

DETAILED RULE FOR THE IMPLEMENTATION OF THE PROVISIONAL REGULATION OF THE PEOPLE'S REPUBLIC OF CHINA ON BUSINESS TAX

(Ministry of Finance: 25 December 1993)

Whole Doc.

Article 1

These Detailed Rules are formulated in accordance with the stipulations of Article 16 of Republic of China on Business Tax (hereinafter referred to as the 'Regulations').

Article 2

"Taxable services" as mentioned in Article 1 of the Regulations refers to services within the scope of taxable items in the communications and transportation, construction, finance and insurance, posts and telecommunications, culture and sports, entertainment and service industries. Processing, repair and replacement are not taxable services as mentioned in the Regulations (hereinafter referred to as 'non-taxable services').

Article 3

"The foreign exchange, marketable securities and futures buying and selling business" as mentioned in Item 5 of Article 5 of the Regulations refers to the foreign exchange, marketable securities and futures buying and selling business carried on by financial institutions (including banks and non-bank financial institutions). The buying and selling of foreign exchange, marketable securities or futures by non-financial institutions or individuals shall not be subject to Business Tax. "Futures" as mentioned in Item 5 of Article 5 of the Regulations refer to non-commodities futures. Futures on commodities shall not be subject to Business Tax.

Article 4

"Provision of taxable services, transfer of intangible assets or the sale of immovable properties" as mentioned in Article 1 of the Regulations refers to activities of providing taxable services, transferring intangible assets or ownership of immovable properties with consideration (hereinafter referred to as the 'taxable activities'). However, taxable services provided by the staff employed by units or individual operators to their own units or employers shall not be included therein. The term "with consideration" in the preceding paragraph includes receipt of currency, goods and other economic benefits. For units or individuals that sell their newly self-constructed buildings (hereinafter referred to as 'self-construction'), their self-construction activities shall be regarded as provision of taxable services.

Transfers of limited property rights, or permanent rights, to use immovable properties, and transfers by units of immovable properties by way of gifts to others shall be regarded as sales of immovable properties.

Article 5

A sales activity that involves both taxable services and goods is deemed to be a mixed sales activity. Mixed sales activities of enterprises, enterprise units or individual business operators engaged in production, wholesale or retail of goods shall be classified as sales of goods, and Business Tax shall not be levied on the sales; mixed sales activities of other units and individuals shall be classified as provision of taxable services, and Business Tax shall be levied on the sales. Whether taxpayers' sales The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

activities are mixed sales activities shall be determined by the collection authorities under the State Administration of Taxation. "Goods" as mentioned in Paragraph 1 refers to tangible moveable goods, including electricity, heat and gas. "Enterprises, enterprise units or individual business operators engaged in the production, wholesale and retail of goods" as mentioned in Paragraph 1 include enterprises, units with an enterprise nature and individual business operators engaged principally in the production, wholesale and retail of goods, and also engaged in taxable services.

Article 6

For taxpayers engaged in both taxable services and the sales of goods or non-taxable services, the sales amount of taxable services and the sales amount of goods or non-taxable services shall be accounted for separately. For taxpayers that have not accounted for separately or cannot account for accurately, the taxable services and goods and non-taxable services shall together be subject to Value Added Tax, and Business Tax shall not be levied. Whether the taxable services engaged concurrently by taxpayers are together subject to Value Added Tax, this tax shall be determined by the collection authorities under the State Administration of Taxation.

Article 7

Except as otherwise stipulated in Article 8 of these Detailed Rules, any one of the following activities shall be regarded as provision of taxable services, transfer of intangible assets or sale of immovable properties within the territory of the People's Republic of China (hereinafter referred to as 'within the territory') as mentioned in Article 1 of the Regulations:

- (1) Provision of services occurs within the territory;
- (2) Transportation from within the territory of passengers or cargos to outside the territory;
- (3) Organization of tourist groups within the territory to travel outside the territory;
- (4) Transfer of intangible assets to be used within the territory.
- (5) Sales of immovable properties located within the territory

Article 8

Any one of the following situations shall be providing insurance services within the territory:

- (1) Insurance services provided by insurance organizations within the territory, except for insurance provided for export goods by insurance organizations within the territory.
- (2) Insurance services provided by insurance organizations outside the territory in relation to goods within the territory.

Article 9

"Units" as mentioned in Article 1 of the Regulations refers to State-owned enterprises, collectively owned enterprises, private enterprises, joint stock enterprises, other enterprises and administrative units, institutions, military units, social groups and other units. "Individuals" as mentioned in Article 1 of the Regulations refers to individual industrial or commercial households and other individuals that have business activities.

Article 10

For enterprises which lease or contract to other to operate, the lessees or sub-contractors shall be the taxpayer.

Article 11

Except otherwise stipulated in Article 12 of these Detailed Rules, units that are liable to Business Tax shall be those that have taxable activities and receive money, goods or other economic benefits from The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

the other parties. They shall include units both with and without independent accounting.

Article 12

The taxpayer for the business of central railway transportation shall be the Ministry of Railways. The taxpayers for the business of Sino-foreign equity joint venture railway transportation shall be the joint venture railway companies. The taxpayers for the business of local railway transportation shall be the local organization for railway administration. The taxpayers for the business of provisional administration for infrastructural route transportation shall be the organization for provisional administration for infrastructural routes. Units engaged in the business of waterway, air, pipeline and other land transportation liable to Business Tax shall be those units engaged in transportation business and accountable for profit or loss.

Article 13

Charges of legislative, judicial and administrative authorities that meet the following conditions shall not be subject to Business Tax;

- (1) Charges which are permitted under official documents by the State Council, provincial People's governments, or the finance or pricing departments thereunder, and where the charging standard is in accordance with the stipulations of the documents.
- (2) Charges which are collected directly by the legislative, judicial and administrative authorities themselves.

Article 14

"Other charges" as mentioned in Article 5 of the Regulations shall include handing fees, funds, fund raising fees, receipts on behalf, payment on behalf and other charges of every nature received from other parties. All other charges shall be included in the turnover in computing the tax payable regardless of the treatments applicable according to the stipulations of the accounting policies.

Article 15

Where the prices of the taxpayers providing taxable services, transferring intangible assets or selling immovable properties are obviously low and without proper justification, the competent tax authorities shall have the right to determine the turnover according to the following sequence:

- (1) Determined according to the average prices of similar services provided or similar immovable properties sold by the taxpayers in the same month.
- (2) Determined according to the average prices of similar services provided or similar immovable properties sold by the taxpayers in the most recent period.
- (3) Determined according to the following formula:

Assessable Operating (1 + the cost plus margin rate)

value = costs or X -----

Project costs (1 - Business Tax rate)

The cost-plus margin rate in the above formula shall be determined by the tax authorities under the People's governments of the provinces, autonomous regions and municipalities.

Article 16

In accordance with the stipulations of Article 4 of the Regulations, taxpayers settling the turnover in foreign currencies can select to convert the turnover into RMB according to the exchange rate quoted by the State of either the date the turnover occurs or on the first date of the month (the average rate in principle). However, the RMB conversion rate for the turnover of financial and insurance enterprises The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

shall be the exchange rate ascertained in the prior year's financial statements.

Taxpayers shall decide in advance the conversion rate selected. Once selected, it cannot be changed within one year.

Article 17

Turnover of transportation enterprises engaged in through transport business shall be the turnover actually received. "Other situations" as mentioned in Item 6 of Article 5 of the Regulations include tourist enterprises organising tourist groups to travel within the territory of China. The turnover shall be the balance of tourist fees received after deduction of room charges, meal charges, transportation, admission fees and other charges paid to other units on behalf of the tourists.

Article 18

For taxpayers engaged in construction, repair and decoration project operations, their turnover shall include the prices of raw materials, other materials and energy used in the projects irrespective of the method in which the accounts are settled with the other parties. For taxpayers engaged in installation project operations, as far as the price of the equipment installed is taken as part of installation project sum, their turnover shall include the price of the equipment.

Article 19

The turnover of self-construction activities as mentioned in Article 4 of these Detailed Rules shall be determined with reference to the stipulations of Article 15 of these Detailed Rules.

Article 20

"Re-lending business" as mentioned in Item (4) of Article 5 of the Regulations refers to the business of lending to others the funds borrowed. Lending to others with the funds from deposits taken from units or individuals and the funds from lender's own capital contributions shall not be regarded as relending business.

Article 21

For insurance business that reinsures with other parties, the turnover of the initial insurance business shall be the total insurance premiums after deduction of the premiums paid to the reinsurers.

Article 22

For entertainment performances by units or individuals, the turnover shall be the total box-office proceeds or block-booking proceeds after deduction of the payments to units providing performance venues, entertainment companies and managers.

Article 23

Turnover of the entertainment business shall be the various charges collected from customers in the entertainment business operations, including box-office receipts, on-stage fees, song dedication fees, charges on cigarettes and drinks, and other charges in the entertainment business operations.

Article 24

For travel business, the turnover shall be the balance of total charges after deduction of payments to other units for meals, lodging and transportation for the tourists. For travel enterprises that organise tours within the territory and then hand over the groups to other travel enterprises, the turnover shall be determined with reference to the stipulations of Item 2 of Article 5 of the Regulations.

Article 25

For units giving immovable properties to others as free gift, the turnover shall be determined with reference to the stipulations of Article 15 of these Detailed Rules.

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Article 26

The scope of the tax-exempt items as stipulated in Article 6 of the Regulations shall be defined as follows:

- (1) "Personal services provided on individual basis by the disabled" as mentioned in Paragraph 1, Item 2 refers to services provided to the Public by the disabled individual.
- (2) "Medical services provided by hospitals, clinics and other medical institutions" as mentioned in Paragraph 1, Item 3 refers to such services as diagnosis and treatment to patients, epidemic prevention, child delivery and family planning, as well as the business of providing medicine, medical apparatus, hospital lodging and meals in relation to these services.
- (3) "Schools and other educational institutions" as mentioned in Paragraph 1, Item 4 refers to ordinary schools and schools of various kinds approved to be established by the People's governments above the prefecture and city levels or departments for educational administration under governments of the same level and where the academic qualifications of their students are recognized by the State.
- (4) "Agricultural mechanical ploughing" as mentioned in Paragraph 1, Item 5 refers to the business of farming operations applying agricultural machinery in farming, forestry and husbandry (including ploughing, planting, harvesting, threshing and plant protection). "Irrigation and drainage" refers to the business of irrigation and drainage of farmland. "Prevention and treatment of diseases and insect pests" refers to the business of forecast, prevention and treatment of diseases and insect pests for farming, forestry, husbandry and fishery. "Insurance for farming and husbandry" refers to the business of providing insurance to animals and plants grown and raised in planting, breeding and husbandry. "Related technical training" refers to technical training services related to the business of agricultural mechanical ploughing, irrigation and drainage, prevention and treatment of diseases and insect pests, and plant protection, as well as services to enable the farmers to obtain knowledge of insurance for farming and husbandry. The scope of the tax exemption for the breeding and the prevention and treatment of diseases of poultry, livestock and aquatic animals includes the business of providing medicine and medical apparatus in relation to those services.
- (5) "Cultural activities conducted by memorial hall, museum, cultural centre, art gallery, exhibition hall, academy of painting and calligraphy, library and cultural protective units" as mentioned in Paragraph 1, Item 6 refers to cultural activities that fall within the taxable scope of taxable items under culture and sports activities conducted by those units in their own locations. The admission fees refers to the box-office receipts on the sales at the first entrance. "Admission fees for cultural and religious activities conducted at places of religious worship" refers to cultural and religious activities held by temples, Taoist temples, mosques and churches.

Article 27

The application of the Business Tax minimum threshold as mentioned in Article 8 of the Regulations shall be limited to individuals. Ranges for the Business Tax minimum threshold are as follows: For those assessable on a period basis, the Business Tax minimum threshold shall be a monthly turnover of 200-800 yuan. For those assessable on a transaction basis, the Business Tax minimum threshold shall be turnover of 50 yuan per transaction (or per day). Taxpayers whose turnovers reach the minimum threshold shall compute the tax payable based on the total turnover.

The tax authorities under the People's governments of provinces, autonomous regions and municipalities shall determine the minimum threshold locally applicable within the prescribed ranges. The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

and in accordance with the actual conditions, and shall report the amounts to the State Administration of Taxation for their records.

Article 28

For taxpayers transferring land use rights or selling immovable properties that accept receipts in advance, the timing at which the tax liability arises shall be the date on which the advance receipts are received. For taxpayers that have self-construction activities as mentioned in Article 4 of these Detailed Rules, the timing at which the tax liability arises on the self-construction activities shall be the date on which the self-constructed buildings are sold and the turnovers are received or the documented evidence of the right to collect the sales sum is obtained. For taxpayer giving immovable properties to others as free gift, the timing at which the tax liability arises shall be the date on which the titles of the immovable properties are transferred.

Article 29

Other withholding agents as mentioned in Article 11 of the Regulations are defined as follows:

(1) For overseas units or individuals that have taxable activities within the territory but have not set up any establishment within the territory, the agents shall be the withholding agents for their tax payable. If there are no agents, the transferees and the purchasers shall be the withholding agents.

(2) For units or individuals that present performances where the tickets are sold by others, the ticket sellers shall be the withholding agents for their tax payable.

(3) For individual performance managers, the ticket sellers shall be the withholding agents on their tax payable on the performance management business.

(4) For reinsurance business, the initial insurers shall be the withholding agents.

(5) For individuals transferring other intangible assets as mentioned in Item 2, Article 12 of the Regulations, the transferees shall be the withholding agents for their tax payable.

Article 30

For taxpayers providing taxable services that take place in a different county (or city) that should report and pay tax with the competent tax authorities where the services taken place but have not reported or paid the tax, the competent tax authorities where the establishments are located or where the individuals reside shall collect the overdue tax.

Article 31

Taxpayers with contracted projects extending across provinces, autonomous regions and municipalities shall report and pay tax to the competent tax authorities where the establishments are located.

Article 32

For taxpayers that have taxable activities within the area of their own province, autonomous region and municipality, and need to change the tax payment location, the location shall be determined by tax authorities under the People's governments of the province, autonomous region or municipality.

Article 33

The assessable period for the financial industry (excluding pawn-broking) shall be one quarter of a year. The assessable period for the insurance industry shall be one month.

Article 34

The terms "above" and "below" as mentioned in these Detailed Rules also include the figure or level itself.

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Article 35

These Detailed Rules shall be interpreted by the Ministry of Finance or by the State Administration of Taxation.

Article 36

These Detailed Rules shall be implemented on the same day the Regulations are come into effect. The Implementation of the Draft Regulations of the People's Republic of China on Business Tax> promulgated on September 28, 1984 shall be repealed on the same date.



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