

**DETAILED RULE FOR THE IMPLEMENTATION OF THE PROVISIONAL
REGULATION OF THE PEOPLE'S REPUBLIC OF CHINA ON CONSUMPTION TAX**

(Ministry of Finance: 25 December 1993)

Whole Doc.

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, other enterprises, administrative units, institutions, military units, social organizations and other units. "Individuals" mentioned in Article 1 of the Regulations refer 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 despatch 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 EXPLANATORY Notes for Scope of Taxation of Consumption Taxes 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 to 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, 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.

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 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 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 arise is the day when they have received the sales payment or the evidence to obtain the sales payment.
2. For taxpayers using self-producing 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-producing 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.

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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 1ton = 988 litres
2. Yellow wine 1ton = 962 litres
3. Gasoline 1ton = 1388 litres
4. Diesel oil 1ton = 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 Sales amount including VAT

taxable consumer goods = -----

(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 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.

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 refers 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 with out proper justification;
2. There is no selling price. If there is no sales or if sales 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 the 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 taxable consumer goods for processing 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 provide, the local competent tax authorities of the contractor shall have the right to determine the cost of material.

Article 19

"Processing fee" mentioned in Article 8 of the Regulations refers to all fees the contractor received from the principal for the processing of taxable consumer goods (including the actual cost of auxiliary materials paid under commissioned payments).

Article 20

"Customs dutiable value" mentioned in Article 9 of the Regulations refers to the customs dutiable value determined by the customs office.

Article 21

In accordance with Article 10 of the Regulations, the power to determine dutiable value of the taxable consumer goods is stipulated as follows:

1. Dutiable value for Grade A cigarettes and white spirits made from cereal shall be determined by the State Administration of Taxation.

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2. Dutiable value for other taxable consumer goods shall be determined by the local tax bureaus directly under the State Administration of Taxation.

3. Dutiable value for imported taxable consumer goods shall be determined by the customs office.

Article 22

"As otherwise determined by the State Council" mentioned in Article 11 of the Regulations refers to taxable consumer goods export of which is restricted by the State.

Article 23

If rejection by customs occurs on exported taxable consumer goods that has completed the tax refund or tax exemption is allowed for the import of returned export goods from overseas, export customs declarer shall report and pay back the amount of Consumption Tax refunded timely to local competent tax authorities. In cases where tax exemption for direct exported taxable consumer goods has been completed by taxpayers, rejection by customs occurs and exported goods are returned from overseas, and if tax exemption is granted at the time of importation, the taxpayers may defer to pay back the tax upon approval by the local competent tax authorities and pay back Consumption Tax to the local competent tax authorities when the goods are transferred for domestic sale in the territory.

Article 24

If taxable consumer goods sold by taxpayers are returned by purchasers because of quality and other reasons, the amount of Consumption Tax paid may be refunded upon approval by local competent tax authorities.

Article 25

Pursuant to the provisions of Article 13 of the Regulations, if taxpayers sell in other county (or city) or appoint agent to sell in other county (or city) taxable consumer goods produced by the taxpayers, the taxpayers shall pay Consumption Tax to where the accounting is done or where the taxpayer is located after the taxable consumer goods are sold. If the taxpayer's head office and branch office are not in the same county (or city), Consumption Tax shall be paid at the location where the branch office produce the taxable consumer goods. However, upon approval by the State Administration of Taxation and the relevant local tax bureau, the Consumption Tax payable of the branch office of the taxpayer may be paid in consolidation by the head office to the local competent tax authorities where the head office is located.

Article 26

These Detailed Rules shall be interpreted by the Ministry of Finance or by the State Administration of Taxation.

Article 27

These Detailed Rules shall be implemented on the date the Regulations are promulgated.

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