

Provisional Regulations on Authorized Methods for Corporate Income Tax Collection

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Provincial Regulations on Authorized Methods for Corporate Income Tax Collection

Article 1 The Regulations is formulated in accordance with the relevant provisions of the Law of the People's Republic of China on Tax Collection and Management, the Provisional Regulations of the People's Republic of China on Corporate Income Tax and their implementing rules in order to strengthen the collection and management of corporate income tax and to further standardize the approval and collection of corporate income tax.

Article 2 In one of the following cases, the taxpayers shall use the authorized collection methods to pay their corporate income tax: (1) The taxpayers who are allowed not to establish account books in accordance with the provisions of the tax laws and regulations or who shall establish account books in accordance with the provisions of the tax laws and regulations but fail to do so;

(2) The taxpayers who can only accurately calculate their total incomes or whose total incomes can be verified but whose cost expenditures cannot be accurately calculated;

(3) The taxpayers who can only accurately calculate their cost expenditures or whose cost expenditures can be verified but whose total incomes cannot be accurately calculated;

(4) The taxpayers who cannot accurately calculate either their total incomes or their cost expenditures and cannot provide the competent tax authorities with truthful, accurate and complete data about tax payment or such data are difficult to verify;

(5) The taxpayers who meet the account-establishing and calculating requirements but fail to keep the relevant account books, vouchers and tax payment data as required;

(6) The taxpayers who have tax-paying obligations but fail to report and pay the tax within the time limits specified in the tax laws and regulations and continue to fail to do so within the time limits imposed by the tax authorities.

Article 3 The authorized collection methods include the fixed-amount collection, the authorized taxable income ratio-based collection, and other reasonable methods.

The fixed-amount collection refers to the method that the tax authorities directly authorize the taxpayers' annual payable corporate income tax according to the uniform standards, procedures and methods and the taxpayers report and pay the tax as required.

The authorized taxable income ratio-based collection refers to the method that the tax authorities pre-authorize the taxpayers' taxable income ratios according to the uniform standards, procedures and methods and the taxpayers calculate and pay the corporate income tax according to the accrued amounts of their total incomes, costs and other items within the tax year and also the pre-authorized taxable income ratios.

Article 4 Basic Requirements for Authorized Collection

(1) Comprehensively analyze and control the information about the taxpayers' production, operation, financial management and tax-paying obligation fulfillment so as to provide a basis for appraising the methods for their income tax collection;

(2) Help and urge the taxpayers to establish account books and systems and improve their operation and management in light of the conditions and problems of their production and

operation, financial management and tax-paying obligation fulfillment, and actively guide them to move to the collection method featuring the declaration by the taxpayers and the account verification by the tax authorities;

(3) The methods for corporate income tax collection shall be identified accurately and be examined and approved in a timely manner;

(4) The examination and approval must be made in strict compliance with the relevant policies and regulations on the authorized methods for corporate income tax collection, and it is strictly prohibited to violate the rules and expand the scope;

(5) The identification of the methods for corporate income tax collection shall be convenient to the taxpayers and the work arrangement shall be coordinated with the overall work of local tax collection.

Article 5 The methods for the taxpayers to pay their income tax can be determined according to the following procedures and methods:

(1) The taxpayers submit their applications by filling out the Corporate Income Tax Collection Method Identification Form (see appendix, hereinafter the Identification Form), and the tax authorities examine the applications and determine the collection methods.

(2) If the taxpayers qualify all the five items in the Identification Form, they may use the method featuring the declaration by the taxpayers and the account verification by the tax authorities to pay their corporate income tax; if they fail to meet just one of these items in the Identification Form, they may use the authorized collection methods to pay their corporate income tax. If the taxpayers using the authorized collection methods fail to qualify one of items 1, 4 and 5 in the Identification Form or fail to qualify both items 2 and 3, they may use the method featuring the fixed-amount collection to pay their corporate income tax; if the taxpayers qualify only one of items 2 and 3, they may use the method featuring the authorized taxable income ratio-based collection to pay their corporate income tax.

(3) After the competent tax authorities have examined the Identification Form, they shall submit it to the county (city or district) tax authorities. After receiving the Identification Form, the county (city or district) tax authorities shall examine and confirm it in a category-by-category, one-by-one and timely manner in keeping with the relevant provisions and requirements.

(4) The Identification Form is made in triplicate, with one copy each for the competent tax authorities and the county-level tax authorities and one copy for the taxpayer.

Article 6 The identification of the methods for corporate income tax collection is done once a year, from January to the end of March each year. The newly established enterprises in the year shall complete the identification within three months after obtaining the tax registration certificate.

Article 7 Once the methods for corporate income tax collection are determined, they in general are not allowed to change within a tax year, unless in special cases. If the collection method featuring the declaration by the taxpayers and the account verification by the tax authorities is adopted, this method can be changed into the authorized collection methods anytime once the cases specified in Article 2 are verified.

Article 8 With regard to the taxpayers using the authorized collection methods, the competent tax authorities shall authorize their payable tax or taxable income ratios, category by category and one by one, in light of the taxpayers' industrial features, tax payment, financial management, accounting, profit level and other factors, the local practical conditions, and the principles of fairness, justice and openness.

Article 9 With regard to the taxpayers using the fixed-amount collection method, the competent tax authorities shall investigate their relevant conditions, categorize them and make conscientious estimates and, on this basis, directly authorize their annual payable income tax with the higher tax rate prevailing.

Article 10 With regard to the taxpayers using the method featuring authorized taxable income ratio-based collection, the following formula shall be used to calculate their payable income tax:

Payable income tax = taxable income X applicable tax rate

Taxable income = total income X taxable income ratio

Or ... = cost expenditure ÷ (1 - taxable income ratio) X taxable income ratio

The taxable income ratios shall be set according to the standards specified in the following table:

If an enterprise operates multiple industries, the competent tax authorities shall authorize the taxable income ratio applicable to a specific industry in light of its core operational project no matter whether its operational projects are independent accounting units.

Industry

Taxable income ratio (%)

Industry, transport & commerce

7~20

Construction & real estate development

10~20

Catering & service

10~25

Entertainment

20~40

Other industries

10~30

Article 11 Once the annual payable tax or taxable income ratio of a taxpayer is authorized, it in general is not allowed to adjust within the tax year, unless in the following special cases:

- (1) It is reorganized and restructured;
- (2) Major change occurs to its scope of production and operation or to its core business;
- (3) It is affected by storm, fire, flood, earthquake and other force majeure factors.

Article 12 With regard to the taxpayers using the fixed-amount collection method, the competent tax authorities shall decompose the authorized payable tax and spread over months or quarters, so that the taxpayers can fill out the Corporate Income Tax Return according to the authorized monthly or quarterly payable tax and report and pay the tax within the prescribed time limits. When the taxpayers of this category fill out the Corporate Income Tax Return, they only need to fill the payable tax item and specify the collection method and the authorized tax in the Remark column.

Article 13 With regard to the taxpayers using the method featuring the authorized taxable income ratio-based collection, the taxpayers may make tax declarations according to the following requirements:

(1) Make tax declarations by using the method featuring monthly or quarterly advance payment and year-end settlement. The time limit for advance payment is set by the competent tax authorities according to the amount of the taxpayer's payable tax.

(2) When the taxpayers make advance income tax payment, they shall do so by calculating their actual payable tax according to the authorized taxable income ratios. If they find it difficult to make advance payment according to the actual amounts, they can make advance payments equivalent to 1/12 or 1/4 payable income tax of the previous year or make advance payment in installments by other methods confirmed by the local tax authorities. Once the method for advance payment is set, it is not allowed to change at random.

(3) When the taxpayers make advance income tax payment or year-end income tax settlement, they shall fill out the income tax advance payment application form or the Corporate Income Tax Return and submit it to the competent tax authorities within the prescribed time limit. When the taxpayers of this category fill out the income tax advance payment application form or the Corporate Income Tax Return, they only need to fill the items related to the total income (or cost expenditure), taxable income, applicable tax rate and payable tax and specify the used collection method and the taxable income ratio in the Remark column.

Article 14 The tax authorities shall rationally allocate inspection forces and strengthen inspection on the taxpayers using the authorized collection methods. They shall also combine year-end settlement inspection with routine inspection, and their annual inspection shall at least cover 30% of the taxpayers. They shall mete out punishments, in accordance with the relevant provisions of the Law of the People's Republic of China on Tax Collection and Management, to those who fail to declare as scheduled or make false declarations.

Article 15 If the taxpayers have disputes over the identification of the methods for corporate income tax collection or over the authorized payable tax or taxable income ratios, they may apply to the higher tax authorities for reconsideration within the prescribed time limit. If they refuse to accept the result of reconsideration, they may file action with the court.

Article 16 The taxpayers using the authorized collection methods are not entitled to the preferential policies on corporate income tax. If one of the cases specified in Article 2 occurs to the taxpayers during the period covered by the preferential policies on corporate income tax or within three years after the expiration of the preferential policies, the reduced or exempted tax payments arising from the preferential policies shall be recovered once they are ascertained (excluding the taxpayers whose entitlement to the preferential policies expired before January 1, 2000). In particular, tax collection shall be resumed by using the authorized collection methods if their entitlement to the preferential policies has not expired,

Article 17 The tax bureaus of the provinces, autonomous regions, municipalities directly under the central government and cities with independent planning status may formulate their specific implementing rules in accordance with the provisions of the Regulations and in light of their local practical conditions and shall report them to the State Administration of Taxation for the record.

Article 18 The Regulations enters into force on January 1, 2000, and shall prevail if it is contradictory with the previous relevant provisions.