

CHINA ALERT

CHINESE SUPREME COURT AND PROCURATORATE ISSUE OPINIONS TO CLARIFY ISSUES RELATED TO BRIBERY

On November 21, 2008, the Supreme People's Court and Supreme People's Procuratorate jointly issued "Opinions on Several Issues Concerning Law Application in Handling Criminal Cases of Commercial Bribery" (the "Opinions"). The Opinions consist of 11 articles that clarify certain important issues dealing with bribery-related crimes and provide specific guidelines for implementing the pre-existing laws against bribery. The Opinions warrant special attention from foreign companies operating in China, as recent corruption scandals in several important government agencies have implicated multinational companies, and there is enormous Chinese domestic media pressure on the Chinese government to tighten scrutiny of multinational companies and their practices of bribery. American companies doing business in China should realize that they are bound not only by U.S. law (such as the Foreign Corrupt Practices Act), but also by Chinese laws and regulations on bribery. To minimize their legal risks in this area, they should revisit and examine their internal gift-giving policies accordingly and incorporate such laws and regulations into their internal compliance program, as to avoid running afoul of Chinese anti-bribery law in their business or public relationship promotion activities.

The principal contents and significant aspects of the Opinions are summarized in this alert, while the highlights of the relevant provisions are as follows—

- the Opinions remove the misperception that only non-state-owned entities (meaning they are not owned by the Chinese government) or non-state personnel fall into the scope of subject of the so-called "commercial bribery crimes." With the clarification of the Opinions, almost all kinds of entities (no matter whether they are state-owned or not) and the staff members thereof (whether state personnel or not) may be prosecuted in China once they commit any "commercial bribery crime." Correspondingly, the scope of bribery-related crimes includes giving bribes to all the aforementioned entities or personnel.
- the Opinions confirm that medical professionals (such as doctors) and educational professionals (such as schoolteachers and professors) may be convicted for taking a bribe under the Criminal Law of the People's Republic of China (hereafter, "the Criminal Law") if they are found to have accepted bribes and taken advantage of their positions to promote others' interest. This confirms that bribing medical professionals or education professionals may be prosecuted as "commercial bribery crimes."

- according to the Opinions, members of bid evaluation committees, negotiation teams in procurement by competitive negotiations and price quotation teams in price quotation procurement may be subject to conviction of the crime of taking a bribe under the Criminal Law, if they are found, in the process of bid evaluation or procurement activities related to bid invitation and government procurement, to have requested money or property from others or illegally accepted money or property from others, and to promote the interests of others where the amount involved is relatively large. Giving a bribe to the aforementioned persons may be prosecuted as commercial bribery crimes.
- the Opinions explicitly define the term “money or property” involved in “commercial bribery crimes” as including both money and things as well as proprietary interests that can be measured in monetary terms, such as provision of home furnishing, membership cards with monetary value, cash-equivalent cards (coupons), and travel expenses, etc.
- the Opinions fill a gap left by the Criminal Law by clarifying the meaning of “seeking improper interests,” in considering the bribe-giving crime set forth in Article 398 of the Criminal Law. According to the Opinions, “seeking improper interests” in bribery-related crimes refers to the bribe giver seeking an interest that is in violation of laws, regulations, rules or policies, or the bribe giver requesting the bribe acceptor provide help or convenience in violation of laws, regulations, rules or policies.
- the Opinions attempt to provide a safe harbor to prevent normal social networking activities from being regarded as “commercial bribery crimes” by stipulating that in adjudicating commercial bribery cases, it is necessary to distinguish gifts or donation from bribes.

1. What constitutes “commercial bribery crime” in China?

While “commercial bribery crime” is not a specific offense stipulated in Chinese law, it is used by the Chinese courts and legal professionals to refer to bribery crimes that can be prosecuted as bribery crimes according to Articles 385¹, 387², 389³, 391⁴, 392⁵, 393⁶, 163 and 164 of the Criminal Law. The Opinions clarify that “commercial bribery crime” covers bribery crimes committed by entities no matter whether they are state-owned or not, and individuals no matter whether they are state personnel or not. This helps to remove the long-term misunderstanding that only “bribery crimes” committed by non-state entities or the staff members thereof constitute “commercial bribery crimes.”⁷

¹ Art. 385 of the PRC Criminal Law provides that “*State personnel who take advantage of their office to demand money and things from other people or if they illegally accept money and things from other people and give favors to the latter are guilty of the crime of bribery. State personnel in their economic operation accept various kinds of kickback and handling fees for their personal use in violation of state provisions also guilty of the crime of bribery and are to be punished accordingly.*”

² Art. 387 of the PRC Criminal Law provides that “*State organs, state-owned companies, enterprises, institutions, and people’s organizations which exact or illegally accept articles of property from other people and try to obtain gain from other people shall be sentenced to a fine if the circumstances are serious; moreover, their personnel who are directly in charge and other personnel who are directly held responsible for the crime are to be sentenced to not more than five years of fixed-term imprisonment or to criminal detention. In economic activities, should the units listed in the preceding paragraph secretly accept, outside the account, kickback or service charges of various types, they are to be punished as having accepted a bribe on the basis of the provisions in the preceding paragraph.*”

³ Art. 389 of the PRC Criminal Law provides that “*An act of giving state personnel articles of property in order to seek illegitimate gain shall be considered a crime of offering bribes. In economic activities, whoever gives articles of property to state personnel in violation of state provisions, when the amount is fairly large, or gives a kickback or service charges of various types to state personnel in violation of state provisions is to be dealt with as committing the crime of offering bribes. Whoever gives articles of property to state personnel due to extortion but receives no illegitimate gain shall not be considered as committing the crime of offering bribes.*”

⁴ Art. 391 of the PRC Criminal Law provides that “*To seek illegitimate gain, whoever gives articles of property to state organs, state-owned companies, enterprises, institutions, and people’s organizations, or in economic activities gives kickbacks or service charges in violation of state provisions, is to be sentenced to not more than three years of fixed-term imprisonment or to criminal detention. Whichever unit commits the crime mentioned in the preceding paragraph is to be sentenced to a fine, and the responsible persons who are directly in charge of the unit or other personnel who are held directly responsible for the crime shall be punished on the basis of the preceding paragraph.*”

⁵ Art. 392 of the PRC Criminal Law provides that “*To seek illegitimate gain, any unit which offers bribes or gives kickback or service charges to state personnel in violation of state provisions, when the circumstances are serious, is to be sentenced to a fine, and the personnel directly in charge of the unit or other personnel who are directly held responsible for the crime are to be sentenced to not more than five years of fixed-term imprisonment or to criminal detention. In case the income obtained illegally through bribery is received by an individual, the individual shall be punished according to the crime stipulated in Article 389 and Article 390 of this law.*”

⁶ Art. 393 of the PRC Criminal Law provides that: “*To seek illegitimate gain, any unit which offers bribes or gives kickback or service charges to state functionaries in violation of state provisions, when the circumstances are serious, is to be sentenced to a fine, and the personnel directly in charge of the unit or other personnel who are directly held responsible for the crime are to be sentenced to not more than five years of fixed-term imprisonment or to criminal detention. In case the income obtained illegally through bribery is received by an individual, the individual shall be punished according to the crime stipulated in Article 389 and Article 390 of this law.*”

⁷ There is a long history to the development of China’s anti-bribery law. At the very beginning, in the first Criminal Law (the 1979 version), only “official bribery” crimes (committed by governmental officials and staff members of state-owned entities) were addressed; the amended Criminal Law (the 1997 version) stipulated the “bribery crimes” committed by “enterprises, companies and the staff members thereof” (see Articles 163ⁱ and 164ⁱⁱ thereof). Before the Opinions were issued, most people believed that only “bribery crimes” committed by *non-state* entities or by the staff members thereof constituted “commercial bribery crimes.”

ⁱ Art. 163 of the PRC Criminal Law provides that “*Enterprise work personnel who make use of their job opportunity to demand property from others, or illegally receive others property in exchange for benefits, shall, in cases involving relatively large amounts, be punished with imprisonment or to criminal detention for less than five years; for cases*

For your information, under Chinese law, the thresholds for establishment and prosecution of bribery crimes committed by “state personnel” and the sanctions thereon are different from those of bribery crimes committed by “non-state personnel.” Pursuant to Article 93 of the Criminal Law, “state personnel” refers to staff members engaged in the official duties of the state organs; staff members engaged in official duties in state-owned companies, enterprises, institutions and people’s organizations; staff members who are assigned by state organs, state-owned companies, enterprises, and institutions to assume official duties in non-state-owned companies, enterprises, institutions and social organizations; and other personnel engaged in public service in accordance with the law. Thus the key criterion here is whether or not the person is engaged in “public services.” All other staff members of the various entities that do not fall within the above-cited scope and are not engaged in “public services” should be deemed “non-state personnel.”

It is important to note that the prosecution thresholds for the state personnel’s bribery crimes are lower, and the criminal sanctions on them are much harsher. (For details, please see the comparative discussion contained in the table at the end of this alert.) The thresholds for establishment and prosecution of the bribe-giving crimes and sanctions thereon are also different depending on whether or not the person accepting the bribe is “state personnel.” Generally speaking, the prosecution thresholds for the bribe-giving crimes where the bribed party is “state personnel” or “state-owned entity” are lower, while punishment is more severe than if the party accepting the bribe is non-state personnel or a non-state owned entity. (For details, please see the comparative discussion contained in the table at the end of this alert.)

2. Who may commit a “commercial bribery crime” in China?

The Opinions clarify the scope of entity or person who may commit a “commercial bribery crime.”

The subject of bribery crimes in China has been gradually expanded over the years. Under the 1979 version of the Criminal Law, crimes of bribery were only limited to government officials and state-owned enterprise employees; in 1988, the definition of “bribery” was expanded to include personnel of “collectively-owned” economic organizations and other personnel who are engaged in public services; in 1995, “directors, supervisors and employees of enterprises and companies” were also added as a subject of bribery crimes; in 2006, the law further expanded to include “employees of other units” in considering bribery crimes committed by non-state personnel. Now, the Opinions clarify the subject of “commercial bribery crimes” as follows—

- (i) The “other units” include two types of organizations: “permanent entities” and “non-permanent entities” such as preparation committees for sports, cultural and other lawful events, and temporary organizations such as project contracting teams.

involving a large amount, with imprisonment of over five years, and may be subject to forfeiture of property. Company and enterprise work personnel, who, in the course of economic contacts, receive personal kick-backs and commissions in various forms in violation of state rules, shall be punished according to provisions under the preceding paragraph. Personnel performing public duties in state-owned companies and enterprises, and personnel assigned by state-owned companies and enterprises to non-state-owned companies and enterprises for performance of public duties found to be committing the acts mentioned in the two preceding paragraphs, shall be convicted and punished according to provisions under Articles 385 and 386 of this law.”

ⁱⁱ Art. 164 of the PRC Criminal Law provides that “Offering property to company and enterprise work personnel for improper benefits shall in cases involving relatively large amounts be punished with imprisonment or to criminal detention for less than three years, for cases involving a large amount, with imprisonment of over three years but less than 10 years, and with fine. Units committing offenses under the preceding paragraph shall be punished with a fine, with personnel directly in charge and other directly responsible personnel being punished according to provisions of the preceding paragraph. A briber who confesses his bribery act before prosecution may receive a lighter sentence or a waiver for punishment.”

(ii) “Staff of companies, enterprises and other entities” referred to in Articles 163 and 164 of the Criminal Law include non-state personnel in state-owned companies, enterprises and other types of state-owned entities.

It is important for foreign companies to realize that, according to the Opinions, now almost all kinds of entities, whether state-owned or not, and the staff members thereof, whether state personnel or not, are within the scope of the subject of “commercial bribery crimes” that may be prosecuted in China should they commit any bribery-related crime under the Criminal Law. Correspondingly, the scope of bribe-giving crimes has been expanded, i.e., giving bribes to any of the aforementioned entities or personnel may constitute the crime of bribe giving.

3. Bribery crimes in medical and educational institutions and tendering and bidding sectors specially addressed

The Opinions specifically address issues relating to bribery crimes occurring in medical and educational institutions, tendering and bidding activities and governmental procurement. For the first time the Chinese law clarifies that medical professionals (such as doctors) and education professionals (such as schoolteachers and professors) may be convicted for taking a bribe under the Criminal Law if they are found to have accepted bribes and taken advantage of their positions to promote others’ interest. As project bidding and government procurement is another area where corruption and bribery are rampant, the Opinions specify the acts constituting bribery in this field as well. Therefore, companies that are likely to participate in project bidding should pay serious attention to this new provision.

Bribery crimes in medical institutions

The Opinions for the first time confirm that the anti-bribery provisions in Articles 163 and 385 of the Criminal Law apply to medical doctors and other medical professionals in all hospitals and specify some acts by medical professionals that constitute crimes of bribery.

Specifically, regarding medical professionals such as doctors, if they are found to have taken advantage of their position to prescribe treatments and illicitly accepted money or property from a seller of medical products (such as pharmaceutical drugs, healthcare devices and healthcare materials) and promoted the seller’s interests, and if the amount involved is relatively large, they shall be convicted of having taken a bribe under Article 163 of the Criminal Law.

Under the Opinions, if any state personnel in medical institutions are found, in procurement of medical products (such as pharmaceutical drugs, healthcare devices and healthcare materials) to have solicited money or property from the seller, or illegally accepted money or property from the seller to promote the interest of the seller, by taking advantage of their position, to the extent that such activities constitute a crime, they shall be convicted of having taken a bribe under Article 385 of the Criminal Law.

Bribery crimes in educational institutions

The Opinions also for first time expressly confirm that education professionals, such as schoolteachers or professors, can constitute the subject of bribery-related crimes and that they may be prosecuted for commercial bribery activities.

The Opinions provide that if state personnel in schools or other educational institutions, in procurement of teaching materials, teaching aids, school uniforms or other articles, demand money or property from a vendor, or illegally accept money or property from a vendor to promote the vendor’s interests by taking advantage of their position, to the extent that such activities constitute a crime, they shall be convicted of having taken a

bribe under Article 385 of the Criminal Law; if the aforementioned acts are committed by non-state personnel in educational institutions, they shall be convicted for taking a bribe under Article 163. The teachers or professors who illegally accept in any name money or property from a seller of teaching materials, teaching aids, school uniforms or other articles to promote the seller's interest by taking advantage of their position, shall be convicted for taking a bribe under Article 163 as well, if the amount involved is relatively large.

Bribery crimes in tendering and bidding activities and government procurement

The Opinions provide that members of legally formed bid evaluation committees, negotiation teams in procurement by competitive negotiations and price quotation teams in price quotation procurement are subject to conviction of the crime of taking a bribe by non-state personnel under Article 163 of the Criminal Law, if they are found, in the process of bid evaluation or procurement activities related to bid invitation and government procurement, to have requested money or property from others or illegally accepted money or property from others, to promote the interests of others, where the amount involved is relatively large. Representatives of state organs or other state-owned entities sitting on legally formed bid evaluation committees, negotiation teams in procurement by competitive negotiations and price quotation teams in price quotation procurement shall be convicted of committing the crime of taking a bribe as state working staff, according to Article 385, if they are found to have committed the aforementioned acts.

4. Clarification of the coverage of “money and proprietary interests” involved in commercial bribery crimes

Before the Opinions, while Article 163 of the Criminal Law defines the act of taking a bribe as “demanding or accepting money or property from another person,” there were many ambiguities as to what constitutes “money or property.” The Opinions took a step forward by expressly listing some forms of “money or property.”

The Opinions define the term “money or property” involved in commercial bribery crimes as including both money and things, as well as including proprietary interests that can be measured by money, such as provision of home furnishing, membership cards with monetary value, cash-equivalent cards (coupons), travel expenses, etc. The amount of a bribe in such a form shall be determined according to the amount actually paid by the briber to the person accepting the bribe; however, when accepting bank cards, no matter whether the person accepting the bribe has actually withdrawn or used any money in the bank cards, *all* the amount in the bank cards accepted by the bribe recipient shall be considered as constituting the amount of the accepted bribe.

Companies now need to examine their internal gift-giving policies accordingly, in order that their business or public relationship promotion activities not fall within the scope of a bribe specified by the Opinions.

5. Clarification of the key element for establishing a “bribe-giving crime”: seeking improper interests

For your information, in establishing a bribery-related crime, the legal requirement regarding the subject status of the person accepting the bribe is different from that regarding the subject status of the briber. For a briber, only if he/she gives others a bribe for the purpose of “*seeking improper interest*,” would his/her actions be considered a crime; but for a person accepting a bribe, as long as he/she commits bribery actions as set forth in the relevant provisions of law in order to “*promote the briber's interests*,” he/she could be convicted. Pursuant to Article 390 of the Criminal Law, a person committing a crime involving the giving of bribes could be sentenced to anywhere from a five-year fixed term to life imprisonment, depending on the specific circumstances of his/her case.

The Opinions filled another gap left by the Criminal Law by clarifying the meaning of “seeking improper interests,” in considering the bribe-giving crime set forth in Article 389 of the Criminal Law. According to the

Opinions, “seeking improper interests” in the crimes of bribe-giving refers to the briber’s seeking an interest that is in violation of laws, regulations, rules or policies, or the briber’s requesting the bribe acceptor to provide help or convenience in violation of laws, regulations, rules or state policies. This means that, even if the interest sought by the briber in itself is lawful, the briber would be found to seek improper interest where the manner in which the person accepting a bribe is sought to provide the help or convenience is in violation of laws, regulations, rules or state policies. The Opinions further specify that giving a related party money or property to obtain competitive advantage in the process of bid invitation and tendering as well as of government procurement, in violation of the principle of fairness, constitutes “seeking improper interest.”

However, there is still some ambiguity left in the practical application of the “seeking improper interests” requirement in establishing bribe-giving crimes. In certain circumstances, a party may offer bribes to others for seeking interests that are not improper. For example, a certain party gives bribes to judges-in-charge to induce the latter to help enforce an effective judgment to its benefit. Although the judges’ acceptance of the bribes may constitute the crime of taking a bribe, it is arguable that the actions of the party giving out the bribes should constitute a bribe-giving crime as it seems not to “seek improper interest” when giving the bribes. Thus, it is worth monitoring the development of the Chinese judicial authorities’ interpretation of this issue.

6. Distinction between “bribery” and legitimate “donation/gift giving”

Very importantly, the Opinions attempt to provide a safe harbor to prevent normal social networking activities from all being regarded as commercial bribery, by stipulating that, in adjudicating commercial bribery cases, it is necessary to distinguish gifts or donation from bribes.

For this purpose, the Opinions require that a comprehensive analysis and determination be made by taking into consideration all of the following factors: i) the background of bestowal, e.g., whether the parties are relatives or friends, the history of their relationship and the closeness of their relationship; ii) the amount of money or value of the property changing hands; iii) the cause, timing, and manner of the delivery of money or property, and whether the party giving the money or property has asked a favor from the party receiving the money or property in relation to the latter’s position; and iv) whether the receiving party has taken advantage of his or her job position to promote the interest of the party giving the bribe.

7. Other issues clarified by the Opinions

The Opinions also address other technical issues, such as specific guidelines for dealing with bribery crimes committed jointly by state personnel and non-state personnel.

	Case Opening and Prosecution Standards	Criminal Sanctions
Crime of taking a bribe (by state personnel) (Art. 385)	<p>1. the amount of a bribe accepted by the offender reaches RMB 5,000 or greater; or</p> <p>2. the amount of a bribe accepted is less than RMB 5,000, but it involves one of the circumstances set forth by the Supreme People's Procuratorate in relevant rulesⁱ.</p>	<p>1. where the amount of a bribe accepted by an offender reaches RMB 100,000 or greater, the sentence will range from a 10-year fixed term or life imprisonment and may include confiscation of property; in especially serious cases, the offender shall be sentenced to death and be subject to confiscation of property;</p> <p>2. where the amount of a bribe accepted by an offender is greater than RMB 50,000 but less than RMB 100,000, he/she shall be sentenced to fixed-term imprisonment for more than five years and may be subject to confiscation of property. In especially serious cases, the offender shall be sentenced to life imprisonment and be subject to confiscation of property;</p> <p>3. where the amount of a bribe accepted by an offender is greater than RMB 5,000 but less than RMB 50,000, he/she shall be sentenced to more than one year but fewer than seven years of fixed-term imprisonment. In serious cases, the offender shall be sentenced to more than seven years but fewer than 10 years of fixed-term imprisonment. In the case that the offender expresses repentance after having committed crimes and actively returning the illegally obtained money, he/she may receive a reduced punishment or be exempted from punishment; or</p> <p>4. where the amount of a bribe accepted by an offender is less than RMB 5,000, with the situation being serious, he/she shall be sentenced to fewer than two years of fixed-term imprisonment or to criminal detention. In lighter cases, he/she shall receive administrative sanction.</p>
Crime of taking a bribe (by non-state personnel) (Art. 163)	<p>1. the amount of a bribe accepted by the offender reaches RMB 5,000 or greater.</p>	<p>1. the offender is subject to fewer than five years of fixed-term imprisonment or to criminal detention; or</p> <p>2. for a case involving a large amount, the offender shall be sentenced to more than five years of fixed-term imprisonment (up to a 20-year fixed term) and may be subject to confiscation of property.</p>
Crime of taking a bribe (by state entities) (Art. 387)	<p>1. the amount of a bribe accepted by the entity offender reaches RMB 100,000 or greater; or</p> <p>2. the amount of a bribe accepted by the offender is lower than RMB 100,000, but one of the aforementioned circumstancesⁱⁱ exists.</p>	<p>1. the offending entity is subject to a criminal fine; or</p> <p>2. the personnel directly in charge of the entity or other personnel who are directly held responsible for the crime shall be sentenced to fixed terms of imprisonment of fewer than five years or to criminal detention.</p>

	Case Opening and Prosecution Standards	Criminal Sanctions
<p>Crime of giving a bribe (to state personnel and by a natural person)</p> <p>(Art. 389)</p>	<p>1. the amount of a bribe offered by an offender reaches RMB 10,000 or greater; or</p> <p>2. the amount of a bribe offered by an offender is less than RMB 10,000, but one of the aforementioned circumstances existsⁱⁱ.</p>	<p>1. the offender shall be sentenced to fixed-term imprisonment of not greater than five years or to criminal detention;</p> <p>2. if the offender offers bribes to seek illegitimate gain, when the circumstances are serious, or causes great damage to state interests, he/she shall be sentenced to not less than a five-year but not greater than a ten-year fixed term of imprisonment;</p> <p>3. when the circumstances are extremely serious, the offender shall be sentenced to at least a 10-year fixed term of imprisonment or life imprisonment and may, in addition, be sentenced to confiscation of property;</p> <p>4. before prosecution, offenders in offering bribes who take the initiative to admit their crime may receive a lighter punishment or be exempted from punishment.</p>
<p>Crime of giving a bribe to non-state personnel (by a natural person or entity)</p> <p>(Art. 164)</p>	<p>1. the amount of a bribe offered by an individual offender reaches RMB 10,000 or greater; or</p> <p>2. the amount of a bribe offered by the entity offender reaches RMB 100,000 or greater.</p>	<p>1. the offender is subject to less than a three-year fixed term of imprisonment or to criminal detention; or</p> <p>2. if the bribe offered is large; the offender is subject to more than three years but fewer than 10 years of fixed-term imprisonment plus a criminal fine.</p>
<p>Crime of giving a bribe to (state) entities (by a natural person or entity)</p> <p>(Art. 391)</p>	<p>1. the amount of a bribe offered by an individual offender reaches RMB 100,000 or greater;</p> <p>2. the amount of a bribe offered by an entity offender reaches RMB 200,000 or greater; or</p> <p>3. the amount of a bribe offered by an individual offender is less than RMB 100,000, or the amount of a bribe offered by an entity offender is less than RMB 200,000, but one of the aforementioned circumstancesⁱⁱ exists.</p>	<p>1. the individual offender is subject to fewer than three years of fixed-term imprisonment or to criminal detention; or</p> <p>2. the entity offender is subject to a criminal penalty, while the personnel directly in charge of the entity or other personnel who are directly held responsible for the crime shall be sentenced to a three-year fixed term of imprisonment or to criminal detention.</p>
<p>Crime of giving a bribe (to state personnel) by an entity</p> <p>(Art. 393)</p>	<p>1. the amount an entity offender offers reaches RMB 200,000 or greater; or</p> <p>2. the amount an entity offender offers is less than RMB 200,000, but one of the aforementioned circumstancesⁱⁱ exists.</p>	<p>1. the entity offender shall receive a criminal fine, and the personnel directly in charge of the entity or other personnel who are directly held responsible for the crime shall be sentenced to not greater than a five year fixed term of imprisonment or to criminal detention; or</p> <p>2. if the income obtained illegally through bribery is received by an individual, the individual shall be punished according to the crime of giving a bribe set forth in Art. 389 and Art. 390.</p>

	Case Opening and Prosecution Standards	Criminal Sanctions
Crime of introducing bribery (Art. 392)	1. the amount of a bribe introduced by the individual offender reaches RMB 20,000 or greater; or the amount of a bribe introduced by an entity offender reaches RMB 200,000 or greater; or 2. the amount of the introduced bribe does not meet the said standard, but one of the aforementioned circumstances ⁱⁱ exists.	1. the offender shall be sentenced to not greater than a three-year fixed term of imprisonment or to criminal detention; or 2. before prosecution, if the person introducing bribery to state personnel takes the initiative to admit his/her crime, he/she may receive a lighter punishment or be exempted from punishment.

ⁱ According to the *Provisions on the Criteria for the Cases Recorded and Investigated Directly By People's Procuratorates (Provisional)* promulgated by the Supreme People's Procuratorate in 1999, where any person is suspected of having any of the following circumstances, his/her case shall be recorded for investigation (under the crime of giving bribe):.... (2) though the amount of bribe the offender offers is lower than RMB 10,000, his/her case falls within any of the following circumstances: a) the offender offers the bribe for seeking illegal interests; b) the offender offers bribes to three persons or above; c) the offender offers bribes to the leaders of the Chinese Communist Party or government authorities, or personnel of judicial authorities or administrative enforcement authorities; and d) the offender's bribe-giving actions cause heavy damages to the state or social interests.

ⁱⁱ Please refer to the four circumstances stated in Footnote i above.

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