

中华人民共和国企业所得税法实施条例 (2019修订)

Implementation Regulations for the Corporate Income Tax Law of the People's Republic of China (Revised in 2019)

发文机关： 国务院
发布日期： 2019.04.23
生效日期： 2019.04.23
时效性： 现行有效

Promulgation Authorities: State Council
Promulgation Date: 2019.04.23
Effective Date: 2019.04.23
Validity Status: valid

中华人民共和国企业所得税法实施条例

Implementation Regulations for the Corporate Income Tax Law of the People's Republic of China (Revised in 2019)

第一章 总则

Chapter 1 General Principles

第一条

Article 1 These Regulations are formulated pursuant to the provisions of the Corporate Income Tax Law of the People's Republic of China (hereinafter referred to as the "Corporate Income Tax Law").

根据《中华人民共和国企业所得税法》(以下简称企业所得税法)的规定,制定本条例。

第二条

Article 2 Enterprises wholly-owned by an individual and partnership enterprises referred to in Article 1 of the Corporate Income Tax Law shall mean enterprises wholly-owned by an individual and partnership enterprises established pursuant to the laws and administrative regulations of China.

企业所得税法第一条所称个人独资企业、合伙企业,是指依照中国法律、行政法规成立的个人独资企业、合伙企业。

第三条

Article 3 Enterprises incorporated in China pursuant to the law referred to in Article 2 of the Corporate Income Tax Law shall include enterprises, institutions and social bodies and other organisations established in China pursuant to the laws and administrative regulations of China which derive income.

企业所得税法第二条所称依法在中国境内成立的企业,包括依照中国法律、行政法规在中国境内成立的企业、事业单位、社会团体以及其他取得收入的组织。

企业所得税法第二条所称依照外国(地区)法律成立的企业,包括依照外国(地区)法律成立的企业和其他取得收入的组织。

第四条

Enterprises incorporated pursuant to the laws of foreign countries (regions) referred to in Article 2 of the Corporate Income Tax Law shall include enterprises and other organisations established pursuant to the laws of foreign countries (regions) which derive income.

企业所得税法第二条所称实际管理机构,是指对企业的生产经营、人员、账务、财产等实施实质性全面管理和控制的机构。

第五条

Article 4 Actual management organisations referred to in Article 2 of the Corporate Income Tax Law shall mean organisations implementing substantive and comprehensive management and control over the production and business operations, staff, accounts and property etc. of an enterprise.

企业所得税法第二条第三款所称机构、场所,是指在中国境内从事生产经营活动的机构、场所,包括:

Article 5 Offices and premises referred in the third paragraph of Article 2 of the Corporate Income Tax Law shall mean organisations engaging in production and business activities in China and premises where such production and business activities are carried out, including:

(一) 管理机构、营业机构、办事机构;

(1) management offices, business organisations and offices;

(二) 工厂、农场、开采自然资源的场所;

(2) factories, farms and premises where exploration of natural resources is carried out;

(三) 提供劳务的场所;

(3) premises where labour services are provided;

(四) 从事建筑、安装、装配、修理、勘探等工程作业的场所;

(4) premises where construction, installation, assembly, repair and survey projects etc. are carried out; and

(五) 其他从事生产经营活动的机构、场所。

(5) any other organisations engaging in production and business activities and any other premises where production and business activities are carried out.

非居民企业委托营业代理人在中国境内从事生产经营活动的,包括委

Where a non-resident enterprise entrusts a business agent to engage in production and business activities in China on its behalf, including entrusting an organisation or an individual to sign contracts frequently

托单位或者个人经常代其签订合同，或者储存、交付货物等，该营业代理人视为非居民企业在中国境内设立的机构、场所。

第六条

企业所得税法第三条所称所得，包括销售货物所得、提供劳务所得、转让财产所得、股息红利等权益性投资所得、利息所得、租金所得、特许权使用费所得、接受捐赠所得和其他所得。

第七条

企业所得税法第三条所称来源于中国境内、境外的所得，按照以下原则确定：

(一) 销售货物所得，按照交易活动发生地确定；

(二) 提供劳务所得，按照劳务发生地确定；

(三) 转让财产所得，不动产转让所得按照不动产所在地确定，动产转让所得按照转让动产的企业或者机构、场所所在地确定，权益性投资资产转让所得按照被投资企业所在地确定；

(四) 股息、红利等权益性投资所得，按照分配所得的企业所在地确定；

(五) 利息所得、租金所得、特许权使用费所得，按照负担、支付所得的企业或者机构、场所所在地确定，或者按照负担、支付所得的个人的住所地确定；

(六) 其他所得，由国务院财政、税务主管部门确定。

第八条

企业所得税法第三条所称实际联系，是指非居民企业在中国境内设立的机构、场所拥有据以取得所得的股权、债权，以及拥有、管理、控制据以取得所得的财产等。

第二章 应纳税所得额

第一节 一般规定

第九条

企业应纳税所得额的计算，以权责发生制为原则，属于当期的收入和费用，不论款项是否收付，均作为当期的收入和费用；不属于当期的收入和费用，即使款项已经在当期收付，均不作为当期的收入和费用。本条例和国务院财政、税务主管部门另有规定的除外。

第十条

企业所得税法第五条所称亏损，是指企业依照企业所得税法和本条例的规定将每一纳税年度的收入总额减除不征税收入、免税收入和各项扣除后小于零的数额。

第十一条

on its behalf or to handle storage or delivery of goods etc., such a business agent shall be deemed as an office or premises established by the non-resident enterprise in China.

Article 6 Income referred to in Article 3 of the Corporate Income Tax Law shall mean the income from sale of goods, income from provision of labour services, income from transfer of property, income from equity investments such as dividends and bonuses etc., interest income, rental income, income from royalties, income from donations and gifts and any other income.

Article 7 Income sourced from China or overseas referred to in Article 3 of the Corporate Income Tax Law shall be determined pursuant to the following principles:

(1) income from sale of goods shall be determined pursuant to the place where the transactions occur;

(2) income from provision of labour services shall be determined pursuant to the place where the labour services occur;

(3) for income from transfer of property, income from transfer of immovables shall be determined pursuant to the location of the immovables and income from transfer of movables shall be determined pursuant to the location of the enterprise, the office or the premises making the transfer; income from equity investments shall be determined pursuant to the location of the investee enterprise;

(4) income from equity investments such as dividends and bonuses etc. shall be determined pursuant to the location of the enterprise making the distribution of income;

(5) interest income, rental income and income from royalties shall be determined pursuant to the location of the enterprise, the office or the premises bearing or making payment of the income or the place of residence of an individual bearing or making payment of the income; and

(6) any other income shall be determined by the finance and tax departments of the State Council.

Article 8 Actual liaison referred to in Article 3 of the Corporate Income Tax Law shall mean that an organisation or office established in China by a non-resident enterprise owns equity and creditor's rights which derives income and owns, manages or controls property which derives income.

Chapter 2 Taxable Amount of Income

Section 1 — General Provisions

Article 9 Unless otherwise stipulated in these Regulations or by the finance and tax departments of the State Council, the computation of taxable amount of income of an enterprise shall be based on the accrual principle and income and expenditure for the current period shall be deemed as income and expenditure for the current period regardless if the amount is received or paid; income and expenditure which does not belong to the current period shall not be deemed as income and expenditure for the current period even if the amount is received or paid in the current period.

Article 10 Losses referred to in Article 5 of the Corporate Income Tax Law shall mean that the balance after deduction of non-taxable income, tax exempt income and various deductions from the total income amount for each tax year by an enterprise pursuant to the provisions of the Corporate Income Tax Law and these Regulations is a negative amount.

Article 11 Income from liquidation referred to in Article 55 of the Corporate Income Tax Law shall mean the balance after deduction of

企业所得税法第五十五条所称清算所得，是指企业的全部资产可变现价值或者交易价格减去资产净值、清算费用以及相关税费等后的余额。

投资方企业从被清算企业分得的剩余资产，其中相当于从被清算企业累计未分配利润和累计盈余公积中应当分得的部分，应当确认为股息所得；剩余资产减除上述股息所得后的余额，超过或者低于投资成本的部分，应当确认为投资资产转让所得或者损失。

第二节 收入 第十二条

企业所得税法第六条所称企业取得收入的货币形式，包括现金、存款、应收账款、应收票据、准备持有至到期的债券投资以及债务的豁免等。

企业所得税法第六条所称企业取得收入的非货币形式，包括固定资产、生物资产、无形资产、股权投资、存货、不准备持有至到期的债券投资、劳务以及有关权益等。

第十三条

企业所得税法第六条所称企业以非货币形式取得的收入，应当按照公允价值确定收入额。

前款所称公允价值，是指按照市场价格确定的价值。

第十四条

企业所得税法第六条第（一）项所称销售货物收入，是指企业销售商品、产品、原材料、包装物、低值易耗品以及其他存货取得的收入。

第十五条

企业所得税法第六条第（二）项所称提供劳务收入，是指企业从事建筑安装、修理修配、交通运输、仓储租赁、金融保险、邮电通信、咨询经纪、文化体育、科学研究、技术服务、教育培训、餐饮住宿、中介代理、卫生保健、社区服务、旅游、娱乐、加工以及其他劳务服务活动取得的收入。

第十六条

企业所得税法第六条第（三）项所称转让财产收入，是指企业转让固定资产、生物资产、无形资产、股权、债权等财产取得的收入。

第十七条

企业所得税法第六条第（四）项所称股息、红利等权益性投资收益，是指企业因权益性投资从被投资方取得的收入。

股息、红利等权益性投资收益，除国务院财政、税务主管部门另有规定外，按照被投资方作出利润分配决定的日期确认收入的实现。

第十八条

net asset value of the property, liquidation expenses and related taxes and fees from the realisable value or transaction price of all the properties of an enterprise.

The part of remaining assets distributed from a liquidated enterprise to an investing enterprise which is distributed from the cumulative undistributed profit and cumulative surplus reserve of the liquidated enterprise shall be determined as dividend income; the part of the balance after deducting the aforesaid dividend income from the remaining assets which exceeds or is less than the investment cost shall be determined as income or loss from transfer of investment properties.

Section 2 — Income

Article 12 Income in currency form derived by an enterprise referred to in Article 6 of the Corporate Income Tax Law shall include cash, deposit, accounts receivable, notes receivable, bond investment which is intended to be held to maturity and forfeiture of debts etc.

Income in non-currency form derived by an enterprise referred to in Article 6 of the Corporate Income Tax Law shall include fixed assets, biological assets, intangible assets, equity investments, inventory, bond investment which is not intended to be held to maturity, labour services and the related interests etc..

Article 13 The amount of income in non-currency form derived by an enterprise referred to in Article 6 of the Corporate Income Tax Law shall be determined according to the fair value.

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

Article 14 Income from sale of goods referred in item (1) of Article 6 of the Corporate Income Tax Law shall mean the income derived by an enterprise from sale of commodities, products, raw materials, packaging materials, low-value consumables and any other inventory.

Article 15 Income from provision of labour services referred to in item (2) of Article 6 of the Corporate Income Tax Law shall mean the income derived by an enterprise engaging in construction and installation, repair, transportation, warehouse leasing, financial and insurance, postal and telecommunications, consultancy and brokerage, culture and sports, scientific research, technical services, education and training, food and beverage and accommodation, intermediary and agency, healthcare, community services, tourism, entertainment, processing and any other labour services and activities.

Article 16 Income from transfer of property referred to in item (3) of Article 6 of the Corporate Income Tax Law shall mean the income derived by an enterprise from transfer of fixed assets, biological assets, intangible assets, equity and creditor's rights etc.

Article 17 Gains from equity investments such as dividends and bonuses etc. referred to in item (4) of Article 6 of the Corporate Income Tax Law shall mean the income derived by an enterprise from an investee in relation to equity investment.

Unless otherwise stipulated by the finance and tax departments of the State Council, the realisation of income from gains from equity investments such as dividends and bonuses etc. shall be determined according to the date of the investee's decision to distribute profits.

Article 18 Interest income referred to in item (5) of Article 6 of the Corporate Income Tax Law shall mean the income derived by an

企业所得税法第六条第（五）项所称利息收入，是指企业将资金提供他人使用但不构成权益性投资，或者因他人占用本企业资金取得的收入，包括存款利息、贷款利息、债券利息、欠款利息等收入。

利息收入，按照合同约定的债务人应付利息的日期确认收入的实现。

第十九条

企业所得税法第六条第（六）项所称租金收入，是指企业提供固定资产、包装物或者其他有形资产的使用权取得的收入。

租金收入，按照合同约定的承租人应付租金的日期确认收入的实现。

第二十条

企业所得税法第六条第（七）项所称特许权使用费收入，是指企业提供专利权、非专利技术、商标权、著作权以及其他特许权的使用权取得的收入。

特许权使用费收入，按照合同约定的特许权使用人应付特许权使用费的日期确认收入的实现。

第二十一条

企业所得税法第六条第（八）项所称接受捐赠收入，是指企业接受的来自其他企业、组织或者个人无偿给予的货币性资产、非货币性资产。

接受捐赠收入，按照实际收到捐赠资产的日期确认收入的实现。

第二十二条

企业所得税法第六条第（九）项所称其他收入，是指企业取得的除企业所得税法第六条第（一）项至第（八）项规定的收入外的其他收入，包括企业资产溢余收入、逾期未退包装物押金收入、确实无法偿付的应付款项、已作坏账损失处理后又收回的应收款项、债务重组收入、补贴收入、违约金收入、汇兑收益等。

第二十三条

企业的下列生产经营业务可以分期确认收入的实现：

（一）以分期收款方式销售货物的，按照合同约定的收款日期确认收入的实现；

（二）企业受托加工制造大型机械设备、船舶、飞机，以及从事建筑、安装、装配工程业务或者提供其他劳务等，持续时间超过12个月的，按照纳税年度内完工进度或者完成的工作量确认收入的实现。

第二十四条

采取产品分成方式取得收入的，按照企业分得产品的日期确认收入的实现，其收入额按照产品的公允价值确定。

第二十五条

enterprise through provision of funds to others which do not constitute equity investment or through funds of the enterprise used by others, including interest on deposits, loan interest, bond interest and arrears interest etc..

Interest income shall be realised on the date on which interest is payable by the debtor pursuant to contractual provisions.

Article 19 Rental income referred to in item (6) of Article 6 of the Corporate Income Tax Law shall mean the income derived by an enterprise through provision of the right of use of fixed assets, packaging materials or any other tangible assets.

Rental income shall be realised on the date on which rental is payable by the lessee pursuant to contractual provisions.

Article 20 Income from royalties referred to in item (7) of Article 6 of the Corporate Income Tax Law shall mean the income derived by an enterprise through provision of the right of use of patent rights, non-patented technologies, trademark rights, copyright and any other concession rights.

Income from royalties shall be realised on the date on which concession right fee is payable by the user pursuant to contractual provisions.

Article 21 Income from gifts and donations referred to in item (8) of Article 6 of the Corporate Income Tax Law shall mean the income in currency form and non-currency form received by an enterprise from an enterprise, organisation or individual for free.

Income from donation or gift shall be realised on the date of receipt of the donation or gift.

Article 22 Any other income referred to in item (9) of Article 6 of the Corporate Income Tax Law shall mean any other income derived by an enterprise other than income stipulated in item (1) to item (8) of Article 6 of the Corporate Income Tax Law, including enterprise asset overage, overdue unrefunded security deposit income, accounts payable in arrears, accounts receivables collected after write-off as bad debt, debt restructuring income, subsidy income, default penalty income and exchange gain etc.

Article 23 The following income from the following production and business activities of an enterprise may be realised in phases:

(1) for sale of goods for payment under an installment plan, the income shall be realised on the dates of receipt of payment pursuant to contractual provisions; and

(2) for enterprises entrusted to process or manufacture large machinery equipment, vessel, aircraft and enterprises engaging in construction, installation, assembly businesses or provision of labour services, the income shall be realised according to the completed work schedule or workload within a tax year if the project is ongoing for more than 12 months.

Article 24 Where income is derived through product sharing, the income shall be realised on the date of distribution of products to the enterprise and the income amount shall be determined according to the fair value of the products.

Article 25 Unless otherwise stipulated by the finance and tax

企业发生非货币性资产交换，以及将货物、财产、劳务用于捐赠、偿债、赞助、集资、广告、样品、职工福利或者利润分配等用途的，应当视同销售货物、转让财产或者提供劳务，但国务院财政、税务主管部门另有规定的除外。

第二十六条

企业所得税法第七条第（一）项所称财政拨款，是指各级人民政府对纳入预算管理的事业单位、社会团体等组织拨付的财政资金，但国务院和国务院财政、税务主管部门另有规定的除外。

企业所得税法第七条第（二）项所称行政事业性收费，是指依照法律法规等有关规定，按照国务院规定程序批准，在实施社会公共管理，以及在向公民、法人或者其他组织提供特定公共服务过程中，向特定对象收取并纳入财政管理的费用。

企业所得税法第七条第（二）项所称政府性基金，是指企业依照法律、行政法规等有关规定，代政府收取的具有专项用途的财政资金。

企业所得税法第七条第（三）项所称国务院规定的其他不征税收入，是指企业取得的，由国务院财政、税务主管部门规定专项用途并经国务院批准的财政性资金。

第三节 扣除 第二十七条

企业所得税法第八条所称有关的支出，是指与取得收入直接相关的支出。

企业所得税法第八条所称合理的支出，是指符合生产经营活动常规，应当计入当期损益或者有关资产成本的必要和正常的支出。

第二十八条

企业发生的支出应当区分收益性支出和资本性支出。收益性支出在发生当期直接扣除；资本性支出应当分期扣除或者计入有关资产成本，不得在发生当期直接扣除。

企业的不征税收入用于支出所形成的费用或者财产，不得扣除或者计算对应的折旧、摊销扣除。

除企业所得税法和本条例另有规定外，企业实际发生的成本、费用、税金、损失和其他支出，不得重复扣除。

第二十九条

企业所得税法第八条所称成本，是指企业在生产经营活动中发生的销售成本、销货成本、业务支出以及其他耗费。

第三十条

企业所得税法第八条所称费用，

departments of the State Council, where an enterprise exchanges non-currency assets and donates goods, property or labour services or use goods, property or labour services for debt settlement, sponsorship, fund raising, advertisement, samples, staff welfare or profit distribution purposes, it shall be deemed as sale of goods, transfer of property or provision of labour services.

Article 26 Unless otherwise stipulated by the State Council or the finance and tax departments of the State Council, financial allocation referred to in item (1) of Article 7 of the Corporate Income Tax Law shall mean the funds allocated by various levels of people's governments to institutions and social organisations etc. which are under budget administration.

Administrative and institutional expenses referred to in item (2) of Article 7 of the Corporate Income Tax Law shall mean the expenses collected from specific targets in the course of implementation of public administration and provision of public services to citizens, legal persons or other organisations pursuant to the relevant provisions of laws and regulations and as approved by the stipulated procedures of the State Council and such funds collected are under treasury administration.

Government funds referred to in item (2) of Article 7 of the Corporate Income Tax Law shall mean government funds collected by enterprises for specific purposes pursuant to the relevant provisions of laws and administrative regulations on behalf of the government.

Other non-taxable income stipulated by the State Council referred to in item (3) of Article 7 of the Corporate Income Tax Law shall mean government funds obtained by enterprises to be used for specific purposes as stipulated by the finance and tax departments of the State Council and as approved by the State Council.

Section 3 — Deductions

Article 27 Related expenditure referred to in Article 8 of the Corporate Income Tax Law shall mean the expenditure that is directly related to income derived.

Reasonable expenditure referred to in Article 8 of the Corporate Income Tax Law shall mean the necessary and normal expenditure which complies with the norms of production and business activities and which should be included in the profit and loss in the current period or in the relevant asset costs.

Article 28 Expenditure incurred by an enterprise shall be classified as revenue expenditure and capital expenditure. Revenue expenditure shall be deducted directly for the period in which it occurs; capital expenditure shall be deducted for different periods or be included in the relevant asset costs and shall not be deducted directly for the period in which it occurs.

The expenses or property arising from the application of the non-taxable income of an enterprise to expenditure shall not be deductible or be used for computation of deduction for the corresponding depreciation and amortisation.

Unless otherwise stipulated in the Corporate Income Tax Law and these Regulations, costs, expenses, taxes, losses and any other expenditure incurred by an enterprise shall be deducted only once.

Article 29 Costs referred to in Article 8 of the Corporate Income Tax Law shall mean the selling cost, cost of sales, business expenditure and any other consumption incurred by an enterprise in the production and business activities.

Article 30 Expenses referred to in Article 8 of the Corporate Income Tax Law shall mean the selling expenses, management expenses and financial expenses incurred by an enterprise in production and business

是指企业在生产经营活动中发生的销售费用、管理费用和财务费用，已经计入成本的有关费用除外。

第三十一条

企业所得税法第八条所称税金，是指企业发生的除企业所得税和允许抵扣的增值税以外的各项税金及其附加。

第三十二条

企业所得税法第八条所称损失，是指企业在生产经营活动中发生的固定资产和存货的盘亏、毁损、报废损失，转让财产损失，呆账损失，坏账损失，自然灾害等不可抗力因素造成的损失以及其他损失。

企业发生的损失，减除责任人赔偿和保险赔款后的余额，依照国务院财政、税务主管部门的规定扣除。

企业已经作为损失处理的资产，在以后纳税年度又全部收回或者部分收回时，应当计入当期收入。

第三十三条

企业所得税法第八条所称其他支出，是指除成本、费用、税金、损失外，企业在生产经营活动中发生的与生产经营活动有关的、合理的支出。

第三十四条

企业发生的合理的工资薪金支出，准予扣除。

前款所称工资薪金，是指企业每一纳税年度支付给在本企业任职或者受雇的员工的所有现金形式或者非现金形式的劳动报酬，包括基本工资、奖金、津贴、补贴、年终加薪、加班工资，以及与员工任职或者受雇有关的其他支出。

第三十五条

企业依照国务院有关主管部门或者省级人民政府规定的范围和标准为职工缴纳的基本养老保险费、基本医疗保险费、失业保险费、工伤保险费、生育保险费等基本社会保险费和住房公积金，准予扣除。

企业为投资者或者职工支付的补充养老保险费、补充医疗保险费，在国务院财政、税务主管部门规定的范围和标准内，准予扣除。

第三十六条

除企业依照国家有关规定为特殊工种职工支付的人身安全保险费和国务院财政、税务主管部门规定可以扣除的其他商业保险费外，企业为投资者或者职工支付的商业保险费，不得扣除。

第三十七条

企业在生产经营活动中发生的合理的不需要资本化的借款费用，准予扣除。

企业为购置、建造固定资产、无

activities, except for those related expenses which have been included in costs.

Article 31 Taxes referred to in Article 8 of the Corporate Income Tax Law shall mean all taxes and surcharges incurred by an enterprise other than Corporate Income Tax and deductible value-added tax.

Article 32 Losses referred to in Article 8 of the Corporate Income Tax Law shall mean loss, damage, scrap loss of fixed assets and inventory, loss from transfer of property, loss from doubtful debt, loss from bad debt, loss incurred due to force majeure such as natural disaster and any other losses incurred by an enterprise in the course of production and business activities.

The balance amount after deducting compensation from the liable party and insurance compensation from the losses incurred by an enterprise shall be deductible pursuant to the provisions of the finance and tax departments of the State Council.

Where an enterprise has treated an asset as loss but recovers all or part of the asset in a subsequent tax year, the income from such recovery shall be included in the income for current period.

Article 33 Any other expenditure referred to in Article 8 of the Corporate Income Tax Law shall mean reasonable expenditure relating to production and business activities incurred by an enterprise in production and business activities other than costs, expenses, taxes and losses.

Article 34 Reasonable expenditure of wages and salaries incurred by an enterprise shall be deductible.

Wages and salaries referred to in the preceding paragraph shall mean all labour remuneration in cash form or non-cash form paid by an enterprise in each tax year to its existing employees, including basic wage, bonus, subsidies, allowances, year-end wage increment, overtime wage and any other expenditure relating to the employment of existing employees.

Article 35 Basic social security insurance premiums and basic housing provident funds such as basic pension insurance premiums, basic medical insurance premiums, unemployment insurance premiums, work injury insurance premiums, family planning insurance premiums contributed by an enterprise for its employees pursuant to the scope and standards stipulated by the relevant departments of the State Council or the provincial people's government shall be deductible.

Supplementary pension insurance premiums and supplementary medical insurance premiums paid by an enterprise for its investors or employees within the scope and standards stipulated by the finance and tax departments of the State Council shall be deductible.

Article 36 Except for personal safety insurance premiums stipulated by the State and any other commercial insurance premiums stipulated by the finance and tax departments of the State Council paid by an enterprise for its employees holding special job positions, commercial insurance premiums paid by an enterprise for its investors or employees shall not be deductible.

Article 37 Reasonable borrowing expenses incurred by an enterprise in production and business activities which need not be capitalised shall be deductible.

Where an enterprise makes borrowings for procurement or construction of fixed assets, intangible assets and inventory which attains saleable status after a construction period of 12 months or more, the borrowing

形资产和经过12个月以上的建造才能达到预定可销售状态的存货发生借款的，在有关资产购置、建造期间发生的合理的借款费用，应当作为资本性支出计入有关资产的成本，并依照本条例的规定扣除。

第三十八条

企业在生产经营活动中发生的下列利息支出，准予扣除：

(一) 非金融企业向金融企业借款的利息支出、金融企业的各项存款利息支出和同业拆借利息支出、企业经批准发行债券的利息支出；

(二) 非金融企业向非金融企业借款的利息支出，不超过按照金融企业同期同类贷款利率计算的数额的部分。

第三十九条

企业在货币交易中，以及纳税年度终了时将人民币以外的货币性资产、负债按照期末即期人民币汇率中间价折算为人民币时产生的汇兑损失，除已经计入有关资产成本以及向所有者进行利润分配相关的部分外，准予扣除。

第四十条

企业发生的职工福利费支出，不超过工资薪金总额14%的部分，准予扣除。

第四十一条

企业拨缴的工会经费，不超过工资薪金总额2%的部分，准予扣除。

第四十二条

除国务院财政、税务主管部门另有规定外，企业发生的职工教育经费支出，不超过工资薪金总额2.5%的部分，准予扣除；超过部分，准予在以后纳税年度结转扣除。

第四十三条

企业发生的与生产经营活动有关的业务招待费支出，按照发生额的60%扣除，但最高不得超过当年销售（营业）收入的5%。

第四十四条

企业发生的符合条件的广告费和业务宣传费支出，除国务院财政、税务主管部门另有规定外，不超过当年销售（营业）收入15%的部分，准予扣除；超过部分，准予在以后纳税年度结转扣除。

第四十五条

企业依照法律、行政法规有关规定提取的用于环境保护、生态恢复等方面的专项资金，准予扣除。上述专项资金提取后改变用途的，不得扣除。

第四十六条

企业参加财产保险，按照规定缴纳的保险费，准予扣除。

第四十七条

expenses incurred during the procurement or construction period of the relevant assets shall be included in the costs of the relevant assets as capital expenditure and shall be deductible pursuant to the provisions of these Regulations.

Article 38 The following interest expenditure incurred by an enterprise in production and business activities shall be deductible:

(1) interest expenditure for borrowings made by a non-financial enterprise from a financial enterprise, interest expenditure for all deposits and interest expenditure for interbank borrowings of a financial enterprise and interest expenditure for approved bonds issued by an enterprise;

(2) interest expenditure for borrowings made by a non-financial enterprise from a non-financial enterprise which does not exceed the amount computed according to the interest rate for same type of loans of a financial enterprise during the same period.

Article 39 Exchange loss incurred by an enterprise in currency trading and from conversion of non-Renminbi-denominated monetary assets and debts at the end of a tax year into Renminbi using the middle price of spot exchange rate for Renminbi shall be deductible except for the portion which has been included in the costs of the relevant assets or which relates to profit distribution to owners.

Article 40 Staff welfare expenditure incurred by an enterprise which does not exceed 14% of the total amount of wages and salaries shall be deductible.

Article 41 Labour union expenditure allocated by an enterprise which does not exceed 2% of the total amount of wages and salaries shall be deductible.

Article 42 Unless otherwise stipulated by the finance and tax departments of the State Council, vocational training expenditure incurred by an enterprise which does not exceed 2.5% of the total amount of wages and salaries shall be deductible; the excess portion shall be carried forward to subsequent tax years for deduction.

Article 43 Business entertainment expenditure relating to production and business activities incurred by an enterprise shall be deductible based on 60% of the incurred amount and the maximum deduction shall not exceed 0.5% of the sales (business) revenue of the current year.

Article 44 Unless otherwise stipulated by the finance and tax departments of the State Council, advertising fee and business promotion expenditure incurred by an enterprise which satisfy the requirements and do not exceed 15% of the sales (business) revenue of the current year shall be deductible; the excess portion shall be carried forward to subsequent tax years for deduction.

Article 45 Special funds allocated by an enterprise for environmental protection and ecological restoration etc. pursuant to the relevant provisions of laws and administrative regulations shall be deductible. Where the aforesaid special funds are used for a different purpose after allocation, such funds shall not be deductible.

Article 46 Premiums paid by an enterprise for property insurance pursuant to the provisions shall be deductible.

Article 47 Lease fees paid by an enterprise for lease of fixed assets

企业根据生产经营活动的需要租入固定资产支付的租赁费，按照以下方法扣除：

(一) 以经营租赁方式租入固定资产发生的租赁费支出，按照租赁期限均匀扣除；

(二) 以融资租赁方式租入固定资产发生的租赁费支出，按照规定构成融资租入固定资产价值的部分应当提取折旧费用，分期扣除。

第四十八条

企业发生的合理的劳动保护支出，准予扣除。

第四十九条

企业之间支付的管理费、企业内部营业机构之间支付的租金和特许权使用费，以及非银行企业内部营业机构之间支付的利息，不得扣除。

第五十条

非居民企业在中国境内设立的机构、场所，就其中国境外总机构发生的与该机构、场所生产经营有关的费用，能够提供总机构出具的费用汇集范围、定额、分配依据和方法等证明文件，并合理分摊的，准予扣除。

第五十一条

企业所得税法第九条所称公益性捐赠，是指企业通过公益性社会组织或者县级以上人民政府及其部门，用于符合法律规定的慈善活动、公益事业的捐赠。

第五十二条

本条例第五十一条所称公益性社会组织，是指同时符合下列条件的慈善组织以及其他社会组织：

(一) 依法登记，具有法人资格；

(二) 以发展公益事业为宗旨，且不以营利为目的；

(三) 全部资产及其增值为该法人所有；

(四) 收益和营运结余主要用于符合该法人设立目的的事业；

(五) 终止后的剩余财产不归属任何个人或者营利组织；

(六) 不经营与其设立目的无关的业务；

(七) 有健全的财务会计制度；

(八) 捐赠者不以任何形式参与该法人财产的分配；

(九) 国务院财政、税务主管部门会同国务院民政部门等登记管理部门规定的其他条件。

required for production and business activities shall be deductible as follows:

(1) lease fee expenditure incurred in lease of fixed assets by way of a business lease shall be deducted equally over the lease period; and

(2) depreciation expenses shall be allocated for the portion of lease fee expenditure incurred in lease of fixed assets by way of a finance lease which constitutes the value of fixed assets on finance lease pursuant to the provisions and deducted over several periods.

Article 48 Reasonable labour protection expenditure incurred by an enterprise shall be deductible.

Article 49 Management fees paid between enterprises, rental and royalties paid between internal business units of an enterprise and interest paid between the internal business units of a non-bank enterprise shall not be deductible.

Article 50 Where an office or premises established in China by a non-resident enterprise is able to show documentary proof of the scope of expenses consolidation, quota, basis and method of distribution etc. issued by the head office in respect of the expenses incurred by the overseas head office in relation to the production and business activities of the office or premises and such expenses can be reasonably shared, the expenses shall be deductible.

Article 51 Charitable donations referred to in Article 9 of the Corporate Income Tax Law shall mean donations made by an enterprise to charitable activities or causes conforming to the provisions of the law through charitable organisations or People's Governments of county level and above and their departments.

Article 52 A charitable body referred to in Article 51 of these Regulations shall mean a charitable organisation or any other social organisation which satisfies all of the following conditions:

(1) it is duly registered and qualifies as a legal person;

(2) it is non-profit oriented and established for charitable causes;

(3) all its assets and appreciation thereof are owned by the legal person;

(4) the gains and operational balances are mainly used for charitable causes which comply with the objective for establishment of the legal person;

(5) the remaining property after termination shall not belong to any individual or profit-oriented organisation;

(6) it shall not engage in businesses which are unrelated to the objective of its establishment;

(7) it has a proper financial accounting system;

(8) the donors do not participate in distribution of the property of the legal person in any manner; and

(9) it satisfies any other conditions stipulated by the finance and tax departments of the State Council in consultation with the civil affairs department etc. of the State Council.

<p>第五十三条</p> <p>企业当年发生以及以前年度结转的公益性捐赠支出，不超过年度利润总额12%的部分，准予扣除。</p> <p>年度利润总额，是指企业依照国家统一会计制度的规定计算的年度会计利润。</p>	<p>Article 53 Charitable donation expenditures incurred by an enterprise in the current year and carried forward from the previous years that do not exceed 12% of the total annual profit shall be deductible.</p> <p>Total annual profit shall mean the annual accounting profit computed by an enterprise pursuant to the unified accounting system of the State.</p>
<p>第五十四条</p> <p>企业所得税法第十条第（六）项所称赞助支出，是指企业发生的与生产经营活动无关的各种非广告性质支出。</p>	<p>Article 54 Sponsorship expenditure referred to in item (6) of Article 10 of the Corporate Income Tax Law shall mean all non-advertisement expenditure incurred by an enterprise which is unrelated to production and business activities.</p>
<p>第五十五条</p> <p>企业所得税法第十条第（七）项所称未经核定的准备金支出，是指不符合国务院财政、税务主管部门规定的各项资产减值准备、风险准备等准备金支出。</p>	<p>Article 55 Expenditure out of capital reserves that has yet been audited and determined referred to in item (7) of Article 10 of the Corporate Income Tax Law shall mean expenditure out of capital reserves such as asset impairment provision and risk provision which does not comply with the provisions of the finance and tax departments of the State Council.</p>
<p>第四节 资产的税务处理</p> <p>第五十六条</p>	<p>Section 4 — Tax Treatment for Assets</p> <p>Article 56 Tax computation for all assets of an enterprise, including fixed assets, biological assets, intangible assets, long-term deferred expenses, investment assets and inventory etc. shall be based on historical cost.</p>
<p>企业的各项资产，包括固定资产、生物资产、无形资产、长期待摊费用、投资资产、存货等，以历史成本为计税基础。</p>	<p>Historical cost referred to in the preceding paragraph shall mean the actual expenditure incurred by an enterprise at the time of obtaining the asset.</p>
<p>前款所称历史成本，是指企业取得该项资产时实际发生的支出。</p>	<p>Where there is asset appreciation or impairment during the holding period of various assets, the tax base of such assets shall not be adjusted except where the finance and tax departments of the State Council stipulate that the losses or gains may be determined.</p>
<p>企业持有各项资产期间资产增值或者减值，除国务院财政、税务主管部门规定可以确认损益外，不得调整该资产的计税基础。</p>	<p>Article 57 Fixed assets referred to in Article 11 of the Corporate Income Tax Law shall mean non-monetary assets held or used by an enterprise for more than 12 months for the purpose of manufacturing of products, provision of labour services, lease or business management, including houses, buildings, machines, machinery, transport vehicles and equipment, apparatuses and tools etc. relating to production and business activities.</p>
<p>第五十七条</p> <p>企业所得税法第十一条所称固定资产，是指企业为生产产品、提供劳务、出租或者经营管理而持有的、使用时间超过12个月的非货币性资产，包括房屋、建筑物、机器、机械、运输工具以及其他与生产经营活动有关的设备、器具、工具等。</p>	<p>Article 58 Tax bases for fixed assets shall be determined as follows:</p>
<p>第五十八条</p> <p>固定资产按照以下方法确定计税基础：</p>	<p>(1) for fixed assets purchased from external parties, the tax base shall be the purchase price and the related taxes and fees paid and any other expenditure which directly contributes to the attainment of the expected purpose of use of the assets;</p>
<p>（一）外购的固定资产，以购买价款和支付的相关税费以及直接归属于使该资产达到预定用途发生的其他支出为计税基础；</p>	<p>(2) for self-constructed fixed assets, the tax base shall be the expenditure incurred before completion settlement;</p>
<p>（二）自行建造的固定资产，以竣工结算前发生的支出为计税基础；</p>	<p>(3) for fixed assets on a finance lease, the tax base shall be the total amount of payment stipulated in the lease contract and the related expenses incurred by the lessee in the course of execution of the lease contract; where the total amount of payment is not stipulated in the lease contract, the tax base shall be the fair value of the assets and the related expenses incurred by the lessee in the course of execution of the lease contract;</p>
<p>（三）融资租入的固定资产，以租赁合同约定的付款总额和承租人在签订租赁合同过程中发生的相关费用为计税基础，租赁合同未约定付款总额的，以该资产的公允价值和承租人在签订租赁合同过程中发生的相关费用为计税基础；</p>	<p>(4) for inventory gains in fixed assets, the tax base shall be the full replacement value of the same type of fixed assets;</p>
<p>（四）盘盈的固定资产，以同类固定资产的重置完全价值为计税基础；</p>	<p>(5) for fixed assets obtained through donation, gift, investment, exchange of non-monetary assets, debt restructuring etc., the tax base shall be the fair value of the assets and related taxes and fees paid; and</p>

(五) 通过捐赠、投资、非货币性资产交换、债务重组等方式取得的固定资产，以该资产的公允价值和支付的相关税费为计税基础；

(六) 改建的固定资产，除企业所得税法第十三条第(一)项和第(二)项规定的支出外，以改建过程中发生的改建支出增加计税基础。

第五十九条

固定资产按照直线法计算的折旧，准予扣除。

企业应当自固定资产投入使用月份的次月起计算折旧；停止使用的固定资产，应当自停止使用月份的次月起停止计算折旧。

企业应当根据固定资产的性质和使用情况，合理确定固定资产的预计净残值。固定资产的预计净残值一经确定，不得变更。

第六十条

除国务院财政、税务主管部门另有规定外，固定资产计算折旧的最低年限如下：

(一) 房屋、建筑物，为20年；

(二) 飞机、火车、轮船、机器、机械和其他生产设备，为10年；

(三) 与生产经营活动有关的器具、工具、家具等，为5年；

(四) 飞机、火车、轮船以外的运输工具，为4年；

(五) 电子设备，为3年。

第六十一条

从事开采石油、天然气等矿产资源的企业，在开始商业性生产前发生的费用和有关固定资产的折耗、折旧方法，由国务院财政、税务主管部门另行规定。

第六十二条

生产性生物资产按照以下方法确定计税基础：

(一) 外购的生产性生物资产，以购买价款和支付的相关税费为计税基础；

(二) 通过捐赠、投资、非货币性资产交换、债务重组等方式取得的生产性生物资产，以该资产的公允价值和支付的相关税费为计税基础。

前款所称生产性生物资产，是指企业为生产农产品、提供劳务或者出租等而持有的生物资产，包括经济林、薪炭林、产畜和役畜等。

第六十三条

生产性生物资产按照直线法计算的折旧，准予扣除。

(6) for fixed assets which are altered, the tax base shall include the alteration expenditure incurred in the course of alteration, except for expenditure stipulated in item (1) and item (2) of Article 13 of the Corporate Income Tax Law.

Article 59 Straight-line depreciation of fixed assets shall be deductible.

Depreciation of fixed assets shall commence in the month following the commencement of use; for fixed assets which cease to be used, depreciation shall cease in the month following the cessation of use.

An enterprise shall determine the estimated net residual value of a fixed asset reasonably according to the nature and usage of the fixed asset. The estimated net residual value of a fixed asset, once determined, shall not be changed.

Article 60 Unless otherwise stipulated by the finance and tax departments of the State Council, the minimum period of depreciation of fixed assets shall be as follows:

(1) 20 years for houses and buildings;

(2) 10 years for aircrafts, trains, vessels, machines, machinery and other production equipment;

(3) five years for apparatuses, tools and furniture etc. relating to production and business activities;

(4) four years for transport vehicles other than aircrafts, trains and vessels; and

(5) three years for electronic devices.

Article 61 For enterprises engaging in exploration of mineral resources such as petroleum and natural gases etc., the expenses incurred before commencement of commercial production and the depletion and depreciation of the relevant fixed asset shall be separately formulated by the finance and tax departments of the State Council.

Article 62 Tax bases for biological assets shall be determined as follows:

(1) for biological assets used in production which are purchased from external parties, the tax base shall be the purchase price and the related taxes and fees paid; and

(2) for biological assets used in production which are obtained through donation, gift, exchange of non-monetary assets, debt restructuring etc., the tax base shall be the fair value of the assets and the related taxes and fees paid.

Biological assets used in production referred to in the preceding paragraph shall mean biological assets held by an enterprise for the purpose of production of agricultural products, provision of labour services or lease etc., including economic forest, firewood forest, animal husbandry and draught animals etc..

Article 63 Straight-line depreciation of biological assets used in production shall be deductible.

Depreciation of biological assets used in production shall commence in the month following the commencement of use; for biological assets

企业应当自生产性生物资产投入使用月份的次月起计算折旧；停止使用的生产性生物资产，应当自停止使用月份的次月起停止计算折旧。

企业应当根据生产性生物资产的性质和使用情况，合理确定生产性生物资产的预计净残值。生产性生物资产的预计净残值一经确定，不得变更。

第六十四条

生产性生物资产计算折旧的最低年限如下：

- (一) 林木类生产性生物资产，为10年；
- (二) 畜类生产性生物资产，为3年。

第六十五条

企业所得税法第十二条所称无形资产，是指企业为生产产品、提供劳务、出租或者经营管理而持有的、没有实物形态的非货币性长期资产，包括专利权、商标权、著作权、土地使用权、非专利技术、商誉等。

第六十六条

无形资产按照以下方法确定计税基础：

- (一) 外购的无形资产，以购买价款和支付的相关税费以及直接归属于使该资产达到预定用途发生的其他支出为计税基础；
- (二) 自行开发的无形资产，以开发过程中该资产符合资本化条件后至达到预定用途前发生的支出为计税基础；
- (三) 通过捐赠、投资、非货币性资产交换、债务重组等方式取得的无形资产，以该资产的公允价值和支付的相关税费为计税基础。

第六十七条

无形资产按照直线法计算的摊销费用，准予扣除。

无形资产的摊销年限不得低于10年。

作为投资或者受让的无形资产，有关法律规定或者合同约定了使用年限的，可以按照规定或者约定的使用年限分期摊销。

外购商誉的支出，在企业整体转让或者清算时，准予扣除。

第六十八条

企业所得税法第十三条第（一）项和第（二）项所称固定资产的改建支出，是指改变房屋或者建筑物结构、延长使用年限等发生的支出。

企业所得税法第十三条第（一）项规定的支出，按照固定资产预计尚

used in production which cease to be used, depreciation shall cease in the month following the cessation of use.

An enterprise shall determine the estimated net residual value of biological assets used in production reasonably according to the nature and usage of the biological assets used in production. The estimated net residual value of biological assets used in production, once determined, shall not be changed.

Article 64 The minimum period of depreciation for biological assets used in production shall be as follows:

- (1) 10 years for biological assets used in production in the forest category; and
- (2) three years for biological assets used in production in the animal category.

Article 65 Intangible assets referred to in Article 12 of the Corporate Income Tax Law shall mean long-term non-currency assets in non-tangible form held by an enterprise for the purpose of production of products, provision of labour services, lease or business management, including patent rights, trademark rights, copyright, land use right, non-patented technologies, goodwill etc..

Article 66 The tax base of intangible assets shall be determined as follows:

- (1) for intangible assets purchased from external parties, the tax base shall be the purchase price and the related taxes and fees paid and any other expenditure which directly contributes to the attainment of the expected purpose of use of the assets;
- (2) for self-developed intangible assets, the tax base shall be the expenditure incurred in the course of development from the assets' satisfaction of capitalisation conditions up to the assets' attainment of the expected purpose of use; and
- (3) for intangible assets obtained through donation, gift, exchange of non-monetary assets, debt restructuring etc., the tax base shall be the fair value of the assets and the related taxes and fees paid.

Article 67 Straight-line amortisation expenses of intangible assets shall be deductible.

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

For intangible assets which are invested or transferred and the period of use is stipulated in the relevant laws or the contract, the intangible assets may be amortised pursuant to the stipulated or agreed period of use.

Expenditure incurred in externally purchased goodwill shall be deductible at the time of whole transfer or liquidation of an enterprise.

Article 68 Alteration expenditure of fixed assets referred to in item (1) and item (2) of Article 13 of the Corporate Income Tax Law shall mean the expenditure incurred in the alteration of the structure of houses or buildings or extension of the period of use etc..

Expenditure stipulated in item (1) of Article 13 of the Corporate Income Tax Law shall be amortised over the estimated remaining useful life of the fixed assets; expenditure stipulated in item (2) shall be amortised over the remaining lease term stipulated in the contract.

可使用年限分期摊销；第（二）项规定的支出，按照合同约定的剩余租赁期限分期摊销。

改建的固定资产延长使用年限的，除企业所得税法第十三条第（一）项和第（二）项规定外，应当适当延长折旧年限。

第六十九条

企业所得税法第十三条第（三）项所称固定资产的大修理支出，是指同时符合下列条件的支出：

（一）修理支出达到取得固定资产时的计税基础50%以上；

（二）修理后固定资产的使用年限延长2年以上。

企业所得税法第十三条第（三）项规定的支出，按照固定资产尚可使用年限分期摊销。

第七十条

企业所得税法第十三条第（四）项所称其他应当作为长期待摊费用的支出，自支出发生月份的次月起，分期摊销，摊销年限不得低于3年。

第七十一条

企业所得税法第十四条所称投资资产，是指企业对外进行权益性投资和债权性投资形成的资产。

企业在转让或者处置投资资产时，投资资产的成本，准予扣除。

投资资产按照以下方法确定成本：

（一）通过支付现金方式取得的投资资产，以购买价款为成本；

（二）通过支付现金以外的方式取得的投资资产，以该资产的公允价值和支付的相关税费为成本。

第七十二条

企业所得税法第十五条所称存货，是指企业持有以备出售的产品或者商品、处在生产过程中的在产品、在生产或者提供劳务过程中耗用的材料和物料等。

存货按照以下方法确定成本：

（一）通过支付现金方式取得的存货，以购买价款和支付的相关税费为成本；

（二）通过支付现金以外的方式取得的存货，以该存货的公允价值和支付的相关税费为成本；

（三）生产性生物资产收获的农产品，以产出或者采收过程中发生的材料费、人工费和分摊的间接费用等必要支出为成本。

第七十三条

Except for the provisions of item (1) and item (2) of Article 13 of the Corporate Income Tax Law, the depreciation period shall be extended accordingly if the useful life of a fixed asset is extended after alteration.

Article 69 Overhaul expenditure of fixed assets referred to in item (3) of Article 13 of the Corporate Income Tax Law shall mean expenditure which satisfies the following conditions:

(1) where the repair expenditure reaches 50% or more of the tax base at the time of obtaining the fixed assets; and

(2) where the useful life of the fixed assets is extended by two years or more after the repair.

Expenditure stipulated in item (3) of Article 13 of the Corporate Income Tax Law shall be amortised over the remaining useful life of the fixed assets.

Article 70 Other expenditure to be treated as long-term deferred expenses stipulated in item (4) of Article 13 of the Corporate Income Tax Law shall be amortised with effect from the following month upon incurring the expenditure; the amortisation period shall not be less than three years.

Article 71 Investment assets referred to in Article 14 of the Corporate Income Tax Law shall mean the assets arising from equity investments and debt securities investments made by an enterprise in external parties.

The costs of investment assets shall be deductible at the time of transfer or disposal of investment assets by an enterprise.

The costs of investment assets shall be determined as follows:

(1) for investment assets which are acquired with cash payment, the cost shall be the purchase price; and

(2) for investment assets which are not acquired with cash payment, the cost shall be the fair value of the assets and the related taxes and fees paid.

Article 72 Inventory referred to in Article 15 of the Corporate Income Tax Law shall mean products held by an enterprise for sale, work-in-progress, materials consumed in the course of production or provision of labour services.

The costs of inventory shall be determined as follows:

(1) for inventory acquired with cash payment, the cost shall be the purchase price and the related taxes and fees paid;

(2) for inventory not acquired with cash payment, the cost shall be the fair value of the inventory and the related taxes and fees paid; and

(3) for agricultural products derived from biological assets used in production, the cost shall be the requisite expenditure such as the cost of materials, labour cost and shared indirect expenses etc. incurred in the course of output or harvesting.

Article 73 Enterprises may choose a cost accounting method for inventory in use or for sale among the first-in first-out method,

企业使用或者销售的存货的成本计算方法，可以在先进先出法、加权平均法、个别计价法中选用一种。计价方法一经选用，不得随意变更。

第七十四条

企业所得税法第十六条所称资产的净值和第十九条所称财产净值，是指有关资产、财产的计税基础减除已经按照规定扣除的折旧、折耗、摊销、准备金等后的余额。

第七十五条

除国务院财政、税务主管部门另有规定外，企业在重组过程中，应当在交易发生时确认有关资产的转让所得或者损失，相关资产应当按照交易价格重新确定计税基础。

第三章 应纳税额

第七十六条

企业所得税法第二十二条规定的应纳税额的计算公式为：

应纳税额 = 应纳税所得额 × 适用税率 - 减免税额 - 抵免税额

公式中的减免税额和抵免税额，是指依照企业所得税法和国务院的税收优惠规定减征、免征和抵免的应纳税额。

第七十七条

企业所得税法第二十三条所称已在境外缴纳的所得税税额，是指企业来源于中国境外的所得依照中国境外税收法律及相关规定应当缴纳并已经实际缴纳的企业所得税性质的税款。

第七十八条

企业所得税法第二十三条所称抵免限额，是指企业来源于中国境外的所得，依照企业所得税法和本条例的规定计算的应纳税额。除国务院财政、税务主管部门另有规定外，该抵免限额应当分国（地区）不分项计算，计算公式如下：

抵免限额 = 中国境内、境外所得依照企业所得税法和本条例的规定计算的应纳税总额 × 来源于某国（地区）的应纳税所得额 ÷ 中国境内、境外应纳税所得总额

第七十九条

企业所得税法第二十三条所称5个年度，是指从企业取得的来源于中国境外的所得，已经在中国境外缴纳的企业所得税性质的税额超过抵免限额的当年的次年起连续5个纳税年度。

第八十条

企业所得税法第二十四条所称直接控制，是指居民企业直接持有外国企业20%以上股份。

企业所得税法第二十四条所称间接控制，是指居民企业以间接持股方式持有外国企业20%以上股份，具体认定办法由国务院财政、税务主管部

weighted average method, specific-unit-cost method and shall not make any changes arbitrarily once the costing method is chosen.

Article 74 Net asset value referred to in Article 16 of the Corporate Income Tax Law and net value of property referred to in Article 19 shall mean the balance after deducting depreciation, depletion, amortisation, provision etc.. from the tax base of the relevant assets and property pursuant to the provisions.

Article 75 Unless otherwise stipulated by the finance and tax departments of the State Council, an enterprise shall determine the income or loss from transfer of asset at the time of transaction in the course of restructuring; the tax base for the relevant assets shall be re-determined according to the transaction price.

Chapter 3 Tax Amount Payable

Article 76 The formula for computation of tax amount payable stipulated in Article 22 of the Corporate Income Tax Law shall be:

Tax amount payable = taxable amount of income × applicable tax rate - tax relief - tax credit

The tax relief and tax credit in the formula shall mean the tax amount payable after reduction, exemption and relief pursuant to tax incentives stipulated in the Corporate Income Tax Law and by the State Council.

Article 77 Income tax amount paid overseas referred to in Article 23 of the Corporate Income Tax Law shall mean that an enterprise has paid the Corporate Income Tax for income sourced outside China payable pursuant to overseas tax laws and the relevant provisions.

Article 78 Tax set-off limit referred to in Article 23 of the Corporate Income Tax Law shall mean the tax amount payable on income of an enterprise sourced outside China computed pursuant to the provisions of the Corporate Income Tax Law and these Regulations. Unless otherwise stipulated by the finance and tax departments of the State Council, such tax set-off limit shall be computed by country (region) and not by tax items; the formula shall be as follows:

Tax set-off limit = total taxable amount of income for income sourced in China and overseas computed pursuant to the provisions of the Corporate Income Tax Law and these Regulations × taxable amount of income sourced in a particular country (region) ÷ the total taxable amount of income sourced in China and overseas

Article 79 The five-year period referred to in Article 23 of the Corporate Income Tax Law shall mean that five tax years have elapsed since the year following the year in which the Corporate Income Tax paid by an enterprise overseas for income sourced overseas exceeded the tax set-off limit.

Article 80 Direct control referred to in Article 24 of the Corporate Income Tax Law shall mean that a resident enterprise holds 20% or more of the foreign enterprise by direct shareholding.

Indirect control referred to in Article 24 of the Corporate Income Tax Law shall mean that a resident enterprise holds 20% or more of the shares of a foreign enterprise through indirect shareholding; the specific identifying measures shall be separately formulated by the finance and tax departments of the State Council.

门另行制定。

第八十一条

企业依照企业所得税法第二十三条、第二十四条的规定抵免企业所得税税额时，应当提供中国境外税务机关出具的税款所属年度的有关纳税凭证。

第四章 税收优惠

第八十二条

企业所得税法第二十六条第（一）项所称国债利息收入，是指企业持有国务院财政部门发行的国债取得的利息收入。

第八十三条

企业所得税法第二十六条第（二）项所称符合条件的居民企业之间的股息、红利等权益性投资收益，是指居民企业直接投资于其他居民企业取得的投资收益。企业所得税法第二十六条第（二）项和第（三）项所称股息、红利等权益性投资收益，不包括连续持有居民企业公开发行并上市流通的股票不足12个月取得的投资收益。

第八十四条

企业所得税法第二十六条第（四）项所称符合条件的非营利组织，是指同时符合下列条件的组织：

（一）依法履行非营利组织登记手续；

（二）从事公益性或者非营利性活动；

（三）取得的收入除用于与该组织有关的、合理的支出外，全部用于登记核定或者章程规定的公益性或者非营利性事业；

（四）财产及其孳息不用于分配；

（五）按照登记核定或者章程规定，该组织注销后的剩余财产用于公益性或者非营利性目的，或者由登记管理机关转赠给与该组织性质、宗旨相同的组织，并向社会公告；

（六）投入人对投入该组织的财产不保留或者享有任何财产权利；

（七）工作人员工资福利开支控制在规定的比例内，不变相分配该组织的财产。

前款规定的非营利组织的认定管理办法由国务院财政、税务主管部门会同国务院有关部门制定。

第八十五条

企业所得税法第二十六条第（四）项所称符合条件的非营利组织的收入，不包括非营利组织从事营利性活动取得的收入，但国务院财政、税务主管部门另有规定的除外。

第八十六条

Article 81 When an enterprise sets off Corporate Income Tax pursuant to the provisions of Article 23 and Article 24 of the Corporate Income Tax Law, it shall provide the relevant tax payment proof issued by the overseas tax authorities for the tax year in respect of the tax amount.

Chapter 4 Tax Incentives

Article 82 Interest income from treasury bonds referred to in item (1) of Article 26 of the Corporate Income Tax Law shall mean the interest income derived by an enterprise through holding of treasury bonds issued by the finance department of the State Council.

Article 83 Gains from equity investment between resident enterprises which satisfy the requirements referred to in item (2) of Article 26 of the Corporate Income Tax Law shall mean investment gains derived by a resident enterprise through direct investment in another resident enterprise. Gains from equity investments such as dividends and bonuses etc. referred to in item (2) and item (3) of Article 26 of the Corporate Income Tax Law shall exclude investment gains obtained for holding listed and circulating shares issued by a resident enterprise for less than 12 months consecutively.

Article 84 A non-profit organisation which satisfies the requirements referred to in item (4) of Article 26 of the Corporate Income Tax Law shall mean an organisation which satisfies the following requirements:

(1) it has performed the registration formalities for non-profit organisations pursuant to the law;

(2) it engages in charitable or non-profit activities;

(3) except for reasonable expenditure incurred in relation to the organisation, its revenue is used entirely on registered charitable or non-profit causes stipulated in its articles of association;

(4) its property and yield thereof are not used for distribution;

(5) the remaining property following its cancellation is used for charitable or non-profit causes pursuant to the registration or the provisions of the articles of association or donated by the registration authorities to an organisation of similar nature and objective and a public announcement shall be made;

(6) the contributor(s) shall not retain or enjoy any property right of property contributed to the organisation; and

(7) the wage and welfare expenditure of its staff shall be kept within the stipulated ratio and the property of the organisation shall not be distributed under any pretext.

The method of identifying and administration of non-profit organisations stipulated in the preceding paragraph shall be formulated by the finance and tax departments of the State Council in consultation with the relevant departments of the State Council.

Article 85 Unless otherwise stipulated by the finance and tax departments of the State Council, the income of non-profit organisations which satisfy the requirements referred to in item (4) of Article 26 of the Corporate Income Tax Law shall exclude income derived by the non-profit organisation from profitable activities.

Article 86 The income of enterprises referred to in item (1) of Article 27

企业所得税法第二十七条第(一)项规定的企业从事农、林、牧、渔业项目的所得,可以免征、减征企业所得税,是指:

(一)企业从事下列项目的所得,免征企业所得税:

1. 蔬菜、谷物、薯类、油料、豆类、棉花、麻类、糖料、水果、坚果的种植;

2. 农作物新品种的选育;

3. 中药材的种植;

4. 林木的培育和种植;

5. 牲畜、家禽的饲养;

6. 林产品的采集;

7. 灌溉、农产品初加工、兽医、农技推广、农机作业和维修等农、林、牧、渔服务业项目;

8. 远洋捕捞。

(二)企业从事下列项目的所得,减半征收企业所得税:

1. 花卉、茶以及其他饮料作物和香料作物的种植;

2. 海水养殖、内陆养殖。

企业从事国家限制和禁止发展的项目,不得享受本条规定的企业所得税优惠。

第八十七条

企业所得税法第二十七条第(二)项所称国家重点扶持的公共基础设施项目,是指《公共基础设施项目企业所得税优惠目录》规定的港口码头、机场、铁路、公路、城市公共交通、电力、水利等项目。

企业从事前款规定的国家重点扶持的公共基础设施项目的投资经营的所得,自项目取得第一笔生产经营收入所属纳税年度起,第一年至第三年免征企业所得税,第四年至第六年减半征收企业所得税。

企业承包经营、承包建设和内部自建自用本条规定的项目,不得享受本条规定的企业所得税优惠。

第八十八条

企业所得税法第二十七条第(三)项所称符合条件的环境保护、节能节水项目,包括公共污水处理、公共垃圾处理、沼气综合利用、节能减排技术改造、海水淡化等。项目的具体条件和范围由国务院财政、税务主管部门商国务院有关部门制订,报国务院批准后公布施行。

of the Corporate Income Tax Law derived from agricultural, forestry, husbandry and fishing projects may be subject to exemption or reduction of Corporate Income Tax as follows:

(1) The income of an enterprise derived from the following projects shall be exempted from Corporate Income Tax:

(i) cultivation of vegetables, cereals, potatoes, fuels, beans, cotton, linen, sugar, fruit, nuts;

(ii) breeding of new crop varieties;

(iii) cultivation of Chinese medical herbs;

(iv) cultivation of forest trees;

(v) livestock husbandry and poultry farming;

(vi) gathering of forest products;

(vii) agricultural, forestry, husbandry and fishery projects such as irrigation, primary processing of agricultural products, veterinarian, promotion of agricultural technology, operations and repair and maintenance of agricultural machinery etc.; and

(viii) ocean fishing.

(2) The income of an enterprise derived from the following projects shall be subject to 50% reduction of Corporate Income Tax:

(i) cultivation of flowers, teas and other beverage crops and spices crops; and

(ii) mariculture and inland aquaculture.

Enterprises engaging in restricted and prohibited projects stipulated by the State shall not enjoy the Corporate Income Tax incentives stipulated in this Article.

Article 87 Key public infrastructure projects supported by the State referred to in item (2) of Article 27 of the Corporate Income Tax Law shall mean harbour port, airport, railway, highway, urban public transportation, power, water projects etc. stipulated in the Catalogue of Corporate Income Tax Incentives for Public Infrastructure Projects.

Income derived by an enterprise investing and operating a key public infrastructure project supported by the State shall be exempted from Corporate Income Tax for the first year to the third year with effect from the tax year in which the first sum of production and business revenue is derived from the project and be subject to Corporate Income Tax at 50% reduction for the fourth year to the sixth year.

Contracted business projects, contracted construction projects and self-constructed projects for own use of an enterprise under this Article shall not enjoy the Corporate Income Tax incentives stipulated in this Article.

Article 88 Environmental protection and energy and water conservation projects which satisfy the requirements referred to in item (3) of Article 27 of the Corporate Income Tax Law shall include public sewage treatment, public garbage treatment, comprehensive development and utilisation of biogas, technological transformation for energy saving and reduced emissions and desalination etc.. The specific requirements and scope of the projects shall be formulated by the finance and tax departments of the State Council in consultation with the relevant departments of the State Council and submitted to the State Council for approval before promulgation and implementation.

企业从事前款规定的符合条件的环境保护、节能节水项目的所得，自项目取得第一笔生产经营收入所属纳税年度起，第一年至第三年免征企业所得税，第四年至第六年减半征收企业所得税。

第八十九条

依照本条例第八十七条和第八十八条规定享受减免税优惠的项目，在减免税期限内转让的，受让方自受让之日起，可以在剩余期限内享受规定的减免税优惠；减免税期限届满后转让的，受让方不得就该项目重复享受减免税优惠。

第九十条

企业所得税法第二十七条第（四）项所称符合条件的技术转让所得免征、减征企业所得税，是指一个纳税年度内，居民企业技术转让所得不超过500万元的部分，免征企业所得税；超过500万元的部分，减半征收企业所得税。

第九十一条

非居民企业取得企业所得税法第二十七条第（五）项规定的所得，减按10%的税率征收企业所得税。

下列所得可以免征企业所得税：

（一）外国政府向中国政府提供贷款取得的利息所得；

（二）国际金融组织向中国政府 and 居民企业提供优惠贷款取得的利息所得；

（三）经国务院批准的其他所得。

第九十二条

企业所得税法第二十八条第一款所称符合条件的小型微利企业，是指从事国家非限制和禁止行业，并符合下列条件的企业：

（一）工业企业，年度应纳税所得额不超过30万元，从业人数不超过100人，资产总额不超过3000万元；

（二）其他企业，年度应纳税所得额不超过30万元，从业人数不超过80人，资产总额不超过1000万元。

第九十三条

企业所得税法第二十八条第二款所称国家重点扶持的高新技术企业，是指拥有核心自主知识产权，并同时符合下列条件的企业：

（一）产品（服务）属于《国家重点支持的高新技术领域》规定的范围；

（二）研究开发费用占销售收入的比例不低于规定比例；

Income derived by an enterprise engaging in an environmental protection or energy and water conservation project which complies with the conditions stipulated in the preceding paragraph shall be exempted from Corporate Income Tax for the first year to the third year with effect from the tax year in which the first sum of production and business revenue is derived from the project and be subject to Corporate Income Tax at 50% reduction for the fourth year to the sixth year.

Article 89 Where a project which is entitled to the tax reduction and exemption incentives stipulated in Article 87 and Article 88 of these Regulations is transferred within the tax exemption and reduction period, the transferee shall enjoy the stipulated tax reduction and exemption incentives during the remaining term with effect from the date of transfer; where a project is transferred after the tax exemption and reduction period has expired, the transferee shall not be entitled to tax reduction and exemption incentives for the project.

Article 90 Exemption and reduction of Corporate Income Tax on income from transfer of technology which satisfies the requirements referred to in item (4) of Article 27 of the Corporate Income Tax Law shall mean that the income from technology transfer of a resident enterprise within a tax year does not exceed RMB5 million shall be exempted from Corporate Income Tax; the part which exceeds RMB5 million shall be subject to Corporate Income Tax at 50% reduction.

Article 91 Income stipulated in item (5) of Article 27 of the Corporate Income Tax Law derived by a non-resident enterprise shall be subject to Corporate Income Tax at a reduced tax rate of 10%.

The following income may be exempted from Corporate Income Tax:

(1) interest income derived by foreign governments from provision of loan to the Chinese government;

(2) interest income derived by international financial institutions from provision of preferential loan to the Chinese government and resident enterprises; and

(3) any other income approved by the State Council.

Article 92 Qualified small profit enterprises referred to in the first paragraph of Article 28 of the Corporate Income Tax Law shall mean enterprises in industries which are not restricted or prohibited by the State and satisfy the following conditions:

(1) industrial enterprises with annual taxable amount of income below RMB300,000, less than 100 employees and total assets below RMB30 million; and

(2) other enterprises with annual taxable amount of income below RMB300,000, less than 80 employees and total assets below RMB10 million.

Article 93 Key advanced and new technology enterprises supported by the State referred to in the second paragraph of Article 28 of the Corporate Income Tax Law shall mean enterprises which own core independent intellectual property and satisfy the following conditions:

(1) the products (services) shall fall under the scope stipulated in the Key Advanced and New Technology Industries Supported by the State;

(2) the ratio of research and development expenses to the sales revenue shall not be lower than the stipulated ratio;

(3) the ratio of revenue from advanced and new technology products (services) to total revenue of the enterprise shall not be lower than the stipulated ratio;

(三) 高新技术产品(服务)收入占企业总收入的比例不低于规定比例;

(四) 科技人员占企业职工总数的比例不低于规定比例;

(五) 高新技术企业认定管理办法规定的其他条件。

《国家重点支持的高新技术领域》和高新技术企业认定管理办法由国务院科技、财政、税务主管部门商国务院有关部门制订,报国务院批准后公布施行。

第九十四条

企业所得税法第二十九条所称民族自治地方,是指依照《中华人民共和国民族区域自治法》的规定,实行民族区域自治的自治区、自治州、自治县。

对民族自治地方内国家限制和禁止行业的企业,不得减征或者免征企业所得税。

第九十五条

企业所得税法第三十条第(一)项所称研究开发费用的加计扣除,是指企业为开发新技术、新产品、新工艺发生的研究开发费用,未形成无形资产计入当期损益的,在按照规定据实扣除的基础上,按照研究开发费用的50%加计扣除;形成无形资产的,按照无形资产成本的150%摊销。

第九十六条

企业所得税法第三十条第(二)项所称企业安置残疾人员所支付的工资的加计扣除,是指企业安置残疾人员的,在按照支付给残疾职工工资据实扣除的基础上,按照支付给残疾职工工资的100%加计扣除。残疾人员的范围适用《中华人民共和国残疾人保障法》的有关规定。

企业所得税法第三十条第(二)项所称企业安置国家鼓励安置的其他就业人员所支付的工资的加计扣除办法,由国务院另行规定。

第九十七条

企业所得税法第三十一条所称抵扣应纳税所得额,是指创业投资企业采取股权投资方式投资于未上市的中小高新技术企业2年以上的,可以按照其投资额的70%在股权持有满2年的当年抵扣该创业投资企业的应纳税所得额;当年不足抵扣的,可以在以后纳税年度结转抵扣。

第九十八条

企业所得税法第三十二条所称可以采取缩短折旧年限或者采取加速折旧的方法的固定资产,包括:

(一) 由于技术进步,产品更新换代较快的固定资产;

(二) 常年处于强震动、高腐蚀

(4) the ratio of technical personnel to all employees of the enterprise shall not be lower than the stipulated ratio; and

(5) satisfy any other conditions stipulated in the identifying and administration measures for advanced and new technology enterprises.

The Key Advanced and New Technology Industries Supported by the State and the identifying and administration measures for advanced and new technology industries shall be formulated by the science and technology, finance and tax departments of the State Council in consultation with the relevant departments of the State Council and submitted to the State Council for approval before promulgation and implementation.

Article 94 Ethnic autonomous region referred to in Article 29 of the Corporate Income Tax Law shall mean autonomous districts, autonomous prefectures and autonomous counties implementing ethnic autonomy pursuant to the provisions of the Ethnic Autonomy Law of the People's Republic of China.

Enterprises in restricted and prohibited industries in ethnic autonomous regions shall not enjoy reduction or exemption of Corporate Income Tax.

Article 95 Deduction of research and development expenses referred to in item (1) of Article 30 of the Corporate Income Tax Law shall mean that where an enterprise has incurred research and development expenses in the development of new technologies, new products and new processes but intangible assets are yet to be formed and included in the profit and loss for the current period, 50% of the research and development expenses shall be deducted on the basis of actual deduction pursuant to the provisions; where intangible assets are formed, 150% of the cost of intangible assets shall be amortised.

Article 96 Deduction of wage payments for placement arrangements of disabled employees referred to in item (2) of Article 30 of the Corporate Income Tax Law shall mean that where an enterprise makes placement arrangements for disabled employees, 100% of the wage payments to disabled employees shall be deducted on the basis of actual deduction. The relevant provisions of the Law of the People's Republic of China on Protection of Disabled Persons shall apply to the scope of disabled employees.

The deduction measures for wages paid by an enterprise to other employees as encouraged by the State referred to in item (2) of Article 30 of the Corporate Income Tax Law shall be separately formulated by the State Council.

Article 97 Set off of taxable amount of income referred to in Article 31 of the Corporate Income Tax Law shall mean that where a venture capital enterprise invests in non-listed small and medium advanced and new technology enterprises by way of equity investment for two years or more, the taxable amount of income of the venture capital enterprise may be set off against 70% of the investment amount in the year when the equity has been held for two years; the balance after set off may be carried forward to subsequent tax years for set off.

Article 98 Fixed assets which may adopt a shorter depreciation period or the accelerated depreciation method referred to in Article 32 of the Corporate Income Tax Law shall include:

(1) fixed assets subject to technological advancement and faster product updates; and

(2) fixed assets which are always subject to strong vibrations and high corrosion.

状态的固定资产。

采取缩短折旧年限方法的，最低折旧年限不得低于本条例第六十条规定折旧年限的60%；采取加速折旧方法的，可以采取双倍余额递减法或者年数总和法。

第九十九条

企业所得税法第三十三条所称减计收入，是指企业以《资源综合利用企业所得税优惠目录》规定的资源作为主要原材料，生产国家非限制和禁止并符合国家和行业相关标准的产品取得的收入，减按90%计入收入总额。

前款所称原材料占生产产品材料的比例不得低于《资源综合利用企业所得税优惠目录》规定的标准。

第一百条

企业所得税法第三十四条所称税额抵免，是指企业购置并实际使用《环境保护专用设备企业所得税优惠目录》、《节能节水专用设备企业所得税优惠目录》和《安全生产专用设备企业所得税优惠目录》规定的环境保护、节能节水、安全生产等专用设备的，该专用设备的投资额的10%可以从企业当年的应纳税额中抵免；当年不足抵免的，可以在以后5个纳税年度结转抵免。

享受前款规定的企业所得税优惠的企业，应当实际购置并自身实际投入使用前款规定的专用设备；企业购置上述专用设备在5年内转让、出租的，应当停止享受企业所得税优惠，并补缴已经抵免的企业所得税税款。

第一百零一条

本章第八十七条、第九十九条、第一百条规定的企业所得税优惠目录，由国务院财政、税务主管部门商国务院有关部门制订，报国务院批准后公布施行。

第一百零二条

企业同时从事适用不同企业所得税待遇的项目的，其优惠项目应当单独计算所得，并合理分摊企业的期间费用；没有单独计算的，不得享受企业所得税优惠。

第五章 源泉扣缴

第一百零三条

依照企业所得税法对非居民企业应当缴纳的企业所得税实行源泉扣缴的，应当依照企业所得税法第十九条的规定计算应纳税所得额。

企业所得税法第十九条所称收入全额，是指非居民企业向支付人收取的全部价款和价外费用。

第一百零四条

企业所得税法第三十七条所称支付人，是指依照有关法律规定或者合同约定对非居民企业直接负有支付相关款项义务的单位或者个人。

Where a fixed asset adopts a shorter depreciation period, the minimum depreciation period shall not be less than 60% of the depreciation period stipulated in Article 60 of these Regulations; where a fixed asset adopts the accelerated depreciation, it may adopt the double declining balance method or the sum-of-years depreciation method.

Article 99 Deduction of income referred to in Article 33 of the Corporate Income Tax Law Article shall mean that 90% of the income derived by an enterprise which uses the resources stipulated in the Catalogue for Corporate Income Tax Incentives for Comprehensive Utilisation of Resources as key raw materials to manufacture products which are not restricted or prohibited by the State and which comply with the relevant standards of the State and the industry shall be include in the total income amount.

The ratio of raw materials to the materials used in production of products shall not be lower than the standard stipulated in the Catalogue for Corporate Income Tax Incentives for Comprehensive Utilisation of Resources.

Article 100 Set off against tax amount referred to in Article 34 of the Corporate Income Tax Law shall mean that where an enterprise has purchased special equipment for use in environmental protection, energy and water conservation and work safety purposes etc. stipulated in the Catalogue of Corporate Income Tax Incentives for Special Equipment for Environmental Protection, the Catalogue of Corporate Income Tax Incentives for Special Equipment for Energy and Water Conservation, the Catalogue of Corporate Income Tax Incentives for Special Equipment for Work Safety, 10% of the amount invested in the special equipment may be set off against the enterprise's tax amount payable for the current year; the balance after set off may be carried forward to the following five tax years.

An enterprise which enjoys Corporate Income Tax incentives stipulated in the preceding paragraph must have actually purchased and used the special equipment stipulated in the preceding paragraph; where an enterprise which has purchased the aforesaid special equipment transfers or leases the special equipment within five years, it shall cease to enjoy the Corporate Income Tax incentives and make good Corporate Income Tax which has been set off.

Article 101 The catalogue of Corporate Income Tax incentives stipulated in Article 87, Article 99 and Article 100 of this Chapter shall be formulated by the finance and tax departments of the State Council in consultation with the relevant departments of the State Council and submitted to the State Council for approval before announcement and implementation.

Article 102 Where an enterprise engages in projects which are subject to different Corporate Income Tax treatment, income shall be computed for preferential projects individually and period expenses of the enterprise shall be reasonably shared; where the income of the projects is not computed individually, the enterprise shall not enjoy Corporate Income Tax incentives.

Chapter 5 Deduction at Source

Article 103 Where Corporate Income Tax to be paid by a non-resident enterprise is to be withheld at source pursuant to the Corporate Income Tax Law, the taxable amount of income shall be computed pursuant to the provisions of Article 19 of the Corporate Income Tax Law.

Total amount of income referred to in Article 19 of the Corporate Income Tax Law shall mean all prices and other expenses collected by a non-resident enterprise from payors.

Article 104 A payor referred to in Article 37 of the Corporate Income Tax Law shall mean an organisation or individual which bears direct obligation to pay the relevant amount to a non-resident enterprise pursuant to the relevant provisions of the laws or contractual provisions.

第一百零五条

企业所得税法第三十七条所称支付，包括现金支付、汇拨支付、转账支付和权益兑价支付等货币支付和非货币支付。

企业所得税法第三十七条所称到期应支付的款项，是指支付人按照权责发生制原则应当计入相关成本、费用的应付款项。

第一百零六条

企业所得税法第三十八条规定的可以指定扣缴义务人的情形，包括：

(一) 预计工程作业或者提供劳务期限不足一个纳税年度，且有证据表明不履行纳税义务的；

(二) 没有办理税务登记或者临时税务登记，且未委托中国境内的代理人履行纳税义务的；

(三) 未按照规定期限办理企业所得税纳税申报或者预缴申报的。

前款规定的扣缴义务人，由县级以上税务机关指定，并同时告知扣缴义务人所扣税款的计算依据、计算方法、扣缴期限和扣缴方式。

第一百零七条

企业所得税法第三十九条所称所得发生地，是指依照本条例第七条规定的原则确定的所得发生地。在中国境内存在多处所得发生地的，由纳税人选择其中之一申报缴纳企业所得税。

第一百零八条

企业所得税法第三十九条所称该纳税人在中国境内其他收入，是指该纳税人在中国境内取得的其他各种来源的收入。

税务机关在追缴该纳税人应纳税款时，应当将追缴理由、追缴数额、缴纳期限和缴纳方式等告知该纳税人。

第六章 特别纳税调整

第一百零九条

企业所得税法第四十一条所称关联方，是指与企业有下列关联关系之一的企业、其他组织或者个人：

(一) 在资金、经营、购销等方面存在直接或者间接的控制关系；

(二) 直接或者间接地同为第三者控制；

(三) 在利益上具有相关联的其他关系。

第一百一十条

企业所得税法第四十一条所称独立交易原则，是指没有关联关系的交易各方，按照公平成交价格 and 营业常规进行业务往来遵循的原则。

Article 105 Payment referred to in Article 37 of the Corporate Income Tax Law shall include payment in currency or non-currency form such as cash payment, payment by remittance, fund transfer and payment of consideration for interests etc..

Due and payable amounts referred to in Article 37 of the Corporate Income Tax Law shall mean amounts payable by a payor which shall be included in the relevant costs and expenses pursuant to the accrual principle.

Article 106 The circumstances where a withholding agent may be appointed pursuant to the provisions of Article 38 of the Corporate Income Tax Law include:

(1) where the expected project period or period for provision of labour services is less than a tax year, and there is proof of declaration of non-performance of tax payment obligations;

(2) where tax registration or provisional tax registration formalities have not been completed and the taxpayer has not appointed an agent in China to perform tax payment obligations on its behalf;

(3) where the tax return for Corporate Income Tax or tax return for prepayment has not been filed within the stipulated period.

A withholding agent stipulated in the preceding paragraph shall be appointed by tax authorities of county level and above and the withholding agent shall be notified of the computation basis for tax withholding, computation method, withholding period and withholding method.

Article 107 The place where income is derived referred to in Article 39 of the Corporate Income Tax Law shall mean the place where income is determined pursuant to the principle stipulated in Article 7 of these Regulations. Where income is derived in multiple locations in China, the taxpayer shall select one of the locations to be the venue for filing of tax return and payment of Corporate Income Tax.

Article 108 Other income of a taxpayer in China referred to in Article 39 of the Corporate Income Tax Law shall mean income from any other sources derived in China by a taxpayer.

Tax authorities recovering tax payable from a taxpayer shall notify the taxpayer of the reason for recovery, amount to be recovered, payment period and method etc..

Chapter 6 Special Tax Adjustment

Article 109 An interested party referred to in Article 41 of the Corporate Income Tax Law shall mean an enterprise, organisation or individual related to an enterprise in the following manner:

(1) direct or indirect control over funds, operations, procurement and sales etc.;

(2) under direct or indirect control by the same third party; and

(3) any other interested party relationships.

Article 110 Independent transaction principle referred to in Article 41 of the Corporate Income Tax Law shall mean the principle of business dealings according to fair transaction price and business norms between unrelated transaction parties.

第一百一十一条

企业所得税法第四十一条所称合理方法，包括：

(一) 可比非受控价格法，是指按照没有关联关系的交易各方进行相同或者类似业务往来的价格进行定价的方法；

(二) 再销售价格法，是指按照从关联方购进商品再销售给没有关联关系的交易方的价格，减除相同或者类似业务的销售毛利进行定价的方法；

(三) 成本加成法，是指按照成本加合理费用和利润进行定价的方法；

(四) 交易净利润法，是指按照没有关联关系的交易各方进行相同或者类似业务往来取得的净利润水平确定利润的方法；

(五) 利润分割法，是指将企业与其关联方的合并利润或者亏损在各方之间采用合理标准进行分配的方法；

(六) 其他符合独立交易原则的方法。

第一百一十二条

企业可以依照企业所得税法第四十一条第二款的规定，按照独立交易原则与其关联方分摊共同发生的成本，达成成本分摊协议。

企业与其关联方分摊成本时，应当按照成本与预期收益相配比的原则进行分摊，并在税务机关规定的期限内，按照税务机关的要求报送有关资料。

企业与其关联方分摊成本时违反本条第一款、第二款规定的，其自行分摊的成本不得在计算应纳税所得额时扣除。

第一百一十三条

企业所得税法第四十二条所称预约定价安排，是指企业就其未来年度关联交易的定价原则和计算方法，向税务机关提出申请，与税务机关按照独立交易原则协商、确认后达成的协议。

第一百一十四条

企业所得税法第四十三条所称相关资料，包括：

(一) 与关联业务往来有关的价格、费用的制定标准、计算方法和说明等同期资料；

(二) 关联业务往来所涉及的财产、财产使用权、劳务等的再销售（转让）价格或者最终销售（转让）价格的相关资料；

Article 111 Reasonable methods referred to in Article 41 of the Corporate Income Tax Law shall include:

(1) comparable uncontrolled price method where unrelated transaction parties fix the price according to the price of an identical or similar business transaction;

(2) resale price method where the price is fixed according to the resale price of goods purchased from an interested party and sold to an unrelated transaction party less the gross sales margin for an identical or a similar business transaction;

(3) cost plus method where the price is fixed according to costs plus reasonable expenses and profits;

(4) transaction profit method where the profit is determined according to the net profit derived by unrelated transaction parties in an identical or a similar business transaction;

(5) profit split method where distribution of the consolidated profit or loss is made between an enterprise and its interested party(ies); and

(6) any other method which complies with the independent transaction principle.

Article 112 An enterprise may conclude a cost sharing agreement on sharing the costs with its interested party(ies) pursuant to the provisions of the second paragraph of Article 41 of the Corporate Income Tax Law and according to the independent transaction principle.

An enterprise and its interested party(ies) shall share costs pursuant to the principle of matching costs and forecast gains; the relevant information required by the tax authorities shall be submitted to the tax authorities within the period stipulated by the tax authorities.

Where the cost sharing between an enterprise and its interested party(ies) violates the provisions of the first and second paragraphs of this Article, the shared costs shall not be deducted for computation of the taxable amount of income.

Article 113 Predetermined pricing arrangements referred to in Article 42 of the Corporate Income Tax Law shall mean that the application submitted by an enterprise to the tax authorities in respect of its pricing principle and computation method for interested party transactions in subsequent years and the agreement reached between the enterprise and the tax authorities following negotiation and pursuant to the independent transaction principle.

Article 114 Relevant materials referred to in Article 43 of the Corporate Income Tax Law shall include:

(1) the standards, computation method and explanatory notes on formulation of prices and expenses pertaining to business dealings with interested party(ies) for the relevant period;

(2) information pertaining to the resale (transfer) prices or final selling (transfer) prices of property, property use rights, labour services etc. involved in business dealings with interested party(ies);

(3) information pertaining to comparable product prices, pricing method and profit margin etc.. of the enterprise under investigation which should be provided by other enterprises relating to the

(三) 与关联业务调查有关的其他企业应当提供的与被调查企业可比的产品价格、定价方式以及利润水平等资料；

(四) 其他与关联业务往来有关的资料。

企业所得税法第四十三条所称与关联业务调查有关的其他企业，是指与被调查企业在生产经营内容和方式上相类似的企业。

企业应当在税务机关规定的期限内提供与关联业务往来有关的价格、费用的制定标准、计算方法和说明等资料。关联方以及与关联业务调查有关的其他企业应当在税务机关与其约定的期限内提供相关资料。

第一百一十五条

税务机关依照企业所得税法第四十四条的规定核定企业的应纳税所得额时，可以采用下列方法：

(一) 参照同类或者类似企业的利润率水平核定；

(二) 按照企业成本加合理的费用和利润的方法核定；

(三) 按照关联企业集团整体利润的合理比例核定；

(四) 按照其他合理方法核定。

企业对税务机关按照前款规定的方法核定的应纳税所得额有异议的，应当提供相关证据，经税务机关认定后，调整核定的应纳税所得额。

第一百一十六条

企业所得税法第四十五条所称中国居民，是指根据《中华人民共和国个人所得税法》的规定，就其从中国境内、境外取得的所得在中国缴纳个人所得税的个人。

第一百一十七条

企业所得税法第四十五条所称控制，包括：

(一) 居民企业或者中国居民直接或者间接单一持有外国企业10%以上有表决权股份，且由其共同持有该外国企业50%以上股份；

(二) 居民企业，或者居民企业和中国居民持股比例没有达到第

(一)项规定的标准，但在股份、资金、经营、购销等方面对该外国企业构成实质控制。

第一百一十八条

企业所得税法第四十五条所称实际税负明显低于企业所得税法第四条第一款规定税率水平，是指低于企业所得税法第四条第一款规定税率的50%。

第一百一十九条

investigation on interested party transactions; and

(4) any other information pertaining to business dealings with interested party(ies).

Other enterprises related to the interested party business dealing under investigation referred to in Article 43 of the Corporate Income Tax Law shall mean enterprises that have identical or similar production and business operations as the enterprise under investigation.

An enterprise shall provide information on the standards, computation method and explanatory notes on formulation of prices and expenses pertaining to business dealings with interested party(ies) within the period stipulated by the tax authorities. The interested party(ies) and other enterprises related to the interested party business dealing under investigation shall provide the relevant information within the period as agreed with the tax authorities.

Article 115 The tax authorities may adopt the following methods for assessment of the taxable amount of income of an enterprise pursuant to the provisions of Article 44 of the Corporate Income Tax Law:

(1) assessment based on the profit margin of identical or similar enterprises;

(2) assessment based on costs plus reasonable expenses and profit of the enterprise;

(3) assessment based on the reasonable ratio of the overall profit of the interested enterprise group; and

(4) assessment based on any other reasonable method.

An enterprise which disagrees with the taxable amount of income assessed by the tax authorities based on the aforesaid methods stipulated in the preceding paragraph shall provide the relevant evidence and the tax authorities shall adjust the assessed taxable amount of income upon verification.

Article 116 A Chinese resident referred to in Article 45 of the Corporate Income Tax Law shall mean an individual who pays individual income tax in China pursuant to the Individual Income Tax Law of the People's Republic of China for income derived by him/her in China or overseas.

Article 117 Control referred to in Article 45 of the Corporate Income Tax Law shall include:

(1) where a resident enterprise or a Chinese resident directly or indirectly holds 10% or more of voting shares solely in a foreign enterprise, and jointly holds 50% or more of the shares in the foreign enterprise; and

(2) where the shareholding percentage of a resident enterprise or a Chinese resident has yet to attain the standard stipulated in item (1) but it/they has/have substantive control over the foreign enterprise in terms of shares, funds, operation and procurement and sale etc.

Article 118 The actual tax burden is clearly lower than that stipulated in the first paragraph of Article 4 of the Corporate Income Tax Law referred to in Article 45 of the Corporate Income Tax Law shall mean that the actual tax burden is less than 50% of the tax rate stipulated in the first paragraph of Article 4 of the Corporate Income Tax Law.

Article 119 Debt securities investment referred to in Article 46 of the Corporate Income Tax Law shall mean financing obtained by an

企业所得税法第四十六条所称债权性投资，是指企业直接或者间接从关联方获得的，需要偿还本金和支付利息或者需要以其他具有支付利息性质的方式予以补偿的融资。

企业间接从关联方获得的债权性投资，包括：

(一) 关联方通过无关联第三方提供的债权性投资；

(二) 无关联第三方提供的、由关联方担保且负有连带责任的债权性投资；

(三) 其他间接从关联方获得的具有负债实质的债权性投资。

企业所得税法第四十六条所称权益性投资，是指企业接受的不需要偿还本金和支付利息，投资人对企业净资产拥有所有权的投资。

企业所得税法第四十六条所称标准，由国务院财政、税务主管部门另行规定。

第一百二十条

企业所得税法第四十七条所称不具有合理商业目的，是指以减少、免除或者推迟缴纳税款为主要目的。

第一百二十一条

税务机关根据税收法律、行政法规的规定，对企业作出特别纳税调整的，应当对补征的税款，自税款所属纳税年度的次年6月1日起至补缴税款之日止的期间，按日加收利息。

前款规定加收的利息，不得在计算应纳税所得额时扣除。

第一百二十二条

企业所得税法第四十八条所称利息，应当按照税款所属纳税年度中国人民银行公布的与补税期间同期的人民币贷款基准利率加5个百分点计算。

企业依照企业所得税法第四十三条和本条例的规定提供有关资料的，可以只按前款规定的人民币贷款基准利率计算利息。

第一百二十三条

企业与其关联方之间的业务往来，不符合独立交易原则，或者企业实施其他不具有合理商业目的安排的，税务机关有权在该业务发生的纳税年度起10年内，进行纳税调整。

第七章 征收管理

第一百二十四条

企业所得税法第五十条所称企业登记注册地，是指企业依照国家有关规定登记注册的住所地。

第一百二十五条

企业汇总计算并缴纳企业所得税时，应当统一核算应纳税所得额，具

enterprise directly or indirectly from an interested party which requires the enterprise to repay principal and pay interest or make compensation via any other method which calls for payment of interest.

Debt securities investments obtained by an enterprise from an interested party indirectly shall include:

(1) debt securities investments provided by an interested party through an unrelated third party;

(2) debt securities investments provided by an unrelated third party and the interested party provides guarantee and bears joint and several liability; and

(3) any other debt securities investments obtained from an interested party indirectly.

Equity investments referred to in Article 46 of the Corporate Income Tax Law shall mean investments accepted by an enterprise where principal repayment and interest payment are not required and the investor owns the enterprise's net assets.

Standards referred to in Article 46 of the Corporate Income Tax Law shall be separately formulated by the finance and tax departments of the State Council.

Article 120 Arrangements with no reasonable commercial objectives referred to in Article 47 of the Corporate Income Tax Law shall mean that the key objectives are the reduction, waiver or postponement of tax payment.

Article 121 Where the tax authorities make special tax adjustment for an enterprise pursuant to the provisions of tax laws and administrative regulations, interest shall accrue daily on the tax to be made good during the period from 1 June of the year following the tax year in respect of the tax amount to the date of retrospective tax payment.

The interest accrued in the preceding paragraph shall not be deducted for computation of taxable amount of income.

Article 122 Interest referred to in Article 48 of the Corporate Income Tax Law shall be computed using the Renminbi loan benchmark interest rate announced by the People's Bank of China in the tax year in respect of the tax amount for the same period as the retrospective tax payment period plus five percentage points.

An enterprise which provides the relevant information pursuant to the provisions of Article 43 of the Corporate Income Tax Law and these Regulations may compute interest using the benchmark interest rate for Renminbi loan stipulated in the preceding paragraph.

Article 123 Where a business dealing between an enterprise and its interested party(ies) does not comply with the independent transaction principle or the enterprise has made other arrangements with no reasonable commercial objectives, the tax authorities shall have the right to make tax adjustment within 10 years from the tax year in which the business dealing occurs.

Chapter 7 Administration of Levying and Collection

Article 124 The place of incorporation of an enterprise referred to in Article 50 of the Corporate Income Tax Law shall mean the place of incorporation of the enterprise pursuant to the relevant provisions of the State.

Article 125 An enterprise which computes and pays Corporate Income Tax on a consolidated basis shall compute its taxable amount of income on a consolidated basis; the detailed measures shall be separately formulated by the finance and tax authorities of the State Council.

体办法由国务院财政、税务主管部门另行制定。

第一百二十六条

企业所得税法第五十一条所称主要机构、场所，应当同时符合下列条件：

(一) 对其他各机构、场所的生产经营活动负有监督管理责任；

(二) 设有完整的账簿、凭证，能够准确反映各机构、场所的收入、成本、费用和盈亏情况。

第一百二十七条

企业所得税分月或者分季预缴，由税务机关具体核定。

企业根据企业所得税法第五十四条规定分月或者分季预缴企业所得税时，应当按照月度或者季度的实际利润额预缴；按照月度或者季度的实际利润额预缴有困难的，可以按照上一纳税年度应纳税所得额的月度或者季度平均额预缴，或者按照经税务机关认可的其他方法预缴。预缴方法一经确定，该纳税年度内不得随意变更。

第一百二十八条

企业在纳税年度内无论盈利或者亏损，都应当依照企业所得税法第五十四条规定的期限，向税务机关报送预缴企业所得税纳税申报表、年度企业所得税纳税申报表、财务会计报告和税务机关规定应当报送的其他有关资料。

第一百二十九条

企业所得以人民币以外的货币计算的，预缴企业所得税时，应当按照月度或者季度最后一日的人民币汇率中间价，折合成人民币计算应纳税所得额。年度终了汇算清缴时，对已经按照月度或者季度预缴税款的，不再重新折合计算，只就该纳税年度内未缴纳企业所得税的部分，按照纳税年度最后一日的人民币汇率中间价，折合成人民币计算应纳税所得额。

经税务机关检查确认，企业少计或者多计前款规定的所得的，应当按照检查确认补税或者退税时的上一个月最后一日的人民币汇率中间价，将少计或者多计的所得折合成人民币计算应纳税所得额，再计算应补缴或者应退的税款。

第八章 附 则

第一百三十条

企业所得税法第五十七条第一款所称本法公布前已经批准设立的企业，是指企业所得税法公布前已经完成登记注册的企业。

第一百三十一条

在香港特别行政区、澳门特别行政区和台湾地区成立的企业，参照适用企业所得税法第二条第二款、第三款的相关规定。

第一百三十二条

Article 126 The main office or premises referred to in Article 51 of the Corporate Income Tax Law shall satisfy the following conditions:

(1) it shall bear supervision and management responsibilities for the production and business activities of the other offices and premises; and

(2) it shall set up complete accounts and vouchers and must accurately reflect the revenue, costs, expenses and profit and loss of various offices and premises.

Article 127 Monthly or quarterly prepayment of Corporate Income Tax shall be assessed by the tax authorities.

An enterprise which makes monthly or quarterly prepayment of Corporate Income Tax pursuant to the provisions of Article 54 of the Corporate Income Tax Law shall make prepayment according to the actual profit amount of the month or quarter; where there is difficulty in making prepayment according to the actual profit of the month or quarter, prepayments may be made according to the average monthly or quarterly amount of the taxable amount of income in the preceding tax year, or according to any other method approved by the tax authorities. The prepayment method, once confirmed, shall not be changed arbitrarily within the tax year.

Article 128 Regardless of profit or loss in a tax year, an enterprise shall submit to the tax authorities the tax return form for prepayment of Corporate Income Tax, annual tax return for Corporate Income Tax, financial accounting reports and any other relevant materials stipulated by the tax authorities within the period stipulated in Article 54 of the Corporate Income Tax Law.

Article 129 Where the income of an enterprise is not computed in Renminbi, the enterprise shall compute the taxable amount of income in Renminbi using the middle price of the Renminbi exchange rate on the last day of the month or the quarter when making prepayment of Corporate Income Tax. At the time of year-end final settlement, the enterprise is not required to re-compute monthly or quarterly prepaid tax amounts but shall use the middle price of Renminbi exchange rate on the last day of the tax year to convert unpaid corporate income tax in the tax year into Renminbi for computation of the taxable amount of income in Renminbi.

Upon checking and confirmation by the tax authorities, where the income stipulated in the preceding paragraph is under-computed or over-computed by the enterprise, the enterprise shall use the middle price of Renminbi exchange rate on the last day of the preceding month of the checking and confirmation of tax to be made good or tax refund to convert the under-computed or over-computed income into Renminbi for computation of taxable amount of income before computation of the tax amount to be made good or refunded.

Chapter 8 Supplementary Provisions

Article 130 Enterprises approved and established before the promulgation of this Law referred to in the first paragraph of Article 57 of the Corporate Income Tax Law shall mean enterprises which have completed registration before the promulgation of the Corporate Income Tax Law.

Article 131 The relevant provisions of the second and third paragraphs of Article 2 of the Corporate Income Tax Law shall apply by reference to enterprises established in the Hong Kong Special Administrative Region, Macau Special Administrative Region and Taiwan.

Article 132 These Regulations shall be effective 1 January 2008. The

本条例自2008年1月1日起施行。1991年6月30日国务院发布的《中华人民共和国外商投资企业和外国企业所得税法实施细则》和1994年2月4日财政部发布的《中华人民共和国企业所得税暂行条例实施细则》同时废止。

Implementation Regulations for the Corporate Income Tax Law of the People's Republic of China for Foreign Investment Enterprises and Foreign Enterprises promulgated by the State Council on 30 June 1991 and the Implementation Regulations for the Provisional Regulations of the People's Republic of China on corporate income tax promulgated by the Ministry of Finance on 4 February 1994 shall be repealed simultaneously.



扫一扫，手机阅读更方便