

Enterprise Income Tax Law of the People's Republic of China

Order of the President of the People's Republic of China(No. 63)

The Enterprise Income Tax Law of the People's Republic of China, which was adopted at the 5th Session of the 10th National People's Congress of the People's Republic of China on March 16, 2007, is hereby promulgated and shall come into force as of January 1, 2008.

President of the People's Republic of China Hu Jintao

March 16, 2007

Enterprise Income Tax Law of the People's Republic of China

(Adopted at the 5th Session of the 10th National People's Congress of the People's Republic of China on March 16, 2007)

Contents

Table of Content

Chapter One General Provisions

Chapter Two Taxable Income

Chapter Three Payable Tax

Chapter Four Preferential Tax Treatment

Chapter Five Tax Withheld at Source

Chapter Six Special Tax Payment Adjustment

Chapter Seven Administration of Tax Levying and Collection

Chapter Eight Supplementary Provisions

Chapter One General Provisions

Article 1 Taxpayers of enterprise income tax shall be enterprises and other

organizations that obtain income within the People's Republic of China (hereinafter referred to as "Enterprises") and shall pay enterprise income tax in accordance with the provisions of this Law. This Law shall not apply to wholly individually-owned enterprises and partnership enterprises.

Article 2 Enterprises are divided into resident enterprises and non-resident enterprises.

For the purposes of this Law, the term "resident enterprises" shall refer to Enterprises that are set up in China in accordance with the law, or that are set up in accordance with the law of the foreign country (region) whose actual administration institution is in China.

For the purposes of this Law, the term "non-resident enterprises" shall refer to Enterprises that are set up in accordance with the law of the foreign country (region) whose actual administration institution is outside China, but they have set up institutions or establishments in China or they have income originating from China without setting up institutions or establishments in China.

Article 3 Resident enterprises shall pay enterprise income tax originating both within and outside China.

Non-resident enterprises that have set up institutions or premises in China shall pay enterprise income tax in relation to the income originating from China obtained by their institutions or establishments, and the income incurred outside China but there is an actual relationship with the institutions or establishments set up by such enterprises.

Where non-resident enterprises that have not set up institutions or establishments in China, or where institutions or establishments are set up but there is no actual relationship with the income obtained by the institutions or establishments set up by such enterprises, they shall pay enterprise income tax in relation to the income originating from China.

Article 4 The rate of enterprise income tax shall be 25%.

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Non-resident enterprises that have obtained income in accordance with the provisions of Paragraph Three of Article 3 hereof, the applicable tax rate shall be 20%.

Chapter Two Taxable Income

Article 5 The balance derived from the total income in each taxable year of Enterprises, after deduction of the non-taxable income, tax exempted income, other deductions and the making up of losses of previous years shall be the taxable income.

Article 6 Income obtained by Enterprises from various sources in monetary and non-monetary terms shall be the total income, including

1. income from sale of goods;
2. income from provision of labour services;
3. income from transfer of property;
4. income from equity investment such as dividend and bonus;
5. interest income;
6. rental income;
7. income from royalties;
8. income from donations; and
9. other income.

Article 7 The following income from the total income shall not be taxable

1. financial funding;
2. administrative fees and government funds obtained and included in financial management in accordance with the law; and
3. other non-taxable income prescribed by the State Council.

Article 8 Reasonable expenses that are relevant to the income actually incurred and obtained by Enterprises, including costs, fees, tax payments, losses and other fees may

PUBLIC FILE

be deducted from the taxable income.

Article 9 In relation to the expenses from charitable donations incurred by Enterprises, the portion within 12% of the total annual profit may be deducted from the taxable income.

Article 10 The following expenses may not be deducted from the taxable income

1. income from equity investment paid to investors such as dividend and bonus;
2. payment of enterprise income tax;
3. late payment fines;
4. penalties, fines and losses from confiscated property;
5. expenses from donations other than those prescribed in Article 9 hereof;
6. sponsorship fees;
7. expenses for non-verified provisions; and
8. other expenses irrelevant to the income obtained.

Article 11 Where Enterprises compute the taxable income, the depreciation of fixed assets calculated in accordance with provisions may be deducted.

No depreciation may be deducted for the following fixed assets

1. fixed assets other than premises and buildings that have not yet been used;
2. fixed assets leased from other parties by means of business lease;
3. fixed assets leased to other parties by means of lease financing;
4. fixed assets that have been depreciated in full but are still in use;
5. fixed assets that are irrelevant to business activities;
6. land credited as fixed assets after independent price valuation;
7. other fixed assets whose depreciation may not be calculated.

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Article 12 In Enterprises compute the taxable income, the amortization of intangible assets calculated in accordance with provisions may be deducted.

The amortization of the following intangible assets may not be deducted

- 1.the fees for self development of intangible assets that have been deducted from the taxable income;
- 2.self-created goodwill;
- 3.intangible assets that are irrelevant to business activities; and
- 4.other intangible assets whose amortization fee may not be calculated.

Article 13 Where Enterprises calculate taxable income, the following expenses incurred by Enterprises as long-term fees to be amortized and that are amortized in accordance with provisions may be deducted

- 1.reconstruction expenses for fixed assets that have been depreciated in full;
- 2.reconstruction expenses for fixed assets leased from other parties;
- 3.heavy repair expenses of fixed assets; and
- 4.other expenses that shall be treated as long-term amortization fees.

Article 14 During the period when Enterprises invest outside the territory, the cost of investment in assets may not be deducted from the taxable income.

Article 15 The inventory used or sold by Enterprises whose cost is calculated in accordance with provisions may be deducted from the taxable income.

Article 16 Where Enterprises transfer assets, the net value thereof may be deducted from the taxable income.

Article 17 Where Enterprises compute the consolidated enterprise income tax, the losses of business institutions outside the territory may not be offset by the profits of business institutions inside the territory.

Article 18 Where there is a loss in a taxable year of Enterprises, it may be brought

PUBLIC FILE

forward to the succeeding years and made up by the income of succeeding years, but the limit of bringing forward may not exceed five years.

Article 19 Where non-resident enterprises obtain income provided in Paragraph Three of Article 3 hereof, the taxable income shall be calculated in accordance with the following methods

- 1.income from equity investment such as dividend and bonus and interest income, rental income and royalties, the total income shall be the taxable income;
- 2.income from property transfer, the balance derived from the deduction of net asset value from the total income shall be the taxable income;
- 3.other income whose taxable income shall be calculated with reference to the previous two methods.

Article 20 The income, specific scope and standard of deduction and the specific method of taxation treatment of assets prescribed in this Chapter shall be provided by the departments in charge of finance and taxation under the State Council.

Article 21 In computing the taxable income, where financial and accounting treatment methods of Enterprises are inconsistent with tax laws and administrative regulations, such taxable income shall be computed in accordance with tax laws and administrative regulations.

Chapter Three Payable Tax

Article 22 The taxable income of Enterprises shall be the balance derived from the taxable income of Enterprises multiplies the applicable rate and minus the tax amount of tax reduction and exemption pursuant to the preferential tax treatment hercof.

Article 23 The income tax that has been paid outside the territory for the following income obtained by Enterprises may be offset from the payable tax of the current period. The offset limit is the payable tax calculated in accordance with provisions hereof in respect of the income of such item, the portion in excess of the offset limit may be made up by the balance of the offset amount of the current year out of the

annual offset limit within the next five years

1. The taxable income originating outside China by resident enterprises;
2. The taxable income incurred outside China that is obtained by institutions or establishments of non-resident enterprises set up in China with an actual relationship with such institution or establishment.

Article 24 Where income from equity investment such as dividend and bonus originating outside the territory of China is shared by foreign enterprises directly or indirectly controlled by resident enterprises, the portion undertaken by foreign enterprises in the actual income tax actually paid outside the territory by foreign enterprises may be offset in the offset limit prescribed in Article 23 hereof as the income tax that may be offset outside the territory by such resident enterprises.

Chapter Four Preferential Tax Treatment

Article 25 The industries and projects with key support and under encouraged development by the State may be given preferential enterprise income tax treatment.

Article 26 The following income of Enterprises shall be tax-exempted income

1. income from interests on government bonds;
2. income from equity investment income such as dividend and bonus between qualified resident enterprises;
3. income from equity investment such as dividend and bonus obtained from resident enterprises by non-resident enterprises that have set up institutions or establishments in China with an actual relationship with such institutions or establishments;
4. income of qualified non-profit organizations.

Article 27 The following income may be subject to exempted or reduced enterprise income tax

1. income from engaging in projects of agriculture, forestry, animal husbandry and fisheries by Enterprises;

2.income from investment and operation of infrastructure projects with key state support such as harbour, pier, airport, railway, highway, electricity and hydroelectricity by Enterprises;

3.income from engaging in qualified projects of environmental protection and energy and water conservation;

4.income from qualified transfer of technology by Enterprises; and

5.income prescribed by Paragraph Three of Article 3 hereof.

Article 28 Small-scale Enterprises with minimal profits that are qualified are subject to the applicable enterprise income tax rate with a reduction of 20%.

High and new technology Enterprises that require key state support are subject to the applicable enterprise income tax rate with a reduction of 15%.

Article 29 The autonomous authority of ethnic autonomous locality may decide on the reduction or exemption of the portion of enterprise income tax shared by the locality that shall be paid by Enterprises of the ethnic autonomous locality.

Where an autonomous prefecture or autonomous county decides on the reduction or exemption, they must report to the people's government of province, autonomous region or municipality directly under the central government for approval.

Article 30 Weighted deduction may be computed in taxable income for the following expenses of Enterprises

1.research and development fees incurred by Enterprises in the development of new technology, new products and new skills; and

2.the wages paid by Enterprises for job placement of the disabled and of other personnel encouraged by the State.

Article 31 Venture investment enterprises that engage in venture investment requiring key state support and encouragement may offset the taxable income at a certain ratio of the investment amount.

PUBLIC FILE

Article 32 Where the fixed assets of Enterprises actually require accelerated depreciation due to technology advancement, the years of depreciation may be shortened or the accelerated depreciation method may be adopted.

Article 33 The income obtained by Enterprises from the production of products in line with state industrial policies through comprehensive use of resources may be deducted from the taxable income.

Article 34 The investment by Enterprises on procurement of special facilities for environmental protection, energy and water conservation and safe production may be subject to an offset tax amount at a certain ratio.

Article 35 The specific measures of preferential tax treatment prescribed by this Law shall be formulated by the State Council.

Article 36 Where there is a significant impact on the business activities of Enterprises pursuant to the needs of national economy and social development, or due to unexpected public incidents, the State Council may formulate the special preferential policy of enterprise income tax and report to the Standing Committee of the National People's Congress for the record.

Chapter Five Tax Withheld at Source

Article 37 The payable income tax from income obtained by non-resident enterprises in accordance with Paragraph Three of Article 3 hereof shall be subject to tax withheld at source, with the payer as the withholding agent. The tax payment shall be withheld from the amount paid or the payable amount due from each tax payment and payable amount of the withholding agent.

Article 38 In respect of the payable income tax from income obtained by non-resident enterprises from project works and labour services in China, the tax authority may designate the payer of project price or labour fee as withholding agent.

Article 39 In respect of the income tax that shall be withheld in accordance with Articles 37 and 38 hereof, where the withholding agent has not withheld or fails to

perform the withholding obligation in accordance with the law, the taxpayer shall pay in the place where the tax is incurred. Where the taxpayer does not pay in accordance with the law, the tax authority may pursue the payable tax amount of such taxpayer from the amount payable by the payer of other income projects in China of such taxpayer.

Article 40 The withholding agent shall turn the tax payment withheld to the treasury within 7 days from the day of withholding, and submit a statement of withholding enterprise income tax to the tax authority of the place where it is located.

Chapter Six Special Tax Payment Adjustment

Article 41 The business transactions between Enterprises and their affiliates that reduce the taxable income or income of such Enterprises and their affiliates not in compliance with independent transaction principle, the taxation authority has the right to make an adjustment in accordance with reasonable methods.

The cost incurred in joint development and transfer of intangible assets, or joint provision and acceptance of labour services by Enterprises and their affiliates shall be shared under the independent transaction principle in computing the taxable income.

Article 42 Enterprises may report to the tax authority the pricing principle and calculation method of the transactions between their affiliates. Upon negotiation and confirmation with the Enterprises, the tax authority may reach the advance pricing arrangement.

Article 43 Where Enterprises submit to the tax authority the annual enterprise income tax return, they shall enclose a statement of the annual business transactions between affiliates in respect of the business transactions of the Enterprises and their affiliates.

Where the tax authority conducts affiliated business investigation, Enterprises and their affiliates, and other enterprises relevant to the affiliated business investigation shall provide the relevant information in accordance with provisions.

Article 44 Where Enterprises fail to provide the information of business transactions

of affiliates, or provide false and incomplete information that cannot faithfully reflect the actual affiliated business transaction, the tax authority has the right to verify its taxable income.

Article 45 Where Enterprises controlled by resident enterprises or resident enterprises and Chinese residents in the country (region) where the actual tax burden is obviously lower than the tax rate prescribed by Paragraph One of Article 4 hereof, and profits are not distributed or distributed at a reduced rate due to reasons other than reasonable business needs, the portion of the above profits belonged to such resident enterprises shall be included in the income of such resident enterprises of the current period.

Article 46 The interest fee incurred in excess of the prescribed standard obtained by Enterprises from the loan investment and equity investment of their affiliates may not be deducted from the taxable income.

Article 47 Where Enterprises implement other arrangement without reasonable business objectives to reduce the payable income or income, the tax authority has the right to adjust in accordance with reasonable methods.

Article 48 Where tax payment requires to be levied additionally by tax authority in respect of the tax payment adjustment made in accordance with the provisions of this Chapter, such tax payment shall be levied additionally and interest shall be levied in accordance with the provisions of the State Council.

Chapter Seven Administration of Tax Levying and Collection

Article 49 The administration of levy and collection of enterprise income tax shall follow the provisions hereof in addition to the Law of the People's Republic of China on the Administration of Levying and Collection of Tax.

Article 50 Unless otherwise specified by tax laws and administrative regulations, resident enterprises whose place of tax payment is the place of registration of the Enterprise but the place of registration is outside the territory, the place of tax payment shall be the place where the actual administration institution is located.

PUBLIC FILE

Where resident enterprises establish business institutions in China without legal person qualification, it shall consolidate the calculation and payment of enterprise income tax.

Article 51 In respect of non-resident enterprises that obtain the income prescribed in Paragraph Two of Article 3 hereof, the place of tax payment shall be the place where the institution or the establishment is located. Non-resident enterprises that set up two or more institutions or establishments in China may, upon the examination and approval of the tax authority, select its main institution or establishment to pay the consolidated enterprise income tax.

Where non-resident enterprises obtain the income prescribed in Paragraph Three of Article 3 hereof, the place of tax payment shall be the place where the withholding agent is located.

Article 52 Enterprises may not pay consolidated enterprise income tax unless otherwise prescribed by the State Council.

Article 53 Enterprise income tax shall be calculated in accordance with the taxable year which starts from 1 January to 31 December of a calendar year.

If an Enterprise commences business or terminates its business activities during the taxable year and the actual business period of such taxable year is less than 12 months, the actual business period shall be treated as a taxable year.

Where the Enterprise is liquidated in accordance with the law, the liquidation period shall be a taxable year.

Article 54 Enterprise income tax shall be prepaid on a monthly or quarterly basis.

Enterprises shall submit a prepaid enterprise income tax return to the tax authority within 15 days of the completion of the month or the quarter to make tax prepayment.

Enterprises shall submit an annual enterprise income tax return to the tax authority within five months of the completion of the year and make the settlement of the payable and refundable tax payment.

Enterprises that submit the enterprise income tax return shall enclose a financial report and other relevant information in accordance with provisions.

Article 55 Where Enterprises terminate business activities in the interim of the year, they shall handle with the tax authority the settlement and payment of enterprise income tax of the current period within 60 days from the actual termination of business.

Enterprises shall, prior to handling registration cancellation, file a return of the income settled and pay enterprise income tax in accordance with the law.

Article 56 Enterprise income tax paid in accordance with this Law shall be calculated in Renminbi. Where the income is calculated in a currency other than Renminbi, it shall be converted into Renminbi for tax payment.

Chapter Eight Supplementary Provisions

Article 57 Enterprises set up with approval prior to the promulgation of this Law that enjoy low preferential tax rate in accordance with the tax laws and administrative regulations at the current period may, pursuant to the provisions of the State Council, gradually transit to the tax rate provided herein within five years of the implementation of this Law. Where such enterprises enjoy regular tax exemption and reduction, the treatment continues to apply until expiry after the implementation of this Law. However, those that fail to be entitled to this treatment by reason of not making any profits, the preferential period shall be calculated from the year this Law is implemented.

High and new technology enterprises that are set up in a specific zone in accordance with the law for the purpose of external economic cooperation and technology exchange and that are newly set up and require key state support in the region of special policy of such region specified by the State Council may eligible for transitional treatment and the specific measures shall be provided by the State Council.

Other enterprises under the encouraged category confirmed by the state may eligible for tax exemption and reduction in accordance with the provisions of the State Council.

Article 58 Where agreements on taxation concluded by the People's Republic of China and foreign governments contain different provisions, such agreements shall prevail.

Article 59 The implementing regulations shall be formulated by the State Council on the basis of this Law.

Article 60 This Law shall come into effect as of 1 January 2008. The Law of the People's Republic of China on the Enterprise Income Tax of Foreign-invested Enterprises and Foreign Enterprises adopted at the 4th session of the 7th National People's Congress on 9 April 1991 and the Tentative Regulations of the People's Republic of China on Enterprise Income Tax promulgated by the State Council on 13 December 1993 shall be repealed simultaneously.

中华人民共和国主席令第 63 号

《中华人民共和国企业所得税法》已由中华人民共和国第十届全国人民代表大会第五次会议于 2007 年 3 月 16 日通过，现予公布，自 2008 年 1 月 1 日起施行。

中华人民共和国主席 胡锦涛

2007 年 3 月 16 日

中华人民共和国企业所得税法

目录

第一章 总则

第二章 应纳税所得额

第三章 应纳税额

第四章 税收优惠

第五章 源泉扣缴

第六章 特别纳税调整

第七章 征收管理

第八章 附则

新企业所得税法 第一章 总则

第一条 在中华人民共和国境内，企业和其他取得收入的组织（以下统称企业）为企业所得税的纳税人，依照本法的规定缴纳企业所得税。

个人独资企业、合伙企业不适用本法。

第二条 企业分为居民企业和非居民企业。

本法所称居民企业，是指依法在中国境内成立，或者依照外国(地区)法律成立但实际管理机构在中国境内的企业。

本法所称非居民企业，是指依照外国(地区)法律成立且实际管理机构不在中国境内，但在中国境内设立机构、场所的，或者在中国境内未设立机构、场所，但有来源于中国境内所得的企业。

第三条 居民企业应当就其来源于中国境内、境外的所得缴纳企业所得税。

非居民企业在中国境内设立机构、场所的，应当就其所设机构、场所取得的来源于中国境内的所得，以及发生在中国境外但与其所设机构、场所有实际联系的所得，缴纳企业所得税。

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。

第四条 企业所得税的税率为 25%。

非居民企业取得本法第三条第三款规定的所得，适用税率为 20%。

新企业所得税法 第二章 应纳税所得额

第五条 企业每一纳税年度的收入总额，减除不征税收入、免税收入、各项扣除以及允许弥补的以前年度亏损后的余额，为应纳税所得额。

第六条 企业以货币形式和非货币形式从各种来源取得的收入，为收入总额。
包括：

- (一) 销售货物收入；
- (二) 提供劳务收入；
- (三) 转让财产收入；

(四) 股息、红利等权益性投资收益；

(五) 利息收入；

(六) 租金收入；

(七) 特许权使用费收入；

(八) 接受捐赠收入；

(九) 其他收入。

第七条 收入总额中的下列收入为不征税收入：

(一) 财政拨款；

(二) 依法收取并纳入财政管理的行政事业性收费、政府性基金；

(三) 国务院规定的其他不征税收入。

第八条 企业实际发生的与取得收入有关的、合理的支出，包括成本、费用、税金、损失和其他支出，准予在计算应纳税所得额时扣除。

第九条 企业发生的公益性捐赠支出，在年度利润总额12%以内的部分，准予在计算应纳税所得额时扣除。

第十条 在计算应纳税所得额时，下列支出不得扣除：

(一) 向投资者支付的股息、红利等权益性投资收益款项；

(二) 企业所得税税款；

(三) 税收滞纳金；

(四) 罚金、罚款和被没收财物的损失；

(五) 本法第九条规定以外的捐赠支出；

(六) 赞助支出；

(七) 未经核定的准备金支出；

(八) 与取得收入无关的其他支出。

第十一条 在计算应纳税所得额时，企业按照规定计算的固定资产折旧，准予扣除。

下列固定资产不得计算折旧扣除：

- (一) 房屋、建筑物以外未投入使用的固定资产；
- (二) 以经营租赁方式租入的固定资产；
- (三) 以融资租赁方式租出的固定资产；
- (四) 已足额提取折旧仍继续使用的固定资产；
- (五) 与经营活动无关的固定资产；
- (六) 单独估价作为固定资产入账的土地；
- (七) 其他不得计算折旧扣除的固定资产。

第十二条 在计算应纳税所得额时，企业按照规定计算的无形资产摊销费用，准予扣除。

下列无形资产不得计算摊销费用扣除：

- (一) 自行开发的支出已在计算应纳税所得额时扣除的无形资产；
- (二) 自创商誉；
- (三) 与经营活动无关的无形资产；
- (四) 其他不得计算摊销费用扣除的无形资产。

第十三条 在计算应纳税所得额时，企业发生的下列支出作为长期待摊费用，按照规定摊销的，准予扣除：

- (一) 已足额提取折旧的固定资产的改建支出；
- (二) 租入固定资产的改建支出；

(三) 固定资产的大修理支出；

(四) 其他应当作为长期待摊费用的支出。

第十四条 企业对外投资期间，投资资产的成本在计算应纳税所得额时不得扣除。

第十五条 企业使用或者销售存货，按照规定计算的存货成本，准予在计算应纳税所得额时扣除。

第十六条 企业转让资产，该项资产的净值，准予在计算应纳税所得额时扣除。

第十七条 企业在汇总计算缴纳企业所得税时，其境外营业机构的亏损不得抵减境内营业机构的盈利。

第十八条 企业纳税年度发生的亏损，准予向以后年度结转，用以后年度的所得弥补，但结转年限最长不得超过五年。

第十九条 非居民企业取得本法第三条第三款规定的所得，按照下列方法计算其应纳税所得额：

(一) 股息、红利等权益性投资收益和利息、租金、特许权使用费所得，以收入全额为应纳税所得额；

(二) 转让财产所得，以收入全额减除财产净值后的余额为应纳税所得额；

(三) 其他所得，参照前两项规定的方法计算应纳税所得额。

第二十条 本章规定的收入、扣除的具体范围、标准和资产的税务处理的具
体办法，由国务院财政、税务主管部门规定。

第二十一条 在计算应纳税所得额时，企业财务、会计处理办法与税收法律、
行政法规的规定不一致的，应当依照税收法律、行政法规的规定计算。

新企业所得税法 第三章 应纳税额

第二十二条 企业的应纳税所得额乘以适用税率，**减除**依照本法关于税收优惠的规定**减免和抵免**的税额后的余额，为应纳税额。

第二十三条 企业取得的下列所得已在境外缴纳的所得税税额，可以从其当期应纳税额中抵免，抵免限额为该项所得依照本法规定计算的应纳税额；超过抵免限额的部分，可以在以后五个年度内，用每年度抵免限额抵免当年应抵税额后的余额进行抵补：

- (一) 居民企业来源于中国境外的应税所得；
- (二) 非居民企业在中国境内设立机构、场所，取得发生在中国境外但与该机构、场所有实际联系的应税所得。

第二十四条 居民企业从其直接或者间接控制的外国企业分得的来源于中国境外的股息、红利等权益性投资收益，外国企业在境外实际缴纳的所得税税额中属于该项所得负担的部分，可以作为该居民企业的可抵免境外所得税税额，在本法第二十三条规定的抵免限额内抵免。

新企业所得税法 第四章 税收优惠

第二十五条 国家对重点扶持和鼓励发展的产业和项目，给予企业所得税优惠。

第二十六条 企业的下列收入为免税收入：

- (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。

第二十七条 企业的下列所得，可以免征、减征企业所得税：

- (一) 从事农、林、牧、渔业项目的所得；
- (二) 从事国家重点扶持的公共基础设施项目投资经营的所得；
- (三) 从事符合条件的环境保护、节能节水项目的所得；
- (四) 符合条件的技术转让所得；
- (五) 本法第三条第三款规定的所得。

第二十八条 符合条件的小型微利企业，减按 20% 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，减按 15% 的税率征收企业所得税。

第二十九条 民族自治地方的自治机关对本民族自治地方的企业应缴纳的企业所得税中属于地方分享的部分，可以决定减征或者免征。自治州、自治县决定减征或者免征的，须报省、自治区、直辖市人民政府批准。

第三十条 企业的下列支出，可以在计算应纳税所得额时加计扣除：

- (一) 开发新技术、新产品、新工艺发生的研究开发费用；
- (二) 安置残疾人员及国家鼓励安置的其他就业人员所支付的工资。

第三十一条 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。

第三十二条 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。

第三十三条 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。

第三十四条 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。

第三十五条 本法规定的税收优惠的具体办法，由国务院规定。

第三十六条 根据国民经济和社会发展的需要，或者由于突发事件等原因对企业经营活动产生重大影响的，国务院可以制定企业所得税专项优惠政策，报全国人民代表大会常务委员会备案。

新企业所得税法 第五章 源泉扣缴

第三十七条 对非居民企业取得本法第三条第三款规定的所得应缴纳的所得税，实行源泉扣缴，以支付人为扣缴义务人。税款由扣缴义务人在每次支付或者到期应支付时，从支付或者到期应支付的款项中扣缴。

第三十八条 对非居民企业在中国境内取得工程作业和劳务所得应缴纳的所得税，税务机关可以指定工程价款或者劳务费的支付人为扣缴义务人。

第三十九条 依照本法第三十七条、第三十八条规定应当扣缴的所得税，扣缴义务人未依法扣缴或者无法履行扣缴义务的，由纳税人在所得发生地缴纳。纳税人未依法缴纳的，税务机关可以从该纳税人在中国境内其他收入项目的支付人应付的款项中，追缴该纳税人的应纳税款。

第四十条 扣缴义务人每次代扣的税款，应当自代扣之日起七日内缴入国库，并向所在地的税务机关报送扣缴企业所得税报告表。

新企业所得税法 第六章 特别纳税调整

第四十一条 企业与其关联方之间的业务往来，不符合独立交易原则而减少企业或者其关联方应纳税收入或者所得额的，税务机关有权按照合理方法调整。

企业与其关联方共同开发、受让无形资产，或者共同提供、接受劳务发生的成本，在计算应纳税所得额时应当按照独立交易原则进行分摊。

第四十二条 企业可以向税务机关提出与其关联方之间业务往来的定价原则和计算方法，税务机关与企业协商、确认后，达成预约定价安排。

第四十三条 企业向税务机关报送年度企业所得税纳税申报表时，应当就其与关联方之间的业务往来，附送年度关联业务往来报告表。

税务机关在进行关联业务调查时，企业及其关联方，以及与关联业务调查有关的其他企业，应当按照规定提供相关资料。

第四十四条 企业不提供与其关联方之间业务往来资料，或者提供虚假、不完整资料，未能真实反映其关联业务往来情况的，税务机关有权依法核定其应纳税所得额。

第四十五条 由居民企业，或者由居民企业和中国居民控制的设立在实际税负明显低于本法第四条第一款规定税率水平的国家（地区）的企业，并非由于合理的经营需要而对利润不作分配或者减少分配的，上述利润中应归属于该居民企业的部分，应当计入该居民企业的当期收入。

第四十六条 企业从其关联方接受的债权性投资与权益性投资的比例超过规定标准而发生的利息支出，不得在计算应纳税所得额时扣除。

第四十七条 企业实施其他不具有合理商业目的的安排而减少其应纳税收入或者所得额的，税务机关有权按照合理方法调整。

第四十八条 税务机关依照本章规定作出纳税调整，需要补征税款的，应当补征税款，并按照国务院规定加收利息。

新企业所得税法 第七章 征收管理

第四十九条 企业所得税的征收管理除本法规定外，依照《中华人民共和国税收征收管理法》的规定执行。

第五十条 除税收法律、行政法规另有规定外，居民企业以企业登记注册地为纳税地点；但登记注册地在境外的，以实际管理机构所在地为纳税地点。

居民企业在中国境内设立不具有法人资格的营业机构的，应当汇总计算并缴纳企业所得税。

第五十一条 非居民企业取得本法第三条第二款规定的所得，以机构、场所所在地为纳税地点。非居民企业在中国境内设立两个或者两个以上机构、场所的，经税务机关审核批准，可以选择由其**主要机构、场所**汇总缴纳企业所得税。

非居民企业取得本法第三条第三款规定的所得，以扣缴义务人所在地为纳税地点。

第五十二条 除国务院另有规定外，企业之间不得合并缴纳企业所得税。

第五十三条 企业所得税按纳税年度计算。纳税年度自公历1月1日起至12月31日止。

企业在一个纳税年度中间开业，或者终止经营活动，使该纳税年度的实际经营期不足十二个月的，应当以其实际经营期为一个纳税年度。

企业依法清算时，应当以清算期间作为一个纳税年度。

第五十四条 企业所得税分月或者分季预缴。

企业应当自月份或者季度终了之日起十五日内，向税务机关报送预缴企业所得税纳税申报表，预缴税款。

企业应当自年度终了之日起五个月内，向税务机关报送年度企业所得税纳税申报表，并汇算清缴，结清应缴应退税款。

企业在报送企业所得税纳税申报表时,应当按照规定附送财务会计报告和其他有关资料。

第五十五条 企业在年度中间终止经营活动的,应当自实际经营终止之日起六十日内,向税务机关办理当期企业所得税汇算清缴。

企业应当在办理注销登记前,就其清算所得向税务机关申报并依法缴纳企业所得税。

第五十六条 依照本法缴纳的企业所得税,以人民币计算。所得以人民币以外的货币计算的,应当折合成人民币计算并缴纳税款。

新企业所得税法 第八章 附则

第五十七条 本法公布前已经批准设立的企业,依照当时的税收法律、行政法规规定,享受低税率优惠的,按照国务院规定,可以在本法施行后五年内,逐步过渡到本法规定的税率;享受定期减免税优惠的,按照国务院规定,可以在本法施行后继续享受到期满为止,但因未获利而尚未享受优惠的,优惠期限从本法施行年度起计算。

法律设置的发展对外经济合作和技术交流的特定地区内,以及国务院已规定执行上述地区特殊政策的地区内新设立的国家需要重点扶持的高新技术企业,可以享受过渡性税收优惠,具体办法由国务院规定。

国家已确定的其他鼓励类企业,可以按照国务院规定享受减免税优惠。

第五十八条 中华人民共和国政府同外国政府订立的有关税收的协定与本法有不同规定的,依照协定的规定办理。

第五十九条 国务院根据本法制定实施条例。

第六十条 本法自2008年1月1日起施行。1991年4月9日第七届全国人

民代表大会第四次会议通过的《中华人民共和国外商投资企业和外国企业所得税法》和 1993 年 12 月 13 日国务院发布的《中华人民共和国企业所得税暂行条例》同时废止。