

CHINA LEGAL BRIEFING* 170

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Property Right Law of the People's Republic of China 中华人民共和国物权法

Issued By **National People's Congress**
Subject **Property Right Law**
Promulgated on **March 16th 2007**
Effective from **October 1st 2007**
Source www.npc.gov.cn

The Property Right Law of the People's Republic of China (the "Law") is enacted in accordance with the Constitution Law and one of its purposes is to clearly define the attribution of the res and safeguard the benefits of the right holders. The Law consists of 247 articles, 19 chapters in 5 parts, namely, General Rules, Ownership, Usufructuary Rights, Property Rights for Security, and Possession.

The main matters mentioned by the Law are Basic Principles, Creation, Alteration, Alienation and Termination of Property Right, Protection of Property Right, State Ownership, Collective Ownership and Private Ownership, Neighboring Relationship, Common Ownership, Special Rules on Acquiring Ownership, Right to Use Construction Land, Easement, Mortgage Right, Pledge Right, Lien, Possession and Supplementary Rules.

According to the Law, the civil relationships incurred from the attribution and utilization of the res shall be governed by the Law. The term "res" as mentioned herein shall mean realties and chattels. The term "property right" as mentioned herein means the exclusive right of direct control over a specific res enjoyed by the holder in accordance with law including ownership, usufructuary right and property right for security.

The Law stipulates that the creation, alteration, alienation or termination of the property right of realties shall be subject to registration in line with law. The creation or alienation of the property right of chattels shall be delivered according to law.

As regards a contract entered into by the related parties concerned on the creation, alteration, alienation or termination of the property right of realties, unless it is otherwise stipulated by any law, such contract shall go into effect when it comes into existence, and the validity of the contract is not affected where such property right has not been registered. This is different from previous related provisions.

The realty register shall be the basis for deciding the ownership and contents of realty and the registration organ shall undertake the management on the realty registers. In order to protect the benefits of the owners of building areas, the owners may set up an owners'

assembly and vote for an owners' committee. The Law stipulates some significant matters that shall be determined by all owners through the owners' assembly.

Enterprise Income Tax Law of the People's Republic of China 中华人民共和国企业所得税法

Issued By National People's Congress
Subject Enterprise Income Tax
Promulgated on March 16th 2007
Effective From January 1st 2007
Source www.npc.gov.cn

The Enterprise Income Tax Law of the People's Republic of China (the "Law") consists of 60 articles in 8 chapters. The enterprises and other organizations which have incomes within the territory of the People's Republic of China shall be payers of the enterprise income tax and shall pay their enterprise income taxes according to the Law. The sole individual proprietorship enterprises and partnership enterprises are not governed by the law.

Enterprises are classified into resident and non-resident enterprises. The term "resident enterprise" as mentioned in the present Law means an enterprise which is set up under Chinese law within the territory of China, or set up under the law of a foreign country (region) but whose actual management organ is within the territory of China. The term "non-resident enterprise" as mentioned in the present Law means an enterprise which is set up under the law of a foreign country (region) and whose actual management organ is not within the territory of China but who has organs or establishments within the territory of China, or who does not have any organ or establishment within the territory of China but who has incomes sourced in China.

For its incomes sourced from both inside and outside the territory of China, a resident enterprise shall pay the enterprise income tax. In case a non-resident enterprise sets up an organ or establishment within the territory of China, it shall pay enterprise income tax on its incomes sourced inside the territory of China and incomes sourced outside the territory of China but actually connected with the said organ or establishment. In case a non-resident enterprise has no organ or establishment within the territory of China, or its incomes have no actual connection to its organ or establishment inside the territory of China, it shall pay enterprise income tax on the incomes sourced inside the territory of China.

The enterprise income tax shall be levied at the rate of 25%. In case a non-resident enterprise obtains incomes as mentioned in Paragraph 3, Article 3 of the Law, the tax rate shall be 20%. As regards a small meagre-profit enterprise satisfying the prescribed conditions, the enterprise income tax shall be levied at a reduced tax rate of 20%. As regards important high-tech enterprises necessary to be supported by the state, the enterprise income tax shall be levied at the reduced tax rate of 15%.

The Income Tax Law of the People's Republic of China Concerning Foreign-funded Enterprises and Foreign Enterprises as adopted on April 9, 1991 and the Interim Regulation of the People's Republic of China Concerning Enterprise Income Tax as promulgated on December 13, 1993 by the State Council shall be concurrently abolished.

Measures for the Administration on Recovery of Renewable Resources (MOFCOM Decree No. 8 [2007])

再生资源回收管理办法(商务部令2007年第8号)

Issued By **Ministry of Commerce**
Subject **Recovery of Renewable Resources**
Promulgated on **March 27th 2007**
Effective From **May 1st 2007**
Source www.mofcom.gov.cn

The Measures for the Administration on Recovery of Renewable Resources (the “Measures”) are enacted with the purposes of promoting recovery of renewable resources, regulating development of renewable resources recovery industry, economizing resources, protecting environment and realizing economic and social sustainable development.

The renewable resources as mentioned in the Measures refer to all kinds of wastes that are generated in social production and living and consumption, and that have lost all or part of their use value, but can regain use value through recovery and processing.

Renewable resources include metallic scrap, discarded electronic products, mechanical and electric equipments and parts, waste paper making materials (such as waste paper and cotton), waste materials for light chemical industry (such as rubber, plastics, and packing of pesticide, animal bones and hairs) and waste glass as well.

Enterprises and owners of self-employed businesses who undertake business of renewable resources recovery within the territory of the People's Republic of China shall comply with the Measures. Where it is otherwise provided in other laws and regulations in terms of the

administration on recovery of imported solid wastes, hazard wastes and discarded automobiles, such provisions shall prevail.

Departments of commercial administration are in charge of the industry of renewable resources recovery, and responsible for stipulation and implementation of industrial policies of renewable resources recovery, recovery standards and program of recovery industry development as well.

Departments of reform and development are responsible for researching and putting forward policies to promote development of renewable resources, organize to adopt new technologies, promote application of new facilities and carry out industrialization demonstration.

Public security organs are in charge of management of public security of renewable resources recovery.

Departments of industrial and commercial administration are responsible for registration administration on business operators of renewable resources recovery, and supervision and administration on trade market of renewable resources.

Departments of environmental protection are responsible for supervision and administration on work of environmental pollution prevention during process of recovery.

Departments of construction and town and country planning are in charge of bringing renewable resources recovery net into the city planning, as well as examining and rectifying violations of relevant regulations on city planning and construction administration.

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