

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

*Decree of the President of the People's Republic of China*

*No. 63*

*The Corporate Income Tax Law of the People's Republic of China, adopted at the 5th Session of the 10th National People's Congress of the People's Republic of China on March 16 2007, is now promulgated and shall become effective as of January 1 2008.*

*President of the People's Republic of China: HU Jintao*

*March 16 2007*

### **Chapter I - General Provisions**

Article 1. Enterprises and other organisations that have income inside the People's Republic of China (hereinafter referred to as "enterprises" are taxpayers of corporate income tax, and shall pay corporate income tax in accordance with the provisions of this law.

This law is not applicable to solely funded enterprises and partnership enterprises.

Article 2. Enterprises are classified as resident enterprises and non resident enterprises.

Resident enterprises mentioned in this law refer to enterprises that are set up according to law inside China or in accordance with laws of foreign countries or regions but with actual management institutions inside China.

Non-resident enterprises in this law refer to enterprises that are established in accordance with laws of foreign countries or regions, without actual management institutions inside China, but have set up institutions or business outlets inside China, or have income generated from within China though without institutions or outlets inside China.

Article 3. Resident enterprises shall pay corporate income tax on their incomes generated from within China as well as from abroad.

Non-resident enterprises that have set up agencies or outlets inside China shall pay corporate income tax on income generated by their agencies or outlets from within China as well as incomes that have been generated from abroad but with actual connections with the agencies and outlets set up inside China.

Non-resident enterprises that have not established agencies or outlets inside China, or have set up agencies or outlets inside China but the incomes generated have no actual connections with the agencies or outlets set up, shall pay corporate income on the incomes generated from within China.

Article 4. The tax rate of corporate income tax is 25%.

The applicable rate is 20% for incomes obtained by non-resident enterprises as mentioned in paragraph 3 of article 3 of this law.

### **Chapter II - Taxable Incomes**

Article 5. The taxable incomes of an enterprise during each taxable year is equal to the total incomes minus incomes exempted from taxation, tax-free incomes, various deductibles, and the amount used to make up the losses of the previous years.

Article 6. Income generated by enterprises in the form of currencies and non-currency from various sources is considered total income, which includes:

1. incomes from sales of commodities
2. incomes from provision of labour services,
3. incomes from transfer of property,
4. investment gains from shares and dividends,
5. incomes from interest
6. incomes from rental,
7. incomes from royalties,
8. incomes from accepting donations,
9. other incomes.

Article 7. The following incomes included in the total incomes are deemed as incomes exempted from taxation:

1. fiscal allocation
2. obtained according to law and included into fiscal management as fees collected for administration purposes and government funds,
3. other incomes specified by the State Council as exempted from taxation.

Article 8. Expenditures of enterprises that take place and are related to the obtaining of incomes, including cost, fees, duties, losses and other expenses may be deducted from the taxable incomes, provided that they are reasonable.

Article 9. Expenditures in the form of welfare donations on the part of enterprises can be deducted from the taxable incomes so long as they are within 12% of the total profits of the year.

Article 10. The following expenditures shall not be deducted in the calculation of taxable incomes:

1. investment gains paid to investors, such as share interest, dividends, etc,
2. corporate income tax,
3. overdue charges of taxation,
4. fines, and losses caused by properties confiscated,
5. expenditure in the form of donation beyond what is specified in article 9 of this law,
6. sponsoring expenditure,
7. expenditure of reserve that has not been verified,
8. other expenditures that are not related to the obtaining of incomes.

Article 11. The depreciation of fixed assets calculated as per regulations by the enterprises at the time of calculating taxable incomes can be deducted.

The following fixed assets shall not be included in the calculation of depreciation and deduction:

1. fixed assets that have not been used, except houses and buildings,
2. fixed assets rented in the form of operational leasing,
3. fixed assets rented out in the form of financing leasing,
4. fixed assets for which the full amount of depreciation is withdrawn and are still in use,
5. fixed assets having no relationship to the operational activities,
6. land calculated separately and entered as fixed assets,
7. other fixed assets that can not be included in the calculation of depreciation and deduction.

Article 12. When calculating taxable incomes, the amortization fees of intangible assets calculated by enterprises as per related regulations can be deducted.

The following intangible assets can not be included in the deduction of amortization fees:

1. intangible assets developed independently for which the expenditure has been included and deducted at the time of calculating taxable incomes,
2. self founded commercial reputation,
3. intangible assets that are not related to business operations,
4. other intangible assets that can not be included in the calculation of deduction of amortization fees.

Article 13. When calculating taxable incomes, the following expenditures of enterprises, considered as long term amortization fees and having been amortized per related regulations, are allowed to be deducted:

1. expenditure for renovation and building of fixed assets for which the full amount of depreciation has been withdrawn,
2. expenditure for renovation and building of leased fixed assets,
3. expenditure for overhaul of fixed assets,
4. other expenditure that should be considered as long term amortization fees.

Article 14. The cost of investment assets can not deducted at the time of calculating taxable incomes when enterprises are making overseas investment.

Article 15. In cases where enterprises use or sell inventories and calculate the cost of inventories per related regulations, such cost can be deducted at the time of calculating taxable incomes.

Article 16. At the time of transferring assets, the net value of the assets can be deducted at the time of calculating taxable incomes.

Article 17. At the time of gathering and calculating the taxable corporate incomes, the enterprises shall not use losses incurred by their overseas branches to offset the gains of domestic branches.

Article 18. Losses incurred by an enterprise during one taxable year are allowed to be settled and transferred to subsequent years and made up with incomes from subsequent years. However, the duration of settlement and transfer can not be longer than 5 years.

Article 19. For incomes obtained by non-resident enterprises as mentioned in paragraph 3 of article 3 of this law, the following method shall be used to calculate the taxable incomes:

1. dividends, bonus and other investment gains as well as interest, rentals, royalty incomes are taxable incomes in full amount,
2. for incomes from transfer of properties, the taxable incomes shall be the balance between the total incomes and the net value of the property,
3. for other incomes, the methods mentioned in the previous two paragraphs shall serve as a reference for the calculation of taxable incomes.

Article 20. Detailed measures governing the specific scope and standards for the incomes and deductions as well as taxation treatment of assets as mentioned in this chapter shall be separately worked out by the fiscal and taxation authorities under the State Council.

Article 21. At the time of calculating taxable incomes, when the methods of corporate finances or accounting are not in line with the provisions of the taxation laws or administrative regulations, the provisions of the taxation laws or administrative regulations shall prevail.

### **Chapter III - Tax Payable**

Article 22. The taxable incomes of an enterprise multiplied by the applicable rates, minus various deductibles and exemptions as per the provisions of this law on taxation preferences shall be the tax payable.

Article 23. In cases where the following incomes obtained by enterprises have paid income tax abroad, they can serve as the creditable amount in the tax payable during the same period, and the creditable quota is up to the amount of tax payable on the incomes calculated according to this law. For the extra part that exceeds the creditable quota, the balance between creditable quota and the creditable amount every year can be used as the creditable amount on a yearly basis during the subsequent five years:

1. taxable incomes of resident enterprises from outside China,
2. taxable incomes obtained by non-resident enterprises that have set up agencies or outlets inside China from outside China, but having actual connections with the agencies or outlets set up inside China.

Article 24. For investment gains, including stock dividends and bonuses, obtained by resident enterprises from foreign enterprises under their direct or indirect control outside China and in cases where the income tax actually paid by foreign enterprises outside China is paid on the incomes thus generated, the income tax paid will be deemed as overseas creditable tax of the resident enterprise and used for credit purposes within the creditable quota as specified in article 23 of this law.

### **Chapter IV - Preferential Treatment of Taxation**

Article 25. The State grants preferential treatment of corporate income tax to industries and projects that the State supports and encourages for development.

Article 26. The following incomes of enterprises are classified as tax-free incomes:

1. incomes from the interest of T-bonds,

2. stock dividends, bonuses and other equity type investment gains between resident enterprises that meet certain terms and conditions,

3. stock dividends, bonuses and other equity type investment gains obtained by non-resident enterprises that have set up agencies or outlets inside China from resident enterprises with actual connections with the agencies or outlets set up,

4. incomes generated by non-profit-making enterprises that meet certain terms and conditions.

Article 27. The following incomes of enterprises may be exempted from corporate income tax or be eligible for reduced corporate income tax:

1. incomes from engaging in agricultural, forestry, husbandry, and fishing projects,

2. incomes generated from engaging in the investment and management of public infrastructural projects and facilities supported specifically by the State,

3. incomes generated from engaging in environmental protection, energy conservation and water conservation projects that meet certain terms and conditions, incomes from transfer of technology that meet certain terms and conditions,

4. incomes specified in paragraph 3 of article 3 of this law.

Article 28. Small scale and low profit making enterprises that meet certain terms and conditions are eligible for 20% corporate income tax rate.

New and Hi-tech enterprises that the State needs to support specifically are eligible for 15% corporate income tax rate.

Article 29. The autonomous authorities in places that exercise ethnic autonomy may decide to grant reduced tax rate to or exempt enterprises operating in their respective administrative regions from paying part of the corporate income tax that will go to the local governments. In cases where the states and prefectures decide to do so, they shall report such decisions to the people's governments at the provincial, municipal and autonomous region level for approval.

Article 30. The following expenditures of enterprises may be deducted on a cumulative basis at the time of calculating taxable incomes:

1. research and development expenditure for developing new technology, new products, and new techniques,

2. salaries paid to allocate the disabled as well as other people for employment as encouraged by the State.

Article 31. Start-up investment enterprises engaging in the venture investment that is supported and encouraged specifically by the State may be entitled to the treatment of deducting a certain percentage of income tax from the total investment.

Article 32. In cases where the fixed assets of enterprises need to be depreciated at a faster rate due to reasons of technological advances, the method of shortening the depreciation period or accelerated depreciation may be employed.

Article 33. Incomes generated from enterprises comprehensive use of resources to produce products that conform to the provisions of the country's industrial policies may be deducted from the taxable incomes at the time of calculation.

Article 34. Investment used by enterprises to purchase special equipment for the purpose of environmental protection, energy and water conservation, safety production, and other purposes may be used as creditable amount at a certain percentage.

Article 35. Detailed measures on preferential taxation treatment as mentioned in this law shall be worked out separately by the State Council.

Article 36. The State Council may draft specific preferential policies regarding corporate income tax in view of the need of the national economic and social development or in the case of major impact on enterprises operational activities cast by emergencies, and submit them for record filing with the Standing Committee of the National People's Congress.

## **Chapter V - Taxation at Source**

Article 37. Income tax on incomes of non-resident enterprises as mentioned in paragraph 3 of article 3 of this law shall be deducted from the source, and the payer shall be the withholding agent. The tax shall be withheld by the withholding agent from the payment or payable amount at the time of each payment.

Article 38. For income tax on incomes obtained by non-resident enterprises from engineering and labour services inside China, the taxation authority may designate the party that pays the engineering projects or labour services as withholding agent.

Article 39. For income tax to be withheld as specified in articles 37 and 38, in cases where the withholding agent fails to withhold according to law or is unable to perform the obligations of withholding, the taxpayer shall pay tax at the place of income generation. In cases where the taxpayer fails to pay tax according to law, the taxation authority may reclaim from the taxpayer the tax payable from the payables under other items of incomes inside China.

Article 40. Taxes withheld by the withholding agent each time shall be paid to the Treasury within 7 days, starting from the day of withholding, and the withholding agent shall submit to the local taxation authority a statement regarding the withholding of corporate income tax.

### **Chapter VI - Adjustment to Special Taxation**

Article 41. In cases where the business operations between an enterprise and its associated parties do not conform to the principles of independent transaction, which results in the reduction of the taxable incomes or tax payable on the part of the enterprise or its associated parties, the taxation authorities shall have the right to introduce adjustments according to reasonable methods.

In cases where an enterprise develops or accepts intangible assets jointly with its associated parties or provides and accepts labour costs jointly with its associated parties, amortization shall be undertaken according to the principle of independent transaction at the time of calculating taxable incomes.

Article 42. Enterprises may propose to the taxation authorities the pricing principles and calculation methods regarding its business operations with associated parties, and the taxation authorities shall consult and confirm with the enterprises before arriving at a pre-arrangement for pricing.

Article 43. Enterprises in submitting statements declaring annual corporate income tax to the taxation authorities shall provide statements regarding the annual business operations with their associated parties.

When taxation authorities conduct investigations into the associated business operations, the enterprises and their associated parties as well as other enterprises related to the investigations shall provide relevant information as requested.

Article 44. In cases where enterprises fail to provide information regarding the business operations with their associated parties or provide false or incomplete information, unable to reflect genuinely the business operations with associated parties, the taxation authorities shall have the right to verify and arrive at the taxable incomes according to law.

Article 45. In cases where enterprises set up by resident enterprises or under the control of resident enterprises and Chinese residents in countries or regions where the actual tax burden is significantly lower than what is specified in paragraph 1 of article 4 of this law do not distribute profits or reduce the distribution of profits not out of reasonable operational needs, the profits that belong to the resident enterprises mentioned above shall be included as the period income of the resident enterprises.

Article 46. In cases where the percentage of credit type investment and equity type investment received by an enterprise from its associated parties exceeds the specified ratio, the interest expenditure thus caused shall not be deducted at the time of calculation of taxable incomes.



Article 47. In cases where enterprises make other arrangements that do not have reasonable commercial purposes, which results in the reduction in the taxable incomes or tax payable, the taxation authorities shall have the right to make adjustment with reasonable methods.

Article 48. In cases where taxation authorities make taxation adjustment per the provisions of this chapter, and there is a need for reclaim of taxes, such taxes shall be reclaimed, and interest shall be charged as well according to the regulations of the State Council.

### **Chapter VII - Taxation Administration**

Article 49. Taxation administration of corporate income tax shall, in addition to what is specified in this law, be conducted in line with the provisions of the Taxation Administration Law of the People's Republic of China.

Article 50. Unless otherwise specified in taxation laws and administrative regulations, the taxation location of a resident enterprise shall be the place of registration of the enterprise. For enterprises with registration location abroad, the taxation location shall be the place where the actual management institutions are located.

In cases where resident enterprises set up operational branches inside China that do not have legal person status, the corporate income tax shall be calculated and paid in an aggregate manner.

Article 51. For incomes generated by non-resident enterprises as mentioned in paragraph 2 of article 3 of this law, the place where the agency or outlet is located is the place of taxation. In cases where a non-resident enterprise sets up two or more agencies or outlets inside China, upon the examination and approval by the taxation authorities, the enterprise may choose to have its principal agency or outlet pay the corporate income tax in an aggregate manner.

For incomes obtained by non-resident enterprises as mentioned in paragraph 3 of article 3 of this law, the place where the withholding agent is located is considered the taxation location.

Article 52. Unless otherwise specified by the State Council, enterprises shall not combine and pay corporate income tax.

Article 53. Corporate income tax is calculated on the basis of a taxable year and a taxation year is between January 1 and December 31 of a calendar year.

In cases where an enterprise starts business or terminates operations in the middle of a taxation year, which results in the actual operational period during a taxation year being less than 12 months, the actual period of operation shall be taken as a taxation year.

When an enterprise conducts liquidation according to law, the liquidation period will be deemed as a taxation year.

Article 54. Corporate income tax shall be paid on a monthly basis or quarterly basis.

Enterprises shall submit to the taxation authority taxation declaration for the pre-payment of corporate income tax and pay taxes in advance within 15 days upon the end of each month or quarter.

Enterprises shall, within 5 months upon the completion of each year, submit to the taxation authority annual taxation declaration of corporate income tax and pay taxes, calculate the exact amount of taxes to pay, and pay the full amount payable or get back the amount refundable.

Enterprises in submitting annual taxation declaration of corporate income tax shall submit the financial and accounting statements and other related materials as requested.

Article 55. In cases where an enterprise terminates operations in the middle of the year, it shall, within 60 days upon the day of termination of the actual operations, handle the calculation and payment of the period corporate income tax with the taxation authority.

An enterprise, before handling the writing off of its registration, shall declare to the taxation authority regarding its incomes from liquidation and pay corporate income tax according to law.

Article 56. Corporate income tax paid in accordance with this law shall be calculated in RMB Yuan. In cases where the incomes are calculated in currencies other than RMB, conversion into RMB shall be done at the time of calculation and payment of taxes.

### **Chapter VIII - Supplementary Articles**

Article 57. Enterprises established upon approval before the promulgation of this law that are entitled to low tax rates as preferential treatment per the taxation laws and administrative regulations at that time shall transfer to the tax rates specified in this law within 5 years upon the entry into force of this law. In cases where they are entitled to preferential taxation treatment, such as exemption or reduction within a specified period of time, they may continue to do so up to the expiry per the regulations of the State Council after the entry into force of this law. However, for those that have not enjoyed the preferential treatment due to the reasons of failure to make profits, the preferential treatment period shall be calculated according to the year when this law becomes effective.

For special areas developed according to laws for the purpose of promoting foreign economic cooperation and technological exchanges, as well as new and high technology enterprises newly set up that the State deems necessary to support specifically in areas that are entitled to the exercise of special policies as mentioned above per the regulations of the State Council, they are eligible for transitional preferential taxation treatment, and the detailed measures shall be worked out by the State Council.

Other enterprises within the categories of being encouraged as identified by the State may be granted preferential taxation treatment of exemption or reduced rate per the regulations of the State Council.

Article 58. In cases where there are different provisions between this law and the agreements on taxation signed between the government of the People's Republic of China and foreign governments, the provisions of such agreements shall prevail.

Article 59. The State Council shall draft the implementation regulations for this law.

Article 60. This law shall enter into force as of January 1 2008. The Corporate Income Tax Law of the People's Republic of China on Foreign Invested Enterprises and Foreign Enterprises adopted at the 4th Session of the 7th National People's Congress on April 9 1991 and the Provisional Regulations of the People's Republic of China on Corporate Income Tax released by the State Council on December 13 1993 shall be abolished at the same time.