

**CIRCULAR ON QUESTION RELATED TO PROVISIONAL REGULATIONS CONCERNING TAXATIONS INCLUDING VALUE-ADDED TAX, CONSUMPTION TAX AND BUSINESS TAX APPLICABLE TO ENTERPRISE WITH FOREIGN INVESTMENT AND FOREIGN ENTERPRISES**

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Whole Doc.

To People's Governments of Various Provinces, Autonomous Regions and Municipalities, Various Ministries and Commissions, and organizations directly under the State Council:

In line with the Decision on the Provisional Regulations Concerning Taxation Including Value-Added Tax, Consumption Tax and Business Tax Applicable to enterprise with foreign investment and Foreign Enterprises (hereinafter referred to as Decision) examined and approved by the Fifth Session of the Standing Committee of the Eighth National People's Congress (NPC), we hereby notify you of the following questions related to tax categories applicable to enterprise with foreign investment and foreign enterprises:

**I. Questions Concerning Tax Categories Applicable to Enterprise with Foreign Investment and Foreign Enterprises**

In accordance with the stipulations of the Decision, in addition to the Provisional Regulations On Value-Added Tax of the People's Republic of China, the Provisional Regulations on Consumption Tax of the People's Republic of China, the Provisional Regulations On Business Tax of the People's Republic of China and the Income Tax Law of the People's Republic of China for Enterprise with Foreign Investment and Foreign Enterprises which are applicable to enterprise with foreign investment and foreign enterprises, the following provisional regulations are also applicable to them:

(I) The Provisional Regulation On Land Value-Added Tax of the People's Republic of China published by the State Council on December 13, 1993;

(II) The Provisional Regulations On Resources Tax of the People's Republic of China published by the State Council on December 25, 1993;

(III) The Provisional Regulations On Stamp Duty of the People's Republic of China published by the State Council on August 6, 1988;

(IV) The Provisional Regulations On Animal Slaughter Tax published by the Government Administration Council of the Central People's Government on December 19, 1950;

(V) The Provisional Regulations On Urban Real Estate Tax published by the Government Administration Council of the Central People's Government on August 8, 1951;

(VI) The Provisional Regulations On Vehicle and Shipping License Fees published by the Government Administration Council of the Central People's Government on September 13, 1951;

(VII) The Provisional Regulations on Contract Tax published by the Government Administration Council of the Central People's Government on April 3, 1950.

During the tax system reform, the State Council will continue to revise and formulate 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.

new interim regulations on taxation, enterprise with foreign investment and foreign enterprises should appropriately implement the stipulations according to relevant regulations.

## II. Questions Concerning the Handling of Increased Tax Burdens on Enterprise with Foreign Investment Following Changeover to the Collection of Value-Added Tax, Consumption Tax and Business Tax

(I) Enterprise with foreign investment set up with approval before December 31, 1993, which have increased tax burdens due to changeover to the collection of value-added tax, consumption tax and business tax, may themselves file an application, following examination and approval by the tax authorities, the extra tax paid as a result of increased tax burdens may be refunded within the approved period of operation, but the longest time limit should not exceed five years; enterprises without a time limit of operation may file an application, following approval from the tax authorities, the above-mentioned extra tax paid may be refunded within the period no longer than five years.

(II) Enterprise with foreign investment, which pay both value-added tax and consumption tax, will have the value-added tax and consumption tax respectively refunded for the part of taxes that exceed the original tax burden, in accordance with the proportions of value-added tax and consumption paid.

(III) Enterprise with foreign investment which directly export or export through export-oriented enterprises to which they sell their products shall perform the procedures for lump-sum refunding in accordance with the stipulations of the Provisional Regulations On Value-Added Tax of the People's Republic of China and by their export bill of entry and evidence of tax payments.

(IV) AN enterprise with foreign investment which applies for tax reimbursement because of increased tax burden may, in principle, perform the procedures lump sum after year end; those who have more increased tax burden may apply for reimbursement in advance on a quarterly basis, the account can be cleared after year end.

(V) Departments under the State Administration of Taxation are responsible for handling the matter of the reimbursement of value-added tax and consumption tax, state treasury at all levels should make careful examination and verification to ensure that refunding is done according to prescribed regulations. The State Administration of Taxation is responsible for separately lay down stipulations concerning the calculation of the amount of tax refunded, the application for refund of duty and the procedures for approval.

(VI) The people's governments of various provinces, autonomous regions and municipalities are responsible to lay down stipulations concerning the reimbursement of business tax.

## Questions Concerning Taxation Related to Sino-Foreign Cooperative Exploitation of Oil Resources.

Value-added tax shall be levied in kind at a 5 percent rate on the crude oil and natural gas jointly exploited from the oil (gas) fields by China and foreign companies, and mining area use fees shall be charged in accordance with current stipulations, resource tax is not collected for the time being. While calculating and levying value-added tax, the tax amount of receipts will not be deducted, no tax will be refunded for the export of crude oil and natural gas.

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The offshore self-managed oilfields of the China Offshore Oil Corporation shall implement the Circular in accordance with the above-mentioned stipulations.

This Circular goes into effect from January 1, 1994.



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