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Doing Business in China: Update - Developments in Intellectual Property, Tax and Labour & Employment Law

China continues to offer opportunities for Australian companies seeking new markets for their technology or considering expanding their business. The World Expo 2010 in Shanghai May - October 2010, will provide Australian companies with a platform to showcase their technology and capabilities at the Australian Pavilion at the World Expo. Many Australian companies will also be participating in trade missions visiting the World Expo 2010, and meeting with Chinese delegations and potential business partners or clients.

Australian companies seeking to do business in China should ensure that they obtain appropriate protection of their intellectual property through trade mark, copyright, design and/or patent registrations. Consideration also has to be given as to the most appropriate means of entering the China market, including licensing, technology transfer, distribution agreements, joint-ventures, representative offices, or other corporate structures.

Companies looking at having a presence in China, whether through representative offices or other corporate structures, must also consider labour and employment laws and the China tax system. China's laws relating to labour and employment, intellectual property and tax are undergoing change, which businesses need to be aware of.

Tax

The Chinese Government is implementing various taxation law reforms, which will affect companies looking to enter the China market by establishing a Representative Office. The Chinese Government has tightened the criteria that must be met, before a foreign investor can establish a Representative Office, and stricter taxation arrangements for Representative Offices are now in force. However, Chinese taxation laws also include industry-based preferential tax policies, which may benefit Australian companies conducting business in one of the targeted industry areas.

One of the industries that China has targeted for preferential tax treatment is the animation industry which China has sought to promote and develop. Certified animation companies are now being offered preferential tax treatment.

Further information on recent Chinese tax developments, is available from Stephens Lawyers' Chinese affiliate, Lehman Tax & Accounting's March 2010 ["China Tax Insights"](#).

It is essential that Australian companies seek independent business and taxation advice prior to expanding operations into China.

Intellectual Property

It is pivotal that foreign companies obtain protection of intellectual property assets under Chinese law, before promoting, marketing, exhibiting, distributing or licensing their technology in China or establishing operations in China. The increase in foreign patent grant applications by the China State Intellectual Property Office over the past decade, reflects the Chinese Government's ongoing support for foreign investors seeking intellectual property protection in China. In the last decade, over 3000 patent applications from Australia were granted Chinese protection.

With the World Expo 2010 in Shanghai, the China State Intellectual Property Office has opened a green channel to fast track examination of patent applications related to research and development projects at the World Expo. An on-site intellectual property rights service centre has also been set out at the World Expo to assist in the resolution of disputes involving intellectual property which may arise at the World Expo.

A legal and regulatory update of intellectual property developments in China and recent Chinese patent and trademark court decisions, can be accessed from Stephens Lawyers & Consultants' Chinese affiliate **Lehman Lee & Xu's March 2010 ["China IP Insights"](#)**.

Labour & Employment Law

When entering the China market, foreign businesses must ensure that they comply with the relevant local labour and employment laws. Recently, the Chinese Government has reviewed various minimum employment standards, including minimum wage and paid leave entitlements.

Further details about these changes are available from Stephens Lawyers & Consultants' Chinese affiliate Lehman Lee & Xu's February 2010 ["China Labor Insights"](#).

Stephens Lawyers & Consultants assists Australian companies wishing to expand their operations into China and other markets. Our practice has extensive expertise and experience in international transactions, and has assisted both Australian companies with export strategies and overseas expansion and overseas corporations with successful entry into the Australian market.

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Lehman Lee & Xu is a top-tier Chinese law firm specializing in corporate, tax, commercial, intellectual property, employment and labour matters. Stephens Lawyers & Consultants' affiliation with Lehman Lee & Xu enables it to gain immediate access to developments in the China legal and regulatory environment.

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