

Audit Law of the People's Republic of China

(Adopted at the Ninth Meeting of the Standing Committee of the Eighth National People's Congress on August 31, 1994 and amended in accordance with the Decision on Amending the Audit Law of the People's Republic of China adopted at the Twentieth Meeting of the Standing Committee of the Tenth National People's Congress on February 28, 2006)

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Chapter I

General Provisions

Article 1 This Law is formulated in accordance with the Constitution, with a view to strengthening State supervision through auditing, maintaining the fiscal and economic order of the country, improving the efficiency in the use of government funds, promoting the building of a clean government and ensuring the sound development of the national economy and society.

Article 2 The State practices a system of supervision through auditing. The State Council and the local people's governments at or above the county level shall establish audit institutions.

Revenues and expenditures of the various departments of the State Council, of the local people's governments at various levels and their departments, financial revenues and expenditures of State-owned monetary institutions, enterprises and other institutions, as well as the other government and financial revenues and expenditures which are subject to auditing according to this Law, shall be supervised through auditing in accordance with the provisions of this Law.

Audit institutions shall, according to law, supervise through auditing the authenticity, lawfulness and efficiency of the government or financial revenues and expenditures specified in the preceding paragraph.

Article 3 Audit institutions shall exercise supervision through auditing in accordance with the functions and powers and procedures prescribed by law.

Audit institutions shall, in accordance with laws, regulations and other regulations of the State governing government and financial revenues and expenditures, give audit appraisals and, within the limits of their statutory functions and powers, make audit decisions.

Article 4 The State Council and the local people's governments at or above the county level shall annually present to the standing committees of the people's congresses at the corresponding levels the audit reports prepared by audit institutions on budget implementation and other government revenues and expenditures. The audit reports shall focus on the audit results regarding budget implementation. When necessary, the standing committees of the people's congresses shall adopt resolutions on the audit reports.

The State Council and the local people's governments at or above the county level shall report to the standing committees of the people's congresses at the corresponding levels the results of rectification and solution of the problems pointed out in the audit reports.

Article 5 Audit institutions shall, in accordance with law, independently exercise their power of supervision through auditing, subject to no interference by any other administrative department or any public organization or individual.

Article 6 Audit institutions and auditors shall, in handling audit matters, be objective and fair, practical and realistic, clean and honest, and keep secrets.

Chapter II

Audit Institutions and Auditors

Article 7 The State Council establishes the National Audit Office to take charge of the audit work throughout the country under the leadership of the Premier of the State Council. The Auditor-General is the administrative chief of the National Audit Office.

Article 8 Audit institutions of the people's governments of provinces, autonomous regions, municipalities directly under the Central Government, cities divided into districts, autonomous prefectures, counties, autonomous counties, cities not divided into districts and municipal districts shall be in charge of the audit work within their respective administrative areas under the respective leadership of the governors of provinces, chairmen of autonomous regions, mayors, prefecture heads, or heads of counties and districts as well as under the leadership of audit institutions at the next higher levels.

Article 9 Local audit institutions at various levels shall be accountable and report on their work to the people's governments at the corresponding levels and

to the audit institutions at the next higher levels, and their audit work shall be directed chiefly by the audit institutions at the next higher levels.

Article 10 Audit institutions may, as required by work and upon approval by the people's governments at the corresponding levels, establish dispatched audit offices in areas under their jurisdiction.

Dispatched audit offices shall, as authorized by audit institutions, conduct audit work in accordance with law.

Article 11 Funds necessary for audit institutions to perform their functions shall be included in the budgets of the governments and guaranteed by the people's governments at the corresponding levels.

Article 12 Auditors shall possess the professional knowledge and ability commensurate with the audit work they engage in.

Article 13 In handling audit matters, an auditor shall withdraw if he has an interest in the auditee or the matters under audit.

Article 14 An auditor shall have the obligation to guard State secrets and the auditee's business secrets which he has come to know in performing his duties.

Article 15 Auditors shall be protected by law in performing their duties in accordance with the law.

No organization or individual may refuse to allow auditors to perform, or obstruct them from performing, their duties in accordance with law, or retaliate against them.

Leading persons of audit institutions shall be appointed or removed in accordance with statutory procedures. None of them may be removed or replaced at will unless they are found guilty of illegal acts, or negligent of duties, or no longer qualified for the post.

The appointment and removal of leading persons of local audit institutions at various levels shall be made after consultation with the audit institutions at the next higher levels.

Chapter III

Duties of Audit Institutions

Article 16 Audit institutions shall exercise supervision through auditing over the budget implementation, final accounts and other government revenues and expenditures of the departments (including the units directly subordinate to them) at the corresponding levels and of the people's governments at lower levels.

Article 17 The National Audit Office shall, under the leadership of the Premier of the State Council, exercise supervision through auditing over the implementation of the budget of the Central Government as well as other government revenues and expenditures, and submit audit reports thereon to the Premier.

Local audit institutions at various levels shall, under the respective leadership of the governors of provinces, chairmen of autonomous regions, mayors, prefecture heads and heads of counties or districts as well as under the leadership of audit institutions at the next higher levels, exercise supervision through auditing over the budget implementation at the corresponding levels as well as other government revenues and expenditures, and submit reports on the audit results to the people's governments at the corresponding levels and to the audit institutions at the next higher levels.

Article 18 The National Audit Office shall exercise supervision through auditing over the financial revenues and expenditures of the Central Bank.

Audit institutions shall exercise supervision through auditing over the assets, liabilities, profits and losses of the State-owned monetary institutions.

Article 19 Audit institutions shall exercise supervision through auditing over the financial revenues and expenditures of the State institutions as well as other public institutions using government funds.

Article 20 Audit institutions shall exercise supervision through auditing over the assets, liabilities, profits and losses of the State-owned enterprises.

Article 21 Supervision through auditing over the enterprises and monetary institutions with State-owned capital controlling their shares or playing a leading role shall be prescribed by the State Council.

Article 22 Audit institutions shall exercise supervision through auditing over the budget implementation and final accounts in respect of the construction projects fully or mainly financed by government investment.

Article 23 Audit institutions shall exercise supervision through auditing over the financial revenues and expenditures involving social security funds, public donations and other related funds and capital which are managed by government departments and other units authorized by the government.

Article 24 Audit institutions shall exercise supervision through auditing over the financial revenues and expenditures in connection with the projects for

which aid or loans are provided by international organizations or governments of other countries.

Article 25 Audit institutions shall, in accordance with the relevant regulations of the State, supervise through auditing the principal leading persons of government departments and of other units subject to auditing by audit institutions as stipulated by law as to how they perform, during their terms of office, their economic accountabilities in respect of government and financial revenues, expenditures as well as relevant economic activities of their districts, departments or units.

Article 26 In addition to the audit matters specified in this Law, audit institutions shall, in accordance with the provisions of this law as well as relevant laws and administrative regulations, exercise supervision through auditing over the matters that are subject to their auditing as stipulated by other laws and administrative regulations.

Article 27 With regard to the specific matters relating to State revenues and expenditures, audit institutions shall have the power to carry out special investigation through audit among relevant local authorities, departments and units and report the results thereof to the people's governments at the corresponding levels and to the audit institutions at the next higher levels.

Article 28 Audit institutions shall determine their audit jurisdiction on the basis of the auditees' fiscal and financial subordination or the supervision and management in respect of their State assets.

Where a dispute arises over audit jurisdiction between audit institutions, the matter shall be determined by an audit institution superior to both disputing parties.

Audit institutions at higher levels may authorize audit institutions at lower levels to audit the matters under their jurisdiction as specified from the second paragraph of Article 18 through Article 25 of this Law. Audit institutions at higher levels may directly audit the major matters under the jurisdiction of audit institutions at lower levels. However, redundant auditing shall be avoided.

Article 29 Units subject to supervision through auditing by audit institutions as stipulated by law shall establish and improve their internal auditing systems in accordance with the relevant regulations of the State; their internal auditing shall be subject to professional guidance and supervision of audit institutions.

Article 30 Where a unit has undergone auditing by a public audit firm is subject to supervision through auditing by an audit institution as stipulated by law, the audit institution shall, in accordance with the regulations of the State Council, have the power to check the audit reports produced by the public audit firm.

Chapter IV

Powers of Audit Institutions

Article 31 Audit institutions shall have the power to require auditees to provide, as specified by the audit institutions, their budgets or plans for financial revenues and expenditures, statements about budget implementation, final accounts and financial statements, electronic data for government or financial revenues and expenditures stored and processed by computers and the necessary computer technology documents, information about their accounts in monetary institutions, audit reports produced by public audit firms and other information relating to their government or financial revenues and expenditures. Auditees shall not refuse to do so, or delay such provision, or make false reports.

Leading persons of auditees shall be responsible for the authenticity and completeness of the financial and accounting information provided by their units.

Article 32 When conducting audit, audit institutions shall have the power to examine the auditees' accounting documents, account books, financial statements, the computer system used for the management of electronic data for government and financial revenues and expenditures, and other information and assets relating to the said revenues and expenditures, and the auditees shall not refuse to accept such examination.

Article 33 When conducting audit, an audit institution shall have the power to carry out investigation among units or individuals concerned into issues relating to audit matters and obtain relevant testimonial materials. The units and individuals concerned shall support and assist the audit institution in its work by providing it with truthful information and relevant testimonial materials.

An audit institution shall, with approval of the leading person of the audit institution of the people's government at or above the county level, have the power to inquire about the accounts of an auditee in monetary institutions.

Where an audit institution has evidence to prove that an auditee deposits public funds in the name of an individual, it shall, with approval of the principal leading person of the audit institution of the people's government at or above the county level, have the power to inquire about the savings of the auditee deposited in monetary institutions in the name of an individual.

Article 34 When an audit institution conducts auditing, the auditee shall not transfer, conceal, falsify or destroy its accounting documents, account books, financial statements or other information relating to government or financial revenues and expenditures, and shall not transfer or conceal the assets in its possession that are obtained in violation of State regulations.

An audit institution shall have the power to stop the acts committed by an auditee in violation of the provisions in the preceding paragraph; when necessary, the audit institution shall, with approval of the leading person of the audit

institution of the people's government at or above the county level, have the power to seal up the relevant materials and the assets obtained in violation of State regulations; and where it is necessary to freeze the relevant deposits of the auditee in monetary institutions, the audit institution shall submit an application to the people's court.

The audit institution shall have the power to stop the ongoing acts committed by an auditee in violation of the regulations of the State governing government and financial revenues and expenditures; if it fails in its efforts, it shall, with the approval of the leading person of the audit institution of the people's government at or above the county level, notify the department of finance and the relevant department in charge to suspend allocation of the funds directly related to the violations of State regulations governing government and financial revenues and expenditures or to suspend the use of the funds already allocated.

When adopting the measures specified in the preceding two paragraphs, the audit institution shall see to it that the lawful business activities, production and operation of the auditee are not hindered.

Article 35 If an audit institution considers that the regulations of the department in charge at a higher level governing government and financial revenues and expenditures implemented by an auditee contravene laws or administrative regulations, it shall suggest that the department in charge revise its

regulations. If the said department fails to do so, the audit institution shall refer the matter to the competent department for disposition according to law.

Article 36 Audit institutions may issue circulars about their audit results to the relevant government departments or publish such results to the public.

When circulating or publishing audit findings, audit institutions shall, in accordance with law, keep State secrets and the business secrets of the auditees and observe the relevant regulations of the State Council.

Article 37 When an audit institution performs its duty of supervision through auditing, it may request the departments in charge of public security, supervision, finance, taxation, customs, pricing, administration of industry and commerce, etc. for assistance.

Chapter V

Audit Procedures

Article 38 An audit institution shall form an audit team on the basis of the audit matters specified in the plan for the projects to be audited and shall serve an audit notification on the auditee three days prior to execution of audit; under special circumstances, the audit institution may, with approval of the people'

government at the corresponding level, directly execute audit on the strength of the audit notification.

The auditee shall cooperate with the audit institution in its work and provide necessary working conditions.

Audit institutions shall improve the efficiency of audit work.

Article 39 Auditors shall conduct audit and obtain testimonial materials through examining accounting documents, account books, financial statements, consulting documents and data relating to the audit matters, checking cash, material objects and negotiable securities, and conducting fact-findings among the units and individuals concerned.

For conducting fact-findings among the units and individuals concerned, the auditors shall produce their work certificates and a copy of the audit notification.

Article 40 After executing audit of the audit matters, the audit team shall submit its audit report to the audit institution. However, prior to submission of the report to the institution, the team shall solicit opinions of the auditee. The auditee shall, within 10 days from the date it receives the audit team's report, send its comments in writing to the audit team. The audit team shall submit to the audit institution the auditee's written comments along with its own report.

Article 41 An audit institution shall, in accordance with the procedures specified by the National Audit Office, produce its audit report after deliberating the audit team's report and analyzing the auditee's comments. Where violations of State regulations governing government and financial revenues and expenditures should be dealt with or punished in accordance with law, it shall, within the limits of its statutory functions and powers, make an audit decision or put forward to department in charge its suggestions as to how to deal with or punish the violations.

The audit institution shall serve its audit report and audit decision on the auditee and the relevant department and unit in charge. An audit decision shall go into effect as of the date of service.

Article 42 Where an audit institution at a higher level considers that the audit decision made by an audit institution at a lower level is in violation of the relevant regulations of the State, the former shall instruct the latter to modify or repeal the audit decision, and when necessary, it may directly decide to have that decision modified or repealed.

Chapter VI

Legal Responsibility

Article 43 When an auditee, in violation of the provisions of this Law,

refuses to provide, or delays provision of, information relating to the audit matters, or provides inauthentic or incomplete information, refuses to accept or hinders examination, the audit institution concerned shall order it to rectify, and may circulate a notice of criticism and give it a warning; and if it refuses to rectify, it shall be investigated for responsibility in accordance with Law.

Article 44 When an auditee, in violation of the provisions of this Law, transfers, conceals, falsifies or destroys accounting documents, account books, financial statements, or other materials relating to government or financial revenues and expenditures, or transfers or conceals the assets in its possession that are obtained in violation of State regulations, and the audit institution considers that the persons directly in charge and the other persons directly responsible should be given sanctions according to law, the audit institution shall put forward suggestions to this effect. The auditee, or its superior authority, or the supervisory department shall, in accordance with law, make a decision without delay and notify the audit institution of the results in writing. If a crime is constituted, the criminal responsibility shall be investigated according to law.

Article 45 Audit institutions, people's governments and departments in charge shall, within the limits of their statutory functions and powers and in accordance with the provisions of laws and administrative regulations, take the following measures in dealing with the acts committed in violation of the budgets

by departments (including the units directly subordinate to them) at the corresponding levels or the governments at lower levels, or other acts in violation of the regulations of the State governing government revenues and expenditures, on the merits of each case:

(1) to order them to turn over, within a specified time limit, the sum of money that should be turned over;

(2) to order them to return, within a specified time limit, the State-owned assets they illegally take possession of;

(3) to order them to return, within a specified time limit, their unlawful gains;

(4) to order them to deal with the matters concerned in accordance with the uniform regulations of the State governing the accounting system;

(5) to take other measures.

Article 46 When in dealing with the acts committed by an auditee in violation of the regulations of the State governing financial revenues and expenditures, an audit institution, people's government or the department in charge, within the limits of its statutory functions and powers and in accordance with the provisions of laws and administrative regulations, takes the measures as specified in the preceding article, it may, in addition, impose a penalty on the auditee according to law.

Article 47 The audit decision made by an audit institution within the limits

of its statutory functions and powers shall be executed by the auditee.

Where an auditee refuses to follow the order, issued according to law by the audit institution, to turn over the sum of money that should be turned over, the audit institution shall notify the fact to the relevant department in charge, which shall withhold that sum of money or take other measures in accordance with the provisions of laws and administrative regulations, and inform in writing the results thereof to the audit institution.

Article 48 Where an auditee is not satisfied with the audit decision made by an audit institution regarding its financial revenues and expenditures, it may apply for administrative reconsideration or bring administrative proceedings in accordance with law.

Where an auditee is not satisfied with the audit decision made by an audit institution regarding its government revenues and expenditures, it may request the people's government at the same level as the audit institution to make a ruling, which is the final decision.

Article 49 Where an auditee violates the regulations of the State governing government and financial revenues and expenditures and an audit institution considers that the persons directly in charge and the other persons directly responsible should be given sanctions according to law, the audit institution shall put forward suggestions to this effect. The auditee, or its superior authority, or the supervisory department shall, in accordance with law, make a decision without delay and notify the audit institution of the results in writing.

Article 50 Where an auditee violates the provisions of relevant laws or administrative regulations in matters of its government and financial revenues and expenditures, which constitutes a crime, criminal responsibility shall be investigated according to law.

Article 51 Where a person retaliates or makes a false charge against an auditor, he shall be given a sanction in accordance with law if such an act does not constitute a crime; and if a crime is constituted, he shall be investigated for criminal responsibility in accordance with law.

Article 52 Where an auditor abuses his power, engages in malpractices for personal gains, neglects his duties, or divulge State secrets or business secrets within his knowledge, he shall be given a sanction in accordance with law; if a crime is constituted, he shall be investigated for criminal responsibility in accordance with law.

Chapter VII

Supplementary Provisions

Article 53 Regulations on audit in the Chinese People's Liberation Army shall be formulated by the Central Military Commission in accordance with this Law.

Article 54 This Law shall go into effect as of January 1, 1995. The Audit Regulations of the People's Republic of China promulgated by the State Council on November 30, 1988 shall be annulled simultaneously.