

Chinese Lawyers practicing in Foreign Law Firm Representative Office

Description

Laws and Regulations

At present, the major regulations governing Chinese practicing lawyers'™ practice in Foreign Law Firm Representative Office (â€œR.O.â€•) are as follows:

â€¢ Regulations on the Administration of Foreign Law Firms'™ Representative Offices in China(â€œRegulationsâ€•)

â€¢ Provisions of the Ministry of Justice on the Execution of the Regulations on the Administration of Foreign Law Firms'™ Representative Offices in China (â€œProvisionsâ€•)

Summary

Regulations requires R.O. shall not employ Chinese practicing Lawyer (please refer to Article 16 of Regulations), and Provisions gives the definition of employment of Chinese practicing Lawyer (please refer to Article 40 of Provisions), that is :

1. Reaching employment or labor agreements with Chinese practicing lawyers;
2. Having actual employment or labor relationship with Chinese practicing lawyers;
3. Reaching agreements with Chinese practicing lawyers on sharing the profits or risks, or participating in the management;
4. Paying remuneration, expenses or business dividends to individual Chinese practicing lawyers;
5. Employing Chinese practicing lawyers to carry out business activities in the name of the law firm the representative office belongs to or of the representative office.

Thus, many Chinese lawyers can not help but suspend their Chinese license when they are to work in R.O.

In addition, Provisions requires that R.O shall declaim to their clients that R.O has Chinese lawyers but these Chinese lawyer can not practice Chinese law in R.O (please refer to Article 37 of Provisions). What's™ more, R.O. shall obtain employees'™ certificates for every Chinese lawyer (please refer to Article 35 of Provisions). However, when we made phone inquiries into Beijing Justice Bureau, we are advised that many R.Os in Beijing have gotten employees'™ certificates for their Chinese lawyer; when I made phone inquiries into Shanghai Justice Bureau, we are advised that they will not required R.O. in Shanghai to get employees'™ certificates for their Chinese lawyers.

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