

Order of the State Council of the People' s Republic of China

(No. 539)

The Interim Regulation of the People' s Republic of China on Consumption Tax, as amended, which was adopted at the 34th executive meeting of the State Council on November 5, 2008, is hereby promulgated, and shall come into force on January 1, 2009.

Premier Wen Jiabao

November 10, 2008

Interim Regulation of the People' s Republic of China on Consumption Tax

(promulgated by Order No. 135 of the State Council of the People' s Republic of China on December 13, 1993 and amended at the 34th executive meeting of the State Council on November 5, 2008)

Article 1 Entities and individuals that produce, process upon commission or import the consumption goods prescribed in this Regulation in the People' s Republic of China and other entities and individuals that sell the consumption goods as prescribed in this Regulation as determined by the State Council shall be consumption tax payers who shall pay consumption tax according to this Regulation.

Article 2 Consumption tax items and rates shall be governed by the Schedule of Consumption Tax Items and Rates hereto attached.

Any adjustment of consumption tax items or rates shall be determined by the State Council.

Article 3 Where a taxpayer concurrently sells taxable consumption goods of different consumption tax rates, the taxpayer shall separately calculate the amount and quantity of sales of such goods according to their corresponding tax rates. If the taxpayer fails to do so or sells taxable consumption goods of different consumption tax rates as a complete set, the tax rate of the goods whose rate is higher shall be applied.

Article 4 The taxes payable on the taxable consumption goods produced by taxpayers shall be paid at the time of sale. The taxes on the taxable consumption goods produced by taxpayers for their own use shall be exempted if they are used in continuous production of taxable consumption goods, or shall be paid when the goods are transferred for other purposes.

The taxes payable on taxable consumption goods processed on commission shall be collected and remitted by the commissioned party at the time when the commissioned party delivers the goods to the commissioning party, unless the commissioned party is an individual. If the goods are used by the commissioning party for continuous production of taxable consumption goods, the paid taxes shall be credited according to the relevant provisions.

The taxes on imported taxable consumption goods shall be paid when the customs declaration formalities are handled.

Article 5 The payable amount of consumption tax shall be calculated by applying the ad valorem tax method, or the specific tax method, or a composite method of the two (hereinafter referred to as composition method). The formulas are:

For the ad valorem tax method, taxes payable = sales revenue \times proportional tax rate

For the specific tax method, taxes payable = quantity of sales \times specific tax

For the composite method, taxes payable = sales revenue \times proportional tax rate + quantity of sales \times specific tax

The taxes payable on the taxable consumption goods sold by a taxpayer shall be calculated in RMB. Where any taxpayer calculates it in a currency other than RMB, the amount shall be converted into RMB.

Article 6 The sales revenue shall be the entire selling price and extra fees charged by a taxpayer from the purchasers of the taxable consumption goods sold by the taxpayer.

Article 7 The taxes payable on the taxable consumption goods produced by a taxpayer for his/its own use shall be calculated on the basis of the selling price of the identical consumption goods produced by the taxpayer or, if there is no such selling price available, the composite taxable

value.

If the ad valorem method is adopted to calculate the taxes payable, the composite taxable value shall be calculated according to the following formula:

$$\text{Composite taxable value} = (\text{cost} + \text{profit}) / (1 - \text{proportional tax rate})$$

If the composite method is adopted to calculate the taxes payable, the composite taxable value shall be calculated according to the following formula:

$$\text{Composite taxable value} = (\text{cost} + \text{profit} + \text{quantity of the self-produced products for self use} \times \text{specific tax}) / (1 - \text{proportional tax rate})$$

Article 8 The taxes payable of the taxable consumption goods processed on commission shall be calculated on the basis of the selling price of the identical consumption goods of the commissioned party or, if there is no such selling price available, the composite taxable value.

If the ad valorem method is adopted to calculate the taxable amount, the composite taxable value shall be calculated according to the following formula:

$$\text{Composite taxable value} = (\text{cost of materials} + \text{processing charge}) / (1 - \text{proportional tax rate})$$

If the composite method is adopted to calculate the taxes payable, the composite taxable value shall be calculated according to the following formula:

$$\text{Composite taxable value} = (\text{cost of materials} + \text{processing charge} + \text{quantity of products processed on commission} \times \text{specific tax}) / (1 - \text{proportional tax rate})$$

Article 9 The taxes payable of imported taxable consumption goods shall be calculated on the basis of composite taxable value.

If the ad valorem method is adopted to calculate the taxable amount, the composite taxable value shall be calculated according to the following formula:

$$\text{Composite taxable value} = (\text{customs value} + \text{tariff}) / (1 - \text{proportional consumption tax rate})$$

If the composite method is adopted to calculate the taxable amount, the composite taxable value shall be calculated according to the following formula:

$$\text{Composite taxable value} = (\text{customs value} + \text{tariff} + \text{import quantity} \times \text{specific consumption tax}) / (1 - \text{proportional consumption tax rate})$$

Article 10 If the taxable value of a taxpayer's taxable consumption goods is obviously low without any justification, the competent tax authority shall investigate into his/its taxable value.

Article 11 Exported taxable consumption goods shall be exempted from the consumption tax unless it is otherwise provided for by the State Council. The measures for the tax exemption of exported taxable consumption goods shall be formulated by the treasury department and tax department of the State Council.

Article 12 Consumption tax shall be collected by the tax authorities, while that on imported taxable consumption goods shall be collected by the customs.

The consumption tax on the taxable consumption goods carried or mailed into China's territory by an individual shall be calculated and collected together with the tariff thereon. The specific measures shall be formulated by the Customs Tariff Commission of the State Council jointly with other relevant departments.

Article 13 A taxpayer shall, for the taxable consumption goods sold by it and those produced by it for its own use, file its tax returns to the competent tax authority of its location or place of residence, unless it is otherwise provided by the treasury department or tax department of the State Council.

For the taxable consumption goods processed on commission, unless the commissioned party is an individual, the commissioned party shall pay consumption tax to the competent tax authority of its location or place of residence.

For imported taxable consumption goods, the tax return shall be filed to the customs office of the place where the customs declaration formalities are handled.

Article 14 The time limit for paying consumption tax shall be 1 day, 3 days, 5 days, 10 days, 15 days, a month or a quarter. The specific time limit shall be determined by the competent tax authorities according to the taxpayers' different amounts of taxes. Taxpayers who cannot afford paying taxes on a fixed term may pay taxes per transaction.

Taxpayers who pay taxes on the monthly or quarterly basis shall file their tax returns within 15 days upon the expiration of the term. Taxpayers who pay taxes on the basis of 1 day, 3 days, 5 days, 10 days or 15 days shall make advance payments of taxes within 5 days upon the expiration of the term and file tax returns and settle the payable taxes of this month on a day between the first day and the 15th day of the next month.

Article 15 A taxpayer importing taxable consumption goods shall pay taxes within 15 days from the day when the customs office issues special consumption tax invoice for imports.

Article 16 The administration of consumption tax collection shall be governed by the Law of the People's Republic of China on the Administration of Tax Collection and this Regulation.

Article 17 This Regulation shall come into force on January 1, 2009.

Annex: Schedule of Consumption Tax Items and Rates

