

REGULATING CHARITY IN CHINA: RECENT DEVELOPMENTS¹

January 2011

A. National Charity Law

With charitable donations increasing in China in the past few years, the topic of charity (*gong yi* or *ci shan*) and the regulations affecting it has become a hot topic. In the past few years, charity donations in China have been increasing quickly. According to the [Hurun philanthropy list](#), the top 50 donors in China gave an average of \$25 million in 2009, eight times more than in 2004. But this is also an area in which there are numerous views about how things should move forward. These range from creating a new law to exist alongside existing regulations on social organizations (SOs) (*shehui zuzhi*), foundations (*jijinhui*), and noncommercial not-for-profit entities (*minban fei qiye danwei* or *min fei*), to making all SOs and *minfei* more accountable and transparent,² to doing nothing and relying on self-regulation. This last option is unlikely, as cries for more and better regulation of the not-for-profit (NPO) sector have risen over the years.³

In response to both academic and practical interest in these issues, the national “Draft Law on Promoting Charity Undertakings” was listed in the annual law-making plan of the State Council in 2006 and was submitted to the Standing Committee of the National People’s Congress (SCNPC) for examination in 2007. The draft unexpectedly aroused vigorous internal debate, causing it to be revised time and again. The latest information indicates that the national Charity Law will continue to be discussed and debated for some additional time. [China Daily](#) reported in November that the National People’s Congress (NPC) has decided to postpone the review of the draft charity law until next year at the earliest. A leading legislator explained that the delay was due to the lack of “practical experience as regards charity work and difficulties in balancing the interests of different groups.” Chen Sixi, member of the NPC’s Standing Committee and deputy director of the NPC Internal and Judicial Affairs Committee, told [China Daily](#) that “[t]he draft charity law had been listed on this year’s legislative agenda, but it has been put off as further discussions and research are still necessary.”

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² Foundations are already quite accountable under the 2004 Foundation Regulations, *available at* <http://www.iccsl.org/pubs/RegulationsManagementofFoundations.pdf>: they are required to file numerous reports; they have supervisory boards that oversee their boards of directors; and they must enter into donation agreements with donors that are legally enforceable.

³ There is at least one recent report that a foundation set up in Ningbo in 2006 may be closed due to failure to meet the requirement found in art. 29 of the 2004 Foundation Regulations that 70% of income of the past year must be spent on charitable activities. See a report in the China Daily in January 2011, regarding the Ningbo Anti-cancer Health Foundation, *available at* <http://www.cdeclips.com/en/nation/fullstory.html?id=58537>.

[In a related story](#), China Daily explored why the legislation has been postponed. Wang Zhenyao, former director of the Ministry of Civil Affairs (MCA) (*Minzhengbu*) Department of Social Welfare and Charity Promotion, said that the draft was submitted to the Legislative Affairs Office of the State Council in August 2009 for further revision. But when the legislative plan for 2010 was announced in March, 2010,⁴ it was indicated that the Charity Law needed further study, showing that disagreements about its contents were continuing. Mr. Wang, who was in charge of drafting the charity law when he worked for the ministry, noted that now “[t]he legislation is highly possible in the next three years as both the National People’s Congress and the society have a lot of concern on the matter.” The Legislative Affairs Office introduced the structure of the draft law at a symposium on charity legislation at the end of July 2010 and some details of the current draft emerged. The law is expected to do several things in its nine chapters:

- First, the law will make innovations in the tax deduction and registration systems to provide a looser but more regular environment for charities, especially those that are grassroots;
- Second, it will confine the power and responsibility of the government, enterprises, and society to assure the voluntary and civil positions of the charity sector; and
- Third, it will request that charities operate in a more public and transparent way to guarantee credibility.

Mr. Wang, who currently heads Beijing Normal University’s One Foundation Community Research Institute, said the draft also includes regulations about donations of stocks and shares, and about the management of any donated shares. The law will also regulate foreign charities operating in China, which is a somewhat contentious issue. U.S. billionaires Bill Gates and Warren Buffett recently visited China and drew considerable attention in the press and among commentators, causing many people to call for further reforms of the charity system and for better management of charitable funds.

Recently another official, Zheng Yuanchang, the current chief of the Charity and Social Donation Section under the Department of Social Welfare and Charity Promotion of MCA, told [the Global Times](#) that there is no clear timetable for unveiling the national charity law. Thus, while the national law probably cannot be expected in the next two legislative terms, the Legislative Affairs Office of the State Council continues to seek opinions from government agencies on the draft of a national charity law. ICCSL made [comments](#) on the original 2006 draft, which are available on its website. Conversations about the contents of the law with the law’s drafters are ongoing.

⁴ In the Announcement of Legislative Plan 2010, the State Council relegated the revision of the “3 regulations” on CSOs to the “discussion until mature for adoption” category, together with the drafting of the Charity Law and regulations on trade associations. See Announcement of Legislative Plan 2010 (promulgated by the People’s Government of the Hunan Province, March 3, 2010, effective March 3, 2010), *available at* <http://www.henan.gov.cn/zwgk/system/2010/03/15/010184073.shtml>.

B. Local Charity Regulations

Due to the numerous delays that have occurred in attempting to adopt the national legislation, many localities (Jiangsu Province, Hunan Province, Ningbo City, and (apparently) Beijing City⁵) have begun to address the need for greater regulation of charitable activities and organizations. The localities are stepping in at a time when instances of inappropriate practices and potential outright fraud have been rumored.⁶ The new provincial or local level regulations are an important step in the development of China's laws and regulations for the not-for-profit sector. Mr. Zheng has noted that before the national Charity Law takes effect, "various localities can enforce local legislation on charities, which will in turn promote national legislation on charities."⁷ He also has been [quoted](#) as saying, "[a] key question for the charity law is to define charity organization and clarify their responsibilities and a supervision mechanism. Some local charity regulations *will help complete the national charity law through legal practices*" (emphasis added). Similar to developments in other related areas of regulation of NPOs, such as the local experiments with the documentation system,⁸ this is a hopeful sign that the NPC wants to "get it right" and that the new law will be based on practical experience under the local regulations.

Jiangsu. [China Daily](#) reported that the first local regulation was passed by the Jiangsu Provincial People's Congress in January 2010, and went into effect on May 1, 2010.⁹ Under Article 9, the

⁵ See *Beijing charity draft legislation has developed and launched a web-based survey*, CHINA DEV. BRIEF (Jan. 29, 2010), <http://www.cdb.org.cn/newsview.php?id=1544&page=0>. No draft text is available for this regulation, at least as of this writing.

⁶ It is unclear whether netizen allegations about actress Zhang Ziyi are true or not. She has denied them vehemently and tearfully. See Liu Wei, *Charity 'must be handled professionally'*, CHINA DAILY, March 17, 2010, available at http://www.chinadaily.com.cn/china/2010-03/17/content_9600588.htm. Some have asserted that "[m]oral deficiency in certain public figures, and even enterprises, has to be suspected. Legitimate donors rightfully worry about donation channels that lack auditing, transparency and supervision mechanisms." See Chu Han, *The Give and Take of Charity*, CHINA TODAY, available at http://www.chinatoday.com.cn/ctenglish/se/txt/2010-08/06/content_289204.htm.

⁷ See http://www.chinatoday.com.cn/ctenglish/se/txt/2010-08/06/content_289204.htm.

⁸ See Karla W. Simon & Hang Gao, *Opening the Space: Recent Developments in the Regulation of China's Civil Community Organizations* (CUA Columbus School of Law Legal Studies Research Paper No. 2010-25, 2010), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1581687.

⁹ The regulations are available at <http://www.iccs.org/pubs/JiangsuChin-engl.pdf>. Jiangsu Province has played a leading role in charity development in China. By the end of 2008, the charity federations at the provincial, city and county levels donated a combined 10 billion yuan (about 1.47 billion U.S. dollars). The latest donation of 43.16 million yuan (\$6.3 million) to the needy by Chen Guangbiao, a major philanthropist, and 512 other entrepreneurs in early 2010 is remarkable. Jiangsu Province has also signed an agreement with the Ministry of Civil Affairs to develop a more open legal environment for social organizations. See MCA website at <http://www.mca.gov.cn/article/zwgk/mzyw/201007/20100700085736.shtml>.

legislation provides that all legal entities may apply to establish a charity organization,¹⁰ which is defined in Article 10 as one conducting one or more of the following activities:

- (1) Reducing the loss and effects of public emergencies;
- (2) Helping disadvantaged groups to improve their living and other physical conditions;
- (3) Helping the disabled and other special groups to fulfill their basic rights to subsistence and development;
- (4) Supporting the development of education, culture, public health and other social undertakings in economically weak areas; and
- (5) Such other activities as are compatible with the meaning of charity.¹¹

One of the important features of this regulation is that charity organizations should annually spend at least 70 percent of the previous year's gains on charity activities.¹²

Ningbo City. It is hoped that Ningbo City's regulations on Promoting Charity Undertakings and Hunan Province's provisions on the Management of Donations will be promulgated later this year. They are more detailed than the Jiangsu regulations and delve into the forms of support that local people's governments may provide to charity organizations, including granting such organizations "priority" in the purchasing of social services."¹³

Hunan Province. According to [Gov.cn's English language service](#), "China's 'first' regional charity law is now being deliberated in southern Hunan Province to protect donors and ensure accountability" [Ed.: but of course Jiangsu was actually the first]. In September, 2010, the draft of the Charity Regulation of Hunan Province was submitted to the Standing Committee of the People's Congress of Hunan, the provincial legislature, for deliberation. This legislation clarifies the obligations of donors for the first time. Xu Chenguang, a local legislator, stated that "[t]his law could be a legislation reference point for protecting the legal rights of the beneficiary and

¹⁰ See Regulations on Promotion of Public Welfare Cause in Jiangsu Province art. 2 (promulgated by the Standing Comm. People's Cong. Jiangsu Province, effective May 1, 2010), available at <http://www.iccs1.org/pubs/JiangsuChin-engl.pdf>.

¹¹ This mirrors the requirement in Article 29 of the 2004 Foundation Regulations. The language of the definition in the Jiangsu Regulation differs from that of the draft regulations; further analysis of the differences will be provided as the other regulations are finalized.

¹² See Regulations on Promotion of Public Welfare Cause in Jiangsu Province art. 29. The Regulations on Promotion of the Public Welfare Cause in Ningbo set a required spending amount of 60 percent. See *id.*, art. 7.

¹³ See The Regulations on Promotion of the Public Welfare Cause in Ningbo art. 44 (promulgated by the Standing Comm. People's Cong. Ningbo Province, May 10, 2010), available at <http://www.iccs1.org/pubs/NingboChin-engl.pdf>.

charity organizations as well as clamping down on fake pledges.” Under this law, it is expected that donors will be required to sign their pledges and indicate when they will fulfill them.¹⁴

The draft Hunan regulation is the most explicit of the three currently available in final or draft form about the ways in which campaign results are to be publicized and through what media. It is also interesting to note that Hunan’s capital city, Changsha, was used as an experimentation site to create local regulations¹⁵ for tax deductions involving contributions to organizations qualifying as charities before national level rules for tax relief were promulgated in 2009.¹⁶

Beijing City. The proposed Beijing City regulations are not expected until sometime later, even though they have been referred to on the China Development Brief website and other sites since January 2010.

Short comparative analysis. Although two of the existing drafts have not been adopted, it is not too early to conduct an initial comparison of aspects of the current Jiangsu regulations and the two existing drafts.

- Both the Jiangsu and Ningbo city regulations have “payout” requirements that impose a limit on administrative costs. In Ningbo City, an organization may only spend 40 percent of its total income from the previous year on administration. In Jiangsu, spending on administrative costs is allowed only up to 30 percent of the previous year’s total income. The proposed Hunan regulation does not provide specific numbers regarding administrative costs. However, it does require that “Solicitors shall practice frugality and minimize solicitation costs.”¹⁷
- One provision common to the three regulations echoes Art. 39, para. 2, of the Foundation Regulations of 2004: the donor may require compliance with the terms of a “Donation Agreement” or apply for recovery of the donation in court, if the foundation should fail to use the donated assets in accordance with the agreement.
- Other important differences among the three regulations are in the description of charity organizations; the types of penalties provided for donors who do not fulfill pledges and for charities mishandling money contributed; and the relationship of the local people’s governments to the charity organizations.

¹⁴ See Hunan Draft Regulation on Donation Solicitation art. 17 (promulgated by the Standing Comm. People’s Cong. Hunan Province, September 14 2010), available at <http://www.iccsl.org/pubs/HunanChin-eng.pdf>.

¹⁵ See Circular on the Policies and Related Management Issues concerning the Pre-tax Deduction of Public Welfare Relief Donations, 2007-01-18, (Jan. 18, 2007), available at [http://www.iccsl.org/pubs/China%20 January 18 Notice%20 2 .pdf](http://www.iccsl.org/pubs/China%20January%2018%20Notice%202.pdf).

¹⁶ See Circular (*Caishui*) #123, Circular on Management Issues Concerning NPOs’ Eligibility of Tax Deduction (Nov. 11, 2009), available at [http://www.iccsl.org/pubs/Caishui_123_\(eng\).pdf](http://www.iccsl.org/pubs/Caishui_123_(eng).pdf)). For an analysis of the effect of the Enterprise Income Tax Law, which became effective in 2008, see IMPORTANT DEVELOPMENTS IN CHINA’S LEGAL AND FISCAL FRAMEWORK FOR THE SUPPORT OF CIVIL SOCIETY (International Center for Civil Society Law, March 2007) available at http://www.iccsl.org/pubs/China_Fiscal_Changes_March_07.pdf.

¹⁷ See Hunan Draft Regulation on Donation Solicitation art. 25), *supra* note 12.

Having variety is obviously good, as it will give those individuals who are responsible for the drafting of the national law several examples to consider; resulting in a better final law than the draft that exists today.¹⁸ The attached chart also contains a more lengthy comparative analysis.

C. Self-regulation

In a related development that may assist with accountability and transparency, the Capital Philanthropy Federation (CPF) plans to publish the first “management process for the operation of charitable and public-service organizations” in 2011. This publication is being created to benefit the charitable industry in 2011. It is also known as China’s first “guild regulations for charitable organizations,” [according to People’s Daily Newspaper](#). The guidelines to certify the processes of charitable organizations will be defined in this document to ensure that charity is accomplished in accordance with the will of donors, and to maintain oversight and the management of funds after the donations are received.

Essentially a means of self-regulation, “the process is not for restricting the development of this industry but for guiding a relative professional method for the charitable industry,” an official from the CPF told People’s Daily. After the implementation of these methods, charitable organizations that join the CPF will be required to obey the regulations. According to sources, 43 organizations out of more than 100 charitable and public-service organization, including organizations related to philanthropy and public service in Beijing, have joined the CPF and the figure will reach 60 in 2011.

CPF’s efforts parallel those of the new China Foundation Center (CFC), which was established in July 2010. CFC has established a website which will publicize the financial information of charitable funds in order to let the public supervise the use of donations. The website, www.foundationcenter.org.cn, covers 1,858 foundations, and includes their annual reports and their financial status. The website was initiated by 35 charitable organizations including the China Youth Development Foundation, the China Foundation for Poverty Alleviation, the One Foundation, and the Narada Foundation as a way to demonstrate the need for charity information to be released and made available to the general public. Working alongside the disclosure rules for foundations and the information made available on the MCA website,¹⁹ this new effort is an important nation-wide effort.

¹⁸ One of the other aspects of the draft that warrants discussion is the extent to which it should continue to contain some of the existing material. While a separate volunteer law is being drafted at the national level, the charity law contains a chapter on volunteering. The extent to which this is actually necessary remains to be seen. For example, the Jiangsu Regulation simply refers to the province’s “Volunteer Service Rules.” See Regulations on Promotion of Public Welfare Cause in Jiangsu Province art. 2 § 3.

¹⁹ See <http://www.chinanpo.gov.cn/npowork/dc/xxplIndex.do?action=xxplIndex>. The Foundation Evaluation Guidelines are available at http://www.iccsl.org/pubs/Foundation_Evaluation_Index.pdf and the Measures for the Annual Inspection of Foundations can be found at <http://www.iccsl.org/pubs/MeasuresfortheAnnualInspectionofFoundations.pdf>.

Appendix 1: Chart Comparing Charitable Giving Rules in Hunan, Jiangsu, and Ningbo

| | Hunan | Jiangsu | Ningbo |
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| Purpose of the legislation | To carry “forward Chinese traditional virtues, promoting the healthy advancement of donation solicitation, and protecting donors’ legal interests.” Art. 1 | To “promote charitable culture, regulate charitable activities, protect the legitimate rights and interests of the parties involved in the charitable activities and promote the sound development of the public welfare cause. . . .” Art. 1 | To “promote charitable culture, regulate charitable activities, protect the legitimate rights and interests of the parties involved in the charitable activities and promote the sound development of the public welfare cause. . . .” Art. 1 |
| Application of legislation | Applies to “all donation solicitation activities within the administrative scope of the Hunan Province.” Art. 2 | Applies to “any charitable activities within the administrative region of [the Jiangsu] province.” Art. 2 The legislation provides that, except for the Red Cross and foundations, any existing rules or laws should apply. Art. 2 | Applies to “any charitable activities within the administrative region of [Ningbo].” Art. 2 The legislation provides that, except for the Red Cross and foundations, any existing rules or laws should apply. Art. 2 |
| Reference to the importance of charity | The legislation notes that “natural persons, legal persons and other organizations are encouraged to make donations, fulfill social responsibility and advance public | “Charitable activities by citizens, legal entities and other organizations shall be encouraged and supported.” Art. 4 | “Charitable activities by citizens, legal entities and other organizations shall be encouraged and supported. All the society should care and attach importance to the development of |

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| | welfare cause.” Art. 3 | | charity cause.” Art. 4 |
| The types of organizations that can promote charity and engage in solicitation for charity | <p>“The following organizations may launch donation solicitation. . .</p> <p>(1) The Red Cross;</p> <p>(2) Charity associations;</p> <p>(3) Lawfully established public foundations;</p> <p>(4) Other public service and non-profit institutional organizations permitted to conduct donation solicitation under the law.” Art. 8</p> <p>Organizations, other than those listed above, may not engage in solicitation for charitable activities. Art. 9</p> | <p>“Citizens, legal entities and other organizations may apply for the establishing of Charity organizations according to law enforcement.” Art. 9</p> | <p>“Citizens, legal entities and other organizations may apply for the establishment of Charity organizations according to law enforcement.” Art. 9</p> <p>Organizations, other than those who have acquired permission to engage in charity, can “ launch such [solicitation] activity jointly with Organizations qualified as principal of donation solicitation. The donated money received should be under the uniform management of such Organizations qualified as principal of donation solicitation.” Art. 26</p> |

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| | <p>Television, radio, newspaper, magazine, website and other forms of media may join with a charitable organization to raise money, as long as the money collected goes to the charity's account. Art. 9</p> | | |
| <p>Areas in which charity and solicitation for charity should be directed</p> | <p>Solicitation can be used in the following areas:</p> <p>“(1) Disaster relief; assistance to the elder, the orphaned, the disabled, and the poor;</p> <p>(2) Education, science, culture, health, sports, employment promotion, and family planning;</p> <p>(3) Environmental protection, drug control and public utility construction;</p> | <p>Charity should be directed to “helping the elderly, the disabled, the orphaned and the poor and relieving the people in disaster, etc. . . .” Art. 3</p> <p>Charitable organizations can work in the following areas:</p> <p>“(1) Reduce the loss and influence resulting from emergencies;</p> <p>(2) Help the disadvantaged groups</p> | <p>Charity should be directed to “helping the elderly, the disabled, the orphaned and the poor and relieving the people in disaster, etc. . . .” Art. 3</p> <p>Charitable organizations can work in the following areas:</p> <p>“(1) Participate in the rescue and relief work in case of sudden public events ;</p> <p>(2) Help the disadvantaged groups improve their living</p> |

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| | <p>(4) The promotion of social development and advancement of other social public and welfare causes.” Art. 4</p> | <p>improve their living and physical conditions;</p> <p>(3) Help the disabled and other special groups fulfill their basic right to subsistence and development;</p> <p>(4) Support the development of education, culture and public health and other social undertakings in economically weak areas;</p> <p>(5) Other activities as conform to the purpose of charity.” Art. 10</p> | <p>and physical conditions ;</p> <p>(3) Support the development of education, culture, public health and other social programs in underdeveloped regions ;</p> <p>(4) To encourage environmental protection and other public service activities</p> <p>(5) Other activities as conform to the purpose of charity.” Art. 11</p> |
| <p>Requirements to engage in solicitation for charity</p> | <p>To engage in solicitation, an organization must meet develop a plan showing: “the purpose, time and</p> | <p>“Before carrying out donation solicitation activities for charities, organizations</p> | <p>Prior to engaging in donation solicitation, charities “should publicize through the media or via other</p> |

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| | <p>place of solicitation, ways to solicit and receive donations, the name of the recipient or the subsidized public welfare project, the use planning, extraction rate of operating expenses and other information.” Art. 11</p> <p>“The solicitation plan shall, together with the organization’s registration or license, be registered at the civil affairs departments of the people’s government at or above the county level on a regional basis. . . .” Art. 11</p> <p>“It is within the filing authority to propose amendments that are to be followed by corresponding adjustments by the solicitor.” Art. 11</p> | <p>applying for the permit of charitable donation solicitations should submit certificate of registration, application form for donation solicitation, donation solicitation activity plan, explanations of the use of the donated property and other materials as provided by laws, rules and regulation to the departments of civil affairs of local People's Governments at the county level where the activities are to be conducted.” Art. 23</p> <p>“The civil administration departments shall make a decision on whether to approve within 15 working days upon receipt of the application materials. In the case of approval, a permit for donation solicitation activities for charities, which specifies matters such</p> | <p>effective ways materials that may testify their qualifications as fundraising principal (such as their registration certificate, permit for fundraising activities for charities), the purpose, time, site, ways and means, rescue targets, range of application of the donation solicitation and other matters pertinent.” Art. 23</p> |
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| | | <p>as the name of organization, the donation solicitation region and time limit shall be issued to the applicant; In the case of disapproval, it shall give the applicant a written notice and make an explanation.”</p> <p>Art. 23</p> | |
| <p>Receipt for donated items</p> | <p>“Upon receipt of the donation, the solicitor shall confirm the bank note and check the cash and materials on the spot. Non-profit donation receipt uniformly printed by</p> <p>the provincial people’s government shall be granted,</p> <p>specifying the donor’s name, his/her contribution, the</p> <p>amount, quantity or value of the donation, time of the</p> <p>donation, etc.” Art. 13</p> <p>“Donors that waive the donation receipt shall be recorded at the solicitor.” Art. 13</p> | <p>“Organizations qualified as principal for donation</p> <p>solicitation shall receive donations from issue legal and</p> <p>effective vouchers to the donors after receipt of the</p> <p>donated properties.”</p> <p>Art. 26</p> | <p>“Organizations qualified as principal of donation solicitation shall issue legal and effective vouchers to the donors after receipt of the donated properties and register the received donations in books.” Art. 24</p> |

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| <p>Rights of the Donor</p> | <p>Donors have the following rights:</p> <p>“(1) Refusal of apportion or disguised apportion</p> <p>(2) Request that the solicitor, without violating the purpose of the solicitation, follow the donors’ will in using the donation;</p> <p>(3) Demand that the solicitor shall not publicize the donors’ donation;</p> <p>(4) Receipt of valid donation certificate and access to national tax incentives in pursuant to the law;</p> <p>(5) Supervision and inquiry on the management of the</p> | <p>“The donors shall have the right to arrange the direction</p> <p>for the use of the donated property, the project implemented and the beneficiary. The donees shall use</p> <p>the donated property according to the purposes agreed upon, and shall not take the liberty to alter the use of the donated property.” Art. 18</p> <p>“The donors shall have the right to inquire the use of the donated property and put forward suggestions and opinions.” Art. 18</p> <p>“Charity organizations and other organizations should keep the donor's personal Information confidential and cannot to make it public without the consent of the donor.”</p> | <p>“The donors shall have the right to arrange the direction</p> <p>for the use of the donated property, the project implemented and the beneficiary. The donees shall use</p> <p>the donated property according to the purposes agreed upon, and shall not take the liberty to alter the use of the donated property.” Art. 25</p> <p>“The donors shall have the right to inquire the use of the donated property and put forward suggestions and opinions.” Art. 25</p> <p>“Charity organizations and other organizations should keep the donor's personal information confidential and cannot to make it public without the consent of the donor.”</p> |
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| | <p>donors' contribution.” Art. 16</p> <p>“Donation with its use specified by the donor shall be utilized in a way that respects the requirement; in the scenario that the use has to be altered, the donor’s consent is to be necessitated.” Art. 22</p> <p>“The solicitor shall respond truthfully to the donor’s inquiry regarding the management and use of donation. Should any discrepancy occur between the donation use and the solicitation purpose, it is within the donor to, in compliance with the law, report it to relevant departments, file a civil lawsuit or apply for arbitration at the people’s court.” Art. 30</p> | <p>Art. 20</p> <p>“Charity organizations and other organizations should keep the donation behavior, donated property and other matters pertinent confidential as required by the donors.” Art. 20</p> <p>“Charity organization shall timely feedback to the donor after the projects agreed upon are implemented.” Art. 30</p> <p>“Citizens that have made great contributions to the charities may apply for rescue from local charity organizations in case that their families or they themselves are in need and relevant Charity organizations shall render preferential assistance.” Art. 34</p> | <p>Art. 28</p> <p>“Charity organizations and other organizations should keep the donation behavior, donated property and other matters pertinent confidential as required by the donors.” Art. 28</p> <p>“Citizens that have made great contributions to the charities may apply for rescue from local charity organizations in case that their families or they themselves are in need and relevant Charity organizations shall render preferential assistance.” Art. 36</p> |
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| <p>Obligations of the donor</p> | <p>Donors shall do the following:</p> <p>“(1) Materialization of their donation promise;</p> <p>(2) Warranty that they are lawfully entitle to the disposal of properties donated; submission of valid certificates for tangible assets like real estate and intangible assets including intellectual properties;</p> <p>(3) Guarantee that the donation has value and meets the safety, sanitation, immunization and environmental standards; presentation of relevant materials including quality inspection conformity certificate and product</p> | <p>“The properties donated should be lawful properties to which [the donors] have the right of disposal.” Art. 18</p> <p>“The donated materials shall have use value, measure up to safety, health, environmental protection standard. Donors donating batch products shall provide quality inspection certificate or relevant documents.” Art. 19</p> <p>“Donors donating intangible assets such as the intellectual properties shall provide quality relevant certifications.” Art. 19</p> | <p>“The properties donated should be lawful properties to which the donors have the right of disposal.” Art. 25</p> <p>The donated articles shall have use value, measure up to safety, health, environmental protection standard. Donors donating batch products shall provide quality inspection certificate or relevant documents. Donors donating food and medicines shall provide inspection reports issued by legal inspection bodies.” Art. 26</p> <p>“Donors donating intangible assets such as the intellectual properties shall provide quality relevant certifications.” Art. 26</p> <p>“Donors donating professional equipments shall provide after service</p> |
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| | specification.” Art. 17 | | in installation, debugging and operation training, etc.” Art. 26 |
| Requirements when the solicitation for charity period has ended | <p>“The solicitor shall close the solicitation by the end of the prescribed date in the solicitation plan and henceforth within 20 days release statement on the solicitation</p> <p>results in the web portal of the local people’s government as well as the organization’s information publishing platform. The statement shall clarify the actual time of the solicitation, the total amount of donation collected, the name of donor (excluding that requires non-public donation), the amount, quantity or value of the donor’s contribution, time of the donation, etc. Announcements every six month are required for donation solicitation lasting over 6 months.” Art. 19</p> | <p>“Organizations qualified as principal for donation solicitation shall publicly announce the donations within 15 days after the end of the donation solicitation activities.” Art. 26</p> <p>“Organizations qualified as principal for donation solicitation shall, with 30 days after the donation solicited program is implemented, make the use of donation solicited known to the public, report to the local civil administration department for records and accept supervision through auditing.” Art. 26</p> | <p>“Organizations qualified as principal of donation solicitation shall publicly announce the donations within 15 days after the end of the donation solicitation activities.” Art. 24</p> <p>“Organizations qualified as principal of donation solicitation shall, 30 days after the collection income implementation program, make the use of collection income known to the public, report to the local civil administration department for records and accept supervision through auditing.” Art. 24</p> |

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| | <p>“Solicitor shall, within 20 days from the date to end the use of donation as prescribed in the solicitation plan, release the statement on donation use in the web portal of the</p> <p>local people’s government and its information publishing platform. The statement shall include information including the total amount of the donation, the names and number of donation recipients and solicitation costs. Announcements every six month are required for donation solicitation lasting over 6 months.” Art. 26</p> | | |
| <p>Requirements in determining recipient’s of charity</p> | <p>“The determination of donation recipients shall be undertaken on a fair, open and impartial basis in which the eligibility and application procedures are clarified. Eligible applicants shall receive timely donation; applicants that do not match the</p> | <p>No reference in the legislation to this issue.</p> | <p>No reference in the legislation to this issue.</p> |

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| | <p>purpose of the solicitation shall be disqualified on reasonable grounds.” Art. 23</p> | | |
| <p>Rights and obligation of the recipient of the donation</p> | <p>“The recipient is responsible for following the wills of the donor and the solicitor in utilizing the donation which is in turn subject to their supervision and evaluation.” Art. 24</p> <p>“In the scenario that the purpose of solicitation is achieved or cannot be realized, the recipient shall return to the solicitor the total amount or remaining part of the donation he/she has received.” Art. 24</p> | <p>“Charity organizations shall respect the personal dignity of the salvee and protect their privacy.” Art. 33</p> | <p>“Charity organizations shall respect the personal dignity of the salvee and protect their privacy.” Art. 35</p> |
| <p>Information that should be made public to ensure that the donations are used properly.</p> | <p>“The media shall undertake public opinion supervision on the solicitation and the management</p> | <p>“Charity organizations should annually make the following information public</p> | <p>“Charity organizations should regularly make the following information public</p> |

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| | <p>and use of donation.” Art. 29</p> | <p>and accept social supervision:</p> <p>(1) General information of the legal representative, board of directors, board of supervisors and working organization;</p> <p>(2) Conditions of charity property and the use and administration of charitable property donated and solicited;</p> <p>(3) The condition and effectiveness of charitable programs and other significant activities;</p> <p>(4) The annual work report, financial statement and audit report;</p> | <p>and accept social supervision:</p> <p>(1) General information of the legal representative, board of directors, board of supervisors and operational office;</p> <p>(2) Conditions of charity properties and the receipt, use and administration of charitable contributions and donated property;</p> <p>(3) The condition and effectiveness of charitable programs and other significant activities;</p> <p>(4) The annual work report, financial</p> |
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| | | <p>(5) The disbursement of work funds and staff wages;</p> <p>(6) Other guide stipulated in laws, regulations and articles of association.” Art. 15</p> | <p>statement and audit report;</p> <p>(5) The disbursement of work funds and staff wages;</p> <p>(6) Other guide stipulated in laws, regulations and article of association.” Art. 17</p> |
| <p>Statements regarding expenditure of funds</p> | <p>“Solicitors shall practice frugality and minimize solicitation costs.” Art. 25</p> <p>“Necessary costs for the solicitation may be deducted from the total amount of donation raised by the solicitor. Necessary costs incurred during the solicitation and in the donation management include those in the following aspects:</p> | <p>“Necessary work funds and staff wages of Charity organizations may, depending on actual needs, be disbursed from the cost and expenses.” Art. 13</p> <p>“Charity organizations should practice strict economy and reduce work cost. The donated properties and their appreciation of Charity organizations should be entirely spent on charities, except necessary work funds and staff wages.” Art.</p> | <p>“Necessary work funds and staff wages of Charity organizations may, depending on actual needs, be disbursed from the cost and expenses.” Art. 15</p> <p>“Charity organizations should practice strict economy and reduce work cost. The donated properties and their appreciation of Charity organizations should be entirely spent on charities, except necessary work funds and staff wages.” Art.</p> |

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| | <p>(1) Information dissemination;</p> <p>(2) Cleansing, disinfection, storage, portage and transportation of donation items;</p> <p>(3) Printing and sending mails for information feedback;</p> <p>(4) Staff salary as well as their transportation and communication costs during the solicitation;</p> <p>(5) Venue rental for holding charity performance, race, sales and auction.” Art. 25</p> <p>“Costs disbursed from the financial</p> | 13 | 15 |
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| | <p>allocation of the</p> <p>solicitor shall not be deducted from the total amount of the donation.” Art. 25</p> | | |
| Tax incentives | <p>“According to law and relevant administrative regulations, donation raised by the solicitor and contribution from the donor are entitled to the tax incentives. This article does not apply to donations going directly to the donee from the donor.” Art. 31</p> | No reference to tax incentives | <p>“Charitable organizations enjoy tax benefits in accordance with applicable laws and administrative regulations.” Art. 47</p> <p>“Citizens enjoy tax benefits in accordance with applicable laws and administrative regulations with respect to the donation thereby to charitable organizations.” Art. 47</p> <p>“The property as donated to charitable organizations by legal persons or other organizations shall be deducted before tax in accordance with applicable laws and administrative regulations. The tax</p> |

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| | | | <p>authorities shall</p> <p>facilitate and simplify the procedure for tax benefits.” Art. 47</p> <p>“The import duty and import VAT for the</p> <p>property as donated to charitable organizations from</p> <p>overseas and the special equipment as imported by charitable organizations for charitable cause shall be reduced or exempted in accordance with applicable laws and administrative regulations.” Art. 48</p> |
| <p>Support from the government for charitable activities</p> | <p>“The people’s government and relevant departments at or above the</p> <p>county level may provide subsidies or other support to</p> <p>social solicitation.” Art. 32</p> | <p>“Local people’s government at various levels should support the development of public welfare</p> <p>cause, take it as the major theme of constructing social</p> <p>security system and socialist culture and ethics and incorporate it into the plan of the national economy and</p> | <p>“Local people’s government at various levels should support the development of public welfare</p> <p>cause, take it as the major theme of constructing social</p> <p>security system and socialist culture and ethics and incorporate it into the plan of the national economy and</p> |

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| | <p>“Vehicles carrying donated goods and materials with the certificate from civil affairs departments of the people’s government at or above the county level shall be exempt from tolls for passage along the road, across the bridge or river and given priority access.” Art. 33</p> <p>“Charity Prize may be set by the people’s government at or above the county level in honoring organizations and individuals with significant contribution to the solicitation.” Art. 36</p> | <p>social development.” Art. 5</p> | <p>social development.” Art. 7</p> <p>“The government departments concerned should actively provide conditions to cultivate and develop a group of Charity organizations that boasts good reputation, service ability and outstanding achievement and give full play to their leadership and demonstration effect.” Art. 10</p> <p>“People’s governments at or above county level shall establish a charity work coordination mechanism with participation from relevant authorities, social groups and charitable organizations, and study and address the</p> |
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| | | | <p>difficulties and issues which require to be solved in the development of charitable cause.” Art. 39</p> <p>“The local governments shall strengthen the development of charitable culture, incorporate the</p> <p>development of charitable culture into the socialist spiritual civilization development plan and the evaluation for civilized city, civilized community and civilized unit, and foster the national charity awareness and sense of social responsibility.” Art. 40</p> <p>“The local people’s governments and the relevant departments thereof shall support and encourage the</p> <p>literature creation and literary and artistic works which promote the charitable</p> |
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| | | | <p>culture.” Art. 40</p> <p>“Local people’s governments shall establish a reward system to reward the citizens, legal persons and other organizations with outstanding contributions and</p> <p>larger social influence to the development of charitable cause. The Municipal People’s Government will establish “Ningbo Charitable Award”, which shall be granted</p> <p>every two years.” Art. 41</p> <p>“Relevant departments of local people’s governments for culture, education, health, public security, finance and tax, transportation, press and publication, radio and television, urban management,</p> <p>etc. shall vigorously provide services and convenience for charitable activities.” Art. 42</p> |
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| | | | <p>“Local people’s governments may grant appropriate subsidies or any other support to the assistance projects as implemented by charitable organizations.” Art. 44</p> <p>“In purchasing social services, local people’s governments and the relevant departments thereof shall give priority to charitable organizations under the same conditions.” Art. 44</p> <p>“Local people’s governments shall grant support to charitable organizations with respect to the</p> <p>Industrial management, staffing, remuneration, office space, start-up money, working expenses, etc.” Art. 45</p> |
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| | | | <p>“Charitable organizations shall be encouraged and supported to organize and set up charity and welfare projects, which shall be treated preferentially in policy with respect to the required land, water, electricity, etc.” Art. 45</p> <p>“The departments of local people’s governments shall create the conditions to support the preservation and increase of the value of charitable funds, in order to avoid the risks and ensure the safety and effective value increase thereof.” Art. 46</p> <p>“Local people’s governments and the</p> |
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| | | | <p>relevant departments thereof shall provide to the enterprises, with outstanding contributions to the</p> <p>charitable cause, the priority support and favorable service, in policy, funding, etc., based on the repay of</p> <p>such enterprises to the society which contributes to the</p> <p>charitable cause.” Art. 49</p> |
| Legal liability | <p>Organization’s that inappropriately and unlawfully use donations (art. 39), that engage in unauthorized solicitation (art. 37), or engage in solicitation that is against the rules promulgated in this legislation (art. 38) face civil, and in some cases criminal, liability.</p> <p>“Confiscated or</p> <p>refunded donations in light of Article 37 and Article 39 shall be used to fulfill the original purpose of</p> | <p>There is no reference to legal liability in this legislation.</p> | <p>Administrative and criminal liability are provided for departments of the local government or its staff for the following situations:</p> <p>“(I) Where the supervision of the charitable activities</p> <p>fails to be performed, causing serious consequence;</p> <p>(II) Where the internal affairs of the charitable</p> |

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| | <p>the solicitation by the entrusted solicitor or civil affairs departments of the people’s government at or above the county level.” Art. 40</p> <p>“Those in civil affairs, audit departments and other relevant bodies of the people’s government at or above the county level found to commit power abuse, dereliction of duty and corruption shall be punished in accordance</p> <p>with the law; Should a crime is constituted, criminal liability shall be investigated according to law.” Art. 41</p> | | <p>organizations are illegally interfered, seriously affecting the normal operation of charitable organizations;</p> <p>(III) Where the charitable property is misappropriated;</p> <p>(IV) Where other acts with dereliction of duty or malpractices are committed.” Art. 56</p> <p>Civil, and sometimes criminal, liability attach to the charity and its staff in the following situations:</p> <p>“(I) Where the activities are not within the purpose or business scope as provided by applicable laws, regulations or Articles of Association;</p> |
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| | | | <p>(II) Where the property is used in violation of</p> <p>applicable laws, regulations or Articles of Association;</p> <p>(III) Where the information disclosure obligation fails</p> <p>to be performed or any false information is published;</p> <p>(IV) Where the donation certificate fails to be issued to</p> <p>the donator in accordance with the provisions hereof;</p> <p>(V) Where the donations are made by forced raising or</p> <p>apportion against the donators' will;</p> <p>(VI) Where the</p> |
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| | | <p>personal information or privacy of any</p> <p>donator or recipient is disclosed, causing serious consequence;</p> <p>(VII) Where other acts in violation of laws or regulations are made.” Art. 51</p> <p>If any organization allows the donated property to be used for a purpose different than what was stated, the organization will be ordered to follow the purpose and warned by the local government. If the organization refuses, the donor should be consulted and the donated items can be transferred to another charity. Art. 52</p> <p>“Any organization without donation solicitation</p> |
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| | | | <p>qualification which organizes the charitable fund-raising activities shall be stopped and ordered to return the donated property (such donated property, if unable to be returned, shall be transferred to the</p> <p>management of another charitable organization by</p> <p>concerning civil affair authorities under local people’s government at or above county level)</p> <p>and/or held criminally liable under law if the crime is committed.” Art. 53</p> <p>“Any money fraud under the guise of charity shall be given administrative punishment by</p> <p>concerning public security authorities under local people’s government at or above county level, and/or held criminally liable if the crime is committed.” Art. 54</p> |
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| | | | <p>“In case of any embezzlement, misappropriation or grafting of the property of the charitable organizations, the concerning department of the people’s government at or above county level shall order the return of such property and fine the directly responsible person in the amount from RMB 2,000 Yuan to RMB 10,000 Yuan, inclusive, and/or any relevant person may be held criminally liable if the crime is committed.” Art. 55</p> |
| Termination of the charity | No information is provided | <p>“Charity organizations shall vote through its termination in accordance with the regulated procedure stipulated in the articles of association and apply for write-</p> | <p>“Charity organizations shall vote through its termination in accordance with the regulated procedure stipulated in the article of association</p> |

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| | | <p>off registration with the registration</p> <p>administrative authority after the consent of relevant governing units. Before the termination of the charity organization, a liquidation organization shall be established to settle claims and debts under the guidance of the departments concerned. According to relevant regulations of the state, the residual properties shall be earmarked for the development of relevant charities or shifted to other Charity organizations and be announced to the public.” Art. 16</p> | <p>and apply for write-off registration with the registration</p> <p>administrative authority after the consent of relevant governing units. Before the termination of the charity organization, a liquidation organization shall be established to settle claims and debts under the guidance of the departments concerned. The residual properties after termination, according to relevant regulations of the state, shall be earmarked for the development of relevant charities or transferred to other Charity organizations and announced to the public.” Art. 18</p> |
| Emergency situations | No information is provided in this legislation. | <p>“In the event of serious or extraordinarily serious accidents, local</p> | <p>“In the event of serious or extraordinarily serious accidents, local</p> |

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| | | <p>People's Governments at or above the</p> <p>county level may require that relevant organizations conduct oriented donation solicitation towards society.” Art. 24</p> <p>“Charity organizations shall formulate an</p> <p>annual rescue plan, in which the total rescue</p> <p>expenditure shall not be 70 percent lower than the total income of the last year.” Art. 29</p> <p>“Charity organizations shall establish rescue archives and ensure that the rescue work shall be conducted in a standardized, orderly and effective way.” Art. 29</p> <p>“Charity organizations shall establish a</p> | <p>People's Governments at or above the</p> <p>county level may require that relevant organizations conduct oriented donation solicitation towards society.” Art. 21</p> <p>“Charity organizations shall formulate an annual rescue plan, in which the total rescue</p> <p>expenditure shall not be 60 percent lower than the total</p> <p>income of the last year.” Art. 32</p> <p>“Charity organizations shall establish a project management system, determine rescue</p> <p>programs according to the actual situation, and track and supervise project implementation.” Art. 33</p> <p>“Charity</p> |
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| | | <p>project management system, determine rescue programs according to the actual situation, and track and supervise project implementation.” Art. 30</p> <p>“Charity organizations shall formulate emergency response plans and cooperate with local</p> <p>people's governments at all levels and the relevant departments in case of emergencies to do relief work well.” Art. 31</p> | <p>organizations shall formulate emergency response plans and cooperate with local</p> <p>people's governments at all levels and the relevant departments in case of emergencies to do relief work well.” Art. 34</p> |
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