

China - Law on Foreign Capital Enterprises, 1986

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Law of the People's Republic of China on Foreign Capital Enterprises 1
(Adopted at the Fourth Session of the Sixth National People's Congress on April 12, 1986, promulgated by Order No. 39 of the President of the People's Republic of China and effective as of April 12, 1986)

Article 1 2

With a view to expanding economic cooperation and technical exchange with foreign countries and promoting the development of China's national economy, the People's Republic of China permits foreign enterprises, other foreign economic organizations and individuals (hereinafter collectively referred to as "foreign investors") to set up enterprises with foreign capital in China and protects the lawful rights and interests of such enterprises. 3

Article 2 4

As mentioned in this Law "enterprises with foreign capital" refers to those enterprises established in China by foreign investors, exclusively with their own capital, in accordance with relevant Chinese laws. The term does not include branches set up in China by foreign enterprises and other foreign economic organizations. 5

Article 3 6

Enterprises with foreign capital shall be established in such a manner as to help the development of China's national economy; they shall use advanced technology and equipment or market all or most of their products outside China. 7

Provisions shall be made by the State Council regarding the lines of business which the State forbids enterprises with foreign capital to engage in or on which it places certain restrictions. 8

Article 4 9

The investments of a foreign investor in China, the profits it earns and its other lawful rights and interests are protected by Chinese law. 10

Enterprises with foreign capital must abide by Chinese laws and regulations and must not engage in any activities detrimental to China's public interest. 11

Article 5 12

The State shall not nationalize or requisition any enterprise with foreign capital. Un- 13

der special circumstances, when public interest requires, enterprises with foreign capital may be requisitioned by legal procedures and appropriate compensation shall be made.

Article 6

14

The application to establish an enterprise with foreign capital shall be submitted for examination and approval to the department under the State Council which is in charge of foreign economic relations and trade, to another agency authorized by the State Council. The authorities in charge of examination and approval shall, within 90 days from the date they receive such application, decide whether or not to grant approval.

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Article 7

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After an application for the establishment of an enterprise with foreign capital has been approved, the foreign investor shall, within 30 days from the date of receiving a certificate of approval, apply to the industry and commerce administration authorities for registration and obtain a business license. The date of issue of the business license shall be the date of the establishment of the enterprise.

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Article 8

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An enterprise with foreign capital which meets the conditions for being considered a legal person under Chinese law shall acquire the status of a Chinese legal person, in accordance with the law.

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Article 9

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An enterprise with foreign capital shall make investments in China within the period approved by the authorities in charge of examination and approval. If it fails to do so, the industry and commerce administration authorities may cancel its business license. The industry and commerce administration authorities shall inspect and supervise the investment situation of an enterprise with foreign capital.

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Article 10

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In the event of separation, merger or other major changes, an enterprise with foreign capital shall report to and seek approval from the authorities in charge of examination and approval, and register the change with industry and commerce administration authorities.

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Article 11

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The production and operating plans of enterprises with foreign capital shall be reported to the competent authorities for the record.

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Enterprises with foreign capital shall conduct their operations and management in accordance with the approved articles of association, and shall be free from any interference.

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Article 12

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When employing Chinese workers and staff, an enterprise with foreign capital shall conclude contracts with them according to law, in which matters concerning employment, dismissal, remuneration, welfare benefits, labor protection and labor insurance shall be clearly prescribed.

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Article 13

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Workers and staff of enterprises with foreign capital may organize trade unions in accordance with the law, in order to conduct trade union activities and protect their lawful rights and interests.

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The enterprises shall provide the necessary conditions for the activities of the trade unions in their respective enterprises.

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Article 14

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An enterprise with foreign capital must set up account books in China, conduct independent accounting, submit the fiscal reports and statements as required and accept supervision by the financial and tax authorities.

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If an enterprise with foreign capital refuses to maintain account books in China, the financial and tax authorities may impose a fine on it, and the industry and commerce administration authorities may order it to suspend operations or may revoke its business license.

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Article 15

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Within the scope of the operations approved, enterprises with foreign capital may purchase, either in China or from the world market, raw and semi-processed materials, fuels and other materials they need. When these materials are available from both sources on similar terms, first priority should be given to purchases in China.

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Article 16

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Enterprises with foreign capital shall apply to insurance companies in China for such kinds of insurance coverage as are needed.

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Article 17

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Enterprises with foreign capital shall pay taxes in accordance with relevant state provisions for tax payment, and may enjoy preferential treatment for reduction or exemption from taxes.

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An enterprise that reinvests its profits in China after paying the income tax ,may, in accordance with relevant state provisions, apply for refund of a part of the income tax already paid on the reinvested amount.

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Article 18

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Enterprises with foreign capital shall handle their foreign exchange transactions in accordance with the state provisions for foreign exchange control.

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Enterprises with foreign capital shall open an account with the Bank of China or with a bank designated by the state agency exercising foreign exchange control.

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Enterprises with foreign capital shall manage to balance their own foreign exchange receipts and payments. If, with the approval of the competent authorities, the enterprises market their products in China and consequently experience an imbalance in foreign exchange, the said authorities shall help them correct the imbalance.

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Article 19

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The foreign investor may remit abroad profits that are lawfully earned from an enterprise with foreign capital, as well as other lawful earnings and any funds remaining after the enterprise is liquidated.

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Wages, salaries and other legitimate income earned by foreign employees in an enterprise with foreign capital may be remitted abroad after the payment of individual income tax in accordance with the law.

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Article 20

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With respect to the period of operations of an enterprise with foreign capital, the foreign investor shall report to and secure approval from the authorities in charge of examination and approval. For an extension of the period of operations, an application shall be submitted to the said authorities 180 days before the expiration of the period. The authorities in charge of examination and approval shall, within 30 days from the date such application is received, decide whether or not to grant the extension.

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Article 21 51

When terminating its operations, an enterprise with foreign capital shall promptly issue a public notice and proceed with liquidation in accordance with legal procedure. 52

Pending the completion of liquidation, a foreign investor may not dispose of the assets of the enterprise except for the purpose of liquidation. 53

Article 22 54

At the termination of operations, the enterprise with foreign capital shall nullify its registration with the industry and commerce administration authorities and hand in its business license for cancellation. 55

Article 23 56

The department under the State Council which is in charge of foreign economic relations and trade shall, in accordance with this Law, formulate rules for its implementation, which shall go into effect after being submitted to and approved by the State Council. 57

Article 24 58

This Law shall go into effect as of the date of its promulgation. 59

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