Regulations for the Implementation of the Enterprise Income Tax Law of the People’s Republic of China

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Chapter I — General Provisions

Article 1 — These Regulations are formulated in accordance with the Enterprise Income Tax Law of the People’s Republic of China (hereinafter referred to as the EIT Law).

Article 2 — For purposes of the EIT Law, enterprises include resident enterprises and non-resident enterprises. Resident enterprises are enterprises established in accordance with the laws of China within the territory of China, or enterprises established in accordance with the laws of a foreign country (region) whose actual management institution is located within the territory of China. Non-resident enterprises are enterprises established in accordance with the laws of a foreign country (region) whose actual management institution is not located within the territory of China but which have institutions or establishments within the

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territory of China, or which have no institutions or establishments within the territory of China but derive income sourced within the territory of China.

Article 3 — Enterprises shall calculate their taxable income and tax payable for each tax year. The tax year shall be the calendar year from January 1 to December 31.

Article 4 — The term ‘actual management institution’ means an institution that exercises substantive and overall management and control over the enterprise’s production and business operations, personnel, finance, accounting, assets, and other aspects.

Article 5 — Institutions or establishments of non-resident enterprises within the territory of China include management institutions, business institutions, offices, factories, farms, natural resource extraction sites, sites for provision of labor services, sites for contracting of projects, and other institutions or establishments where production or business activities are conducted.

Article 6 — Income derived by a non-resident enterprise from within the territory of China as referred to in the EIT Law includes income from the transfer of property, dividends and bonuses, interests, rentals, royalties, income from the provision of services, income from the transfer of property, and other income.

Article 7 — Resident enterprises shall pay enterprise income tax on their income sourced both within and outside the territory of China. Non-resident enterprises with institutions or establishments within the territory of China shall pay enterprise income tax on income sourced within the territory of China derived by such institutions or establishments, as well as on income sourced outside the territory of China that is effectively connected with such institutions or establishments.

Article 8 — The enterprise income tax rate shall be 25 percent. The applicable tax rate for non-resident enterprises without institutions or establishments within the territory of China, or whose income has no effective connection with their institutions or establishments within China, shall be 20 percent, subject to reduction as provided in the EIT Law.

Chapter II — Taxable Income

Article 9 — The total income of an enterprise for each tax year shall include income from the sale of goods, income from the provision of services, income from the transfer of property, income from dividends, bonuses, and other equity investments, income from interest, income from rentals, income from royalties, income from donations, and other income.

Article 10 — Income from the sale of goods shall be recognized on the date when the relevant economic benefits are likely to flow into the enterprise, the relevant revenue can be reliably measured, and the enterprise has transferred the significant risks and rewards of ownership of the goods to the buyer and no longer retains continuing management control over the goods.

Article 11 — Income from the provision of labor services shall be recognized in installments based on the progress of completion during each tax year during which the labor services are provided.

Article 12 — Income from the transfer of property shall be recognized on the date when the relevant agreement between the transferor and the transferee becomes effective and the transfer procedures are completed.

Article 13 — Income from dividends, bonuses, and other equity investments shall be recognized on the date when the investee enterprise makes a resolution on profit distribution.

Article 14 — Interest income shall be recognized on the date set forth in the contract for the debtor to pay the interest.

Article 15 — Income from rentals shall be recognized on the date set forth in the contract for the lessee to pay the rent.

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Article 16 — The term ‘other income’ includes income from asset appreciation, income from deposits of packaging deposits, and debt restructuring income.

Article 17 — Income in kind shall be recognized based on its fair value. The fair value shall be determined at the prevailing market price.

Article 18 — Non-taxable income includes fiscal appropriations, administrative fees and government funds collected in accordance with law and included in fiscal administration, and other non-taxable income prescribed by the State Council.

Article 19 — Where an enterprise receives fiscal appropriations and other fiscal funds that are subject to special-purpose fund management as prescribed by the State Council, such funds shall be treated as non-taxable income.

Article 20 — An enterprise’s deductible items for calculating taxable income include costs, expenses, taxes, losses, and other expenditures actually incurred in connection with the income earned.

Article 21 — Costs refer to the cost of sales, cost of services provided, operating expenses, and other costs incurred by an enterprise in its production and business operation activities.

Article 22 — Expenses refer to the selling expenses, administrative expenses, and financial expenses incurred by an enterprise in its production and business operation activities, excluding costs already included.

Article 23 — Taxes refer to the consumption tax, urban maintenance and construction tax, resource tax, land appreciation tax, and other relevant taxes and surcharges incurred by an enterprise in its production and business operation activities.

Article 24 — Losses refer to the losses from the shortage, damage, and obsolescence of inventory and fixed assets, and the net losses from the transfer of assets incurred by an enterprise in its production and business operation activities.

Article 25 — Other expenditures refer to other expenditures incurred by an enterprise in its production and business operation activities that are related to the income earned, other than costs, expenses, taxes, and losses.

Article 26 — An enterprise shall calculate its income and deductions based on the accrual basis. Revenue and expenses belonging to the current period, whether received or paid, shall be recognized as revenue or expenses of the current period.

Article 27 — Reasonable wage and salary expenditures incurred by an enterprise shall be deductible.

Article 28 — Basic social insurance premiums and housing provident fund contributions paid by an enterprise for its employees shall be deductible.

Article 29 — Interest expenses on borrowings incurred by an enterprise shall be deductible to the extent that they do not exceed the interest calculated at the financial enterprise’s interest rate for similar loans for the same period.

Article 30 — Welfare expenses for employees shall be deductible to the extent that they do not exceed 14 percent of total employee wages and salaries.

Article 31 — Union fees shall be deductible to the extent that they do not exceed 2 percent of total employee wages and salaries.

Article 32 — Employee education expenses shall be deductible to the extent that they do not exceed 8 percent of total employee wages and salaries, with any excess carried forward to subsequent tax years for deduction.

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Article 33 — Business entertainment expenses incurred by an enterprise shall be deductible to the extent of 60 percent of the actual amount incurred, but the deductible amount shall not exceed 0.5 percent of the enterprise's total sales (business) revenue for that year.

Article 34 — Advertising and business promotion expenses shall be deductible to the extent that they do not exceed 15 percent of total sales (business) revenue, with any excess carried forward to subsequent tax years for deduction.

Article 35 — Donations for public welfare purposes shall be deductible to the extent that they do not exceed 12 percent of the enterprise's total annual profit.

Article 36 — Reasonable expenses for labor protection incurred by an enterprise shall be deductible.

Article 37 — Expenses incurred by an enterprise in connection with income that is non-taxable shall not be deductible in calculating taxable income.

Article 38 — Depreciation of fixed assets shall be calculated using the straight-line method and deducted.

Article 39 — Where an enterprise's fixed assets are rendered obsolete or need to be updated due to technological progress or other reasons, the enterprise may apply for shortened depreciation periods or accelerated depreciation.

Article 40 — Expenses incurred for the development of intangible assets shall be deductible in installments over a period of not less than ten years from the month when the intangible assets are put into use.

Article 41 — Amortization expenses for long-term deferred expenses shall be deductible in installments over a period of not less than three years.

Article 42 — Expenditures for purchasing raw materials, fuels, and power, and for labor services actually incurred by an enterprise during the production and operation process shall be deductible in calculating taxable income.

Article 43 — Travel expenses, conference expenses, and board of directors expenses actually incurred by an enterprise in connection with its production and business operations shall be deductible based on reasonable vouchers.

Article 44 — Expenses for the transfer of assets incurred by an enterprise, such as transportation fees, loading and unloading fees, packaging fees, insurance fees, and other miscellaneous expenses, shall be deductible in calculating the net income from the transfer of assets.

Article 45 — An enterprise's reserves for asset impairment shall not be deductible.

Article 46 — Enterprise income tax shall not be deductible in calculating taxable income. Late payment surcharges on tax shall not be deductible.

Chapter III — Tax Payable

Article 47 — Taxable income shall be calculated as total income for each tax year less non-taxable income, tax-exempt income, various deductions, and allowable carryforward of prior year losses.

Article 48 — The enterprise income tax payable shall be calculated as taxable income multiplied by the applicable tax rate, less any tax reductions, exemptions, and credits as provided by the EIT Law.

Article 49 — Where an enterprise incurs losses in a tax year, the losses may be carried forward to subsequent years for offset against income. The carryforward period shall not exceed five years.

Article 50 — Enterprise income tax shall be calculated and paid on an annual basis, with advance payments on a monthly or quarterly basis.

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Article 51 — The amount of advance tax payment for each month or quarter shall be calculated based on the actual profit for the current period. Where there are difficulties in calculating based on actual profit, the tax may be paid based on the average monthly or quarterly taxable income of the previous tax year.

Article 52 — An enterprise shall submit an annual enterprise income tax return to the tax authority within five months after the end of each tax year, make the final settlement of tax payment, and settle any underpayment or overpayment.

Article 53 — Enterprises shall use RMB as the base currency for calculating taxable income and tax payable.

Article 54 — Where an enterprise uses a foreign currency for bookkeeping, it shall convert the foreign currency amounts into RMB using the central parity rate on the transaction date when calculating taxable income.

Article 55 — Where an enterprise's income is calculated in foreign currency, the income shall be converted into RMB using the central parity rate for RMB at the end of the tax year for tax calculation purposes.

Article 56 — Where a resident enterprise has income sourced outside China with foreign income tax already paid, such foreign tax may be credited against its enterprise income tax payable.

Article 57 — The creditable amount of foreign tax shall be limited to the amount of enterprise income tax that would otherwise be payable on such income under the EIT Law.

Article 58 — Where the foreign tax paid exceeds the creditable limit, the excess may be carried forward for credit in subsequent five tax years.

Article 59 — The source country or region of income shall be determined in accordance with the provisions of the EIT Law, these Regulations, and relevant tax treaties.

Article 60 — Foreign tax credits may be applied on a country-by-country basis without consolidation of different countries or categories of income.

Article 61 — Where a resident enterprise receives dividends, bonuses, and other equity investment income from an enterprise directly or indirectly controlled by it outside China, the foreign income tax actually paid on the portion attributable to such dividends and bonuses may be credited within the creditable limit.

Article 62 — Where an enterprise has income subject to a reduced tax rate as provided by the EIT Law, the tax payable shall be calculated based on the reduced tax rate.

Article 63 — Tax-exempt income includes: (1) interest from government bonds; (2) dividends, bonuses, and other equity investment income between eligible resident enterprises; (3) dividends, bonuses, and other equity investment income obtained by a non-resident enterprise from a resident enterprise that is effectively connected with its institution or establishment in China.

Article 64 — Where an enterprise's income from the utilization of resources, such as comprehensive utilization of resources and manufacture of products from waste materials, meets the conditions prescribed by the State, it may be subject to tax reduction or exemption.

Article 65 — Income from projects qualifying for tax reduction or exemption includes income from agriculture, forestry, animal husbandry, and fishery projects; income from qualifying public infrastructure projects; income from qualifying environmental protection and energy and water conservation projects; and income from qualifying technology transfer.

Article 66 — For qualifying new high-tech enterprises, the enterprise income tax shall be levied at a reduced rate of 15 percent.

Article 67 — A qualified small-scale enterprise with low profit may have its taxable income reduced by a certain percentage for the calculation of tax payable.

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Article 68 — Expenses incurred by an enterprise for research and development of new technologies, new products, and new processes may be eligible for an additional deduction in calculating taxable income.

Article 69 — Where an enterprise invests in purchasing special equipment for environmental protection, energy and water conservation, or production safety, a certain percentage of the investment amount may be credited against the tax payable.

Article 70 — For qualified venture capital enterprises, a certain percentage of their investment amount in unlisted small and medium-sized new high-tech enterprises may be deducted from taxable income.

Article 71 — Enterprises established in special regions such as economic zones and technology development zones may enjoy preferential tax rates or other tax incentives as prescribed by the State Council.

Article 72 — Where an enterprise engages in a project that simultaneously qualifies for multiple preferential tax treatments, it may choose the most favorable treatment, but different preferential treatments shall not be applied cumulatively.

Article 73 — An enterprise shall maintain separate accounting records for income and expenses relating to projects qualifying for tax reduction or exemption to ensure separate calculation.

Article 74 — The tax reduction or exemption period shall be calculated in accordance with the relevant provisions of the EIT Law and the State Council.

Chapter IV — Preferential Tax Treatment

Article 75 — Enterprises established in western regions of China that engage in encouraged industries may be subject to enterprise income tax at a reduced rate of 15 percent.

Article 76 — Where an enterprise engages in investment in key public infrastructure projects supported by the State, the income from such projects may be exempted from enterprise income tax for the first three years and subject to a 50 percent reduction for the next three years.

Article 77 — Where an enterprise engages in qualifying environmental protection, energy and water conservation projects, the income from such projects may be exempted from enterprise income tax for the first three years and subject to a 50 percent reduction for the next three years.

Article 78 — Where a resident enterprise transfers technology, the portion of income not exceeding 5 million yuan may be exempted from enterprise income tax, and the portion exceeding 5 million yuan may be subject to a 50 percent reduction of enterprise income tax.

Article 79 — Small-scale thin-profit enterprises meeting the prescribed conditions shall be subject to enterprise income tax at a reduced rate of 20 percent.

Article 80 — New high-tech enterprises that are certified and that need support from the State shall be subject to enterprise income tax at a reduced rate of 15 percent.

Article 81 — Advanced technology service enterprises meeting the prescribed conditions shall be subject to enterprise income tax at a reduced rate of 15 percent.

Article 82 — Where an enterprise concurrently engages in projects subject to different preferential tax treatments, it shall calculate the income and expenses of each project separately.

Article 83 — Income from corporate income tax preferential treatment shall be calculated separately and filed with the tax authority for record.

Article 84 — Expenses for research and development incurred by an enterprise that have not yet formed intangible assets and are included in current profit or loss may be deducted at 175 percent of the actual amount incurred.

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Article 85 — Where R&D expenses form intangible assets, they may be amortized at 175 percent of the cost of the intangible assets.

Article 86 — Where an enterprise manufactures products from resources comprehensively utilized that are listed in the national catalogue, the income from such products may be reduced by 90 percent in calculating taxable income.

Article 87 — Where an enterprise purchases and actually uses special equipment specified in the national catalogue for environmental protection, energy and water conservation, and production safety, 10 percent of the investment amount in such equipment may be credited against the enterprise income tax payable for the current year.

Article 88 — Where an enterprise's comprehensive utilization of resources meets the conditions prescribed by the State, it may enjoy the preferential income tax policies for comprehensive utilization of resources.

Article 89 — For technology transfer by a resident enterprise, a separate royalty or lump-sum payment arrangement shall be stipulated in the technology transfer contract.

Article 90 — Where a recognized non-profit organization engages in profit-making activities, the income from such activities shall not be treated as tax-exempt income except where otherwise provided by the State.

Article 91 — For qualifying venture capital enterprises that invest in unlisted small and medium-sized new high-tech enterprises for more than two years, 70 percent of the investment amount may be deducted from taxable income.

Article 92 — Where the preferential tax treatments described in this Chapter overlap, the enterprise may choose one preferential treatment for each qualifying item but shall not enjoy multiple treatments simultaneously.

Article 93 — For an enterprise qualifying as a new high-tech enterprise, the certification shall be valid for three years, during which the enterprise may enjoy the preferential tax rate of 15 percent.

Article 94 — Small-scale thin-profit enterprises refer to enterprises engaged in industries not restricted or prohibited by the State that meet the conditions of annual taxable income not exceeding 3 million yuan, having not more than 300 employees, and having total assets not exceeding 50 million yuan.

Article 95 — The State shall formulate a catalogue of key public infrastructure projects eligible for preferential enterprise income tax treatment.

Article 96 — The State shall formulate a catalogue of environmental protection, energy and water conservation projects eligible for preferential enterprise income tax treatment.

Article 97 — Enterprises eligible for preferential tax treatment shall file relevant materials with the tax authority and retain supporting documentation for future examination.

Article 98 — Where an enterprise loses its qualification for preferential tax treatment due to changes in business scope or other conditions, the enterprise shall cease enjoying the preferential treatment from the year of such change.

Article 99 — Enterprises that have enjoyed tax reduction or exemption but which undergo a change of tax rate or tax status during the tax reduction or exemption period shall be subject to the relevant adjustment provisions.

Article 100 — Where an enterprise enjoys tax reduction or exemption during a period when it incurs losses, the tax reduction or exemption period shall not be extended.

Article 101 — Where an enterprise applies to enjoy preferential tax treatment, it shall submit an application and relevant supporting documents to the tax authority in accordance with relevant regulations.

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Article 102 — The tax authority shall verify the enterprise's qualification for preferential tax treatment within the prescribed time limit and inform the enterprise of the result in writing.

Article 103 — Where an enterprise's qualification for preferential tax treatment is revoked, the enterprise shall pay the tax underpaid and may be subject to a late payment surcharge in accordance with law.

Article 104 — Where an enterprise, through fraudulent means, obtains preferential tax treatment, the tax authority shall pursue the underpaid tax and may impose penalties in accordance with law.

Article 105 — Enterprises in special industries such as integrated circuits and software may enjoy additional preferential tax treatments as prescribed by the State Council.

Article 106 — For new high-tech enterprises, the recognition criteria and administrative measures shall be formulated jointly by the science and technology department, the finance department, and the tax department under the State Council.

Article 107 — Relevant departments under the State Council may, based on the needs of economic and social development, formulate special preferential tax policies and submit them to the State Council for approval before implementation.

Chapter V — Source-of-Income Withholding

Article 108 — Where a non-resident enterprise with no institution or establishment within the territory of China derives income sourced within China, or where the income is not effectively connected with its institution or establishment in China, enterprise income tax shall be withheld at source.

Article 109 — The payer of the income specified in Article 108 shall be the withholding agent. The withholding agent shall withhold the tax from each payment or from payments due.

Article 110 — The withholding agent shall withhold enterprise income tax at the time of each payment or at the time when payment is due in accordance with the contract.

Article 111 — Where the amount payable to a non-resident enterprise is denominated in a foreign currency, the tax shall be converted into RMB at the central parity rate on the date of withholding for the purpose of calculating the tax payable.

Article 112 — A non-resident enterprise may apply for approval to pay tax on its own rather than through withholding.

Article 113 — Withholding agents shall declare and pay the withheld tax to the tax authority within seven days after the date of withholding.

Article 114 — Where a withholding agent fails to withhold or is unable to fulfill the withholding obligation, the non-resident enterprise taxpayer shall declare and pay the tax to the tax authority at the place where the income is derived.

Article 115 — Where a non-resident enterprise transfers equity in a resident enterprise, the transferee shall be the withholding agent for the enterprise income tax payable on the income from the equity transfer.

Article 116 — The tax authority may designate a payer of project payments or labor service fees as the withholding agent for enterprise income tax payable by a non-resident enterprise.

Article 117 — Where the equity transfer price is lower than the net asset value of the enterprise, the tax authority may adjust the transfer price based on the arm's length principle.

Article 118 — The tax rate for withholding at source on income derived by a non-resident enterprise from within China shall be 20 percent, with a 50 percent reduction as provided by the EIT Law, resulting in an effective rate of 10 percent.

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Article 119 — Where a non-resident enterprise is entitled to a reduced tax rate under a tax treaty, it may apply to the tax authority for the enjoyment of the treaty benefit.

Chapter VI — Special Tax Adjustments

Article 120 — Where a resident enterprise or a non-resident enterprise with an institution or establishment in China engages in a related-party transaction, it shall report the transaction to the tax authority and prepare contemporaneous transfer pricing documentation.

Article 121 — Related-party transactions include the purchase and sale of tangible assets, the transfer and use of intangible assets, the provision and acceptance of services, the financing through capital or loans, and other transactions of a related-party nature.

Article 122 — Enterprises with related-party transactions shall submit an annual related-party transaction report to the tax authority.

Article 123 — An enterprise with related-party transactions shall prepare contemporaneous transfer pricing documentation that provides a detailed analysis and explanation of the nature and amount of the related-party transactions.

Article 124 — Where an enterprise's related-party transactions do not comply with the arm's length principle, the tax authority may make tax adjustments using the comparable uncontrolled price method, the resale price method, the cost plus method, the transactional net margin method, the profit split method, or other methods that comply with the arm's length principle.

Article 125 — Where an enterprise is unable to provide contemporaneous transfer pricing documentation, or the documentation provided is false or incomplete, the tax authority may impose an additional interest charge on the underpaid tax resulting from transfer pricing adjustments.

Article 126 — The tax authority may conduct transfer pricing investigations and make tax adjustments within ten years from the tax year in which the related-party transaction occurred.

Article 127 — Where an enterprise has a controlled foreign corporation (CFC) located in a country or region with an effective tax rate significantly lower than the domestic tax rate, and the CFC's profits are not distributed or are distributed in a reduced amount without reasonable business necessity, the undistributed profits shall be included in the current income of the resident enterprise.

Article 128 — A CFC is an enterprise registered outside China that is controlled by a Chinese resident enterprise or by Chinese resident enterprises and individuals.

Article 129 — Where an enterprise pays interest to a related party, the deduction of such interest shall be limited to the extent of the standard debt-to-equity ratio prescribed by the tax authority.

Article 130 — The standard debt-to-equity ratio for financial enterprises shall be 5:1 and for other enterprises shall be 2:1.

Article 131 — Related-party debts include borrowings directly or indirectly obtained from related parties through various means.

Article 132 — Where an enterprise has a restructuring transaction and the transaction lacks reasonable business purpose, the tax authority may recharacterize the transaction.

Article 133 — Where a tax adjustment results in additional tax payable by an enterprise, the enterprise shall pay the additional tax and may be liable for interest at the prescribed rate for the period of the underpayment.

Article 134 — An enterprise may apply to the tax authority for an advance pricing arrangement (APA) for its future related-party transactions.

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Chapter VII — Collection and Administration

Article 135 — Enterprise income tax shall be levied under the administration of the tax authority in accordance with the provisions of the EIT Law and the Tax Collection and Administration Law.

Article 136 — An enterprise shall register with the tax authority for enterprise income tax purposes in accordance with regulations.

Article 137 — An enterprise shall truthfully file its enterprise income tax return and attach financial accounting statements and other relevant tax information.

Article 138 — Where an enterprise is unable to file a tax return within the prescribed time limit due to special difficulties, it may apply for an extension in accordance with the provisions of the Tax Collection and Administration Law.

Article 139 — Consolidated tax payment may be made by a resident enterprise that has established branches or sites without legal person status within the territory of China.

Article 140 — Where a resident enterprise makes consolidated tax payment, the head office shall calculate the total taxable income and tax payable of the enterprise and its branches or sites, and distribute the tax payable among the branches or sites.

Article 141 — Where an enterprise terminates its business operations, it shall complete the deregistration procedures with the tax authority and settle all outstanding tax matters.

Article 142 — Where an enterprise undergoes a merger, division, reorganization, or other form of restructuring, it shall report to the tax authority and settle its enterprise income tax matters in accordance with regulations.

Article 143 — A non-resident enterprise with multiple institutions or establishments within the territory of China may apply to the tax authority for consolidated calculation and payment of enterprise income tax.

Article 144 — Enterprise income tax shall be settled on an annual basis. The annual tax return shall be filed within five months after the end of each tax year.

Article 145 — In the case of dissolution or termination of operations during a tax year, the enterprise shall settle its enterprise income tax and file the tax return within 60 days from the date of actual dissolution or termination.

Article 146 — The place of tax payment shall be determined based on the place of enterprise registration. Where the place of registration is outside the territory of China, the place of the actual management institution or the place where the institution or establishment is located shall be the place of tax payment.

Article 147 — Tax authorities shall strengthen the collection and administration of enterprise income tax, establish and improve a tax risk management mechanism, and promote voluntary tax compliance by enterprises.

Chapter VIII — Supplementary Provisions

Article 148 — These Regulations shall apply mutatis mutandis to the calculation and collection of enterprise income tax on the production and business income and other income of sole proprietorship enterprises and partnership enterprises.

Article 149 — For enterprises that enjoyed preferential tax treatment before the promulgation of the EIT Law, transitional measures as prescribed by the State Council shall apply.

Article 150 — These Regulations shall come into force as of January 1, 2008. The 2019 Amendment shall come into force as of April 23, 2019.

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