

Translated from announcement in People's Daily 6/30/99

## **People's Republic of China Public Welfare Donation Law**

People's Republic of China Premiere's Order NO. 19

Passed by the 10<sup>th</sup> meeting of the Standing Committee of the 9<sup>th</sup> National People's Congress on 6/28/99, to take effect on 9/1/99.

### **NO. 1 – General Principles**

Article 1 These regulations are drawn up in order to encourage donations; standardize the behaviour of donors and recipients (*shou zeng*); protect the legal rights of donors, recipients and beneficiaries; and promote the development of public welfare undertakings.

Article 2 Individuals, legal representatives (*faren*), and other organisations may voluntarily and freely make contributions to public welfare social organisations (*gongyixing shehui tuanti*) and public welfare non-profit undertaking work units (*gongyixing feiyingli de sheye danwei*) to be applied according to these regulations for use in public welfare undertakings.

Article 3 The following non-profit activities shall be deemed public welfare undertakings to which the regulations apply:

Disaster relief, poverty alleviation, and assistance to the handicapped, as well as activities for social groups (*shehui tuanti*) and individuals in straightened circumstances.

Education, scientific, cultural, public health, and athletic undertakings.

Environmental protection and construction of public facilities.

Other public welfare undertakings promoting social development and progress.

Article 4 Donations should be voluntarily and freely given. It is forbidden to forcefully or covertly extract donations, or to use the name of the donor in a for-profit enterprise.

Article 5 Donations should be used in a manner respecting the wishes of the donor, and conforming with the end purpose of public welfare. Donated property may not be diverted to other purposes.

Article 6 Donors should abide by laws and regulations; they should not violate social mores, and should not work against the public interest, or any other people's lawful interests.

Article 7 Donations received by public welfare organisations add to the value of society, and therefore receive the protection of the nation's laws from seizure, embezzlement, or damage by any work unit or individual.

Article 8 The state encourages the development of public welfare undertakings, and grants support and preferential treatment to public welfare social organisations and public welfare non-profit undertaking work units.

The country encourages individuals, legal representatives, and other organisations to donate to public welfare undertakings.

The government has granted commendations to individuals, legal representatives, or other organisations that have made notable contributions to public welfare undertakings. Before undertaking public commendation of donors, the donor's opinion must first be solicited.

## **NO. 2 – Donors and Recipients**

Article 9 Individuals, legal representatives, or other organisations may choose to donate to any public welfare social organisation or public welfare non-profit undertaking work unit that is conducting activities. Donations should be the lawful property of the donor.

Article 10 Public welfare social organisations and public welfare non-profit undertaking work units can receive donations according to these regulations.

Regulations of so-called public welfare social organisations are established with the principle aim of developing charities and other social organisations.

Regulations of so-called public welfare non-profit undertaking work units apply to organisations engaged in working towards public welfare non-profit purposes including education organisations, scientific research organisations, medical and public health organisations, social welfare organisations and so on.

Article 11 At the occurrence of a natural disaster or other circumstances in which a donor asks government departments above the county level (*xian ji yi shang renmin zhengfu jiqi bumen*) to receive donations, the government department above the county level can receive donations, and furthermore according to the related regulations, can undertake the management of donated property.

Government departments above the county level can pass received donations on to public welfare social organisations or public welfare non-profit work units; they can also, in accordance with the donor's wishes, distribute funds to set up public welfare undertakings, but they may not name their own organisation as the beneficiary.

Article 12 Donors may specify the quality, amount, and use of a donations by means of contracts with recipients. The donor has the right to decide the type, use, and amount of the donation.

Donors should fulfil the donation agreement, and according to the period of time and fashion arranged in the contract transfer the donated property to the recipient.

Article 13 Donors making contributions to public welfare undertaking construction projects should reach an agreement with the recipients arranging the construction project's funding, construction, management and use.

Donors to public welfare undertaking construction projects can act on behalf of the recipients, in accordance with relevant regulations, in handling the project's inspection and approval procedures; furthermore organisations can organise construction work, or recipientss and donors can jointly organise construction work. Construction quality should be meet the nation's quality standards.

At the completion of the donated public welfare undertaking construction project, the recipients should inspect the construction, the use of funds, and the construction quality to ensure that the conditions match the donor's specifications.

Article 14 Donors may have their name marked on public works construction projects; principal or sole contributors may select a name for the construction project, with the endorsement of a government department above the county level.

Article 15 When foreign (*jingwai*) donors make contributions, the recipients should handle entry procedures in accordance with relevant government regulations. Donors require permits for the import management of goods. Recipients should handle permit applications according to the relevant government regulations; customs inspections will be based upon the permits.

For Overseas Chinese wishing to make donations within China, the Office of Overseas Chinese Affairs (*renmin zhengfu qiao bumen*) may supply assistance in arranging entry procedures.

### **NO. 3 – Use and Management of Donated Property**

Article 16 After receiving donations, recipients should take care to present a receipt to the donor and file a record of the donations.

Article 17 Public welfare social organisations should make use of donations and financial aid in activities and undertakings that conform with the specified purpose. Donations made for disaster relief should promptly be used for relief activities. The proportion of their income that foundations give yearly in financial aid to public welfare undertakings may not be lower than the proportion specified by the government.

Public welfare organisations should rigorously abide by relevant government regulations, in accordance with the principles of law, safety, and efficiency and work vigorously to bring about an increase in the value of the donation.

Public welfare non-profit undertaking work units should ensure that donations are used for the development of that work unit's public welfare undertakings, and that funds are not diverted to other uses.

Receivers may sell off donated goods that are not stored or transported easily, or that exceed practical needs, and the resulting income in its entirety should be used to achieve the donor's purpose.

Article 18 After reaching an agreement with the donors, the recipients should make use of the donated property according to the provisions of the agreement; they may not on their own authority change the use of the donation. If there is an authentic need to change the use of the donation, the receiver should solicit the donor's consent.

Article 19 The recipients should, in accordance with the country's relevant laws, establish adequate procedures for the management of donations (*jianquan caiwu kuaiji zhidu*) and a system for the regulated use of donations, as well as strengthen their management of donations.

Article 20 Each fiscal year, recipients should report to the relevant government Ministry on the use, management, and supervision of donations. It is essential that at any time relevant government Ministries can conduct an audit of the properties.

Customs officials will supervise and manage reductions and exemptions of import duties on donated goods, in accordance with the law.

The Office of Overseas Chinese Affairs may participate in the management and supervision of projects sponsored by donations from Overseas Chinese.

Article 21 Donors have the right to inquire to receivers about the use and management of donations, and to put forward their opinions and suggestions. The recipients must respond truthfully to the donor's inquiries.

Article 22 The recipients must make public the conditions, use and management of donations and must accept the supervision of society (*jieshou shehui jiandu*).

Article 23 Public welfare social organisations should rigorously practice economy and reduce management costs; employees' salaries and office expenses should be derived from interest on donations and other income, and be commensurate with standards specified by the government.

#### **NO. 4 – Preferential Measures**

Article 24 Corporations and other enterprises that under the stipulations of these regulations make donations to public welfare undertakings, will in the administration of these regulations enjoy business tax benefits.

Article 25 Individuals and private small businesses (*gongshanghu*) that under the stipulations of these regulations make donations to public welfare undertakings, will in the administration of these regulations enjoy personal tax benefits.

Article 26 Foreigners (*jingwai*) making donations of goods and materials to public welfare social organisations and public welfare non-profit undertaking work units for use in public welfare undertakings, will in the administration of these regulations will enjoy reduction or elimination of import taxes and import procedural fees.

Article 27 The local people's government should grant support and preferential treatment to donated construction projects.

## **NO. 5 – Legal Responsibilities**

Article 28 Recipients who have not solicited the donor's permission, or who have on their own authority changed the nature or use of a donation are to be ordered by a government department above the county level to correct their error, and are given a warning. If they refuse to correct their error or solicit the donor's opinion, the government may turn over the donation to another public welfare social organisation or public welfare non-profit undertaking work unit in the same or similar area of work.

Article 29 In the event of embezzlement, seizure, or corruption of any of the donated goods, the relevant government department may order the return of the remaining funds or donated goods to the donor, in addition to imposing a fine. Furthermore, the persons responsible will be dealt with according to the regulations of the work unit. In criminal cases, criminal penalties will be applied in accordance with the law.

Article 30 Among the activities of donors, the behaviours listed below are punishable by law; in criminal cases, criminal penalties will be applied in accordance with the law.

Evasion of exchange control

Tax evasion

Engaging in illicit activities

Not passing through customs permissions or not paying the proper amount of tax, and then transferring or selling goods for profit.

Article 31 Employees of recipients who abuse their powers, neglect their duties, or fail to act impartially and commit irregularities, resulting in a major loss of donated goods will

be dealt with according to the regulations of the work unit. In criminal cases, criminal penalties will be applied in accordance with the law.

**NO. 6 – Supplementary**

Article 32 These regulations will take effect on 9/1/99.