

Notice on Issuing the *Implementation Measures of the Price Control Administration of Guangdong Province and the Department of Justice of Guangdong Province on the Administration of Lawyers' Service Charges*

Yue Jia [2006] No. 298

To all price control administrations and justice bureaus in cities or counties (districts),

Pursuant to the *Circular of the National Development and Reform Commission and the Ministry of Justice on the Issuance of the Measures for the Administration of Lawyers' Service Charges* (Fa Gai Jia Ge [2006] No. 611) and the *Circular on the Issuance of the Measures for the Administration of Intermediary Service Charges* (Ji Jia Ge [1999] No. 2255) issued by six ministries and commissions including the former State Development Planning Commission, we formulate the *Implementation Measures of the Price Control Administration of Guangdong Province and the Department of Justice of Guangdong Province on the Administration of Lawyers' Service* and hereby issue it to you. Please implement it in light of your real situation

The Price Control Administration of Guangdong Province
The Department of Justice of Guangdong Province

December 25, 2006

Implementation Measures of the Price Control Administration of Guangdong Province and the Department of Justice of Guangdong Province on the Administration of Lawyers' Service Charges

1. These Measures are formulated in order to regulate the price charge for lawyers' services, safeguard the rights and interests of clients and law firms, and promote the healthy development of lawyer service industry in Guangdong Province, in accordance with

the *Price Law of the People's Republic of China*, and the *Law of the People's Republic of China on Lawyers*, the *Circular of the National Development and Reform Commission and the Ministry of Justice on the Issuance of the Measures for the Administration of Lawyers' Service Charges* (Fa Gai Jia Ge [2006] No. 611) and the *Circular on the Issuance of the Measures for the Administration of Intermediary Service Charges* (Ji Jia Ge [1999] No. 2255) issued by six ministries and commissions including the former State Development Planning Commission, in light of lawyer service industry in Guangdong Province.

2. These Measures shall apply to the charge for legal services provided to clients by law firms registered with the Department of Justice of Guangdong Province in accordance with the *Law of the People's Republic of China on Lawyers*.

3. The lawyers' service charges shall follow the principles of openness, fairness, voluntariness and payment, honesty and credibility, and fair competition.

Law firms should facilitate service and benefit the people, strengthen internal management, reduce service costs, and provide clients with convenient and high-quality legal services.

4. The lawyers' service charges shall be the remuneration charged by law firms to clients for the services entrusted to handle legal affairs.

The lawyers' service charge is a charge for intermediary service, and subject to the classified management of the government-guided price and the market regulated price. The benchmark price and the floating range of the lawyer's service charges subject to the government-guided price in Guangdong Province are jointly formulated by the Price Control Administration of Guangdong Province and the Department of Justice of Guangdong Province (see Annex). A law firm shall negotiate with its client for their charge standard within the prescribed benchmark price and floating range.

5. The charge by a law firm for the following legal services shall be subject to the government-guided price:

5.1. to accept authorization by a party in a civil case to act as agent ad litem;

5.2. to accept authorization by a party in an administrative case to act as agent ad litem;

5.3. to accept authorization by a party in a state compensation case to act as agent ad litem;

5.4. to accept engagement by a criminal suspect in a criminal case to provide it with legal advice and represent it in filing a petition or charge or obtaining a guarantor pending trial; to accept authorization by a defendant to act for the defense; and to accept authorization by a private prosecutor in a case of private prosecution or by the injured party in a case of public prosecution to act as agent ad litem; and

5.5. to represent clients in filing petition in all types of litigation;

The charge by a law firm for other legal services shall be subject to the market regulation price.

6. The lawyers' service charge subject to the market regulation price shall be negotiated and agreed on by a law firm and its client. Guangdong Provincial Lawyers Association may draw up a Pricing Guideline for Charges for reference of law firms and clients and report it to the Price Control Administration of Guangdong Province and the Department of Justice of Guangdong Province for record.

A law firm and its client should take into account the following main factors when they negotiate their lawyers' service charges:

6.1. Working hours;

6.2. Difficulty of legal affairs;

6.3. The number of lawyers and their abilities required to handle legal affairs;

6.4. The client's affordability and local social and economic development;

6.5. Potential risks and responsibilities of lawyers;

6.6. The social credibility and working level of lawyers; and

6.7. Other necessary costs and expenses for handling cases

7. The lawyers' service charges may be piece rate, charge on claim amount basis or on hourly rate basis according to different services.

Piece rate is generally applicable to legal affairs not involved in property relations; charge on claim amount basis is applicable to legal affairs involving property relations; hourly rate can be applied to all legal affairs.

8. Hourly rate refers to the pricing method by which a law firm collects the lawyer's service charges from its client at the established hourly rate under the prescribed standard according to the effective working time spent by the law firm in providing legal services.

In case of hourly rate, the law firm must issue a workload list to the client after the case is closed.

The calculation rules of the hourly rate shall be separately formulated by the Guangdong Provincial Lawyers Association and submitted to the Price Control Administration of Guangdong Province and the Department of Justice of Guangdong Province for approval.

9. Piece rate refers to the pricing method of collecting lawyer's service charges according to the prescribed amount or within the prescribed scope, range and limit by taking each entrusted legal affair as the basic unit.

10. When handling a civil case involving property relations, if the client still requests a contingent fee after being informed of the government-guided price, the law firm may accept contingent fee, except in the following circumstances:

10.1. Marriage and inheritance cases;

10.2. Claims for social insurance benefits or minimum living security benefits;

10.3. Claims for alimony, cost of upbringing, cost of maintenance, pension for the disabled and for survivors, relief

payment, work compensation; and

10.4. Claims for remuneration of labor.

11. A contingent fee means that a law firm only collects the basic fee when accepting an entrustment, and the remaining service remuneration shall be agreed upon by the law firm and the client in advance on the objectives and effect to be achieved, and the time, proportion and conditions for payment of the lawyer's service charges. If the agreed conditions are met, the expenses shall be paid as agreed; if the agreed conditions cannot be met, no more fees shall be paid.

In case of contingent fee, the law firm shall sign a contingent fee contract with the client, stipulating the risk liability to be borne by both parties, and charging method, amount or proportion.

In case of contingent fee, the maximum amount of charge shall not be more than 30% of the claim amount stipulated in the contingent fee contract.

12. The contingent fee shall not be applicable to criminal cases, administrative cases, state compensation cases and group litigation cases.

13. For lawyers' service subject to government-guided price, a law firm may, in accordance with the local economic development level, difficulty in entrusted matters and the financial status of the client, determine a charge standard within the floating range of the prescribed charge standard.

In developing areas, the government-guided price for lawyers' services may be further reduced with the approval of local price administration department and the judicial administrative department.

14. The legal costs, arbitration fees, appraisal fees, notarization fees, file checking fees, translation fees, travel expenses for handling cases in different places, cross-border communication fees and expert demonstration fees paid by the law firm for the client in the legal services, and other fees paid by the law firm for the client (hereinafter referred to as "Case Handling Fees") are not included in the lawyer's service charges and shall be paid separately by the client, except as otherwise agreed on by both parties in the contingent fee.

The case handling fees can be paid directly by the client or paid by the law firm for the client. If paid by the law firm, the law firm may collect it from the client in advance.

If a law firm needs to collect travel expenses for handling cases in different places in advance, it shall provide a cost estimate to the client, which shall be signed by both parties. The law firm may change the cost estimate with the written consent of the client.

15. The lawyer's service charges must follow the system for marking of prices, and law firms shall publish all items and charge standards of lawyer's service in a prominent position in the charging place and accept the public supervision.

16. The relevant matters in regard to the lawyers' service charges collected by law firms shall be specified in an agency

contract or power of attorney to define the charging items, methods, standards and amount, and payment method, period and conditions, and dispute settlement.

17. The lawyers' service charges and the case handling fees shall be collected uniformly by law firms. No lawyer may charge a client any fee.

A law firm is required to use legal documents prescribed by the tax authorities to collect the lawyers' service charges. The law firm must issue a written confirmation for payment of the case handling fees in advance, and use it for the agreed purpose. After the entrusted matter is completed, the law firm must provide a list of the use of case handling fees, and legal documents prescribed by the tax authorities when settling with the client. The balance or the part that cannot provide documents in the paid case handling fees shall be returned.

18. Where an entrustment relationship is terminated due to a lawyer's fault or his unwarrantable demand, or due to a client's fault or his unwarrantable demand, the refund, makeup and compensation of the related expenses shall be subject to the *Contract Law of the People's Republic of China*.

19. Law firms shall accept appointment to undertake legal aid cases. No fee shall be charged to the recipient for handling legal aid cases.

Law firms may, as appropriate, reduce or waive the lawyers' service charges for citizens who have financial trouble but do not meet the requirements for legal aid.

Law firms may not engage in unfair competition for the purpose of elbowing out other law firms by reducing or waiving the lawyers' service charges.

20. A branch set up by a law firm in a different place shall be subject to the charge regulations in the place where the branch is located.

21. When a law firm provides legal services in a different place, it may comply with regulations on the lawyers' service charges in the place where the law firm is located or where legal services are provided, but it must be specified in the fee contract.

22. Law firms must charge fees in strict accordance with the scope, methods and standards stipulated in these Measures.

23. The price administrative departments at all levels shall strengthen supervision and inspection of fees charged by law firms.

If a law firm or a lawyer commits one of the following acts, the price administrative departments shall impose administrative penalties in accordance with the *Price Law* and the *Rules of Administrative Sanctions on Price Offences*:

23.1. Fail to publicize the measures for the administration of the lawyers' service charges and the charge standard according to the regulations

23.2. Advance or delay implementation of government-guided price;

23.3. Collect fees beyond the scope or range of government-

guided price

23.4. Raise the charge standard in disguised form by means of breaking down charging items, repeating charges and expanding the scope;

23.5. Engage in unfair competition at a rate significantly lower than the costs; or

23.6. Other price offenses.

24. The judicial administrative departments at all levels shall strengthen the supervision and inspection of the legal services activities of law firms and lawyers.

If a law firm or a lawyer commits one of the following acts, the judicial administrative departments shall impose administrative penalties in accordance with the *Lawyers Law* and the *Measures for the Punishment of Illegal Acts by Lawyers and Law Firms*:

24.1. Violate the provisions for unified acceptance of entrustment and signing of written entrustment contracts or fee contracts by law firms;

24.2. Violate the provisions for unified collection of lawyers' service charges and payment of fees and travel expenses for handling cases in different places by law firms;

24.3. Fail to provide the client with the cost estimate for prepayment of travel expenses for handling cases in different places, or issue legal documents of lawyers' service charges, or provide the client with the valid certificate for payment of fees and travel expenses for handling cases in different places;

24.4. Violate the provisions for unified custody and use of special documents, financial instruments and business files for lawyers' services by law firms; or

24.5. Other violations of lawyers' professional ethics and practice disciplines.

25. Citizens, legal persons and other organizations who believe that a law firm or lawyer commits a price offense may report or complain to the price administrative department, the judicial administrative department or the lawyers association by means of letters, telephone or visits.

26. All disputes arising from the lawyers' service charges shall be settled by the law firm and the client through friendly negotiation.

Should no settlement be reached through negotiation, the case may be submitted for mediation to the lawyers association, the judicial administrative department or the price administrative department, or submitted for arbitration or litigation to the arbitration commission or people's court.

27. Measures for mediation of disputes over the lawyers' service charges shall be formulated separately.

28. The power of interpretation of the Measures shall remain with the Price Control Administration of Guangdong Province and the Department of Justice of Guangdong Province.

29. These Measures shall be effective as of January 10, 2007. The *Notice of the Price Control Administration of Guangdong Province and Department of Justice of Guangdong Province on*

Issuing the Measures for the Administration of Lawyers' Service Charges in Guangdong Province (Yue Jia [2005] No. 157) shall be repealed simultaneously.

Annex: Government-Guided Price for Lawyers' Service in Guangdong Province

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Government-Guided Price for Lawyers' Service in Guangdong Province

1. Charge standard at hourly rate: 200-3,000 yuan/hour.

2. Charge standard at hourly rate:

2.1. Criminal cases:

2.1.1. Investigation phase: 2,000-6,000 yuan/piece

2.1.2. Examination and prosecuting phase: 6,000-16,000 yuan/piece

2.1.3. Trial phase: 6,000-33,000 yuan/piece, which shall be applicable to a private prosecutor in a case of private prosecution or by the injured party in a case of public prosecution to act as agent ad litem.

If a criminal case is of great duration or geographical scope, or an organized crime or other serious or complex case, the charge standard may be determined through negotiation within 1.5 times of the prescribed standard.

2.2. Civil and administrative cases not involving property: 3,000-20,000 yuan/piece

3. Charges for civil and administrative cases involving property: After collecting the basic fee of 1,000-8,000 yuan, the charges shall be calculated in proportion to the claim amount:

50,000 yuan (including 50,000 yuan) or below: no additional charge

50,000-100,000 yuan (including 100,000 yuan): 8%

100,000-500,000 yuan (including 500,000 yuan): 5%

500,000-1 million yuan (including 1 million yuan): 4%

1 -5 million yuan (including 5 million yuan): 3%

5-10 million yuan (including 10 million yuan): 2%

10-50 million yuan (including 50 million yuan): 1%

50 million yuan or more: 0.5%

4. Note:

4.1. The above charge standard is allowed to float up and down 20%.

4.2. The charge standard and proportion specified in above Paragraphs 2 and 3 apply to one trial level of a case and arbitrations. Lawyers who only appeal on behalf of the clients shall charge according to the above standards. In the event the lawyers on behalf of the clients: 1) have appeared in the trial of the first instance and

now appeal for the clients, or 2) have appeared in either the trial of the first instance or the appeal, and then now work for retrial cases, retrial applications or confirmation of retrial cases, they shall charge half of the fees in accordance with the aforesaid standards. Lawyers shall charge half of the fees pursuant to the aforesaid standards for any case involving arbitrations in the trial of the first instance or the appeal. Enforcement cases shall be charged at one trial level.

In case of civil suit collateral to criminal proceedings, its civil suit shall be half charged at one trial level.