

## Establishing your own business in China<sup>4</sup>

- ✓ Project Approval by National Development and Reform Commission
- ✓ Obtain Contracts and Articles of Association from Commerce Department of China
- ✓ Register at Industrial and Commercial Administration department
- ✓ Register at the taxation, customers and foreign exchange authorities and at the banks.

## List of documents required from a Foreign Legal Entity<sup>5</sup>

- ✓ Certificate of Approval from Department of Commerce.
- ✓ Business licenses
- ✓ Registration certificate
- ✓ Audited latest corporate financial statements
- ✓ Capital credit certificate issued by the bank
- ✓ Position paper on planning and site selection issued by the provincial planning authority
- ✓ Position paper on the preliminary review of the land use of the project issued by the provincial or national land resource authority
- ✓ Industrial and commercial registration and credit certificates
- ✓ List of directors



The Forbidden City, Beijing

## Conclusion

The market entry strategy depends on the company's short- and long-term views on its potential to grow in the Chinese construction market. These approaches are not exclusive of one another, and the company may wish to consider implementing, in tandem, a short- and a long-term business plan.<sup>6</sup>

Specialized Economic Zone (SEZ) is recommended as options for US architecture and construction firms to enter since cities and provinces identified as SEZ have economic and other laws that are more free-market-oriented than typical or national laws.

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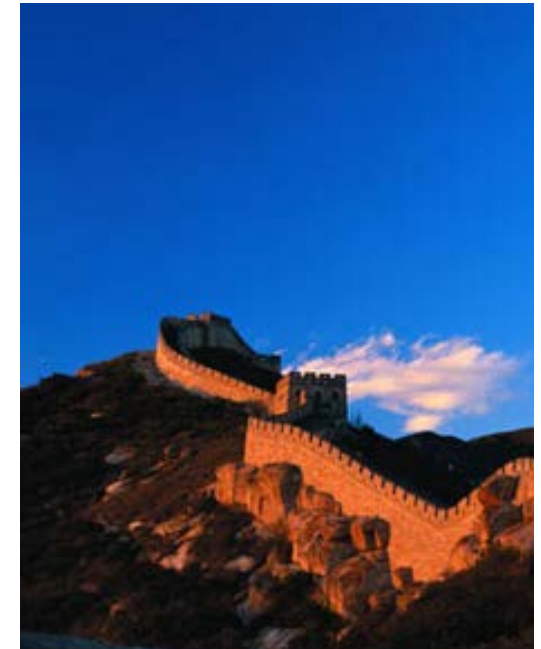
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## References

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# ARCHITECTURE & BUSINESS IN CHINA



*U.S. Department of Commerce*



*Bird's Nest, Beijing*

## Why China?

The construction market in China has grown exponentially although more modestly since 2013. Demand for construction of energy efficient buildings will increase as China continues to rapidly urbanize. On March 16, 2014, the Chinese government issued the National New-type Urbanization Plan for 2014 to 2020, which aims to lift the proportion of Chinese citizens living in cities from the present 53.7% to 60% by 2020.

### Legal Issues

Despite the business opportunities in China, entering the Chinese market is no easy task. Domestic (Chinese) architecture firms still dominate the middle and low-end market and have a better understanding of local market needs and knowledge of government policies.

To enter China, foreign architecture should know their options and be aware of the different cultural, political and business environment they may face. Below are three options for consideration:<sup>1</sup>

1. Partner with Chinese Architecture firm
2. Establish a Consulting WFOE
3. Establish Architecture FIE or Acquire Equity in Chinese Architecture Company

### Regulations:

**Banking:** Currently the finance organizations in China are in a pattern that state-owned commercial banks dominate with diverse financial institutions developing side by side. The Big Four players are China Construction Bank, Bank of China, Agriculture Bank of China, Industrial and Commercial Bank of China. FIE shall take Foreign Exchange Certificate of FIE within 30 days after issue of Business License and open account in the designated bank for foreign exchange.

### Accounting and Tax

According to Chinese Accounting Standards (CAS), basic financial statements such as balance sheet, income statement (profit and loss account), statement of changes in equity, cash flow statement, and notes to financial statements are all required.<sup>7</sup>

City Maintenance and Construction Tax and Education Surcharge apply to foreign enterprises, foreign invested enterprises, and foreign individuals. Tax rates are 7 percent for taxpayers in urban districts of cities, 5 percent for taxpayers in towns, and 1 percent for taxpayers in other areas.<sup>2</sup>

In this scenario, for example, a foreign licensor would need to pay a total of China taxes at 15.5 percent of gross royalties (Business Tax—5 percent, Corporate Income Tax—10 percent, City Maintenance and Construction Tax—0.7 percent, and Education Surcharge—0.3 percent)<sup>3</sup>

### Leading Local Accounting companies:

1. Rihua CPA, 2. Shinewing CPA, 3. Jonten CPA

### Leading Local Law Firms:

1. King & Wood Mallesons, 2. Dacheng Law Office, 3. Fangda Partners

### For Architecture FIE:

1. Both the foreign and Chinese investors must have experience in construction engineering design work in their respective home country.
2. At least one-quarter of the certified practitioners of the wholly foreign-owned Architecture FIE must have obtained the qualifications of a Chinese certified architect or certified engineer. Foreign technical employees with relevant professional design experience must make up at least one-quarter of the total technicians.
3. The Architecture FIE is prohibited from undertaking design activities in China before obtaining the requisite qualification from the provincial level MOC<sup>1</sup>

### HR and Employment Laws:

Distribution of wages shall follow the principle of distribution according to work and equal pay for equal work, and in line with the national and local minimum salary standards. Employees are expected to work no more than 8 hours per day and on average no more than 40 hours per week.

FIE are supposed to participate in the social insurance systems of pension, unemployment, medical care, work injury and childbirth through regular and adequate payment to the insurance agencies.<sup>7</sup>



*Classical Garden of Suzhou, Jiangsu*