



Legal Tips for the Foreigners's business in China

As a foreign legal service attorney in China during the past years, we met many aliens who was doing business in China or with China companies or factories, or living in China. whatever, most of them met some problems arise from their experience. here we just list some parts of the the legal problems which aliens meet frequently.

1. Whether is it legally for the HK company to rent a apartment to operate the business in China Mainland ?

Answer: If the expats registered the HK company and use the HK offshore company to operate the business in China Mainland, it is not legally allowed to operate the business in China. And this kind of the illegal action would be imposed fine according to the administrative rules of the China mainland.

2. Whether is it legally to use the HK company or Oversea company to recruit the employees in China mainland ? Or whether is it legally to use the R/O office to operate the business in China mainland ?

Answer: The HK company or Oversea company can be the buyers to purchase the goods from the China mainland, but if the HK company or Oversea company directly operate the business in China mainland office without the official registration, then it will be illegal, even registered the R/O, the R/O is only allowed to be the contact office for business connection, but R/O is not allowed to operate any business anymore, and also now the government monitor the R/O more strictly than before. and the R/O is not allowed to recruit the employees directly by themselves. They are only allowed to empower the Labor Dispatch Service company to recruit the employee and



sign the labor agreement with the employee.

According to the <Labor Law of the People's Republic of China >, the HK company or oversea company is forbidden to recruit the employees directly, the HK company or oversea company must empower the Labor Dispatch Service company to recruit the employee and sign the labor agreement with the employee. If HK company or oversea company breached the rules, then the labor and social security bureau will impose the fine against the HK company or the oversea company, and also the legal representative of the company personally shall also be responsible for the issues .

3. Whether is it legally for the expats to work in China without the working permit ? And what's kind of the legal consequence for the illegal working expats ?

Answer: It is illegal to work in China mainland without the working visa or working permit from the government. And actually, recent years, the government punish the illegal working more strictly than before. 3 years, if the government found any foreigners working in Guangzhou without working visa, they only impose some fine against them, now they place them in the detention center for 15-30 days inside, and then deport them directly to their own country.

According to the <Law of the People's Republic of China on the Administration of Exit and Entry>, it is illegal for the expats to work in China without the legal working permit, according to the law, A foreigner who work illegally shall be imposed with a fine of not less than RMB5,000 but not more than RMB20,000, or if the circumstances are serious, a fine of a fine of not less than RMB5,000 but not more than RMB20,000 in addition to being placed on detention for not less than 5 days but not more than 15 days.

Any person introducing foreigners to work illegally shall be imposed with a fine of RMB5,000 for each foreigner so introduced, provided the total amount of the fine shall be not more than RMB50,000, any entity introducing foreigners to engage in working illegally shall be imposed



with a fine of RMB5,000 for each alien so introduced, provided the total amount of the fine shall be not more than RMB100,000, and the illegal gains, if any, shall be confiscated.

Any person illegally employing foreigners shall be imposed with a fine of RMB10,000 for each alien so employed, provided the total amount of the fine shall be not more than RMB100,000, and the illegal gains, if any, shall be confiscated.

4. Is it legally to Buy the M Visa or Working Visa via the agent from other cities ?

Answer: there is one client who came to seek for the legal help from our attorneys, the client said he already paid the big amount money to some personal who he never met before, and sent the passport to the guy, in the end, the M visa which the client got was a fake one, and the client was detained for 10 days inside the detention for holding the fake visa. for the visas, the laws and the regulations already had the guidance for the application procedure, if aliens need to apply for it, please use the professional consultant or companies to apply for it , if you choose the illegal ways, then it will be difficult to apply the law to protect your lawful rights and interests.

5. How to choose your business suppliers in the international trading ?

Answer: When you or your company come to China to purchase the goods and set the orders, how much you know about your suppliers ? And have you checked their company or factory license information ? Actually, we suggest the clients to check the suppliers' information via the lawyer or government before they set their orders, then to verify that the factory or the supplier have the capacity to perform the orders and deliver the qualified goods.

6. Please sign the “official agreements” for the business with the suppliers during your operation of the business.



Answer: Some clients brought the simple Purchase order for our consultation when they got the problem or disputes with their suppliers or partners, and there is only one page in A4 size, and that proforma invoice is too simple to protect the lawful rights of the clients in the business, quality standard is not clear, inspection procedure is unclear, even whether the supplier have the business license is also unclear", so some times, we met some clients who brought the purchasing order which they signed with the supplier, there is only one page of the P/O, no detailed specifications stipulated there, no breach penalty, no warrant terms, and even the samples is not confirmed or sealed by both parties, and many clients lost the money and suffered the damages due to the absence of the "official agreements".

7. Are you sure you undertand the real meaning of your "Trading Agent" in China Law?

Answer: sometimes, clients come to China and set the orders with the factory via the their agent, clients Chose the goods in the suppliers factory and paid some deposit, and then client will go back to his country, and then pay the balance to his trading agent who will take care of the production with the supplier, and the logistics ", Some these agents disappeared after they took the money from the clients. if the client paid the money to the agent and received the goods, but the agent failed to pay to the suppliers in China, what will happen ? because the contract relationship was set up between the client and the supplier, so the supplier may report the criminal case for crime of contract fraud to the police bureau, then the client will be "lucky" to be the suspect for the crime, and 99% of the clients shall be in trouble of the criminal sentence in jail. this is not a joke, these are real cases happened in China.



8. Is there any legal risks in the Express business ? Or help someone to bring to take some luggage or sample to enter or exit China?

Answer: During the past years with the development of the international trading in Guangdong, many aliens start to offer the service for express or shipping for logistics service, this kind of the business itself is attractive to the entrepreneur, to save the cost for the business, some aliens are used to collect the packages from the clients directly without checking, and then forward the package to the DHL or other express company for delivery, and also that they only use they own name to be the shipper in the Bill.....and if there is some drugs or dangerous goods inside the packages, then the entrepreneur will become the partners of the drug dealers or smuggling dealers, yeah, you can say you are only for business of express, but if u don't have the logistics company, and you are the shipper on the DHL receipt, then in law, you are the owner of the packages, so of course you will become the criminal suspect for the drugs or smuggling. these are not for joking, these are true tragedy stories. contact with us, you will get more professional advice.

if you are really serious for your business, please register your own company in China, and also check all the packages one by one, to be sure that there is no drugs inside the package, to be sure you are safety in your business. please take this "Safety Warning" and spread it to your friends and clients. maybe this tips can change and protect him before it was too late.

here only list some frequent cases for the aliens or the clients who come to China for the business, Please be aware of these risks in your business, these tips just remind all the aliens or clients pay more attention to the risks in business, in the end of this article, share one slogan with all the businessmen, " Love life and business, stay away from risks."