guofa [2017] No.39) (hereinafter "Circular No.39")<sup>3</sup>, aiming at further facilitating a better business environment to attract foreign investments and utilize them in an optimal way.

With the issuance of Circular No.125, Guangdong Province is expected to cope with the current situation of FDI by emphasizing innovative financial services as well as weighting up support on Research and Development (R&D).

### HIGHLIGHTS

Circular No.125 embraces 10 specific measures for boosting foreign investment and enhancing the incentives. Please see below for the details.

1 Guangdong Province Government (1st Dec 2017). Retrieved from: [http://zwgk.gd.gov.cn/006939748/201712/t20171204\\_733317.html](http://zwgk.gd.gov.cn/006939748/201712/t20171204_733317.html)

2 State Council (17 Jan 2017). Retrieved from: [http://www.gov.cn/zhengce/content/2017-01/17/content\\_5160624.htm](http://www.gov.cn/zhengce/content/2017-01/17/content_5160624.htm)

3 State Council (16 Aug 2017). Retrieved from: [http://www.gov.cn/zhengce/content/2017-08/16/content\\_5218057.htm](http://www.gov.cn/zhengce/content/2017-08/16/content_5218057.htm)

➤ **Loosening market access barriers for foreign investment**

- The market access has eased up based on Circular No. 5 and Circular No. 39.

Measure	Subject
Permission of market access	<ul style="list-style-type: none"> <li>▪ <u>Internet service business premises, Call centre</u></li> </ul>
Loosening restriction about shareholding ratio on investment	<ul style="list-style-type: none"> <li>▪ <u>Special Vehicle, new energy vehicle manufacturing</u></li> <li>▪ <u>Investment bank, securities company, securities investment fund management company, futures company, life insurance company</u></li> </ul>
Cancellation of restriction about shareholding ratio on investment	<ul style="list-style-type: none"> <li>▪ <u>Ship design, maintenance of regional jet and multiple-purpose aircraft</u></li> <li>▪ <u>International marine transportation, railway transportation</u></li> <li>▪ <u>Human resource service provision, construction and management of gas station</u></li> </ul>

➤ **Enhancing fiscal incentives**

- Fiscal incentives are to be granted to company set-ups and capital increases.

Measure	Incentive	Application	Duration	Maximum
New establishment of company	To provide rewards no less than 2% of its actual foreign investment amount <sup>4</sup> ( a )	<ul style="list-style-type: none"> <li>▪ For general company a &gt; US\$50 million</li> <li>▪ For regional headquarter a &gt; US\$10 million</li> </ul>	2017~2022	RMB 100 million
Capital increase		a > US\$30 million		

➤ **Strengthening security of the land-use**

- Governments at provincial-level and municipal-level to secure the land-use of: (a) projects that invested over RMB 1 billion; (b) construction of self-use office for headquarter or regional headquarter of industry leaders and Fortune 500 Companies in worldwide
- Foreign manufacturing companies shall be allowed to use industrial estates not longer than five years when the estates are transformed into productivity service centre or innovation space
- Contribution in kind with the right to use of state-owned land shall be applicable when constructing public facilities such as hospitals, schools, culture, elderly-care and sports, if co-invested by foreign companies and local governments

➤ **Promoting innovation and R&D**

- During 2017 and 2022, subsidies with maximum RMB 10 million shall be provided to qualified new types of R&D institutions acknowledged by the province
- Qualified foreign R&D institutions shall be exempted from import tariffs, VAT and consumption tax when importing goods concerned with R&D. Plus, full VAT refund is applicable upon domestic equipment purchase
- Eligible foreign-invested companies shall be exempted from VAT upon technology transfer, technical development and provision of related consulting services
- Second-hand professional equipment imported by foreign R&D institutions is eligible to bonded entry (For goods imported within one year)

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4 Industry such as real estate industry and financial industry or similar are excluded

➤ **Promoting financial services**

- To provide [NRA<sup>5</sup>+] related services through RMB NRA and foreign currency NRA in FTZ
- MNCs<sup>6</sup> in FTZ are encouraged to carry out cross-border two-way pooling in RMB
- Collecting leasing fees in foreign-currency from operating leasing such as aircraft and ship is to be positively developed as a pilot scheme, which encourages foreign-invested financial leasing companies in FTZ to obtain the pilot qualification and carry out foreign-currency settlement
- Intellectual property collateral financing such as trademarks and copyrights is encouraged
- Foreign companies can enjoy same supporting policies as local private-owned enterprises when carrying out financing via listing, new over-the-counter market<sup>7</sup> or regional stock market<sup>8</sup>

➤ **Reinforcing foreign talent support**

- 'Guangdong Superior Talent Card'<sup>9</sup> for seven types of foreign talents can be issued senior management of foreign-invested companies
- The holders of 'Guangdong Superior Talent Card' can apply foreigner work permit as well as visa with 5-year validity term. Plus, qualified foreigners will be preferentially issued 'Foreigner Permanent Identification'<sup>10</sup>

➤ **Speeding-up protection for intellectual property rights**

- To accelerate the development of China (Guangdong) Intellectual Property Protection Centre and build up the efficient system of verification, recognition and protection for intellectual property rights
- To strictly protect foreign companies' trademarks from trademark infringement
- To establish rules and standards of intellectual property rights regarding the internet, e-commerce and big data
- To set up international Intellectual Property Transaction Centre to promote the transfer and industrialization of high-valued Intellectual Property

➤ **Improving investment and trade facilitation**

- To further formalize the standard, range of responsibility and rights of government administration by streamlining the approval process and cut time by 25% upon the current process
- To delegate provincial level authorities in 18 categories to related departments in municipal governments regarding industries such as medical institutions, travel agency and gas station
- Eligible foreign investor shall be tentatively exempted from withholding tax on dividends paid by domestic companies, if these dividends are used as investment in projects of encouraged sectors
- To promote "Single Window"<sup>11</sup> for international trade to all ports in Guangdong province to cut time for customs clearance by a third

➤ **Facilitating investment for key zones**

- To promote one-stop administrative procedure called "Administrative Bureau"<sup>12</sup> in eligible nation-level development zones

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5 Referring to Non-Resident Account

6 Referring to Multiple National Company

7 In 2012, China set up the National Equities Exchange and Quotations besides Shanghai Stock Exchange and Shenzhen Stock Exchange. This National Equities Exchange and Quotations and its system are named as new over-the-counter market, so-called JASDAQ

8 Referring to the civil capital market that provides transfer of stocks or bonds and financial service to companies in specific region

9 Referring to the card issued to eligible high-level talent, and the card holder can enjoy same treatment as that of domestic residents regarding social insurance and housing, furthermore residence registration, immigration, long-term stay, permanent residence, medical service as well as children education

10 Referring to the convenient ID card with integrated circuit that issued to foreigner who obtains China permanent residence since 16<sup>th</sup> June 2017

11 Referring to the convenient digital platform that provides information and materials to customs and related departments of international trade at the same time, plus to confirm administrative results upon approval from related departments

12 Referring to the governmental institution established to centralize decisions from different kinds of departments, with the purpose of enhancing efficiency of investment

- To support application from provincial-level or above development zones to become “industrial transition park” and equip them with preferential policies
- To grant financial rewards to foreign-invested companies that are set up in national-level development zones, according to the contribution to the region, in reference to the preferential income tax catalogue<sup>13</sup> of Shenzhen Qianhai and Zhuhai Hengqin
- **Upgrading foreign investment guarantee mechanism**
  - Provincial and municipal governments shall establish a cooperative mechanism and eliminate barriers to FDIs. In particular, issues related to Fortune 500 companies shall be solved with priority
  - Related authorities shall standardize promotion activities for FDIs, fulfil promises regarding policies related to foreign investors, and strictly implement contracts related to FDIs

## COMMENTS

Circular No.125 lays great stress on supporting measures towards foreign R&D institutions as well as innovative financial service provision, compared with Circular No.5 and Circular No.39.

Sustainable development via innovation is the key element of Guangdong province’s economic growth strategy. The ‘13th Five-Year Plan on Scientific and Technology Innovation’ released in May states upgrading Guangdong as a technology industry hub, with more high-tech companies and R&D institutions involved, along with the target that investment amount towards R&D shall accounts for over 2.8% of GDP by 2020.

Currently, Guangdong equips itself with heavy-weight high-tech companies such as Apple and Microsoft. The circular is expected to become the new fuel to further engage more foreign R&D institutions and high-tech companies in Guangdong.

What’s more, Guangdong province gathered opinions over the pilot policy of financial reform from municipal governments of Guangzhou, Shenzhen and Zhuhai, giving rise to permission of the special non-resident account named [NRA+] and the innovative cross-border business for both RMB and foreign currencies.

It is likely that the [NRA+] account could be exerted on financing, YUAN exchange, FX derivative transactions, cross border assets transfer both in RMB and Foreign currencies, cross-border pooling so as to enhance the accessibility.

Last but not least, related departments are required to enact practice notes within one month after issuance and release practical measures within 3 months.

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13 The preferential catalogue refers to that a favourable income tax rate of 15% will be offered to companies whose main business belongs to key industries such as modern logistics, information service, technology service, cultural and creative industry and so on, plus the main business shall accounts for 70% of sales