Detailed Rules for the Implementation of the Law on the Administration of Tax Collection of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Amended in accordance with the Decision of the State Council on Amending the Detailed Rules for the Implementation of the Law on the Administration of Tax Collection of the PRC on November 9, 2012; and amended in accordance with the Decision of the State Council on Amending Certain Administrative Regulations on February 6, 2016

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Chapter I — General Provisions

Article 1 — These Detailed Rules are formulated in accordance with the provisions of the Law of the People's Republic of China on the Administration of Tax Collection (hereinafter referred to as the "Tax Collection Administration Law").

Article 2 — The Tax Collection Administration Law and these Detailed Rules shall apply to the collection and administration of all types of taxes lawfully collected by the tax authorities; where there are no specific provisions in the Tax Collection Administration Law and these Detailed Rules, the provisions of other relevant tax laws and administrative regulations shall apply.

Article 3 — Any decision of any department, entity, or individual made in contravention of tax laws or administrative regulations that is related to tax collection and administration shall be null and void, and tax authorities shall not implement such decision, and shall report the matter to the tax authority at a higher level.

Taxpayers shall perform their tax payment obligations in accordance with the provisions of tax laws and administrative regulations; any contract or agreement entered into by the parties that contravenes the provisions of tax laws or administrative regulations shall be null and void.

Article 4 — The State Administration of Taxation shall be responsible for formulating plans for the national tax collection management information system and for building, promoting, applying, and administering such system nationwide.

Article 5 — For purposes of the phrase "confidential information of taxpayers and withholding agents" as used in Article 8 of the Tax Collection Administration Law, it shall mean trade secrets and personal privacy of taxpayers and withholding agents. Illegal acts of taxpayers and withholding agents in connection with taxation shall not be treated as confidential information.

Article 6 — The State Administration of Taxation shall formulate standards for the conduct of tax officials in the performance of their duties.

The tax authorities of the local people's governments at or above the county level shall, in accordance with the standards of conduct for tax officials, supervise, inspect, and assess the compliance of tax officials with such standards. Tax officials shall accept such supervision and inspection conducted in accordance with law, and shall continuously improve their competence in the performance of duties.

Article 7 — The State Administration of Taxation shall, in accordance with the provisions of relevant laws and administrative regulations, formulate specific measures for tax authorities at all levels regarding the division of functions, institutional establishment, and staffing.

Article 8 — Where tax authorities investigate and handle tax cases, they shall establish a system of avoidance. Where a tax official has any of the following relationships with a taxpayer, withholding agent, or the person directly responsible for a tax violation, the tax official shall withdraw:

(1) a marital relationship;

(2) a direct blood relationship;

(3) a collateral blood relationship within three generations;

(4) a close in-law relationship;

(5) other interest relationship that may affect the fair enforcement of law.

Chapter II — Tax Registration

Article 9 — The State Administration of Taxation and the local tax bureaus shall implement unified codes for taxpayer identification. A taxpayer identification code shall be unique for each taxpayer.

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Article 10 — Taxpayers at all levels of industrial and commercial administrative authorities shall, within 30 days from the date of obtaining the business license, apply to the tax authority with the relevant documents for tax registration by presenting the business license. The tax authority shall, within 30 days from the date of receipt of the application, complete the examination, issue the tax registration certificate, and complete the registration.

Where a taxpayer is not required to undergo industrial and commercial registration, it shall, within 30 days from the date of occurrence of the tax payment obligation, apply to the tax authority for tax registration by presenting the relevant documents. The tax authority shall, within 30 days from the date of receipt of the application, complete the examination, issue the tax registration certificate, and complete the registration.

Article 11 — Where any of the following changes occurs in the tax registration details of a taxpayer, the taxpayer shall, within 30 days from the date of completion of the change registration with the industrial and commercial administrative authority or from the date of the relevant approval or announcement by the relevant authority, file an application for change of tax registration with the original tax registration authority:

(1) a change in the name of the taxpayer;

(2) a change in the legal representative;

(3) a change in the registered address or business premises;

(4) a change in the business scope or mode of operation;

(5) a change in the registered capital;

(6) a change in the term of operation;

(7) a change in the organizational form; or

(8) a change in the legal person in charge of a branch office.

Article 12 — Where a taxpayer ceases production or business operations, it shall, within 15 days from the date of the relevant approval or announcement by the relevant authority or from the date of completion of the cancellation of registration with the industrial and commercial administrative authority, file an application for cancellation of tax registration with the original tax registration authority, presenting the relevant documents.

Where a taxpayer is declared bankrupt or dissolved by the relevant authority, it shall, before cancellation of registration, apply to the original tax registration authority for cancellation of tax registration.

Article 13 — Where a taxpayer fails to undergo tax registration within the prescribed time limit, the tax authority shall order it to undergo the registration within a specified time limit; where the taxpayer still fails to do so within the time limit, the tax authority may request the industrial and commercial administrative authority to revoke its business license.

Article 14 — Where a taxpayer uses its tax registration certificate for business operations, the tax authority shall verify it on an annual basis. The tax authority shall establish a system of regular verification of tax registration certificates.

Article 15 — Where a taxpayer undergoes tax registration at a place other than its place of domicile or place of business operations in accordance with the provisions of the State Council, the local tax authority shall register the matter with the tax authority at the place of domicile or place of business operations. Specific measures shall be prescribed by the State Administration of Taxation.

Article 16 — The operation of a taxpayer's bank account shall be reported to the tax authority. Where a taxpayer opens or changes a bank account, it shall, within 15 days from the date of opening or changing the account, report all the account numbers to the tax authority in writing.

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Chapter III — Bookkeeping and Vouchers

Article 17 — Taxpayers shall set up account books in accordance with the provisions of the relevant laws and administrative regulations and the provisions of the State Council departments of finance and taxation.

For purposes of the "account books" as mentioned in the preceding paragraph, they shall mean general ledgers, detailed ledgers, journals, and other auxiliary account books. General ledgers and journals shall be in bound form.

Article 18 — Taxpayers with a small scale of production and business operations that truly have no capacity to set up account books may engage certified public accountants or accounting personnel recognized by the tax authority to keep the accounts on their behalf. Where there are genuine difficulties in engaging certified public accountants or accounting personnel recognized by the tax authority, they may, in accordance with the provisions of the tax authority, establish a simple account book for receipts and expenditures and a register of incoming and outgoing goods.

Article 19 — Taxpayers shall calculate tax payable based on the lawful and valid vouchers recorded in their account books. Taxpayers shall keep account books, accounting vouchers, tax payment vouchers, and other relevant materials for the period prescribed by the State Council departments of finance and taxation.

Account books, accounting vouchers, and statements shall be in the Chinese language. In areas where minority nationalities live in a compact community or in foreign-invested enterprises and foreign enterprises, one minority ethnic language or one foreign language may be used concurrently.

Article 20 — Taxpayers shall submit to the tax authority their financial and accounting systems or financial and accounting measures and accounting software for record-filing.

Where a taxpayer's financial and accounting systems or financial and accounting measures conflict with the provisions of the State Council or the State Council departments of finance and taxation on taxation, the tax shall be calculated, paid, refunded, or supplemented in accordance with the provisions of the State Council or the State Council departments of finance and taxation.

Chapter IV — Tax Returns

Article 21 — Taxpayers shall, within the time limit for filing tax returns as prescribed by laws and administrative regulations or as determined by the tax authority in accordance with laws and administrative regulations, submit to the tax authority tax returns, financial and accounting statements, and other tax payment materials required by the tax authority on the basis of the actual circumstances.

Article 22 — Where a taxpayer fails to file tax returns within the prescribed time limit due to special difficulties, it may apply to the tax authority for an extension within the prescribed time limit. Where an extension is approved by the tax authority, the taxpayer may file the tax returns within the extended time limit.

Where a taxpayer is unable to file tax returns within the prescribed time limit due to force majeure, it may postpone the filing, provided that it reports the matter to the tax authority immediately after the force majeure circumstances disappear, and the tax authority shall verify the facts and grant approval retroactively.

Article 23 — Withholding agents shall, within the time limit for filing tax withholding or tax collection returns as prescribed by laws and administrative regulations or as determined by the tax authority in accordance with laws and administrative regulations, submit to the tax authority tax withholding or tax collection returns and other relevant materials required by the tax authority on the basis of the actual circumstances.

Article 24 — Electronic means of filing tax returns may be used upon approval of the tax authority. Where electronic means are used, the taxpayer or withholding agent shall, within the prescribed time limit, retain and keep the written materials relating to the tax returns, tax withholding or tax collection returns, and shall

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periodically submit them to the tax authority in accordance with the requirements of the tax authority.

Chapter V — Tax Collection

Article 25 — Tax authorities shall collect taxes in accordance with the provisions of tax laws and administrative regulations, and shall not, in violation of such provisions, initiate, suspend, over-collect, under-collect, collect in advance, postpone the collection of, or apportion taxes.

The amount of agricultural tax payable shall be verified in accordance with the provisions of tax laws and administrative regulations.

Article 26 — Where a taxpayer has any of the following circumstances, the tax authority shall have the authority to verify the tax payable:

(1) where, in accordance with the provisions of laws and administrative regulations, it is not required to set up account books;

(2) where, in accordance with the provisions of laws and administrative regulations, account books shall be set up but have not been set up;

(3) where account books are destroyed without authorization or tax payment materials are refused to be provided;

(4) where account books are set up but the accounts are chaotic or the cost information, income vouchers, or expense vouchers are incomplete, making it difficult to check the accounts;

(5) where, having occurred a tax payment obligation, the taxpayer fails to file tax returns within the prescribed time limit, and the tax authority orders it to file within a specified time limit, but it still fails to do so within the time limit; or

(6) where the basis for the tax calculation declared by the taxpayer is obviously on the low side and there is no justifiable reason.

The tax authority may verify the tax payable by adopting any of the following methods:

(1) by reference to the tax burden of other taxpayers in the same locality, same industry, or similar industry whose business scale and revenue level are similar;

(2) based on the volume of raw materials, fuel, power, and other material inputs consumed;

(3) based on cost plus reasonable expenses and profit; or

(4) by other reasonable methods.

Where a taxpayer disagrees with the tax payable verified by the tax authority by adopting one of the methods specified in the preceding paragraph, it shall provide relevant evidence, and the tax authority shall adjust the tax payable upon confirmation of the adjustment.

Article 27 — Where a taxpayer fails to pay tax within the prescribed time limit, or a withholding agent fails to remit tax within the prescribed time limit, the tax authority shall order it to pay or remit the tax within a specified time limit and, in addition, shall impose a surcharge on overdue tax payment at the rate of 0.05% per day from the date on which the tax payment is overdue.

The starting date for calculating the surcharge on overdue tax payment shall be the date on which the time limit for tax payment prescribed by laws and administrative regulations or determined by the tax authority in accordance with laws and administrative regulations expires.

Article 28 — Where a taxpayer needs to apply for a reduction of or exemption from tax in accordance with the provisions of laws and administrative regulations, it shall submit a written application to the tax authority. No tax reduction or exemption decision may be made by any entity, individual, or authority without the

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examination and approval by the tax authority prescribed by laws and administrative regulations.

Article 29 — Where a taxpayer, within the time limit for tax payment, has genuine difficulties in paying tax due to special difficulties, it may, upon approval by the tax authority of a province, autonomous region, or municipality directly under the Central Government, postpone the tax payment for a period of not more than three months.

For purposes of "special difficulties" as mentioned in the preceding paragraph, they shall mean either of the following:

(1) the taxpayer suffers an irresistible natural disaster or accident, resulting in a significant loss to the taxpayer and materially affecting its normal production and business operations; or

(2) the current monetary funds of the taxpayer are insufficient to pay the tax payable after paying the wages of employees and social insurance premiums.

Article 30 — Tax authorities may, in accordance with law, entrust relevant entities and individuals with the collection of small-amount and sporadic taxes and shall issue a power of attorney for tax collection to the entrusted entities and individuals. The entrusted entities and individuals shall collect taxes in the name of the tax authority in accordance with the requirements of the power of attorney, and taxpayers shall not refuse to pay; where a taxpayer refuses to pay, the entrusted entities and individuals shall promptly report the matter to the entrusting tax authority.

Article 31 — Tax authorities may, based on the needs of tax collection, adopt tax preservation measures in accordance with law. When adopting tax preservation measures, the tax authority shall produce a Decision on Tax Preservation Measures, notify the taxpayer in writing of the amount of tax to be secured, and seal up or distrain the taxpayer's property of equivalent value. A list shall be made on the spot for the property sealed up or distrained, signed by the taxpayer and the tax official, and one copy shall be given to the taxpayer.

Where a taxpayer pays the tax within the time limit prescribed by the tax authority, the tax authority shall immediately lift the tax preservation measures.

Article 32 — Where a taxpayer fails to pay the tax payable within the time limit prescribed by the tax authority, the tax authority may, in accordance with the provisions of the Tax Collection Administration Law, adopt compulsory enforcement measures and notify, in writing, the taxpayer and the bank or other financial institution where the taxpayer has an account of the deduction of the tax from the taxpayer's deposits. Where the tax authority distrains, seals up, auctions, or sells off the taxpayer's commodities, goods, or other property, it shall auction or sell off such property in accordance with law.

Article 33 — Tax authorities shall establish and improve a system for the administration of tax payment by taxpayers, and shall rely on the tax payment administration system to manage the overall process of tax declaration, tax payment, tax refund (exemption), tax reduction (exemption), and the issuance of tax payment vouchers.

Article 34 — Where a taxpayer has any of the following circumstances, the tax authority may, in accordance with the provisions of the State Council, exercise the right of recourse:

(1) a taxpayer that is due to pay tax assigns its property or transfers its pricing at an obviously unreasonable low price without justifiable reason, and the transferee is aware of such circumstances, and such act results in a reduction of the taxpayer's tax liability; or

(2) a taxpayer waives a matured claim or assigns its property without consideration, or assigns its property at an obviously unreasonable low price, where the transferee is aware of such circumstances, and such act causes damage to the State's tax revenue.

Article 35 — Where a taxpayer fails to pay tax when due, the tax authority may exercise the right of subrogation and the right of revocation in accordance with the provisions of Articles 73 and 74 of the

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Contract Law. The tax authority shall exercise the right of subrogation and the right of revocation without prejudice to any tax the taxpayer is legally required to pay.

Chapter VI — Tax Inspection

Article 36 — Tax authorities shall have the authority to conduct the following tax inspections:

(1) inspecting a taxpayer's account books, accounting vouchers, statements, and relevant materials; inspecting a withholding agent's account books, accounting vouchers, and relevant materials relating to tax withholding or tax collection;

(2) inspecting the taxpayer's taxable commodities, goods, or other property at the taxpayer's business premises and the places where goods are stored; inspecting the withholding agent's business operations relating to tax withholding or tax collection;

(3) ordering a taxpayer or withholding agent to provide documents, evidentiary materials, and relevant materials relating to tax payment or the amount of tax withheld or collected;

(4) making inquiries of a taxpayer or withholding agent about issues or circumstances relating to tax payment or the amount of tax withheld or collected; and

(5) inspecting the supporting documents, vouchers, and relevant materials relating to the taxable commodities, goods, or other property transported by a taxpayer at railway stations, wharves, airports, postal enterprises, and branches thereof.

Article 37 — When conducting a tax inspection, tax officials shall produce a tax inspection certificate and a tax inspection notice, and the number of such officials shall be not fewer than two. Where a tax official fails to produce the tax inspection certificate and tax inspection notice, the unit or individual under inspection shall have the right to refuse the inspection.

Article 38 — Where a tax authority engages an accounting firm or a tax agent firm to conduct tax audits or appraisals on its behalf in accordance with law, the tax authority shall issue a written power of attorney. The accounting firm or tax agent firm shall complete the audit or appraisal within the time limit and scope specified in the power of attorney.

Article 39 — Tax authorities shall establish a scientific inspection system and shall make overall arrangements to strictly control the frequency of inspections of taxpayers and withholding agents.

The tax inspection shall be recorded in writing, and the inspection record shall be signed or sealed by both the inspector and the inspected.

Article 40 — Tax authorities shall, in accordance with law, inquire about the deposit accounts of taxpayers and withholding agents engaged in production and business operations. Where it is necessary to inquire about the deposit accounts of a case-involved person's savings deposits, it shall be subject to the approval of the director of the tax bureau (sub-bureau) at the city or county level, and the tax authority shall produce the National Unified Format Permit for Inspection of Deposits at the bank or other financial institution concerned.

The bank or other financial institution shall cooperate with the tax authority and truthfully provide the relevant information on the deposit accounts of the taxpayer, withholding agent, or case-involved person, and shall have the right to refuse any inquiry by any unit or individual beyond the number of inspection officials or that fails to produce the Permit for Inspection of Deposits.

Chapter VII — Legal Liability

Article 41 — Where a taxpayer commits any of the following acts, the tax authority shall impose penalties in accordance with the provisions of the Tax Collection Administration Law:

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(1) failing to undergo tax registration, change registration, or cancellation registration within the prescribed time limit;

(2) failing to set up and keep account books or to keep accounting vouchers and relevant materials in accordance with provisions;

(3) failing to submit financial and accounting systems or financial and accounting measures and accounting software to the tax authority for record-filing;

(4) failing to report all bank accounts to the tax authority in accordance with provisions;

(5) failing to install or use tax control devices in accordance with provisions, or damaging or altering tax control devices without authorization; or

(6) refusing to accept inspection by the tax authority.

Article 42 — Where a taxpayer fails to file tax returns and submit tax payment materials within the prescribed time limit, or a withholding agent fails to submit tax withholding or tax collection returns and relevant materials to the tax authority within the prescribed time limit, the tax authority shall order it to do so within a specified time limit and may impose a fine of not more than 2,000 yuan; where the circumstances are serious, a fine of not less than 2,000 yuan and not more than 10,000 yuan may be imposed.

Article 43 — Where a taxpayer forges, alters, conceals, or destroys account books or accounting vouchers without authorization, or overstates expenses or fails to state or understates income in the account books, or refuses to file tax returns after being notified by the tax authority, or files false tax returns by falsifying, altering, concealing, or destroying without authorization the basis for tax calculation, resulting in failure to pay or underpayment of tax payable, the act shall constitute tax evasion. The tax authority shall pursue the payment of the tax evaded and the surcharge on overdue tax payment, and shall impose a fine of not less than 50% and not more than five times the amount of tax evaded; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Article 44 — Where a withholding agent fails to pay or underpays the tax withheld or collected, the tax authority shall pursue the payment of the tax and the surcharge on overdue tax payment, and shall impose a fine of not less than 50% and not more than five times the amount of tax not paid or underpaid; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Article 45 — Where a taxpayer fails to pay the tax payable within the prescribed time limit and refuses to pay after being ordered by the tax authority to do so within a specified time limit, the tax authority may, in addition to pursuing the payment of the tax not paid or underpaid and the surcharge on overdue tax payment in accordance with the provisions of the Tax Collection Administration Law, impose a fine of not less than 50% and not more than five times the amount of tax not paid or underpaid.

Article 46 — Where a taxpayer or withholding agent obstructs the tax authority from performing its duties by means of violence or threats, thereby refusing to pay tax, the act shall constitute tax resistance. The tax authority shall, in addition to pursuing the payment of the tax not paid or underpaid and the surcharge on overdue tax payment in accordance with the provisions of the Tax Collection Administration Law, impose a fine of not less than one time and not more than five times the amount of tax not paid or underpaid; where a crime is constituted, criminal liability shall be investigated in accordance with law.

Article 47 — Where a taxpayer has the obligation to pay tax but fails to pay the tax due by transferring or concealing property, and such act results in the tax authority being unable to pursue the payment of the tax, the act shall constitute tax avoidance. Where the amount of tax evaded through tax avoidance is 10,000 yuan or more, the tax authority shall, in addition to pursuing the payment of the tax evaded, impose a fine of not less than 50% and not more than five times the amount of tax evaded; where a crime is constituted, criminal liability shall be investigated in accordance with law.

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Article 48 — Where a taxpayer or withholding agent fails to pay the tax payable within the prescribed time limit and simultaneously engages in any of the acts of tax evasion or tax resistance, the tax authority shall pursue the payment of the tax not paid or underpaid and the surcharge on overdue tax payment in accordance with law, and shall also impose penalties according to the corresponding provisions of the Tax Collection Administration Law for the illegal acts.

Article 49 — Where a bank or other financial institution fails to log into the tax registration certificate number when opening an account for a taxpayer, thereby causing the taxpayer to fail to pay tax, the tax authority shall impose a fine of not less than 100,000 yuan and not more than 500,000 yuan on the bank or other financial institution, and impose a fine of not less than 1,000 yuan and not more than 10,000 yuan on the person-in-charge directly responsible and other persons directly responsible.

Article 50 — Where a tax official engages in any of the following acts, administrative sanctions shall be imposed in accordance with law; where a crime is constituted, criminal liability shall be investigated in accordance with law:

(1) colluding with a taxpayer or withholding agent to assist the taxpayer or withholding agent in evading tax, delaying the payment of tax, or defrauding a tax refund for export;

(2) taking advantage of the tax authority's power to collect or over-collect tax, or to apportion or collect fees in a disguised manner;

(3) extorting or accepting bribes; or

(4) engaging in other acts of fraud or dereliction of duty.

Chapter VIII — Supplementary Provisions

Article 51 — Tax authorities shall strengthen the administration of tax payment vouchers. Tax payment vouchers shall be uniformly formulated, printed, and managed by the State Administration of Taxation. No unit or individual may forge or alter tax payment vouchers without authorization.

Article 52 — The specific measures for the administration of tax payment by taxpayers shall be formulated by the State Administration of Taxation in accordance with the Tax Collection Administration Law and these Detailed Rules.

Article 53 — The service of tax documents shall be subject to the relevant provisions of the Civil Procedure Law of the People's Republic of China on the service of litigation documents.

Tax authorities may serve tax documents on taxpayers or withholding agents by electronic means, provided that the recipient's consent has been obtained.

Article 54 — The limitation period for tax authorities to pursue tax unpaid or underpaid by taxpayers or withholding agents shall be five years. The limitation period for the recovery of overpaid tax refunds shall be three years.

The limitation period shall commence from the date on which the tax payable becomes due or from the date on which the tax was paid.

Article 55 — These Detailed Rules shall be interpreted by the State Administration of Taxation and the Ministry of Finance.

Article 56 — These Detailed Rules shall enter into force on October 15, 2002. The Detailed Rules for the Implementation of the Provisional Regulations of the People's Republic of China on Tax Collection Administration promulgated by the State Council on August 4, 1993 shall be repealed simultaneously.

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