

# WHOLLY FOREIGN OWNED ENTERPRISES IN CHINA

## SYNOPSIS

China's rapidly expanding economy and vast population has made it one of the world's most attractive markets for business expansion. For companies engaged in the trading, manufacture, processing or assembling of goods who wish to either access the Chinese market or its cheap production costs, a wholly foreign owned enterprise (WFOE) is often the chosen method of operation as it negates the need for a local Chinese partner necessary in the more traditional Joint Venture structure. In certain cities such as Beijing and Shanghai, service company WFOEs are now permitted, allowing foreign companies to provide services and bill in local currency and remit profits overseas.

There are now numerous special economic zones and free trade zones that offer attractive tax breaks on profits tax to encourage foreign firms to establish their operations in the zone if they are exporting or re-exporting 100% of their output. Rates and terms can differ substantially from zones and cities and also on the nature of the business, with high tech, manufacturing and agricultural businesses particularly favoured. Tax breaks vary considerably, but can be quite significant; ranging from 100% of profits tax for the first two years in some cities up to eight years in some of China's more remote western regions. Companies selling goods into the Chinese market, are often more limited in their choice of location and will generally operate under a less generous tax regime.

A WFOE is a Chinese limited liability company that is wholly foreign owned, and limited by its registered capital, which is generally a combination of equipment and cash. The amounts of cash required, and ratio between equipment and cash vary from location and business activity, and are often negotiable, but generally there is a required minimum of about US\$140,000 registered capital with a minimum of 15% paid up within three months and the balance paid up within a year. Critical to the successful set up of a WFOE is the careful drafting of the company articles as it is these that define what a WFOE will and will not be able to do in its trading and financial operations.

## GENERAL REQUIREMENTS

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The parent company will need to invest a minimum of US\$140,000 in cash and equipment as paid-up registered capital within the first twelve months of operation.

## TAXATION

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Tax rates can vary somewhat depending on the location of the WFOE, but generally, WFOEs selling into China will be subject to business tax of about 5% on all revenues in China; profits tax of 15-33% depending on location and in some instances withholding tax and VAT may be applicable.

## APPLICATION DOCUMENTS

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In order to set up an WFOE it is necessary to prepare a range of documentation and often with multiple notarised copies. The exact documentation and number of copies will again depend on the requirements of the authorities in the locality where the WFOE is to be established, but the general requirements for the parent company are listed below:

- Certificate of Incorporation.
- Tax Registration Certificate.
- Register of Directors and Shareholders.
- Feasibility study.
- Company articles of the WFOE.
- Bank reference in the company name.
- Leases/ ownership certificates for all office and factory space used by the WFOE.

## RESTRICTIONS ON ACTIVITY

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There are restrictions on numerous business activities in China. These are regularly being changed so contact the relevant Sovereign office for details.

## SCHEDULE OF FEES

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US\$6,000	Administrative procedures to set up WFOE (subject to regional variation).
c.US\$ 1,500	Government fees & disbursements approx. (subject to regional variation).

## OPTIONAL SERVICES

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Sovereign can offer a one-stop service to clients wishing to set up WFOEs in China. Through our network of local service providers, we can assist in the sourcing of suitable professional advisors, offices, sourcing of local staff and management, the structuring of expatriate salaries for maximum tax efficiency, legal drafting of leases and employment contracts, and the provision of accounting services. Fees will be quoted on a case-by-case basis.