

**Provisions of the State Council Concerning the Encouragement of
Investment in Developing Hainan Island**

(Promulgated on May 4, 1988)

Article 1 These Provisions are formulated with a view to absorbing investment from within and without so as to accelerate the development and construction of Hainan Island.

Article 2 The State implements more flexible open economic policies for the Hainan Special Economic Zone and endows the People's Government of Hainan Province with greater decision-making power.

Article 3 The State encourages enterprises, other economic organizations or individuals within China and from abroad (hereinafter referred to as investors) to invest in the development of Hainan Island and establish various economic and social undertakings.

Article 4 The State shall protect investors' legitimate rights and interests according to law, and shall not nationalize or requisition the assets of the investors. Under special circumstances, where public interests call for action, the State may resort to requisitioning in accordance with legal procedures and due compensation shall be given. Investors shall abide by China's laws and regulations.

Article 5 Investors may make investments and conduct operations on Hainan Island in the following forms:

(1) making an investment in establishing equity joint ventures, Chinese-foreign contractual joint ventures, foreign-capital enterprises (hereinafter referred to as enterprises with foreign investment) as well as other kinds of enterprises permitted by law. The period of operation for any kind of enterprise shall be specified in the contract by the parties to the investment through consultation or approved by the relevant competent authorities;

(2) purchasing shares, bonds and other negotiable securities;

(3) operating enterprises through purchasing, holding shares, contracting or leasing;

(4) investing and operating in the investment modes obtaining throughout the world, conducting economic and technological cooperation and exchanges.

Article 6 The use of State-owned land on Hainan Island shall be non-gratuitous.

The People's Government of Hainan Province may, according to law, grant non-gratuitously the right to the use of State-owned land to investors. The duration of the right granted to land-use shall be fixed in the contract in accordance with the specific conditions of different industries and projects, with a maximum duration of 70 years;

where there is the need to continue using the land after the expiration of the contract, the duration may be extended upon approval.

Investors may, in keeping with the relevant provisions of the State, transfer non-gratuitously the right granted to land-use.

Article 7 Mineral resources on Hainan Island shall be exploited with compensation according to law. The exploitation of some mineral resources specifically designated by the State shall be subject to approval by the relevant competent authorities of the State; the exploitation of other mineral resources shall be subject to approval by the People's Government of Hainan Province. Investors are allowed to explore and develop the mineral resources by setting up equity joint ventures, contractual joint ventures, or foreign-capital enterprises.

Article 8 Investors may, in the form of an equity or contractual joint ventures, invest in the construction of infrastructure on Hainan Island such as ports, wharves, airports, highways, railways, power stations, coal mines and water conservancy projects or may also solely invest in and operate in specialized facilities, and may also invest in and operate various enterprises and service business related to the above-mentioned facilities in accordance with the relevant regulations of the State and effect comprehensive operations.

Article 9 Foreign-capital banks, banks with joint Chinese and foreign investment or other financial institutions may be set up on Hainan Island with the approval of the People's Bank of China in light of the needs of economic development.

Article 10 The investment in the establishment of various economic and social undertakings on Hainan Island shall be subject to examination and approval by the People's Government of Hainan Province. Where the investment scope and total amount exceed the authorization by the State, the investment shall be submitted for examination and approval according to the procedures laid down by the State.

Article 11 The importation of building management, production and managerial equipment as an investment of an enterprise whose establishment has already been approved, the importation of raw materials, accessories and parts, packaging materials and other materials and items required for production and operation, and the importation of means of transport and office equipment for enterprise's own use, are to be examined and approved by the People's Government of Hainan Province itself.

Article 12 The enterprise income tax shall be levied at a rate of 15 percent on the income derived from production, operation and other sources by enterprises established on Hainan Island (State banks and insurance companies excepted). In addition, a local surtax of 10 percent of the assessed income tax shall be levied. Among the above-said enterprises:

- (1) those engaged in the construction and operation of infrastructure such as ports,

wharves, airports, highways, railways, power stations, coal mines and water conservancy projects etc., and those involved in agricultural development, with a period of operation of 15 years or longer, shall enjoy a five-year income tax exemption beginning from the first profit-making year, and shall be granted a 50 percent reduction in income tax from the sixth to the tenth year;

(2) those engaged in industrial, communications and transportation and other productive enterprises with a period of operation of 10 years or longer, shall enjoy a two-year income tax exemption starting from the first profit-making year and shall then be granted a tax reduction by one half from the third to the fifth year; those acknowledged by the People's Government of Hainan Province as technologically advanced shall further enjoy a tax reduction by one half from the sixth to the eighth year;

(3) after the expiration of the stipulated period for the reduction of or exemption from enterprise income tax according to the State, enterprises engaged in industry, agriculture, and other productive businesses, shall have their enterprise income tax reduced to 10 percent in the year when the value of their export products amounts to 70 percent or more of their output value of that year;

(4) those involved in service trades, with a total investment of or over US\$ 5 million or RMB 20 million yuan and a period of operation of 10 years or longer, shall be exempt from enterprise income tax in the first profit-making year and enjoy a 50 percent reduction in income tax in the next two years.

Reduction of or exemption from local income tax for enterprises within Hainan Island shall be determined by the People's Government of Hainan Province.

Article 13 For investors from outside China who have no offices on Hainan Island, a 10 percent income tax shall be levied on their dividends, interest, rents, franchise royalties and other income derived from the island except those exempt from income tax according to law. The People's Government of Hainan Province shall decide who are to enjoy income tax reduction or exemption.

Article 14 Enterprises with foreign investment and enterprises with 25 percent of their shares held by foreign businessmen shall enjoy the right to conduct import and export operations, and other enterprises may enjoy the same right, if so approved by the People's Government of Hainan Province - i.e. to import the goods necessary for the production and operations of their enterprises, and export their own products.

Article 15 Customs duty, product tax and value-added tax shall be exempted on the machinery and equipment, raw materials and parts, means of transport and other materials and items as well as office equipment that the enterprises within Hainan Island need to import for their own production and operations.

Customs duty, product tax or value-added tax shall be reduced by one half on the

goods imported for sale on the market in Hainan by enterprises on the island.

Article 16 The State encourages enterprises on Hainan Island to export their manufactured products. Products manufactured by enterprises to be exported shall be exempt from export duties, and product tax or value-added tax already collected thereon shall be reimbursed, except for crude and refined oil, as well as a few other products specifically designated by the State.

Article 17 The products manufactured by enterprises on Hainan Island and marketed in Hainan are exempt from product tax or value-added tax, whereas mineral oil, tobacco, liquor and a few other products specially designated by the People's Government of Hainan Province are subject to a 50 percent product tax or value-added tax. Where the manufactured products contain certain imported parts and materials, customs duty, product tax or value-added tax shall be exempted or levied retroactively in accordance with the stipulations of Article 15.

Products manufactured by the aforesaid enterprises and to be marketed to other parts of China, may be sold by the enterprises themselves, except for products whose importation is restricted by the State and which are subject to approval in accordance with the relevant regulations of the State. But product tax or value-added tax shall be levied on these products according to relevant provisions. Customs duties, product tax or value-added tax on the manufactured products containing imported parts and materials shall be levied retroactively in accordance with relevant stipulations.

Where the enterprises with foreign investment within Hainan Island are to sell on the domestic market their products which conform to the standards specified in the methods governing import substitution by the State, they may apply to sell their products as import substitutes.

Article 18 Foreign exchange earnings derived by enterprises within Hainan Island from their product export and from other business activities, may be retained in foreign currency as earned and shall be handled in keeping with the regulations of the local People's Bank of China.

The enterprises may adjust the surplus and deficits of their foreign exchange and effect a balance of foreign exchange receipts and disbursements at the markets for the regulation of foreign exchange located on Hainan Island or in other parts of China.

Article 19 Investors from abroad may freely remit from the enterprise's foreign exchange deposit account the profits they earn from the enterprises invested in and run on Hainan Island. The amount remitted shall be exempt from income tax.

Investors from abroad who reinvest the profit they earn from their enterprises within the Island, for a period of not less than five years shall enjoy a reimbursement of 40 percent of the income tax paid on the amount reinvested, and 100 percent of the income tax already paid on the amount reinvested shall be reimbursed if the investors

elect to reinvest their profit earnings in the construction of infrastructure and agricultural development enterprises, export-oriented and technologically - advanced enterprises within Hainan island.

Investors from other parts of China shall be free to remit their profits from enterprises on Hainan Island. Income taxes on profits remitted to other places in the interior of China within ten years from the first profit-making year are not to be paid further.

Article 20 When coming to Hainan island to negotiate an investment or to trade, promote economic and technological exchange, visit relatives or to tour, foreigners from countries or regions having diplomatic relations or official trade links with China, may apply for entry visas at the port of Haikou or Sanya if their stay in Hainan does not exceed 15 days; those who need to stay in Hainan longer or who want to go on to other parts of China for appropriate reasons, may apply for an extension of the visa or obtain an additional visa endorsement according to relevant provisions.

Foreigners who permanently live on Hainan Island, or who invest in the establishment of local enterprises or participate in the development of the island, and their accompanying family members may upon application be granted multiple entry visas by the authorities concerned under the People's Government of Hainan Province.

Article 21 Compatriots from Hong Kong, Macao and Taiwan as well as overseas Chinese holding valid passports or documents issued by the competent authorities under the State Council or by their authorized agencies may come to Hainan Island or proceed to other places within China without visas. Compatriots from Taiwan may, at the ports in Hainan Island, directly apply for a Travel Certificate for Compatriots from Taiwan. The People's Government of Hainan Province is authorized to examine and approve the dispatch abroad of personnel by domestic organizations in Hainan Province that are to set up economic, trade or tourism offices or to establish enterprises abroad, except otherwise provided by the State.

Article 22 Matters not covered in these Provisions may be handled by the People's Government of Hainan Province according to the provisions concerning special economic zones.

The rules for the implementation of these Provisions shall be formulated by competent departments under the State Council in conjunction with the People's Government of Hainan Province.

Article 23 These Provisions shall enter into force as of the date of Promulgation.