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Procedures and Costs for the Registration of a Trading Company (FICE) in Shenzhen, China

中国深圳外资独资贸易公司注册程序及费用

This article sets out the procedures for establishing a wholly foreign owned trading company (FICE, Foreign Invested Commercial Enterprise) in Shenzhen, China, the documentation required, the estimated time frame and estimated associated costs. The article is prepared for the interest of our potential clients.

1 Features of Foreign Invested Commercial Enterprises

(1) Type of Company Commonly used by foreign investors

A Foreign Invested Commercial Enterprise (FICE) is a limited liability company engages in retailing/wholesaling, import and export of certain kind of commodities in China.

(2) Restrictions on Trading

A FICE could only engage in those business activities (Scope of Business) stated in the Articles of Association and Business License.

One of the most important issues covered in the project documentation is the business scope of the FICE. Business scope is narrowly defined for all businesses in China and the FICE can only conduct business within its approved business scope, which ultimately appears on the business license. Any amendments to the business scope require further application and approval. Inevitably, there is a negotiation with the approval authorities to approve as broad a business scope as is permitted.

(3) Name Approval Required

Pre-approval is required for use of a name. It is possible to reserve a name of a proposed FICE by as long as six months. It is essential to check that there is no similar or identical name on the register, which would prevent the company being incorporated.

(4) Authorised and Paid up Share Capital (Registered Capital)

The minimum amount of **registered capital** required for the registration of a FICE starting from RMB500,000. Under the Company Law, the paid-up capital is equal to registered capital, Investors or shareholders must contribute the full amount of registered capital and deposit the money into a specified bank account (capital account) in the name of the FICE.

In accordance with the relevant regulation, the investor has two alternatives as to the timing for contribution of registered capital. The investor can choose to contribute the capital in one installment within 6 months after the date of incorporation; alternatively, the investor could choose to contribute the capital in two installments within a period of 2 years, where the first installment must be more than 15% of the registered capital and contributed within 3 months and the second installment being the balance contributed within 2 years after the date of incorporation.

The amount of registered capital so contributed/deposited should be audited by a firm of certified public accountants. This is so called capital contribution verification.

(5) Shareholders/Members

A minimum of one shareholder/member is required whose details are filed on the local **Administration for Industry and Commerce**. Corporate shareholders are permitted. The shareholders can be of any nationality except Chinese and meetings can take place anywhere.

(6) Director/Board of Directors

A FICE requires a minimum of one director and full details of these must be filed with the **Administration for Industry and Commerce**. The sole director is the executive director or managing director. The director can be of any nationality and be resident anywhere. Corporate director is not allowed. There is no requirement for board meetings to be held within China and directors may be resident anywhere.

If the investor decides to set up a board of directors for their FICE, then the minimum number of directors is 3 and the maximum is 13.

(7) Legal Representative

A FICE is required to appoint a Legal Representative and full details of that person must be filed with the local **Administration for Industry and Commerce**. The Legal Representative could be of any nationality and does not have to be a resident in China.

(8) Supervisor/Board of Supervisors

A FICE is required by the Company Law to appoint at least one Supervisor. The supervisor can be of any nationality and be resident anywhere.

(9) Registered Office/Business Address

A company must maintain a business address in China where the correspondence from Chinese Government can be served and business is carried out. The Chinese government has very stringent rules as to the business address. In accordance with relevant regulations, the office of the FICE must be located in a commercial building and that the lease term of the office must be at least for a term of 12 months.

(10) Tax Filings

A FICE is required to update its books on a regular basis, file Value Added Tax Return on a monthly basis, file individual income tax return for its employees on a monthly basis, file Corporate Income Tax Return on a quarterly basis and file annual corporate income tax return after the fiscal year end.

(11) Annual Reporting

A FICE is required to prepare audited accounts under the company laws. Also, a copy of the audited financial statements is to be furnished with tax authority for tax report purpose. The audited financial statements are not available to the public or to the foreign authorities except those of a listed company. We can provide complete supporting services after incorporation, such as book-keeping, auditing and tax filings for both the FICE and its employees.

2 Procedures for Establishing a FICE in China

2.1 Preliminary

(1) Lease of Office Space

Firstly, the investor will have to enter into a tenancy agreement in relation to the office space to be used by the FICE for a term of not less than 12 months. The office must be located in a commercial building.

(2) Legalisation of Identity Documents of the Shareholder/Member

The investor is also required to arrange to have the identity documents of the shareholder legalised by the Chinese Embassy in the country where the shareholder/member is registered/resided. If the shareholder/member is a corporation, the identity documents required to be legalised are its incorporation documents. In the case the shareholder/member is an individual, the identity document required to be legalised is his/her passport (for foreigner) or identity card and home return permit (for Hong Kong resident).

(3) Banker's Reference Letter

Also, the investor needs to arrange with its banker to issue a banker's reference letter. The banker's reference letter is one of the documents to be submitted for the purpose of registration.

(4) Other Documentation

The investor at the same time needs to prepare other documents, such as photocopy of passports/Hong Kong Identity card/Home Returning Card of the directors, supervisor, legal Representative and General Manager.

2.2 Application for Registration of the FICE

(1) Name Search and Reservation

The registration process of a FICE starts with name availability search. We suggest that you create 3 to 4 names (in Chinese) in case that the preferred one is gone. We will then perform a name availability search with the local industry and commerce administration bureau and confirm with you their availability.

The name of the FICE should follow the format:
Administration Region + Business Name + Industry + Limited or
Business Name + Industry + (Administration Region) + Limited

For example: ABC Trading (Shenzhen) Limited

(2) Examination and Approval

As for the timing of approval, Approval Authorities are required to make its decision within 45 days from receipt of all the documentation.

(3) Registration for Business License

Within 30 days after obtaining the approval certificate, the foreign investor will need to register and apply for a business licence for the FICE from the local AIC.

Once the business license is issued, the FICE is deemed to be a legal person duly organised and existing under PRC law and will have full operational rights to operate a business in China within the scope of its Business Licence.

2.3 Post-registration Procedures

Once after the FICE is officially registered, it also needs to apply for various certificates from or apply for registration with the following government departments:

- (1) Carving of Company Seal and Chops
- (2) Opening of bank accounts
- (3) Tax Registrations
- (4) Application of “Enterprise Code”
- (5) Apply for registration with Foreign Exchange Control Bureau
- (6) Finance Registration

2.4 Qualification of Normal Tax Payer

Immediately after registration, the FICE is considered as a small scale tax payer when it is incorporated. If you want to be treated as a normal tax payer for the purpose of issuing VAT tax invoices, then you must apply for normal tax payer qualification within the first 3 months upon the issuance of tax registration certificate or within 3 months after the occurrence of first sale.

The FICE is not allowed to issue VAT invoice and apply for VAT refund on export goods until it obtains normal tax payer qualification.

Our service fee for applying normal tax payer qualification is **USD850** (tax exclusive). The whole procedures will be completed within around 1 month.

3 Estimated Time Frame

It is estimated that the whole registration process would take around 2-3 months weeks. The table below shows the estimated time frame for each of the steps for the registration process.

Step	Description	Who is Responsible	Working Days
Preliminary			
1	Legalisation of Incorporation Documents	Investor	Investor's schedule
2	Tenancy (Lease) Agreement (for the office to be used by the FICE)	Investor	Investor's schedule
3	Banker's Reference Letter	Investor's Banker	Investor's schedule
4	Other documents	Investor	Investor's schedule
Application for Registration			
5	Perform Name available search	Kaizen	1
6	Application for Approval of Use and Reservation of Proposed Company Name	Kaizen	1
7	Project Approval	Kaizen	30
8	Application for FICE Business Licence	Kaizen	5
Post Registration Procedures			
9	Application for Approval and Carving of Company Seals	Kaizen	2
10	Approval and Issuance of Enterprise Code and Certificate	Kaizen	3
11	Perform Local Tax Registration and State Tax Registration,	Kaizen	1
12	Perform Foreign Exchange Registration	Kaizen	1
13	Opening of bank accounts	Kaizen	10
14	Customs Registration	Kaizen	3
15	Finance Registration	Kaizen	1
			2-3 months

4 Estimated Cost

4.1 Registration Costs

(1) Registration Service Fees

On the basis that:

- (a) we prepare most of the documentation;
- (b) the corporate structure of the investor is straightforward (if there are two or more investors in the FICE, this is likely to add considerably to documentation, timetable and costs);
- (c) the application process proceeds smoothly, and no additional permit is required

our fees are **USD2,400** (tax exclusive). The Business Tax of 6% would be applicable if Chinese tax receipt (Fapiao) is required.

(2) Translation Costs

Our service charge stated in Section 4.1 does not cover translation costs for translating the documents prepared by you from English to Chinese or translation of registration documents from Chinese to English. The cost for translation is around USD25 per page of A4 size. We will arrange the translation on your behalf and the translation cost will be billed separately with supporting official tax receipt issued by third party translating company.

(3) Legalisation Costs

Our fees quoted above do not cover the legalisation of the identity documents of the shareholder/member. As required by the regulations, the identity documents of the shareholder/member are required to be legalised by the Chinese Embassy in the country where the shareholder/member is registered/resided.

(4) Official Filing Fees

Our service fees stated in Section 4.1 above also does not cover any official registration filing fees which are calculated based on the registered capital of the FICE. For a FICE with a registered capital of RMB500,000, the official registration filing fees are around USD450. The official registration filing fees will be billed with supporting official receipts issued by the relevant business registration authority.

(5) Bank account opening, Internet banking facility

Our service charge stated in Section 4.1(1) does not cover the setting up of bank accounts for the WFOE. Our fees for assisting the opening of bank accounts are USD450.

(6) Setting up social security account

For the purpose of enabling the company to pay social security contribution for its employee, the WFOE is required to set up a social security contribution. We could assist you to do so for a fee of USD100.

4.2 Summary of Registration Costs

Summary of costs related to the registration of the proposed WFOE in Shenzhen is listed in the table below:

Item	Description	Amount (USD)
1	Documents Legalisation	N/A
2	WFOE Registration service fees	2,400
3	Bank account opening service	450
4	Social security account opening	100
5	Official filing fees	450
6	Disbursements	200
	Subtotal	3,600
7	Qualification of Normal Tax Payer	850
	TOTAL	4,450

4.3 Payment Terms

Our service fees are to be billed and settled in three instalments as stipulated below and out-of-pocket expenses are required to be paid in advance.

(1) First instalment

The first instalment of 70% of sum stated in the table above is to be paid upon signing of engagement letter. Legalisation costs should also be included in the first instalment if we are being engaged to handle the legalisation.

(2) Last instalment

The balance of our service fees together the official registration and filing fees are to be paid within one week after the whole registration process, that is, the registration procedures listed in Section 2, is completed.

5 Required Documents and Materials

The following documents and materials needed to be prepared by the application before submitting an application for registration:

- (1) Proposed company names.

The name of the WFOE should follow the format:
Administration Region + Business Name + Industry + Limited or
Business Name + Industry + (Administration Region) + Limited
For example: ABC Trading (Shenzhen) Limited

- (2) Legalised Identity Documents of the Shareholder/Investor

2 copies of the investor's identity or incorporation evidence (i.e. passport for individual foreign investor and Certificate of Incorporation and/or Registration Certificate for corporate foreign investor); the investor's identity or incorporation document shall be legalised by the Chinese Embassy or Consulate in the country where the investor is from or registered;

- (3) Tenancy Agreement

2 copies of Tenancy Agreement of the office or store premise to be used by the proposed FICE. Please note the term of the agreement shall not be less than 12 months and the usage of the premise shall be for commercial use. And the Tenancy Agreement shall be signed by the investor or proposed legal representative of the FICE and must be registered with the House Management Bureau. Photocopy of the property ownership certificate of the premise and the identity certificate of the owner (i.e. certificate of enterprise code for corporate owner or identity card of individual owner) shall be provided as well;

- (4) Banker's Reference Letter

a credit standing certificate (a banker's reference letter) of the FICE investor issued within 6 months, which shall indicate the name of the investor, the credit standing and/or the balance of the account (the deposit shall equal to the registered capital of the FICE);

- (5) Latest Audited Financial Statements

The latest audited finance statements of the corporate investor provided that it has been set up for more than 1 year.

Please note that all the procedures stated above would enable the company to carry out domestic trading business. In any case that the company also intends to engage in international trading business, it is required to apply the Foreign Trade Operation Registration (Schedule 1).

Schedule 1 - Foreign Trade Operator Registration

According to Chinese laws and regulations, you are required to complete the following Foreign Trade Operator Registration procedures before you are allowed to conduct import and export business in your own name.

1 Our scope of services

- 1) filing Foreign Trade Operator Registration Form with the Trade and Industry Bureau, which will be completed within 5 working days;
- 2) handling E-Port registration procedures, which will be completed within 5 working days;
- 3) handling registration of foreign exchange verification and cancellation for import and export with Foreign Exchange Control Bureau, which will be completed within 15 working days; (Please note the FICE must assign its employees to attend the training course organized by government authorities.)
- 4) handling inspection and quarantine registration, which will be completed within 3-5 working days. (Please note the foreigner must conduct physical examination in China and submit health certificate to the authority.)

The whole procedures will be completed within 1 month if everything runs smoothly.

- 2 Our service fee for the above services is **USD850** (excluding taxes). The government filing fee will be billed separately.

Schedule 2 - Capital Verification

The first instalment of 15% of the registered capital shall be contributed within 90 days after the business license of the FICE has been issued according to Chinese laws and regulations. And within 30 days after the payment, the FICE shall employ an accounting firm registered in China to verify the capital and issue a capital verification report. The capital verification report shall be submitted to the industrial and commercial administration authority and tax authority for filing. And the Business License of the FICE shall be changed accordingly.

Capital verification is required for each instalment payment. Our service fee for the each instalment is **USD550** (excluding taxes).