

**China - Regulations of the State
Council for Encouraging Investment
from Overseas Chinese and Compatriots
from Hong Kong and Macao, 1990**

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Regulations of the State Council for Encouraging Investment from Overseas Chinese and Compatriots from Hong Kong and Macao (Promulgated on August 19,1990)

Article 1

The present Regulations are enacted to stimulate China's economic development and encourage investment within the territory of mainland from overseas Chinese and compatriots from Hong Kong and Macao (hereinafter referred to as overseas Chinese, Hong Kong and Macao investors).

Article 2

Overseas Chinese, Hong Kong and Macao investors may invest in any province, autonomous region, municipality and Special Economic Zones in the mainland.

Overseas Chinese, Hong Kong and Macao investors are encouraged to undertake land development and management in accordance with relevant State regulations.

Article 3

Overseas Chinese, Hong Kong and Macao investors may invest in the mainland in any of the following ways:

- (1) To establish wholly-owned enterprises;
- (2) To establish equity or contractual joint ventures;
- (3) Undertaking compensation trade, processing or assembling with supplied materials, co-production;
- (4) Purchasing enterprise shares and bonds;
- (5) Buying real estates;
- (6) Obtaining the rights of land use according to law and undertaking land development and management;
- (7) Any other form permitted by laws and regulations.

Article 4

Overseas Chinese, Hong Kong and Macao investors may invest in industry, agriculture, service trades and other industries that conform to the direction of social and economic development. They may choose the investment projects promulgated by the relevant departments of local people's government, or may put forward their own investment

plans and apply to the departments of foreign economic relations and trade or examination and approval authorities under the people's government of the localities where they intend to invest.

The State encourages overseas Chinese, Hong Kong and Macao investors to establish export enterprises and technologically-advanced enterprises and grants them corresponding preferential treatment. 18

Article 5 19

In addition to treatment laid down in these Regulations, wholly-owned enterprises, equity joint ventures or contractual joint ventures which are established by overseas Chinese, Hong Kong and Macao investors, may enjoy the corresponding preferential treatment given to enterprises with foreign investment in accordance with the state laws and regulations. 20

Except these Regulations, the State laws and rules concerning foreign economic affairs are applicable to overseas Chinese, Hong Kong and Macao investors investing in other forms and having no business offices in the mainland but receiving dividends, interests, rentals, royalties and other incomes from the mainland. 21

Article 6 22

Overseas Chinese, Hong Kong and Macao investors may contribute convertible currencies, machinery and equipment of in kind, industrial property rights or know-how, etc. as their investment. 23

Article 7 24

The investment by overseas Chinese Hong Kong and Macao investors, assets bought by them, industrial property rights, profits from their investment and their other lawful rights and interests in the mainland are protected by the state law and may be transferred and inherited according to law. 25

All the activities in the mainland of overseas Chinese, Hong Kong and Macao investors shall be governed by the state laws and regulations. 26

Article 8 27

The state shall not nationalize any investment made by overseas Chinese, Hong Kong and Macao investors or other assets bought by them. 28

Article 9 29

In case the state expropriates enterprises with overseas Chinese, Hong Kong and 30

Macao investment, based on the social need of public interest, this shall be done according to legal procedures and appropriate compensation shall be paid.

Article 10

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The legitimate profits from overseas Chinese, Hong Kong and Macao investors' investment, their other lawful incomes and funds after liquidation may be remitted from the mainland pursuant to the law.

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Article 11

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Machines and equipment, vehicles used in production and office equipment that the enterprises with overseas Chinese, Hong Kong and Macao investment need to import and within the total investment, and appropriate volumes of daily necessities and vehicles of overseas Chinese, Hong Kong and Macao compatriots for private use while working in the enterprises shall be exempted from import duty and the consolidated industrial and commercial tax, and from the requirement for import licenses.

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Raw materials, fuel, bulk parts, spare parts, machine component parts and fittings that enterprises with overseas Chinese, Hong Kong and Macao investment need to import for export-oriented production shall be exempt from import duty and the consolidated industrial and commercial tax, and from the requirement for import licenses. The Customs departments shall exercise the supervision and control. If the imported materials and items mentioned above are used in products to be sold in the mainland, import formalities shall be handled according to the relevant regulations, and taxes shall be paid according to the governing sections of laws and regulations.

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Products manufactured to be exported by the enterprises with overseas Chinese, Hong Kong and Macao investment, except those restricted by the state, shall be exempt from export duty and the consolidated industrial and commercial tax.

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Article 12

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Enterprises with overseas Chinese, Hong Kong and Macao investment may acquire loans from financial institutions in or outside the mainland. The loans may be mortgaged and guaranteed with the enterprise assets, rights and interests.

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Article 13

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The term of operation of enterprises wholly-owned by overseas Chinese, Hong Kong and Macao investors shall be decided by the investors; the term of operation of equity joint ventures or contractual joint ventures shall be determined through consultation by the parties to joint ventures or may not be determined.

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Article 14

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The composition of the board of directors of an equity joint venture and the appointment of its chairman, and the composition of the board of directors or the joint managerial institution of a contractual joint venture and the appointment of its chairman or director shall be determined through consultation by the partners according to the proportion of investment or conditions for cooperation.

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Article 15

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Enterprises with overseas Chinese, Hong Kong and Macao investment shall conduct operational and managerial activities in accordance with its contract, articles of association approved. Its rights of autonomous management shall not be interfered with.

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Article 16

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Overseas Chinese, Hong Kong and Macao investors and technical and managerial staff employed outside the mainland by enterprises with overseas Chinese, Hong Kong and Macao investment any apply for multiple entrance visas.

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Article 17

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In investing in the mainland, overseas Chinese, Hong Kong and Macao investors may entrust their relatives or friends in the mainland as their agents. Such agents shall hold letters of entrustment with legal force.

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Article 18

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In the areas where enterprises with overseas Chinese, Hong Kong and Macao investment are concentrated, the investors may apply to the local people's government for the founding of businessmen association of overseas Chinese, Hong Kong and Macao.

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Article 19

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The application of the establishment of an equity joint venture or a contractual joint venture with overseas Chinese, Hong Kong and Macao investment in the mainland shall be handled by the participant in the mainland, the application for the establishment of an enterprise wholly owned by a overseas Chinese, Hong Kong and Macao investor may be handled by the investor directly or by the investor's relatives and friends or consultant service agencies in the mainland entrusted by the investor. All the application above mentioned shall be submitted to the local department of foreign economic

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relations and trade or the examination and approval authority under the local people's government.

The examination and approval of an enterprise with overseas Chinese, Hong Kong and Macao investment is subject to the authority limited by the State Council. The departments of foreign economic relations and trade at all levels or the examination and approval authorities under the local people's government shall, within 45 days after receiving all application documents, make a decision of approval or not. 53

The applicants shall, within 30 days after the receipt of the certificate of approval, apply to the administrations for industry and commerce for registration and obtain a business license in light of relevant procedures for registration and administration. 54

Article 20 55

Disputes between the parties arising over the execution of the contract or concerning the contract shall be settled through possible friendly consultation or mediation. 56

In the event that the parties are unwilling to settle their dispute through consultation or mediation, or bring about no results after consultation or mediation, any party to the dispute may submit it for arbitration to the Chinese or other arbitration agencies in accordance with the arbitration clause in the contract or a written arbitration agreement concluded after the dispute. 57

Any party may bring their case to a Chinese court, if no arbitration clause is laid down in the contract and if no written arbitration agreement is concluded after the dispute. 58

Article 21 59

The right of the interpretation of these Regulations resides in the Ministry of Foreign Economic Relations and Trade. 60

Article 22 61

These Regulations shall enter into force on the date of promulgation. 62

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