



CHINA LEGAL BRIEFING 68

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1. National

Circular on Regulating Certain Recent Issues Regarding Sale of Fund Units

关于规范近期基金销售行为有关问题的通知

【**Adopted By**】 China Securities Regulatory Commission (CSRC)

【**Subject**】 Sale of Fund Units

【**Source**】 www.law-star.com

Recently, as a reaction against the appearance of unfair competition activities by fund companies and sale agencies in the marketing of fund units, the CSRC reiterated its position on this matter.

The Circular requires that fund companies and sale agencies should strictly abide by the Provisional Rules on the Administration of Sale of Securities Investment Fund (“证券投资基金销售活动管理暂行规定”, CSRC, 18 September 2002). The materials used for marketing shall contain wording that will explicitly inform about the risks involved. The fund companies and sale agencies shall not viciously suppress prices of their products or harm the reputation of products of others. Furthermore, they shall not sell their products at a price lower than their actual cost by means of lottery, rake-off, gratuitous insurance, cash back and free fund units. More importantly, no

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assurance of profit or minimum profit may be made to the investors. The fund companies shall ensure that sale agencies sell the fund units at a uniform price.

As to compliance and enforcement, the CSRC will adopt the following measures including face to face reminder, written notification, open criticism, suspension of new fund application and suspension or revocation of the sale agency permit.

Response to Questions of Pre-Tax Cost Deduction for Travel Agencies

国家税务总局关于旅行社费用税前扣除问题的批复

【Issued By】 State Administration of Taxation (SAT)

【Promulgated On】 March 4th 2004

【Subject】 Enterprise Income Tax

【Effective From】 March 4th 2004

【Source】 www.law-lib.com

Considering the practice that some travel agencies book inbound tickets for their customers from elsewhere and include the ticket fare into the group fee, the SAT makes it clear that the actual costs of inbound tickets for customers may be deducted before taxation.

The application for such deduction requires the proof by photocopy of the ticket, as the ticket has been delivered to the customer. However, the taxation authorities may request additional documentation from the travel agency to establish its application for deduction.

To avoid double deduction, the cost of tickets for consumption purposes, such as tourism, shall not be deducted again as enterprise cost at the enterprise employing the ticket holder or the enterprise invested by the ticket holder.

Circular on Regulating Certain Issues Regarding Settlement of Foreign Exchange Deals by Individual Residents

关于规范居民个人外汇结汇管理有关问题的通知

【Issued By】 State Administration of Foreign Exchange

【Adopted On】 March 18th 2004

【Subject】 Settlement of Foreign Exchange Deals

【Effective From】 April 1st 2004

【Source】 www.safe.gov.cn

The Circular is adopted to facilitate trade and investment as well as effectively regulate capital account and discourage speculated capital transactions through individual residents and non-residents via non-trade channels.

The bank shall examine whether the request for settlement of foreign exchange is genuine. Where the sum is no more than USD 10000, the individual resident making the request for settlement shall produce his or her ID. Where the sum is more than USD 10000 but no more than USD 50000, the individual resident making such request shall produce his or her ID as well as proof of legitimacy of the source. Where the sum is more than USD 50000, the individual resident shall apply for the approval from the local bureau of foreign exchange administration with ID and proof of the legitimacy of the source before making the request for settlement to the bank.

2. *Local*

Provisions on the Administration of the Collection of Labor Arbitration Fees

广东省劳动争议仲裁收费管理办法

【Issued By】 Bureau of Pricing of Guangdong Province et al

【Adopted On】 March 26th 2004

【Subject】 Labor Arbitration Fees

【Effective From】 April 10th 2004

【Source】 www.szlabor.com

The arbitration fees under this regulation encompass registration fees and processing fees. The registration fee is decided according to the number of the parties. The processing fee is calculated on the basis of the sum in dispute. Where the case does not involve a sum in dispute, the processing fee is set at RMB 300. Separate processing fees will be charged for additional claims, counter-claims and third-party claims.

The registration fee shall be advanced by the applicant within 5 days of notification of registration by the arbitration commission. Failure to pay the registration fee is presumed as withdrawal of application. The processing fee shall be advanced by both parties, the allocation of which shall be decided by the tribunal.

The losing party shall foot the bill for arbitration fees. Where there is no absolute losing party, the arbitration fees shall be shared by both parties in accordance with the decision of the tribunal. Where the case is settled through mediation presided by the tribunal and the parties fail to agree upon the allocation of arbitration fees, the tribunal shall decide the allocation.

For additional arbitration fees, the party making the request shall bear the following costs: (1) the travel expenses for the obtainment of evidence by the arbitration commission; (2) copy fees for photocopying documentation relevant to the case; (3) costs arising out of appraisal, inspection, translation, announcement by third parties; (4) compensation for witness, appraiser or interpreter appearing before the tribunal.

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