

Provisional Regulations of the PRC on the Collection and Payment of Social Insurance Premiums

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

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Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purposes of strengthening and regulating the collection and payment of social insurance premiums and ensuring the payment of social insurance benefits.

Article 2 — These Regulations shall apply to the collection and payment of basic pension insurance premiums, basic medical insurance premiums, and unemployment insurance premiums (hereinafter collectively referred to as "social insurance premiums"). The collection and payment of work-related injury insurance premiums and maternity insurance premiums shall be implemented by reference to these Regulations. For the purposes of these Regulations, "payer" means enterprises, public institutions, state organs, social organizations, individually-owned businesses, and other organizations that shall pay social insurance premiums in accordance with the provisions of laws, administrative regulations, and the State Council, and their employees.

Article 3 — The collection of basic pension insurance premiums and unemployment insurance premiums shall be governed by the relevant provisions of the State Council on the collection and payment of social insurance premiums. The collection of basic medical insurance premiums shall be implemented in accordance with the relevant provisions of the State Council on basic medical insurance premiums.

Article 4 — Payers shall pay social insurance premiums in full and on time. The portion of social insurance premiums payable by individual workers shall be withheld and remitted by the employer on their behalf. Social insurance premiums shall not be reduced or exempted. Payers shall have the right to inquire about their payment records with the social insurance agencies in accordance with the provisions.

Chapter II — Registration for Premium Collection

Article 5 — Employers shall register for social insurance with the local social insurance agency within 30 days from the date of their establishment. Where the registered matters of an employer's social insurance registration change or the employer is dissolved in accordance with the law, the employer shall, within 30 days, go through the formalities for the change or cancellation of social insurance registration.

Article 6 — Social insurance agencies shall complete the registration within 15 working days from the date of receipt of the employer's application for social insurance registration. After the registration is completed, the social insurance agency shall issue a social insurance registration certificate. The social insurance registration certificate shall specify the registration number, the name and address of the employer, the legal representative or principal responsible person, the type of social insurance, and other matters.

Article 7 — The employer shall, within 30 days from the date of employment, apply to the social insurance agency for social insurance registration for its employees. Where the employer fails to register for social insurance, the social insurance agency shall determine the social insurance premiums to be paid by the employer.

Chapter III — Declaration and Payment of Premiums

Article 8 — Employers shall, within the prescribed time limit, declare the amount of social insurance premiums payable to the social insurance agency. The declaration shall include the number of employees, the total wages of the employees, the amount of premiums payable, and other matters.

Article 9 — Where an employer fails to declare the amount of social insurance premiums payable in accordance with the provisions, the social insurance agency shall determine the amount of premiums payable based on 110 percent of the amount paid by the employer in the preceding month. After the employer completes the supplementary declaration formalities, the social insurance agency shall settle the account in accordance with the provisions.

Article 10 — Employers shall pay social insurance premiums in full and on time. Social insurance premiums shall be collected by the social insurance premium collection agencies in a unified manner. Social insurance premium collection agencies may entrust banks or other financial institutions to collect social insurance premiums. Workers shall pay social insurance premiums to the social insurance premium collection agencies directly, or the premiums may be withheld and remitted by the employer.

Article 11 — Social insurance premium collection agencies shall, on a regular basis, inform the employer and the workers of the payment of social insurance premiums. Workers shall have the right to inquire about their payment records of social insurance premiums with the social insurance agencies, and the social insurance agencies shall provide inquiries.

Chapter IV — Supervision and Inspection

Article 12 — Payers shall accept the supervision and inspection of social insurance premium collection agencies, labor and social security administrative departments, and audit authorities. Social insurance

premium collection agencies shall have the power to inspect the payment of social insurance premiums by payers. Payers shall truthfully provide the materials relevant to the payment of social insurance premiums and shall not refuse or conceal information.

Article 13 — Social insurance premium collection agencies may consult and copy the account books, vouchers, and other relevant materials of payers. Social insurance premium collection agencies may record, videotape, photograph, and copy the materials relating to the payment of social insurance premiums.

Article 14 — Labor and social security administrative departments or social insurance premium collection agencies shall keep confidential the information of payers obtained in the course of investigation and inspection.

Chapter V — Legal Liability

Article 15 — Where an employer fails to register for social insurance, change the social insurance registration, or cancel the social insurance registration in accordance with the provisions, or fails to declare the amount of social insurance premiums payable in accordance with the provisions, the labor and social security administrative department shall order it to make corrections within a prescribed time limit. Where the circumstances are serious, the directly responsible person in charge and other directly responsible persons shall be fined.

Article 16 — Where an employer fails to pay social insurance premiums in full and on time, the social insurance premium collection agency shall order it to pay or make up the shortfall within a prescribed time limit, and shall impose a late payment surcharge of 0.2 percent of the amount overdue on a daily basis beginning from the date on which the premium becomes overdue. Where the employer fails to pay within the prescribed time limit, the social insurance premium collection agency may apply to the labor and social security administrative department for administrative penalties.

Article 17 — Where an employer forges, alters, or falsely reports the number of employees or the total wages, resulting in the underpayment or overpayment of social insurance premiums, the labor and social security administrative department shall order it to make corrections and impose a fine of not more than three times the amount underpaid or overpaid. The directly responsible person in charge and other directly responsible persons shall be fined.

Article 18 — Where functionaries of labor and social security administrative departments, social insurance agencies, or social insurance premium collection agencies abuse their power, neglect their duties, or engage in malpractice for personal gain, resulting in losses to social insurance funds, they shall be liable for recovering the losses in accordance with the law. The directly responsible person in charge and other directly responsible persons shall be subject to administrative sanctions in accordance with the law. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VI — Supplementary Provisions

Article 19 — The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may, in light of local actual conditions, formulate specific implementation measures. The measures shall be submitted to the State Council for the record.

Article 20 — Where the collection and payment of social insurance premiums involve tax collection and administration, the relevant provisions of tax collection and administration shall apply.

Article 21 — These Regulations shall come into force on the date of issuance. The Interim Provisions on the Collection and Payment of Social Insurance Premiums issued by the State Council on January 3, 1999 shall be repealed simultaneously.

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