



## CHINA LEGAL BRIEFING 10

WENGER VIELI BELSER BEIJING OFFICE

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### **1. National**

#### ***Tax Rules for Foreign Participation in Financial Asset Disposal in China***

On January 7, 2003, the State Administration of Taxation of China released Notice of the State Administration of Taxation concerning Taxation Issues related to Disposal by Foreign Invested Enterprises and Foreign Enterprises of Financial Assets ("Notice"). Such Notice provides that when foreign invested enterprises and foreign enterprises carry out financial assets disposal in China, debt disposal and shareholding disposal is exempt from China business tax, disposal of real estate is subject to China business tax, disposal of goods is subject to value-added tax (VAT). The Notice provides for the tax treatment guidelines.

Foreign investment is already permitted to carry out financial asset disposal in China, which is a huge market as a result of disposal by the Chinese government of a lot of government-owned enterprises. This Notice assists foreign investors in tax planning and tax evaluation when doing such business in China. ([www.law-lib.com](http://www.law-lib.com))

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### ***New Measures for Granting Authorization to conduct Registration of Foreign Invested Enterprises***

On December 20, 2002, the State Administration for Industry and Commerce or so-called SAIC issued Measures for the Administration of Authorization to Conduct Registration of Foreign Invested Enterprises (the "Measures"), which will become effective as of February 1st, 2003 and repealed the old measures adopted in 1993. The Measures provide for qualification requirements for local AICs applying for granting of authorization to conduct registration of foreign invested enterprises (including branches or representative offices of overseas enterprises and other types of operations in China), the application process for granting of such authorization and punishments for those local AICs which conduct such registration without such authorization.

In China, it has been a problem that quite a few local AICs conduct registration of foreign-invested enterprises without such authorization, the availability of new Measures expects to, by stipulating harsh punishments for violators, significantly resolve this problem. ([www.law-lib.com](http://www.law-lib.com))

### ***The Supreme Court's Interpretations for the PRC Special Procedure Law of Maritime Litigation***

On January 6, 2003, the Supreme Court of China issued Interpretations of the People's Supreme Court concerning Issues related to Application of the PRC Special Procedure Law of Maritime Litigation ("Interpretations"). The PRC Special Procedure Law of Maritime Litigation was adopted in 1999, governing maritime litigation in China. In addition, the general PRC Civil Procedure Law is also applicable to maritime litigation to the extent that those provisions of the PRC Civil Procedure Law do not conflict with The PRC Special Procedure Law of Maritime Litigation. ([www.law-lib.com](http://www.law-lib.com))

### ***More Counter-Money Laundering Rules Released***

In addition to Regulations for Countering Money Laundering by Financial Institutions as discussed in our China Legal Briefing\*9, issued by the People's Bank of China ("PBC") on January 3, 2003, in order to better fight money laundering, the PBC, on the same day, issued Measures for Financial Institutions to Report Large-Amount or Suspicious Foreign Currency Transactions and Measures for Financial Institutions to Report Large-Amount or Suspicious Transactions of RMB Payments.

Under both Measures, financial institutions are obligated to report large-amount or suspicious foreign currency transactions to the State Administration of Foreign Exchange or its local branches, and large-amount or suspicious RMB payments transactions, to the PBC or its local branches. Both Measures define what types of transactions constitute large-amount or suspicious transactions and provide for the guidelines that financial institutions have to follow in reporting and punishments for violators.

There is hope that the adopting of Regulations for Countering Money Laundering by Financial Institutions, Measures for Financial Institutions to Report Large-Amount or Suspicious Foreign Currency Transactions, and Measures for Financial Institutions to Report Large-Amount or Suspicious Transactions of RMB Payments will significantly be helpful to strike down corruption, money laundering, banking crimes in China and to ensure banking security in domestic or cross border banking transactions.

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