

Law of the PRC on Wholly Foreign-Owned Enterprises

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Adopted at the Fourth Session of the Sixth National People's Congress on April 12, 1986

Amended in accordance with the Decision on Amending the Law of the PRC on Wholly Foreign-Owned Enterprises adopted at the 18th Session of the Standing Committee of the Ninth National People's Congress on October 31, 2000

Amended in accordance with the Decision on Amending Four Laws Including the Law of the PRC on Wholly Foreign-Owned Enterprises adopted at the 22nd Session of the Standing Committee of the Twelfth National People's Congress on September 3, 2016

Note: This Law was repealed on January 1, 2020 upon the entry into force of the Foreign Investment Law of the PRC. It is preserved here for historical and reference purposes.

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Article 1 — This Law is enacted for the purposes of expanding economic cooperation and technological exchange with foreign countries and promoting the development of China's national economy. The People's Republic of China permits foreign enterprises and other economic organizations or individuals (hereinafter referred to as "foreign investors") to establish wholly foreign-owned enterprises within the territory of China and protects the lawful rights and interests of such enterprises.

Article 2 — For purposes of this Law, "wholly foreign-owned enterprises" means enterprises established within the territory of China in accordance with Chinese laws and regulations, with capital invested exclusively by foreign investors. Such enterprises do not include branches established within the territory of China by foreign enterprises and other economic organizations.

Article 3 — Wholly foreign-owned enterprises shall be established in such a manner as to facilitate the development of China's national economy; the State may encourage the establishment of export-oriented or technologically advanced wholly foreign-owned enterprises. The sectors in which wholly foreign-owned enterprises are prohibited or restricted from being established shall be prescribed by the State Council.

Article 4 — Investments made, profits earned, and other lawful rights and interests of foreign investors in China shall be protected by Chinese law. Wholly foreign-owned enterprises must comply with Chinese laws and regulations and shall not impair the public interests of China.

Article 5 — The State shall not nationalize or expropriate any wholly foreign-owned enterprise. Under special circumstances, the State may, as required by the public interest, expropriate wholly foreign-owned enterprises in accordance with legal procedures and provide corresponding compensation.

Article 6 — An application for the establishment of a wholly foreign-owned enterprise shall be submitted for examination and approval to the department in charge of foreign economic relations and trade under the State Council or to an authority authorized by the State Council. The examining and approving authority shall decide whether to approve or disapprove the application within 90 days from the date of receipt of the application.

Article 7 — Within 30 days after the approval of the establishment of a wholly foreign-owned enterprise, the foreign investor shall apply for registration with the administrative department for industry and commerce and

obtain a business license. The date of issuance of the business license shall be the date of establishment of the enterprise.

Article 8 — A wholly foreign-owned enterprise that meets the conditions for being a Chinese legal person shall acquire the status of a Chinese legal person in accordance with the law.

Article 9 — A wholly foreign-owned enterprise shall invest funds in China within the time limit approved by the examining and approving authority. Where it fails to invest within the prescribed time limit, the administrative department for industry and commerce shall revoke its business license. The administrative department for industry and commerce shall inspect and supervise the investment situation of wholly foreign-owned enterprises.

Article 10 — Where a wholly foreign-owned enterprise undergoes division, merger, or other major changes, it shall report to the examining and approving authority for approval and undergo the change of registration with the administrative department for industry and commerce.

Article 11 — Wholly foreign-owned enterprises shall conduct their business and operational activities in accordance with the approved articles of association and shall not be subject to interference. They shall submit their production and business plans to the department in charge for filing.

Article 12 — When employing Chinese workers, wholly foreign-owned enterprises shall enter into contracts with such workers in accordance with the law, specifying matters concerning employment, dismissal, remuneration, welfare benefits, labor protection, and labor insurance.

Article 13 — The workers of wholly foreign-owned enterprises may establish trade union organizations and carry out trade union activities in accordance with the law, so as to protect the lawful rights and interests of the workers. Wholly foreign-owned enterprises shall provide necessary facilities for the activities of their trade unions.

Article 14 — Wholly foreign-owned enterprises shall establish account books in China, conduct independent accounting, submit their financial and accounting statements in accordance with the relevant provisions, and accept the supervision of the financial and tax authorities. Where a wholly foreign-owned enterprise refuses to establish account books in China, the financial and tax authorities may impose a fine on it, and the administrative department for industry and commerce may order it to cease its business operations or revoke its business license.

Article 15 — A wholly foreign-owned enterprise may procure raw materials, fuels, and other materials from the international market or from the Chinese market within the scope of its approved business operations; it may do so directly or through an entrusted agency on terms of equal treatment with its Chinese counterparts.

Article 16 — The insurance coverage of wholly foreign-owned enterprises shall be taken out with insurance companies in China.

Article 17 — Wholly foreign-owned enterprises shall pay taxes in accordance with the provisions of the relevant state tax laws and may enjoy preferential treatment in respect of tax reduction or exemption. Where a wholly foreign-owned enterprise reinvests its after-tax profits in China, it may apply for a refund of part of the enterprise income tax already paid on the reinvested amount in accordance with state provisions.

Article 18 — Wholly foreign-owned enterprises shall handle their foreign exchange matters in accordance with the regulations of the State on foreign exchange control. Wholly foreign-owned enterprises shall open bank accounts with banks designated to handle foreign exchange business. The lawful after-tax profits of foreign investors and other lawful earnings, as well as the remaining funds upon liquidation of the enterprise, may be remitted abroad. The lawful Renminbi earnings of foreign investors and foreign workers may be purchased for foreign exchange and remitted abroad in accordance with the law.

Article 19 — The term of operation of a wholly foreign-owned enterprise shall be proposed by the foreign investor in its application for establishment and approved by the examining and approving authority. Where an extension of the term of operation is required upon expiration, an application shall be submitted to the examining and approving authority 180 days prior to the expiration. The examining and approving authority shall decide whether to approve or disapprove the extension within 30 days from the date of receipt of the application.

Article 20 — Upon the termination of a wholly foreign-owned enterprise, timely public notice shall be given and the enterprise shall be liquidated in accordance with the statutory procedures. Pending the completion of the liquidation, a foreign investor shall not dispose of the enterprise's property.

Article 21 — Where a wholly foreign-owned enterprise, in violation of the provisions of this Law, fails to invest funds in China within the prescribed time limit, or fails to establish account books in China, or engages in other activities in violation of this Law, the relevant departments shall handle the matter in accordance with the law.

Article 22 — Where any dispute arises between a wholly foreign-owned enterprise and another enterprise, organization, or individual, the dispute shall be resolved through consultation or mediation, or through arbitration or judicial channels in accordance with the provisions of the contract or the law.

Article 23 — The State Council shall formulate implementing rules for this Law in accordance with this Law.

Article 24 — This Law shall take effect on the date of promulgation.

Disclaimer: This English translation is provided for informational and historical reference purposes only. This Law was repealed on January 1, 2020 and replaced by the Foreign Investment Law of the PRC. While every effort has been made to ensure accuracy, this is not an official translation. The original Chinese text as published by the National People's Congress of the People's Republic of China shall prevail in all legal matters. Neither Dan Young Business Consultancy nor any of its affiliates shall be held liable for any loss or damage arising from reliance on this translation. For official legal advice, please consult qualified legal professionals.