Provisional Regulations of the PRC on Consumption Tax

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

Promulgated by Order No. 135 of the State Council of the People's Republic of China on December 13, 1993; amended in accordance with the Decision of the State Council on Abolishing and Amending Certain Administrative Regulations on January 8, 2011
Effective: January 1, 1994

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Article 1 — All entities and individuals that produce, process under consignment or import taxable consumer goods within the territory of the People's Republic of China, as well as other entities and individuals specified by the State Council that sell taxable consumer goods, shall be taxpayers of consumption tax and shall pay consumption tax in accordance with these Regulations.

Article 2 — The items of taxable consumer goods and the tax rates of consumption tax shall be in accordance with the Consumption Tax Items and Tax Rates Table appended to these Regulations. The adjustment of the items and tax rates of consumption tax shall be decided by the State Council.

Article 3 — Where a taxpayer concurrently deals in taxable consumer goods with different tax rates, the sales amounts and sales volumes of the taxable consumer goods with different tax rates shall be accounted for separately; if they are not accounted for separately, or where different taxable consumer goods are combined into a complete set of consumer goods and sold, the higher tax rate shall apply.

Article 4 — Taxable consumer goods produced by a taxpayer shall be subject to tax at the time of sale. Taxable consumer goods produced by a taxpayer for self-use that are used for the continuous production of taxable consumer goods shall not be subject to tax; those used for other purposes shall be subject to tax at the time of transfer for use. Taxable consumer goods processed under consignment shall be subject to consumption tax withheld and remitted by the consignee at the time of delivery to the consignor. However, taxable consumer goods processed under consignment for the continuous production of taxable consumer goods by the consignor may be credited against the tax payable in accordance with the prescribed scope. Taxable consumer goods imported shall be subject to tax at the time of import declaration.

Article 5 — Consumption tax shall be calculated under the ad valorem rate method, the specific amount method, or a compound method combining both ad valorem rate and specific amount. The formula for computing tax payable shall be: Tax payable under the ad valorem rate method = Sales amount × Tax rate; Tax payable under the specific amount method = Sales volume × Tax amount per unit; Tax payable under the compound method = Sales amount × Tax rate + Sales volume × Tax amount per unit.

Article 6 — The sales amount shall be the total consideration and other charges received by the taxpayer from the sale of taxable consumer goods. Where the taxpayer does not separately account for value-added tax, or is not entitled to issue a special VAT invoice, the value-added tax shall be included in the sales amount for computing consumption tax.

Article 7 — For taxable consumer goods produced by a taxpayer for self-use and subject to tax in accordance with the provisions of Article 4 of these Regulations, the tax shall be calculated on the basis of the selling price of similar consumer goods produced by the taxpayer. Where there is no selling price of similar consumer goods, the tax shall be calculated on the basis of the assessable value. The formula for

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computing the assessable value shall be: Assessable value = Cost + Profit / (1 − Consumption tax rate).

Article 8 — For taxable consumer goods processed under consignment, the tax shall be calculated on the basis of the selling price of similar consumer goods of the consignee. Where there is no selling price of similar consumer goods, the tax shall be calculated on the basis of the assessable value by applying the formula set forth in Article 7.

Article 9 — For taxable consumer goods imported, the tax shall be calculated on the basis of the assessable value. The formula for computing the assessable value shall be: Assessable value = (Customs dutiable value + Customs duty) / (1 − Consumption tax rate).

Article 10 — Where the selling price at which a taxpayer declares tax is obviously low without justifiable reasons, the tax authority shall determine the assessable value. The specific measures for determining the assessable value shall be formulated by the State Administration of Taxation.

Article 11 — Where a taxpayer exports taxable consumer goods, consumption tax shall be exempted, unless otherwise provided for by the State Council. The measures for the exemption of consumption tax on exported taxable consumer goods shall be formulated by the State Administration of Taxation.

Article 12 — Consumption tax shall be collected by the tax authorities. Consumption tax on imported taxable consumer goods shall be collected by the customs authorities on behalf of the tax authorities. The consumption tax on taxable consumer goods carried or mailed into China by individuals shall be levied together with customs duty. The specific measures shall be formulated by the State Council Tariff Commission in conjunction with the relevant departments.

Article 13 — Where a taxpayer sells taxable consumer goods or produces taxable consumer goods for self-use, the taxpayer shall, except as otherwise provided for by the State, file tax returns with and pay tax to the competent tax authority at the place where the taxpayer's institution is located or where the taxpayer resides. For taxable consumer goods processed under consignment, the consumption tax withheld and remitted by the consignee shall be paid to the competent tax authority at the place where the consignee's institution is located or where the consignee resides. For taxable consumer goods imported, the tax shall be filed and paid to the customs authority at the place of import declaration.

Article 14 — The tax payment period for consumption tax shall be one day, three days, five days, ten days, 15 days, one month or one quarter. The specific tax payment period of a taxpayer shall be determined by the competent tax authority based on the amount of tax payable by the taxpayer; if tax cannot be paid within a fixed period, tax may be paid on a transaction-by-transaction basis. A taxpayer that adopts a tax payment period of one month or one quarter shall file a tax return and pay tax within 15 days from the date of expiration of the period. A taxpayer that adopts a tax payment period of one day, three days, five days, ten days or 15 days shall prepay tax within five days from the date of expiration of the period, and file a tax return and settle tax within 15 days from the first day of the following month. The tax payment period for taxpayers importing taxable consumer goods shall be 15 days from the date of issuance of the customs import tax payment certificate by the customs authority.

Article 15 — The administration of the levy and collection of consumption tax shall be governed by the relevant provisions of the Law of the People's Republic of China on the Administration of Tax Collection and the relevant provisions of these Regulations.

Article 16 — The Ministry of Finance shall be responsible for the interpretation of these Regulations, and the detailed rules for the implementation of these Regulations shall be formulated by the Ministry of Finance and the State Administration of Taxation.

Article 17 — These Regulations shall come into force as of January 1, 1994.

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