

Administrative Provisions on the Registration of Foreign Invested Partnership Enterprises

Decree of the State Administration for Industry and Commerce

No. 47

The Administrative Provisions on the Registration of Foreign Invested Partnership Enterprises has been adopted by deliberation at the executive meeting of the State Administration for Industry and Commerce of the People's Republic of China and hereby promulgated, which shall enter into effect as of March 1, 2010.

State Administration for Industry and Commerce

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Administrative Provisions on the Registration of Foreign Invested Partnership Enterprises

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Chapter I General Provisions

Article 1 For the purpose of regulating the establishment of partnership enterprises by foreign enterprises or individuals, facilitating foreign enterprises or individuals to invest in China in the form of partnership and expanding foreign economic cooperation and technical exchanges, the Provisions shall, pursuant to the Partnership Business Law of the People's Republic of China (hereinafter referred to as Partnership Business Law), the Administrative Measures for the Establishment of Partnership Enterprises within China by Foreign Enterprises or Individuals and the Administrative Measures for the Registration of Partnership Enterprises of the People's Republic of China (hereinafter referred to as Administrative Measures for the Registration of Partnership Enterprises), be formulated.

Article 2 Foreign Invested partnership enterprise herein refers to the partnership enterprise established by 2 or more foreign enterprises or individuals in China as well as the one established by foreign enterprise or individual and Chinese natural person, legal person or other organizations in China.

The registration of establishment, alteration and annulment of Foreign Invested partnership enterprises shall be subject to the Provisions.

In case applying for handling the registration of Foreign Invested partnership enterprise, an applicant should be responsible for the authenticity of application materials.

Article 3 Foreign Invested partnership enterprises should comply with the Partnership Business Law and other relevant laws, administrative regulations and rules, and be line with the policies for foreign-invested industries.

China encourages foreign enterprises or individuals with advanced technologies and administration experience to establish partnership enterprises in China to boost the development of the modern service industry and other industries.

The projects belonging to the prohibited category, marked “limited to joint venture”, “limited to cooperation”, “limited to joint venture and cooperation”, “controlling shares at the Chinese side” and “relatively controlling shares at the Chinese side” and requiring proportion of foreign capital shall not be established as Foreign Invested partnership enterprises.

Article 4 Foreign Invested partnership enterprises shall not engage in business unless they have been registered by law and acquired the business license of Foreign Invested partnership enterprise.

Article 5 The State Administration for Industry and Commerce shall be in charge of the administration on registration of the Foreign Invested partnership enterprises.

The State Administration for Industry and Commerce shall confer the right of check and approval of the registration of Foreign Invested enterprises to the local industrial and commercial administrations (hereinafter referred to as enterprise registration organ) to take the responsibility of administration on the registration of Foreign Invested partnership enterprises within their jurisdiction.

The industrial and commercial administrations of provinces, autonomous areas, municipalities directly under the Central Government, separately planned municipalities and sub-provincial cities shall be responsible for the administration on the registration of Foreign Invested partnership enterprises with investment as main business.

Chapter II Establishment Registration

Article 6 The establishment of Foreign Invested partnership enterprise should be qualified for the conditions as prescribed in the Partnership Business Law and the Administrative Measures for the Establishment of Partnership Enterprises within China by Foreign Enterprises or Individuals.

The wholly state-owned companies, state-owned enterprises, listed companies, public good institutions and social organizations shall not be the ordinary partners.

Article 7 Registration items for Foreign Invested partnership enterprise include:

- (1) Name;
- (2) Main business place;
- (3) Executive partner;
- (4) Business scope;
- (5) Type of partnership enterprise; and
- (6) Name or title, country (region) and domicile, methods of bearing obligation, amount of contribution of subscribed or actually paid, payment deadline, means of contribution and assessment methods of a partner.

In case there is term of partnership in the partnership agreement, the registration items shall include the term of partnership.

In case an executive partner is a foreign enterprise, Chinese legal person or other organization, the registration items shall also include the representative entrusted by the foreign enterprise, Chinese legal person or other organization (hereinafter referred to as entrusted representative).

Article 8 The title of a Foreign Invested partnership enterprise should be in line with the relevant provisions of the administration on the registration of Chinese enterprise titles.

Article 9 A Foreign Invested partnership enterprise shall own only one main business place and should be in the jurisdiction where the registration organ of the enterprises is domiciled.

Article 10 In case the partnership agreement fails to agree on or all ordinary partners do not entrust an executive partner, the whole ordinary partners shall be all the executive partners.

A limited partner shall not be the executive partner.

Article 11 Types of Foreign Invested partnership enterprises include Foreign Invested ordinary partnership enterprises (inclusive of special ordinary partnership enterprises) and Foreign Invested limited partnership enterprises.

Article 12 In case a Foreign Invested partnership enterprise is established, the representative designated or the agent jointly entrusted by the whole partners should apply to the enterprise registration organ for the registration of establishment.

In case a Foreign Invested partnership enterprise is applied for establishment, the

following documents should be submitted to the enterprise registration organ:

- (1) Establishment registration application signed by all partners;
- (2) Partnership agreement signed by all partners;
- (3) Subject qualification certification of the whole partners or the identification of natural person;
- (4) Certification of main business place;
- (5) Proxy of the representative designated or the agent jointly entrusted by all partners;
- (6) Confirmation on the contribution subscribed or actually paid by each partner of all partners;
- (7) Explanation qualified for the policy for foreign investment industries signed by all partners;
- (8) Credit certificate issued by financial institutes engaging in business with foreign partners;
- (9) Power of Attorney Legal Document Service signed by foreign partners and domestic receiver of legal document service; and
- (10) Other related documents as prescribed in the Provisions.

In case the establishment of a Foreign Invested partnership enterprise shall be approved as prescribed by law, administrative regulation or the State Council, relevant approval documents should be submitted.

The subject qualification certification of foreign partner or identification of natural person and overseas domicile certification should be notarized by the competent organization of the country where it is domiciled and authenticated by Chinese embassy in the country. The subject qualification certification or natural person and overseas domicile certification of Hong Kong Special Administrative Region and Macao Special Administrative Region and Taiwan should be subject to the existing related provisions.

The Power of Attorney Legal Document Service should specify that the authorized person in China should be responsible for the delivery of legal documents and state the name or title, address and contact means of the authorized person. The authorized person may be the enterprise set up by foreign partner in China, the Foreign Invested partnership enterprise to be established (in case an authorized person is the Foreign Invested partnership enterprise to be set up, commission shall be valid after the establishment of the Foreign Invested partnership enterprise) or other relevant unit or individual in China.

Article 13 In case the business scope of a Foreign Invested partnership enterprise belongs to the industries that shall be approved before registration as prescribed in the law, administrative regulation or the State Council, the approval documents should be submitted to the enterprise registration organ.

Article 14 In case a foreign partner contributes with the Renminbi acquired from China by law, it should submit such relevant certification documents as domestic Renminbi profits or the

approval documents of foreign exchange business for capital project reinvested with other Renminbi legal proceeds issued by foreign exchange administration.

Article 15 In the case of contribution in the form of kind, intellectual property, land use right or other properties or rights, and the pricing of such is decided jointly by all partners through consultation, the letter of confirmation signed by all partners for the contractual pricing shall be provided to the registration authority. In cases where all partners decide to entrust a legitimate evaluation agency to do the evaluation, the proof of valuation pricing issued by a legitimate evaluation agency in China shall be provided to the business registration authority.

In case where a foreign ordinary partner makes contribution with labor service, the foreigner employment permission document should be submitted to the registration authority, with specific procedures subject to relevant provisions of the state.

Article 16 In cases where laws or administrative regulations specifically ask for the establishment of special ordinary partnership businesses, the proof of professional qualifications of partners shall be provided to the business registration authority in accordance with related laws and administrative regulations if necessary.

Article 17 The date of issuance of a business license for a Foreign Invested partnership enterprise is the date of establishment of that Foreign Invested partnership enterprise.

Chapter III Modification Registration

Article 18 For changes in the items of the registration, the Foreign Invested partnership enterprise should go through the alteration registration procedures with the original organ of registration within 15 days starting from the date when the decision of alteration is made or the alteration occurs.

Article 19 When applying for alteration of the items of registration, the following documents shall be submitted to the original body of registration:

- (1) Application for registration alteration signed by the executive partner or representative;
- (2) The decision of modification signed by all ordinary partners or decision of modification signed by personnel specified in the partnership agreement; and
- (3) Other documents as required in the Provisions.

For alterations of the registrations of a Foreign Invested partnership business that require examination and approval by law, administrative regulation or the State Council, the related documents of examination and approval should also be submitted.

In case modification of registration items including executive partners, type, name or title, name or title, methods of bearing obligation, amount of contribution of subscribed or actually paid, payment deadline, means of contribution and assessment methods of a Foreign Invested

partnership enterprise, the signature of relevant applications should be notarized by Chinese legal notarization authority.

Article 20 In case a Foreign Invested partnership enterprise alters its main business place, it should apply for modification registration and submit the new certification of main business place use.

In case a Foreign Invested partnership enterprise alters the main business place out of the jurisdiction of the former registration authority, it should apply for the modification registration in the registration authority where its main business place is relocated. In case the registration authority accepts the application, the former registration authority shall transfer the enterprise registration files into the one where the enterprise's main business place is relocated.

Article 21 In case the modification of the executive partner of a Foreign Invested partnership enterprise is made, the revised partnership agreement signed by all partners should be submitted.

In case the newly-appointed executive partner is a foreign enterprise, Chinese legal person or other organization, power of attorney and identification of natural person should be submitted.

In case the representative entrusted by executive partner alters, the power of attorney of the successor and identification of natural person should be submitted.

Article 22 In case a Foreign Invested partnership enterprise alters business scope, it should submit the explanation qualified for the policy for foreign investment industries.

The altered business scope belongs to the industries that shall be approved before registration as prescribed by laws, administrative regulations or the State Council, the partnership enterprise should apply for modification registration to the former registration authority within 30 days starting from the approval of relevant department.

In case the business scope of a Foreign Invested partnership enterprise belongs to the projects that shall be approved by laws, administrative regulations or the State Council, whose license or other approval document is revoked or cancelled, or expired. The partnership enterprise should apply to the former registration authority for modification or cancellation registration within 30 days upon the revocation or cancellation or the expiration of the license or other approval document.

Article 23 In case a Foreign Invested partnership enterprise alters the type of partnership enterprise, it should apply to the registration authority for modification registration and submit

relevant documents by law within the prescribed period in accordance with the conditions for the enterprise type to be altered.

Article 24 In case a Foreign Invested partnership enterprise alters the name (title) or domicile of a partner, it should submit the certification documents of name (title) or domicile modification.

The certification documents of the name (title), country (region) or overseas domicile modification of a foreign partner should be notarized by the competent authority of the country where it is domiciled and confirmed by Chinese embassy in the country. The certification documents of the name (title), region or oversea domicile modification of a partner from Hong Kong Special Administration Region, Macao Special Administration Region and Taiwan should be subject to the exiting related provisions.

Article 25 In case a partner increases or reduces contribution to a Foreign Invested partnership enterprise, it should submit to the former registration authority the confirmation signed by all partners or personnel in the partnership agreement of contribution subscribed or actually paid by the partner.

Article 26 For a new partner, a Foreign Invested partnership enterprise should apply to the former registration authority for modification registration with the submitted documents subject to relevant provisions as prescribed in Chapter II herein.

In Case a new partner is based on the transfer of part of or all the property share of a former partner in a Foreign Invested partnership enterprise, it should submit the property share transfer agreement.

Article 27 In case a foreign partner withdraws from a Foreign Invested partnership enterprise, which continues to operate, it should apply for modification registration in accordance with the procedures as prescribed in the Administrative Measures for the Registration of Partnership Enterprises.

Article 28 In case the modification of a partnership agreement is not involved in registration, a Foreign Invested partnership enterprise should submit the revised partnership agreement or the resolution on revising the partnership agreement to the former registration authority for filing.

Article 29 In case a foreign partner alters the domestic receiver of legal document delivery, the Power of Attorney Legal Document Service should be resigned and reported to the former registration authority for filing.

Article 30 In case the modification registration of a Foreign Invested partnership enterprise is involved in the modification of the business license, the registration authority should renew the business license.

Chapter IV Registration of Cancellation

Article 31 The dissolution of a Foreign Invested partnership enterprise should be liquidated by liquidating partner in accordance to the Partnership Business Law. The liquidating partner should report its member list to the registration authority for filing within 10 days upon being confirmed the liquidating partner.

Article 32 In case a Foreign Invested partnership enterprise is dissolved, the liquidating partner should handle the registration of cancellation in the former registration authority within 15 days upon the completion of liquidation.

Article 33 A Foreign Invested partnership enterprise should submit the following documents while handling the registration of cancellation:

- (1) Application of registration of cancellation signed by liquidating partner;
- (2) Bankruptcy judgment by the people's court, decision made by a Foreign Invested partnership enterprise in accordance with the Partnership Business Law and revoked business license or cancelled documents of a Foreign Invested partnership enterprise by law, which is ordered to be closed down by administrative body; and
- (3) Liquidation report signed and sealed by all partners (liquidation report should state the explanation for finishing the procedures of taxation and customs tax payment).

In case a Foreign Invested partnership enterprise with branches applies for registration of cancellation, it should also submit the certification of registration of cancellation of branches.

A Foreign Invested partnership enterprise should return the business license while handling registration of cancellation.

Article 34 A Foreign Invested partnership enterprise terminates after the registration of cancellation.

Chapter V Registration of Branches

Article 35 In case a Foreign Invested partnership enterprise establishes a branch, it should apply for registration to the registration authority where its branch is domiciled.

Article 36 Registration items of a branch include: name, business place and scope of a branch as well as the name and domicile of responsible person of a branch.

The business scope of a branch shall not exceed the one of the Foreign Invested partnership enterprise.

In case a Foreign Invested partnership enterprise has a term of partnership, the registration items of a branch should also include it, with the business term of a branch not exceeding the one of the Foreign Invested partnership enterprise.

Article 37 In case a Foreign Invested partnership enterprise establishes a branch, it should submit to the registration authority where the branch is domiciled the following documents:

- (1) Application of registration of establishment of a branch;
- (2) Decision of establishment of a branch signed by all partners;
- (3) Photocopies of the business license of a Foreign Invested partnership enterprise with seals of the partnership enterprise fixed;
- (4) Power of attorney and identification of the responsible person entrusted to execute the affairs of a branch by all partners;
- (5) Certification of business place; and
- (6) Other relevant documents as prescribed in the Provisions.

Article 38 In case the business scope of a branch belongs to the industries that shall be approved by laws, administrative regulations or the State Council before registration, it should submit the approval documents to the registration authority where the branch is domiciled.

Article 39 In case a Foreign Invested partnership enterprise applies for the modification or cancellation registration of its branch, it may refer to the provisions on the modification or cancellation registration of a Foreign Invested partnership enterprise in the Provisions.

Article 40 A Foreign Invested partnership enterprise should hold the photocopies of the business license of its branch with seal fixed to the former registration authority for filing within 30 days upon the registration of the establishment of the branch.

In case registration items of a branch alter, the branch should handle filing in the former registration authority within 30 days upon the modification registration.

In case applying for registration of cancellation of its branch, a Foreign Invested partnership enterprise should handle filing in the former registration authority within 30 days upon the registration of cancellation of the branch.

Article 41 The date of issuance of a business license for a branch is the date of establishment of that branch.

Chapter VI Registration Procedures

Article 42 In case the registration application materials submitted by the applicant are complete and qualified for legal form and the registration authority may conduct on-the-spot registration, on-the-spot registration should be made with the business license granted (renewed).

The registration authority should make the decision whether or not to make registration within 20 days upon accepting the application except otherwise the situations as prescribed in the aforesaid articles. If registration is allowed, a business license should be given (renewed); if not, a written reply should be given with reasons attached.

For the prohibited category of projects without legal prior approval in the Catalogue for the Guidance of Foreign Investment Industries or other projects involving the duties of relevant departments, the registration authority should solicit the opinions of relevant departments in the written form within 5 days upon accepting the application, and make the decision whether or not to register within 5 days upon receiving the written opinions of relevant departments. If registration is allowed, a business license should be given (renewed); if not, a written reply should be given with reasons attached.

Article 43 In case a Foreign Invested partnership enterprise concerns the investment projects that shall be approved by the government, it should handle the check and approval of investment projects in accordance with relevant provisions of the state.

Article 44 In case a Foreign Invested partnership enterprise conducts such activities as establishment, alteration or cancellation, the registration authority should simultaneously report the registration information of establishment, alteration or cancellation to the competent commerce department at the same level.

Article 45 The registration authority should record the registered items involving a Foreign Invested partnership enterprise in the register book of Foreign Invested partnership enterprises for reference and copy by the public.

Article 46 In case revoking a business license of a Foreign Invested partnership enterprise, the registration authority should issue an announcement.

Chapter VII Annual Inspection and Administration over Certificates

Article 47 A Foreign Invested partnership enterprise and its branch should submit annual inspection report and other documents to accept the annual inspection every March 1 to June 30 in accordance with the requirement of the registration authority.

The registration authority should report the annual inspection information of the Foreign Invested partnership enterprise to the competent commerce department at the same level in the wake of the completion of annual inspection.

Article 48 A business license is divided into original and duplicate, with both having the same legal effect.

A Foreign Invested partnership enterprise and its branch may apply to the registration authority for several duplicates of the business license when necessary.

The original of the business license should be put in the eye-catching position of the business place.

Article 49 Any entity and individual shall not alter, sell, rent, lend or transfer a business license in other forms.

In case a business license is lost or ruined, a statement on the cancellation of the business license should be made in the newspaper designated by the registration authority and an application to the authority for make-up or renewal of the license should be filed.

Article 50 The registration paper pattern and the form of the original and duplicate of a business license of a Foreign Invested partnership enterprise and its branch shall be formulated by the State Administration for Industry and Commerce.

Chapter VIII Legal Liabilities

Article 51 In case an enterprise fails to acquire a business license but engages in partnership business in the name of a Foreign Invested partnership enterprise, the registration authority shall impose a penalty on it in accordance with Article 36 of the Administrative Measures for the Registration of Partnership Enterprises.

In case an enterprise engages in the prohibited category of projects in the Catalogue for the Guiding Foreign Investment Industries or limited category of projects without registration, the registration authority and other competent administrations shall impose a penalty in accordance with the Measures for Investigating, Punishing and Banning Unlicensed Business Operations. It shall be subject to the provisions separately prescribed by laws, administrative regulations or the State Council.

Article 52 In case an enterprise gains the registration of a Foreign Invested partnership enterprise with fake documents or other fraudulent means, the registration authority shall impose a penalty in accordance with Article 37 of the Administrative Measures for the Registration of Partnership Enterprises.

Article 53 In case a Foreign Invested partnership enterprise handles modification registration not in accordance with the Provisions, the registration authority shall impose a penalty in accordance with Article 38 of the Administrative Measures for the Registration of Partnership Enterprises.

Article 54 In case a Foreign Invested partnership enterprise fails to market "ordinary partnership", "special ordinary partnership" or "limited partnership" according to the titles checked and approved by the registration authority, the registration authority shall impose a penalty in accordance with Article 39 of the Administrative Measures for the Registration of Partnership Enterprises.

Article 55 In case a Foreign Invested partnership enterprise handles the filing of agreement modification, a branch and the member list of the liquidating partner not involved in registration items not in accordance with the provisions, the registration authority shall impose a penalty in accordance with Article 40 of the Administrative Measures for the Registration of Partnership Enterprises.

In case a Foreign Invested partnership enterprise handles the filing of the Power of Attorney Legal Document Service of a foreign partner not in accordance with the Provisions, the registration authority shall order it to make corrections; if no handling is done within the time limit, a fine of below RMB2000 will be imposed.

Article 56 In case the liquidating partner of a Foreign Invested partnership enterprise fails to report and submit the liquidation report to the registration authority or the liquidation report with major facts concealed or major things left out, the registration authority shall impose a penalty in accordance with Article 41 of the Administrative Measures for the Registration of Partnership Enterprises.

Article 57 In case a Foreign Invested partnership enterprise fails to accept the annual inspection in accordance with the provisions, the registration authority shall impose a penalty in accordance with Article 42 of the Administrative Measures for the Registration of Partnership Enterprises.

Article 58 In case a Foreign Invested partnership enterprise conceals the truth and conducts falsification, the registration authority shall impose a penalty in accordance with Article 43 of the Administrative Measures for the Registration of Partnership Enterprises.

Article 59 In case a Foreign Invested partnership enterprise fails to lay the original of its business license in the eye-catching position of the business place, the registration authority shall impose a penalty in accordance with Article 44 of the Administrative Measures for the Registration of Partnership Enterprises.

Article 60 In case a Foreign Invested partnership enterprise alters, sells, rents, lends or transfers its business license in other forms, the registration authority shall impose a penalty in accordance with Article 45 of the Administrative Measures for the Registration of Partnership Enterprises.

Article 61 In case the branch of a Foreign Invested partnership enterprise conducts illegal acts as prescribed in the Chapter herein, it shall be subject to relevant provisions of the Chapter.

Article 62 In case a registration authority violates industrial policy to register the enterprise that should not or not to register the enterprise that should, administrative responsibilities of direct responsible person or chief responsible person shall be investigated by law.

In case the staff of a registration authority abuses power, plays favoritism and commits irregularities, takes bribes or infringes on the legitimate interests of a Foreign Invested partnership enterprise, punishment shall be given by law.

Chapter IX Supplementary Provisions

Article 63 In case a foreign enterprise or individual joins the partnership enterprise established by Chinese natural person, legal person and other organization in China, it should be subject to the Provisions and apply to the registration authority for modification registration by law.

Article 64 In case a Foreign Invested partnership enterprise with investment as main business invests in China, it should be subject to the laws, administrative regulations and rules related to foreign investment of the state.

Article 65 In case a Foreign Invested investment company, Foreign Invested business-starting investment enterprise establishes a partnership enterprise or joins the partnership enterprise established by Chinese natural person, legal person and other organization in China, it shall refer to the Provisions.

Article 66 A Foreign Invested partnership enterprise should handle such procedures as foreign exchange, taxation and customs by law in the wake of relevant registration formalities in accordance with the Provisions.

Article 67 In case an enterprise or individual from Hong Kong Special Administration Region, Macao Special Region or Taiwan establishes a partnership enterprise or joins the partnership enterprise established by the natural person, legal person and other organization from the Chinese mainland, it shall refer to the Provisions.

Article 68 The Provisions shall enter into effect as of March 1, 2010.

State Administration for Industry and Commerce 2010-01-29

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