

The People's Republic of China

Executive Summary

The People's Republic of China ("PRC") is the number one destination for multinational companies. From business trips to negotiate customer contracts to employment assignments to manage subsidiary manufacturing operations, most human resource managers must eventually, if not frequently, deal with PRC visa and immigration issues.

To encourage economic growth and firmly establish its role in international markets, the PRC has comprehensive laws and regulations governing foreign nationals coming to do business. While the laws are generally national in scope, practice and procedure are often dictated by local government offices, giving rise to significant variation within the country.

The Special Administrative Regions (e.g., Hong Kong and Macao) have retained their own immigration systems. Hong Kong is discussed in a separate chapter.

Key Government Agencies

The Ministry of Foreign Affairs operates the PRC diplomatic missions, consular posts, and other agencies abroad, which are responsible for processing visa applications.

The Divisions of Exit and Entry Administration of local Public Security Bureaus ("PSB"), which are under the Ministry of Public Security, are responsible for processing extension or change of visa applications domestically. The PSB is also responsible for processing foreigners' Residence Permit applications.

The local labor administrative authorities, which are under the Ministry of Human Resources and Social Security, are responsible for the administration of the employment of foreigners, as well as Hong Kong, Macao, and Taiwan (“HMT”) residents and overseas Chinese (i.e., PRC nationals with permanent residency in foreign countries).

The State Administration Bureau of Foreign Experts Affairs and its local counterparts are responsible for processing Foreign Expert Certificates, which give qualified foreigners the authorization to work in the PRC in lieu of Employment Permits.

Current Trends

In January 2010, the PRC authorities introduced new measures to tighten its administration of the Representative Offices of foreign enterprises. Among other things, these measures limited the number of a Representative Office’s representatives (inclusive of the chief representative) to four. Because foreign workers may only work at Representative Offices as representatives, the practical impact is to cap the number of foreigners that may staff a Representative Office to four.

Because local rules and policies governing foreigners’ Employment and Residence Permits vary by city and can change on a regular basis, implementation of these new measures on the local level may also vary. Representative Offices otherwise remain under scrutiny by the authorities. For example, in Beijing, the Public Security Bureau has been auditing an increasing number of Residence Permit applications sponsored by Representative Offices of foreign enterprises. The Public Security Bureau will not disclose the scope of each audit review or the audit triggers. The audits may include an on-site inspection and a request for proof of a Representative Office’s proper corporate registrations.

Business Travel

Business Visa

Foreigners who travel to the PRC for business visits, for speaking engagements, or to exchange knowledge on scientific and cultural topics, should apply for an F visa

Foreigners should generally apply for an F visa at PRC consular posts, many of which now require an original visa notification letter issued from an authorized government unit in the city where the foreigners will visit. Normally, there are three types of F visas which can be obtained.

Type (or number) of Entry	Validity	Duration of Stay Per Visit
Single	30 or 90 days	30 or 90 days
Double	90 days	30 days
Multiple	180 or 365 days	30 days

Visa Waiver

Currently, nationals of Brunei, Japan and Singapore may enter and stay in the PRC for a period of not more than 15 days without applying for a visa for the purpose of tourism, business, visiting relatives or friends, or transit.

Training

F Business Visa

There is no specific visa designed exclusively for training. Foreigners coming to the PRC for training of less than six months may apply for an F visa. They may not be compensated locally and are not authorized to engage in productive, on-the-job training.

Employment Assignments

Z Work Visa

Foreigners who wish to work in the PRC should apply for a Z work visa. In addition, they need to secure an Employment Permit (or a Foreign Expert Certificate) and Residence Permit after entering the PRC on the Z visa.

Before a foreigner may apply for a Z visa, the PRC host entity (typically, the employer) should first sponsor the foreigner for an Employment License or, under certain circumstances, a Foreign Expert License. Either the Employment License or the Foreign Expert License will be submitted to a relevant authority for the issuance of a Visa Notification Letter to support a single-entry Z visa application, as described below.

Employment License

Under relevant regulations, foreigners seeking employment in China should meet the following conditions:

- Be 18 years of age or older and in good health;
- Have professional skills and job experience required for the intended employment;

- Have no criminal record;
- Have a clearly-defined employer; and
- Have a valid passport or other international travel document in lieu of the passport.

In principle, foreigners who meet the above conditions are eligible to apply for an Employment License. However, the local labor authorities may interpret the above conditions according to their own practice. For example, applications from foreigners over the age of 60 are in general not entertained. In many cities, a university degree plus two years relevant work experience are deemed to be the minimum requirement for a foreigner applying for an Employment License. In some locations, the foreigner even has to assume a managerial-level position or a post requiring special knowledge to be qualified for an Employment License.

The applicant is also required to undergo a medical examination. If the examination is completed at an approved hospital overseas, the medical report can be forwarded to the relevant health center in the PRC for verification. However, health centers in the PRC sometimes refuse to verify overseas medical reports and require the applicant to complete a new medical examination in the PRC. Accompanying dependents 18 years and over also must complete medical examinations.

It is not necessary for a Resident Representative Office of a foreign enterprise to apply for an Employment License when appointing a foreigner as its Chief Representative or Representative in the PRC. The Representative Office must, however, seek authorization from the appropriate “approval authority” and register such approval, generally with the Local Administration for Industry and Commerce (“AIC”). Upon registration, a Working Card (also known as a “Representative Certificate”) will be issued to the Chief Representative and each of the

other Representatives. As noted above, Representative Offices may only register up to four Representatives.

Upon the issuance of an Employment License or a Representative Certificate, the PRC host entity may then apply for a Z Visa Notification Letter from the relevant authority - usually the local commerce bureau or the local commission of commerce. If the foreigner will be accompanied by family members (e.g., spouse, parents or children under 18), Z Visa Notification Letters should be obtained for them as well.

The Foreign Expert License

The Foreign Expert License is issued by the PRC National Foreign Expert Bureau or its local counterparts. Foreigners who apply for the license must be in good health, with no criminal record and meet the definition of one of the following categories:

- Foreign professional technical or administrative personnel who work in China to implement agreements between governments or international organizations.
- Foreign professional personnel in the areas of education, scientific research, news, publishing, culture, art, or health or sport. The foreigner should also have a degree higher than a bachelor's degree and more than five years working experience. For language teachers, a degree higher than a bachelor's degree and more than 2 years of working experience is required.
- Foreigners who hold a position higher than Deputy General Manager, or foreign senior professional technical or management personnel who enjoy the same treatment in enterprises in the PRC. The foreigner should also have a

degree higher than a bachelor's degree and more than five years of working experience.

- Foreign representatives of overseas expert organizations or agencies for talented people.
- Foreign professional technical or management personnel in the areas of economics, technology, engineering, trade, finance, accounting, taxation or tourism, who have special skills that are urgently needed in the PRC.

Once the Foreign Expert License has been obtained, the PRC host entity may then apply for a Z Visa Notification Letter from the relevant authority for the foreigner and accompanying family members.

Single Entry Z Visa

Upon receipt of the Employment License/Representative Certificate/Foreign Expert License and the Z Visa Notification Letter, the foreigner should apply for a Z visa from the appropriate PRC consular post.

Post-Arrival Requirements

A Z visa is typically valid for 90 days, during which time the foreigner must enter the PRC. Within 15 days of arrival, the foreigner holding an Employment License or a Representative Certificate must apply for an Employment Permit from the local labour bureau. The foreigner holding a Foreign Expert License should apply for a Foreign Expert Certificate instead.

Within 30 days of arrival and upon issuance of the Employment Permit or Foreign Expert Certificate, the foreigner and accompanying family members must apply for Residence Permits with the local PSB.

Employment Permits and Residence Permits are employer and location specific. A foreigner may not work for other employers or reside in a location outside the area where the Permits are issued. If there are any changes in the registration items shown in the Employment Permit or Residence Permit, amendments must be promptly filed with the relevant authorities. If a foreigner no longer works for the employer, the Employment Permit must be de-registered with the local labour bureau while the Residence Permit should be cancelled with the local PSB.

Other Comments

HMT Residents and Overseas Chinese

HMT residents who wish to travel to the PRC need not apply for a visa. Instead, they may use their Mainland Travel Permit for Hong Kong and Macao Residents or their Mainland Travel Permit for Taiwan Residents.

HMT residents and overseas Chinese are required to obtain Employment Permits to work in the PRC. In some locations such as Shanghai, overseas Chinese are required to obtain a type of Residence Permit from the PSB, while Taiwan residents are required to obtain a Visa or Residence Endorsement to reside in the PRC.

Temporary Residence Registration

Foreigners, HMT residents and overseas Chinese are required to carry out temporary residence registration at the local police station in the district where they reside within 24 hours after they arrive in the PRC. If they move to a new residence or obtain new visas during their stay in the PRC, they are required to re-register with the local police station.