

Law of the People's Republic of China on Township Enterprises

(Adopted at the 22nd Meeting of the Standing Committee of the Eighth National People's Congress on October 29,1996, promulgated by Order No. 76 of the President of the People's Republic of China on October 29,1996)

Article 1 This Law is enacted for the purpose of facilitating and guiding the sound and sustained development of township enterprises, protecting their legitimate rights and interests, standardizing their operations, bringing about a prosperous rural economy and promoting the socialist modernization drive.

Article 2 The term "township enterprises" as used in this Law refers to the different types of enterprises that are established in townships (including the villages under their jurisdiction) with the bulk of their capital being invested by rural economic collectives or farmers and that undertake the obligations to support agriculture .

The words "the bulk of their capital" as used in the preceding paragraph mean that the capital invested by the rural economic collectives or farmers exceeds 50 percent of the total, or is less than 50 percent but enough to play a holding or dominating role.

A township enterprise that meets the qualifications for an enterprise legal person shall obtain the status of a legal person as an enterprise.

Article 3 Township enterprises provide the mainstay of the rural economy and constitute an important component of the national economy.

The main tasks of township enterprises are to develop production of commodities in light of market demands, provide service to the public, increase the supply of marketable products, absorb surplus rural labor, help raise the income of farmers, support agriculture, advance agricultural and rural modernization and promote the development of the national economy and social undertakings.

Article 4 In developing township enterprises, the principle of taking the rural collective economy as the leading force and promoting the simultaneous development of the diversified economic sectors shall be adhered to.

Article 5 The State gives active support to township enterprises, makes rational planning for their development, provides different guidance to different types of them and administer their affairs pursuant to law.

Article 6 The State encourages and mainly helps the economically underdeveloped areas and areas inhabited by ethnic minorities to develop township enterprises, and encourages township enterprises and other economic organizations in economically developed areas to support, by different means, the economically underdeveloped areas and areas inhabited by ethnic minorities in their efforts to run township enterprises.

Article 7 The administrative department for township enterprises under the State Council and other relevant departments shall, in accordance with their respective functions and responsibilities, make plans for and arrange coordination among, exercise supervision over and provide service to township enterprises nationwide; the administrative departments for township enterprises and other relevant departments of the local people's governments at or above the county level shall, in accordance with their respective functions and responsibilities, do the same with regard to township enterprises within their respective administrative regions.

Article 8 The township enterprises established through registration pursuant to law shall go through the procedure of registration for the record with the local administrative department for township enterprises.

Where a township enterprise wishes to change its name or domicile, or to divide itself or merger with another, to suspend operation or close down, it shall, after making the registration of alteration, establishment or cancellation according to law, report to the administrative department for township enterprises for the record.

Article 9 The branches established in cities by township enterprises and the enterprises set up by rural economic collectives in cities to undertake the obligations in support of agriculture shall be treated as township enterprises.

Article 10 Where a township enterprise is established with the investment of rural economic collectives, its property rights shall be owned collectively by all the farmers who help establish such enterprise.

Where a township enterprise is established with the joint investment of rural economic collectives and other enterprises, organizations or individuals, its property rights shall be owned by the investors in proportion to the amount of their shares.

Where a township enterprise is established with the investment of farmers in partnership or of a farmer alone, its property rights shall be owned by the investor(s).

Article 11 Township enterprises shall, in accordance with law, practise independent accounting and independent management and take full responsibility for its own profits and losses.

A township enterprise that has acquired the status of an enterprise legal person shall enjoy the right to the property of the legal person.

Article 12 The State protects the lawful rights and interests of township enterprises; the legitimate property of township enterprises shall be inviolable.

No organizations or individuals may, in violation of laws, administrative rules and regulations, intervene in the production and operation of township enterprises, remove or replace the leading members of the enterprises; and they may not illegally take into their own possession or use without compensation the property of township enterprises.

Article 13 Township enterprises shall be established in the forms provided by laws, administrative rules and regulations. The investors shall, in accordance with relevant laws, administrative rules and regulations, decide on major issues of the enterprises, institute operation and management systems, and enjoy the rights and undertake the obligations according to law.

Article 14 Township enterprises shall practise democratic management in accordance with law. The investors shall, before instituting the operation and management systems of the enterprise, deciding on the leading members of the enterprise, making decisions concerning major issues such as operation, the employees' wages and welfare, their occupational protection and safety, listen to the opinions of the trade union and the employees of such enterprise, regularly make public the implementation of the above-mentioned decisions and accept supervision by the employees.

Article 15 The State encourages the institution of a sound social insurance system for the employees of township enterprises in areas where conditions permit.

Article 16 If a township enterprise suspends operation or closes down, where the social insurance system has been instituted, it shall make arrangements for the employees in accordance with relevant regulations; where a labour contract has been concluded, it shall handle the matter as agreed in the contract. Those employees who came from rural economic collectives shall have the right to return to their original rural economic collectives to engage in production or they may try to seek jobs themselves.

Article 17 Township enterprises shall draw a certain proportion of their after-tax profits to support agriculture and to spend on rural social undertakings. The proportion of such profits and measures for its use and management shall be prescribed by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government.

Unless otherwise provided by laws, administrative rules and regulations, no State organs, organizations or individuals may, in whatever form, impose charges on or apportion expenses among township enterprises.

Article 18 The State reduces a certain proportion of the tax to be collected from township enterprises for a certain period of time, depending on the level of their development. The types of tax to be reduced, the period of time for and the proportion of such reduction shall be prescribed by the State Council.

Article 19 The State applies a preferential policy of taxation, for a certain period of time and in light of different circumstances, towards the small and medium-sized township enterprises that meet one of the following conditions:

(1) being a collectively owned township enterprise that truly has difficulties in operation in the incipient stage after its establishment;

- (2) being established in an area inhabited by ethnic minorities or in an outlying and poverty-stricken area;
- (3) being engaged in processing, storage, transport or marketing of grain, feed or meat; or
- (4) being in need of special assistance according to the industrial policy of the State.

The specific measures for executing the preferential policy of taxation mentioned in the preceding paragraph shall be prescribed by the State Council.

Article 20 The State encourages and facilitates the development of township enterprises by means of credit and loan. With regard to the township enterprises that meet one of the conditions provided in the preceding article and the qualifications for loan, the relevant financial institutions of the State may grant them priority loan or provide concessional loan to the ones that lack funds for production but have a promising future.

The specific measures for granting priority loan and concessional loan mentioned in the preceding paragraph shall be prescribed by the State Council.

Article 21 The people's governments at or above the county level may, in accordance with the relevant regulations of the State, set up development funds for township enterprises. The funds shall consist of the following:

- (1) the working funds allocated by the government for the development of township enterprises;
- (2) a certain proportion of the increased taxes annually turned over to the local people's governments by the township enterprises;
- (3) the profits derived from use of the funds; and
- (4) the funds provided of their own free will by the rural economic collectives, township enterprises and farmers.

Article 22 The development funds for township enterprises shall specially be used for supporting the development of such enterprises in the following ways:

- (1) to support the development of township enterprises in areas inhabited by ethnic minorities, in outlying areas and poverty-stricken areas;
- (2) to support economic and technological cooperation between township enterprises in economically developed areas and such enterprises in economically underdeveloped areas and areas inhabited by ethnic minorities and support their efforts in undertaking jointly-invested projects.
- (3) to support township enterprises in their efforts to readjust the structure of production and the mix of their products in accordance with the industrial policy of the State;
- (4) to support township enterprises in their efforts to update technology, to develop famous-brand, special, excellent and new products and to produce traditional handicrafts;
- (5) to develop such township enterprises as manufacture means of production for agriculture or directly serve the needs of agricultural production.
- (6) to develop such township enterprises as are engaged in processing, storage, transport and marketing of grain, feed and meat;
- (7) to support vocational education and technical training for employees of township enterprises; and
- (8) other projects that need support.

The specific measures for establishment, use and management of the development funds for township enterprises shall be formulated by the State Council.

Article 23 The State helps train skilled people for township enterprises and encourages scientists, technicians, managers and administrators and graduates of universities, colleges and specialized secondary schools to work in such enterprises and serve them in various ways.

Township enterprises shall, through various channels and forms, train their own technicians, managers and administrators and producers and adopt preferential measures to recruit skilled people.

Article 24 The State adopts preferential measures to encourage all forms of economic and technological cooperation between township enterprises on the one hand and scientific research institutions, institutions of higher learning, State-owned enterprises and other enterprises and organizations on the other.

Article 25 The State encourages township enterprises to carry out economic and technological cooperation and exchange with other countries, build export-oriented commodity production bases and increase foreign exchange earnings from exports.

Township enterprises that meet the requirements may, after approval in accordance with law, be authorized to engage in foreign trade.

Article 26 Local people's governments at all levels shall, under the principle of unified planning and rational geographical distribution, combine the development of township enterprises with the construction of small towns, guide and promote the properly concentrated development of township enterprises and gradually increase the building of infrastructure and service facilities to accelerate the construction of small towns.

Article 27 Township enterprises shall, in accordance with market demand and the industrial policy of the State, appropriately readjust the structure of production and the mix of products, promote technical updating, constantly adopt advanced technology, production techniques and equipment and improve the standard of management and administration.

Article 28 The land used for construction of township enterprises shall be in line with the general plan for the use of land, and it shall be kept under strict control and used rationally and economically; where it is possible to use wasteland or land of inferior quality, no cultivated land or land of good quality shall be used.

Where land owned by rural collectives is used for construction of a township enterprise, relevant procedures shall have to be gone through to obtain approval and to register for the use of the land in accordance with laws and regulations.

If the land owned by rural collectives to be used for construction of a township enterprise has been left unused for two successive years or more, or left unused for one year or more because its construction has been called off, the right to use of the land shall be taken over by the original owner, which shall make new arrangement for its use.

Article 29 Township enterprises shall rationally develop and use natural resources in accordance with law.

In order to extract mineral resources, a township enterprise must, in accordance with relevant laws, obtain approval of the relevant department, a mining permit and a production permit, operate in line with relevant rules and guard against waste of resources, and destruction of resources is strictly prohibited.

Article 30 Township enterprises shall, in accordance with relevant regulations of the State, set up a financial and accounting system to tighten financial control and keep account books according to law to record financial activities truthfully.

Article 31 Township enterprises must, according to the statistical regulations of the State, submit reports of truthful statistical data. They shall have the right to refuse to fill in statistical survey forms prepared and issued in violation of State regulations.

Article 32 Township enterprises shall go through the formalities for tax registration according to law, submit tax returns regularly and pay taxes in full.

The people's governments at all levels shall strengthen the administration of tax collection in relation to township enterprises in accordance with law and the relevant administrative department shall not reduce the taxes of township enterprises or exempt them from taxation beyond the limit of its authority for administration.

Article 33 Township enterprises shall pay close attention to the quality control of their products and make efforts to improve the quality; the products they manufacture and market must meet both the national standards and the trade standards for safeguarding human health and safety of the person and property; no products that have ceased to be effective, that have gone bad or that have been eliminated by formal State orders shall be manufactured or marketed; and it is forbidden to mix impurities or imitations into products, or pass a fake or defective product off as a genuine or good one.

Article 34 Township enterprises shall use trademarks in accordance with law and cherish their own reputation; they shall print trademarks for the commodities they produce in accordance with State regulations, and they shall not forge the place of origin or forge or falsely use the name and address of a factory of another producer, as well as authentication marks and famous-and-excellent product marks of another producer.

Article 35 Township enterprises must abide by laws and regulations regarding environmental protection and, in adherence to the industrial policy of the State and under the unified guidance of the local people's governments, take measures to make themselves enterprises that discharge little or no pollution and consume less resources, in order to prevent and control environmental pollution and ecological disruption and to protect and improve the environment.

Local people's governments shall formulate and implement the plans of township enterprises for protecting the environment, thus increasing their ability to prevent and control pollution.

Article 36 If a township enterprise undertakes a construction project that will have an impact on the environment, it must strictly apply the evaluation system governing impact on the environment.

Installations for preventing or controlling pollution embraced in the construction project that is undertaken by a township enterprise must be designed, constructed and put into operation or use simultaneously with the main part of the project. The project shall not be put into operation or use until the installations for preventing or controlling pollution have been examined and accepted by the administrative department for environmental protection.

No township enterprises may adopt or make use of production techniques and equipment formally prohibited by the State for they cause serious environmental pollution; and they may not manufacture or market products formally prohibited by the State for they seriously pollute the environment. Those township enterprises that discharge pollutants in excess of the standard set by the State or local authorities and thus seriously pollute the environment shall bring the pollution under control within a time limit; those that fail to do so within the time limit shall close down, suspend production or change the line of production.

Article 37 Township enterprises must abide by laws and regulations regarding occupational protection and safety, conscientiously carrying out the principle of putting safety and prevention first, adopting effective technical and managerial measures for occupational health and preventing the occurrence of casualties in production and occupational diseases; and they shall remove the hidden elements of accidents that may endanger the safety of employees within a time limit or suspend production for rectification. Managers are strictly forbidden to give instructions against rules and regulations or compel employees to work at risk. Once casualties occur, they shall take emergency rescue measures, make proper arrangements for the victims according to law, and report the matter to the departments concerned.

Article 38 Whoever, in violation of this Law, commits any of the following acts shall be ordered to put it right by the administrative department of the people's government at or above the county level that is in charge of township enterprises:

- (1) altering ownership of a township enterprise in violation of law;
- (2) taking into his possession or using without compensation the property of a township enterprise in violation of law;
- (3) removing or replacing the leading members of a township enterprise in violation of law; or
- (4) encroaching on the right of a township enterprise to independent management.

If any of the said acts causes economic losses to a township enterprise, compensation shall be made in accordance with law.

Article 39 Township enterprises shall have the right to accuse or report against any units or individuals that collect charges from, apportion expenses among or impose fines on them in violation of law to the administrative departments for audit, supervision, finance, price control and township enterprises. The department concerned and the organ at higher levels shall order the persons who are responsible for the violation to desist and return the money within a time limit. And the departments concerned may, in light of seriousness of the violation, impose appropriate sanctions on the persons who are directly responsible for the violation.

Article 40 Before they put it right, township enterprises that violate laws or regulations of the State regarding product quality, environmental protection, land administration, development of natural resources, occupational safety, taxation, etc. shall, in light of seriousness of the violation, be deprived of part or all of the preferential treatment they have enjoyed in accordance with this Law, in addition to sanctions imposed pursuant to relevant laws and regulations.

Article 41 Township enterprises that, in violation of this Law, refuse to undertake the obligations in support of agriculture, shall be ordered to put it right by the administrative department for township enterprises and may, before they put it right, be deprived of part or all of the preferential treatment that they have enjoyed according to this Law.

Article 42 If a party is not satisfied with the handling done or sanctions imposed according to the provisions from Article 38 through Article 41 of this Law, it may apply for administrative reconsideration or bring a lawsuit in accordance with law.

Article 43 This Law shall go into effect as of January 1, 1997.