

CHINA MATTERS

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China Matters: Beijing Adopts New Measures to Ease Restrictions in the Real Estate Market

Two and a half years after the adoption of Circular 171, China's central government has begun introducing stimulus measures in the real estate sector. In December 2008, the central government issued Circular 131, which paved the way for local governments – from Beijing to Shanghai – to implement new real estate policies, ranging from increased tax incentives, preferential interest rates on second mortgages, and loosened residential purchase restrictions on foreigners.

The major real estate-related policies enacted since September 2008 include the following:

Temporary Suspension of Restrictions on Foreigners (*Beijing Only*)

Between January 1, 2009 and December 31, 2009, Beijing will temporarily lift two of the major hurdles to the purchase of residential property by foreign individuals – the one-year residency requirement and the one unit cap on foreign home ownership.

Deferral of Land Payments by Developers (*Beijing Only*)

Effective as of January 20, 2009, any developer that successfully bids for land via a public auction for the purpose of developing real estate may, with the approval of the Beijing municipal land authority, defer a portion of the purchase price for up to six months following the completion of the auction. During the deferred payment period, the portion of the deferred payment corresponding to the land compensation fee

will be subject to interest at the People's Bank of China ("PBOC") benchmark rate and the portion corresponding to the land grant premium will be subject to a monthly interest rate of 0.2%. Prior to this change, developers were often delinquent in paying the purchase price for land bids.

Elimination of Lending Quota and Reduction of Reserve (*National Policy*)

In a move to provide liquidity for new debt financing, the PBOC has lifted its annual lending quota restrictions. In addition, as of September 2008, the PBOC announced significant cuts on RMB reserve deposit requirements. For major financial institutions, such as Industrial and Commercial Bank of China, Bank of China and China Construction Bank, the minimum reserve deposit has been trimmed to 15.5%, and for small-to-medium sized banks, the new minimum reserve deposit is 13.5%.

REITs Pilot Program (*National Policy*)

Circular 131 proposed the institution of a pilot program to establish real estate investment trusts ("REITs"). It is reported that the framework for the pilot program is near completion and is currently under review by the State Council. The initial REITs program will be launched in the Shanghai Pudong New Area and/or Tianjin Binhai New Area.

Tax Incentives

A summary of the major tax incentives is set forth below:

Tax	Original Policy	Beijing Stimulus Policy	Shanghai Stimulus Policy
Business Tax NOTE: The local rules in Beijing and Shanghai that have been implemented pursuant to Circular 131 are effective between January 1, 2009 and December 31, 2009 .	Exempted for "ordinary" residential housing held for 5 or more years . Transfers within 5 years are subject to business tax calculated on a gross basis .	Holding period for ordinary residential housing shortened to 2 or more years . Transfers within 2 years are subject to business tax calculated on a net basis , and are only applicable if there is a positive net basis.	Same as Beijing.
	For "non-ordinary" residential housing, transfers within 5 years are subject to business tax calculated on a gross basis , while transfers thereafter are calculated on a net basis .	Holding period for "non-ordinary" residential housing shortened to 2 years .	Same as Beijing.
Deed Tax	1.5% - 3%.	1% for first-time home buyers of ordinary residence less than or equal to 90 sqm.	1% if the ordinary residence is less than or equal to 90 sqm and the purchase is for improving living condition.
Stamp Duty	0.5%.	Exempted for individual sale and purchase.	Same as Beijing.
Urban Real Estate Tax	Urban Real Estate Tax Provisional Rules govern FIEs, foreign enterprises and foreign individuals. Provisional Measures of the People's Republic of China on Real Estate Tax governs domestic enterprises and individuals.	The State Counsel abolished the Urban Real Estate Tax. As of January 1, 2009, domestic and foreign enterprises, together with individuals, will be regulated by the Provisional Measures of the People's Republic of China on Real Estate Tax.	Same as Beijing.
Land Value Appreciation Tax (LVAT)	Fully exempted for an individual's sale of an "ordinary residence." For sale of "non-ordinary owner occupied residences": <ul style="list-style-type: none"> - No exemption if held for under 3 years; - Exempted by 50% if held for ≥ 3 years but < 5 years; and - Fully exempted if held for ≥ 5 years. 	Exempted for an individual's sale of ALL residences.	Same as Beijing.
Individual Income Tax	20% for property sale. Exempted after 5 years of self-use as the sole residence.	Same as original.	Exempted after 2 years of self-use as the sole residence.
Real Estate Processing Fee	No fee for Beijing. RMB2.5 per sqm in Shanghai for each of the transferor and the transferee.	Same as original.	Exempted for an individual's sale and/or purchase of ordinary residences.

Discounted Interest Rates on Second Mortgages (*National*)

In an effort to promote residential sales, the central government has revised prior regulations affecting interest rates on second mortgages. Nationally, an interest rate discount will be applied depending on the per capita floor area as compared to the local standard. In Shanghai and Beijing, if an individual's second residence is for "improvement of living conditions", then the interest rate may be as low as 70% of the applicable PBOC benchmark interest rate (i.e., 4.158% for a 30-year mortgage loan based on the current PBOC benchmark rate), as opposed to 110% of the PBOC rate under the old rules.

Reduction of Minimum Down Payment (*Beijing and Shanghai*)

Beijing and Shanghai have reduced the minimum down payment for purchasing "ordinary" owner-occupied residences to 20%. Previously, first-time buyers had to pay a minimum 30% down payment for homes larger than 90 sqm, or 40% for second homes where per capita floor area is above the local standard.

Foreseeable Impacts and Future Policies

While it is unclear whether Circular 131 and the local implementing rules will achieve recognizable results in the foreseeable future, recent reports indicate that Circular 131 will likely mark the beginning of further policies aimed at stimulating the real estate

sector and restoring investor confidence in the Chinese economy. It is reported that Chongqing is finalizing an individual income tax rebate program to promote local residential sales that would appear to be modeled after a stimulus plan implemented in Shanghai in 1998. The National Development and Reform Commission is also reported to have proposed measures to further support the real estate sector, the particulars of which will be released by the Ministry of Housing and Urban-Rural Development in the near future.

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Please feel free to discuss any aspect of this newsletter with your existing Paul Hastings contacts or any of the partners listed below:

BEIJING

Huawei Lin: huaweilin@paulhastings.com
David Livdahl: davidlivdahl@paulhastings.com
Joel Rothstein: joelrothstein@paulhastings.com

HONG KONG

Maurice Hoo: mauricehoo@paulhastings.com
Vivian Lam: vivianlam@paulhastings.com
Neil Torpey: neiltorpey@paulhastings.com

SHANGHAI

David Blumenfeld: davidblumenfeld@paulhastings.com
Mitch Dudek: mitchdudek@paulhastings.com
Alex Wang: alexwang@paulhastings.com