Regulations for the Implementation of the Tobacco Monopoly Law of the PRC

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 I — General Provisions 2

Chapter II — Tobacco Monopoly Licenses 2

Chapter III — Purchase, Sale, and Transportation under the Tobacco Monopoly 3

Chapter IV — Production of Cigarettes, Cigars, and Cut Tobacco 3

Chapter V — Administration of the Import and Export Trade and Foreign-Related Cooperation under the Tobacco Monopoly 4

Chapter VI — Supervision and Inspection 4

Chapter VII — Legal Liability 4

Chapter VIII — Supplementary Provisions 5

Promulgated by Decree No. 223 of the State Council of the People's Republic of China on July 3, 1997

Amended in accordance with the Decision of the State Council on Amending Certain Administrative Regulations on November 26, 2021

Effective: July 3, 1997

Table of Contents

- Chapter I — General Provisions
- Chapter II — Tobacco Monopoly Licenses
- Chapter III — Purchase, Sale, and Transportation under the Tobacco Monopoly
- Chapter IV — Production of Cigarettes, Cigars, and Cut Tobacco
- Chapter V — Administration of the Import and Export Trade and Foreign-Related Cooperation under the Tobacco Monopoly
- Chapter VI — Supervision and Inspection
- Chapter VII — Legal Liability
- Chapter VIII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated in accordance with the Law of the People's Republic of China on Tobacco Monopoly.

Article 2 — The tobacco monopoly shall mean the State's centralized and unified monopoly management system and monopoly operation system over the production, sale, and import and export of tobacco monopoly commodities, including tobacco leaf, cigarettes, cigars, cut tobacco, reconstituted tobacco, tobacco shreds, cigarette paper, filter rods, and tow for cigarette filters.

Article 3 — The competent department of tobacco monopoly of the State Council shall be responsible for the tobacco monopoly work throughout the country. The competent departments of tobacco monopoly of provinces, autonomous regions, and municipalities directly under the Central Government shall be responsible for the tobacco monopoly work within their respective administrative areas and shall be under the dual leadership of the competent department of tobacco monopoly of the State Council and the people's governments of the relevant provinces, autonomous regions, and municipalities directly under the Central Government, with the leadership of the competent department of tobacco monopoly of the State Council being the primary one.

Article 4 — Units and individuals engaged in the production, sale, and import and export of tobacco monopoly commodities shall comply with these Regulations.

Chapter II — Tobacco Monopoly Licenses

Article 5 — The State shall implement a licensing system for the production, wholesale, retail, and transportation of tobacco monopoly commodities.

The tobacco monopoly licenses shall be classified into the following types:

(1) tobacco monopoly production enterprise license;

(2) tobacco monopoly wholesale enterprise license;

(3) tobacco monopoly retail license; and

(4) tobacco monopoly transportation permit.

Article 6 — To engage in the production of tobacco monopoly commodities, an application for a tobacco monopoly production enterprise license must be filed, which shall be issued upon examination and approval by the competent department of tobacco monopoly of the State Council.

Article 7 — To apply for a tobacco monopoly wholesale enterprise license and engage in the wholesale business of tobacco products across provinces, autonomous regions, and municipalities directly under the Central Government, an application shall be filed with the competent department of tobacco monopoly of the State Council or the competent departments of tobacco monopoly of the relevant provinces, autonomous regions, and municipalities directly under the Central Government, which shall be issued upon examination and approval.

To apply for a tobacco monopoly wholesale enterprise license and engage in the wholesale business of tobacco products within the administrative area of a province, autonomous region, or municipality directly under the Central Government, an application shall be filed with the competent department of tobacco monopoly of the relevant province, autonomous region, or municipality directly under the Central Government, which shall be issued upon examination and approval.

Article 8 — To obtain a tobacco monopoly retail license, the following conditions shall be met:

(1) having funds appropriate to the retail business of tobacco products;

(2) having a fixed business premises;

Source: https://www.danyoungcpa.com/regulations-implementation-tobacco-monopoly-law-prc-2021-revision/

(3) complying with the requirements of the local tobacco product retail outlet layout plan; and

(4) other conditions prescribed by the competent department of tobacco monopoly of the State Council.

Article 9 — Tobacco monopoly licenses shall be formulated uniformly by the competent department of tobacco monopoly of the State Council.

Article 10 — The tobacco monopoly wholesale enterprise license and the tobacco monopoly retail license shall be subject to periodic inspection. The specific measures for periodic inspection shall be prescribed by the competent department of tobacco monopoly of the State Council.

Chapter III — Purchase, Sale, and Transportation under the Tobacco Monopoly

Article 11 — The State shall establish a tobacco leaf purchasing system. Tobacco leaf purchasing shall be the business of tobacco companies or their entrusted units. No other unit or individual may purchase tobacco leaves.

Article 12 — The acquisition of tobacco leaves shall comply with the State plan and shall be conducted at tobacco leaf purchasing stations established or designated by local tobacco companies at or above the county level. Tobacco leaf purchasing stations shall announce the grade standards and prices of tobacco leaves in accordance with the relevant State provisions.

Article 13 — No unit or individual may sell tobacco monopoly commodities to entities or individuals that have not obtained tobacco monopoly licenses.

Article 14 — The wholesale business of tobacco products shall be handled exclusively by enterprises holding tobacco monopoly wholesale enterprise licenses. An enterprise holding a tobacco monopoly wholesale enterprise license shall wholesale tobacco products within the scope of its license.

Article 15 — Where it is necessary to transport tobacco monopoly commodities across cities or counties, a transportation permit shall be obtained from the competent department of tobacco monopoly. A transportation permit shall be produced for each shipment of goods.

Article 16 — The State shall formulate the price of cigarettes for allocation within the tobacco monopoly system and the factory price, wholesale price, and retail price of cigarettes. The formulation of cigarette prices shall comply with the relevant State provisions.

Chapter IV — Production of Cigarettes, Cigars, and Cut Tobacco

Article 17 — The State Council competent department of tobacco monopoly shall organize the production of cigarettes, cigars, and cut tobacco in accordance with the State plan. The cigarette and cigar production enterprises must implement the State plan for cigarette and cigar production.

Article 18 — Cigarette and cigar production enterprises shall use tobacco leaf, cut tobacco, reconstituted tobacco, cigarette paper, filter rods, and tow for cigarette filters that are lawfully produced within the tobacco monopoly system.

Article 19 — Cigarette and cigar trademarks must be registered with the administrative department for industry and commerce in accordance with law before they may be used. Cigarette and cigar trademarks shall be printed by the printing enterprises designated by the administrative department for industry and commerce of the people's government at the provincial level.

No unit or individual may produce or sell cigarettes or cigars without registered trademarks.

Article 20 — Cigarette and cigar production enterprises shall indicate the tar content and the level of tar content on their cigarette packages in accordance with the relevant State provisions, and shall print the words "Smoking is harmful to health" on the cigarette packages.

Source: https://www.danyoungcpa.com/regulations-implementation-tobacco-monopoly-law-prc-2021-revision/

Chapter V — Administration of the Import and Export Trade and Foreign-Related Cooperation under the Tobacco Monopoly

Article 21 — The import and export of tobacco monopoly commodities shall be subject to centralized and unified management by the State, and shall be exclusively handled by enterprises engaged in the import and export business of tobacco monopoly commodities designated by the competent department of tobacco monopoly of the State Council in conjunction with the relevant departments.

Article 22 — Where an enterprise engaged in the import and export business of tobacco monopoly commodities imports foreign tobacco products or cigarettes, it shall apply to the competent department of tobacco monopoly of the State Council for a special import license for tobacco monopoly commodities. The import of cigarette machinery, cigarette paper, filter rods, and tow for cigarette filters shall be subject to the approval of the competent department of tobacco monopoly of the State Council.

Article 23 — Foreign tobacco products sold within the territory of China must bear the Chinese language warning "Smoking is harmful to health" printed on the package and the special mark for tobacco monopoly commodities printed by the company exclusively handling the import and export business of tobacco monopoly commodities approved by the competent department of tobacco monopoly of the State Council.

Article 24 — Enterprises in the tobacco industry may conduct technical cooperation or Sino-foreign joint venture or cooperative operations with foreign parties, provided that it is approved by the competent department of tobacco monopoly of the State Council and the relevant examination and approval formalities are completed.

Chapter VI — Supervision and Inspection

Article 25 — The competent departments of tobacco monopoly shall, in accordance with the relevant provisions of the State Council, strengthen the supervision and administrative inspection of the tobacco monopoly by imposing penalties on acts in violation of the tobacco monopoly laws and regulations.

Article 26 — When conducting inspections or investigating cases, the competent departments of tobacco monopoly may inspect the production, sale, storage, and transportation of tobacco monopoly commodities, and may consult and copy contracts, invoices, account books, documents, records, vouchers, and other materials relating to the illegal activities.

Article 27 — The competent departments of tobacco monopoly and the relevant departments of the State Council shall investigate and handle cases involving the smuggling of tobacco monopoly commodities, the production and sale of counterfeit tobacco monopoly commodities, and the production and sale of tobacco products without registered trademarks.

Article 28 — Tobacco monopoly inspectors shall abide by disciplines and enforce the law in a strict, impartial, and civilized manner. When conducting an inspection, two or more inspectors shall be present, and they shall produce their tobacco monopoly inspection certificates issued by the people's governments of the relevant provinces, autonomous regions, or municipalities directly under the Central Government or the tobacco monopoly inspection certificates issued by the competent department of tobacco monopoly of the State Council. Where an inspector fails to produce the certificate, the entity or individual under inspection shall have the right to refuse the inspection.

Chapter VII — Legal Liability

Article 29 — Where tobacco leaves are purchased without authorization, the competent department of tobacco monopoly shall impose a fine of not less than 20% and not more than 50% of the value of the tobacco leaves illegally purchased, and shall purchase the tobacco leaves illegally purchased in accordance with the price set by the State; where the quantity is huge, the tobacco leaves illegally purchased and the illegal gains shall be confiscated.

Source: https://www.danyoungcpa.com/regulations-implementation-tobacco-monopoly-law-prc-2021-revision/

Article 30 — Where tobacco monopoly commodities are transported without a transportation permit, the competent department of tobacco monopoly shall impose a fine of not less than 20% and not more than 50% of the value of the tobacco monopoly commodities transported, and may purchase the tobacco monopoly commodities illegally transported in accordance with the price set by the State; where the circumstances are serious, the tobacco monopoly commodities illegally transported and the illegal gains shall be confiscated.

Article 31 — Where a person without a tobacco monopoly wholesale enterprise license engages in the wholesale business of tobacco products, the competent department of tobacco monopoly shall order the cessation of such business operations, confiscate the illegal gains, and impose a fine of not less than 50% and not more than one time the total wholesale value of the tobacco products illegally wholesaled.

Article 32 — Where a person without a tobacco monopoly retail license engages in the retail business of tobacco products, the administrative department for industry and commerce shall order the cessation of such business operations, confiscate the illegal gains, and impose a fine of not less than 20% and not more than 50% of the total retail value of the tobacco products illegally retailed.

Article 33 — Where a tobacco monopoly production enterprise or tobacco monopoly wholesale enterprise sells tobacco monopoly commodities to a person without a tobacco monopoly retail license, the competent department of tobacco monopoly shall order it to cease such sales, confiscate the illegal gains, and impose a fine of not less than 20% and not more than 50% of the total sales amount of the tobacco monopoly commodities sold.

Article 34 — Where a tobacco monopoly production enterprise or tobacco monopoly wholesale enterprise sells tobacco monopoly commodities beyond the scope of its license, the competent department of tobacco monopoly shall order it to cease such sales, confiscate the illegal gains, and impose a fine of not less than 20% and not more than 50% of the total sales amount of the tobacco monopoly commodities sold beyond the license scope.

Article 35 — Where a person produces or sells cigarettes or cigars without registered trademarks, or produces or sells counterfeit tobacco products, the administrative department for industry and commerce shall order the cessation of production and sale, confiscate the illegal gains, and impose a fine of not less than one time and not more than five times the total sales amount of the illegally produced or sold tobacco products, and may order the cessation of business operations for rectification, or revoke the business license in accordance with law.

Article 36 — Where tobacco monopoly commodities are smuggled, the customs shall confiscate the smuggled tobacco monopoly commodities and the illegal gains, and may impose a fine. The competent department of tobacco monopoly shall cooperate in the investigation and punishment.

Article 37 — Where a person forges, alters, or resells the tobacco monopoly licenses, the issuance authority of the tobacco monopoly licenses shall revoke the licenses, confiscate the illegal gains, and may impose a fine of not less than one time and not more than three times the illegal gains.

Article 38 — Where a tobacco monopoly inspector abuses power, neglects duties, or engages in fraud for personal gain, administrative sanctions shall be imposed in accordance with law; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Chapter VIII — Supplementary Provisions

Article 39 — The competent department of tobacco monopoly of the State Council shall, in accordance with the Law on Tobacco Monopoly and these Regulations, formulate administrative rules and submit them to the State Council for approval before implementation.

Article 40 — These Regulations shall be interpreted by the competent department of tobacco monopoly of the State Council.

Source: https://www.danyoungcpa.com/regulations-implementation-tobacco-monopoly-law-prc-2021-revision/

Article 41 — These Regulations shall enter into force on July 3, 1997.

Disclaimer: This English translation is provided for reference purposes only. While every effort has been made to ensure accuracy, this is not an official translation. The original Chinese text shall prevail in all legal matters. Readers should consult qualified legal professionals for advice on specific legal issues. Dan Young Business Consultancy makes no warranty as to the accuracy or completeness of this translation and accepts no liability for any loss or damage arising from reliance on it.