



The Choice of Organizational Forms for Commercial Investment in China: A Comparative Analysis Based on Different Types

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Abstract Comprehensive review of commercial and legislative practices across countries reveals a variety of enterprise types, including not only corporations but also sole proprietorships, partnerships, and others, available as choices for investors. China has developed systematic legislation regarding commercial organizations, providing regulatory guidance for the establishment of various types. The analysis shows that each enterprise type possesses distinct characteristics tailored to meet investors' customized needs. In conclusion, the selection of commercial organizations requires careful consideration of multiple factors, including but not limited to liability, entrepreneurial risk, industry sector, consumer market, management selection, capital requirements, and financing methods.

Keywords: Enterprise forms; partnerships; limited liability companies; joint-stock companies; tax considerations.

1 Pluralism of the Concept of Enterprise

In modern society, individuals require stable incomes to meet basic living standards, which fundamentally depend on work. Therefore, a key step in participating in society is finding a suitable job—many choose to submit resumes to large companies, exchanging their labor for wages. However, a segment of the population is

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entrepreneurial (adventurous, resourceful) and driven by entrepreneurial aspirations, choosing to establish a business independently or with others as their source of income. Given the diversity of enterprises, it is essential to clarify the distinctions among different types of businesses at the outset of entrepreneurship. When starting a business, individuals face a significant crossroads in choosing between a company or a partnership as their business structure. Partnerships are characterized by the collaboration of individuals, pooling assets, and sharing responsibilities. The concept of a company dates back to medieval Europe, where merchants banded together to share risks and profits, forming early commercial organizations. These organizations gradually received government charters, evolving into the prototypes of modern companies. With the expansion of commerce, joint-stock companies emerged, allowing investors to buy shares, thus spreading risks and providing additional capital for growth. The Industrial Revolution greatly accelerated the development of companies, and as globalization progressed, companies began investing and trading across borders. Multinational corporations have since become a vital part of the global economy.

2 Overview of the Classification of Enterprises and Establishment Requirements

A comprehensive review of commercial practices and legislative frameworks across countries reveals a diverse array of enterprise types. In addition to companies, there are sole proprietorships, partnerships, and other forms available for investors to choose from, as detailed below.

(1) Sole Proprietorship

A sole proprietorship refers to a business entity established in China by a single natural person, where the assets are personally owned by the investor, who assumes unlimited liability for the business's debts. The establishment of a sole proprietorship must satisfy a number of conditions, both positive and negative. In accordance with the Sole Proprietorship Law, China has adopted a normative approach to the establishment of a sole proprietorship in its legislation. This approach allows an enterprise to apply for industrial and commercial registration directly, provided that it meets the conditions for establishment as stipulated in the law. Primarily, the investor must be a natural person with Chinese nationality. Secondly, the establishment of sole proprietorships is subject to certain negative requirements. Finally, the rights and

obligations of investors in a sole proprietorship business have their own unique provisions. Among other things, a sole proprietorship is characterized by the fact that it is a personal ownership enterprise, in which the investor's investment and the income derived from the enterprise belong to the individual, and the investor enjoys ownership of the enterprise's property, and his or her relevant rights may be transferred or inherited in accordance with the law. Concurrently, the investor is the enterprise's designated representative and the individual with the authority to operate and manage it. Unlike a legal person, an individual enterprise is not a separate legal entity. Instead, its civil rights and obligations are vested in the investor, who is the enterprise's master. This implies that investors assume unlimited liability for the enterprise's debts and obligations.

(2) Partnership

Partnerships can be categorized into general and limited partnerships, with general partnerships including special general partnerships. A general partnership consists of general partners who bear unlimited joint liability for the partnership's debts. The Partnership Law provides specific provisions regarding the liability of general partners that must be adhered to. Depending on the type of partnership, partners can be natural persons, legal entities, or other organizations. A general partnership requires at least two general partners, who assume unlimited liability under the law. In a special general partnership, if one or more partners incur debts due to intentional misconduct or gross negligence during professional activities, they shall bear unlimited or joint liability, while other partners are only liable to the extent of their capital contributions. Special general partnerships are primarily established for professional service organizations that possess unique knowledge and skills, such as law firms, accounting firms, medical practices, design firms, and tax consulting firms.

Partners must have a written partnership agreement when establishing a partnership. The partnership assets are the foundation for its operation and provide security for the partnership's external liabilities. Therefore, each partner must make an actual capital contribution to establish the partnership. If a partner fails to fulfill their capital contribution obligations as agreed, they will be held liable for breach of contract. With respect to capital contributions, the Partnership Law of the People's Republic of China stipulates that partners may contribute in the form of cash, physical assets, land use rights, intellectual property, or other property rights. Such contributions must be the partners' lawful property or property rights. Non-cash contributions require valuation, which can be determined through negotiation among

the partners or by appointing a legal evaluation agency. Upon unanimous agreement of all partners, services may also be contributed, with the valuation method determined through negotiation. Liabilities for breach of contract due to non-contribution include fulfilling the obligation, remedying the breach, or compensating for losses. Like other business entities, a partnership must have a business name and meet location and other operational requirements.

(3) Limited Liability Company

A limited liability company refers to a corporate entity formed by a certain number of shareholders, where shareholders are liable only up to the amount of their contributions, and the company is liable for its debts with all its assets. Similar to the establishment of the aforementioned types of enterprises, setting up a limited liability company also requires meeting various conditions.

First, the LLC must have a legally compliant number of shareholders. Second, the company requires capital contributions from shareholders, and the Company Law has progressively relaxed its requirements concerning the amount and form of these contributions. Regarding contribution forms, shareholders may contribute cash or non-monetary assets, such as physical property, intellectual property, land use rights, equity, or debts that can be valued in monetary terms and legally transferred. If contributions are made in the form of non-monetary assets, they must be assessed and verified to ensure that the valuation is neither overestimated nor underestimated [1]. Furthermore, shareholders must collectively establish the company's articles of association. The articles of association refer to the fundamental document legally formulated by the company that outlines significant matters such as the company's name, registered address, business scope, and management system. It is also a written document that specifies the basic rules for the organization and activities of the company. Finally, shareholders must establish an organizational structure that complies with the requirements for a limited liability company, and there must be a fixed place for production and business operations along with necessary operational conditions. In the establishment of a limited liability company, the organizational structure must also be complete. A complete company structure should include a shareholders' meeting, a board of directors, and a board of supervisors.

(4) Joint-Stock Company

A joint-stock company is defined as a corporate entity that divides its total capital into equal shares, where shareholders are liable for the company's debts only to the extent of their subscribed shares, and the company is responsible for its debts with its

entire assets. Compared to limited liability companies, joint-stock companies have a broader source of shareholders and are founded entirely on capital association rather than personal association. The establishment of such companies is subject to specific legal requirements. First, the promoters must satisfy the legal qualifications and the required number of individuals as stipulated by law. According to the Company Law of the People's Republic of China (2024), a joint-stock company must have at least two and no more than 200 promoters, with over half residing in China. Promoters play a significant role in the company and must sign a promoter agreement to clarify their rights and obligations during the establishment process. Second, a joint-stock company must have the legal capacity to bear liability. Regarding the total amount of contributions, Article 96 of the New Company Law stipulates that when a joint-stock company is established through the method of founding, the registered capital is the total amount of shares subscribed by all founding shareholders as recorded with the company registration authority [2]. Before the shares subscribed by the founders are fully paid, no shares may be offered to others for subscription. When establishing a joint-stock company through the method of founding, the founders must subscribe to the shares specified in the articles of association that should be issued at the time of the company's establishment. In the case of establishing a joint-stock company through the method of fundraising, the shares subscribed by the founders must not be less than thirty-five percent of the total number of shares that the articles of association stipulate should be issued at the time of the company's establishment [3].

3 Comparative Analysis of the Advantages and Disadvantages of Different Types of Enterprises

(1) Analysis of the Advantages and Disadvantages of Corporate Enterprises

First, because shareholders in corporate enterprises bear limited liability for the company's debts, they are only responsible for their investment amount or the corresponding share of debts, which helps reduce investment risk. Second, corporate enterprises have advantages in financing. They can raise funds by issuing stocks and bonds, offering broad financing channels conducive to expanding scale and making long-term investments. Third, these enterprises are generally easier to manage. They typically implement a separation of ownership and management, allowing professional managers to handle daily operations, which facilitates scientific management [4]. Additionally, corporate enterprises can issue new shares to expand

operations, enhancing production capacity and market reach. Lastly, compared to non-corporate enterprises, they offer greater stability and security, with a stable operational duration unless legally dissolved or bankrupt, thus supporting ongoing stability and development. However, corporate enterprises also have certain drawbacks. For instance, after paying corporate income tax, shareholders must also pay personal income tax on dividends, leading to double taxation, which places pressure on shareholders. Moreover, the setup costs for these enterprises are relatively high due to legal requirements such as articles of association, shareholder numbers, and organizational structure, increasing initial formation costs. Decision-making processes can also be lengthy; decisions typically require review and approval from shareholders and boards, complicating the decision-making efficiency. Additionally, due to external financing options, they face higher disclosure requirements, which means they must comply with numerous laws and regulations, further increasing costs and responsibilities. Finally, in corporate enterprises, the separation of ownership and management is pronounced, leading to agency cost issues that can significantly affect shareholders' interests.

(2) Analysis of the Advantages and Disadvantages of Non-Corporate Enterprises

Non-corporate enterprises offer several advantages. First, they are relatively easy to establish and involve lower costs. Compared to corporate enterprises, the establishment procedures for non-corporate enterprises are simpler, requiring less complex registration and approval processes. The initial capital investment is also lower, making them suitable for startups or small-scale operators looking to quickly enter the market. Second, these enterprises typically exhibit more flexible management and efficient decision-making. Due to their smaller scale and fewer management layers, non-corporate enterprises can quickly respond to market changes and make agile operational adjustments. Furthermore, the unity of ownership and management often facilitates effective internal management. Additionally, non-corporate enterprises tend to face a lighter tax burden. In certain countries and regions, they may benefit from more favorable tax policies, such as reductions in personal income tax or lower tax rates, which help lower operating costs and enhance profitability. Finally, in partnerships or sole proprietorships, the owners' interests are closely tied to the enterprise's fate. This risk-sharing mechanism encourages owner engagement and creativity, promoting business growth.

However, like corporate enterprises, non-corporate enterprises also have significant drawbacks. First, their financing difficulties are considerably greater than

those faced by corporate enterprises. Due to their simpler legal status and governance structure, along with limited scale, non-corporate enterprises often struggle to attract external investors, leading to narrower financing channels and potentially higher costs. Additionally, compared to corporate enterprises, non-corporate enterprises may lag in building a credit system, making it challenging to gain sufficient trust from banks, suppliers, and other external entities, which can hinder business development and market expansion [5]. Moreover, in sole proprietorships or general partnerships, owners or partners bear unlimited joint liability for the enterprise's debts. This means that in the event of operational difficulties or a debt crisis, personal assets may be at significant risk, posing a high level of financial exposure.

4 Considerations for Investors When Choosing the Type of Enterprise

(1) Tax Considerations

Different forms of enterprise organization are subject to varying tax policies, and these tax policies have a significant impact on businesses. The effects of tax policies are long-term and substantial. For example, corporations face double taxation, having to pay corporate income tax, personal income tax on dividends, urban construction tax, educational surcharges, and others, which can be reported monthly or quarterly. In contrast, individual businesses and sole proprietorships can avoid double taxation, only needing to pay value-added tax, personal income tax, urban construction tax, educational surcharges, and so forth, with quarterly self-reporting. Therefore, for corporate enterprises, they must pay corporate income tax on operating income and withhold personal income tax on profits distributed to shareholders. From a tax planning perspective, it appears that choosing partnership or sole proprietorship forms may be more economical.

(2) Liability and Entrepreneurial Risk

Different organizational forms entail varying risks and responsibilities for entrepreneurs, with some structures providing a certain degree of protection. When selecting an organizational form, it is crucial to weigh the legal and economic responsibilities assigned to investors and keep those responsibilities within acceptable limits. For example, in a limited liability company, shareholders are only liable up to the amount of their subscribed capital, effectively protecting their personal assets. In contrast, in general partnerships and sole proprietorships, entrepreneurs bear

unlimited liability, which includes their personal assets. Compared to corporate structures, the risks associated with these two forms are significantly higher, particularly due to their uncontrollable nature. Another new option is the limited partnership, which consists of general partners and limited partners. General partners assume unlimited liability, while limited partners have limited liability restricted to their capital contributions. This structure allows for a combination of investors with abundant resources and those with limited funds, enhancing risk controllability. Entrepreneurs can select the organizational form that best aligns with their individual circumstances and business development goals.

(3) Industry Sector, Consumer Market, and Selection of Management

The choice of enterprise form is closely related to the industry in which entrepreneurs wish to engage. Depending on the industry, entrepreneurs must select a suitable organizational structure. For instance, when considering small-scale, sporadic businesses, opting for individual businesses or sole proprietorships is relatively appropriate, as these forms are common in sectors like individual agriculture, retail, handicrafts, and services. Conversely, if planning to establish a law firm, consulting company, or training institution—industries that heavily depend on capital, expertise, and technology—operating alone may not be feasible. In such cases, entrepreneurs should seek partners and adopt a cooperative spirit, making private partnerships a viable option; without partners, business operations could become quite challenging [6]. For industries such as trade, e-commerce, and chemicals, limited liability companies may be more suitable. The consumer market is also a critical factor in choosing the type of enterprise. As the fundamental unit of a market economy, businesses cannot thrive without a consumer market; profitability and rapid development are only possible when the right market is identified. Additionally, the selection of company management is crucial. With the advancement of the internet and changes in market competition, the requirements for enterprise managers have increased significantly. Before establishing a company, each entrepreneur should comprehensively assess their management capabilities. If management is not their strong suit, they should opt for organizational forms that allow for the inclusion of diverse talents within the enterprise. For example, individual businesses and sole proprietorships primarily rely on the owner's personal abilities. In partnership enterprises, partners can complement each other's strengths. In corporate structures, ownership and management can be separated, enabling the hiring of professional managers to run the business effectively.

(4) Capital Requirements and Sources of Capital

Before registering a company, entrepreneurs should have a fundamental understanding of the capital needs for both the startup phase and future growth. Different types of enterprises have varying capital requirements during establishment, and entrepreneurs should select a structure that aligns with their specific circumstances. Additionally, the financing capabilities of different business forms vary, affecting the ease of obtaining additional investments later on. For example, individual businesses and sole proprietorships have very low initial capital requirements but also face significant limitations in their future financing capabilities. In contrast, corporate enterprises typically require a larger initial investment but are more likely to attract additional capital in the future [7]. Compared to corporate enterprises, corporate-system enterprises can, in principle, exist indefinitely unless there is a legal cause for dissolution or a resolution by shareholders to dissolve the company. There are companies in Western countries that have existed for hundreds of years, which is one reason why many people choose corporate-system enterprises. Additionally, for large-scale financing, establishing a joint-stock limited company is a better option for future fundraising.

5 Conclusion

The choice of commercial organization is the first issue faced by investors and entrepreneurs when engaging in entrepreneurial investments. Across various countries' commercial practices and legislative frameworks, the types of enterprises are diverse, including companies, partnerships, and sole proprietorships. These different types vary in aspects such as investor liability, the number of investors required, internal organizational structure, and governance methods, allowing them to meet the customized needs of investors. When selecting a commercial organization, multiple factors must be considered, including but not limited to liability, entrepreneurial risk, industry sector, consumer market, management selection, capital requirements, and financing methods.

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