

中华人民共和国中外合资  
经营企业所得税法

THE INCOME TAX LAW OF THE  
PEOPLE'S REPUBLIC OF CHINA  
CONCERNING JOINT VENTURES WITH  
CHINESE AND FOREIGN INVESTMENT

中華人民共和國中外合資  
經營企業所得稅法

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# 全国人民代表大会常务委员会委员长令

## 第十号

中华人民共和国第五届全国人民代表大会第三次会议于一九八〇年九月十日通过了《中华人民共和国中外合资经营企业所得税法》，现予公布施行。

中华人民共和国全国人民  
代表大会常务委员会委员长

叶剑英

一九八〇年九月十日

(Unofficial Translation)

**Decree of the Chairman of the Standing  
Committee of the National People's Congress  
of the People's Republic of China**

**Number 10**

The Income Tax Law of the People's Republic of China Concerning Joint Ventures with Chinese and Foreign Investment adopted on September 10, 1980, at the Third Session of the Fifth National People's Congress is effective as from today.

Ye Jianying  
Chairman of the Standing Committee  
of the National People's Congress  
10th September 1980

(本訳文は非公式文書)

## 全国人民代表大会常務委員会委員長令

### 第 十 号

中華人民共和国第五期全国人民代表大会第三回会議，一九八〇年九月十日において，中華人民共和国中外合資経営企業所得税法を議決され，ここに公布して施行する。

中華人民共和国全国人民代  
表大会常務委員会委員長 葉劍英

一九八〇年九月十日

# 中 华 人 民 共 和 国

## 中外合资经营企业所得税法

第 一 条 在中华人民共和国境内的中外合资经营企业（以下简称合营企业），从事生产、经营所得和其它所得，都按照本法的规定缴纳所得税。

合营企业在中国境内和境外的分支机构，从事生产、经营所得和其它所得，由总机构汇总缴纳所得税。

第 二 条 合营企业每一纳税年度的收入总额，减除成本、费用以及损失后的余额，为应纳税的所得额。

第 三 条 合营企业的所得税税率为百分之三十。另按应纳税所得税额附征百分之十的地方所得税。

开发石油、天然气和其它资源的合营企业的所得税税率，另行规定。

第 四 条 合营企业的外国合营者，从企业分得的利润汇出国外时，按汇出额缴纳百分之十的所得税。

第 五 条 对新办的合营企业，合营期在十年以上的，经企业申请，税务机关批准，从开始获利的年度



起，第一年免征所得税，第二年和第三年减半征收所得税。

对农业、林业等利润较低的合营企业和在经济不发达的边远地区开办的合营企业，按前款规定免税、减税期满后，经中华人民共和国财政部批准，还可以在以后的十年内继续减征所得税百分之十五至百分之三十。

第 六 条 合营企业的合营者，从企业分得的利润在中国境内再投资，期限不少于五年的，经合营者申请，税务机关批准，退还再投资部分已纳所得税税款的百分之四十。投资不满五年撤出的，应当缴回已退的税款。

第 七 条 合营企业发生年度亏损，可以从下一年度的所得中提取相应的数额加以弥补；下一年度的所得不足弥补的，可以逐年提取所得继续弥补，但是最长不得超过五年。

第 八 条 合营企业所得税，按年计征，分季预缴。每季在季度终了后十五天内预缴，每年在年度终了后三个月内，汇算清缴，多退少补。

第 九 条 合营企业应当在每次预缴所得税的期

限内，向当地税务机关报送预缴所得税申报表；年度终了后三个月内，报送年度所得税申报表和会计决算报表。

**第十条** 合营企业的所得税以人民币为计算单位。所得为外国货币的，按照中华人民共和国国家外汇管理总局公布的外汇牌价折合成人民币缴纳税款。

**第十一条** 合营企业的开业、转产、迁移、停业以及注册资本的变更、转让，在向中华人民共和国工商行政管理总局登记后，应当持有关证件在三十天内向当地税务机关办理税务登记。

**第十二条** 税务机关对合营企业的财务、会计和纳税情况，有权进行检查。合营企业必须据实报告，并提供有关资料，不得拒绝或者隐瞒。

**第十三条** 合营企业必须按照规定的期限，缴纳税款。逾期不缴的，税务机关除限期缴纳外，从滞纳之日起，按日加收滞纳税款的千分之五的滞纳金。

**第十四条** 合营企业违反本法第九条、第十一条、第十二条规定的，税务机关可以酌情处以罚金。

合营企业偷税、抗税的，税务机关除追缴税款外，

可以根据情节轻重，处以应补税款五倍以下的罚款。情节严重的，由当地人民法院依法处理。

第十五条 合营企业同税务机关在纳税问题上发生争议时，必须先按照规定纳税，然后再向上级税务机关申请复议。如果不服复议后的决定，可以向当地人民法院提起诉讼。

第十六条 合营企业及其分支机构，在国外缴纳的所得税，可以在总机构应纳所得税额内抵免。

中华人民共和国政府和外国政府之间订有避免双重征税协定的，所得税的抵免，应当依照各该协定的规定办理。

第十七条 本法的施行细则，由中华人民共和国财政部制定。

第十八条 本法自公布之日起施行。

(Unofficial Translation)

## **The Income Tax Law of the People's Republic of China Concerning Joint Ventures with Chinese and Foreign Investment**

**Article 1.** Income tax shall be levied in accordance with this Law on the income derived from production, business and other sources by any joint venture with Chinese and foreign investment (hereinafter called joint venture for short) in the People's Republic of China.

Income tax on the income derived from production, business and other sources by branches within or outside the territory of China of such joint ventures shall be paid by their head office.

**Article 2.** The taxable income of a joint venture shall be the net income in a tax year after deduction of costs, expenses and losses in that year.

**Article 3.** The income tax rate on joint ventures shall be 30%. In addition, a local surtax of 10% of the assessed income tax shall be levied.

The income tax rate on joint ventures exploiting petroleum, natural gas and other resources shall be stipulated separately.

**Article 4.** In the case of a foreign participant in a joint venture remitting its share of profit from China, an income tax of 10% shall be levied on the remitted amount.

**Article 5.** A newly established joint venture scheduled to operate for a period of 10 years or more may, upon approval of the tax authorities for an application filed by the enterprise, be exempted from income tax in the first profit-making year and allowed a 50% reduction in the second and third years.

With the approval of the Ministry of Finance of the People's Republic of China, joint ventures engaged in such low-profit operations as farming and forestry or located in remote, economically underdeveloped outlying areas may be allowed a 15-30% reduction in income tax for a period of 10 years following the expiration of the term for exemptions and reductions mentioned in the preceding paragraph.

**Article 6.** A participant in a joint venture which reinvests its share of profit in China for a period of not less than five years may, upon approval of the tax authorities for an application filed by the said participant, obtain a refund of 40% of the income tax paid on the reinvested amount. A participant which withdraws its reinvested funds within five years shall pay back the tax amount refunded.

**Article 7.** Loss incurred in a joint venture in a tax year may be carried over to the next tax year and made up with a matching amount drawn from that year's income. Should the income in the subsequent tax year be insufficient to make up for the said loss, the balance may be made up with further deductions from income year by year over a period not exceeding five years.

**Article 8.** Income tax on joint ventures shall be levied on an annual basis and paid in quarterly installments. Such provisional payment shall be made within 15 days after the end of each quarter. The final settlement shall be made

within 3 months after the end of a tax year. Excess payments shall be refunded by the tax authorities or deficiencies made good by the taxpayer.

**Article 9.** Joint ventures shall file their provisional income tax returns with the local tax authorities within the period prescribed for provisional payments. The taxpayer shall file its final annual income tax return together with its final accounts within 3 months after the end of the tax year.

**Article 10.** Income tax levied on joint ventures shall be computed in terms of Renminbi (RMB). Income in foreign currency shall be assessed according to the exchange rate quoted by the State General Administration of Exchange Control of the People's Republic of China and shall be taxed in Renminbi.

**Article 11.** When joint ventures go into operation or when they change the nature of their business, change their address, close down, and change or transfer registered capital, such joint ventures shall register with the General Administrative Bureau for Industry and Commerce of the People's Republic of China, and within 30 days of such registration, present the relevant certificates to the local tax authorities for tax registration.

**Article 12.** The tax authorities have the right to investigate the financial affairs, account books and tax situation of any joint venture. Such joint venture must make reports according to the facts and provide all relevant information and shall not refuse or conceal the facts.

**Article 13.** A joint venture must pay its tax within the prescribed time limit. In case of failure to pay within the

prescribed time limit, the appropriate tax authorities, in addition to setting a new time limit for tax payment, shall surcharge overdue payments at one half of one per cent of the overdue tax for every day in arrears, starting from the first day of default.

**Article 14.** The tax authorities may, acting at their discretion, impose a penalty on any joint venture which has violated the provisions of Articles 9, 11 and 12 of this Law.

In dealing with any joint venture which has evaded or refused to pay tax, the tax authorities may, in addition to pursuing the tax, impose a penalty of not more than five times the amount of tax underpaid or not paid, according to the seriousness of the offence. Cases of gross violation shall be handled by the local people's courts according to law.

**Article 15.** In case of disputes with tax authorities about tax payment, joint ventures must pay tax according to the relevant regulations first before applying to higher tax authorities for reconsideration. If they do not accept the decisions made after such reconsideration, they can bring the matter before the local people's courts.

**Article 16.** Income tax paid by a joint venture or its branch in other countries may be credited against the assessed income tax of the head office as foreign tax credit.

Where agreements on avoidance of double taxation have been concluded between the Government of the People's Republic of China and the government of another country, income tax credits shall be handled in accordance with the provisions of the related agreements.

**Article 17.** Detailed rules and regulations for the implementation of this Law shall be formulated by the Ministry

of Finance of the People's Republic of China.

**Article 18.** This Law shall come into force from the date of promulgation.



(本訳文は非公式文書)

## 中華人民共和国中外合資経営企業所得税法

第 一 条 中華人民共和国の国内にある中外合資経営企業（以下、合営企業と略称）は、その生産、経営によって得た所得およびその他の所得について、いずれもこの法律の定めるところにより所得税を納付するものとする。

中国の国内と国外における合営企業派出機構がその生産、経営によって得た所得およびその他の所得については、本社が一括して所得税を納付するものとする。

第 二 条 合営企業の各納税年度の収入総額から原価、必要経費および損失を控除した残額を課税の対象とする。

第 三 条 合営企業所得税の税率は三〇%とする。そのほか、納付すべき所得税額の一〇%にあたる地方所得税を付加税として徴収する。

石油、天然ガスおよびその他の資源を開発する合営企業の所得税の税率は、別に定める。

第 四 条 合営企業の外国側パートナーは、企業から得た利益を国外に送金する場合、送金額の一〇%にあたる所得税を納付するものとする。

第 五 条 合営期間十年以上の新設合営企業については、企業が申請し、税務機関が許可した場合、利益があがりはじめた年度からかぞえて最初の年は所得税を免除し、二年目と三年目は所得税を半減する。