

and broad. The Diet gives an almost unlimited discretion to police officer to enforce the Act. When the legislature authorizes administrative agencies to regulate certain fields, it must set up specific enough standards to direct the use of agencies' regulating power. In addition, the Act is a criminal statute affecting public speech. The constitutional guarantee of due process (Constitution of Japan, Article 31) demands that criminal statutes be written in a clear and warning-giving manner. In this respect, the Act is extremely vulnerable to the attack of its being unconstitutionally vague and overbroad.

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## **b. Administrative Law**

### **The Consumption Tax Acts.**

Promulgated on December 30, 1988. Ch. 108. Effective as of December 30, 1988.

With the purpose of increasing tax revenue and revising the ratio between direct and indirect taxes, the Takeshita administration submitted to the Diet a package of tax reform bills introducing the consumption tax, a kind of indirect tax. Although it aroused strong public opposition, the bills were rammed through by the ruling Liberal Democratic Party which held a majority in both Houses of the Diet.

### ***[Outline of the Acts]***

(1) Items subject to taxation. Sales and lease of assets and services provided by business enterprises in Japan and foreign goods received from bonded areas.

(2) Taxpayers. Business enterprises and those who receive deliveries of foreign goods from bonded areas.

(3) Basis of taxation. The sales price of assets for domestic transactions and the delivery price of imported goods for import transactions.

(4) Tax rate. 3 percent.

(5) Major tax exemptions. (a) Export transactions. (b) Sales and lease of land. (c) Sales of certain securities such as national government bonds, corporate bonds, and stocks. (d) Medical services. (e) Social welfare benefits. (f) Tuition and fees for the schools defined in Article 1 of the School Education Act.

(6) Special measures for small- and medium-sized business. (a) Business enterprises whose taxable sales during the tax period are not more than ¥30 million are exempted from tax payments. (b) For business enterprises whose taxable sales during the tax period are not more than ¥60 million, a marginal exemption system, by which part or all of the tax payment is reduced, will be introduced.

(7) Assessment. (a) Tax period is a calendar year for personal enterprises and a business year for corporations. (b) Enterprises will be required to keep records of sales, on the basis of which the tax will be assessed.

(8) Adjustment of existing indirect taxes. Commodity tax, playing-card tax, sugar excise tax, admission tax, and travel tax will be abolished. Liquor tax and tobacco tax will survive at adjusted rates. Petroleum-related taxes will survive without any change.

### ***[Comment]***

The consumption tax made an unpopular and unimpressive start on April 1, 1989, due largely to lack of public understanding and support. The new indirect tax is alien to Japan's existing systems and practices. Confusion, misunderstanding and discontent are the result.

The new consumption tax, being one kind of indirect tax called value added tax, is similar to the sales tax which the preceding Nakasone administration tried but failed to impose in 1987.

The rationales of introducing the value added tax in Japan at present may be the following. (1) Direct tax revenues account for an unreasonably large proportion of total tax revenues. (2) The commodity tax aimed mainly at luxury goods is outdated. (3) Japan's progressively rising income tax rates are very much higher than those in other countries. The introduction of a large scale indirect tax is indispensable to lowering the income tax rates.

After strong opposition from small- and medium-sized business

had killed the sales tax proposed by the Nakasone Cabinet, the Takeshita government submitted a package of tax reform bills introducing the consumption tax, which “could be rammed” through the Diet this time.

The greatest difference between the sales tax and the consumption tax is that invoices are issued at each step in the former while entries are made in the account books in the latter. Small- and medium-sized businesses strongly opposed the invoice method which makes at least a part of transactions open.

Learning a lesson from this failure, the LDP’s tax study panel withdrew the invoice requirement and switched to the account entry method, which demands a report, enabling embellishment of the value added. This is the main compromise which made possible the “passage” of the consumption tax bills.

Although the consumption tax started on April 1, 1989, strong criticism persisted and popular opposition to the new tax was the principal reason for the historic defeat of the Liberal Democratic Party in July 1989’s Upper House election. The consumption tax is now under reconsideration in the Diet.

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## **2. Law of Property and Obligations**

### **An Act Concerning the Promotion of Multipolar Dispersion through the Country.**

Promulgated on June 14, 1988. Ch. 83. Effective as of June 14, 1988.

#### ***[Background of the Legislation]***

Since early 1986 land prices in Tokyo have risen considerably.