



世民律師事務所 SHIMIN LAW OFFICES

NEWSLETTER

Regulatory trends on Reporting of Statistics on International Receipts and Payments

On the date of Nov 9th, 2013, the Premier Li Keqiang signed the No. 642 State Council Order which published the State Council's decision on amendment of "Procedures for Reporting Balance of International Payments" (the decision). The decision amended the "Procedures for Reporting Balance of International Payments" **【1】**, which was approved by the State Council in 1995, published by people's bank of china and then became effective on Jan 1st, 1996, and it shall come into force as of Jan 1st, 2014.

As a partnership law firm established in 1999, Shimin Law Offices is an all-round, large-scaled and reputable local legal service provider that concentrates on foreign related legal matters.

We are dedicated to our clients. Our ultimate goal is to provide high quality and efficient services to our clients.

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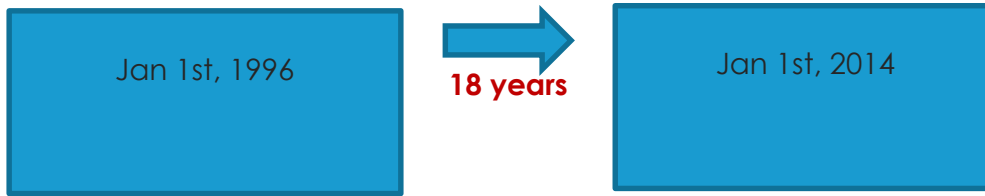
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¹ It was approved by the State Council on Aug 30th, 1995, issued by Decree No. 2 [1995] of the President of the People's Bank of China on Sep 14th, 1995 and came into force on Jan 1st, 1996.

Procedures for Reporting Balance of International Payments

The old enforcing date The new enforcing date



A The main changes

There are 10 articles totally in the decision and the main changes on Procedures for Reporting Balance of International Payments are reflected in several aspects as follows:

Aspects	Before	After	Provisions
Range of reporting	All economic transactions which occur between Chinese and non-Chinese residents	All economic transactions which occur between Chinese and non-Chinese residents and details on foreign financial assets and liabilities of Chinese residents.	Article 1 of the decision
Subjects who bear reporting obligation	Chinese residents	Chinese residents and non-China residents who conduct economic transactions in the Chinese territory	Article 2 of the decision
Institutions	Securities dealers and securities registration agencies within China	Institutions and dealers which offer registration and settlement, managed services within China	Article 3 of the decision
Individuals	N	Chinese resident individuals who owns foreign financial assets and liabilities	Article 6 of the decision
Subjects who bears the duty of confidentiality	The State Administration of Foreign Exchange and its branches and Statistical staff members in international receipts and payments	The State Administration of Foreign Exchange and its branches and Statistical staff members in international receipts and payments, banks and dealers as well as institutions who	Article 8 of the decision

		offer registration and settlement, managed services	
Penalties	<p>Chinese residents violating these Measures may be punished by the State Administration of Foreign Exchange or its branches by a warning, circular of criticism or by a fine in accordance with the seriousness of the violation.</p> <p>Where any of the various kinds of financial institutions violates these Measures, the State Administration of Foreign Exchange or its branches may, in accordance with the seriousness of the violation, issue a warning, circulate a notice of criticism, impose a fine or revoke the institution's license for foreign exchange business operations.</p>	Where Chinese residents and non-Chinese residents fail in reporting of statistics on international receipts and payments within the relevant provisions, the State Administration of Foreign Exchange or its branches may give penalties in accordance with article 48 of Regulations of the People's Republic of China on Foreign Exchange Control.	Article 9 of the decision

B Legal responsibilities

The newly amended "Procedures for Reporting Balance of International Payments" not only expands the range of subjects who bear the reporting obligations, which expands from "Chinese residents only" to "Chinese residents and non-China residents who conduct economic transactions in the Chinese territory", but also adds reporting obligations to individuals, which specifically requires Chinese resident individuals who own foreign financial assets and liabilities shall report the relevant details on these foreign financial assets and liabilities in accordance with the regulations of the State Administration of Foreign Exchange. In the case of a failure of executing reporting obligations provisioned in the article 17 of the new Procedures for Reporting Balance of International Payments, Foreign Exchange control organs may give penalties in accordance with article 48 of Regulation on

Foreign Exchange Administration 【2】 , in which if any institution or individual falls under the failure to conduct statistics and declaration of international receipts and payments in compliance with the provisions, the relevant foreign exchange control organ shall order the institution or individual to correct the act, give a warning thereon, and impose a fine of not more than RMB 300,000 in the case of an institution or impose a fine of not more than RMB 50,000 in the case of individual.

In practice, institutions and individuals normally pay significant attention to the provisions of violations against current and capital accounts and foreign exchange business control and neglect the statistical obligations regulated by the provisions. The issued decision reminds the subjects who bear reporting obligations of the statistical obligations on international receipts and payments to avoid legal risks.

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The following websites could be taken as reference:

http://www.gov.cn/zwqk/2013-11/22/content_2532452.htm

<http://www.chinalaw.gov.cn/article/xwzx/fzxw/201311/20131100393815.shtml>

<http://www.chinalaw.gov.cn/article/xwzx/fzxw/201311/20131100393816.shtml>

2 Article 48 of “Regulations of the People's Republic of China on Foreign Exchange Control”

If any institution or individual falls under any of the following circumstances, the relevant foreign exchange control organ shall order the institution or individual to correct the act, give a warning thereon, and impose a fine of not more than RMB 300,000 in the case of an institution or impose a fine of not more than RMB 50,000 in the case of individual:

- (1) Failure to conduct statistics and declaration of international receipts and payments in compliance with the provisions;
- (2) Failure to submit financial and accounting reports, statistic statements, and other materials in compliance with the provisions;
- (3) Failure to submit valid documents in compliance with the provisions or submits untruthful documents;
- (4) Violation of the provisions on administration of foreign exchange accounts;
- (5) Violation of the provisions on administration of foreign exchange registration; or
- (6) Refusal or obstruction to the foreign exchange control organ's legal supervision, inspection, or investigation.