

# Provisional Regulations on Business Tax of the People's Republic of China

(Promulgated on Order [1993] No. 136 of the State Council on Dec. 12, 1993)

**Article 1** An institution or individual engaged in providing services (hereinafter referred to as "taxable services"), transferring intangible assets or selling immovable property within the territory of the People's Republic of China as provided in these Regulations shall be a taxpayer of business tax (hereinafter referred to as taxpayer) and pay business tax in accordance with these Regulations.

**Article 2** The items and rates of business tax shall be in pursuance of the "Table of Items and Rates of Business Tax" in the appendix to these Regulations.

Any readjustment of the items and rates of Business Tax shall be determined by the State Council.

The rates of Business Tax on entertainment business run by taxpayers shall be formulated by the people's governments of the provinces, autonomous regions and municipalities directly under the State Council within the range provided by these Regulations.

**Article 3** A taxpayer engaged in taxable activities dealing in different taxable items simultaneously shall compute the business turnover, amount of transfer and/or sales volumes of different taxable items separately; otherwise the highest rate shall apply.

**Article 4** The tax amount of taxable services provided, intangible assets transferred and/or immovable property sold by a taxpayer shall be settled on the basis of the business turnover and at the prescribed tax rate. The formula for the computation of the amount of tax is:

Amount of tax = Business turnover X Tax rate

The tax amount shall be computed in RMB. In case the taxpayer settles its business turnover in a foreign currency, it shall be computed by converting the foreign currency into RMB at the official exchange rate.

**Article 5** A taxpayer's business turnover shall comprise all the payments for the service provided, intangible assets transferred and immovable property sold and other charges, but excluding the following:

1. For a transportation enterprise shipping passengers or cargo out of the People's Republic of China with the leg of shipment outside the Chinese territory handled by an overseas forwarding agent, the turnover taxable shall be the balance of the shipment charges on the whole journey minus that on the leg outside China.
2. For a travel agency organizing tourist groups on tours out of the People's Republic of China with the tour outside China handled by an overseas travel service, the turnover taxable of the taxpayer shall be the balance of the payment for the whole tour minus that outside China.
3. For a construction contractor subcontracting part or whole of the project to another builder, the turnover taxable of the taxpayer shall be the balance of the pay for the whole project minus the pay for the subcontracted part.
4. For a sub-lending transaction, the turnover taxable shall be the balance of the interest on the sum sub-lent minus the interest on the sum borrowed.
5. For transactions in foreign exchange, securities and/or futures, the turnover taxable shall be the balance of the sale minus the purchase.
6. And other circumstances prescribed by the Ministry of Finance.

**Article 6** The following items are exempt from business tax:

1. The services provided by nurseries, kindergartens, homes for the aged, institutions for the benefit of the disabled, matrimonial agencies and undertakers,
2. Services provided by the handicapped,
3. Medical service provided by hospitals, clinics and other medical institutions,
4. Education service provided by institutions of learning and other educational institutions and the labor service provided by students working part-time,
5. Machine tilling, irrigation and drainage, combating pests and plant diseases, plant protection, insurance on farming and animal husbandry, training in relevant agricultural techniques, and breeding and disease prevention of poultry, livestock and aquatic animals,
6. Booking office income from cultural activities conducted by memorial halls, museums, cultural centers, art galleries, exhibition halls, academies of fine arts and calligraphy, libraries, and institutions in charge of the preservation of cultural relics and income from entrance fees for cultural and religious activities organized by religious institutions.

Tax exemption and reduction for items other than those listed above shall be determined by the State Council. No local governments and departments shall decide on items for tax exemption or reduction.

**Article 7** A taxpayer also dealing in items of tax exemption or reduction shall compute the turnover of the items eligible for tax exemption or/and tax reduction separately, otherwise no tax exemption or reduction shall be granted.

**Article 8** A taxpayer's turnover below the threshold for business tax as prescribed by the Ministry of Finance shall be exempt from business tax.

**Article 9** The time when liability to business tax arises shall be the day when the taxpayer receives the payment or a bill payable for the payment of the transaction.

**Article 10** Business tax shall be collected by the tax authorities.

**Article 11** The withholder of business tax:

1. When a loan is entrusted to a banking institution to issue, the said banking institution shall be the withholder of business tax.
2. When a building project is subcontracted wholly or partially, the general contractor shall be the withholder of the business tax of the subcontractor(s).
3. And other withholders of business tax determined by the Ministry of Finance.

**Article 12** Places for payment of business tax:

1. A taxpayer providing taxable service shall file tax returns and pay tax to the tax authorities where the service takes place. A taxpayer engaged in transportation business shall file tax returns and pay tax to the tax authorities where the office thereof is located.
2. A taxpayer transferring a land use right shall file tax returns and pay tax to the tax authorities where the land is located. A taxpayer transferring other intangible assets shall file tax returns and pay tax to the tax authorities where the office of the taxpayer is located.
3. A taxpayer selling immovable property shall file tax returns and pay tax to the tax authorities where the

immovable property is located.

**Article 13** The time limit for paying business tax shall be five days, ten days, 15 days or one month. The specific time limit for tax payment for a taxpayer shall be determined by the tax authorities in view of the size of the taxable amount, and in case a fixed time limit cannot be determined, tax may be paid on each transaction. The time limit for tax payment to be forwarded by the tax withholder shall follow the stipulations provided in the previous two paragraphs.

**Article 14** The administration of the business tax shall be implemented in accordance with the provisions of the Law of the People's Republic of China on the Tax Administration and these Regulations.

**Article 15** The administration of business tax on enterprises with foreign investment and foreign enterprises in China shall be implemented in accordance with the relevant resolutions of the Standing Committee of the National People's Congress.

**Article 16** The right to interpret these Regulations rests with the Ministry of Finance, which shall formulate the Rules for the implementation thereof.

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

## Appendix:

Table of Items and Rates of Business Tax

Items	Range of Taxation	Rates
1. Transportation and communications	Shipment by land, water, air and/or pipeline, loading and unloading	3%
2. Building	Building, installation, repair, interior decoration and other building works	3%
3. Banking and insurance		5%
4. Postal & telecommunications service		3%
5. Cultural and Sports service		3%
6. Entertainment	Singsong bars, ballrooms, karaoke lounges, discotheques, music teahouses, billiards clubs, golf clubs, bowling halls, and other amusement and entertainment facilities	5-20%
7. Service trade	Agencies, hotels, restaurants, travel agencies, warehouses, rentals, advertising agencies, and other service trade businesses	5%
8. Transfer of intangible assets	Transfer of land use right, patent right, non-patent technology, trade marks copyright, goodwill	5%
9. Selling real estate	Buildings and other constructions on land	5%