Farmland Occupation Tax Law of the PRC

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

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Tax Rates and Tax Base 2

Chapter III — Tax Reduction and Exemption 2

Chapter IV — Collection and Administration 2

Chapter V — Supplementary Provisions 3

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Table of Contents

- Chapter I — General Provisions
- Chapter II — Tax Rates and Tax Base
- Chapter III — Tax Reduction and Exemption
- Chapter IV — Collection and Administration
- Chapter V — Supplementary Provisions

Chapter I — General Provisions

Article 1 — This Law is enacted for the purpose of rationally utilizing land resources, strengthening land administration, and protecting cultivated land.

Article 2 — Units and individuals that occupy cultivated land within the territory of the People's Republic of China for the construction of buildings or structures, or for engaging in non-agricultural construction, shall be taxpayers of farmland occupation tax and shall pay farmland occupation tax in accordance with the provisions of this Law.

For occupying garden land, forest land, grassland, agricultural water use land, aquaculture water surface, and other agricultural land for the construction of buildings or structures, or for engaging in non-agricultural construction, farmland occupation tax shall be paid in accordance with the provisions of this Law.

Article 3 — The amount of farmland occupation tax payable shall be the area of cultivated land actually occupied by the taxpayer multiplied by the applicable tax amount. The applicable tax amount shall be determined by the people's governments of provinces, autonomous regions and municipalities directly under the Central Government within the range prescribed by this Law on the basis of the per capita cultivated land area and the economic development level of the local area.

Source: https://www.danyoungcpa.com/farmland-occupation-tax-law-prc-2019/

Chapter II — Tax Rates and Tax Base

Article 4 — The tax amounts for farmland occupation tax shall be determined on the basis of the per capita cultivated land area of the county in which the taxpayer is located, at the following ranges:

(1) For areas with a per capita cultivated land area not exceeding 1 mu: 10 yuan to 50 yuan per square meter;

(2) For areas with a per capita cultivated land area exceeding 1 mu but not exceeding 2 mu: 8 yuan to 40 yuan per square meter;

(3) For areas with a per capita cultivated land area exceeding 2 mu but not exceeding 3 mu: 6 yuan to 30 yuan per square meter;

(4) For areas with a per capita cultivated land area exceeding 3 mu: 5 yuan to 25 yuan per square meter.

Article 5 — For occupying basic farmland, the applicable tax amount shall be 50 percent higher than the local applicable tax amount determined in accordance with the provisions of Article 4 of this Law.

Article 6 — The people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall, on the basis of the provisions of this Law, formulate measures for the implementation of farmland occupation tax in their respective regions and determine the specific applicable tax amounts for each county.

Chapter III — Tax Reduction and Exemption

Article 7 — Farmland occupation tax shall be exempted for the occupation of cultivated land under any of the following circumstances:

(1) Military facilities;

(2) Educational institutions, kindergartens, social welfare institutions and medical institutions established with the approval of the relevant departments of the people's governments at or above the county level;

(3) Water conservancy projects;

(4) Transportation infrastructure such as railways, highways, airports, ports, wharves, and urban public transportation facilities;

(5) Other circumstances prescribed by laws and administrative regulations for exemption of farmland occupation tax.

Article 8 — Farmland occupation tax may be reduced or exempted under any of the following circumstances:

(1) For rural residents who occupy cultivated land within the prescribed area for the construction of residential housing, farmland occupation tax may be reduced by half;

(2) For resettlement housing constructed for relocated residents due to the requisition of original residential land, farmland occupation tax may be exempted;

(3) For rural martyrs' family members, disabled servicemen and villagers who meet the minimum living security standard who occupy cultivated land for the construction of residential housing within the prescribed area, farmland occupation tax may be exempted with the approval of the tax authorities of the county level.

Chapter IV — Collection and Administration

Article 9 — Farmland occupation tax shall be collected and administered by the tax authorities in accordance with the provisions of this Law and the Law on the Administration of Tax Collection of the People's Republic of China.

Source: https://www.danyoungcpa.com/farmland-occupation-tax-law-prc-2019/

Article 10 — The time of occurrence of the tax liability for farmland occupation tax shall be the day on which the taxpayer receives the written notice from the competent department for natural resources approving the occupation of cultivated land. Taxpayers shall, within 30 days from the date of receiving the written notice, file a tax return and pay the farmland occupation tax.

Article 11 — The competent department for natural resources shall, when issuing a written notice approving the occupation of cultivated land, simultaneously notify the tax authorities at the same level of the approval. The competent department for natural resources shall not issue a land use right certificate unless the taxpayer has paid the farmland occupation tax.

Article 12 — Taxpayers that temporarily occupy cultivated land shall pay farmland occupation tax in accordance with the provisions of this Law. If the taxpayer restores the cultivated land to its original condition within the approved temporary occupation period, the farmland occupation tax already paid shall be refunded in full.

Chapter V — Supplementary Provisions

Article 13 — The meanings of the following terms used in this Law:

(1) "Cultivated land" means land used for planting crops;

(2) "Garden land" means land used for planting perennial woody or herbaceous crops with a canopy density greater than 50 percent;

(3) "Forest land" means arbor forest land, bamboo forest land and shrub land;

(4) "Grassland" means natural grassland and artificial grassland;

(5) "Basic farmland" means cultivated land that shall not be occupied without authorization as prescribed by the Law on Land Administration and the Regulations on the Protection of Basic Farmland.

Article 14 — This Law shall come into force on September 1, 2019. The Interim Regulations of the People's Republic of China on Farmland Occupation Tax promulgated by the State Council on December 1, 2007 shall be abolished simultaneously.

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 Standing Committee of 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.