

# ESTABLISHING & OPERATING ABUSINESS INCHINA 2016



#### Disclaimer

This edition of Establishing a Business in China was produced by a team of professionals at Dezan Shira & Associates, with Steven Elsinga and Rainy Yao as technical editors and Samuel Wrest as managing editor.

Creative design of the guide was provided by Jessica Huang and Estela Mi.

© 2016 Asia Briefing Ltd.

ISBN: 978-988-14804-6-0



## Introduction

One of the first choices a foreign investor coming to China faces is what type of entity to set up – or indeed, whether to set one up at all. Foreign investment into China can be made via one of several types of foreign-invested entities (FIEs). Choosing the appropriate investment structure for your business depends on a number of factors, including its planned activities, industry, and investment size.

Establishing a Business in China, produced in collaboration with the experts at Dezan Shira & Associates, explores the establishment procedures and related considerations of the Representative Office (RO), and two types of Limited Liability Companies: the Wholly Foreign-owned Enterprise (WFOE) and the Sino-foreign Joint Venture (JV). For information on the tax and HR concerns involved in the establishment process, or on how to access the Chinese market indirectly through an e-commerce platform, readers should refer to our separate guides on these subjects.

Dezan Shira & Associates is a specialist foreign direct investment practice providing corporate establishment, business advisory, tax advisory and compliance, accounting, payroll, due diligence and financial review services to multinationals investing in emerging Asia. Asia Briefing Ltd., the international publishing house that owns and produces the China Briefing portfolio of titles, is a wholly-owned subsidiary of Dezan Shira & Associates



Alberto Vettoretti Managing Partner Dezan Shira & Associates

seconder



## About Dezan Shira & Associates

At Dezan Shira & Associates, our mission is to guide foreign companies through Asia's complex regulatory environment and assist them with all aspects of establishing, maintaining and growing their business operations in the region. With over 20 years of on-the-ground experience and a large team of professional advisers, we are your reliable partner in Asia. Since its establishment in 1992, Dezan Shira & Associates has grown into one of Asia's most versatile full-service consultancies with operational offices across China, Hong Kong, India, Singapore and Vietnam, as well as liaison offices in Italy, Germany and the United States, and partner firms across the ASEAN region.

## An Overview of Our Services

Dezan Shira & Associates is a pan-Asia, multi-disciplinary professional services firm, providing legal, tax and operational advisory to international corporate investors. Operational throughout China, India and ASEAN, our mission is to guide foreign companies through Asia's complex regulatory environment and assist them with all aspects of establishing, maintaining and growing their business operations in the region. With more than two decades of on-the-ground experience and a large team of lawyers, tax experts and auditors, in addition to researchers and business analysts, we are your partner for growth in Asia.

- > Pre-investment, Market Entry Strategy Advisory
- > Business Model Comparison
- > Corporate Establishment
- > Business Strategy & Operation Advisory
- > Legal & Financial Due Diligence
- > International Tax Planning
- > Accounting & Reporting
- > Tax Compliance
- > Audit & Financial Review
- > Treasury Administration
- > Transfer Pricing
- > Information Technology Solutions
- > Payroll & Human Resource Administration



0

Dezan Shira & Associates Offices

• Dezan Shira Asian Alliance Members

## Contents

Ι.	Pre-investment Considerations	07
	1.1. Representative Office or Foreign-invested Entity	08
	1.2. Foreign-invested Entities: WFOEs and JVs	09
	1.3. Business license and business scope	10
	1.4. Registered capital	12
	1.5. Foreign-invested Partnerships	15
	1.6. Expense and Tax Planning	16
	1.7. Establishing a company in the Free Trade Zones	20
2.	Set-up Procedures	27
	2.1. Representative Office	28
	2.2. Wholly Foreign-invested Enterprise	31
	2.3. Issues specific to Sino-foreign Joint Ventures (JVs)	35
	2.4. Offshore holding companies	37
	2.5. Hong Kong and Singapore holding companies	38
3.	Operational Considerations	43
	3.1. Opening a bank account	44
	3.2. Intellectual Property considerations	46
	3.3. Foreign currency controls and profit repatriation	47
	3.4. Corporate seals	53
	3.5. Key positions in a Foreign-invested Entity	54
	3.6. Articles of association	56
	3.7. Establishing a branch	57
	3.8. Human Resources	58
	3.9. Taxes	62
	3.10. Changing a Business Scope	69
	3.11. Selling to China	71
4.	Changes to a Business and Closure	74
	4.1. Changes to a business	75
	4.2. Closing a Foreign-invested Enterprise	85
	4.3. Closing a Representative Office	88
	4.4. Audit Procedures	91



## The Premier Source of China Business Intelligence

China Briefing has been published online and in print since 1999 and is one of the leading sources for China business, law, tax and operational intelligence available for the foreign investor interested or doing business in or with China.



#### SUBSCRIBE TO CHINA BRIEFING

China Briefing Magazine

Our monthly series of technical magazines, focusing on specific legal, regulatory, tax and operational issues, will help you to successfully steer your China business.

#### » View our archives

### China Briefing Technical Guides

Get detailed, in-depth analysis of legal, tax and HR issues affecting foreign investors in China.

#### » *Read our technical guides*

#### 🦻 China Briefing Online

Discover the latest news and regulatory updates from our award winning, globally popular online resource.

#### » Subscribe to free updates



SEAN BRIEFING

INDIA BRIEFING

**Further Asian Resources** 

📥 Russia Briefing

**WETNAM BRIEFING** 



## **DEZAN SHIRA & ASSOCIATES**

Your Partner for Growth in Asia

#### China

- Beijing: +86 10 6566 0088 beijing@dezshira.com
- Dalian: +86 411 3957 3311 dalian@dezshira.com
- Dongguan: +86 769 33818020 dongguan@dezshira.com
- Guangzhou: +86 20 3825 1725 guangzhou@dezshira.com

#### India

 Delhi: +91 11 401 1219 delhi@dezshira.com

#### Vietnam

 Ho Chi Minh City: +84 8 6299 8294 hcmc@dezshira.com

- Hangzhou: +86 571 5685 9956 hangzhou@dezshira.com
- Ningbo: +86 574 8733 8682 ningbo@dezshira.com
- Qingdao: +86 532 6677 5461 qingdao@dezshira.com
- Shanghai: +86 21 6358 8686 shanghai@dezshira.com
- Mumbai: +91 22 6700 4843 mumbai@dezshira.com
- Hanoi: +84 4 3942 0443 hanoi@dezshira.com

- Shenzhen: +86 755 8366 4120 shenzhen@dezshira.com
- Suzhou: +86 512 8686 8717 suzhou@dezshira.com
- Tianjin: +86 22 5830 7666 tianjin@dezshira.com
- Zhongshan: +86 760 8826 9592 zhongshan@dezshira.com

#### Hong Kong

+852 2376 0334
hongkong@dezshira.com

#### Singapore

 +65 6521 2933 singapore@dezshira.com

#### Dezan Shira & Associates Asian Alliance Locations

#### Indonesia: Winnindo Business Consult

 +62 2131937020 indonesia@dezshira.com

#### The Philippines: Machica Group

+63 9173060208
philippines@dezshira.com

#### **Germany Liaison Offices**

- Stuttgart: +49 (0) 711 34 18 02 0 germandesk@dezshira.com
- Cologne: +49 (0) 221 940 21 00 germandesk@dezshira.com

#### Malaysia: Christopher Heng & Co.

+60 362571130
malaysia@dezshira.com

#### Thailand: Honor Audit & Advisory Co.

 +662 684 1299 thailand@dezshira.com

#### **Italy Liaison Office**

 Treviso: +39 0422 264026 italiandesk@dezshira.com

#### United States Liaison Office

+1 781 547 8649
usa@dezshira.com

Corporate Establishment | Due Diligence | Business Advisory | Tax | Accounting | Payroll | Audit

#### www.dezshira.com