

Decision of the Standing Committee of the National People's Congress on Punishing Crimes of Fraudulently Purchasing Foreign Exchange, Evading Foreign Exchange and Illegally Trading in Foreign Exchange

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Effective: December 29, 1998

For the purpose of punishing the criminal acts of fraudulently purchasing foreign exchange, evading foreign exchange and illegally trading in foreign exchange, and maintaining the order of the State's foreign exchange administration, the Criminal Law is hereby supplemented and amended as follows:

Article 1 — Whoever fraudulently purchases foreign exchange under any of the following circumstances shall, if the amount is relatively large, be sentenced to fixed-term imprisonment of not more than five years or criminal detention, and shall also be fined not less than 5 percent but not more than 30 percent of the amount of foreign exchange fraudulently purchased; if the amount is huge, or there are other serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years, and shall also be fined not less than 5 percent but not more than 30 percent of the amount of foreign exchange fraudulently purchased; if the amount is especially huge, or there are other especially serious circumstances, he shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, and shall also be fined not less than 5 percent but not more than 30 percent of the amount of foreign exchange fraudulently purchased or have his property confiscated:

- (1) using forged or altered customs declarations, import certificates, approval documents issued by the foreign exchange administration authorities, or other vouchers and documents;
- (2) repeatedly using customs declarations, import certificates, approval documents issued by the foreign exchange administration authorities, or other vouchers and documents; or
- (3) fraudulently purchasing foreign exchange by any other means.

Whoever forges or alters customs declarations, import certificates, approval documents issued by the foreign exchange administration authorities, or other vouchers and documents and uses them to fraudulently purchase foreign exchange shall be given a heavier punishment in accordance with the provisions of the preceding paragraph.

Whoever, clearly knowing that the funds are to be used for fraudulently purchasing foreign exchange, provides Renminbi funds shall be punished as an accomplice.

Where a unit commits any of the crimes mentioned in the preceding three paragraphs, it shall be fined in accordance with the provisions of the first paragraph, and the persons directly in charge and other persons directly responsible shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the amount is huge, or there are other serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than five years but not more than ten years; if the amount is especially huge, or there are other especially serious circumstances, they shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment.

Article 2 — Whoever buys or sells forged or altered customs declarations, import certificates, approval documents issued by the foreign exchange administration authorities, or other vouchers and documents, or other official documents, certificates or seals of State organs, shall be convicted and punished in accordance with the provisions of Article 280 of the Criminal Law.

Article 3 — Article 190 of the Criminal Law is amended as follows: "Any company, enterprise or other unit that, in violation of State provisions, deposits foreign exchange abroad without authorization, or illegally transfers domestic foreign exchange abroad, shall, if the amount is relatively large, be fined not less than 5 percent but not more than 30 percent of the amount of foreign exchange evaded, and the persons directly in charge and other persons directly responsible shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the amount is huge, or there are other serious circumstances, the unit shall be fined not less than 5 percent but not more than 30 percent of the amount of foreign exchange evaded, and the persons directly in charge and other persons directly responsible shall be sentenced to fixed-term imprisonment of not less than five years."

Article 4 — Whoever illegally buys or sells foreign exchange outside the trading venues prescribed by the State, thereby disrupting market order, shall, if the circumstances are serious, be convicted and punished in accordance with the provisions of Article 225 of the Criminal Law.

Where a unit commits the crime mentioned in the preceding paragraph, it shall be punished in accordance with the provisions of Article 231 of the Criminal Law.

Article 5 — Any employee of the customs, the foreign exchange administration authorities, financial institutions, or companies, enterprises or other units engaged in foreign trade business who conspires with a person who fraudulently purchases foreign exchange or evades foreign exchange and provides the relevant vouchers for purchasing foreign exchange or other conveniences, or who sells or pays foreign exchange while clearly knowing that the vouchers and documents are forged or altered, shall be punished as an accomplice and given a heavier punishment in accordance with this Decision.

Article 6 — Any employee of the customs or the foreign exchange administration authorities who is seriously irresponsible, thereby causing a large amount of foreign exchange to be fraudulently purchased or evaded and causing major losses to the interests of the State, shall be convicted and punished in accordance with the provisions of Article 397 of the Criminal Law.

Article 7 — Any employee of financial institutions or of companies or enterprises engaged in foreign trade business who is seriously irresponsible, thereby causing a large amount of foreign exchange to be fraudulently purchased or evaded and causing major losses to the interests of the State, shall be convicted and punished in accordance with the provisions of Article 167 of the Criminal Law.

Article 8 — All property and fines recovered or confiscated in accordance with law from persons who commit the crimes prescribed by this Decision shall be turned over to the State treasury.

Article 9 — This Decision shall come into force as of the date of promulgation.

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