

China Law Update

Posted at 9:41 AM on July 28, 2009 by Sheppard Mullin

Beijing's New Offer For Regional Headquarters

On June 24, 2009, the Beijing Municipal Government issued Implementations of Several Provisions to Encourage Multinational Companies to Set up Regional Headquarters in Beijing (“the New Implementations”) to further clarify Several Provisions to Encourage Multinational Companies to Set up Regional Headquarters in Beijing (“the New Provisions”), which was issued on May 21, 2009. These moves follow Shanghai’s issuance of similar rules in 2008, and implementing opinions in March 2009.

Compared with previous policies, some adjustments and improvements have been made in the New Implementations and the New Provisions to attract multinational companies to set up regional headquarters in the capital. The main aspects of the New Implementations and the New Provisions are as follows:

The Recognition of Regional Headquarters

The application conditions of regional headquarters of multinational companies have been relaxed in the New Implementations. Both foreign-invested holding company and foreign-invested management company may be qualified as regional headquarters. The latter must meet some of the following conditions: their registered capital may not be less than \$2 million and the total assets of the parent company may not be less than \$400 million. However, these conditions may be more relaxed for well-known multinational companies.

A shortened approval process for regional headquarters has been established in the New Implementations. The Beijing Municipal Commission of Commerce, which has been granted the authority to approve regional headquarters, must make decisions within 10 working days after the submission of all required application materials by the company (it was previously 30 working days).

Subsidies and Rewards

Government subsidy and reward policies have been introduced in the New Provisions and the New Implementations. Compared with previous policies, the New Provisions and the New Implementations are more detailed and generous as well as retroactive. Regional headquarters that have been newly set up in (or relocated to) Beijing since January 1, 2009, are entitled to enjoy these new policies issued by the Beijing Municipal Government. Details are as follows:

Regional headquarters are entitled to a 5 million RMB subsidy if they have a registered capital between 100 million RMB and 500 million RMB, an 8 million RMB subsidy if they have a registered capital between 500 million RMB and 1 billion RMB, and a 10 million RMB subsidy if they have a registered capital of 1 billion RMB or more. The subsidy will be granted over three years with 40%, 30%, and 30% granted each year respectively.

Regional headquarters whose annual revenue reaches between 100 million RMB and 500 million for the first time will receive a 1 million RMB reward; regional headquarters whose annual revenue reaches between 500 million RMB and 1 billion RMB for the first time will receive a 5 million RMB reward; regional headquarters whose annual revenue reaches 1 billion RMB or above for the first time will receive a 10 million RMB reward. The reward may not exceed 1 billion RMB accumulatively and it will be granted over three years with 40%, 30% and 30% granted each year respectively as well.

Regional headquarters and their research centers are entitled to a 1,000 RMB per square meter subsidy for purchased office and self-constructed office space up to 5,000 square meters. The subsidy will be recaptured, however, if the office is sold, leased or used for the other purposes within 5 years. In addition, the subsidies cover the office rentals. All the regional headquarters, including those set up or relocated before 2009, are entitled to a rental subsidy if the lease term exceeds 3 years. The subsidy will be granted over three years in amounts that equal 30% of the first year's rent, 20% of the second year's rent, and 10% of the third year's rent respectively. The maximum rental space for the subsidy may not exceed 3,000 square meters. This subsidy will also be recaptured if the office is subleased or used for the other purposes within the period in which the subsidy is granted.

An award in the name of the Beijing Municipal Government will be granted to one chief executive of the regional headquarter. 80% of the personal income tax (not exceeding 500,000 RMB) will be waived for one senior executive for three years following the year in which the regional headquarter status was recognized. If a regional headquarter ranks among the top 10 headquarters with the largest increase in paid enterprise income taxes reserved by the local government within one year, one of its chief executives will be rewarded with 500,000 RMB in the name of the Beijing Municipal Government. The deputy general manager or higher-level management personnel who have held the position for two consecutive years in the regional headquarter will also be awarded pursuant to policies of the Beijing Municipal Government designed to attract management talents.

Visa and Residency Permit

The New Provisions and the New Implementations also include favorable policies regarding visa validity for foreign employees of regional headquarters in Beijing: high-level managers and technicians will be eligible to obtain a multiple-entry visa valid for five years, mid-level employees will be eligible for a three year visa, and regular employees will be eligible for a one year multiple-entry visa. Foreign employees of such companies are also permitted to apply for a PRC visa in the Beijing Capital Airport upon their arrival in Beijing, rather than being required to obtain one at the consulate. Foreign employees of Beijing regional headquarters will also enjoy simplified residency permit application procedures: high-level managers and technicians

will be eligible to obtain long-term residency permits valid for five-years, mid-level employees will be eligible for residency permits valid for four-years, and regular employees will be eligible for three-year residency permits.

In addition, in the New Provisions and the New Implementations, in accordance with related State regulations, additional preferential policies will be given to the regional headquarters in terms of foreign exchange and capital management, customs clearance and the posting of bonds. However, the Beijing Municipal Government did not specify these preferential policies in the New Provisions and the New Implementations.

Conclusion

Aiming to become a major global financial center, Shanghai amended their regulations to encourage the set-up of regional headquarters in October 2008 and, as of March 2009, boasted 224 regional head offices of multinational companies. By comparison, Beijing, which offers easier access to governmental decision-makers, is currently home to 121 Asia-Pacific headquarters.

In order to encourage more multinational companies to set up regional headquarters in the capital, the Beijing Municipal Government consecutively issued the New Provisions and the New Implementations against the backdrop of the global financial crisis. The New Provisions and the New Implementations not only lower the application requirements for the regional headquarters of multinational companies in Beijing, but also offer generous subsidies and rewards, as well as other preferential policies, to regional headquarters.

When it comes time for a multinational company to choose a place to set up their regional headquarters these new preferential policies provided by the New Provisions and the New Implementations are but one of many factors to consider. Other factors such as closeness to the market, investment environment, human resources, and information transparency should be taken into account as well. Multinational companies that plan to set up regional headquarters in Mainland China should do extensive research comparing the policies of Beijing, Shanghai and other cities in China.

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