
Setting up a foreign invested travel agency in China

To meet its undertakings upon the entry into the WTO, China has promulgated the Regulation on Travel Agency (“**Regulations**”), effective as from May 1, 2009, which also incorporates rules for setting up foreign invested travel agencies (“**FITA**”). Previous regulations issued by Ministry of Tourism (“**MOT**”) and Ministry of Commerce (“**MOC**”) regarding establishing travel agencies owned by foreign investors in majority and in whole were also repealed on October 11, 2009.

Given the huge potential in Chinese travel and tourism market, it is expected that foreign investment will flood and flock into China. Here are the outlines of Regulations in regard of foreign invested travel agencies.

1. What businesses can a FITA conduct in China?

A FITA may be engaged in domestic travel, inbound travel businesses but shall not be engaged in outbound travel business. Domestic travel business refers to solicitation, organization and receiving of domestic residents with respect to travel within China mainland; inbound travel business refers to solicitation, organization and receiving of tourists from abroad, including people from Hong Kong, Macau and Taiwan and of tourists who are foreigners, Hong Kong, Macau and Taiwan people but already in China, with respect to travel within China mainland; outbound travel business refers to solicitation, organization and receiving of domestic residents with respect to their travel to other countries and to Hong Kong, Macau and Taiwan, and of people who are foreigners, Hong Kong, Macau and Taiwan people but already in China mainland with respect to their travel outside China mainland.

2. Can I set up a wholly foreign owned travel agency?

Foreign investors can set up equity joint venture, cooperative joint venture and wholly foreign owned travel agencies. There is no specific restriction on the holding of interests by foreign investors.

3. What are the substantive requirements for setting up a FITA in China?

There are three (3) requirements, which are also applicable to domestic travel agencies.

- (1) Having a fixed business place, either self-owned or leased with a leasing term of more than one (1) year;
- (2) Having necessary operational facilities such as two (2) or more direct land lines, fax machine and printer, and computers connected via internet with tourism administration departments
- (3) Having a registered capital of not less than RMB 300,000.

4. What are the general procedures for setting up a FITA in China?

According to the Regulations, setting up FITAs will be subject to the scrutiny of the

departments of central government, namely, the Ministry of Tourism and Ministry of Commerce.

- (1) Investors shall submit application documents evidencing that the three (3) requirements mentioned above are met, to the MOT. MOT will have thirty (30) working days to review those documents. If MOT agrees on the application, it will issue Review Opinion on Business Permit for FITA;
- (2) Then investors shall submit the Review Opinion on Business Permit for FITA, articles of association and joint venture contract etc. to MOC for approval of the establishment of the FITA. If MOC agrees on application, it will issue the Approval Certificate for incorporating the FITA;
- (3) With the Approval Certificate issued by MOC, investors shall go to MOT to get the Business Permit for FITA;
- (4) With the Approval Certificate and the Business Permit for FITA, investors shall go to the local industry and commerce department for registering the FITA and then get the Business License for the FITA. Upon issuance of the Business License, now the FITA can start operation and doing business.

Incorporating a legal entity in China may be very complicated to foreign investors and we are delighted to provide our professional service to you. For more information, please contact us at emails: tianjie@zhongyinlawyer.com, or doroto@163.com, or cell phone: 00-86-13816548421.