

Regulations for the Implementation of the Law on Tobacco Monopoly of the People's Republic of China

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Chapter I General Provisions

Article 1 These Regulations are formulated in accordance with of the Law on Tobacco Monopoly of People's Republic of China (hereinafter referred to as Tobacco Monopoly Law).

Article 2 Tobacco monopoly means that the system that State exercises monopoly operations and unified management over the manufacture, sales and import-export businesses of tobacco monopoly products.

Article 3 The cut tobacco in tobacco monopoly products refers to commodities in cuts, dust and granule processed with leaf tobacco, redried leaf tobacco and leaf tobacco slices as raw materials.

Article 4 For performance of functions, responsibilities and leadership system of the department of tobacco monopoly administration under the State Council and the departments of tobacco monopoly administration of the provinces, autonomous regions and municipalities directly under the Central Government, the provisions of Article 4 of shall be observed. Municipalities and counties with established departments of tobacco monopoly administration, the municipal and county departments of tobacco monopoly administration shall take charge of the work of tobacco monopoly within their respective administrative areas and be subject to the dual leadership of the department of tobacco monopoly administration at the next higher level and the People's Government at the same level, with the department of tobacco monopoly administration at the next higher level as the main leading body.

Article 5 The State exercises control over the tar content in cigarettes and cigars and main additives for cigarettes and cigars. Tobacco products manufacture enterprises must not use hazardous additives and pigments in violation of the relevant provisions of the State.

Chapter II The Tobacco Monopoly License

Article 6 Anyone engaging in the manufacture, wholesale and retail businesses, operating tobacco monopoly products import-export businesses and operating foreign tobacco products purchasing-marketing businesses must, in pursuance of the provisions of and these Regulations, apply for and obtain a tobacco monopoly license.

Tobacco monopoly licenses are divided into:

- (1) tobacco monopoly manufacture enterprise license;
- (2) tobacco monopoly wholesale enterprise license; and
- (3) tobacco monopoly retail license.

Article 7 For the obtainment of a tobacco monopoly manufacture enterprise license, the following conditions shall be met:

- (1) having appropriate funds for the manufacture of tobacco monopoly products;
- (2) having the required conditions of technology and equipment for the manufacture of tobacco monopoly products;
- (3) compliance with the requirements of the industrial policy of the State on the tobacco industry; and

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(4) other conditions prescribed by the department of tobacco monopoly administration under the State Council.

Article 8 For the obtainment of a tobacco monopoly wholesale enterprise license, the following conditions shall be met:

- (1) having adequate funds for operating tobacco monopoly products wholesale business;
- (2) having a fixed site for the operations and necessary specialized staff;
- (3) compliance with requirements for rational distribution of tobacco monopoly wholesale enterprises; and
- (4) other conditions prescribed by the department of tobacco monopoly administration under the State Council.

Article 9 For the obtainment of a tobacco monopoly retail license, the following conditions shall be met:

- (1) having adequate funds for operating tobacco monopoly products retail business;
- (2) having a fixed site for the operations;
- (3) compliance with requirements for rational distribution of tobacco monopoly products retail points; and
- (4) other conditions prescribed by the department of tobacco monopoly administration under the State Council.

Article 10 Tobacco monopoly administration issues tobacco monopoly licenses and permit for transporting tobacco monopoly products according to the requirements of the Tobacco Monopoly Law and the Regulations, and carries out the implementation.

Article 11 Applicants for the obtainment of tobacco monopoly manufacture enterprise licenses shall submit their applications to the departments of tobacco monopoly administration of the provinces, autonomous regions and municipalities directly under the Central Government (hereinafter referred to as at the provincial level), departments of tobacco monopoly administration at the provincial level shall examine the same and make remarks thereon and submit the same to the department of tobacco monopoly administration under the State Council for examination and approval and issuance of licenses.

Article 12 Applicants for the obtainment of tobacco monopoly wholesale enterprise licenses for transregional operations in provinces, autonomous regions and municipalities directly under the Central Government shall submit their applications

to the departments of tobacco monopoly administration at the provincial level which shall examine the same and offer their remarks thereon and submit the same to the department of tobacco monopoly administration under the State Council for examination and approval and issuance of licenses.

Applicants for the obtainment of tobacco monopoly wholesale enterprise licenses for operations within the jurisdiction of a province, an autonomous region or a municipality directly under the Central Government shall submit their applications to the departments of tobacco monopoly administration of the localities wherein the enterprises are located which shall examine the same and offer their remarks thereon and submit the same to the departments of tobacco monopoly administration at the provincial level for examination and approval and issuance of licenses.

Article 13 Applications for the obtainment of tobacco monopoly retail licenses shall be handled pursuant to the provisions of Law.

Article 14 Issuing agencies of tobacco monopoly licenses can carry out regular or irregular inspections of the enterprises and individuals having obtained tobacco monopoly licenses. Those found to be not in compliance with the conditions prescribed by and these Regulations in inspections, issuing agencies of tobacco monopoly licenses can direct them to suspend tobacco monopoly operations for consolidation and go so far as to revoke their qualifications in engaging in tobacco monopoly business.

Specific control measures for tobacco monopoly licenses shall be worked out by the department of tobacco monopoly administration under the State Council in accordance with the provisions of these Regulations.

Chapter III Plantation, Purchase and Allocation of Leaf Tobacco

Article 15 The department of tobacco monopoly administration under the State Council works out the leaf tobacco planting plan in conjunction with the People's Governments of the provinces, autonomous regions and municipalities directly under the Central Government concerned according to the State plan, in accordance with the requirements of rational distribution and the principle of using good seeds, regional grouping and standardization.

Article 16 Leaf tobacco shall be unifiedly purchased by the tobacco companies or their entrusted agencies according to law. The tobacco companies or their entrusted agencies may, in accordance with requirements, set up leaf tobacco purchasing stations(points) in areas where the State has assigned leaf tobacco purchasing plans for the purchase of leaf tobacco. Establishment of leaf tobacco purchasing stations (points) shall be subject to the approval of the departments of tobacco monopoly administration at the provincial level. No unit or individual shall purchase leaf tobacco without approval.

Article 17 Local departments of tobacco monopoly administration organize the departments concerned at the same level and representatives of leaf tobacco producers in the formation of leaf tobacco grading groups to coordinate grading in leaf tobacco purchase.

Article 18 Plans for State reserve and export of leaf tobacco and leaf tobacco allocation plans shall be assigned by the planning department under the State Council.

Chapter IV Manufacture of Tobacco Products

Article 19 Establishment of tobacco products manufacture enterprises shall be submitted by the departments of tobacco monopoly administration at the provincial level to the department of tobacco monopoly administration under the State Council for approval, with the acquisition of tobacco monopoly manufacture enterprise licenses and registration upon verification and approval at the departments of industry and commerce administration.

Article 20 Tobacco products manufacture enterprises must strictly implement the manufacture plans assigned by the State.

Article 21 Use of stale leaf tobacco for the manufacture of cigarettes, cigars or cut tobacco is prohibited.

Article 22 Cigarettes, cigars and packed cut tobacco shall use registered trademarks.

Chapter V Sale of Tobacco Products

Article 23 Enterprises with acquisition of tobacco monopoly wholesale enterprise licenses shall engage in tobacco products wholesale business within the business scope and regional boundary prescribed in the licenses.

Enterprises or individuals with acquisition of tobacco monopoly retail licenses shall purchase the merchandise at local tobacco monopoly wholesale enterprises and be subject to the supervision and control of the issuing agencies of tobacco monopoly licenses.

Article 24 Any unit or individual selling more than 50 cartons of cigarettes or cigars at a time without a tobacco monopoly wholesale enterprise license shall be construed as engagement in tobacco products wholesale business without a tobacco monopoly wholesale enterprise license.

Article 25 No unit or individual shall sell illegally produced tobacco products.

Article 26 Tobacco monopoly manufacture enterprises and tobacco monopoly wholesale enterprises must not supply tobacco products to any unit or individual without tobacco monopoly retail licenses.

Article 27 Cigarettes and cigars sold within the territory of China shall indicate grades of tar content and "Smoking is hazardous to your health" in the Chinese language on the packs and cartons.

Article 28 Whenever necessary, the department of tobacco monopoly administration under the State Council may, in the light of the market supply and demand, may assign appropriation tasks for cigarettes and cigars among the provinces, autonomous regions and municipalities directly under the Central Government.

Article 29 Sale of stale and foul tobacco products is strictly prohibited. Stale and foul tobacco products shall be destroyed under the supervision of the departments of tobacco monopoly administration or the departments of administration concerned.

Article 30 Tobacco products with counterfeit trademarks intercepted by departments concerned according to law shall be handed over to departments of tobacco monopoly administration for open destruction pursuant to relevant provisions of the State and sale thereof in any form is prohibited.

Article 31 Identification, inspection and testing of tobacco products with counterfeit trademarks shall be carried out by the tobacco quality inspection and testing stations designated by the department of product quality supervision and control under the State Council and the departments of product quality supervision and control of the People's Governments of the provinces, autonomous regions and municipalities directly under the Central Government.

Chapter VI Transportation of Tobacco Monopoly Products

Article 32 Tobacco monopoly product transportation permits shall be issued upon examination and approval by the departments of tobacco monopoly administration above the provincial level or by their authorized agencies. Control measures for tobacco monopoly product transportation permits shall be worked out by the department of tobacco monopoly administration under the State Council.

Article 33 Cross-boundary transportation of import tobacco monopoly products, Chinese-made special-purpose tobacco machinery, cigarette tow, filter rods and import cut cigarette paper across the provinces, autonomous regions and municipalities directly under the Central Government shall go through consignment for shipment or shipment on one's own against the tobacco monopoly product transportation permits issued by the department of tobacco monopoly administration under the State Council or its authorized agencies.

Cross-boundary transportation of other Chinese-made tobacco monopoly products other than Chinese-made special-purpose tobacco machinery, cigarette tow, filter rods and import cut cigarette paper across the provinces, autonomous regions and municipalities directly under the Central Government shall go through consignment

for shipment or shipment on one's own against the tobacco monopoly product transportation permits issued by the department of tobacco monopoly administration under the State Council or departments of tobacco monopoly administration at the provincial level.

Cross-city, cross-county transportation of tobacco monopoly products within the provinces, autonomous regions and municipalities directly under the Central Government shall go through consignment for shipment or shipment on one's own against the tobacco monopoly product transportation permits issued by departments of tobacco monopoly administration at the provincial level or their authorized agencies.

Transportation of smuggled tobacco monopoly products confiscated according to law shall go through consignment for shipment or shipment on one's own against the tobacco monopoly product transportation permits issued by the department of tobacco monopoly administration under the State Council.

Article 34 Any of the following circumstances shall be regarded as transportation of tobacco monopoly products without tobacco monopoly product transportation permits:

- (1) transportation of tobacco monopoly products exceeding the quantity and range prescribed in the tobacco monopoly product transportation permits;
- (2) use of expired, altered or duplicated tobacco monopoly product transportation permits;
- (3) without tobacco monopoly product transportation permits and failure to provide effective certificates of local purchase of tobacco monopoly products; or
- (4) other acts of shipment of tobacco monopoly products without tobacco monopoly product transportation permits.

Article 35 For transfer-customs shipment of tobacco products under customs supervision, formalities for shipment shall be completed in accordance with the provisions of the State relating to transfer-customs shipment.

Chapter VII Manufacture and Sale of Cigarette Paper, Filter Rods, Cigarette Tow and Special- purpose Tobacco Machinery

Article 36 Tobacco monopoly wholesale enterprises and tobacco products manufacture enterprises can purchase cigarette paper, filter rods, cigarette tow and special-purpose tobacco machinery only from enterprises with acquisition of tobacco monopoly manufacture enterprise licenses.

Manufacture enterprises of cigarette paper, filter rods, cigarette tow and special-purpose tobacco machinery must not sell their products to units or individuals without tobacco monopoly manufacture enterprise licenses.

Article 37 Purchase, sale and transfer of special-purpose tobacco machinery must be subject to the approval of the department of tobacco monopoly administration under the State Council.

Catalog of the names of special-purpose tobacco machinery shall be prescribed by the department of tobacco monopoly administration under the State Council.

Article 38 No unit or individual shall sell illegally produced special-purpose tobacco machinery, cigarette paper, filter rods and cigarette tow.

Phased-out, condemned and illegally assembled special-purpose tobacco machinery, broken and substandard cigarette paper, filter rods and cigarette tow as well as their bits and pieces shall be handled under the supervision of local departments of tobacco monopoly administration and must not be sold in any form.

Chapter VIII Import-export Trade and Foreign Economic and Technological Cooperation

Article 39 For the establishment of a tobacco monopoly manufacture enterprise with investment from foreign businesses, recording of the project pursuant to relevant provisions of the State can only be approved upon examination and consent of the department of tobacco monopoly administration under the State Council.

Article 40 Plans of importing tobacco monopoly products shall be submitted to the department of tobacco monopoly administration under the State Council for examination and approval.

Article 41 Duty-free import tobacco products shall be stored in customs-designated bonded warehouses, and joint control by the local departments of tobacco monopoly administration designated by the department of tobacco monopoly administration under the State Council and the customs shall be stepped up. The customs shall verify and write off the quantity of duty-free import foreign tobacco products in batches against the duty-free import plans approved by the department of tobacco monopoly administration under the State Council.

Article 42 Duty-free cigarettes and cigars marketed in customs supervision zones are only for retail and special labels shall be printed on the packs and cartons as prescribed by the department of tobacco monopoly administration under the State Council.

Article 43 "Exclusively for export" in the Chinese language shall be marked on packs and cartons of cigarettes and cigars exclusively for export.

Chapter IX Supervision and Inspection

Article 44 Departments of tobacco monopoly administration shall conduct supervision and inspection on the implementation of Law and these Regulations according to law, investigate and deal with cases of violation of and these Regulations, and investigate and deal with acts of smuggling, trafficking of smuggled tobacco products, counterfeiting, forgery and making inferior quality products.

Article 45 Whenever necessary, the department of tobacco monopoly administration under the State Council may, in the light of the actual conditions in tobacco monopoly work, set up representative agencies in major areas; whenever necessary, the departments of tobacco monopoly administration at the provincial level may dispatch resident staff in tobacco monopoly products manufacture and operating enterprises. Representative agencies and resident staff supervise and inspect the manufacture and operating activities relating to tobacco monopoly products within the authorized scope of the dispatching departments.

Article 46 In investigating and handling cases of violation of Tobacco Monopoly Law and these Regulations, departments of tobacco monopoly administration may exercise the following functions and powers:

- (1) inquire the parties interested, suspects and witnesses in the law-breaking cases;
- (2) inspect the operating sites of the parties interested in the law-breaking cases and deal with the illegally produced or marketed tobacco monopoly products according to law; and
- (3) search, read and duplicate contracts, invoices, accounting books, vouchers, records, documents, business correspondence and other information related to the law-breaking activities.

Article 47 Departments of tobacco monopoly administration or departments of tobacco monopoly administration in conjunction with the departments concerned may inspect and deal with activities of illegal transportation of tobacco monopoly products in accordance with law.

Article 48 For auctions of tobacco monopoly products confiscated by people's courts and administrative agencies and tobacco monopoly products offsetting penalties, fines or tax money, pursuant to the relevant provisions of the State, bidders shall hold tobacco monopoly wholesale enterprise licenses

Auction enterprises established in accordance with law for auctioning of tobacco monopoly products shall examine and verify the qualifications of the bidders. Auctioning of tobacco monopoly products by auction enterprises shall be subjected to the supervision of the departments of tobacco monopoly administration.

Article 49 Monopoly administrator-inspectors of departments of tobacco monopoly administration shall wear badges issued by the department of tobacco monopoly administration under the State Council and show certificates of inspection issued by departments of tobacco monopoly administration at the provincial level while performing official duties.

Article 50 Units and individuals having performed meritorious services in reporting law-breaking cases in tobacco monopoly shall be rewarded.

Chapter X Legal Responsibilities

Article 51 The following provisions shall be observed in the implementation of penalties pursuant to the provisions of Article 28 of Monopoly Law:

- (1) for purchase of leaf tobacco without authorization, a fine of more than 20% and less than 50% of the value of the illegally purchased leaf tobacco may be imposed;
- (2) for purchase of more than 1000 kilograms of leaf tobacco without authorization, the illegally purchased leaf tobacco and illegal income shall be confiscated according to law.

Article 52 The following provisions shall be observed in the implementation of penalties pursuant to the provisions of Article 29 of Monopoly Law:

- (1) for consignment for shipment or shipment on one's own of tobacco monopoly products without a transportation permit or the quantity of which exceeds that prescribed in the transportation permit, a fine of more than 20% and less than 50% of the value of the illegally transported tobacco monopoly products shall be imposed, the illegally transported tobacco leaf may be purchased on the basis of 70% of the average purchasing price of last year certificated by the provincial administration of tobacco monopoly where violation is found and other tobacco monopoly products on the basis of 70% of the wholesale market price.
- (2) for any of the following circumstances, the illegally transported tobacco monopoly products and illegal income shall be confiscated:
 - i. the value of illegally transported tobacco monopoly products exceeds RMB 50000 Yuan or the quantity of transported cigarettes exceeds 100 pieces (every 10000 cigarettes constitute one piece);

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- ii. having been subjected to penalties more than twice by departments of tobacco monopoly administration;
- iii. resisting inspection according to law by supervisor-inspectors of departments of tobacco monopoly administration;
- iv. illegal transportation of smuggled tobacco monopoly products;
- v. transportation of tobacco monopoly products produced by enterprises without tobacco monopoly manufacture enterprise licenses;
- vi. illegal transportation of tobacco monopoly products in disguise;
- vii. evading inspection by using special vehicles in transporting tobacco monopoly products; or
- viii. other acts of illegal transportation the circumstances of which are serious.

(3) for the shipper who is aware that it is tobacco monopoly products and transports the same for units or individuals without transportation permits, its or his/her illegal income shall be confiscated, and a fine of more than 10% and less than 20% of the value of the illegally transported tobacco monopoly products may be concurrently imposed.

(4) for sending by post or bringing leaf tobacco and tobacco products to another place in excess of more than 100% of the quantity limit set by the departments concerned under the State Council, penalties shall be meted out pursuant to the provision of section (1) of this Article.

Article 53 The following provisions shall be observed in the implementation of penalties pursuant to the provisions of Article 30 of Monopoly Law:

(1) for manufacture of tobacco products without tobacco monopoly manufacture enterprise licenses, the department of tobacco monopoly administration shall direct it or him/her to close down, confiscate the illegal income, impose a fine of more than 100% and less than 200% of the value of the produced tobacco products, and destroy the illegally produced tobacco products in public;

(2) for manufacture of cigarette paper, filter rods, cigarette tow or special-purpose tobacco machinery without tobacco monopoly manufacture enterprise licenses, the department of tobacco monopoly administration shall order to stop manufacture, confiscate the illegal income, impose a fine of more than 100% and less than 200% of the value of the illegally produced tobacco monopoly products, and destroy the illegally produced tobacco monopoly products publicly.

Article 54 Pursuant to the provisions of Article 31 of Monopoly Law, for operating tobacco products wholesale business without tobacco monopoly wholesale enterprise licenses, the department of tobacco monopoly administration shall direct it or him/her to close down or stop operating tobacco products wholesale business, confiscate the illegal income, and impose a fine of more than 50% and less than 100% of the value of the illegal wholesale of tobacco products.

Article 55 For units with the acquisition of tobacco monopoly wholesale enterprise licenses engaging in tobacco products wholesale beyond the business scope and regional boundary in contravention of the provisions of the first paragraph of Article 23 of these Regulations, the department of tobacco monopoly administration shall direct it or him/her to suspend the operations of wholesale business, confiscate the illegal income, and impose a fine of more than 10% and less than 20% of the value of the illegal operations of tobacco products.

Article 56 For failure of enterprises or individuals with the acquisition of tobacco monopoly retail licenses to purchase the merchandise at local tobacco monopoly wholesale enterprises in contravention of the provisions of the second paragraph of Article 23 of these Regulations, the department of tobacco monopoly administration shall confiscate their illegal income, and may impose a fine of more than 5% and less than 10% of the total amount of the purchase.

Article 57 For operating tobacco products retail business without tobacco monopoly retail licenses, the department of industry and commerce administration or the department of industry and commerce administration on the basis of the views of the department of tobacco monopoly administration shall direct it or him/her to stop the operations of tobacco products retail business, confiscate the illegal income, and impose a fine of more than 20% and less than 50% of the total amount in illegal operations.

Article 58 For sale of illegally produced tobacco monopoly products in violation of the provisions of Article 25 and the first paragraph of Article 38 of these Regulations, the department of tobacco monopoly administration shall order to stop the sale, confiscate the illegal income, impose a fine of more than 20% and less than 50% of the total amount of the illegal sale, and publicly destroy the illegally sold tobacco monopoly products.

Article 59 For engagement in cross-province, cross-autonomous region and cross-municipality under the Central Government tobacco monopoly wholesale business without authorization, without the acquisition of tobacco monopoly wholesale enterprise licenses issued by the department of tobacco monopoly administration under the State Council in violation of the provisions of these Regulations, the department of tobacco monopoly administration shall impose a fine of more than 10% and less than 20% of the total amount in wholesale.

Article 60 For supply of tobacco monopoly products to units or individuals without tobacco monopoly licenses in violation of Article 26 and the second paragraph of Article 36 of these Regulations, the department of tobacco monopoly administration shall confiscate the illegal income, and impose a fine of more than 20% and less than 50% of the total sales amount.

Article 61 For tobacco monopoly wholesale enterprises and tobacco products manufacture enterprises which purchase cigarette paper, filter rods, cigarette tow and special-purpose tobacco machinery from enterprises without tobacco monopoly manufacture enterprise licenses in violation of the first paragraph of Article 36 of the Regulations, the department of tobacco monopoly administration shall impose a fine of more than 50% and less than 100% of the value of the tobacco monopoly products purchased.

Article 62 For failure to store the duty-free import tobacco products in bonded warehouses for tobacco products as prescribed in violation of the provisions of Article 41 of these Regulations, a fine of less than 50% of the value of the said tobacco products may be imposed.

Article 63 Failure to print special labels prescribed by the department of tobacco monopoly administration under the State Council on packs and cartons of duty-free cigarettes and cigars marketed in customs supervision zones in violation of the provisions of Article 42 of these Regulations, a fine of less than 50% of the total illegal operating amount may be imposed.

Article 64 For auction of tobacco monopoly products by auction enterprises without authorization, without conducting inspection and identification of the qualifications of the bidders or refusal to accept the supervision of the department of tobacco monopoly administration in violation of the provisions of Article 48 of these Regulations, the department of tobacco monopoly administration shall impose a fine of more than 20% and less than 50% of the value of tobacco monopoly products auctioned off, and revoke their qualifications for tobacco monopoly products auction according to law.

Chapter XI Supplementary Provisions

Article 65 These Regulations come into force as of the date of promulgation.