NEW TAX AND COMPANIES LEGISLATION IN THE USSR

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During the Summer of 1990, two long-awaited and far reaching pieces of legislation were enacted in the USSR which are representative of the recent acceleration in Soviet legal reform.

The first of these enactments, the Law of the USSR "On the Taxation of Enterprises, Associations and Organizations" (hereinafter, the "Enterprise Tax Law") carries out a major restructuring of the prior tax regime and sets forth in a comprehensive manner the tax treatment of foreign and domestic legal entities engaged in commercial activity within the country. The Enterprise Tax Law closely followed the enactment of a new law of the USSR concerning the taxation of individuals on April 23, 1990.

The Enterprise Tax Law establishes a new tax on profit which is applicable, on varying terms, to all legal entities conducting economic activity in the USSR, including State enterprises, cooperatives, joint ventures, foreign firms, and international organizations. For most Soviet enterprises, a basic tax rate of 45% applies to taxable profit, which, consistent with the official policy of decentralization, is payable into the all-Union budget and the republican, autonomous and local budgets in amounts of 22% and up to 23% respectively. Special rates apply to

3. art.4.2.
specific forms of enterprises, including joint ventures, under certain conditions.

The tax on profit also provides for an excess profits tax, pursuant to which all entities subject to the tax on profit (with the exception of banking institutions) will have tax assessed at rates of 80% and 90% on the amounts by which their taxable profits exceed specific defined levels of profitability set by the Supreme Soviet of the USSR for each branch of the economy. The implementing decree for the law provides that such profitability levels are to be based upon twice the average level of profitability realized within the applicable branch of the economy.

With specific reference to joint ventures, the law makes significant changes to prior legislation, many of which are less than favorable. The originally established tax rate of 30% (or 10% if the joint venture were established in the Far East) will now apply only to the profits of those joint ventures in which the foreign participant has a share interest exceeding 30%. Joint ventures having foreign participation of 30% or less are now taxed at the basic 45% rate applicable to most other Soviet enterprises. The excess profits tax component of the law applies to all joint ventures, irrespective of the percentage of foreign participation.

The tax holiday, which, under previous legislation, had uniformly exempted all joint ventures from payment of tax on profit for the first two years following receipt of declared profit (or three years for joint ventures established in the Far East) now applies only to joint ventures which are engaged in material production and in which the share of the foreign participant exceeds 30%. The tax holiday is no longer available at all to joint ventures engaged in extractive activities or fishing.

As before, allocations made by a joint venture to its Reserve Fund, up to 25% of the amount of its Authorized Fund, are exempt from taxa-

4. art.4.3.
6. art.5.1.
7. art.5.3
8. art.6.6(a).
9. Ibid.