



# CHINA LEGAL BRIEFING\* 157

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## **Administrative Measures on Fair Dealings of Retailers and Suppliers (Order No. 17 [2006])**

商务部、发展改革委、公安部、税务总局、工商总局2006年第17号令 公布《零售商供应商公平交易管理办法》

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| <b>Issued By</b>      | <b>The Ministry of Commerce (MOFCOM); The National Development and Reform Commission; the Ministry of Public Security; the State Administration of Taxation; the State Administration of Industry and Commerce</b> |
| <b>Subject</b>        | <b>Fair Dealings of Retailers and Suppliers</b>  |
| <b>Promulgated on</b> | <b>October 13<sup>th</sup> 2006</b>  |
| <b>Effective From</b> | <b>November 15<sup>th</sup> 2006</b>   |
| <b>Source</b>         | <b><a href="http://www.mofcom.gov.cn">www.mofcom.gov.cn</a></b>  |

The Administrative Measures on Fair Dealings of Retailers and Suppliers (the “Measures”) have been promulgated in order to standardize the fair dealings of retailers and suppliers, and protect the lawful benefits of consumers. The Measures shall apply to retailers and suppliers that doing business within Chinese territory.

The so-called “retailers” herein refer to the enterprises and their branches directly offer commodities to consumers and with a total annual sale volume of more than 10 million RMB. The so-called “suppliers” herein refer to the enterprises and their branches and individual households engaging in industry and commerce, including producers and distributors, directly provide products and services to the abovementioned retailers.

The retailers shall not: require the suppliers to take the extra responsibilities on any loss and damage of the commodities; cease to sell the commodities provided by the suppliers without prior agreement; compel the suppliers to offer a discount or any return from the sales; compel the suppliers to accept any designated products or services by the retailers; impose any limitation on price of commodities or services directly offered by the suppliers to consumers; impose any limitation on the suppliers’ supply of any commodity or service to other retailers.

The retailers shall not make any delay of payment to the suppliers where: only very few commodities are not provided by the suppliers in a timely manner; the procedures of return or exchange of specific commodity provided by the suppliers are not finished; the sale of commodities provided by the suppliers does not reach certain amount set by the retailers; no contract of supply of commodities is continued; other matters against the principle of fairness occur.

On the other hand, the suppliers shall not force the retailers to sell the commodities not ordered by such retailers, or make any limitation on retailers' sale of commodities provided by other suppliers.

A time limit of payment shall be agreed by the suppliers and the retailers; however, such time limit shall not exceed 60 days subject to the characters of supplied products and services.

A fine shall be imposed where any unlawful income arises from violating the Measures by the suppliers or the retailers, and the maximum of such fine shall be 30,000 RMB.

**Circular of the Ministry of Finance and the State  
Administration of Taxation on Adjusting the Policies on the  
Deduction of Wage Expenditures Prior to the Levy of  
Enterprise Income Taxes (Order No. 126 [2006])**

财政部国家税务总局关于调整企业所得税工资支出税前扣除政策的通知(财税[2006]126号)

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| <b>Issued By</b>      | <b>The Ministry of Finance; The State Administration of Taxation</b> |
| <b>Subject</b>        | <b>Deduction of Wage Expenditures</b>                                |
| <b>Promulgated on</b> | <b>September 1<sup>st</sup> 2006</b>                                 |
| <b>Effective From</b> | <b>July 1<sup>st</sup> 2006</b>                                      |
| <b>Source</b>         | <b><a href="http://www.chinatax.gov.cn">www.chinatax.gov.cn</a></b>  |

Upon the approval of the State Council, the Circular of the Ministry of Finance and the State Administration of Taxation on Adjusting the Policies on the Deduction of Wage Expenditures Prior to the Levy of Enterprise Income Taxes (the "Circular") explains the following relevant issues concerning the adjustment of the policies on deduction of wage expenditures prior to the levy of enterprise income taxes.

As of July 1, 2006, the capital limitation for pre-tax deduction of wage expenditures of enterprises shall be adjusted into 1,600 RMB per month for each person. Among the amount of wages actually paid by an enterprise, the part within the above-mentioned limitation for deduction shall be permitted to be deducted actually prior to the levy of enterprise income taxes; while the part beyond the above-mentioned limitation for deduction shall not be deducted.

The provisions on raising the limitation of deduction of taxable wages by a margin not higher than 20% for the people's governments of all provinces, autonomous regions and municipalities directly under the Central Government shall be stopped from implementation.

The state-owned enterprises and the state-owned share-controlling enterprises, which previously implemented the method of connecting wages with performance under the state provisions pursuant to the principles that the increase margin of the total amount of wages shall be under that of the economic benefits of the enterprise and that the increase margin of the average wage of employees shall be under that of the labor productivity (the “Two Under Principles”), may continue implementing the said method.

The taxable wages of the state-owned or the state-owned share-controlling financial and insurance enterprises, and those of restructured or reformed financial and insurance enterprises, may be ratified by the competent department of public finance and that of taxation of the State Council in light of the Two Under Principles in comparison with the method of connecting wages with performance.

The labor remuneration of various forms and other relevant expenditures paid by an enterprise to its employees, including bonuses, allowances, subsidies and other wage expenditures, shall all be counted into the enterprise's total amount of wages.

Any local government may not raise the limitation of pre-tax deduction of enterprises' wage expenditures without permission, or enlarge the scope of enterprises implementing the method of connecting wages with performance.

The Circular on Adjusting the Limitation for Deduction of Taxable Wages of the Ministry of Finance and the State Administration of Taxation (No. 43 [1996]), and Article 1 of the Circular on the Relevant Issues Concerning the Adjustment of the Limitation for the Deduction of Taxable Wages thereof (No. 258 [1999]) shall be abolished simultaneously.

**Circular of the Ministry of Finance, the Ministry of Land and Resources and the People's Bank of China on Administration of Relevant Matters Regarding Income of Mineral Prospecting Rights and Mining Rights (No. 394 [2006])**

财政部、国土资源部中国人民银行关于探矿权采矿权价款收入管理有关事项的通知 ([2006]394号)

**Issued By**            **The Ministry of Finance; The Ministry of Land and Resources;  
The People's Bank of China**

**Subject**              **Income Arises from Mineral Prospecting Rights and Mining  
Rights**

**Promulgated on**    **August 14<sup>th</sup> 2006**

**Effective From**    **August 14<sup>th</sup> 2006**

**Source**                **[www.mlr.gov.cn](http://www.mlr.gov.cn)**

The Circular of the Ministry of Finance, the Ministry of Land and Resources and the People's Bank of China on Administration of Relevant Matters Regarding Income of Mineral Prospecting Rights and Mining Rights (No. 394 [2006]) (the "Circular") is promulgated in order to reasonably set off the ratio between the central government and local governments regarding the income arises from mineral prospecting rights and mining rights.

As of 1 September 2006, a fixed ratio shall be imposed regarding the income arises from mineral prospecting rights and mining rights, among which 20% of the income shall go to the central government, and the rest of 80% shall be kept by the local governments. The provincial governments are entitled to introduce a fixed ratio among provincial level, municipal level and county level governments.

The administration of income arises from mineral prospecting rights and mining rights shall be strengthened, and therefore all incomes shall be captured to the state in a timely manner. Where any difficulty exists in fully making the payment, such payment could be paid in installment upon the approval of registration and administration authorities. The time limit for paying the income arises from mineral prospecting rights shall not exceed 2 years, and the time limit of paying the income arises from mining rights shall not exceed 10 years. No license of mineral prospecting or mining is allowed to be issued if the payment is not made in full and in a timely manner. In case of discrepancies, this Circular shall prevail.

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