NORTH KOREAN JOINT VENTURE LAWS

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INTRODUCTION

In order to attract foreign capital and technology, the Democratic People's Republic of Korea (North Korea) adopted the Joint Venture Law (JVL), on September 8, 1984. This basic law is augmented by a second implementing statute entitled Detailed Regulations for the Joint Venture Law (JVL Regulations). These regulations determine how the 1984 basic law is put into effect and are, therefore, of important concern to prospective foreign investors. The Joint Venture Company Income Tax Law (JVCITL) and the Alien Income Tax Law (AITL) were enacted on March 7, 1985.

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2. Detailed Regulations for the Joint Venture Law of the Democratic People's Republic of Korea, Decision Number 14, State Administrative Council (adopted Mar. 20, 1985) [hereinafter JVL Regulations]. The author's English translation of the JVL Regulations is reproduced in appendix II.


These tax laws were also accompanied by implementing regulations; Detailed Regulations for the Joint Venture Company Income Tax Law (JVCITL Regulations), and Detailed Regulations for the Alien Income Tax Law (AITL Regulations). These statutes are expected to be supplemented in the future by a series of rules and regulations to deal with specific problems.

A foreign joint venture initiative in a host country involves not only the usual technical questions, but also consideration of a vast range of legal and economic policies. In order to attract foreign investment and technology transfers, the host country must first enact basic joint venture statutes and corresponding enforcing regulations. Foreign investors should be familiar with the applicable statutes and regulations, as well as the host country’s legal system in general. Thus, a study of laws and regulations relating to North Korean joint ventures is essential for the investor who is contemplating a joint venture in that country. Such knowledge is particularly important in case of disputes involving the interpretation of the joint venture contract. Lawyers serve an important function by analyzing the legal and policy conditions for the joint venture company in the host country.

This Article examines the framework of the North Korean joint venture laws. This study is intended merely as an introduction to North Korea’s joint venture laws. The author will first discuss ele-

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Number 12, Supreme People's Assembly of the Democratic Republic of Korea (adopted Mar. 7, 1985) [hereinafter AITL]. The author's English translation of the AITL is reproduced in appendix V.

5. Detailed Regulations for the Joint Venture Company Income Tax Law of the Democratic People's Republic of Korea, Decision Number 22, State Administrative Council (approved May 17, 1985) [hereinafter JVCITL Regulations]. The author's English translation of the JVCITL Regulations is reproduced in appendix IV.

6. Detailed Regulations for the Alien Income Tax Law of the Democratic People's Republic of Korea, Decision Number 23, State Administrative Council (approved May 17, 1985) [hereinafter AITL Regulations]. The author's English translation of the AITL Regulations is reproduced in appendix VI.

7. The North Korean approach to joint venture laws has many unique characteristics in comparison with the joint venture laws of other socialist countries. See generally CHINA LAWS FOR FOREIGN BUSINESS: BUSINESS REGULATIONS (CCH Australia Limited ed. 1985) (containing updated English and Chinese texts of China's joint venture laws and regulations); 26 I.L.M. 749-58 (1987) (containing the English text of the 1987 USSR Decree on Joint Enterprises with Western and Developing Countries); INVESTMENT LAWS OF THE WORLD (International Centre for Settlement of Investment Disputes ed. 1984) (containing the English text of relevant Romanian and Yugoslavian laws related to joint ventures); LEGAL ASPECTS OF JOINT VENTURES IN EASTERN EUROPE (D. Campbell ed. 1981); MADL & VEKAS, THE LAW OF CONFLICTS AND FOREIGN TRADE LAW 198-208 (1987); M. SUKIJASOVIC, JOINT BUSINESS VENTURES IN YUGOSLAVIA BETWEEN DOMESTIC AND FOREIGN FIRMS, DEVELOPMENTS IN LAW AND PRACTICE (1973); L. TROCZANY, FUNDAMENTAL PROBLEMS OF LABOUR RELATIONS IN THE LAW OF THE EUROPEAN SOCIALIST COUNTRIES 60-187 (1986); USSR CHAMBER OF COMMERCE AND INDUSTRY, GUIDE TO JOINT VENTURES IN
ments of the Joint Venture Law; second, features of the Joint Venture Company Income Tax Law; and third, contents of the Alien Income Tax Law. The Article concludes with a summary of the statutes and proposals to increase interest in North Korean joint ventures. To facilitate the discussion, the author has translated the six North Korean joint venture statutes into English.

I. JOINT VENTURE LAW

The purpose of the 1984 JVL is "to expand and develop economic and technical interchange and cooperation with many countries of the world." The statute consists of twenty-six articles grouped into five chapters. In order to accurately execute the JVL, the 1985 implementing regulations are set out in ten subject-based chapters with a total of seventy-one articles. Together, these statutes address the requirements for forming a joint venture company and areas that are closely related to the operation of the joint venture.

A. General Principles and Rules

The 1984 basic law and the 1985 implementing regulations set out general principles and rules for creating and operating joint ventures.

8. JVL, supra note 1, art. 1 (app. I).
9. JVL, supra note 1 (app. I).
10. JVL Regulations, supra note 2 (app. II).
1. Equality and Reciprocity

The guiding principle controlling all joint ventures is that of "equality and reciprocity."11 This principle guarantees equal status and mutual benefits to the joint venture parties. The basic scheme is equal sharing, with the expectation that business will be conducted on the basis of trust between the parties.12 Foreign and domestic enterprises are expected to be treated equally in tax and other matters.

2. Desired Joint Ventures

The statutes specify the kinds of joint ventures sought by North Korea.13 The desired fields include: electronics and automation industries; metallurgy; extraction; machine manufacturing; chemicals; food processing; cloth making; daily commodity industries; construction; transportation; and tourism.14 The joint ventures are required to develop up-to-date scientific technologies, in order to improve the quality of the products and the ability to export.15

3. Legal Protection

Foreign partners in the joint venture receive state protection for both invested properties and income earned in North Korea.16 Thus, the foreign partner enjoys immunity from nationalization and other taking of property. To succeed in inducing foreign investment, the government must dispel fears of nationalization, sequestration or the freezing of assets in the host country. To receive legal protection against such acts, the joint venture companies must abide by North Korean law, the joint venture contract, and the articles of incorporation.17

4. Limited Liability Company

A joint venture company is to be incorporated as a limited liability company, with equity values assigned to each party’s capital in-
vestment.\textsuperscript{18} Thus, participants in the limited liability company share profits, losses and debts in proportion to each party's contribution to the registered capital.\textsuperscript{19}

5. Overseas Korean Capital

Korean compatriots residing abroad, including Korean traders and manufacturers in Japan, are encouraged to participate in joint ventures.\textsuperscript{20} The statutes enunciate a desire to induce such overseas Korean capital into North Korean joint ventures.\textsuperscript{21}

B. Organization of Joint Venture Companies

An application to form a joint venture company must comply with prescribed procedures. A North Korean company or enterprise wishing to organize a joint venture with a foreign company, enterprise, or individual must obtain approval from the Ministry of External Economic Affairs in order to commence negotiations.\textsuperscript{22} If the initiator is a foreign company wishing to form a joint venture with a North Korean enterprise, the Ministry of External Economic Affairs can introduce the foreign company to a domestic partner. If the initial negotiations are successful, the parties will conclude a joint venture contract, which becomes the organic basis of the joint venture company.\textsuperscript{23} The contract, however, requires the approval of the Ministry of External Economic Affairs.\textsuperscript{24} Arrangements for approval can be made by the domestic partner, however the statutes are silent as to how quickly the agency will give its approval.

The joint venture contract covers the organization and business operations of the joint venture.\textsuperscript{25} The contract includes: the contracting parties; the name of the company; the duration of the company; the total amount of the company's capital investment and the proportion of each party's capital investment; the organization of the board of directors; the number of company employees; and the

\textsuperscript{18} JVL Regulations, \textit{supra} note 2, art. 5 (app. II).
\textsuperscript{19} JVL, \textit{supra} note 1, arts. 8, 18 (app. I); JVL Regulations, \textit{supra} note 2, arts. 22, 60 (app. II).
\textsuperscript{20} JVL, \textit{supra} note 1, art. 5 (app. I); JVL Regulations, \textit{supra} note 2, art. 9 (app. II).
\textsuperscript{21} JVL, \textit{supra} note 1, art. 5 (app. I); JVL Regulations, \textit{supra} note 2, art. 9 (app. II).
\textsuperscript{22} JVL, \textit{supra} note 1, art. 6 (app. I); JVL Regulations, \textit{supra} note 2, art. 10 (app. II).
\textsuperscript{23} JVL, \textit{supra} note 1, art. 6 (app. I); JVL Regulations, \textit{supra} note 2, art. 11 (app. II).
\textsuperscript{24} JVL, \textit{supra} note 1, art. 6 (app. I); JVL Regulations, \textit{supra} note 2, art. 11 (app. II).
\textsuperscript{25} JVL Regulations, \textit{supra} note 2, art. 12 (app. II).
standard of wages and security of living conditions.\textsuperscript{26} 

The joint venture company must register with the appropriate provincial people’s committee.\textsuperscript{27} However, prior to registering, the board of directors of the joint venture company must adopt articles of incorporation.\textsuperscript{28} The articles of incorporation contain the principles and procedures of the company's business activities.\textsuperscript{29} They include: the name and location of the company; the business elements of the company; the total capital investment and the proportion of contributed capital investment by the parties; the duration of the company; and other important items.\textsuperscript{30}

To register, the joint venture must submit the prescribed documents, including the joint venture contract, the articles of incorporation and a confirmed document to certify capital investment.\textsuperscript{31} Once registered, the joint venture gains the status of a judicial entity with an operating license.\textsuperscript{32}

Revision of a joint venture contract requires the consent of the Ministry of External Economic Affairs. The registering agency must also be notified of the content of the revision.\textsuperscript{33} Articles of incorporation which have already been registered with the provincial people's committee cannot be revised unless approved by the Ministry of External Economic Affairs, following action taken by the board of directors.\textsuperscript{34}

\textbf{C. Capital Investment}

The statutes give a wide range of discretion to the board of directors as far as capital investment in the joint venture is concerned. The total amount of capital investment and the proportion of contributing investment by each party to the joint venture is determined by agreement between the parties concerned.\textsuperscript{35} There is no mandatory statutory requirement that limits a foreign partner’s capital contribution to the joint venture. However, once the capital

\begin{itemize}
  \item \textsuperscript{26} Id.
  \item \textsuperscript{27} JVL, supra note 1, art. 6 (app. I); JVL Regulations, supra note 2, art. 13 (app. II).
  \item \textsuperscript{28} JVL Regulations, supra note 2, art. 13 (app. II).
  \item \textsuperscript{29} Id. at art. 15.
  \item \textsuperscript{30} Id.
  \item \textsuperscript{31} Id. at art. 13.
  \item \textsuperscript{32} Id.
  \item \textsuperscript{33} Id. at art. 14.
  \item \textsuperscript{34} Id.
  \item \textsuperscript{35} JVL, supra note 1, art. 7 (app. I); JVL Regulations, supra note 2, art. 16 (app. II).
\end{itemize}
investment is registered with the provincial people's committee, the amount cannot be reduced.\textsuperscript{96}

Capital investment can take a variety of forms, including cash, buildings, raw materials, machine equipment, invention rights, technical documentation and land.\textsuperscript{97} When cash is invested as capital, the designated currency must be agreed to by the parties.\textsuperscript{98} If the capital investment is in the form of either buildings, raw materials, machine equipment, invention rights, or technical documentation, the value of the investment is evaluated by the joint venture parties based on international market prices.\textsuperscript{99} Contributions of either invention rights or technical documentation may require careful treatment by initially stipulating the means of delivery, and the future use of industrial property after termination of the joint venture company.

The statutes are silent as to the evaluation of land contributed to the venture. Since all land is owned by the state, there is no mechanism to restrain government price fixing. Factors to consider in evaluating land include its location and condition, its specific use, and its infrastructural requirements. These factors should be carefully considered at the initial stage of negotiations. If the land is not part of the capital investment, the company pays a land use fee or a site use fee pursuant to the fee schedule established by the state agency.

In relation to the limited liability of the company,\textsuperscript{40} the statutes prescribe the assumption of debt liability and a restriction on transfer of invested capital.\textsuperscript{41} The statutes stipulate that as to the debts incurred by a joint venture company in the course of its business operations, the parties to the joint venture are to assume liability only for the portion of their respective capital investment.\textsuperscript{42} In the event a party to a joint venture company wishes to transfer part or all of his investment to a third party, he should obtain the consent of the other parties to the joint venture.\textsuperscript{43}

\begin{itemize}
\item 36. JVL, \textit{supra} note 1, art. 9 (app. I); JVL Regulations, \textit{supra} note 2, art. 21 (app. II).
\item 37. JVL, \textit{supra} note 1, art. 7 (app. I); JVL Regulations, \textit{supra} note 2, art. 17 (app. II).
\item 38. JVL Regulations, \textit{supra} note 2, art. 18 (app. II).
\item 39. JVL, \textit{supra} note 1, art. 7 (app. I).
\item 40. \textit{See supra} text accompanying notes 18-19.
\item 41. JVL, \textit{supra} note 1, art. 8 (app. I); JVL Regulations, \textit{supra} note 2, arts. 22-23 (app. II).
\item 42. JVL, \textit{supra} note 1, art. 8 (app. I); JVL Regulations, \textit{supra} note 2, art. 22 (app. II).
\item 43. JVL, \textit{supra} note 1, art. 8 (app. I); JVL Regulations, \textit{supra} note 2, art. 23 (app. II).
\end{itemize}
D. Board of Directors and Management

The business operation of a joint venture company is conducted by a board of directors and a management office. A joint venture company is required to have articles of incorporation which govern managerial activity. 44

1. Board of Directors

The parties to the joint venture make all the important decisions until the formation of the board of directors. Once the board is organized, it becomes "the highest decision-making body." 45 It is not anticipated that any government agency will overrule decisions made by the board of directors. To this extent, management autonomy is granted to the joint venture company so that investors have the right to make company policy and business plans without much state interference.

The number of directors is determined by agreement of the joint venture parties. 46 The statutes do not restrict the foreign partner to forty-nine percent of equity; thus the foreign partner could occupy a majority position on the board. The parties will also decide who is to become chairperson and vice-chairperson of the board. 47 In the absence of statutory language to the contrary, it is assumed that a foreigner can be named chairperson.

The board of directors, as the highest decision-maker, deliberates and decides important issues pertaining to the operation of the company. 48 These issues include: adopting, amending and supplementing the articles of incorporation; increasing the company's registered capital investment; extending the duration of the company; dissolving the company; adopting measures for company development and a plan for managerial activity; auditing and distributing earnings; appointing and dismissing the president and vice-president; and appointing a financial inspector. 49

The board of directors is required to meet more than once a

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44. JVL, supra note 1, art. 10 (app. I).
45. Id.; JVL Regulations, supra note 2, art. 24 (app. II).
46. JVL Regulations, supra note 2, art. 25 (app. II).
47. Id.
48. JVL, supra note 1, art. 11 (app. I); JVL Regulations, supra note 2, art. 27 (app. II).
49. JVL, supra note 1, art. 11 (app. I); JVL Regulations, supra note 2, art. 27 (app. II).
year.\textsuperscript{60} If the chairperson is unable to convene the meeting, the vice-chairperson, on behalf of the chairperson, calls the meeting.\textsuperscript{51} Board members are to be notified in advance of the meeting date, place, and the agenda.\textsuperscript{62} Parties to the joint venture can express their opinions and exercise their voting rights through the representation of the directors. Items debated at the meeting are decided only after all the directors present at the board meeting agree to a resolution.\textsuperscript{58} This rule requiring unanimous adoption of board decisions requires the goodwill and cooperation of the joint venture parties, pursuant to the general principle of equality and reciprocity.\textsuperscript{54}

2. Management

The company president, vice-president and other executives are appointed and dismissed by the board of directors.\textsuperscript{66} The president is responsible to the board of directors for the daily management of the company.\textsuperscript{66} His duty is to organize and conduct the company’s business operations in accordance with the joint venture contract, the articles of incorporation and the decisions of the board of directors.\textsuperscript{57}

E. Purchase of Materials and Sale of Products

The joint venture company pays a use fee for water, electricity, heat and telephone, pursuant to a prescribed fee schedule.\textsuperscript{68} It is also required to buy insurance on company properties from a North Korean insurance company.\textsuperscript{69}

One of the basic problems for a joint venture is how to procure materials needed for the operation of the company. When the need arises to fill large quantity orders within a given time, procurement is to be carried out within the centrally planned economy. The statutes assure that with the help of administrative agencies and domestic enterprises, joint venture companies will receive preferential

\textsuperscript{50} JVL Regulations, supra note 2, art. 26 (app. II).
\textsuperscript{51} Id.
\textsuperscript{52} Id.
\textsuperscript{53} Id. at art. 28.
\textsuperscript{54} See supra text accompanying notes 11-12.
\textsuperscript{55} JVL Regulations, supra note 2, art. 29 (app. II).
\textsuperscript{56} JVL, supra note 1, art. 12 (app. I); JVL Regulations, supra note 2, art. 30 (app. II).
\textsuperscript{57} JVL, supra note 1, art. 12 (app. I); JVL Regulations, supra note 2, art. 30 (app. II).
\textsuperscript{58} JVL Regulations, supra note 2, art. 38 (app. II).
\textsuperscript{59} Id. at art. 39.
treatment in securing raw materials, stuffs, semi-processed goods and equipment. The prices for these materials are determined according to international market prices. The company can also use the domestic commercial network to directly buy materials needed for the business.

The joint venture company may also procure materials from outside North Korea. These imported materials are not subject to tariffs. The joint venture company may also purchase foreign investment rights, technical documentation and technical know-how. Importation of materials for production or exportation of produced goods is conducted through the North Korean trade organizations. Thus, the joint venture company is not required to have an import-export permit when it imports materials from abroad or exports its products. These provisions are designed for the convenience of the joint venture.

Whereas the 1984 basic statute merely allows the joint venture company to export its manufactured products to the overseas market, the 1985 implementing regulations emphatically encourage such export. Yet the statute can also be construed to permit the sale of produced materials in the domestic market. Indeed, this domestic market accessibility is perhaps the most promising incentive for joint ventures. It is assumed that the prices of the joint venture products offered for sale in the North Korean market must correspond to prices established by the state.

**F. Labor Management**

Low labor costs should make the investment environment in North Korea attractive to foreigners. Another incentive is the ease with which workers can be trained, an attribute made possible by

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60. JVL, supra note 1, art. 14 (app. I); JVL Regulations, supra note 2, art. 31 (app. II).
61. JVL, supra note 1, art. 14 (app. I); JVL Regulations, supra note 2, art. 34 (app. II).
62. JVL Regulations, supra note 2, art. 34 (app. II).
63. Id. at art. 31.
64. JVL, supra note 1, art. 14 (app. I); JVL Regulations, supra note 2, art. 37 (app. II).
65. JVL Regulations, supra note 2, art. 32 (app. II).
66. Id. at art. 35.
67. Id. at art. 36.
68. JVL, supra note 1, art. 15 (app. I).
69. JVL Regulations, supra note 2, art. 33 (app. I). The 1985 implementing regulations prescribe that the joint venture company should consider it fundamental to export finished products to other countries.
the high literacy rate of the North Korean population.\textsuperscript{70} The regulations prescribe that the hiring and firing of domestic labor is to be handled exclusively by the labor administrative agencies, and is thus under the jurisdiction of state agencies.\textsuperscript{71} Those agencies, however, are under an obligation to provide joint venture companies with preferential treatment.\textsuperscript{72} Close cooperation with the appropriate administrative agencies is required to recruit and employ, as well as to dismiss, local workers.

Employees of the joint venture work prescribed hours and receive rest periods and other labor protection pursuant to North Korean labor laws and regulations.\textsuperscript{73} Employees also receive benefits derived from social insurance and social security.\textsuperscript{74} The social insurance fees are contributed by the joint venture company, whose contributions equal seven percent of each employee's salary, while the contribution made by each employee is one percent of his earnings.\textsuperscript{75}

A joint venture company is permitted to hire aliens.\textsuperscript{76} Aliens are required to pay income tax based on their earnings in North Korea,\textsuperscript{77} and are authorized to remit their earnings abroad.\textsuperscript{78} Alien assistance may be necessary in training the domestic labor force, as the statute mandates that the joint venture company must make an effort to improve the professional and technical skills of its employees and to train needed workers.\textsuperscript{79}

The statutes are silent regarding the wage schedule of the joint venture company's employees, including executives. Given this lack of direction, it can be assumed that the joint venture will pay an adequate level of wages, taking the company's fiscal status and other circumstances into consideration.

G. Foreign Exchange Control

The basic law and its implementing regulations also dictate the method of setting up bank accounts, the procedures for payment for

\textsuperscript{70} United States Department of State, Background Notes: (North Korea) (May 1986). The literacy rate is estimated to be ninety-nine percent.
\textsuperscript{71} JVL Regulations, supra note 2, art. 40 (app. II).
\textsuperscript{72} Id.
\textsuperscript{73} Id. at art. 41.
\textsuperscript{74} Id. at art. 44.
\textsuperscript{75} Id.
\textsuperscript{76} Id. at art. 42.
\textsuperscript{77} JVL, supra note 1, art. 17 (app. I).
\textsuperscript{78} Id.
\textsuperscript{79} JVL Regulations, supra note 2, art. 43 (app. II).
commercial goods, the designated currency for company account-
ing, and the process of transmitting foreign currency. 80

There are two ways to set up bank accounts for the joint venture. The first is to open both a foreign currency deposit account and a Korean won deposit account with the Foreign Trade Bank or a bank designated by the Foreign Trade Bank. 81 All foreign currency transactions of the company are handled through the foreign currency deposit account. 82 The company pays and receives foreign currency for the commercial goods bought and sold through a North Korean trade organization. 83 The company receives interest accrued on the balance of the foreign currency deposit account according to the interest rate announced by the Foreign Trade Bank. 84 Purchases of commercial goods through a domestic commercial network and the various use fees are to be paid in domestic currency, and transacted through the Korean won deposit account. 85

The second way to set up a bank account is to open a deposit account with a bank in another country by agreement between the parties to the joint venture. 86 The use of this type of account would depend upon the scope of the company's business operation. A joint venture company is permitted to borrow foreign currency from either a domestic or foreign bank to finance its business operations in North Korea. 87 This can be construed as a legal expression of active encouragement of business activities.

The statutes require that accounting of the joint venture's business be conducted principally in Korean won. 88 Thus, the balance between income and expenses in domestic and foreign currency is to be maintained in the Korean won. Income and expenses of the joint venture company made or incurred in foreign currency are exchanged to Korean won, pursuant to the current exchange rate announced by the Foreign Trade Bank. 89 However, foreign cur-

\[ \text{\textsuperscript{80}} \text{JVL, supra note 1, art. 13 (app. I); JVL Regulations, supra note 2, arts. 45-52 (app. II).} \]
\[ \text{\textsuperscript{81}} \text{JVL Regulations, supra note 2, art. 45 (app. II).} \]
\[ \text{\textsuperscript{82}} \text{Id.} \]
\[ \text{\textsuperscript{83}} \text{Id. at art. 48. Expenses accompanying these transactions are also paid in the foreign currency. The trade organizations facilitate and manage all trade with foreign countries. See also supra text accompanying notes 63-67.} \]
\[ \text{\textsuperscript{84}} \text{JVL Regulations, supra note 2, art. 46 (app. II).} \]
\[ \text{\textsuperscript{85}} \text{Id. at art. 48.} \]
\[ \text{\textsuperscript{86}} \text{Id. at art. 47.} \]
\[ \text{\textsuperscript{87}} \text{Id. at art. 49.} \]
\[ \text{\textsuperscript{88}} \text{Id. at art. 50.} \]
\[ \text{\textsuperscript{89}} \text{Id.} \]
A foreign partner to the joint venture can remit all profits to foreign countries without restriction. He can also remit his share upon the liquidation of the joint venture. Alien employees of the joint venture are permitted to remit sixty percent of their wages to foreign countries.

H. Audit and Distribution

The 1984 statute and its implementing regulations prescribe the auditing procedure, the creation of various funds, and the distribution of benefits.

1. Audit

An audit of the company’s business operation is required once a year, with the auditing year lasting from January 1 until December 31. The audit is used to determine the net income of the company. The figure is derived by taking the annual gross income and deducting costs. A financial inspector examines the audited documents and is responsible to the board of directors for the accuracy of the audit. Therefore, the inspector has the power to investigate and to request necessary documents.

2. Mandatory Fund

The statutes require that a joint venture company set up a reserve fund, consisting of five percent of the annual net income. This fund accumulates until twenty-five percent of the registered capital investment is reached. The fund is used to supplement the losses.

90. Id.
91. JVL, supra note 1, art. 22 (app. I).
92. Id.
93. JVL Regulations, supra note 2, art. 52 (app. II).
94. JVL, supra note 1, arts. 18-22 (app. I); JVL Regulations, supra note 2, arts. 53-60 (app. II).
95. JVL, supra note 1, art. 18 (app. I); JVL Regulations, supra note 2, art. 53 (app. II).
96. JVL Regulations, supra note 2, art. 53 (app. II).
97. Id. at art. 54.
98. Id.
99. JVL, supra note 1, art. 20 (app. I); JVL Regulations, supra note 2, arts. 55-56 (app. II).
100. JVL, supra note 1, art. 20 (app. I); JVL Regulations, supra note 2, arts. 55-56 (app. II).
101. JVL, supra note 1, art. 19 (app. I); JVL Regulations, supra note 2, art. 58 (app. II).
of the joint venture company, or it may be added to the registered capital investment, pursuant to the decision of the board of directors. The creation of a reserve fund helps to reinforce the capital lay-out, as the joint venture is a limited liability company, whose property would be the only collateral available to creditors.

3. Discretionary Funds

A joint venture company may create funds for 1) the expansion of production and technical development, 2) bonuses, or 3) culture and welfare. The allocation and scope of these funds is determined by the board of directors.

4. Distribution of Benefits

After paying income tax and deducting allocated funds, benefits are distributed between the parties to the joint venture in proportion to their respective shares in registered capital. Distributed benefits can be freely spent domestically, deposited in a bank, reinvested, or remitted to foreign countries.

I. Dissolution of a Joint Venture Company

The statutes provide for termination of the joint venture company and dictate the procedures for such termination.

1. Dissolution by Agreement

Under normal circumstances, the joint venture contract itself provides for the dissolution of the joint venture company. The parties to the joint venture stipulate the duration of the company when the joint venture contract is signed. The duration is usually determined according to the scope of the proposed venture, the range of the business operation and the period during which the company shows a profit. If the company desires to extend its dura-

II). 102. JVL, supra note 1, art. 19 (app. I); JVL Regulations, supra note 2, art. 58 (app. II).

103. JVL Regulations, supra note 2, art. 59 (app. II).

104. Id.

105. Id. at art. 60.

106. Id.; JVL, supra note 1, art. 22 (app. I).

107. JVL, supra note 1, arts. 23-25 (app. I); JVL Regulations, supra note 2, arts. 61-67 (app. II).

108. JVL, supra note 1, art. 23 (app. I); JVL Regulations, supra note 2, art. 61 (app. II).
tion, the proposal must be approved by the board of directors and the Ministry of External Economic Affairs, and then registered with the registering agency.\textsuperscript{109}

2. \textit{Premature Dissolution}

A joint venture can be dissolved prior to the expiration of the stipulated duration under any of the following circumstances: the company sustains losses for more than five years; any party fails to execute its obligations under the contract; or there are unavoidable circumstances, i.e., force majeure.\textsuperscript{110} Dissolution under such circumstances provides protection against nationalization by the government. Since this would constitute termination without consent, the North Korean partners are required by law to bear the financial responsibility for any loss. It is advisable, however, in order to prevent later misunderstandings, to clearly define "unavoidable circumstances" in the joint venture contract.

3. \textit{Dissolution Procedures}

When the company is dissolved, the board of directors appoints liquidators to whom the company president transfers the company business.\textsuperscript{111} The liquidators are responsible to the board of directors, and are obligated to inform the registering agency that the dissolution proceedings have begun.\textsuperscript{112} This process serves as public notice to any person who has had any relationship with the company. The task of the liquidators is to settle the current business of the company and to distribute the remaining properties to the joint venture partners, proportionate to the shares of each party's investment.\textsuperscript{113} When the liquidation is concluded, it is approved by the board of directors,\textsuperscript{114} and the liquidators notify the registering agency that the liquidation is complete.\textsuperscript{115}

\begin{itemize}
\item \textsuperscript{109} \textit{JVL}, \textit{supra} note 1, art. 23 (app. I); \textit{JVL Regulations}, \textit{supra} note 2, art. 61 (app. II).
\item \textsuperscript{110} \textit{JVL}, \textit{supra} note 1, art. 24 (app. I); \textit{JVL Regulations}, \textit{supra} note 2, art. 62 (app. II).
\item \textsuperscript{111} \textit{JVL}, \textit{supra} note 1, art. 25 (app. I); \textit{JVL Regulations}, \textit{supra} note 2, art. 63 (app. II).
\item \textsuperscript{112} \textit{JVL}, \textit{supra} note 1, art. 25 (app. I); \textit{JVL Regulations}, \textit{supra} note 2, arts. 64-66 (app. II).
\item \textsuperscript{113} \textit{JVL Regulations}, \textit{supra} note 2, art. 65 (app. II).
\item \textsuperscript{114} \textit{Id.} at art. 66.
\item \textsuperscript{115} \textit{Id.} at art. 67.
\end{itemize}
J. Settlement of Disputes

Differences of opinion arising in the course of the joint venture operation are to be resolved first by means of conciliation.\textsuperscript{116} Settling discord by means of friendly negotiations has always been a strong East Asian legal tradition. If this first step is unsuccessful, the second step is to seek intervention by a court or by a state arbitration organ.\textsuperscript{117} Court trials are conducted in accordance with the North Korean civil procedure code. Although it is not stated, it is assumed that a foreign party to a joint venture will receive the same procedural rights as North Korean citizens.\textsuperscript{118}

The joint venture statutes also contain an arbitration provision allowing liberal choice of the arbitration forum. Arbitration is conducted in accordance with established North Korean procedures for examination of foreign arbitration cases.\textsuperscript{119} The parties to the arbitration have the right to choose anyone as their arbitrator, even someone who is not included in the official roster of arbitrators.\textsuperscript{120} Disputes can also be submitted to the arbitration organ of a third country by agreement between the parties to the joint venture.\textsuperscript{121} It is advisable that the initial joint venture contract include an arbitration clause designating the forum country and the desired arbitration rules.

II. Joint Venture Company Income Tax Law

One of the biggest investment incentives for foreigners is the favorable tax environment in North Korea. Although North Korea has been largely divorced from the Western legal, financial and accounting professions, Western tax concepts have been absorbed and incorporated into the 1985 Joint Venture Company Income Tax Law (JVCITL) and its implementing regulations. This represents a significant achievement. The government uses taxation as a means of sharing appropriate income generated by joint ventures, while promoting the desired industrial development.

\textsuperscript{116} JVL, supra note 1, art. 26 (app. I); JVL Regulations, supra note 2, art. 68 (app. II).
\textsuperscript{117} JVL, supra note 1, art. 26 (app. I); JVL Regulations, supra note 2, art. 68 (app. II).
\textsuperscript{118} JVL Regulations, supra note 2, art. 70 (app. II). As to the administration of justice, see C. Kim, SELECTED WRITINGS ON ASIAN LAW 16-26 (1982).
\textsuperscript{119} JVL Regulations, supra note 2, art. 69 (app. II).
\textsuperscript{120} Id.
\textsuperscript{121} JVL, supra note 1, art. 26 (app. I); JVL Regulations, supra note 2, art. 71 (app. II).
Joint venture income tax is levied on exclusively legal entities, such as a limited liability company, under the 1985 Joint Venture Company Income Tax Law (JVCITL) and its implementing regulations.\textsuperscript{122} These statutes delineate important tax issues related to joint ventures, including the tax base, tax rates, tax holidays and problems involving payment of taxes.\textsuperscript{123}

A. Taxable Income

The taxable year for a joint venture company starts on January 1 and ends on December 31.\textsuperscript{124} Newly formed joint venture companies pay taxes on income earned during the period of business operation through December 31.\textsuperscript{125} Income tax for a dissolving joint venture company is computed from January 1 to the date of dissolution.\textsuperscript{126} All joint venture companies are required to file their annual audited report of revenue accounting with the appropriate revenue authorities by the end of January of the following year.\textsuperscript{127}

The income base is broadly defined. The worldwide income of a joint venture company could be included as taxable income.\textsuperscript{128} The taxable income of a joint venture company, according to the statutes, is the net income in a given taxable year, after deducting costs from the total income.\textsuperscript{129} Thus taxable income, determined according to the accrual method, is gross income less costs for the annual auditing period. The statutes are silent as to whether items such as expenses or losses of a joint venture company are deductible.

The 1985 JVCITL Regulations set up various ways to compute taxable income, depending upon the type of joint venture:\textsuperscript{130}

1. Industrial joint ventures—Net income is calculated by deducting costs from income derived from sales of manufactured goods.\textsuperscript{131}

2. Construction joint ventures—Taxable income is determined by deducting construction costs from the income derived from the de-

\textsuperscript{122} JVCITL, supra note 3, art. 1 (app. III).
\textsuperscript{123} The English text of the JVCITL and the JVCITL Regulations is reproduced in appendixes III and IV.
\textsuperscript{124} JVCITL Regulations, supra note 5, art. 3 (app. IV).
\textsuperscript{125} Id.
\textsuperscript{126} Id.
\textsuperscript{127} Id.
\textsuperscript{128} JVCITL, supra note 3, art. 2 (app. III); JVCITL Regulations, supra note 5, art. 3 (app. IV).
\textsuperscript{129} JVCITL, supra note 3, art. 2 (app. III); JVCITL Regulations, supra note 5, art. 3 (app. IV).
\textsuperscript{130} JVCITL Regulations, supra note 5, art. 3 (app. IV).
\textsuperscript{131} Id.
livery of the constructed object.\textsuperscript{132}

3. Transportation joint ventures—Taxable income is derived by deducting the transportation costs from the income earned from transportation tariffs.\textsuperscript{133}

4. Commercial and Convenience Service joint ventures—Net income is calculated by deducting expenses incurred in the sale of commercial goods and in rendering convenience services, from the income derived from the sale of those commercial goods and convenience services.\textsuperscript{134}

5. Other joint ventures—Methods of calculating taxable income for joint ventures in other types of businesses are determined by the Ministry of Finance.\textsuperscript{135}

The statutes are silent as to whether the reserve fund\textsuperscript{136} is deducted from the gross income before or after levying the income tax. To this extent there is no clear method for determining net income for tax purposes. Perhaps the calculation method should be negotiated and included in the joint venture contract.\textsuperscript{137} There is no capital gains concept contained in the law, either. No distinction is made between capital gains and losses, yet a gain or loss on the sale of a fixed asset by a joint venture company could easily occur.

\section*{B. Tax Rates}

The joint venture income tax is levied at a flat rate of twenty-five percent.\textsuperscript{138} It is a national tax. No local surtax is levied. If a joint venture company consists of a number of branches in North Korea, the tax rate is applied to the combined income.\textsuperscript{139} A joint venture company is also obligated to contribute five percent of its annual net income to its reserve fund.\textsuperscript{140}

\begin{thebibliography}{9}

\bibitem{132} Id.
\bibitem{133} Id.
\bibitem{134} Id.
\bibitem{135} Id.
\bibitem{136} See supra text accompanying notes 101-02.
\bibitem{138} JVCITL, \textit{supra} note 3, art. 3 (app. III); JVCITL Regulations, \textit{supra} note 5, art. 4 (app. IV).
\bibitem{139} JVCITL Regulations, \textit{supra} note 5, art. 5 (app. IV).
\bibitem{140} JVL Regulations, \textit{supra} note 2, art. 58 (app. II).
\end{thebibliography}
C. Tax Holiday

With the approval of the Ministry of Finance, a tax holiday is available to joint ventures for a period of three years from the start of operations. When the three year tax holiday expires, the income tax may be exempted or reduced if the company's gross income is small.

D. The Korean Won

The Korean won, the official currency of North Korea, is the basis for calculating income tax. If the net income of a joint venture company consists of foreign currency, conversion into the Korean won is made at the exchange rate announced by the North Korean Foreign Trade Bank at the end of the auditing period. In the case of dissolution of the joint venture company, the conversion rate is not fixed until the end of the year.

E. Payment of Tax

Payment of income tax must be made to the appropriate revenue authorities by the end of January, following the annual audit of the joint venture. The tax statutes contain no provisions for installment payments. Therefore, it is presumed that full payment must be made once a year.

When the income tax payment is made, the joint venture is required to file a statement of income tax payment with the company's bank. The bank examines and confirms the statement. It keeps one copy for its files and sends copies to the joint venture company and to the appropriate authorities. Upon examination and confirmation of the amount of the income tax payment, the
revenue authorities adjust the amount for overpayment or underpayment. If the joint venture fails to pay the income tax by the due date, the revenue authorities impose a late payment penalty of 0.3% per day on the amount of tax in arrears, calculated from the day on which the payment became overdue. Remedies for overdue payments are available in case of unavoidable circumstances.

F. Investigation

Revenue authorities are empowered to investigate income tax payments by joint venture companies. The companies are required to respond to the investigation by offering the necessary documents. In case of a violation of the JVCITL and its implementing regulations, the revenue authorities have the power to impose penalties up to a maximum of four times the amount of tax due, in addition to the amount of overdue tax. The statutes are silent as to how quickly the revenue authorities must rule on applications for administrative decisions. In case of a serious violation of the law, the matter is to be handled by a court.

G. Disputes

Disputes with the revenue authorities over tax assessments may be settled in court. It is presumed that a joint venture company must pay the tax before contesting the overpayment issue.

III. Alien Income Tax Law

Because there is no individual income tax for North Korean citizens, the government adopted the Alien Income Tax Law and its

150. *Id.*
151. *Id.; JVCITL, supra note 3, art. 6 (app. III).*
152. JVCITL Regulations, *supra* note 5, art. 8 (app. IV).
153. JVCITL, *supra* note 3, art. 7 (app. III); JVCITL Regulations, *supra* note 5, art. 9 (app. IV).
154. JVCITL, *supra* note 3, art. 7 (app. III); JVCITL Regulations, *supra* note 5, art. 9 (app. IV).
155. JVCITL Regulations, *supra* note 5, art. 11 (app. IV).
156. *Id.*
157. *Id.* at arts. 10-11.
implementing regulations.\textsuperscript{159} These two tax statutes apply to all aliens who earn income in North Korea,\textsuperscript{160} and may affect resident alien employees of joint ventures. There is no statutory residency requirement for the purpose of alien income tax.

\textbf{A. Taxable Income}

Income for the purposes of the alien income tax is divided into three different categories:\textsuperscript{161}

1. Remuneration for labor—This category includes income for living expenses (labor wages), salaries, etc.; income from bonus awards, subsidies, dividends, etc.; and income from lecture fees, translation fees, etc.\textsuperscript{162}

2. Use fees, investment rights, technical documentation, technical know-how, patents, trademarks, property, etc.\textsuperscript{163}

3. Sale of commercial goods.\textsuperscript{164}

\textbf{B. Tax Rates}

The remuneration for labor earned in North Korea is progressively taxed at rates ranging from five percent to thirty percent, depending upon the monthly income and a seven step scale.\textsuperscript{165} Monthly income of less than 500 won is not taxed.\textsuperscript{166} The income tax is computed by applying the appropriate tax rate commensurate with the amount of income,\textsuperscript{167} and is based upon individual earnings.\textsuperscript{168} The tax statutes do not have provisions dealing with filing of a joint return by married couples.

A flat tax rate of twenty percent is levied on income from the use fees for invention rights, technical documentation, technical know-

\textsuperscript{159} The English text of the AITL and the AITL Regulations is reproduced in appendixes \textit{V} and \textit{VI}.\textsuperscript{160} AITL, supra note 4, art. 1 (app. \textit{V}); AITL Regulations, \textit{supra} note 6, arts. 1-2 (app. \textit{VI}).\textsuperscript{161} AITL, supra note 4, art. 2 (app. \textit{V}); AITL Regulations, \textit{supra} note 6, art. 3 (app. \textit{VI}).\textsuperscript{162} Id.\textsuperscript{163} Id. When an alien wishes to sell commercial goods, the appropriate authorities are to be notified.\textsuperscript{165} AITL, supra note 4, art. 3 (app. \textit{V}); AITL Regulations, \textit{supra} note 6, art. 4 (app. \textit{VI}).\textsuperscript{166} Id.\textsuperscript{167} AITL Regulations, \textit{supra} note 6, art. 6 (app. \textit{VI}).\textsuperscript{168} Id. at art. 7.
how, patents, trademarks, property, etc.\textsuperscript{169} The same rate of twenty percent is imposed on income derived from the sales of commercial goods.\textsuperscript{170} The tax rate is applied on a case by case approach to income from these two categories.\textsuperscript{171}

When an alien's income consists of a combination of the three income categories, the income tax is calculated by applying the appropriate tax rate to each category respectively.\textsuperscript{172} If the alien's income is derived from a variety of other sources, tax is computed by applying the appropriate tax rate to the combined income.\textsuperscript{173}

\section*{C. Tax Exempt Income}

The tax statutes contain five categories of tax exempt income.\textsuperscript{174} The first category is income from prizes and grants given by the North Korean government.\textsuperscript{175} The second category is income exempted by virtue of an international agreement to which North Korea is a party.\textsuperscript{176} The third category is income for living expenses received by aliens, foreign students, researchers, etc.; and reimbursement of cultural fees, and travel and miscellaneous expenses.\textsuperscript{177} The fourth category is income earned from money deposited in North Korean banks.\textsuperscript{178} The last category is other income as prescribed by the Ministry of Finance.\textsuperscript{179}

\section*{D. The Korean Won}

Calculation of alien income tax is to be based on the Korean won.\textsuperscript{180} If the alien's income is in foreign currency, the income tax

\begin{itemize}
\item[\textsuperscript{169}] AITL, supra note 4, art. 4 (app. V); AITL Regulations, supra note 6, art. 5 (app. VI).
\item[\textsuperscript{170}] AITL Regulations, supra note 6, art. 5 (app. VI).
\item[\textsuperscript{171}] Id. at art. 7.
\item[\textsuperscript{172}] Id. at art. 6. This calculation method is used when all of the alien's income comes from these three categories exclusively.
\item[\textsuperscript{173}] Id. This calculation is applied when income is derived from a variety of sources, other than those specifically defined in article 6(2).
\item[\textsuperscript{174}] AITL, supra note 4, art. 5 (app. V); AITL Regulations, supra note 6, art. 8 (app. VI).
\item[\textsuperscript{175}] AITL, supra note 4, art. 5 (app. V); AITL Regulations, supra note 6, art. 8 (app. VI).
\item[\textsuperscript{176}] AITL, supra note 4, art. 5 (app. V); AITL Regulations, supra note 6, art. 8 (app. VI).
\item[\textsuperscript{177}] AITL, supra note 4, art. 5 (app. V); AITL Regulations, supra note 6, art. 8 (app. VI).
\item[\textsuperscript{178}] AITL, supra note 4, art. 5 (app. V).
\item[\textsuperscript{179}] AITL, supra note 4, art. 5 (app. V); AITL Regulations, supra note 6, art. 8 (app. VI).
\item[\textsuperscript{180}] AITL, supra note 4, art. 6 (app. V); AITL Regulations, supra note 6, art. 9 (app. VI).
\end{itemize}
is to be converted into the Korean won, at the exchange rate quoted by North Korean Foreign Trade Bank on the date on which the tax is to be paid. 181

E. Withholding Taxes

The alien's income tax is collected by the organization or enterprise which pays income to the alien and is then paid to the appropriate revenue authorities. 182 The enterprise functions as a withholding agent and files a withholding tax return. 183 In the case of income from the remuneration for labor, the withholding agent is required to calculate and make payment of the tax monthly. 184 Calculation and payment of the tax on income from use fees for invention rights, technical documentation, technical know-how, patents, trademarks, property, etc. or income from sale of commercial goods is made whenever the income is received. 185

F. Payment of Tax

The alien income tax withheld by the company must be paid within five days after the payment of the income. 186 When the alien income tax is not paid within the required time limit, an overdue charge is assessed in the amount of 0.3% of the amount due. This charge is assessed daily until the tax is paid, commencing from the day of default. 187 The withholding agent is required to prepare a statement of alien income tax payment, and submit it to the company bank. 188 The bank examines and confirms the statement, keeps one copy and forwards copies to the taxpayer, the appropriate revenue authorities and the withholding agent. 189 The revenue authorities examine and confirm the amount paid and adjust the amount depending upon any overpayment or underpayment. 190 The taxpayer may use his statement for a tax credit in his home country. To this extent, the tax statute appears to lay the groundwork

181. AITL, supra note 4, art. 6 (app. V); AITL Regulations, supra note 6, art. 9 (app. VI).
182. AITL, supra note 4, art. 8 (app. V); AITL Regulations, supra note 6, art. 10 (app. VI).
183. AITL Regulations, supra note 6, art. 11 (app. VI).
184. Id. at art. 10.
185. Id.
186. Id. at art. 11.
187. Id.
188. Id.
189. Id.
190. Id.
for an eventual double taxation agreement, to which North Korea will be a party.

G. Investigation

The revenue authorities are empowered to investigate the income tax situation of an alien. The withholding agent, the alien, and all other concerned organizations or enterprises may be investigated. The revenue authorities have the power to request documents from these entities to carry out their investigation. They can impose a fine of up to 100% of the amount of income, plus the amount in arrears, in cases of nonpayment or underpayment of the tax. These penalties are directed against the withholding agent, who is directly responsible for filing the monthly income tax returns for remuneration for labor. The penalties are directed against the individual taxpayer if the income is derived from the use fees of various industrial rights or from the sale of commercial goods.

H. Disputes

When an alien is dissatisfied with the administrative acts of the revenue authorities, remedies are available through the court. Gross violations of the statute may be handled as criminal proceedings.

IV. SUMMARY AND PROPOSALS

A. Highlights

This Article has presented an overview of North Korean joint venture law by examining the six relevant statutes. The main features of the North Korean statutes can be summed up in eleven points:

1. North Korean joint venture law adheres to the principle of equality and reciprocity. The objective of the joint venture is to establish mutually beneficial relationships with equal status for both foreign and domestic parties. The law guarantees the foreign part-

191. AITL, supra note 4, art. 9 (app. V); AITL Regulations, supra note 6, art. 12 (app. VI).
192. AITL Regulations, supra note 6, art. 12 (app. VI).
193. Id.
194. Id. at art. 14.
195. Id. at arts. 13-14.
196. Id. As to the administration of criminal justice, see C. Kim, supra note 118, at 19-27.
ner to the joint venture equal protection of the law for itself, its capital investment and its earned income.

2. A unique feature of the North Korean statutes is that there is no legal limitation on the total amount that the foreign partner can contribute to the capital investment. The foreign partner may provide more than fifty percent of the capital contribution, and thereby occupy a majority position on the board of directors of the joint venture company.\footnote{In comparison, the 1987 USSR decree on joint ventures prohibits foreign equity participation from exceeding 49\% of the total foreign capital contributions. See Current Developments, 25 COLUM. J. TRANSNAT'L L. 501-02 (1987).}

3. The statutes are flexible as to capital investment, permitting investment of tangible and intangible assets. Cash, buildings, raw materials, machine equipment, investment rights, technical documentation and land are all permissible forms of investment.\footnote{This provision is not unique. China, for instance, allows the contribution of “cash or buildings, premises, equipment or other materials, industrial property, know-how, or right to the use of a site as investment . . . .” See Regulations for the Implementation of the Law of the People’s Republic of China on Joint Ventures Using Chinese and Foreign Investment, art. 25, reprinted in CHINA LAWS FOR FOREIGN BUSINESS REGULATIONS (CCH Australia Limited ed. 1985).}

4. The statutes ensure that the joint venture enjoys autonomous business operations by designating a board of directors as the highest decision-making body, with wide-ranging powers to manage the company. The makeup of the board, as well as the designation of the board chair and vice-chair, are decided by agreement between the partners, rather than by the proportion of capital investment made by each party.\footnote{Compare the mandatory requirements that a Soviet citizen act as the chairperson of the board and as the company president under the 1987 USSR decree on joint ventures. See Current Developments, 25 COLUM. J. TRANSNAT’L L. 501-02 (1987).} Issues debated at board meetings are resolved by unanimous decision of all members present at the meeting.

5. No permit is required for the joint venture company to import materials or export its products. Imported materials are exempt from tariff fees. These legal provisions reduce bureaucratic red tape and save operation costs.

6. The statutes are designed to offer convenience to the foreign partner to the joint venture and to aliens who are earning income in North Korea. A foreign participant in the joint venture can remit benefit distributions abroad without restriction.\footnote{In contrast, China charges a withholding tax of 10\% on the amount remitted. See Detailed Rules and Regulations for the implementation of the Income Tax Law of the People’s Republic of China Concerning Joint Ventures with Chinese and Foreign Investment, art. 4, reprinted in CHINA LAWS FOR FOREIGN BUSINESS REGULATIONS (CCH Australia Limited ed. 1985).} An alien em-
ployee of the joint venture can remit sixty percent of his wages to foreign countries.

7. Joint ventures are allowed to borrow foreign currency from domestic or foreign banks. To this extent, the North Korean government offers active assistance in providing the foreign currency needed for operation of joint ventures.

8. The parties may choose friendly conciliation, arbitration or court proceedings to resolve differences of opinion and disputes. In the event of arbitration, the parties are allowed to choose arbitrators not listed on the government roster of arbitrators.

9. The statutes are designed to improve transnational tax cooperation with other countries. Both the Joint Venture Company Income Tax Law and the Alien Income Tax Law, and their respective implementing regulations, set up a system to issue a statement of income tax payment when the income tax is paid, so that taxpayers can obtain tax credits in their home country for taxes paid to North Korea. This device is far-sighted and reduces barriers to foreign investment by eliminating dual tax burdens.

10. In computing income tax for joint ventures, a tax rate of twenty-five percent is levied on net income, after deducting costs from annual gross income.\(^\text{201}\) There is no local surtax, and no tax liability is imposed on earnings which are remitted to a foreign country. In addition, the statutes provide a tax holiday or grace period, and tax relief is available when the tax holiday expires.

11. Aliens earning income in North Korea are required to pay income tax. Income subject to taxation under the tax statutes is limited to three categories. The first category is income from the remuneration for labor, which is based on monthly income and subject to different rates, ranging from complete exemption to thirty percent.\(^\text{202}\) The second category is income from use fees for invention rights, technical documentation, and know-how, which is subject to a twenty percent tax rate. The last category is income from the sale of commercial goods, which is subject to a twenty percent tax rate. This approach is a simplified method of levying income

\(^\text{201}\) This rate seems to be moderate. China, for instance, imposes a rate of 30\%, increased by a local tax of 10\%. See Income Tax Law of the People’s Republic of China Concerning Joint Ventures with Chinese and Foreign Investment, art. 3, reprinted in CHINA LAWS FOR FOREIGN BUSINESS REGULATIONS (CCH Australia Limited ed. 1985).

\(^\text{202}\) For a comparison with the Chinese rates, see Individual Income Tax Law of the People’s Republic of China, art. 15, reprinted in CHINA LAWS FOR FOREIGN BUSINESS REGULATIONS (CCH Australia Limited ed. 1985). The Chinese Individual Income Tax applies to citizens as well as aliens.
tax on aliens, with no tax liability except under the above three categories.

**B. Proposals**

1. **Marketing Strategies**

   It is obvious that the attraction of foreign investment is of overriding concern to the North Korean authorities, and that they are willing to refine incentives such as tax benefits, lower labor costs and domestic market accessibility. At the same time, North Korea also needs to develop overseas programs, by sponsoring investment seminars, and actively participating in overseas trade fairs and product exhibits. These programs will help to increase interest and investment in North Korean enterprises.

   Another way to increase foreign interest in joint venture programs is to revamp auditing procedures. Professional public accountants should be employed to audit the business accounting of the joint ventures. The current practice is to hire a financial inspector, appointed by the joint venture board of directors. Independent public accountants are widely used in other countries to audit joint venture accounting. This would allow foreigners to present independent accounting documents to their home countries. These documents would be more reliable than the current method, and would assist in attracting new investors.

2. **Reinvestment of Income**

   For policy reasons, investors should be given incentives to reinvest the earned income in North Korea. For example, when an investor reinvests a share of the profits, the investor should be eligible to apply for a reduced income tax rate for a specific period, following the expiration of the initial three-year tax holiday.

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203. For a study of various incentives for foreign investment, see S. Guisinger, *Investment Incentives and Performance Requirements* (1985). The post of Minister of Joint Venture Industries was newly created on November 26, 1988. See Foreign Broadcast Information Service, East Asia, 88-228 at 8, New Minister Appointed [hereinafter FBIS-EAS].


205. An incentive provided by a Chinese statute allows a partial rebate of the income tax paid by a foreign participant when it reinvests any part of its share of net profits. See Detailed Rules and Regulations for the Implementation of the Income Tax Law of the Peo-
tor's tax incentive will also improve North Korea's financial status by keeping the capital within its borders.

3. Special Trade Zones

When an investor from a non-socialist country negotiates with North Korean enterprises to establish a joint venture, the investor discovers that the legal traditions of North Korea are quite different from the law with which he is familiar. The main difference is the concept of property ownership, which in North Korea is based upon state ownership under socialism. The investor must reconcile this concept with that of private ownership of the joint venture. Another area of concern is the differences between market economies and planned economies. In addition, there is the difficulty of converting the North Korean won into foreign hard currency.

These problems, however, are not insurmountable due to the current thaw taking place between the ideological differences of East and West. Perhaps one of the ways to lessen the anxieties of foreign investors is to create foreign trade zones, specialized economic zones, or economic and technological development zones. The establishment of these zones has dual merits. First, these devices may offer psychological comfort to foreign investors by providing a better infrastructure to accommodate foreign capital investment projects and creating an atmosphere which promotes better working relationships. Second, these trade zones would provide a buffer be-

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206. Foreign trade zones were created in China at the early stage of the "Open Door Policy." This policy preceded a proliferation of special economic zones, open port cities and other special areas. Implementation of current policies is discussed in Gross, China's Special Economic Zones, 4 China L. Rep. 23 (1988); see also Bosco, The Law of the People's Republic of China on Joint Ventures Using Chinese and Foreign Investment, 6 Brooklyn J. Int'l L. 217, 230 (1980). Sri Lanka, Singapore, Rumania and Yugoslavia are also using the concept of foreign trade zones. Bosco, supra.

207. China has set up four areas as special economic zones. To administer these zones, China enacted a series of statutes. See China for Foreign Business: Special Zones and Cities (CCH Australia Limited ed. 1987) [hereinafter Special Zones and Cities].

208. For the last several years, China has set up economic and technological development zones in major cities where the government seeks to encourage foreign investment enterprises by providing preferential tax and investment incentives. See Special Zones and Cities, supra note 207.
between the joint venture and the general population, and would control foreign business activities.

4. International Assistance

North Korea needs to improve its capacity to produce industrial goods. This requires long-term development and the necessary funds will not all come from joint ventures. The government should take advantage of the funds that are available through international organizations.

North Korea has actively participated in the United Nations Development Program (UNDP), which has central funding and coordinating responsibilities for a large portion of United Nations technical assistance. Through its participation, North Korea has benefited from a three-year program which strengthened the industrial property administration and established a center for patent administration. Another five-year program under the UNDP improved the facilities at Nampo Port by installing mechanical loaders and doubling the bag-loading capability of the port. Current UNDP programs include casting components used in electrical power distribution systems, improving the oil industry, and modernizing agriculture.

Another international source of funds which North Korea could take advantage of is the United Nations Industrial Development Organization (UNIDO). UNIDO promotes macro-economic and micro-economic aspects of industrial development. Also recommended is North Korean membership in the International Monetary Fund, the World Bank and the Asian Development

209. The organization, activities and affiliated organizations of the UNDP is described in 1 EUROPA YEAR BOOK 37-38 (1988). It is reported that a UNDP office was established in Pyongyang in late 1980. The first UNDP/UNIDO project was approved with a total budget of $5.6 million. See United Nations Industrial Development Organization, Country Industrial Development Brief, Democratic People's Republic of Korea, UNIDO/IS. 290, Feb. 26, 1982, at 24.


213. The organization and activities of UNIDO are described in 1 THE EUROPA YEAR BOOK 80-81 (1988).

214. Id.

215. The organization and activities of the International Monetary Fund are described
This membership could offer North Korea increased chances of securing capital assistance from public international financial sources. Furthermore, the International Finance Corporation is now empowered to make equity investments. Through these sources, financing of long-term equity investment instead of short-term loans could be obtained.

CONCLUSION

The 1984 Joint Venture Law creates equity in joint ventures between North Korean companies and foreign companies or individuals. Based on the principle of limited liability, joint ventures provide for the sharing of earnings, losses and managerial skills. The parties to these ventures are motivated by very different interests. The primary interest of the foreign partner will generally be to earn profits, while the domestic partner will be more concerned with the developmental aspect of the joint venture, and its relation to state economic planning. While each side will pursue its own interest, both parties must work together in a spirit of cooperation. North Korea has maintained no contact with the Western world for many years. The foreign partner must overcome problems with language as well as customs, culture, and professional standards in order to understand the host country's cultural and business practices. North Koreans will seek long-term associations consistent with the general North Korean view toward business relations. The Joint Venture Law and its corresponding statutes benefit both parties and provide one step toward establishing successful long-term associations with North Korean enterprises.

in 1 *Europa Year Book* 71 (1988).

216. The organization and activities of the World Bank are described in 1 *Europa Year Book* 59-64 (1988).

217. The organization and activities of the Asian Development Bank are described in 1 *Europa Year Book* 98-100 (1988).

APPENDIX I

JOINT VENTURE LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Decision Number 10, Standing Committee of the Supreme People's Assembly of the Democratic People's Republic of Korea (adopted September 8, 1984).

CHAPTER 1

FUNDAMENTALS OF JOINT VENTURE

Article 1

It is a consistent external economic policy of the Korean Workers' Party and the Government of the Republic to expand and develop economic and technical interchange and cooperation with any country of the world.

The Democratic People's Republic of Korea encourages joint ventures within its territory between its companies and enterprises and foreign companies, enterprises and individuals, based on the principle of equality and reciprocity.

Article 2

Joint ventures in the Democratic People's Republic of Korea may involve many fields, including industry, construction, transportation, scientific technology and tourism.

Article 3

The Democratic People's Republic of Korea shall protect by law the properties invested in by foreign parties to joint ventures and income accruing from the operation of joint ventures.

Article 4

The Democratic People's Republic of Korea guarantees all legitimate rights stipulated by its law in connection with the managerial activities of the parties to a joint venture.

The joint venture companies shall respect and strictly observe the legal norms and regulations of the Democratic People's Republic of Korea in all their activities.

Article 5

Korean compatriots residing abroad, including Korean traders
and manufacturers in Japan, may participate in joint ventures with companies and enterprises of our country pursuant to this law.

Chapter 2

Organization of Joint Venture Companies

Article 6
A joint venture company is organized when the parties concerned sign a contract and have it registered in the appropriate agency, and receive the approval of the Ministry of External Economic Affairs of the Democratic People's Republic of Korea.

Article 7
The proportion of capital investment in the joint venture company shall be decided by agreement between the parties concerned. The parties to a joint venture may make capital investments in the form of property in currency, property in kind, invention rights, technical documentation, etc.

In the case of capital investment in the form of property in kind, invention rights, technical documentation, etc., the value is evaluated by the parties to the joint venture in accordance with international market prices.

Article 8
For the debts incurred by a joint venture company in the course of its operation, the parties to the joint venture shall assume responsibility only for the proportion of their respective investment. If a party to a joint venture company wishes to transfer his portion of capital investment to a third party, he should receive the consent of the other party to the joint venture.

Article 9
A joint venture company shall not reduce its registered capital investment.

Chapter 3

Board of Directors and Managerial Activity

Article 10
A joint venture company shall have a board of directors. The
board of directors shall be the highest decision-making body. A joint venture company shall have articles of incorporation, which govern its managerial activity.

**Article 11**
The board of directors shall deliberate and decide upon important questions of the joint venture company such as the adoption, amendment and supplement of its articles of incorporation; measures for the development of the joint venture company; plan of managerial activity, audit and distribution; appointment and dismissal of managerial officers, and appointment of a financial inspector.

**Article 12**
The President of the company shall organize and conduct the managerial activity of the company in accordance with the joint venture contract and its articles of incorporation and the decisions of the board of directors, and shall be responsible to the board of directors for his own work.

**Article 13**
A joint venture company opens its deposit account with a bank of the Democratic People's Republic of Korea, or with a bank of another country, by agreement between the parties to the joint venture.

A joint venture company may borrow funds which are needed for managerial activity from a foreign bank.

**Article 14**
When a joint venture company purchases raw materials and stuffs, semi-finished goods, etc., needed for production in the Democratic People's Republic of Korea, their prices are set in accordance with international market prices.

When a joint venture company imports materials from foreign markets, it does not pay a tariff.

**Article 15**
A joint venture company may export its manufactured products to overseas markets.

**Article 16**
A joint venture company shall control and use the labor force in
accordance with the law of the Democratic People’s Republic of Korea and the contract between the two sides of the joint venture.

Article 17
Aliens working at a joint venture company shall pay the income tax from their wages in accordance with the Alien Income Tax Law of the Democratic People’s Republic of Korea.

Aliens working for a joint venture company may remit abroad part of their wages.

Chapter 4
Audit and Distribution

Article 18
A joint venture company shall regularly audit its managerial activity once a year.

The audit is done in such a manner as to distribute, according to the proportion of capital investment of the two sides to the joint venture, the amount remaining out of its total income, after compensating the costs, paying income tax, deducting the reserve fund and the fund for the expansion of production and technical development, and other necessary funds.

Article 19
A joint venture company shall develop a reserve fund.

The size of the reserve fund and its annual rate of development shall be decided separately.

The reserve fund is used for supplementing the losses of the joint venture company.

Article 20
The auditing document of a joint venture company shall be examined by the financial inspector and shall receive the approval of the board of directors.

Article 21
A joint venture company shall pay the income tax according to the Joint Venture Company Income Tax Law of the Democratic People’s Republic of Korea for the net income at each period of auditing.

A joint venture company may be exempted from income tax for
a certain period from the start of production. In a case where the net income of a joint venture company is small, it may petition for a reduction of income tax.

A joint venture company shall pay a land usage fee when it uses land.

**Article 22**

The alien party to a joint venture may remit abroad the money distributed.

**CHAPTER 5**

**DISSOLUTION OF JOINT VENTURE COMPANIES AND SETTLEMENT OF DISPUTES**

**Article 23**

A joint venture company is dissolved with the expiration of the period of its existence stipulated in the contract. If there is a need to manage the joint venture company continuously, such a proposal shall be made to the appropriate agency six months prior to the termination of the period of its existence.

**Article 24**

When a joint venture company runs a continued deficit, the other party to the joint venture company fails to meet its obligation, or the company cannot under unavoidable circumstances be managed, it may be dissolved before the expiration of the period of its existence according to the decision of the board of directors.

**Article 25**

In case of dissolution of a joint venture company, settlement of current business is to be made and the remaining properties shall be distributed between the parties to the joint venture in accordance with the proportion of their capital investment.

**Article 26**

Differing opinions arising in the course of the operation of a joint venture company shall be resolved by means of conciliation. The problems of dispute unresolved by means of conciliation shall be deliberated and settled by the court or an arbitration organ of the Democratic People's Republic of Korea.
Deliberation on a disputed problem may be submitted to the arbitration organ of a third country by agreement between the two sides.
APPENDIX II

DETAILED REGULATIONS FOR THE JOINT VENTURE LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Decision Number 14, State Administrative Council (adopted March 20, 1985).

CHAPTER 1

GENERAL REGULATIONS

Article 1
The purpose of these regulations is to expand and develop economic and technical interchange and cooperation with many countries of the world by accurately executing the Joint Venture Law of the Democratic People's Republic of Korea.

Article 2
The Democratic People's Republic of Korea shall encourage joint ventures within its territory between its companies and enterprises and foreign companies, enterprises, and individuals, based on the principle of equality and reciprocity.

Article 3
Joint ventures in the Democratic People's Republic of Korea may involve many fields of the people's economy including the electronics and automation industries, metallurgy, extraction, machine manufacturing, chemicals, food processing, cloth-making, daily commodity industries, construction, transportation and tourism.

Article 4
Joint venture companies organized within the territory of the Democratic People's Republic of Korea shall have up-to-date scientific technology to improve the quality of the products and the ability to export.

Article 5
Joint venture companies organized within the territory of the Democratic People's Republic of Korea shall be limited liability companies.
Article 6
The state shall protect by law the properties invested in by foreign parties to joint ventures and also the income accruing from the operation of enterprises.

Article 7
Joint venture companies shall engage in managerial activities independently, pursuant to the law of the Democratic People's Republic of Korea, the contract concluded by the parties to the joint venture and the articles of incorporation of the joint venture company.

Article 8
Joint venture companies shall accurately observe the legal norms and regulations of the Democratic People's Republic of Korea in all their activities.

Article 9
Korean compatriots residing abroad, including Korean traders and manufacturers in Japan, may participate in joint ventures with companies and enterprises of our country pursuant to these regulations.

Chapter 2
Organization of Joint Venture Companies

Article 10
Our country's company or enterprise that wishes to organize a joint venture company with another country's company, enterprise or individual, shall commence external negotiations after obtaining the consent of the Ministry of External Economic Affairs.

Article 11
Parties to the joint venture shall conclude a contract concerning the organization of the joint venture company and then shall receive the approval of the Ministry of External Economic Affairs.

Article 12
A contract document concerning the organization of the joint venture shall contain important details concerning the organization and operation of the joint venture company, such as the contracting parties, the name of the company, the duration of the company, the
total amount of the company’s capital investment and the proportion of each party’s capital investment, the organization of the board of directors, the number of company employees, and the standard of their wages and security of living conditions.

Article 13
The joint venture company shall register with the appropriate provincial people’s committee.
Registration of a company requires submission of an application to register the company, a document showing joint venture contract approval, the articles of the company’s incorporation, and a confirmed document to certify capital investment.
A joint venture company shall become a judicial entity from the time of registration with the registering agency.

Article 14
A joint venture company that wishes to revise the content of the registered document shall seek the consent of the Ministry of External Economic Affairs, and shall notify the registering agency of the revised content.

Article 15
The joint venture company shall have articles of incorporation.
The articles of incorporation shall enumerate the principles and procedures for the company’s activities, including the name and location of the company, the business elements of the company, the total capital investment of the company and the proportion of capital investment by parties, the duration of the company, etc.

Chapter 3
Capital Investment

Article 16
The total amount of capital investment and the proportion of capital investment by the parties to the joint venture company shall be decided by agreement between the parties concerned.

Article 17
The parties to the joint venture may contribute cash, buildings, raw materials, machine equipment, invention rights, technical documentation, land, etc.
Article 18
Cash contributed by the parties to the joint venture shall be in the currency agreed by them.

Article 19
In case of investment in the form of buildings, raw materials, machine equipment, invention rights, technical documentation, etc., the values are determined by the parties to the joint venture in accordance with international market prices.

Article 20
If land is not incorporated into the capital investment, a land use fee shall be paid. The land use fee shall be decided by the state agency for price regulation.

Article 21
A joint venture company shall not reduce its registered capital investment.

Article 22
For the debts incurred by a joint venture company in the course of its operation, the parties to the joint venture shall assume responsibility only for the proportion of their respective investment.

Article 23
If a party to a joint venture company wishes to transfer a part or the whole portion of his investment to a third party, he should receive the consent of the other party to the joint venture.

CHAPTER 4
BOARD OF DIRECTORS AND MANAGERIAL OFFICERS

Article 24
A joint venture company shall have a board of directors. The board of directors shall be the highest decision-making body.

Article 25
The board of directors shall consist of a needed number of directors.
There shall be a chairperson and a vice-chairperson on the board of directors.
The contract shall stipulate the number of directors, and the
chairperson and vice-chairperson designated by the parties to the joint venture.

**Article 26**

The chairperson shall convene the board of directors more than once a year.

The vice-chairperson may call the meeting by delegation of the chairperson.

In the event of convening the board of directors, the directors shall be notified in advance of the meeting date and place, and the agenda.

**Article 27**

The board of directors shall deliberate and decide upon important questions of the joint venture company arising out of its operation, such as the adoption, amendment and supplement of the articles of incorporation; increase of the company's registered capital investment; extension of the duration of the company; dissolution of the company; measures for the company development and plan of managerial activity; audit and distribution; appointment and dismissal of the president and vice-president; and appointment of a financial inspector.

**Article 28**

Problems deliberated by the board of directors shall be decided only after agreement by all the directors present at the meeting.

**Article 29**

The joint venture company shall have a company president, vice-president and other necessary managerial officers.

**Article 30**

The President of the joint venture company shall organize and conduct the managerial activity of the company in accordance with the joint venture contract, the articles of incorporation and the decisions of the board of directors, and shall be responsible to the board of directors for his own work.
CHAPTER 5
PURCHASE OF MATERIALS AND SALES OF PRODUCTS

Article 31
A joint venture company may purchase and use raw materials, stuffs, semi-finished goods, and equipment (hereinafter referred to as materials) which are needed for production.

Administrative agencies and enterprises shall preferentially guarantee the materials requested by the joint venture company.

The joint venture company may purchase from other countries the materials which are not produced or which cannot be purchased for use in our country.

Article 32
A joint venture company may buy from other countries advanced technology, such as invention rights, technical documentation, technical know-how, etc.

Article 33
A joint venture company shall consider it fundamental to export finished products to other countries.

Article 34
The joint venture company shall buy and sell materials needed for production and produced goods in our country through the appropriate trade organizations. Prices for these transactions shall be based on international market prices.

A joint venture company may buy the materials for management directly through the commercial network.

Article 35
A joint venture company may directly export produced goods or may import materials needed for production and may conduct transactions through our country's trade organizations.

Article 36
When a joint venture company imports materials needed for production or exports produced goods, there is no need for import or export authorization.

Article 37
When a joint venture company imports materials needed for pro-
duction from other countries, the company does not pay a tariff.

Article 38
A joint venture company shall pay the use fees for water, electricity, heat, telephone, etc., in accordance with the prescribed fee schedule.

Article 39
A joint venture company shall consider it fundamental to purchase our country’s insurance on company properties.

Chapter 6
Labor Management

Article 40
Acceptance and release of our country’s labor by a joint venture company shall be conducted through labor administrative authorities.

Labor administrative authorities shall preferentially guarantee needed labor for the joint venture company.

Article 41
Hours of labor, rest periods and labor protection for the joint venture company’s employees shall be handled according to the labor laws and the regulations of the Democratic People's Republic of Korea.

Article 42
A joint venture company may hire aliens as its employees.

Article 43
A joint venture company shall make an effort to upgrade its employees’ professional and technical standards and train needed skilled workers.

Article 44
Employees of a joint venture company shall receive benefits derived from social insurance and social security of the Democratic People’s Republic of Korea.

Social insurance fees shall be contributed by the joint venture company, which pays seven percent of the labor remuneration to its employees, and a contribution by each employee of one percent of
his labor remuneration.

CHAPTER 7
FOREIGN EXCHANGE CONTROL

Article 45
A joint venture company opens a foreign currency deposit account and a Korean Won deposit account with the Foreign Trade Bank of the Democratic People's Republic of Korea (hereinafter referred to as Foreign Trade Bank), or with any bank designated by the Foreign Trade Bank.

All foreign currency income and expenses of a joint venture company shall be handled through the foreign currency deposit account in the bank.

Article 46
A joint venture company shall receive interest from the balance of the foreign currency in the bank deposit account pursuant to the interest rate announced by the Foreign Trade Bank.

Article 47
A joint venture company may open its deposit account with a bank in another country by agreement between the parties to the joint venture.

Article 48
A joint venture company shall pay in foreign currency for the price of commercial goods bought and sold through trade organizations and accompanying expenses within our country, and shall pay Korean won for commercial goods purchased through the commercial network and for various use fees.

Article 49
A joint venture company may borrow foreign currency from our country's banks or another country's banks to bolster its managerial activities.

Article 50
The managerial account of the joint venture company shall in principle be in Korean won and may be in foreign currency by agreement of the parties to the joint venture.

Exchange of Korean won for income and expenses in foreign cur-
currency made by the joint venture company shall be made pursuant to the currency exchange rate announced by the Foreign Trade Bank.

Article 51
A joint venture company shall remit profit distribution to a foreign party to the joint venture to a foreign country pursuant to his request.
In the case of remittance of profit distribution to a foreign country, a basic document which confirms its validity shall be submitted to the bank.

Article 52
Aliens working for a joint venture company may remit sixty percent of their wages abroad.

Chapter 8
Audit and Distribution

Article 53
A joint venture company shall audit its managerial activity once a year.
The auditing year of the joint venture company shall be from January 1 through December 31.

Article 54
A joint venture company’s audit shall be the way to determine net income out of annual gross income after compensating costs.

Article 55
A financial inspector shall examine the audited document of the joint venture company and shall be responsible to the board of directors for its accuracy.

Article 56
The financial inspector may examine the managerial activity of the joint venture company.
The financial inspector may examine necessary documents for the financial inspection, including the company’s accounting records and contracts.
**Article 57**

A joint venture company shall pay income tax on the net income for each period of auditing according to the Joint Venture Company Income Tax Law of the Democratic People's Republic of Korea.

**Article 58**

A joint venture company shall develop a reserve fund. The reserve fund shall be five percent of the annual net income and shall accumulate until twenty-five percent of its registered capital investment is reached. The reserve fund is used for supplementing the losses of the joint venture company. The reserve fund may be transferred to the registered capital investment pursuant to the decision of the board of directors.

**Article 59**

A joint venture company may create funds for the expansion of production and technical development, a bonus fund for the employees, cultural and welfare funds, etc. The kind and scope of funds and their proportion of allocation shall be deliberated and decided by the board of directors.

**Article 60**

Profit distribution for the parties to the joint venture shall be done in such a manner as to distribute, proportionate to the size of each investment, the amount remaining out of its total net income after paying income tax and deducting allocated funds. Parties to the joint venture may reinvest the distributed money.

**Chapter 9**

**Dissolution of a Joint Venture Company**

**Article 61**

A joint venture company is dissolved with the expiration of the period of existence stipulated in the contract. If there is a need to manage the joint venture company continuously, such a proposal shall be decided by the board of directors and shall be registered with the appropriate registration agency after obtaining approval from the Ministry of External Economic Affairs.
Article 62

A joint venture company may be dissolved prior to the expiration period of its existence pursuant to the decision of the board of directors in one of the following situations:

1. When a joint venture company continues to have losses for more than five years;
2. When one of the parties to the joint venture company fails to fulfill his obligations and brings about serious consequences in managerial activities; or
3. When the joint venture company is unable to operate due to unavoidable circumstances.

Article 63

In case of dissolution of the joint venture company, the board of directors shall appoint liquidators, and the president shall transfer the business to them.

Article 64

Prior to the commencement of the liquidation, the liquidators shall notify the agency which registered the company that liquidation proceedings have begun.

Article 65

Liquidators shall settle the current business of the joint venture company and shall distribute the remaining properties between the parties to the joint venture in accordance with the proportion of their capital investment.

Article 66

Liquidators shall be responsible to the board of directors for the accuracy of their business.

Article 67

When the business of liquidation is completed, the liquidators shall receive the approval of the board of directors and shall notify the agency which registered the company that the business of liquidation has been finalized.
CHAPTER 10
SETTLEMENT OF DISPUTES

Article 68
Differing opinions arising in the course of the operation of the joint venture company shall be resolved by means of conciliation. Problems of dispute which remain unresolved by means of conciliation, shall be deliberated and settled by a court or by a trade arbitration organ of the Democratic People's Republic of Korea.

Article 69
Arbitration shall be conducted pursuant to the established procedures on the examination of foreign arbitration cases of the Democratic People's Republic of Korea. The plaintiff in arbitration or the defendant in arbitration may nominate persons as arbitrators who are not included in the roster of arbitrators.

Article 70
Court trials shall be conducted pursuant to the civil litigation procedures of the Democratic People's Republic of Korea. A foreign party to the joint venture shall be guaranteed the same equal rights in civil litigation as our country's party to the joint venture.

Article 71
Deliberation on the disputed problems may be submitted to the arbitration organ of a third country by agreement between the parties to the joint venture.
Decision Number 12, Standing Committee of the Supreme People's Assembly of the Democratic People's Republic of Korea (adopted March 7, 1985).

Article 1
Joint venture companies operating within the territory of the Democratic People's Republic of Korea shall pay income tax in accordance with this law.

Article 2
The income tax of a joint venture company shall be paid from remaining net income after deducting the costs out of the total income of each auditing period.

Article 3
The rate of income tax on a joint venture company shall be twenty-five percent.

Article 4
A joint venture company may receive an exemption from income tax for three years from the time it commences the enterprise operation.
Even if the period of the income tax exemption has expired, when the net income is small, the income tax may be exempted or reduced pursuant to an application by the joint venture company.

Article 5
Calculation of the income tax of a joint venture company shall be based on the Korean won.

Article 6
A joint venture company shall pay the income tax to the appropriate revenue authorities within the prescribed time limit.
When the income tax for the joint venture company is not paid within the prescribed time limit, there shall be an overdue fee of 0.3% of the overdue tax for every day in arrears, starting from the first day of default.
Article 7
The revenue authorities may investigate the income tax payments of the joint venture company.

The joint venture company shall disclose to the revenue authorities the necessary documents for their investigation.

Article 8
The revenue authorities may, depending upon the circumstances, impose a fine on any joint venture company which has violated this law.
APPENDIX IV

DETAILED REGULATIONS FOR THE JOINT VENTURE COMPANY INCOME TAX LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Decision Number 22, State Administrative Council (approved May 17, 1985).

Article 1
These regulations shall apply to joint venture companies operating within our country's territory between the organizations of the people's economic sector and enterprises of our country, and the organizations and enterprises (including individuals) of other countries.

Article 2
Joint venture companies operating within the territory of the Democratic People's Republic of Korea shall pay income tax in accordance with the Joint Venture Company Income Tax Law of the Democratic People's Republic of Korea and its detailed regulations.

Article 3
The income tax of a joint venture company shall be paid from remaining net income after deducting the costs out of the total income of each auditing period.

1. Calculation of the period for the income tax of joint venture companies shall be from January 1 to December 31 (one year).
   The income tax for a newly formed joint venture company shall be computed from the commencement time of the enterprise operation until the end of the year. Income tax for the dissolving joint venture company shall be computed from January 1 to the date of dissolution.

2. The net income of joint venture companies shall be calculated as follows:
   a) The net income of a joint venture company belonging to the industry sector shall be calculated by deducting the cost of sales from the income derived from the sales of manufactured goods;
   b) The net income of a joint venture company belonging to the construction sector shall be calculated by deducting construction costs from the income derived from the delivery of the constructed object;
   c) The net income of a joint venture company belonging to the
transportation sector shall be calculated by deducting transportation costs from the income derived from transportation tariffs;

d) The net income of the joint venture company belonging to the commercial and convenience service sectors shall be calculated by deducting the cost of the commercial goods and expenses incurred by the convenience service from the income derived from sales of commercial goods and convenience services; and

e) The net income of other joint venture companies belonging to other sectors than those enumerated above shall be separately calculated by the decision of the Ministry of Finance of the Democratic People's Republic of Korea.

3. All the joint venture companies shall submit their annual audited report of financial accounting involving managerial activities to the appropriate revenue authorities by the end of January of the following year.

Article 4

The rate of income tax on joint venture companies shall be twenty-five percent.

Article 5

The payment of income tax by the joint venture company shall be calculated as follows:

1. The income tax of joint venture companies is calculated by applying the tax rate to the net income of each auditing period.

2. When the income of the joint venture company is derived from its branches located in various places within our country, calculation is made by applying the tax rate to all the combined income.

Article 6

The joint venture company may be exempted from income tax for three years from the time of commencement of the enterprise operation.

1. When a joint venture company seeks an exemption from income tax, the application for the exemption from income tax shall be made to the Ministry of Finance for its approval.

2. After the expiration of the period of the income tax exemption, if the income of the joint venture company is small, the Ministry of Finance, based on the application of the joint venture company, may exempt or reduce the income tax.
Article 7

Calculation of the income tax of joint venture companies is based on the Korean won.

When the net income of the joint venture company is in foreign currency, the income tax shall be converted into the Korean won, pursuant to the money exchange rate quoted by the Foreign Trade Bank of the Democratic People's Republic of Korea at the time of the end of the annual audit (including the date of dissolution).

Article 8

A joint venture company shall pay the income tax to the appropriate revenue authorities within the prescribed time limit.

When the income tax for the joint venture company is not paid within the prescribed time limit, there shall be an overdue payment of 0.3% of the overdue tax for every day in arrears, starting from the first day of default.

1. A joint venture company shall pay its income tax to the appropriate revenue authority by the end of January following its annual audit.

2. When the payment of income tax is made, the joint venture company shall prepare a statement of income tax payment and submit it to its bank. Upon examination and confirmation of the statement, the bank shall keep one copy and forward copies to the joint venture company and the appropriate authorities.

3. The revenue authorities shall examine and confirm the amount of income tax paid by the joint venture company, and seek the amount due in case of underpayment, or refund the amount in case of overpayment of income tax.

4. When the joint venture company fails to pay its income tax within the prescribed time limit due to unavoidable circumstances, the revenue authorities may exempt the total or partial amount, along with the imposed overdue fee, following examination.

Article 9

The revenue authorities may investigate the payment of income tax of a joint venture company.

1. The revenue authorities may investigate the income tax payment of a joint venture company together with other joint venture companies, related authorities and enterprises.

2. A joint venture company shall disclose to the revenue authorities the necessary documents for its investigation and shall respond
to the investigation of the revenue authority.

Article 10
The joint venture company may bring action before the court if the appropriate authorities receive more income tax than is due.

Article 11
When the joint venture company violates the Joint Venture Company Income Tax Law of the Democratic People's Republic of Korea and its detailed regulations, the revenue authorities may, depending upon the circumstances, impose a fine of more than four times the assessed income tax, and in case of serious circumstances, an action may be brought before the court.
APPENDIX V

ALIEN INCOME TAX LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Decision Number 12, Supreme People's Assembly of the Democratic People's Republic of Korea (adopted March 7, 1985).

Article 1
Aliens who earn income within the territory of the Democratic People's Republic of Korea shall pay income tax in accordance with this law.

Article 2
The following alien income is subject to income tax:
1. Income from the remuneration for labor.
2. Income from the use fees for invention rights, technical documentation, technical know-how, etc.

Article 3
The tax rate levied on income from the remuneration for labor is as follows:

<table>
<thead>
<tr>
<th>Amount of Monthly Income</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 500 won</td>
<td>Exempt</td>
</tr>
<tr>
<td>From 501 won to 2,000 won</td>
<td>5%</td>
</tr>
<tr>
<td>From 2,001 won to 4,000 won</td>
<td>10%</td>
</tr>
<tr>
<td>From 4,001 won to 6,000 won</td>
<td>15%</td>
</tr>
<tr>
<td>From 6,001 won to 8,000 won</td>
<td>20%</td>
</tr>
<tr>
<td>From 8,001 won to 10,000 won</td>
<td>25%</td>
</tr>
<tr>
<td>More than 10,001 won</td>
<td>30%</td>
</tr>
</tbody>
</table>

Article 4
The tax rate levied on income derived from the use fees for invention rights, technical documentation, technical know-how, etc. shall be twenty percent.

Article 5
The following income shall not be subject to alien income tax:
1. Prizes and grants received by the grace of the government of the Democratic People's Republic of Korea.
2. Interest earned from money deposited in the banks of the Democratic People's Republic of Korea.

3. Income exempted from income tax by virtue of an agreement reached between the government of the Democratic People's Republic of Korea and the governments of other countries.

4. Other income prescribed by the Ministry of Finance of the Democratic People's Republic of Korea.

**Article 6**

Calculation of alien income tax shall be based on the Korean won.

**Article 7**

Payment of alien income tax shall be made by deducting the income tax when the appropriate organization or enterprise pays income to the alien.

**Article 8**

The organization or enterprise that pays income to the alien shall pay the alien income tax to the appropriate revenue authority within the prescribed date.

When the alien income tax is not paid within the prescribed time limit, there shall be an overdue payment of 0.3% of the overdue tax for every day in arrears, starting from the first day of default.

**Article 9**

The revenue authorities may investigate the payment of alien income tax.

The organizations and enterprises that pay income to the alien shall disclose to the revenue authorities the necessary documents for their investigation.

**Article 10**

The revenue authorities may, depending on the circumstances, impose a fine in case of violation of this law.
APPENDIX VI

DETAILED REGULATIONS FOR THE ALIEN INCOME TAX LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Decision Number 23, State Administrative Council (approved May 17, 1985).

Article 1
These detailed regulations shall apply to all aliens who earn income within the territory of the Democratic People's Republic of Korea.

Article 2
Aliens who earn income within the territory of the Democratic People's Republic of Korea shall pay income tax in accordance with the Alien Income Tax Law of the Democratic People's Republic of Korea and its detailed regulations.

Article 3
The following alien's income is subject to income tax:
1. Income from the remuneration for labor, including:
   a) income for living expenses (labor wages), salaries, etc.;
   b) income from bonuses, awards, subsidies, dividends, etc.; and
   c) income from lecture fees, translation fees, etc.
2. Income from use fees for invention rights, technical documentation, technical know-how, patents, trade-marks, property, etc.
3. Income from the sale of commercial goods.*
   * When an alien wishes to sell commercial goods, notification shall be given to the appropriate authorities.

Article 4
The tax rate levied on income from the remuneration for labor is as follows:

<table>
<thead>
<tr>
<th>Amount of Monthly Income</th>
<th>Tax Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 500 won</td>
<td>Exempt</td>
</tr>
<tr>
<td>From 500 won to 2,000 won</td>
<td>5%</td>
</tr>
<tr>
<td>From 2,001 won to 4,000 won</td>
<td>10%</td>
</tr>
<tr>
<td>From 4,001 won to 6,000 won</td>
<td>15%</td>
</tr>
</tbody>
</table>
From 6,001 won to 8,000 won  20%
From 8,001 won to 10,000 won  25%
More than 10,001 won  30%

**Article 5**

The tax rate levied on income from use fees for invention rights, technical documentation, technical know-how, patents, trademarks, property, etc. and the income from the sale of commercial goods shall be twenty percent.

**Article 6**

Payment of income tax by the aliens shall be calculated in the following manner:

1. As to the income tax on the alien’s remuneration for labor, calculation shall be made by applying the tax rate commensurate with the amount of income.

2. In a case where an alien’s income is combined income from the remuneration for labor, from the use fees for invention rights, technical documentation, technical know-how, patents, trademarks, property, etc., and from the sale of commercial goods, calculations shall be made by applying the appropriate tax rate respectively.

3. In cases where one person’s monthly income is derived from various sources, calculation shall be made by applying the appropriate tax rate to all combined.

**Article 7**

The tax rate applicable to the alien’s income from remuneration for labor shall be applied on an individual basis. The tax rate on income from the use fees for invention rights, technical documentation, technical know-how, patents, trademarks, property, etc., and income from the sale of commercial goods shall be applied on a case by case basis.

**Article 8**

The following income shall not be subject to the Alien Income Tax Law:

1. Prizes and grants received by the grace of the government of the Democratic People’s Republic of Korea.

2. Income exempted from income tax by virtue of an agreement reached between the governments of the Democratic People’s Republic of Korea and the governments of other countries.
3. Income from living expenses received by aliens, foreign students, researchers, etc.; income from receipt of travel expenses, miscellaneous expenses, cultural fees, etc., and gifts, mementos, etc., provided by the Democratic People's Republic of Korea; money remitted to aliens by other countries; and other income prescribed by the Ministry of Finance of the Democratic People's Republic of Korea.

Article 9
Calculation of alien income tax shall be based on the Korean won.
In a case where the alien's income is in foreign currency, the income tax shall be converted into the Korean won, pursuant to the exchange rate quoted by the Foreign Trade Bank of the Democratic People's Republic of Korea on the due date of payment of the alien's income tax.

Article 10
Payment of alien income tax shall be made by deducting the income tax when the appropriate organization or enterprise pays income to the alien.
The alien income tax levied on income from the remuneration for labor shall be calculated and paid monthly. The income tax levied on income from the use fees for invention rights, technical documentation, technical know-how, patents, trademarks, property, etc., and income tax based on the sale of commercial goods shall be calculated and paid whenever each income is received.

Article 11
The organization or enterprise that pays income to the alien shall pay the alien income tax to the appropriate revenue authority within the prescribed date.
When the alien income tax is not paid within the prescribed time limit, there shall be an overdue payment of 0.3% per day of the overdue tax, starting from the first day of default.
1. The alien income tax shall be paid within 5 days from the time of payment of the income.
2. When the payment of alien income tax is made, the organization or enterprise shall prepare a statement of alien income tax payment and submit it to its bank. Upon examination and confirmation of the statement, the bank keeps one copy and forwards copies to the taxpayer and to the appropriate organization or enterprise.
3. The revenue authorities shall examine and confirm the amount of income tax paid by an alien and seek the amount due in case of underpayment, or refund in case of overpayment of income tax.

**Article 12**

The revenue authorities may investigate the payment of alien income tax.

1. The revenue authorities may investigate the payment of alien income tax together with the organization or enterprise which pays the income tax to the alien and other concerned organizations or enterprises.

2. The appropriate organization or enterprise shall disclose to the revenue authorities the necessary documents for their investigation and shall respond to the investigation of the revenue authorities.

**Article 13**

Aliens may bring action before the court if the authorities concerned receive more income tax than is due.

**Article 14**

The revenue authority may, depending on the circumstances, impose a fine in case of violation of the Alien Income Tax Law. In case of non-payment of alien income tax or underpayment of the appropriate amount of income in violation of the Alien Income Tax Law of the Democratic People's Republic of Korea and its detailed regulations, fines of up to 100% of the amount of income together with overdue fees may be imposed and in case of serious circumstances, action before the court may be taken.