Notice of the State Council on Issues Concerning the Application of Interim Tax Regulations, Such as the Value-Added Tax, Consumption Tax and Business Tax, to Foreign-Invested Enterprises and Foreign Enterprises

Dan Young Business Consultancy — www.danyoungcpa.com

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

Promulgated by the State Council on February 22, 1994 (Guo Fa [1994] No. 10).
Effective: January 1, 1994.

To the people's governments of all provinces, autonomous regions, and municipalities directly under the Central Government, and all ministries, commissions, and directly affiliated institutions of the State Council:

In accordance with the Decision of the Standing Committee of the National People's Congress on the Application of the Interim Regulations on Value-Added Tax, Consumption Tax and Business Tax to Foreign-Invested Enterprises and Foreign Enterprises, adopted at the Fifth Session of the Standing Committee of the Eighth National People's Congress (hereinafter referred to as the "Decision"), the following notice is hereby given concerning the taxes applicable to foreign-invested enterprises and foreign enterprises and other related issues:

I. On the taxes applicable to foreign-invested enterprises and foreign enterprises

In accordance with the Decision, foreign-invested enterprises and foreign enterprises shall, in addition to applying the Interim Regulations of the People's Republic of China on Value-Added Tax, the Interim Regulations of the People's Republic of China on Consumption Tax, the Interim Regulations of the People's Republic of China on Business Tax, and the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises, also apply the following interim regulations:

(1) the Interim Regulations of the People's Republic of China on Land Value-Added Tax, promulgated by the State Council on December 12, 1993;

(2) the Interim Regulations of the People's Republic of China on Resource Tax, promulgated by the State Council on December 25, 1993;

(3) the Interim Regulations of the People's Republic of China on Stamp Duty, promulgated by the State Council on August 6, 1988;

(4) the Interim Regulations on Slaughter Tax, promulgated by the Government Administration Council of the Central People's Government on December 19, 1950;

(5) the Interim Regulations on Urban Real Estate Tax, promulgated by the Government Administration Council of the Central People's Government on August 8, 1951;

(6) the Interim Regulations on Vehicle and Vessel Use License Plate Tax, promulgated by the Government Administration Council of the Central People's Government on September 13, 1951;

(7) the Interim Regulations on Deed Tax, promulgated by the Government Administration Council of the Central People's Government on April 3, 1950.

In the course of tax reform, the State Council will successively revise and formulate new interim tax regulations, and foreign-invested enterprises and foreign enterprises shall comply with the relevant regulations accordingly.

Source: https://www.danyoungcpa.com/state-council-notice-vat-consumption-business-tax-fies-china/

II. On the handling of the increased tax burden of foreign-invested enterprises after the switch to value-added tax, consumption tax, and business tax

(1) With respect to foreign-invested enterprises approved and established before December 31, 1993, whose tax burden increases as a result of the switch to value-added tax, consumption tax, and business tax, the excess tax paid on account of the increased burden shall, upon application by the enterprise and examination and approval by the tax authorities, be refunded within the approved operating period, but for no more than five years; where there is no operating period, the excess tax paid shall, upon application by the enterprise and approval by the tax authorities, be refunded within a period of no more than five years.

(2) Where a foreign-invested enterprise pays both value-added tax and consumption tax, the portion of the tax paid in excess of the original tax burden shall be refunded as value-added tax and consumption tax respectively, in proportion to the value-added tax and consumption tax paid.

(3) Where products produced by a foreign-invested enterprise are directly exported, or are sold to export enterprises for export, tax refunds shall be processed in one transaction upon presentation of the export customs declarations and tax payment vouchers, in accordance with the Interim Regulations of the People's Republic of China on Value-Added Tax.

(4) Tax refunds applied for by foreign-invested enterprises on account of an increased tax burden shall, in principle, be processed in one transaction after the end of the year; where the tax burden increases substantially, advance refunds may be applied for on a quarterly basis, with settlement after the end of the year.

(5) Refunds of value-added tax and consumption tax shall be handled by the State tax administration system, and the State treasuries at all levels shall carefully examine and strictly verify the refunds. The calculation of refund amounts and the procedures for applying for and approving refunds shall be separately formulated by the State Administration of Taxation.

(6) The refund of business tax shall be prescribed by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government.

III. On tax issues concerning Chinese-foreign cooperative exploitation of petroleum resources

Crude oil and natural gas exploited from Chinese-foreign cooperative oil (gas) fields shall be subject to value-added tax levied in kind at a rate of 5%, and shall be subject to mining area royalties in accordance with the existing provisions, with resource tax temporarily not levied. Input tax shall not be deducted in calculating the value-added tax. No tax refund shall be granted upon the export of crude oil and natural gas.

The offshore self-operated oil fields of the China National Offshore Oil Corporation shall be handled by reference to the above provisions.

This Notice shall enter into force on January 1, 1994.

Disclaimer: This is an unofficial English translation of the original Chinese text, provided for general informational purposes only. It is not an official translation and has no legal force. In the event of any discrepancy, the original Chinese version shall prevail. This translation does not constitute legal advice, and Dan Young Business Consultancy assumes no liability for any reliance placed upon it.

Source: https://www.danyoungcpa.com/state-council-notice-vat-consumption-business-tax-fies-china/