

# CHINA

## Country Overview

### Key Facts:

Population	1.4 billion
Capital City	Beijing
Government	Unitary Marxist–Leninist one-party socialist republic
Head of State	Xi Jinping
Head of Government	Xi Jinping
Language	Chinese, Mongolian, Uyghur, Tibetan, Zhuang
Economy Ranking	2

### Economy:

The socialist market economy (SME) is the economic system and model of economic development employed in the People's Republic of China. Under this system, there is a high proportion of public ownership and state-owned enterprises within the market economy. The term socialist market economy was introduced in 1992 under the leadership of Jiang Zemin who was instrumental in the creation of this economic system that many western scholars have described as state capitalism. The underlying principle of this system is that a fully developed socialist economy can only come into existence after the market economy has fully exhausted its historical role and gradually transforms into a planned economy.

The government of China began market reforms in 1978 towards its goal and by 2019 its GDP is ranked second in the world. China is the world's largest manufacturer and exporter of goods. China became a member of WTO in 2001 and has free trade agreements with several countries like the ASEAN group, Australia, New Zealand, Pakistan, South Korea, and Switzerland and its largest trading partners are the US, the EU, Japan, Hong Kong, South Korea, India, Taiwan, Australia, Vietnam, Malaysia, and Brazil.

As per the Heritage Foundation, the ranking of China's economic freedom score is 59.5 and it is the 103rd freest economy in the world.

### Focus Industries:

China is a world leader in industrial output, including mining and ore processing, processed metals, petroleum, cement, coal, chemicals, and fertilizer. It's also a leader in machinery manufacturing, armaments, textiles, and apparel. China is a top manufacturer of consumer products, a leader in food processing, and a major maker of telecommunications equipment. Manufacturers of automobiles, train equipment, ships, aircraft, and even space vehicles, including satellites are growing increasingly. China's service sector has doubled in size over the last two decades to account for about 46% of GDP.

### Top reasons to set up:

- China is the world's second-largest economy with a GDP of more than US\$14 trillion and a large population base of 1.4 billion. Hence, it is a very large and lucrative market.
- The middle class in China has grown in large numbers and have high aspirations towards life goals. This has resulted in a growing market for high-tech products and services.
- Due to its proximity and established trade routes with multiple countries in Asia such as India, Pakistan, and several southeast Asian countries, setting up a company in China means availability of the logistics infrastructure to supply in these markets as well.
- It has a large pool of highly educated working class. Many of the world's top research and development firms are located in China and it is also becoming a leader in technologies such as futuristic technologies and AI.
- The availability of high-quality machinery readily for the production of all kinds of products, readily available raw materials, a large number of industrial suppliers are extremely beneficial to a new business setup.
- The availability of electricity, water, and land for setting up manufacturing facilities at considerably lower rates than many of the advanced countries make China extremely attractive to set up a business.

- China has a large number of Industrial Development zones and Export Processing Zones that attract a large number of companies from across the world to set up their plants.
- China has provided businesses with a large number of incentives in form of tax credits and lower customs duties.
- Start-ups get sector-specific incentives.
- Banks and financial institutions are robust making it easy for businesses to operate and manage their finances.
- There are over 100 double taxation avoidance treaties signed with various countries and groups.

#### Red Flags:

- Despite all the benefits of setting up in China, there are several issues in setting up business right from the variation in rules and regulations based on province, to the requirement of different amounts of minimum share capital required to set up a company.
- Companies with foreign shareholding are required to go through several agencies to get approval. This process is very thorough and requires a considerable amount of knowledge and expertise regarding processes.
- Before starting a company, a feasibility study report has to be submitted with the State Administration for Market Regulation approval.
- Reporting of financial statements, payroll information, and tax is done on a monthly basis instead of quarterly or yearly in many other countries. This puts an additional burden of consolidating records every month and making monthly reports.
- Pre-approval is required from the government authorities before transferring earnings out of China.
- China has had a poor record of intellectual property rights. There have been several cases where companies have been forced to provide technical details of their products or manufacturing to the Chinese government to be allowed to start and operate a business in China. Many instances of reverse engineering or simply

copying the technologies for making counterfeits or different products have been observed. It is very difficult to get any legal recourse when such instances occur.

- Foreigners cannot invest in some sectors like telecommunication, media, or entertainment and education in China as these are considered core sectors to control information by the Chinese Communist Party.
- Documentation in China made using mandarin and a large part of the population does not speak English. This makes it very difficult for foreigners to communicate and understand.
- In cities like Beijing and Shanghai, the office costs and rents are very high.
- China is not ranked very well on ease of doing business by multiple agencies that maintain such data and provide comparative reports. E.g. It's ranked 103<sup>rd</sup> freest in economic freedom by the Heritage Foundation.

## Market Assessment

Before you enter a new market, conducting a new market assessment will be crucial. This will be bespoke to your business and your target region.

You should think about undertaking the following activities:

### 1. Market Analysis

This entails researching the market size, target customers, customer attitudes and behaviours, state of the economy, and infrastructure. It is also important to consider the potential for growth within a region.

### 2. Competitor Analysis

It is important to review the local competition to understand how they operate and enable you to position your company against competitors.

### 3. Marketing Strategy

You will need to consider how you will generate awareness of your product or service and promote your brand. Where will you position your brand in line with the results of your market analysis

Our local experts can help you undertake this new market assessment to assist you with your international expansion plans.

## Market Entry Options

There are several methods you can use to enter a market:

### 1. Set up an overseas office

- Open up a branch in your chosen location, hire staff if necessary, sell your goods/services

### 2. Franchise

- Allow others in different locations to open up branches of your business and operate it themselves following your guidelines. They pay you a fee and a percentage of profits. However, they have more control within their local market of how they operate.

### 3. Direct Exporting

- Market your goods/services within a region and export your goods/services from your home region.

### 4. Partnerships

- Can take many forms including JVs or having a local partner to represent your firm and help generate business.
- Some countries require a local partner to have an ownership stake within a region.
- You may simply need a distributor to sell your goods.

### 5. Buy a Company

- You immediately claim market share with an existing customer base.
- No incorporation or initial setup costs/laws to comply with
- However, expensive to buy and need to integrate within the company culture

### 6. Licensing

- Give ownership of your product to parties in different regions for them to sell on your behalf.

## 7. PEO/EOR

- If you liaise with a company offering PEO and EOR services you will be able to launch in a region without setting up an entity.
- If you liaise with a company offering PEO and EOR services you will be able to launch in a region without setting up an entity.
- This involves the “leasing” of employees. A resident firm will hire employees on your behalf and cover payroll and other necessary HR requirements, whilst the employees actually work for you.
- This enables you to test the market with staff but without the up-front capital of setting up a company.

## Company Setup

### 1. China Wholly Foreign-Owned Enterprise

- This is the same as a limited liability company but which is owned entirely by foreigners or foreign corporations.
- This type of entity can do business in China and export it to other countries as well.
- If this entity wishes to undertake wholesale or retail within China, the company is called a Foreign Invested Commercial Enterprise and it requires following some additional procedures during the registration.
- There are restrictions on such companies to repatriate their earnings to the parent company.
- The minimum Share Capital required for this entity type varies from US\$15000 to US\$140,000. Paid-up capital is 20% of this minimum share capital and the balance should be deposited within the next 2 years.
- A feasibility study needs to be conducted and provided to the State Administration of Industry and Commerce. If the authorities do not consider the project to be feasible, the project is not allowed to move forward.

- Approval is required from the Ministry of Commerce, State Administration of Foreign Exchange, and China National Development and Reform Commission.
- Once all approvals are obtained, registration for VAT, social security, and corporate income tax is required.

## 2. China Free Zone Company

- An export-oriented foreign-owned company can register itself in Special Economic Zones (SEZ) based in China.
- There are some special rules for registering a free zone company and include share capital, job creation, and technology transfers depending on the specific SEZ.
- Some SEZs may be more friendly to set up depending upon various factors.

## 3. China Joint Venture Company

- A joint venture company is formed with one foreigner and one Chinese partner.
- Many of the joint venture companies are formed due to the requirement of the Chinese government that restrict foreign investment in some key industrial sectors.
- The treatment of such entities is similar to that of an LLC.

## 4. China Branch Office

- This type of entity is created by either a China Joint Venture Company or China Wholly Foreign-Owned Enterprise and not by a company that does not have a presence in China.
- Being a geographically large country, it makes sense for many companies to open branch offices in China.

## 5. China Representative Office

- This entity is not allowed to do commercial activities or manufacturing. Their purpose is to conduct research for expansion into China.
- An approval from the State Administration for Market Regulation is enough to set a representative office.

## 6. China Offshore Company



- If a foreigner wishes to set up a company in Hongkong, it has to register as a China Offshore Company. This is because Hongkong has different laws from China with respect to taxation and repatriation of earnings.

## Entity FAQs

- Is an office premise required before registration?
  - o Except for Offshore Company, all entities are required to have office premises.
- Is the entity allowed to do business in China?
  - o All entities except Representative Office and China Offshore Company are allowed to do business in China.
- Is the entity allowed to import raw materials or export goods?
  - o All entities except Offshore Company and Representative Office are allowed to import raw materials and export goods.
- Is the entity allowed to sign contracts with and invoice local clients?
  - o All entities except Regional Offices are allowed to sign contracts with and invoice local clients.
- Is there a corporate tax on local income?
  - o A corporate tax of 25% is applicable to all entities except Representative Office and Offshore Company.
- Is there a corporate tax on foreign income?
  - o A corporate tax of 25% is applicable to the foreign income of all entities except Representative Office and Offshore Company.
- Is the Statutory Audit required?
  - o Statutory Audit is required for all entities.
- Is the Annual Tax return to be submitted?
  - o The annual Tax return needs to be submitted by all entities.
- Are Double Taxation Avoidance Agreements allowed?
  - o All entities except Offshore Company and Representative Office are allowed Double Taxation Avoidance Agreements.
- Is Issued Share Capital required?
  - o Issued Share Capital of \$ 15000 is required for Free Zone Company and China Wholly Foreign-Owned Enterprise.
  - o Issued Share Capital of \$ 1 is required for an Offshore Company.
  - o No Issued Share Capital is required for Joint Venture Company and Representative Office.
- Is a resident Director/representative required?
  - o No resident directors are required for any of the entities.

- Is a Chinese shareholder/partner required?
  - No Chinese directors are required for any of the entities except Joint Venture Company
- What is the minimum number of directors?
  - Each entity requires a minimum of 1 director.
- What is the minimum number of shareholders required?
  - 1 shareholder is required for Offshore Company, Free Zone Company, and China Wholly Foreign-Owned Enterprise.
  - Representative Office and Branch office have their parent company as the shareholders.
  - The Joint Venture has 2 shareholders – one Chinese and one foreigner.
- Are individual shareholders allowed?
  - All entities except Representative Office and Branch Office can have individual shareholders.
- Are Corporate shareholders allowed?
  - Corporate shareholders are allowed for all the entity types.
- Is there a public register of Directors and shareholders?
  - There is a public registry for all the entity types.
- Can the entity hire expatriate employees?
  - All entities can hire expatriate staff except an Offshore Company.
- How long does it take to get a work permit for expatriate staff?
  - It takes 3 months to get a work permit for expatriate staff.

## Company Formation

### Incorporation Procedure

The incorporation of a company in China has been recently made more friendly through the introduction of the Five-in-one business license system.

1. Application is made for approval of the name of the company to the State Administration for Market Regulation.
2. Renting office space has to be done next as an office address is required to register the company.
3. If the company is going to manufacture goods, and environmental impact assessment is required. This assessment is carried out by a reputed institution and a certificate is issued by environment protection authorities.
4. Application is made to State Administration for Market Regulation to obtain a business license under the new Five-in-one system.
5. SAMR then approves the business license.

#### Post Incorporation Steps:

1. VAT registration.
2. Tax registration.
3. Obtaining approval from the State Administration of Taxation for purchase and printing of sales invoices.
4. Recruitment registration.
5. Social Welfare Insurance Authority registration.

#### Documents Required:

1. Notarized passport copies legal representatives and supervisors who are not directors.
2. Power of Attorney granting powers to a legal representative to register the company.
3. Copy of lease or rent agreement of office in the province where the company is to be incorporated.
4. Business Plan for the company.

#### Processing Timelines

The entire process of registrations to obtaining approvals could take up to 6 months.

## Tax and Accounting

### Tax

#### Corporate Tax

- The corporate income tax in China is 25% for all companies.
- If high technology companies are located in Guangdong, Fujian, or Hainan, the corporate income tax rate is 15%.
- Capital Gains are taxed at 25%.

#### Value-added Tax

- Value-added Tax of 16% is applicable to:
  - o Sale of Goods
  - o Import of Goods
  - o Leasing of moving property
  - o Repair and Processing service
- VAT of 11% is applicable to:
  - o Transportation Services
  - o Lease of Immovable property
  - o Telecommunication services
  - o Construction services
  - o Agricultural products
  - o Water and Gas supplies
  - o Postal services

#### Withholding Tax

- A withholding tax of 10% is applied to:
  - o Interests
  - o Royalties
  - o dividends.

#### Income Tax

- The Individual Income Tax rate is in the range of 3% to 45%.

### Miscellaneous Tax Information

- China has nearly 100 Double Taxation Avoidance Agreements with multiple countries.
- China is a member of WTO and APEC.

### Accounting

- Companies must prepare financial statements for annual statutory audits under the GAAP framework.
- Interim tax returns are to be filed quarterly within 15 days of the end of the quarter.
- Annual tax returns should be filed within 5 months from the end of the year.
- Defaulters need to pay a daily surcharge of 0.05% per day on the amount of tax.
- VAT is filed on a monthly basis before the 15<sup>th</sup> of each month.

## Payroll / HR / PEO / EOR

Specific Information	
<b>Working Weekly Hours</b>	44 hours per week
<b>Social Contributions (Employer)</b>	Up to 40% of basic income (varies based on province)
<b>Social Contributions (Employee)</b>	Up to 22% of basic income
<b>Annual Leave</b>	<ul style="list-style-type: none"><li>- 0 days for an employee that has worked for less than one year with the company</li><li>- 5 days for an employee who has worked from 1 – 10 years with the company</li><li>- 10 days for an employee who has worked for 10 – 20 years with a company</li><li>- 15 days for an employee who has worked for more than 20 years with the company</li></ul>

### Payroll

The management of payroll in China is a challenging task. There are a large number of rules related to taxation, social security, etc. The calculation and disbursement of salaries while withholding of social security and taxes is a daunting activity that needs to be carried out every month. Employers may find it convenient to hire a professional payroll processing company to manage this task and get the payroll activities done without worrying about defaulting on statutory requirements.

Outsourcing of payroll provides multiple benefits as mentioned below:

1. Professional calculation of wages, taxes, social security, and other payroll requirements under Chinese laws.
2. Maintenance of payroll records in a secure manner at both the outsourcing company and client office.
3. Highly efficient payment disbursements and payslip distribution.
4. Benefits and bonus administration.
5. Professional handling of statutory reporting and tax filing.

6. Leave records and processes are streamlined.
7. Hotline support for employees for any queries related to payroll.
8. Online access to employees and employers related to payroll records.
9. Management reporting of payroll-related expenses.

## HR Administration

Hiring employees, negotiating salaries, maintaining employment records and all activities related to employee management can become especially difficult since English is spoken by very few people in China. Further, all documents are to be maintained in Chinese. Thus, foreign companies may find it easier to outsource their HR Administration to a professional agency.

Some of the benefits of outsourcing HR administration are:

- The recruitment process is streamlined as per legal requirements.
- Offer letters and Employment contracts are created as per legal requirements.
- Employee records are maintained as per legal requirements.
- Job profiles creation, employment contract, and any amendments are done professionally.
- Inspections or Audits as required by authorities are handled.
- New Joiners and Resignations information management such as on-boarding, appointment letters, experience certificate, relieving letter, and reporting to relevant authorities is streamlined.

## Labour Law and Employment Support Services

The labour laws in China need to be followed diligently. Aspects related to non-discrimination based on gender, religion, nationality, or religion whether in employment or promotions and day-to-day operations. Trade unions have broad rights related to decision making in working time, breaks, work safety, sanitation, insurance, worker welfare, etc.

As such, it would be prudent for a foreign employer to hire a professional agency to manage the creation and implementation of HR processes.

Such services include:

- Designing of HR processes, policies, and procedures.
- Preparing employment contractual documentation such as job offers, appointment letters, relieving letter, etc
- Resolving relevant employment-related matters such as working time, shifts, leaves, employee salary, etc

## EOR

If a foreign company does not wish to deal with multiple agencies to manage payroll, HR administration, and legal and employee support services, the company may completely outsource their HR function. Under this, the agency assumes full responsibility for hiring, maintenance of records, and other legal responsibilities by maintaining the employees on their own payroll. This is a far more cost-effective and efficient process as the company does not have to invest heavily in creating and maintaining the infrastructure required to manage all of the HR and accounting activities.



## Legal

People's Republic of China (PRC) is a socialist legal system. The legal system is based on the Civil Law Model. The present Constitutional Law of China was adopted in 1982 and was revised a few times with the latest revision being made in the year 2018. There are four levels of Court in China, the highest being the Supreme People's Court, followed by Higher People's Courts, Intermediate People's Court, and Grass-roots People's Courts. There are some special courts as well such as Military Courts, Maritime Courts, Railway Transportation Courts, and Forestry Court.

### Legal System

China does not follow the system of judicial precedents which are followed in the common law judicial system. Laws are passed by the National People's Congress (NPC) and its Standing Committee. Administrative regulations are made by the State Council and the local regulations are made by the Local People's Congress. Further, there are local rules promulgated by the local governments and Departmental Rules made by the ministries and commissions of the State Council.

### Corporate Law

Company Law of the PRC is the prime legislation that applies to all companies in China. The judicial interpretations of the Company Law given by the Supreme People's Court of the PRC also form a part and parcel of the Company Law. Recently Foreign Investment Law was passed on 1<sup>st</sup> January 2020 in China which replaced the erstwhile three laws relating to Enterprises: a) Law of Sino-foreign Equity Joint Venture b) Law of Sino-foreign Cooperative Joint Venture, and c) Law of Wholly Foreign-owned Enterprise. Thus, the Foreign Investment Enterprises (FIEs) are not anymore divided into wholly-owned or Equity JV or Cooperative JV and the Company Law and other general laws are equally applicable to them. Securities Law applies to Public companies including listed companies and non-listed company but offering shares publicly. Securities Law in China requires companies to meet information disclosure and corporate governance processes. Besides the Securities Law, there are guidelines such as the Corporate Governance Guidelines of Listed Companies, Guidelines for the Articles of

Association of Listed Companies, Rules relating to Shareholders' General Meetings which are required to be followed.

Corporate Governance in China is unique due to its cultural underpinnings. The legal principle of corporate governance follows an utmost commitment to shareholders through its protectionist policy, and thus the shareholders enjoy the supreme authority to decide on any important issue relating to the company's operation and the decision of the executive or board and management team can be overruled by the shareholders. Further, concerning the concentration of ownership, non-state-owned companies, public or private are mostly owned within close communities such as within the family members, kinship, or other close relations.

Some points to keep in mind for foreigners setting up a company in China:

- The lease agreement for office premise is to be pre-approved by the local municipal authority before the incorporation of the company.
- A paid-up capital of US\$15,000 to US\$1,40,000 is recommended depending upon the province in which the company is to be set up.
- The paid-up capital must be audited by a certified public accounting firm based in China as per Companies Law.
- Foreign investors should register the controlling person of WFOE through the Ministry of Commerce online website.
- A foreign-owned company requires a Chinese legal representative to submit reports to authorities and to execute contracts. The legal representative has authority equivalent to the director and is also carries corporate liability.
- A foreign-owned company is required to appoint a Board of Supervisors that is responsible for reporting to the authorities if there is a breach of Articles of Association.

## HR and Employment Laws

The main laws that govern employment in China are:

- Labour Law
- Labour Contract Law
- Trade Union Law

- Law on Mediation and Arbitration of Labour Disputes
- Social Security Law
- Employment Protection Law
- Law on Prevention and Control of Occupational Diseases
- Work Safety Law

Some of the legal aspects are also based on interpretations of China's Supreme People's Court and local regulations.

- China allows for full-time, part-time dispatch employment.
- A written contract is necessary for employing anyone.
- There are rules for hiring and termination of employment. Conditions under which termination is allowed is codified.
- The age of employment in China is above 16 years.
- The minimum wage is set at \$300
- Female employees are eligible for 98 days of maternity leave, including 15 days of prenatal leave. In case of difficulty in childbirth, additional 15 days leave is granted. Maternity leave can be extended by 30 days as per some local regulations.
- A trade union can be established if there are more than 25 employees.
- Trade Unions have a broad set of rights in China. They can participate in labour dispute meetings with the company management, negotiate on behalf of employees, guide employees to sign specific labour contracts with the employer.
- Chinese law expects non-discriminatory treatment of workers based on race, religion, gender, or nationality. Any kind of discrimination such as refusal to recruit women or having different criteria for promotion for different groups, etc can be challenged in court.
- Employees cannot be terminated by the employer unless there is a statutory cause as specified by law such as incompetence of employee even after training or being provided with a different post or if the employee is seriously violating rules and regulations as set by the employer.
- Generally, an employer needs to provide a 30-day notice for termination of employment. But under special circumstances, this may be reduced.

## Intellectual Property Law

In China, three main types of intellectual property rights are patents, trademarks, and copyright. The Intellectual Property Rights are administered by the State Intellectual Property Office (SIPO) of PRC. SIPO is responsible for all aspects of national and international IP including policymaking and promoting IP awareness.

### Patents

Patents are available for – invention, utility models, and design. The Patent Law was adopted by the President in March 1984 and has been amended in 1992, 2000, and 2008. Detailed regulations are contained in the Implementing Rules of the Patent Law and rules or measures issued by the SIPO. SIPO has also published Guidelines on Examination of Patents in PRC. Under the Patent Law, it is stated that Patent rights cannot be granted for the following:

- a) Scientific discoveries
- b) Rules and methods for intellectual activities
- c) Method for the diagnosis or treatment of diseases
- d) Animal or plant varieties
- e) Substances obtained by means of nuclear transformation
- f) Designs that are used for marking pattern, colour, or the combination of the two, of prints

### Trademark and Geographical Indication

Trademarks are protected by the Trademark Law of the PRC which was adopted in 1982 and is amended in 1993, 2001, and 2013. The trademark law consists of provisions relating to the definition of a registered trademark, rights of the holders, the scope of rights, and provisions for enforcement of trademark rights. The Trademark law also contains provisions for the protection of Geographical Indications (GIs). The provisions relating to Geographical Indications refer to products that originate from a particular geographical region with reputation, quality, or characteristics that are mostly attributable to the natural and human factors of the region and are named after the region or territory upon examination and grant. The GI products may include agricultural products cultivated in the region or products wholly

or partially made from the raw materials that are from the region produced or processed with particular techniques from the region.

### Copyright

Copyright and Neighbouring rights such as the performers and broadcasting reproduction rights are contained in the Copyright Law which was adopted through Order Number 31 of the President in September 1990. This law has been amended twice in 2001 and 2010. Copyright protection is not available to laws, regulations, resolutions, decisions, and orders of State organs or any other documents which are legislative, administrative, or judicial. Further Copyright protection is not available to the news on current affairs and calendars, numerical tables and forms, and formulas. Software copyright protection is governed by the Regulations on Computer Software Protection.

### Trade Secrets or Undisclosed Information

Trade Secrets also known as confidential information or undisclosed information have been traditionally protected under the Law of PRC against Unfair Competition. Trade Secret Owner can file a complaint at the office of State Administration on Industry and Commerce (SAIC). The Fair Trade Bureau of the SAIC handles the matters relating to trade secret disputes. There are other regulations such as the 'Several Provisions on Prohibiting Infringements upon Trade Secrets' and Interim regulations on the Protection of Commercial Secrets of Central State-Owned Enterprises.

### Protection of Plant Varieties

Any new plant variety, whether cultivated or developed, which satisfies the criteria of novelty, distinctiveness, uniformity, and stability can be protected under the Regulations of the PRC on Protection of New Varieties of Plants and two implementing regulations on agriculture and forestry.

## Data Protection Law

Data protection in China was not governed by a single law but multiple sources in different legal regulations. In 2017, China introduced Cybersecurity Law which became the first time that cybersecurity and data privacy protection was addressed in a single document. There has been a large-scale implementation of regulations and guidelines that have been proposed, issued, or even revised. The main three legal documents are:

- National Standard of Information Security Technology – Personal Information Security Specification, 2018
- Guidelines on Internet Personal Information Security Protection, 2019
- Draft National Standard of Information Security Technology – Guidelines on Personal Information Security Impact Assessment, 2019

Some of the principle concepts outlined in the laws are as follows:

- Concept of Personal Data: As per the law personal data consists of various information which is recorded in electronic or any other form which when used alone or in combination may lead to recognition of the natural person including but not limited to his name, date of birth, ID number, personal biological identification information, address and telephone number. However, for the prosecution purposes in the event of a crime, the personal data includes various information that solely or in combination reflects activities of a natural person such as accounts, passwords, contact information, property status, telecommunication or location records, property status, etc.
- Sensitive Personal Data: This concept does not specify the type of data, but conveys the meaning of sensitive personal data to be such that it can cause personal or property damage, reputation damage, physical or mental health damage, or trigger discrimination in case of disclosure or misuse.
- Controller: The controller is the organization or the person who shall have the right to determine the purpose of processing and how it is processed.
- Processor: The processor is not defined by laws, but provides guidelines to controllers to monitor third parties that are entrusted to process personal data on behalf of controllers.

Some of the major Processing Principles as laid out in the Cybersecurity Law are given below:

- The collection/use/processing of personal data shall not violate the laws, administrative regulations or the agreement concluded with the personal data subjects
- Network operators must publish rules for collecting and using the personal data and inform the personal data subjects the purpose(s) and scope for which the data is collected/used.
- Consent must be obtained from personal data subjects prior to the collection/use of their personal data.
- The personal data subjects must be informed of the purpose(s) of collecting/using of personal data by network operators.
- Network operators should adhere to the principle of "necessary" when collecting and using the personal data and shall not collect personal data irrelevant to their service provided to personal data subjects.
- Network operators must take technical measures and other measures to ensure the security of personal data, including protection against leak, destruction, or damage.
- The time frame for storing the personal data, which shall be limited to the minimum periods required for realizing the purposes, and the data shall be properly disposed of by deletion or anonymization.

## Immigration

### Investor Visa (D visa)

- This Visa is also referred to as Resident Visa or Permanent Residence Permit as people with different backgrounds such as those seeking reunion with parents in China or Spouse reunion in China. Foreign investors in China can use this same visa type for their visa application.
- The visa has a validity of 5 years and can be further extended as required.
- The applicant has to provide documents showing that the business in China has had stable operations and has good tax payment records for the previous three years.
- The investment amount should be either more than US\$ 500,000 in any of the industries specified in the Catalogue of Industries of Foreign Investment issued by the government authorities or more than US\$ 1 million in the central part of China or total investment exceeding US\$ 2 million.

#### Documents required:

- A completed application for D visa.
- Four recent colour photographs showing full face against a white background of size 48mm X 33mm. The width of the head in the photo should be 15 – 22 mm and the height of the head should be 28 – 33mm.
- A copy of the passport.
- Health Certification provided by Entry-Exit Inspection and Quarantine Bureau of China or their affiliate agencies in China or foreign countries that are accredited by the Chinese embassy or consulate offices. The certification is valid for six months since it is issued.
- Proof of no criminal record abroad that is recognized by the Chinese embassy or consulate offices.
- Investment-related documents such as:
  - o Approval certificate for the foreign-funded enterprise.
  - o Registration Certificate of company.
  - o Annual financial statements approved by authorities.
  - o Personal Tax payment documents.



- Report on asset valuation.

### Employment Visa (Z visa)

- Foreigners wanting to work in China require to apply for this visa.
- The visa is initially valid for 30 days to secure accommodation. On securing the accommodation, the visa validity is extended for up to a maximum of 5 years.
- The employer of foreign workers needs an employment permit from the Ministry of Human Resources.
- The age limit for this visa is 18 – 60 years.

### Documents required:

- A complete Visa application form with signature.
- Four recent colour photographs showing full face against a white background of size 48mm X 33mm. The width of the head in the photo should be 15 – 22 mm and the height of the head should be 28 – 33mm.
- Copy of Passport (valid for at least six months from the application date and more than one blank visa page).
- Work permit obtained via the employer in China. Any of the following documents can be submitted as a work permit document.
  - Foreigners Work Permit issued by the Ministry of Human Resources and Social Security.
  - Registration Certificate of Resident Representative Office of foreign companies issued by Chinese authorities.
  - An approval document from Chinese government authorities for cultural affairs to conduct a commercial performance in China.
  - Invitation letter from the National Offshore Oil Corporation of China to conduct offshore petroleum operations.
- On a case-to-case basis, the authorities may require some additional documents such as:

- Notarized Criminal History (Criminal background check) report.
- Notarized medical history form in the prescribed format.

#### Business Visit Visa (M visa)

- This visa is valid for a duration of 30 – 60 days.
- The applicant has to provide documents consisting of an invitation letter from the company or relevant person from the company along with information on the applicant, company and planned visit.

#### Documents Required

- A complete Visa application form with signature and recent passport size photo glued/stapled to the form.
- Copy of Passport (valid for at least six months from the application date and more than one blank visa page).
- Chinese business visa invitation letter. The invitation letter should contain
  - The details of invitee such as name, birth date and passport number.
  - The details of the inviter such as name, contact number, signature, address, official stamp, etc.
  - Information about the visit such as locations to be visited, arrival/departure dates, the purpose of the visit.
- The invitation letter can be any of the following documents:
  - Invitation letter from a Chinese company or trade partner.
  - Invitation letter to a trade fair.
  - Invitation letter from a Chinese institute.

#### Visa for Family members of Investor/Work/Business Visa holders (D Visa)

- Family members of foreigners staying in China have to apply for the D Visa which is the same as investors.

Documents required:

- All documents of the Chinese Visa holder or applicant that is residing or planning to reside in China as per the category of visa applied for. Certificate of Permanent Residence of aliens of foreigners with whom the family members are planning to stay.
- Certificates showing the relation between the family member such as marriage certificate and birth certificate/adoption certificate.
- A complete application for D Visa.
- Copy of passport valid for a minimum six months from the date of travel.
- Four recent colour photographs showing full face against a white background of size 48mm X 33mm. The width of the head in the photo should be 15 – 22 mm and the height of the head should be 28 – 33mm.
- Health Certification provided by Entry-Exit Inspection and Quarantine Bureau of China or their affiliate agencies in China or foreign countries that are accredited by the Chinese embassy or consulate offices. The certification is valid for six months since it is issued.
- Proof of no criminal record abroad that is recognized by the Chinese embassy or consulate offices.
- Notarized proof of the sources of incomes of the family members or the proof of economic guarantee of the persons with whom the incoming persons are planning to live.

#### Process of Visa application

- Before an application is made for Chinese Visa, all the supporting documents should be kept ready. For permanent residence and work visa, this includes:
  - Criminal Background Check: The Criminal Background check is done by the local police where the applicant is resident. This process takes time and usually entails a fee depending on the country of residence. It is important that this is done sufficiently in advance of any travel plans.
  - Medical/Health Certificate: The medical check is done by an agency recognized by the Chinese CVACs or embassy in the resident country of the

applicant. This procedure may include a blood test, eye test, dental check, chest x-ray, urine test, and an ECG.

- Submit the visa application along with the documents to the nearest Chinese Visa Application Center (CVAC) or Chinese embassy or consulate. Some of the CVACs have mail facility where you may submit the application via mail. Otherwise, a personal visit is required. It is suggested that the application be made well in advance.
- The CVAC may call for additional documents or information before approval.
- On approval of visa, the visa application fee is to be paid at the CVAC and all documents have to be collected.

## Banking Solutions

Foreigners do not have the best experience with local Chinese Banks with respect to efficiency, transparency, or customer service. Communications is especially a problem because bank officials do not speak fluent English. The four main banks in China are:

1. [Bank of China](#)
2. [Industrial and Commercial Bank of China](#)
3. [Agricultural Bank of China](#)
4. [China Construction Bank](#)

The international banks available for opening corporate bank accounts in China are:

1. Citibank
2. DBS bank
3. OCBC Wing Hang
4. HSBC

The international banks provide world-class services such as internet banking, telebanking, multi-currency accounts, debit/credit cards, and wealth management services.

### Documents Required:

- Bank account opening forms duly filled and signed
- FATCA/CRS forms duly filled and signed
- Certificate of Incorporation
- Certificate of Incumbency
- Financial Statements
- Proof of Business
- Passport Copies of directors/signatories
- Recent photos of directors/signatories
- Proof of Address of directors/signatories
- Resumes of directors/signatories

## Account Opening Process

- All necessary documentation is filled and signed by the applicants.
- The applications are submitted to the bank.
- The Bank officials will review the documents and revert with any additional information or documents that they may require.
- On completion of the review, the bank communicates with the applicant regarding the opening of the corporate bank account and login/password details to operate the account.
- The bank may require the applicants to make a personal visit to the bank premises in China for KYC purposes.

Time taken to open a corporate bank account in China is 4 weeks.

## Information Sources:

[www.healyconsultants.com](http://www.healyconsultants.com)

<https://nhglobalpartners.com/>

[www.china-briefing.com/news/setting-wfoe-china-step-step-guide/](http://www.china-briefing.com/news/setting-wfoe-china-step-step-guide/)

<https://www.china-briefing.com/news/chinas-social-security-system-explainer/>

<https://taxsummaries.pwc.com/peoples-republic-of-china/individual/other-taxes> \*\*

[www.heritage.org](http://www.heritage.org)

<http://www.oecd.org/>

<https://iclg.com/>

<https://www.dlapiperdataprotection.com/>

<https://www.mondaq.com/china/data-protection/936562/a-brief-overview-of-china39s-compliance-requirements-on-personal-data-protection>

<https://www.travelchinaguide.com/embassy/visa/refusal.htm>

<https://www.travelchinaguide.com/embassy/visa.htm#types>

<https://www.travelchinaguide.com/embassy/visa/work.htm>

<https://www.travelchinaguide.com/embassy/visa/business.htm>

<http://english.www.gov.cn/services/liveinchina/>