PRC Criminal Law Economic Crimes

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter III — Crimes of Undermining the Socialist Market Economic Order 2

- Section 1 — Crimes of Producing or Selling Fake or Substandard Goods 2
- Section 2 — Crimes of Smuggling 2
- Section 3 — Crimes of Disrupting the Order of Company and Enterprise Administration 3
- Section 4 — Crimes of Disrupting Financial Management Order 4
- Section 5 — Crimes of Financial Fraud 6
- Section 6 — Crimes of Endangering Tax Collection and Administration 7
- Section 7 — Crimes of Infringing Intellectual Property Rights 8
- Section 8 — Crimes of Disrupting Market Order 9

Chapter V — Crimes of Property Violation 11

Chapter VI — Crimes of Obstructing Social Administration (Key Provisions) 13

Chapter VIII — Crimes of Embezzlement and Bribery 14

Chapter IX — Crimes of Dereliction of Duty 16

Unit Crime Provisions and General Principles — Critical Context for Foreign Businesses 18

The Criminal Law of the People’s Republic of China was adopted at the Second Session of the Fifth National People’s Congress on July 1, 1979, and comprehensively revised at the Fifth Session of the Eighth National People’s Congress on March 14, 1997. It has since been amended by eleven Amendments, with the Eleventh Amendment (Amendment XI) adopted at the Twenty-Fourth Session of the Standing Committee of the Thirteenth National People’s Congress on December 26, 2020, and effective March 1, 2021. This translation focuses on provisions most pertinent to foreign business operators and investors in China: economic crimes against the socialist market order, property crimes, crimes obstructing social administration, embezzlement and bribery, and crimes of dereliction of duty. Understanding these provisions is critical for corporate compliance, internal controls, and risk management for any enterprise operating in or trading with China. Criminal liability in China may attach not only to individuals but also to entities (unit crimes), and penalties can include severe fines, confiscation of assets, and for individuals, imprisonment ranging up to life imprisonment or, in the most serious cases, the death penalty with a two-year suspension.

Table of Contents

- Chapter III — Crimes of Undermining the Socialist Market Economic Order
- Section 1: Producing/Selling Fake or Substandard Goods

- Section 2: Smuggling
- Section 3: Disrupting Company/Enterprise Management Order
- Section 4: Disrupting Financial Order
- Section 5: Financial Fraud
- Section 6: Endangering Tax Collection
- Section 7: Infringing Intellectual Property Rights
- Section 8: Disrupting Market Order
- Chapter V — Crimes of Property Violation
- Chapter VI — Crimes of Obstructing Social Administration (Key Sections)
- Chapter VIII — Crimes of Embezzlement and Bribery
- Chapter IX — Crimes of Dereliction of Duty
- Unit Crime Provisions & General Principles

Chapter III — Crimes of Undermining the Socialist Market Economic Order

Section 1 — Crimes of Producing or Selling Fake or Substandard Goods

Section 2 — Crimes of Smuggling

Articles 151 through 157

Article 151 — Smuggling of Weapons, Ammunition, Nuclear Materials, Counterfeit Currency, Prohibited Cultural Relics, Precious Metals, Rare Animals/Plants. Smuggling the items listed in this Article is punishable by fixed-term imprisonment of not less than 7 years, life imprisonment, or criminal detention. Where the circumstances are especially serious, life imprisonment or death with a two-year suspension may be imposed, together with confiscation of property. Business operators must ensure their import/export compliance programs specifically address these high-risk categories.

Article 152 — Smuggling of Obscene Articles; Smuggling of Waste. Smuggling obscene films, videotapes, pictures, books, or publications for profit or dissemination is punishable by imprisonment of 3–10 years, or more than 10 years or life for serious cases. Smuggling waste into China is punishable by imprisonment up to life depending on severity. Since China's 2021 ban on solid waste imports, enforcement of waste smuggling has intensified significantly.

Article 153 — Smuggling of Ordinary Goods or Articles. Any person who smuggles goods or articles other than those specified in Articles 151, 152, and 347 and evades a relatively large amount of customs duty shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, and a fine of 1–5 times the amount of duty evaded. Where the amount evaded is huge (RMB 500,000 or more) or the circumstances are especially serious, penalties escalate to 10+ years' imprisonment or life. This is the most commonly charged smuggling offense affecting foreign trade companies. Transfer pricing, misclassification of goods, and undervaluation are the principal risk areas.

Article 154 — Special Smuggling Offenses. Unauthorized sale for profit within China of bonded goods (including processed imported materials, components, parts, and packaging materials) or specifically designated duty-reduced or duty-exempt goods, without customs approval and without payment of outstanding duties, shall be deemed smuggling. Foreign manufacturers operating bonded processing operations in China must maintain strict internal controls to avoid criminal exposure under this Article.

Article 155 — Deemed Smuggling. Directly and unlawfully purchasing from smugglers goods whose import is prohibited by the state, or goods or articles subject to relatively large amounts of customs duty, shall be deemed smuggling. Transporting, purchasing, or selling in China's territorial waters goods or articles whose

import/export is prohibited, or goods or articles subject to relatively large amounts of customs duty, without lawful documentation, shall also be deemed smuggling.

Article 156 — Conspiracy to Commit Smuggling. Any person who conspires with a smuggler and provides loans, funds, account numbers, invoices, certificates, or convenience in transportation, storage, mailing, or other means shall be punished as an accomplice to the smuggling crime.

Article 157 — Armed Smuggling; Obstructing Anti-Smuggling Enforcement. Armed protection of smuggling and resisting anti-smuggling enforcement by violence or threat are subject to heavier penalties, with combined punishment for multiple offenses.

Section 3 — Crimes of Disrupting the Order of Company and Enterprise Administration

Articles 158 through 169. Key articles for foreign investors:

Article 158 — False Declaration of Registered Capital. Any person who, when applying for company registration, falsely declares the registered capital and the consequences are serious shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, and/or a fine. A unit committing this offense shall be fined, and directly responsible personnel shall be punished.

Article 159 — False Capital Contribution or Withdrawal of Capital Contribution. A company promoter or shareholder who, in violation of the Company Law, makes a false capital contribution or withdraws the capital contribution after company establishment, with a relatively large amount and serious consequences, shall be sentenced to fixed-term imprisonment of not more than 5 years or criminal detention, and/or a fine of 2%–10% of the amount. Under the 2024 Company Law's five-year capital contribution timeline, foreign investors must ensure timely and genuine capital injections to avoid overlapping civil and criminal liability.

Article 160 — Fraudulent Issuance of Shares or Bonds. Concealing material facts or fabricating false information in share or bond prospectuses, subscription forms, or offerings, with a relatively large amount and serious consequences, is punishable by imprisonment of up to 5 years, and up to life imprisonment for especially serious cases.

Article 161 — Providing False Financial and Accounting Reports. Companies obligated to disclose information to shareholders and the public that provide false financial and accounting reports or conceal material facts and seriously damage the interests of shareholders or others shall be subject to imprisonment of up to 3 years, or up to 10 years for especially serious cases. Directly responsible supervisors and other directly responsible personnel shall be punished.

Article 162 — Obstructing Liquidation. Concealing property or making false entries in balance sheets or asset inventories during company liquidation, or distributing company assets prior to satisfaction of debts, with serious consequences, is punishable by imprisonment of up to 5 years.

Article 162bis — Concealing or Intentionally Destroying Accounting Records. Any person who conceals or intentionally destroys accounting records, account books, or financial and accounting reports that should be preserved in accordance with the law, where the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than 5 years or criminal detention, and a fine of RMB 20,000–200,000. A unit committing this offense shall be fined, and directly responsible personnel shall be punished. This is a critical compliance risk: foreign-invested enterprises must maintain robust document retention policies.

Article 163 — Bribery by Non-State Functionaries. Any employee of a company, enterprise, or other unit who takes advantage of his position to demand or illegally accept property from another person and seek benefits for that person, involving a relatively large amount (generally RMB 60,000 or more), shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, and a fine. Where the amount is huge (RMB 1,000,000 or more) or there are other serious circumstances, the penalty is 3–10 years, and over 10 years or life for especially huge amounts. This provision criminalizes commercial bribery, including kickbacks, facilitation payments, and procurement fraud — all of which foreign companies must proactively

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

prevent through compliance programs.

Article 164 — Bribing Non-State Functionaries; Bribing Foreign Public Officials. Offering property to employees of companies, enterprises, or other units for improper benefits, involving a relatively large amount, is punishable by imprisonment of up to 3 years, or 3–10 years for huge amounts. The Eleventh Amendment (2020) expanded this to expressly include offering bribes to foreign public officials and officials of international public organizations. This is of direct relevance to multinational corporations: offering bribes overseas may now be prosecuted in China.

Article 165 — Illegal Business Operations by Related Persons. Directors, supervisors, or senior managers of state-owned companies or enterprises who take advantage of their position to operate the same kind of business as the company they serve for themselves or others and obtain illegal benefits in huge amounts shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, or 3–7 years for especially huge amounts. While this Article targets state-owned enterprises, contractual joint ventures with SOEs should be mindful of counterparty compliance.

Article 166 — Illegally Seeking Benefits for Relatives or Friends. Personnel of state-owned companies, enterprises, or public institutions who take advantage of their position to seek benefits for relatives or friends by transferring profitable business, purchasing goods at prices clearly above market or selling at prices clearly below market, or purchasing substandard goods from relatives or friends, causing heavy losses to state interests, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, or 3–7 years for especially heavy losses.

Article 167 — Concluding or Performing Contracts Defrauded. Directly responsible personnel of state-owned companies, enterprises, or public institutions who are seriously irresponsible or abuse their power in concluding or performing contracts and are thereby defrauded, causing heavy losses to state interests, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, or 3–7 years for especially heavy losses.

Article 168 — Malfeasance Causing Bankruptcy or Heavy Losses of State-Owned Enterprises. Directly responsible personnel of state-owned companies or enterprises who are seriously irresponsible or abuse their power, causing the company or enterprise to go bankrupt or suffer heavy losses, shall be sentenced to fixed-term imprisonment of not more than 3 years, or 3–7 years for especially heavy losses.

Article 169 — Damaging the Interests of Listed Companies. Directors, supervisors, or senior managers of listed companies who breach their fiduciary duties and damage the interests of the listed company, causing heavy losses, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, or 3–7 years for especially heavy losses. Controlling shareholders or actual controllers who instigate or instruct such acts shall be punished as principals.

Article 169bis — Breach of Trust Damaging Interests of Listed Companies (Backdoor Listing). Controlling shareholders or actual controllers of listed companies who, in breach of their fiduciary duties, take advantage of their controlling position to damage the interests of the listed company through related-party transactions, asset stripping, or similar means, causing heavy losses, shall be punished with up to 7 years' imprisonment.

Section 4 — Crimes of Disrupting Financial Management Order

Articles 170 through 191. Selected key articles:

Article 170 — Counterfeiting Currency. Counterfeiting currency is punishable by fixed-term imprisonment of 3–10 years and a fine of RMB 50,000–500,000; ringleaders or those involved in especially large amounts face 10+ years, life imprisonment, or death with a two-year suspension.

Article 175 — Illegally Relending on-lent Credit Funds at High Interest. Illegally relending credit funds obtained from financial institutions to others at high interest for profit, where the illegal proceeds are relatively large, is punishable by imprisonment of up to 3 years, or 3–7 years for huge proceeds. A risk area for

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

companies with access to subsidized credit who may be tempted to lend to related parties.

Article 175bis — Fraudulently Obtaining Loans, Bill Acceptance, or Letters of Credit. Obtaining bank loans, bill acceptances, letters of credit, or guarantees by fraudulent means, causing heavy losses to the bank or other financial institution, is punishable by imprisonment of up to 3 years, or 3–7 years for especially heavy losses. Foreign companies seeking financing from Chinese banks must ensure all application materials are truthful and complete.

Article 176 — Illegally Absorbing Public Deposits. Illegally absorbing public deposits or soliciting deposits in disguised form, disrupting the financial order, is punishable by imprisonment of up to 3 years, or 3–10 years for huge amounts or serious circumstances. Amount exceeding RMB 1,000,000 (individual) or RMB 5,000,000 (unit) is considered “huge.”

Article 177 — Forging or Altering Financial Instruments. Forging or altering negotiable instruments, settlement certificates, or bank cards is punishable by imprisonment of up to 5 years, up to life for especially serious cases.

Article 177bis — Obstructing Credit Card Management. Illegally holding or transporting a relatively large number of other persons’ credit cards, or illegally purchasing or providing credit card information, is punishable by imprisonment of up to 3 years.

Article 178 — Forging/Altering Securities. Forging or altering government bonds or other securities, with a relatively large amount, is punishable by imprisonment of up to 3 years, or 3–10 years for huge amounts, and 10+ years or life for especially huge amounts.

Article 179 — Unauthorized Issuance of Securities. Issuing stocks or corporate bonds without approval from the competent authority, with a relatively large amount and serious consequences, is punishable by imprisonment of up to 5 years, or 5+ years for especially serious consequences.

Article 180 — Insider Trading; Leaking Insider Information. Persons with insider information who engage in insider trading or leak insider information before the public disclosure of information concerning securities or futures trading, where the circumstances are serious, shall be sentenced to fixed-term imprisonment of up to 5 years, or 5–10 years for especially serious circumstances. Foreign investors trading in China’s capital markets must implement robust insider trading prevention policies.

Article 181 — Disseminating False Information on Securities or Futures Markets. Fabricating and disseminating false information affecting securities or futures trading, disrupting the market, with serious consequences, is punishable by imprisonment of up to 5 years, or 5–10 years for especially serious circumstances.

Article 182 — Manipulating Securities or Futures Markets. Manipulation through: (1) concentrated holdings or actual control to jointly or continuously trade; (2) colluding to trade securities at predetermined times, prices, or methods; (3) trading between self-controlled accounts; (4) engaging in wash sales or other transactions without actual transfer; (5) trading securities based on false or uncertain material information; or (6) making public evaluations, predictions, or investment recommendations on issuers or securities while engaging in reverse transactions. Penalties: up to 10 years’ imprisonment.

Article 185bis — Misappropriation of Public Funds by Financial Institution Personnel. Personnel of commercial banks, stock exchanges, futures exchanges, securities companies, futures companies, insurance companies, or other financial institutions who take advantage of their position to misappropriate funds of the institution or clients shall be punished as provided for the crime of misappropriation of public funds in Article 272.

Article 186 — Issuing Loans in Violation of Regulations. Bank or financial institution personnel who issue loans in violation of regulations, involving a huge amount or causing heavy losses, shall be sentenced to imprisonment of up to 5 years. Amounts of RMB 2,000,000 or more or losses of RMB 500,000 or more

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

trigger prosecution.

Article 187 — Absorbing Funds Without Crediting to Accounts. Bank or financial institution personnel who absorb client funds without crediting them to the institution's accounts, involving a huge amount or causing heavy losses, are punishable by imprisonment of up to 5 years, or 5+ years for especially huge amounts.

Article 188 — Issuing Financial Instruments in Violation of Regulations. Bank or financial institution personnel who illegally issue letters of credit, guarantees, bills, deposit certificates, or certificates of credit standing, where the circumstances are serious, shall be sentenced to imprisonment of up to 5 years, or 5+ years for especially serious cases.

Article 189 — Illegal Discounting of Negotiable Instruments. Bank or financial institution personnel who, when discounting negotiable instruments, discount a negotiable instrument that should be rejected, causing heavy losses, shall be sentenced to imprisonment of up to 5 years.

Article 191 — Money Laundering. Knowingly conducting any of the following acts to conceal or disguise the source or nature of proceeds from predicate drug offenses, organized crime of a gangland nature, terrorist activities, smuggling, corruption or bribery, crimes of disrupting financial management order, or financial fraud: (1) providing capital accounts; (2) converting property into cash, negotiable instruments, or securities; (3) transferring funds through transfer accounts or other means of payment and settlement; (4) transferring assets across borders; (5) otherwise concealing or disguising the source and nature of criminal proceeds. Penalties: imprisonment of up to 5 years, or 5–10 years for serious cases. A unit committing this offense shall be fined, and directly responsible personnel shall be punished. China's anti-money laundering regime requires all financial institutions and designated non-financial businesses to implement AML compliance programs; foreign-owned banks and financial services firms in China face particularly rigorous enforcement.

Section 5 — Crimes of Financial Fraud

Articles 192 through 200

Article 192 — Fundraising Fraud. Illegally raising funds through fraudulent means for the purpose of illegal possession, involving a relatively large amount, shall be punishable by fixed-term imprisonment of 3–7 years. Amounts exceeding RMB 1,000,000 (individual) or RMB 5,000,000 (unit) trigger higher penalties of 7+ years or life. Foreign investors should distinguish between legitimate capital raising and fraudulent schemes when evaluating investment opportunities in China.

Article 193 — Loan Fraud. Defrauding banks or financial institutions of loans by fabricating reasons, using false economic contracts or documents, using false property rights certificates as guarantee, or using other fraudulent means for the purpose of illegal possession, involving a relatively large amount, is punishable by imprisonment of up to 5 years. Amounts of RMB 1,000,000 or more trigger 5+ years, and RMB 10,000,000 or more triggers 10+ years or life.

Article 194 — Negotiable Instrument Fraud; Financial Certificate Fraud. Knowingly using forged or altered negotiable instruments; knowingly using void negotiable instruments; fraudulently using another person's negotiable instruments; or issuing bad checks or promissory notes without funds, for the purpose of illegal possession and involving a relatively large amount, is punishable by imprisonment of up to 5 years. Using forged or altered letters of credit, certificates of deposit, bills of lading, or other settlement certificates carries similar penalties.

Article 195 — Letter of Credit Fraud. Using forged or altered letters of credit or accompanying documents; using void letters of credit; fraudulently obtaining letters of credit; or using other means to commit L/C fraud for illegal possession, involving a relatively large amount, is punishable by imprisonment of up to 5 years. Amounts exceeding RMB 500,000 trigger 5–10 years, and RMB 5,000,000 or more triggers 10+ years or life. International trade finance transactions involving Chinese counterparties must include robust L/C verification procedures.

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

Article 196 — Credit Card Fraud. Using forged credit cards, using void credit cards, fraudulently using another person's credit card, or malicious overdraft (cardholders who overdraw beyond the limit or beyond the time limit for the purpose of illegal possession and refuse to repay after being urged by the issuing bank). The thresholds for prosecution are: relatively large amount = RMB 5,000–50,000; huge amount = RMB 50,000–500,000; especially huge amount = over RMB 500,000. Penalties range from up to 5 years to life imprisonment.

Article 197 — Securities Fraud. Using forged or altered government bonds or other securities issued by the state for fraudulent purposes, involving a relatively large amount, is punishable by imprisonment of up to 5 years, or 5–10 years for huge amounts (over RMB 10,000).

Article 198 — Insurance Fraud. Insured persons or beneficiaries who defraud insurance proceeds by fabricating the subject matter, creating false causes of loss or exaggerated losses, creating insurance accidents that did not occur, intentionally causing property loss, or intentionally causing injury, illness, or death, involving a relatively large amount (RMB 10,000+ for individuals, RMB 50,000+ for units), face imprisonment of up to 5 years, escalating to life for especially huge amounts.

Article 200 — Unit Liability for Financial Fraud. Where a unit commits any of the crimes in Articles 192, 194, or 195, the unit shall be fined, and directly responsible supervisors and other directly responsible personnel shall be punished according to the provisions for the respective crime. Foreign-invested enterprises can incur criminal liability as legal entities for financial fraud offenses.

Section 6 — Crimes of Endangering Tax Collection and Administration

Articles 201 through 212. This Section is of particular importance to all businesses operating in China:

Article 201 — Tax Evasion. Taxpayers who evade taxes by filing false tax returns or failing to file tax returns, where the amount of tax evaded is relatively large and accounts for 10% or more of the tax payable, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, and a fine. Where the amount of tax evaded is huge and accounts for 30% or more of the tax payable, imprisonment of 3–7 years and a fine. A withholding agent who withholds or collects taxes but fails to remit them using the same means shall be punished similarly. First-time offenders who pay back taxes and penalties and receive administrative sanctions are generally exempt from criminal prosecution, unless they have received criminal punishment or two or more administrative sanctions in the preceding 5 years. Foreign investors should note that China's Golden Tax System (Phase IV) uses big data analytics to detect tax evasion patterns.

Article 202 — Resisting Tax Payment by Violence or Threat. Resisting tax payment by violence or threat shall be punishable by fixed-term imprisonment of not more than 3 years or criminal detention. Serious cases: 3–7 years.

Article 203 — Evading Tax Arrears. Taxpayers who transfer or conceal property after tax authorities have served notice to pay, causing tax authorities to be unable to recover tax arrears of RMB 10,000–100,000, shall be sentenced to imprisonment of up to 3 years, or 3–7 years for amounts exceeding RMB 100,000.

Article 204 — Fraudulently Obtaining Export Tax Refunds. Fraudulently obtaining state export tax refunds by false export declarations or other fraudulent means, involving a relatively large amount (RMB 100,000+), is punishable by imprisonment of up to 5 years. Amounts exceeding RMB 500,000 trigger 5–10 years, and RMB 2,500,000 or more triggers 10+ years or life. Export-oriented foreign-invested enterprises must implement rigorous verification of export documentation to avoid exposure under this Article.

Article 205 — Falsely Issuing VAT Special Invoices. Falsely issuing VAT special invoices or falsely issuing invoices for fraudulently obtaining export tax refunds or tax deductions, where the circumstances are serious, shall be punishable by fixed-term imprisonment of not more than 3 years or criminal detention and a fine of RMB 20,000–200,000. Where the amount falsely issued is relatively large (tax amount RMB 50,000+) or there are other serious circumstances, imprisonment of 3–10 years. Where the amount is huge (RMB

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

500,000+) or other especially serious circumstances, imprisonment of 10+ years or life. This is one of the most actively enforced tax crimes in China. The “fapiao” (official invoice) system is the backbone of China’s tax administration, and any manipulation of VAT invoices — including issuing invoices without genuine underlying transactions — carries severe criminal consequences.

Article 205bis — Falsely Issuing Other Invoices. Falsely issuing invoices other than those specified in Article 205, where the circumstances are serious, is punishable by imprisonment of up to 2 years (general invoices) or up to 7 years (other special invoices).

Article 206 — Forging or Selling Forged VAT Invoices. Forging or selling forged VAT special invoices is punishable by imprisonment of up to 3 years, escalating to 10+ years or life for especially large amounts (500+ invoices or tax amount of RMB 500,000+).

Article 207 — Illegally Selling VAT Invoices. Illegally selling VAT special invoices is punishable by imprisonment of up to 3 years, escalating to 10+ years or life for huge quantities.

Article 208 — Buying Forged VAT Invoices. Illegally purchasing forged VAT special invoices or purchasing forged invoices for export tax refunds or tax deductions in quantities of 25+ invoices or with tax amounts of RMB 100,000+ is punishable by imprisonment of up to 5 years.

Article 209 — Illegally Producing or Selling Other Invoices. Forging, producing without authorization, or selling invoices that can be used to fraudulently obtain export tax refunds or tax deductions, or other invoices, is punishable by imprisonment of up to 2–7 years depending on quantity and type.

Article 210 — Theft or Fraudulent Acquisition of Invoices. Stealing or fraudulently obtaining VAT special invoices or other invoices meeting certain thresholds shall be punished according to the crimes of theft or fraud respectively.

Article 211 — Unit Liability for Tax Crimes. A unit committing any of the crimes in Articles 201, 203, 204, 207, 208, or 209 shall be fined, and directly responsible supervisors and other directly responsible personnel shall be punished according to the respective provisions. All foreign-invested enterprises in China bear potential unit criminal liability for tax offenses.

Section 7 — Crimes of Infringing Intellectual Property Rights

Articles 213 through 220. Foreign investors and brand owners should pay close attention to this Section:

Article 213 — Counterfeiting Registered Trademarks. Using a trademark identical to a registered trademark on the same kind of goods or services without the permission of the trademark registrant, where the circumstances are serious, is punishable by fixed-term imprisonment of not more than 3 years or criminal detention and a fine, or a fine only. Where the circumstances are especially serious, imprisonment of 3–10 years and a fine. Under the 2020 Amendment, the scope was expanded to include service marks, and penalties were increased. The thresholds for criminal prosecution are: illegal business revenue of RMB 50,000+ or illegal profits of RMB 30,000+, or counterfeiting 2+ registered trademarks.

Article 214 — Selling Goods Bearing Counterfeit Registered Trademarks. Knowingly selling goods bearing counterfeit registered trademarks, where the amount of illegal proceeds is relatively large (RMB 50,000+) or there are other serious circumstances, is punishable by imprisonment of up to 3 years, or 3–10 years for huge amounts (RMB 250,000+). This extends criminal liability to distributors and retailers, not just manufacturers, of counterfeit goods.

Article 215 — Forging Registered Trademark Labels. Forging or manufacturing registered trademark labels of others without authorization or selling forged or unauthorized registered trademark labels, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–10 years for especially serious cases. The 2020 Amendment increased penalties: thresholds are 20,000+ pieces or RMB 50,000+ in illegal business revenue, or illegal profits of RMB 30,000+.

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

Article 216 — Counterfeiting Patents. Passing off another person's patent, where the circumstances are serious, is punishable by imprisonment of up to 3 years or criminal detention and a fine, or a fine only. Thresholds: illegal business revenue of RMB 200,000+ or illegal profits of RMB 100,000+, or causing direct economic losses to the patentee of RMB 500,000+.

Article 217 — Infringing Copyright. Infringing copyrights or copyright-related rights for profit, involving relatively large illegal proceeds (RMB 50,000+) or other serious circumstances, shall be punished by imprisonment of up to 3 years, or 3–10 years for huge amounts (RMB 250,000+). Covered acts include: reproducing, distributing, or disseminating to the public literary works, music, art, audiovisual works, computer software, or other works without permission; publishing books with exclusive publishing rights held by others; reproducing, distributing, or disseminating to the public sound or video recordings without permission of the producer; and producing or selling works of art bearing forged signatures of others. The 2020 Amendment added criminal liability for circumventing technological protection measures and intentionally destroying or tampering with rights management information.

Article 218 — Selling Infringing Reproductions. Knowingly selling infringing reproductions for profit, involving a huge amount (RMB 100,000+), is punishable by imprisonment of up to 5 years. Formerly capped at 3 years; the 2020 Amendment increased the maximum to 5 years.

Article 219 — Infringing Trade Secrets. Committing any of the following acts to infringe trade secrets, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–10 years for especially serious cases: (1) obtaining an obligee's trade secrets through theft, bribery, fraud, coercion, electronic intrusion, or other improper means; (2) disclosing, using, or permitting another to use trade secrets obtained through the means mentioned above; or (3) disclosing, using, or permitting another to use trade secrets in violation of a confidentiality obligation or the obligee's requirements on keeping trade secrets. Knowingly acquiring, disclosing, using, or permitting another to use a trade secret from a person who falls under the circumstances above shall be deemed infringement. "Trade secrets" means commercial information, such as technical information and business information, not known to the public, that has commercial value and for which the obligee has adopted corresponding confidentiality measures. The 2020 Amendment significantly strengthened trade secret protection, adding electronic intrusion as a prohibited means and expanding the scope of infringement. Foreign companies with proprietary technology or business processes in China should ensure their confidentiality agreements and NDAs meet the standard for "corresponding confidentiality measures."

Article 219bis — Commercial Espionage Abroad. Stealing, spying, purchasing, or illegally providing trade secrets for foreign institutions, organizations, or individuals shall be punished by imprisonment of up to 5 years, or 5+ years for serious cases. New under the 2020 Amendment — targets foreign-directed commercial espionage specifically.

Article 220 — Unit Liability for IP Crimes. A unit committing any of the crimes in Articles 213 through 219bis shall be fined, and directly responsible supervisors and other directly responsible personnel shall be punished according to the respective provisions. Foreign-invested enterprises and their management personnel may be held criminally liable for IP infringements committed in the course of business.

Section 8 — Crimes of Disrupting Market Order

Articles 221 through 231

Article 221 — Damaging Commercial Reputation or Product Reputation. Fabricating and disseminating false facts to damage the commercial reputation or product reputation of others, causing heavy losses to others or other serious circumstances, is punishable by imprisonment of up to 2 years or criminal detention, and a fine or a fine only.

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

Article 222 — False Advertising. Advertisers, advertising agents, or advertisement publishers who use advertising to make false publicity of goods or services in violation of state regulations, where the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than 2 years or criminal detention, and a fine or a fine only.

Article 223 — Bid Rigging. Bidders who collude on bidding prices, harming the interests of the tenderee or other bidders, where the circumstances are serious; or bidders and tenderees who collude in bidding, harming the lawful rights and interests of the state, the collective, or citizens shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, and a fine or a fine only.

Article 224 — Contract Fraud. Defrauding another of property for the purpose of illegal possession by the following means in the course of concluding or performing a contract, involving a relatively large amount (RMB 20,000+ for individuals, RMB 100,000+ for units), is punishable by imprisonment of up to 3 years, escalating to 10+ years or life for especially huge amounts: (1) concluding a contract in the name of a fictitious unit or in another person's name; (2) using forged, altered, or void negotiable instruments or other false property rights certificates as security; (3) inducing the counterparty to continue to conclude and perform contracts by performing a small-amount contract or partially performing a contract when having no capacity to perform; (4) absconding after receiving goods, payments, advance payments, or property as security from the counterparty; or (5) other means of defrauding the counterparty of property. This is one of the most frequently charged economic crimes affecting foreign businesses transacting with Chinese counterparties.

Article 224bis — Organizing or Leading Pyramid Schemes. Organizers or leaders of pyramid scheme activities who demand payment of fees or purchase of goods or services as a condition for participation, form organizational hierarchies, and calculate and distribute remuneration based directly or indirectly on the number of participants recruited, thereby inducing or coercing participants to continue recruiting others, defrauding property and disrupting economic and social order, shall be sentenced to fixed-term imprisonment of not more than 5 years or criminal detention and a fine; where the circumstances are serious, imprisonment of 5+ years and a fine.

Article 225 — Unlawful Business Operations. Violating state regulations by committing any of the following acts of unlawful business operations, disrupting market order, where the circumstances are serious (illegal business revenue of RMB 50,000+ for individuals, RMB 500,000+ for units, or illegal profits of RMB 10,000+ for individuals, RMB 100,000+ for units) is punishable by imprisonment of up to 5 years, or 5+ years for especially serious cases: (1) operating monopoly goods or other restricted goods as stipulated by laws or administrative regulations without permission; (2) buying or selling import/export licenses, certificates of origin, or other business licenses or approval documents as stipulated by laws or administrative regulations; (3) illegally engaging in securities, futures, or insurance business without approval from the relevant competent authority, or illegally engaging in fund payment and settlement business; or (4) other unlawful business operations that seriously disrupt market order. Foreign businesses should be particularly mindful of (1) and (2) — operating in restricted sectors without proper licensing and trading in import/export documentation are criminal offenses.

Article 226 — Forced Transactions. Forcing another to trade or to refrain from trading through violence or threat; forcing another to provide or accept services through violence or threat; or forcing another to participate in or withdraw from bidding or auction, transfer or acquisition of company or enterprise shares, bonds or other assets, or specific business operations through violence or threat, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–7 years for especially serious circumstances.

Article 227 — Forging or Scalping Negotiable Instruments. Forging or scalping forged train or ship tickets, stamps, or other valuable tickets, involving a relatively large amount, is punishable by imprisonment of up to 2–3 years, or 2–7 years for huge amounts.

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

Article 228 — Illegally Transferring or Profiteering from Land Use Rights. Illegally transferring or profiteering from land use rights in violation of land administration regulations, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–7 years for especially serious cases. Foreign investors acquiring or transferring land use rights must ensure compliance with all land administration laws and regulations.

Article 229 — Providing False Certificates. Personnel of intermediary organizations such as asset appraisal agencies, capital verification agencies, accounting firms, law firms, or notarial institutions who deliberately provide false certificates, where the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than 5 years or criminal detention and a fine. Where such persons demand or illegally accept property from others and commit the above acts, they shall be punished more severely. Personnel of such intermediary organizations who are seriously irresponsible and issue certificates with material inaccuracies, causing serious consequences, shall be sentenced to imprisonment of up to 3 years.

Article 230 — Evading Commodity Inspection. Evading commodity inspection by the commodity inspection authorities, or using forged or altered certificates to pass off goods subject to compulsory inspection as goods not subject to inspection, or altering the names of goods to evade the applicable inspection rate, where the circumstances are serious, is punishable by imprisonment of up to 3 years or criminal detention. Importers and exporters must ensure all goods are properly declared and inspected in accordance with Chinese customs and inspection requirements.

Article 231 — Unit Liability for Market Order Crimes. A unit committing any of the crimes in Articles 221 through 230 shall be fined, and directly responsible supervisors and other directly responsible personnel shall be punished according to the respective provisions.

Chapter V — Crimes of Property Violation

Articles 263 through 276. Selected articles most relevant to business operations:

Article 263 — Robbery. Robbery of public or private property by violence, threat, or other means is punishable by fixed-term imprisonment of 3–10 years and a fine. Robbery involving home invasion, on public transportation, against banks or financial institutions, with serious injury or death, by impersonating military or police, with firearms, or involving military or disaster/emergency supplies triggers 10+ years, life, or death.

Article 264 — Theft. Theft of public or private property involving a relatively large amount (RMB 1,000–3,000+ depending on region), or committed multiple times (3+ thefts within 2 years), by home invasion, with a weapon, or by pickpocketing, is punishable by imprisonment of up to 3 years. Amounts of RMB 30,000–100,000+ (“huge”) trigger 3–10 years; RMB 300,000–500,000+ (“especially huge”) triggers 10+ years or life. Business theft, including of trade secrets with physical form, inventory, equipment, or funds, is covered by this Article.

Article 265 — Theft by Using Telecommunication Facilities. Stealing another person’s telecommunication code to duplicate a telecommunication device or using another person’s telecommunication account knowingly without payment, causing loss, shall be punished as theft.

Article 266 — Fraud. Fraudulently obtaining public or private property involving a relatively large amount (RMB 3,000–10,000+) is punishable by imprisonment of up to 3 years. Amounts of RMB 30,000–100,000+ trigger 3–10 years, and RMB 500,000+ triggers 10+ years or life. Commercial fraud, including procurement fraud, investment fraud, and payment fraud, is covered by this general fraud provision alongside the specific fraud provisions in Chapter III.

Article 267 — Forcible Seizure. Forcibly seizing public or private property involving a relatively large amount, or committed multiple times, is punishable by imprisonment of up to 3 years. Amounts of RMB 10,000+ trigger higher penalties. Seizure with a weapon shall be punished as robbery.

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

Article 268 — Assembling to Seize Property. Assembling a crowd to forcibly seize public or private property, involving a relatively large amount or other serious circumstances, is punishable by imprisonment of up to 3 years for ringleaders and active participants. Amounts triggering 3–10 years: typically RMB 20,000+.

Article 269 — Conversion to Robbery. Persons who commit theft, fraud, or forcible seizure and use violence or threat of violence on the spot to conceal the stolen goods, resist arrest, or destroy evidence shall be convicted and punished as robbery.

Article 270 — Embezzlement. Embezzling another person's property in one's custody, involving a relatively large amount (RMB 10,000+) and refusing to return it, is punishable by imprisonment of up to 2 years, or 2–5 years for huge amounts (RMB 100,000+). The offense is prosecuted only upon complaint, except where the embezzlement involves property that the offender did not have a right to possess. This covers employees or agents who misappropriate company property entrusted to them.

Article 271 — Embezzlement by Non-State Functionaries. Personnel of companies, enterprises, or other units who take advantage of their position to embezzle property of their own unit, involving a relatively large amount (RMB 60,000+), shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention and a fine. Where the amount is huge (RMB 1,000,000+), imprisonment of 3–10 years, and over 10 years or life for especially huge amounts. This is one of the most significant criminal law provisions for foreign-invested enterprises: employee embezzlement, misappropriation of company funds, and unauthorized use of company assets all potentially fall under this Article. Implementing robust internal controls and regular audits is essential.

Article 272 — Misappropriation of Funds by Non-State Functionaries. Personnel of companies, enterprises, or other units who take advantage of their position to misappropriate funds of their own unit for personal use or for lending to others, involving a relatively large amount (RMB 100,000+ for use in profit-making activities such as business operations or purchase of stocks/bonds, or RMB 60,000+ for personal/illegal use) and have not returned the funds for more than three months, or involve a relatively large amount and use the funds for profit-making or illegal activities, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, or 3–7 years for huge amounts (RMB 6,000,000+ for profit-making use, RMB 4,000,000+ for personal use), or 7+ years for especially huge amounts. Foreign companies should be alert to the risk of unauthorized loans, payments, or fund transfers by employees who have access to company bank accounts.

Article 273 — Misappropriation of Specific Funds or Materials. Directly responsible personnel who misappropriate state funds or materials designated for disaster relief, emergency response, flood control, special care for military families, poverty alleviation, immigration, or social relief, where the circumstances are serious and cause major damage to the interests of the state or people, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, or 3–7 years for especially serious cases.

Article 274 — Extortion. Extorting public or private property involving a relatively large amount or committed multiple times is punishable by imprisonment of up to 3 years. Amount triggers: RMB 2,000–5,000+. Huge amounts (RMB 30,000–100,000+) trigger 3–10 years; especially huge amounts (RMB 300,000–500,000+) trigger 10+ years.

Article 275 — Intentional Destruction of Property. Intentionally destroying public or private property, involving a relatively large amount (RMB 5,000+) or other serious circumstances, is punishable by imprisonment of up to 3 years, or 3–7 years for huge amounts (RMB 50,000+).

Article 276 — Sabotaging Production or Business Operations. Sabotaging production or business operations by destroying machinery or equipment, cruelly slaughtering draft animals, or other means, due to personal vengeance, retaliation, or other motives, is punishable by imprisonment of up to 3 years, or 3–7 years for serious cases. A business interrupted by a disgruntled employee, competitor, or third party who damages equipment or disrupts operations may seek criminal prosecution under this Article.

Article 276bis — Refusing to Pay Labor Remuneration. Evading payment of workers' labor remuneration by transferring property, concealing whereabouts, or other means, or being able to pay but refusing to pay a relatively large amount of labor remuneration, and still failing to pay after being ordered to do so by the relevant government department, is punishable by imprisonment of up to 3 years, or 3–7 years for serious consequences. Entities are also subject to fines. Where, before a public prosecution is initiated, the labor remuneration is paid and corresponding liability is assumed, the penalty may be reduced or exempted. Foreign-invested enterprises must ensure timely wage payments to avoid overlapping civil, administrative, and criminal liability under this provision. This is an increasingly enforced provision in labor-intensive industries.

Chapter VI — Crimes of Obstructing Social Administration (Key Provisions)

Selected articles from Chapter VI most relevant to business operators:

Article 280 — Forging or Altering Official Documents or Seals. Forging, altering, buying, selling, or stealing, forcibly seizing, or destroying official documents, certificates, or seals of state organs is punishable by imprisonment of up to 3 years, or 3–10 years for serious cases. Using forged or altered identity documents such as resident identity cards, passports, or social security cards, where the circumstances are serious, is punishable by criminal detention. Businesses should verify the authenticity of government-issued licenses, permits, and certificates presented by counterparties.

Article 285 — Illegally Intruding into Computer Information Systems; Illegally Obtaining Computer Data; Providing Tools for Cyber Intrusion. Illegally intruding into computer information systems in state affairs, national defense, or advanced science and technology fields is punishable by imprisonment of up to 3 years. Illegally obtaining data from computer information systems other than those specified above, or exercising illegal control over such systems, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–7 years for especially serious cases. Providing programs or tools specifically for intrusion or illegal control is similarly punishable. Foreign businesses operating IT infrastructure or data centers in China must comply with China's cybersecurity and data security framework; unauthorized access or data extraction may trigger criminal liability.

Article 285bis — Refusing to Perform Obligations on Information Network Security Management. Network service providers who fail to perform obligations under laws and administrative regulations on information network security management and refuse to rectify after being ordered to do so by the regulatory authority shall be sentenced, where the circumstances are serious, to fixed-term imprisonment of not more than 3 years or criminal detention and a fine or a fine only. Penalties apply to directly responsible supervisors and other directly responsible personnel, as well as the unit. Foreign technology and internet companies operating platforms in China must implement comprehensive network security compliance programs.

Article 286bis — Aiding Criminal Activities Through Information Networks. Knowingly providing internet access, server hosting, network storage, communication transmission, or other technical support, or providing advertising promotion, payment settlement, or other assistance, where the circumstances are serious, is punishable by imprisonment of up to 3 years. Technology service providers should screen clients to avoid inadvertently facilitating predicate offenses.

Article 312 — Concealing or Disposing of Criminal Proceeds. Knowingly concealing, transferring, purchasing, or selling on behalf of another person criminal proceeds, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–7 years for especially serious cases. Due diligence on the provenance of assets acquired from counterparties or through M&A transactions may mitigate exposure under this Article.

Article 319 — Fraudulently Obtaining Exit Documents. Fraudulently obtaining passports or other exit documents for the purpose of organizing others to illegally cross the national border (frontier) or for the

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

purpose of exiting the country illegally is punishable by imprisonment of up to 3 years, or 3–10 years for serious cases. Employers must ensure foreign employees' visa and work permit documentation is lawfully obtained.

Article 338 — Polluting the Environment. Discharging, dumping, or disposing of radioactive waste, waste containing infectious disease pathogens, toxic substances, or other harmful substances in violation of state regulations, thereby seriously polluting the environment, where the circumstances are serious, shall be punishable by imprisonment of up to 3 years or criminal detention and a fine or a fine only; where the circumstances are especially serious (causing permanent damage to basic functions of protected farmland or forest, causing serious injury or poisoning of 50+ persons, causing property losses of RMB 2,000,000+), imprisonment of 3–7 years and a fine. Manufacturing and industrial enterprises in China face criminal exposure for environmental violations; the 2020 Amendment increased penalties for certain environmental offenses.

Article 342 — Illegally Occupying Agricultural Land. Illegally occupying farmland, forest land, or other agricultural land in violation of land administration regulations, changing the use of the occupied land, involving a relatively large area, and causing large-scale destruction of agricultural land, is punishable by imprisonment of up to 5 years or criminal detention and a fine or a fine only.

Article 343 — Illegally Mining. Mining without a mining license, entering mining areas under national planned management, mining minerals of special value to the national economy, or mining specific minerals under protective mining as prescribed by the state without authorization, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–7 years for especially serious cases.

Article 345 — Illegally Felling or Destroying Forest Trees. Illegally felling or destroying precious trees or other trees, involving a relatively large quantity, or illegally purchasing or transporting timber known to have been illegally felled, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–7 years for especially large quantities.

Chapter VIII — Crimes of Embezzlement and Bribery

Articles 382 through 396. Foreign enterprises engaging with state-owned entities, government procurement, or regulated industries must understand these provisions, as their employees or agents may be exposed to liability for bribing public officials or for complicity in corruption.

Article 382 — Embezzlement. State functionaries who take advantage of their office to embezzle, steal, defraud, or otherwise illegally possess public funds or property are guilty of embezzlement. Persons entrusted by state organs, state-owned companies, enterprises, public institutions, or people's organizations to administer or manage state-owned property who take advantage of their office to embezzle, steal, defraud, or otherwise illegally possess state-owned property shall be punished as embezzlement. Persons who collude with state functionaries or persons entrusted to administer state-owned property to commit embezzlement shall be punished as joint offenders.

Where the amount is below RMB 30,000 but the circumstances are especially egregious (e.g., embezzling disaster relief funds, refusing to return stolen funds, or using embezzled funds for illegal activities), criminal liability may still apply.

Article 383 — Penalties for Embezzlement. This Article specifies sentencing ranges adjusted by amount and circumstances. Offenders who voluntarily surrender, truthfully confess, sincerely repent, and actively return the stolen property may receive mitigated penalties. Repeat offenders and those who refuse to return property face more severe penalties.

Article 384 — Misappropriation of Public Funds. State functionaries who take advantage of their office to misappropriate public funds for personal use or for illegal activities, or misappropriate a relatively large

amount of public funds for profit-making activities, or misappropriate a relatively large amount of public funds and fail to return them for more than 3 months, shall be sentenced to fixed-term imprisonment of not more than 5 years or criminal detention; where the circumstances are serious, imprisonment of 5+ years; misappropriating a huge amount and refusing to return it triggers 10+ years or life. Thresholds: RMB 30,000–50,000+ for personal use; RMB 50,000+ for profit-making; RMB 30,000+ for illegal activities.

Article 385 — Acceptance of Bribes. State functionaries who take advantage of their office to demand property from another person, or unlawfully accept property from another person and seek benefits for that person, are guilty of acceptance of bribes. State functionaries who, in economic activities, accept kickbacks or service charges in various forms in violation of state regulations and take personal possession of them shall be punished as acceptance of bribes. This is the core bribery provision. “Seeking benefits” is broadly interpreted and includes promising, intending, or actually providing a benefit. Even the appearance of a quid pro quo may trigger investigation.

Article 386 — Penalties for Acceptance of Bribes. Persons guilty of acceptance of bribes shall be punished with reference to Article 383 (penalties for embezzlement) based on the amount of the bribe and the circumstances. Those who demand bribes shall be punished more severely.

Article 387 — Unit Bribery. State organs, state-owned companies, enterprises, public institutions, or people’s organizations that demand property from another person, or unlawfully accept property from another person and seek benefits for that person, where the circumstances are serious, shall be fined, and directly responsible supervisors and other directly responsible personnel shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention and a fine or a fine only. Where the above-mentioned units secretly accept kickbacks or service charges off the books, they shall be punished as acceptance of bribes.

Article 388 — Bribery by Influence. State functionaries who take advantage of the power or position of other state functionaries formed through their own office or position to seek improper benefits for a requester through another state functionary’s official act, and demand or accept property from the requester, shall be punished as acceptance of bribes.

Article 388bis — Bribery by Influence of Relatives or Close Associates. Close relatives or other close associates of a state functionary who seek improper benefits for a requester through the state functionary’s official act or through the official act of another state functionary by taking advantage of the state functionary’s power or position, and demand or accept property from the requester, involving a relatively large amount (RMB 60,000+) or other serious circumstances, shall be sentenced to imprisonment of up to 3 years, or 3–7 years for huge amounts (RMB 1,000,000+), or 7+ years for especially huge amounts (RMB 5,000,000+). Foreign companies should conduct thorough due diligence on intermediaries, agents, and consultants who may have close relationships with government officials.

Article 389 — Offering Bribes. Offering property to a state functionary for the purpose of seeking improper benefits is the crime of offering a bribe. Where property is given to a state functionary in economic activities in violation of state regulations, involving a relatively large amount, or where property is given to a state functionary in violation of state regulations in the form of kickbacks or service charges, it shall be punished as offering a bribe. Where property is given to a state functionary as a result of extortion and no improper benefit is obtained, it shall not be considered offering a bribe.

Article 390 — Penalties for Offering Bribes. Persons guilty of offering bribes shall be sentenced to fixed-term imprisonment of not more than 5 years or criminal detention and a fine. Offenders who voluntarily confess before prosecution may receive mitigated or exempted punishment. Bribing multiple persons, state functionaries, or judicial officials, or causing significant harm to state interests, triggers heavier penalties (5–10 years or 10+ years). The 2020 Amendment expanded penalties for offering bribes: previously the maximum was life imprisonment only for especially serious cases; now it includes stricter financial penalties

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

and broader aggravating circumstances.

Article 390bis — Bribing Close Associates of State Functionaries. Offering property to close relatives or other close associates of a state functionary for the purpose of seeking improper benefits, where the circumstances are serious, is punishable by imprisonment of up to 3 years, or 3–7 years for especially serious cases, or 7–10 years for causing especially heavy losses to state interests. A unit committing this offense shall be fined, and directly responsible personnel shall be punished accordingly.

Article 391 — Offering Bribes to Units. Offering property to state organs, state-owned companies, enterprises, public institutions, or people's organizations, or giving kickbacks or service charges to such units in economic activities in violation of state regulations, is punishable by imprisonment of up to 3 years or criminal detention and a fine. Units committing this offense shall be fined.

Article 392 — Introducing Bribery. Introducing bribery to a state functionary, where the circumstances are serious, is punishable by imprisonment of up to 3 years or criminal detention and a fine. Voluntary confession before prosecution may result in mitigated or exempted punishment. Intermediaries, agents, consultants, and brokers who facilitate corrupt payments face independent criminal liability. Due diligence and contractual safeguards regarding anti-bribery compliance are essential.

Article 393 — Unit Offering of Bribes. Where a unit offers bribes to a state functionary for the purpose of seeking improper benefits, or gives kickbacks or service charges in violation of state regulations, where the circumstances are serious, the unit shall be fined, and directly responsible supervisors and other directly responsible personnel shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention and a fine or a fine only. Where the proceeds of the bribery are taken into personal possession, the individual shall be punished for offering a bribe in accordance with Articles 389 and 390. Foreign-invested enterprises in China, including WFOEs and joint ventures, are subject to unit criminal liability for offering bribes. A robust anti-bribery compliance program is not merely best practice — it is an essential safeguard against criminal prosecution.

Article 394 — Acceptance of Gifts Without Declaring. State functionaries who accept gifts in the course of domestic official activities or foreign exchanges and fail to hand over the gifts to the state in accordance with state regulations, where the amount is relatively large, shall be punished as embezzlement in accordance with Articles 382 and 383.

Article 395 — Unexplained Large Amounts of Property. Where the property or expenditure of a state functionary clearly exceeds his lawful income, and the difference is huge, and the state functionary is unable to explain the lawful sources, the difference shall be deemed illegal income and he shall be sentenced to fixed-term imprisonment of not more than 5 years or criminal detention, or 5+ years for especially huge differences. This provision creates a de facto obligation for public officials to account for their wealth, and it is frequently invoked in anti-corruption investigations.

Article 396 — Division of State-Owned Assets; Division of Confiscated Property. State organs, state-owned companies, enterprises, public institutions, or people's organizations that divide state-owned assets in violation of state regulations among a group of individuals, where the amount is relatively large, shall have their directly responsible supervisors and other directly responsible personnel sentenced to imprisonment of up to 3 years, or 3–7 years for huge amounts. Judicial organs or administrative law enforcement organs that divide confiscated property among a group of individuals in violation of state regulations shall be similarly punished.

Chapter IX — Crimes of Dereliction of Duty

Articles 397 through 419. Selected articles relevant to business-government interactions:

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

Article 397 — Abuse of Power; Neglect of Duty. State functionaries who abuse their power or neglect their duty, thereby causing heavy losses to public property or the interests of the state and people, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention; where the circumstances are especially serious (causing death of 1+ persons, serious injury of 3+, minor injury of 9+, or economic losses of RMB 300,000+), imprisonment of 3–7 years. Where otherwise provided by law, such provisions shall apply. Foreign businesses encountering arbitrary or negligent administrative decisions that cause economic harm may, in principle, seek criminal accountability under this Article, though in practice, internal complaints or administrative review are the more common first steps.

Article 399 — Perverting the Law in Adjudication. Judicial personnel who bend the law for personal gain or pervert the law in adjudication in criminal, civil, or administrative proceedings, where the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than 5 years, or 5–10 years for especially serious cases. Arbitrators who make unlawful awards shall be similarly punished.

Article 403 — Abusing Power in Company or Securities Approval. Competent state department personnel who abuse their power in approving the establishment or registration of companies, the issuance of shares or bonds, or other relevant matters, causing heavy losses to public property or the interests of the state and people shall be sentenced to imprisonment of up to 5 years or criminal detention. Where the responsible personnel are superiors of directly responsible departments, they may also be held liable.

Article 404 — Dereliction in Tax Collection. Tax authority personnel who engage in malpractice for personal gain and fail to collect or under-collect tax payable, causing heavy losses to state tax revenues (RMB 100,000+), shall be sentenced to imprisonment of up to 5 years or criminal detention, or 5+ years for especially heavy losses (RMB 500,000+). Where a business has legitimately paid taxes but the failure lies with tax officials, the business is generally not liable; however, complicity or conspiracy may trigger accomplice liability.

Article 405 — Dereliction in Export Tax Refund or Invoice Administration. Tax authority or other state organ personnel who engage in malpractice and cause the state to suffer heavy losses by processing tax refunds for exported products or tax deductions on purchases may be sentenced to imprisonment of up to 5 years. Issuing VAT invoices or other invoices for export tax refunds or tax deductions in violation of regulations, causing heavy losses, carries similar penalties.

Article 406 — Dereliction in Contract Conclusion or Performance. State functionaries who are seriously irresponsible in concluding or performing contracts and are thereby defrauded, causing heavy losses to state interests, shall be sentenced to imprisonment of up to 3 years, or 3–7 years for especially heavy losses.

Article 408 — Dereliction in Environmental Supervision. State functionaries responsible for environmental protection supervision who are seriously irresponsible, causing serious environmental pollution and heavy losses to public or private property or causing personal injury or death, shall be sentenced to imprisonment of up to 3 years or criminal detention. The 2020 Amendment added a specific provision on food and drug safety regulatory dereliction.

Article 409 — Dereliction in Infectious Disease Prevention. Government health administrative department personnel who are seriously irresponsible in preventing and treating infectious diseases, causing the spread or prevalence of infectious diseases, where the circumstances are serious, shall be sentenced to imprisonment of up to 3 years or criminal detention.

Article 410 — Illegally Approving Land Use or Transferring Land Use Rights at Low Prices. State functionaries who engage in malpractice and illegally approve the expropriation, requisition, or occupation of land, or illegally transfer state-owned land use rights at a price below market value, where the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than 3 years or criminal detention, or 3–7 years for causing especially heavy losses to state or collective interests.

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

Article 411 — Dereliction in Anti-Smuggling. Customs personnel who engage in malpractice and release smuggling, where the circumstances are serious, shall be sentenced to imprisonment of up to 5 years, or 5+ years for especially serious cases.

Article 414 — Dereliction in Investigating Crimes of Producing or Selling Fake Goods. State functionaries responsible for investigating crimes of producing or selling fake or substandard goods who engage in malpractice and fail to perform their investigatory duties, where the circumstances are serious, shall be sentenced to imprisonment of up to 5 years.

Unit Crime Provisions and General Principles — Critical Context for Foreign Businesses

Article 30 — Unit Crimes. A company, enterprise, public institution, state organ, or organization that commits an act endangering society, which is stipulated by law as a unit crime, shall bear criminal liability.

Article 31 — Dual Punishment for Unit Crimes. Where a unit commits a crime, the unit shall be fined, and the directly responsible supervisors and other directly responsible personnel shall be subject to criminal punishment. Where otherwise provided by the Specific Provisions of this Law or other laws, such provisions shall apply. This “dual punishment” system means both the corporate entity and its responsible officers may face criminal sanctions. For foreign-invested enterprises, this creates direct personal criminal exposure for directors, general managers, CFOs, legal representatives, and other senior personnel whose actions or omissions contribute to the commission of an offense.

Article 6 — Territorial Jurisdiction. This Law shall be applicable to all persons who commit crimes within the territory of the People’s Republic of China, except as otherwise specifically provided by law. Crimes committed on board a ship or aircraft of the People’s Republic of China shall be governed by this Law. Foreign nationals and foreign companies operating within China are fully subject to the Criminal Law for acts committed in Chinese territory.

Article 7 — Personal Jurisdiction. This Law shall be applicable to citizens of the People’s Republic of China who commit crimes outside the territory of the People’s Republic of China. However, where the maximum punishment prescribed by this Law is fixed-term imprisonment of not more than 3 years, the offender may be exempt from investigation.

Article 8 — Protective Jurisdiction. This Law may be applicable to foreigners who commit crimes outside the territory of the People’s Republic of China against the State of the People’s Republic of China or against its citizens, if the crime is punishable by a minimum of fixed-term imprisonment of not less than 3 years under this Law, unless the crime is not punishable under the laws of the place where it is committed.

Article 14 — Intentional Crime. An intentional crime is a crime committed by a person who clearly knows that his act will produce socially dangerous consequences but wishes or allows such consequences to occur. Intentional crimes shall bear criminal liability.

Article 15 — Negligent Crime. A negligent crime is a crime committed by a person who should have foreseen that his act might produce socially dangerous consequences but fails to do so due to carelessness, or who has foreseen the consequences but readily believes that they can be avoided. Criminal liability for negligent crimes shall be borne only where the law so provides. Certain economic crimes, such as serious environmental pollution, may be prosecuted on a negligence basis, meaning corporate officers can face liability even for unintentional regulatory violations that cause serious harm.

Article 25 — Joint Crimes. A joint crime is an intentional crime committed jointly by two or more persons. A negligent crime committed by two or more persons shall not be punished as a joint crime; those who bear criminal liability shall be punished separately according to the crimes they have committed.

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/

Article 67 — Voluntary Surrender. Voluntary surrender means voluntarily giving oneself up to the authorities and truthfully confessing one's crime after the commission of the crime. Criminals who voluntarily surrender may be given a lighter or mitigated punishment; those whose crimes are relatively minor may be exempted from punishment. In corporate crime investigations, cooperating with authorities and proactively disclosing violations may significantly reduce sentencing outcomes.

Article 87 — Limitation Periods for Criminal Prosecution. Crimes shall not be prosecuted after the following periods: (1) 5 years, if the maximum punishment prescribed is fixed-term imprisonment of less than 5 years; (2) 10 years, if the maximum punishment prescribed is fixed-term imprisonment of 5–10 years; (3) 15 years, if the maximum punishment prescribed is fixed-term imprisonment of 10+ years; (4) 20 years, if the maximum punishment prescribed is life imprisonment or death. If, after 20 years, prosecution is still deemed necessary, the matter shall be submitted to the Supreme People's Procuratorate for approval.

DISCLAIMER

This English translation of selected economic and business-related provisions of the Criminal Law of the People's Republic of China (as amended through 2020) is prepared by Dan Young Business Consultancy for informational and reference purposes only. It is not a complete translation of the Criminal Law and omits provisions not directly relevant to business operations. While every effort has been made to ensure accuracy and consistency, this is an unofficial translation and shall not be relied upon as a legal document or as legal advice. The official Chinese text as promulgated by the National People's Congress shall prevail in all legal matters.

Criminal law is an area of particular complexity and severity. The thresholds, sentencing ranges, and judicial interpretations referenced herein may change over time through amendments, judicial interpretations issued by the Supreme People's Court and Supreme People's Procuratorate, and evolving enforcement practice. The specific amounts triggering criminal liability may vary by region and over time.

Readers should consult qualified PRC-licensed legal counsel for advice on specific compliance, investigation, or defense matters. Dan Young Business Consultancy assumes no liability for any errors, omissions, or consequences arising from the use of this translation. Nothing in this translation should be construed as legal advice or as creating an attorney-client relationship.

Source: https://www.danyoungcpa.com/criminal-law-prc-2020-economic-crimes-english-translation/