



CHINA LEGAL BRIEFING 109

W E N G E R & V I E L I B E I J I N G O F F I C E

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1. National

Provisional Regulation on Transfer of Enterprises' State-Owned Ownership to Management Buyouts

企业国有产权向管理层转让暂行规定

【Issued By】 Ministry of Finance, State-Owned Assets Supervision and Administration Commission of the State Council

【Subject】 State-Owned Assets

【Promulgated on】 April 14, 2005

【Source】 <http://www.sasac.gov.cn/>

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- COMPETITION LAW AND INTELLECTUAL PROPERTY LAW
- TAX

The Regulation is designed to ensure transparency and fairness in management purchases of State-owned property, a popular practice in China's SOE reforms in recent years but one that was meantime accompanied by many problems like self-dealing, illegal financing and erosion in the interests of the State and ordinary employees due to legal loopholes in the sector.

Management buyouts of State assets and equities at big State-owned enterprises have been banned in this Provisional Regulation. The long-expected rule, however, allows such transactions at small and medium-sized State-owned enterprises (SOEs) while setting up a formal series of standards.

The standards set forth in the Regulation include setting qualifications for management buyers of smaller and mid-sized firms, procedures and venues for dealings and relevant financing channels and information disclosures procedures.

As stipulated in the Regulation, potential management buyers of smaller SOEs cannot participate in the design plans to sell State assets or relevant audits, asset evaluations and pricing matters. They should compete in such actions on equal terms with other potential buyers in designated assets and equities markets. Those found liable for declining performances of their enterprises or engaged in fraud in their dealings cannot take part in bidding.

Administrative Regulation on Renting Fee for Low-Rent Housing in Urban Areas

城镇廉租住房租金管理办法

【 Issued By 】 National Development and Reform Commission, Ministry of Construction

【 Subject 】 House Renting

【 Promulgated on 】 April 7, 2005

【 Effective From 】 May 1, 2005

【 Source 】 <http://www.people.com.cn/>

The promulgation of the new Regulation on the management of urban low-rent housing, which determines that rent is composed of housing maintenance and management cost, is to ensure that low-income families have houses to live in. The Regulation specifies that low-rent housing should be rented out at prices prescribed by the government and affordable to urban low-income families.

It also further provides that when local governments fix rents, they should hear opinions from the public. However families who continue to live in government low-rent houses after their incomes improve should pay as

much as the rent for commercial houses.

Circular on Provisional Import Tax Rate of Steam Coal

关于对动力煤实行进口暂定税率的通知

【 Issued By 】 Tariff Commission of the State Council

【 Subject 】 Tax Rate

【 Promulgated on 】 March 31, 2005

【 Source 】 <http://www.mofcom.gov.cn/>

For the purpose of relaxing tight supply of domestic coal, the Tariff Commission of the State Council has issued a short Circular to demand the General Administration of Customs to adopt a provisional import tax tariff of 3% that will be imposed on steam coal (with a tariff code of 27011290, other soft coals) during the period of Apr 1 to Dec 31, 2005.

Circular on Supplementary Regulations of Provisional Measures on Bidding Permission of Foreign Contracted Projects

关于《对外承包工程项目投标(议标)许可暂行办法》补充规定的通知

【 Issued By 】 Ministry of Commerce, People's Bank of China, Ministry of Finance

【 Subject 】 Foreign Contracted Project

【 Promulgated on 】 April 11, 2005

【 Source 】 <http://www.mofcom.com/>

This Circular is issued to attract attention from all enterprises directly under the central administration, administrative commercial sectors in all the provinces, autonomous regions, municipalities, separately listed cities and Xinjiang production and construction corps of CPLA, all branches, offices and state-owned commercial banks of the People's bank of China, the Import-export Bank of China, China Development Bank, Agricultural Development Bank of China, other commercial banks, China Export & Credit Insurance Corporation, China Chamber of

Commerce for Import and Export of Machinery and Electronic Products, China International Contractors Association and all business agencies in foreign counties.

For the purpose of enhancing administration on foreign contracted projects with capitals and regulating negotiations and bidding activities of enterprises in early period of projects, the Circular has stipulated the following supplementary regulations for "Provisional Measures on Bidding Permission of Foreign Contracted Projects":

While attending bidding activities for foreign projects, in case the projects owners forwardly acquire to use export credit of Chinese finance institutions, enterprises should provide Ministry of Commerce with letters of loan intent of relevant banks as well as letters of insurance-accepting interest of insurance institutions with export credit when applying for projects permission.

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