



How to Properly Register an Entity in China

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Solutions for Corporates

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Ms. Marcia Lin has 13 years professional work experience in providing investment and business consulting services to foreign invested enterprises in China. She has helped many foreign companies and entrepreneurs achieve their business goals across various industries.

She is a speaker for foreign embassies and commercial chambers on how to do business in China. In 2016, she was a Co-chair of the British Chamber of Commerce Young Professionals Forum and board supervisor of the Expat Connection in 2019. She was chosen to join the 2020 Leadership Development Program of American Chamber of Commerce in China and, in the same year, taught at the Haidian Pioneer Park Online School, the first pure English online course for foreign entrepreneurs in China. She was also awarded Honorary Mentor of Cross Border Acceleration Program of Plug and Play China in 2021.



Agenda

- Advantages vs disadvantages of establishing a legal entity in China
- Entity types and establishment processes
- Important considerations before you start
- Notes under epidemic situation



Advantages vs disadvantages of
establishing a legal entity in
China

Advantages

- No foreign exchange control issues for Chinese clients
- Can issue fapiao to clients
- More trust from Chinese clients
- Can hire employees directly
- Easy to visit and communicate with Chinese clients
- Better Intellectual Property protection
- Sponsor invitation letter for HQ
- Better manage business activities in China and optimize the whole costs
- Beneficial for participating in government procurement bidding

Disadvantages

- Maintaining costs for the operation
- Meet all the legal requirements for operation
- China market exit problems



Entity types and Establishment processes

Main Differences	RO	WFOE & JV
Registered capital	n/a	yes
Establishment time & document preparation	time shorter in the past, now almost the same. more documents to prepare	less documents to prepare
Business transaction	no	yes
Tax calculation	usually more tax (see the example)	less tax (see the example)
Employment	cannot hire directly except chief representative. 4 representatives totally	no limit
Branch	no	yes
Money transfer to overseas	no	yes
Enjoy local government support and preferential policies	no	yes

Main Differences	RO	WFOE & JV
Notarize and authenticate HQ's legal documents every year	yes	no
HQ must exist for more than 2 years	yes	no
Announcement to the public on the media designated by the approving authority	yes	no

Taxation Example

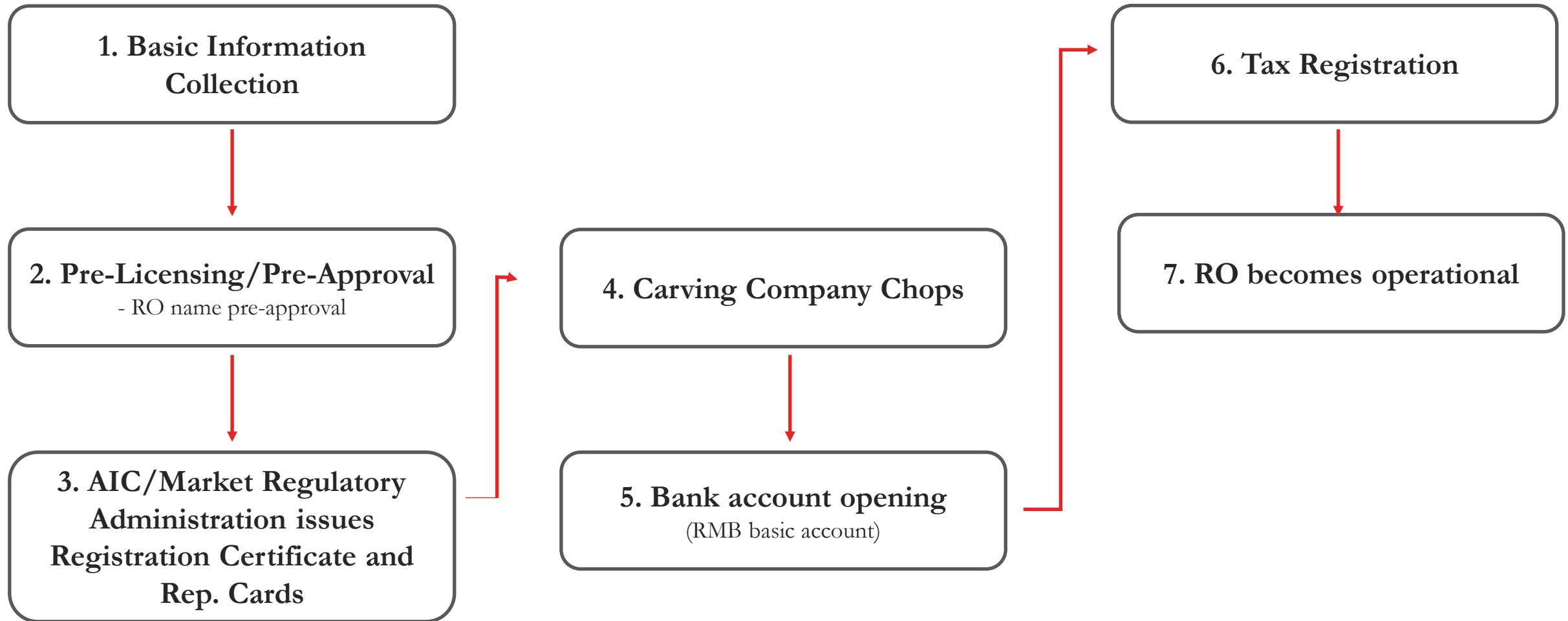
Assumptions

1.Type of the taxpayer	The WFOE is a small scale taxpayer
2. Expenses	100,000.00
3. VAT rate	3%
4. Additional Tax rate	12%
5. CIT rate for RO (Standard)	25%
6. CIT rate for WFOE (Preferential tax rate)	5%

Items	RO	WFOE	Remark
Deemed profit rate	15%	10%	- Deemed profit for RO is stipulated by the tax authority - Markup profit for WFOE is stipulated by the company based on the benchmark study, here assumed 10%
Deemed Revenue/Cost plus revenue	117,647.06	110,000.00	
VAT	3,529.41	3,300.00	
Additional Tax	423.53	396.00	
Profit	17,647.06	9,604.00	
CIT	4,411.76	480.20	
Total Tax	8,364.71	4,176.20	
Total Tax burden%	8.36%	4.18%	

Main Differences	WFOE	JV
If business is on the Negative list	Approval from only MOFCOM	Approval from both NDRC and MOFCOM
100% control by foreign investors	yes	no
AOA and company management structure	No need for consultation for the AOA. No need to have a board of directors.	For AOA, JV always needs a consultation between the two sides. JV normally should have a board of directors from both sides

Steps and time requirements to setup a RO



Information List for RO Setup (as of Feb. 2023)

1. The photocopy of the HQ's Business Certificate
2. Articles of Association (AOA) of HQ
3. Proof of the domicile of the HQ
4. Valid bank credential letter issued by a foreign bank for the HQ
5. Power of attorney about Authorized Signatory
6. The appointment document & original ID/passport of representatives.

The above-mentioned 6 items should be notarized and authenticated by the Chinese Embassy in HQ's home country

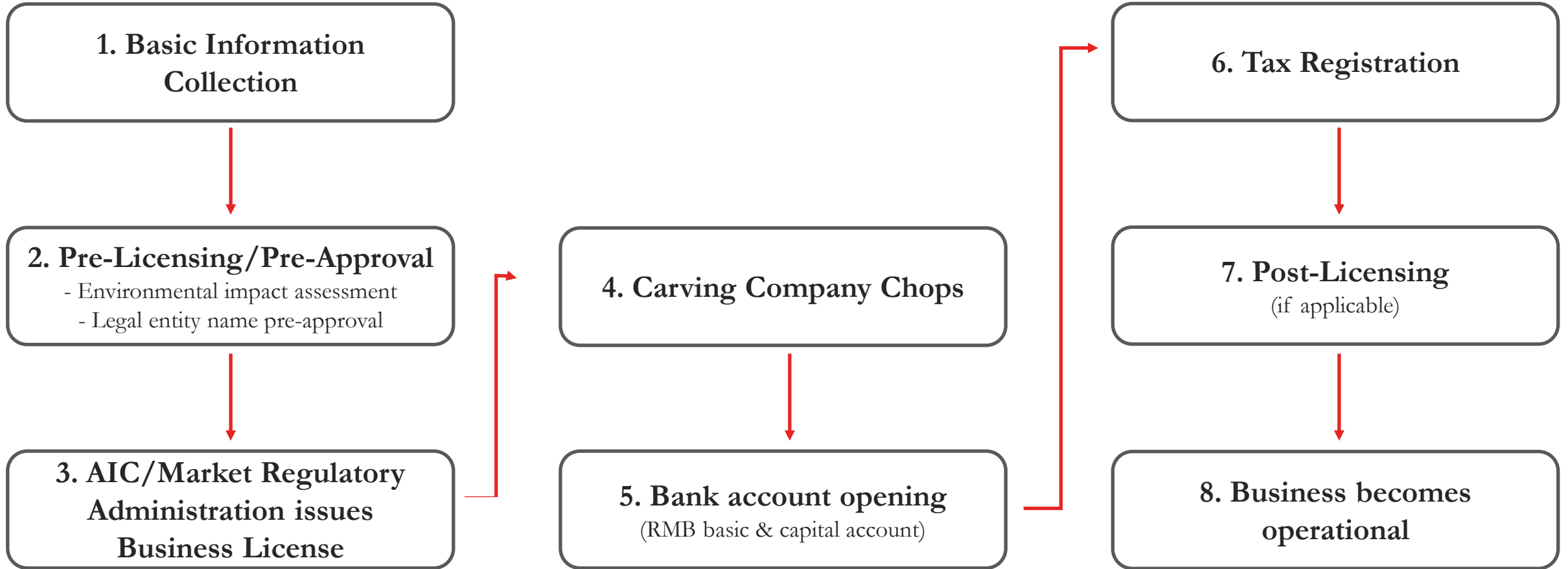
Information List for RO Setup (as of Feb. 2023)

7. ID/passport copies of representatives
8. Resume and two one-inch color photographs of representatives
9. Original office lease contract
10. Original signed or stamped House Property Certificate
11. Copy of ID or business license of house-owner
12. Information sheet printed out by Real Estate Registration Center (some cities require that)
13. The ID of the accountant or finance responsible person

Information List for RO Setup (as of Feb. 2023)

14. The business scope and the sales turnover last year of the HQ, also the business scope of the RO in China.
15. If RO's business scope needs pre-approval, the approval document is required.

Steps and time requirements to setup a WFOE



Steps and time requirements to establishing a WFOE

Notes:

- a. The time explanation
- b. Pre-licensing: e.g. environment impact assessment;
for-profit private schools (for-profit private training institutions) permit;
MOFCOM approval certificate.

Post-licensing: e.g. food circulation license;
import export licensing.
- c. Post-registration work:
Tax registration/check-in
Open company accounts for social insurance and housing fund
Capital injection

Information List for WFOE Setup (as of Feb. 2023)

1. Name of the WFOE
2. Shareholder's documents: need be notarized by a public notary and then authenticated by Chinese Embassy in investor's home country

Please **note** in some cities of China, no need for notarization and authentication

3. Proof of the WFOE address
4. The original of the WFOE's lease contract
5. Scanned passport /ID of WFOE's Legal Representative, Director, GM, and Supervisor
6. Chinese cell phone number of WFOE's Legal Representative, Director, GM, and Supervisor

Information List for WFOE Setup (as of Feb. 2023)

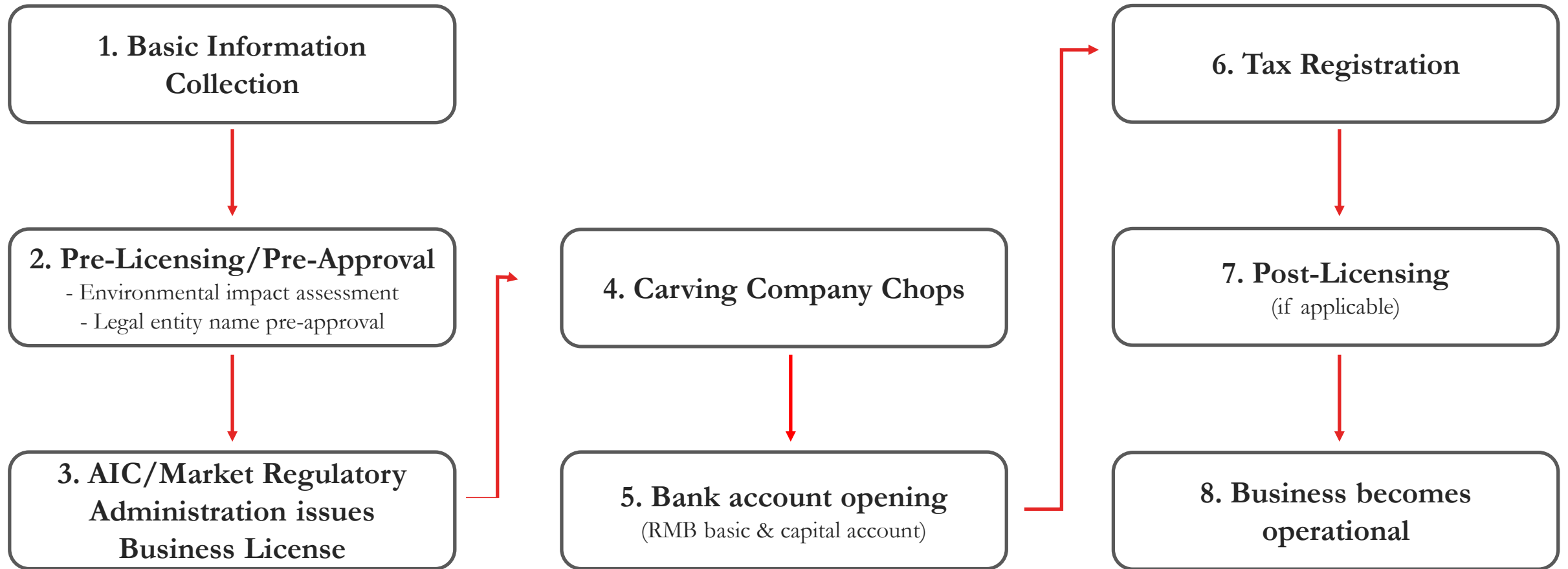
7. Scanned passport/ID & Chinese cell phone number of WFOE's company secretary
- 8 .Business scope description
9. Registered capital amount
10. Name, Chinese cell phone number and ID number of WFOE's accountant, responsible person for social insurance and housing fund
11. WFOE's landline telephone number and email address
12. Investment structure diagram

Information List for WFOE Setup (as of Feb. 2023)

- After the above documents and information are in place, the online application can be submitted. Then the system will issue a complete set of application forms and AOA for signature. AOA can be adjusted if investors like, and it can be bilingual, but important articles cannot be changed.
- Some cities or districts may ask for shareholder resolution and BOD Resolution or Executive Director Resolution.

Important note: Due to rapid changes or improvements in the online application system and workflow, there maybe some changes to the aforementioned requirements in the future. Please consult the local authorities prior to applying for the company registration to obtain the most recent information list.

Steps and time requirements to setup a JV



Information List for JV Setup (as of Feb. 2023)

1. Name of the JV
2. Foreign Shareholder's documents: need be notarized by a public notary and then authenticated by Chinese Embassy in investor's home country

Please **note** in some cities of China, no need for notarization and authentication

3. Proof of the JV address
4. The original of the JV's lease contract
5. Scanned passport /ID of JV's Legal Representative, Director, GM, and Supervisor
6. Chinese cell phone number of JV's Legal Representative, Director, GM, and Supervisor

Information List for JV Setup (as of Feb. 2023)

7. Scanned passport/ID & Chinese cell phone number of JV's company secretary
- 8 .Business scope description
9. Registered capital amount
10. Name, Chinese cell phone number and ID number of JV's accountant, responsible person for social insurance and housing fund
11. JV's landline telephone number and email address
12. Investment structure diagram

Information List for JV Setup (as of Feb. 2023)

- After the above documents and information are in place, the online application can be submitted. Then the system will issue a complete set of application forms and AOA for signature. AOA can be adjusted if investors like, and it can be bilingual, but cannot change important articles.
- Some cities or districts may ask for Resolution of Shareholders' Meeting and BOD Resolution

Important note:

- Due to rapid changes or improvements in the online application system and workflow, there maybe some changes to the aforementioned requirements in the future. Please consult the local authorities prior to applying for the company registration to obtain the most recent information list.
- Usually JV's Chinese party should be a company, not natural person. Only some pilot areas allow Chinese party to be a natural person.



Important considerations

Important considerations

How to choose a name for your legal entity?

Example: Finland ABC Representative Office

Country/Region's name	HQ's name	Representative Office
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usually transliterated

Important considerations

How to choose a name for your legal entity?

Example: Marcia Business Consulting (Beijing) Co.,Ltd; or
Beijing Marcia Business Consulting Co.,Ltd.

Business Name	Industry	Administrative Region	Organization Type
<ul style="list-style-type: none">• Will be used on official VAT invoices and company Chop;• Subject to AIC approval;• Must be in Chinese characters.	<ul style="list-style-type: none">• Selected from a predefined list;• Refer to China's <i>Industrial Classification of National Economic Activities</i>.	<ul style="list-style-type: none">• The city in which the business is registered;• Can be used before the business name or after the industry (in brackets).	<ul style="list-style-type: none">• Limited Liability or Co.,Ltd; Limited by Shares.

Important considerations

How to choose a name for your legal entity?

Notes:

1. Can I use “China” in the company name? The answer is YES, but there is pre-requisite
2. Validity period for the company name pre-approval: from 1 month to 6 months.
3. Platform to help pre-check if your intended company name can be used

Important Considerations

Registered Address

- a. Virtual address
- b. Operation address

According to relevant regulations, the registered address and the operation address should be the same.

So the virtual address for Business License application sometimes is at risk. Moreover, the on-site inspections of authorities, such as tax bureau and bank, may have problems and fail to pass.



Important Considerations

Registered Address



c. How to find a registered address/office?

Through a reliable channel, such as a good real estate agent or a reputable registration service supplier.

You need consider some factors: such as which area? Rental fee level? English speaking receptionist? Any other service? It can help you find proper options.

Important Considerations

Registered Address

d. Notes in lease contract:

- The lease term is at least 12 month/one year.
- guarantee from landlord that this address can be used for successful company registration and can provide all the officially required supporting documents
- Please make sure if you need pay additional fee for address proof documents, such as certificate of property, address certification form, sub-lease contract etc.
- Be sure to specify when to get the rental fapiao, who will pay the tax, and ensure the authenticity of the fapiao.



Important Considerations

Registered Address



e. You had better choose a district carefully.

In China, every city has several districts. For the time being, if you change your registered address to a different district, the process is similar to deregister the company first in the previous district and then register it again in the new district. It takes a lot of time and may affect your business operation.

Important Considerations

Total investment and registered capital

a. Definition and function

Total investment includes the amount of capital contributed by the parties to the joint venture and the financing borrowed by the company from the bank.

Please note in the current Foreign Investment Law and its implementation regulations, total investment is not mentioned any more. However, Interim Provisions on the Ratio of Registered Capital to Total Investment of Sino-Foreign Equity Joint Ventures is still valid. Before China finishes sorting out and repeal related old regulations, JV had better still stipulate total investment in the AOA. For WOFE, it is not necessary.

The registered capital of a limited liability company shall be the capital contribution amount subscribed by all the shareholders duly registered with the company registration authorities pursuant to the law.

Important Considerations

Total investment and registered capital

b. Ratio between total investment and registered capital

Amount of Total Investment	% of Minimum Registered capital to Total Investment	Note
Total Investment < = USD 3 million	70%	
USD 3 million < Total Investment < = USD 10 million	50%	Not less than USD \$2.1m
USD 10 million < Total Investment < = USD 30 million	40%	Not less than USD \$5m
Total Investment > USD 30 million	1/3	Not less than USD \$12m

Important Considerations

Total investment and registered capital

c. Can registered capital be used?

d. How to decide a proper registered capital and currency unit

- Minimum registered capital requirement and contribution terms
- Factors to consider
- Potential risk for too low or too high registered capital
- Currency unit

Note: some industries still have minimum registered capital amount requirement.

Important Considerations

Notarized and authenticated documents of shareholder

Please note:

1. There must be signature on the passport
2. The valid period of the notarized and authenticated documents is 6 months
3. The documents need be translated into Chinese by a qualified translation company in China. So please note there is a cost for materials' translation.

Important Considerations

What positions should you arrange?

Positions for RO:

- i. 1 Chief Representative
- ii. 3 ordinary representatives
- iii. Ordinary Chinese employees

Positions for WFOE:

- i. Executive Director /Chairman (BOD)
- ii. General Manager,
- iii. Supervisor/board of supervisors,
- iv. Finance responsible person
- v. Legal representative/person

Positions for JV:

- i. Chairman, Vice Chairman, other directors
- ii. General Manager,
- iii. Supervisor/board of supervisors,
- iv. Finance responsible person
- v. Legal representative/person

Important Considerations

What positions should you arrange?

Importance of signature

Some people's signatures are very important, such as shareholder's authorized signatory, foreign-invested enterprise's legal person, and board members of foreign-invested enterprises. These signatures are filed into the electronic system when the establishment materials are submitted, and the approving authority will check whether these people's signatures are consistent when the company apply for changes in the future.

Does the Legal representative need to be physically present?

In some places, due to the implementation of electronic business license, corporate establishment now require legal person to bring the original passports to the site for verification when applying for business license. Some cities do not need legal representative to show up in person, but cannot apply for e version business license.

Important Considerations

Principals when you select candidates

There are some basic rules who cannot act as legal representative:

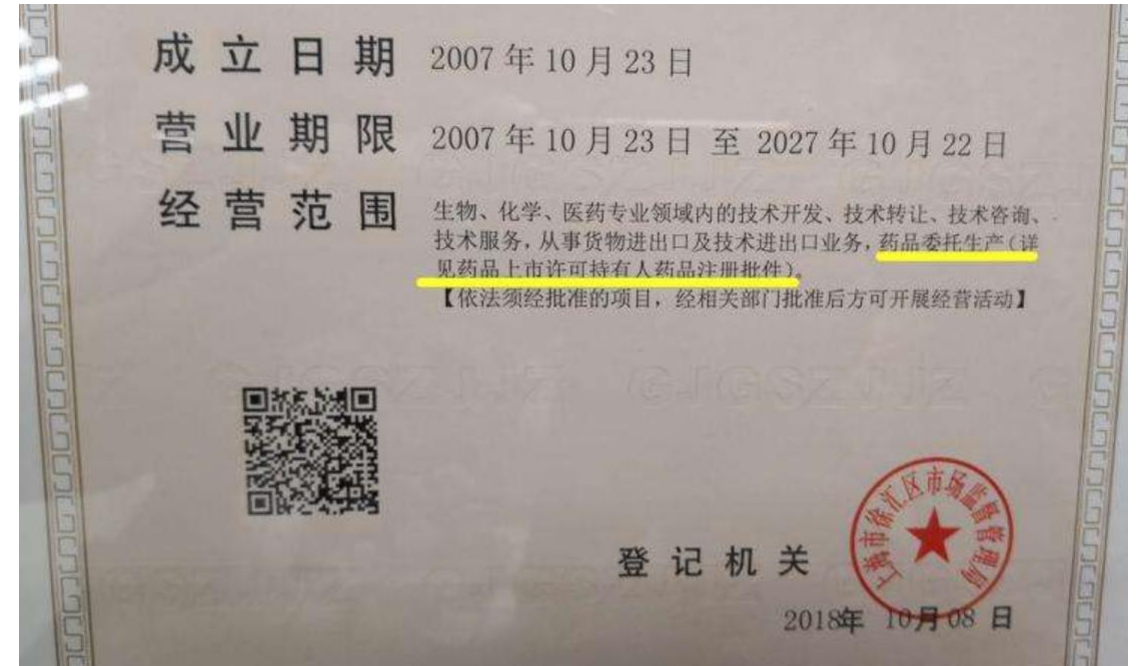
- 1) Cannot be the people who have no civil capacity or with limited civil capacity
- 2) Those who are being punished or who are being enforced by criminal coercive measures;
- 3) Wanted by Public Security Organs or National Security Organs
- 4) Those who have been sentenced to a penalty for committing corruption, bribery, conversion of property, or disruption of the order of socialist market economy, or who are stripped of political rights for being convicted of a crime, five year not lapsed; or Those who have been sentenced to a penalty for committing other crimes, 3 years not lapsed.
- 5) Acted as a senior management in a company which has been declared bankrupt or liquidated, and personally accountable for the bankruptcy or liquidation, three years not lapsed
- 6) Acted as a legal representative of a company which has its business license revoked or being ordered to close down for a breach of law, and personally accountable, three years not lapsed
- 7) Unable to repay a relatively large amount of personal debts.
- 8) Other circumstances stipulated by the law and the State Council

Important Considerations

Business Scope

How to define a proper business scope?

The scope of business is the scope of business activities undertaken by an enterprise and shall be registered with the enterprise registration authorities pursuant to the law.



Important Considerations

Business Scope

Notes:

- a. The results should be based on official reviews and decisions. AIC has final say on business scope description.
- b. As long as the business project does not involve special permit, try to write a large category in the business scope, and write all the projects you want to do in the near future to avoid short-term changes.
- c. Main project should be written in front and should be in accordance with company's industry name.
- d. If you are not sure of your description, you can ask a professional or consult Q&A Desk of government authorities to help summarize it.
- e. Also consider the tax rate corresponding to the operating project.
- f. The business scope is also related to the invoice.

Important Considerations

Explanation on paper work

- All the documents that need signature must be the original signed ones. No e-signature is allowed.
- Also please note to use black ink pen. NOT ball pen.
- Signature should be the same as the one on passport.
- In addition, if you need print out the forms in Finland, please note the paper size: it should be A4 size, other size cannot be accepted by approving authority.

Important Considerations

Bank Accounts

How many bank accounts are needed

Commonly used accounts by FIE:

- Registered capital account,
- RMB basic account,
- RMB general account,
- Foreign loan account.

How to select a proper bank

- Brand
- Location

Requirement about legal representative



Important Considerations

Various chops

Chop types and function

Commonly used seals of enterprises:

- Company seal
- Financial seal
- Name seal
- Fapiao seal
- Contract seal

Chop keeping



Important Considerations

A shell holding company in Hongkong?

Advantages:

1. Shareholder document.
2. Tax incentives between Hong Kong and the mainland
3. Shareholder change
4. HK employees

Disadvantages:

1. Operating costs
2. Open an account in HK bank

Important Considerations

Get Funds into and out of China

Get fund into China:

Registered capital: normally no problem. Just need **note**:

- Names of the sender and the receiver.
- Exchange rate

Service payment

Goods payment

Important Considerations

Get Funds into and out of China

Get fund out of China:

Dividends paid to shareholder

Goods trading

Service trading

Note:

1. Exchange rate
2. Which party pays the tax

Important Considerations

Fapiao accounting, choose a proper accountant

When you submit company establishment application, you need submit the information of financial responsible person and your accountant. **So before you setup the company, you need consider how to choose a proper accountant for your entity in China.**

As mentioned, fapiao is very important in China. Although accounting standard requires accrual bookkeeping, many people in accounting industry are using fapiao accounting instead.

Important Considerations

Fapiao accounting, choose a proper accountant

Fapiao Accounting will cost your business a lot of money in the long run

Recognizing revenue and expenses based solely on available fapiaos leads to misleading financial reports and incorrectly reporting the business's tax liability. You won't realize the cost to your business until it's time to adjust your financial reports or you're caught in a tax audit.

- Inaccurate Financial Reports
- Tax Risks
- Cash Flow Problems

Many external accountants charging high service fees still do Fapiao Accounting

This is the simplest way to meet a business client's compliance requirement and allows the service provider to maximize its margins. It's not until later down the road when the client realizes the negative effects of Fapiao Accounting.

Important Considerations

Fapiao accounting, choose a proper accountant

Case Study:

A business sells goods in March worth RMB 5,000 and there is a cost of RMB 4,000 in March, but receives the input fapiao worth RMB 4,000 in Jun. If the accountant performs bookkeeping on the basis of fapiaos, they will understate cost and overstate profit by RMB 4,000 in Q1. When bookkeeping on the basis of fapiao, financial reports will inadvertently conceal the true profits earned by the business.

ACCRUAL BASED

	Mar	Jun
Revenue	5000	0
Cost	4000	0
Profit	1000	0

FAPIAO BASED

	Mar	Jun
Revenue	5000	0
Cost	0	4000
Profit	5000	-4000

Important Considerations

Fapiao accounting, choose a proper accountant

Case Study:

A business that sells goods worth 30,000 RMB of which 6,000 RMB are sold domestically without the need for fapiao and 4,000 RMB for export, fapiao based accounting will underreport its revenue by 10,000 RMB- also under reporting their VAT and CIT.

	FAPIAO BASED	GAAP BASED
Revenue	20,000	30,000
Revenue with Fapiao	20,000	20,000
Revenue without Fapiao		6,000
Revenue for Export		4,000
Cost	25,000	25,000
Profit	-5,000	5,000

Important Considerations

Fapiao accounting, choose a proper accountant

Compliance is more than just bookkeeping and tax filing

While you might be able to get away with paying RMB 2,000 a month in exchange for having your compliance taken care of, the cost to your business is higher than that. Good compliance ensures the integrity of your financial reports and helps you build trust with your employees and investors.

Value-added work

Accountants in China are mostly bookkeepers. The financial reports provided by only bookkeepers are of little value for management decision making or in many cases are outright misleading. Financial planning and analysis requires someone who understands your business and adheres to the principle of accounting.



Notes under epidemic situation

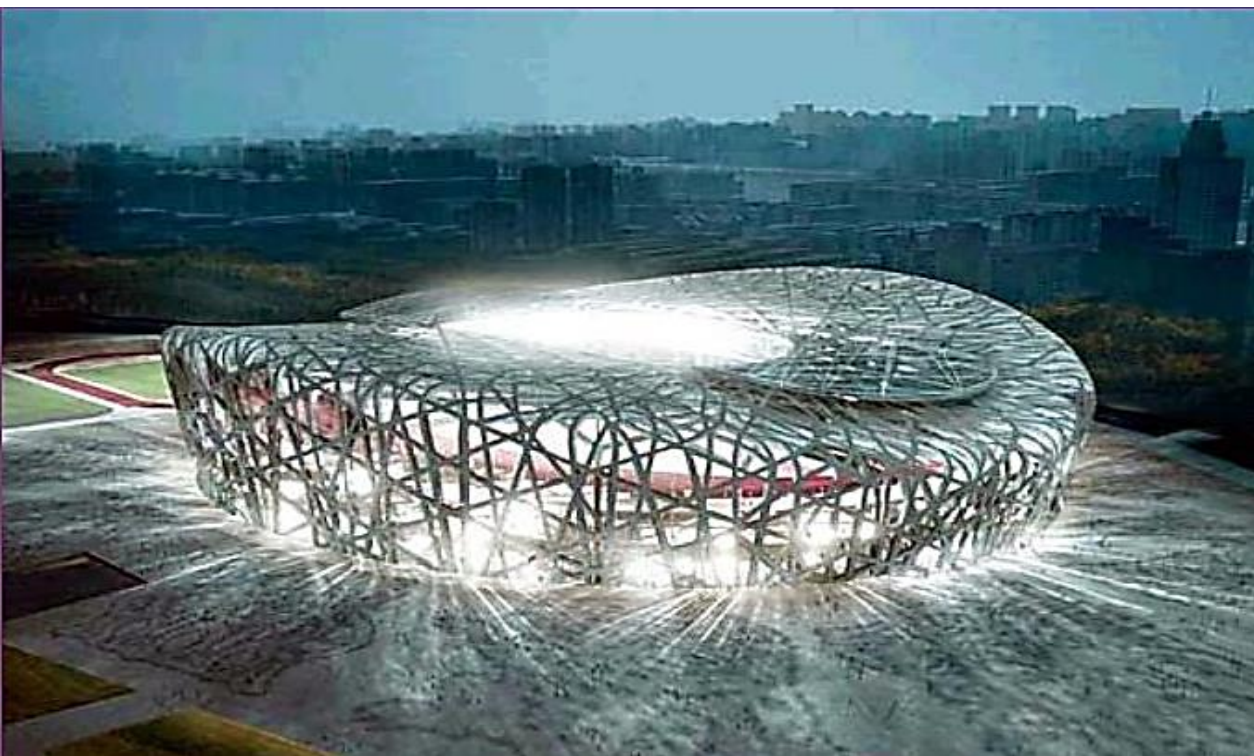
How government authorities work under epidemic situation

- a. Contactless work procedure
- b. Working time arrangement
- c. Improving working flow and efficiency
- d. State Council attitude



Important notes during the pandemic

- a. Notarization and authentication: pay attention to timeline
- b. Legal Representative: if not show up in person, possible impact on e-version business license application and tax filing & fapiao application
- c. Tax check-in step: if not done in time, possible fine or required to deregister the company



Thank you

Company Background

Integra Group is a dynamic accounting practice and consultancy firm with a mission to help SMEs in China. We believe accountants should do more than just a bean counter. Through us, businesses gain valuable insights into how their business is performing via dashboards and regular business growth meetings.

Here at Integra, we take great pride in our approach to working with clients. We evaluate your current position and develop strong working relationships, taking the time to truly understand your business and business needs. We are passionate, business minded and technologically savvy. We recommend and implement suitable apps for businesses.





Q&A

Integra Group

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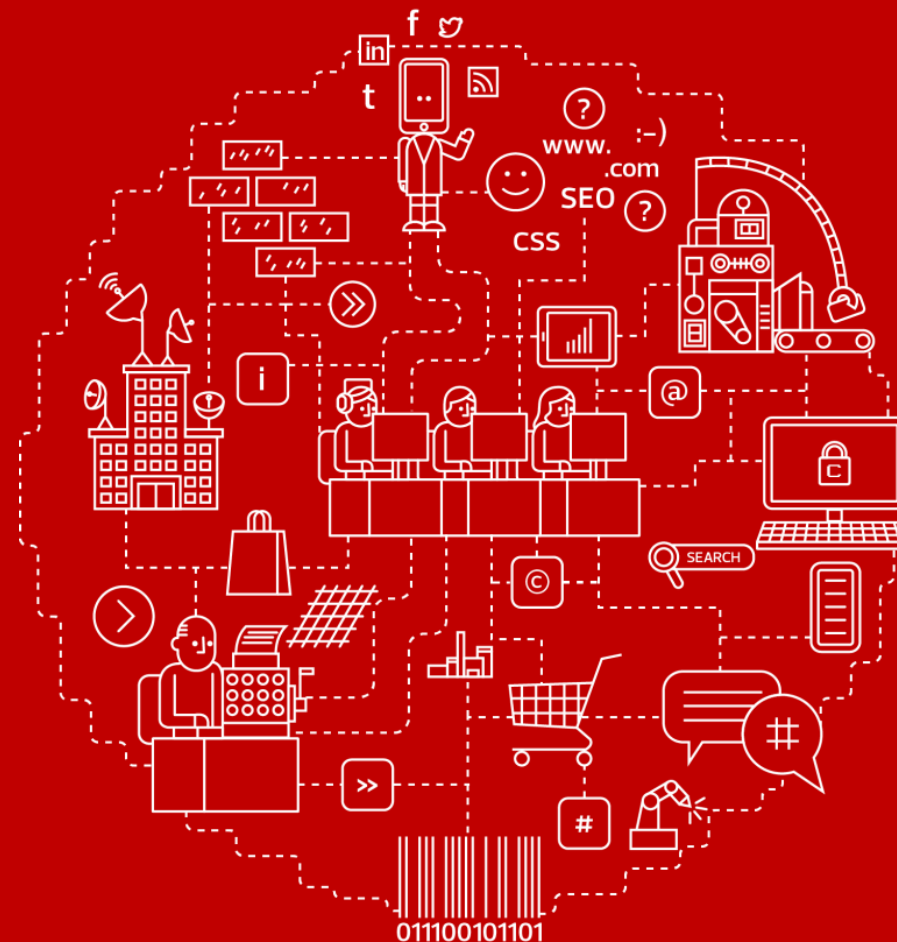
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