

Measures for the Annual Inspection of Foundations

Order of the Ministry of Civil Affairs
(No. 30)

The Measures for the Annual Inspection of Foundations, which were adopted at the 6th executive meeting of the Ministry of Civil Affairs, are hereby promulgated and shall come into force as of the day of promulgation.

Minister Li Xueju
January 12, 2006

Measures for the Annual Inspection of Foundations

Article 1 The present Measures are formulated according to the provisions of item (1) of Article 34 as well as Article 36 of the Regulation on Foundation Administration (hereinafter referred to as the Regulation) for the purpose of intensifying the administration of foundations as well as representative offices of overseas foundations and promote the development of public welfare undertakings.

Article 2 The term “annual inspection of foundations” as mentioned herein refers to a system that the organ in charge of registration and administration of foundations carries out supervision and administration on the activities as undertaken by foundations and representative offices of overseas foundations in their observance of relevant laws, regulations, rules and constitutions on an annual basis according to law.

Article 3 Any foundation or representative office of an overseas foundation shall, before March 31 each year, report to the organ in charge of registration and administration its annual work report of the previous year which has been examined and approved by the administrative department in charge of such business and shall be subject to the examination conducted by the organ in charge of registration and administration.

Article 4 An annual work report shall include the following contents: financial statements, auditing reports produced by relevant certified public accountants, donations, acceptance of donations, and offer of funding, as well as any alteration of any staff or institution.

A financial statement shall comply with the contents and requirements as prescribed by the Accounting System for Non-governmental Non-profit Organizations. A certified public accountant shall, when auditing any report, show the certification on the uniform acceptance by an accounting firm as well as on the entrustment contract as concluded by the relevant foundation or the representative office of relevant overseas foundation under auditing. When any donation, acceptance of donation, or offer of funding is carried out, the performance of relevant foundation on information publication shall be indicated. With regard to any alteration of any staff or institution, the formalities for registration of alteration according to relevant regulations, the minutes of a re-election meeting of a foundation as well as the auditing on financial statements

before its legal representative is changed shall be presented.

Article 5 In the process of an annual inspection, the organ in charge of registration and administration may require the foundation, representative office of an overseas foundation or relevant personnel to make supplementary explanations on relevant problems involved in an annual work report, and may, where it so requires, carry out an on-the-spot inspection.

Article 6 Upon an inspection conducted by the organ in charge of registration and administration, a foundation or representative office of an overseas foundation may, where it had a good performance on the observance of laws, regulations, rules and constitutions in the previous year, be deemed as qualified in the annual inspection.

Article 7 Where a foundation or representative office of an overseas foundation is under any of the following circumstances, the organ in charge of registration and administration shall make a conclusion of “roughly qualified upon annual inspection” or “unqualified upon annual inspection” according to the degree of circumstances:

- (1) Violating the provisions of paragraph 2 of Article 39 of the Regulation by failing to use the donated assets according to relevant agreement on donation;
- (2) Violating the provisions of Article 40 of the Regulation by unlawfully establishing any branch or representative office of a foundation;
- (3) Being under any of the circumstances as prescribed in Article 42 of the Regulation where an administrative punishment shall be given;
- (4) Any director, supervisor or full-time staff violating the provisions of paragraph 2 of Article 43 of the Regulation by dividing, embezzling or misappropriating any asset of the foundation; or
- (5) Violating the relevant provisions of the Regulation on the administration of foundation organization.

Where the organ in charge of registration and administration makes a conclusion of “roughly qualified upon annual inspection” or “unqualified upon annual inspection”, it shall order the relevant foundation or representative office of an overseas foundation to carry out rectification and reform within a time limit and give an administrative punishment thereto according to the circumstances and relevant provisions of the Regulation.

Article 8 When a foundation or representative office of an overseas foundation that fails to pass the annual inspection carries out rectification and reform, the organ in charge of registration and administration shall not approve any of its application for alteration of its name or business scope or for the establishment of any branch, sub-branch or representative office. The organ in charge of registration and administration shall request the tax authority to order the relevant foundation or representative office of an overseas foundation to make up the tax deduction or exemption it has enjoyed during the continuance of its illegal acts.

Article 9 Where any foundation, branch, sub-branch or representative office of a foundation or representative office of an overseas foundation is found to be under any of the circumstances as prescribed in Article 41 of the Regulation upon an annual inspection, the organ in charge of registration and administration shall revoke its registration according to law.

Article 10 Where any foundation or representative office of an overseas foundation refuses to attend an annual inspection without any justifiable reason, the organ in charge of registration and administration shall order it to stop its business and publicize the situation to the general public.

Article 11 Where any foundation or representative office of an overseas foundation refuses to accept an annual inspection for 2 consecutive years, the organ in charge of registration and administration shall revoke its registration according to law.

Article 12 Where an annual inspection is concluded, the organ in charge of registration and administration shall publicize the annual inspection result to the general public and report it to the department in charge of business.

A foundation or representative office of an overseas foundation shall, when passing an annual inspection carried out by the organ in charge of registration and administration, publicize its annual work report on the media as designated by the organ in charge of registration and administration so as to be subject to the inquiry and supervision of the general public.

Article 13 The format and model text of an annual work report shall be formulated by the department of civil affairs of the State Council.

Article 14 The present Measures shall come into force as of the day of promulgation.