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The Chinese central government and the government of the Hong Kong SAR have signed a Supplement IV to the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA), aiming to further open the mainland market to Hong Kong.

■International Tax Treaty

The Chinese State Administration of Taxation and the Inland Revenue Authority of Singapore concluded a new International Double Tax Treaty at the recent 4th China-Singapore Joint Council for Bilateral Cooperation meeting, held in Singapore.

■Labor Law

On June 29, 2007, the Standing Committee of the National People's Congress of the People's Republic of China promulgated the Labor Contract Law which will take effect as of January 1, 2008.

■Land and Real Estate

On May 23, 2007, MOFCOM and SAFE jointly promulgated the Circular on Further Strengthening and Regulating the Examination, Approval and Supervision of Foreign Direct Investment in China's Real Estate Sector.

On June 11, 2007, State Administration of Taxation issued the Notice on Cancelling Certain Administrative Examination and Approval Items for Local Taxes.



ECONOMIC COOPERATION

■ Supplement IV To The Mainland And Hong Kong Closer Economic Partnership Arrangement

《内地与香港关于建立更紧密经贸关系的安排》补充协议四

Date of Signature: June 29, 2007

Effective date: June 29, 2007

CEPA was signed in 2003. Under CEPA, the mainland has agreed to give tariff-free treatment to all products of Hong Kong origin, provided they meet the CEPA rules of origin. On trade in services, the mainland has already allowed preferential treatment to Hong Kong services suppliers in 27 service areas. Latest figures from the HKSAR government indicated that between 2004 and 2006, CEPA generated 36,000 new jobs for Hong Kong residents and induced 5.1 billion HK dollars additional capital investment in Hong Kong. CEPA also created 16,000 new jobs for mainlanders and attracted 9.2 billion HK dollars additional capital investment by Hong Kong companies on the mainland.

Under Supplement IV to the CEPA, the mainland will open 11 new service areas to Hong Kong, including sports, environment and public utilities. The mainland has already opened 27 areas to Hong Kong, and the agreement promised further access to those areas such as banking, securities, tourism and insurance.

☆In banking, the minimum total asset requirement for a Hong Kong bank acquiring a shareholding in a mainland bank will be lowered from 10 billion to 6 billion US dollars. Both sides will enhance cooperation in establishing green lanes for Hong Kong banks to set up branches in mainland, and encouraging mainland banks to set up subsidiary operations in Hong Kong.

☆In tourism, the minimum annual business turnover required for a Hong Kong travel enterprise setting up joint venture and wholly owned enterprises on the mainland will be reduced to 8 million US dollars and 15 million US dollars, respectively. Hong Kong travel agencies will be allowed to apply for the operation of group tours to Hong Kong and Macao for the permanent residents in Hunan, Hainan, Fujian, Jiangxi, Yunnan, Guizhou and Sichuan provinces and Guangxi Zhuang Autonomous Region, an extension of similar arrangement is already in place in Guangdong on a pilot basis.



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☆In relation to conventions and exhibitions, Hong Kong services suppliers will be allowed to organize exhibitions in Guangdong and Shanghai through cross-border supply on a pilot basis. In addition, Hong Kong enterprises established in Guangdong and Shanghai will be allowed to organize overseas exhibitions for mainland enterprises in these areas. The mainland will also support Hong Kong in attracting and organizing large-scale international conventions and exhibitions.

☆The required capital investment imposed on Hong Kong services providers for setting up equity or contractual joint-venture medical institutions on the mainland will be lowered from 20 million RMB (about 2.6 million US dollars) to 10 million RMB (1.3 million US dollars).

All the service liberalization measures will come into force on January 1, 2008. The mainland will work out and promulgate the necessary implementation rules and regulations as appropriate.

INTERNATIONAL TAX TREATY

■Double Tax Treaty between the People's Republic of China and the Republic of Singapore ("DTT")

中国和新加坡避免双重征税协定

Date of Execution: July 11, 2007

Effective Date: after ratification by both countries

The new DTT between the People's Republic of China and the Republic of Singapore is a milestone to replace the existing treaty between the two countries. The Chinese tax authority is expected to issue a tax circular shortly to release this new DTT and clarify the date of enforcement. The most major changes in the new treaty are as follows:

☆The withholding tax rates for dividends is reduced from 7% to 5%, provided that the recipient is a company that holds at least 25% of the capital of the Chinese company, and from 12% to 10% in all other cases;

☆The withholding tax rate for royalty payments regarding the lease of industrial, commercial or scientific equipment is cut to 6% from 10%; the withholding tax rate for other royalty payments remains unchanged at 10%.



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Labor Law

■The Labor Contract Law of the People's Republic of China

中华人民共和国劳动合同法

Issuing Authority: the Standing Committee of the National People's Congress

Date of Issuance: June 29, 2007,

Effective Date: January 1, 2008

The Labor Contract Law promulgated by the Standing Committee of the National People's Congress of the PRC is intended to provide greater protection to employees than the current Labor Law..

Following are part of the major issues covered by the new Labor Contract Law:

☆Formation of employment relationships

An employment relationship is established between an employer and an employee as of the date of hiring.

☆Written Contract is Required

If an employee is hired, a written contract shall be concluded within one month as of the day he starts to work.

☆Non-Fixed-Term Labor Contracts

Non-fixed-term labor contracts contain no definite expiry date. Provided an employee has worked for the same employer continuously for 10 years or more, he may enter into a non-fixed-term labor contract with such employer upon request.

☆Probationary Periods

The Labor Contract Law limits on the lengths of probationary periods.

For the other items covered by the Labor Contract Law in full detail, please refer to the special edition on the new Labor Contract Law prepared by J&F, or ask us for a copy.



Land and Real Estate

■Circular on Further Strengthening and Regulating the Examination, Approval and Supervision of Foreign Direct Investment in China's Real Estate Sector

商务部、国家外汇管理局关于进一步加强、规范外商直接投资房地产业审批和监管的通知

Issuing Authority: MOFCOM and SAFE

Date of Issuance: May 23, 2007,

Effective Date: May 23, 2007

The Circular is intended to extend control over the direct investment of foreign capital in real estate sector in China. The Circular imposes a requirement to all local competent departments of commerce to strictly follow and carry out the *Opinions on Regulating Market Access and Management of Foreign Investment in China's Real Estate Market* (《关于规范房地产市场外资准入和管理的意见》, the "Circular No. 171") and the *Notice of the General Office of the Ministry of Commerce on the Related Issues for Fulfilling the Opinions on Regulating Market Access and Management of Foreign Investment in China's Real Estate Market* (《商务部办公厅关于贯彻落实〈关于规范房地产市场外资准入和管理的通知〉有关问题的通知》, the "Circular No. 192"); and to reinforce the examination, approval and supervision on foreign-invested real estate enterprises ("FIREE").

The Circular reiterates the principle of "Commercial Presence" requiring that any foreign investor investing in real estate project shall establish a FIREE, and if the foreign investor fails to obtain the Foreign-Invested Enterprise Approval Certificate and the Business License, it should not engage in real estate development or operation in China. The Circular also regulates the situation of "obtaining projects prior to establishing a FIREE".

The other major items reflected in the Circulars are as follows:

- ☆Neither the Chinese nor the foreign investors of a FIREE may enter into any arrangement guaranteeing fixed return or disguised fixed return to any party by any means;
- ☆Foreign investors shall obtain approval from the local competent department of commerce in the event that they intend to expand their business scope in order to be qualified to invest in new real estate projects;
- ☆Foreign investors shall not bypass the above regulations by using domestic real estate enterprises as instrument via acquisitions or changing the actual controller of domestic enterprises.
- ☆A FIREE set up through willful evasions or misstatements should be subjected to legal liabilities for failing to report foreign exchange for its remittance of capital and proceeds thereof imposed by the foreign exchange administrative authorities.



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Land and Real Estate

■The Notice on Canceling Certain Administrative Examination and Approval Items for Local Taxes

关于取消部分地方税行政审批项目的通知

Issuing Authority: State Administration of Taxation

Date of Issuance: June 11, 2007,

Effective Date: June 11, 2007

The Notice removes certain preferential treatments of land use tax provided in the *Notice of the State Administration of Taxation on Printing and Distributing the Supplemental Provisions on Several Specific Issues Concerning Land Use Tax* (《国家税务总局关于印发〈关于土地使用税若干具体问题的补充规定〉的通知》), which was issued in 1989. The cancellation of the preferential treatments of land use tax is a further step to strictly implement the standards of the collection of land use tax, which would further impact the real estate sector. As a result, the cost of the use of the land will be increased and the Notice is an instrument of adjusting the excessively speculative Chinese real estate market.

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