

2008《中华人民共和国企业所得税法》与《实施条例》

Tax Incentive Provisions of the PRC Enterprises Income Tax Law and the Implementation Regulations

税务优惠有关规定

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税务优惠有关规定

TAX INCENTIVE PROVISIONS

- [1] 减免税收入  
Revenue Eligible for Tax Exemption and Reduction

企业的下列收入为免税收入（税法 26 条）：

- （一）国债利息收入；
- （二）符合条件的居民企业之间的股息、红利等权益性投资收益；

(三) 在中国境内设立机构、场所的非居民企业从居民企业取得与该机构、场所有实际联系的股息、红利等权益性投资收益；

(四) 符合条件的非营利组织的收入。

The following revenues of an enterprise shall be exempted from income tax (Article 26 of the EIT law):

(1) The interest income from the holding of treasury bonds;

(2) Dividends, bonuses and other return on equity investment distributed between qualified resident enterprises;

(3) Dividends, bonuses and other return on equity investment which a non-resident enterprise with establishments or place of business in China obtains from a resident enterprise and which is effectively connected with such establishments or place of business; and

(4) Revenue of qualified non-profit making organizations

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。以上所称股息、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。（条例 83 条）

The term “qualifying return from equity investment such as dividends and bonuses between resident enterprises” as used in Article 26 (2) of the EIT Law refers to the investment returns obtained by a resident enterprise from its direct investment in any other resident enterprises. The term “returns” from equity investment such as dividends and bonuses” as used in Article 26 (2) and (3) of the EIT Law shall not include the investment returns from stock publicly issued and trade on a stock exchange which is consecutively held by a resident enterprise for not more than 12 months. (Article 83, Implementation Regulations)

[2] 农、林、牧、渔业项目所得

Income from Agriculture, Forestry, Animal Husbandry and Fishery Projects

从事农、林、牧、渔业项目的所得，可以免征、减征企业所得税。

企业从事下列项目的所得，免征企业所得税（条例 86 条）：

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。

Income of an enterprise derived from projects of agriculture, forestry, animal husbandry, and fishery shall either be exempted from tax or subject to reduction in tax:

(1) The enterprise’s income derived from the following projects which shall be exempt from the EIT (Article 86, Implementation Regulations):

a. The growing of vegetables, cereals, potatoes, oil plants, beans, cotton, hemsps, sugar plants, fruits, nuts, etc;

- b. The selection and cultivation of new agricultural species;
- c. The growing of traditional Chinese medicinal herbs;
- d. Cultivation and growing of forests;
- e. Raising of livestock and poultry;
- f. Gathering of forestry products;
- g. Other agricultural, forest, animal husbandry and fishing projects such as irrigation, preliminary processing of agricultural products, veterinary services, promotion of agricultural techniques, operations and maintenance of agricultural machines, etc;
- h. Ocean fishing.

企业从事下列项目的所得，减半征收企业所得税（条例 86 条）：

- 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。

The enterprise's income derived from the following projects shall be subject to income tax at a 50% reduced rate (Article 86, Implementation Regulations):

- a. The growing of flowers, tea plants, and other crops used for beverage and spices;
- b. Maritime and inland aquaculture.

[3] 国家重点扶持的公共基础设施项目  
Public Infrastructure Projects Receiving Key State Support

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。

The term “public infrastructure projects with the key support of the state” as used in Article 27 (2) of the EIT Law refers to the ports, wharves, airports, railways, highways, municipal public transportation, electric power, water conservancy, etc. as listed in the Catalogue of Public Infrastructure Projects Eligible for Enterprise Income Tax Preferential Treatment.

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。（条例 87 条）

The income derived by an enterprise from investing in or operating any of the public infrastructure projects with the key support of the state as mentioned in the preceding paragraph shall be exempted from the EIT for the first three years as of the tax year when the first revenue arising from production or operation is reported, and shall be taxed at a 50% reduced rate from the fourth to the sixth years. (Article 87, Implementation Regulations)

[4] 环境保护、节能节水项目  
Environment Protection, Energy and Water Conservation Projects

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、沼气综合开发利用、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。

The term “qualifying environmental protection, energy or water conservation projects” as used in Article 27 (3) of the EIT Law shall include the processing of public sewage, the processing of public garbage, the comprehensive exploitation and utilization of firedamp, the renovation of technologies of saving energy or discharging wastes, the desalination of sea water, etc. The specific conditions and scope of such projects shall be set down by the competent departments of the State Council in charge of finance and taxation in collaboration with other relevant department of the State Council, which shall come into effect after being ratified by the State Council.

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。（条例 88 条）

The qualifying income derived by an enterprise from engaging in any of the environmental protection or energy or water conservation projects as described in the preceding paragraph shall be exempted from the EIT for the first three years from the tax year when the first revenue arising from production or operation is reported, and shall be taxed at a 50% reduced rate for the fourth to the sixth years. (Article 88, Implementation Regulations)

[5] 技术转让所得  
Technological Transfer

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。（条例第 90 条）

The “reduction and exemption of EIT for qualifying technological transfers” as used in Article 27 (4) of the EIT Law refers to the exemption and reduction of taxable income in the tax year in which the transfer takes place. The portion of taxable income not exceeding 5 million yuan earned by a resident enterprise from technological transfer shall be exempted from EIT, and the portion in excess of the 5 million yuan shall be taxed at a 50% reduced rate. (Article 90, Implementation Regulations)

[6] 小型微利企业  
Small and Low-Profit Enterprises

符合条件的小型微利企业，减按 20% 的税率征收企业所得税。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（条例第 92 条）：

- （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。

Qualifying small enterprises earning low profits as used in Article 28 (1) of the EIT Law are enterprises that are engaged in the industries not restricted or prohibited by the state. Qualified small enterprises earning low profits are taxed at 20% where they meet the following conditions (Article 92, Implementation Regulations):

- (1) An industrial enterprise shall have an annual taxable amount not exceeding RMB 300,000, have not more than 100 employees, and a total asset of more than RMB30 million;
- (2) Any other enterprise shall have an annual taxable amount of not more than RMB300,000, have not more than 80 employees, and a total asset of not more than RMB 10 million.

[7] 高新技术企业  
Advance and New Technology Enterprise

国家需要重点扶持的高新技术企业，减按 15%的税率征收企业所得税。国家需要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（条例第 93 条）：

- （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；
- （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。

Advance and new technology enterprise for which key state supported is required shall be taxed at a 15% reduced rate. The expression “advance and new-technology enterprises under the key support of the state” as used in Article 28 (2) of the EIT Law are enterprises that have their own independent and core intellectual property rights and at the same time meet the following conditions (Article 93, Implementation Regulations):

- (1) The product (service) falls within the scope of the Advance and New Technology Areas Eligible for the Key Support of the State;
- (2) The proportion of research and development expenses in the sales revenues is not lower than the prescribed proportion;
- (3) The proportion of the income from high and new technology products (services) in the total income of the enterprise is not lower than the prescribed proportion.
- (4) The proportion of technicians in the total number of staff members of the enterprise is not lower than the prescribed proportion;
- (5) Other conditions as laid down in the administrative measures for the determination of high and new technology enterprises.

《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。

The Advance and New Technology Areas Eligible for the Key Support of the State and the administrative measures for the determination of advance and new technology enterprises shall be formulated by the competent departments of the State Council in charge of science and technology, finance, and taxation in collaboration with other relevant departments, and shall become effective after being ratified by the State Council.

[8] 研究开发费用支出  
Deduction for Research and Development

企业的研究开发费用支出，可以在计算应纳税所得额时加计扣除。上述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。（条例第 95 条）

The term “additional deduction of research and development expenses” as used in Article 30 (1) of the EIT Law refers to an additional 50% deduction of the research and development expenses incurred from the research and development of new technologies, new products, and new technological processes on the basis of the actual deductions where the enterprise when no intangible asset has been capitalized. If intangible assets have been capitalized, they shall be amortized at 150% of the cost of the intangible assets. (Article 95, Implementation Regulations)

[9] 残疾人员工资支出  
Salaries and Wages Paid to Disabled Employees

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。（条例第 96 条）

The expression “addition deduction of salaries and wages paid to the disabled employees of the enterprise” as used in Article 30 of the EIT Law refers to an additional 100% deduction of the salaries and wages paid by the enterprise to the disabled employees thereof. The definition of disabled persons shall be that in the Law of the People’s Republic of China on the Protection of Disabled People. (Article 96, Implementation Regulations)

[10] 创业投资额抵扣  
Investment Credit for Venture Capital Enterprise

创业投资企业从事国家需要重点扶持和鼓励的创业投资，可以按投资额的一定比例抵扣应纳税所得额。具体执行细节如下（条例第 97 条）：

主体：创业投资企业

投资对象：未上市中小高新技术企业

投资时限：2 年以上

抵扣额：按投资额 70%抵扣应纳税所得额；当年不足抵的，可以在以后年度延续抵扣。

A venture capital investment enterprise engaged in important startup investments which are necessary to be supported and encouraged by the state may deduct from the amount of taxable incomes a certain proportion of the amount of investment. (Article 31 of the EIT law)

The term “deductible amount from taxable income” as used in Article 31 of the EIT Law refers to that, where a startup investment enterprise invests, by means of equity

investment, in an unlisted small or medium-sized advance and new technology enterprise for two or more years, it may set off 70% of its equity investment against the current taxable amount of the startup investment enterprise in the tax year its equity holding attains two full years. If the taxable amount is not enough for setoff, the balance may be carried forward to subsequent years for setoff. (Article 97, Implementation Regulations)

[11] 固定资产加速折旧  
Accelerated Depreciation

企业的固定资产由于技术进步等原因，确需加速折旧的，可以缩短折旧年限或者采取加速折旧的方法。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（条例第 98 条）：

- （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实施条例第 60 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。

- (1) The fixed assets for which the method of shortened depreciation or accelerated depreciation as mentioned in Article 32 of the EIT Law include (Article 98, Implementation Regulations):
- (2) Where the shortened depreciation method is used, the minimum number of years shall not be less than 60% of the number of years for depreciation as set forth in Article 60 of the Implementation Regulation. The enterprise may adopt the double-declining balance method or the Sum-of-the-years-digits method as the accelerated depreciation method.

[12] 减计收入  
Reduction in Revenue

企业综合利用资源，生产符合国家产业政策规定的产品所取得的收入，可以在计算应纳税所得额时减计收入。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。

Article 33 of the EIT law provides that where an enterprise uses any of the materials as listed in the Catalogue of Resources for Comprehensive Utilization by Enterprises Eligible for Preferential Income Tax Treatment as its major raw materials, the income obtained from producing products which are not restricted or prohibited by the state and which meet the national or relevant industry standards shall be calculated into the total income at the reduced 90%.

上述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。（条例第 99 条）

The proportion of raw materials in the materials for the production of products as described in the preceding paragraph shall not be any lower than the standards described in the Catalogue of Resources for Comprehensive Utilization by Enterprises Entitled to Preferential Income Tax Treatment. (Article 99, Implementation Regulations)

[13] 购置专用设备投资额抵扣  
Investment Credit for Special Equipment

企业购置用于环境保护、节能节水、安全生产等专用设备的投资额，可以按一定比例实行税额抵免。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。（条例100条）  
Article 34 of the EIT Law provides that, where an enterprise purchases and actually uses any of the special equipments dedicated to environmental protection, conservation of energy and water, safety of work, etc. as described in the Catalogue of Preferential Income Tax Treatment for Special Equipments in Environmental Protection, the Catalogue of Preferential Income Tax Treatment for Special Equipments in Energy and Water Conservation, and the Catalogue of Preferential Income Tax Treatment for Special Work Safety Equipments, 10% of the investment amount of the special equipment may be credited to the enterprise's amount of tax payable of the current year. If the amount of tax payable for the year is not sufficient for credit, the un-credited amount may be carried forward for use in the following 5 tax years. (Article 100, Implementation Regulations)

享受上述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。（条例第100条）  
An enterprise entitled to the preferential income tax treatment as described in the preceding paragraph shall actually purchase and put into use the special equipments as described in the preceding paragraph. If the enterprise transfers or leases any of the aforesaid special equipment within 5 years after its purchase, its preferential treatment shall be terminated and the enterprise shall make up the already credited enterprise income taxes. (Article 100, Implementation Regulations)

[14] 非居民企业来源于中国境内的所得  
PRC-source Income Derived by Non-resident Enterprises

非居民企业在中国境内未设立机构、场所的，或者虽设立机构、场所但取得的所得与其所设机构、场所没有实际联系的，应当就其来源于中国境内的所得缴纳企业所得税。上述规定的所得，减按10%的税率征收企业所得税。（条例第91条）

Article 27 of the EIT law provides that non-resident enterprises having not set up permanent establishment in China or those already having set up permanent establishment in China but earning income that is not connected with the above-mentioned permanent establishment are subject to tax on PRC-source income. The income, which a non-resident enterprise derives under Article 27 (5) of the EIT Law, shall be taxed at the 10% reduced rate. (Article 91, Implementation Regulations)