

Environmental Protection Tax Law of the People's Republic of China

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Having been adopted at the 25th Session of the Standing Committee of the 12th National People's Congress on 25 December 2016, environmental protection tax Law of the People's Republic of China is hereby promulgated, effective as of 1 January 2018.

Xi Jinping

President of the People's Republic of China

25 December 2016

(Adopted at the 25th Session of the Standing Committee of the 12th National People's Congress on 25 December 2016)

Chapter I General Provisions

Article 1 This Law is enacted in order to protect and improve the environment, reduce pollutant emissions and promote the construction of ecological civilization.

Article 2 Enterprises, public institutions and other producers/operators that discharge taxable pollutants directly to the environment within the territorial areas of the People's Republic of China and other sea areas under the jurisdiction of the People's Republic of China are the taxpayers of environmental protection tax and shall pay such tax in accordance with the provisions of this Law.

Article 3 For the purpose of this Law, "taxable pollutants" refers to air pollutants, water pollutants, solid wastes and noise stipulated in the Table of Items and Amounts of Environmental Protection Tax and the Table of Taxable Pollutants and Equivalent Values annexed hereto

Article 4 Under any of the following circumstances which are not "direct discharge of pollutants into the environment", corresponding pollutants are not taxable for the purpose of environment protection tax:

(i) Enterprises, public institutions and other producers/operators discharge taxable pollutants to the centralized sewage and domestic waste treatment facilities established by law; and

(ii) Enterprises, public institutions and other producers/operators store or dispose of solid wastes in facilities or places that meet the national and local standards for environmental protection .

Article 5 Any centralized rural/urban sewage or domestic waste treatment facility established by law that discharges taxable pollutants into the environment beyond the national and local discharge standards shall pay environmental protection tax.

Enterprises, public institutions and other producers/operators that store or dispose of solid wastes in breach of the national and local standards for environmental protection shall pay environmental protection tax.

Article 6 For the items and amounts of environmental protection tax, the Table of Items and Amounts of

Environmental Protection Tax annexed hereto shall be followed.

The people's government of a province, autonomous region or centrally-administered municipality may propose the determination of and adjustment to the applicable tax amounts of the taxable air pollutants and water pollutants within the range of taxable amounts specified in the Table of Items and Amounts of environmental protection tax annexed hereto by giving full considerations to local environmental bearing capacity, status quo of discharge of pollutants as well as the requirements of the socioeconomic development objectives, subject to approval by the standing committee of the people's congress at the same level and filing with the Standing Committee of the National People's Congress and the State Council.

Chapter II Taxation Basis and Taxable Amounts

Article 7 The taxation basis of taxable pollutants shall be determined using the following methods:

- (i) taxable air pollutants shall be determined based on the pollution equivalent converted from the pollutant emission quantity;
- (ii) taxable water pollutants shall be determined based on the pollution equivalent converted from the pollutant discharge quantity;
- (iii) taxable solid waste shall be determined based on the discharge quantity thereof; and
- (iv) taxable noise shall be determined by the decibels that exceed the national standards.

Article 8 The pollution equivalent value of taxable air/water pollutants shall be the pollution equivalent value of such pollutants divided by the discharge quantity thereof.

For the specific pollution equivalent value of each type of taxable air /water pollutants, the Table of Taxable Pollutants and Equivalent Values annexed hereto shall be followed.

Article 9 For the taxable air pollutants in an emission outlet or taxable air pollutants without an emission outlet, the top 3 pollutants ranked in descending order in terms of pollution equivalent are subject to environmental protection tax.

Taxable water pollutants in a discharge outlet shall be classified into pollutants of Class I and pollutants of other classes according to the Table of Taxable Pollutants and Equivalent Values annexed hereto in descending order in terms of pollution equivalent. The top 5 water pollutants of Class I and top 3 water pollutants of other classes are subject to environmental protection tax.

The people's government of a province, autonomous region or centrally-administered municipality may, in light of its special needs of reducing local pollutant discharge, increase the number of taxable pollutants in the same discharge outlet subject to environmental protection tax, which shall be submitted to the standing committee of the people's congress at the same level for approval and filed with the Standing Committee of the National People's Congress and the State Council.

Article 10 The discharge quantity of taxable air pollutants, water pollutants and solid wastes as well as decibels of noise shall be calculated in the following order using the following methods:

- (i) if the taxpayer concerned installs and uses the automatic pollutant monitoring equipment that meet the requirements of the State and monitoring specifications, the discharge quantity shall be done according to the automatic monitoring data;
- (ii) if the taxpayer concerned does not install or use the automatic pollutant monitoring equipment, calculation shall be done according to the monitoring data that meet applicable requirements of the State and the monitoring specifications as issued by the monitoring agencies;
- (iii) if monitoring conditions are unavailable due to such reasons as excessive varieties of pollutants discharged, calculation shall be done based on the pollutant discharge coefficient and material balance method specified by the environmental protection authorities under the State Council; and
- (iv) where it is impossible to calculate using the methods prescribed in above paragraph (i) through (iii) hereof, the discharge quantity shall be calculated using the sampling method specified by the environmental protection authorities under the people's government of the province, autonomous region or centrally-administered municipality concerned.

Article 11 For the purpose of environmental protection tax, the payable amount shall be calculated using the following methods:

- (i) The payable amount of taxable air pollutants shall be the pollution equivalent value multiplied by specific applicable tax amount;

(ii) The payable amount of taxable water pollutants shall be the pollution equivalent value multiplied by specific applicable tax amount;

(iii) The payable amount of taxable solid waste shall be the quantity of discharged solid waste multiplied by specific applicable tax amount; and

(iv) the payable amount of taxable noise shall be the specific applicable tax amount corresponding to the decibels in excess of the national standards;

Chapter III Tax Reduction & Exemption

Article 12 Environmental protection tax shall be exempted temporarily under any of the following circumstances:

(i) taxable pollutants discharged from agricultural production (excluding large-scale breeding);

(ii) taxable pollutants discharged by mobile sources such as motor vehicles, railway locomotives, non-road mobile machinery, ships and aircrafts;

(iii) corresponding taxable pollutants discharged by centralized urban/rural sewage and domestic waste treatment facilities established by law in compliance with the national and local discharge standards;

(iv) solid wastes comprehensively utilized by taxpayers in compliance with national and local standards for environmental protection; and

(v) Other circumstances entitled to tax exemption as approved by the State Council.

Any circumstance of tax exemption prescribed in the preceding items (i) through (v) shall be filed by the State Council with the Standing Committee of the National People's Congress.

Article 13 Where the concentration value of taxable air pollutants or water pollutants discharged by a taxpayer is 30% or more lower than the national and local pollutant discharge standards, environmental protection tax shall be levied at the reduced rate of 75%.

If the concentration value of taxable air pollutants or water pollutants discharged by a taxpayer is 50% or more lower than the national and local pollutant discharge standards, environmental protection tax shall be levied at the reduced rate of 50%.

Chapter IV Administration of Tax Collection

Article 14 The collection of environmental protection tax shall be administered by taxation authorities in accordance with the Law of the People's Republic of China on the Administration of Tax Collection and applicable provisions of this Law.

Environmental protection authorities are responsible for administration of pollutant monitoring in accordance with the provisions of this Law and applicable environmental protection laws & regulations.

The people's governments at county level or above shall establish the mechanism of work division & collaboration among taxation authorities, environmental protection authorities and other relevant departments, step up the administration of collection of environmental protection tax and make sure that the tax dues are channeled to the treasury in a timely manner in full.

Article 15 Environmental protection authorities and taxation authorities shall establish a tax related information sharing platform and work collaboration mechanism.

Environmental protection authorities shall furnish the environmental protection-related information of the pollutant dischargers such as pollutant discharge license, pollutant discharge data, violation of environmental laws and administrative penalties imposed to taxation authorities on a regular basis.

Taxation authorities shall furnish environmental protection tax-related information of taxpayers such as filing of tax return, tax dues to the treasury, amount of taxes reduced/exempted, tax arrears, risks and doubts to environmental protection authorities on a regular basis.

Article 16 The tax payment obligation arises on the day when taxpayers discharge taxable pollutants.

Article 17 A taxpayer shall file return of environmental protection tax to the taxation authority that has jurisdiction over the place where it discharges taxable pollutants.

Article 18 Environmental protection tax shall be calculated on a monthly basis, declared and paid on a quarterly basis.

Environmental protection tax can be declared and paid per time where it is impossible to calculate and pay environmental protection tax regularly.

When filing tax return, a taxpayer shall furnish to the taxation authority the type and quantity of the taxable pollutants discharged, the concentration value of air pollutants and water pollutants as well as other tax materials that the taxation authority requires the taxpayer to provide according to the actual needs.

Article 19 In the event of filing tax return on a quarterly basis, a taxpayer shall file tax return with and pay the tax to the taxation authority within 15 days from the end date of a quarter.

For the filing of tax return per time, the taxpayer shall file tax return with and pay the tax to the taxation authority within 15 days after the date when his tax payment obligation arises.

Taxpayer shall file tax return in a truthful manner by law and be responsible for the authenticity and completeness of their filing.

Article 20 Taxation authority shall compare the tax return data filed by taxpayers with the relevant data/information furnished by environmental protection authorities.

In the event that the taxation authority identifies any abnormal condition in the tax return data filed by a taxpayer or a taxpayer fails to file tax return within the specified time limit, the taxation authority may submit the data to the environmental protection authority concerned for review. The environmental protection authority concerned shall issue review opinions to the taxation authority within 15 days after receipt of the data/information from the taxation authority.

The taxation authority shall adjust the taxpayer's payable amounts based on the data/information reviewed by the environmental protection authority.

Article 21 If the pollutant discharge quantity is determined and calculated in accordance with Item (iv), Article 14 of this Law, taxation authorities shall work together with the environmental protection authorities to determine the type and quantity of the pollutants discharged and the payable amounts therefor.

Article 22 For taxpayers who discharge taxable air pollutants, water pollutants or solid wastes to the sea areas under the jurisdiction of the People's Republic of China in implementing marine projects, the measures for filing of environmental protection tax return shall be developed by the competent department in charge of taxation under the State Council together with the competent department in charge of the ocean under the State Council.

Article 23 Where taxpayers, taxation authorities, environmental protection authorities and their staff violate the provisions of this Law, they shall be prosecuted for legal liability in accordance with the Law of the People's Republic of China on the Administration of Tax Collection and Environmental Protection Law of the People's Republic of China as well as applicable laws and regulations

Article 24 The people's governments at all levels shall encourage taxpayers to increase the input in environmental protection and provide financial and policy support for the investment of taxpayers in automatic pollutant monitoring equipment.

Chapter V Supplementary Provisions

Article 25 For the purpose of this Law, the terms below are defined as follows:

(i) "Pollution equivalent value" refers to the comprehensive indicator or unit of measure that measures the pollution to the environment by different pollutants based on the degree of hazards caused by the pollutants or pollutant discharge to the environment as well as the technical economics of treatment.

For different pollutants with the same media and pollution equivalent, the degrees of pollution are basically at the same level.

(ii) "Discharge coefficient" refers to the statistical mean of the quantity of pollutants to be discharged for production of per unit of products under the normal technical & economic and management conditions.

(iii) "Material balance" refers to a method of calculation based on the raw materials used, products manufactured and wastes generated during the production process in accordance with the theory of equation of mass conservation.

Article 26 In addition to paying environmental protection tax in accordance with the Law, the enterprises, public institutions and other producers/operators that discharge taxable pollutants into the environment directly shall bear legal liability for the damages caused.

Article 27 Environmental protection tax shall be collected in accordance with the provisions of this Law and the waste discharge fee shall no longer be collected from the effective date of this Law.

Article 28 This Law shall become effective as of 1 January 2018.