



Detailed Rules for the Implementation of the Interim Regulation of the People's Republic of China on Consumption Tax

(Promulgated by Order No. 51 of the Ministry of Finance and the State Administration of Taxation on December 15, 2008)

Article 1 These Detailed Rules are formulated in accordance with the Interim Regulation of the People's Republic of China on Consumption Tax (hereinafter referred to as the Regulation).

Article 2 The term "entities" as mentioned in Article 1 of the Regulation refers to enterprises, administrative entities, public institutions, military entities, social groups and other entities.

The term "individuals" as mentioned in Article 1 of the Regulation refers to individual industrial and commercial businesses and other individuals.

The expression "within the territory of the People's Republic of China" as mentioned in Article 1 of the Regulation means that the place of departure or location of the consumer goods, which are produced, processed upon commission or imported and are to be subject to the consumption tax, is within China.

Article 3 The specific scope of the taxable consumer goods as listed in the Schedule of Consumption Tax Items and Rates attached to the Regulation shall be determined by the Ministry of Finance and the State Administration of Taxation.

Article 4 The expression "where a taxpayer concurrently sells the taxable consumer goods of different consumption tax rates" as mentioned in Article 3 of the Regulation shall mean that a taxpayer concurrent produces or sells taxable consumer goods of at least 2 tax rates.

Article 5 The term "sale" as mentioned in paragraph 1 of Article 4 of the Regulation refers to the paid transfer of the ownership of taxable consumption goods.

The term "paid" as mentioned in the preceding paragraph means: obtaining money, goods or other economic benefits from the purchaser.

Article 6 The expression "taxable consumer goods to be

used in continuous production" as mentioned in paragraph 1 of Article 4 of the Regulation refers to the

self-produced taxable consumer goods for the taxpayer's own use which are used as direct materials for the production of final taxable consumer goods and which constitute a physical form of final taxable consumer goods.

The phrase "for other purposes" as mentioned in paragraph 1 of Article 4 of the Regulation means that the taxpayer uses the self-produced taxable consumer goods for its own use in the production of non-taxable consumer goods, projects in construction, administrative departments and non-production institutions, provision of services, gifts, sponsoring, fund-raising, advertising, samples, employee welfare, awards and other aspects.

Article 7 The term "taxable consumer goods processed on commission" as mentioned in paragraph 2 of Article 4 of the Regulation refers to the processed taxable consumer goods for which the principal provides raw materials and major materials and for which the contractor only collects the processing charge and supplies some auxiliary materials for processing. The taxable consumer goods produced with raw materials provided by the contractor, processed by the contractor with raw materials firstly sold to the contractor by the principal, and produced by the contractor with raw materials bought in the name of the principal shall not be regarded as taxable consumer goods processed on commission but shall be regarded as sales of self-produced taxable consumer goods subject to the consumption tax no matter whether the taxpayer treats them as sales in accounting.

Where the taxable consumer goods processed on commission are directly sold, no consumption tax shall be paid.

Where the taxable consumer goods processed by individuals on commission are taken back by the

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principal, the consumption tax shall be paid.

Article 8 In accordance with the provisions of Article 4 of the Regulation, the time when the obligation to pay the consumption tax arises shall be as follows:

1. For a taxpayer selling taxable consumer goods, it shall be as follows corresponding to the different settlement methods:
 - a) For a taxpayer adopting the settlement methods of selling on credit and payment by installments, it shall be the date of payment as stipulated in the written contract. If the written contract does not stipulate the date of payment or there is no written contract, it shall be the current date of consignment of the taxable consumer goods.
 - b) For a taxpayer adopting the settlement method of payment for goods in advance, it shall be the current date of consignment of the taxable consumer goods.
 - c) For a taxpayer adopting the method of collection with acceptance or entrusting banks for collection, it shall be the current date of consignment of the taxable consumer goods and completion of the formalities for collection upon entrustment.
 - d) For a taxpayer adopting other methods of settlement, it shall be the current date on which it receives the sales payment or obtains the requested vouchers for sales payment.
2. For a taxpayer using self-produced taxable consumer goods for its own use, it shall be the date of delivery for use.
3. For a taxpayer entrusting the processing of taxable consumer goods, it shall be the date on which the taxpayer takes delivery of the goods.
4. For a taxpayer importing taxable consumer goods, it shall be the date of customs declaration for import.

Article 9 The “sales volume” as mentioned in paragraph 1 of Article 5 of the Regulation refers to the volume of taxable consumer goods which is further specified as follows:

1. For the sale of taxable consumer goods, it shall be the sales volume of the taxable consumer goods;

2. For self-produced taxable consumer goods for one’s own use, it shall be the volume of the taxable consumer goods delivered for use;
3. For taxable consumer goods processed upon commission, it shall be the volume of taxable consumer goods taken back by the taxpayers; and
4. For the imported taxable consumer goods, it shall be the volume of the imported taxable consumer goods as verified and approved by the customs office.

Article 10 For taxable consumer goods on which the tax payable shall be calculated through the specific tax method, the conversion standards of the measurement units shall be as follows:

1. Yellow Wine 1 ton = 962 litres
2. Beer 1 ton = 988 litres
3. Gasoline 1 ton = 1388 litres
4. Diesel-fuel 1 ton = 1176 litres
5. Jet Fuel 1 ton = 1246 litres
6. Naphtha 1 ton = 1385 litres
7. Solvent Naphtha 1 ton = 1282 litres
8. Lubricating Oil 1 ton = 1126 litres
9. Fuel Oil 1 ton = 1015 litres

Article 11 For taxable consumer goods sold by a taxpayer of which the sales amount is settled in a non-RMB currency, the RMB conversion rate for the sales amount to be selected may be the central parity of RMB exchange rate quoted on the current date of settlement or the first day of that month. The taxpayer shall determine in advance the to-be-adopted conversion rate, and once determined, it shall not be changed within 1 year.

Article 12 The term “sales amount” as mentioned in Article 6 of the Regulation does not include value added tax that shall be collected from the purchaser. If the amount of value added tax has not been deducted from the sales amount of the taxable consumer goods, or if the price and the amount of value added tax are jointly collected because the special invoice of value added tax shall not be issued by the taxpayers, it shall be converted into sales amount excluding the amount of value added tax for computing the consumption tax. The conversion formula is:



The sales amount of taxable consumer goods = The sales amount including the VAT \div (1 + VAT rate or levy rate)

Article 13 If the taxable consumer goods are sold together with the packages, the packages shall be included in the sales amount of the taxable consumer goods for the levy of consumption tax no matter whether the packages are priced separately and how to treat them in accounting. If the packages are not priced separately nor sold along with products but with a deposit received, such deposit shall not be included in the sales amount of the taxable consumer goods for tax levy. However, a deposit which is not refunded because the packages are not returned within a time limit or which has been received for more than 12 months shall be included in the sales amount of taxable consumer goods and be subject to the consumption tax at the applicable rate of tax on taxable consumer goods.

In the event that the packages are priced when sold along with taxable consumer goods and deposits has been received in addition, the deposit shall be included in the sales amount of the taxable consumer goods and be subject to the consumption tax at the applicable rate of tax on taxable consumer goods if the packages are not returned to the taxpayer within a specified time limit.

Article 14 The term “extra fees” as mentioned in Article 6 of the Regulation refers to the commissions, subsidies, funds, fund-raising fees, profits returned, incentive money, penalty for breach of contract, overdue fine, interests for deferred payment, compensation, payments collected on behalf of others, advance payment made on behalf of others, packaging fee, rent of packaging materials, storage fee, quality fee, freight and loading and unloading fees, and other fees charged in addition to the price, but the following items shall be excluded:

1. The freight which is paid in advance on behalf of others and concurrently satisfies the following requirements:
 - a) The freight invoice of the carrier is issued to the purchaser; and
 - b) The taxpayer forwards the said invoice to the purchaser.

2. The government funds or administrative fees which are collected on behalf of the Treasury and concurrently meet the following requirements:

- a) The government funds were approved and established by the State Council or the Ministry of Finance and the administrative fees were approved and established by the State Council or the people’s governments at the provincial level and their competent public finance and price departments;
- b) The printed fiscal invoices are issued by the public finance departments at or above the provincial level when the payments are collected; and
- c) The full amount of payments collected is turned over to the treasury.

Article 15 The term “self-produced taxable consumer goods for taxpayer’s own use” as mentioned in paragraph 1 of Article 7 refers to the taxable consumer goods for which tax payment shall be made when they are delivered for use in accordance with the provision in paragraph 1 of Article 4 of the Regulation.

The term “selling price of similar consumer goods” mentioned in paragraph 1 of Article 7 and Paragraph 1 of Article 8 of the Regulation refers to the selling price of similar consumer goods sold during the current month by the taxpayer or withholding agent. If the selling prices of similar consumer goods vary in various periods during the current month, the tax shall be computed according to the sales volume on weighted average basis. However, the sales of taxable consumer goods shall not be computed under weighted average in one of the following conditions:

1. The selling price is obviously lower without good reason; and
2. There is no selling price.

If there is no sale or if the sales have not been completed within the current month, the tax shall be computed according to the selling prices of similar consumer goods of the immediately previous month or the most recent months.

