

Regulation on Paid Annual Leave for Employees of the People's Republic of China

Dan Young Business Consultancy — www.danyoungcpa.com

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

Adopted at the 198th Executive Meeting of the State Council on December 7, 2007, promulgated by Decree No. 514 of the State Council of the People's Republic of China on December 14, 2007, effective as of January 1, 2008.

Article 1 — Purpose — This Regulation is formulated in accordance with the Labor Law of the People's Republic of China and the Civil Servant Law of the People's Republic of China for the purposes of safeguarding the rest and vacation rights of employees and mobilizing employees' enthusiasm in work.

Article 2 — Scope — This Regulation shall apply to employees of government institutions, organizations, enterprises, public institutions, private non-enterprise entities, individually-owned businesses with employees and other entities.

Article 3 — Annual Leave Entitlement — Where an employee has worked for one year or more cumulatively but less than ten years, he shall be entitled to five days of annual leave; where he has worked for ten years or more cumulatively but less than 20 years, he shall be entitled to ten days of annual leave; where he has worked for 20 years or more cumulatively, he shall be entitled to 15 days of annual leave.

Statutory holidays and rest days provided by the State shall not be counted as annual leave.

Article 4 — Circumstances Disqualifying Annual Leave — An employee shall not be entitled to annual leave in the current year under any of the following circumstances:

1. Where an employee is entitled to summer and winter vacations in accordance with the law, and the number of vacation days exceeds the number of annual leave days; 2. Where an employee has taken personal leave for a cumulative period of 20 days or more in the current year, and the employer has not deducted his wages in accordance with the provisions; 3. Where an employee has worked for one year or more cumulatively but less than ten years and has taken sick leave for a cumulative period of two months or more in the current year; 4. Where an employee has worked for ten years or more cumulatively but less than 20 years and has taken sick leave for a cumulative period of three months or more in the current year; 5. Where an employee has worked for 20 years or more cumulatively and has taken sick leave for a cumulative period of four months or more in the current year.

Article 5 — Arrangement of Annual Leave — Employers shall, based on the specific circumstances of production and work and taking into account the employees' wishes, make overall arrangements for employees' annual leave. Annual leave may be arranged in one block within a year, or may be arranged in separate periods, provided that annual leave shall not normally be carried over across years. Where it is necessary for an employer to have an employee take annual leave across years due to production or work characteristics, arrangements may be made for the employee to take annual leave across one year.

Article 6 — Wage During Annual Leave — The wage income of an employee during the period of annual leave shall be the same as the wage income during the period of normal work. The specific measures for calculating the daily wage income of an employee implementing a piece-rate wage or commission wage shall be formulated by the labor security administrative department of the State Council.

Article 7 — Compensation for Unused Annual Leave — Where an employer genuinely cannot arrange for annual leave for an employee due to work needs, it may, with the employee's consent, not arrange for annual leave. For the annual leave days that the employee should have taken but did not take, the employer

shall pay the employee an annual leave wage compensation at the rate of 300 percent of the employee's daily wage income.

Article 8 — Trade Union Supervision — Trade unions shall safeguard the legitimate rights and interests of employees in annual leave in accordance with the law. Trade unions of employers shall represent employees in conducting consultations with employers on annual leave arrangements.

Article 9 — Enforcement — Where an employer fails to arrange for annual leave for employees in accordance with the provisions of this Regulation or fails to pay the annual leave wage compensation in accordance with the prescribed standards, the labor administrative department of the people's government at or above the county level shall order it to make corrections within a specified time limit; where it fails to make corrections within the time limit, the labor administrative department shall order the employer to pay the annual leave wage compensation and pay additional compensation to the employees in accordance with the law.

Article 10 — Supplementary Provisions — The specific measures for the implementation of this Regulation shall be formulated by the human resources and social security administrative department of the State Council. This Regulation shall come into force on January 1, 2008.

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