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营 业 税

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Business Tax

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中华人民共和国营业税暂行条例

(1993年11月26日国务院第十二次常务会议
通过 1993年12月13日中华人民共和国国务院令
第136号发布 自1994年1月1日起施行)

第一条 在中华人民共和国境内提供本条例规定的劳务（以下简称应税劳务）、转让无形资产或者销售不动产的单位和个人，为营业税的纳税义务人（以下简称纳税人），应当依照本条例缴纳营业税。

第二条 营业税的税目、税率，依照本条例所附的《营业税税目税率表》执行。

税目、税率的调整，由国务院决定。

纳税人经营娱乐业具体适用的税率，由省、自治区、直辖市人民政府在本条例规定的幅度内决定。

第三条 纳税人兼有不同税目应税行为的，应当分别核算不同税目的营业额、转让额、销售额（以下简称营业额）；未分别核算营业额的，从高适用税率。

第四条 纳税人提供应税劳务、转让无形资产或者销售不动产，按照营业额和规定的税率计算应纳税额。应纳税额计算公式：

应纳税额 = 营业额 × 税率

应纳税额以人民币计算。纳税人以外汇结算营业额的，应当按外汇

Interim Regulations of the People's Republic of China on Business Tax

(Adopted at the 12th Executive Meeting of the State Council on November 26, 1993, promulgated by Decree No. 136 of the State Council of the People's Republic of China on December 13, 1993, and effective as of January 1, 1994)

Article 1 All units and individuals engaged in provision of services prescribed by these Regulations (hereinafter referred to as "taxable services"), in transfer of intangible assets or in sales of immovable property within the territory of the People's Republic of China shall have an obligation to pay business tax (hereinafter referred to as "taxpayers"), and shall pay business tax in accordance with these Regulations.

Article 2 The taxable items and tax rates of business tax shall be determined in accordance with the Table of Taxable Items and Tax Rates of the Business Tax attached to these Regulations.

Any adjustments to the taxable items and tax rates shall be determined by the State Council.

The specific tax rates applicable to taxpayers engaged in entertainment businesses shall be determined by the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government within the range prescribed by these Regulations.

Article 3 For taxpayers concurrently engaged in taxable activities under different tax items, the turnover, transfer and sales amounts (hereinafter referred to as "turnover") under different taxable items shall be accounted separately. If the turnover is not accounted separately, the higher tax rate shall apply.

Article 4 For taxpayers providing taxable services, transferring intangible assets or selling immovable property, the tax payable shall be computed according to the turnover and the prescribed tax rates. The formula for computing the tax payable is as follows:

$$\text{Tax payable} = \text{Turnover} \times \text{Tax rate}$$

The tax payable shall be computed in Renminbi. Where a taxpayer settles his

市场价格折合成人民币计算。

第五条 纳税人的营业额为纳税人提供应税劳务、转让无形资产或者销售不动产向对方收取的全部价款和价外费用；但是，下列情形除外：

（一）运输企业自中华人民共和国境内运输旅客或者货物出境，在境外改由其他运输企业承运乘客或者货物的，以全程运费减去付给该承运企业的运费后的余额为营业额。

（二）旅游企业组织旅游团到中华人民共和国境外旅游，在境外改由其他旅游企业接团的，以全程旅游费减去付给该接团企业的旅游费后的余额为营业额。

（三）建筑业的总承包人将工程分包或者转包给他人的，以工程的全部承包额减去付给分包人或者转包人的价款后的余额为营业额。

（四）转贷业务，以贷款利息减去借款利息后的余额为营业额。

（五）外汇、有价证券、期货买卖业务，以卖出价减去买入价后的余额为营业额。

（六）财政部规定的其他情形。

第六条 下列项目免征营业税：

（一）托儿所、幼儿园、养老院、残疾人福利机构提供的育养服务，婚姻介绍，殡葬服务；

（二）残疾人员个人提供的劳务；

（三）医院、诊所和其他医疗机构提供的医疗服务；

（四）学校和其他教育机构提供的教育劳务，学生勤工俭学提供的劳务；

（五）农业机耕、排灌、病虫害防治、植保、农牧保险以及相关技术培训业务，家禽、牲畜、水生动物的配种和疾病防治；

turnover in a foreign currency, the turnover shall be computed by converting it into Renminbi according to the exchange rate prevailing in the foreign exchange market.

Article 5 The turnover of a taxpayer shall be the total purchase price and all other charges receivable from the purchasers for provision of taxable services, transfer of intangible assets or sale of immovable property by the taxpayer, except for the following situations:

(1) For transport enterprises which carry passengers or cargos out of the territory of the People's Republic of China and transship them to other transport enterprises overseas, the turnover shall be the balance of transport charges for the whole journey less the transport charges paid to the sub-contracted transport enterprises.

(2) For travel enterprises which organize tourist groups to travel outside the territory of the People's Republic of China and sub-contract to other travel enterprises overseas, the turnover shall be the balance of the tourist charges for the whole journey less the payments made to those sub-contracted travel enterprises.

(3) For main contractors in the construction business who sub-contract work to others, the turnover shall be the balance of the total contract sum less the payments made to the sub-contractors.

(4) For re-lending businesses, the turnover shall be the balance of interest on lending less the interest on borrowing.

(5) For businesses of buying and selling foreign currencies, negotiable securities and futures, the turnover shall be the balance of the selling prices less the buying prices.

(6) Other situations as prescribed by the Ministry of Finance.

Article 6 The following items shall be exempt from business tax:

(1) nursing services provided by nurseries, kindergartens, homes for the aged, welfare institutions for the handicapped, matchmaking and funeral services.

(2) services provided by individual disabled persons.

(3) medical services provided by hospitals, clinics and other medical institutions.

(4) educational services provided by schools and other educational institutions; and services provided by students participating in work-study programmes.

(5) agricultural mechanical ploughing, irrigation and drainage, prevention and treatment of plant diseases and insect pests, plant protection, insurance for farming and animal husbandry, and related technical training services; breeding and prevention and treatment of diseases of poultry, livestock and aquatic animals.

(六) 纪念馆、博物馆、文化馆、美术馆、展览馆、书画院、图书馆、文物保护单位举办文化活动的门票收入，宗教场所举办文化、宗教活动的门票收入。

除前款规定外，营业税的免税、减税项目由国务院规定。任何地区、部门均不得规定免税、减税项目。

第七条 纳税人兼营免税、减税项目的，应当单独核算免税、减税项目的营业额；未单独核算营业额的，不得免税、减税。

第八条 纳税人营业额未达到财政部规定的营业税起征点的，免征营业税。

第九条 营业税的纳税义务发生时间，为纳税人收讫营业收入款项或者取得索取营业收入款项凭据的当天。

第十条 营业税由税务机关征收。

第十一条 营业税扣缴义务人：

(一) 委托金融机构发放贷款，以受托发放贷款的金融机构为扣缴义务人。

(二) 建筑安装业务实行分包或者转包的，以总承包人为扣缴义务人。

(三) 财政部规定的其他扣缴义务人。

第十二条 营业税纳税地点：

(一) 纳税人提供应税劳务，应当向应税劳务发生地主管税务机关申报纳税。纳税人从事运输业务，应当向其机构所在地主管税务机关申报纳税。

(二) 纳税人转让土地使用权，应当向土地所在地主管税务机关申报纳税。纳税人转让其他无形资产，应当向其机构所在地主管税务机关申报纳税。

(三) 纳税人销售不动产，应当向不动产所在地主管税务机关申报纳税。

第十三条 营业税的纳税期限，分别为五日、十日、十五日或

(6) admission fees for cultural activities conducted by memorial halls, museums, cultural centres, art galleries, exhibition halls, academies of painting and calligraphy, libraries and units of cultural relic protection; admission fees for cultural and religious activities conducted at places of religious worship.

Except as stipulated in the above paragraphs, the items for business tax exemption or reduction shall be prescribed by the State Council, no local governments or departments may prescribe any items for business tax exemption or reduction.

Article 7 For taxpayers concurrently engaged in tax-exempt or tax-reduced items, the turnover shall be accounted separately; if the turnover is not separately accounted, no exemption or reduction shall be allowed.

Article 8 For taxpayers whose turnover is less than the minimum amount liable for business tax as stipulated by the Ministry of Finance, the business tax shall be exempt.

Article 9 The time at which an obligation to pay business tax arises shall be the date on which the business proceeds are received or the document against which the business proceeds shall be paid is obtained by the taxpayer.

Article 10 Business tax shall be collected by tax authorities.

Article 11 Business tax withholding agents shall be as follows:

(1) For financial institutions entrusted to grant loans, the entrusted financial institutions shall be the withholding agents.

(2) For sub-contractors of construction and installation businesses, the main contractors shall be the withholding agents.

(3) Other withholding agents as stipulated by the Ministry of Finance.

Article 12 The place for payment of business tax shall be as follows:

(1) Taxpayers providing taxable services shall submit tax returns and pay tax to the competent tax authorities where the taxable services take place. Taxpayers engaged in the transportation business shall submit tax returns and pay tax to the competent tax authorities where the business establishment is located.

(2) Taxpayers transferring land-use rights shall submit tax returns and pay tax to the competent tax authorities where the land is located. Taxpayers transferring other intangible assets shall submit tax returns and pay tax to the competent tax authorities where the business establishment is located.

(3) Taxpayers selling immovable property shall submit tax returns and pay tax to the competent tax authorities where the immovable property is located.

Article 13 The assessable period for business tax shall be five days, ten days, fifteen days or one month. The actual assessable period of a taxpayer shall be

者一个月。纳税人的具体纳税期限，由主管税务机关根据纳税人应纳税额的大小分别核定；不能按照固定期限纳税的，可以按次纳税。

纳税人以一个月为一期纳税的，自期满之日起十日内申报纳税；以五日、十日或者十五日为一期纳税的，自期满之日起五日内预缴税款，于次月一日起十日内申报纳税并结清上月应纳税款。

扣缴义务人的解缴税款期限，比照前两款的规定执行。

第十四条 营业税的征收管理，依照《中华人民共和国税收征收管理法》及本条例有关规定执行。

第十五条 对外商投资企业和外国企业征收营业税，按照全国人民代表大会常务委员会的有关决定执行。

第十六条 本条例由财政部负责解释，实施细则由财政部制定。

第十七条 本条例自一九九四年一月一日起施行。一九八四年九月十八日国务院发布的《中华人民共和国营业税条例（草案）》同时废止。

附：

营业税税目税率表

税 目	征 收 范 围	税 率
一、交通运输业	陆路运输、水路运输、航空运输、管道运输、装卸搬运	3%

determined by the competent tax authorities according to the magnitude of the tax payable of the taxpayer; tax that cannot be assessed in regular periods may be assessed on a transaction-by-transaction basis.

Taxpayers that adopt one month as an assessable period shall submit tax returns and pay tax within ten days following the end of the period. If an assessable period of five days, ten days or fifteen days is adopted, the tax shall be prepaid within five days following the end of the period and a monthly tax return shall be filed with any balance of tax due settled within ten days from the first day of the following month.

The tax payment deadlines for withholding agents shall be determined with reference to the provisions of the preceeding two paragraphs.

Article 14 The administration of collection of business tax shall be governed by the relevant provisions of the Law of the People's Republic of China on the Administration of Tax Collection and these Regulations.

Article 15 The collection of business tax from foreign investment enterprises and foreign enterprises shall be governed by the resolutions of the Standing Committee of the National People's Congress.

Article 16 The Ministry of Finance shall be responsible for the interpretation of these Regulations and for the formulation of the rules for the implementation of these Regulations.

Article 17 These Regulations shall come into effect as of January 1, 1994. The Regulations of the People's Republic of China on Business Tax (Draft) promulgated by the State Council on September 18, 1984 shall be superseded on the same date.

Appendix:

TABLE OF TAXABLE ITEMS AND TAX RATES OF BUSINESS TAX

Taxable items	Scope of levy	Tax rates
1. Communications and transportation	Transportation by land, water, air and pipeline, loading, unloading and delivery	3%

税 目	征 收 范 围	税 率
二、建筑业	建筑、安装、修缮、装饰及其他 工程作业	3%
三、金融保险业		5%
四、邮电通信业		3%
五、文化体育业		3%
六、娱乐业	歌厅、舞厅、卡拉 OK 歌舞厅、 音乐茶座、台球、高尔夫球、保 龄球、游艺	5% - 20%
七、服务业	代理业、旅店业、饮食业、旅游 业、仓储业、租赁业、广告业及 其他服务业	5%
八、转让无形资 产	转让土地使用权、专利权、非专 利技术、商标权、著作权、商誉	5%
九、销售不动产	销售建筑物及其他土地附着物	5%

Taxable items	Scope of levy	Tax rates
2. Construction	Construction, installation, repair, decoration and other engineering work	3%
3. Finance and insurance		5%
4. Posts and telecommunications		3%
5. Culture and Sports		3%
6. Entertainment	Singing bars, dance halls, karaoke lounges, commercial musical halls, musical tea houses, billiards, golf, bowling and amusement facilities	5%-20%
7. Servicing	Agency, hotel, catering, tourism, warehousing, leasing, advertising and other services	5%
8. Transfer of intangible assets	Transfer of land-use rights, patent rights, non-patented technologies, trade marks, copyrights and good will	5%
9. Sale of immovable property	Sale of buildings and other attachments to land	5%