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Solutions for China Entry & Growth*

**Welcome** to JLJ's e-newsletter - **China Focus**. Here, we hope to share with you the latest regulatory updates and useful information relevant to China's business environment. This e-newsletter is brought to you, our valued network, as part of JLJ's value-added service.

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## Market Insights

### Clean and Efficient Technologies for Non-renewable Energy in China



In 2009, non-renewable energy made up over 90% of China's energy mix; coal alone accounted for over 70%. In December 2009, the National Development and Reform Commission released a blueprint for China's future energy landscape, which indicates that the majority of China's energy needs will continue to rely heavily on non-renewable energy sources through 2050.

However, China's growing awareness regarding pollution, environmental protection, public health, energy efficiency, and resource scarcity is creating pressure to use cleaner, more efficient technologies. The central government has also been encouraging development of clean and efficient technologies in non-renewable energy through policies and enforcement:

- **Five Year Plans** - 11th 5-Year Plan (2006-2010) emphasizes reduction in emissions and promotes energy infrastructure development and advanced technologies; the 12th 5-Year Plan is expected to continue promotion of clean technologies in non-renewable energy and further promote nuclear energy
- **Compliance & Enforcement** - stricter enforcement of environmental legislation and regulatory framework, particularly pertaining to environmental quality and emission standards for energy companies

These, among other areas, create opportunities for foreign companies in some sectors, especially if technology levels are beyond those of domestic levels. However, both foreign and domestic competition is fierce, and although in many cases there is an open bidding process, the government encourages use of domestically produced technologies in some cases. Potential entrants should fully understand the market conditions, opportunities, and barriers when approaching the market.

For inquiries about this article, JLJ's Clean-Technology for Non-Renewable Energy industry report, or other work of our consulting division, please email Mark Ray at [Mark.Ray@jljgroup.com](mailto:Mark.Ray@jljgroup.com)

## Tax Updates

### Taxation of Indirect Transfer of Interests

In December 2009, the China State Administration of Taxation (SAT) released Circular 698 in an effort to regulate the taxation of off-shore equity transfers. Retroactive to the beginning of 2008, investors who indirectly sell interests in an enterprise located in China may be subject to a withholding tax, excluding the sale of shares of Chinese enterprises that are listed on a stock exchange. If the tax rate within the jurisdiction where the indirect sale of shares occurs is less than 12.5%, then additional reporting to the SAT will be required.

Because transfers of Chinese enterprises are subject to taxation, when foreign investors in an enterprise sell, they must disclose this within 30 days of the agreement being signed. This circular is part of the SAT's continued crackdown on tax avoidance strategies commonly used by investors with interests in China.

In this case, an investor that has structured its equity interest in a China resident enterprise through an offshore holding company could be subject to an additional tax burden within China, in the event that the investor sells interests in the offshore company.

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## Human Resources

### New Insurance Measures



For the past 6 months, regions and countries have continuously been launching new social security policies to give different levels of personnel better insurance treatment. For example, last July the Shanghai Municipal Government decided to further expand the extent of insurance to people from other provinces and cities, and even to foreigners in Shanghai. This gives more people working in Shanghai equal medical treatment benefits.

Most recently in 2010, the policy for Pension shift between different provinces has been published. It means that people can shift their Pension according to their work location, and the Pension contribution in different cities can be calculated all together. This approach brought good news to workers looking to start a career in other cities, as it decreases concerns about future stability when working outside of their home towns.

Furthermore, those that satisfy cumulative payments for a set time of 10 years will be able to enjoy Pension. This policy will better promote the flow of talents between different regions, and will strengthen the stability and initiative of workers and job-seekers from other places.

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### FDI Gains and Losses

Foreign Direct Investment (FDI) nearly doubled in December 2009 from the previous month, reaching US \$12.1 billion, according to the Ministry of Commerce. Although clearly affected by the global economic downturn, FDI in China began to see a year-on-year recovery in August of last year with a year-end total of US \$90 billion, off by 3% from 2008. Nonetheless, these numbers indicate that Chinese FDI is recovering and on a growth trajectory that will most likely receive a boost this year from Expo 2010-related initiatives.



It should be noted however, that December's increase in FDI was also accompanied by a surge in 'hot money' entering the market that can distort actual investment amounts. Given the government's concerns regarding currency and real estate related investment, it should be expected that further scrutiny of capital inflows will continue as the government attempts to reign in speculative investment, with the possibility of delays in accessing funds after capital injections into local entities. Investors should take note and plan their capital injections accordingly so that delays in the verification process do not negatively impact business operations. Currently in many locations funds are not accessible until after the issuance of the capital verification report.

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## New Updates

### 2009 Year in Review



This year, the entire world economy was defined by the economic recession, and China was no exception. In 2008, the country's economic growth was reported as the slowest in seven years. Monthly FDI growth was down for the first seven months of 2009, and unemployment climbed, sparking some fears of unrest. In particular, Chinese exports were hard hit by a decrease in foreign demand. Nonetheless, at the beginning of the year Premier Wen Jiabao affirmed his confidence that the economy would remain strong throughout the recession, citing an economic GDP growth target of 8%. This year, China demonstrated significant economic stamina in the face of the downturn, and very likely will meet its 8% target, as

growth in the first three quarters averaged above 7%. Some major issues include:

- ***China in the face of global recession***  
With the recession impacting markets worldwide, China's economic stimulus package, currency policies, and various other measures played major roles in this year's economy
- ***Key regulations***  
China released several new regulations, which will influence foreigners' business presence in the country
- ***2009 investment climate***  
China's preparations for the World Trade Expo, new emerging markets, and a shifting consumer base all factor into creating new and growing opportunities for investors

For a more in-depth look at the Chinese economy in 2009, please [click here](#).

## 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.

Send us your business enquiry at [info@jljgroup.com](mailto:info@jljgroup.com) or find out more about our services at [www.jljgroup.com](http://www.jljgroup.com).

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