Provisional Regulations of the PRC on Land Appreciation Tax

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

Promulgated by Order No. 138 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 — These Regulations are formulated for the purposes of regulating the levy of land appreciation tax, standardizing the order of land and real estate market transactions, reasonably adjusting the benefits from land appreciation, and safeguarding the rights and interests of the State.

Article 2 — All entities and individuals that receive income from the transfer of state-owned land use rights, above-ground buildings and their attached structures (hereinafter referred to as "transfer of real estate") shall be taxpayers of land appreciation tax and shall pay land appreciation tax in accordance with these Regulations.

Article 3 — Land appreciation tax shall be calculated on the basis of the appreciation amount realized by the taxpayer from the transfer of real estate, and shall be levied at the tax rates specified in Article 7 of these Regulations.

Article 4 — The appreciation amount shall be the balance of the income received by the taxpayer from the transfer of real estate after deducting the amount of deductible items as prescribed in Article 6 of these Regulations.

Article 5 — The income received by a taxpayer from the transfer of real estate shall include monetary income, income in kind, and other income.

Article 6 — The deductible items for computing the appreciation amount shall be as follows: (1) the amount paid for the acquisition of the land use right; (2) the costs and expenses for the development of the land; (3) the costs and expenses for the construction of new buildings and auxiliary structures, or the assessed price of used buildings and structures; (4) the taxes related to the transfer of real estate; and (5) other deductible items as prescribed by the Ministry of Finance. For taxpayers engaged in real estate development, an additional deduction of 20% of the sum of Items (1) and (2) of this Article may be allowed.

Article 7 — Land appreciation tax shall be levied at four progressive tax rates: (1) for the part of the appreciation amount that does not exceed 50% of the amount of deductible items, the tax rate shall be 30%; (2) for the part of the appreciation amount that exceeds 50% but does not exceed 100% of the amount of deductible items, the tax rate shall be 40%; (3) for the part of the appreciation amount that exceeds 100% but does not exceed 200% of the amount of deductible items, the tax rate shall be 50%; and (4) for the part of the appreciation amount that exceeds 200% of the amount of deductible items, the tax rate shall be 60%.

Article 8 — Land appreciation tax shall be exempted under any of the following circumstances: (1) where a taxpayer constructs and sells ordinary standard housing, and the appreciation amount does not exceed 20% of the amount of deductible items; or (2) where the State acquires or requisitions real estate in accordance with law, resulting in the transfer of real estate. The specific standards for ordinary standard housing and other exemption matters shall be prescribed by the Ministry of Finance.

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Article 9 — Where a taxpayer falls under any of the following circumstances, the land appreciation tax shall be levied on the basis of the assessed value of the real estate: (1) the taxpayer conceals or falsely reports the transaction price of the real estate; (2) the taxpayer provides an amount of deductible items that is untrue; or (3) the transaction price of the real estate transferred by the taxpayer is obviously lower than the assessed value without justifiable reasons.

Article 10 — A taxpayer shall, within seven days from the date of execution of the contract for the transfer of real estate, file a tax return with the tax authority at the place where the real estate is located, and pay land appreciation tax within the time limit prescribed by the tax authority.

Article 11 — Land appreciation tax shall be collected by the tax authorities. The land administration departments and real estate administration departments shall provide the tax authorities with relevant information and assist the tax authorities in the collection of land appreciation tax in accordance with law.

Article 12 — Where a taxpayer fails to pay land appreciation tax in accordance with these Regulations, the land administration departments and real estate administration departments shall not process the relevant ownership change registration formalities.

Article 13 — The administration of the levy and collection of land appreciation 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 14 — 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.

Article 15 — These Regulations shall come into force as of January 1, 1994. The interim measures for land appreciation tax formulated by various regions that are inconsistent with these Regulations shall cease to be implemented simultaneously.

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