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1 China's Changing Labor Market

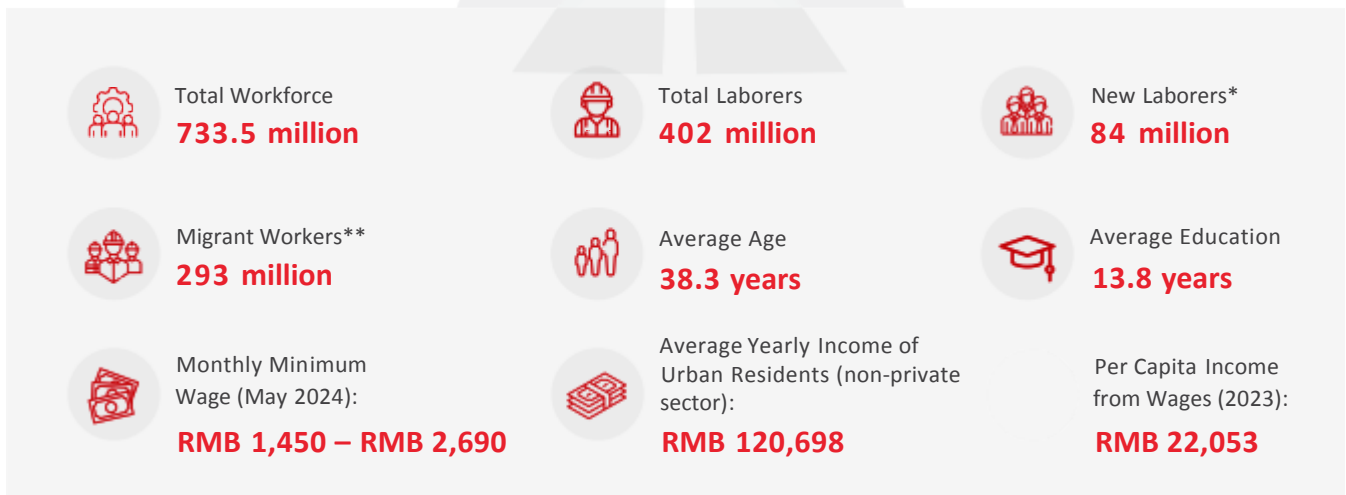
- » Prominent trends in China's labor market
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China's Changing Labor Market

China's labor market, the largest in the world, is currently experiencing rapid transformation. As the population ages, the working age demographic is decreasing and alternative employment models are gaining prominence. In response, China is actively upskilling its workforce to enhance productivity and efficiency. For foreign invested enterprises (FIEs) operating within this dynamic landscape, understanding the evolving labor environment is crucial for effective talent recruitment and retention—essential factors for sustained success and growth. Moreover, as labor laws continue to improve and employee awareness grows, maintaining compliance with China's labor regulations remains paramount.

According to the Ninth National Workforce Survey released by the All-China Federation of Trade Unions (ACFTU) in March 2023, China's total number of laborers has grown to 402 million people at the beginning of 2022, up from 391 million recorded in 2017 when the last workforce survey was conducted.

Overview of China's Labor Market



* Refers to workers who provide online distribution, travel, transportation, housekeeping, and other services through internet platforms, often on a flexible basis.

**Refers to workers who move from rural areas to urban areas to find work.

Source: Ninth National Workforce Survey, All-China Federation of Trade Unions, National Bureau of Statistics.



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Prominent trends in China's labor market

Age increasing, but so are education levels

The average worker age in China increased to 38.3 years in 2022 from 37.1 in 2017. The average age of industrial workers was 38.29, while the majority of professional technical personnel were between 30 and 50 years old, and were mostly working in the education, manufacturing, and healthcare and social work industries.

The average length of education of workers also increased slightly to 13.8 years in 2022, up from 13.6 in 2017. Over 85 percent of workers had a highschool diploma or above, and 35 percent had a college degree.

Diversified industry distribution

The vast majority of industrial workers – 82.7 percent – work in secondary industries, and 77.6 percent work in manufacturing and construction. Meanwhile, one of the new major changes to China's labor force is an increase in the proportion of people working in 'new forms of employment'. This concept is similar to that of 'gig workers' in the West, referring to people who provide various services through internet platforms on a flexible to-order basis, such as online car-hailing drivers, couriers, takeaway delivery drivers, and others. There are currently around 84 million people doing this type of work, around 20.9 percent of the total workforce.

Rising labor costs

Labor costs have continued to rise in China, due primarily to rising costs of living and income levels as the economy grows and moves up the value chain.

The average yearly income of urban residents in non-private sector (the statistical group to which FIEs belong to) reached RMB 120,698 (approx. US\$17,128) in 2023. The industry with the highest average income was information transmission, computer services, and software industries, with an average annual income of RMB 223,088 (approx. US\$31,659), while the lowest was in the water, environment, and utilities management industry, with an average annual income of RMB 54,516 (approx. US\$7,736). The average monthly wage of a migrant worker was RMB 4,780 (approx. US\$678), up 3.6 percent from 2022.

The increasing labor costs in China correspond with an overall increase in spending and costs of living. According to data from the National Bureau of Statistics (NBS), China's disposable income per capita grew to RMB 39,218 (approx. US\$5,565) in 2023, a nominal increase of 6.3 percent

“China's labor market is currently undergoing rapid transformation. Understanding the prominent trends is crucial for recruiting and retaining talent, as well as ensuring compliance.”

year-on-year. Meanwhile, costs of living have increased, in particular in manufacturing hubs, such as Shanghai and Guangdong Province. In addition to rising wages and living standards, the increase in costs is also being driven by the increase in employees' education and training. As China strives to move its economy up the value chain by modernizing traditional industries and focusing on the production of high-value goods, so does its need for higher-skilled labor, which comes at a higher cost.

Improving protection of labor rights

In addition to continued efforts on preventing work-related injury, ensuring timely salary payment, as well as building up a mandatory social security system, the labor authorities in China have also been ramping up protections to certain 'disadvantaged groups'.

For instance, in 2021, China's State Administration of Market Regulation (SAMR) issued policy guidelines that ordered internet platforms providing food delivery services to ensure workers are paid the minimum wage, are not subject to excessive working hours, and adhere to certain safety standards, among other requirements.

China has also made major in-roads into the protection of the rights of women in the workforce. In October 2022, China passed the Law on the Protection of Women's Rights and Interests (Women's Protection Law), which incorporates gender discrimination in the workplace into the scope of labor security supervision and further clarifies the definitions of sexual harassment in the workplace, thus strengthening the enforcement of other laws and regulations.

Work-life balance and technical upskilling

An important development in China's work culture over the past few years is a greater awareness of work-life balance and an increasing backlash against overwork. This is particularly true in white-collar professions, perhaps due to the higher level of visibility of these positions within society. A number of high-profile incidents at tech companies in particular have renewed criticism and backlash against the "996" work culture.

According to the ACFTU survey, it is found that employees are also placing higher importance on their long-term development, with 95.3 percent of workers interested in learning new vocational skills or knowledge. This proportion is particularly prominent among employees aged 18 to 40 and employees with a bachelor's degree or above.

Growing demand for more flexible work arrangements

A shift to more flexible work arrangements is well underway. This has a lot to do with the psychological changes of workers in the post-pandemic era.

First, the diversification of current social employment forms has impacted the traditional eight-hour working day. Under the same salary benchmark, personal free time has become increasingly important for workers.

Secondly, psychological adjustment during the epidemic has intensified workers' reflection upon planning their lives. In the face of a global public health emergency, people have become more cognizant of the shortness and fragility of life, and this has forced them to take stock of the things that matter the most to them and how to live a more fulfilling life.

Remote workforce becoming more common

Another trend observed in China's labor market is that 'telecommuting' has been adopted by more and more employers. Telecommuting, also known as teleworking, refers to the practice of working from a location outside the company's office. Through telecommuting, a company's workforce is distributed across a country or region and do not work in traditional offices. The distributed employees may telecommute for long periods of time or may choose to telecommute only temporarily.

Thanks to telecommuting, the talent pool has greatly expanded irrespective of the location of the enterprise. Recruiters will, however, need to adopt new hiring practices and expand their search far beyond the traditional geographic boundaries they might once have adhered to. It also provides job opportunities for people with disabilities and mobility problems. The model could appeal to people who need to work flexibly, such as parents with young children.

Strategies for recruiting and retaining talent in China

Building employer branding and cultivating company culture

Employer brand value is increasingly gaining widespread attention and recognition and has become one of the best indicators of a workplace culture for job seekers. Establishing a strong employer brand will help your company stand out in the job seeker market and ultimately help you attract and retain better talent.

Company culture is an indispensable part of any company. It can create a positive workplace environment, improve the staff's cultural exposure and ethical standards, and allow internal employees to naturally form a cohesive and tightly knit team. Company culture can help enterprises play a positive role in the work lives of their staff as well as assist in rationally allocating enterprise resources to improve competitiveness.

To effectively build a good company culture and a positive employer brand image, we suggest adopting the “4P” strategies, namely: People, Product, Position, and Promotion. These concepts can be understood as follows:

- People: Identifying the type of people and desired skills and expertise your company wants to attract – to inform the development of your brand image.
- Product: Regarding the company as a product and identifying your company’s unique selling proposition, such as what experiences and benefits your company can offer employees and prospective employees.
- Position: Identifying your company’s brand positioning in the employment landscape and refining your brand message using concise and effective language.
- Promotion: Promoting your employer brand – remember, your current employees are your most effective advocates and the best resource for promoting your company as an employer.

Adopting strategies to retain talent

Retaining talent, especially excellent talent, is a top priority for any enterprise. Keeping employees loyal, productive, and employable is an important skill for every leader and HR department to have today.

The first tactic to improve employee retention is to increase flexibility and set boundaries. Flexibility is one of the things most employees will focus on. Younger workers prefer to be measured by performance rather than time. A flexible schedule that includes the option to work from home, flexible start and finish times, paid vacations, career breaks, choice of location, and shorter weekly working hours are attractive perks that companies can offer to seek and retain top talent.

The second tactic is to make work fun and give good feedback. Whether they are at the office or at home, leaders can have a big impact on their employees’ work. People who are happy at work will stay longer. The company should also provide good, actionable feedback and motivation in a timely manner. Feedback is crucial for employees to learn and grow and helps to foster loyalty and retain employees. People also need to receive respect and approval for their work, which can come from constructive feedback.

Employee incentives can help satisfy the various needs of staff and stimulate their enthusiasm for work, so that they maintain a positive mood, enabling them to fully explore their potential. This will not only improve the efficiency of the company itself, but also empower its employees to achieve professional progress and achievements.



Understanding China's Labor Law Framework

- » General features of China's labor law framework
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- » Importance of compliance with China's labor laws

Understanding China's Labor Law Framework



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China's labor law framework is complex, not only due to its content and scope but also because it continually evolves to align with the country's socio-economic development. Additionally, local variations are common – while the central government establishes several laws that must be followed, numerous bylaws and regulations are instituted at the local level.

Under such circumstances, understanding the general features of China's labor law system is imperative for evaluating the resources needed to ensure HR and payroll compliance in the China market, in addition to knowing the major labor laws.

General features of China's labor law framework

In general, China's labor law framework features the following points:

- **Emphasis on protecting workers:** China's labor laws tend to prioritize safeguarding workers' rights, recognizing their often vulnerable position in labor relations. For instance, these laws establish minimum wage standards and ensure that workers have reasonable working hours, vacation time, and access to social insurance benefits, thereby securing their fundamental labor rights.
- **Emphasis on employer responsibility:** China's labor laws not only require workers to adhere to relevant labor discipline and regulations but also emphasize the responsibilities of employers in ensuring labor protection. Employers must establish robust occupational safety and health systems, provide safety education to workers, and furnish necessary protective equipment to safeguard workers' physical health and safety.
- **Primacy of mandatory standards:** China's labor laws primarily rely on mandatory norms, with specific legal provisions dictating the labor protection standards and requirements that employers must comply with.
- **Integration of substance and procedure:** China's labor laws address both substantive content and procedural aspects. While safeguarding workers' rights, they also require employers to follow proper procedures during employment, including contract formation, modifications, and terminations. This ensures the legality and stability of labor relationships.
- **Adaptation to changing times:** As China's socio-economic development and labor market evolve, labor protection laws continually update and improve, making labor compliance in China more challenging.
- **Local variation:** Local regulations can significantly differ across provinces and municipalities. Employers must be aware of regional nuances when implementing labor policies. For instance, different cities may have different minimum wage, social security contribution standards, number of maternity leave days, and medical treatment period policies.

“China's labor law framework is intricate, not only due to its complex wording but also because it continually evolves to align with the country's socio-economic development.”

China's major labor laws

Despite local variations, most labor laws align with the national principles and guidelines established by major labor legislation. These local differences fall within the permissible scope of discretion granted by national law.

The Labor Law of People's Republic of China (the Labor Law) and the Labor Contract Law of People's Republic of China (the Labor Contract Law) are two primary source of employment regulations within China's labor law framework. They play a crucial role in safeguarding workers' rights, regulating labor relations, and promoting harmonious stability in labor relations.

The Labor Law, first implemented in 1995 and last revised in 2018, establishes the fundamental structure of labor relations and specifies core elements such as the labor contract system, labor protection, working conditions, wages, and labor discipline. It provides essential guidance and a basis for the formulation and implementation of other labor laws and regulations.

Meanwhile, the Labor Contract Law, first implemented in 2008 and last revised in 2012, serves as a subsidiary law to the Labor Law. It provides detailed regulations on various aspects of labor relations between employees and employers, including establishment, modification, as well as the signing, execution, and termination of labor contracts. The Labor Contract Law offers more precise and specific legal guidance for the practical operation of labor relations.

Other labor laws instituted centrally that investors should take note of when doing business in China include:

- Law on the Protection of Rights and Interests of Women: This law safeguards women's rights in the workplace, addressing issues such as equal pay, maternity leave, and protection against discrimination.
- Social Insurance Law: This law plays a crucial role in providing social security coverage to employees, including pensions, medical insurance, unemployment insurance, maternity insurance, and work-related injury insurance.
- Regulations on the Housing Fund: These regulations provide guidance on how employers should register and contribute to housing fund schemes for their employees.
- Labor Dispute Mediation and Arbitration Law: This law provides guidance on resolving disputes related to labor contracts, working hours, wages, safety, and other labor-related matters.
- Trade Union Law: This law outlines how trade unions should be organized in China, their role in labor protection, and the responsibilities of employers.
- Law of the People's Republic of China on Work Safety: This law enhances supervision and control over work safety, aiming to prevent accidents and protect lives and property.
- Administrative Provisions on Employment of Foreigners in China: This law lays out the requirements and procedures for hiring foreign employees in China.

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What is the importance of original employment contracts in China?

Q&A answered by Adam Livermore, Partner

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Importance of compliance with China's labor laws

Compliance with China's labor laws plays a vital role in maintaining a harmonious and productive workplace. It is essential for preventing labor disputes, avoiding penalties from regulatory authorities, and attracting and retaining top talents.

Preventing labor disputes

Given China's strong emphasis on employee protection in labor relations, employers often find themselves at a comparative disadvantage when labor disputes arise. Therefore, implementing effective strategies to prevent such disputes is crucial for minimizing the risk of financial loss. Adhering to labor laws and regulations plays a pivotal role in preventing misunderstandings and conflicts between employers and employees. By ensuring that workers' rights are safeguarded and that employment terms are transparent and equitable, companies can significantly reduce the likelihood of disputes.

Avoiding penalties from authorities

As previously mentioned, China's labor laws place substantial responsibility on employers. Failing to comply with relevant mandatory norms can lead to potential audits, investigations, and significant financial penalties. Maintaining strict compliance with labor regulations allows businesses to operate smoothly within the legal framework and avoid these risks.

Attracting and retaining talent

While China has an abundant labor supply, finding suitable candidates isn't always straightforward. Attracting and retaining top talent is a key priority for businesses. Companies known for their commitment to labor compliance and fair treatment of employees tend to be more appealing to job seekers. Conversely, companies with labor dispute records or violations of labor laws may discourage potential candidates.



Essential Steps for Effective Employment Management and HR Compliance in China

- » Employment management and HR compliance in China at a glance
- » The employee handbook: Your policy cornerstone
- » Hiring and contract management
- » Payroll management
- » Termination

- » Managing foreign employees
- » Data privacy issues in HR management
- » Leveraging technology to improve HR and payroll management

Essential Steps for Effective Employment Management and HR Compliance in China

Effective employment management and HR compliance are multifaceted challenges that demand expertise across various domains. Various key issues deserve specific attention by employers in China. We summarize some of these below, and delve into them in greater detail within subsequent sections:

- **Hiring options:** An enterprise can hire staff through three basic options - direct hiring, labor dispatch, and outsourcing. Professional employer organization (PEO) service is growing in popularity as an alternative hiring option
- **Representative offices:** Representative offices, being one of the simplest foreign investment structures in China, face limitations when it comes to direct staff hiring. Instead, they must engage dispatch agencies. These agencies must hold a government-issued special license that allows them to hire employees on behalf of their clients (for instance, Dezan Shira & Associates holds such dispatch licenses)
- **Dispatch limits:** Labor dispatch can only apply to three types of positions-temporary position, auxiliary position, and replaceable position. The number of total dispatched employees used by an employer should not exceed 10 percent of its total number of employees.
- **Mandatory written contracts:** All directly hired employees must be given a written contract within one month of their start date. Failure to do so entitles the employee to double salary. Electronic labor contracts are regarded as written contract as well by satisfying certain conditions.
- **Probation period:** The range of legitimate grounds for dismissing an employee is considerably wider during their probation period. The employer may also pay only 80 percent of the employee's contractual salary during this time.
- **Working hour system:** In China, there are three main work hour systems -the standard work hour system, the comprehensive work hour system, and the non-fixed (flexible) work hour system. The latter two systems are considered 'special work hour systems', which require special approval and compliance requirements.
- **Payment and tax:** An employee's salary package could include base salary, allowances, bonuses, non-monetary pension plans, and employer's portion of social security contribution. The base salary should be stipulated in the labor contract. Employers are required to file individual income tax (IIT) for their employees on a monthly basis.
- **Mandatory social security:** China's social security system is made up of five different kinds of insurance – pension, medical, maternity, work-related injury, and unemployment, plus one housing fund. Both employer and employee are obligated to make contributions, but it is generally the employer's responsibility to correctly calculate and withhold the payments for both parties. Employer's obligation to make adequate and timely contributions cannot be alleviated or exempted by reaching mutual agreement with employees.
- **Leave during the first year of employment:** Employees are not entitled to any mandatory minimum number of leave days during the first year of their career, except public holidays such as Chinese New Year around January-February, and the National Day celebrations in early October.



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- No at-will termination: Terminating employees in China is both difficult and expensive. While employees can resign with 30 days' notice, employers face limited grounds for terminating an employee before their contract reaches its natural end.
 - Non-fixed term contract after two fixed term contracts: After an employee finishes their second contract with your company, he or she generally shall be offered a non-fixed term (permanent) contract as the third unless they want another fixed term contract instead. Such non-fixed term contract can only be terminated if there are valid grounds for dismissal. Notably, some regions, such as Shanghai, offer more flexibility regarding this rule.
 - Severance payments mandated by law: In practice, severance payments can be higher than the law prescribes, and can comprise a significant part of overall HR costs.
 - Hiring foreign workers: China implements a tiered talents classification system for hiring foreign workers. Different classes of talents are subject to different administration. Foreigners who want to work at companies in China should arrive on a valid work visa (Z-visa or R-visa). Employers need to obtain and renew Foreigner's Work Permit and Residence Permit for their foreign staffs in a timely manner.
 - Tech-powered HR and payroll solutions: Companies are now transitioning from fragmented, localized payroll software or Excel spreadsheets to comprehensive, technology-driven HR management platforms. These platforms streamline various processes, including onboarding, attendance tracking, leave management, claims processing, and potentially even talent management and training.
 - Privacy and personal information protection: With the release of the Civil Code, the Personal Information Protection Law, as well as the other relevant data security laws and regulations, employers in China are faced with a series of new compliance requirements in employment management. Companies need to audit their current policies and develop corresponding mechanisms to stay compliant.

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[A Comparison Between Direct Hire, Dispatch, Outsourcing and Utilizing Independent Contractors in China](#)
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The employee handbook: Your policy cornerstone

The employee handbook plays an important role in human resources management in China, which not only sets forth daily management rules but also provides guidelines on employees' behaviors in the workplace. However, not all employee handbooks are effective. It is imperative to ensure the employee handbook is made following the right procedures and is up to date.

What is the employee handbook?

The employee handbook, also commonly referred to as company rulebook, staff handbook, or work manual, is a set of written documents that stipulate the labor rules and regulations of the workplace and provides guidelines on employees' behavior. It is like the 'internal laws' that all employees must abide by.

Under the PRC Labor Contract Law, employers are required to "establish and improve upon labor rules and regulations pursuant to the law to ensure workers' entitlement to labor rights and performance of labor obligations". The labor rules and regulations generally pertain to labor remuneration, working hours, rest periods and days off, labor safety and health, insurance and welfare, staff training, labor discipline, and labor quota management, and more.

To put it simply, an employee handbook should clearly indicate how employees will be treated in the workplace, what they will be provided, what they are encouraged to do, what they are forbidden to do, and what are the consequences of their non-compliant behavior.

In practice, various industries have unique and specific requirements for their employees, leading to differences in their respective employee handbooks. For instance, manufacturing factories prioritize punctuality and workplace safety, while service companies place a strong emphasis on professional ethics and confidentiality. As a result, manufacturing and service companies tailor their employee handbooks to address distinct concerns and expectations.

Why is it important for employers to have a well-drafted and properly formulated employee handbook in place?

An employee handbook can provide supplemental explanations to the clauses of the labor contract, and thus make it easier to demonstrate the case where an employee breaks a company rule.

“Not all employee handbooks are effective. It is imperative to ensure the employee handbook is made following the right procedures and is up to date.”

Consider this scenario: An employee frequently engages in minor infractions, such as consistently arriving late for work, leaving early, dishonesty with their manager, or making inappropriate remarks during working hours. While these may be minor transgressions, their repetition can lead to dissatisfaction or complaints from supervisors and colleagues. Consequently, the company may contemplate terminating this employee's contract.

The legal grounds for terminating an employee without compensation are typically limited and stringent, one of which is the occurrence of a 'serious violation of labor rules and regulations.' In this context, if there is no established set of 'labor rules and regulations,' i.e., a well-prepared employee handbook, it becomes challenging for the employer to demonstrate the existence of a serious violation of the labor rules and regulations. Consequently, there may be no legal basis for dismissing the erring employee without compensation.

This scenario exemplifies why an employee handbook that clearly stipulates workplace rules and regulations is of utmost importance for employers.

How to ensure the validity of the employee handbook?

First and foremost, the contents of the employee handbook must align with applicable laws and regulations, including local mandatory rules. For example, if City A's local regulations grant employees 10 days of childcare leave per year, a company registered in City A should not reduce the childcare leave entitlement in its employee handbook. Any such attempt would render the rule invalid.

Additionally, aside from complying with legal requirements, the contents of the employee handbook should be reasonable and fair. Consider a consulting company as an example. If the handbook stipulates that the company can immediately terminate an employee without compensation after just two instances of tardiness, this policy would be deemed unreasonable and unfair for employees with flexible working hours. In the event of a labor dispute, such provisions could be invalidated by a court or arbitration tribunal.

Secondly, once the employee handbook's contents are drafted, it must undergo a 'democratic process' as mandated by the PRC Labor Contract Law.

The democratic process entails a series of interactions between the employer and employees involving discussion, negotiation, and potential amendments to the employee handbook. This process is designed to demonstrate that the handbook's content has been thoroughly deliberated with employees, securing their full understanding and substantial consent. To achieve this purpose, the democratic process is recommended to encompass the following steps:



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Global Staffing Solutions (GSS) is a market entry strategy that alleviates the stress on businesses to establish a corporate entity and outsources the burden of keeping up with the day-to-day management of an employee's payroll and the entity's tax compliance to a local firm. This frees up critical resources for the foreign firm to explore its options in a new or unfamiliar market.

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Step 1: Carry out negotiation with the labor union or employee representatives before making a decision.

Legal requirement	Suggested actions	Suggested documents
Paragraph 1, Article 4 of the PRC Labor Contract Law: When an employer formulates, revises or decides on rules or major matters ...which directly involves the vital interests of workers, such matters shall be discussed by the employee representatives congress or all staff who shall make proposal and give their opinion and the employer shall carry out equal negotiation with the labor union or employee representatives before making a decision.	Call a meeting with labor union or all staff regarding the formulation/ amendment of employee handbook.	Notice of meeting
	Have the meeting with employees to discuss the draft of employee handbook and solicit initial comments and suggestions.	Meeting sign-up sheet
		Minutes of meeting

Step 2: Revise the employee handbook based on concerns raised by the labor union or employee.

Legal requirement	Suggested actions	Suggested documents
Paragraph 2, Article 4 of the PRC Labor Contract Law: During the decision and implementation of rules or major matters, the labor union or staff can raise their concern with the employer on any inappropriate issues and such issues shall be revised through negotiation.	Collect the concerns and comments from employees.	Opinion collection and summary form
	Decide whether and how to amend the draft based on employees' comments.	Minutes of the executive management discussion
	Call the second (and additional) meetings.	Notice of meeting
	Have the meeting with employees to discuss the revision to employee handbook in the second (and additional) meetings.	Meeting sign-up sheet Minutes of meeting

Step 3: Announce the decision on rules or major matters or notify the employee.

Legal requirement	Suggested actions	Suggested documents
Paragraph 3, Article 4 of the PRC Labor Contract Law: Employers shall announce decisions on rules or major matters or notify the employees.	Call training meeting(s) with all employees to interpret and learn the final version of the employee handbook.	Notice of meeting Meeting sign-up sheet Minutes of meeting
	Distribute the final employee handbook to all employees.	Receipt for all employees to sign

Other important considerations when making the employee handbook include:

- Ensure the employee handbook has a Chinese version and make it clear which version shall prevail in case of discrepancies.
- Ensure the labor contract make clear reference to the employee handbook – this will strengthen the company’s case if it plans to dismiss an employee over a breach of company rules.
- Have the rulebook differentiate between minor and major rule breaches:
 - » A minor breach can lead to an official warning letter;
 - » A major breach can result in immediate dismissal without compensation, though whether a breach is sufficiently serious to be regarded as major breach can be challenged in court; and
 - » A company is suggested to specify how many minor breaches may constitute a major breach.
- Have each employee sign a statement that they have read, understood, and agreed to the handbook (this process needs to be repeated whenever the employee handbook gets updated or amended).
- Update the employee handbook regularly: In recent years, there have been numerous legal and regulatory changes regarding employment management, including the processing of employee personal information, leave management, prevention of sexual harassment in the workplace, and more. In light of these developments, it is strongly recommended that companies regularly update their employee handbook to ensure compliance with the latest legal requirements in day-to-day employee management practices.



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Hiring and contract management

Hiring staff is one of the first key decisions a company will come across. Before employing significant numbers of employees, a company should first consider the challenges and employer obligations that may arise when opening or expanding a business.

Hiring options

An enterprise can hire staff through three basic options:

- Direct hiring
- Labor dispatch
- Outsourcing

Direct hiring is a process in which a company hire and manage employees directly without using a third party. Direct hire jobs are usually long-term positions, and the employee will report to the hiring company directly. It is the major form of hiring for businesses operating in China.

Nevertheless, representative offices (RO) in China cannot hire staff directly. Instead, Chinese staff must be seconded by an agency that will take the title of official employer. This is because an RO is not a capitalized legal entity in China.

If a company is qualified to hire employees directly and decides to do so, it should be especially noted that employers are required to sign a written contract with their employees within one month starting from the employee's first day of work at the company. If not, the employee is entitled to a double salary.

Labor dispatch is an important form of supplementary employment. Unlike direct hiring, labor dispatch has a triangular form of employment relations, in which a host company hires dispatch workers from a dispatch agency. While dispatched workers work for and are supervised by the host company, the dispatch agency, which usually has considerable experience and knowledge of hiring local workers, is the de facto legal entity that is responsible for the administrative management of the employees. Thus, labor dispatch is regarded as an effective method to help businesses save hiring costs, avoid tedious administrative processes, and minimize risks and legal responsibilities for potential labor disputes.

“Before employing significant numbers of employees, a company should first consider the challenges and employer obligations that may arise when opening or expanding a business.”



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