



MEASURES FOR THE ANNUAL INSPECTION OF FOUNDATIONS

基金会年度检查办法民政部令(第30号)

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(相关资料: 部门规章2篇 地方法规4篇 相关论文1篇)

已经2005年12月27日第六次部务会议通过, 现予公布, 自公布之日起施行。

部长: 李学举
二〇〇六年一月十二日

第一条 为加强对基金会和境外基金会代表机构的管理, 促进公益事业发展, 根据《基金会管理条例》(以下简称《条例》)第三十四条第一项、第三十六条的规定, 制定本办法。

第二条 基金会年度检查, 是指基金会登记管理机关依法按年度对基金会、境外基金会代表机构遵守法律、法规、规章和章程开展活动的情况实施监督管理的制度。

第三条 基金会、境外基金会代表机构应当于每年3月31日前向登记管理机关报送经业务主管单位审查同意的上一年度的年度工作报告, 接受登记管理机关检查。

(相关资料: 地方法规1篇)

第四条 年度工作报告的内容应当包括: 财务会计报告、注册会计师审计报告, 开展募捐、接受捐赠、提供资助等活动情况以及人员和机构的变动情况等。

财务会计报告应当符合《民间非营利组织会计制度》规定的内容和要求; 注册会计师审计报告, 应当有注册会计师事务所统一受理并与被审计的基金会、境外基金会代表机构签订委托合同的证明; 开展募捐、接受捐赠、提供资助等活动情况应当有基金会履行信息公开义务的情况; 人员和机构变动情况应当有按照规定办理变更登记情况以及基金会换届的会议纪要和

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 passed at the 6th executive meeting of the Ministry of Civil Affairs, are hereby promulgated and shall be effective from the date of the promulgation.

Minister Li Xueju
January 12, 2006

Article 1 The present Measure is formulated according to the provisions of item (1) of Article 34 as well as Article 36 of the Regulations on Foundation Administration (hereinafter referred to as the Regulations) for the purpose of strengthening the administration of foundations as well as representative offices of overseas foundations to promote the development of the public welfare industry.

Article 2 The term "annual inspection of foundations" as mentioned herein refers to the registration and management organ for foundations carrying out a annual inspection that ensures that the standards on the activities held by the foundations and representative offices of overseas foundations adhere to the laws, legislations, regulations, and the constitution.

Article 3 Any foundation or representative office of an overseas foundation shall, before March 31 of each year, send to the registration and management organ for foundations its annual work report of the previous year, which has been examined and approved by the professional supervising unit which is subject to the examination of the registration and management organ.

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

The financial statement shall comply with the contents and requirements as prescribed by the Accounting System for Non-profit Organizations. A certified public accountant shall, when auditing any report, show proof of the uniform acceptance by the accounting firm as well as evidence of the commission contract from the audited foundations and representative offices of overseas foundations. When any donation, acceptance of donation, or offer of funding is carried out, foundations should carry out the action of publicly announcing such actions. With regard to any conditions of alteration of any staff or organization, they should follow the processes determined by the regulations. These should be recorded. In addition, the minutes of a re-

更换法定代表人之前进行财务审计的情况等。

第五条 年度检查过程中，登记管理机关可以要求基金会、境外基金会代表机构或者有关人员就年度报告中涉及的有关问题进行补充说明，必要时可以进行实地检查。

第六条 经登记管理机关审查，基金会、境外基金会代表机构在上一年度遵守法律、法规、规章和章程的情况良好，没有违法违规情形的，认定为年检合格。

第七条 基金会、境外基金会代表机构有下列情形之一的，登记管理机关应当视情节轻重分别作出年检基本合格、年检不合格的结论：

（一）违反《条例》第三十九条第二款规定，不按照捐赠协议使用捐赠财产的；

（二）违反《条例》第四十条规定，擅自设立基金会分支机构、代表机构的；

（三）具有《条例》第四十二条规定的应当给予行政处罚的情形之一的；

（四）违反《条例》第四十三条第二款规定，基金会理事、监事及专职工作人员私分、侵占、挪用基金会财产的；

（五）违反《条例》关于基金会组织机构管理方面有关规定的。

登记管理机关作出基本合格或者不合格年检结论后，应当责令该基金会或者境外基金会代表机构限期整改，并视情况依据《条例》有关规定给予行政处罚。

第八条 年度检查不合格的基金会、境外基金会代表机构在整改期间，登记管理机关不准予变更名称或者业务范围，不准予设立分支机构或者代表机构。登记管理机关应当提请税务机关责令补交违法行为存续期间所享受的税收减免。

第九条 通过年度检查发现基金会、基金会分支机构、基金会代表机构或者境外基金会代表机构有《条例》第四十一条规定的情形之一的，登记管理机关应当依法撤销登记。

第十条 基金会、境外基金会代表机构无正当理由不参加年检的，由登记管理机关责令停止活动，并向社会公告。

election meeting of a foundation as well as the auditing on financial statements before a change in the legal representative should be recorded.

Article 5 In the process of an annual inspection, the registration and management organ 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 at any time, where it so requires, carry out an on-site inspection.

Article 6 Upon an inspection conducted by the registration and management organ, 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 registration and management organ 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 registration and management organ 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 During the period which a foundation or representative office of an overseas foundation that fails to pass the annual inspection carries out rectification and reform, the registration and management organ 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 registration and management organ 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 period of 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 registration and

第十一条 基金会、境外基金会代表机构连续两年不接受年检的，由登记管理机关依法撤销登记。

management organ 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 registration and management organ 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 registration and management organ shall revoke its registration according to law.

Article 12 Where an annual inspection is concluded, the registration and management organ shall publicize the annual inspection result to the general public and report it to the professional supervisory unit.

A foundation or representative office of an overseas foundation shall, when passing an annual inspection carried out by the registration and management organ, publicize its annual work report on the media as designated by the registration and management organ 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 become effective on the day of promulgation.

Translated and reviewed by *Shin-yee Yu* and *Shawn Shieh*