Regulations for the Implementation of Enterprise Income Tax Law promulgate

The State Council promulgated the Regulations for the Implementation of Enterprise Income Tax Law which shall come into force on January 1, 2008.

According to the Regulations, the tax preferential treatments cover the following aspects:

1. tax preferential treatment for the encouragement of farming, forestry, husbandry, and fishery industries
2. tax preferential treatment for the encouragement of construction of infrastructures
3. tax preferential treatment for the encouragement of industries of environmental protection, energy-saving and water-saving , comprehensive usage of resources, and safe production.

（1） The Implementation Regulations provide that enterprises that carry out the following projects can receive tax concession of 3 years exemption from tax and 3 years taxation at 50% of the normal rate: sewage treatment, refuse treatment, methane gas usage and development, energy conservation technology, emission levels reduction, and sea water desalination treatment. The tax concession commences from the tax year in which the first transaction of sales is reported. The Ministry of Finance and the State Administration of Taxation, other relevant ministries will formulate the detailed scope and conditions for the tax preferential policy.

（2） The Implementation Regulations provide that the reduction in taxable income is 10%, given that the main materials for the products should come from the prescribed resources under the "Catalog for the Preferential Tax Treatment on the Integrated Utilization of Resources" and that the products should meet the industry standards and do not fall under the restricted and prohibited categories.

（3） The Implementation Regulations provide that where the enterprise incurs actual expenditure on special equipment that is on the list of "Catalog of Equipment for the Exclusive Use in Environmental Protection that Receives Tax Preferences", "Catalog of Equipment for the Exclusive Use in Energy and Water Conservation", and "Catalog of Equipment for the Exclusive Use in Work safety that Receives Tax Preferences", 10% of the actual expenditure can be credited against the tax payable for the current year. If the tax payable is not enough, the credits can be carried over for use in the next five tax years.

4. Tax concession to promote technology innovation and technical advancement

（1） The Implementation Regulations specifically provide that where the enterprise derives income the technology transfer, the first 5 million of the taxable income is exempted from income tax. The amount over the 5 million is subject to income tax at 50% of the full rate.

（2） Article 30 of the EIT Law provides that enterprises that incur research and development expenses on new technology, new products, new workmanship can claim additional deduction in the computation of taxable income. The Implementation Regulations specifically provide that where the enterprise derives the above-mentioned income, the enterprises can claim additional deduction equal to 50% of the actual expenses incurred.

（3） The Implementation Regulations expressly provide that the tax concession for VC enterprises that make equity investment in unlisted small and medium size high-tech enterprises for a period of over 2 years, 70% of the investment amount can be credited against the taxable income of the invested enterprises in the year in which the investment holding has lasted for 2 years. If the taxable income is not enough for the investment credit, the credits can be carried over for use in future years.

（4） Article 32 of the EIT Law provides that enterprises can receive accelerated depreciation allowance where the fixed assets become obsolete due to technology advancement. The Implementation Regulations specifically provide that fixed assets qualified for accelerated depreciation allowance include: (1) fixed assets fast becoming obsolete; and (2) fixed assets in a state of vibration and being exposed to high degree of erosion.

For the small profit-making enterprises, the Implementation Regulations specify that (1) in respect of production enterprises, the annual taxable income shall not exceed RMB300,000, total number of employees shall not exceed 100, and the total asset amount shall not exceed RMB 30 million; (2) In respect of non-production enterprises, the annual taxable income shall not exceed RMB300,000, the no. of employees shall not exceed 80, and the total amount of assets shall not exceed RMB 10 million. The scope of the tax concession is larger than that as given under the old tax law for domestically funded enterprises.

The Implementation Regulations reclassify the new and high-tech enterprises from designated products to sectors of new and high technology, drawing a line for products (and services) that fall under the new and high technology sectors that receive primary supports from the State. The detailed scope and recognition procedures are to be formulated by the Ministry of Science and Technology, the Ministry of Finance, and the State Administration of Taxation together with other relevant ministries. They new policies shall be released after obtaining approval from the State Council. In addition, the Implementation Regulations give certain benchmarks for the recognition of new and hi-tech enterprises: possessing core IP rights; the products (or services) falling under the scope of the "new and high technology sectors that receive primary supports from the State"; the amount of research and development as a percentage to sales, the sales revenue of new and hi-tech products (or services) as a percentage of total revenue, the ratio of employees that possess technical qualifications to the total number of employees in the company. The new and hi-tech enterprises shall achieve the benchmarks.

The Implementation regulations do not give provisions for tax preferential policies during the transitional period which are said to be given by the State Council in accordance with the EIT law.

China Business Engine
Tel +86 21 52289730
Fax +86 21 5228-9730

Website
China site：www.cbize.com
Globe site：www.cbize.net