

Guangdong Accelerates to Boost Foreign Investment

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On 29th August 2018, Government of Guangdong Province promulgated "the Notice to further promote opening-up and actively utilize foreign investment (Revision) (Yuefu [2018] No.78) (hereinafter "Circular No.78")¹", with the intention of better serving foreign investment as well as offering incentives attracting foreign investment. This report will give an introduction of related policies and measures.

BACKGROUND

As one of the most opened up areas in China, FDI has always been indispensable fuel to economic growth of Guangdong province. On 1st December 2017, Guangdong Province promulgated "the Notice to further promote opening-up and actively utilize foreign investment (Yuefu [2017] No.125) (hereinafter "Circular No.125")²", offering different kind of incentives to boost foreign investment.

Entering 2018, US-China trade war has been getting fierce with unclear prospect, which may not only influence on export but also hold back foreign investment in China. Under such circumstance, Chinese government releases a series of policies in order to strengthen relationships with foreign partners in trading and enhance the investment environment.

In June, the State Council promulgated "the Notice to positively and effectively use foreign investment on boosting economic development" (Guofa [2018] No.19)(hereinafter "Circular No.19"), proposing to further loosen market access and enhance efficiency as well as offer convenience for foreign investment.

Respectively on 28th and 30th June, the National Development and Reform Commission (hereinafter "NDRC") and the Ministry of Commerce (hereinafter "MOC") jointly promulgated "the Circular on foreign investment negative list of nationwide"³ (NDRC, MOC [2018] No.18, hereinafter "nationwide negative list") and "the Circular on foreign investment negative list of Free Trade Zone"⁴ (NDRC, MOC [2018] No.19, hereinafter "FTZ negative list"), fulfilling its promise to further open up domestic market to foreign investment.

Only 9 months after the issuance of Circular No.125, Guangdong Province released Circular No.78 to further enhance the measures and quickly follow up the latest negative list of nationwide, which accelerates to appeal and use foreign investment to fuel economic development in Guangdong province. Based on the above opening-up policies, Circular No. 78 proposes a series of purposeful and supportive measures regarding market access, fiscal incentives and financial services.

1 Guangdong Province Government (29 August 2018). Retrieved from: http://zwgk.gd.gov.cn/006939748/201809/t20180906_780452.html

2 Guangdong Province Government (1 Dec 2017). Retrieved from: http://zwgk.gd.gov.cn/006939748/201712/t20171204_733317.html

3 NDRC, MOC (28 Jun 2018). Retrieved from: <http://www.ndrc.gov.cn/zcfb/zcfbl/201806/W020180628640822720353.pdf>

4 NDRC, MOC (30 Jun 2018). Retrieved from: <http://www.ndrc.gov.cn/zcfb/zcfbl/201806/W020180628649433532826.pdf>

HIGHLIGHTS

Circular No.78 mainly revises at 5 specific fields by adding or amending measures based on Circular No.125. Please see below for the details.

【Table】 Comparison between 2017 version and 2018 revision(subtract)

| Field | 2017 Version | 2018 Revision |
|--------------------------|---|---|
| Market access | <ul style="list-style-type: none"> ➢ Permission of market access: <u>Internet service business premises, Call centre</u> ➢ Loosening restriction about shareholding ratio on investment: <u>Special vehicle, new energy vehicle manufacturing, investment bank, securities company, securities investment fund management company, futures company, life insurance company</u> ➢ Cancellation of restriction about shareholding ratio on investment: <u>Ship design, maintenance of regional jet and multiple-purpose aircraft, international marine transportation, railway transportation, human resource service provision, construction and operation of gas station</u> | <p>(Amended)</p> <ul style="list-style-type: none"> ➢ To fully execute “the Circular on foreign investment negative list of nationwide (2018 Revision)”, foreign investors will be allowed to establish solely foreign-owned enterprises: <ul style="list-style-type: none"> ■ Manufacturing of <u>special vehicle and new energy vehicle</u> ■ Design, manufacturing and maintenance of <u>ship, regional jet and multiple-purpose aircraft, helicopter weighing 3 metric tons and above, unmanned plane and aerostat</u> ■ Construction and operation of <u>gas station, international marine transportation, railway transportation</u> ➢ Restriction about foreign shareholding ratio on investment regarding Chinese banks and financial asset management companies in Guangdong will be cancelled ➢ Foreign banks will be allowed to set up branches and sub-branches in Guangdong province ➢ Foreign shareholding ratio on securities company, securities investment fund management company, futures company, life insurance company shall not be over 51% ➢ Foreign talents who work in Guangdong province will be allowed to set up A stock account |
| Fiscal incentives | <ul style="list-style-type: none"> ➢ From 2017 to 2022, to provide rewards no less than 2% of its actual foreign investment amount⁵ (α) (maximum 100 million RMB) <ul style="list-style-type: none"> ■ Regarding new established company: For general company: $\alpha > \text{US\\$}50$ million For regional headquarter: $\alpha > \text{US\\$}10$ million ■ Regarding capital increase: $\alpha > \text{US\\$}30$ million | <p>(Newly added)</p> <ul style="list-style-type: none"> ➢ From 2018 to 2022, for the re-investment projects in Guangdong province from dividend of resident company, government at provincial-level shall grant fiscal incentives |

5 Industries such as real estate industry and financial industry or similar are excluded

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|---|---|---|
| <p>Land-use</p> | <ul style="list-style-type: none"> ➤ 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 | <p><u>(Newly added)</u></p> <ul style="list-style-type: none"> ➤ For eligible important projects of foreign companies, government at provincial-level shall arrange land for use. ➤ For eligible industrial projects that invests over RMB 2 billion and completes related process, Guangdong province shall provide the land -use incentives. |
| <p>Financial services</p> | <ul style="list-style-type: none"> ➤ To provide [NRA⁶ +] related services through RMB NRA and foreign currency NRA in FTZ ➤ MNCs⁷ 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 market⁸ or regional stock market⁹ | <p><u>(Newly added)</u></p> <ul style="list-style-type: none"> ➤ To loosen the cross-border pooling access and encourage MNCs engaging real economy in FTZ to carry out cross-border two-way pooling |
| <p>Investment and trade facilitation</p> | <ul style="list-style-type: none"> ➤ To further formalize the standard, range of responsibility and rights of government administration by streamlining the approval process and cut time by 25% | <p><u>(Newly added)</u></p> <ul style="list-style-type: none"> ➤ For the establishment and change of foreign invested companies whose |

6 Referring to Non-Resident Account

7 Referring to Multiple National Company

8 In 2012, China sets 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

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

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| | <p>upon the current process</p> <ul style="list-style-type: none"> ➤ 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 ¹⁰ " for international trade to all ports in Guangdong province to cut time for customs clearance by a third | <p>investment amount is below 1 billion USD, the approval and management shall be delegated to the government at prefecture level above</p> <ul style="list-style-type: none"> ➤ To promote "multiple licenses in one" model and "business filing and registration in one window" model for foreign companies other than that under negative list ➤ The processing time of new establishment of foreign companies will be reduced to within 5 working days ➤ To simplify the materials of application when Hong Kong, Macau investors invest in Guangdong province |
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COMMENTS

Circular No.79 is released to help attract more qualified foreign investment to the province as it is optimizing its industrial structure. For example, foreign financial organizations are encouraged to set up branches and sub-branches as well as joint-venture securities and fund management companies, which is beneficial for the positive and healthy competition between Chinese institutions and foreign institutions.

Moreover, according to "the Notice regarding the provisional deferral treatment for withholding tax on direct re-investment by foreign investors using profits distributed from Chinese tax resident enterprises (Caishui [2017] No.88)¹¹, eligible foreign investors shall enjoy tax deferral treatment if they reinvest in the projects of encouraged sector. However, Circular No. 79 proposed to grant fiscal incentives to foreign investors who reinvest in Guangdong province based on the tax deferral treatment, which pilots in the Nation and delivers more incentives to foreign investors.

Last but not least, related departments are required to enact practice notes within the next three month after issuance and release practical measures. We will closely follow the progress.

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¹⁰ 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

¹¹ MOF, SAT, NDRC, MOC (21 Dec 2017). Retrieved from: <http://www.chinatax.gov.cn/n810341/n810755/c3033019/content.html>