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Solutions for China Entry & Growth*

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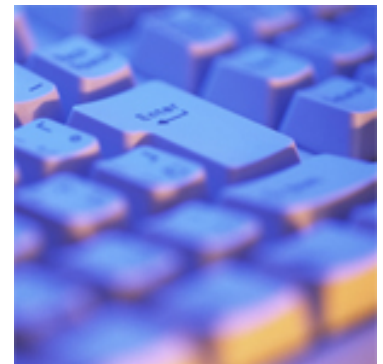
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Market Insights

Considerations for Foreign-Chinese Cooperation in High-Tech Industries

China generally welcomes foreign companies bringing high-tech services or products. Although some industries are restricted and will require the formation of a Joint Venture (JV), a JV is not required in most cases. However, many foreign entrants still commonly choose to cooperate with domestic players in a variety of ways:

- **Utilizing distributors:** local distributors/agents can help foreign entrants break into new (often regional) markets; option works well for companies with easily tradeable products, but it is important to find reputable distributors with strong networks
- **Technology licensing:** although many Chinese companies prefer to avoid this, some "must-have" foreign technologies are still in high demand; there is also a growing trend of foreign firms licensing technologies from advanced Chinese players
- **Technology-transfer:** sell technology, design, etc. for a one-time fee; typically preferred by many Chinese companies and government, it is especially viable for foreign companies introducing slightly older technology/designs
- **Joint / outsourced research:** Although not applicable in all sectors, this model has become especially popular between Chinese universities / research centers and larger foreign players, allowing foreign firms conducting R&D to research and commercialize technology in China at a much reduced cost



Although many options for cooperation exist, the need for partnerships depends very much on sector. Potential foreign entrants should review all options carefully and make informed decisions based on their objectives and strategy. It is always important to conduct proper due diligence on potential partners, especially if Intellectual Property (IP) is a consideration.

For inquiries about this article, or JLJ's industry reports on other key economic sectors, or other work of our consulting division, please email Mark Ray at Mark.Ray@jljgroup.com.

JLJ has recently released several new Industry Reports on the China market:

China: Education and Training Industry

Focus on five key emerging markets - Shenzhen, Tianjin, Qingdao, Ningbo, and Nanjing - for education & training sectors of language, IT, soft skills training and children's education.



China: Clean Tech & Non-renewable Industry

Focus on China's traditional, non-renewable energy sectors - coal, oil, and nuclear power, which together account for about 90% of China's energy mix.



China: Wastewater Treatment Industry

Focus on eight key emerging Tier II markets - Tianjin, Dalian, Hangzhou, Wuxi, Shenzhen, Xiamen, Chongqing, Wuhan.



China: Solid Waste Treatment Industry

Focus on seven key emerging Tier II markets - Dalian, Harbin, Hangzhou, Ningbo, Nanjing, Shenzhen and Chongqing.



For more information about any of JLJ's industry reports, please contact info@jljgroup.com.

Tax Updates

New Foreign Tax Credit Regulations



At the end of 2009, MOFCOM and the SAT released Circular 125, which provides regulations on the claiming of foreign tax credit (FTC). The recently introduced idea of FTC helps prevent double taxation of corporate income tax (CIT) for foreign companies in both their home country and in China. The rules drafted in December have clarified previously unspecified measures, which are important for the increasing amount of enterprises with foreign funding in China.

Under the new regulations, different countries or regions have different computation bases for which FTC is calculated. Creditable foreign tax under this law is CIT which is actually paid by a company to a foreign country under its specific rules and regulations. Certain types of tax are excluded, such as refunded taxes, late payment charges, and foreign taxes paid on income exempt under Chinese tax law. When companies cannot determine foreign income taxes paid, they are not eligible for FTC and may have to pay double taxes.

Direct and indirect taxes are now creditable, although for claiming indirect FTC, the law places limitations on tiers of foreign companies. For example, a domestic enterprise may only claim up to the third tier of its foreign subsidiaries. Finally, Circular 125 clarifies and simplifies tax calculation methods for FTC, which are subject to approval. There are also certain tax sparing methods for countries with

which China has signed tax treaties with tax sparing clauses. Companies should be aware of how these new rules affect them, as it can impact their tax liabilities on Chinese earnings. It should also increase Chinese companies' awareness of international tax systems. The new measures take place retroactively as of January 2008.

For more information, please email to tim.lamb@jljgroup.com

Human Resources

Social Benefit Basis Adjustment

On April 1st 2010, the Shanghai Labor and Social Security Bureau announced that the average annual salary of full-time employees in Shanghai amounted to RMB 42,792 in 2009 (average monthly salary of RMB 3,566), an increase of about 8% from the year before.

Currently, the lower and upper limits of social insurance and welfare benefits contributions are 60% and 300% of Shanghai's average salary respectively – figures that are revised on an annual basis. Following the announcement on April 1st, employers in Shanghai will see an increase in their social insurance contributions if their local employees' (Shanghai residents) monthly salaries are below RMB 2,140 or above RMB 10,698. The adjustment will be valid from April 2010 to March 2011.

Meanwhile, the integrated insurance premium for employees who come from rural Hukou areas has been increased to RMB 267.50 per month and the minimum hourly and monthly wage requirements in Shanghai this year are RMB 11 and RMB 1,040 respectively. Employers should expect similar adjustments to the contribution for public housing funds in July this year.

For more information, please email to may.bai@jljgroup.com



China FDI

2010 Joint Annual Inspection



MOFCOM (Ministry of Commerce of the People's Republic of China), MFC (Ministry of Finance in China), SAT (State Administration of Taxation), SAIC (State Administration of Industry and Commerce), NBS (the National Bureau of Statistics), and SAFE (State Administration of Foreign Exchange) together released the announcement of the 2010 joint annual inspection for foreign investment enterprises. Every foreign enterprise registered in Shanghai prior to December 31, 2009 all must follow the joint annual inspection for the period between March 1, 2010 and June 30, 2010. The basic process for the joint annual examination is as follows:

A. First fill out and upload data online; only after successfully reporting this and going through all departments' yearly examinations can the final yearly examination material be printed

B. Audit each department for this year's examination

C. Print the report forms

D. Go to the annual examination office to deliver the material

For investments falling due after July 1, 2008, the first phase of investment capital payments is already in legal operation. Those companies with strained funds who are unable to make timely investments can extend the funding time limit until the end of 2010 if they apply for proper company applications. With regards to the influence of the international financial crisis, established companies which have not yet opened for business after six months, or those who have opened and who have individually stopped trading for a

continuous period of over six months, are allowed to continue until the end of 2010.

If you have any questions, please feel free to contact: mary.xian@jljgroup.com.

The JLJ Group

The JLJ Group provides solutions to foreign companies entering and growing in China. Our core services include Market Consulting, Corporate Formation, Human Resources, Tax & Accounting as well as Business Process Outsourcing.

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Shanghai

Suite 603-605 Oriental Center
699 Nanjing West Rd 200041
T: +86 21 5211 0068 | F: +86 21 5211 0069

Beijing

Suite 2002, Building 1
Blue Castle International Centre
3 Xi Dawang Rd, Chaoyang District 100026
T: +86 10 6582 0268 | F: +86 10 6582 0251

Boston

77 Martin Street, #37 Cambridge, MA 02138
T: +1 857 636 2596

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