

CHINA LEGAL BRIEFING* 209

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Numerous laws and regulations became effective on January 1st, 2010 and are covering areas such as agriculture, environment protection, auditing, banking and development of enterprises.

Important laws and regulations among them are briefly introduced:

Law of the People's Republic of China on the Mediation and Arbitration of Rural Land Contract Disputes

中华人民共和国农村土地承包经营纠纷调解仲裁法

This Law was issued by the Standing Committee of the National People's Congress on June 27, 2009. The mediation and arbitration of disputes over contracted management of rural land are governed by this Law. According to this law, in the case of disputes over the contracted management of rural land, the parties can make reconciliation by themselves or can request mediation by the villagers' committee, people's government of the town, etc. If the parties fail to make reconciliation, fail to reach an agreement in mediation, or are unwilling to make reconciliation or accept mediation, they can apply to the rural land contract arbitration commission for arbitration. They can also directly start legal proceedings at the people's court.

Law of the People's Republic of China on Diplomatic Personnel Stationed Abroad

中华人民共和国驻外外交人员法

This Law was issued by the Standing Committee of the National People's Congress on October 31, 2009. It provides duties, conditions, obligations, rights, rewards and punishment of diplomatic personnel, aims to build a team of high quality diplomatic personnel stationed abroad, regulate the administration of diplomatic personnel stationed abroad, and protect the legitimate rights and interests of the diplomatic personnel stationed abroad.

Statistics Law of the People's Republic of China (2009)

中华人民共和国统计法(2009修订)

This Law was issued by the Standing Committee of the National People's Congress on June 27, 2009. This Law applies to the statistical activities organized by the people's governments at all levels and the statistic institutions and relevant departments of the people's governments at or above the county level.

Circular on Relevant Issues Regarding Individual Income Tax Collections for Incomes from Individuals Transferring the Restricted Shares in Listed Companies

关于个人转让上市公司限售股所得征收个人所得税有关问题的通知

This Regulation was issued by the Ministry of Finance, the State Administration of Taxation and the China Securities Regulatory Commission. According to this Regulation, from January 1st, 2010, individuals should be levied Individual Income Tax based on a 20% tax rate for transferring restricted shares of listed companies. But the income, which individuals derive from the sale of a listed company's shares, which they have acquired on the stock exchange, will continue to be exempted from Individual Income Tax.

Method on Declaration of Concentration of Business Operators

经营者集中申报办法

Method on Examination of Concentration of Business Operators

经营者集中审查办法

These two methods are issued by the Ministry of Commerce on July 15, 2009. Concentration of business operators in these methods refers to: (1) merger of business operators; (2) a business operator acquires control over another business operator by way of acquiring shares or assets of the latter; and (3) a business operator acquires control over another business operator or becomes capable of exerting decisive influence upon another business operator by way of contract or other means. These two methods carry out detailed requirements for declaration and examination of concentration of business operators.

Regulation on the Administration of Security and Guarding Services

保安服务管理条例

This Regulation was issued by the State Council on October 13, 2009 and is formulated to regulate the security and guarding services, strengthen the administration of entities and security guards engaging in the security and guarding services.

Trial Measures for the Management of Social Aid Funds for Road Traffic Accidents

道路交通事故社会救助基金管理试行办法

The Measures were jointly issued by the Ministry of Public Security, Ministry of Finance, Ministry of Agriculture, Ministry of Health and China Insurance Regulatory Commission on September 10, 2009. Social aid funds for road traffic accidents will be raised according to this law and are exclusively used for paying the funeral expenses and part of or total rescue expenses in advance for the victims in road traffic accidents in which personal casualties are caused by motor vehicles.

Provisions on the Administrative Reconsideration Involving Land and Resources

国土资源行政复议规定(2009修订)

This Regulation was issued by the Ministry of Land and Resources on November 14, 2009. The Ministry of Land and Resources is responsible for guiding and supervising the nationwide work on administrative reconsideration and responses to administrative lawsuits involving land and resources. In principle, the administrative reconsideration shall proceed by way of dossier review in accordance with the Provision. The administrative reconsideration division may also hold a meeting for the examination of an administrative reconsideration case so as to hear the opinions of the parties concerned face to face. In addition, a major or complicated administrative reconsideration case can be reviewed by way of hearing, if the applicant so requests or the administrative reconsideration division deems it necessary.

Guidelines on the Risk Management of Bank Account Interest Rate of Commercial Banks

商业银行银行账户利率风险管理指引

These Guidelines were issued by the China Banking Regulatory Commission on December 11, 2009. These Guidelines apply to the Chinese-funded commercial banks, wholly foreign-owned banks, and Sino-foreign joint venture banks established within the People's Republic of China. According to the Guidelines the risk management of bank account interest rate of commercial banks shall adhere to the principle of prudence. The department (personnel) of the risk management of a commercial bank's interest rate shall be independent from the risk-taking department (personnel) responsible for transactions and other business activities, and the reporting lines shall also keep independent.

Guidance for Information Work Management in Insurance Companies (Trial)

保险公司信息化工作管理指引（试行）

This Guidance was issued by the China Insurance Regulatory Commission. It applies to insurance companies and insurance asset management companies established within China, which apply modern information technology such as computers, telecommunications and networks in their business processes and operation management. In accordance with the Guidance, the companies mentioned above should establish a risk-assessment system for information work and an information system audit system, with audits conducted at least once every two years.

Notice of the Customs Tariff Commission of the State Council Regarding the Tariff Execution Plan 2010

国务院关税税则委员会关于**2010**年关税实施方案的通知

According to the commitments made by China for accession to the World Trade Organization in respect of reducing the customs duties, the duties on imports are adjusted and the duties on export remain unchanged. In addition, some tariff items are adjusted. After the adjustment, the total number of tariff items in the Import and Export Tariffs of China (2010 version) is 7923. The general level of tariffs in 2010 is the same as it in 2009, namely 9.8%. Among them, the average tax rate of agricultural products is 15.2% and the average rate of industrial products is 8.9%. After the adjustment, China's tariff reduction commitments of 2001, when China accessed the WTO, have been fully performed.

Working Regulations on Tax Inspections

税务稽查工作规程

The Regulations were issued by the State Administration of Taxation. The Regulations provide the jurisdiction for tax inspections, case selections, and inspections. According to the Regulations tax inspectors are required to keep business secrets and individual privacy of taxpayers and withholding agents.

The Interpretations on Several Issues for the Application of Laws in Trials of Patent Dispute Cases

关于审理侵犯专利权纠纷案件应用法律若干问题的解释

The Interpretations were issued by the Supreme People's Court on December 28, 2009. The Interpretation focuses on solving problems from the following aspects: defining the scope of protection for inventions, utility models and patent rights, the principles for determining infringements, principles for determining infringements of exterior designs, applications of prior art defense and prior use defense, and acceptance of confirmed non-infringement lawsuits.

Supervisory Measures for Power Supply

供电监管办法

The Measures were issued by the State Electricity Regulatory Commission. The Measures stipulate supervisory regulations on the power supply capability, quality and safety of power grid enterprises and the pricing policies and rates standards for electricity.

The Interpretation on Several Issues for the Application of Laws in Trials of Criminal Cases on Illegal manufacture, sale, transportation of firearms, ammunition, explosives (Amendment)

最高人民法院关于审理非法制造、买卖、运输枪支、弹药、爆炸物等刑事案件具体应用法律若干问题的解释（2009 修订）

The Amendment of Interpretations was issued by the Supreme People's Court on November 9, 2009. It clarifies that the activities of illegal manufacture, sale, transportation, mailing or storing explosives due to road construction, building, renovation and other normal production may be lighter punished or be exempted from punishment according to law.

Rules on Drug testing procedures

吸毒检测程序规定

The Rules were issued by the Ministry of Public Security on July 28, 2009. The Rules aim to regulate the drug testing work of public security organs and protect the legitimate rights and interests of the parties. The drug testing is divided into on-site testing, laboratory testing, laboratory re-examination and test samples are the urine, blood, hair or other

biological samples of the party subject to inspection. Testing costs will be borne by the public security organs.

Tentative Measures on Transfers and Successions for Basic Pension Insurance for Employees in Urban Enterprises 城镇企业职工基本养老保险关系转移接续暂行办法

These Measures were issued by the Executive Meeting of the State Council on December 22, 2009. The Tentative Measures give clear regulations on issues on cross-provincial transfers and successions, issues on recognition of rights and interests in different areas, issues arising from migrant workers withdrawing their pension insurances and issues on providing management and services for mass convenience. In accordance with the Tentative Measures, the basic pension insurance for all personnel - including rural migrant workers, who are involved in basic pension insurance for employees in urban enterprises, can be transferred to other provinces together with the job. The years for insurance premiums of participants in all regions shall be calculated for an accumulative total.

Management approach for foreign governments Loans procurement 外国政府贷款采购工作管理办法

This Regulation is issued by Ministry of Finance on December 4, 2009. It applies to the procurement for foreign government loans. The Ministry of Finance is responsible for making principles and related policies for the procurement. According to the regulation, the procurement for foreign government loans should take the form of advertised bidding.

The Administrative Catalogue of Import and Export Licenses for Dual-Use Items and Technologies 两用物项和技术进出口许可证管理目录

The Administrative Catalogue is adjusted by the Ministry of Commerce and the General Administration of Customs.

Regulations on Light-duty Vehicle Fuel Consumption Label 轻型汽车燃料消耗量标示管理规定

This Regulation is issued by the Ministry of Industry and Information Technology. According to this Regulation, new cars shall carry a label, which indicates their fuel consumption.

Rules on Several Issues for the Application of Laws for the Trial of Cases on Objection to the administer of the civil level

最高人民法院关于审理民事级别管辖异议案件若干问题的规定

The Interpretations were issued by the Supreme People's Court on July 20, 2009. According to the Interpretations, lower-level people's court shall not accept civil cases which should be accepted by a higher-level people's court. If lower-level people's court find or defendants point out that the case should be judged by higher-level people's court, then the case will be transferred to the higher-level people's court.

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