Law of the PRC on Tobacco Monopoly

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Adopted at the 20th Meeting of the Standing Committee of the Seventh National People's Congress on June 29, 1991; amended in accordance with the Decision on Amending the Law of the People's Republic of China on Tobacco Monopoly adopted at the 14th Meeting of the Standing Committee of the Twelfth National People's Congress on April 24, 2015

Effective: January 1, 1992 (Amended: April 24, 2015)

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Chapter I — General Provisions

Article 1 — This Law is enacted for the purposes of implementing a tobacco monopoly system, managing the production and trade of tobacco monopoly commodities in a planned manner, improving the quality of tobacco products, safeguarding the interests of consumers, and ensuring the national revenue.

Article 2 — "Tobacco monopoly commodities" as used in this Law means cigarettes, cigars, cut tobacco, redried tobacco leaf, tobacco leaf, cigarette paper, filter rods, and cigarette tow.

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Article 3 — The State shall implement monopoly administration over the production, sale, and import and export of tobacco monopoly commodities in accordance with the law and introduce a tobacco monopoly license system.

Article 4 — The tobacco monopoly administrative department under the State Council shall be responsible for the nationwide tobacco monopoly administration. Tobacco monopoly administrative departments of provinces, autonomous regions, and municipalities directly under the Central Government shall be responsible for tobacco monopoly administration in their respective regions, subject to the dual leadership of the tobacco monopoly administrative department under the State Council and the people's governments of the provinces, autonomous regions, and municipalities directly under the Central Government, with the leadership of the tobacco monopoly administrative department under the State Council being primary.

Chapter II — Tobacco Leaf Planting, Purchase and Allocation

Article 5 — The State shall exercise planned management over the planting of tobacco leaves. The area under tobacco cultivation shall be included in the State plan. Tobacco growers shall enter into tobacco leaf purchase contracts with tobacco companies in accordance with the plan.

Article 6 — The State shall promote advanced planting techniques, cultivate and popularize superior tobacco varieties, and improve the quality of tobacco leaves.

Article 7 — Tobacco leaves and tobacco leaves of various types produced in various regions shall be purchased by tobacco companies or their entrusted units in accordance with State-prescribed standards and prices on the basis of contracts. No other entity or individual may purchase tobacco leaves.

Article 8 — Tobacco companies shall purchase tobacco leaves at prices set by the State. The State Council shall determine the pricing standards for tobacco leaf purchases.

Chapter III — Production of Tobacco Products

Article 9 — Enterprises engaged in the production of tobacco products shall obtain a tobacco monopoly production enterprise license. An application for a tobacco monopoly production enterprise license shall be subject to examination by the tobacco monopoly administrative department of the relevant province, autonomous region, or municipality directly under the Central Government, and shall be submitted to the tobacco monopoly administrative department under the State Council for approval.

Article 10 — The total production volume of tobacco products shall be subject to planned management. The tobacco monopoly administrative department under the State Council shall formulate the annual total production plan for cigarettes and cigars based on market demand and submit it to the planning department under the State Council for approval.

Article 11 — No tobacco product may bear a trademark without having been approved for registration.

Article 12 — Tobacco product manufacturers shall print warning labels on the packaging of tobacco products stating that smoking is harmful to health, and shall indicate the tar content and the level of nicotine in the smoke.

Chapter IV — Sale and Transportation of Tobacco Products

Article 13 — Enterprises engaged in the wholesale business of tobacco products shall obtain a tobacco monopoly wholesale enterprise license. An application for a tobacco monopoly wholesale enterprise license shall be examined by the tobacco monopoly administrative department of the relevant province, autonomous region, or municipality directly under the Central Government and approved by the tobacco monopoly administrative department under the State Council.

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Article 14 — Enterprises or individuals engaged in the retail business of tobacco products shall obtain a tobacco monopoly retail license. An application for a retail license shall be examined and approved by the tobacco monopoly administrative department of the relevant county-level people's government.

Article 15 — The tobacco monopoly license shall not be altered, forged, transferred, leased, lent, or otherwise illegally used.

Article 16 — Enterprises or individuals engaged in the transportation of tobacco monopoly commodities must hold a transportation permit issued by the tobacco monopoly administrative department.

Article 17 — The State Council may issue regulations on the administration of tobacco monopoly commodities transported by individuals in reasonable quantities for personal use.

Article 18 — It is prohibited to sell the following tobacco products: (1) counterfeit tobacco products; (2) tobacco products that have not been produced by enterprises holding a tobacco monopoly production enterprise license; (3) tobacco products produced in violation of the State plan; (4) tobacco products produced without registered trademarks; (5) other tobacco products prohibited from sale by laws and regulations.

Chapter V — Import and Export of Tobacco Monopoly Commodities

Article 19 — Enterprises engaged in the import and export of tobacco monopoly commodities shall obtain a special license for the import and export of tobacco monopoly commodities. The import and export of tobacco monopoly commodities shall be subject to the administration of the tobacco monopoly administrative department under the State Council.

Article 20 — The import and export of tobacco monopoly commodities shall comply with the provisions of the State Council on foreign trade administration. The import of tobacco monopoly commodities shall be included in the State plan, and the import volume shall be approved by the tobacco monopoly administrative department under the State Council.

Article 21 — Imported tobacco monopoly commodities must bear the warning labels in the Chinese language prescribed by the tobacco monopoly administrative department under the State Council and shall only be sold after being custom-declared and duty-paid in accordance with the law.

Article 22 — The smuggling of tobacco monopoly commodities is prohibited.

Chapter VI — Legal Liability

Article 23 — Where any entity or individual, in violation of the provisions of this Law, produces, sells, transports, or imports tobacco monopoly commodities without a license, the tobacco monopoly administrative department shall order it to cease such activities, confiscate the illegal gains, and impose a fine of not less than 20 percent but not more than 50 percent of the total value of the tobacco monopoly commodities. The illegally produced, sold, transported, or imported tobacco monopoly commodities shall be confiscated.

Article 24 — Where any entity or individual transports tobacco monopoly commodities without a transportation permit, the tobacco monopoly administrative department shall impose a fine of not less than 20 percent but not more than 50 percent of the total value of the tobacco monopoly commodities transported, and may purchase the tobacco monopoly commodities at the prices prescribed by the State.

Article 25 — Where any entity or individual, in violation of this Law, produces or sells tobacco products without registered trademarks, produces counterfeit tobacco products, or produces tobacco products beyond the State plan, the tobacco monopoly administrative department shall order cessation of the illegal activities, confiscate the illegal gains, impose a fine, and confiscate the illegally produced or sold tobacco products.

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Article 26 — Where a tobacco monopoly license is illegally used by means of alteration, forgery, transfer, lease, or lending, the tobacco monopoly administrative department shall impose a fine of not more than 50,000 yuan on the parties involved, confiscate the illegal gains, and may concurrently revoke the license.

Article 27 — Where the smuggling of tobacco monopoly commodities constitutes a crime, criminal liability shall be pursued in accordance with the law. Where the smuggling does not constitute a crime, the customs authority shall impose an administrative penalty in accordance with the relevant provisions.

Article 28 — Where the illegal purchase of tobacco leaves constitutes a crime, criminal liability shall be pursued in accordance with the law. Where the conduct does not constitute a crime, the tobacco monopoly administrative department shall confiscate the illegally purchased tobacco leaves and the illegal gains, and impose a fine of not less than 20 percent but not more than 50 percent of the total value of the illegally purchased tobacco leaves.

Chapter VII — Supplementary Provisions

Article 29 — The State Council shall formulate rules for the implementation of this Law.

Article 30 — This Law shall come into force on January 1, 1992. The Regulations on Tobacco Monopoly promulgated by the State Council on September 23, 1983, shall be repealed simultaneously.

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