

**Decision of the Standing Committee of the National People's Congress Regarding
the Application of Provisional Regulations on Such Taxes as Value-added Tax,
Consumption Tax and Business Tax to Enterprises with Foreign Investment and
Foreign Enterprises**

(Adopted at the Fifth Meeting of the Standing Committee of the Eighth National
People's Congress on December 29, 1993, promulgated by Order No. 18 of the
President of the People's Republic of China on December 29, 1993,
and effective as of the same date)

The Fifth Meeting of the Standing Committee of the Eighth National People's Congress, having considered the Proposal submitted by the State Council on the Application of the Provisional Regulations on Such Taxes as Value-added Tax, Consumption Tax and Business Tax to Enterprises with Foreign Investment and Foreign Enterprises, with a view to unifying the tax system, balancing the tax burden, improving the investment environment of our country, and catering for the need of establishing and developing the socialist market economy, specifically makes the following decisions:

1. Prior to the formulation of the relevant tax laws, the Provisional Regulations on Value-added Tax, the Provisional Regulations on Consumption Tax and the Provisional Regulations on Business Tax promulgated by the State Council shall be applicable to enterprises with foreign investment and foreign enterprises as of the date of January 1, 1994. The Regulations of the People's Republic of China on Industrial and Commercial Consolidated Tax (Draft) adopted in principle at the 101st Meeting of the Standing Committee of the National People's Congress on September 11, 1958 and promulgated by the State Council for trial implementation on September 13, 1958 shall be annulled on the same date.

Value-added Tax for the Chinese-foreign co-operative exploitation of offshore oil and natural gas shall be collected in kind. The tax rates and measures of collection shall be separately formulated by the State Council.

2. Where the tax burden of the enterprises with foreign investment established with due approval before the date of December 31, 1993 increases due to the change to the levy of Value-added Tax, Consumption Tax and Business Tax pursuant to Article 1 of this Decision, such enterprises may, upon application to and with the approval of the tax authorities, have a refund of the excess tax paid due to such increased tax burden for a maximum period of five years within the approved term of operation. Where there is no fixed term of operation, the enterprises may, upon application to and with the approval of the tax authorities, have a refund of the excess tax paid due to such increased tax burden for a maximum period of five years. The specific measures shall

be formulated by the State Council.

3. Apart from Value-added Tax, Consumption Tax and Business Tax, the application of other types of tax to enterprises with foreign investment and foreign enterprises shall be governed by the laws wherein there are such provisions, and shall be governed by the provisions of the State Council in the absence of such legal provisions.

Enterprises with foreign investment referred to in this Decision mean Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures and wholly foreign-owned enterprises established within the territory of China.

Foreign enterprises referred to in this Decision mean foreign companies, enterprises and other economic organizations which have establishments or places within the territory of China to engage in production or business operations, or which, though have no establishments or places, have income sourced within the territory of China.

This Decision shall come into force as of the date of promulgation.