



OPENING UP SHOP

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2018 marks the 40th anniversary of China's reform and opening up. In the past four decades, China has been marching on its course to streamline administrative procedures and requirements for opening up shop in China. What highlighted the said legislative momentum is China's new regulation on foreign-invested enterprise promulgated in October 2016. Under the said regulation, except certain specific industries, the establishment of a foreign-invested enterprise is only subject to standard filing procedures instead of local authority's discretionary approval. However, although entries into China are expected to be less challenging for foreign investors, multinationals may still face unexpected twists

and turns in practice and turn the whole compliance process into a costly and time-consuming project. The following information will allow your organization to understand some of the most important legal requirements for opening up shop and engaging in employment in China.

Zhong Lun Law Firm, with over 240 partners and over 1,200 professionals working in 15 different cities worldwide, is one of the largest law firms in China and provides a complete spectrum of legal services. Our labor and employment law practice group is highly experienced in advising multinationals in entering China and also mobilizing employees to China at the same time. In

addition to assisting our clients with continuous compliance with national and local regulations, we also advise on establishment and enforcement of company policies, employee transition in M&A and restructurings, internal compliance investigation, employee compensation & benefits, application for expatriate's work permits and labor dispute resolution. The information we summarized below reflects common compliance requirements of opening up shop and engaging in employment in China, and may need to be further slightly customized for any specific province or city in China.

I. LABOUR AND EMPLOYMENT REQUIREMENTS

• Employer Policy Requirements

Employers shall establish and improve internal policies to ensure employees' entitlement to labor rights and performance of labor obligations. Employers shall follow certain democratic procedures to formulate or revise internal policies regarding matters that directly concern vital interests of employees. But the legislation is silent on required content of such internal policies.

• Employee Training Requirements

Where employees may be exposed to occupational hazards, employers shall carry out occupational health training before and during employment and guide employees to use occupational disease protection equipment correctly. In the food-producing industry, employers are obligated to provide food safety training to their employees.

• Employment Agreement Requirements

Employers are obligated to execute written employment agreement with full-time employees within one month since such employees start to work, failing which the employers may be subject to paying compensation to the employees in a punitive nature.

This guide is intended as general information only. For legal advice and assistance with your business needs, please contact our Chinese firm, Zhong Lun Law Firm.



- **Social Insurance and Housing Fund Requirements**

Employers and employees shall both contribute for the social insurance and housing reserve fund. Specifically, employers are obligated to withhold employees' portion of contribution from salary, file and pay the said on behalf of employees in addition to employers making their own portion of contribution.

- **Individual Income Tax Requirements**

An employee's salary is subject to payment of individual income tax. The employers are obligated to withhold individual income tax

payment from the employee's salary and pay the said to tax authority on behalf of the employee.

- **Work Permit and Residence Permit Requirements**

Where non-PRC employees are hired, the employers shall use their reasonable efforts to assist with the employee's application for Work Permit and Residence Permit.

- **Disabled Fund Contribution Requirements**

Employers are obligated to hire a certain percentage (ranging from 1% to 2%) of disabled employees.



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II. CORPORATE LAW REQUIREMENTS

As we may assist foreign investors to establish presence in China through a number of corporate structures, for the purpose of this proposal, we would focus on the establishment of a wholly foreign-owned enterprise (“WFOE”) in China. In order to meet all compliance requirements, the following steps and procedures shall be completed:

- Obtain filing receipt from local department of commerce;
- Have WFOE’s name pre-approved by the State Administration for Industry and Commerce;
- Obtain approval on WFOE’s establishment from competent authority (only applicable in certain industries);
- Prepare and file articles of association;
- File notarized and authenticated certificates on identity of the foreign investors;
- Appoint WFOE’s legal representative, director(s), supervisor(s) and general manager;
- File meeting minutes of the said appointment and certificates on identity of the appointed legal representative, director(s), supervisor(s) and general manager;
- Establish the initial registered office address and file corresponding supporting documents;
- Issue a Power of Attorney for deputizing local personnel to complete filing procedures with competent authorities and sign relevant application forms on behalf of the WFOE for the purpose of incorporation;
- Apply for qualification to open an foreign currency bank account with local administration of foreign exchange and open such account at the designated bank;

Our firm has a major focus on all aspects of corporate matters. We would be happy to collaborate with you on completion of establishment registration as well as other aspects of corporate compliance.



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III. PAYROLL AND BENEFITS PROVIDERS

In China, the vast majority of smaller employers outsource payroll and benefit responsibilities to qualified third party companies in order to reduce operational costs. The larger employers however have their own internal teams processing payroll and directly handle all related compliance requirements.



Depending on preference, we would be happy to recommend a payroll provider to fit your business requirements.

Zhong Lun continues to assist multinationals in structuring their entry and employment models in China on an extremely regular

basis. Zhong Lun is pleased to offer its service for all of the required work identified above and assist your organization in commencing its operations in China.

If you have any questions, please contact the following representative:

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We look forward to working with you.



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