

Law of the People's Republic of China on Foreign-funded Enterprises

Promulgation date: 10-31-2000

Effective date: 10-31-2000

Department: STANDING COMMITTEE OF THE NATIONAL PEOPLE'S CONGRESS

Subject: ENTERPRISES WITH FOREIGN INVESTMENT

Order of the President of the People's Republic of China
(No.41)

The Decision of the Standing Committee of the National People's Congress on Modifying the Law of the People's Republic of China on Foreign-funded Enterprises, which was adopted at the 18th Meeting of the Standing Committee of the Ninth National People's Congress on October 31, 2000, is hereby promulgated and shall come into force on the day of promulgation.

Jiang Zemin, President of the People's Republic of China
October 31, 2000

Law of the People's Republic of China on Foreign-funded Enterprises

(Adopted at the 4th Meeting of the Sixth National People's Congress on April 12, 1986, amended in accordance with the Decision on Modifying the Law of the People's Republic of China on Foreign-funded Enterprises adopted at 18th Meeting of the Standing Committee of the Ninth National People's Congress on October 31, 2000, and promulgated by Order No. 41 of the President of the People's Republic of China on October 31, 2000)

Article 1. With a view to expanding economic cooperation and technical exchange with foreign countries and promoting the development of China's national economy, the People's Republic of China permits foreign enterprises, other foreign economic organizations and individuals (hereinafter collectively referred to as "foreign investors") to set up foreign-funded enterprises in China and protects the legitimate rights and interests of such enterprises.

Article 2. As mentioned in this Law, "foreign-funded enterprises" refers to those enterprises established in China by foreign investors, exclusively with their own capital, in accordance with relevant Chinese laws. The term does not include branches set up in China by foreign enterprises and other foreign economic organizations.

Article 3. Foreign-funded enterprises shall be established in such a manner as to help the development of China's national economy. The state encourages the establishment of foreign-funded enterprises that export their products or have advanced technologies.

Provisions shall be made by the State Council regarding the lines of business which the state forbids foreign-funded enterprises to engage in or on which it places certain restrictions.

Article 4. The investments of a foreign investor in China, the profits it earns and its other lawful

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rights and interests are protected by Chinese law.

Foreign-funded enterprises must abide by Chinese laws and regulations and must not engage in any activities detrimental to China's public interest.

Article 5. The state shall not nationalize or requisition any foreign-funded enterprise. Under special circumstances, when public interest requires, foreign-funded enterprises may be requisitioned by legal procedures and appropriate compensation shall be made.

Article 6. The application to establish a foreign-funded enterprise shall be submitted for examination and approval to the department under the State Council in charge of foreign trade and economic cooperation, or to any other agency authorized by the State Council. The authorities in charge of examination and approval shall, within 90 days from the date it receives such application, decide whether or not to grant approval.

Article 7. After an application for the establishment of a foreign-funded enterprises has been approved, the foreign investor shall, within 30 days from the date of receiving a certificate of approval, apply to the industry and commerce administration authority for registration and obtain a business license. The date of issuance of the business license shall be the date of the establishment of the enterprise.

Article 8. An enterprise with foreign capital which meets the conditions for being considered a legal person under Chinese law shall acquire the status of a Chinese legal person, in accordance with the law.

Article 9. A foreign-funded enterprise shall make investments in China within the period approved by the authorities in charge of examination and approval. If it fails to do so, the industry and commerce administration authority may cancel its business license.

The industry and commerce administration authority shall inspect and supervise the investment situation of a foreign-funded enterprise.

Article 10. In the event of a split, merger or other major change, a foreign-funded enterprise shall report to and seek approval from the authorities in charge of examination and approval, and register the change with the industry and commerce administration authority.

Article 11. Foreign-funded enterprises shall conduct their operations and management in accordance with the approved articles of association, and shall be free from any interference.

Article 12. When employing Chinese workers and staff, a foreign-funded enterprise shall conclude contracts with them according to law, in which matters concerning employment, dismissal, remuneration, welfare benefits, labor protection and labor insurance shall be clearly prescribed.

Article 13. Workers and staff of a foreign-funded enterprise may organize trade unions in

accordance with the law so as to conduct trade union activities and protect their lawful rights and interests.

The enterprises shall provide the necessary conditions for the activities of the trade unions in their respective enterprises.

Article 14. A foreign-funded enterprise must set up account books in China, conduct independent accounting, submit the financial reports and statements as required and accept supervision by the financial and tax authorities.

If a foreign-funded enterprise refuses to keep account books in China, the financial and tax authorities may impose a fine on it, and the industry and commerce administration authority may order it to suspend operations or may revoke its business license.

Article 15. Within the approved scope of the operations, foreign-funded enterprises may, according to the principles of fairness and reason, purchase raw and semi-processed materials, fuels and other materials they need either in China or from the world market.

Article 16. Foreign-funded enterprises shall apply to insurance companies in China for such kinds of insurance coverage as are needed.

Article 17. Foreign-funded enterprises shall pay taxes in accordance with relevant state provisions for tax payment, and may enjoy preferential treatment for reduction of or exemption from taxes.

A foreign-funded enterprise that reinvests in China its profits after paying the income tax, may, in accordance with relevant state provisions, apply for refund of a part of the income tax already paid on the reinvested amount.

Article 18. Foreign-funded enterprises shall handle their foreign exchange transactions in accordance with the state provisions for foreign exchange control.

Foreign-funded enterprises shall open an account with the Bank of China or with a bank designated by the state agency exercising foreign exchange control.

Article 19. Foreign investors may remit abroad profits that are lawfully earned from a foreign-funded enterprise, as well as other lawful earnings and any funds remaining after the enterprise is liquidated.

Wages, salaries and other legitimate income earned by foreign employees in a foreign-funded enterprise may be remitted abroad after the payment of individual income tax in accordance with the law.

Article 20. With respect to the term of operations of a foreign-funded enterprise, the foreign investor shall report to and secure approval from the authorities in charge of examination and

approval. For an extension of the term of operations, an application shall be submitted to the said authorities 180 days before the expiration of the period. The authorities in charge of examination and approval shall, within 30 days from the date such application is received, decide whether or not to grant the extension.

Article 21. When terminating its operations, a foreign-funded enterprise shall promptly issue a public notice and proceed with liquidation in accordance with legal procedure.

Pending the completion of liquidation, a foreign investor may not dispose of the assets of the enterprise except for the purpose of liquidation.

Article 22. At the termination of operations, the foreign-funded enterprise shall nullify its registration with the industry and commerce administration authority and hand in its business license for cancellation.

Article 23. The department under the State Council which is in charge of foreign economic relations and trade shall, in accordance with this Law, formulate rules for its implementation, which shall go into effect after being submitted to and approved by the State Council.

Article 24. This Law shall go into effect on the day of its promulgation.

中华人民共和国外资企业法

(1986年4月12日第六届全国人民代表大会第四次会议通过 根据2000年10月31日第九届全国人民代表大会常务委员会第十八次会议《关于修改〈中华人民共和国外资企业法〉的决定》修正 2000年10月31日中华人民共和国主席令第41号发布)

第一条 为了扩大对外经济合作和技术交流,促进中国国民经济的发展,中华人民共和国允许外国的企业和其他经济组织或者个人(以下简称外国投资者)在中国境内举办外资企业,保护外资企业的合法权益。

第二条 本法所称的外资企业是指依照中国有关法律在中国境内设立的全部资本由外国投资者投资的企业,不包括外国的企业和其他经济组织在中国境内的分支机构。

第三条 设立外资企业,必须有利于中国国民经济的发展。国家鼓励举办产品出口或者技术先进的外资企业。

国家禁止或者限制设立外资企业的行业由国务院规定。

第四条 外国投资者在中国境内的投资、获得的利润和其他合法权益，受中国法律保护。

外资企业必须遵守中国的法律、法规，不得损害中国的社会公共利益。

第五条 国家对外资企业不实行国有化和征收；在特殊情况下，根据社会公共利益的需要，对外资企业可以依照法律程序实行征收，并给予相应的补偿。

第六条 设立外资企业的申请，由国务院对外经济贸易主管部门或者国务院授权的机关审查批准。审查批准机关应当在接到申请之日起九十日内决定批准或者不批准。

第七条 设立外资企业的申请经批准后，外国投资者应当在接到批准证书之日起三十天内向工商行政管理机关申请登记，领取营业执照。外资企业的营业执照签发日期，为该企业成立日期。

第八条 外资企业符合中国法律关于法人条件的规定的，依法取得中国法人资格。

第九条 外资企业应当在审查批准机关核准的期限内在中国境内投资；逾期不投资的，工商行政管理机关有权吊销营业执照。

工商行政管理机关对外资企业的投资情况进行检查和监督。

第十条 外资企业分立、合并或者其他重要事项变更，应当报审查批准机关批准，并向工商行政管理机关办理变更登记手续。

第十一条 外资企业依照经批准的章程进行经营管理活动，不受干涉。

第十二条 外资企业雇用中国职工应当依法签订合同，并在合同中订明雇用、解雇、报酬、福利、劳动保护、劳动保险等事项。

第十三条 外资企业的职工依法建立工会组织，开展工会活动，维护职工的合法权益。

外资企业应当为本企业工会提供必要的活动条件。

第十四条 外资企业必须在中国境内设置会计帐簿，进行独立核算，按照规定报送会计报表，并接受财政税务机关的监督。

外资企业拒绝在中国境内设置会计帐簿的，财政税务机关可以处以罚款，工商行政管理机关可以责令停止营业或者吊销营业执照。

第十五条 外资企业在批准的经营范围内所需的原材料、燃料等物资，按照公平、合理的原则，可以在国内市场或者在国际市场购买。

第十六条 外资企业的各项保险应当向中国境内的保险公司投保。

第十七条 外资企业依照国家有关税收的规定纳税并可以享受减税、免税的优惠待遇。

外资企业将缴纳所得税后的利润在中国境内再投资的，可以依照国家规定申

请退还再投资部分已缴纳的部分所得税税款。

第十八条 外资企业的外汇事宜，依照国家外汇管理规定办理。

外资企业应当在中国银行或者国家外汇管理机关指定的银行开户。

第十九条 外国投资者从外资企业获得的合法利润、其他合法收入和清算后的资金，可以汇往国外。

外资企业的外籍职工的工资收入和其他正当收入，依法缴纳个人所得税后，可以汇往国外。

第二十条 外资企业的经营期限由外国投资者申报，由审查批准机关批准。期满需要延长的，应当在期满一百八十天以前向审查批准机关提出申请。审查批准机关应当在接到申请之日起三十天内决定批准或者不批准。

第二十一条 外资企业终止，应当及时公告，按照法定程序进行清算。

在清算完结前，除为了执行清算外，外国投资者对企业财产不得处理。

第二十二条 外资企业终止，应当向工商行政管理机关办理注销登记手续，缴销营业执照。

第二十三条 国务院对外经济贸易主管部门根据本法制定实施细则，报国务院批准后施行。

第二十四条 本法自公布之日起施行。