

SUMMARY OF NEW  
SOVIET CORPORATE TAX LEGISLATION

I. Introduction

The new Soviet tax law -- "USSR Law on the Taxation of Enterprises, Associations, and Organizations" -- was enacted on June 14, 1990. The new law provides for taxation of Soviet economic entities, including USSR-foreign joint ventures, and foreign economic entities, including those engaging in business in the USSR and those not having a physical presence in the USSR. Pursuant to the "Decree of the USSR Supreme Soviet on Implementation of the USSR Law on the Taxation of Enterprises, Associations, and Organizations," also enacted on June 14, certain sections of the law are effective as of July 1, 1990, and others apply to economic activity taking place from January 1, 1991. Following is a description of the principal types of taxes provided for in the new law -- tax on profits, tax on revenues, tax on turnover, tax on imports and exports, and a tax that "regulates expenditures" on wages and other compensation -- with emphasis on provisions that apply to joint ventures and foreign businesses.

II. Tax on Profits

A. Soviet Entities, Including USSR-Foreign Joint Ventures

Soviet entities, including joint ventures, are taxed at a rate of 22% to the extent that their profits do not exceed "profitability limits" (as described below) set by the USSR Supreme Soviet for various sectors of the economy. These taxes are paid to the USSR budget. In addition, republic and local bodies may levy taxes on this first level of profitability, but such republic and local taxes, together with employer taxes and taxes on the use of raw materials, cannot exceed 23% of profits within this level of profitability.

If the foreign participant's share in the joint venture's authorized fund exceeds 30%, the tax rate on profits within the profitability limits is 30%, and for joint ventures located in the Soviet Far East, 10%. This assessment covers the taxpayer's obligations to union as well as republic and local authorities with regard to profits within these profitability limits.

Profitability limits are set at double the average profit rate for a given branch of the economy. The USSR Council of Ministers has been instructed to determine a method for computing

profitability, and to set average profit rates for each branch of the economy, by August 1, 1990.

Profits beyond the profitability limits described above are taxed at 80% or 90%, depending on the extent to which profits exceed the limits.

The amount subject to profits tax is increased by the difference between actual labor costs and guidelines for labor costs set by the USSR Council of Ministers. However, joint ventures whose foreign partner has contributed over 30% to the authorized fund are exempt from this provision.

If the foreign participant's share in a joint venture's authorized fund exceeds 30%, taxable profit is reduced by the amount spent on development of production, payment of interest on long-term bank credits, research and development, and ecological protection. Also, such joint ventures may deduct from taxable profits all amounts used to cover losses that cannot be covered by the "reserve" (contingency) fund of the joint venture. This deduction is allowed for five years after the appearance of a loss.

The new law contains certain "tax holiday" provisions regarding profits. Joint ventures that have more than 30% foreign participation in their authorized fund, except for joint ventures engaged in mineral extraction and fishing, enjoy a two-year

exemption from tax on profits arising from "material production" (three-year exemption for joint ventures in the Soviet Far East). This tax holiday begins after the joint venture first records a profit. Joint ventures that have more than 30% foreign participation in their authorized fund and that are registered before January 1, 1991 enjoy a two-year tax exemption (three-year exemption for joint ventures in the Soviet Far East), regardless of their sphere of activity. Furthermore, all enterprises set up in the Soviet Far East and in the far north of the USSR (including joint ventures regardless of ownership or sphere of activity), except those enterprises engaged in mineral extraction, are exempt from profits tax for one year from commencement of their operations and pay one-half of profits tax in their second year of operations. Thus, a joint venture in a sphere other than material production (but not in mineral extraction), established in the Soviet Far East with less than 30% ownership, registered after January 1, 1991 would not qualify for the two-year exemption after first recording profits, but would qualify for the one year "Soviet Far East" exemption, beginning with the commencement of operations.

Joint ventures can pay profits tax in rubles or foreign currency. The joint venture must make advance payments every

quarter on the basis of a financial plan or budget for the current year.

B. Foreign Businesses Present in the USSR

A separate chapter of the law provides for the taxation of profits earned by foreign legal entities engaged in economic activity on Soviet territory, on the continental shelf, or in a USSR economic zone. Pursuant to the new law, such profits are taxed at the rate of 30%, and such tax payments are divided among the budgets of union, republic, and local governments.<sup>1</sup>

The method of calculating the taxable profits of foreign businesses is to be established by the USSR Council of Ministers. If "direct" calculation of profit is impossible, the method of calculation may be set by agreement with republic tax authorities, on the basis of gross revenues or losses, using as a guideline a profitability rate of 15%.

Foreign entities that are paid in the form of goods or property pay tax on profits on the basis of prices paid on the Soviet

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<sup>1</sup> The law also contains an ambiguous provision that can be read as allowing further taxation by republic and local authorities. However, a Ministry of Finance official responsible for matters involving joint ventures stated, in response to our inquiry, that instructions expected to be issued by the Ministry in August will clarify that the effective tax rate is a total of 30%.

internal market, prices paid to Soviet exporters, or world prices for the goods or property in question.

Foreign businesses pay profit tax in rubles or foreign currency. They must pay by April 15 for the preceding year.

### III. Tax on Revenue

A 15% tax is imposed on revenues earned by Soviet entities in the form of distribution of a joint venture's profits, as well as on interest and dividends received by joint ventures on securities. Foreign joint venture participants' repatriation of profits is also taxed at 15%, payable in the currency that is transferred abroad, insofar as such taxation is consistent with international treaties to which the USSR is a signatory. If such a treaty is applicable, the foreign taxpayer must apply for a partial or total refund within one year after transfer of the revenue abroad.

Taxes are imposed on revenues whose source is in the USSR but that are received by foreign businesses that are not present in the USSR, for example, interest, dividends, freight charges, and rent. However, interest on credits to the government of the USSR, the USSR State Bank, and Vneshekonombank are tax-exempt. The tax rate is 6% for freight charges and 20% for the other types of revenue listed above.

Finally, there is a 70% tax on revenue earned by Soviet and foreign entities from casinos, video salons, gambling machines, and spectator events in places accommodating over two thousand people.

IV. Tax on Turnover

Soviet entities and Soviet-foreign joint ventures that engage in the production and sale of goods are subject to tax on the difference between wholesale and retail prices. The rate of such taxation on turnover is to be established by the USSR Council of Ministers.

The tax on turnover becomes effective on July 1, 1990 for joint ventures and on January 1, 1991 for other entities. However, for two years from the effective date of this tax, there is a complete exemption for enterprises that use waste products and local raw materials in the production of goods (except for plastic, tobacco products, alcoholic beverages, and perfume containing alcohol), as long as the value of other materials does not exceed 25% of the total value of materials used in such production.

V. Tax on Imports and Exports

Starting January 1, 1991 (but starting July 1, 1990 for imports and exports not provided for in the State Economic and Social Plan),

there is a tax on the import and export of certain products to be named by the USSR Council of Ministers. The rate of tax may be a percentage of the difference between the internal Soviet price and the import or export price, or, for certain products of "national importance," the tax may be the entire difference between those prices.

VI. Tax "Regulating Expenditures" on Wages and Other Compensation

This tax is imposed on Soviet enterprises and joint ventures, except for joint ventures in which the foreign participant has contributed over 30% of the authorized fund. The tax applies to the difference between, on the one hand, expenditures on wages, salaries, and other monetary compensation (including dividends and interest earned by employees on stock and other investments in their enterprises) and, on the other hand, a targeted rate of compensation calculated according to a method described in the law and subject to adjustment by the USSR Council of Ministers.

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