

RULES FOR THE TAX ADMINISTRATIVE REVIEW

(Promulgated by Guo Shui Fa [1999] No. 177 of SAT on September 23, 1999)

CHAPTER 1 GENERAL PRINCIPLE

Article 1 For the purpose of preventing and correcting the violations of laws or improper specific administrative acts in taxation affairs and protecting the legal rights and interests of taxpayers and other interested parties in taxation matters and safeguarding and supervising tax authorities in exercising their tax collection and enforcement power by laws, these rules were formulated in accordance with the Administrative Review Law of the People's Republic of China and other relevant laws and regulations.

Article 2 Taxpayers and other interested parties who believe their legal rights and interests have been infringed by a specific administrative activity of tax authorities, may apply for review to the tax administrative review authorities in accordance with laws. The tax administrative review authorities shall apply these rules in accepting the application for review and in making the administrative review decision.

Article 3 The "tax administrative review authorities" (hereinafter referred to as review authorities) refer to the tax authorities who receive and handle applications for review and investigate and pass judgement on specific administrative acts in conformity with laws.

Article 4 The section of tax legal work in the review authorities (hereinafter referred to as legal section) shall practically handle the administrative review matters and perform the following duties: 1) Accepting the application for administrative review. 2) Investigating and searching for evidence from relevant organizations and persons, checking up documents and materials. 3) Examining whether the specific administrative act under review application is legal and proper and drafting the administrative review decision. 4) Handling or transferring the examining application as ruled in Article 8 of these rules. 5) Putting forward the treatment suggestions by the ruled power and procedures with regard to the act of the defendant violating the Administrative Review Law and these rules. 6) Handling the appeal arrangements in tax administrative appeal on the objections to the administrative review decision. 7) Examining and supervising the administrative review work of the lower tax authorities. 8) Handling the compensation issues as result of the administrative review cases. 9) Handling the statistics and report work concerning the administrative review, appeals and compensation.

Article 5 In performing the administrative review duties, the review authorities should follow the principle of legality, fairness, transparency, promptness and convenience for the people, and adhere to correcting errors if any and ensuring the correct implementation of the laws and regulations.

Article 6 Where the taxpayers and other parties concerned disagree to the tax administrative review decision, they may appeal to the people's court in accordance with the Administrative Review Law.

CHAPTER 2 SCOPE OF TAX ADMINISTRATIVE REVIEW

Article 7 The review authorities will accept and hear the applications against the following specific administrative acts: 1) Tax collection by the tax authorities: a. Collecting taxes and imposing late payment interest. B. Withholding taxes by the withholding agents and the units entrusted by the tax authorities for collection of taxes. 2) Order of the tax authorities to the taxpayers for paying tax payment guarantees. 3) Measures taken by the tax authorities to guarantee the tax revenue: a. Written notification to banks or other financial organizations to temporarily freeze payments from a deposit. B. The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

Seizing or sealing of commodities, goods or other property. 4) Failure to lift the tax guarantee measures by the tax authorities timely which results in infringement of the legal rights and interests of taxpayers. 5) Enforcement measures taken by the tax authorities: a. Written notifications to banks or other financial organizations to withhold tax payments. B. Auctioning the seized or sealed commodities, goods or other property. 6) Tax administrative penalty imposed by the tax authorities: a. Fines. B. Confiscation of illegal income. C. Stopping the right of export tax refund. 7) The acts of the tax authorities refusing to handle or reply by law: a. Refusing to approve the tax reductions and exemptions or export tax refund. B. Refusing to credit the tax. C. Refusing to rebate tax. D. Refusing to issue tax registration certificate or to sell invoices. E. Refusing to issue tax payment vouchers and receipts. F. Refusing to identify the normal VAT payers. G. Refusing to approve the extension of time for tax reporting, deferred payment of taxes. 8) The act of the tax authorities canceling the status of normal VAT payers. 9) Decision of the tax authorities of notifying the border exit department to prevent exit of border. 10) Other specific tax acts of the tax authorities.

Article 8 The taxpayers and other parties concerned believing that the following basis for the specific administrative acts of the tax authorities are not legal may apply to the review authorities for examining these basis when applying for the administrative review of the specific administrative acts: 1) The rules of the State Administration of Taxation and other departments of the State Council. 2) The rules of the tax departments at other levels. 3) The rules of the local people's government above county level and the departments thereof. 4) The rules of the people's governments of villages and township. The above items do not include the rules formulated by the ministries, committees of the State Council and the local people's governments and the standard documents of effect as rules formulated by the State Administration of Taxation.

CHAPTER 3 JURISDICTION OVER THE ADMINISTRATIVE REVIEW

Article 9 The objections against the specific tax administrative acts of the offices of SAT below provincial level should be applied to the higher tax authorities for administrative review. The objections against the specific tax administrative acts of the tax offices of SAT at provincial level may be applied to the State Administration of Taxation for review.

Article 10 The objections against the specific tax administrative acts of the local tax bureaus below provincial level should be applied to the higher tax authorities for administrative review. The objections against the specific tax administrative acts of the local tax bureaus at provincial level may be applied to the State Administration of Taxation or the provincial people's government for review.

Article 11 The objections against the specific tax administrative acts of the SAT should be applied to the SAT for administrative review. In case of disagreement to the review decision, the applicants may appeal to the people's court or may apply to the State Council for ruling. The ruling of the State Council is the final judgement.

Article 12 In case of any objection against the specific tax acts conducted by other organs, organizations than those as ruled in Articles 9, 10 and 11 of these rules, the application for review should follow the following rules: 1) In case of objection against the specific tax acts conducted under their own names in conformity with laws, regulations or rules by the resident organizations set up by the tax authorities by law, the application for review should made to the tax authorities setting up the resident organizations. 2) In case of objecting to the withholding act of the withholding agents, the application for review should be put to the tax authorities above the competent tax authorities in

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charge of the withholding agent. In case of objecting to the tax collection act of the units entrusted by the tax authorities, the application for review should be put to the tax authorities above the competent tax authorities making the trust. 3) In case of objecting to the specific tax act jointly conducted by the office of SAT the local tax bureau, the application for review should be put to the SAT. In case of objecting to the specific administrative act conducted jointly by the tax authorities and other department, the application for review should be put to the common higher level administrative authorities. 4) In case of objection against the specific administrative act of the cancelled tax department conducted before the cancellation, the application for the review should be put to the tax authorities above the tax department continuing performing the duties. In any one case of the above list, the applicants may apply for review to the local county people's government where the specific administrative act happens. The county people's governments accepting the application shall be transferring the application by law.

CHAPTER 4 APPLICATION FOR TAX ADMINISTRATIVE REVIEW

Article 13 Where the taxpayers and other parties concerned object to the acts in Item 1 of Article 7, they should first apply for review to the tax authorities, and may appeal to the people's court unless they disagree to the review decision. Where an applicant applies for review in accordance with the above paragraph, he must first pay the amount of tax or settle tax payments and the late payment interest within the time limit as assessed by the tax authorities on basis of laws, administrative regulations. And then he may apply for review within 60 days after receiving the tax payment documents issued by the tax authorities.

Article 14 Where the applicants object to other specific tax administrative acts than the acts listed in Item 1 of Article 7 of these rules, they may apply for administrative review or may directly appeal to the people's court.

Article 15 The applicants may put forward the application for review within 60 days after being notified of the specific administrative act conducted by the tax authorities. Where the statutory time limit is delayed due to acceptable reasons like force majeure or the obstacles set by the defendants, the application time limit shall start from the date of the disappearance of the obstacles.

Article 16 The applicants may make the application either in written form or orally. In case of oral application, the review authorities should record on spot the basic description of the applicants, the request for administrative review, and the key facts, arguments and time of the review application.

Article 17 The taxpayers or other parties concerned bringing forward the administrative review are the applicants of the tax administrative review, referring specifically to the taxpayers, withholding agents, tax guarantee providers and other tax concerned persons. Where the citizens having the right for review application are dead, their close relatives may apply for administrative review. Where the citizens having right to apply for review lose behavioral ability or are disabled, their legal agents may apply for the administrative review on behalf. Where the legal persons or other organizations having right to apply for administrative review are merged, split or terminated, the legal persons or other organizations bearing their right may apply for the administrative review. Other citizens, legal persons or other organizations having the interest relationship with the specific administrative act under review may participate in the administrative review as the third party. The applicants, the third party may entrust agents for the administrative review for them. The defendants should not entrust any agency for participation in the administrative review.

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Article 18 Where taxpayers or other parties concerned apply for administrative review on the specific administrative act of the tax authorities, the tax authorities conducting the act shall be the defendant.

Article 19 Where the applicants have applied to the review authorities for administrative review and the review authorities have already accepted, the applicants should not appeal to the people's court within the statutory time limit for the administrative review. Where the applicants have already appealed to the people's court and the people's court has already accepted the cases, the applicants should not apply for administrative review.

CHAPTER 5 ACCEPTANCE OF TAX ADMINISTRATIVE REVIEW

Article 20 After receiving the application for the administrative review, the review authorities should examine that within 5 days and refuse the acceptance of the application not qualified for the rules and notify the applicants in written form. For those qualified but not covered by the authorities, the review authorities should advise the applicants of applying to the relevant administrative review authorities.

Article 21 For the qualified review application, the date when the legal affairs section of the review authorities receives the application shall be the date of acceptance. The review authorities should notify the applicants of the acceptance of the application.

Article 22 For the specific administrative acts that should be applied to the review authorities for administrative review and that appeal shall be brought to the people's court if objecting the review decision, the taxpayers and other parties concerned may appeal to the people's court by law after receiving the refusal of acceptance or within 15 days after the expiration of the administrative review if the review authorities refuse the acceptance or fail to reply within the review time limit. In case of extension of review time limit according to Article 34 of these rules, the date of the expiration of the review time limit shall be the date of the extension.

Article 23 Where the taxpayers and other parties concerned apply for review by law but the review authorities refuse accepting without sound reasons, the tax authorities at higher level shall order the review authorities to accept that if the applicants do not appeal to the people's court. Where necessary, the tax authorities at higher level may directly accept that application.

Article 24 During the period of the reviewing, the specific tax administrative act will cease operation except for one of the following circumstances: 1) The defendant thinks that it should cease implementation. 2) The review authorities think that it should cease implementation. 3) The applicant applies for ceasing implementation and the review authorities believe their request is reasonable and determine to cease the implementation. 4) It should cease according to laws and regulations.

CHAPTER 6 DECISION OF TAX ADMINISTRATIVE REVIEW

Article 25 The administrative review adopts paper examination in principle. Where, however, the applicants request for or the legal affairs section believes necessary, the opinions of the applicants, defendants and the third party should be heard, and investigation may be conducted to the relevant organizations and persons.

Article 26 The legal affairs section of review authorities should deliver the copy of administrative review application or the duplicate of the written notes of the review application to the defendants within 7 days after accepting the review application. The defendants should put forward written reply and provide the evidence, basis and other relevant materials for conducting the specific administrative act within 10 days after receiving the copy of administrative review application or the duplicate of the written notes of the review application.

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Article 27 The applicants and the third party may check up the written reply, evidence, basis and other relevant materials for the specific administrative act put forward by the defendants. The review authorities can not refuse them unless involving the State secrecy, commercial secrecy or privacy.

Article 28 In course of administrative review, the defendants should not collect evidence from the applicants and other relevant organizations or individuals by itself. The relevant materials obtained by the legal affairs section in accordance with Item 2) of Article 4 of these rules can not be taken as the evidence supporting the specific administrative act of the defendants.

Article 29 Before making the review decision, the application may be withdrawn upon request of the applicants for withdrawal by providing reasons. In case of withdrawal of application for the review, the administrative review shall be terminated.

Article 30 Where the applicants apply for examination of the relevant rules when applying for administrative review according to Article 8 of these rules, the review authorities should handle that by law within 30 days if the review authorities have the right to handle that. Where the review authorities do not have the right to handle that, the review authorities should transfer the case to the administrative department for treatment within 7 days in conformity with the statutory procedures. The administrative department having the right to handle that should work it out within 60 days by law. During the period of handling, the examination on the specific administrative act shall terminate.

Article 31 Where the review authorities believe in examining the specific administrative act of the defendant that the basis is not lawful and that the authorities have the right to treat it, the review authorities should treat that within 30 days by law. For those they having no right to treat, the review authorities should, within 7 days, transfer it in line with statutory procedures to the State organs for treatment by law. During the treatment, the examination on the specific administrative act shall terminate.

Article 32 The legal affairs section should examine the legality and properness of the specific administrative act conducted by the defendant, propose opinions and, upon agreement by the chief person of the review authorities, work out the review decision in conformity with the following rules:

- 1) Where the facts are clear, evidence strong, legal basis correct, procedures lawful and content proper, the review authorities shall maintain the act.
- 2) Where the defendant fails to perform its statutory duty, the review authorities shall decide that the defendant should perform the duty within certain time limit.
- 3) In one of the following circumstances, the review authorities shall decide to cancel, change or verify the act is unlawful. In case of deciding to cancel or verify the act is unlawful, the review authorities may order the defendant to renew its specific administrative act within certain time limit:
 - a. The facts are not clear, the evidence is not sufficient.
 - B. The legal basis is wrong.
 - C. Violating the statutory procedures.
 - D. Stepping over or abusing power.
 - E. The specific administrative act is obviously inappropriate.In case that the review authorities order the defendant to renew the administrative act, the defendant should not conduct the specific administrative act the same as or similar to the previous act based on the same facts and arguments.
- 4) Where the defendant fails to put forward the written reply, provide the basis, evidence and other relevant materials for the specific administrative act in accordance with Article 26 of these rules, the specific administrative act shall be deemed as no evidence, no basis and decision shall be made to cancel the act. For the very serious, difficulty cases of review application, decision shall be worked out by collective discussion in the review authorities. The criteria for the very serious and difficulty cases shall be defined by the review

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authorities.

Article 33 The applicant may request for compensation when applying for administrative review. The review authorities should decide the grant compensation for those satisfying the rules of State Compensation Law. The review authorities should decide that the defendant should give compensation at the time when the review authorities decide to cancel, change the act or verify that the act is unlawful. Where the applicant does not request for administrative compensation when applying for review, the review authorities should order the defendant to rebate the taxes, interest and fines, lift the seal-up and detention of property or compensate the corresponding payment at the same time when the review authorities decide by law to cancel or change the taxes, interest and fines and seal-up and detention of property imposed by the previous specific administrative act.

Article 34 The review authorities should work out the review decision within 60 days after accepting the application for the review. In complicated cases of being unable to make the decision within the ruled time limit, the time may be extended properly upon approval by the chief person of the review authorities, which should be notified the applicant and the defendant. But the extension should not be over 30 days. When making the review decision, the review authorities should prepare the administrative act review decision letter and put official stamp on it. The administrative review decision letter shall be legally effective once it is delivered to the destination.

Article 35 The defendant should follow the administrative review decision. Where the defendant fails to follow the decision or prolongs the execution of the decision without any acceptable reason, the review authorities or the higher administrative department relevant shall order it to execute within certain time limit.

Article 36 Where the applicant neither appeals nor follows the administrative review decision over time, or fails to follow the final judgment of the review decision, it shall be dealt with by the following rules: 1) In case of maintaining the act, the administrative department conducting the specific administrative act shall enforce the implementation of the decision by law or apply to the People's Court for enforcement execution. 2) In case of changing the specific administrative act, the review authorities shall enforce the execution of the decision or apply to the People's Court for enforcement execution.

CHAPTER 7 SUPPLEMENT RULES

Article 37 The review authorities, the staff of the review authorities and the defendants having any activity violating the Administrative Review Law and these rules in the activities of administrative review shall be pursued legal responsibility in accordance with Chapter 6 of the Administrative Review Law of the People's Republic of China.

Article 38 The review authorities should not charge any fee to the applicants in accepting and hearing the review application. The fund needed for the review activities should be included in the administrative expenses of the department and should be ensured by the finance of the same level.

Article 39 The review authorities may use the special review stamp in course of accepting, examining and deciding the review application. The letter of refusing acceptance and the review decision letter should be put stamp of the review authorities.

Article 40 The computation of the review period and the delivery of the administrative review documents shall be implemented in accordance with the rules of Law of Civil Appeal on the time period and delivery. The rules concerning 'five days', 'seven days' of the review period refer to the The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

work days, excluding holidays.

Article 41 These rules shall be effective as of October 1, 1999. The Rules for Tax Administrative Review promulgated by the State Administration of Taxation by Guo Shui Fa [1993] No. 119 on November 6, 1993 shall be annulled at the same time.

(The pattern of the review documents: omitted)

GENERAL NOTES FOR THE TAX LAWS AND REGULATIONS

1) The Law of the People's Republic of China on Tax Collection and Administration was revised and promulgated on April 28, 2001 for being effective as of May 1, 2001. After that, all the rules in the relevant tax laws, regulations and rules concerning tax administration and collection should be in conformity with the revised tax administration and collection law.

2) After revision, amendment and promulgation of the Criminal Law of the People's Republic of China, all the rules in the relevant laws concerning criminal responsibility should be in conformity with the revised and amended criminal law.

3) The 'General Administration of the Ministry of Finance', 'the State Tax Bureau' mentioned in the documents issued prior to April 1993 have now changed into the State Administration of Taxation (ministerial level department under the State Council in charge of tax work across the country).

4) After tax organizational reform in 1994, the tax authorities at and below the provincial level have been split into the offices of SAT and local tax bureaus. The taxes collected and administered by the offices of SAT include: VAT, Consumption Tax, Business Tax, Income Tax, City Maintenance and Construction Tax and Educational surcharges consolidatedly paid by the railway department, the headquarters of various banks and the headquarters of various insurance companies, Business Tax paid by the part over 5% by financial and insurance enterprises, Income Tax paid by central enterprises, Income Tax paid by joint operation enterprises and shareholding enterprises with investment from both the central and local enterprises and/or non-profit institutions, Income Tax paid by local banks and non-bank financial institutions, Income Tax and Resource Tax paid by offshore oil enterprises, Income Tax paid by the enterprises and institutions registered after January 1, 2002, Income Tax paid by enterprises with foreign investment and foreign enterprises, Individual Income Tax on interest income from personal saving deposits, Vehicle Acquisition Tax (at present collected on behalf by the vehicle purchase fee collection agency under the traffic department), Fuel Tax (not yet legislated), Security Exchange Tax (I.e., the Stamp Tax levied on security transactions before its levying), late payment interest, repayment of tax, fines with respect to the central taxes. The taxes collected and administered by the local tax bureaus are: Business Tax, Enterprise Income Tax, Individual Income Tax, Resource Tax, City Maintenance and Construction Tax, Stamp Tax and the Educational Surcharges (excluding the part collected by the offices of SAT), City and Township Land Use Tax, House Property Tax, Urban Real Estate Tax, Inheritance Tax (not legislated yet), Fixed Assets Investment Orientation Tax (suspending collection for time being), Land Appreciation Tax, Vehicle and Vessel Usage Tax, Vehicle and Vessel Usage Plate Tax, Slaughter Tax, Banquet Tax, late payment interest, repayment of tax, fines with respect to local taxes. In most part of China, the Agriculture Tax, Animal Husbandry Tax, Deed Tax and Farmland Occupation Tax are collected and administered by the financial departments of the Local Governments. In some regions, the above taxes are collected and administered by the local tax bureaus. The items collected and administered by the Customs are Customs Duty, Import Duty on Incoming Traveler's Luggage and Personal Postal Articles, Vessel

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Tonnage Tax. The Customs also are responsible for collecting VAT, Consumption Tax on imports on behalf of the tax administration.

5) The 'Provincial, autonomous region and municipality directly under the State Council Branches of SAT', 'Direct Branch of SAT', 'Branch belonging to SAT' mentioned in some documents are now changed into provincial, autonomous region, municipality directly under the State Council offices of SAT.

6) The 'Branches of SAT' in some documents are changed into county (city) offices of SAT.

7) Among the 24 taxes uniformly legislated in China, the taxes applicable to enterprises with foreign investment, foreign enterprises or foreigners are 16 kinds, namely, VAT, Consumption Tax, Business Tax, Customs Duty, Income Tax on Enterprises with Foreign Investment and Foreign Enterprises, Individual Income Tax, Resource Tax, Urban Real Estate Tax, Land Appreciation Tax, Vehicle Acquisition Tax, Vehicle and Vessel Usage Plate Tax, Vessel Tonnage Tax, Stamp Tax, Deed Tax, Slaughter Tax and Agriculture Tax. The tax matters for enterprises with investment from Hong Kong, Macao and Taiwan and overseas Chinese and for compatriots from Hong Kong, Macao, Taiwan and overseas Chinese shall be handled in reference with the tax rules for enterprises with foreign investment, foreign enterprises and foreigners.

8) According to the tax system reform plan available, China shall start to levy Inheritance Tax, Social Security Tax, Fuel Tax, Securities Transactional Tax and reform some of the taxes currently effective.

9) In case of the income in US dollar, Japanese Yen, Hong Kong dollar, it shall be converted into Renminbi for computing and paying the tax at the basic exchange rate of Renminbi to these three currencies promulgated by the People's Bank of China. In case of the income in other foreign currency, it shall be converted into Renminbi for computing and paying the tax at the basic exchange rate of Renminbi to US dollar and the exchange rates of US dollar to other foreign currencies provided by the State Foreign Exchange Administration Department.

10) The amount of Renminbi listed in the tax laws and regulations promulgated at the beginning of 1950's are all the old Renminbi, which has been replaced with new Renminbi at all.

11) Up to July 1, 2002, China has successively concluded the agreement on avoidance of double taxation on income and prevention of tax evasion with 78 countries, namely: Japan, the USA, France, UK, Belgium, Germany, Malaysia, Norway, Denmark, Singapore, Finland, Canada, Sweden, New Zealand, Thailand, Italy, the Netherlands, former Czechoslovakia, Poland, Australia, Bulgaria, Pakistan, Kuwait, Switzerland, Cyprus, Spain, Romania, Austria, Brazil, Mongolia, Hungary, Malta, the United Emirates of Arab, Luxembourg, Republic of Korea, Russia, Papua New Guinea, India, Mauritius, Croatia, Belarus, Slovenia, Israel, Viet Nam, Turkey, Ukraine, Armenia, Jamaica, Iceland, Lithuania, Latvia, Uzbekistan, Bangladesh, Yugoslavia, Sudan, Macedonia, Egypt, Portugal, Estonia, Laos, The Seychelles, the Philippines, Ireland, South Africa, Barbados, Moldova, Qatar, Cuba, Venezuela, Nepal, Kazakhstan, Indonesia, Oman, Nigeria, Tunisia, Iran, Bahrain and Greece, 63 of which have been in force.

CONSUMPTION TAXABLE ITEMS AND TAX RATES (TAX AMOUNTS) TABLE (TAXABLE ITEMS SCOPE OF CHARGE TAX UNIT TAX RATE/AMOUNT

I. Tobacco

1. Grade A Cigarettes Including Imported cigarettes 45%

2. Grade B Cigarettes 40%

3. Cigars 40%

4. Cut tobacco 30%

II. Alcoholic drinks and alcohol

1. White spirits made from cereal 25%

2. White spirits made from potatoes 15%

3. Yellow spirits ton 240 yuan

4. Beer ton 220 yuan

5. Other alcoholic drinks 10%

6. Alcohol 15%

III. Cosmetics Including cosmetics sets 30%

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Skin-care and hair-care products 17% V. Precious jewellery and precious jade and stones Including all kinds of gold, silver, jewellery, and precious stone ornaments 10% VI. Firecrackers and fireworks 15% VII. Gasoline litre 0.2 yuan VIII. Diesel oil litre 0.1 yuan IX. Motor vehicle tyres 10% X. Motorcycles 10% XI. Motor cars 1. Those with a cylinder capacity (I.e. Emission capacity) of more than 2,200 ml (including 2,200 ml) 8% Those with a cylinder capacity of between 1,000 - 2,200 ml (including 1,000 ml) 5% Those with a cylinder capacity of less than 1,000 ml 3% 2. Cross-country vehicles (four-wheel drive) Those with a cylinder capacity of more than 2,400 ml (including 2,400 ml) 5% Those with a cylinder capacity of less than 2,400 ml 3% 3. Minibuses and vans Less than 22 seats Those with a cylinder capacity of more than 2,000 ml (including 2,000 ml) 5% Those with a cylinder capacity of less than 2,000 ml 3% Notes: (Now it is regulated that except for platinum jewellery subject to tax at the stage of production, other gold and silver jewellery and diamond and diamond decoration are taxed at retail stage. (Now it is ruled that the tax on the taxable consumer goods processed by individual businesspersons on trust of taxpayers shall be paid to the location of the trustors when the trustors recover these goods. (Now it is ruled that the tobacco and alcohol adopts combination method of ad valorem and quantity basis. The formula is: Tax payable = Sales value × tax rate + Sales volume × tax per unit. (In case of compound computation method, in addition to the above method for determining the taxable price, the quantity transferred for use should also taken as the base. For quantity basis, the quantity of the taxable consumer goods transferred for use should be taken as the tax base. (In case of compound computation method, in addition to the above method for determining the taxable price, the quantity recovered by the trustors should also taken as the base. For quantity basis, the quantity of the taxable consumer goods recovered by the trustors should be taken as the tax base. (In case of compound computation method, in addition to the above method for determining the taxable price, the quantity assessed by the Customs should also taken as the base. For quantity basis, the quantity of the taxable consumer goods assessed by the Customs should be taken as the tax base. (Please refer to the METHOD OF LEVYING IMPORT DUTY ON LUGGAGE OF INCOMING TRAVELLERS AND PERSONAL POSTAL ARTICLES which was promulgated by the Tariff and Classification Committee of the State Council on May 18, 1994 and other relevant documents. (For the small scale enterprises with incomplete accounting records, the tax department may assess their Consumption Tax payable by quarter or by year on basis of the production and sales of the taxable consumer goods, and the tax shall be paid monthly. (Please refer to the Resolution of the Standing Committee of NPC for the Enterprises with Foreign Investment and Foreign Enterprises Subject to the Provisional Regulations of VAT, Consumption Tax and Business Tax passed at the fifth session of the Standing Committee of the Eighth NPC on December 29, 1993. (After revision, the current taxable items and tax rates are as follows: a. Tobacco: First the tax is based on quantity, 150 yuan tax for each large box (containing 50,000 cigarettes) of cigarettes. Then tax is levied on ad valorem basis, in which 45% rate is applied to cigarettes with price more than 50 yuan (excluding VAT, the same hereinafter) for each package of 200 cigarettes, imported cigarettes, white package cigarettes, hand made cigarettes, the self-produced cigarettes for self-use without brand, specification and price, the contract processing cigarettes without brand, specification and price and the cigarettes produced by the enterprises and individuals not within the plan as approved by the State Council. 30% rate is applied to cigarettes with price less than 50 yuan for each package of 200 cigarettes. B. White spirits is levied by 0.5 yuan per jin in addition to the tax levied on ad valorem basis. C. 250 yuan per ton is levied by 0.5 yuan per jin in addition to the tax levied on ad valorem basis. The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

levied on beer of outlet price more than 3000 yuan (excluding VAT) per ton and self-produced by entertainment, catering enterprises. 220 yuan per ton on beer of outlet price less than 3000 yuan. D. The tax rate on skin-care and hair-care products has been changed to 8%. E. Now it is ruled that 5% rate is applied to gold and silver jewellery, diamond and diamond decoration. F. Now it is ruled that 0.28 yuan per litre is levied on lead gasoline. G. 30% tax may be reduced for enterprises producing and selling the small cars, cross-country motors and vans that reach the standards of low exhaust emission (equal to Europe II).

DETAILED RULES FOR THE IMPLEMENTATION OF THE PROVISIONAL REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON CONSUMPTION TAX(Promulgated by (93) Cai Fa Zi No. 39 of the Ministry of Finance on 25 December 1993) Article 1 These Detailed Rules are formulated in accordance with stipulations of Article 18 of "provisional Regulations of the People's Republic of China on Consumption Tax" (hereinafter referred to as "the Regulations"). Article 2 "Units" mentioned in Article 1 of the Regulations refer to State-owned enterprises, collectively-owned enterprises, privately-owned enterprises, joint-stock enterprises, administrative units, institutions, military units, social organizations and other units. "Individuals" mentioned in Article 1 of the Regulations refers to individual business operators and other individuals. "Within the territory of the People's Republic of China" mentioned in Article 1 of the Regulations refers to the fact that places of dispatch or the locations of the consumer goods produced, contract processed and imported which shall be chargeable to Consumption Tax (hereinafter referred to as "taxable consumer goods") are in the territory. Article 3 Specific scope of taxation for taxable consumer goods stated in the attached to the Regulations shall be determined in accordance with (attached to these Detailed Rules. Selling price (excluding Value Added Tax to be collected from the purchaser, the same definition below) of each big box (fifty thousand sticks, the same definition below) is 780 yuan or more, tax shall be chargeable in accordance with the tax rate of Grade A cigarettes; selling price of each big box is less than 780 yuan, tax shall be chargeable in accordance with the tax of Grade B cigarettes.(Article 4 "Taxpayers dealing in taxable consumer goods with different tax rates" mentioned in Article 3 of the Regulations refer to taxpayers producing and selling taxable consumer goods with more than two applicable tax rates. Article 5 For taxable consumer goods which are "produced by the taxpayer and shall be subject to tax upon sales" mentioned in Article 4 of the Regulations refer to the transfer of the proprietary rights of taxable consumer goods with compensation, that is, transfer of taxable consumer goods on the condition of receiving cash, goods, services or other economic benefits from the transferee. Article 6 "Self-produced taxable consumer goods for the taxpayer's own use in the continuous production of taxable consumer goods" mentioned in Article 4 of the Regulations refer to taxable consumer goods which are used as direct materials for the production of final taxable consumer goods and which constitute a substance form of the final product. "For other use" refers to the use of taxable consumer goods by taxpayers for the production of non-taxable consumer goods; for construction in process, administrative departments and non-production institutions and provision of services; and taxable consumer goods used as donations, sponsor, fund-raising, advertising, samples, staff welfare, awards, etc. Article 7 "Taxable consumer goods sub-contracted for processing" mentioned in Article 4 of the Regulations refer to processed taxable consumer goods for which the principal provides raw materials and major materials and for which the contractor only receives processing fees and supplying part of auxiliary materials for processing. Taxable consumer goods produced with raw materials provided by

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the contractor, processed by the contractor with raw materials firstly sold to the contractor by the principal, and produced by the contractor with raw materials bought under the name of the principal shall not be regarded as taxable consumer goods contracted for processing but shall be regarded as sales of self-produced taxable consumer goods subject to Consumption Tax regardless of whether or not taxpayers treat them as sales in their accounts. Consumption Tax shall not be levied on taxable consumer goods contracted for processing which are for direct sale.

Article 8 In accordance with provisions of Article 4 of the Regulations, the time when the liability to pay Consumption Tax arises is as follows:

1. For taxpayers selling taxable consumer goods, the time when the liability to pay tax arises is:
 - a. For taxpayers adopting the settlement methods of selling on credit and receipt by instalments, the time when the liability to pay tax arises shall be the day of collection as stipulated in the sales contract.
 - B. For taxpayers adopting the settlement method of receipt in advance, the time when the liability to pay tax arises is the day on which the taxable consumer goods are delivered.
 - C. For taxpayers adopting the method of being entrusted for collection or entrusted with the banks for collection, the time when the liability to pay tax on the sale of taxable consumer goods arises is the day when the taxable consumer goods are delivered and the procedure for entrusted collection are completed.
 - D. For taxpayers adopting other methods of settlement, the time when the liability to pay tax arises is the day when they have received the sales payment or the evidence to obtain the sales payment.
2. For taxpayers using self-produced taxable consumer goods, the time when the liability to pay tax arises is the day of transfer for use.
3. For taxable consumer goods contracted for processing by taxpayers the time when the liability to pay tax arises is the day of receiving the goods by the taxpayer.
4. For taxable consumer goods imported by taxpayers, the time when the liability to pay tax arises is the day of import customs declaration.

Article 9 “Sales volume” mentioned in Article 5 of the Regulations refers to volume of taxable consumer goods which is further specified as follows:

1. For the sale of taxable consumer goods, it is the sales volume of the taxable consumer goods.
2. For own usage of self-produced taxable consumer goods, it is the volume of the taxable consumer goods transferred for use.
3. For taxable consumer goods contracted for processing, it is the volume of taxable consumer goods collected back by the taxpayers.
4. For imported taxable consumer goods, it is the tax assessable volume for import of taxable consumer goods certified by the customs office.

Article 10 For taxable consumer goods whose tax payable shall be calculated according to the amount on volume method, the conversion standard of the measurement units shall be as follows:

1. Beer 1 ton = 988 litres
2. Yellow wine 1 ton = 962 litres
3. Gasoline 1 ton = 1388 litres
4. Diesel oil 1 ton = 1176 litres

Article 11 Pursuant to the stipulations of Article 5 of the Regulations, for taxable consumer goods sold by taxpayers where the sales amounts are settled in foreign currencies, the Renminbi conversion rate for the sales amount to be selected can be the State official foreign exchange rate (the mid-rate in principle) quoted on the day of settlement or the first day of that month. Taxpayers shall determine in advance the conversion rate to be adopted, once determined, no change is allowed within one year.

Article 12 “Sales amount” mentioned in Article 6 of the Regulations does not include Value Added Tax that shall be collected from the purchasers. If the amount of Value Added Tax has not been deducted from the sales amount of the taxable consumer goods, or if the price and the amount of Value Added Tax are jointly collected because the special invoice of Value Added Tax shall not be issued by the taxpayers, it shall be converted into sales amount excluding the amount of Value Added Tax for computing the Consumption Tax. The conversion formula is: Sales amount of taxable consumer goods

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= Sales amount including VAT ÷ (1 + VAT rate or levy rate)

Article 13 If taxable consumer goods with the tax payable computed under the rate on value method are sold together with the packaging, the packaging shall be included in the sales amount of the taxable consumer goods for the levy of Consumption Tax regardless of whether or not the packaging is priced individually and regardless of how it is computed in the accounts. If packaging is sold along with products without being priced but with a deposit obtained, such deposit item shall not be included in the sales amount of taxable consumer goods for tax levy. However, deposits which are not refunded because the packaging is not returned within a time limit or are received for more than one year shall be included in the sales amount of taxable consumer goods and be subject to Consumption Tax according to the applicable Consumption Tax rate. In cases where the packaging has been priced when sold along with taxable consumer goods and deposits have been received in addition, the amount shall be included in the sales amount of the taxable consumer goods and be subject to Consumption Tax according to the applicable Consumption Tax rate if the packaging not returned by taxpayers within a designated time limit.

Article 14 “Other charges” mentioned in Article 6 of the Regulations refer to other funds, fund raising charges, profits returned, subsidies, damages on breach of contract (interest on deferred payment), handling charges, packaging fees, contingency charges, quality charges, freight and loading and unloading charges, commission received, commissioned payments and charges of any other nature which are in addition to the price charged. But the following amounts shall not be included: 1. A freight invoice of transportation organizations is issued to the purchasers. 2. The same invoice that is forwarded by the taxpayer to the purchasers. All other charges, regardless of whether or not they are income of the taxpayer, shall be included in the sales amount in computing the tax payable.

Article 15 “The selling price of similar consumer goods” mentioned in Article 7 and Article 8 of the Regulations refer to the selling price of similar consumer goods sold in that month by taxpayers or withholding agents. If the selling prices of similar consumer goods vary in various periods within that month, tax shall be computed according to the sales volume on weighted average basis. However, the sales of taxable consumer goods shall not be computed under weighted average in one of the following conditions: 1. The selling price is obviously low and without proper justification; 2. There is no selling price. If there is no sale or if sale has not been completed in that month, tax shall be paid according to the selling prices of similar consumer goods of last month or the most recent month.

Article 16 “Cost” mentioned to in Article 7 of the Regulations refers to the product production cost of taxable consumer goods. Article 17 “Profit” mentioned in Article 7 of he Regulations refers to profit computed according to national average cost-plus margin rate of taxable consumer goods. National average cost- plus margin rate of taxable consumer goods shall be determined by the State administration of Taxation. Article 18 “Cost of material” mentioned in Article 8 of the Regulations refers to the actual cost of processing materials provided by contractor. Taxpayers contracted for processing taxable consumer goods must truthfully indicate the cost of material in the contract processing contracts (or provided in other forms). In cases where no cost of material is provided, the local competent tax authorities of the contractor shall have the right to determine the cost of material.

Article 19

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