

# Introduction of preferential policies for Foreign-Funded R&D Centers Established in China



CHINA

China has introduced a series of specific policies to promote foreign investments in R&D centers in China, thus allowing the development of R&D activities in China, which are a potential and important source of innovation. The original national policy has been supplemented by specific local rules, such as those of Beijing and Shanghai municipalities, which will be presented below.

According to Article 2 of the Regulations on Support for the Establishment and Development of Foreign-invested R&D Centers, a foreign-invested R&D center (hereinafter referred to as the “R&D Center”) is an institution established in China in accordance with Chinese law and financed wholly or partially by one or more foreign investors whose principal place of business is outside China. In addition, it should be noted that the R&D Center may be established as an independent legal entity, an internal department or a branch of an existing company.

## **I. NATIONAL POLICIES**

### **1. Overview of National Policies**

In recent years, the Chinese authorities have issued several regulations and circulars at the national level which outline the preferential policies that can be granted to R&D Centers, among which we can mention:

A State Council Circular of 2018<sup>1</sup>, which states that China should actively implement policies to support foreign investment in R&D Centers, study, adjust and rationalize accreditation standards for R&D Centers, and encourage foreign-owned enterprises to increase their investment in China in R&D Centers.

Another circular of the State Council in 2020<sup>2</sup>, in which the State Council encourages the tax bureau to lower the threshold to benefit from preferential tax policies for R&D centers, including reducing the requirements for the number of full-time staff dedicated to research and experimental development. In 2021, the Ministry of Commerce also issued a similar circular<sup>3</sup>.

In 2022, the National Development and Reform Commission stipulated that measures shall be implemented to support the introduction of foreign investment, to facilitate the arrival of foreign personnel and their families in China, to support the innovation and development of foreign-funded R&D centers and to improve the level of industrial technology and innovation efficiency.<sup>4</sup>

1. Article 10, Notice of the State Council on Several Measures for Active and Effective Utilization of Foreign Investment to Promote High-quality Economic Growth (effective on June 10, 2018), Guo Fa [2018] No. 19

2. Opinions of the General Office of the State Council on the continued stabilization of Foreign Trade and Foreign Investment, Guo Fa [2020] No. 28

3. Article (III), Notice of Ministry of Commerce on Properly Stabilizing Foreign Investment with Focus on Building a New Development Pattern, issued and effective on February 25, 2021.

4. Article 15, Notice on Printing and Distributing Several Policies for Promoting Steady Growth of Industrial Economy, Fa Gai Chan Ye [2022] No. 273

## 2. Preferential tax policies

The R&D Centers that meet the required conditions benefit from significant tax advantages that are presented below. These advantages are applicable at the national level, independently of the place of registration of the R&D Center.

### 2.1 Exemption from customs duties and import VAT

To be eligible for the benefits below, R&D Centers must i) meet the conditions listed below and ii) register with the provincial level trade authorities, e.g. the Beijing Commerce Commission for Beijing, and the Shanghai Commerce Commission for Shanghai:

- For centers with independent legal personality, the investment must not be less than USD 8 million, while for company-owned R&D centers, only the R&D investment is taken into account and must also reach USD 8 million.
- They must employ a minimum of 80 full-time researchers engaged in research and experimental development;
- The cumulative value of the equipment purchased since the establishment of the R&D center should not be less than 20 million RMB.

The trade authorities must make a decision within 45 days of receiving a complete application for accreditation, the content of which varies by region. Said accreditation is valid for two years.

From January 1, 2021 to December 30, 2025, R&D Centers meeting the above conditions are entitled to exemption from customs duties and import VAT on the import of equipment for scientific research, technological development and education, provided that they cannot be sourced directly in China, or when the performance of domestic products cannot meet their needs.

In addition, in order to benefit from this exemption from customs duties and VAT, the imported goods must also be listed in the *List of Duty-free Goods Imported for Scientific Research, Scientific and Technological Development and Teaching Activities during the 14<sup>th</sup> Five-Year Plan Period (First Batch)* published jointly by the Ministry of Finance, the General Administration of Customs and the National Tax Office.

### 2.2 Refund of VAT

R&D Centers meeting the conditions below can benefit from a full refund of VAT on their purchase of domestic equipment, again subject to having filed an application for accreditation with the provincial level trade authorities, which have an approval time of 45 working days. This benefit is currently valid until December 31, 2023, but may be renewed for a further period.

	R&D centers established before October 1, 2009	R&D centers established after October 1, 2009
Total amount of investment (centers with independent legal personality) or total amount of R&D investment (company-owned centers)	≥USD5 million	≥USD8 million
Headcount of full-time R&D personnel	≥90	≥150
Original value of the equipment procured cumulatively since its establishment	≥RMB10 million	≥RMB20 million

## II. POLICIES IN BEIJING TO SUPPORT R&D CENTERS

To support the establishment and development of foreign-funded R&D centers in Beijing, the General Office of Beijing Municipal People's Government issued the *Regulations on Supporting the Establishment and Development of foreign-funded R&D centers (the "Beijing Regulations")* on May 1, 2022. The Beijing Regulations consolidate the preferential policies applicable to R&D Centers, and introduce some novelties, particularly in terms of tax and research incentive programs.

### 1. R&D innovation centers and open innovation platforms

The Beijing Regulations divide R&D Centers into two categories: R&D innovation centers and open innovation platforms.

- An R&D innovation center shall meet the following conditions:
  - It shall have a well-defined research field, a clear R&D plan and specific projects, a fixed research site, necessary instruments and equipment and other sound conditions for research, as well as ongoing R&D activities.
  - With the authorization of the parent company, it shall undertake global R&D projects or projects in Beijing, China, Asia or other regions.
- An open innovation platform shall meet the following conditions:
  - It shall have a clear development plan with expected results.
  - It shall have a research and development site with a floor area of no less than 1000 square meters.
  - It shall host through the signature of service contracts no less than 10 R&D and innovation projects.
  - It shall have the facilities and equipment necessary for collaborative innovation, have human resources, offer guidance consultancy from international experts, and have access to global technology and human resources.

### 2. Accreditation of R&D Centers

In order to benefit from the preferential policies provided in the Beijing Regulations, R&D Centers must obtain a specific accreditation from the Beijing Municipal Science & Technology Commission, Administrative Commission of Zhongguancun Science Park (Science and Technology Commission). The application for accreditation must be submitted online directly on the Beijing government website ([www.beijing.gov.cn](http://www.beijing.gov.cn)) during the first 20 working days of June or November. The application is processed within 20 working days, and if approved, a plaque confirming the accreditation of Beijing R&D Center will be issued.

In addition to the summary form (available on the site) to be completed in detail, the application must be sent with the following documents:

- Presentation of the foreign parent company, and organization chart of its presence in China;
- Business license of the Chinese entity and its parent company (certified and legalized);
- Lease agreement or certificate of office ownership;
- List of the main equipment and instruments;
- Documents proving the results obtained: patents, standards, new drugs, etc...

And in addition the following documents must be provided when the application concerns an open innovation platform:

- List of R&D agreements concluded and the corresponding contracts;

- Documents demonstrating the adequacy of international resources.

### 3. Key points of the Beijing Regulations - benefits granted to R&D Centers having obtained the above accreditation

#### 3.1 Talent service

In accordance with the provisions of the Beijing Regulations:

- Talents recruited by the R&D Centers can benefit from entry and exit facilities (visa, green cards, etc.), physical examination and medical services, rapid customs clearance of imported items, purchase of foreign currency, housing availability, etc., to enhance their residence experience in Beijing.
- R&D Centers are encouraged to establish postdoctoral research stations and recruit postdoctoral fellows to carry out research work, and to introduce high-caliber talents.

#### 3.2 Incentives for scientific research

In addition to the benefits granted to talents, the Beijing Regulations also provide benefits in the field of scientific research which include:

- Implementation of the R&D incentive programs for R&D Centers, support for the establishment and development of R&D Centers in Beijing. R&D Centers that have obtained their accreditation in the first session in June, can benefit from the incentive programs from the first year.
- The R&D Centers are supported by the authorities to participate in key science and technology projects in Beijing or apply for the Beijing Science and Technology Award. In addition, they enjoy the same treatment as Chinese-funded R&D institutions when commercializing their research results.

#### 3.3 Innovative management models

R&D Centers benefit from easier access to preferential policies and more efficient services.

They also benefit from simplified and facilitated administrative services from the municipal and district governments with a “single window” system that greatly reduces their procedural burden.

#### 3.4 Preferential tax policies

In addition, R&D Centers registered in the specific area of Zhongguancun National Innovation Demonstration Zone shall enjoy the following preferential tax policy for technology transfer income: exemption from corporate income tax on the portion of annual income less than RMB 20 million and 50% tax reduction for the excess portion.

### **III. POLICIES IN SHANGHAI TO SUPPORT R&D CENTERS**

The Shanghai Municipal People's Government issued in 2020 the Regulations (Hu Fu Ban Gui [2020] n° 15) of the Shanghai Municipality on Encouraging the Establishment and Development of Foreign-funded R&D Centers (the "Shanghai Regulation") which is valid until November 30, 2025.

According to its Article 5, R&D Centers must meet the following conditions in order to benefit from the advantages provided in the Shanghai Regulations:

- The R&D Center shall be established in Shanghai as a foreign-invested enterprise;
- It must have explicit orientations, specific projects, fixed premises, instruments, equipment and other conditions necessary for scientific research;
- Its cumulative R&D investment should not be less than 2 million USD.

In order to benefit from the preferential policies provided in the Shanghai Regulations, R&D Centers must obtain a specific accreditation from the Shanghai Commerce Commission, or from the municipal government of Pudong New Area, the Special Administrative Region of Lin-gang Customs Pilot Zone in Shanghai (China), the Administrative Committee of Hongqiao Central Business District or the Development and Administration Bureau of Zhangjiang Science City. The application for accreditation is to be submitted online directly on the website of the Shanghai government ([www.shanghai.gov.cn](http://www.shanghai.gov.cn)). The application is processed within 11 working days (5 for the application, 2 for the examination, 3 for the decision, and 1 for the delivery of the accreditation notification).

In addition to a form, the application must be sent with the following documents:

- A resolution from the applicant's shareholders' meeting/board of directors;
- Business registration license;
- Evidence that the R&D investment exceeds US\$2 million.

## 1. Key points of the Shanghai Regulations - benefits granted to R&D Centers having obtained the above accreditation

### 1.1 Customs formalities

- R&D Centers can enjoy facilitation measures for Customs clearance for the imported products for R&D.
- For second-hand key R&D equipment with the temporary entry period of not more than one year, the use period can be extended appropriately upon approval by the Customs. For imported vehicles used for experimental testing which are required to be re-exported within six months, upon approval by the Customs, the maximum period of stay may be extended to two years.

### 1.2 Facilitation of cross-border financial services

The banks should provide R&D Centers with convertible cross-border financial services by opening free trade accounts, and optimize foreign exchange payment procedures under non-trade items to facilitate financing and loans for R&D Center; and should also help build a platform for cooperation between R&D Centers and financial institutions in order to support the industrialization of the R&D results.

### 1.3 Talent services

Returned overseas Chinese students who satisfy the criteria employed by R&D Centers will be given priority consideration when applying for “hukou” (China’s household registration) in Shanghai; outstanding domestic talent who are non-residents of Shanghai can apply for a Shanghai Residence Permit and apply for the corresponding residence permit points or apply for conversion into a Shanghai “hukou”.

Personnel of R&D Centers who satisfy the criteria can apply for talent apartments or enjoy dedicated housing subsidies.



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