LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA ON THE FINANCIAL MANAGEMENT OF FOREIGN-INVESTED ENTERPRISES

Adopted by Decree No. 2907 of the Presidium of the Supreme People's Assembly on October 2, 2008 and amended by Decree No. 2044 of the Presidium of the Supreme People's Assembly on December 21, 2011

Chapter 1 Fundamentals

Article 1 (Objective)

This Law is enacted for the purpose providing strict guidelines for the financial management of foreign-invested enterprises, thereby ensuring smooth operational activities thereof.

Article 2 (Definitions)

In this Law the following terms shall be construed as follows:

1. *Financial management* means an aspect of business management of a foreign-invested enterprise, which comprises the creation, distribution and use of currency needed for the business operation;
2. *Financial income* means all types of monetary funds earned by an enterprise in the course of its business operation;
3. *Financial settlement* means an economic activity whereby the results of business operation of an enterprise during a certain period of time is financially determined, examined and summed up in numerical terms;
4. *Expense* means the monetary expenditure of an enterprise on production or service;
5. *Capital* means the expression in monetary terms of the funds required for the business operation of a foreign-invested enterprise;
6. *Registered capital* means the capital registered with the investment management organ for the establishment of a foreign-invested enterprise;
7. *Fixed assets* means the assets that participate in the reproduction process several times and transmit parts of its value to the new product, while retaining its shape in tact;
8. *Fluid assets* means the assets that are used up completely in one production cycle to transmit the whole of its value to a new product; and
9. *Total amount of investment* means the sum total of capital for the operation of a foreign-invested enterprise.

Article 3 (Objects of financial management)

The objects of the financial management of a foreign-invested enterprise shall include the financial plan that was discussed and decided upon at the board of directors or the joint consultative board of the enterprise concerned., investment property, property accrued in the course of business activities, dividends and amount of redemption for investment

Article 4 (Chief financial manager)

The first person in charge of the financial management of a foreign-invested enterprise shall be the chief executive officer of the enterprise concerned and the second person the chief accountant thereof.

Article 5 (Account of enterprise)

A foreign-invested enterprise shall open an account with a bank that engages in foreign exchange transaction in the DPRK.

Where an account is to be opened with a bank in a foreign country, agreement thereon shall be obtained from the central financial guidance organ.

Article 6 (Governing laws and regulations)

A foreign-invested enterprise shall conduct the financial accounting in accordance with the DPRK laws and regulations governing the accounting of foreign-invested enterprises.

Article 7 (Manner of preparation of financial statements, term of retention)

Financial statements of a foreign-invested enterprise shall be prepared in the form prescribed by the central financial guidance organ and retained for a period of 5 years. Audit documents shall be kept for 10 years and statements of annual financial settlement and documents concerning fixed assets shall be retained as long as the duration of the enterprise concerned.

Article 8 (Protection of investment property)

The State shall protect by law the investment property of foreign-invested enterprises.

Where the property of a foreign-invested enterprise is to be nationalized or expropriated for unavoidable reasons, due compensation shall be made.

Where an agreement is concluded between the DPRK and a foreign country concerning the protection of investment, it shall take precedence.

Article 9 (Guidance institution of financial management)

Financial management of foreign-invested enterprises shall be placed under the unified guidance of the central financial guidance organ.

Article 10 (Applicability)

This Law shall be applicable to the equity joint venture enterprises, contractual joint venture enterprises, wholly foreign-owned enterprises, joint venture banks and wholly foreign-owned banks.

Branch offices, representative offices and agencies may also conduct their financial management in accordance with this Law.

The law and regulations for the financial management of foreign-invested enterprises in the special economic zones shall be provided separately.

Chapter 2 Creation of Capital

Article 11 (Mode of creation of capital, classification)

A foreign-invested enterprise may procure capital through such modes as contribution, credit loaning, donation and profit accumulation.

Capital shall comprise registered capital and loaned capital.

Article 12 (Term of contribution, composition and scope of registered capital)

An investor shall contribute capital within the time limit prescribed in the document of approval of the establishment.

Composition and scope of the registered capital shall be set in accordance with the relevant law and regulations.

The registered capital may be increased but not decreased during the period of existence of the enterprise.

Article 13 (Contents of investment property, ratio of intellectual property right)

An investor shall, in accordance with the terms of the contract, make contributions in terms of currency and property in kind, and the property rights such as land use right, right to develop natural resources, technical know-how and the like.

The ratio of the investment property shall be decided in the contract or by a foreign investor. The ratio of intellectual property right shall not exceed 20% of the registered capital.

Article 14 (Time of completion of investment)

Investment of property shall be deemed to have been duly made when:

1. Currency has been deposited in the account of a bank in the DPRK;
2. Procedures for the transfer to a foreign-invested enterprise of the ownership of or the right of use of the real property have been completed;
3. Property in kind other than the real property has been moved to the premises of the enterprise after completing the procedures for transferring its ownership and the right of use;
4. Certificate of property right ownership concerned has been transferred to an enterprise through due procedures; and
5. Technical know-how has been transferred as stipulated in the contract

Article 15 (Value of investment property)

Property in kind and property right invested in the foreign-invested enterprise shall be priced through discussion between contracting parties by reference to the world market price.

Article 16 (Management of investment property, verification of investment)

A foreign-invested enterprise shall manage the investment property separately for each investor.

A confirmation of an investor's contribution shall be verified by an audit office.

Article 17 (Transfer of investment shares)

An investor may transfer to a third party part or whole of his share of investment. In this case prior consent of the other investor shall be obtained in writing.

Chapter 3 Financial Plan

Article 18 (Formulation of financial plan)

A foreign-invested enterprise shall work out its financial plan independently.

The financial plan shall be discussed and decided by the board of directors or the joint consultative board of the enterprise concerned.

Article 19 (Financial plan for preparatory period of establishment)

A foreign-invested enterprise shall formulate a separate financial plan for the preparatory period of establishment.

The financial plan shall budget only the expenditure related to the preparation for the establishment of the enterprise.

Article 20 (Expenditure item during pre-establishment period)

Expenditure on the preparation for establishment shall include overheads, the costs of equipment assembly, construction and maintenance costs of buildings, rents for leased buildings, sample production costs, expenses for the training of skilled workers and the like.

Only local taxes and the social insurance premium charged to the enterprise shall be payable during the preparatory period of establishment.

Article 21 (Formulation of sector-specific plans)

A foreign-invested enterprise shall, depending on the approved business category, work out yearly and quarterly financial plans for such different sectors as industry, agriculture, construction, transport, communication, commerce, trade and public catering.

Article 22 (Items of financial plan)

The financial plan of a foreign-invested enterprise shall include such items as plans for sales and service revenue, expenses, depreciation of fixed assets, profits and distribution and the amount to be paid.

Items of a financial plan shall be determined by the central financial guidance organ.

Article 23 (Principle of formulating financial plan)

A foreign-invested enterprise shall work out a financial plan on the following principles:

1. The sales and service revenue plan shall, in consideration of the estimated incomes from the number and quantity of the items to be sold during the planned period and on the basis of the world market price per unit at the end of the preceding year, include incomes from the sales, transfer of finished construction works, service charges, freight charges and fees, bonded processing charges and others;

2. Plan for expenses shall be drawn up to be subdivided into production costs, marketing costs and operation costs in accordance with production plan;

3. Plan for creation of allowances for fixed property depreciation shall include separate plans for accumulation and use, accumulation plan being in accordance with depreciation method, and the plan for its use with accumulated depreciation as a source;

4. Plan for profits shall be drawn up with the estimated sales and service incomes minus turnover tax, business tax, resource tax, prime cost and circulation cost, and plan for distribution with the profits minus the enterprise income tax, reserve fund and the enterprise fund; and

5. Plan for payment shall estimate taxes like the enterprise income tax, turnover tax, business tax, resource tax, local taxes, and social insurance premium, commission and land rental charges, which are prescribed to be paid in the planned year.

Article 24 (Registration of financial plan)

A foreign-invested enterprise shall register its financial plan for the following year with the central financial guidance organ not later than December, 25th of the given year.

Article 25 (Registration of changes in financial plan)

Where any change has been made to its financial plan, a foreign-invested enterprise shall register the particulars of change.

Chapter 4 Fixed Property

Article 26 (Objects of fixed property, classification)

Fixed property includes those contributed by investors, those procured with the funds of the enterprise and those obtained by transfer.

Detailed classification of fixed property shall be undertaken by the central financial guidance organ.

Article 27 (Registration)

A foreign-invested enterprise shall establish a register, in which fixed property shall be registered by their location and description.

The register shall specify the date and number of registration, description, size, initial value, expected duration of use, place of installation, date and place of production and date of acquisition.

Article 28 (Time of registration, value)

A foreign-invested enterprise shall register the fixed property with the financial institution concerned within 30 days of acquisition thereof.

The value of the fixed property at the time of registration shall be its initial value, which shall be calculated by adding to its acquisition value such costs as freight charges, loading and unloading charges, insurance premium, charges for installation and storage.

Article 29 (Inventory)

A foreign-invested enterprise shall take inventory of its fixed property at least once a year.

Where any excess or shortage is found with the fixed property, the enterprise shall clarify the cause thereof and take relevant measures.

Article 30 (Scrapping, transferring, mortgaging, re-evaluating)

A foreign-invested enterprise may, subject to the decision of the board of directors or the joint consultative board, scrap, transfer, mortgage or re-evaluate its fixed property. In this case agreement shall be obtained from the financial institution concerned.

Chapter 5 Floating Assets

Article 31 (Contents)

A foreign-invested enterprise shall classify the floating assets into property in kind and monetary property so that they may be registered and maintained by their location and description.

Property in kind shall comprise raw and other materials, fuel, container, packing materials, small tools and instruments, unfinished goods, semi-finished goods and finished goods, while monetary property shall comprise cash and deposit.

Article 32 (Control of monetary property)

Such monetary property as cash and deposits of a foreign-invested enterprise shall be placed under the control of a financial manager of the enterprise.

Cash in excess of the threshold shall be deposited in the relevant bank.

Article 33 (Value of invested property in kind)

The value of the invested property in kind shall be priced by agreement of the investors in accordance with the prevailing world market price.

Article 34 (Inventory)

A foreign-invested enterprise shall take an inventory of its floating assets on a monthly basis.

Where any excess or shortage is found with the assets, the cause thereof shall be clarified and required measures taken.

Article 35 (Evaluation, re-evaluation)

A foreign-invested enterprise may evaluate or re-evaluate its floating assets when required. In this case notification thereof shall be made to the financial institution concerned.

Article 36 (Pricing of products)

A foreign-invested enterprise shall price the products by reference to the expenses for the purchase of raw and other materials, semi-finished goods and components plus the costs of their loading and unloading, freight charges and bonded processing charges.

Chapter 6 Expenses

Article 37 (Calculation of expenses)

A foreign-invested enterprise shall subdivide the expenses into prime costs and other expenses and accurately calculate them by manufacturing processes and items.

Prime costs shall include costs of raw and other materials, fuel, power, labour, depreciation, purchase of materials, management and circulation.

Other expenses shall include the expenses outside the normal business operation.

Article 38 (Compensation for pre-establishment expenses)

A foreign-invested enterprise shall, after the inauguration of the enterprise, make good the expenses for operation preparations by staggering it over a certain number of years and including it in the prime costs.

Article 39 (Calculation of depreciation allowances)

A foreign-invested enterprise shall calculate and accumulate allowances for the fixed property depreciation.

The method of depreciation shall be as approved by the central financial guidance organ. The method of depreciation so approved shall not be changed until the end of the desired lifespan of the property concerned.

Article 40 (Calculation of wages)

A foreign-invested business shall calculate the wages of employees in consideration of their ranks and occupational categories.

Article 41 (Calculation of PR expenses)

A foreign-invested enterprise shall calculate such PR expenses as the expenses for reception and dispatch of delegations and entertainment expenses by including them in the prime costs.

The criteria for disbursement of PR expenses shall be set by the enterprise concerned within the range of 0.3~1% of the net sales or net business profit.

Article 42 (Calculation of management expenses and sales costs)

A foreign-invested enterprise shall calculate the management expenses and sales costs by including them in the prime costs.

The funds for the trade union shall be included in the management expenses and charges for reprocessing in the sales costs.

Article 43 (Calculation and payment of social insurance premium)

A foreign-invested enterprise shall accurately calculate and pay the social insurance premium due.

The criteria for social insurance premium shall be as stipulated in the relevant law.

Article 44 (Calculation of additional expenses)

A foreign-invested enterprise shall calculate the settlement of accommodation bills, commission, losses in credits and the losses due to the change of the foreign exchange rate by including them in the item of additional expenses.

Commission and losses in credit shall be calculated regularly and the losses due to the change of the foreign exchange rate calculated annually.

Chapter 7 Financial Incomes

Article 45 (Contents of financial incomes)

Financial incomes of a foreign-invested enterprise shall comprise the incomes from business operation and other sources.

A foreign-invested enterprise shall calculate its financial incomes timely and accurately.

Article 46 (Calculation of incomes during pre-establishment period)

A foreign-invested enterprise shall use the incomes from the sale of sample products and other earnings during the preparatory period of establishment to cover the expenses disbursed in accordance with the financial plan during the given period. Any remaining income shall be set aside as retaining profit to be included in the net profit of the enterprise after its establishment.

Article 47 (Calculation of incomes)

A foreign-invested enterprise shall classify into different items the incomes earned from business operation such as the income from sale of products and goods, transfer of construction works, service, freight charges, fees, consignment processing and others, and make accurate calculation each time the incomes are earned.

All the incomes shall be calculated in the aggregate at the end of the term of financial settlement

Article 48 (Calculation of consignment processing charges)

A foreign-invested enterprise shall calculate the financial incomes from consignment processing in terms of the processing charges received from the orderer.

Article 49 (Calculation of incomes related to bartered goods)

Where a foreign-invested enterprise exports the goods that have been bartered for its products sold in the DPRK, the sales proceeds of the goods shall be included in its financial income and the price of the bartered goods shall be calculated as purchasing expenses. In this case production cost shall be redeemed out of the sales proceeds of bartered goods.

Chapter 8 Financial Settlement, Profit Distribution

Article 50 (Cycle of financial settlement, submission of financial statements)

A foreign-invested enterprise shall settle accounts on quarterly and yearly basis.

A foreign-invested enterprise shall submit to the central financial guidance organ the document of financial settlement, together with accounting statements, financial review report and audit report. In this case quarterly financial statements shall be submitted by the 15th day of the following month after the end of the given quarter, and the yearly financial settlement within February of the following year.

Article 51 (Financial review)

The yearly financial review of a foreign-invested enterprise shall be made at the board of directors or the joint consultative board.

Article 52 (Calculation and determination of incomes)

A foreign-invested enterprise shall calculate and determine the incomes by net profits and profits to be distributed.

1. Net profits shall be determined by deducting from the incomes from sale and service the turnover tax, business tax and resource tax, and subtracting therefrom the prime cost, circulation cost and other expenditures; and

2. Profits to be distributed shall be determined by deducting from the net profits the enterprise income tax, reserve funds and enterprise funds.

Article 53 (Accumulation of reserve funds)

A foreign-invested enterprise shall accumulate its reserve funds of as much as 5% of its net profit every year until an amount equivalent to 25% of its registered capital is reserved.

The reserve funds shall be used to make up for its business losses or to increase its registered capital.

Article 54 (Compensation for losses)

Where a foreign-invested enterprise failed to make up for the previous year's losses with the reserve funds, it may, for the following 4 consecutive years, cover the losses with the profit remaining after deducting the enterprise income tax from the given year's net profit.

Article 55 (Creation of funds)

A foreign-invested enterprise may, within the limit of 10% of its net profit, create the fund for production expansion and technology development, employee bonus fund, cultural and welfare fund and training fund, and use them subject to the decision of the board of directors or the joint consultative board.

Article 56 (Use of funds)

A foreign-invested enterprise shall use its reserve funds for the following purposes:

1. The fund for the production expansion and technology development shall be used for invention, contrivances, introduction of science and technology and advanced method of work and updating of equipment;

2. The bonus fund shall be used for bonuses for employees, management officials and workers in indirect and auxiliary sectors and bonuses for production competition;

3. The cultural and welfare fund shall be used for construction, repair and refurbishment of hostels, nurseries, kindergartens and dining halls, procurement of the instruments for cultural work and recreation, purchase of supplies for employees and social support; and

4. Training fund shall be used for the training of skilled workers and technicians.

Article 57 (Disposal of profits)

A foreign-invested enterprise shall use the profits to be distributed for the payment of dividends to its investors or for the redemption of their shares of investment.

Profits may also be used for reinvestment and increase of registered capital.

Article 58 (Redemption of investment shares and distribution of profits)

A contractual joint venture enterprise shall redeem the shares of investment made by foreign investors and pay their dividends mainly in terms of the products of the enterprise. In this case the products shall be priced by agreement between the parties concerned by reference to the world market price.

Article 59 (Payment of taxes, social insurance premium and land rental charges)

A foreign-invested enterprise shall pay taxes, social insurance premium and land rental charges.

Chapter 9 Financial Liquidation

Article 60 (Reasons and responsibility for financial liquidation)

A foreign-invested enterprise shall liquidate its finances in case it is dissolved or becomes bankrupt.

Financial liquidation shall be undertaken by the liquidation committee.

Article 61 (Composition of liquidation committee)

A liquidation committee shall be organized by the board of directors of the enterprise concerned.

A liquidation committee shall be composed of the managing director of the enterprise, representative of creditors, chief accountant, investors and other relevant persons.

Article 62 (Right to organize liquidation committee)

Where a foreign-invested enterprise becomes bankrupt or is dissolved by an administrative measure of the investment management organ, the competent court or investment management organ may organize a liquidation committee. In this case an official of the investment management organ or the financial institution concerned shall be included in the liquidation committee.

Article 63 (Formulation of liquidation plan)

The liquidation committee shall take over the official seal and property of the enterprise to be dissolved or go bankrupt and work out a plan for liquidation. In this case the value of the property that has been taken over shall be re-evaluated.

Article 64 (Approval of liquidation plan)

The liquidation plan prepared by the committee shall be subject to the approval of the board of directors.

In case the liquidation was caused by bankruptcy, approval of the court shall be obtained.

Where any matters concerning financial liquidation including payment of dues arise in the course of financial liquidation, the financial institution concerned shall be consulted.

Article 65 (Order of disposal of liquidation property)

Property to be liquidated shall be disposed of to meet the claims in the following order; payments due, expenses of liquidation, remuneration for employees, secured debts and ordinary debts.

The remainder after the payment of these items shall be distributed among the investors according to their shares of investment.

Article 66 (Responsibility for compensation of losses)

Where an enterprise is dissolved due to the default of either party, the party responsible shall compensate for the losses.

Article 67 (Submission of report by liquidation committee)

The liquidation committee shall, within 10 days of completion of liquidation, prepare a liquidation report to be submitted to the investment management organ.

In case the liquidation was caused by bankruptcy, the report shall be submitted to the competent court.

Article 68 (Closing of liquidation)

Upon completion of liquidation, the liquidation committee shall surrender the business registration certificate, business license and tax registration certificate to the respective institutions and close its account with the relevant bank.

Chapter 10 Supervision and Control, Complaints

Article 69 (Supervisory and control institution)

Financial management of foreign-invested enterprises shall be placed under the supervision and control of the central financial guidance organ.

The central financial guidance organ shall regularly supervise and control the financial management of the foreign-invested enterprises.

Article 70 (Requiring of information, compulsory compliance)

The central financial guidance organ may require foreign-invested enterprises to provide information required for the supervision and control.

Foreign-invested enterprises shall timely provide such information.

Article 71 (Sanctions)

Any violation of this Law shall lead to such administrative sanctions as fines and suspension of business operation.

Serious violation of this Law shall lead to penal responsibility.

Article 72 (Complaints, settlement)

Complaints in connection with the enforcement of this Law shall be lodged with the central financial guidance organ or an institution concerned.

The institution shall inquire into and settle the complaints within 30 days of receipt thereof.