Regulations on the Punishment of Illegal Financial Acts of China (the PRC)

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Promulgated by the State Council of the People's Republic of China by Decree No. 427 on November 30, 2004; revised in accordance with the Decision of the State Council on Abolishing and Amending Certain Administrative Regulations (Decree No. 588) of January 8, 2011

Article 1 — These Regulations are formulated for the purpose of correcting illegal financial acts and maintaining the State's fiscal and economic order.

Article 2 — The finance departments and audit organs of the people's governments at or above the county level shall, within their respective scope of functions and powers, make decisions on the handling and punishment of illegal financial acts in accordance with law. The dispatched organs of the finance departments of the people's governments at or above the provincial level shall, within the prescribed scope of functions and powers, make decisions on the handling and punishment of illegal financial acts in accordance with law; the dispatched organs of audit organs shall, according to the authorization of the audit organs, make decisions on the handling and punishment of illegal financial acts in accordance with law. The State Council may, where necessary, adjust in accordance with law the scope of functions and powers of finance departments and their dispatched organs (hereinafter collectively referred to as finance departments) and audit organs and their dispatched organs (hereinafter collectively referred to as audit organs). Where the directly responsible persons in charge and other directly responsible persons of a unit that has committed illegal financial acts, or the individuals who have committed illegal financial acts, are State civil servants, administrative sanctions shall be imposed in accordance with law by the supervisory organs and their dispatched organs (hereinafter collectively referred to as supervisory organs) or the organs of appointment and removal according to the limits of authority for personnel administration.

Article 3 — Where a fiscal revenue collecting unit or any of its staff members commits any of the following acts in violation of the provisions of the State on fiscal revenue administration, the unit shall be ordered to make corrections, the fiscal revenue that ought to be collected shall be collected retroactively, and the illegal gains shall be returned within a prescribed time limit. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a warning, a demerit or a major demerit; where the circumstances are serious, they shall be given a demotion or removal from office: (1) setting up fiscal revenue items in violation of the provisions; (2) altering without authorization, in violation of the provisions, the scope, standards, targets and time limits of fiscal revenue items; (3) continuing to collect fiscal revenue items that have been expressly cancelled, suspended or reduced in standard, according to the original items or standards, or collecting them under changed names; (4) deferring or failing to collect fiscal revenue; (5) converting budget revenue into extra-budgetary revenue without authorization; or (6) committing other acts in violation of the provisions of the State on fiscal revenue administration. Where the Law of the People's Republic of China on the Administration of Tax Collection or other laws or administrative regulations provide otherwise, administrative sanctions shall be imposed in accordance with such provisions.

Article 4 — Where a fiscal revenue collecting unit or any of its staff members commits any of the following acts in violation of the provisions of the State on the turning over of fiscal revenue, the unit shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, the fiscal revenue that ought to be turned over shall be collected, and the illegal gains shall be returned within a prescribed time

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limit. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a major demerit; where the circumstances are relatively serious, they shall be given a demotion or removal from office; where the circumstances are serious, they shall be given a dismissal: (1) concealing fiscal revenue that ought to be turned over; (2) detaining, withholding or diverting fiscal revenue that ought to be turned over; (3) making offsetting expenditures out of fiscal revenue that ought to be turned over; (4) failing to deposit fiscal revenue in the State treasury according to the prescribed budget levels or budget subjects; (5) refunding State treasury funds or fiscal special account funds in violation of the provisions; or (6) committing other acts in violation of the provisions of the State on the turning over of fiscal revenue. Where the Law of the People's Republic of China on the Administration of Tax Collection, the Budget Law of the People's Republic of China or other laws or administrative regulations provide otherwise, administrative sanctions shall be imposed in accordance with such provisions.

Article 5 — Where a finance department, a State treasury organ or any of its staff members commits any of the following acts in violation of the provisions of the State on the turning over or allocation of fiscal funds, the unit shall be ordered to make corrections and the illegal gains shall be returned within a prescribed time limit. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a demerit or a major demerit; where the circumstances are relatively serious, they shall be given a demotion or removal from office; where the circumstances are serious, they shall be given a dismissal: (1) delaying the turning over of, or withholding, fiscal revenue that ought to be turned over; (2) failing to verify and allocate fiscal funds according to the budget or the fund use plan; (3) receiving, dividing, retaining and allocating, or refunding State treasury funds or fiscal special account funds in violation of the provisions; (4) placing fiscal revenue that ought to be accounted for in the State treasury into fiscal special account accounting; (5) using State treasury funds or fiscal special account funds without authorization; or (6) committing other acts in violation of the provisions of the State on the turning over or allocation of fiscal funds.

Article 6 — Where a State organ or any of its staff members commits any of the following acts of using or obtaining by deception fiscal funds in violation of the provisions, the unit shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, the relevant fiscal funds shall be recovered, and the illegal gains shall be returned within a prescribed time limit. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a major demerit; where the circumstances are relatively serious, they shall be given a demotion or removal from office; where the circumstances are serious, they shall be given a dismissal: (1) obtaining fiscal funds by such means as false reporting or falsely claiming; (2) withholding or diverting fiscal funds; (3) detaining fiscal funds that ought to be allocated; (4) expanding the scope of expenditures or raising the expenditure standards in violation of the provisions; or (5) committing other acts of using or obtaining by deception fiscal funds in violation of the provisions.

Article 7 — Where the departments for preparing fiscal budgets and final accounts or the budget execution departments, or their staff members, commit any of the following acts in violation of the provisions of the State on budget administration, the unit shall be ordered to make corrections, the relevant funds shall be recovered, and the relevant budget subjects and budget levels shall be adjusted within a prescribed time limit. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a warning, a demerit or a major demerit; where the circumstances are relatively serious, they shall be given a demotion; where the circumstances are serious, they shall be given a removal from office: (1) falsely increasing or falsely reducing fiscal revenue or fiscal expenditure; (2) preparing or approving budgets or final accounts in violation of the provisions; (3) adjusting budgets in violation of the provisions; (4) adjusting budget levels or the categories of budget revenue and expenditure in violation of the provisions; (5) using budget reserve funds or diverting budget working capital in violation of the provisions; (6) committing acts in violation of the provisions of the State on transfer

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payment administration; or (7) committing other acts in violation of the provisions of the State on budget administration.

Article 8 — Where a State organ or any of its staff members, in violation of the provisions on the administration of State-owned assets, occupies, uses or disposes of State-owned assets without authorization, the unit shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, and the illegal gains and the occupied State-owned assets shall be returned within a prescribed time limit. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a major demerit; where the circumstances are relatively serious, they shall be given a demotion or removal from office; where the circumstances are serious, they shall be given a dismissal.

Article 9 — Where a unit or an individual commits any of the following acts in violation of the provisions of the State on investment construction projects, the unit or individual shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, the State construction funds that have been withheld, diverted or obtained by deception shall be recovered, the illegal gains shall be confiscated, and the project investment shall be reduced or the allocation thereof shall be stopped. A warning or a notice of criticism shall be given to the unit; where its directly responsible persons in charge and other directly responsible persons are State civil servants, they shall be given a major demerit; where the circumstances are relatively serious, they shall be given a demotion or removal from office; where the circumstances are serious, they shall be given a dismissal: (1) withholding or diverting State construction funds; (2) obtaining State construction funds by such means as false reporting, falsely claiming or connected transactions; (3) investing beyond the approved budget estimate in violation of the provisions; (4) falsely listing the amount of completed investment; or (5) committing other acts in violation of the provisions on State investment construction projects. Where the Government Procurement Law of the People's Republic of China, the Bidding Law of the People's Republic of China, the Measures for the Administration of State Key Construction Projects or other laws or administrative regulations provide otherwise, the matter shall be handled and punished in accordance with such provisions.

Article 10 — Where a State organ or any of its staff members, in violation of the Security Law of the People's Republic of China and the relevant provisions of the State, provides a guarantee without authorization, the unit shall be ordered to make corrections and the illegal gains shall be confiscated. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a warning, a demerit or a major demerit; where losses are caused, they shall be given a demotion or removal from office; where major losses are caused, they shall be given a dismissal.

Article 11 — Where a State organ or any of its staff members, in violation of the provisions of the State on account administration, opens or uses an account at a financial institution without authorization, the unit shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, the relevant fiscal funds shall be recovered, the illegal gains shall be confiscated, and the account opened without authorization shall be cancelled in accordance with law. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a demotion; where the circumstances are serious, they shall be given a removal from office or a dismissal.

Article 12 — Where a State organ or any of its staff members commits any of the following acts, the unit shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, the relevant funds that have been diverted or obtained by deception shall be recovered, and the illegal gains shall be confiscated. A warning or a notice of criticism shall be given to the unit. The directly responsible persons in charge and other directly responsible persons shall be given a demotion; where the circumstances are relatively serious, they shall be given a removal from office; where the circumstances are serious, they shall be given a dismissal: (1) obtaining by such means as false reporting or falsely claiming foreign government loans or loans of international financial organizations that are undertaken or guaranteed by the government;

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(2) detaining foreign government loans or loans of international financial organizations that are undertaken or guaranteed by the government; (3) withholding or diverting foreign government loans or loans of international financial organizations that are undertaken or guaranteed by the government; or (4) committing other acts of using or obtaining by deception foreign government loans or loans of international financial organizations that are undertaken or guaranteed by the government in violation of the provisions.

Article 13 — Where an enterprise or an individual commits any of the following acts of failing to pay or underpaying fiscal revenue, the enterprise or individual shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, the fiscal revenue that ought to be turned over shall be collected, a warning shall be given, the illegal gains shall be confiscated, and a fine of not less than 10 percent but not more than 30 percent of the fiscal revenue not paid or underpaid shall be imposed in addition; a fine of not less than RMB 3,000 but not more than RMB 50,000 shall be imposed on the directly responsible persons in charge and other directly responsible persons: (1) concealing fiscal revenue that ought to be turned over; (2) withholding fiscal revenue collected on behalf of others; or (3) committing other acts of failing to pay or underpaying fiscal revenue. Illegal acts in respect of taxation shall be handled and punished in accordance with the provisions of the relevant tax laws and administrative regulations.

Article 14 — Where an enterprise or an individual commits any of the following acts, the enterprise or individual shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, the relevant funds used in violation of the provisions or obtained by deception shall be recovered, a warning shall be given, the illegal gains shall be confiscated, and a fine of not less than 10 percent but not more than 50 percent of the relevant funds obtained by deception, or not less than 10 percent but not more than 30 percent of the relevant funds used in violation of the provisions, shall be imposed in addition; a fine of not less than RMB 3,000 but not more than RMB 50,000 shall be imposed on the directly responsible persons in charge and other directly responsible persons: (1) obtaining by such means as false reporting or falsely claiming fiscal funds and foreign government loans or loans of international financial organizations that are undertaken or guaranteed by the government; (2) diverting fiscal funds and foreign government loans or loans of international financial organizations that are undertaken or guaranteed by the government; (3) illegally benefiting from fiscal funds used free of charge and foreign government loans or loans of international financial organizations that are undertaken or guaranteed by the government; or (4) committing other acts of using or obtaining by deception fiscal funds and foreign government loans or loans of international financial organizations that are undertaken or guaranteed by the government in violation of the provisions. Illegal acts in respect of government procurement shall be handled and punished in accordance with the Government Procurement Law of the People's Republic of China and the relevant laws and administrative regulations.

Article 15 — Where a public institution, a social organization, any other social organization, or any of its staff members commits an illegal financial act, the matter shall be handled in accordance with the provisions of these Regulations concerning State organs; however, illegal financial acts committed in their business activities shall be handled in accordance with Articles 13 and 14 of these Regulations.

Article 16 — Where a unit or an individual commits any of the following acts in violation of the provisions on the administration of fiscal revenue instruments, the illegally printed instruments shall be destroyed, and the illegal gains and the instruments used in committing the crime shall be confiscated. A fine of not less than RMB 5,000 but not more than RMB 100,000 shall be imposed on the unit; a fine of not less than RMB 3,000 but not more than RMB 50,000 shall be imposed on the directly responsible persons in charge and other directly responsible persons. Where such persons are State civil servants, they shall also be given a demotion or removal from office; where the circumstances are serious, they shall be given a dismissal: (1) printing fiscal revenue instruments in violation of the provisions; (2) lending, mixing the use of, or issuing on behalf of others fiscal revenue instruments; (3) forging, altering, buying and selling, or destroying without authorization fiscal revenue instruments; (4) forging, or using forged, supervision (printing) seals of fiscal

revenue instruments; or (5) committing other acts in violation of the provisions on the administration of fiscal revenue instruments. Illegal acts in respect of the administration of tax revenue instruments shall be handled and punished in accordance with the relevant tax laws and administrative regulations.

Article 17 — Where a unit or an individual, in violation of the provisions on financial management, privately deposits or privately places fiscal funds or other public funds, the unit or individual shall be ordered to make corrections, the relevant accounting books and accounts shall be adjusted, the funds privately deposited or privately placed shall be recovered, and the illegal gains shall be confiscated. A fine of not less than RMB 3,000 but not more than RMB 50,000 shall be imposed on the unit; a fine of not less than RMB 2,000 but not more than RMB 20,000 shall be imposed on the directly responsible persons in charge and other directly responsible persons. Where such persons are State civil servants, they shall also be given a major demerit; where the circumstances are serious, they shall be given a demotion or removal from office.

Article 18 — Illegal acts in respect of accounting shall be handled and punished in accordance with the provisions of the laws and administrative regulations on accounting. Where the directly responsible persons in charge and other directly responsible persons are State civil servants, they shall also be given a warning, a demerit or a major demerit; where the circumstances are relatively serious, they shall be given a demotion or removal from office; where the circumstances are serious, they shall be given a dismissal.

Article 19 — With respect to illegal acts in respect of administrative charges, where the Administrative Licensing Law of the People's Republic of China, the Interim Provisions on Administrative Sanctions for Violations of the Provisions on the Administration of the Separation of Revenue and Expenditure of Administrative and Institutional Charges and Confiscated Income, or other laws or administrative regulations or the State Council provide otherwise, the relevant departments shall handle, punish and sanction such acts in accordance with such provisions.

Article 20 — Where a unit or an individual commits an illegal financial act prescribed in these Regulations and the act constitutes a crime, criminal responsibility shall be investigated in accordance with law.

Article 21 — When finance departments, audit organs or supervisory organs conduct investigations or inspections in accordance with law, the units and individuals under investigation or inspection shall cooperate, truthfully report the relevant circumstances, and shall not refuse, obstruct or delay. Whoever violates the provisions of the preceding paragraph shall be ordered to make corrections within a prescribed time limit. Where corrections are not made within the time limit, the directly responsible persons in charge and other directly responsible persons who are State civil servants shall be given a warning, a demerit or a major demerit; where the circumstances are serious, they shall be given a demotion or removal from office.

Article 22 — When finance departments, audit organs or supervisory organs conduct investigations or inspections in accordance with law, they may, with the approval of the person in charge of the finance department, audit organ or supervisory organ of the people's government at or above the county level, inquire about the relevant circumstances from units that have economic and business dealings with the unit under investigation or inspection, and may inquire about the deposits of the unit under investigation or inspection from financial institutions, and the relevant units and financial institutions shall cooperate. When finance departments, audit organs or supervisory organs conduct investigations or inspections in accordance with law, the law enforcement personnel shall be not fewer than two persons and shall present their certificates to the parties or the relevant persons; when inquiring about deposits, they shall also hold a deposit inquiry notice issued by the finance department, audit organ or supervisory organ of the people's government at or above the county level, and shall bear the duty of confidentiality.

Article 23 — When finance departments, audit organs or supervisory organs conduct investigations or inspections in accordance with law, where the relevant evidence may be lost or may be difficult to obtain later, they may, with the approval of the person in charge of the finance department, audit organ or supervisory organ of the people's government at or above the county level, register and preserve the

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evidence in advance, and shall promptly make a handling decision within seven days. During this period, the parties or the relevant persons shall not destroy or transfer the evidence.

Article 24 — With respect to ongoing illegal financial acts of the unit or individual under investigation or inspection, the finance department or audit organ shall order the cessation thereof. Where the unit or individual refuses to comply, the finance department may suspend fiscal appropriations or stop the appropriation of funds directly related to the illegal financial act, and where the funds have already been appropriated, order the suspension of the use thereof; the audit organ may notify the finance department or other relevant competent departments to suspend fiscal appropriations or stop the appropriation of funds directly related to the illegal financial act, and where the funds have already been appropriated, order the suspension of the use thereof, and the finance department and other relevant competent departments shall notify the audit organ of the result in writing.

Article 25 — Illegal gains that ought to be returned within a prescribed time limit in accordance with the provisions of these Regulations shall, if they cannot be returned upon expiry of the time limit, be turned over to the State treasury.

Article 26 — Where a unit or an individual commits an illegal financial act listed in these Regulations, the finance department, audit organ or supervisory organ may publicly announce its or his or her illegal financial act and the handling, punishment or sanction decision.

Article 27 — Where a unit or an individual that has committed an illegal financial act listed in these Regulations has obtained an honorary title or other relevant reward by fraud, the honorary title shall be revoked and the relevant reward shall be withdrawn.

Article 28 — Where staff members of finance departments, audit organs or supervisory organs abuse their powers, neglect their duties or engage in malpractices for personal gain, they shall be given a warning, a demerit or a major demerit; where the circumstances are relatively serious, they shall be given a demotion or removal from office; where the circumstances are serious, they shall be given a dismissal. Where the act constitutes a crime, criminal responsibility shall be investigated in accordance with law.

Article 29 — After finance departments, audit organs, supervisory organs and other relevant supervisory and inspection organs have conducted investigations or inspections of the relevant units or individuals in accordance with law, they shall issue investigation or inspection conclusions. Where the investigation or inspection conclusions already made by the relevant supervisory and inspection organs can satisfy the needs of other supervisory and inspection organs in performing their duties, such other supervisory and inspection organs shall make use of them.

Article 30 — Finance departments, audit organs, supervisory organs and other relevant organs shall strengthen their cooperation and shall, in accordance with law, transfer matters that do not fall within the scope of their functions and powers. The receiving organ shall handle the matter in a timely manner and notify the transferring organ of the result in writing.

Article 31 — The procedures for making decisions on the handling, punishment and sanction of illegal financial acts shall be implemented in accordance with these Regulations and the provisions of the Administrative Penalty Law of the People's Republic of China, the Administrative Supervision Law of the People's Republic of China and other relevant laws and administrative regulations.

Article 32 — Where a unit or an individual refuses to accept the handling or punishment, it or he or she may apply for reconsideration or bring an action in accordance with the Administrative Reconsideration Law of the People's Republic of China and the Administrative Litigation Law of the People's Republic of China. Where a State civil servant refuses to accept an administrative sanction, he or she may file a complaint in accordance with the provisions of the Administrative Supervision Law of the People's Republic of China, the Civil Servant Law of the People's Republic of China and other laws and administrative regulations.

Article 33 — The term "fiscal revenue collecting units" as used in these Regulations means the units responsible for collecting tax revenue and various non-tax revenue.

Article 34 — With respect to organizations authorized by laws or regulations to exercise functions of administering public affairs and organizations entrusted by State administrative organs in accordance with law, and their staff members other than logistics personnel, and persons appointed by State administrative organs by means of appointment or dispatch in enterprises, public institutions and social organizations, as well as other persons who have committed illegal financial acts prescribed in these Regulations and need to be sanctioned, the matter shall be handled by reference to the relevant provisions of these Regulations.

Article 35 — These Regulations shall be implemented as of February 1, 2005. The Interim Provisions of the State Council on Punishment for Violations of Financial Regulations issued by the State Council on June 16, 1987 shall be repealed simultaneously.

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