



CHINA LEGAL BRIEFING 81

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1. National

Circular on Regulation of Administration of Bank Cards in Foreign Exchange

规范银行外币卡管理的通知

【**Issued By**】 State Administration of Foreign Exchange

【**Subject**】 Forex Bank Cards

【**Promulgated on**】 June 30th 2004

【**Effective From**】 September 1st 2004

【**Source**】 www.safe.gov.cn

【**Repeal**】 Circular on Administration of Matters Relevant to Bank Cards in Foreign Exchange (“关于银行外币卡管理有关问题的通知”，2003.5, CLB No. 26)

To response to the increasing business volume of foreign exchange bank cards since the promulgation of the 2003 Circular, the newly adopted Circular makes changes to the use of cards, settlement, and purchase of foreign exchange, and further elaborates rules on reporting and filing:

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- **Withdraw Cash in Foreign Exchange and Sale of Surplus RMB:** The new Circular allows the holders of overseas cards to withdraw cash in foreign exchange in China at the counters of financial institutions accepting such cards. The surplus RMB withdrawn by the cardholders may be sold to any financial institutions in China accepting such cards.
- **Repayment of Overdraft by Holders of Domestic Cards:** The holders of domestic cards shall use RMB to repay the debts of overdraft due to card purchase and withdrawal of cash in China.
- **Six-Month Limit of Withdrawal Overseas:** In addition to the existent daily and monthly limits of withdrawal of cash in foreign exchange overseas by holders of domestic cards, the Circular adds that the accumulating sum in such withdrawal shall not outstrip USD 10,000 or equivalent within 6 consecutive months.
- **Reporting and filing:** The Circular specifies rules on business related to bankcards in foreign exchange such as settlement and sale of foreign exchange, reporting of international income and payment, and filing of large-sum transactions.

Circular on Issues Related to Administration of Sale of and Payment in Foreign Exchange in Non-Trade Transactions by Transnational Companies

国家外汇管理局关于跨国公司非贸易售付汇管理有关问题的通知

【Issued By】 State Administration of Foreign Exchange

【Subject】 Non-Trade Payment, Transnational Companies

【Promulgated on】 June 29th 2004

【Effective From】 August 1st 2004

【Source】 www.safe.gov.cn

For the purpose of this circular a Transnational Company refers to a group of enterprises, which has related companies both in China and at overseas, and having a China-based related company exercise the investment management function. The transnational company may either be a Chinese-controlled enterprise group (“Chinese Group”) or a foreign-controlled enterprise group (“Foreign Group”).

The domestic related companies of transnational companies include:

- Branches established by Foreign Groups;
- Foreign invested enterprises controlled or participated (over 25%) by Foreign Groups
- Branches established by overseas headquarters or overseas related companies of Foreign Groups, which

are commissioned by the founders to manage such branches;

- Foreign invested enterprises established by overseas headquarters or overseas related companies of Foreign Groups, which are commissioned by the founders to manage such enterprises;
- Branches established, or companies controlled or participated, by Chinese Groups.

The overseas-related companies of transnational companies include:

- Overseas headquarters of Foreign Groups;
- Branches established, or companies controlled or participated, by overseas headquarters of Foreign Groups;
- Branches established, or companies controlled or participated, by overseas headquarters of Chinese Groups.

The payment regulated by this circular mainly refers to costs shared or paid by transnational companies or their domestic related companies to their overseas related companies, which have in the first place paid the proportional cost incumbent upon the transnational companies and domestic related companies. The costs may include salaries and benefits, international traveling expenses, overseas training costs, maintenance fees, and insurance premiums.

Circular on Collection of Personal Income Tax Paid by Employees at Offices of International Organizations, Embassies and Consulates of Foreign States, and Offices of Foreign News Agencies in China

国家税务总局关于国际组织驻华机构、外国政府驻华使领馆和驻华新闻机构雇员个人所得税征收方式的通知

【Issued By】 State Taxation Administration

【Subject】 Personal Income Tax

【Promulgated on】 June 23rd 2004

【Effective From】 June 23rd 2004

【Source】 www.chinatax.gov.cn

According to the Vienna Convention on Diplomatic Relations and constituent instruments of international organizations, Chinese employees at Offices of International Organizations and Embassies and Consulates of Foreign States in China, Chinese and foreign employees at offices of foreign news agencies in China, shall pay their personal income tax in accordance with the Law on Personal Income Tax (“个人所得税法”).

According to international practice, the foreign employees who are permanent residents of the host States at offices of international organizations and embassies and consulates of foreign States shall pay their personal income tax to the host State. However, considering Chinese laws on taxation have not yet defined “permanent residents”, income of such foreign employees is exempted from personal income tax for the time being. Meanwhile, income of diplomatic personnel and foreign employees in such institutions obtained from non-official activities in China shall be subject to personal income taxation of China.

Although the offices of international organizations and embassies and consulates of foreign States shall be obligatory to withhold the personal income tax to be paid by their Chinese employees under Law on Personal Income Tax, having regard to the special circumstances of these institutions, taxation authorities may waive such a requirement for the time being.

Considering that the Beijing Bureau of Diplomatic Personnel Service and similar provincial authorities are able to be aware of information on Chinese employees at offices of international organizations and embassies and consulates of foreign States, taxation authorities may authorize such bureaus to collect personal income tax to be paid by these Chinese employees.

Provisions on Administration of Information Service on Pharmaceuticals through the Internet
互联网药品信息服务管理办法

【 Issued By】 State Food and Drug Administration

【 Subject】 Information Service through Internet

【 Promulgated on】 July 8th 2004

【 Effective From】 July 8th 2004

【 Source】 www.sda.gov.cn

This regulation applies to information service for pharmaceuticals (including medical instruments) through the Internet in China. The information service may either be charged or free.

Before applying for licenses of telecom service from authorities in charge of telecom administration, the applicants shall first obtain approval from the authorities in charge of food and drug administration at the business places of the websites to provide information service on pharmaceuticals. In no event may the information service providers publish information on habit-forming drugs, psychotropic drugs, toxic drugs, radioactive drugs, drugs helping to withdraw from addiction, and formulation of medical institutions.

Advertisements posted on the websites providing information service on pharmaceuticals are subject to review and approval from authorities in charge of food and drugs.

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