Environmental Protection Tax Law of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Taxable Objects, Tax Rates and Tax Base 2

Chapter III — Calculation of Tax Payable 3

Chapter IV — Tax Reduction and Exemption 3

Chapter V — Collection and Administration 3

Chapter VI — Supplementary Provisions 4

Adopted at the First Session of the Standing Committee of the 13th National People's Congress on December 25, 2016
Effective: January 1, 2018

Table of Contents

- Chapter I — General Provisions
- Chapter II — Taxable Objects, Tax Rates and Tax Base
- Chapter III — Calculation of Tax Payable
- Chapter IV — Tax Reduction and Exemption
- Chapter V — Collection and Administration
- Chapter VI — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of protecting and improving the environment, reducing the discharge of pollutants, and promoting the construction of an ecological civilization.

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

Article 3 — The term "taxable pollutants" as used in this Law refers to air pollutants, water pollutants, solid wastes and noise as specified in the Table of Taxable Items and Tax Rates of Environmental Protection Tax attached to this Law and the Table of Taxable Pollutants and Equivalent Values.

Article 4 — Under any of the following circumstances, taxpayers shall not be required to pay environmental protection tax on the corresponding taxable pollutants:

Source: https://www.danyoungcpa.com/environmental-protection-tax-law-prc-2018/

(1) Enterprises, public institutions and other producers or operators discharge taxable pollutants into legally established centralized urban sewage treatment facilities or centralized domestic waste treatment facilities;

(2) Enterprises, public institutions and other producers or operators store or dispose of solid wastes in facilities or sites that conform to national and local environmental protection standards.

Article 5 — Where legally established centralized urban sewage treatment facilities or centralized domestic waste treatment facilities discharge taxable pollutants in excess of the national or local prescribed discharge standards, environmental protection tax shall be paid.

Article 6 — Where the scale of a taxpayer's discharge of taxable air pollutants or water pollutants falls below the national or local prescribed discharge standards by a concentration value, and where such discharge does not exceed the total discharge volume control indicators prescribed by the State, the environmental protection tax shall be collected at a reduced rate in accordance with the following provisions:

(1) Where the concentration value of a taxpayer's discharge of taxable air pollutants or water pollutants is lower than the national or local prescribed discharge standards by 30 percent, the environmental protection tax shall be reduced by 25 percent;

(2) Where the concentration value of a taxpayer's discharge of taxable air pollutants or water pollutants is lower than the national or local prescribed discharge standards by 50 percent, the environmental protection tax shall be reduced by 50 percent.

Chapter II — Taxable Objects, Tax Rates and Tax Base

Article 7 — The tax rates for taxable pollutants shall be subject to the Table of Taxable Items and Tax Rates of Environmental Protection Tax attached to this Law.

Article 8 — Where the taxable air pollutants or water pollutants discharged by a taxpayer exceed the concentration value, the tax base shall be determined by converting the pollutant discharge volume into pollution equivalent values. The pollution equivalent values shall be calculated on the basis of the Table of Taxable Pollutants and Equivalent Values attached to this Law and the relevant provisions.

Article 9 — The pollution equivalent value of each type of air pollutant or water pollutant shall be calculated according to the following formula:

Pollution Equivalent Value of Taxable Air Pollutant = Discharge Volume of Such Pollutant ÷ Pollution Equivalent Value Coefficient of Such Pollutant

Pollution Equivalent Value of Taxable Water Pollutant = Discharge Volume of Such Pollutant ÷ Pollution Equivalent Value Coefficient of Such Pollutant

Article 10 — The discharge volume of taxable air pollutants and water pollutants shall be calculated according to the following methods in order of priority:

(1) Where the taxpayer installs and uses automatic pollutant discharge monitoring equipment that complies with national regulations and standards, the discharge volume shall be determined based on the automatic monitoring data of the pollutant discharge;

(2) Where the taxpayer does not install automatic pollutant discharge monitoring equipment, the discharge volume shall be determined based on the monitoring data issued by the monitoring institution;

(3) Where the conditions for monitoring as provided in items (1) and (2) are not satisfied, the discharge volume shall be calculated based on the pollutant discharge coefficient or the material balance method;

(4) Where the conditions for calculation as provided in items (1), (2) and (3) are not satisfied, the discharge volume shall be calculated based on the sampling estimation method as prescribed by the competent environmental protection department of the people's government of the province, autonomous region or

municipality directly under the Central Government.

Article 11 — The tax base of taxable solid wastes shall be the discharge volume of the solid wastes.

Article 12 — The tax base of taxable noise shall be the number of decibels in excess of the national prescribed standards. The specific tax rates shall be separately prescribed by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government within the tax range specified in the Table of Taxable Items and Tax Rates of Environmental Protection Tax on the basis of the overall consideration of the carrying capacity of the local environment, the status quo of pollutant discharge and the objective requirements for economic and social ecological development.

Chapter III — Calculation of Tax Payable

Article 13 — The amount of environmental protection tax payable shall be calculated according to the following methods:

(1) Tax payable on taxable air pollutants = Pollution equivalent value × Applicable tax rate;

(2) Tax payable on taxable water pollutants = Pollution equivalent value × Applicable tax rate;

(3) Tax payable on taxable solid wastes = Discharge volume of solid wastes × Applicable tax rate;

(4) Tax payable on taxable noise = Number of decibels in excess of the national prescribed standards × Applicable tax rate.

Chapter IV — Tax Reduction and Exemption

Article 14 — Environmental protection tax may be exempted under any of the following circumstances:

(1) Taxable pollutants discharged by agricultural production (excluding large-scale livestock and poultry farming);

(2) Taxable pollutants discharged by motor vehicles, railway locomotives, off-road mobile machinery, vessels, aircraft and other mobile pollution sources;

(3) Taxable pollutants discharged by legally established centralized urban sewage treatment facilities or centralized domestic waste treatment facilities within the limits of the national or local prescribed discharge standards;

(4) Solid wastes comprehensively utilized by taxpayers in a manner that conforms to national and local environmental protection standards;

(5) Other circumstances prescribed by the State Council for approval of tax exemption.

Article 15 — The State Council shall have the authority to submit to the Standing Committee of the National People's Congress for decision the approval of additional environmental protection tax exemption provisions in accordance with the needs of national economic and social development.

Chapter V — Collection and Administration

Article 16 — The tax authorities shall levy and administer environmental protection tax in accordance with the Law on the Administration of Tax Collection of the People's Republic of China and the relevant provisions of this Law. The competent environmental protection authorities shall, in accordance with the provisions of this Law and the relevant provisions on environmental protection, be responsible for the monitoring and administration of pollutants.

Article 17 — Taxpayers shall file tax returns with the tax authorities on taxable air pollutants, water pollutants, solid wastes and noise discharged by them and pay environmental protection tax in accordance with the law.

Source: https://www.danyoungcpa.com/environmental-protection-tax-law-prc-2018/

Article 18 — The tax payment period for environmental protection tax shall be one month. Taxpayers shall, within 15 days after the end of each quarter, file tax returns with the tax authorities and pay the tax. Tax returns may be filed on a quarterly basis. The tax authorities may, based on actual circumstances, adjust the declaration and payment period.

Article 19 — When filing tax returns, taxpayers shall truthfully submit the types, quantities and concentration values of taxable pollutants discharged by them, the pollution equivalent values of air pollutants and water pollutants, the discharge volumes of solid wastes, the decibel levels of noise in excess of standards, and other tax-related information.

Article 20 — Tax authorities shall compare the tax-related information submitted by taxpayers in their tax returns with the relevant data submitted by the competent environmental protection authorities. Where any discrepancy is identified, the tax authorities shall handle the matter in accordance with the provisions of the Law on the Administration of Tax Collection and the relevant laws and regulations.

Article 21 — The competent environmental protection authorities and tax authorities shall establish a working cooperation mechanism for sharing information concerning taxable pollutants. The competent environmental protection authorities shall regularly submit to the tax authorities information on the discharge of pollutants by taxpayers, such as the types and quantities of pollutants discharged and information on monitoring data. The tax authorities shall regularly submit to the competent environmental protection authorities information on the declaration, payment and collection of environmental protection tax by taxpayers.

Article 22 — For taxpayers engaged in marine engineering discharging taxable pollutants into the sea, the tax declaration and payment procedures shall be separately prescribed by the State Council.

Article 23 — Where taxpayers and tax authorities, the competent environmental protection authorities and their staff members violate the provisions of this Law, their legal liability shall be investigated in accordance with the Law on the Administration of Tax Collection of the People's Republic of China, the Environmental Protection Law of the People's Republic of China and the relevant laws and regulations.

Article 24 — People's governments at all levels shall encourage taxpayers to increase investment in environmental protection, employ advanced production techniques, reduce pollutant discharge, and promote cleaner production and the circular economy.

Chapter VI — Supplementary Provisions

Article 25 — The meanings of the following terms used in this Law:

(1) "Pollution equivalent value" means the comprehensive index reflecting the environmental impact of the discharge volume of pollutants, which is obtained through conversion on the basis of the toxicity and harmfulness of pollutants and the cost of treatment.

(2) "Pollution equivalent value coefficient" means the discharge volume of a pollutant that is equivalent to a unit of pollution equivalent value, which is quantified on the basis of the toxicity and harmfulness of the pollutant and the cost of treatment.

(3) "Pollutant discharge coefficient" means the average quantity of pollutants discharged in the course of producing a unit of product under normal technical, economic and management conditions.

Article 26 — The term "institution" as used in this Law refers to state organs, military units, social organizations and other organizations.

Article 27 — Matters not covered by this Law shall be handled in accordance with the provisions of the Law on the Administration of Tax Collection of the People's Republic of China and the Environmental Protection Law of the People's Republic of China.

Article 28 — This Law shall come into force on January 1, 2018. The existing pollutant discharge fee system shall be simultaneously abolished.

Disclaimer: This translation is provided for informational purposes only and is not an official translation. While every effort has been made to ensure accuracy, only the original Chinese text adopted by the National People's Congress of the People's Republic of China has legal effect. Readers should consult qualified legal professionals for advice on specific legal matters. Dan Young Business Consultancy makes no warranty, express or implied, regarding the accuracy, completeness, or currency of this translation and accepts no liability for any loss or damage arising from reliance on it.