



Doing Business in China

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International Accountants

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Doing Business in China

LehmanBrown International Accountants has proudly been supporting enterprises in China since 2008 and the Doing Business in China guide was created for providing current information about the financial, regulatory and legal considerations that could affect business dealings within China.

To enquire further about any of the information discussed here, please contact any of the LehmanBrown offices via email at enquiries@lehmanbrown.com.

Country Overview

Population

China has a total population of 1.39 billion inhabitants (January 2019)

Government

The current president of the People's Republic of China (PRC) is Xi Jinping since March 14, 2013. China is governed by the Communist Party of China (CPC) with the president possessing full power over all state and government affairs. The party's members elect the President and Vice President in the National People's Congress for a specific term. The next election is expected to be held in March 2023.

There is a total of 23 provinces, five autonomous regions (Tibet, Inner Mongolia, Guangxi, Xinjiang, and Ningxia), and four municipalities (Beijing, Shanghai, Chongqing, and Tianjin.).

Languages

The national language is Chinese or Mandarin, which is based on the Beijing dialect. However, there are many more that are spoken locally like Wu (Shanghainese), Yue (Cantonese), or Tibetan in Xizang.

Currency

The national currency is the Renminbi.

Economic summary

- GDP: \$14.14 Trillion USD (2019)
- Income per capita: \$10,263.74
- Inflation: 2.4%

Main sectors of the economy

China is one of the largest market economies in the world when taking into account its population and total economic production. Data has confirmed that China since 2010 has been the world biggest exporter and the world's second-largest importer of merchandise goods. China, however, is undergoing economic reform away from investment and towards consumption, eventually leading China to become a service-led economy.

Overall, China is extremely well connected with many ports of entry for business. To facilitate the transportation of large quantities of goods and people, China is home to several of the world's biggest container ports and airports in the world.

The country's most important industrial activities include metal mining and ore processing, coal, consumer products, food processing, transportation equipment, and telecommunications equipment.

United States, Hong Kong, Japan, South Korea, Vietnam, and Germany, are the country's main import partners.

Setting Up a Business

China offers excellent opportunities for investors. When setting up and maintaining operations in China, it is essential that companies fully understand and comply with PRC regulations due to the links between business and the political environment. Before setting up the business in China, a company should know the legal types of business entities that foreign investors can establish, and then choose the most suitable one for the nature of the planned business in China.

Legal types of business entities

1. Wholly Foreign Owned Enterprise (WFOE)

A wholly foreign-owned enterprise is 100% owned by foreign investors. The Foreign Invested Enterprise Law (FIE) governs the establishment of a wholly foreign-owned enterprise.

2. Representative Office (RO)

A Representative Office can be set-up by a foreign company to render preparatory services such as liaison, and coordination on behalf of its parent company. It is essential that a representative office cannot engage in any direct profit-making activities, except for specific industries, such as law, accounting, and audit services.

3. Joint Venture (JV)

An arrangement between two or more parties that are foreign and local, and covered by the FIE regulations.

Process of how to set up a business

1. Apply for an official Chinese business name.
2. Apply for Business License.
3. Register for taxes at the Tax Bureau.
4. Application for chops / seals.
5. Register the business at other relevant authorities.
6. Open bank accounts.

Financial Year of Taxes and Financial Accounts

The financial year for all tax in the calendar year is from the 1st January to 31st December.

Accounting and Auditing

By law, all foreign enterprises are required to have a statutory annual audit performed by a firm of Certified Public Accountants. These enterprises will have to provide the following:

1. Annual Report;
2. Audited Financial Report;

Economic and Fiscal Incentives

China has established more and more Free Trade Zones. The most popular zones in China are Shanghai, Tianjin, and Guangdong. FIEs can operate in the Free Trade zones with more business autonomy and sometimes tax reductions and other incentives.

Setting Up a Business

Incentives for Foreign Investors / Local Investors

Different regions in China's Free Trade zones conduct their own incentive policy. The local government authorities will primarily focus on the business scope and registered capital of the companies before providing incentives.

Taxation

The tax system in any given country is invariably a fundamental criterion when it comes to companies finding a country of incorporation. The Chinese government is pursuing a tax reform, focused on a general reduction in the overall tax burden for creating a better tax environment for businesses and individuals.

In that framework, it is possible to obtain preferential tax policies, especially for small and micro businesses, and manufacturing businesses in specific industries.

In addition, China has signed tax treaties with many other countries to prevent the occurrence of double taxation.

At the same time, Chinese tax authorities are paying more attention to the compliance of non-resident enterprises and issued Guidelines on Withholding Tax at Source for Non-Resident Enterprises.

The Chinese tax system can be divided into five categories, namely commodity and service taxes, income taxes, property and behaviour taxes, resource taxes, and taxes for special purposes. Among all the types of taxes there are Value-Added Tax (VAT), Corporation Income Tax (CIT) and Individual Income Tax (IIT) which are the most closely linked to doing business.

VAT

Enterprises are divided into general payers and small-scale payers for separate VAT calculation methods.

The general VAT rate for trading and importation is 13%.

For transportation services, postal services, basic telecommunication services, construction services, real estate, and selling or importing special goods, the rate is 9%.

On modern services, the rate is 6%.

Individual Income Tax (IIT)

The tax base for income tax purposes is divided into the following:

1. Comprehensive income;
2. Income from operation;
3. Interest, dividends;
4. Income from lease of property;
5. Income from transfer of property;
6. Contingent income; and
7. Other taxable income determined by the financial authorities of the State Council.

IIT is levied on comprehensive income at the progressive rates from 3% to 45%.

Taxation

Foreigners working in China have special exemptions until 2021 for housing, schooling, meal and laundry, flights home, etc. And local employees now can claim six deductions from their taxable income.

Corporate Income Tax

All domestic enterprises and FIEs are subject to Corporate Income Tax (CIT) at a unified tax rate of 25%. However, location and industry incentives can be sought, and SMEs have special incentives of 5% on the first RMB1m and 10% on the next RMB2m profit. However, once above RMB3m, all profit reverts to 25% as it is not progressively applied. RO's are taxed on a deemed profit method or actual profit, depending upon their type.

Registration Procedures

After obtaining the business license, a newly incorporated enterprise or an RO is required to perform basic tax registrations with the local branch of the state tax bureau will provide a Tax Registration Certificate.

Urban Construction Tax and Education Surcharge

All foreign entities in China are liable for this surcharge. The surcharge is calculated based on the VAT paid, and the rates range from 6% - 12% of the VAT.

Social insurance

All enterprises must register with the local social insurance bureaus, participate in social insurance schemes and pay social insurance premiums monthly based upon the average monthly comprehensive income from the past year to the time of the annual reset, which varies by location. The portion of the payable premium by individual workers will be withheld and deducted from their salary and paid to the relevant authorities by the enterprises, and enterprises also have a company contribution. The amount payable depends on location. Foreigners are subject to social insurance on all parts except the housing fund. Social welfare covers five insurances and one fund:

1. Basic Pension
2. Basic Medical Insurance
3. Work-Related Injury Insurance
4. Unemployment Insurance
5. Maternity Insurance
6. Housing Fund (local only, not expatriates)

Withholding taxes (WHT)

The most common withholding tax rate is 10% on revenues derived by a non-resident from China. Such revenues include:

1. Dividends
2. Interests
3. Royalty
4. Rental
5. Other passive income

The rate may be reduced depending on the relevant tax treaties. For instance, certain countries have

Taxation

a reduced WHT on dividends of 5% in their Double Taxation Agreement (DTA) with China. To take advantage of DTA benefits there must be substance within the organisation and the use of a preferential DTA not related to using the DTA for tax reduction purposes.

Some DTAs have a reduced rate on royalties and loan interest.

HR / Labour Law

Employment law

The Labour Contract Law of the People's Republic of China is the primary source of labour law in China effective since January 1, 2008. The law is comprehensive on all the rights employees have, which must not be violated. It covers areas such as severance pay, probationary periods, lay-offs, non-compete clauses, and collective bargaining. An amendment which took effect on July 1, 2013, tightens the hiring of dispatched employees and better protect their interests.

Employees are required to have a formal contract of employment in place within one month of their employment. Failure to arrange this causes the company to pay double salary until such a time as this is in place, up to one year, and thereafter double salary becomes permanent.

Normally the staff contract will reference the Staff Handbook, which is a company policies book, abiding by labour law, but also it can include other policies such as leave policy, training policy, use of IT policy, policy against fraud, creation of IP policy etc.

Social Welfare

There are five distinct categories of the social welfare system that employers should be aware of:

1. Pension
2. Medical Insurance
3. Unemployment Insurance
4. Maternity Insurance
5. Work-related Injury Insurance

Both the employer and employee contribute to each of the abovementioned categories, but at different percentages.

Due to the variation in regulations issued by different local governments, also many different factors can determine how much each employee is entitled to, for example, the amount to contribute may vary depending on the employee's Hukou (national identification Card), nationality, employment type (full-time/part-time), and location of work etc.

Total Social Welfare Rates for the Top Five Cities in China

The Social Welfare rates are based on the monthly average salary of employee in the previous year. The limits of the Social Welfare contribution is based on three times the city's average salary the previous year.

HR / Labour Law

	Employer Rates	Employee Rates
Beijing	27.8% -29.5%	10.2%+RMB3
Shanghai	27.2%-28.9%	10.5%
Shenzhen	SZ Hukou: 20.55% - 22.25% Non SZ Hukou: 19.55% - 21.25%	10.3%
Guangzhou	21.2% + RMB24.23 22.9% + RMB24.2	10.2%
Tianjing	≈	10.5%

Pension

The retirement age in China currently is 60 for men and 55 for female civil servants and 50 for female workers. Anyone within the specific age range who has paid into the pension system for a minimum of 15 years can get a Government pension, including foreigners.

Payroll

When starting a business and employing staff, the company must register an employee to the social security and tax authorities on the first month of employment.

Companies must be in line with national and local minimum salary standards. Employers in China have to withhold the monthly social welfare and individual income tax and pay as withholding agents.

Visa and Work Permits

A visa is required for expatriates working in or moving to China, along with their accompanying family members. Before their departure to China, expatriates need to apply for a visa at a Chinese diplomatic mission, embassy, consulate or other representative offices in foreign countries authorised by the Chinese Ministry of Foreign Affairs.

All applicants for a work-type visa in China are split into three categories – A, B and C. The categories are awarded according to a score out of 85, points are awarded according to the different criteria the individual fulfils. Those with a score of 85 become category A, those with a score 60-84 are Category B, and those below 60 are category C. The work visa processes in China are particularly bureaucratic and time consuming especially for category B and C, though the Government is making efforts to improve this.

Most expatriates planning to work in China will first have a Z-visa which has a validity of 30 days. To work in China for more than 30 days expatriate on arrival to China have to apply for a work residence permit which can be valid for nine months or up to five years depending on local requirements.

Different cities and regions in China have slightly different requirements, and it is not unusual for local governments to have some special requirement beyond the state policy. Foreign entrepreneurs and investors including, recently graduated individuals, wanting to work or set up a business in China can benefit from the 2019 visa policies facilitating such individuals to apply for a working visa, and for receiving either a five-year residence permit or a permanent residence permit.

Chinese Court / IP Protection

China's Judicial System

Under the Constitution of the PRC and the Organic Law of the People's Courts, China has a four-court system and Special Jurisdiction Courts.

The Supreme People's Court (SPC) is based in Beijing, checking that legal procedures are in adherence to the laws and regulations in all the courts underneath it, including Special Jurisdiction Courts. There are six circuit courts outside the capital with the same powers used for resolving cross-provincial cases within their jurisdiction.

The Local People's Courts represent the remaining three levels of the court system composed of the High People's Courts (for Provinces, Autonomous Regions, and Special Municipalities), Intermediate People's Courts (for Prefectures, Autonomous Prefectures, and Municipalities), and Basic People's Courts (for Counties, Town, and Municipal Districts). These courts are courts of first instance and handle criminal and civil cases.

Lastly Courts of Special Jurisdiction operate under the jurisdiction of their respective High Court, and they are composed of Military Court, Railway & Transport Court, Maritime Court, Internet Court, Intellectual Property Court, and Financial Court.

Arbitration

China has established two systems of arbitration one foreign and the other domestic. Foreign arbitration began in the mid-1950s. At that time, according to the relevant decisions of the State Council in 1954 and 1958, the China Council for the Promotion of International Trade (CCPIT) established the Foreign Trade Arbitration Commission in 1956, the Maritime Arbitration Commission in 1959, and formulated corresponding arbitration rules. From the very beginning, China's foreign arbitration has followed the internationally accepted principles of civil arbitration, voluntary arbitration and the final ruling.

Compared with foreign arbitration, the development of domestic arbitration in China is much more complex.

Dispute Resolution

Contractual Disputes between parties one Chinese and the other foreign will have stated the law to be applied in handling the Dispute. If no law is nominated, the law of the country with the closest link to the contract shall be applied.

All contracts relating to Sino-foreign equity joint venture, Sino-foreign cooperative enterprise and Sino-foreign contracts for the cooperative exploitation and development of natural resources in China shall be ruled by the law of the PRC.

Commercial disputes are often resolved via negotiation. However, an increased number of disputes eventually advance to Litigation or Arbitration. Any judgments, arbitral awards or mediation agreements which possess legal effect made by the people's court must be applied.

Lawsuits, or applying for arbitration stemming from an international contract for the sale of goods or a contract for the import and export of technology, must be filed within four years from the date of the infringement.

Trademarks, Patents, and Copyright

Trademarks

China is a first to file jurisdiction, not a first to use, i.e. the rights to a mark go to the first person who has filed with the Trademark Bureau for the relevant category. Normally, before submitting a trademark for registration, a preliminary search is carried out at the China Trademark Office to see if there may be any complete marks that could hinder a registration.

Foreign businesses that want to register a trademark but do not have a permanent address in China must get an Intellectual Property Agent to do the filing for them, and all documentation submitted must be in Chinese.

There are a total of 42 classes of trademarks in China, which when registering a trademark at least one of the classes must be chosen, but multiple can be selected depending upon the nature of the business that the trademark will cover.

Once the trademark registration has been submitted, the China Trademark Office will look over the documentation to make sure that the trademark is not similar or identical to the existing registered trademarks. After the trademark office has looked over the trademark, it will give a preliminary approval and publish the trademark on the preliminary examination gazette.

Under China's Trademark Law, the trademark at that point can be opposed within a period of three months.

In the optimal situation where there are no oppositions after three months, the trademark will register the trademark and publish the registration in the Trademark Gazette.

Patents

All patents in China are done on a first come first serve basis. Translations are a vital part of the patent application since all patent applications must be made in Chinese. Each translation must be as close to the original patent application as possible as the Chinese translation will prevail over the foreign one.

Inventors or their employers must submit the patent application in Chinese, to the Patent Office of the Chinese State Intellectual Property Office (SIPO) where it will be examined.

Types of patents

Inventions Patent – Innovations in technology which are state-of-the-art and practical to apply. The time for registration completion is three to five years, and patents last 20 years from the filing date.

Utility Model Patent – New technical solutions regarding shape and or structure of an object. The time for registration completion is one year and patents last 10 years from filing date.

Design patent - Designs relating to shape, pattern, colour or a combination of an object. The time for registration completion is one year and patents last ten years from filing date.

The Patent Rights begin from the date of the publication in the Patent Gazette.

Trademarks, Patents, and Copyright

Ways to Submit Patents

Foreign companies without a registered office in China must find a professional local patent attorney to handle the filing of the patent. SIPO will assess both the professional presentation and conduct of both the attorney and the patent application.

It is possible to file a patent application in a foreign country, but it must be a Member State of the Paris Convention, and then submit another patent application in China within 12 months stating the priority date of the first application.

Another method to acquire a patent in China is to submit an international patent application under the Patent Cooperation Treaty (PCT) designating China. Further rules dictate that the applicant has to begin the “National Phase” with the Chinese Patent Office 30 months before the priority date. The Chinese patent application must be in Chinese, which will be used to determine the extent of the protection.

Patent Enforcement

In case of infringement, it is advisable to file an Infringement Complaint with the courts of Beijing, Shanghai or Guangzhou, due to their experience in handling such cases. It is also recommended to hire a local investigation firm as the complaint will have to be proven in court.

The Intellectual Property Office (IPO) can offer assistance for cases where there is a design patent infringement at a trade fair or to mediate between patent disputes.

Copyright

China follows the Berne Convention when it comes to protecting copyright, and protects literary, artistic, oral works, architecture, software, and scientific works. Copyright registration is not obligatory, and Copyright protection usually lasts for 50 years.

Protection of specific works may overlap between copyrights and trademarks, as well as copyrights and patents. Software is an example where it can be protected with a patent and copyright.

PRC's National Copyright of Administration (CNAC) is responsible for registering copyrighted works. The procedure requires the submission of a sample of the work to the CNAC and Copyright Protection Centre of China (CPCC) who will examine the application and then issue the certificate if all checks are cleared.

However, the CNAC and CPCC are part of the Central Propaganda Department's Control and will take a closer look at press, media, and publication materials.

Contact us

The guide is not exhaustive and it is strongly recommended to those interested in doing business in China to approach LehmanBrown for professional advice before proceeding with any business of investment decisions.

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LehmanBrown is a licensed China-focused accounting, taxation and business advisory firm, operating dedicated offices in Beijing, Tianjin, Shanghai, Shenzhen, Guangzhou, Hong Kong and Macau, and with an extensive affiliate network throughout China and in over 100 countries worldwide.

LehmanBrown combines years of international expertise with practical China experience and knowledge, offering expert advice and support to both local and international clients. We are committed to providing individually tailored financial and business solutions for each of our clients, recognizing that each client is different. Through offering “whole of life” services, LehmanBrown offers clients assistance throughout every step of their business life cycle, from pre-conception to afterlife. LehmanBrown is registered with the PCAOB in the US and is able to conduct SEC work, as well as being accredited by accounting bodies in the UK and Australia.

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综合多年的国际经验以及对中国市场的深刻理解和洞察，我们致力于为本地区及国际客户提供高质量的专业服务和支持。我们了解每位客户都是独一无二的，承诺为每一位客户量身打造适合自身的财务和商业解决方案。从前期策划到市场退出，雷博通过提供“全生命周期”服务，为客户在不同商业生命周期的每一个阶段提供协助。雷博在美国公众公司会计监督委员会（PCAOB）已注册，有资质开展美国证监会（SEC）相关工作，同时在英国和澳大利亚也得到会计方面的专业认证。

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[China Statutory Audit](#)

US GAAP Audit

IFRS Audit

Hong Kong Statutory Audit

[Internal Audit](#)

Fraud Investigation

Forensic Accounting

[Special Purpose Audit](#)

Foreign Currency Audit

Royalty Audit

Capital Verification Audit

Valuation Services

[Corporate Valuation](#)

Damage Assessment Valuation Intellectual

Property Valuation Asset Valuation

Special Purposes Valuation

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M&A Integration

Financial Due Diligence

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Cash Flow Management

Chop Custodian Services

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Updating Company Certificates

Annual Inspection & Reporting

Company Secretarial Services

Company Ownership Transferring/Corporate

Restructuring Background/Credit Checking

Company Deregistration & Bankruptcy

HR Support Services

China Visa Services for Expatriates

Social Welfare Structures

Outsourcing Services

Accounting & Bookkeeping

Budgeting & Forecasting Financial Statement

Preparation Head Office Reporting

Financial Management

Interim Financial Management Finance

Manager Function

CFO Function

Treasury Management

Set-up of Bank Account

Payroll Services

Payroll Processing Setup

Expatriate Employees

Local Employees

Secondment & Temping Service

Taxation Services

Individual Tax Planning (IIT)

Tax Immigration & Investment Review

US & Overseas Personal Income Tax Planning

& Filing IIT Tax Payment Facilitation

Application for Individual Income Tax Refund

Expatriate Staff Individual Income Tax Staff

Filing Local Staff Individual Income Tax

Company Taxation (CIT)

[Tax Consulting](#)

Corporate Tax Planning

Business Restructuring

Value Chain Review

Onshore / Offshore Investment

Transfer Pricing

[Tax Compliance](#)

Tax Due Diligence

Tax Deregistration

Negotiation of Tax Penalties

Tax Refund Application

Tax Representatives for Tax Audit

VAT & Customs Duty Clearance

PRC Tax Receipt Verification

VAT Application

VAT & Sales Tax Filing

Corporate Income Tax Reporting

Specialist Accounting & Risk Management

Internal Controls

Systems

Risk Management

Sarbanes - Oxley (SOX 404)

GAAP, SEC & IFRS Compliance

[US GAAP](#)

US GAAP Financial Statement Preparation

US GAAP Conversion

[Other GAAP](#)

GAAP Conversion

Public Company Compliance

Financial Statement Preparation

[IFRS](#)

IFRS Accounting Repackaging

IFRS Financial Statement Preparation

IFRS Public Company Compliance

[SEC](#)

SEC Public Company Compliance

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Review & Preparation of Employment Contracts

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Legal Due Diligence

Corporate Restructuring Advisory

Review & Preparation of Articles of Association (AoA)

Review & Preparation of JV Contracts

Review & Preparation of Repatriation Agreements

[Other Legal Services](#)

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Trademark & Intellectual Property Advisory

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Litigation Support

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如需为个人或企业获取更多的增值服务及业务协助信息，请与我们联系。

Beijing 北京

6/F, Dongwai Diplomatic Building, 23 Dongzhimenwai Dajie,
Beijing 100600, China
中国北京市朝阳区东直门外大街 23 号东外外交办公大楼 602
Tel: + 86 10 8532 1720
Fax: + 86 10 8532 2746
Email: beijing@lehmanbrown.com

Shanghai 上海

Room 1501 & 1504, Wan Tai International Building, No. 480
North Urumqi Road, Shanghai 200040, China
中国上海市静安区乌鲁木齐北路（华山路）480 号万泰国际大厦 1501 & 1504
Tel: + 86 21 6249 0055
Fax: + 86 21 6288 1636
Email: shanghai@lehmanbrown.com

Guangzhou 广州

Room 3317, China Shine Plaza, 9 Lin He Xi Road, Guangzhou
510610, China
中国广州市林和西路 9 号耀中广场 3317 室
Tel: + 86 20 2205 7883
Fax: + 86 20 2205 7880
Email: guangzhou@lehmanbrown.com

Shenzhen 深圳

Room 3206, News Building 2, Shennan Middle Road, Shenzhen
518027, China
中国深圳市深南中路 2 号新闻大厦 3206
Tel: + 86 755 8209 1244
Fax: + 86 755 8209 0672
Email: shenzhen@lehmanbrown.com

Tianjin 天津

Unit 2901-04, The Exchange Tower 2 189 Nanjing Road, Heping
District Tianjin 300051, China
中国天津市和平区南京路 189 号津汇广场 2 座 2901-04 室
Tel: + 86 22 2318 5056
Fax: + 86 22 2318 5001
Email: tianjin@lehmanbrown.com

Hong Kong 香港

Suite 03, 16/F, Sino Plaza, 255-257 Gloucester Road, Causeway
Bay, Hong Kong, China
中国香港铜锣湾告士打道 255-257 號信和廣場 16 樓 03 室
Tel: + 852 2426 6426
Fax: + 852 2426 6427
Email: hongkong@lehmanbrown.com

Macau 澳门

Level 20, AIA Tower, Nos 251A-301 Avenida Comercial De Macau,
China
中国澳门商业大馬路 251A-301 號友邦廣場 20 樓
Tel: + 853 8294 2434
Fax: + 853 8294 2399
Email: macau@lehmanbrown.com



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