

# **Compilation of Tax Laws and Regulations in China**

**As of April 30, 2025**

by Glen Wei's tax team

## Notes:

1. This is an English translation completed by Glen Wei's tax team and not an official document.
2. This English version is for information purposes only. The Chinese version shall prevail.
3. This English version is designed for English readers to have a general understanding of Chinese tax principle and rules.
4. If specific tax issues are involved, it is recommended to seek professional advice.
5. This compilation will be updated from time to time in accordance with changes in China's tax laws and regulations.

**Introduction to Translation Team Member – Glen Wei**

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## Navigation to 18 Chinese Taxes

Direct taxes (2 taxes):

- Enterprise income tax
- Individual income tax

Indirect taxes (4 taxes):

- Value-added tax
- Excise tax
- Vehicle purchase tax
- Customs duty

Property and behavior taxes (12 taxes):

- Urban maintenance and construction tax
- Stamp duty
- Land appreciation tax
- Deed tax
- Real estate tax
- Urban and township land use tax
- Farmland occupation tax
- Vessel tonnage tax
- Vehicle and vessel tax
- Resource tax
- Environmental protection tax
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## **Enterprise Income Tax**

## **Enterprise Income Tax Law of the People's Republic of China (2018 Amendment)**

Level of validity: Law

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Enterprise Income Tax Law of the People's Republic of China (2007) [March 16, 2007]

Decision of the Standing Committee of the National People's Congress on Amending the Enterprise Income Tax Law of the People's Republic of China [February 24, 2017]

Enterprise Income Tax Law of the People's Republic of China (2017 Amendment) [February 24, 2017]

Enterprise Income Tax Law of the People's Republic of China (2018 Amendment) [December 29, 2018]

## **Enterprise Income Tax Law of the People's Republic of China (2018 Amendment)**

(Adopted at the Fifth Session of the Tenth National People's Congress on March 16, 2007, amended for the first time in accordance with the Decision on Amending the Enterprise Income Tax Law of the People's Republic of China adopted at the 26th Session of the Standing Committee of the Twelfth National People's Congress on February 24, 2017, and amended for the second time in accordance with the Decision on Amending the Electricity Law of the People's Republic of China and Four Other Laws adopted at the Seventh Session of the Standing Committee of the Thirteenth National People's Congress on December 29, 2018)

### **Chapter 1 General Provisions**

Article 1 Within the People's Republic of China, enterprises and other organizations that earn income (hereinafter referred to as enterprises) shall be taxpayers of enterprise income tax and shall pay enterprise income tax in accordance with the provisions of this Law.

This Law is not applicable to sole proprietorships and partnerships.

Article 2 Enterprises are divided into resident enterprises and nonresident enterprises.

The term "resident enterprise" as used in this Law refers to an enterprise established in accordance with law in China, or an enterprise established in accordance with laws



of a foreign country (region) but whose effective management body is located in China.

The term "nonresident enterprise" as used in this Law refers to an enterprise established in accordance with laws of a foreign country (region) and whose effective management body is not located in China, but which has set up an organization or place in China, or an enterprise which has no organization or place in China but has income derived from sources in China.

Article 3 Resident enterprises shall pay enterprise income tax on their income derived from sources in China and outside China.

If a nonresident enterprise establishes an organization or place in China, it shall pay enterprise income tax on the income derived from sources in China by its organization or place, as well as the income occurring outside China but actually related to its organization or place.

If a nonresident enterprise has not established an organization or place in China, or has set up an organization or place but the income it obtains has no effective connection with its set up organization or place, it shall pay enterprise income tax on its income derived from sources in China.

Article 4 The enterprise income tax rate is 25 percent.

The applicable tax rate for income obtained by nonresident enterprises as specified in the third paragraph of Article 3 of this Law is 20 percent.

## **Chapter 2 Taxable Income**

Article 5 The taxable income of an enterprise shall be the balance of its gross income in each tax year after deducting nontaxable income, tax-exempt income, various deductions and the allowable offset of losses in previous years.

Article 6 The gross income of an enterprise is the income obtained from various sources in monetary and nonmonetary forms. It includes:

- (1) Income from sale of goods;
- (2) Income from providing services;
- (3) Income from transfer of property;
- (4) Income from equity investments such as dividends;
- (5) Interest income;
- (6) Rental income;
- (7) Royalties;

(8) Donation income;

(9) Other income.

Article 7 The following incomes in the gross income are nontaxable incomes:

(1) Financial appropriations;

(2) Administrative and institutional charges and government funds collected in accordance with law and brought under fiscal administration;

(3) Other nontaxable income prescribed by the State Council.

Article 8 The reasonable expenses actually incurred by an enterprise and related to its income, including costs, expenses, taxes, losses and other expenditure, shall be allowed as a deduction when calculating the taxable income.

Article 9 The public welfare donation expenses incurred by an enterprise, within 12 percent of the annual total profit, shall be allowed as a deduction when calculating the taxable income; the part exceeding 12 percent of the annual total profit shall be allowed to be carried forward and deducted when calculating the taxable income within the next three years.

Article 10 When calculating taxable income, the following expenses shall not be deducted:

(1) Equity investment income such as dividends paid to investors;

(2) Enterprise income tax;

(3) Late payment interest relating to tax;

(4) Fines, penalties and losses of confiscated property;

(5) Donation expenditures other than those specified in Article 9 of this Law;

(6) Sponsorship expenses;

(7) Unapproved reserve expenditure;

(8) Other expenses not related to income.

Article 11 When calculating taxable income, enterprises are allowed to deduct depreciation of fixed assets calculated in accordance with regulations.

The following fixed assets are not eligible for depreciation deduction:

(1) Fixed assets other than houses and buildings that have not been put into use;

(2) Fixed assets leased under operating lease;

- (3) Fixed assets leased out by way of financial leasing;
- (4) Fixed assets that have been fully depreciated but are still in use;
- (5) Fixed assets not related to business activities;
- (6) Land that is separately valued and recorded as fixed assets;
- (7) Other fixed assets for which depreciation shall not be calculated.

Article 12 When calculating taxable income, enterprises are allowed to deduct the amortization expenses of intangible assets calculated in accordance with regulations.

The following intangible assets are not eligible for depreciation expense deduction:

- (1) Intangible assets for which self-development expenditure has been deducted in calculating taxable income;
- (2) Self-created goodwill;
- (3) Intangible assets not related to business activities;
- (4) Other intangible assets for which amortization expenses may not be deducted.

Article 13 When calculating taxable income, the following expenses incurred by an enterprise as long-term deferred expenses shall be allowed as a deduction if they are amortized in accordance with regulations:

- (1) Expenses for reconstruction of fixed assets for which depreciation has been fully deducted;
- (2) Expenses for reconstruction of leased fixed assets;
- (3) Expenses for substantial repairs of fixed assets;
- (4) Other expenses that shall be treated as long-term deferred expenses.

Article 14 During the period of an enterprise's investment, the cost of the investment assets shall not be deducted when calculating the taxable income.

Article 15 Where an enterprise uses or sells inventories, the inventory costs calculated in accordance with regulations shall be allowed as a deduction when calculating taxable income.

Article 16 When an enterprise transfers an asset, the net value of the asset shall be allowed as a deduction when calculating the taxable income.

Article 17 When an enterprise calculates and pays enterprise income tax on a combination basis, the losses of its foreign business offices shall not be offset against

the profits of its domestic business offices.

Article 18 Losses incurred by an enterprise during a tax year may be carried forward to subsequent years and offset against income from subsequent years, but the maximum carry-forward period shall not exceed five years.

Article 19 A nonresident enterprise shall calculate its taxable income as provided for in the third paragraph of Article 3 of this Law in accordance with the following method:

- (1) For equity investment income such as dividends, and interest income, rent, and royalties, the full amount of income shall be the taxable income;
- (2) For income from transfer of property, the taxable income shall be the balance after deducting the net value of the property from the full amount of income;
- (3) For other income, the taxable income shall be calculated in accordance with the methods prescribed in the preceding two paragraphs.

Article 20 The specific scope and standards of the income and deductions and the specific methods for the tax treatment of assets specified in this Chapter shall be prescribed by the financial and tax authorities of the State Council.

Article 21 When calculating taxable income, if the financial and accounting methods of an enterprise are inconsistent with the provisions of tax laws and administrative regulations, the calculation shall be in accordance with the provisions of tax laws and administrative regulations.

### **Chapter 3 Tax Payable**

Article 22 The amount of tax payable shall be the balance after multiplying the taxable income of an enterprise by the applicable tax rate, less the tax amounts exempted or credited in accordance with the provisions of this Law on tax incentives.

Article 23 The income tax paid outside China on the following incomes of an enterprise may be deducted from the tax payable in the current period, and the deduction limit shall be the tax payable calculated in accordance with the provisions of this Law for such income. The part exceeding the deduction limit may be offset within the next five years by the balance after deducting the tax payable in the current year from the deduction limit for each year:

- (1) Taxable income of resident enterprises from sources outside China;
- (2) A nonresident enterprise sets up an organization or place in China and obtains taxable income that occurs outside China but is actually connected with the organization or place.

Article 24: The dividends and other equity investment income derived from sources outside China by a resident enterprise from a foreign enterprise that it directly or indirectly controls, the portion of the income tax actually paid by the foreign

enterprise outside China that is the responsibility of such income, may be used as the creditable foreign income tax of the resident enterprise and deducted within the deduction limit prescribed in Article 23 of this Law.

## **Chapter 4 Tax Incentives**

Article 25 The State shall grant enterprise income tax preferences to industries and projects that it supports and encourages to develop.

Article 26 The following incomes of an enterprise are tax-exempt income:

- (1) Interest income on treasury bonds;
- (2) Equity investment income such as dividends between qualified resident enterprises;
- (3) A nonresident enterprise that has set up an organization or place in China obtains from a resident enterprise dividends and other equity investment income that is actually related to the organization or place;
- (4) Income of qualified nonprofit organizations.

Article 27 The following income of an enterprise may be exempt from or reduced in enterprise income tax:

- (1) Income from agriculture, forestry, animal husbandry and fishery projects;
- (2) Income from investment and operation of public infrastructure projects that are key supported by the country;
- (3) Income from engaging in environmental protection, energy conservation and water conservation projects that meet the requirements;
- (4) Income from qualified technology transfer;
- (5) Income as provided for in paragraph 3 of Article 3 of this Law.

Article 28 Small micro-profit enterprises that meet the requirements shall be subject to a reduced enterprise income tax rate of 20 percent.

High-Tech enterprises that the country needs to focus on supporting will be subject to a reduced enterprise income tax rate of 15 percent.

Article 29 The autonomous authorities of ethnic autonomous areas may decide to reduce or exempt the portion of enterprise income tax payable by enterprises in the ethnic autonomous areas that is the local share. If an autonomous prefecture or autonomous county decides to reduce or exempt tax, it must be reported to the people's government of the province, autonomous region or municipality directly under the Central Government for approval.

Article 30 The following expenses of an enterprise may qualify for an additional deduction on top of the expenses from taxable income when calculating the taxable income:

- (1) Research and development expenses incurred in developing new technologies, new products or new processes;
- (2) Wages paid for disabled employees and other employees encouraged by the country.

Article 31 Venture capital enterprises engaged in venture capital investments that the country needs to focus on supporting and encouraging may deduct a given percentage of their investment amount from their taxable income.

Article 32 If the fixed assets of an enterprise really need to be depreciated at an accelerated rate because of technological progress or other reasons, the depreciation period may be shortened or the accelerated depreciation method may be adopted.

Article 33 Income obtained by an enterprise from comprehensive utilization of resources to produce products that comply with the provisions of the country's industrial policy may be deducted when calculating taxable income.

Article 34 The investment amount of an enterprise in purchasing special equipment for environmental protection, energy and water conservation, and safe production, among others, can be allowed as a tax credit at a given percentage.

Article 35 The specific measures for tax incentives stipulated in this Law shall be prescribed by the State Council.

Article 36 In accordance with the needs of national economic and social development, or because of unexpected events or other reasons that have a significant impact on the business activities of enterprises, the State Council may formulate special preferential policies for enterprise income tax and report them to the Standing Committee of the National People's Congress for filing.

## **Chapter 5 Withholding at Source**

Article 37 The income tax payable by nonresident enterprises on income specified in the third paragraph of Article 3 of this Law shall be withheld at source, with the payer being the withholding agent. The tax shall be withheld by the withholding agent from the amount paid or due each time it is paid or due.

Article 38 For income tax payable by nonresident enterprises on income from construction and services obtained in China, the tax authorities may designate the payer of the construction price or service fee as the withholding agent.

Article 39 Where the withholding agent fails to withhold or is unable to perform the withholding obligation for income tax that shall be withheld in accordance with Articles 37 and 38 of this Law, the taxpayer shall pay the income tax at the place where the income is generated. If the taxpayer fails to pay the income tax in

accordance with law, the tax authorities may recover the taxpayer's payable tax from the payer of other income items of the taxpayer in China.

Article 40 The withholding agent shall pay the tax withheld each time into the country's treasury within seven days from the date of withholding and submit a report on withholding enterprise income tax to the local tax authority.

## **Chapter 6 Special Tax Adjustments**

Article 41 Where the business transactions between an enterprise and its related parties do not comply with the arm's length principle and thereby reduce the taxable revenue or income of the enterprise or its related parties, the tax authorities shall have the right to make adjustments using reasonable methods.

The costs incurred by an enterprise and its related parties in jointly developing or acquiring intangible assets, or jointly providing or receiving services shall be shared in accordance with the arm's length principle when calculating taxable income.

Article 42 An enterprise may propose to the tax authorities the pricing principles and calculation methods for its business transactions with its related parties. The tax authorities shall reach an advance pricing arrangement after consultation and confirmation with the enterprise.

Article 43 When an enterprise submits its annual enterprise income tax return to the tax authorities, it shall attach an annual related-party transaction report regarding its business transactions with related parties.

When the tax authorities conduct an investigation into related-party transactions, the enterprise and its related parties, as well as other enterprises related to the investigation into related-party transactions, shall provide relevant information in accordance with the regulations.

Article 44 If an enterprise fails to provide information on its business transactions with its related parties, or provides false or incomplete information that fails to truly reflect the circumstances of its related-party transactions, the tax authorities shall have the right to determine its taxable income in accordance with law.

Article 45 If an enterprise controlled by a resident enterprise, or by a resident enterprise and Chinese residents that is incorporated in a country (region) where the effective tax burden is significantly less than the tax rate prescribed in the first paragraph of Article 4 of this Law does not distribute or distributes less profit for reasons other than reasonable business needs, the portion of the abovementioned profit attributable to the resident enterprise shall be included in the current income of the resident enterprise.

Article 46 Interest expenses incurred by an enterprise because the ratio of debt investment to equity investment received from its related parties exceeds the prescribed standard shall not be deducted when calculating taxable income.

Article 47 If an enterprise implements other arrangements that lack a reasonable

business purpose, thereby reducing its taxable revenue or income, the tax authorities have the right to make adjustments in a reasonable manner.

Article 48 Where the tax authorities make tax adjustments in accordance with the provisions of this Chapter and need to collect additional taxes, they shall collect the additional taxes and charge interest in accordance with the provisions of the State Council.

## **Chapter 7 Collection Administration**

Article 49 The collection and administration of enterprise income tax shall be carried out in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China, except as provided for in this Law.

Article 50 Unless otherwise provided by tax laws and administrative regulations, the place of taxation for a resident enterprise shall be the place of registration of the enterprise; however, if the place of registration is outside China, the place of taxation shall be the place of effective management body.

If a resident enterprise establishes a business entity without legal person status in China, it shall calculate and pay enterprise income tax on a combination basis.

Article 51 The income obtained by nonresident enterprises as provided for in the second paragraph of Article 3 of this Law shall be taxed at the location of their organizations or places. If a nonresident enterprise has set up two or more organizations or places in China and meets the conditions prescribed by the tax authorities of the State Council, it may choose to pay enterprise income tax on a combination basis through its main organization or place.

For income derived by a nonresident enterprise as provided for in the third paragraph of Article 3 of this Law, the place of taxation shall be the location of the withholding agent.

Article 52 Unless otherwise provided by the State Council, enterprises shall not pay enterprise income tax on a consolidation basis.

Article 53 Enterprise income tax shall be calculated on a tax year basis. The tax year shall be from January 1 to December 31 of the Gregorian calendar.

If an enterprise commences or terminates its business activities in the middle of a tax year so that the actual operating period of that tax year is less than twelve months, its actual operating period shall be regarded as one tax year.

When an enterprise is liquidated in accordance with law, the liquidation period shall be regarded as a tax year.

Article 54 Enterprise income tax shall be paid in advance on a monthly or quarterly basis.

Enterprises must submit prepayment enterprise income tax returns to the tax



authorities and make advance tax payments within 15 days from the end of a month or quarter.

Enterprises must submit annual enterprise income tax returns to the tax authorities within five months from the end of the tax year and make final tax returns to settle all taxes payable or refundable.

When submitting enterprise income tax returns, enterprises must attach financial accounting reports and other relevant information in accordance with regulations.

Article 55 If an enterprise terminates its business activities in the middle of the year, it shall submit the final payment of enterprise income tax for the current period to the tax authorities within 60 days from the date of actual termination of business operations.

Before applying for cancellation registration, an enterprise shall declare its liquidation income to the tax authorities and pay enterprise income tax in accordance with law.

Article 56 Enterprise income tax payable in accordance with this Law shall be calculated in Renminbi. Income calculated in any currency other than Renminbi shall be converted into Renminbi for calculation and payment of tax.

## **Chapter 8 Supplementary Provisions**

Article 57 Enterprises that have been approved for establishment before the promulgation of this Law and that enjoy low tax rates in accordance with the tax laws and administrative regulations at the time may, in accordance with the provisions of the State Council, gradually transition to the tax rates prescribed by this Law within five years after the implementation of this Law; enterprises that enjoy periodic tax reductions and exemptions may, in accordance with the provisions of the State Council, continue to enjoy them until the expiration of the period after the implementation of this Law; but if they have not yet enjoyed the preferential treatment because of a lack of profit, the preferential period shall be calculated from the year in which this Law comes into effect.

Newly established high-tech enterprises that the country needs to focus on supporting in specific regions set up by law for the development of foreign economic cooperation and technological exchanges, as well as in regions where the State Council has stipulated the implementation of special policies for the abovementioned regions, can enjoy transitional tax preferences. The specific measures shall be stipulated by the State Council.

Other encouraged enterprises determined by the country can enjoy tax reduction and exemption preferences in accordance with the provisions of the State Council.

Article 58 If the taxation agreements concluded between the Government of the People's Republic of China and foreign governments contain provisions different from those of this Law, the provisions of the agreements shall prevail.

Article 59 The State Council shall formulate implementation regulations based on this

Law.

Article 60 This Law shall come into force on January 1, 2008. The Income Tax Law of the People's Republic of China on Foreign Investment Enterprises and Foreign Enterprises adopted at the Fourth Session of the Seventh National People's Congress on April 9, 1991, and the Provisional Regulations of the People's Republic of China on Enterprise Income Tax promulgated by the State Council on December 13, 1993, shall be repealed simultaneously.

## **Implementation Regulations to the Enterprise Income Tax Law of the People's Republic of China (Revised in 2019)**

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Date of issuance: April 23, 2019

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Timeliness: Revised

Revision notes: These regulations were revised by the Decision of the State Council on Amending and Repealing Certain Administrative Regulations (December 2024) (issued on December 6, 2024; implemented on January 20, 2025).

The term "science and technology" in the second paragraph of Article 93 of this Law was revised to the term "industry and information technology, science and technology."

## **Implementation Regulations to the Enterprise Income Tax Law of the People's Republic of China**

(Promulgated by Order No. 512 of the State Council of the People's Republic of China on December 6, 2007, revised in accordance with the Decision of the State Council on Amending Certain Administrative Regulations on April 23, 2019)

### **Chapter 1 General Provisions**

Article 1 These Regulations are formulated in accordance with the provisions of the Enterprise Income Tax Law of the People's Republic of China (hereinafter referred to as the Enterprise Income Tax Law).

Article 2 The sole proprietorships and partnerships referred to in Article 1 of the Enterprise Income Tax Law refer to sole proprietorships and partnerships established in accordance with Chinese laws and administrative regulations.

Article 3 The enterprises established in accordance with law in China as stated in Article 2 of the Enterprise Income Tax Law include enterprises, government-affiliated institutions, social groups and other income-generating organizations established in China in accordance with Chinese laws and administrative regulations.

The enterprises established in accordance with foreign (region) laws as stated in Article 2 of the Enterprise Income Tax Law include enterprises established in accordance with foreign (region) laws and other organizations that earn income.

Article 4 The effective management body referred to in Article 2 of the Enterprise Income Tax Law refers to the body that exercises substantial and comprehensive management and control over the production, operation, personnel, accounts, and property of an enterprise.

Article 5 The term "organization or place" as mentioned in the third paragraph of Article 2 of the Enterprise Income Tax Law refers to an organization or place engaged in production and business activities in China, including:

- (1) Management agencies, business agencies and administrative agencies;
- (2) Factories, farms, and places where natural resources are exploited;
- (3) Place where the services are provided;
- (4) Place where construction, installation, assembly, repair, exploration and other engineering operations are carried out;
- (5) Other organizations or places engaged in production and business activities.

If a nonresident enterprise commissions a business agent to engage in production and business activities in China, including entrusting an entity or individual to regularly sign contracts on its behalf, or to store and deliver goods, among others, the business agent shall be deemed to be an organization or place established by the nonresident enterprise in China.

Article 6 The income referred to in Article 3 of the Enterprise Income Tax Law includes income from the sale of goods, income from the provision of services, income from transfer of property, income from equity investments such as dividends, interest income, rental income, royalty income, donation income and other income.

Article 7 The income derived from sources in China or outside China as referred to in Article 3 of the Enterprise Income Tax Law shall be determined in accordance with the following principles:

- (1) Income from the sale of goods shall be determined according to the place where the transaction takes place;
- (2) Income from providing services shall be determined according to the place where the services are provided;
- (3) Income from transfer of property: income from the transfer of immovable property shall be determined according to the location of the immovable property; income from the transfer of movable property shall be determined according to the location of the enterprise, organization or place that transfers the movable property; income from the transfer of equity investment assets shall be determined according to the location of the invested enterprise;
- (4) Income from equity investments such as dividends shall be determined by the location of the enterprise that distributes the income;
- (5) Interest income, rentals and royalties shall be determined according to the location of the enterprise, organization or place that bears or pays the income, or according to the domicile of the individual that bears or pays the income;

(6) Other income shall be determined by the financial and tax authorities of the State Council.

Article 8 The effective connection as stated in Article 3 of the Enterprise Income Tax Law refers to the ownership, management and control of the equity and credit rights from which the income is derived by the organizations or places established by nonresident enterprises in China, as well as the property from which the income is derived.

## **Chapter 2 Taxable Income**

### **Section 1 General Provisions**

Article 9 The calculation of the taxable income of an enterprise shall be based on an accrual basis. Income and expenses belonging to the current period shall be treated as income and expenses of the current period, regardless of whether the payment is received or paid; income and expenses not belonging to the current period shall not be treated as income and expenses of the current period, even if the payment is received or paid in the current period, unless otherwise provided in these Regulations or by the financial and tax authorities of the State Council.

Article 10 The loss referred to in Article 5 of the Enterprise Income Tax Law means the amount less than zero after deducting the nontaxable income, tax-exempt income and various deductions from the gross income of an enterprise in each tax year in accordance with the provisions of the Enterprise Income Tax Law and these Regulations.

Article 11 The liquidation income as stated in Article 55 of the Enterprise Income Tax Law refers to the balance after deducting the net value of assets, liquidation expenses and related taxes and fees from the realizable value or transaction price of all assets of an enterprise.

The residual assets distributed to the investing enterprises from the liquidated enterprise, including the portion that shall be distributed from the accumulated undistributed profits and accumulated surplus reserves of the liquidated enterprise, shall be recognized as dividend income; the balance of the residual assets after deducting the above dividend income, which exceeds or is less than the investment cost, shall be recognized as income or loss from the transfer of investment assets.

### **Section 2 Income**

Article 12 The monetary forms of income obtained by an enterprise as referred to in Article 6 of the Enterprise Income Tax Law include cash, deposits, account receivables, note receivables, bond investments to be held to maturity, and debt forgiveness, among others.

The nonmonetary forms of income obtained by enterprises as referred to in Article 6 of the Enterprise Income Tax Law include fixed assets, biological assets, intangible assets, equity investments, inventories, bond investments that are not intended to be held to maturity, services and related rights and interests.

Article 13 The income obtained by an enterprise in nonmonetary form as referred to in Article 6 of the Enterprise Income Tax Law shall be determined in accordance with fair value.

The fair value referred to in the preceding paragraph means the value determined according to the market price.

Article 14 The income from sale of goods as stated in Item (1) of Article 6 of the Enterprise Income Tax Law refers to the revenue obtained by an enterprise from the sale of commodities, products, raw materials, packaging materials, low-value consumables and other inventories.

Article 15 The income from providing services as stated in Item (2) of Article 6 of the Enterprise Income Tax Law refers to the income obtained by an enterprise from engaging in construction and installation, repair and maintenance, transportation, warehousing and leasing, finance and insurance, post and telecommunications, consulting and brokerage, culture and sports, scientific research, technical services, education and training, catering and accommodation, agency services, health care, community services, tourism, entertainment, processing and other labor service activities.

Article 16 The income from transfer of property as stated in Item (3) of Article 6 of the Enterprise Income Tax Law refers to the income obtained by an enterprise from the transfer of fixed assets, biological assets, intangible assets, equity, debt and other properties.

Article 17 The equity investment income such as dividends referred to in Item (4) of Article 6 of the Enterprise Income Tax Law refers to the income obtained by an enterprise from the investee because of its equity investment.

Equity investment income such as dividends shall be recognized as income on the date when the investee makes a profit distribution decision, unless otherwise provided by the financial and tax authorities of the State Council.

Article 18 The interest income referred to in Item (5) of Article 6 of the Enterprise Income Tax Law refers to the income obtained when an enterprise provides funds to others for use but does not constitute equity investment, or when others occupy the funds of the enterprise, including deposit interest, loan interest, bond interest, interest on arrears and other income.

Interest income is recognized on the basis of the date when the debtor is required to pay interest as agreed in the contract.

Article 19 The rental income referred to in Item (6) of Article 6 of the Enterprise Income Tax Law refers to the income obtained by an enterprise from providing the right to use fixed assets, packaging materials or other tangible assets.

Rental income is recognized on the date when the lessee is required to pay the rent as agreed in the contract.

Article 20 The royalties referred to in Item (7) of Article 6 of the Enterprise Income Tax Law refers to the income obtained by an enterprise from providing the right to use patents, technical know-how, trademarks, copyrights and other franchises.

Royalties are recognized when the licensee is required to pay the royalties as agreed in the contract.

Article 21 The donation income as stated in Item (8) of Article 6 of the Enterprise Income Tax Law refers to the monetary or nonmonetary assets received by an enterprise from other enterprises, organizations or individuals free of charge.

Donation income is recognized on the basis of the date when the donated assets are actually received.

Article 22 Other income referred to in Item (9) of Article 6 of the Enterprise Income Tax Law refers to other income obtained by an enterprise other than the income specified in Items (1) to (8) of Article 6 of the Enterprise Income Tax Law, including surplus income from enterprise assets, income from overdue packaging deposits, account payables that are truly unpayable, account receivables that have been treated as bad debt losses and then recovered, debt restructuring income, subsidy income, penalty income, and foreign exchange gains, among others.

Article 23 Income may be recognized in installments for the following production and business operations of an enterprise:

(1) Where goods are sold by installment payment, the income shall be recognized according to the payment date agreed in the contract;

(2) If an enterprise is entrusted to process and manufacture large-scale machinery and equipment, ships, aircraft, or engage in construction, installation, assembly engineering business or provide other services, and the duration exceeds 12 months, the income shall be recognized according to the progress of completion or the amount of work completed during the tax year.

Article 24 If income is obtained through product sharing, the income shall be recognized according to the date when the enterprise obtains the products, and the amount of income shall be determined according to the fair value of the products.

Article 25 Where an enterprise engages in nonmonetary asset exchanges, or uses goods, property or services for purposes such as donation, debt repayment, sponsorship, fund-raising, advertising, samples, employee welfare or profit distribution, it shall be deemed as selling goods, transferring property or providing services, except where otherwise provided by the financial and tax authorities of the State Council.

Article 26 The financial appropriations referred to in Item (1) of Article 7 of the Enterprise Income Tax Law refers to the fiscal funds allocated by people's governments at all levels to government-affiliated institutions, social groups and other organizations included in budget management, except as otherwise provided by the

State Council and the financial and tax authorities of the State Council.

The administrative and institutional charges referred to in Item (2) of Article 7 of the Enterprise Income Tax Law refer to fees collected from specific targets and included in financial administration in the process of implementing social public administration and providing specific public services to citizens, legal persons or other organizations in accordance with relevant laws, regulations and other provisions and approved in accordance with the procedures prescribed by the State Council.

The government funds referred to in Item (2) of Article 7 of the Enterprise Income Tax Law refer to financial funds with special purposes collected by enterprises on behalf of the government in accordance with relevant laws and administrative regulations, among others.

The term "other nontaxable income prescribed by the State Council" as stated in Item (3) of Article 7 of the Enterprise Income Tax Law refers to fiscal funds obtained by enterprises for special purposes specified by the financial and tax authorities of the State Council and approved by the State Council.

### **Section 3 Deductions**

Article 27 The relevant expenses referred to in Article 8 of the Enterprise Income Tax Law refer to expenses directly related to the acquisition of income.

The reasonable expenses referred to in Article 8 of the Enterprise Income Tax Law are necessary and normal expenses that comply with the routine of production and business activities and shall be included in the current profit and loss or the cost of related assets.

Article 28 Expenses incurred by an enterprise shall be distinguished between current expenses and capitalized expenses. Current expenses shall be directly deducted in the current period in which they are incurred; capitalized expenses shall be deducted in installments or included in the cost of relevant assets and shall not be directly deducted in the current period in which they are incurred.

The expenses or property that is formed by the use of an enterprise's nontaxable income as expenditure shall not be deducted or the corresponding depreciation or amortization deduction shall not be calculated.

Unless otherwise provided in the Enterprise Income Tax Law and these Regulations, the actual costs, expenses, taxes, losses and other expenditures incurred by an enterprise shall not be deducted repeatedly.

Article 29 The term "cost" as stated in Article 8 of the Enterprise Income Tax Law refers to sale costs, operating expenses and other expenses incurred by an enterprise in its production and business activities.

Article 30 The expenses referred to in Article 8 of the Enterprise Income Tax Law refer to the sale expenses, administrative expenses and financial expenses incurred by an enterprise in its production and operation activities, excluding relevant expenses



that have been included in the costs.

Article 31 The taxes referred to in Article 8 of the Enterprise Income Tax Law refer to all taxes and surcharges incurred by an enterprise other than enterprise income tax and deductible value-added tax.

Article 32 The losses referred to in Article 8 of the Enterprise Income Tax Law refer to the losses caused by shortages, damages, and scrapping of fixed assets and inventories incurred by enterprises in their production and operation activities, losses from transfer of property, losses from bad debts, losses caused by force majeure such as natural disasters, and other losses.

The losses incurred by an enterprise, after deducting indemnity from the liable party and insurance indemnity, shall be deducted in accordance with the regulations of the financial and tax authorities of the State Council.

When an enterprise has treated an asset as a loss and then recovers it in whole or in part in a subsequent tax year, it shall be included in current income.

Article 33 Other expenditure referred to in Article 8 of the Enterprise Income Tax Law refer to reasonable expenditure related to production and operation activities incurred by an enterprise in its production and operation activities, except for costs, expenses, taxes and losses.

Article 34 Reasonable wages and salaries incurred by an enterprise are allowed as a deduction.

The wages and salaries mentioned in the preceding paragraph refer to all labor remuneration in cash or noncash form paid by an enterprise to its employees who hold office or who are employed by the enterprise in each tax year, including basic wages, bonuses, allowances, subsidies, year-end salary increases, overtime pay, and other expenses related to the employees' position or employment.

Article 35 Enterprises are allowed to deduct basic social insurance premiums and housing provident funds such as basic pension insurance premiums, basic medical insurance premiums, unemployment insurance premiums, work-related injury insurance premiums, and maternity insurance premiums paid for their employees within the scope and standards prescribed by the relevant competent departments of the State Council or provincial people's governments.

Supplementary pension insurance premiums and supplementary medical insurance premiums paid by enterprises for investors or employees are allowed as a deduction within the scope and standards prescribed by the financial and tax authorities of the State Council.

Article 36 Commercial insurance premiums paid by enterprises for investors or employees shall not be deducted except for personal safety insurance premiums paid by enterprises for employees in special occupations in accordance with relevant national regulations and other commercial insurance premiums that may be deducted as prescribed by the financial and tax authorities of the State Council.

Article 37 Reasonable borrowing expenses incurred by an enterprise in its production and operation activities that do not need to be capitalized are allowed as a deduction.

If an enterprise borrows money to purchase or construct fixed assets, intangible assets and inventories that require more than 12 months of construction to reach the intended saleable state, the reasonable borrowing costs incurred during the purchase and construction of the relevant assets shall be included in the cost of the relevant assets as capitalized expenses and deducted in accordance with the provisions of these Regulations.

Article 38 The following interest expenses incurred by an enterprise in its production and business activities are allowed as a deduction:

(1) Interest expenses on loans from financial enterprises by nonfinancial enterprises, interest expenses on various deposits and interbank lending by financial enterprises, and interest expenses on bonds issued by enterprises with approval;

(2) The portion of interest expenses on loans from nonfinancial enterprises to nonfinancial enterprises that does not exceed the amount calculated on the basis of the interest rate for similar loans from financial enterprises during the same period.

Article 39 Foreign exchange losses incurred by an enterprise in monetary transactions and when converting monetary assets and liabilities other than Renminbi into Renminbi at the end of a tax year at the Renminbi spot midpoint exchange rate at the end of the period shall be allowed as a deduction, except for the part already included in the cost of the relevant assets and the part related to profit distribution to owners.

Article 40: Employee welfare expenses incurred by an enterprise are allowed as a deduction to the extent of 14 percent of the total wages and salaries.

Article 41 The union funds paid by an enterprise are allowed as a deduction to the extent of 2 percent of the total wages and salaries.

Article 42 Unless otherwise provided by the financial and tax authorities of the State Council, employee education expenses incurred by an enterprise are allowed as a deduction to the extent of 2.5 percent of the total wages and salaries; the excess may be carried forward and deducted in subsequent tax years.

Article 43: Business entertainment expenses incurred by an enterprise related to production and operation activities shall be deducted at 60 percent of the amount incurred, but the maximum shall not exceed 5‰ of the sale (operating) income of the year.

Article 44: Qualified advertising and business promotion expenses incurred by enterprises shall be allowed as a deduction to the extent of 15 percent of the sale (operating) income of the year, unless otherwise provided by the financial and tax authorities of the State Council; the excess amount shall be allowed to be carried forward and deducted in subsequent tax years.

Article 45 Special funds used for environmental protection, and ecological restoration, among others, as drawn by enterprises in accordance with the relevant provisions of laws and administrative regulations are allowed as a deduction. If the above special funds are used for a different purpose after being drawn, they shall not be deducted.

Article 46: Insurance premiums paid by an enterprise in accordance with regulations for participating in property insurance are allowed as a deduction.

Article 47 The rental fees paid by an enterprise for renting fixed assets for production and business activities shall be deducted in the following manner:

(1) The rental expenses incurred for fixed assets leased under operating leases shall be deducted evenly according to the lease term;

(2) The rental expenses incurred in respect of fixed assets leased under finance leases shall, in accordance with relevant regulations, be deducted in installments for the portion that constitutes the value of the fixed assets leased under finance leases.

Article 48 Reasonable labor protection expenses incurred by enterprises are allowed as a deduction.

Article 49 Management fees paid between enterprises, rents and royalties paid between business entities within an enterprise, and interest paid between business entities within a nonbank enterprise shall not be deductible.

Article 50 Nonresident enterprises that have set up organizations or places in China are allowed to deduct expenses related to the production and operation of their head offices outside China if they can provide documentary evidence issued by the head office on the scope, quotas, basis and method of allocation of expenses, and if the expenses are reasonably allocated.

Article 51 The public welfare donation referred to in Article 9 of the Enterprise Income Tax Law refers to donation made by enterprises through public welfare social organizations or people's governments at or above the county level and their departments for charitable activities and public welfare undertakings that comply with the provisions of law.

Article 52 The public welfare social organizations referred to in Article 51 of these Regulations refer to charitable organizations and other social organizations that meet the following conditions:

- (1) It is registered in accordance with law and has legal person status;
- (2) The purpose is to develop public welfare undertakings and not to make profits;
- (3) All assets and their appreciation belong to the legal person;
- (4) The income and operating surplus are mainly used for the business that is consistent with the purpose of the establishment of the legal person;

- (5) The remaining property after termination shall not belong to any individual or profit-making organization;
- (6) It does not engage in any business irrelevant to the purpose of its establishment;
- (7) It has a sound financial accounting system;
- (8) The donor does not participate in the distribution of the legal person's property in any form;
- (9) Other conditions stipulated by the financial and tax authorities of the State Council in conjunction with the civil affairs department and other registration administration departments of the State Council.

Article 53: The public welfare donation expenses incurred by an enterprise in the current year and carried forward from previous years are allowed as a deduction to the extent of 12 percent of the annual total profit.

The total annual profit refers to the annual accounting profit calculated by an enterprise in accordance with the provisions of the national unified accounting system.

Article 54 The sponsorship expenses referred to in Item (6) of Article 10 of the Enterprise Income Tax Law refer to various non-advertising expenses incurred by an enterprise that are not related to its production and operation activities.

Article 55 The unapproved reserve expenditure referred to in Item (7) of Article 10 of the Enterprise Income Tax Law refers to the reserve expenditures such as asset impairment provisions and risk provisions that do not comply with the regulations of the financial and tax authorities of the State Council.

#### **Section 4 Tax Treatment of Assets**

Article 56 The assets of an enterprise, including fixed assets, biological assets, intangible assets, long-term deferred expenses, investment assets, and inventories, among others, shall be taxed on the basis of historical cost.

The historical cost mentioned in the preceding paragraph refers to the actual expenditure incurred by the enterprise when acquiring the asset.

If an enterprise increases or decreases in value during the period it holds various assets, it shall not adjust the tax basis of the assets unless the financial and tax authorities of the State Council stipulate that gains and losses can be recognized.

Article 57 Fixed assets as stated in Article 11 of the Enterprise Income Tax Law refer to nonmonetary assets held by enterprises for the purpose of producing products, providing services, leasing or operating and managing, and with a usage period of more than 12 months, including houses, buildings, machines, machinery, means of transportation and other equipment, appliances, and tools, among others, related to production and operation activities.

Article 58 The tax basis of fixed assets shall be determined in accordance with the following method:

- (1) For fixed assets purchased, the tax basis shall be the purchase price plus relevant taxes and fees paid and other expenses directly attributable to the use of the asset for its intended purpose;
- (2) For fixed assets constructed by itself, the tax basis shall be the expenditure incurred before the completion of the construction settlement;
- (3) For fixed assets acquired through finance lease, the total amount of payment agreed upon in the lease contract and the relevant expenses incurred by the lessee in the process of signing the lease contract shall be the tax basis; if the lease contract does not stipulate the total amount of payment, the fair value of the asset and the relevant expenses incurred by the lessee in the process of signing the lease contract shall be the tax basis;
- (4) For fixed assets that are in excess of inventory, the tax basis shall be the full replacement value of similar fixed assets;
- (5) For fixed assets acquired through donation, investment, nonmonetary asset exchange, and debt restructuring, among others, the tax basis shall be the fair value of the assets and the relevant taxes paid;
- (6) For rebuilt fixed assets, the tax basis shall be increased by the reconstruction expenses incurred during the reconstruction process, with an exception of the expenses specified in Items (1) and (2) of Article 13 of the Enterprise Income Tax Law.

Article 59 Depreciation of fixed assets calculated using the straight-line method is allowed as a deduction.

An enterprise shall calculate depreciation from the month following the month in which the fixed assets are put into use; for fixed assets that are no longer in use, the calculation of depreciation shall be stopped from the month following the month in which they are no longer in use.

An enterprise shall reasonably determine the estimated net residual value of fixed assets based on the nature and usage of the fixed assets. Once the estimated net residual value of fixed assets is determined, it shall not be changed.

Article 60 Unless otherwise provided by the financial and tax authorities of the State Council, the minimum depreciation period for fixed assets shall be as follows:

- (1) 20 years for houses and buildings;
- (2) 10 years for aircraft, trains, ships, machinery, mechanical equipment and other production equipment;

(3) 5 years for appliances, tools, and furniture, among others, related to production and business activities;

(4) 4 years for transportation other than airplanes, trains and ships;

(5) 3 years for electronic equipment.

Article 61 The expenses incurred by enterprises engaged in the exploitation of mineral resources such as petroleum and natural gas before the commencement of commercial production and the depreciation and depreciation methods of related fixed assets shall be separately prescribed by the financial and tax authorities of the State Council.

Article 62 The tax basis of productive biological assets shall be determined in accordance with the following method:

(1) For purchased productive biological assets, the tax basis shall be the purchase price and related taxes paid;

(2) The tax basis for productive biological assets acquired through donation, investment, nonmonetary asset exchange, and debt restructuring, among others, is the fair value of the assets and the related taxes paid.

The productive biological assets mentioned in the preceding paragraph refer to the biological assets held by an enterprise for the purpose of producing agricultural products, providing services or leasing out, including economic forests, firewood and charcoal forests, breeding livestock, and draft animals, among others.

Article 63 Depreciation of productive biological assets calculated using the straight-line method is allowed as a deduction.

An enterprise shall calculate depreciation from the month following the month in which a productive biological asset is put into use; for productive biological assets that have ceased to be used, an enterprise shall stop calculating depreciation from the month following the month in which they cease to be used.

An enterprise shall reasonably determine the estimated net residual value of productive biological assets based on the nature and use of the productive biological assets. Once the estimated net residual value of productive biological assets is determined, it shall not be changed.

Article 64 The minimum number of years for calculating depreciation of productive biological assets is as follows:

(1) 10 years for productive biological assets of forest trees;

(2) 3 years for livestock productive biological assets.

Article 65 The intangible assets referred to in Article 12 of the Enterprise Income Tax Law refer to nonmonetary long-term assets without physical form that are held by enterprises for the purpose of producing products, providing services, leasing or

operating management, including patents, trademarks, copyrights, land use rights, technical know-how, and goodwill, among others.

Article 66 The tax basis of intangible assets shall be determined in accordance with the following method:

- (1) For purchased intangible assets, the tax basis shall be the purchase price plus relevant taxes and fees paid and other expenses directly attributable to the use of the asset for its intended purpose;
- (2) For intangible assets developed by the developer, the tax basis shall be the expenditure incurred during the development process from the time when the asset meets the capitalization conditions until it reaches its intended use;
- (3) For intangible assets acquired through donation, investment, nonmonetary asset exchange, and debt restructuring, among others, the tax basis shall be the fair value of the assets and the relevant taxes and fees paid.

Article 67 Amortization expenses of intangible assets calculated using the straight-line method are allowed as a deduction.

The amortization period of intangible assets shall not be less than 10 years.

If the useful life of an intangible asset invested in or acquired is stipulated by relevant laws or agreed upon in the contract, it can be amortized in installments according to the stipulated or agreed useful life.

Expenditures on purchased goodwill are allowed as a deduction when the enterprise is transferred or liquidated as a whole.

Article 68 The reconstruction expenses of fixed assets referred to in Items (1) and (2) of Article 13 of the Enterprise Income Tax Law refer to the expenses incurred in changing the structure of a house or building, and extending its useful life, among others.

The expenses specified in Item (1) of Article 13 of the Enterprise Income Tax Law shall be amortized in installments over the estimated remaining useful life of the fixed assets; the expenses specified in Item (2) shall be amortized in installments over the remaining lease term agreed in the contract.

If the useful life of a rebuilt fixed asset is extended, the depreciation period shall be appropriately extended, except as provided in Items (1) and (2) Article 13 of the Enterprise Income Tax Law.

Article 69 The substantial repair expenses of fixed assets referred to in Item (3) of Article 13 of the Enterprise Income Tax Law refer to expenses that meet the following conditions at the same time:

- (1) The repair expenditures amount to 50 percent or more of the tax basis of the fixed asset at the time of acquisition;

(2) The useful life of the fixed assets after repair is extended by more than 2 years.

The expenses specified in Item (3) of Article 13 of the Enterprise Income Tax Law shall be amortized in installments over the remaining useful life of the fixed assets.

Article 70 Other expenses referred to in Item (4) of Article 13 of the Enterprise Income Tax Law that shall be treated as long-term deferred expenses shall be amortized in installments starting from the month following the month in which the expenses are incurred, and the amortization period shall not be less than 3 years.

Article 71 The investment assets as stated in Article 14 of the Enterprise Income Tax Law refer to the assets formed by an enterprise's equity investment and debt investment.

When an enterprise transfers or disposes of investment assets, the cost of the investment assets is allowed as a deduction.

The cost of investment assets is determined as follows:

(1) For investment assets acquired by paying cash, the purchase price shall be the cost;

(2) The cost of an investment asset acquired by means other than cash payment is the fair value of the asset and any related taxes paid.

Article 72 Inventories as stated in Article 15 of the Enterprise Income Tax Law refer to products or commodities held by an enterprise for sale, work-in-progress in the production process, and materials and supplies consumed in the process of production or provision of services.

The cost of inventories is determined by the methods as follows:

(1) For inventories acquired by paying cash, the cost shall be the purchase price plus relevant taxes paid;

(2) For inventories acquired by means other than cash payment, the cost shall be the fair value of the inventories and any related taxes paid;

(3) The cost of agricultural products harvested from productive biological assets is the necessary expenses such as material costs, labor costs and allocated indirect costs incurred during the production or harvesting process.

Article 73 The cost calculation method for inventories used or sold by an enterprise may be one of the first-in, first-out method, weighted average method, and specific identification method. Once a cost method is selected, it may not be changed at will.

Article 74 The net value of assets as stated in Article 16 of the Enterprise Income Tax Law and the net value of property as stated in Article 19 shall refer to the balance of the tax basis of the relevant assets and property after deducting depreciation,



depletion, amortization, and provisions, among others, that have been deducted in accordance with regulations.

Article 75 Unless otherwise provided by the financial and tax authorities of the State Council, during the process of reorganization, an enterprise shall recognize the income or loss from the transfer of the relevant assets when the transaction occurs, and the tax basis of the relevant assets shall be redetermined according to the transaction price.

### **Chapter 3 Tax Payable**

Article 76 The calculation formula for the amount of tax payable as provided for in Article 22 of the Enterprise Income Tax Law is:

Tax payable = taxable income × applicable tax rate - tax reduction or exemption - tax credit

The tax reduction and tax credit in the formula refers to the tax payable that is reduced, exempted and credited in accordance with the Enterprise Income Tax Law and the tax preferential regulations of the State Council.

Article 77 The amount of income tax paid outside China as referred to in Article 23 of the Enterprise Income Tax Law refers to the tax of the nature of enterprise income tax that an enterprise shall pay and has actually paid on its income derived from sources outside China in accordance with the tax laws and relevant regulations outside China.

Article 78 The credit limitation referred to in Article 23 of the Enterprise Income Tax Law refers to the taxable amount of an enterprise's income from outside China calculated in accordance with the provisions of the Enterprise Income Tax Law and these Regulations. Unless otherwise provided by the financial and tax authorities of the State Council, the credit limitation shall be calculated by country (region) rather than by item, and the calculation formula is as follows:

Credit limitation = total taxable income in China and outside China calculated in accordance with the Enterprise Income Tax Law and these Regulations × taxable income from a given country (region) ÷ total taxable income in China and outside China

Article 79 The five years referred to in Article 23 of the Enterprise Income Tax Law refer to five consecutive tax years starting from the year following the year in which the amount of enterprise income tax paid outside China on the income derived by the enterprise from sources outside China exceeds the credit limitation.

Article 80 Direct control as stated in Article 24 of the Enterprise Income Tax Law means that a resident enterprise directly holds more than 20 percent of the shares of a foreign enterprise.

Indirect control as stated in Article 24 of the Enterprise Income Tax Law means that a resident enterprise holds more than 20 percent of the shares of a foreign enterprise through indirect shareholding. The specific identification method shall be separately

formulated by the financial and tax authorities of the State Council.

Article 81 When an enterprise offsets or credits the enterprise income tax in accordance with the provisions of Articles 23 and 24 of the Enterprise Income Tax Law, it shall provide the relevant tax payment certificate for the tax year issued by the tax authorities outside China.

#### **Chapter 4 Tax Incentives**

Article 82 The interest income on treasury bonds referred to in Item (1) of Article 26 of the Enterprise Income Tax Law refers to the interest income obtained by an enterprise from holding treasury bonds issued by the financial department of the State Council.

Article 83 The equity investment income such as dividends between qualified resident enterprises as referred to in Item (2) of Article 26 of the Enterprise Income Tax Law refers to the investment income obtained by resident enterprises directly from investing in other resident enterprises. The equity investment income such as dividends as referred to in Items (2) and (3) of Article 26 of the Enterprise Income Tax Law does not include the investment income obtained from holding the stocks of resident enterprises that are publicly issued and traded for less than 12 consecutive months.

Article 84 The qualified nonprofit organization referred to in Item (4) of Article 26 of the Enterprise Income Tax Law refers to an organization that meets the following conditions at the same time:

(1) Performing the registration procedures for nonprofit organizations in accordance with law;

(2) Engaging in public welfare or nonprofit activities;

(3) All income obtained, except for reasonable expenses related to the organization, shall be used for public welfare or nonprofit undertakings as approved by the registration or stipulated in the articles of association;

(4) The property and its interest shall not be distributed;

(5) In accordance with the registration approval or the provisions of the Articles of Association, the remaining property of the organization after cancellation is used for public welfare or nonprofit purposes, or is transferred by the registration administration authority to an organization with the same nature and purpose as the organization, and this is announced to the public;

(6) The investor does not retain or enjoy any property rights over the property invested in the organization;

(7) Expenditure on staff wages and benefits shall be controlled within the prescribed proportion, and the organization's property shall not be distributed in disguised form.

The recognition and administration measures for nonprofit organizations stipulated in the preceding paragraph shall be formulated by the financial and tax authorities of the State Council in conjunction with relevant departments of the State Council.

Article 85 The income of qualified nonprofit organizations referred to in Item (4) of Article 26 of the Enterprise Income Tax Law does not include the income obtained by nonprofit organizations from engaging in profit-making activities, except as otherwise provided by the financial and tax authorities of the State Council.

Article 86 The income from agricultural, forestry, animal husbandry and fishery projects of enterprises as provided for in Item (1) of Article 27 of the Enterprise Income Tax Law may be exempt from or reduced from enterprise income tax, which means:

(1) Income from the following projects of an enterprise shall be exempt from enterprise income tax:

- (a) Planting of vegetables, grains, potatoes, oilseeds, beans, cotton, hemp, sugar, fruits and nuts;
- (b) Breeding of new crop varieties;
- (c) Planting of Chinese medicinal materials;
- (d) Cultivation and planting of trees;
- (e) Raising livestock and poultry;
- (f) Collection of forest products;
- (g) Irrigation, primary processing of agricultural products, veterinary medicine, agricultural technology extension, agricultural machinery operation and maintenance and other agricultural, forestry, animal husbandry and fishery service projects;
- (h) Deep-sea fishing.

(2) The enterprise income tax shall be levied at half the rate on the following incomes:

- (a) Planting of flowers, tea and other beverage crops and spice crops;
- (b) Marine aquaculture and inland aquaculture.

Enterprises engaged in projects that are restricted or prohibited from development by the country shall not enjoy the enterprise income tax preferences stipulated in this Article.

Article 87 The public infrastructure projects that are key supported by the country as stated in Item (2) of Article 27 of the Enterprise Income Tax Law refer to ports, airports, railways, highways, urban public transportation, electricity, water conservancy and other projects specified in the Catalogue of Enterprise Income Tax

## Preferences for Public Infrastructure Projects.

The income from the investment and operation of public infrastructure projects that are key supported by the country as stipulated in the preceding paragraph by an enterprise shall be exempt from enterprise income tax from the first to the third tax year beginning with the tax year in which the project obtains its first production and operation income, and the enterprise income tax shall be reduced by half from the fourth to the sixth year.

Enterprises that contract to operate, contract to construct, or build and use the projects specified in this Article internally shall not enjoy the enterprise income tax preferences specified in this Article.

Article 88 The environmental protection, energy conservation and water conservation projects that meet the conditions as referred to in Item (3) of Article 27 of the Enterprise Income Tax Law include public sewage treatment, public garbage treatment, comprehensive development and utilization of biogas, energy conservation and emission reduction technology transformation, and seawater desalination, among others, The specific conditions and scope of the projects shall be formulated by the financial and tax authorities of the State Council in consultation with relevant departments of the State Council, and shall be promulgated and implemented after approval by the State Council.

The income from enterprises engaged in eligible environmental protection, energy conservation and water-saving projects as specified in the preceding paragraph shall be exempt from enterprise income tax from the first to third tax year starting from the tax year in which the project obtains its first production and operation income, and the enterprise income tax shall be reduced by half from the fourth to sixth year.

Article 89 If a project that enjoys tax exemption and reduction benefits in accordance with Articles 87 and 88 of these Regulations is transferred within the tax exemption and reduction period, the transferee may enjoy the prescribed tax exemption and reduction benefits within the remaining period from the date of transfer; if the project is transferred after the expiration of the tax exemption and reduction period, the transferee shall not enjoy the tax exemption and reduction benefits for the project again.

Article 90 The exemption or reduction of enterprise income tax on qualified technology transfer income as referred to in Item (4) of Article 27 of the Enterprise Income Tax Law means that within a tax year, the portion of technology transfer income of resident enterprises that does not exceed Renminbi 5 million is exempt from enterprise income tax; the portion that exceeds Renminbi 5 million is subject to enterprise income tax at half the rate.

Article 91 Nonresident enterprises that obtain income specified in Item (5) of Article 27 of the Enterprise Income Tax Law shall be subject to enterprise income tax at a reduced rate of 10 percent.

The following income is exempt from enterprise income tax:

(1) Interest income from loans provided by foreign governments to the Chinese government;

(2) Interest income from preferential loans provided by international financial organizations to the Chinese government and resident enterprises;

(3) Other income approved by the State Council.

Article 92 The qualified small and micro-profit enterprises referred to in the first paragraph of Article 28 of the Enterprise Income Tax Law refer to enterprises engaged in industries not restricted or prohibited by the country and meeting the following conditions:

(1) Industrial enterprises: annual taxable income not exceeding Renminbi 300,000, the number of employees not exceeding 100 and the total assets not exceeding Renminbi 30 million;

(2) Other enterprises: annual taxable income not exceeding Renminbi 300,000, the number of employees not exceeding 80, and the total assets not exceeding Renminbi 10 million.

Article 93 The high-tech enterprises that the country needs to focus on supporting as mentioned in the second paragraph of Article 28 of the Enterprise Income Tax Law refer to enterprises that possess core independent intellectual property rights and meet the following conditions at the same time:

(1) The product (service) falls within the scope specified in the High-Tech Fields Supported by the Country;

(2) The proportion of research and development expenses to sale revenue is not less than the prescribed proportion;

(3) The proportion of revenue from high-tech products (services) to the total revenue of the enterprise is not less than the prescribed proportion;

(4) The proportion of scientific and technological personnel to the total number of employees in the enterprise is not less than the prescribed proportion;

(5) Other conditions stipulated in the Administrative Measures for the Recognition of High-Tech Enterprises.

The High-Tech Fields that the Country Key Supports and the administrative measures for the recognition of high-tech enterprises are formulated by the science and technology, finance, and tax authorities of the State Council in consultation with relevant departments of the State Council, and are promulgated and implemented after approval by the State Council.

Article 94 The ethnic autonomous areas referred to in Article 29 of the Enterprise Income Tax Law refer to the autonomous regions, autonomous prefectures and autonomous counties that implement ethnic regional autonomy in accordance with the

provisions of the Law of the People's Republic of China on Regional Ethnic Autonomy.

Enterprises in ethnic autonomous areas that engage in industries restricted or prohibited by the country shall not be entitled to reduction or exemption of enterprise income tax.

Article 95 The additional deduction for research and development expenses as stated in Item (1) of Article 30 of the Enterprise Income Tax Law refers to the research and development expenses incurred by an enterprise for the development of new technologies, new products and new processes. If no intangible assets are formed and included in the current profit and loss, an additional deduction of 50 percent of the research and development expenses shall be made on the basis of actual deduction in accordance with regulations; if intangible assets are formed, they shall be amortized at 150 percent of the cost of the intangible assets.

Article 96 The additional deduction of wages paid by enterprises to disabled employees as stated in Item (2) of Article 30 of the Enterprise Income Tax Law means that when enterprises employ disabled persons, they shall make additional deductions of 100 percent of the wages paid to disabled employees on the basis of actual deductions of wages paid to disabled employees. The scope of disabled persons shall be subject to the relevant provisions of the Law of the People's Republic of China on the Protection of Disabled Persons.

The method for additional deductions for wages paid by enterprises to other employees encouraged by the country as referred to in Item (2) of Article 30 of the Enterprise Income Tax Law shall be separately prescribed by the State Council.

Article 97 The deduction of taxable income as stated in Article 31 of the Enterprise Income Tax Law means that if a venture capital enterprise invests in a privately held small or medium-sized high-tech enterprise for more than two years in the form of equity investment, it can deduct 70 percent of its investment amount from the taxable income of the venture capital enterprise in the year in which the equity is held for two years; if the deduction is insufficient in the current year, it can be carried forward to the subsequent tax year for deduction.

Article 98 Fixed assets that may be depreciated over a shortened period or depreciated at an accelerated rate as referred to in Article 32 of the Enterprise Income Tax Law include:

- (1) Fixed assets that are subject to rapid product replacement because of technological progress;
- (2) Fixed assets that are subject to strong vibration or high corrosion all year round.

If the shortened depreciation period is adopted, the minimum depreciation period shall not be less than 60 percent of the depreciation period prescribed in Article 60 of these Regulations; if the accelerated depreciation method is adopted, the double declining balance method or the sum-of-years' digits method may be adopted.

Article 99 The deductible income as stated in Article 33 of the Enterprise Income Tax Law refers to the income obtained by an enterprise from using the resources specified in the Catalogue of Enterprise Income Tax Preferences for Comprehensive Utilization of Resources as the main raw materials to produce products that are not restricted or prohibited by the country and that comply with relevant national and industry standards, which shall be included in the gross income at a reduced rate of 90 percent.

The proportion of raw materials referred to in the preceding paragraph to the materials used to produce products shall not be less than the standard prescribed in the Catalogue of Enterprise Income Tax Preferences for Comprehensive Resource Utilization.

Article 100 The tax credit referred to in Article 34 of the Enterprise Income Tax Law means that if an enterprise purchases and actually uses special equipment for environmental protection, energy conservation and water conservation, and safe production, among others, as specified in the Catalogue of Enterprise Income Tax Preferential Treatments for Special Equipment for Environmental Protection, Catalogue of Enterprise Income Tax Preferential Treatments for Special Equipment for Energy Conservation and Water Conservation and Catalogue of Enterprise Income Tax Preferential Treatments for Special Equipment for Production Safety, 10 percent of the investment amount of the special equipment can be deducted from the enterprise's tax payable in that year; if the amount is not enough to be deducted in the current year, it can be carried forward for deduction in the next five tax years.

Enterprises that enjoy the enterprise income tax preferences stipulated in the preceding paragraph shall actually purchase and put into use the special equipment stipulated in the preceding paragraph; if an enterprise purchases the abovementioned special equipment and transfers or rents it out within 5 years, it shall stop enjoying the enterprise income tax preferences and pay the enterprise income tax that has been exempted.

Article 101 The catalogues of enterprise income tax preferences stipulated in Articles 87, 99 and 100 of this Chapter shall be formulated by the financial and tax authorities of the State Council in consultation with relevant departments of the State Council and shall be promulgated for implementation after being submitted to the State Council for approval.

Article 102 If an enterprise simultaneously engages in projects subject to different enterprise income tax treatments, its preferential projects shall be subject to calculation of the income separately and to reasonable apportionment of the enterprise's periodic expenses; if they are not calculated separately, the enterprise shall not enjoy enterprise income tax preferences.

## **Chapter 5 Withholding at Source**

Article 103 Where the enterprise income tax payable by nonresident enterprises is withheld at source in accordance with the Enterprise Income Tax Law, the taxable income shall be calculated in accordance with the provisions of Article 19 of the Enterprise Income Tax Law.

The full amount of income as stated in Article 19 of the Enterprise Income Tax Law refers to the total price and additional fees collected by a nonresident enterprise from the payer.

Article 104 The payer as stated in Article 37 of the Enterprise Income Tax Law refers to the entity or individual that is directly obligated to pay the relevant amounts to the nonresident enterprise in accordance with relevant laws or contractual agreements.

Article 105 The payment referred to in Article 37 of the Enterprise Income Tax Law includes monetary payments and nonmonetary payments such as cash payments, remittance payments, transfer payments and equity exchange payments.

The amount due as stated in Article 37 of the Enterprise Income Tax Law refers to the payables that the payer shall include in the relevant costs and expenses in accordance with the accrual basis principle.

Article 106 The circumstances under which a withholding agent may be designated as provided for in Article 38 of the Enterprise Income Tax Law include:

- (1) The estimated duration of the project operation or provision of services is less than one tax year, and there is evidence that the tax obligations will not be fulfilled;
- (2) Failure to register for tax or temporary tax registration, and failure to entrust an agent in China to perform tax obligations;
- (3) Failure to file an enterprise income tax return or advance payment declaration within the prescribed time limit.

The withholding agents specified in the preceding paragraph shall be designated by the tax authorities at or above the county level, and the withholding agents shall be informed of the calculation basis, calculation method, withholding period and withholding method of the taxes withheld at the same time.

Article 107 The place where the income is generated as stated in Article 39 of the Enterprise Income Tax Law refers to the place where income is generated determined in accordance with the principles set forth in Article 7 of these Regulations. If there are multiple places where income is generated in China, the taxpayer shall choose one of them to declare and pay enterprise income tax.

Article 108 The other income of the taxpayer in China as stated in Article 39 of the Enterprise Income Tax Law refers to the income from other various sources obtained by the taxpayer in China.

When the tax authorities collect taxes payable from the taxpayer, they shall inform the taxpayer of the reasons for collection, the amount to be collected, the payment deadline and the payment method.

## **Chapter 6 Special Tax Adjustments**

Article 109 The term "related party" as used in Article 41 of the Enterprise Income



Tax Law refers to an enterprise, other organization or individual that has any of the following relationships with an enterprise:

- (1) Direct or indirect control in terms of capital, operation, purchase, or sale, among others;
- (2) Direct or indirect control by a third party;
- (3) Other relationships that are related in terms of interests.

Article 110 The arm's length principle as stated in Article 41 of the Enterprise Income Tax Law refers to the principle followed by unrelated parties in conducting business in accordance with fair transaction prices and business practices.

Article 111 The reasonable methods referred to in Article 41 of the Enterprise Income Tax Law include:

- (1) The comparable uncontrolled price method refers to a method of pricing based on the prices of identical or similar business transactions between unrelated parties;
- (2) The resale price method refers to a method of pricing based on the price at which goods are purchased from related parties and then resold to unrelated parties, minus the gross profit from sales of the same or similar business;
- (3) Cost-plus method refers to a method of pricing based on cost plus reasonable expenses and profit;
- (4) Transactional net profit method refers to a method of determining profits based on the level of net profits obtained by unrelated parties in the same or similar business transactions;
- (5) Profit split method refers to the method of allocating the combined profits or losses of an enterprise and its related parties between the parties using reasonable criteria;
- (6) Other methods consistent with the arm's length principle.

Article 112 An enterprise may, in accordance with the provisions of the second paragraph of Article 41 of the Enterprise Income Tax Law, share jointly incurred costs with its related parties on the arm's length principle and reach a cost sharing agreement.

When an enterprise shares costs with its related parties, it shall share costs in accordance with the principle of matching costs with expected profits and shall submit relevant information to the tax authorities within the time limit specified by the tax authorities in accordance with their requirements.

If an enterprise violates the provisions of the first and second paragraphs of this Article when allocating costs with its related parties, the costs allocated by itself shall not be deducted in the calculation of taxable income.

Article 113 The term "advance pricing arrangement" as used in Article 42 of the Enterprise Income Tax Law means an agreement reached after an enterprise submits an application to the tax authorities regarding the pricing principles and calculation methods for its related-party transactions in future years and the enterprise negotiates and confirms with the tax authorities in accordance with the arm's length principle.

Article 114 The relevant information referred to in Article 43 of the Enterprise Income Tax Law includes:

- (1) Contemporaneous documentation such as the standards for setting prices and fees, calculation methods and explanations related to related-party transactions;
- (2) Information on the resale (transfer) price or final sale (transfer) price of the property, property use rights, and services, among others, involved in the related-party transactions;
- (3) Other enterprises related to the investigation of related-party transactions that shall provide information on product prices, pricing methods, and profit levels, among others, that are comparable to those of the enterprise under investigation;
- (4) Other information related to related-party transactions.

The other enterprises related to the investigation into related-party transactions as stated in Article 43 of the Enterprise Income Tax Law refer to enterprises that are similar to the investigated enterprise in production and operation content and methods.

Enterprises shall provide information on the standards, calculation methods and explanations of prices and fees related to related-party transactions within the time limit specified by the tax authorities. Related parties and other enterprises related to the investigation of related-party transactions shall provide relevant information within the time limit agreed upon by the tax authorities.

Article 115 When the tax authorities assess the taxable income of an enterprise in accordance with Article 44 of the Enterprise Income Tax Law, they may adopt the following methods:

- (1) Assessment by reference to the profit margin levels of similar or similar enterprises;
- (2) Assessment by the method of enterprise cost plus reasonable expenses and profit;
- (3) Assessment in accordance with a reasonable proportion of the overall profits of the affiliated enterprise group;
- (4) Assessment by other reasonable methods.

If an enterprise has any objection to the taxable income assessed by the tax authorities in accordance with the method prescribed in the preceding paragraph, it shall provide

relevant evidence and the taxable income shall be adjusted after confirmation by the tax authorities.

Article 116 The term "Chinese resident" as used in Article 45 of the Enterprise Income Tax Law refers to an individual who, in accordance with the provisions of the Individual Income Tax Law of the People's Republic of China, pays individual income tax in China on income derived from sources in and outside China.

Article 117 The term "control" as used in Article 45 of the Enterprise Income Tax Law includes:

- (1) A resident enterprise or a Chinese resident directly or indirectly holds more than 10 percent of the voting shares of a foreign enterprise, and together they hold more than 50 percent of the shares of the foreign enterprise;
- (2) A resident enterprise, or a resident enterprise and a Chinese resident holding a shareholding ratio that does not meet the criteria set out in Item (1), but the resident enterprise has substantial control over the foreign enterprise in terms of shares, capital, operations, purchases, or sales, among others.

Article 118 The effective tax burden referred to in Article 45 of the Enterprise Income Tax Law as being significantly less than the tax-rate level prescribed in the first paragraph of Article 4 of the Enterprise Income Tax Law means a tax rate that is less than 50 percent of the tax rate prescribed in the first paragraph of Article 4 of the Enterprise Income Tax Law.

Article 119 The debt investment referred to in Article 46 of the Enterprise Income Tax Law refers to the financing obtained by an enterprise directly or indirectly from a related party, which requires repayment of principal and payment of interest or compensation in other ways that are of the nature of paying interest.

Debt investments indirectly obtained by an enterprise from related parties include:

- (1) Debt investments provided by related parties through unrelated third parties;
- (2) Debt investments provided by unrelated third parties and guaranteed by related parties for which they bear joint and several liability;
- (3) Other debt investments with liability nature obtained indirectly from related parties.

The equity investment referred to in Article 46 of the Enterprise Income Tax Law refers to an investment accepted by an enterprise that does not require the repayment of principal or payment of interest, and in which the investor has ownership of the equity of the enterprise.

The standard referred to in Article 46 of the Enterprise Income Tax Law shall be separately stipulated by the financial and tax authorities of the State Council.

Article 120 The lack of a reasonable business purpose as stated in Article 47 of the

Enterprise Income Tax Law means that the main purpose is to reduce, exempt or postpone payment of taxes.

Article 121 Where the tax authorities make special tax adjustments for enterprises in accordance with the provisions of tax laws and administrative regulations, they shall charge interest on the additional taxes collected on a daily basis from June 1 of the year following the tax year to which the additional taxes belong to until the date on which the additional taxes are paid.

The additional interest charged as provided for in the preceding paragraph shall not be deductible when calculating the taxable income.

Article 122 The interest referred to in Article 48 of the Enterprise Income Tax Law shall be calculated on the basis of the Renminbi loan base rate announced by the People's Bank of China for the tax year to which the tax payment belongs and for the same period as the tax payment period, plus 5 percentage points.

If an enterprise provides relevant information in accordance with Article 43 of the Enterprise Income Tax Law and the provisions of these Regulations, it may calculate interest only based on the Renminbi loan base rate stipulated in the preceding paragraph.

Article 123 If the business transactions between an enterprise and its related parties do not comply with the arm's length principle, or if the enterprise implements other arrangements that lack a reasonable business purpose, the tax authorities shall have the right to make tax adjustments within 10 years from the tax year in which the transactions occurred.

## **Chapter 7 Collection Administration**

Article 124 The place of registration of an enterprise as stated in Article 50 of the Enterprise Income Tax Law refers to the domicile of the enterprise where it is registered in accordance with relevant national regulations.

Article 125 When enterprises calculate and pay enterprise income tax on a combination basis, they shall calculate the taxable income in a unified manner. The specific methods shall be separately formulated by the financial and tax authorities of the State Council.

Article 126 The main organization or place referred to in Article 51 of the Enterprise Income Tax Law shall meet the following conditions at the same time:

- (1) Responsible for supervising and managing the production and business activities of other organizations or places;
- (2) There are complete accounting books and vouchers that can accurately reflect the income, costs, expenses and profit and loss of each entity and location.

Article 127 Enterprise income tax shall be paid in advance on a monthly or quarterly basis, which shall be determined by the tax authorities.

When an enterprise prepays enterprise income tax on a monthly or quarterly basis in accordance with Article 54 of the Enterprise Income Tax Law, it shall prepay enterprise income tax according to the actual monthly or quarterly profits; if it is difficult to prepay enterprise income tax according to the actual monthly or quarterly profits, it may prepay enterprise income tax according to the monthly or quarterly average amount of taxable income in the previous tax year, or prepay enterprise income tax according to other methods approved by the tax authorities. Once the prepayment method is determined, it shall not be changed at will during the tax year.

Article 128 Regardless of whether an enterprise makes a profit or a loss during a tax year, it shall, within the time limit prescribed in Article 54 of the Enterprise Income Tax Law, submit to the tax authorities the prepayment enterprise income tax return, annual enterprise income tax return, financial accounting reports and other relevant information required by the tax authorities.

Article 129 Where enterprise income is calculated in a currency other than Renminbi, the taxable income shall be calculated in Renminbi at the Renminbi midpoint exchange rate on the last day of the month or quarter when the enterprise income tax is prepaid. When the annual tax is settled, the tax prepaid on a monthly or quarterly basis shall not be re-converted or recalculated. Only the portion of the enterprise income that has not been subject to tax in the tax year shall be converted into Renminbi at the Renminbi midpoint exchange rate on the last day of the tax year to calculate the taxable income.

If an enterprise is found, after inspection and confirmation by the tax authorities, to have understated or overstated its income as provided for in the preceding paragraph, it shall calculate the taxable income by converting the understated or overstated income into Renminbi according to the Renminbi midpoint exchange rate on the last day of the month before the inspection and confirmation of the tax payment or refund, and then calculate the tax to be paid or refunded.

## **Chapter 8 Supplementary Provisions**

Article 130 The enterprises that have been approved for establishment before the promulgation of the Law as stated in the first paragraph of Article 57 of the Enterprise Income Tax Law refer to enterprises that have completed registration before the promulgation of the Enterprise Income Tax Law.

Article 131 Enterprises established in the Hong Kong Special Administrative Region, the Macao Special Administrative Region and Taiwan shall apply the relevant provisions of Paragraphs 2 and 3 of Article 2 of the Enterprise Income Tax Law.

Article 132 These Regulations shall enter into force on January 1, 2008. The Implementation Rules of the Income Tax Law of the People's Republic of China on Foreign Investment Enterprises and Foreign Enterprises promulgated by the State Council on June 30, 1991, and the Implementation Rules of the Provisional Regulations of the People's Republic of China on Enterprise Income Tax promulgated by the Ministry of Finance on February 4, 1994, shall be repealed simultaneously.

## **Individual Income Tax**

## **Individual Income Tax Law of the People's Republic of China (2018 Amendment)**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: August 31, 2018

Effective date: January 1, 2019

Timeliness: Currently in effect

Historical revision records:

Individual Income Tax Law of the People's Republic of China (1980) [September 10, 1980]

Decision of the Standing Committee of the National People's Congress on Amending the Individual Income Tax Law of the People's Republic of China (1993) [October 31, 1993]

Individual Income Tax Law of the People's Republic of China (1993 Amendment) [October 31, 1993]

Decision of the Standing Committee of the National People's Congress on Amending the Individual Income Tax Law of the People's Republic of China (1999) [August 30, 1999]

Individual Income Tax Law of the People's Republic of China (1999 Amendment) [August 30, 1999]

Decision of the Standing Committee of the National People's Congress on Amending the Individual Income Tax Law of the People's Republic of China (2005) [October 27, 2005]

Individual Income Tax Law of the People's Republic of China (2005 Amendment) [October 27, 2005]

Decision of the Standing Committee of the National People's Congress on Amending the Individual Income Tax Law of the People's Republic of China (2007) [June 29, 2007]

Individual Income Tax Law of the People's Republic of China (2007 Amendment) [June 29, 2007]

Decision of the Standing Committee of the National People's Congress on Amending the Individual Income Tax Law of the People's Republic of China (2007 Second) [December 29, 2007]

Decision of the Standing Committee of the National People's Congress on Amending the Individual Income Tax Law of the People's Republic of China (2011) [June 30, 2011]

Individual Income Tax Law of the People's Republic of China (2011 Amendment)

[June 30, 2011]

Decision of the Standing Committee of the National People's Congress on Amending the Individual Income Tax Law of the People's Republic of China (2018) [August 31, 2018]

Individual Income Tax Law of the People's Republic of China (2018) [August 31, 2018]

According to the Decision of the Standing Committee of the National People's Congress on Amending the Individual Income Tax Law of the People's Republic of China (Chairman Order No. 9), this law shall come into effect on January 1, 2019, and the new threshold and tax rate shall come into effect on October 1, 2018

### **Individual Income Tax Law of the People's Republic of China**

(Adopted at the Third Session of the Fifth National People's Congress on September 10, 1980, and amended for the first time in accordance with the Decision on Amending the Individual Income Tax Law of the People's Republic of China adopted at the Fourth Session of the Standing Committee of the Eighth National People's Congress on October 31, 1993)

Amended for the second time in accordance with the Decision on Amending the Individual Income Tax Law of the People's Republic of China adopted at the 11th Session of the Standing Committee of the Ninth National People's Congress on August 30, 1999

Amended for the third time in accordance with the Decision on Amending the Individual Income Tax Law of the People's Republic of China adopted at the 18th Session of the Standing Committee of the Tenth National People's Congress on October 27, 2005

Amended for the fourth time in accordance with the Decision on Amending the Individual Income Tax Law of the People's Republic of China adopted at the 28th Session of the Standing Committee of the Tenth National People's Congress on June 29, 2007

Amended for the fifth time in accordance with the Decision on Amending the Individual Income Tax Law of the People's Republic of China adopted at the 31st Session of the Standing Committee of the Tenth National People's Congress on December 29, 2007

Amended for the sixth time in accordance with the Decision on Amending the Individual Income Tax Law of the People's Republic of China adopted at the 21st Session of the Standing Committee of the 11th National People's Congress on June 30, 2011

(Amended for the seventh time in accordance with the Decision on Amending the



Individual Income Tax Law of the People's Republic of China adopted at the Fifth Session of the Standing Committee of the Thirteenth National People's Congress on August 31, 2018)

Article 1 An individual who has a domicile in China, or who has no domicile but has resided in China for a total of 183 days or more in a tax year, shall be a resident individual. Resident individuals shall pay individual income tax on income derived from sources in China and outside China in accordance with the provisions of this Law.

Individuals who have no domicile and who do not reside in China, or individuals who have no domicile but who reside in China for less than 183 days in a tax year, are nonresident individuals. Nonresident individuals shall pay individual income tax on income derived from sources in China in accordance with the provisions of this Law.

The tax year runs from January 1 to December 31 of the Gregorian calendar.

Article 2 The following individual incomes shall be subject to individual income tax:

- (1) Wages and salaries;
- (2) Remuneration from personal independent services;
- (3) Remuneration from publication of writings;
- (4) Royalties;
- (5) Business income;
- (6) Interest income and dividends;
- (7) Income from rental of property;
- (8) Income from transfer of property;
- (9) Incidental income.

Resident individuals who obtain income from Items (1) to (4) of the preceding paragraph (hereinafter referred to as comprehensive income) shall calculate individual income tax on a combination basis for the tax year; nonresident individuals who obtain income from Items (1) to (4) of the preceding paragraph shall calculate individual income tax on a monthly or itemized basis. Taxpayers that obtain income from Items (5) to (9) of the preceding paragraph shall calculate individual income tax separately in accordance with the provisions of this Law.

Article 3 Individual income tax rates:

- (1) Comprehensive income is subject to a progressive tax rate ranging from 3 percent to 45 percent (the tax rate table is attached);

(2) For business income, a progressive tax rate ranging from 5 percent to 35 percent is applicable (the tax rate table is attached);

(3) Interest, dividends, income from rental of property, income from transfer of property and incidental income shall be subject to a proportional tax rate of 20 percent.

Article 4 The following individual incomes are exempt from individual income tax:

(1) Prizes awarded by provincial people's governments, ministries and commissions of the State Council, entities of the Chinese People's Liberation Army at or above the army level, and foreign and international organizations for science, education, technology, culture, health, sports, and environmental protection, among others;

(2) Interest on treasury bonds and financial bonds issued by the country;

(3) Subsidies and allowances granted in accordance with the unified provisions of the country;

(4) Welfare benefits, pensions and relief payments;

(5) Insurance indemnity;

(6) Transfer fees, demobilization fees, and retirement benefits for military personnel;

(7) Settlement allowances, retirement allowances, basic pensions or retirement benefits, retirement allowances, and retirement living allowances paid to cadres and employees in accordance with unified national regulations;

(8) Income of diplomatic representatives, consular officers and other personnel of foreign embassies and consulates in China that shall be exempt from tax in accordance with relevant laws;

(9) Income exempt from tax in accordance with international conventions or agreements signed by the Chinese government;

(10) Other tax-exempt income prescribed by the State Council.

The tax-exempt provisions under Item (10) of the preceding paragraph shall be reported by the State Council to the Standing Committee of the National People's Congress for the record.

Article 5 Individual income tax may be reduced in any of the following circumstances. The specific extent and duration shall be determined by the people's government of the province, autonomous region or municipality directly under the Central Government and reported to the standing committee of the people's congress at the same level for record:

(1) Income of disabled persons, elderly persons, and family members of martyrs;

(2) Suffering heavy losses because of natural disasters.

The State Council may stipulate other circumstances for tax reduction and reduction and report them to the Standing Committee of the National People's Congress for the record.

#### Article 6 Calculation of taxable income:

(1) The taxable income of a resident individual is the balance of the income in each tax year less expenses of Renminbi 60,000, special deductions, special additional deductions and other deductions determined by law.

(2) The taxable income of wages and salaries of a nonresident individual shall be the balance after deducting expenses of Renminbi 5,000 from the monthly income; the taxable income of remuneration from personal independent services, remuneration from publication of writings, and royalties shall be the amount of income received each time.

(3) The taxable business income shall be the balance after deducting costs, expenses and losses from the gross income in each tax year.

(4) For income from rental of property, if the income from each rental does not exceed Renminbi 4,000, Renminbi 800 of expenses shall be deducted; if the income from each rental does exceed Renminbi 4,000, 20 percent of the expenses shall be deducted, and the remainder shall be the taxable income.

(5) The taxable income from transfer of property shall be the balance after deducting the original value of the property and reasonable expenses from the amount of income from the transfer of the property.

(6) The taxable income for interest, dividends, and incidental income is the amount of each income.

For remuneration from personal independent services, remuneration from publication of writings, and royalties, the net amount of income is the gross income, less expenses at 20 percent of the gross income. The net amount of remuneration from publication of writings is taxed at 70 percent of the net amount.

If an individual donates his or her income to public welfare and charity undertakings such as education, poverty alleviation, and relief of the needy, the part of the donation that does not exceed 30 percent of the taxable income declared by the taxpayer can be deducted from his or her taxable income; if the State Council stipulates that donations to public welfare and charity undertakings shall be fully deductible before tax, such provisions shall apply.

The special deductions specified in the first item of the first paragraph of this Article include social insurance premiums and housing provident funds such as basic pension insurance, basic medical insurance, and unemployment insurance, among others, paid by residents in accordance with the scope and standards prescribed by the country;

special additional deductions include expenses for children's education, continuing education, major illness treatment, housing loan interest or housing rent, and support for the elderly, among others. The specific scope, standards and implementation steps shall be determined by the State Council and reported to the Standing Committee of the National People's Congress for the record.

Article 7 A resident individual may offset his or her taxable income derived from sources outside China against the amount of individual income tax paid outside China, but the amount of the offset shall not exceed the amount of tax payable on the taxpayer's foreign income calculated in accordance with the provisions of this Law.

Article 8 In any of the following circumstances, the tax authorities shall have the right to make tax adjustments in a reasonable manner:

- (1) The business transactions between an individual and his or her related parties do not comply with the arm's length principle, thereby reducing the tax payable by the individual or his or her related parties without justification;
- (2) An enterprise controlled by a resident individual, or jointly controlled by a resident individual and a resident enterprise, and established in a country (region) where the effective tax burden is significantly lower, does not distribute or reduces the profits that shall belong to the resident individual without reasonable business needs;
- (3) An individual obtains improper tax benefits by implementing other arrangements that lack a reasonable business purpose.

If the tax authorities make tax adjustments in accordance with the provisions of the preceding paragraph and need to collect additional taxes, they shall collect the additional taxes and charge additional interest in accordance with law.

Article 9 The taxpayer of individual income tax is the person who earns the income, and the entity or individual that pays the income is the withholding agent.

If the taxpayer has a Chinese citizen identification number, the Chinese citizen identification number shall be used as the taxpayer identification number; if the taxpayer does not have a Chinese citizen identification number, the tax authority shall assign a taxpayer identification number. When the withholding agent withholds taxes, the taxpayer shall provide the withholding agent with the taxpayer identification number.

Article 10 In any of the following circumstances, taxpayers shall file tax returns in accordance with law:

- (1) The comprehensive income needs to be settled;
- (2) There is no withholding agent for the taxable income;
- (3) The withholding agent fails to withhold and pay the tax when the taxable income is obtained;

- (4) Obtaining foreign-source income;
- (5) Cancellation of Chinese household registration because of emigration abroad;
- (6) A nonresident individual obtains wages and salaries from two or more sources in China;
- (7) Other circumstances prescribed by the State Council.

A withholding agent shall make full withholding declarations for all employees in accordance with national regulations and provide taxpayers with information such as their individual income and taxes withheld.

Article 11 Resident individuals shall calculate their individual income tax on an annual basis for comprehensive income; if there is a withholding agent, the withholding agent shall withhold and prepay the tax on a monthly or per-time basis; if a final settlement is required, it shall be made between March 1 and June 30 of the year following the year in which the income is obtained. The withholding and prepayment method shall be formulated by the taxation department of the State Council.

If a resident individual provides special additional deduction information to the withholding agent, the withholding agent shall deduct it in accordance with the regulations when withholding and prepaying taxes on a monthly basis and shall not refuse.

Where a nonresident individual receives wages, salaries, remuneration from personal independent services, remuneration from publication of writings, and royalties, if there is a withholding agent, the withholding agent shall withhold and pay the tax on a monthly or per-time basis and no final settlement shall be performed.

Article 12 Taxpayers that obtain business income shall calculate their individual income tax on an annual basis and shall submit tax returns to the tax authorities and make advance tax payments within 15 days after the end of each month or quarter; they shall complete the final payment before March 31 of the year following the year in which the income is obtained.

Taxpayers that obtain interest, dividends, income from rental of property, income from transfer of property and incidental income shall calculate their individual income tax on a monthly or per-time basis. If there is a withholding agent, the withholding agent shall withhold and pay the tax on a monthly or per-time basis.

Article 13 If a taxpayer obtains taxable income without a withholding agent, he or she shall submit a tax return to the tax authority and pay taxes within the 15th day of the month following the month in which the income is obtained.

If a taxpayer obtains taxable income and the withholding agent fails to withhold tax, the taxpayer shall pay the tax before June 30 of the year following the year in which the income was obtained; if the tax authority notifies the taxpayer to pay the tax within a time limit, the taxpayer shall pay the tax within the time limit.

Resident individuals who obtain income outside China shall declare and pay taxes between March 1 and June 30 of the year following the year in which the income is obtained.

If a nonresident individual obtains wages and salaries from more than two sources in China, he or she shall declare and pay taxes within the 15th day of the month following the month in which the income is obtained.

If a taxpayer cancels his or her Chinese household registration because of moving abroad, he or she shall complete the tax settlement before canceling his or her Chinese household registration.

Article 14 The withholding agent shall pay the taxes withheld or deducted each month or each time into the country's treasury within the 15th day of the following month and submit the withholding individual income tax return to the tax authority.

If a taxpayer applies for a tax refund through final settlement or if a withholding agent applies for a tax refund through final settlement on behalf of the taxpayer, the tax authorities will review the application and then handle the refund in accordance with the relevant provisions on treasury administration.

Article 15 The public security, the People's Bank of China, the Financial Supervision and Administration and other relevant departments shall assist the tax authorities in confirming the identity and financial account information of taxpayers. The education, health, medical security, civil affairs, human resources and social security, housing and urban-rural development, the public security, the People's Bank of China, the Financial Supervision and Administration and other relevant departments shall provide the tax authorities with information on special additional deductions for taxpayers' children education, continuing education, major illness medical treatment, housing loan interest, housing rent, and support for the elderly.

When an individual transfers immovable property, the tax authorities shall verify the payable individual income tax based on the immovable property registration and other relevant information. When the registration agency handles the transfer registration, it shall check the tax payment certificate of the individual income tax related to the immovable property transfer. When an individual transfers equity and handles the change registration, the administration for market regulation shall check the tax payment certificate of the individual income tax related to the equity transaction.

The relevant departments shall, in accordance with law, incorporate the compliance of taxpayers and withholding agents with this Law into the credit information system and implement joint incentives or sanctions.

Article 16 The calculation of various incomes shall be in Renminbi. If the income is in a currency other than Renminbi, the tax shall be paid in Renminbi converted at the Renminbi midpoint exchange rate.

Article 17 The withholding agent shall be granted a handling fee of two percent of the tax withheld.

Article 18 The imposition, reduction or suspension of individual income tax on interest income from savings deposits and the specific measures shall be prescribed by the State Council and reported to the Standing Committee of the National People's Congress for the record.

Article 19 If taxpayers, withholding agents, tax authorities and their staff violate the provisions of this Law, they shall be held legally responsible in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant laws and regulations.

Article 20 The collection and administration of individual income tax shall be carried out in accordance with the provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Article 21 The State Council shall formulate implementation regulations based on this Law.

Article 22 This Law shall come into force on the date of promulgation.

**Individual Income Tax Rate Table 1**  
**(Applicable to Comprehensive Income)**

Series	Annual Taxable Income	Tax Rate (Percentage)
1	Not exceeding Renminbi 36,000	3
2	The amount exceeding Renminbi 36,000 to Renminbi 144,000	10
3	The amount exceeding Renminbi 144,000 to Renminbi 300,000	20
4	The amount exceeding Renminbi 300,000 to Renminbi 420,000	25
5	The amount exceeding Renminbi 420,000 to Renminbi 660,000	30
6	The amount exceeding Renminbi 660,000 to Renminbi 960,000	35
7	Part exceeding Renminbi 960,000	45

**Individual Income Tax Rate Table 2**  
**(Applicable to Business Income)**

Series	Annual Taxable Income	Tax Rate (Percentage)
1	Not exceeding Renminbi 30,000	5
2	The amount exceeding Renminbi 30,000 to Renminbi 90,000	10
3	The portion exceeding Renminbi 90,000 to Renminbi 300,000	20
4	The amount exceeding Renminbi 300,000 to Renminbi 500,000	30
5	Part exceeding Renminbi 500,000	35

## **Implementation Regulations to the Individual Income Tax Law of the People's Republic of China (Revised in 2018)**

Level of validity: Administrative regulations

Issuing authority: State Council

Date of issuance: December 18, 2018

Effective date: January 1, 2019

Timeliness: Currently valid

Document number: State Council Order 707

Implementation Regulations to the Individual Income Tax Law of the People's Republic of China (Revised in 2018)

Order 707 of the State Council of the People's Republic of China

The revised Implementation Regulations to the Individual Income Tax Law of the People's Republic of China are hereby promulgated and shall come into effect on January 1, 2019.

Prime Minister Li Keqiang

December 18, 2018

## **Implementation Regulations to the Individual Income Tax Law of the People's Republic of China**

(Promulgated on January 28, 1994 by Order 142 of the State Council of the People's Republic of China; revised for the first time in accordance with the Decision of the State Council on Amending the Implementation Regulations to the Individual Income Tax Law of the People's Republic of China on December 19, 2005; revised for the second time in accordance with the Decision of the State Council on Amending the Implementation Regulations to the Individual Income Tax Law of the People's Republic of China on February 18, 2008; revised for the third time in accordance with the Decision of the State Council on Amending the Implementation Regulations to the Individual Income Tax Law of the People's Republic of China on July 19, 2011; revised for the fourth time by Order 707 of the State Council of the People's Republic of China on December 18, 2018)

Article 1 These Regulations are formulated in accordance with the Individual Income Tax Law of the People's Republic of China (hereinafter referred to as the Individual Income Tax Law).

Article 2 The term "domicile in China" as used in the Individual Income Tax Law refers to habitual domicile in China because of household registration, family or economic interests; the term "income derived from sources in China and outside



China" refers to income derived from sources in China and income derived from sources outside China, respectively.

Article 3 Unless otherwise provided by the financial and tax authorities of the State Council, the following income, regardless of whether the place of payment is in China, shall be regarded as income derived from sources in China:

- (1) Income from providing services in China through employment and performance of contracts, among others;
- (2) Income from leasing property to lessees for use in China;
- (3) Income from licensing various franchise rights to be used in China;
- (4) Income from the transfer of immovable property or other property that is situated in China or transfer in China of other property;
- (5) Interest income and dividends obtained from enterprises, government-affiliated institutions, other organizations or resident individuals in China.

Article 4 If an individual who is nonresident in China has resided in China for a cumulative total of 183 days or more for less than six consecutive years, his or her income derived from sources outside China and paid by foreign entities or individuals shall be exempt from individual income tax after filing with the competent tax authorities. If an individual is absent from China for more than 30 days in any year during which he or she has resided in China for a cumulative total of 183 days or more, the consecutive years of his or her residency in China for a cumulative total of 183 days shall be recalculated.

Article 5 An individual who has no domicile in China but resides in China for no more than 90 days in a tax year shall be exempt from individual income tax on the portion of his or her income derived from sources in China that is paid by a foreign employer and that is not borne by the employer's organization or place in China.

Article 6 The scope of various types of individual income stipulated in the Individual Income Tax Law:

- (1) Wages and salaries refer to wages, salaries, bonuses, year-end pay increases, labor dividends, allowances, subsidies and other income related to the position or employment obtained by an individual.
- (2) Remuneration from personal independent services refers to income obtained by an individual from performing independent services, including income obtained from design, decoration, installation, drawing, analysis, testing, medical treatment, law, accounting, consulting, lecturing, translation, manuscript review, calligraphy and painting, sculpture, film and television, recording, video recording, performance, advertising, exhibition, technical services, introduction services, brokerage services, agency services and other services.
- (3) Remuneration from publication of writings refers to the income earned by an

individual from the publication or release of his or her works in the form of books, newspapers, or periodicals.

(4) Royalties refer to the income obtained by an individual from providing the right to use patents, trademarks, copyrights, technical know-how, and other royalties; income obtained from providing the right to use copyrights does not include remuneration from publication of writings.

(5) Business income refers to:

(a) Income from production and business activities of self-employed businesses, and income from production and business activities of sole proprietorship investors and individual partners of partnerships registered in China;

(b) Income obtained by individuals from running schools, providing medical treatment, consulting and other paid service activities in accordance with law;

(c) Income obtained by individuals from contracting, leasing, subcontracting or subleasing enterprises or government-affiliated institutions;

(d) Income obtained by individuals from other production and business activities.

(6) Interest income and dividends refer to the interest and dividends obtained by an individual from owning credit rights and equity, among others.

(7) Income from rental of property refers to the income obtained by an individual from renting out immovable property, machinery and equipment, vehicles and vessels, and other properties.

(8) Income from transfer of property refers to income obtained by an individual from the transfer of securities, equity, property shares in a partnership, immovable property, machinery and equipment, vehicles and vessels, and other property.

(9) Incidental income refers to income from personal prizes, jackpots, lotteries, and other incidental income.

If it is difficult to define the taxable income item of an income obtained by an individual, the tax authorities under the State Council shall determine it.

Article 7 The method for levying individual income tax on income from stock transfer shall be separately formulated by the State Council and reported to the Standing Committee of the National People's Congress for the record.

Article 8 The forms of individual income include cash, physical objects, securities and other forms of economic benefits; if the income is in the form of physical objects, the taxable income shall be calculated according to the price indicated on the voucher obtained. If there is no voucher for the physical object or the price indicated on the voucher is obviously too low, the taxable income shall be determined by reference to the market price; if the income is in the form of securities, the taxable income shall be determined by the face value and market price; if the income is in other forms of

economic benefits, the taxable income shall be determined by reference to the market price.

Article 9 The interest on treasury bonds as used in the Item (2) of the first paragraph of Article 4 of the Individual Income Tax Law refers to the interest obtained by an individual from holding bonds issued by the Ministry of Finance of the People's Republic of China; the interest on financial bonds issued by the country refers to the interest obtained by an individual from holding financial bonds issued with the approval of the State Council.

Article 10 The subsidies and allowances referred to in the third paragraph of the first paragraph of Article 4 of the Individual Income Tax Law as issued in accordance with the unified national regulations refer to special government subsidies and academician subsidies issued in accordance with the regulations of the State Council, as well as other subsidies and allowances exempt from individual income tax as prescribed by the State Council.

Article 11 The welfare benefits referred to in Item (4) of the first paragraph of Article 4 of the Individual Income Tax Law refer to living allowances paid to individuals from welfare expenses or trade union funds set aside by enterprises, government-affiliated institutions, government authorities and social organizations in accordance with relevant national regulations; the relief payments referred to refer to living hardship allowances paid to individuals by the civil affairs departments of people's governments at all levels.

Article 12 The income of diplomatic representatives, consular officers and other personnel of foreign embassies and consulates in China that shall be exempt from tax in accordance with relevant laws as referred to in Item (8) of Paragraph 1 of Article 4 of the Individual Income Tax Law refers to income that is exempt from tax in accordance with the Regulations on Diplomatic Privileges and Immunities of the People's Republic of China and the Regulations on Consular Privileges and Immunities of the People's Republic of China.

Article 13 The other deductions determined by law as referred to in the Item (1) of the first paragraph of Article 6 of the Individual Income Tax Law include personal payments for enterprise annuities and occupational annuities that comply with national regulations, personal expenses for purchasing commercial health insurance and tax-deferred commercial pension insurance that comply with national regulations, and other items that the State Council stipulates may be deducted.

Special deductions, special additional deductions and other deductions determined by law are limited to the taxable income of resident individuals in a tax year; if deductions cannot be fully made in one tax year, they cannot be carried forward to subsequent years.

Article 14 The term "each time" as used in Items (2), (4) and (6) of Paragraph 1 of Article 6 of the Individual Income Tax Law shall be determined in accordance with the following methods:

(1) If the remuneration from personal independent services, remuneration from

publication of writings, or royalties is a one-time income, the time when the income is obtained shall be counted as one time; if it is a continuous income from the same project, the time when the income is obtained within one month shall be counted as one time.

(2) Income from rental of property shall be counted as one income obtained within one month.

(3) Interest income and dividends shall be deemed to be received once when the interest and dividends are paid.

(4) For incidental income, each time such income is obtained shall be counted as one time.

Article 15 The costs and expenses referred to in Item (3) of the first paragraph of Article 6 of the Individual Income Tax Law refer to the direct expenditures incurred in production and business activities and the indirect expenses allocated to costs, as well as sale expenses, administrative expenses and financial expenses; the losses referred to in Item (3) of the first paragraph of Article 6 of the Individual Income Tax Law refer to the losses caused by shortages, damages and scrapping of fixed assets and inventory incurred in production and business activities, losses from transfer of property, bad debts, losses caused by natural disasters and other force majeure factors, and other losses.

Individuals who have business income but no comprehensive income shall deduct Renminbi 60,000 in expenses, special deductions, special additional deductions and other deductions determined by law when calculating their taxable income for each tax year. Special additional deductions shall be deducted when filing tax returns.

If a person engages in production or business activities but fails to provide complete and accurate tax information and is unable to correctly calculate the taxable income, the taxable income or tax payable shall be determined by the competent tax authority.

Article 16 The original value of the property specified in Item (5) of Paragraph 1 of Article 6 of the Individual Income Tax Law shall be determined in accordance with the following method:

(1) For securities, the purchase price and related fees paid in accordance with regulations at the time of purchase;

(2) For buildings, the construction cost or purchase price and other related expenses;

(3) For land use rights, the amount paid for obtaining the land use rights, the cost of developing the land and other related expenses;

(4) For machinery, equipment, vehicles and vessels, the purchase price, transportation costs, installation costs and other related expenses.

For other property, the original value of the property shall be determined by referring to the method prescribed in the preceding paragraph.

If the taxpayer fails to provide complete and accurate vouchers for the original value of the property and the original value of the property cannot be determined in accordance with the method prescribed in the first paragraph of this Article, the original value of the property shall be determined by the competent tax authority.

The reasonable expenses referred to in Item (5) of Paragraph 1 of Article 6 of the Individual Income Tax Law refer to the relevant taxes and fees paid in accordance with regulations when selling property.

Article 17 Income from transfer of property shall be taxed on the balance after deducting the original value of the property and reasonable expenses from the income from transfer of property.

Article 18 Where two or more individuals jointly obtain income from the same project, the income obtained by each person shall be taxed separately in accordance with the provisions of the Individual Income Tax Law.

Article 19 The term "individuals donating their income to public welfare and charity undertakings such as education, poverty alleviation and relief of the needy" as stated in the third paragraph of Article 6 of the Individual Income Tax Law refers to individuals donating their income to public welfare and charity undertakings such as education, poverty alleviation and relief of the poor through public welfare social organizations and government authorities in China; the term "taxable income" refers to the taxable income before deducting the donation amount.

Article 20 The comprehensive income and business income obtained by resident individuals in and outside the People's Republic of China shall be combined to calculate the taxable amount; other income obtained inside China and outside China shall be calculated separately for the taxable amount.

Article 21 The amount of individual income tax paid outside China as stated in Article 7 of the Individual Income Tax Law refers to the amount of income tax that a resident individual shall pay and has actually paid in accordance with laws of the country (region) where the income is derived from sources outside China.

The amount of tax payable on the taxpayer's foreign income calculated in accordance with the provisions of this Law as referred to in Article 7 of the Individual Income Tax Law is the limitation on the amount of foreign income tax paid for comprehensive income, business income and other income by a resident individual (hereinafter referred to as the credit limitation). Unless otherwise provided by the financial and tax authorities of the State Council, the sum of the credit limitation for comprehensive income, business income and other income from a country (region) outside China shall be the credit limitation for income from that country (region).

If the amount of individual income tax actually paid by a resident individual in a country (region) outside China is less than the credit limitation of income from that country (region) calculated in accordance with the provisions of the preceding paragraph, the difference in tax shall be paid in China; if it exceeds the credit limitation of income from that country (region), the excess amount shall not be

deducted from the tax payable in the current tax year, but may be deducted from the balance of the credit limitation of income from that country (region) in subsequent tax years. The maximum period for deduction shall not exceed five years.

Article 22 When a resident individual applies for a tax credit for individual income tax paid outside China, he or she shall provide the relevant tax payment certificate for the tax year issued by the foreign tax authorities.

Article 23 The interest stipulated in the second paragraph of Article 8 of the Individual Income Tax Law shall be calculated on the basis of the Renminbi loan base rate for the same period as the tax payment period announced by the People's Bank of China on the last day of the tax declaration period to which the tax payment belongs, and shall be charged on a daily basis from the day after the tax declaration period expires to the day when the tax payment deadline expires. If the taxpayer pays the tax before the deadline expires, the interest shall be charged until the day when the tax payment is made.

Article 24 When a withholding agent pays taxable amounts to an individual, he or she shall withhold or deduct taxes in accordance with the provisions of the Individual Income Tax Law, pay them to the treasury on time, and make special records for reference.

The payment referred to in the preceding paragraph includes cash payment, remittance payment, transfer payment and payment in securities, physical objects or other forms.

Article 25 The situations where comprehensive income needs to be settled include:

- (1) The comprehensive income is obtained from two or more sources, and the balance of the annual comprehensive income minus special deductions exceeds Renminbi 60,000;
- (2) Obtaining one or more of the following incomes: remuneration from personal independent services, remuneration from publication of writings, and royalties, and the balance of the annual comprehensive income minus special deductions exceeds Renminbi 60,000;
- (3) The amount of tax paid in advance during the tax year is less than the amount of tax payable;
- (4) Taxpayers apply for a tax refund.

When applying for a tax refund, taxpayers must provide their bank account opened in China and handle the tax refund on the spot at the place of tax settlement.

The specific methods for final tax settlement shall be formulated by the tax authorities under the State Council.

Article 26 The term "full withholding declaration for all employees" as stated in the second paragraph of Article 10 of the Individual Income Tax Law means that the

withholding agent shall submit to the competent tax authority within 15 days of the month following the withholding of taxes the relevant information of all individuals to whom he or she pays income, the amount of income paid, the deduction items and amounts, the specific amount and total amount of withheld taxes, and other relevant tax-related information and materials.

Article 27 The specific measures for the location where taxpayers shall file tax returns and other related matters shall be formulated by the taxation department of the State Council.

Article 28 When a resident individual obtains wages and salaries, he or she may provide the withholding agent with relevant information on special additional deductions, and the withholding agent shall deduct the special additional deductions when withholding taxes. If a taxpayer obtains wages and salaries from more than two sources at the same time and the withholding agent deducts the special additional deductions, the same special additional deduction item can only be deducted from the income obtained from one source in a tax year.

Resident individuals who receive income from remuneration from personal independent services, remuneration from publication of writings, and royalties shall provide relevant information to the tax authorities when filing tax returns and deduct special additional deductions.

Article 29 Taxpayers may entrust withholding agents or other entities or individuals to handle tax settlement.

Article 30 The withholding agent shall calculate and handle the withholding declaration in accordance with the information provided by the taxpayer and shall not change the information provided by the taxpayer without authorization.

If a taxpayer finds that the personal information, income, and withheld tax, among others, as provided or reported by the withholding agent are inconsistent with the actual situation, he or she has the right to request the withholding agent to make corrections. If the withholding agent refuses to make corrections, the taxpayer shall report to the tax authority, and the tax authority shall handle it in a timely manner.

Taxpayers and withholding agents shall keep the materials related to special additional deductions in accordance with the regulations. Tax authorities may conduct spot checks on the special additional deduction information provided by taxpayers. The specific methods shall be separately stipulated by the tax authorities of the State Council. If the tax authorities find that taxpayers have provided false information, they shall order them to correct it and notify the withholding agents; if the circumstances are serious, the relevant departments shall deal with it according to law, include it in the credit information system and implement joint punishment.

Article 31 If the tax settlement information provided by a taxpayer when applying for a tax refund is incorrect, the tax authority shall inform the taxpayer to make corrections; if the taxpayer makes corrections, the tax authority shall promptly process the tax refund.

If a withholding agent fails to pay the withheld taxes to the treasury, it will not affect the taxpayer's application for tax refund in accordance with the regulations. The tax authority shall handle the tax refund based on the relevant information provided by the taxpayer.

Article 32 Where income is in a currency other than Renminbi, the taxable income shall be calculated in Renminbi at the Renminbi midpoint exchange rate on the last day of the month preceding the month when the tax return or withholding declaration is filed. Where tax settlement is filed after the end of the year, income in a currency other than Renminbi for which tax has been prepaid on a monthly, quarterly or per-time basis shall not be re-converted; the taxable income for the portion of income for which tax shall be paid shall be calculated in Renminbi at the Renminbi midpoint exchange rate on the last day of the previous tax year.

Article 33 When the tax authorities pay the handling fees to the withholding agents in accordance with Article 17 of the Individual Income Tax Law, they must fill out a refund certificate; the withholding agents shall, based on the refund certificate, go through the refund procedures in accordance with the relevant treasury administration regulations.

Article 34 The forms of individual income tax return, report on withholding of individual income tax and individual income tax payment certificate shall be uniformly formulated by the taxation department of the State Council.

Article 35 The collection of individual income tax from military personnel shall be carried out in accordance with relevant regulations.

Article 36 This Regulation shall come into force on January 1, 2019.



## **Value-Added Tax**

## **Value-Added Tax Law of the People's Republic of China**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: December 25, 2024

Effective date: January 1, 2026

Timeliness: Not yet effective

Document number: Chairman Order 41

Value Added Tax Law of the People's Republic of China

Order 41 of the Chairman of the People's Republic of China

The Value-Added Tax Law of the People's Republic of China was adopted at the 13th meeting of the Standing Committee of the 14th National People's Congress of the People's Republic of China on December 25, 2024, and is hereby promulgated and shall come into force on January 1, 2026.

Xi Jinping, Chairman of the People's Republic of China

December 25, 2024

### **Value Added Tax Law of the People's Republic of China**

(Adopted at the 13th Session of the Standing Committee of the 14th National People's Congress on December 25, 2024)

#### **Chapter 1 General Provisions**

Article 1 This Law is formulated to improve the value-added tax system that is conducive to high-quality development, standardize the collection and payment of value-added tax, and protect the legitimate rights and interests of taxpayers.

Article 2 The value-added tax collection shall follow the lines, principles, policies, decisions and arrangements of the Party and the country, and serve the national economic and social development.

Article 3 Any entity or individual (including self-employed individuals) that sells goods, services, intangible assets, and immovable property (hereinafter referred to as taxable transactions) or that imports goods in the People's Republic of China (hereinafter referred to as in China) shall be a taxpayer of value-added tax and shall pay value-added tax in accordance with the provisions of this Law.

The sale of goods, services, intangible assets, and immovable property refers to the paid transfer of ownership of goods and immovable property, the paid provision of services, and the paid transfer of ownership or use rights of intangible assets.

Article 4 Taxable transactions occurring in China refer to the following circumstances:

- (1) For the sale of goods, the place of shipment or location of the goods is in China;
- (2) For the sale or lease of immovable property or transfer of the right to use natural resources, the immovable property or natural resources are located in China;
- (3) For the sale of financial products, the financial products are issued domestically or the sellers are domestic entities or individuals;
- (4) For the sale of services or intangible assets, the services or intangible assets are consumed in China, or the seller is a domestic entity or individual, except as provided for in Items (2) and (3) of this Article.

Article 5 Any of the following circumstances shall be deemed as a taxable transaction and shall be subject to value-added tax in accordance with the provisions of this Law:

- (1) Entities and individual industrial and commercial households use goods produced by themselves or processed by others for collective welfare or personal consumption;
- (2) The sale of goods by entities or individual industrial and commercial households without consideration;
- (3) The free transfer of intangible assets, immovable property or financial products by entities or individuals.

Article 6 Any of the following circumstances shall not be considered as a taxable transaction and shall not be subject to value-added tax:

- (1) An employee provides services to an employing entity or an employer in exchange for wages and salaries;
- (2) Collecting administrative and institutional fees and government funds;
- (3) Obtaining compensation for expropriation or requisition in accordance with law;
- (4) Obtaining interest income from deposits.

Article 7 Value-added tax is an extra-price tax, and the sale amount of taxable transactions does not include the amount of value-added tax. The amount of value-added tax shall be separately stated on the transaction voucher in accordance with the provisions of the State Council.

Article 8 A taxpayer that engages in taxable transactions shall calculate and pay value-added tax in accordance with the general tax calculation method by deducting the output tax from the input tax to calculate the taxable amount; except as otherwise provided in this Law.

Small-scale taxpayers can calculate and pay value-added tax using a simplified tax calculation method that bases the taxable amount on sales and the collection rate.

The method of calculating the value-added tax on Chinese-foreign joint exploitation of offshore oil and natural gas shall be implemented in accordance with the relevant regulations of the State Council.

Article 9 A small-scale taxpayer referred to in this Law means a taxpayer whose annual taxable value-added tax sales do not exceed Renminbi 5 million.

Small-scale taxpayers that have sound accounting systems and who are able to provide accurate tax information may register with the competent tax authorities and calculate and pay value-added tax in accordance with the general tax calculation method prescribed in this Law.

In accordance with the needs of national economic and social development, the State Council may adjust the standards for small-scale taxpayers and report them to the Standing Committee of the National People's Congress for filing.

## **Chapter 2 Tax Rate**

Article 10 Value-added tax rates:

(1) The tax rate is 13 percent for taxpayers selling goods, providing processing, repair and maintenance services, leasing tangible movable property, and importing goods, except as provided for in Items (2), (4) and (5) of this Article.

(2) The tax rate is nine percent for taxpayers selling transportation, postal, basic telecommunications, construction, immovable property leasing services, selling immovable property, transferring land use rights, and selling or importing the following goods, except as provided for in Items (4) and (5) of this Article:

- (a) Agricultural products, edible vegetable oils, and edible salt;
- (b) Tap water, heating, cooling, hot water, coal gas, liquefied petroleum gas, natural gas, dimethyl ether, biogas, and coal products for residents;
- (c) Books, newspapers, magazines, audio-visual products, and electronic publications;
- (d) Feed, fertilizers, pesticides, agricultural machinery, and agricultural films.

(3) The tax rate is six percent for taxpayers selling services or intangible assets, except as provided for in Items (1), (2) and (5) of this Article;

(4) The tax rate is zero for the exports by taxpayers of goods, unless otherwise provided by the State Council.

(5) The tax rate is zero for cross-border sales by domestic entities and individuals of services and intangible assets within the scope specified by the State Council.

Article 11 The value-added tax rate calculated using the simplified tax calculation method is three percent.

Article 12 If a taxpayer engages in two or more taxable transactions involving different tax rates and collection rates, the sale amount subject to the different tax rates and collection rates shall be accounted for separately; if no separate accounting is done, the greater tax rate shall apply.

Article 13 If a taxpayer engages in a taxable transaction involving more than two tax rates or levy rates, the tax rate or levy rate applicable shall be based on the main business of the taxable transaction.

### **Chapter 3 Tax Payable**

Article 14 Where value-added tax is calculated and paid in accordance with the general tax calculation method, the tax payable shall be the balance after deducting the current input tax from the current output tax.

If value-added tax is calculated and paid according to the simplified tax calculation method, the tax payable is the current sale amount multiplied by the tax rate.

Imported goods shall be subject to value-added tax calculated by multiplying the taxable price stipulated in this Law by the applicable tax rate. The taxable price is the customs duty taxable price plus the customs duty and excise tax. If the State Council has other provisions, they shall prevail.

Article 15 When foreign entities or individuals engage in taxable transactions in China, the purchaser shall be the withholding agent, unless they entrust a domestic agent to declare and pay taxes in accordance with the provisions of the State Council.

If the withholding agent withholds taxes in accordance with the provisions of this Law, the amount of tax to be withheld shall be calculated by multiplying the sale amount by the tax rate.

Article 16 Output tax refers to the amount of value-added tax calculated by multiplying the sale amount by the tax rate prescribed in this Law when a taxpayer engages in taxable transactions.

Input tax refers to the amount of value-added tax paid or borne by taxpayers when purchasing goods, services, intangible assets, and immovable property.

Taxpayers shall deduct input tax from output tax based on the value-added tax deduction certificates prescribed by laws, administrative regulations or the State Council.

Article 17 Sale amount refers to the price related to taxable transactions obtained by taxpayers, including all prices corresponding to economic benefits in monetary and nonmonetary forms, excluding output tax calculated according to the general tax calculation method and tax amount calculated according to the simplified tax calculation method.

Article 18 Sale amount shall be calculated in Renminbi. If a taxpayer settles sale amount in a currency other than Renminbi, it shall be converted into Renminbi for calculation.

Article 19 Where a deemed taxable transaction provided for in Article 5 of this Law occurs and the sale amount is in nonmonetary form, the taxpayer shall determine the sale amount in accordance with the market price.

Article 20 If the sale amount is obviously too low or too high without justification, the tax authorities may determine the sale amount in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant administrative regulations.

Article 21 If the current input tax amount is greater than the current output tax amount, the taxpayer may choose to carry it forward to the next period for continued credit or to apply for a refund in accordance with the provisions of the State Council.

Article 22 The following input tax amounts of taxpayers shall not be creditable against their output tax amounts:

- (1) The input tax amount corresponding to taxable items for which the simplified tax calculation method is applied;
- (2) The input tax amount corresponding to items exempt from value-added tax;
- (3) Input tax corresponding to abnormal loss items;
- (4) Input tax corresponding to goods, services, intangible assets and immovable property purchased and used for collective welfare or personal consumption;
- (5) Input tax corresponding to catering services, daily services for residents and entertainment services purchased and directly consumed;
- (6) Other input tax amounts prescribed by the State Council.

## **Chapter 4 Tax Incentives**

Article 23 If a small-scale taxpayer engages in taxable transactions and its sale amount does not reach the tax threshold, it shall be exempt from value-added tax; if its sale amount reaches the tax threshold, it shall pay the full amount of value-added tax in accordance with the provisions of this Law.

Tax threshold standards stipulated in the preceding paragraph shall be determined by the State Council and reported to the Standing Committee of the National People's Congress for the record.

Article 24 The following items are exempt from value-added tax:

- (1) Agricultural products sold by agricultural producers, agricultural mechanization,

irrigation and drainage, pest control, plant protection, agricultural and animal husbandry insurance and related technical training services, breeding and disease control of poultry, livestock and aquatic animals;

(2) Medical services provided by medical institutions;

(3) Used books and articles used by natural persons for sale;

(4) Imported instruments and equipment directly used for scientific research, scientific experiments and teaching;

(5) Imported materials and equipment donated free of charge by foreign governments or international organizations;

(6) Articles imported directly by organizations of disabled persons for special use by disabled persons, and services provided by disabled persons themselves;

(7) Nursery services, marriage introduction services, and funeral services provided by nurseries, kindergartens, nursing homes, and disability service agencies;

(8) Academic education services provided by schools and services provided by students through work-study programs;

(9) Ticket income from cultural activities held by memorial halls, museums, cultural centers, management bodies of cultural relics protection entities, art galleries, exhibition halls, calligraphy and painting academies, and libraries; and ticket income from cultural and religious activities held at religious sites.

The specific standards for the tax-free items stipulated in the preceding paragraph shall be prescribed by the State Council.

Article 25 In accordance with the needs of national economic and social development, the State Council may formulate special preferential policies on value-added tax for supporting the development of small and micro enterprises, supporting key industries, encouraging innovation, entrepreneurship and employment, and donations to public welfare undertakings, and report them to the Standing Committee of the National People's Congress for filing.

The State Council shall conduct timely evaluation and adjustment of value-added tax preferential policies.

Article 26 A taxpayer that concurrently engages in items with value-added tax preferential treatment shall separately account for the sales of the items with value-added tax preferential treatment; items that are not separately accounted for shall not be eligible for tax preferences.

Article 27 Taxpayers may waive value-added tax preferences; if they waive such preferences, they shall not be allowed to enjoy the tax preferences within thirty-six months, except for small-scale taxpayers.

## Chapter 5 Collection Administration

Article 28 The time when the value-added tax liability arises shall be determined in accordance with the following provisions:

- (1) When a taxable transaction occurs, the tax obligation arises on the day when the sale proceeds are received or the receipt for the sale proceeds is obtained; if the invoice is issued first, the tax obligation arises on the day on which the invoice is issued.
- (2) If a deemed taxable transaction occurs, the tax obligation shall arise on the day the deemed taxable transaction is completed.
- (3) For imported goods, the tax obligation arises on the day the goods are declared for importation.

The time when the value-added tax withholding obligation occurs is the day when the taxpayer's value-added tax payment obligation occurs.

Article 29 The place of value-added tax payment shall be determined in accordance with the following provisions:

- (1) Taxpayers with fixed production and operation locations shall file tax returns with the competent tax authorities at their locations. If the head office and branches are not in the same county (city), they shall file tax returns with the competent tax authorities at their respective locations; with the approval of the financial and tax authorities at or above the provincial level, the head office may file tax returns in a consolidated manner with the competent tax authorities at the location of the head office.
- (2) Taxpayers without fixed production and business locations shall declare and pay taxes to the competent tax authorities at the locations where their taxable transactions take place. If they fail to declare and pay taxes, the competent tax authorities at the location of their organization or residence shall collect the additional taxes.
- (3) When a natural person sells or leases immovable property, transfers the right to use natural resources, or provides construction services, he or she shall declare and pay taxes to the competent tax authorities at the location of the immovable property, the location of the natural resources, or the location where the construction services are provided.
- (4) Taxpayers that imported goods shall declare and pay taxes at the place specified by the customs.
- (5) A withholding agent shall declare and pay the withheld taxes to the competent tax authorities at the location of its organization or residence. If the location of its organization or residence is outside China, it shall declare and pay the withheld taxes to the competent tax authorities at the place where the taxable transactions take place.

Article 30 The tax calculation period for value-added tax is 10 days, 15 days, one month or one quarter. The specific tax calculation period of a taxpayer shall be



determined by the competent tax authorities according to the amount of tax payable by the taxpayer. Taxpayers that do not frequently engage in taxable transactions may pay tax on a per-transaction basis.

If a taxpayer that uses one month or one quarter as a tax calculation period shall declare and pay taxes within 15 days from the date of expiration; a taxpayer that uses ten days or fifteen days as a tax calculation period shall declare and pay taxes within 15 days from the first day of the next month.

The tax calculation period and tax declaration deadline for the withholding agents to pay taxes shall be implemented in accordance with the provisions of the preceding two paragraphs.

When taxpayers imported goods, they must declare and pay taxes within the time limit specified by the customs.

Article 31 A taxpayer that uses ten or fifteen days as a tax calculation period shall prepay the tax within five days from the expiration of the period.

If laws and administrative regulations have other provisions on taxpayers' prepayment of taxes, such provisions shall prevail.

Article 32 Value-added tax shall be levied by the tax authorities, and value-added tax on imported goods shall be levied by the customs on behalf of the tax authorities.

Customs shall provide information on value-added tax collection and goods export declaration to the tax authorities.

The method for calculating value-added tax on articles brought into the country by individuals or mailed into the country shall be formulated by the State Council and submitted to the Standing Committee of the National People's Congress for the record.

Article 33 Where a taxpayer exports goods or sells services or intangible assets across borders and the zero-tax rate applies, the taxpayer shall apply to the competent tax authority for a tax refund (exemption). The specific measures for export tax refund (exemption) shall be formulated by the State Council.

Article 34 Taxpayers shall issue and use value-added tax invoices in accordance with law. Value-added tax invoices include paper invoices and electronic invoices. Electronic invoices have the same legal effect as paper invoices.

The country actively promotes the use of electronic invoices.

Article 35 The tax authorities shall establish a value-added tax-related information sharing mechanism and work coordination mechanism with the departments of industry and information technology, public security, customs, market supervision, the People's Bank of China, and financial supervision and administration.

The relevant departments shall support and assist the tax authorities in carrying out

the collection and administration of value-added tax in accordance with laws and administrative regulations within their respective responsibilities.

Article 36 The collection and administration of value-added tax shall be carried out in accordance with the provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Article 37 If taxpayers, withholding agents, tax authorities and their staff violate the provisions of this Law, they shall be held legally responsible in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant laws and administrative regulations.

## **Chapter 6 Supplementary Provisions**

Article 38 This Law shall enter into force on January 1, 2026. The Value-Added Tax Provisional Regulations of the People's Republic of China shall be repealed simultaneously.

## **Value-Added Tax Provisional Regulations of the People's Republic of China (Revised in 2017)**

Level of validity: Administrative regulations

Issuing authority: State Council

Date of issuance: November 19, 2017

Effective date: November 19, 2017

Timeliness: Currently effective

Revision notes: This regulation will be repealed by the Value Added Tax Law of the People's Republic of China (issued on December 25, 2024; implemented on January 1, 2026)

Historical revision records:

Provisional Regulations of the People's Republic of China on Value Added Tax (1993)  
[December 13, 1993]

Provisional Regulations of the People's Republic of China on Value Added Tax (2008 revised) [November 10, 2008]

Provisional Regulations of the People's Republic of China on Value Added Tax (2016 revised) [February 6, 2016]

Provisional Regulations of the People's Republic of China on Value Added Tax (2017 revised) [November 19, 2017]

## **Value-Added Tax Provisional Regulations of the People's Republic of China (Revised in 2017)**

(Promulgated by Order 134 of the State Council of the People's Republic of China on December 13, 1993; revised and adopted at the 34th Executive Meeting of the State Council on November 5, 2008; revised for the first time in accordance with the Decision of the State Council on Amending Certain Administrative Regulations on February 6, 2016; revised for the second time in accordance with the Decision of the State Council on Repealing the Provisional Regulations of the People's Republic of China on Business Tax and Amending the Value-Added Tax Provisional Regulations of the People's Republic of China on November 19, 2017)

Article 1 Any entity or individual that sells goods or performs processing, repair and maintenance services (hereinafter referred to as services), sells services, intangible assets, immovable property, or imports goods in the People's Republic of China shall be a taxpayer of value-added tax and shall pay value-added tax in accordance with these Regulations.

Article 2 Value-added tax rates:

(1) The tax rate is 17 percent for taxpayers selling goods, providing services, leasing tangible movable property or importing goods, except as otherwise provided for in Items (2), (4) and (5) of this Article.

(2) The tax rate is 11 percent for taxpayers selling transportation, postal, basic telecommunications, construction services, leasing immovable property, selling immovable property, transferring land use rights, or selling or importing the following goods:

- (a) Agricultural products such as grain, edible vegetable oil, and edible salt;
- (b) Tap water, heating, cooling, hot water, coal gas, liquefied petroleum gas, natural gas, dimethyl ether, biogas, and coal products for residential use;
- (c) Books, newspapers, magazines, audio-visual products, and electronic publications;
- (d) Feed, fertilizers, pesticides, agricultural machinery, and agricultural films;
- (e) Other goods specified by the State Council.

(3) The tax rate is six percent for taxpayers selling services or intangible assets, unless otherwise provided for in Items (1), (2) and (5) of this Article.

(4) The tax rate is zero for exports by taxpayers of goods, unless otherwise provided by the State Council.

(5) The tax rate is zero for cross-border sales by domestic entities and individuals of services and intangible assets within the scope specified by the State Council.

The adjustment of tax rates shall be decided by the State Council.

Article 3 A taxpayer that engages in items with different tax rates shall account for the sales of items with different tax rates separately; if the sales are not accounted for separately, the greater tax rate shall apply.

Article 4 Except as provided in Article 11 of these Regulations, the tax payable by taxpayers for the sale of goods, labor, services, intangible assets, and immovable property (hereinafter collectively referred to as taxable sales) is the balance after deducting the current input tax from the current output tax. The calculation formula for the tax payable is: Tax payable = Current output tax - Current input tax. When the current output tax is less than the current input tax and is insufficient for deduction, the shortfall can be carried forward to the next period for continued deduction.

Article 5 When a taxpayer engages in taxable sales, the amount of value-added tax collected on the basis of the sale amount and the tax rate prescribed in Article 2 of these Regulations shall be the output tax.

Output tax calculation formula: Output tax = sale amount × tax rate

Article 6 Sale amount refers to the total price and additional fees collected by a taxpayer for taxable sales, but does not include the output tax collected.

Sale amount is calculated in Renminbi. If a taxpayer settles sale amount in a currency

other than Renminbi, it shall be converted into Renminbi for calculation.

Article 7 If a taxpayer makes taxable sales at prices that are obviously too low without justification, the sale amount shall be determined by the competent tax authority.

Article 8 The amount of value-added tax paid or borne by taxpayers when purchasing goods, labor, services, intangible assets, and immovable property is input tax.

The following input tax amounts are allowed as a deduction from output tax amounts:

(1) The amount of value-added tax indicated on the special value-added tax invoice obtained from a seller.

(2) The amount of value-added tax indicated on the special payment slip for import value-added tax obtained from customs.

(3) For the purchase of agricultural products, the input tax calculated on the basis of the purchase price of the agricultural products indicated on the purchase invoice or sale invoice and a deduction rate of 11 percent, unless otherwise provided by the State Council, except for obtaining a special value-added tax invoice or a special customs import value-added tax payment slip.

Input tax calculation formula:  $\text{Input tax} = \text{purchase price} \times \text{deduction rate}$

(4) The amount of value-added tax indicated on the tax payment certificate for withholding tax obtained from the tax authorities or withholding agents for the purchase of labor, services, intangible assets or domestic immovable property from foreign entities or individuals.

The items allowed for deduction and the adjustment of deduction rates shall be decided by the State Council.

Article 9 If a taxpayer purchases goods, labor, services, intangible assets or immovable property and the value-added tax deduction certificate obtained does not comply with laws, administrative regulations or relevant provisions of the tax authorities under the State Council, the input tax shall not be deducted from the output tax.

Article 10 The input tax of the following items shall not be deducted from the output tax:

(1) Purchased goods, labor, services, intangible assets and immovable property used for items subject to the simplified tax calculation method, items exempt from value-added tax, collective welfare or personal consumption;

(2) Abnormal loss of purchased goods, and related labor and transportation services;

(3) Purchased goods (excluding fixed assets), labor and transportation services used in work-in-progress and finished products that are abnormally damaged;

(4) Other items prescribed by the State Council.

Article 11 When a small-scale taxpayer engages in taxable sales, a simplified method of calculating the tax payable based on sale amount and the tax collection rate shall be implemented, and input tax may not be deducted. The calculation formula of tax payable is:

$\text{Tax payable} = \text{sale amount} \times \text{tax collection rate}$

The standards for small-scale taxpayers are set by the financial and tax authorities of the State Council.

Article 12 The value-added tax collection rate for small-scale taxpayers is three percent, unless otherwise provided by the State Council.

Article 13 Taxpayers other than small-scale taxpayers shall register with the competent tax authorities. The specific registration method shall be formulated by the tax authorities of the State Council.

If a small-scale taxpayer has sound accounting systems and can provide accurate tax information, it may register with the competent tax authority to not be treated as a small-scale taxpayer and shall calculate the tax payable in accordance with the relevant provisions of these Regulations.

Article 14 Taxpayers that imported goods shall calculate the tax payable in accordance with the taxable price and the tax rate specified in Article 2 of these Regulations. The formula for calculating the taxable price and the tax payable is:

$\text{Taxable price} = \text{customs duty-calculated price} + \text{customs duty} + \text{excise tax}$

$\text{Tax payable} = \text{taxable price} \times \text{tax rate}$

Article 15 The following items are exempt from value-added tax:

- (1) Agricultural products produced by agricultural producers and sold by them;
- (2) Contraceptive drugs and devices;
- (3) Old books;
- (4) Imported instruments and equipment directly used for scientific research, scientific experiments and teaching;
- (5) Imported materials and equipment donated free of charge by foreign governments or international organizations;
- (6) Articles imported directly by organizations of disabled persons for exclusive use by disabled persons;
- (7) Selling articles that the taxpayer himself or herself has used.

Except as provided in the preceding paragraph, the tax exemption and tax reduction items of value-added tax shall be stipulated by the State Council. No region or department may stipulate tax exemption and tax reduction items.

Article 16 If a taxpayer engages in both tax-exempt and tax-reduced items, he or she shall account for the sales of the tax-exempt and tax-reduced items separately; if the sales are not accounted for separately, no tax exemption or tax reduction shall be granted.

Article 17 If the sales of a taxpayer does not reach the value-added tax threshold prescribed by the financial and tax authorities of the State Council, the value-added tax shall be exempted; if the sales of a taxpayer reach the threshold, the value-added tax shall be calculated and paid in full in accordance with the provisions of these Regulations.

Article 18 If an entity or individual outside the People's Republic of China sells services in China and does not have a business establishment in China, its domestic agent shall be the withholding agent; if there is no agent in China, the purchaser shall be the withholding agent.

Article 19 The value-added tax liability arises:

(1) For taxable sales, on the day on which the sale proceeds are received or the receipt for the sale proceeds is obtained or in the case of the invoice being issued first, on the day on which the invoice is issued.

(2) For imported goods, on the day of import declaration.

The value-added tax withholding obligation occurs on the day on which the taxpayer's value-added tax payment obligation occurs.

Article 20 Value-added tax shall be levied by the tax authorities, and value-added tax on imported goods shall be levied by the customs on behalf of the tax authorities.

The value-added tax on articles brought into the country by individuals or mailed into the country shall be levied together with the customs duties. The specific measures shall be formulated by the Customs Tariff Commission of the State Council in conjunction with relevant departments.

Article 21 A taxpayer that engages in taxable sales shall issue a special value-added tax invoice to the purchaser who requests it and indicate the sale amount and output tax amount separately on the special value-added tax invoice.

In any of the following circumstances, special value-added tax invoices shall not be issued:

(1) The purchaser of the taxable sales is an individual consumer;

(2) Tax exemption provisions apply to taxable sales.

## Article 22 Place of value-added tax payment:

(1) Fixed business operators shall file tax returns to the competent tax authorities in the location of their offices. If the head office and branches are not in the same county (city), they shall file tax returns with the competent tax authorities in their respective locations; with the approval of the financial and tax authorities of the State Council or their authorized financial and tax authorities, the head office may file tax returns in a consolidated manner with the competent tax authorities in the location of the head office.

(2) When a fixed business operator sells goods or provides services in other counties (cities), it shall report the out-of-town business operations to the competent tax authorities in the location of its establishment and declare and pay taxes to the competent tax authorities in the location of its establishment; if it fails to report, it shall declare and pay taxes to the competent tax authorities in the place where the sales or services are provided; if it fails to declare and pay taxes to the competent tax authorities in the place where the sales or services are provided, the competent tax authorities in the location of its establishment shall collect the additional taxes.

(3) Non-fixed business operators who sell goods or provide services shall declare and pay taxes to the competent tax authorities at the place where the sales or services are provided. If they fail to declare and pay taxes to the competent tax authorities at the place where the sales or services are provided, the competent tax authorities at the place where their establishment is located or where they reside shall collect the additional taxes.

(4) Imported goods must be declared and tax paid to the customs at the place of declaration.

The withholding agent shall report and pay the taxes withheld to the competent tax authority at the location of its organization or residence.

Article 23 The tax payment period for value-added tax is one day, three days, five days, 10 days, 15 days, one month or one quarter. The specific tax payment period of the taxpayer shall be determined by the competent tax authority according to the amount of tax payable by the taxpayer; if the tax payment cannot be made within a fixed period, the tax payment may be made on a per-time basis.

If the taxpayer uses one month or one quarter as a tax period, he or she shall declare and pay taxes within 15 days from the date of expiration. If the taxpayer uses one day, three days, five days, ten days or fifteen days as a tax period, he or she shall prepay taxes within five days from the date of expiration and declare and pay taxes within 15 days from the first day of the following month and settle the taxes payable for the previous month.

The time limit for the withholding agent to pay taxes shall be implemented in accordance with the provisions of the preceding two paragraphs.

Article 24 Taxpayers that imported goods shall pay the tax within 15 days from the



date when the customs issue the special payment slip for customs import value-added tax.

Article 25 If a taxpayer's exported goods are subject to tax refund (exemption) regulations, they shall go through export formalities with the customs and, with the export declaration form and other relevant documents, apply to the competent tax authorities on a monthly basis within the prescribed export tax refund (exemption) declaration period for tax refund (exemption) of the exported goods; if the domestic entities and individuals are subject to tax refund (exemption) regulations for cross-border sales of services and intangible assets, they shall apply to the competent tax authorities on time for tax refund (exemption). Specific measures shall be formulated by the financial and tax authorities of the State Council.

If exported goods are returned or cleared from customs after tax refund has been processed, the taxpayer shall pay the refunded tax in accordance with law.

Article 26 The collection and administration of value-added tax shall be carried out in accordance with the Tax Collection and Administration Law of the People's Republic of China and the relevant provisions of these Regulations.

Article 27 Where the State Council or the financial and tax authorities of the State Council have other provisions on matters concerning the payment of value-added tax by taxpayers with the consent of the State Council, such provisions shall prevail.

Article 28 These Regulations shall enter into force on January 1, 2009.

## **Excise Tax**

**Excise Tax Provisional Regulations of the People's Republic of China (Revised in 2008)**

Level of validity: Administrative regulations

Issuing authority: State Council

Date of issuance: November 10, 2008

Effective date: January 1, 2009

Timeliness: Currently valid

Document number: State Council Order 539

Historical revision record:

Excise Tax Provisional Regulations of the People's Republic of China [December 13, 1993]

Excise Tax Provisional Regulations of the People's Republic of China (Revised in 2008) [November 10, 2008]

Excise Tax Provisional Regulations of the People's Republic of China (Revised in 2008)

State Council Order 539

The Excise Tax Provisional Regulations of the People's Republic of China have been revised and adopted at the 34th executive meeting of the State Council on November 5, 2008. The revised Excise Tax Provisional Regulations of the People's Republic of China are hereby promulgated and will come into effect on January 1, 2009.

Premier Wen Jiabao

November 10, 2008

**Excise Tax Provisional Regulations of the People's Republic of China**

(Promulgated by Order No. 135 of the State Council of the People's Republic of China on December 13, 1993, and revised and adopted at the 34th Executive Meeting of the State Council on November 5, 2008)

Article 1 Any entity or individual that produces, processes on behalf of others, or imports the consumer goods specified in these Regulations in the People's Republic of China, as well as any other entity or individual determined by the State Council to sell the consumer goods specified in these Regulations, shall be taxpayers of excise tax and shall pay excise tax in accordance with these Regulations.

Article 2 The tax items and tax rates of excise tax shall be implemented in accordance with the Excise Tax Items and Tax Rates Table attached to these Regulations.

Adjustments to excise tax items and tax rates shall be decided by the State Council.

Article 3 Taxpayers that concurrently engage in the business of consumer goods subject to excise tax at different tax rates (hereinafter referred to as taxable consumer goods) shall separately account for the sale amount and sale quantity of the taxable consumer goods at different tax rates; if they fail to separately account for the sale amount and sale quantity, or sell taxable consumer goods at different tax rates as a set of consumer goods, the greater tax rate shall apply.

Article 4 Taxable consumer goods produced by taxpayers shall be taxed when they are sold. Taxable consumer goods produced by taxpayers for their own use shall not be taxed if they are used for continuous production of taxable consumer goods; if they are used for other purposes, they shall be taxed when they are transferred for use.

For taxable consumer goods processed under commission, the commissioned party shall collect and pay the tax on the goods when delivering the goods to the commissioning party, unless the commissioned party is an individual. If the taxable consumer goods processed under commission are used by the commissioning party for continuous production of taxable consumer goods, the tax paid may be deducted according to regulations.

Imported taxable consumer goods are taxed when they are declared for import.

Article 5 The excise tax shall be calculated by the method of ad valorem rate, specific quantity fixed amount, or a combination of ad valorem rate and specific quantity fixed amount (hereinafter referred to as composite taxation) to calculate the tax payable. The tax payable calculation formula is:

The tax payable calculated by ad valorem tax rate = sale amount  $\times$  proportional tax rate

The tax payable calculated by the fixed-rate method = sale quantity  $\times$  fixed-amount tax rate

The tax payable calculated by the compound taxation method = sale amount  $\times$  proportional tax rate + sale quantity  $\times$  fixed-amount tax rate

The sale amount of taxable consumer goods sold by taxpayers shall be calculated in Renminbi. If the taxpayer settles sales in a currency other than Renminbi, it shall be converted into Renminbi for calculation.

Article 6 Sale amount refers to the total price and additional fees charged by taxpayers to purchasers of taxable consumer goods.

Article 7 The tax on taxable consumer goods produced by taxpayers for their own use shall be calculated on the basis of the sale price of similar consumer goods produced by the taxpayers; if there is no sale price of similar consumer goods, the tax shall be calculated on the basis of the composite taxable price.

The calculation formula for the taxable price of the components of the tax calculation method using the ad valorem rate method is as follows:

Taxable price = (cost + profit) ÷ (1- proportional tax rate)

Composite tax calculation method is as follows:

Taxable price = (cost + profit + self-production and self-use quantity × fixed-amount tax rate) ÷ (1- proportional tax rate)

Article 8 The tax on taxable consumer goods commissioned for processing shall be calculated on the basis of the sale price of similar consumer goods of the commissioned party; if there is no sale price of similar consumer goods, the tax shall be calculated on the basis of the composite taxable price.

The calculation formula for the taxable price of the components of the tax calculation method using the ad valorem rate method is as follows:

Taxable price = (material cost + processing fee) ÷ (1- proportional tax rate)

Composite tax calculation method is as follows:

Taxable price = (material cost + processing fee + commissioned processing quantity × fixed-amount tax rate) ÷ (1- proportional tax rate)

Article 9 The tax on imported taxable consumer goods shall be calculated on the basis of the component taxable price.

The calculation formula for the taxable price of the components of the tax calculation method using the ad valorem rate method is as follows:

Taxable price = (customs duty-calculated price + customs duty) ÷ (1- excise tax rate)

Composite tax calculation method is as follows:

Taxable price = (customs duty-calculated price + customs duty + import quantity × excise tax fixed rate) ÷ (1- excise tax proportional rate)

Article 10 If the taxable price of a taxpayer's taxable consumer goods is obviously too low without justification, the taxable price shall be determined by the competent tax authority.

Article 11 Taxpayers that export taxable consumer goods are exempt from excise tax , unless otherwise provided by the State Council. The tax exemption measures for exporting taxable consumer goods shall be formulated by the financial and tax authorities of the State Council.

Article 12 Excise tax shall be levied by the tax authorities, and excise tax on imported taxable consumer goods shall be levied by the customs on behalf of the tax authorities.

The excise tax on taxable consumer goods brought into the country by individuals or mailed into the country shall be levied together with the customs duties. The specific

measures shall be formulated by the Customs Tariff Commission of the State Council in conjunction with relevant departments.

Article 13 Taxpayers shall declare and pay tax on taxable consumer goods they sell and taxable consumer goods they produce and use for themselves to the competent tax authorities at the taxpayer's place of organization or residence, unless otherwise provided by the financial and tax authorities of the State Council.

For taxable consumer goods that are commissioned for processing, the commissioned party shall pay the excise tax to the competent tax authority at the location of its organization or residence, unless the commissioned party is an individual.

Imported taxable consumer goods must be declared and taxed at the customs in the place of declaration.

Article 14 The tax payment period for excise tax is one day, three days, five days, 10 days, 15 days, one month or one quarter. The specific tax payment period of the taxpayer shall be determined by the competent tax authority according to the amount of tax payable by the taxpayer; if the tax cannot be paid within a fixed period, the tax may be paid on a per-time basis.

A taxpayer that uses one month or one quarter as a tax period shall declare and pay taxes within 15 days from the date of expiration. A taxpayer that uses one day, three days, five days, ten days or fifteen days as a tax period shall prepay taxes within five days from the date of expiration and declare and pay taxes and settle the taxes payable for the previous month within 15 days from the first day of the following month.

Article 15 Taxpayers that import taxable consumer goods shall pay the tax within 15 days from the date on which the customs issue the special payment slip for customs import excise tax .

Article 16 The collection and administration of excise tax shall be carried out in accordance with the Tax Collection and Administration Law of the People's Republic of China and the relevant provisions of these Regulations.

Article 17 These Regulations shall come into force on January 1, 2009.

## Appendix:

**Excise Tax Items and Rates Table**

Tax Items	Tax Rate
I. Cigarettes	
1. Cigarettes	
(1) Category A cigarettes	45% plus 0.003 Renminbi per piece
(2) Category B cigarettes	30% plus 0.003 Renminbi per piece
2. Cigars	25%
3. Cut tobacco	30%
II. Wine and Alcohol	
1. Liquor	20% plus Renminbi 0.5 per 500g (or 500ml)
2. Yellow wine	Renminbi 240 per ton
3. Beer	
(1) Category A beer	Renminbi 250 per ton
(2) Category B beer	Renminbi 220 per ton
4. Other wines	10%
5. Alcohol	5%
III. Cosmetics	30%
IV. Precious jewelry and gemstones	
1. Gold and silver jewelry, platinum jewelry, diamonds and diamond ornaments	5%
2. Other precious jewelry and gemstones	10%
V. Fireworks and Fireworks	15%
VI. Finished Oil	
1. Gasoline	
(1) Leaded Gasoline	Renminbi 0.28 per liter
(2) Unleaded Gasoline	Renminbi 0.20 per liter
2. Diesel	Renminbi 0.10 per liter
3. Aviation Kerosene	Renminbi 0.10 per liter
4. Naphtha	Renminbi 0.20 per liter
5. Solvent Oil	Renminbi 0.20 per liter
6. Lubricating Oil	Renminbi 0.20 per liter
7. Fuel Oil	Renminbi 0.10 per liter
VII. Automobile tires	3%
VIII. Motorcycles	
1. Cylinder capacity (displacement, the same below) less than 250 ml (including 250 ml)	3%

Tax Items	Tax Rate
2. Cylinder capacity more than 250 ml	10%
IX. Cars	
1. Passenger cars	
(1) Cylinder capacity (displacement, the same below) of 1.0 liter or less	1%
(2) Cylinder capacity of 1.0 liter or more to 1.5 liters (inclusive)	3%
(3) Cylinder capacity of 1.5 liter or more to 2.0 liters (inclusive)	5%
(4) Cylinder capacity of 2.0 liter or more to 2.5 liters (inclusive)	9%
(5) Cylinder capacity of 2.5 liter or more to 3.0 liters (inclusive)	12%
(6) Cylinder capacity of 3.0 liter or more to 4.0 liters (inclusive)	25%
(7) Cylinder capacity of 4.0 liter or more	40%
2. Medium and light commercial passenger vehicles	5%
X. Golf balls and golf equipment	10%
XI. High-end watches	20%
XII. Yacht	10%
XIII. Wooden disposable chopsticks	5%
XIV. Solid wood flooring	5%



## **Implementation Rules of the Excise Tax Provisional Regulations of the People's Republic of China (Revised in 2008)**

Level of validity: Departmental rules

Issuing authority: Ministry of Finance, State Administration of Taxation

Date of issuance: December 15, 2008

Effective date: January 1, 2009

Timeliness: Currently valid

Document number: Order 51 of the Ministry of Finance and State Administration of Taxation

The relevant matters set out in this law have been included in Annex 1 of the Decision of the State Council on Cancelling and Adjusting a Batch of Administrative Approval Items and Other Matters Catalogue of Administrative Approval Items to be Cancelled and Decentralized by the State Council (a total of 58 items)

### **Implementation Rules of the Excise Tax Provisional Regulations of the People's Republic of China (Revised in 2008)**

Ministry of Finance and State Administration of Taxation Order 51

Article 1 These Rules are formulated in accordance with the Excise Tax Provisional Regulations of the People's Republic of China (hereinafter referred to as the Regulations).

Article 2 The entities referred to in Article 1 of the Regulations refer to enterprises, administrative entities, government-affiliated institutions, military entities, social groups and other entities.

The individual referred to in Article 1 of the Regulations refers to individual industrial and commercial households and other individuals.

The term "in the People's Republic of China" as stated in Article 1 of the Regulations means that the place of departure or location of the production, commissioned processing and import of consumer goods that are subject to excise tax is in China.

Article 3 The specific taxation scope of taxable consumer goods listed in the Excise Tax Items and Tax Rates Table attached to the Regulations shall be determined by the Ministry of Finance and the State Administration of Taxation.

Article 4 A taxpayer that concurrently engages in the business of consumer goods subject to excise tax at different tax rates as stated in Article 3 of the Regulations means a taxpayer who produces and sells taxable consumer goods at two or more tax rates.

Article 5 The term "sale" as used in the first paragraph of Article 4 of the Regulations refers to the transfer of ownership of taxable consumer goods for a fee.

The term "a fee" as used in the preceding paragraph means obtaining money, goods or other economic benefits from the purchaser.

Article 6 The term "used for continuous production of taxable consumer goods" as stated in the first paragraph of Article 4 of the Regulations means that a taxpayer uses self-produced taxable consumer goods as direct materials to produce final taxable consumer goods, and the self-produced taxable consumer goods constitute part of the final taxable consumer goods.

The term "used for other purposes" as stated in the first paragraph of Article 4 of the Regulations means that a taxpayer uses self-produced taxable consumer goods for the production of nontaxable consumer goods, construction-in-progress, management departments, non-production institutions, provision of services, gifts, sponsorship, fundraising, advertising, samples, employee welfare, and rewards, among others.

Article 7 Taxable consumer goods processed under commission as stated in the second paragraph of Article 4 of the Regulations refer to taxable consumer goods for which the commissioning party provides raw materials and main materials, and the commissioned party only charges a processing fee and advances part of the auxiliary materials. Taxable consumer goods produced with raw materials provided by the commissioned party, or taxable consumer goods for which the commissioned party first sells the raw materials to the commissioning party and then accepts the processing, and taxable consumer goods produced with raw materials purchased by the commissioned party in the name of the commissioning party, shall not be treated as taxable consumer goods for processing under commission, but shall be subject to excise tax in accordance with the sales of self-made taxable consumer goods, regardless of whether they are treated as sales for accounting purposes.

Taxable consumer goods commissioned for processing that are sold directly are no longer subject to excise tax .

For taxable consumer goods commissioned to individuals for processing, the commissioning party shall pay excise tax after receiving them back.

Article 8 The time when excise tax liability occurs shall be as follows in accordance with Article 4 of the Regulations:

(1) If a taxpayer sells taxable consumer goods, it is determined by the sale settlement methods as follows:

(a) For sales on credit or by installment, it is on the day of the payment date agreed upon in the written contract. If the written contract does not agree upon a payment date or there is no written contract, it is on the day of the shipment of the taxable consumer goods.

(b) For payment in advance, it is on the day when the taxable consumer goods are shipped;

(c) For payment by collection or by entrusting a bank to collect payment, it is on the

day on which the taxable consumer goods are dispatched and the collection formalities are completed;

(d) If other settlement methods are adopted, it is on the day when the sale proceeds are received or the receipt for requesting sale proceeds is obtained.

(2) If a taxpayer produces taxable consumer goods for self use, it is on day on which the goods are transferred for use.

(3) If a taxpayer commissions another party to process taxable consumer goods, it is on the day on which the taxpayer picks up the goods.

(4) If a taxpayer imports taxable consumer goods, it is on the day on which the goods are declared for importation.

Article 9 The sale quantity mentioned in the first paragraph of Article 5 of the Regulations refers to the quantity of taxable consumer goods. Specifically:

(1) For sale amount of taxable consumer goods, it is the sale quantity of the taxable consumer goods;

(2) For self-produced taxable consumer goods for self use, it is the quantity of taxable consumer goods transferred for use;

(3) For entrusted processing of taxable consumer goods, it is the quantity of taxable consumer goods recovered by the taxpayer;

(4) For imported taxable consumer goods, it is the import taxable quantity of taxable consumer goods determined by customs.

Article 10 For taxable consumer goods that use the fixed-amount method to calculate the tax payable, the conversion standards for measurement units are as follows:

(1) 1 ton of rice wine = 962 liters

(2) 1 ton of beer = 988 liters

(3) 1 ton of gasoline = 1388 liters

(4) 1 ton of diesel = 1176 liters

(5) 1 ton of aviation kerosene = 1246 liters

(6) 1 ton of naphtha = 1385 liters

(7) 1 ton of solvent oil = 1282 liters

(8) 1 ton of lubricating oil = 1126 liters

(9) 1 ton of fuel oil = 1015 liters

Article 11 Where a taxpayer sells taxable consumer goods and settles the sale amount in a currency other than Renminbi, the Renminbi conversion rate of the sale amount may be the Renminbi midpoint rate on the day of occurrence of the sale amount or the 1st day of the month when the sale amount occurs. The taxpayer shall determine in advance which conversion rate to use and shall not change it within one year after determination.

Article 12 The sale amount referred to in Article 6 of the Regulations does not include the value-added tax to be collected from the purchaser. If the taxpayer does not deduct the value-added tax from the sale amount of taxable consumer goods or the price and value-added tax are collected together because the special value-added tax invoice cannot be issued, the sale amount shall be converted into the sale amount excluding value-added tax when calculating the excise tax. The conversion formula is:

Sale amount of taxable consumer goods = Sale amount including value-added tax  $\div$  (1 + value-added tax rate or collection rate)

Article 13 Where taxable consumer goods are sold together with packaging, the packaging shall be included in the sale amount of taxable consumer goods and subject to excise tax, regardless of whether it is priced separately or how it is accounted for in accounting. If the packaging is not priced and sold together with the product, but a deposit is collected, the deposit shall not be included in the sale amount of taxable consumer goods for taxation. However, if the packaging is not returned because of overdue collection or the deposit has been collected for more than 12 months, it shall be included in the sale amount of taxable consumer goods and subject to excise tax at the applicable tax rate for taxable consumer goods.

For the deposit of packaging that is sold together with taxable consumer goods and that is collected separately, if the taxpayer fails to return it within the prescribed period, it shall be included in the sale amount of taxable consumer goods and excise tax shall be paid at the applicable tax rate for the taxable consumer goods.

Article 14 The additional fees mentioned in Article 6 of the Regulations refer to the handling fees, subsidies, funds, fund-raising fees, profit returns, incentive fees, liquidated damages, late payment interest, deferred payment interests, compensation, collection fees, advance payments, packaging fees, packaging rental fees, reserve fees, quality fees, transportation and loading and unloading fees, and other types of additional fees charged to the purchaser in addition to the price. However, the following items are not included:

(1) Advance payment of transportation expenses that meets all of the following conditions:

- (a) The transportation fee invoice must be issued by the carrier to the buyer;
- (b) The taxpayer must pass the invoice to the buyer.

(2) Government funds or administrative fees collected on behalf of others that meet the following conditions:

(a) Government funds must be approved by the State Council or the Ministry of Finance, and administrative fees must be approved by the State Council or provincial people's governments and their finance and price authorities;

(b) When collecting, a fiscal receipt printed by the provincial or higher finance department must be issued;

(c) All funds collected must be turned over to the finance department in full.

Article 15 The taxable consumer goods produced by taxpayers for their own use as mentioned in the first paragraph of Article 7 of the Regulations refer to taxable consumer goods that are taxed when they are transferred for use in accordance with the provisions of the first paragraph of Article 4 of the Regulations.

The sale price of similar consumer goods referred to in the first paragraph of Article 7 and the first paragraph of Article 8 of the Regulations refers to the sale price of similar consumer goods sold by the taxpayer or the person responsible for collecting and paying taxes in the same month. If the sale prices of similar consumer goods in different periods of the same month are different, they shall be calculated by weighted average according to the sale amount. However, if the taxable consumer goods sold meet one of the following circumstances, they shall not be included in the weighted average calculation:

(1) The sale price is obviously too low without justification;

(2) There is no sale price.

If there is no sale in the current month or the month is not completed, the tax shall be calculated on the basis of the sale price of similar consumer goods in the previous month or the most recent month.

Article 16 The term "cost" as mentioned in Article 7 of the Regulations refers to the production cost of taxable consumer goods.

Article 17 The profit referred to in Article 7 of the Regulations refers to the profit calculated on the basis of the national average cost-plus-profit ratio of taxable consumer goods. The national average cost-plus-profit ratio of taxable consumer goods shall be determined by the State Administration of Taxation.

Article 18 The material cost mentioned in Article 8 of the Regulations refers to the actual cost of the processing materials provided by the commissioning party.

Taxpayers that commission the processing of taxable consumer goods must truthfully indicate (or provide in other ways) the material costs on the processing contract. If the material costs are not provided, the tax authority in charge of the commissioned party has the right to determine the material costs.

Article 19 The processing fee referred to in Article 8 of the Regulations refer to all fees charged by the commissioned party to the commissioning party for processing

taxable consumer goods (including the actual cost of auxiliary materials in advance).

Article 20 The customs duty-calculated price referred to in Article 9 of the Regulations means the price determined by the customs to calculate customs duty.

Article 21 The authority for determining the taxable price of taxable consumer goods as referred to in Article 10 of the Regulations is as follows:

(1) The taxable prices of cigarettes, liquor and cars shall be determined by the State Administration of Taxation and submitted to the Ministry of Finance for record;

(2) The taxable prices of other taxable consumer goods shall be determined by the State Taxation Bureau of the province, autonomous region or municipality directly under the Central Government;

(3) The taxable price of imported taxable consumer goods shall be determined by the customs.

Article 22 If the taxable consumer goods exported are returned to the customs after the tax refund is processed, or if the goods are returned from abroad and are exempt from tax when imported, the exporter must promptly declare and pay the refunded excise tax to the competent tax authority at the location of its organization or residence.

After the taxable consumer goods directly exported by a taxpayer are exempt from tax, if they are returned from customs or abroad, and they were exempt from tax when imported, the taxpayer may, with the approval of the competent tax authorities at the location of its organization or residence, temporarily not handle the additional tax payment and thereafter declare and pay the additional excise tax when the goods are turned into domestic sales.

Article 23 If taxable consumer goods sold by a taxpayer are returned by the purchaser because of quality or other reasons, the excise tax paid may be refunded after review and approval by the competent tax authority at the location of the taxpayer's organization or residence.

Article 24 If a taxpayer sells, or commissions another person to sell, self-produced taxable consumer goods in other counties (cities), the taxpayer shall declare and pay taxes to the competent tax authority at the location of its organization or residence after the taxable consumer goods are sold.

If a taxpayer's head office and branches are not in the same county (city), they shall separately declare and pay taxes to the competent tax authorities in the locations of their respective offices. With the approval of the Ministry of Finance, the State Administration of Taxation or their authorized finance and tax authorities, the head office may consolidate, declare and pay taxes to the competent tax authorities in the location of the head office.

For taxable consumer goods commissioned to individuals for processing, it shall be for the commissioning party to declare and pay tax to the competent tax authorities at

the location of its organization or residence.

For imported taxable consumer goods, it shall be for the importer or its agent to declare and pay tax to the customs at the place of declaration.

Article 25 These Rules shall come into force on January 1, 2009.

## **Vehicle Purchase Tax**



## **Vehicle Purchase Tax Law of the People's Republic of China**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: December 29, 2018

Effective date: July 1, 2019

Timeliness: Currently valid

Document number: Chairman Order 19

### **Vehicle Purchase Tax Law of the People's Republic of China Chairman Order 19**

The Vehicle Purchase Tax Law of the People's Republic of China was adopted at the 7th Session of the Standing Committee of the 13th National People's Congress of the People's Republic of China on December 29, 2018, and is hereby promulgated and shall come into force on July 1, 2019.

Xi Jinping, Chairman of the People's Republic of China

December 29, 2018

## **Vehicle Purchase Tax Law of the People's Republic of China**

(Adopted at the Seventh Session of the Standing Committee of the Thirteenth National People's Congress on December 29, 2018)

Article 1 Any entity or individual that purchases automobiles, trams, trailers, or motorcycles with a displacement of more than 150 milliliters (hereinafter collectively referred to as taxable vehicles) in the People's Republic of China shall be taxpayers of the vehicle purchase tax and shall pay the vehicle purchase tax in accordance with the provisions of this Law.

Article 2 The term "purchase" as used in this Law refers to the act of acquiring and using a taxable vehicle by purchase, import, self-production, donation, award or other means.

Article 3 Vehicle purchase tax shall be levied once and for all. Vehicle purchase tax shall no longer be levied on the purchase of a vehicle for which vehicle purchase tax has been levied.

Article 4 The vehicle purchase tax rate is 10 percent.

Article 5 The taxable amount of vehicle purchase tax shall be calculated by multiplying the taxable price of the taxable vehicle by the tax rate.

Article 6 The taxable price of taxable vehicles shall be determined in accordance with

the following provisions:

- (1) The taxable price of a taxable vehicle purchased by a taxpayer for personal use shall be the total price actually paid by the taxpayer to the seller, excluding value-added tax;
- (2) The taxable price of a taxable vehicle imported by a taxpayer for personal use shall be the customs duty-calculated price plus customs duty and excise tax ;
- (3) The taxable price of a taxable vehicle produced by a taxpayer for self use shall be determined according to the sale price of similar taxable vehicles produced by the taxpayer, excluding value-added tax;
- (4) The taxable price of a self-use taxable vehicle acquired by a taxpayer as a gift, award or in other ways shall be determined according to the price stated in the relevant voucher at the time of purchase of the taxable vehicle, excluding value-added tax.

Article 7 If the taxable price of a taxable vehicle declared by a taxpayer is obviously too low and there is no legitimate reason, the tax authority shall determine the tax payable in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China.

Article 8 Where a taxpayer settles the price of a taxable vehicle in foreign currency, the tax shall be calculated and paid in Renminbi by conversion into Renminbi at the middle exchange rate on the date of tax declaration.

Article 9 The following vehicles are exempt from vehicle purchase tax:

- (1) Vehicles used by foreign embassies, consulates and international organizations in China and their relevant personnel that shall be exempt from tax in accordance with law;
- (2) Vehicles included in the equipment ordering plan of the Chinese People's Liberation Army and the Chinese People's Armed Police Force;
- (3) National comprehensive firefighting and rescue vehicles with special emergency rescue license plates;
- (4) Non-transportation special operation vehicles equipped with fixed devices;
- (5) Public buses and electric vehicles purchased by urban public transport enterprises.

The State Council may stipulate the circumstances for reduction or exemption of vehicle purchase tax in accordance with the needs of national economic and social development and report them to the Standing Committee of the National People's Congress for the record.

Article 10 Vehicle purchase tax shall be collected by the tax authorities.

Article 11 A taxpayer that purchases a taxable vehicle shall declare and pay the vehicle purchase tax to the competent tax authority at the place where the vehicle is registered; a taxpayer that purchases a taxable vehicle not subject to vehicle registration shall declare and pay the vehicle purchase tax to the competent tax authority at the place where the taxpayer is located.

Article 12 The tax liability for vehicle purchase tax shall arise on the day when the taxpayer purchases the taxable vehicle. The taxpayer shall declare and pay the vehicle purchase tax within 60 days from the date when the tax liability arises.

Article 13 Taxpayers shall pay vehicle purchase tax before registering their vehicles with the traffic administrative department of the public security agency.

When the traffic administrative department of the public security agency handles vehicle registration, it shall verify the vehicle information applied for registration by the taxpayer against the electronic information on tax payment or tax exemption of taxable vehicles provided by the tax authorities and handle the vehicle registration in accordance with law after the verification is correct.

Article 14 If a tax-free or tax-reduced vehicle is no longer within the scope of tax-free or tax-reduced vehicles because of transfer, or change of use, among others, the taxpayer shall pay the vehicle purchase tax before handling the vehicle transfer registration or change of registration. The taxable price is based on the taxable price determined at the first time of filing the tax return for the tax-free or tax-reduced vehicle and reduced by 10 percent every year.

Article 15 If a taxpayer returns a vehicle already levied on vehicle purchase tax to a vehicle manufacturer or seller, the taxpayer may apply to the competent tax authority for a refund of the vehicle purchase tax. The refund amount is based on the tax paid and is reduced by 10 percent for each full year from the date of tax payment to the date of application for refund.

Article 16 Tax authorities and the public security, commerce, customs, industry and information technology departments and other departments shall establish a mechanism for sharing information on taxable vehicles and coordinating work, and exchange taxable vehicle and tax information in a timely manner.

Article 17 The collection and administration of vehicle purchase tax shall be carried out in accordance with the provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Article 18 If taxpayers, tax authorities and their staff violate the provisions of this Law, they shall be held legally responsible in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant laws and regulations.

Article 19 This Law shall come into force on July 1, 2019. The Provisional Regulations of the People's Republic of China on Vehicle Purchase Tax promulgated by the State Council on October 22, 2000, shall be repealed simultaneously.

## **Customs Duty**

## **Customs Duty Law of the People's Republic of China**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: April 26, 2024

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Timeliness: Currently valid

Document number: Chairman Order 23

Customs Duty Law of the People's Republic of China

Chairman Order 23

The Tariff Law of the People's Republic of China was adopted at the 9th meeting of the Standing Committee of the 14th National People's Congress of the People's Republic of China on April 26, 2024, and is hereby promulgated and shall come into force on December 1, 2024.

Chairman of the People's Republic of China Xi Jinping

April 26, 2024

## **Customs Duty Law of the People's Republic of China**

(Adopted at the 9th Session of the Standing Committee of the 14th National People's Congress on April 26, 2024)

### **Chapter 1 General Provisions**

Article 1 This Law is formulated in accordance with the Constitution to regulate the collection and payment of customs duties, to maintain import and export order, to promote foreign trade, to advance high-level opening-up, to promote high-quality development, to safeguard national sovereignty and interests, and to protect the legitimate rights and interests of taxpayers.

Article 2 The customs duties on imported and exported goods and imported articles permitted by the People's Republic of China shall be levied by the customs in accordance with the provisions of this Law and relevant laws and administrative regulations.

Article 3 The consignee of imported goods, the consignor of exported goods, the carrier or recipient of imported articles shall be the taxpayer of customs duties.

E-commerce platform operators, logistics companies and customs declaration companies engaged in cross-border e-commerce retail imports, as well as entities and

individuals that are obliged to withhold and pay customs duties on behalf of others as prescribed by laws and administrative regulations, are the withholding agents for customs duties.

Article 4 The customs duty items, customs duty rates and applicable rules for customs duty items and customs duty rates of imported and exported goods shall be implemented in accordance with the Import and Export Customs Duty Rule of the People's Republic of China (hereinafter referred to as the Customs Duty Rule) attached to this Law.

Article 5: Imported articles for personal reasonable use shall be subject to customs duties in accordance with a simplified collection method. Imported articles exceeding the quantity for personal reasonable uses shall be treated as imported goods subject to customs duties.

Imported articles for personal reasonable use are exempt from customs duties within the prescribed amount.

The simplified method of collection of customs duties on imported articles and the amount of exemption of customs duties shall be determined by the State Council and submitted to the Standing Committee of the National People's Congress for the record.

Article 6 Customs duty work shall adhere to the leadership of the Communist Party of China, follow the lines, principles, policies, decisions and arrangements of the Party and the country, and serve the national economic and social development.

Article 7 The State Council shall establish a Customs Tariff Commission to perform the following duties:

- (1) Review major customs duty work plans, formulate customs duty reform and development plans, and organize their implementation;
- (2) Review major customs duty policies and external customs duty negotiation plans;
- (3) Propose recommendations for adjustments to the Customs Duty Rule;
- (4) Compile and publish the Customs Duty Rule on a regular basis;
- (5) Explain the tax items and tax rates in the Customs Duty Rule;
- (6) Decide on the imposition of antidumping duties, countervailing duties, safeguard duties, and implement other customs duty measures decided by the State Council;
- (7) Perform other duties prescribed by laws, administrative regulations and the State Council.

The composition and working rules of the State Council Customs Tariff Commission shall be prescribed by the State Council.

Article 8 Customs and its staff shall keep confidential the commercial secrets, personal privacy and personal information of taxpayers and withholding agents that they become aware of in the course of performing their duties, and shall not disclose them or unlawfully provide them to others.

## **Chapter 2 Tax Items and Tax Rates**

Article 9 Customs duty items consist of series numbers of customs duty rules and catalogue articles.

The applicable rules of customs duty items include classification rules, among others. The commodity classification of imported and exported goods shall be determined in accordance with the catalogue provisions and general classification rules, category notes, chapter notes, sub-item notes, national sub-item notes, and other classification notes stipulated in the Customs Duty Rule, and shall be classified into the corresponding customs duty code column.

According to actual needs, the Customs Tariff Commission of the State Council may put forward suggestions for adjusting customs duty items and their applicable rules, which will be issued and implemented after approval by the State Council.

Article 10 The import customs duties are set at the most-favored-nation rate, the treaty rate, the preferential rate and the ordinary rate.

Export customs duties are set at the tax rate on exports.

Customs duty quota rates are set for imported and exported goods subject to customs duty quota administration.

A temporary tax rate may be applied to imported and exported goods within a given period of time.

Article 11 The application of customs duty rates shall comply with the corresponding rules of origin.

For goods that are completely obtained in one country or region, the country or region shall be the place of origin; for goods produced by two or more countries or regions, the country or region where the substantial change is finally completed shall be the place of origin. If the State Council has other provisions on the determination of origin in accordance with international treaties or agreements concluded or jointly participated by the People's Republic of China, such provisions shall prevail.

The specific determination of the origin of imported goods shall be carried out in accordance with this Law and the provisions of the State Council and its relevant departments.

Article 12 Most-favored-nation customs duty rates shall apply to imported goods originating from members of the World Trade Organization that jointly apply the most-favored-nation treatment clause, imported goods originating from countries or regions that have concluded or jointly participated in international treaties or

agreements with the People's Republic of China that contain clauses on mutual most-favored-nation treatment, and imported goods originating from the People's Republic of China.

Imported goods originating from countries or regions that have concluded or jointly participated in international treaties or agreements containing customs duty preferential clauses with the People's Republic of China and that comply with the relevant provisions of the international treaties or agreements shall be subject to the treaty rate.

Imported goods originating from countries or regions to which the People's Republic of China has granted special customs duty preferential arrangements and that comply with national regulations on origin management shall be subject to preferential customs duty rates.

Imported goods originating from countries or regions other than those specified in the first to third paragraphs of this Article, as well as imported goods whose origin is unknown, shall be subject to the normal tax rate.

Article 13 If there is a provisional customs duty rate for imported goods subject to the most-favored-nation customs duty rate, the provisional customs duty rate shall apply.

If imported goods subject to a treaty rate attract a provisional customs duty rate, the lower customs duty rate shall apply; if the most-favored-nation customs duty rate is less than the treaty rate and there is no provisional customs duty rate, the most-favored-nation customs duty rate shall apply.

If imported goods subject to preferential customs duties attract a provisional customs duty rate, the lower customs duty rate shall apply.

Imported goods subject to normal tax rates shall not be subject to provisional tax rates.

If there is a provisional tax rate for exported goods subject to export tax rate, the provisional tax rate shall apply.

Article 14 For imported and exported goods subject to customs duty quota administration, the customs duty quota rate shall apply if the goods are within the customs duty quota, and the provisional rate shall apply if there is a provisional rate; for goods outside the customs duty quota, the application of the tax rate shall be implemented in accordance with the provisions of Articles 12 and 13 of this Law.

Article 15 The adjustment of customs duty rates shall be implemented in accordance with the following provisions:

(1) If it is necessary to adjust the most-favored-nation customs duty rates, customs duty quota rates and export customs duty rates committed by the People's Republic of China in its Protocol on Accession to the World Trade Organization, the State Council Customs Tariff Commission shall make a proposal, which shall be submitted to the Standing Committee of the National People's Congress for decision after review by



the State Council.

(2) In the light of actual circumstances, the State Council shall decide on the adjustment of most-favored-nation customs duty rates, customs duty quota customs duty rates and export customs duty rates within the scope of the commitments made in the Protocol on the Accession of the People's Republic of China to the World Trade Organization, the adjustment of the countries or regions, the scope of goods and customs duty rates to which preferential customs duty rates apply, or the adjustment of ordinary customs duty rates, and the decision shall be submitted to the Standing Committee of the National People's Congress for the record.

(3) The application of the most-favored-nation customs duty rate in special circumstances shall be decided by the State Council and reported to the Standing Committee of the National People's Congress for the record.

The treaty rates will be implemented by the Customs Tariff Commission of the State Council after completing the approval or ratification procedures for relevant international treaties and agreements.

The scope of goods subject to provisional customs duties, the customs duty rates and duration shall be determined by the Customs Tariff Commission of the State Council.

The technical conversion of customs duty rates related to the adjustment of customs duty items shall be proposed by the Customs Tariff Commission of the State Council and implemented after approval by the State Council.

Customs duty rates adjusted in accordance with the provisions of the preceding four paragraphs shall be promulgated by the Customs Tariff Commission of the State Council.

Article 16 Where antidumping duties, countervailing duties or safeguard customs duties are levied on imported goods in accordance with law, the application of the tax rates shall be implemented in accordance with the provisions of the relevant laws and administrative regulations on antidumping, countervailing duties and safeguard measures.

Article 17 If any country or region fails to implement the most-favored-nation treatment clauses or customs duty preference clauses in international treaties or agreements concluded or jointly participated in with the People's Republic of China, the Customs Tariff Commission of the State Council may propose corresponding measures in accordance with the principle of reciprocity, which shall be implemented after approval by the State Council.

Article 18 If any country or region violates an international treaty or agreement concluded or jointly participated in by the People's Republic of China and adopts prohibition, restriction, additional customs duties or other measures that affect normal trade against the People's Republic of China, retaliatory customs duties and other measures may be imposed on imported goods originating in that country or region.

The scope of goods subject to retaliatory customs duties, applicable countries or

regions, customs duty rates, duration and collection methods shall be proposed by the Customs Tariff Commission of the State Council and implemented after approval by the State Council.

Article 19 Where a taxpayer fails to provide supporting documents for the import of goods subject to the measures prescribed in Articles 16, 17 and 18 of this Law, or the taxpayer provides supporting documents but the customs cannot rule out the possibility that the goods originate from the country or region subject to the prescribed measures after review, the greater of the following two tax rates shall apply to the goods:

(1) The tax rate resulting from the addition of the greatest tax rate imposed on the relevant goods as a result of the adoption of prescribed measures and the tax rate applicable pursuant to Articles 12, 13 and 14 of this Law;

(2) Normal tax rate.

Article 20 Imported and exported goods and imported articles shall be subject to the tax rate in effect on the day when the taxpayer or withholding agent completes the declaration.

If imported goods are declared in advance with customs approval before their arrival, the tax rate implemented on the day when the means of transport carrying the goods is declared to enter the country shall apply.

Article 21 In any of the following circumstances, the tax rate in effect on the day when the taxpayer or withholding agent completes the tax payment formalities shall apply:

(1) The bonded goods are not shipped out of the country but are sold domestically;

(2) The tax-exempt goods are transferred, used for other purposes or otherwise disposed of with approval;

(3) The temporarily imported goods will not be reexported or the temporarily exported goods will not be reimported;

(4) Leased, imported goods are retained for purchase or subject to taxes in installments.

Article 22 The applicable customs duty rate for the additional collection or refund of customs duties shall be determined in accordance with the provisions of Article 20 or Article 21 of this Law.

If it is necessary to collect taxes because of violation of regulations by taxpayers or withholding agents, the tax rate implemented on the date when the violation occurred shall apply. If the date on which the violation occurred cannot be determined, the tax rate implemented on the date when the customs discovered the violation shall apply.

### **Chapter 3 Tax Payable**

Article 23 Customs duties shall be levied by means of ad valorem, quantity-based or combined levy.

If the tax is levied on the basis of value, the tax payable shall be calculated by multiplying the taxable price by the proportional tax rate.

If the tax is levied on the basis of quantity, the tax payable shall be calculated by multiplying the quantity of goods by the fixed-amount tax rate.

If compound taxation is implemented, the tax payable shall be calculated as the sum of the taxable price multiplied by the proportional tax rate and the quantity of goods multiplied by the fixed-amount tax rate.

Article 24 The taxable price of imported goods shall be determined by the transaction price and the transportation and related expenses and insurance premiums before the goods are unloaded at the import location in the People's Republic of China.

The transaction price of imported goods refers to the total amount of money actually paid or payable by the buyer to the seller for importing the goods when the seller sells the goods in the People's Republic of China, and adjusted in accordance with the provisions of Articles 25 and 26 of this Law, including the price paid directly and the price paid indirectly.

The transaction price of imported goods shall meet the following conditions:

- (1) There shall be no restrictions on the buyer's disposal or use of the goods, except for restrictions prescribed by laws and administrative regulations, restrictions on the geographical area of resale of the goods, and restrictions that have no substantial impact on the price of the goods;
- (2) The transaction price of the goods is not uncertain because of tie-in sales or other factors;
- (3) The seller shall not obtain any profit from the buyer directly or indirectly from the resale, disposal or use of the goods after importation, or if there is profit, it can be adjusted in accordance with the provisions of Articles 25 and 26 of this Law;
- (4) There is no special relationship between the buyer and the seller, or the special relationship does not affect the transaction price.

Article 25 The following costs of imported goods shall be included in the taxable price:

- (1) Commissions and brokerage fees other than the purchase commission borne by the buyer;
- (2) The costs of containers deemed to be an integral part of the goods, borne by the buyer;

- (3) The costs of packaging materials and packaging services to be borne by the buyer;
- (4) The price of materials, tools, moulds, consumables and similar goods related to the production of the goods and their sale in the People's Republic of China, which are provided by the buyer free of charge or at a price below cost and which may be apportioned in appropriate proportions, as well as the costs of related services such as development and design outside the People's Republic of China;
- (5) Royalties related to the goods that the buyer must pay as a condition for the sale of the goods in the People's Republic of China;
- (6) The proceeds obtained by the seller directly or indirectly from the buyer from the resale, disposal or use of the goods after importation.

Article 26 The following fees and taxes listed in the price of goods at the time of import shall not be included in the taxable price of the goods:

- (1) Costs of construction, installation, assembly, maintenance and technical services for imported goods such as factory buildings, machinery and equipment, excluding warranty costs;
- (2) Transportation and related expenses and insurance premiums of the imported goods after they are unloaded at the importation location in the People's Republic of China;
- (3) Import customs duties and domestic taxes.

Article 27 Where the transaction price of imported goods does not meet the conditions prescribed in the third paragraph of Article 24 of this Law, or the transaction price cannot be determined, the Customs shall, after understanding the relevant circumstances and negotiating prices with the taxpayer, estimate the taxable price of the goods in the following order:

- (1) The transaction price of identical goods sold in the People's Republic of China at or about the same time as the goods;
- (2) The transaction price of similar goods sold to the People's Republic of China at or about the same time as the goods;
- (3) The unit price of the maximum total sale amount of the imported goods or identical or similar imported goods sold to buyers without special relationship at the first level of sales in the People's Republic of China at the same time or approximately the same time as the import of the goods, but the items specified in Article 28 of this Law shall be deducted;
- (4) The price calculated as the sum of the cost of materials and processing expenses used in producing the goods, the usual profit and general expenses of selling goods of the same grade or kind in the People's Republic of China, and the transportation and related expenses and insurance premiums of the goods before they are unloaded at the importation point in the People's Republic of China;

(5) A price assessed by reasonable means.

Taxpayers may provide relevant information to the customs and apply for adjustment of the applicable order of Items (3) and (4) of the preceding paragraph.

Article 28 When assessing the taxable price in accordance with the provisions of Item (3) of Paragraph 1 of Article 27 of this Law, the following items shall be deducted:

(1) The usual profits and general expenses and the usual commissions paid when goods of the same grade or kind are sold at the first level of sales in the People's Republic of China;

(2) Transportation and related expenses and insurance premiums of the imported goods after they are unloaded at the importation location in the People's Republic of China;

(3) Import customs duties and domestic taxes.

Article 29 The taxable price of exported goods shall be determined by the transaction price of the goods and the transportation and related expenses and insurance premiums of the goods before they are loaded at the export location in the People's Republic of China.

The transaction price of exported goods refers to the total amount that the seller shall directly and indirectly collect from the buyer for exporting the goods when the goods are exported.

Export customs duties are not included in the taxable price.

Article 30 If the transaction price of exported goods cannot be determined, the Customs shall, after understanding the relevant circumstances and negotiating prices with the taxpayer, estimate the taxable price of the goods in the following order:

(1) The transaction price of identical goods exported to the same country or region at or about the same time as the goods;

(2) The transaction price of similar goods exported to the same country or region at or about the same time as the goods;

(3) The price calculated as the sum of the following: the cost of materials and parts, processing costs, usual profits and general expenses, transportation and related costs and insurance premiums incurred in the People's Republic of China for the production of identical or similar goods;

(4) A price assessed by reasonable means.

Article 31 Customs may, upon application or on its own initiative, determine the taxable price, commodity classification and place of origin of imported and exported goods and imported articles in accordance with law.

When necessary, the customs may organize testing and inspection, and use the testing and inspection results recognized by the customs as the basis for determining the taxable price, commodity classification and place of origin.

#### **Chapter 4 Tax Incentives and Customs Duty Collection in Special Circumstances**

Article 32 The following imported and exported goods and imported articles shall be exempt from customs duties:

- (1) A shipment of goods within the tax exemption quota prescribed by the State Council;
- (2) Advertising materials and samples of goods that have no commercial value;
- (3) Fuel, materials and food supplies necessary for transport during inbound and outbound transport;
- (4) Goods or imported articles that are damaged or lost before customs release;
- (5) Materials donated free of charge by foreign governments or international organizations;
- (6) Goods and imported articles exempt from customs duties as provided for in international treaties or agreements concluded or jointly participated in by the People's Republic of China;
- (7) Other goods and imported articles exempt from customs duties in accordance with relevant laws and regulations.

Article 33 The following imported and exported goods and imported articles shall qualify for customs duty reduction:

- (1) Goods or imported articles damaged before customs release;
- (2) Goods and imported articles for which customs duty reductions are provided in international treaties or agreements concluded or jointly participated in by the People's Republic of China;
- (3) Other goods and imported articles on which customs duty reductions are imposed in accordance with relevant laws and regulations.

The customs duty reduction referred to in the Item (1) of the preceding paragraph shall be handled on the basis of the extent of damage determined by the customs.

Article 34 The State Council may formulate special customs duty preferential policies for the purpose of safeguarding national interests, promoting the needs of foreign relations, economic and social development, and scientific and technological innovation, or emergencies, and report them to the Standing Committee of the National People's Congress for the record.

Article 35 Customs duty-free goods shall go through the formalities in accordance with law. Customs duty-free goods that need to be supervised by the customs shall be subject to customs supervision. If they are transferred, used for other purposes or otherwise disposed of within the supervision period, they shall be subject to the additional duties if they need to be paid in accordance with relevant national regulations.

For customs duty-free imported articles that need to be supervised by the customs, the provisions of the preceding paragraph shall apply.

Article 36 Bonded goods that are reexported are exempt from customs duties; if they are not reexported and sold domestically, customs duties shall be levied in accordance with regulations. For bonded imported materials or their finished products for processing trade that are sold domestically, interest on deferred tax shall be levied, in addition to customs duties levied in accordance with regulations.

Article 37 The following goods and articles temporarily entering or leaving the country may be exempt from customs duties in accordance with law, but they must be reexported or reimported within six months from the date of entry or exit; if the time limit for re-export or re-import needs to be extended, the extension procedures must be handled with the customs in accordance with the regulations of the General Administration of Customs:

- (1) Goods and articles displayed or used at exhibitions, trade fairs, conferences and similar activities;
- (2) Performance and competition supplies used in cultural and sports exchange activities;
- (3) Instruments, equipment and supplies used for news reporting or filming movies or television programs;
- (4) Instruments, equipment and supplies used in scientific research, teaching, medical and health activities;
- (5) Transportation and special vehicles used in the activities listed in Items (1) to (4) of this paragraph;
- (6) Samples of goods;
- (7) Instruments and tools used for installation, commissioning and testing of equipment;
- (8) Packaging materials for goods;
- (9) Other goods and articles used for noncommercial purposes.

If the goods and articles listed in the preceding paragraph are not reexported or reimported into the country within the prescribed time limit, customs duties shall be

paid in accordance with law.

Article 38 Goods and articles temporarily admitted into the country other than those specified in Article 37 of this Law shall be subject to import duties calculated on the basis of the taxable price of the goods and articles and the ratio between the length of their stay in China and the length of their depreciation; if the goods and articles are not reexported after the expiration of the prescribed period, the duties payable in accordance with law shall be paid.

Other goods temporarily exported other than those specified in Article 37 of this Law that are not reimported after the expiration of the prescribed period shall be subject to customs duties in accordance with law.

Article 39 If the exported goods are reimported into the country in the same condition within one year from the date of export because of quality, specification or force majeure, no import customs duty shall be levied. If the imported goods are reexported from the country in the same condition within one year from the date of import because of quality, specification or force majeure, no export customs duty shall be levied.

Under special circumstances, the period stipulated in the preceding paragraph may be appropriately extended with the approval of the customs. The specific measures shall be formulated by the General Administration of Customs.

Article 40 If the consignor, carrier or insurance company of imported or exported goods compensates or replaces the same goods free of charge because of damage, shortage, poor quality or nonconformity with specifications, no customs duties shall be levied on the import or export. If the original imported goods replaced free of charge are not returned out of the country or the original exported goods are not returned into the country, the customs shall levy customs duties on the original import or exported goods in accordance with regulations.

Taxpayers shall apply to the customs for import and export procedures for free compensation or replacement of goods within the period for requesting compensation agreed in the original import and export contract and no later than three years from the date of the original import and export release.

## **Chapter 5 Collection Administration**

Article 41 Customs duty collection administration may be implemented through a model that separates the release of goods from the determination of tax amounts.

Customs duty collection and administration shall adapt to the development needs of new forms and models of foreign trade and improve the levels of informatization, intelligence, standardization and facilitation.

Article 42 Taxpayers and withholding agents for imported and exported goods may choose the customs to handle tax declaration and payment in accordance with relevant regulations.



Taxpayers and withholding agents shall truthfully declare the tax amount to the customs within the prescribed time limit and requirements and provide relevant information. If necessary, the customs may require taxpayers and withholding agents to make additional declarations.

Article 43 Taxpayers and withholding agents for imported and exported goods shall pay taxes within 15 days from the date of completing declaration; if they meet the conditions stipulated by the customs and provide guarantees, they may pay taxes in a lump sum before the end of the fifth working day of the next month. If they cannot pay on time because of force majeure or adjustments to national tax policies, they may apply to the customs and provide guarantees to postpone payment, but the longest period shall not exceed six months.

Late payment interest at 0.05 percent of the overdue tax amount shall be charged on a daily basis starting from the expiration of the prescribed period.

If the taxes have not been paid and the taxpayer or withholding agent applies for the release of goods by providing a guarantee in accordance with the relevant laws and administrative regulations, the customs shall go through the guarantee procedures in accordance with law.

Article 44 If a taxpayer of import or exported goods shows obvious signs of transferring or hiding its taxable goods or other property within the prescribed tax payment period, or there is other risk that the taxpayer may be unable to pay taxes, the customs may order the taxpayer to provide a guarantee; if the taxpayer fails to provide a guarantee, the customs may implement the following compulsory measures with the approval of the director of the direct customs or the director of the authorized subordinate customs:

- (1) Notify banking financial institutions in writing to freeze the taxpayer's deposits or remittances in an amount equivalent to the tax payable;
- (2) Freeze and detain goods or other property of the taxpayer whose value is equivalent to the tax payable.

If the taxpayer pays the tax within the prescribed tax period, the customs shall immediately release the compulsory measures.

Article 45 The customs has the right to confirm the tax payable of the taxpayer or withholding agent within three years from the date on which the taxpayer or withholding agent pays the tax or the goods are released.

If the tax payable confirmed by the customs is inconsistent with the tax amount declared by the taxpayer or withholding agent, the customs shall issue a tax amount confirmation letter to the taxpayer or withholding agent. The taxpayer or withholding agent shall pay the tax or go through the tax refund procedures within the time limit specified by the customs according to the tax payable stated in the tax amount confirmation letter.

If the tax payable is confirmed by the customs and the tax is required to be paid but is

not paid within the prescribed time limit, late payment interest at 0.05 percent of the overdue tax will be charged per day from the expiration of the prescribed time limit.

Article 46 If a taxpayer or withholding agent violates the regulations and causes under-collection or evasion of taxes, the customs may collect the taxes within three years from the date of payment of taxes or release of goods, and charge late payment interest at 0.05 percent of the under-collected or evaded taxes on a daily basis from the date of payment of taxes or release of goods.

Article 47 The Customs shall not be subject to the time limit prescribed in the preceding article in collecting taxes and late payment interest for smuggling and shall have the right to determine the amount of tax payable.

Article 48 If the customs finds that taxes on goods under customs control are under-collected or not collected because of the taxpayers or withholding agents' violation of regulations, the customs shall collect the taxes within three years from the date on which the taxpayers or withholding agents shall have paid the taxes, and shall charge late payment interest at 0.05 percent of the amount of the under-collected or not collected taxes on a daily basis from the date on which the taxes shall have been paid.

Article 49 Customs may make public the situation of taxpayers and withholding agents failing to pay taxes.

If a taxpayer fails to pay all taxes and late payment interest and fails to provide a guarantee to the customs, the customs may, with the approval of the director of the directly affiliated customs or the director of the authorized subordinate customs, notify the immigration administration agency in accordance with the regulations to take exit restriction measures against the taxpayer or its legal representative in accordance with law.

Article 50 If a taxpayer or withholding agent fails to pay or remit taxes within the prescribed time limit, the customs shall order the taxpayer to pay within a time limit. If the taxpayer still fails to pay after the expiration of the time limit without a legitimate reason, the customs may, with the approval of the director of the regional customs or the director of the authorized subordinate customs, implement the following compulsory enforcement measures:

- (1) Notify banking financial institutions in writing to transfer deposits or remittances of taxpayers or withholding agents in an amount equivalent to the tax payable;
- (2) Freeze or detain goods or other property of the taxpayer or withholding agent whose value is equivalent to the tax payable, auction or sell the frozen or detained goods or other property in accordance with law, use the proceeds from the auction or sale to pay the tax, and return the remaining amount to the taxpayer or withholding agent.

When the customs implement compulsory execution, the unpaid late payment interest will be enforced at the same time.

Article 51 If the customs discovers that over-taxes have been collected, it shall

promptly notify the taxpayer to go through the refund procedures.

If a taxpayer finds that it has overpaid taxes, it may apply to the customs in writing for a refund of the overpaid taxes within three years from the date of tax payment. The customs shall verify the application within 30 days from the date of acceptance and notify the taxpayer to go through the refund procedures. The taxpayer shall go through the refund procedures within three months from the date of receipt of the notice.

Article 52 Under any of the following circumstances, a taxpayer may apply to the customs for a refund of the customs duties within one year from the date of payment of the duties:

- (1) Goods that have been subject to import customs duties are reexported in their original condition within one year because of quality or specification reasons or force majeure;
- (2) Goods that have been subject to export customs duties are reimported into the country in their original condition within one year because of quality or specification reasons or force majeure, and the relevant domestic taxes refunded for export have been repaid;
- (3) Goods that have been subject to export customs duties but have not been shipped for export for some reason may be declared for customs clearance.

Applications for customs duty refunds must be made in writing, and the original payment receipt and related materials must be provided. The customs must verify and notify the taxpayer to go through the refund procedures within 30 days from the date of acceptance of the application. The taxpayer must go through the refund procedures within three months from the date of receipt of the notice.

If customs duties shall be refunded according to other relevant laws and administrative regulations, the customs shall refund them in accordance with law.

Article 53 Where customs duties are refunded in accordance with regulations, interest on bank demand deposits for the same period shall be added.

Article 54 The country may adopt anti-circumvention measures such as adjusting customs duties to deal with acts that circumvent the relevant provisions of Chapter 2 and Chapter 3 of this Law and reduce the amount of tax payable without reasonable business purposes.

Article 55 Where a customs declaration enterprise accepts the entrustment of a taxpayer and handles customs declaration and tax payment procedures on behalf of the taxpayer, and if the customs declaration enterprise violates regulations and causes the customs to under-collect or omit taxes, the customs declaration enterprise shall bear joint and several liability for the under-collected or omitted taxes and their late payment interest with the taxpayer.

If a customs declaration enterprise accepts the entrustment of a taxpayer and handles

customs declaration and tax payment procedures in the name of the customs declaration enterprise, the customs declaration enterprise and the taxpayer shall bear joint and several liability for tax payment.

Article 56 Except in cases of force majeure, if goods under customs control are damaged or lost during the period of custody, the entity or individual that has the obligation to keep the goods under customs control shall bear the corresponding tax liability.

Article 57 Where a taxpayer that fails to fulfill its tax obligations carries out a merger or division, it shall report to the customs and pay off taxes and late payment interest or provide guarantees in accordance with law before the merger or division. If a taxpayer fails to pay off taxes and late payment interest or to provide guarantees when merging, the post-merger legal person or nonlegal person shall continue to fulfill the unfulfilled tax obligations; if a taxpayer fails to pay off taxes and late payment interest or to provide guarantees at the time of division, the post-division legal person or nonlegal person shall bear joint and several liability for the unfulfilled tax obligations.

If a taxpayer has any merger, split or other asset reorganization during the supervision period of customs duty-free or bonded goods, it shall report to the customs; if it is required to pay taxes according to regulations, it shall pay off the taxes and late payment interest or provide guarantees in accordance with law; if it can continue to enjoy customs duty-free or bonded goods according to regulations, it shall go through the procedures for changing the taxpayer with the customs.

If a taxpayer fails to fulfill tax obligations or dissolves, goes bankrupt, or terminates operations in accordance with law during the supervision of customs duty-free or bonded goods, the taxpayer shall report to the customs before liquidation. The customs shall pay the taxes and late payment interest in accordance with law.

Article 58 Taxes collected by the customs shall take precedence over unsecured claims, except as otherwise provided by law. If a taxpayer owes tax before the taxpayer mortgages or pledges its property, the tax shall be enforced before the mortgage or pledge.

If a taxpayer owes taxes and is simultaneously subject to penalties and confiscation of unlawful gains by the administrative authorities, and its property is insufficient to satisfy all the bills at the same time, it shall pay the taxes first.

Article 59 Taxes and late payment interest shall be paid into the country's treasury in a timely manner in accordance with relevant national regulations.

If the refund of taxes and interest involves withdrawal from the country's treasury, it shall be carried out in accordance with the provisions of laws and administrative regulations on treasury administration.

Article 60 Taxes, late payment fees, and interest, among others, shall be calculated in Renminbi.

If the prices of imported and exported goods, imported articles and related expenses

are calculated in currencies other than Renminbi, they shall be converted into Renminbi at the exchange rate on the day when the taxpayer completes the declaration.

The exchange rate for tax calculation mentioned in the preceding paragraph refers to the middle rate of Renminbi on the date determined in accordance with the regulations of the General Administration of Customs.

Article 61 Customs may, in accordance with law, inquire about the taxpayer's identity, account, capital flow and other information related to customs duties from relevant government departments and institutions for the purpose of customs duty collection. The relevant government departments and institutions shall provide assistance and cooperation within the scope of their duties. The information related to customs duties obtained by customs can only be used for the purpose of customs duty collection.

## **Chapter 6 Legal Liability**

Article 62 A warning given by the customs, or in the case of serious violation a penalty at Renminbi 30,000 or less shall apply to any of the following acts:

- (1) A taxpayer that has not fulfilled its tax obligations has carried out a merger or division, but has not reported the merger or division to the customs before the merger or division;
- (2) A taxpayer fails to report to the customs any merger, division or other asset reorganization during the period of supervision of customers duty-free or bonded goods;
- (3) A taxpayer fails to perform tax obligations or, during the period of supervision of customs duty-free or bonded goods, is dissolved or bankrupt or terminates its business in other ways in accordance with law, and fails to report to the customs before liquidation.

Article 63 If a taxpayer fails to pay taxes due and resorts to such means as transferring or concealing property to obstruct the customs from collecting the taxes owed in accordance with law, the taxpayer shall be subject to a penalty at 50 percent to 500 percent of the amount of the taxes owed, in addition to the taxes owed and late payment interest to be collected by the customs.

Article 64 If a withholding agent fails to withhold or collect taxes that shall have been withheld or collected, the customs shall collect the taxes from the taxpayer and impose a penalty on the withholding agent at 50 percent to 300 percent of the amount of taxes that shall have been withheld or collected.

Article 65 Any act in violation of the provisions of this Law other than those specified in Articles 62, 63 and 64 of this Law shall be penalized by the customs in accordance with the provisions of the Customs Law of the People's Republic of China and other laws and administrative regulations.

Article 66 If a taxpayer, withholding agent or guarantor has any objection to the

customs' determination of the taxpayer, commodity classification, place of origin of goods, place of taxation, method of taxation, taxable price, applicable tax rate or exchange rate, decision to reduce or exempt taxes, confirmation of tax payable, tax payment, tax refund and collection of late payment interest and other tax matters, they shall first apply to the next higher-level customs for administrative reconsideration in accordance with law; if they are dissatisfied with the administrative reconsideration decision, they may bring an administrative lawsuit to the people's court in accordance with law.

If a party is dissatisfied with an administrative act taken by the customs other than that specified in the preceding paragraph, it may apply for administrative reconsideration in accordance with law or bring an administrative lawsuit to the people's court in accordance with law.

Article 67 The violation of the provisions of this Law by abusing power, neglecting duties, engaging in malpractice for personal gain, or leaking or unlawfully providing to others commercial secrets, personal privacy, or personal information learned in the course of performing their duties shall be subject to sanction in accordance with law.

Article 68 If the violation of the provisions of this Law constitutes a crime, criminal liability shall be pursued in accordance with the law.

## **Chapter 7 Supplementary Provisions**

Article 69 Where the Hainan Free Trade Port Law of the People's Republic of China has other provisions on customs duty matters regarding the Hainan Free Trade Port, such provisions shall prevail.

Article 70 The collection and administration of taxes collected by the customs on behalf of tax authorities at the import stage shall be subject to the provisions on the collection and administration of customs duties.

For the collection of vessel tonnage tax, if the Vessel Tonnage Tax Law of the People's Republic of China does not provide for it, the provisions on customs duty collection administration shall apply.

Article 71 The conduct of customs duty-free commodity retail business shall be subject to approval, and the specific measures shall be formulated by the State Council.

Article 72 This Law shall enter into force on December 1, 2024. The Import and Export Customs Duty Regulations of the People's Republic of China shall be repealed simultaneously.

Appendix: Import and Export Customs Duty Rule of the People's Republic of China  
(Note: The Import and Export Customs Duty Rule of the People's Republic of China is issued by the Customs Tariff Commission of the State Council)

## **Urban Maintenance and Construction Tax**

## **Urban Maintenance and Construction Tax Law of the People's Republic of China**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: August 11, 2020

Effective date: September 1, 2021

Timeliness: Currently valid

Document number: Chairman Order 51

Urban Maintenance and Construction Tax Law of the People's Republic of China  
Chairman Order 51

The Urban Maintenance and Construction Tax Law of the People's Republic of China was adopted at the 21st meeting of the Standing Committee of the 13th National People's Congress of the People's Republic of China on August 11, 2020, and is hereby promulgated and shall come into force on September 1, 2021.

Chairman of the People's Republic of China Xi Jinping

August 11, 2020

## **Urban Maintenance and Construction Tax Law of the People's Republic of China**

(Adopted at the 21st meeting of the Standing Committee of the 13th National People's Congress on August 11, 2020)

Article 1 Any entity or individual that pays value-added tax or excise tax in the People's Republic of China shall be a taxpayer of the urban maintenance and construction tax and shall pay the urban maintenance and construction tax in accordance with the provisions of this Law.

Article 2 The urban maintenance and construction tax shall be calculated on the basis of the amount of value-added tax and excise tax actually paid by the taxpayer in accordance with law.

The amount of value-added tax refunded at the end of the period shall be deducted from the tax basis for urban maintenance and construction tax in accordance with regulations.

The specific method for determining the basis for urban maintenance and construction tax shall be submitted by the State Council to the Standing Committee of the National People's Congress for the record in accordance with this Law and relevant tax laws and administrative regulations.



Article 3 Urban maintenance and construction tax shall not be levied on the value-added tax and excise tax paid on imported goods or on the sales by foreign entities and individuals of labor, services and intangible assets into the country.

Article 4 The urban maintenance and construction tax rates are as follows:

- (1) If the taxpayer is located in an urban area, the tax rate is seven percent;
- (2) If the taxpayer is located in a county or town, the tax rate is five percent;
- (3) If the taxpayer is not located in an urban area, county or town, the tax rate is one percent.

The location of the taxpayer as mentioned in the preceding paragraph refers to the taxpayer's residence or other location related to the taxpayer's production and business activities. The specific location shall be determined by the province, autonomous region or municipality directly under the Central Government.

Article 5 The taxable amount of the urban maintenance and construction tax shall be calculated by multiplying the tax basis by the specific applicable tax rate.

Article 6 The State Council may stipulate a reduction or exemption of the urban maintenance and construction tax for major public infrastructure construction, special industries and groups, and response to major emergencies in accordance with the needs of national economic and social development and report it to the Standing Committee of the National People's Congress for the record.

Article 7 The time when the tax obligation of urban maintenance and construction tax occurs is the same as the time when the tax obligation of value-added tax and excise tax occurs, and it shall be paid at the same time as value-added tax and excise tax respectively.

Article 8 The withholding agents of urban maintenance and construction tax are the entities and individuals that have the obligation to withhold and pay value-added tax and excise tax . They shall withhold and pay urban maintenance and construction tax at the same time as withholding value-added tax and excise tax .

Article 9 Urban maintenance and construction tax shall be collected and administered by the tax authorities in accordance with the provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Article 10 If taxpayers, tax authorities and their staff violate the provisions of this Law, they shall be held legally responsible in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant laws and regulations.

Article 11 This Law shall enter into force on September 1, 2021. The Provisional Urban Maintenance and Construction Tax Regulations of the People's Republic of China promulgated by the State Council on February 8, 1985 shall be repealed simultaneously.

## **Stamp Duty**

## **Stamp Duty Law of the People's Republic of China**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: June 10, 2021

Effective date: July 1, 2022

Timeliness: Currently valid

Document number: Chairman Order 89

Stamp Duty Law of the People's Republic of China

Chairman Order 89

The Stamp Tax Law of the People's Republic of China was adopted at the 29th meeting of the Standing Committee of the 13th National People's Congress of the People's Republic of China on June 10, 2021, and is hereby promulgated and shall come into force on July 1, 2022.

Xi Jinping, Chairman of the People's Republic of China

June 10, 2021

## **Stamp Duty Law of the People's Republic of China**

(Adopted at the 29th meeting of the Standing Committee of the 13th National People's Congress on June 10, 2021)

Article 1 Any entity or individual that forms taxable documents or conducts securities transactions in the People's Republic of China shall be a taxpayer of stamp duty and shall pay stamp duty in accordance with the provisions of this Law.

Entities or individuals that issue taxable documents outside the People's Republic of China for use in the People's Republic of China shall pay stamp duty in accordance with the provisions of this Law.

Article 2 The taxable documents referred to in this Law refer to the contracts, property transfer documents and business accounting books listed in the Stamp Tax Items and Tax Rates Table attached to this Law.

Article 3 Securities transactions as referred to in this Law mean the transfer of stocks and stock-based depositary receipts traded on a securities exchange established in accordance with law or other national securities trading venues approved by the State Council.

Stamp duty on securities transactions is levied on the transferor of securities transactions, not on the transferee.

Article 4 The tax items and tax rates of stamp duty shall be implemented in accordance with the Stamp Duty Tax Items and Tax Rates Table annexed to this Law.

Article 5 The basis for calculating stamp duty is as follows:

- (1) The tax basis for a taxable contract is the amount stated in the contract, excluding value-added tax listed therein;
- (2) The tax basis for a taxable property transfer document is the amount listed in the property transfer document, excluding value-added tax listed therein;
- (3) The tax basis for taxable business accounting books shall be the total amount of paid-in capital (share capital) and capital reserves recorded in the accounting books;
- (4) The tax basis for securities transactions is the transaction amount.

Article 6 If a taxable contract or property transfer document does not specify an amount, the basis for calculating stamp duty shall be determined according to the actual settlement amount.

If the tax basis cannot be determined according to the provisions of the preceding paragraph, it shall be determined according to the market price at the time when the contract or the property transfer document is signed; if the government pricing or government guidance price shall be implemented according to law, it shall be determined in accordance with relevant national regulations.

Article 7 If there is no transfer price for securities transactions, the tax basis shall be determined according to the closing price of the securities on the previous trading day when the transfer registration procedures are carried out; if there is no closing price, the tax basis shall be determined according to the par value of the securities.

Article 8 The taxable amount of stamp duty shall be calculated by multiplying the tax basis by the applicable tax rate.

Article 9 If a taxable voucher contains two or more tax items and the amounts are listed separately, the tax payable shall be calculated according to the tax items and tax rates applicable to each of them; if the amounts are not listed separately, the greater tax rate shall apply.

Article 10 Where a taxable voucher is drawn up by two or more parties, the tax payable shall be calculated separately according to the amounts involved.

Article 11 For business books that have been subject to stamp duty, if the total amount of paid-in capital (share capital) and capital reserves recorded in subsequent years has increased as compared with the total amount of paid-in capital (share capital) and capital reserves that has been subject to stamp duty, the tax payable shall be calculated on the basis of the increased amount.

Article 12 The following documents are exempt from stamp duty:

- (1) Copies or transcripts of taxable vouchers;
- (2) Taxable certificates issued by foreign embassies, consulates and representative offices of international organizations in China for obtaining tax-free premises in accordance with law;
- (3) Taxable vouchers issued by the Chinese People's Liberation Army or the Chinese People's Armed Police Force;
- (4) Sale contracts and agricultural insurance contracts signed by farmers, family farms, farmers' professional cooperatives, rural collective economic organizations, and villagers' committees when purchasing agricultural means of production or selling agricultural products;
- (5) Interest-free or interest-subsidized loan contracts, and loan contracts signed by international financial organizations to provide China with preferential loans;
- (6) A property transfer document signed by property owner when donating the property to the government, school, social welfare institution or charitable organization;
- (7) Sale contracts signed by nonprofit medical and health institutions for the purchase of medicines or health materials;
- (8) Electronic orders placed between individuals and e-commerce operators.

The State Council may stipulate reduction or exemption of stamp duty for situations such as ensuring residents' housing needs, enterprise restructuring and reorganization, bankruptcy, and supporting the development of small and micro enterprises in accordance with the needs of national economic and social development and report it to the Standing Committee of the National People's Congress for the record.

Article 13 If a taxpayer is an organization, it shall declare and pay stamp tax to the competent tax authority at the location of its organization; if a taxpayer is an individual, he or she shall declare and pay stamp tax to the competent tax authority at the place where the taxable document is issued or the taxpayer's place of residence.

If the ownership of immovable property is transferred, a taxpayer shall declare and pay stamp duty to the competent tax authority where the immovable property is located.

Article 14 If a taxpayer is a foreign entity or individual and has an agent in China, its domestic agent shall be the withholding agent; if there is no agent in China, the taxpayer shall declare and pay the stamp duty on his or her own. The specific method shall be prescribed by the tax authorities of the State Council.

Securities registration and settlement institutions are the withholding agents for stamp tax on securities transactions and shall report and pay taxes and interest on bank settlements to the competent tax authorities in the location of their organizations.

Article 15 The time when stamp duty obligation arises is the day when a taxpayer issues a taxable document or completes a securities transaction.

The obligation to withhold and pay stamp duty on a securities transaction occurs on the day the securities transaction is completed.

Article 16 Stamp tax shall be levied quarterly, annually or on a per-time basis. If levied quarterly or annually, a taxpayer shall declare and pay the stamp duty within 15 days from the end of the quarter or year; if levied on a per-time basis, a taxpayer shall declare and pay the stamp duty within 15 days from the date on which the tax obligation arises.

Stamp tax on securities transactions shall be paid on a weekly basis. The withholding agent of stamp tax on securities transactions shall declare and pay the stamp duty and the interest settled by the bank within five days from the end of each week.

Article 17 Stamp duty may be paid by affixing a stamp duty stamp or by other tax payment certificates issued by tax authorities in accordance with law.

If a stamp duty stamp is affixed to a taxable voucher, a taxpayer shall cancel it by stamping or crossing out the interstices of each stamp.

Stamp duty stamps are supervised by the tax authorities of the State Council.

Article 18 Stamp duty shall be collected and administered by the tax authorities in accordance with the provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Article 19 If taxpayers, withholding agents, tax authorities and their staff violate the provisions of this Law, they shall be held legally liable in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant laws and administrative regulations.

Article 20 This Law shall come into force on July 1, 2022. The Provisional Stamp Duty Regulations of the People's Republic of China promulgated by the State Council on August 6, 1988, shall be repealed simultaneously.

### Appendix: Stamp Duty Items and Rates Table

Tax Items		Tax Rate	Remark
Contract (referring to a contract in writing)	Loan Contract	0.005 percent of the loan amount	Referring to a loan contract between a banking financial institution or other financial institution established with the approval of the banking regulatory authority of the State Council and a borrower (excluding interbank lending).
	Financial lease contracts	0.005 percent of the rent	
	Sales Contract	0.03 percent of the price	Referring to movable property sale contracts (excluding movable property sale contracts signed by individuals)
	Processing Contract	0.03 percent of the reward	
	Construction Project Contract	0.03 percent of the price	
	Contract of Carriage	0.03 percent of the transportation price	Referring to freight contracts and multimodal transport contracts (excluding pipeline transport contracts)
	Technical Contract	0.03 percent of the price, remuneration or royalties	Excluding documents for the transfer of patents and use rights of technical know-how
	Lease Contract	0.1 percent of the rent	
	Custody Contract	0.1 percent of the storage fee	
	Warehousing Contract	0.1 percent of the storage fee	
	Property insurance contract	0.1 percent of the insurance premium	Excluding reinsurance contracts
Title transfer document	Land use right transfer document	0.05 percent of the price	Transfer includes sale, inheritance, gift, exchange, and

Tax Items		Tax Rate	Remark
	Documents for the transfer of land use rights and transfer of ownership of buildings and structures such as houses (excluding transfer of land-contracted management rights and land management rights)	0.05 percent of the price	division
	Equity transfer documents (excluding stamp duty payable on securities transactions)	0.05 percent of the price	
	Documents for transfer of trademark exclusive rights, copyrights, patents, and use rights of technical know-how	0.03 percent of the price	
Business books		0.025 percent of the total amount of paid-in capital (share capital) and capital reserve	
Securities Transactions		0.1 percent of the transaction amount	



## **Land Appreciation Tax**

## **Land Appreciation Tax Provisional Regulations of the People's Republic of China (Revised in 2011)**

Level of effectiveness: Administrative regulations

Issuing authority: State Council

Date of issuance: January 8, 2011

Effective date: January 8, 2011

Timeliness: Currently valid

Historical revision records:

Land Appreciation Tax Provisional Regulations of the People's Republic of China (1993) [December 13, 1993]

Land Appreciation Tax Provisional Regulations of the People's Republic of China (Revised in 2011) [January 8, 2011]

### **Land Appreciation Tax Provisional Regulations of the People's Republic of China (Revised in 2011)**

(Promulgated by Order No. 138 of the State Council of the People's Republic of China on December 13, 1993, revised in accordance with the Decision of the State Council on Repealing and Amending Certain Administrative Regulations on January 8, 2011)

Article 1 These Regulations are formulated to regulate the transaction order of the land and immovable property markets, to reasonably adjust the land appreciation income, and to safeguard the national rights and interests.

Article 2 Any entity or individual that transfers state-owned land use rights, buildings and fixtures thereon (hereinafter referred to as the transfer of immovable property) and that obtains income shall be the taxpayers of land appreciation tax (hereinafter referred to as taxpayers) and shall pay land appreciation tax in accordance with these Regulations.

Article 3 Land appreciation tax shall be calculated and levied on the basis of the appreciation amount obtained by a taxpayer from the transfer of immovable property and the tax rate prescribed in Article 7 of these Regulations.

Article 4 The appreciation amount shall be the balance of the income obtained by a taxpayer from the transfer of immovable property after deducting the amount of the deduction items prescribed in Article 6 of these Regulations.

Article 5 The income obtained by a taxpayer from the transfer of immovable property includes monetary income, income in kind and other income.

Article 6 Items to be deducted when calculating the appreciation amount:

- (1) The amount paid for obtaining the land use right;
- (2) The costs and expenses of developing the land;
- (3) The costs and expenses of newly constructed buildings and ancillary facilities, or the assessed prices of old houses and buildings;
- (4) The taxes related to the transfer of immovable property;
- (5) Other deduction items prescribed by the Ministry of Finance.

Article 7 The land appreciation tax shall be subject to a four-level progressive tax rate:

The tax rate for the portion of the appreciation amount that does not exceed 50 percent of the deduction amount is 30 percent.

The tax rate for the portion of the appreciation amount that exceeds 50 percent of the deduction amount but that does not exceed 100 percent of the deduction amount is 40 percent.

The tax rate for the portion of the appreciation amount that exceeds 100 percent of the deduction amount but that does not exceed 200 percent of the deduction amount is 50 percent.

The tax rate for the portion of the appreciation amount that exceeds 200 percent of the deduction amount is 60 percent.

Article 8 The following circumstances shall be exempt from land appreciation tax:

- (1) A taxpayer builds an ordinary standard residence for sale, and the appreciation amount does not exceed 20 percent of the deduction amount;
- (2) Immovable property that is expropriated or recovered for the needs of national construction according to law.

Article 9 If a taxpayer has any of the following circumstances, the tax shall be calculated and levied on the basis of the immovable property appraisal price:

- (1) Concealing or falsely reporting the transaction price of immovable property;
- (2) Providing false amounts of deduction items;
- (3) The transaction price of the transferred immovable property is less than the appraisal price of the immovable property and there is no legitimate reason for this.

Article 10 Taxpayers shall file tax returns with the competent tax authorities at the location of the immovable property within seven days from the date of signing the immovable property transfer contract, and pay the land appreciation tax within the period determined by the tax authorities.

Article 11 Land appreciation tax shall be collected by the tax authorities. The land administration departments and immovable property administration departments shall provide the tax authorities with relevant information and assist the tax authorities in collecting the land appreciation tax in accordance with law.

Article 12 If a taxpayer fails to pay land appreciation tax in accordance with these Regulations, the land administration department and the immovable property administration department shall not handle the relevant ownership change procedures.

Article 13 The collection and administration of land appreciation tax shall be carried out in accordance with the Tax Collection and Administration Law of the People's Republic of China and the relevant provisions of these Regulations.

Article 14 The Ministry of Finance shall be responsible for interpreting these Regulations, and the Ministry of Finance shall be responsible for formulating the detailed implementation rules.

Article 15 These Regulations shall come into force on January 1, 1994. Local land appreciation fee collection methods that conflict with these Regulations shall be suspended at the same time.

## **Implementation Rules of the Land Appreciation Tax Provisional Regulations of the People's Republic of China**

Level of validity: Departmental rules  
Issuing authority: Ministry of Finance  
Date of issuance: January 27, 1995  
Effective date: January 27, 1995  
Timeliness: Currently valid  
Document number: Caifazi [1995] 6

### **Implementation Rules of the Land Appreciation Tax Provisional Regulations of the People's Republic of China**

January 27, 1995

Article 1 These Rules are formulated in accordance with Article 14 of the Land Appreciation Tax Provisional Regulations of the People's Republic of China (hereinafter referred to as the Regulations).

Article 2 The transfer of state-owned land use rights, buildings and fixtures thereon for income as mentioned in Article 2 of the Regulations refers to the transfer of immovable property for a fee by sale or other means. It does not include the transfer of immovable property without a fee by inheritance or donation.

Article 3 The state-owned land referred to in Article 2 of the Regulations refers to the land that belongs to the country according to national laws.

Article 4 The buildings on land referred to in Article 2 of the Regulations refer to all buildings built on land, including various ancillary facilities above and below the ground.

The fixtures referred to in Article 2 of the Regulations are items that are attached to the land, that cannot be moved, and that will be damaged if moved.

Article 5 The income referred to in Article 2 of the Regulations includes the total price of the transferred immovable property and related economic benefits.

Article 6 The entities referred to in Article 2 of the Regulations refer to various types of enterprises, government-affiliated institutions, government authorities, social groups and other organizations.

The individual referred to in Article 2 of the Regulations includes individual business operators.

Article 7 The deduction items for calculating the appreciation amount listed in Article 6 of the Regulations are as follows:

(1) The amount paid for obtaining land-use rights refers to the land price paid by the taxpayer to obtain land-use rights, plus related fees paid in accordance with national unified regulations.

(2) The cost of developing land and building new houses and ancillary facilities (hereinafter referred to as the immovable property development), meaning the actual cost incurred by the taxpayer's immovable property development project (hereinafter referred to as the immovable property development cost), including land acquisition and demolition compensation, preliminary project costs, construction and installation project costs, infrastructure costs, public ancillary facilities costs, and development indirect costs.

Land acquisition and demolition compensation fees include land acquisition fees, farmland occupation tax, labor resettlement fees and the net expenditure of compensation for the demolition of related above-ground and underground attachments, and resettlement housing expenses.

Preliminary construction costs include planning, design, project feasibility studies, hydrology, geology, survey, mapping, "three connections and one leveling" and other expenses.

Construction and installation project costs mean construction and installation project costs paid to the contractor in the form of outsourcing, and the construction and installation project costs incurred in a self-operated manner.

Infrastructure fees include expenditures incurred for developing roads, water supply, electricity supply, gas supply, sewage disposal, flood drainage, communications, lighting, sanitation, and greening projects within the community.

Public supporting facilities fees include expenses incurred on public ancillary facilities within development communities that cannot be transferred for a fee.

Indirect development costs mean the costs incurred in directly organizing and managing development projects, including wages, employee welfare expenses, depreciation, repair costs, office expenses, water and electricity costs, labor protection expenses, and amortization of turnover housing.

(3) The costs of developing land and building new houses and ancillary facilities (hereinafter referred to as immovable property development costs), meaning the sale costs, administrative expenses and financial expenses related to immovable property development projects.

Interest expenses in financial expenses are allowed as a deduction according to actual expenses if they can be calculated and apportioned according to the transferred immovable property projects and a certificate from a financial institution is provided. However, the maximum amount cannot exceed the amount calculated on the basis of the loan interest rate of the same type of commercial bank during the same period. Other immovable property development expenses can be deducted within five percent of the sum of the amounts calculated in accordance with the regulations in items (1)

and (2) of this Article.

If the interest expenses cannot be calculated and allocated according to the transferred immovable property project or if the financial institution certificate cannot be provided, the immovable property development expenses shall be deducted within 10 percent of the sum of the amounts calculated in accordance with the regulations of items (1) and (2) of this Article.

The specific proportion of the above calculation and deduction shall be determined by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government.

(4) The assessed price of old houses and buildings, meaning the price obtained by multiplying the replacement cost by the depreciation rate of the newness of the house and building when the house and building are transferred. The assessed price must be confirmed by the local tax authorities.

(5) Taxes related to the transfer of immovable property, meaning business tax, urban maintenance and construction tax, and stamp duty paid when transferring immovable property. Educational surcharges paid for the transfer of immovable property can also be treated as taxes and deducted.

(6) Pursuant to Item (5) of Article 6 of the Regulations, taxpayers engaged in immovable property development may be entitled to an additional deduction at 20 percent of the sum of the amounts calculated in accordance with Items (1) and (2) of this Article.

Article 8 Land appreciation tax shall be calculated on the basis of the most basic accounting items or objects of the taxpayer's immovable property cost accounting.

Article 9 If a taxpayer acquires land use rights in bulk and then develops or transfers immovable property in phases or batches, the amount of deduction items may be calculated and apportioned on the basis of the proportion of the area of the transferred land use rights to the total area, or based on the building area, or in other ways confirmed by the tax authorities.

Article 10 In the four-level progressive tax rate listed in Article 7 of the Regulations, the proportion of the appreciation amount not exceeding the amount of deduction items at each level includes the proportion.

The land appreciation tax amount can be calculated by a simplified method by multiplying the appreciation amount by the applicable tax rate minus the amount of deduction items multiplied by the quick deduction coefficient. The specific formula is as follows:

(1) If the appreciation amount does not exceed 50 percent of the deductible amount, the land appreciation tax amount = appreciation amount  $\times$  30 percent

(2) If the appreciation amount exceeds 50 percent of the amount of deduction items but does not exceed 100 percent, the land appreciation tax amount = appreciation

amount  $\times$  40 percent - amount of deduction items  $\times$  five percent

(3) If the appreciation amount exceeds 100 percent of the amount of deduction items but does not exceed 200 percent, the land appreciation tax amount = appreciation amount  $\times$  50 percent - amount of deduction items  $\times$  15 percent

(4) If the appreciation amount exceeds 200 percent of the amount of deduction items, the land appreciation tax amount = appreciation amount  $\times$  60 percent - amount of deduction items  $\times$  35 percent.

The five percent, 15 percent and 35 percent in the formula are quick deduction coefficients.

Article 11 The ordinary standard residence referred to in Item (1) of Article 8 of the Regulations refers to a residential residence built in accordance with the general civilian residential standards of the location. High-end apartments, villas, and holiday resorts, among others, do not belong to ordinary standard residences. The specific demarcation between ordinary standard residences and other residences shall be determined by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government.

If a taxpayer builds an ordinary standard residence for sale and the appreciation amount does not exceed 20 percent of the sum of the deduction items in Items (1), (2), (3), (5) and (6) of Article 7 of these Rules, the land appreciation tax shall be exempted; if the appreciation amount exceeds 20 percent of the sum of the deduction items, the tax shall be calculated on the entire appreciation amount in accordance with rules.

The immovable property expropriated or recovered according to law for the needs of national construction as referred to in Item (2) of Article 8 of the Regulations refers to the immovable property expropriated or land use rights recovered with the approval of the government because of the needs of urban planning and national construction.

If a taxpayer transfers the original immovable property on its own because of the need for relocation for the implementation of urban planning or national construction, the land appreciation tax shall be exempted in accordance with these regulations.

Entities and individuals that meet the abovementioned tax exemption regulations must apply to the tax authorities for a tax exemption where the immovable property is located. After review by the tax authorities, they will exempt the land appreciation tax.

Article 12 Subject to approval from tax authorities, if an individual transfers his or her original self-occupied house because of job transfer or improvement of living conditions, he or she shall be exempt from land appreciation tax in the case of having lived there for five years or more or entitled to a reduction of the land appreciation tax by half in the case of having lived there for at least three years but less than five years. If he or she has lived there for less than three years, the land appreciation tax shall be levied in accordance with rules.



Article 13 The immovable property appraisal price referred to in Article 9 of the Regulations refers to the price comprehensively assessed by an immovable property appraisal agency approved by the government based on immovable property of the same location and type. The appraisal price must be confirmed by the local tax authorities.

Article 14 The concealment and false reporting of immovable property transaction prices as referred to in Item (1) of Article 9 of the Regulations refers to the act of taxpayers failing to report or intentionally underreporting the transfer price of land use rights, buildings on the ground and their fixtures.

The provision of false amounts of deduction items as referred to in Item (2) of Article 9 of the Regulations refers to the act of taxpayers not providing truthful amounts of deduction items when filing tax returns.

The transaction price of the transferred immovable property as stated in Item (3) of Article 9 of the Regulations is less than the immovable property appraisal price without a legitimate reason, which means that the actual transaction price of the transferred immovable property declared by the taxpayer is less than the transaction price assessed by the immovable property appraisal agency, and the taxpayer cannot provide evidence or has no legitimate reason.

Concealing or falsely reporting the transaction price of immovable property shall be subject to appraisal by an appraisal agency with reference to the market transaction price of similar immovable property. The tax authorities shall determine the income from the transfer of immovable property based on the appraisal price.

If the amount of deduction items provided is false, the appraisal institution shall conduct an appraisal based on the cost price of the house calculated by multiplying the replacement cost price of the house by the depreciation rate and the benchmark land price when the land use right was obtained. The tax authorities shall determine the amount of deduction items based on the appraisal price.

If the transaction price of a transferred immovable property is less than the immovable property appraisal price and there is no legitimate reason, the tax authorities shall determine the income from the transfer of the immovable property with reference to the immovable property appraisal price.

Article 15 According to the provisions of Article 10 of the Regulations, taxpayers shall complete tax payment procedures in accordance with the following procedures:

(1) Within seven days after the signing of the immovable property transfer contract, the taxpayer shall file a tax return with the competent tax authority at the location of the immovable property and submit to the tax authority the property rights and land use rights certificates of the house and building, the land transfer and immovable property sale contract, the immovable property appraisal report and other materials related to the immovable property transfer.

If a taxpayer frequently transfers immovable property and finds it difficult to file a tax return after each transfer, it may file a tax return regularly after review and approval

by the tax authorities. The specific deadline will be determined by the tax authorities based on the circumstances.

(2) Taxpayers shall pay land appreciation tax in accordance with the tax amount determined by the tax authorities and the time limit prescribed by rules.

Article 16 If the income obtained by taxpayers from the transfer of immovable property before the project is fully completed and settled cannot be used to calculate the land appreciation tax because of cost determination or other reasons, the land appreciation tax can be pre-collected and liquidated after the project is fully completed and settled, with the excess refunded and the shortfall supplemented. The specific measures shall be formulated by the local tax bureaus of provinces, autonomous regions and municipalities directly under the Central Government according to local conditions.

Article 17 The location of immovable property as mentioned in Article 10 of the Regulations refers to the place where the immovable property is located. If a taxpayer transfers immovable property located in two or more regions, the taxpayer shall declare and pay taxes separately according to the location of the immovable property.

Article 18 The land administration departments and immovable property administration departments referred to in Article 11 of the Regulations shall provide relevant information to the tax authorities, which means providing the tax authorities in charge of the immovable property location with information on property rights of houses and buildings, land use rights, amount of land transfer fees, land benchmark prices, immovable property market transaction prices and changes in ownership.

Article 19 If a taxpayer fails to provide property rights and land use rights certificates for houses and buildings, land transfer and immovable property sale contracts, immovable property appraisal reports and other information related to the transferred immovable property in accordance with the regulations, the taxpayer shall be governed by the provisions of Article 39 of the Tax Collection and Administration Law of the People's Republic of China (hereinafter referred to as the Tax Collection and Administration Law).

If a taxpayer fails to truthfully declare the amount of immovable property transactions and the amount of prescribed deduction items, resulting in underpayment or nonpayment of taxes, the taxpayer shall be governed by the provisions of Article 40 of the Tax Collection and Administration Law.

Article 20 Land appreciation tax shall be calculated in Renminbi. If the income from the transfer of immovable property is in foreign currency, it shall be converted into Renminbi at the market exchange rate announced by the country on the day the income is obtained or on the first day of the month, and the amount of land appreciation tax payable shall be calculated on the basis of this.

Article 21 Local land appreciation fee collection methods referred to in Article 15 of the Regulations refer to the land appreciation fees, land revenue and other collection methods that are the same as the collection objects stipulated in these Rules.

Article 22 These Rules shall be interpreted by the Ministry of Finance or the State Administration of Taxation.

Article 23 These Rules shall come into force on the date of promulgation.

Article 24 Land appreciation tax for the period from January 1, 1994, to the date of promulgation of these Rules shall be calculated and levied in accordance with the provisions of these Rules.

## **Deed Tax**

## **Deed Tax Law of the People's Republic of China**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: August 11, 2020

Effective date: September 1, 2021

Timeliness: Currently valid

Document number: Chairman Order 52

Deed Tax Law of the People's Republic of China

Chairman Order 52

The Stamp Tax Law of the People's Republic of China was adopted at the 21st meeting of the Standing Committee of the 13th National People's Congress of the People's Republic of China on August 11, 2020, and is hereby promulgated and shall come into force on September 1, 2021.

Chairman of the People's Republic of China Xi Jinping

August 11, 2020

## **Deed Tax Law of the People's Republic of China**

(Adopted at the 21st meeting of the Standing Committee of the 13th National People's Congress on August 11, 2020)

Article 1 When the ownership of land or buildings is transferred in the People's Republic of China, the entity or individual that receives it shall be the taxpayer of deed tax and shall pay deed tax in accordance with the provisions of this Law.

Article 2 The transfer of ownership of land or buildings as used in this Law refers to the following acts:

- (1) Grant of land use rights;
- (2) Transfer of land use rights, including sale, donation and exchange;
- (3) Sale, purchase, donation and exchange of buildings.

The transfer of land use rights under the Item (2) of the preceding paragraph does not include the transfer of land-contracted management rights and land management rights.

If the ownership of land or buildings is transferred by means of investment (shareholding), debt repayment, transfer, and reward, among others, deed tax shall be levied in accordance with the provisions of this Law.

Article 3 The deed tax rate is between three percent and five percent.

The specific applicable tax rate of deed tax shall be proposed by the people's government of the province, autonomous region or municipality directly under the Central Government within the tax rate range prescribed in the preceding paragraph and reported to the Standing Committee of the People's Congress at the same level for decision, and shall be filed with the Standing Committee of the National People's Congress and the State Council for record.

Provinces, autonomous regions, and municipalities directly under the Central Government may determine different tax rates for the transfer of ownership of buildings by different entities, in different regions, and of different types in accordance with the procedures prescribed in the preceding paragraph.

Article 4 The basis for calculating the deed tax is:

- (1) For the transfer of ownership of land or buildings with a transaction price, the price determined in the contract, including the amount of money to be paid and the price of physical objects and other economic benefits;
- (2) For the exchange of land use rights or buildings, the difference between the prices of the exchanged land use right or buildings;
- (3) For donations of land use rights or buildings and other transfers of ownership of land or buildings without a price, the price assessed by the tax authorities in accordance with law with reference to the market prices of land use rights or buildings.

If the transaction price or the difference between exchange prices declared by a taxpayer is obviously too low without justification, the tax authorities shall determine it in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China.

Article 5 The taxable amount of deed tax shall be calculated by multiplying the tax basis by a specific applicable tax rate.

Article 6 The following circumstances shall be exempt from deed tax:

- (1) Receipt of ownership of land or buildings by government authorities, government-affiliated institutions, social groups, and military entities for use in office, teaching, medical treatment, scientific research, or military facilities;
- (2) Receipt of ownership of land or buildings by nonprofit schools, medical institutions, and social welfare institutions for office, teaching, medical treatment, scientific research, elderly care, and assistance;
- (3) Receipt of the right to use barren hills, wastelands and waste beaches for agricultural, forestry, animal husbandry and fishery production;

(4) Change in ownership of land or buildings between husband and wife during the continuation of the marriage relationship;

(5) Inheritance of ownership of land or buildings by legal heirs;

(6) Receipt of ownership of land or buildings by foreign embassies, consulates and representative offices of international organizations in China that shall be exempt from tax in accordance with law.

The State Council may stipulate exemption or reduction of deed tax for situations such as ensuring residents' housing needs, enterprise restructuring and reorganization, and post-disaster reconstruction in accordance with the needs of national economic and social development and report it to the Standing Committee of the National People's Congress for the record.

Article 7 A province, autonomous region or municipality directly under the Central Government may decide to exempt or reduce deed tax in the following circumstances:

(1) Regaining of ownership of land or buildings because the land or buildings are expropriated or requisitioned by the people's government at or above the county level;

(2) Regaining of ownership of buildings because the buildings are destroyed for force majeure.

The specific measures for exemption or reduction of deed tax as provided for in the preceding paragraph shall be proposed by the people's government of the province, autonomous region or municipality directly under the Central Government and reported to the standing committee of the people's congress at the same level for decision, and shall be filed with the Standing Committee of the National People's Congress and the State Council for the record.

Article 8 If a taxpayer changes the purpose of the relevant land or buildings or has other circumstances that no longer fall under the exemption or reduction of deed tax as stipulated in Article 6 of this Law, the taxpayer shall pay the deed tax that has been exempted or reduced.

Article 9 The time when the obligation of deed tax arises is the day when the taxpayer signs the contract for transfer of the ownership of land or buildings, or the day when the taxpayer obtains other certificates with the nature of a contract for transfer of ownership of land or buildings.

Article 10 Taxpayers shall declare and pay deed tax before going through the ownership registration procedures for land or buildings in accordance with law.

Article 11 After taxpayers handle tax matters, the tax authorities shall issue a deed tax payment certificate. When taxpayers handle the ownership registration for land or buildings, the immovable property registration agency shall check the deed tax payment, tax exemption and reduction certificate or relevant information. If the deed tax is not paid in accordance with the regulations, the immovable property registration agency will not handle the ownership registration for the land or buildings.

Article 12 If the ownership transfer contract or the certificate of the nature of the ownership transfer contract is ineffective, invalid, revoked or terminated before the completion of registration of ownership of land or buildings in accordance with law, the taxpayer may apply to the tax authority for a refund of the deed tax paid, and the tax authority shall handle it in accordance with law.

Article 13 The tax authorities shall establish a mechanism for sharing information and coordinating work with relevant departments on deed tax. Relevant departments such as natural resources, housing and urban-rural development, civil affairs, and public security shall promptly provide the tax authorities with information related to the transfer of land or buildings ownership, and assist the tax authorities in strengthening the collection and administration of deed tax.

Tax authorities and their staff shall keep confidential the personal information of taxpayers learned about in the process of tax collection and administration in accordance with law and shall not disclose it or unlawfully provide it to others.

Article 14 Deed tax shall be collected and administered by the tax authorities in the location of the land or buildings in accordance with the provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Article 15 If taxpayers, tax authorities and their staff violate the provisions of this Law, they shall be held legally responsible in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant laws and regulations.

Article 16 This Law shall come into force on September 1, 2021. The Provisional Regulations of the People's Republic of China on Deed Tax promulgated by the State Council on July 7, 1997, shall be repealed simultaneously.



## **Real Estate Tax**

**Real Estate Tax Provisional Regulations of the People's Republic of China  
(Revised in 2011)**

Level of validity: Administrative regulations

Issuing authority: State Council

Date of issuance: January 8, 2011

Effective date: January 8, 2011

Timeliness: Currently valid

Historical revision records:

Real Estate Tax Provisional Regulations of the People's Republic of China (1986)  
[September 15, 1986]

Real Estate Tax Provisional Regulations of the People's Republic of China (Revised  
in 2011) [January 8, 2011]

**Real Estate Tax Provisional Regulations of the People's Republic of China  
(Revised in 2011)**

(Promulgated by the State Council on September 15, 1986, revised in accordance with  
the Decision of the State Council on Repealing and Amending Certain Administrative  
Regulations on January 8, 2011)

Article 1 Real estate tax shall be levied in cities, counties, towns and industrial and  
mining areas.

Article 2 Real estate tax shall be paid by property owner. If the property belongs to  
the whole people, it shall be paid by the operational and administrative entity. If the  
property is financially leased, it shall be paid by the lessee. If the property owner or  
lessee is not in the location of the property, or if the property rights have not been  
determined and the financial lease dispute has not been resolved, it shall be paid by  
the custodian or user of the property.

The property owners, operational and administrative entities, lessees, property  
custodians or users listed in the preceding paragraph are collectively referred to as  
taxpayers (hereinafter referred to as taxpayers).

Article 3 Real estate tax shall be calculated and paid based on the residual value of the  
property after deducting 10 percent to 30 percent from the original value of the  
property. The specific deduction range shall be determined by the people's  
government of the province, autonomous region or municipality directly under the  
Central Government.

If there is no original value of the property as a basis, the tax authority at the location  
of the property shall determine the amount by referring to similar properties.

If the property is rented out, the rental income shall be used as the basis for

calculating the real estate tax.

Article 4 Real estate tax rate is 1.2 percent if it is calculated on the basis of the residual value of the property and 12 percent if it is calculated on the basis of the rental income of the property.

Article 5 The following properties are exempt from real estate tax:

1. Immovable property used by government authorities, people's organizations and the military;
2. Immovable property for self-use by entities whose operating funds are allocated by the country financial department;
3. Immovable property for self-use in religious temples, parks, scenic spots and historical sites;
4. Personally owned immovable property not used for business purposes;
5. Other properties that are tax-exempt with approval from the Ministry of Finance.

Article 6 Except as provided for in Article 5 of these Regulations, if a taxpayer has real difficulties in paying taxes, the people's government of the province, autonomous region or municipality directly under the Central Government may reduce or exempt the real estate tax on a regular basis.

Article 7: Real estate tax shall be levied annually and paid in installments. The tax payment period shall be determined by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government.

Article 8 The collection and administration of real estate tax shall be handled in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China.

Article 9 Real estate tax shall be levied by the tax authorities where the property is located.

Article 10 The Ministry of Finance shall be responsible for interpreting these Regulations; the detailed rules for their implementation shall be formulated by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government, with a copy to the Ministry of Finance for filing.

Article 11 These Regulations shall come into force on October 1, 1986.

## **Urban and Township Land Use Tax**

## **Urban and Township Land Use Tax Provisional Regulations of the People's Republic of China (Revised in 2019)**

Level of validity: Administrative regulations

Issuing authority: State Council

Date of issuance: March 2, 2019

Effective date: March 2, 2019

Timeliness: Currently valid

Historical revision records:

Urban and Township Land Use Tax Provisional Regulations of the People's Republic of China (1988) [September 27, 1988]

Urban and Township Land Use Tax Provisional Regulations of the People's Republic of China (Revised in 2006) [December 31, 2006]

Urban and Township Land Use Tax Provisional Regulations of the People's Republic of China (Revised in 2011) [January 8, 2011]

Urban and Township Land Use Tax Provisional Regulations of the People's Republic of China (Revised in 2013) [December 7, 2013]

Urban and Township Land Use Tax Provisional Regulations of the People's Republic of China (Revised in 2019) [March 2, 2019]

### **Urban and Township Land Use Tax Provisional Regulations of the People's Republic of China**

(Promulgated by Order 17 of the State Council of the People's Republic of China on September 27, 1988; first revised in accordance with the Decision of the State Council on Amending the Urban and Township Land Use Tax Provisional Regulations of the People's Republic of China on December 31, 2006; second revised in accordance with the Decision of the State Council on Repealing and Amending Certain Administrative Regulations on January 8, 2011; third revised in accordance with the Decision of the State Council on Amending Certain Administrative Regulations on December 7, 2013; fourth revised in accordance with the Decision of the State Council on Amending Certain Administrative Regulations on March 2, 2019)

Article 1 These Regulations are formulated to reasonably utilize urban land, to regulate differential land income, to improve land use efficiency and to strengthen land administration.

Article 2 An entity or individual that uses land within the scope of a city, county, town or industrial and mining area shall be a taxpayer of the urban and township land use tax (hereinafter referred to as the land use tax) and shall pay the land use tax in accordance with the provisions of these Regulations.

The entities referred to in the preceding paragraph include state-owned enterprises, collective enterprises, private enterprises, joint-stock enterprises, foreign-invested enterprises, foreign enterprises, other enterprises, government-affiliated institutions, social groups, government authorities, the military, and other entities; the individuals referred to include individual industrial and commercial households and other individuals.

Article 3 Land use tax shall be calculated on the basis of the land area actually occupied by the taxpayer and shall be levied in accordance with the prescribed tax amount.

The organization of the measurement of the land occupation area referred to in the preceding paragraph shall be determined by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government based on actual conditions.

Article 4 The annual land use tax per square meter is as follows:

- (1) Renminbi 1.5 to Renminbi 30 in large cities;
- (2) Renminbi 1.2 to Renminbi 24 in medium-sized cities;
- (3) Renminbi 0.9 to Renminbi 18 in small cities;
- (4) Renminbi 0.6 to Renminbi 12 in counties, towns, and industrial and mining areas.

Article 5 The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government shall, within the tax range prescribed in Article 4 of these Regulations, determine the applicable tax range for the areas under their jurisdiction based on conditions such as the status of municipal construction and the degree of economic prosperity.

The municipal and county people's governments shall, in light of actual conditions, divide the land in their respective regions into several grades, and, within the tax range determined by the people's governments of provinces, autonomous regions, or municipalities directly under the Central Government, formulate corresponding applicable tax standards, and submit them to the people's governments of provinces, autonomous regions, or municipalities directly under the Central Government for approval and implementation.

With the approval of the people's government of a province, autonomous region or municipality directly under the Central Government, the applicable tax rate for land use tax in economically backward areas may be appropriately reduced, but the reduction shall not exceed 30 percent of the minimum tax rate stipulated in Article 4 of these Regulations. The applicable tax rate for land use tax in economically developed areas may be appropriately increased, but this must be reported to the Ministry of Finance for approval.

Article 6 The following lands are exempt from land use tax:

- (1) Land used by government authorities, people's organizations and the military for their own purposes;
- (2) Land used by entities for their own purposes with operating expenses allocated by the country's financial department;
- (3) Land used by religious temples, parks, and historical sites;
- (4) Land used for municipal streets, squares, green belts and other public purposes;
- (5) Production land directly used for agriculture, forestry, animal husbandry and fishery;
- (6) Land that has been approved for reclamation and restoration and abandoned land that has been transformed shall be exempt from land use tax for five to 10 years from the month of use;
- (7) Tax-exempt land used for energy, transportation, water conservancy facilities and other purposes as separately prescribed by the Ministry of Finance.

Article 7 Except as provided in Article 6 of these Regulations, if a taxpayer has real difficulties in paying land use tax and needs regular reduction or exemption, approval shall be obtained from the tax authorities at or above the county level.

Article 8 Land use tax shall be calculated annually and paid in installments. The payment period shall be determined by the people's government of the province, autonomous region or municipality directly under the Central Government.

Article 9 Newly acquired land shall be subject to land use tax in accordance with the following provisions:

- (1) For expropriated farmland, land use tax shall be paid one year after the expropriation is approved;
- (2) For expropriated land other than farmland, land use tax shall be paid from the month following the approval of the expropriation.

Article 10 Land use tax shall be collected by the tax authorities at the location of the land. The land administration authorities shall provide the tax authorities at the location of the land with information on the ownership of the land use rights.

Article 11 The collection and administration of land use tax shall be carried out in accordance with the Tax Collection and Administration Law of the People's Republic of China and the provisions of these Regulations.

Article 12 Land use tax revenue shall be included in fiscal budget administration.

Article 13 The implementation measures of these Regulations shall be formulated by the people's governments of provinces, autonomous regions and municipalities

directly under the Central Government.

Article 14 These Regulations shall come into force on November 1, 1988, and the land use fee methods formulated by various localities shall cease to be implemented at the same time.



## **Farmland Occupation Tax**

## **Farmland Occupation Tax Law of the People's Republic of China**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: December 29, 2018

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Timeliness: Currently valid

Document number: Chairman Order 18

Farmland Occupation Tax Law of the People's Republic of China  
Chairman Order 18

The Farmland Occupation Tax Law of the People's Republic of China was adopted at the 7th Session of the Standing Committee of the 13th National People's Congress of the People's Republic of China on December 29, 2018, and is hereby promulgated and shall come into force on September 1, 2019.

Xi Jinping, Chairman of the People's Republic of China

December 29, 2018

### **Farmland Occupation Tax Law of the People's Republic of China**

(Adopted at the Seventh Session of the Standing Committee of the Thirteenth National People's Congress on December 29, 2018)

Article 1 This Law is enacted to reasonably utilize land resources, to strengthen land administration, and to protect farmland.

Article 2 An entity or individual that occupies farmland to build buildings and structures or to engage in nonagricultural construction in the People's Republic of China shall be a taxpayer of the farmland occupation tax and shall pay farmland occupation tax in accordance with the provisions of this Law.

Occupation of farmland to build farmland water conservancy facilities is not subject to farmland occupation tax.

The term "farmland" as used in this Law refers to land used for growing crops.

Article 3 Farmland occupation tax shall be calculated on the basis of the farmland area actually occupied by a taxpayer and shall be levied in one lump sum in accordance with an applicable tax amount. The taxable amount shall be the farmland area actually occupied by a taxpayer (square meters) multiplied by an applicable tax amount.

Article 4 The amount of the farmland occupation tax is as follows:

(1) Renminbi 10 to Renminbi 50 per square meter in areas where the per capita farmland does not exceed 666.67 square meters (counties, autonomous counties, cities without districts, and municipal districts, the same below);

(2) Renminbi 8 and Renminbi 40 per square meter in areas where the per capita farmland is more than 666.67 square meters but not more than 1333.34 square meters;

(3) Renminbi 6 to Renminbi 30 per square meter in areas where the per capita farmland area exceeds 1333.34 square meters but does not exceed 2000 square meters;

(4) Renminbi 5 to Renminbi 25 per square meter in areas where the per capita farmland exceeds 2000 square meters.

The applicable tax amount of farmland occupation tax in each region shall be proposed by the people's government of the province, autonomous region or municipality directly under the Central Government within the tax amount range prescribed in the preceding paragraph, based on the per capita farmland area and economic development, and reported to the Standing Committee of the People's Congress at the same level for decision and to the Standing Committee of the National People's Congress and the State Council for record. The average level of the applicable tax amount of the farmland occupation tax in each province, autonomous region or municipality directly under the Central Government shall not be less than the average tax amount specified in the Table of Average Tax Amounts of Farmland Occupation Tax in Each Province, Autonomous Region or Municipality Directly under the Central Government attached to this Law.

Article 5 In areas where the per capita farmland is less than 333.33 square meters, provinces, autonomous regions and municipalities directly under the Central Government may appropriately increase the applicable tax amount of farmland occupation tax based on the local economic development situation, but the increase shall not exceed 50 percent of the applicable tax amount determined in the second paragraph of Article 4 of this Law. The specific applicable tax amount shall be determined in accordance with the procedures prescribed in the second paragraph of Article 4 of this Law.

Article 6 If basic farmland is occupied, the local applicable tax amount determined in accordance with the second paragraph of Article 4 or Article 5 of this Law shall be increased by 150 percent.

Article 7 Military facilities, schools, kindergartens, social welfare institutions, and medical institutions that occupy farmland are exempt from farmland occupation tax.

Railway lines, highway lines, airport runways, aprons, ports, waterways, and water conservancy projects that occupy farmland are subject to a reduced farmland occupation tax at Renminbi 2 per square meter.

If rural residents occupy farmland within the prescribed land use standards and build new houses for their own use, the farmland occupation tax will be levied at half the

local applicable tax rate; if rural residents are approved to relocate and the farmland they occupy for their new houses does not exceed the original homestead area, the farmland occupation tax will be exempted.

The dependents of rural martyrs, dependents of servicemen who died in the line of duty, disabled servicemen, and rural residents who meet the rural minimum living security conditions are exempt from farmland occupation tax when they build new houses for their own use within the prescribed land use standards.

The State Council may stipulate other circumstances for exemption or reduction of farmland occupation tax in accordance with the needs of national economic and social development and report to the Standing Committee of the National People's Congress for filing.

Article 8 After the farmland occupation tax is exempted or reduced in accordance with the provisions of the first and second paragraphs of Article 7 of this Law, if a taxpayer changes the original use of the land and no longer falls under the circumstances where the farmland occupation tax is exempted or reduced, the taxpayer shall pay the farmland occupation tax in accordance with the applicable local tax amount.

Article 9 Farmland occupation tax shall be collected by the tax authorities.

Article 10 The tax obligation for farmland occupation tax shall arise on the day when the taxpayer receives a written notice from the natural resources authority for handling the formalities for occupying farmland. The taxpayer shall declare and pay the farmland occupation tax within 30 days from the date when the tax obligation arises.

The natural resources authority will issue a construction land approval certificate based on the farmland occupation tax payment certificate or tax exemption certificate and other relevant documents.

Article 11 Taxpayers that temporarily occupy farmland for construction projects or geological surveys shall pay farmland occupation tax in accordance with the provisions of this Law. If taxpayers reclaim farmland and restore planting conditions in accordance with law within one year from the date of expiration of the approval of temporary occupation of farmland, the farmland occupation tax already paid shall be refunded in full.

Article 12 The occupation of gardens, forests, grasslands, farmland water utilization land, aquaculture water surfaces, fishery waters and tidal flats, or other agricultural land to build buildings or structures or to engage in nonagricultural construction shall be subject to farmland occupation tax in accordance with the provisions of this Law.

For the occupation of agricultural land as provided for in the preceding paragraph, the applicable tax amount may be appropriately less than the applicable tax amount determined in accordance with the second paragraph of Article 4 of this Law in the local area, but the reduction shall not exceed 50 percent. The specific applicable tax amount shall be proposed by the people's government of the province, autonomous

region or municipality directly under the Central Government and reported to the standing committee of the people's congress at the same level for decision and to the Standing Committee of the National People's Congress and the State Council for record.

If the agricultural land specified in the first paragraph of this Article is occupied to build production facilities directly serving agricultural production, no farmland occupation tax shall be paid.

Article 13 The tax authorities shall establish a tax information sharing mechanism and work coordination mechanism with relevant departments on the farmland occupation tax. The relevant departments of the local people's governments at or above the county level, such as natural resources, agriculture and rural areas, and water conservancy, shall regularly provide the tax authorities with information on the conversion of agricultural land and temporary occupation of land, and assist the tax authorities in strengthening the collection and administration of farmland occupation tax.

If the tax authorities discover that a taxpayer's tax return data is abnormal or that a taxpayer fails to declare and pay taxes within the prescribed time limit, they may request the relevant department to conduct a review. The relevant department shall issue a review opinion to the tax authorities within 30 days from the date of receipt of the tax authority's review application.

Article 14 The collection and administration of farmland occupation tax shall be carried out in accordance with the provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Article 15 If taxpayers, tax authorities and their staff violate the provisions of this Law, they shall be held legally responsible in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant laws and regulations.

Article 16 This Law shall come into force on September 1, 2019. The Farmland Occupation Tax Provisional Regulations of the People's Republic of China promulgated by the State Council on December 1, 2007 shall be repealed simultaneously.

## Appendix:

**Average Tax Amount of Farmland Occupation Tax in Each Province,  
Autonomous Region and Municipality Directly Under the Central Government**

Province, Autonomous Region, Municipality	Average Tax Amount (Renminbi Per Square Meter)
Shanghai	45
Beijing	40
Tianjin	35
Jiangsu, Zhejiang, Fujian, Guangdong	30
Liaoning, Hubei, Hunan	25
Hebei, Anhui, Jiangxi, Shandong, Henan, Chongqing, Sichuan	22.5
Guangxi, Hainan, Guizhou, Yunnan, Shaanxi	20
Shanxi, Jilin, Heilongjiang	17.5
Neimenggu, Xizang, Gansu, Qinghai, Ningxia, Xinjiang	12.5

## **Vessel Tonnage Tax**

## **Vessel Tonnage Tax Law of the People's Republic of China (2018 Amendment)**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: October 26, 2018

Effective date: October 26, 2018

Timeliness: Currently effective

Historical revision records:

Vessel Tonnage Tax Law of the People's Republic of China [December 27, 2017]

Vessel Tonnage Tax Law of the People's Republic of China (2018 Amendment)  
[October 26, 2018]

### **Vessel Tonnage Tax Law of the People's Republic of China (2018 Amendment)**

(Adopted at the 31st meeting of the Standing Committee of the 12th National People's Congress on December 27, 2017, and amended in accordance with the Decision on Amending the Wildlife Protection Law of the People's Republic of China and 15 other laws adopted at the 6th meeting of the Standing Committee of the 13th National People's Congress on October 26, 2018)

Article 1 Vessels entering the domestic ports of the People's Republic of China from ports outside the People's Republic of China (hereinafter referred to as taxable vessels) shall be subject to vessel tonnage tax (hereinafter referred to as tonnage tax) in accordance with this Law.

Article 2 The tax items and tax rates of tonnage tax shall be implemented in accordance with the Table of Tonnage Tax Items and Tax Rates attached to this Law.

Article 3 The tonnage tax is set at preferential tax rates and normal tax rates.

Preferential tax rates apply to taxable vessels registered in the People's Republic of China and to taxable vessels whose country of flag (region) has signed a treaty or agreement with the People's Republic of China containing clauses on mutual most-favored-nation treatment of vessel taxes and fees.

For other taxable vessels, the normal tax rate shall apply.

Article 4 Tonnage tax shall be levied according to the net tonnage of the vessel and the term of the tonnage tax license.

A person in charge of a taxable vessel may choose to apply for a tonnage tax license of a given period in accordance with the Tonnage Tax Items and Tax Rates Table at each time of filing tax return.

Article 5 The amount of tonnage tax shall be calculated by multiplying the net



tonnage of the vessel by an applicable tax rate.

Article 6 The tonnage tax shall be collected by customs. The customs shall issue payment vouchers when collecting tonnage tax.

After a person in charge of taxable vessel pays tonnage tax or provides a guarantee, the customs will issue a tonnage tax license in accordance with the license period applied for.

Article 7 When a taxable vessel enters a port for entry formalities, tonnage tax shall be declared and paid to obtain a tonnage tax license, or a tonnage tax license shall be submitted for inspection (or verification of the electronic information of the tonnage tax license shall be applied). When a taxable vessel leaves a port for exit formalities, a tonnage tax license shall be submitted for inspection (or verification of the electronic information of the tonnage tax license shall be applied).

When applying for a tonnage tax license, a person in charge of a taxable vessel shall provide the customs with the following documents:

- (1) The vessel's nationality certificate or a certificate of deposit of the vessel's nationality certificate issued by the maritime department;
- (2) Certificate of vessel tonnage.

If a taxable vessel is anchored at a place without a customs office because of force majeure, a person in charge of the vessel shall immediately report to the nearby customs and, after the force majeure is eliminated, declare and pay taxes to the customs in accordance with the provisions of this Law.

Article 8 The tonnage tax liability shall arise on the day when the taxable vessel enters the port.

If a taxable vessel has not left the port after the expiration of its tonnage tax license, a new tonnage tax license shall be applied and tonnage tax shall be paid from the day after the expiration of the previous license.

Article 9 The following vessels are exempt from tonnage tax:

- (1) Vessels with a taxable amount of less than Renminbi 50;
- (2) Unloaded vessels imported into the port for the first time, the ownership of the vessels being acquired from abroad by purchase, gift, and inheritance, among others;
- (3) Vessels that do not load or unload passengers or cargo within 24 hours after the expiration of their tonnage tax licenses;
- (4) Non-motorized vessels (excluding non-motorized barges);
- (5) Vessels for fishing and aquaculture;

- (6) Vessels that are seeking refuge, quarantine, repair, modification, operation cessation or dismantling and that are not loading or unloading passengers or cargo;
- (7) Vessels used exclusively or requisitioned by the army or armed police forces;
- (8) Police vessels;
- (9) Vessels of foreign embassies and consulates in China, representative offices of international organizations in China and their relevant personnel that shall be exempt from tax in accordance with law;
- (10) Other vessels specified by the State Council.

The tax exemption provisions under Item (10) of the preceding paragraph shall be reported by the State Council to the Standing Committee of the National People's Congress for the record.

Article 10 If a taxable vessel encounters any of the following circumstances during the tonnage tax license period, the customs shall extend the tonnage tax license period by annotating the actual number of days that the circumstances occurred:

- (1) Evacuation, quarantine, repair, or renovation, without loading or unloading passengers or cargo;
- (2) Requisition by the army and armed police forces.

Article 11 Vessels that comply with the provisions of Items (5) to (9) of the first paragraph of Article 9 and Article 10 of this Law shall provide legally binding certification documents or usage certification documents issued by departments and institutions such as the maritime department and the fishery vessel administrative department, stating the basis and reasons for tax exemption or extension of the tonnage tax license.

Article 12 A person in charge of a taxable vessel shall pay the tax within 15 days from the date on which the customs issue the tonnage tax payment certificate. If the tax is not paid on time, late payment interest at 0.05 percent of the overdue tax shall be charged daily from the date on which the tax is overdue to the date on which the tax is paid.

Article 13 If a taxable vessel declares and completes entry and exit formalities in advance upon approval by the customs before arriving at the port, a person in charge of the taxable vessel shall provide the customs with a guarantee commensurate with its obligation to pay tonnage tax in accordance with law; after the taxable vessel arrives at the port, the tax shall be declared and paid to the customs in accordance with the provisions of this Law.

The following properties and rights can be used as collateral:

- (1) Renminbi or any freely convertible currency;

- (2) Bills of exchange, promissory notes, cheques, bonds and certificates of deposit;
- (3) Letter of guarantee issued by a bank or nonbank financial institution;
- (4) Other property and rights recognized by the Customs in accordance with law.

Article 14 If the net tonnage of a taxable vessel changes because of repair or modification during the period of the tonnage tax license, the tonnage tax license shall remain valid. When a taxable vessel goes through entry and exit procedures, it shall provide documents proving that the vessel has been repaired or modified.

Article 15 If the applicable tax rate of a taxable vessel changes during the term of its tonnage tax license because of adjustment of tax items and rates or change of vessel registration, the tonnage tax license shall remain valid.

If the applicable tax rate changes because of a change in vessel's flag, documents proving the change of flag shall be provided when going through entry and exit procedures.

Article 16 If a tonnage and tax license is damaged or lost before its expiration, a written application must be submitted to the original issuing customs for the issuance of a duplicate tonnage and tax license and no additional tax will be paid.

Article 17 If the customs find that the tax is under-collected or evaded, it shall collect the tax within one year from the date on which the taxable vessel shall pay the tax. However, if the tax is under-collected or evaded because of the taxable vessel's violation of regulations, the customs may collect the tax within three years from the date on which the tax shall be paid, and impose late payment interest at 0.05 percent of the under-collected or evaded tax per day from the date on which the tax shall be paid.

If the customs discover that the tax has been over-collected, it shall notify the taxable vessel to go through the refund procedures within 24 hours and add the bank's current deposit interest for the same period.

If a taxable vessel is found to have overpaid taxes, request may be made to the customs in writing to refund the overpaid taxes and to add the bank's current deposit interest for the same period within three years from the date of tax payment; the customs shall verify and notify the taxable vessel to go through the refund procedures within 30 days from the date of acceptance of the refund application.

Taxable vessels shall go through the relevant refund procedures within three months from the date of receipt of the notice specified in the second and third paragraphs of this Article.

Article 18 If a taxable vessel commits any of the following acts, the customs shall order it to make corrections within a time limit and impose a fine of not less than Renminbi 2,000 but not more than Renminbi 30,000; if it fails to pay or underpays the tax payable, it shall be subject to a penalty at 50 percent to 500 percent of the amount of the tax not paid or underpaid, but the penalty shall not be less than Renminbi 2,000:

(1) Failure to declare and pay taxes or to obtain tonnage tax licenses in accordance with regulations;

(2) Failure to submit the tonnage tax license for inspection (or to apply for verification of the electronic information of the tonnage tax license) and to provide other supporting documents in accordance with regulations.

Article 19 Tonnage tax, late payment interest and penalties shall be calculated in Renminbi.

Article 20 The collection of tonnage tax shall be carried out in accordance with the provisions of relevant laws and administrative regulations on tax collection and administration, unless otherwise provided in this Law.

Article 21 The following terms in this Law and the attached Tonnage Tax Items and Rates Table have the following meanings:

Net tonnage refers to the net tonnage indicated on the vessel's tonnage certificate issued or authorized by the government of the vessel's country (region).

A non-motorized vessel is a vessel that does not have its own power device and relies on external force for propulsion.

A non-motorized barge refers to a non-motorized vessel registered as a barge with the vessel registration authority.

Vessels for fishing and aquaculture refer to vessels registered as fishing vessels or aquaculture vessels with the fishery vessel administrative department of the People's Republic of China.

A tugboat is a specialized vessel used specifically for towing (pushing) transport ships.

The term of a tonnage tax license refers to the period calculated in terms of calendar years and days.

Article 22 This Law shall come into force on July 1, 2018. The Provisional Regulations of the People's Republic of China on Vessel Tonnage Tax promulgated by the State Council on December 5, 2011, shall be repealed simultaneously.

**Appendix:****Tonnage Tax Items and Tax Rates Table**

Tax Items (By Net Tonnage of Vessels)	Tax Rate (Renminbi Per Net Ton)						Remark
	General Tax Rate (By License Period)			Preferential Tax Rate (By License Period)			
	1 Year	90 Days	30 Days	1 Year	90 Days	30 Days	
Not exceeding 2,000 net tons	12.6	4.2	2.1	9.0	3.0	1.5	1. For tugboats, each kilowatt of engine power is equivalent to 0.67 tons of net tonnage.
More than 2,000 net tons but not more than 10,000 net tons	24.0	8.0	4.0	17.4	5.8	2.9	
More than 10,000 net tons but not more than 50,000 net tons	27.6	9.2	4.6	19.8	6.6	3.3	
More than 50,000 net tons	31.8	10.6	5.3	22.8	7.6	3.8	2. For yachts that are unable to provide proof of net tonnage, 0.05 tons of net tonnage will be converted for each kilowatt of engine power.
							3. Tugboats and non-motorized barges are taxed at 50% of the tax rate for vessels of the same net tonnage.

## **Vehicle and Vessel Tax**

## **Vehicle and Vessel Tax Law of the People's Republic of China (2019 Amendment)**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

Date of issuance: April 23, 2019

Effective date: April 23, 2019

Timeliness: Currently valid

Historical revision records:

Vehicle and Vessel Tax Law of the People's Republic of China (2011) [February 25, 2011]

Vehicle and Vessel Tax Law of the People's Republic of China (2019 Amendment)  
[April 23, 2019]

### **Vehicle and Vessel Tax Law of the People's Republic of China**

(Adopted at the 19th meeting of the Standing Committee of the 11th National People's Congress on February 25, 2011, and amended in accordance with the Decision on Amending the Construction Law of the People's Republic of China and Eight Other Laws adopted at the 10th meeting of the Standing Committee of the 13th National People's Congress on April 23, 2019)

Article 1 The owners or managers of vehicles and vessels specified in the Vehicle and Vessel Tax Items and Amounts Table attached to this Law in the People's Republic of China (hereinafter referred to as vehicles and vessels) shall be taxpayers of vehicle and vessel tax and shall pay vehicle and vessel tax in accordance with this Law.

Article 2 The applicable tax rates for vehicles and vessels shall be in accordance with the Vehicle and Vessel Tax Items and Rates Table attached to this Law.

The specific applicable tax amount for vehicles shall be determined by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government in accordance with the tax range prescribed in the Vehicle and Vessel Tax Items and Tax Rates Table annexed to this Law and the regulations of the State Council.

The specific applicable tax amount for vessels shall be determined by the State Council within the tax range prescribed in the Vehicle and Vessel Tax Items and Tax Rates Table attached to this Law.

Article 3 The following vehicles and vessels are exempt from vehicle and vessel tax:

- (1) Vessels for fishing and aquaculture;
- (2) Vehicles and vessels used exclusively by the military and armed police forces;

(3) Police vehicles and vessels;

(4) National comprehensive firefighting and rescue vehicles and national comprehensive firefighting and rescue vessels with special emergency rescue license plates;

(5) Vehicles and vessels of foreign embassies and consulates in China, representative offices of international organizations in China and their relevant personnel that shall be exempt from tax in accordance with law.

Article 4 Vehicle and vessel tax may be reduced or exempted for vehicles and vessels that save energy or use new energy; vehicle and vessel tax may be reduced or exempted for vehicles and vessels because of difficulty in paying the tax as a result of severe natural disasters or for other special reasons for a tax reduction or exemption. The specific measures shall be formulated by the State Council and reported to the Standing Committee of the National People's Congress for record.

Article 5 The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may, in light of local actual conditions, periodically reduce or exempt vehicle and vessel taxes on public transport vehicles and vessels, and motorcycles, three-wheeled vehicles, and low-speed trucks owned by rural residents and mainly used in rural areas.

Article 6 Insurance institutions engaged in compulsory motor vehicle third party liability insurance business are withholding agents for motor vehicle and vessel taxes and shall collect the vehicle and vessel taxes in accordance with law when collecting insurance premiums and issue receipts for tax collection.

Article 7 The place of payment of vehicle and vessel tax shall be the place of registration of the vehicle and vessel or the place where the withholding agent of the vehicle and vessel tax is located. For vehicles and vessels that are not required to be registered according to law, the place of payment of vehicle and vessel tax shall be the place where the owner or manager of the vehicle and vessel is located.

Article 8 The tax liability for vehicle and vessel tax arises in the month when the ownership or management rights of the vehicle or vessel are acquired.

Article 9 Vehicle and vessel tax shall be declared and paid annually. The specific deadline for declaration and payment shall be determined by the people's government of the province, autonomous region or municipality directly under the Central Government.

Article 10 The public security, transportation, agriculture, fishery and other vehicle and vessel registration administrative departments, vessel inspection agencies and the industry competent departments of the vehicle and vessel tax withholding agents shall assist the tax authorities in strengthening the collection and administration of vehicle and vessel taxes in providing relevant information on vehicles and vessels.

When applying for vehicle registration and periodic inspection, the vehicle owner or



manager shall submit a tax or tax exemption certificate to the traffic administrative department of the public security agency, which will verify and handle the relevant procedures.

Article 11 The collection and administration of vehicle and vessel tax shall be carried out in accordance with the provisions of this Law and the Law of the People's Republic of China on the Administration of Tax Collection.

Article 12 The State Council shall formulate implementation regulations based on this Law.

Article 13 This Law shall come into force on January 1, 2012. The Vehicle and Vessel Tax Provisional Regulations of the People's Republic of China promulgated by the State Council on December 29, 2006, shall be repealed simultaneously.

Appendix:

**Vehicle and Vessel Tax Items and Amounts Table**

Tax Items		Tax Unit	Annual Base Tax	Remark
Passenger cars (classified by engine cylinder capacity (displacement))	1.0 liter or less	Each	Renminbi 60 to 360	The approved passenger capacity is nine persons or less
	1.0 liters or more but up to 1.6 liters (inclusive)		Renminbi 300 to 540	
	1.6 liters or more but up to 2.0 liters (inclusive)		Renminbi 360 to 660	
	2.0 liters and above but up to 2.5 liters (inclusive)		Renminbi 660 to 1,200	
	2.5 liters or more but up to 3.0 liters (inclusive)		Renminbi 1200-2400	
	3.0 liters or more but up to 4.0 liters (inclusive)		Renminbi 2400-3600	
	4.0 liters or more		Renminbi 3600-5400	
Commercial Vehicles	Bus	Each	Renminbi 480 to 1440	The approved passenger capacity is nine or more, including trams
	Truck	Curb mass per ton	Renminbi 16 to 120	Including semi-trailer tractors, three-wheeled vehicles and low-speed trucks, among others.
Trailer		Curb mass per ton	50% of truck tax	

Tax Items		Tax Unit	Annual Base Tax	Remark
Other Vehicles	Special work vehicle	Curb mass per ton	Renminbi 16 to 120	Does not include tractor
	Wheeled special mechanical vehicle		Renminbi 16 to 120	
Motorcycle		Each	Renminbi 36 to 180	
Vessels	Motor vessel	Net tonnage per ton	Renminbi 3 to 6	Tugboats and non-motorized barges are calculated at 50% of the motorized vessel tax.
	Yacht	Hull length per meter	Renminbi 600 to 2000	

## **Implementation Regulations to the Vehicle and Vessel Tax Law of the People's Republic of China (Revised in 2019)**

Level of validity: Administrative regulations

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Timeliness: Currently effective

### **Implementation Regulations to the Vehicle and Vessel Tax Law of the People's Republic of China**

(Promulgated by Order No. 611 of the State Council of the People's Republic of China on December 5, 2011, revised in accordance with the Decision of the State Council on Amending Certain Administrative Regulations on March 2, 2019)

Article 1 These Regulations are formulated in accordance with the provisions of the Vehicle and Vessel Tax Law of the People's Republic of China (hereinafter referred to as the Vehicle and Vessel Tax Law).

Article 2 The vehicles and vessels referred to in Article 1 of the Vehicle and Vessel Tax Law refer to:

- (1) Motor vehicles and vessels that must be registered with the vehicle and vessel registration administrative department in accordance with law;
- (2) Motor vehicles and vessels that are driven or operated within the internal premises of an organization and that do not need to be registered with the vehicle and vessel registration administrative department in accordance with law.

Article 3 The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall determine the specific applicable tax amounts for vehicles in accordance with the Vehicle and Vessel Tax Items and Amounts Table attached to the Vehicle and Vessel Tax Law and shall abide by the following principles:

- (1) The tax amount for passenger cars increases progressively from small to large displacement;
- (2) Passenger vehicles are divided into two categories according to the approved passenger capacity: 20 or less and 20 or more, and the tax amount is increased progressively.

The specific applicable vehicle tax amounts determined by the people's governments of provinces, autonomous regions, and municipalities directly under the Central

Government shall be reported to the State Council for the record.

Article 4 The specific applicable tax amounts for motor vessels are:

- (1) Renminbi 3 per ton for net tonnage not exceeding 200 tons;
- (2) Renminbi 4 per ton for net tonnage exceeding 200 tons but not exceeding 2,000 tons;
- (3) Renminbi 5 per ton for net tonnage exceeding 2,000 tons but not exceeding 10,000 tons;
- (4) Renminbi 6 per ton for a net tonnage exceeding 10,000 tons.

The vehicle and vessel tax for tugboats is calculated on the basis of the net tonnage of 0.67 tons per kilowatt of engine power.

Article 5 The specific applicable tax amounts for yachts are:

- (1) Renminbi 600 per meter for boats with a length of no more than 10 meters;
- (2) Renminbi 900 per meter for boats with a length exceeding 10 meters but not exceeding 18 meters;
- (3) Renminbi 1,300 per meter for boats with a length exceeding 18 meters but not exceeding 30 meters;
- (4) Renminbi 2,000 per meter for boats longer than 30 meters;
- (5) Renminbi 600 per meter for auxiliary powered sailing boat.

Article 6 The displacement, curb weight, approved passenger capacity, net tonnage, kilowatts and hull length involved in the Vehicle and Vessel Tax Law and these Regulations shall be based on the data contained in the vehicle and vessel registration certificate or driving license issued by the vehicle and vessel registration administrative department.

For vehicles and vessels that are not required to be registered according to law, and vehicles and vessels that shall be registered according to law but that have not been registered or that vehicle and vessel registration certificates and driving licenses cannot be provided, the technical parameters and data marked on the vehicle and vessel factory acceptance certificate or import certificate shall prevail; if the vehicle and vessel factory acceptance certificate or import certificate cannot be provided, the competent tax authorities shall determine the data in accordance with relevant national standards; if there are no relevant national standards, the data shall be determined in accordance with similar vehicles and vessels.

Article 7 The vessels for fishing and aquaculture referred to in Item (1) of Article 3 of the Vehicle and Vessel Tax Law refer to vessels registered as fishing vessels or aquaculture vessels with the fishery vessel registration and administrative department.

Article 8 The vehicles and vessels exclusively used by the army and armed police forces as referred to in Item (2) of Article 3 of the Vehicle and Vessel Tax Law refer to vehicles and vessels that are registered with the vehicle and vessel registration and administrative departments of the army and armed police forces in accordance with regulations and have obtained army and armed police license plates.

Article 9 The police vehicles and vessels referred to in Item (3) of Article 3 of the Vehicle and Vessel Tax Law refer to vehicles with police license plates and special vessels used for performing police duties by public security agencies, state security organs, prisons, labor education administrative authorities, people's courts and people's procuratorates.

Article 10 Vehicles and vessels that save energy or that use new energy sources may be exempt from vehicle and vessel tax or entitled to a reduction of vehicle and vessel tax by half. The scope of vehicles and vessels entitled to the exemption or half reduction of vehicle and vessel tax shall be formulated by the financial and tax authorities of the State Council in consultation with relevant departments of the State Council and submitted to the State Council for approval.

If it is necessary to exempt or reduce vehicle and vessel tax because of difficulty in paying the tax as a result of impact by severe natural disasters such as earthquakes and floods or for other special reasons, the vehicle and vessel tax may be exempted or reduced within a given period of time. The specific exemption period and amount shall be determined by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government and reported to the State Council for record.

Article 11 The vehicle and vessel tax shall be collected by the tax authorities.

Article 12 When a motor vehicle and vessel tax withholding agent collects the tax on behalf of another person, the agent shall indicate the tax collected on the insurance policy and premium invoice of the compulsory motor vehicle traffic accident liability insurance as a receipt for the tax collection.

Article 13 For vehicles that have been subject to tax or that have been exempt from tax in accordance with law, the taxpayer shall provide the withholding agent with the tax payment certificate or tax exemption certificate issued by the competent tax authority at the place of registration.

Article 14 If a taxpayer fails to pay vehicle and vessel tax within the prescribed period, the withholding agent may collect and pay the late payment interest for the overdue tax at the time of collecting and paying the tax on behalf of the taxpayer.

Article 15 If a withholding agent has collected and paid vehicle and vessel tax on behalf of the taxpayer, the taxpayer will no longer need to declare and pay the vehicle and vessel tax to the competent tax authority at the place where the vehicle is registered.

If there is no withholding agent, the taxpayer shall declare and pay the vehicle and

vessel tax to the competent tax authority on its own.

Article 16 When paying vehicle and vessel tax, a taxpayer shall provide relevant vouchers reflecting the displacement, curb weight, approved number of passengers, net tonnage, kilowatts, hull length and other tax-related information, as well as other information required by the tax authorities according to actual needs.

If a taxpayer has already provided the information listed in the preceding paragraph in previous years, the taxpayer will need not to provide it again.

Article 17 Taxpayers of vehicle and vessel tax shall pay the vehicle and vessel tax in accordance with the specific applicable tax amount determined by the people's government of the province, autonomous region or municipality directly under the Central Government where the tax is paid.

Article 18 A withholding agent shall promptly pay the taxes and late payment interest collected and paid on behalf of the taxpayer and report to the competent tax authorities. When the withholding agent pays the taxes and late payment interest to the tax authorities, the agent shall also submit a detailed withholding report on the taxes and late payment interest. The specific deadline for the withholding agent to pay the taxes and late payment interest shall be determined by the tax authorities of provinces, autonomous regions and municipalities directly under the Central Government in accordance with the provisions of laws and administrative regulations.

Article 19 For newly purchased vehicles and vessels, the tax payable in the year of purchase shall be calculated on a monthly basis starting from the month in which the tax obligation arises. The tax payable is the annual tax payable divided by 12 and multiplied by the number of taxable months.

If a tax-paid vehicle or vessel is stolen, scrapped or lost during a tax year, the taxpayer may apply to the competent tax authority in the place where the tax is paid for a refund of the taxes owed from the month of the theft, scrapping or loss to the end of the tax year, based on the certificate issued by the relevant administrative authority and the tax payment certificate.

If a stolen vehicle or vessel for which a tax refund has been processed is then recovered, the taxpayer shall calculate and pay the vehicle and vessel tax from the month in which the public security agency issues the relevant certificate.

Article 20 Where a vehicle or vessel for which vehicle and vessel tax has been paid is transferred or altered within the same tax year, no additional tax shall be levied and no tax refund shall be granted.

Article 21 The month in which the ownership or management rights of a vehicle or vessel are acquired as referred to in Article 8 of the Vehicle and Vessel Tax Law shall be the month of the date stated on the invoice or other supporting documents for the purchase of the vehicle or vessel.

Article 22 Tax authorities may centrally handle matters concerning the collection of vehicle and vessel taxes at the offices of vehicle and vessel registration administrative

departments and vehicle and vessel inspection agencies.

When the traffic administrative department of the public security agency handles vehicle registration and periodic inspection procedures, it will not process the relevant procedures if it verifies that no proof of tax payment or tax exemption of the vehicle in accordance with law has been provided.

Article 23 Vehicle and vessel tax shall be declared annually, calculated monthly and paid in one lump sum. The tax year is from January 1 to December 31 of the Gregorian calendar.

Article 24 Vehicle and vessel tax shall not be levied on foreign vehicles and vessels temporarily entering the country and vehicles and vessels from the Hong Kong Special Administrative Region, the Macao Special Administrative Region and Taiwan.

Article 25 Motor vessels subject to vessel tonnage tax in accordance with regulations shall be exempt from vehicle and vessel tax within five years from the date of implementation of the Vehicle and Vessel Tax Law.

Vehicles and vessels that travel or are operated within airports, ports, and railway stations and that are not required to be registered with the vehicle and vessel registration administrative department in accordance with law are exempt from vehicle and vessel tax for five years from the date of implementation of the Vehicle and Vessel Tax Law.

Article 26 The meanings of vehicles and vessels in the Vehicle and Vessel Tax Items and Amounts Table attached to the Vehicle and Vessel Tax Law are as follows:

A passenger car refers to a car that is designed and technically used primarily for carrying passengers and carry-on luggage, with an approved passenger capacity of no more than nine people, including the driver.

Commercial vehicles refer to vehicles, other than passenger cars, that are designed and technically used to carry passengers and cargo. They are divided into passenger cars and trucks.

A semi-trailer tractor is a commercial vehicle equipped with special devices for towing a semi-trailer.

A three-wheeled vehicle refers to a truck with three wheels and a maximum design speed not exceeding 50 kilometers per hour.

A low-speed truck refers to a truck with four wheels that is powered by a diesel engine and has a maximum design speed of no more than 70 kilometers per hour.

A trailer is an unpowered road vehicle that needs to be towed by a car or tractor for normal use because of its design and technical characteristics.

A special-purpose work vehicle refers to a vehicle that is used for special work because of its design and technical characteristics.

A wheeled special-purpose mechanical vehicle refers to a wheeled engineering mechanical vehicle with a special structure and specialized functions, equipped with rubber wheels, capable of self-propelled, and with a maximum design speed greater than 20 kilometers per hour.

A motorcycle refers to a two-wheeled or three-wheeled vehicle with a maximum design speed greater than 50 kilometers per hour, regardless of the driving mode, or an internal combustion engine with a displacement greater than 50 ml.

Vessels refer to all kinds of motorized and non-motorized vessels and other mobile devices on water, except for lifeboats and rafts equipped on vessels and boats less than five meters in length. Among them, motorized vessels refer to vessels propelled by machines; tugboats refer to professional operating vessels specially used to tow (push) transport vessels; non-motorized barges refer to non-motorized vessels registered as barges in the vessel registration administrative department; yachts refer to vessels with built-in mechanical propulsion power devices, with a length of less than 90 meters, mainly used for sightseeing, leisure and entertainment, water sports and other activities, and must have a vessel inspection certificate and a seaworthiness certificate.

Article 27 This Regulation shall come into force on January 1, 2012.



## **Resource Tax**

## **Resource Tax Law of the People's Republic of China**

Level of validity: Law

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Resource Tax Law of the People's Republic of China  
Chairman Order 33

The Resource Tax Law of the People's Republic of China was adopted at the 12th Session of the Standing Committee of the 13th National People's Congress of the People's Republic of China on August 26, 2019, and is hereby promulgated and shall come into effect on September 1, 2020.

Xi Jinping, Chairman of the People's Republic of China

August 26, 2019

## **Resource Tax Law of the People's Republic of China**

(Adopted at the 12th Session of the Standing Committee of the 13th National People's Congress on August 26, 2019)

Article 1 An entity or individual that develops taxable resources in the People's Republic of China and other sea areas under the jurisdiction of the People's Republic of China shall be taxpayers of resource tax and shall pay resource tax in accordance with the provisions of this Law.

The specific scope of taxable resources shall be determined by the Resource Tax Items and Tax Rates Table (hereinafter referred to as the Tax Items and Tax Rates Table) attached to this Law.

Article 2 The tax items and tax rates of resource tax shall be implemented in accordance with the Tax Items and Tax Rates Table.

Where the Tax Items and Tax Rates Table stipulates that a range of tax rates shall be implemented, the specific applicable tax rate shall be proposed by the people's government of the province, autonomous region or municipality directly under the Central Government within the tax rate range stipulated in the Tax Items and Tax Rates Table after comprehensively considering the grade of the taxable resources, mining conditions and impact on the ecological environment, and reported to the Standing Committee of the People's Congress at the same level for decision and to the

Standing Committee of the National People's Congress and the State Council for record. Where the Tax Items and Tax Rates Table stipulates that the taxable objects are raw ores or ore dressing, the specific applicable tax rates shall be determined separately.

Article 3 Resource tax shall be levied on the basis of value or quantity in accordance with the Tax Items and Tax Rates Table.

Where the Tax Items and Tax Rates Table stipulates that resource tax may be levied on the basis of value or quantity at choice, the specific method of taxation shall be proposed by the people's government of the province, autonomous region or municipality directly under the Central Government and reported to the standing committee of the people's congress at the same level for decision and to the Standing Committee of the National People's Congress and the State Council for filing.

Where ad valorem tax is implemented, the tax payable shall be calculated by multiplying the sale amount of taxable resource products (hereinafter referred to as taxable products) by a specific applicable tax rate. Where specific tax is implemented, the tax payable shall be calculated by multiplying the sale quantity of taxable products by a specific applicable tax rate.

If the taxable products are mineral products, they include raw ore and mineral processing products.

Article 4 A taxpayer that mines or produces taxable products of different tax items shall separately account for the sale amount or quantity of taxable products of different tax items; if the taxpayer fails to separately account for or cannot accurately provide the sale amount or quantity of taxable products of different tax items, the greater tax rate shall apply.

Article 5 A taxpayer that mines or produces taxable products for its own use shall pay resource tax in accordance with the provisions of this Law; however, use by the taxpayer of them for its continuous production of taxable products shall not be subject to resource tax.

Article 6 The following circumstances shall be exempt from resource tax:

- (1) Crude oil and natural gas used for heating during the extraction of crude oil and the transportation of crude oil within the oil field;
- (2) Coal (layer) gas extracted by coal mining enterprises for production safety needs.

In any of the following circumstances, resource tax shall be reduced:

- (1) A 20 percent reduction in resource tax on crude oil and natural gas extracted from low-abundance oil and gas fields;
- (2) A 30 percent reduction in resource tax on high-sulfur natural gas, tertiary oil recovery, and crude oil and natural gas extracted from deepwater oil and gas fields;

- (3) A 40 percent reduction in resource tax on heavy oil and high-condensate oil;
- (4) A 30 percent reduction in resource tax on mineral products extracted from mines in the depletion stage.

The State Council may stipulate exemption or reduction of resource tax for circumstances that are conducive to promoting resource conservation and intensive utilization, and protecting the environment, among others, in accordance with the needs of national economic and social development and report to the Standing Committee of the National People's Congress for the record.

Article 7 In any of the following circumstances, a province, autonomous region or municipality directly under the Central Government may decide to exempt or reduce resource tax:

- (1) The taxpayer suffers heavy losses because of accidents or natural disasters during the mining or production of taxable products;
- (2) The taxpayer mines associated minerals, low-grade minerals, and tailings.

The specific measures for exemption or reduction of resource tax provided in the preceding paragraph shall be proposed by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government and reported to the standing committees of the people's congresses at the same level for decision and to the Standing Committee of the National People's Congress and the State Council for filing.

Article 8 Taxpayers shall separately account for sale amount or quantity of tax exemption and tax reduction items; if the sale amount or quantity is not separately accounted for or cannot be accurately provided, no tax exemption or tax reduction shall be granted.

Article 9 Resource tax shall be collected and administered by the tax authorities in accordance with the provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Tax authorities and relevant departments such as natural resources shall establish a work coordination mechanism to strengthen the collection and administration of resource taxes.

Article 10 When a taxpayer sells taxable products, the tax obligation arises on the day the taxpayer receives the sale proceeds or obtains the receipt for requesting sale proceeds. If the taxpayer uses the taxable products for personal use, the tax obligation arises on the day the taxable products are transferred.

Article 11 Taxpayers shall declare and pay resource tax to the tax authorities at the place where the taxable products are mined or produced.

Article 12 Resource tax shall be declared and paid on a monthly or quarterly basis. If it cannot be calculated and paid within a fixed period, it may be declared and paid on

a per-time basis.

If taxpayers declare and pay taxes on a monthly or quarterly basis, they shall file a tax return and pay taxes to the tax authorities within 15 days from the end of the month or quarter; if taxpayers declare and pay taxes on an occasional basis, they shall file a tax return and pay taxes to the tax authorities within 15 days from the date on which the tax obligation arises.

Article 13 If taxpayers, tax authorities and their staff violate the provisions of this Law, they shall be held legally responsible in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China and relevant laws and regulations.

Article 14 The State Council shall, in accordance with the needs of national economic and social development and in accordance with the principles of this Law, impose a water resource tax on entities and individuals that use surface water or groundwater on a trial basis. If a water resource tax is imposed, the collection of water resource fees shall be stopped.

Water resource tax is implemented at different tax rates based on local water resource conditions, water use types and economic development.

The implementation measures for the water resource tax pilot program shall be formulated by the State Council and submitted to the Standing Committee of the National People's Congress for the record.

Within five years from the date of implementation of this Law, the State Council shall report to the Standing Committee of the National People's Congress on the pilot projects of levying water resource tax and shall promptly put forward suggestions for amending the law.

Article 15 Chinese-foreign joint venture enterprises that exploit onshore and offshore petroleum resources shall pay resource tax in accordance with law.

For Chinese-foreign cooperative exploitation of onshore and offshore petroleum resources contracts that were concluded in accordance with law before November 1, 2011, the mining area usage fee shall continue to be paid during the validity period of the contract in accordance with relevant national regulations, and resource tax shall not be paid; after the expiration of the contract, resource tax shall be paid in accordance with law.

Article 16 The following terms in this Law have the following meanings:

(1) Low-abundance oil and gas fields include onshore low-abundance oil fields, onshore low-abundance gas fields, offshore low-abundance oil fields, and offshore low-abundance gas fields. Onshore low-abundance oil fields refer to oil fields with an abundance of recoverable crude oil reserves of less than 250,000 cubic meters per square kilometer; onshore low-abundance gas fields refer to gas fields with an abundance of recoverable natural gas reserves of less than 250 million cubic meters per square kilometer; offshore low-abundance oil fields refer to oil fields with an

abundance of recoverable crude oil reserves of less than 600,000 cubic meters per square kilometer; offshore low-abundance gas fields refer to gas fields with an abundance of recoverable natural gas reserves of less than 600 million cubic meters per square kilometer.

(2) High-sulfur natural gas refers to natural gas with a hydrogen sulfide content of more than 30 grams per cubic meter.

(3) Tertiary oil recovery refers to the continued oil recovery after secondary oil recovery by means of polymer drive, composite drive, foam drive, alternating gas and water drive, carbon dioxide drive, and microbial drive, among others.

(4) Deepwater oil and gas fields refer to oil and gas fields with water depth exceeding 300 meters.

(5) Heavy oil refers to crude oil whose formation viscosity is greater than or equal to 50 millipascals per second or whose density is greater than or equal to 0.92 grams per cubic centimeter.

(6) High freezing point oil refers to crude oil with a freezing point greater than 40 degrees Celsius.

(7) Exhaustion stage mines refer to mines whose designed mining life exceeds 15 years and whose remaining exploitable reserves have fallen to less than 20 percent of the original designed exploitable reserves or whose remaining mining life does not exceed five years. Exhaustion stage mines are determined by individual mines under the mining enterprise.

Article 17 This Law shall come into force on September 1, 2020. The Resource Tax Provisional Regulations of the People's Republic of China promulgated by the State Council on December 25, 1993, shall be repealed simultaneously.

**Appendix:****Resource Tax Items and Rates Table**

Tax Items			Taxable Objects	Tax Rate
Energy Minerals	Crude		Ore	6%
	Natural gas, shale gas, and natural gas hydrate		Ore	6%
	Coal		Ore or ore dressing	2%-10%
	Coal-formed gas		Ore	1%-2%
	Uranium and thorium		Ore	4%
	Oil shale, oil sands, natural asphalt, and stone coal		Ore or ore dressing	1%-4%
	Geothermal		Ore	1%-20% or Renminbi 1-30 per cubic meter
Metal Minerals	Ferrous Metals	Iron, manganese, chromium, vanadium, and titanium	Ore or ore dressing	1%-9%
	Non-ferrous metals	Copper, lead, zinc, tin, nickel, antimony, magnesium, cobalt, pyrite, and mercury	Ore or ore dressing	2%-10%
		Bauxite	Ore or ore dressing	2%-9%
		Tungsten	Mineral Processing	6.5%
		Molybdenum	Mineral Processing	8%
		Gold and silver	Ore or ore dressing	2%-6%
		Platinum, palladium, ruthenium, coin, iridium, and rhodium	Ore or ore dressing	5%-10%

Tax Items			Taxable Objects	Tax Rate
		Light rare earth	Mineral Processing	7%-12%
		Medium and heavy rare earth	Mineral Processing	20%
		Beryllium, lithium, zirconium, strontium, rubidium, cesium, niobium, tantalum, germanium, gallium, indium, thallium, hafnium, rhenium, cadmium, selenium, and tellurium	Ore or ore dressing	2%-10%

Tax Items			Taxable Objects	Tax Rate
Non-metallic minerals	Minerals	Kaolin	Ore or ore dressing	1%-6%
		Limestone	Ore or ore dressing	1%-6% or Renminbi 1-10 per ton (or per cubic meter)
		Phosphorus	Ore or ore dressing	3%-8%
		Graphite	Ore or ore dressing	3%-12%
		Fluorite, pyrite, and natural sulfur	Ore or ore dressing	1%-8%
		Natural quartz sand, vein quartz, powder quartz, crystal, industrial diamond, Iceland spar, kyanite, sillimanite (sandstone), feldspar, talc, corundum, magnesite, pigment minerals, natural alkali, sodium saltpeter, alunite, arsenic, boron, iodine, bromine, bentonite,	Ore or ore dressing	1%-12%



Tax Items			Taxable Objects	Tax Rate
		diatomaceous earth, ceramic clay, refractory clay, iron bauxite, attapulgite clay, sepiolite clay, illite clay, and rectorite clay		
		Pyrophyllite, wollastonite, diopside, perlite, mica, zeolite, barite, witherite, calcite, vermiculite, tremolite, industrial tourmaline, chalk, asbestos, blue asbestos, andalusite, garnet, and gypsum	Ore or ore dressing	2%-12%
		Other clays (clay for casting, clay for bricks and tiles, clay for ceramsite, clay for cement batching, red clay for cement batching, loess for cement batching, mudstone for cement batching, and clay for thermal insulation materials)	Ore or ore dressing	1%-5% or Renminbi 0.1-5 per ton (or per cubic meter)

Tax Items			Taxable Objects	Tax Rates
	Rocks	Marble, granite, dolomite, quartzite, sandstone, diabase, andesite, diorite, slate, basalt, gneiss, amphibolite, shale, pumice, tuff, obsidian, nepheline syenite, serpentinite, medical stone, marl, potash-bearing rock, potash-bearing sandstone, natural oil stone, peridotite, pitch rock, trachyte, gabbro, pyroxenite, syenite, volcanic ash, volcanic slag, and peat	Ore or ore dressing	1%-10%
		Sand and gravel	Ore or ore dressing	1%-5% or 0.1-5 yuan per ton (or per cubic meter)
	Gemstones	Gemstones, jade, gem-grade diamond, agate, topaz, and tourmaline	Ore or ore dressing	4%-20%
Water,	Carbon dioxide, hydrogen sulfide, helium,		Ore	2%-5%

Tax Items		Taxable Objects	Tax Rates
gas, minerals	and radon		
	Mineral water	Ore	1%-20% or Renminbi 1-30 per cubic meter
Salt	Sodium salt, potassium salt, magnesium salt, and lithium salt	Ore dressing	3%-15%
	Natural brine	Ore	3%-15% or Renminbi 1-10 per ton (or per cubic meter)
	Sea salt		2%-5%

## **Environmental Protection Tax**

## **Environmental Protection Tax Law of the People's Republic of China (2018 Amendment)**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

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Timeliness: Currently in effect

Historical revision records:

Environmental Protection Tax Law of the People's Republic of China [December 25, 2016]

Environmental Protection Tax Law of the People's Republic of China (2018 Amendment) [October 26, 2018]

### **Environmental Protection Tax Law of the People's Republic of China (2018 Amendment)**

(Adopted at the 25th Session of the Standing Committee of the 12th National People's Congress on December 25, 2016, and amended in accordance with the Decision on Amending the Wildlife Protection Law of the People's Republic of China and 15 Other Laws adopted at the 6th Session of the Standing Committee of the 13th National People's Congress on October 26, 2018)

#### **Chapter 1 General Provisions**

Article 1 This Law is formulated to protect and improve the environment, to reduce pollutant emissions, and to promote the construction of ecological civilization.

Article 2 Enterprises, government-affiliated institutions and other producers and operators that directly discharge taxable pollutants into the environment in the People's Republic of China and other sea areas under the jurisdiction of the People's Republic of China shall be taxpayers of environmental protection tax and shall pay environmental protection tax in accordance with the provisions of this Law.

Article 3 The taxable pollutants referred to in this Law refer to the air pollutants, water pollutants, solid wastes and noise specified in the List of Environmental Protection Tax Items and Tax Amounts and the List of Taxable Pollutants and Equivalent Values attached to this Law.

Article 4 Any of the following circumstances shall not be deemed as direct discharge of pollutants into the environment and shall not be subject to environmental protection tax for the corresponding pollutants:

(1) Enterprises, government-affiliated institutions and other producers and operators discharge taxable pollutants into centralized sewage treatment facilities or domestic waste treatment facilities established in accordance with law;

(2) Enterprises, government-affiliated institutions and other producers and operators storing or disposing of solid waste in facilities or places that comply with national and local environmental protection standards.

Article 5 If centralized urban and rural sewage treatment and domestic waste treatment sites established in accordance with law discharge taxable pollutants into the environment in excess of the national and local emission standards, they shall be subject to environmental protection taxes.

Enterprises, government-affiliated institutions and other producers and operators that store or dispose of solid waste that does not comply with national and local environmental protection standards shall pay environmental protection taxes.

Article 6 The tax items and tax amounts of environmental protection tax shall be implemented in accordance with the List of Tax Items and Tax Amounts of Environmental Protection Tax attached to this Law.

The determination and adjustment of the specific applicable tax rates for taxable air pollutants and water pollutants shall be proposed by the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government, taking into account the environmental carrying capacity, pollutant emission status, and economic, social, and ecological development objectives of their respective regions, within the tax rate range specified in the Environmental Protection Tax Items and Rates Table annexed to this Law, and reported to the standing committee of the people's congress at the same level for decision and to the Standing Committee of the National People's Congress and the State Council for the record.

## **Chapter 2 Tax Calculation Basis and Tax Payable**

Article 7 The basis for calculating the tax on taxable pollutants shall be determined in accordance with the following methods:

- (1) Taxable air pollutants shall be determined by the pollution equivalent converted from the pollutant emissions;
- (2) Taxable water pollutants shall be determined by the pollution equivalent converted from the amount of pollutant discharged;
- (3) Taxable solid waste shall be determined according to the amount of solid waste discharged;
- (4) Taxable noise shall be determined by the number of decibels exceeding the national standard.

Article 8 The pollution equivalent of taxable air pollutants and water pollutants shall be calculated by dividing the emission of the pollutants by the pollution equivalent value of the pollutants. The specific pollution equivalent value of each taxable air pollutant and water pollutant shall be implemented in accordance with the Taxable Pollutants and Equivalent Value Table attached to this Law.

Article 9 Taxable air pollutants at each emission outlet or without an emission outlet shall be ranked from largest to smallest according to the pollution equivalent number, and environmental protection tax shall be levied on the first three pollutants.

The taxable water pollutants at each discharge outlet shall be classified into the first category water pollutants and other categories of water pollutants in accordance with the Table of Taxable Pollutants and Equivalent Values annexed to this Law, and ranked from large to small according to the pollution equivalent number. Environmental protection tax shall be levied on the first five items of the first category water pollutants, and on the first three items of other categories of water pollutants.

The people's governments of provinces, autonomous regions, and municipalities directly under the Central Government may, in accordance with the special needs of pollutant emission reduction in their respective regions, increase the number of taxable pollutant items subject to environmental protection tax at the same emission outlet and report to the standing committee of the people's congress at the same level for decision and to the Standing Committee of the National People's Congress and the State Council for record.

Article 10 The emission of taxable air pollutants, water pollutants, solid wastes and the decibel level of noise shall be calculated in accordance with the following method and sequence:

- (1) If a taxpayer installs and uses automatic pollutant monitoring equipment that complies with national regulations and monitoring standards, the calculation shall be based on the automatic pollutant monitoring data;
- (2) If a taxpayer has not installed and used automatic pollutant monitoring equipment, the calculation shall be based on the monitoring data issued by the monitoring agency that complies with relevant national regulations and monitoring specifications;
- (3) If the monitoring conditions are not met because of the large number of pollutants discharged, the pollutant discharge coefficient and material balance method prescribed by the competent ecological and environmental department of the State Council shall be used for calculation;
- (4) If the amount cannot be calculated using the methods specified in Items (1) to (3) of this Article, it shall be determined and calculated using the sampling and measurement methods specified by the competent ecological and environmental department of the people's governments of provinces, autonomous regions, and municipalities directly under the Central Government.

Article 11 The environmental protection tax payable shall be calculated in accordance with the following method:

- (1) The tax payable for taxable air pollutants is the pollution equivalent multiplied by a specific applicable tax amount;

(2) The tax payable for taxable water pollutants is the pollution equivalent multiplied by a specific applicable tax amount;

(3) The tax payable for taxable solid waste is the amount of solid waste discharged multiplied by a specific applicable tax amount;

(4) The tax payable for taxable noise is the specific applicable tax amount corresponding to the number of decibels exceeding the national standard.

### **Chapter 3 Tax Reduction and Exemption**

Article 12 The following circumstances shall be temporarily exempt from environmental protection tax:

(1) Agricultural production (excluding large-scale breeding) discharges taxable pollutants;

(2) Mobile pollution sources such as motor vehicles, railway locomotives, non-road mobile machinery, ships and aircraft that emit taxable pollutants;

(3) The discharge of corresponding taxable pollutants from centralized urban and rural sewage treatment and centralized domestic waste treatment sites established in accordance with law does not exceed the discharge standards prescribed by the country and local governments;

(4) The solid wastes comprehensively utilized by taxpayers meet the national and local environmental protection standards;

(5) Other circumstances where tax exemption is approved by the State Council.

The tax exemption provisions under Item (5) of the preceding paragraph shall be reported by the State Council to the Standing Committee of the National People's Congress for the record.

Article 13 If the concentration of taxable air pollutants or water pollutants discharged by taxpayers is 30 percent less than the national and local pollutant emission standards, the environmental protection tax shall be reduced to 75 percent. If the concentration of taxable air pollutants or water pollutants discharged by taxpayers is 50 percent less than the national and local pollutant emission standards, the environmental protection tax shall be reduced to 50 percent.

### **Chapter 4 Collection Administration**

Article 14 The environmental protection tax shall be collected and administered by the tax authorities in accordance with the Tax Collection and Administration Law of the People's Republic of China and the relevant provisions of this Law.

The competent ecological and environmental department shall be responsible for monitoring and managing pollutants in accordance with the provisions of this Law and relevant environmental protection laws and regulations.

Local people's governments at or above the county level shall establish a working mechanism for division of labor and cooperation among tax authorities, competent ecological and environmental department and other relevant entities, strengthen the collection and administration of environmental protection taxes, and ensure that taxes are collected in a timely and full manner.

Article 15 The competent ecological and environmental department and tax authorities shall establish a tax-related information sharing platform and work coordination mechanism.

The competent ecological and environmental department shall regularly submit to the tax authorities the pollutant discharge permits, pollutant emission data, environmental violations and administrative penalties of pollutant discharge entities and other environmental protection related information.

The tax authorities shall regularly submit to the competent ecological and environmental department information related to environmental protection tax, such as taxpayers' tax returns, tax deposits, tax exemptions and reductions, unpaid taxes and risk points.

Article 16 The time when tax obligations arise is the day when the taxpayer discharges taxable pollutants.

Article 17 Taxpayers shall declare and pay environmental protection taxes to the tax authorities at the places where taxable pollutants are discharged.

Article 18 Environmental protection tax shall be calculated on a monthly basis and declared and paid on a quarterly basis. If it is not possible to calculate and pay on a fixed basis, it may be declared and paid on a per-time basis.

When taxpayers declare and pay taxes, they must report to the tax authorities the types and quantities of taxable pollutants they emit, the concentrations of air pollutants and water pollutants, and other tax information that the tax authorities require taxpayers to report based on actual needs.

Article 19 Taxpayers that file and pay taxes on a quarterly basis shall file and pay taxes to the tax authorities within 15 days from the end of the quarter. Taxpayers that file and pay taxes on an occasional basis shall file and pay taxes to the tax authorities within 15 days from the date on which the tax obligation arises.

Taxpayers shall file tax returns truthfully in accordance with law and shall be responsible for the authenticity and completeness of their returns.

Article 20 The tax authorities shall compare the taxpayers' tax declaration data with the relevant data submitted by the competent ecological and environmental department.

If the tax authorities find that a taxpayer's tax return data is abnormal or that a taxpayer fails to file a tax return within the prescribed time limit, they may request the



competent ecological and environmental department to conduct a review. The competent ecological and environmental department shall issue a review opinion to the tax authorities within 15 days from the date of receipt of the data from the tax authorities. The tax authorities shall adjust the taxpayer's tax payable in accordance with the data reviewed by the competent ecological and environmental department.

Article 21 Where the amount of pollutant emissions is to be determined and calculated in accordance with the provisions of Paragraph 4 of Article 10 of this Law, the tax authorities shall determine the types, quantities and taxable amounts of pollutant emissions jointly with the competent ecological and environmental department.

Article 22 The specific methods for taxpayers engaged in marine engineering projects to declare and pay environmental protection taxes for discharging taxable air pollutants, water pollutants or solid wastes into the sea areas under the jurisdiction of the People's Republic of China shall be formulated by the taxation department of the State Council in conjunction with the competent ecological and environmental department of the State Council.

Article 23 If taxpayers, tax authorities, competent ecological and environmental department and their staff violate the provisions of this Law, they shall be held legally responsible in accordance with the provisions of the Tax Collection and Administration Law of the People's Republic of China, the Environmental Protection Law of the People's Republic of China and relevant laws and regulations.

Article 24 People's governments at all levels shall encourage taxpayers to increase their investment in environmental protection and provide financial and policy support to taxpayers' investment in automatic pollutant monitoring equipment.

## **Chapter 5 Supplementary Provisions**

Article 25 The following terms in this Law have the following meanings:

(1) Pollution equivalent refers to a comprehensive indicator or unit of measurement that measures the environmental pollution caused by different pollutants based on the degree of harm to the environment caused by the pollutants or pollution emission activities and the technical and economic feasibility of treatment. Different pollutants with the same pollution equivalent in the same medium have basically the same degree of pollution.

(2) Pollutant emission coefficient refers to the statistical average amount of pollutants that shall be emitted per unit of product produced under normal technical, economic and management conditions.

(3) Material balance refers to a method of measuring the raw materials used, products produced and wastes generated in the production process based on the principle of conservation of mass.

Article 26 Enterprises, government-affiliated institutions and other producers and operators that directly discharge taxable pollutants into the environment shall bear

legal liability for the damages caused, in addition to paying environmental protection taxes in accordance with the provisions of this Law.

Article 27 From the date of implementation of this Law, environmental protection tax shall be levied in accordance with the provisions of this Law, and pollution discharge fees shall no longer be levied.

Article 28 This Law shall come into force on January 1, 2018.

### **Schedule 1: Environmental Protection Tax Items and Tax Amounts Table**

Tax Items		Tax Unit	Tax	Remark
Air pollutants		Each pollution equivalent	Renminbi 1.2 to 12	
Water pollutants		Each pollution equivalent	Renminbi 1.4 to 14	
Solid waste	Coal Gangue	Per ton	Renminbi 5	
	Tailings	Per ton	Renminbi 15	
	Hazardous waste	Per ton	Renminbi 1000	
	Smelting slag, fly ash, slag, and other solid waste (including semi-solid and liquid waste)	Per ton	Renminbi 25	
Noise	Industrial noise	Exceeding the standard by 1-3 decibels	Renminbi 350 per month	1. If there are multiple noise levels exceeding the standard on the boundary of a unit, the tax payable will be calculated on the basis of the greatest noise level exceeding the standard; if there are more than two noise levels exceeding the standard along the boundary with a length of more than 100 meters, the tax payable
		Exceeding the standard by 4-6 decibels	Renminbi 700 per month	
		Exceeding the standard by 7-9 decibels	Renminbi 1400 per month	

		Exceeding the standard by 10-12 decibels	Renminbi 2800 per month	will be calculated on the basis of two units.
		Exceeding the standard by 13-15 decibels	Renminbi 5600 per month	2. If an entity has workplaces in different locations, the tax payable shall be calculated separately and levied on a combined basis.
		Exceeding the standard by more than 16 decibels	Renminbi 11200 per month	3. If the environmental noise level exceeds the standard both during the day and at night, the tax payable shall be calculated separately for the day and night and levied cumulatively.  4. If the noise source exceeds the standard for less than 15 days in a month, the tax payable shall be calculated at half the rate.  5. For frequent or occasional noise exceeding the standard at the factory boundary at night, the tax payable shall be calculated on the basis of the greater decibel value of the equivalent sound level or the peak noise.

## Schedule 2: Table of Taxable Pollutants and Equivalent Values

### I. Pollution Equivalent Values of the First Category of Water Pollutants

Pollutants	Pollution Equivalent Value (kg)
1. Total Mercury	0.0005
2. Total Cadmium	0.005
3. Total Chromium	0.04
4. Hexavalent chromium	0.02
5. Total Arsenic	0.02
6. Total Lead	0.025
7. Total Nickel	0.025
8. Benzo (a) pyrene	0.0000003
9. Total Beryllium	0.01
10. Total Silver	0.02

### II. Pollution Equivalent Values of the Second Category of Water Pollutants

Pollutants	Pollution Equivalent Value (kg)	Remark
11. Suspended solids (SS)	4	
12. Biochemical oxygen demand (BODs)	0.5	Only one item of chemical oxygen demand, biochemical oxygen demand and total organic carbon in the same discharge outlet will be levied.
13. Chemical oxygen demand (COD <sub>Cr</sub> )	1	
14. Total Organic Carbon (TOC)	0.49	
15. Petroleum	0.1	

Pollutants	Pollution Equivalent Value (kg)	Remark
16. Animal and vegetable oils	0.16	
17. Volatile phenol	0.08	
18. Total Cyanide	0.05	
19. Sulfide	0.125	
20. Ammonia nitrogen	0.8	
21. Fluoride	0.5	
22. Formaldehyde	0.125	
23. Anilines	0.2	
24. Nitrobenzene	0.2	
25. Anionic surfactant (LAS)	0.2	
26. Total Copper	0.1	
27. Total Zinc	0.2	
28. Total manganese	0.2	
29. Color developer (CD-2)	0.2	
30. Total phosphorus	0.25	
31. Elemental phosphorus (measured in P)	0.05	
32. Organophosphorus pesticides (measured in P)	0.05	
33. Dimethoate	0.05	
34. Methyl parathion	0.05	
35. Malathion	0.05	
36. Parathion	0.05	
37. Pentachlorophenol and sodium pentachlorophenol (calculated as pentachlorophenol)	0.25	
38. Chloroform	0.04	

Pollutants	Pollution Equivalent Value (kg)	Remark
39. Adsorbable organic halides (AOX) (measured in Cl)	0.25	
40. Carbon tetrachloride	0.04	
41. Trichloroethylene	0.04	
42. Perchloroethylene	0.04	
43. Benzene	0.02	
44. Toluene	0.02	
45. Ethylbenzene	0.02	
46. O-Xylene	0.02	
47. Para-Xylene	0.02	
48. Meta-Xylene	0.02	
49. Chlorobenzene	0.02	
50. O-Dichlorobenzene	0.02	
51. P-Dichlorobenzene	0.02	
52. P-Nitrochlorobenzene	0.02	
53. 2,4-Dinitrochlorobenzene	0.02	
54. Phenol	0.02	
55. M-Cresol	0.02	
56. 2, 4-Dichlorophenol	0.02	
57. 2, 4, 6-Trichlorophenol	0.02	
58. Dibutyl phthalate	0.02	
59. Dioctyl phthalate	0.02	
60. Acrylonitrile	0.125	
61. Total Selenium	0.02	

### III. pH Value, Chromaticity, Coliform Count, Residual Chlorine Content, Water Pollutant Pollution Equivalent Value

Pollutants		Pollution Equivalent Value	Remark
1. pH Value	1. 0-1,13-14	0.06 tons of sewage	pH value 5-6 means greater than or equal to 5 and less than 6;  pH value of 9-10 means greater than 9 and less than or equal to 10, and so on.
	2. 1-2,12-13	0.125 tons of sewage	
	3. 2-3,11-12	0.25 tons of sewage	
	4. 3-4,10-11	0.5 tons of sewage	
	5. 4-5,9-10	1 ton of sewage	
	6. 5-6	5 tons of sewage	
2. Chroma		5 tons of water times	
3. Coliform count (exceeding the standard)		3.3 tons of sewage	Only one of the two items, coliform count and residual chlorine, is levied.
4. Residual chlorine (hospital wastewater disinfected with chlorine)		3.3 tons of sewage	

### IV. Pollution Equivalent Values of Water Pollutants From Livestock and Poultry Farming, Small Enterprises and the Tertiary Industry (this table is only applicable to the calculation of water pollutant pollution equivalent values of small polluters such as livestock and poultry farming, small enterprises and the tertiary industry where actual monitoring or material balance cannot be carried out)

Type		Pollution Equivalent Value	Remark
Livestock farms	1. Cow	0.1 head	It is only levied on poultry and livestock farms with a stock size of more than 50 cattle, 500 pigs, and 5,000 chickens and ducks, among others.
	2. Pig	1 head	
	3. Poultry such as chickens and ducks	30 birds	
4. Small Business		1.8 tons of	

Type		Pollution Equivalent Value	Remark
		sewage	
5. Catering and entertainment services		0.5 tons of sewage	
6. Hospital	Disinfect	0.14 bed	For hospitals with more than 20 beds, the pollution equivalent number shall be calculated according to this table.
		2.8 tons of sewage	
	No disinfection	0.07 bed	
		1.4 tons of sewage	

#### V. Pollution Equivalent Values of Air Pollutants

Pollutants	Pollution Equivalent Value (kg)
1. Sulfur dioxide	0.95
2. Nitrogen oxides	0.95
3. Carbon monoxide	16.7
4. Chlorine	0.34
5. Hydrogen chloride	10.75
6. Fluoride	0.87
7. Hydrogen cyanide	0.005
8. Sulfuric acid mist	0.6
9. Chromic acid mist	0.0007
10. Mercury and its compounds	0.0001
11. General dust	4
12. Asbestos dust	0.53
13. Glass wool dust	2.13
14. Carbon black dust	0.59



Pollutants	Pollution Equivalent Value (kg)
15. Lead and its compounds	0.02
16. Cadmium and its compounds	0.03
17. Beryllium and its compounds	0.0004
18. Nickel and its compounds	0.13
19. Tin and its compounds	0.27
20. Smoke	2.18
21. Benzene	0.05
22. Toluene	0.18
23. Xylene	0.27
24. Benzo (a) pyrene	0.000002
25. Formaldehyde	0.09
26. Acetaldehyde	0.45
27. Acrolein	0.06
28. Methanol	0.67
29. Phenols	0.35
30. Asphalt fume	0.19
31. Anilines	0.21
32. Chlorobenzenes	0.72
33. Nitrobenzene	0.17
34. Acrylonitrile	0.22
35. Vinyl chloride	0.55
36. Phosgene	0.04
37. Hydrogen sulfide	0.29
38. Ammonia	9.09
39. Trimethylamine	0.32

Pollutants	Pollution Equivalent Value (kg)
40. Methyl mercaptan	0.04
41. Methyl sulfide	0.28
42. Dimethyl disulfide	0.28
43. Styrene	25
44. Carbon disulfide	20

## **Tobacco Tax**

## **Tobacco Tax Law of the People's Republic of China**

Level of validity: Law

Issuing authority: Standing Committee of the National People's Congress

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Tobacco Tax Law of the People's Republic of China

Chairman Order 84

The Tobacco Tax Law of the People's Republic of China was adopted at the 31st meeting of the Standing Committee of the 12th National People's Congress of the People's Republic of China on December 27, 2017, and is hereby promulgated and shall come into force on July 1, 2018.

Xi Jinping, Chairman of the People's Republic of China

December 27, 2017

### **Tobacco Tax Law of the People's Republic of China**

(Adopted at the 31st Session of the Standing Committee of the 12th National People's Congress on December 27, 2017)

Article 1 An entity that purchases tobacco leaves in the People's Republic of China in accordance with the provisions of the Tobacco Monopoly Law of the People's Republic of China shall be a taxpayer of tobacco tax. Taxpayers shall pay tobacco tax in accordance with the provisions of this Law.

Article 2 Tobacco leaves as mentioned in this Law refer to flue-cured tobacco leaves and sun-dried tobacco leaves.

Article 3 The basis for calculating the tobacco tax is the total amount actually paid by the taxpayer for the purchase of tobacco leaves.

Article 4 The tax rate for tobacco leaves is 20 percent.

Article 5 The amount of tobacco tax shall be calculated by multiplying the total price actually paid by the taxpayer for the purchase of tobacco leaves by the tax rate.

Article 6 Tobacco tax shall be collected and administered by the tax authorities in accordance with the relevant provisions of this Law and the Tax Collection and Administration Law of the People's Republic of China.

Article 7 Taxpayers shall declare and pay tobacco tax to the competent tax authorities in the place where tobacco leaves are purchased.

Article 8 The obligation of tobacco tax arises on the day when the taxpayer purchases the tobacco leaves.

Article 9 Tobacco tax shall be levied on a monthly basis. Taxpayers shall declare and pay the tax within 15 days from the end of the month in which the tax obligation arises.

Article 10 This Law shall come into force on July 1, 2018. The Tobacco Tax Provisional Regulations of the People's Republic of China promulgated by the State Council on April 28, 2006, shall be repealed simultaneously.