

More visa types for foreigners in China

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Key points

- » The categories of expatriates' visas were expanded to 12, including 4 newly-created ones which will make the visa application more complicated and may well create delays in the processing
- » Clarifications regarding residence status
- » Clarifications regarding illegal residence in China

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1) Background

On July 12th, 2013, the State Council released the Order of the State Council No. 637 (“Circular 637”), the Administrative Regulations of the People's Republic of China on Entry and Exit of Foreigners. Circular 637 came into effect on September 1st, 2013.

Circular 637 can be regarded as an implementation rule to the new Entry and Exit Administration Law. Through the release of Circular 637, restrictions on visa related matters are strengthened and a more complicated and extensive procedure (more visa types) in relation to visa and residence permits for foreigners is stipulated. In addition, Circular 637 further describes what can be understood under illegal residence in China.

2) Salient Points of Circular 637

» Expansion of visa categories for foreigners

According to Circular 637, the categories of Chinese visas for foreigners were expanded to 12, of which 4 visa types have been newly-created. Such new visa types include the M-Visa, Q-Visa, R-Visa and S-Visa.

- **M-Visa:** Is issued to persons who enter China for commercial and/or trading activities. The former F-Visa will now be issued to foreigners visiting China or participating on a field trip or exchange, but no longer to foreigners doing business in China. Foreigners entering the Chinese territory with the purpose of commerce and trade have to apply now for the new M-Visa.
- **Q-Visa:** Is divided into **Q1-Visa** and **Q2-Visa**. Q1 visas are issued to family members of Chinese citizens and family members of foreigners with permanent residence status in China, who apply for residence by reason of family reunion; in addition, the Q1 visa can be applied for by persons who apply for residence on the grounds of foster care; Q2 visas are issued to relatives of Chinese citizens living in the territory of China and relatives of foreigners with permanent residence status in China who apply for entry for short-term visits to relatives.
- **R-Visa:** Is issued to foreign high-level skilled personnel, who are in urgent need in China.
- **S-Visa:** Is divided into **S1-Visa** and **S2-Visa**. S1 visas are issued to spouses, parents, children under the age of 18 and parents of spouses of foreigners residing in the territory of China for work or study. Relevant persons shall apply for the S1 visa if they intend to stay in China for long-term visits. S2 visas are issued to relevant persons for short-term visits to relatives.

» Illegal Residence

According to Circular 637 the following cases constitute illegal residence of foreigners in China:

- Stay or residence in China beyond the period of stay or residence prescribed in the visa or the document of stay or residence;

- Entry into China with visa exemption and stay beyond the period of visa exemption without handling the document of stay or residence;
- Stay in areas beyond the prescribed areas of stay or residence;
- Other circumstances of illegal residence.

Any foreign illegal resident in China may be repatriated and banned from entering China between one to five years, beginning from the day of repatriation.

3) Conclusion

Circular 637 does not answer the open question as raised in the new Entry and Exit Administration Law, i.e. what can be exactly understood under high-level skilled personnel or specialist personnel under the “talent introduction” visa type. Therefore, in the future, further detailed regulations on the exit-entry of foreigners are expected to be issued.

Due to the increased number of visa-types, it may be more difficult to apply for the correct visa. We suggest that companies and foreigners reevaluate the criteria for each visa type in order to assure to apply for the correct visa type.

While the processing of visa by the embassies and consulates may not be directly affected, at least at the beginning it has to be expected that there will be delays. Therefore, we recommend to apply for the respective visa as early as possible. Especially for visa extensions, the additional waiting time in China may eventually influence the Individual Income Tax (“IIT”) status for the foreigner in China.

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