

LEGAL, FINANCIAL AND TAX SYSTEMS IN CHINA

PART ONE: INTRODUCTION

- Is there any system to start with?
- System versus practices/human element, which prevails?
- Centralized control and autonomy in cities and township.
- Policies and politics – an overriding consideration?

PART TWO: LEGAL SYSTEM

a) General Overview

- Civil law system
- Court structure
- Registration / Approval system
- Protection of mass interests

b) Laws governing specific industries

- Foreign direct investments
- Real estate development and acquisition
- Construction Industry
- Consultancy Services

c) Issues relevant to foreign investors

- Remittances
- Total investment value and registered capital
- Foreign exchange policies
- Legal representative and company seal
- Hidden costs/Contingent fees

PART THREE: FINANCIAL SYSTEM

- External funding or shareholders' loan
- Loan structure – RMB loan?
- Securities over loan
- Accounts opening and operations
- Foreign banks
- State Administration for Foreign Exchange (“SAFE”)

PART FOUR: TAX SYSTEM

- Business tax/revenue tax/corporate tax
- Income tax
- Withholding tax

PART ONE

INTRODUCTION

- Is there any system to start with?
 - arguments both ways
 - differing opinions based on personal experiences
- System versus practices/human element, which prevails?
 - system in place
 - clarity of rules and policies as well as enforcement a challenge
 - human element tips the balance?
 - Practical advice
- Centralized control and autonomy in cities and township.
 - Central government and its rules
 - City government and the policies
- Policies and politics – an overriding consideration?
 - social stability is a paramount concern
 - political ideology as unifying force

PART TWO: LEGAL SYSTEM

a) General Overview

- Civil law system
 - cf our common law system
 - precedents
 - codified laws lacking in depth and details
 - guiding principle and spirit of law as governing light
- Court structure
 - hierarchy of courts
 - appeal system
 - Justice Bao mentality?
 - Foreign litigants – adjudicate forever?
- Registration / Approval system
 - validity of economic contracts
 - enforceability and practicality of contracts
- Protection of mass interests

b) Laws governing specific industries

- Foreign direct investments
 - Rules and regulations governing foreign corporations
 - Joint ventures and wholly foreign owned enterprises
 - Foreign investment catalogue
 - Specific business scope

- Real estate development and acquisition
 - Project Company
 - Business scope
 - Pre-sale and Pre-lease
 - Land tender
 - Acquisition of shares versus Acquisition of land
 - Land Tenure

- Construction Industry
 - Restrictive and high threshold
 - One-off, project specific permit
 - Co-operation with PRC contractors
 - Tender system

- Consultancy Services
 - Pudong, Shanghai
 - Wholly foreign owned enterprise

c) Issues relevant to foreign investors

- Remittances
 - legitimacy – dividends, repayment of loans, liquidation, fee payable
 - registrations and approvals
 - consultancy fee

- Total investment value and registered capital
 - analogous concepts
 - USD 30million - MOFTEC approval
 - Minimum registered capital
 - Proportions between total investment value and registered capital

- Foreign exchange policies
 - justifications in currency conversions
 - foreign exchange balance

- Legal representative and company seal

- Hidden costs/Contingent fees
 - unforeseen costs at the time of investments
 - governmental requirements

PART THREE: FINANCIAL SYSTEM

- External funding or shareholders' loan
 - pros and cons
 - remittance
- Loan structure – RMB loan?
- Securities over loan
 - Mortgage
 - Share Pledge
 - Guarantee
- Accounts opening and operations
 - RMB and USD accounts
 - Accounts seal
 - Joint signatories?
- State Administration for Foreign Exchange (“SAFE”)

PART FOUR: TAX SYSTEM

- Business tax/revenue tax/corporate tax
- Income tax
- Withholding tax