



## 税务快讯

### 环境保护税法将于 2018 年起施行

2016 年 12 月 25 日，第十二届全国人民代表大会常务委员会第二十五次会议通过 [《中华人民共和国环境保护税法》](#)（以下简称“环保税法”），环保税法将从 2018 年 1 月 1 日起开始施行。至此，环境保护税（以下简称“环保税”）正式尘埃落定，该法律也是继《个人所得税法》、《企业所得税法》、《车船税法》后我国的第四部实体税法。环保税法的颁布将对中国的环境保护和税制建设产生重大的影响。

#### 立法背景

1979 年颁布的《中华人民共和国环境保护法（试行）》最早确立了排污费制度。经过三十多年的运行，该制度在促进污染物减排方面起到了积极的作用，但也暴露出缺乏执法刚性等问题。为此，中国政府启动了环境保护费改税的工作，此次通过的环保税法在制度设计上遵循了“税负平移”的原则，一定程度上可以视为排污费的升级版。环保税法施行后，征收部门将由环保部门改为税务部门。此前各方争议较大的二氧化碳排放暂未纳入环保税的征收范围。

#### 税法要点

环保税法共计五章二十八条和两张附表，对环保税的纳税义务人、征税范围、税目和税额、计税依据、应纳税额的计算，以及减免和征收管理等做了原则性的规定。

##### 1. 纳税义务人

在中华人民共和国领域和中华人民共和国管辖的其他海域，直接向环境排放应税污染物的企业事业单位和其他生产经营者为环保税的纳税人，应当依照规定缴纳环保税。

##### 2. 应税污染物

应税污染物具体是指环保税法中所附《环境保护税税目税额表》、《应税污染物和当量值表》规定的大气污染物、水污染物、固体废弃物和噪声。

### 3. 税目税额

环保税法所附《环境保护税税目税额表》具体列示了环保税的税目、税额。其税目分为大气污染物、水污染物、固体废弃物和噪声四类，对不同类别征以不同的税额。其中，大气污染物按每污染当量计税，税额为 1.2 元—12 元；水污染物按每污染当量计税，税额为 1.4 元—14 元；固体废弃物按类别细分，每吨税额从 5—1000 元不等；工业噪声则按噪声超标程度分为不同级次计税，税额分别从每月 350 元—11200 元不等。应税大气污染物和水污染物的具体适用税额，由省级政府在上述幅度内确定。

### 4. 计税依据和应纳税额计算

在具体计税依据上，环保税法明确了应税大气和水污染物按照污染物排放量折合的污染当量数确定；应税固体废弃物按照固体废弃物的排放量确定；应税噪声按照超过国家规定标准的分贝数确定。其中，大气污染物和水污染物的污染当量数计算公式为：污染当量数 = 污染物的排放量（千克） / 污染物的污染当量值（千克）

对于大气、水污染物和固体废弃物，以计税依据乘以相应的适用税额计算出环保税的应纳税额。工业噪声则根据计税依据确定相应级次，以该级次对应的具体适用税额作为应纳税额。

### 5. 税收减免

环保税法规定了暂予免征环保税的若干情形（例如农业生产，机动车、船舶和航空器等流动污染源）。另外，纳税人排放应税大气污染物或水污染物的浓度值低于国家和地方规定标准 30%，可减按 75% 征收环保税；若低于标准 50%，可进一步减按 50% 征收环保税。

### 6. 征收管理

纳税人应当向应税污染物排放地的税务机关申报缴纳环保税。环保税一般按月计算，按季申报缴纳。税务机关应当将纳税申报数据与环保主管部门交送数据进行比对，发现资料异常的可以提请环保主管部门进行复核。

## 影响简析

### 排污成本持续提高

环保税的征税范围及计税方式可追溯到 2003 年发布的《排污费征收使用管理条例》及依据该条例制定的《排污费征收标准管理办法》（以下简称“管理办法”）。管理办法将排污费分为污水排污费、废气排污费、固体废弃物及危险废物排污费和噪声超标排污费，环保税在税目上基本沿袭了这一分类。

自管理办法颁布以来，排污费的费率已经历了较大幅度上升，目前大气和水污染物的排污费费率最低标准为每污染当量 1.2 元和 1.4 元，部分省市在此基础上提高了实际适用的费率，例如北京的收费标准调整为最低标准的 8-9 倍。此次环保税税额的设置体现了这一趋势，在以上述排

污费最低标准作为税额下限的基础上，以最低标准的 10 倍作为税额上限。而且，环保税法施行后，执法刚性将在税收保障方面发挥作用，因此可以预见未来很可能出现排污成本只增不减的情形，污染者需要为此付出更高的经济代价。

### 治污效果有待观察

按照环保税法规定，环保主管部门将负责对污染物的监测管理。应税污染物的排放数据则较多依赖企业自身安装的自动监测设备、监测机构出具的监测数据等手段。由于受到现有技术、条件的限制，如何确保环保部门对应税污染物实施全面和有效的监控，是实现环保税应收尽收所面临的一项课题。而现实中企业偷排污染物的现象屡有发生，这更在一定程度上加大了解决的难度。总体而言，要使环保税抑制排污的效果得到真正的发挥，必须依靠税收、环保等政府部门的通力合作，建立更健全相应的监控机制。本次环保税法从通过立法到最终实施有一年左右的间隔，这为政府部门研究制定并出台更加细化的排污监测和征管规则预留了时间，相关的后续政策值得业界关注。

### 产业升级或可预期

如前所述，环保税施行后，随着预期税率的上升，以及征收力度的加强，企业为此付出的排污成本势必加大，对企业的盈利必然产生影响。这将激励企业加快产业升级，以减少污染物的排放，从而确立其市场竞争中的声誉和成本优势。与此同时，环保设备生产厂家、环保技术企业、在线环保监控设备企业等也有望从中受惠，迎来更多发展机遇。

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## Tax Newsflash Environmental Protection Tax Law to Take Effect in 2018

The [\*Environmental Protection Tax Law of the People's Republic of China\*](#) ("Environmental Protection Tax Law"), which was adopted at the 25th Session of the Standing Committee of the 12th National People's Congress of the People's Republic of China on 25 December 2016, will take effect on 1 January 2018.

The Environmental Protection Tax Law is the fourth substantive tax law in China, following the Individual Income Tax Law, Enterprise Income Tax Law and Vehicle and Vessel Tax Law. The promulgation of the Environmental Protection Tax Law is expected to have a profound and far-reaching effect on environmental protection in the country and the overall tax system in China.

## Background

The *Environmental Protection Law of the People's Republic of China (Trial Implementation)* promulgated in 1979 first established a system of pollutant emission charges. After three decades, the system has positively contributed to the reduction of polluting emissions in the country and also exposed certain deficiencies, such as the lack of stringent regulation and enforcement. To rectify these deficiencies, the Chinese government decided to introduce a fee-to-tax reform to achieve environmental protection. The Environmental Protection Tax Law, which inherits the general framework of the pollutant emission charges system, may be viewed as an upgraded system of pollutant emission charges. Unlike the predecessor legislation, the Environmental Protection Tax Law will be administered (and tax collected) by the tax authorities rather than environmental protection departments. The controversial issue of carbon dioxide emissions is not within the taxable scope of the law.

## Highlights

Composed of five chapters, 28 articles and two attachments, the Environmental Protection Tax Law contains definitions of taxpayers, taxable scope, taxable items and rates, tax base, calculation of tax payable, tax reduction and exemption, as well as tax administration.

### 1. Taxpayers

Enterprises, entities, other producers and operators that directly emit taxable pollutants into the environment within the territory and other sea areas under the jurisdiction of the People's Republic of China are taxpayers of the environmental protection tax.

### 2. Taxable pollutants

Taxable pollutants specifically refer to atmospheric and water pollutants, solid waste and noise specified in the *Table of Taxable Items and the Rate of the Environmental Protection Tax* and the *Table of Taxable Pollutants and Equivalent Values* attached to the Environmental Protection Tax Law.

### 3. Taxable items and rate

The *Table of Taxable Items and the Rate of the Environmental Protection Tax* attached to the law specifies taxable items, as well as the applicable tax rate.

There are four categories of taxable items, namely, atmospheric pollutants, water pollutants, solid waste and noise, which will be taxed as follows:

- Taxable atmospheric pollutants will be taxed at RMB 1.2 to RMB 12 per pollution equivalent;
- Taxable water pollutants will be taxed at RMB 1.4 to RMB 14 per pollution equivalent;
- Taxable solid waste will be taxed at RMB 5 to RMB 1,000 per ton by type;
- Taxable noise will be taxed at RMB 350 to RMB 11,200 per month based on the noise level.

The applicable tax rates of taxable atmospheric and water pollutants will be determined by the provincial governments within the above ranges.

#### **4. Tax base and calculation of tax payable**

The Environmental Protection Tax Law clarifies that the tax base of atmospheric and water pollutants will be determined by the pollution equivalent number converted from the pollutant emission amount. The tax base of solid waste will be determined by the solid waste emission amount. The tax base of noise will be determined by the decibels exceeding the limit imposed by the state.

The pollution equivalent numbers of atmospheric and water pollutants will be calculated as follows:

Pollution equivalent number = Pollutant emission amount (kg)/Pollutant pollution equivalent value (kg)

The tax payable of atmospheric, water pollutants and solid waste will be calculated as the tax base, multiplied by the applicable tax rate. The tax payable of industrial noise will be the specific applicable tax amount corresponding to the level determined by the tax base.

#### **5. Tax reduction and exemption**

The Environmental Protection Tax Law stipulates several circumstances that can be temporarily exempt from the tax (e.g. agricultural production, motor vehicles, vessels, aircrafts and other mobile pollution sources). In addition, where the concentration value of the taxable atmospheric or water pollutants emitted by taxpayers is lower than the nationally and locally stipulated pollutant emission standards by 30%, only 75% of the environmental protection tax will be payable; and where it is lower than such standards by 50%, only 50% will be payable.

#### **6. Tax administration**

Taxpayers will pay environmental protection tax to the competent tax authorities where the taxable pollutants are emitted. Environmental protection tax generally will be



calculated on a monthly basis and settled on a quarterly basis. The tax authorities will compare the data in tax returns with data from the competent environmental protection authorities. If there is any inconsistency, the tax authorities may submit the data to the environmental protection authorities for further review.

## Comments

### *Pollutant emission costs continue to increase*

The scope of the environmental protection tax and computation methods can be traced back to the *Administrative Regulations on the Collection and Use of Pollutant Charges* promulgated in 2003 and the *Administrative Measures for the Pollutant Emission Charge Collection Standards* ("Administrative Measures") promulgated in accordance with the regulations. The Administrative Measures classify pollutant emission charges into charges for waste water, exhaust gas, solid and hazardous waste and excessive emission of noise. Taxable items under the Environmental Protection Tax Law basically are in line with this classification.

Since the issuance of the Administrative Measures, the pollutant emission charge rates have been significantly increased. Currently, there are standards only for the lowest charge rates for atmospheric and water pollutants, which are RMB 1.2 and RMB 1.4 per pollution equivalent, respectively. However, certain provinces and municipalities have increased their rates; for example, Beijing has increased the rates to eight to nine times the lowest rates. The environmental protection tax reflects this trend by setting the upper limits for the tax rates at ten times the lowest charge rates, which are also the lowest tax rates. Meanwhile, stringent enforcement will play a pivotal role for tax collection once the Environmental Protection Tax Law becomes effective. Therefore, it can be expected that pollutant emission costs likely will continue to increase and polluters will have to pay a higher price for their actions.

### *Pollution control effects are yet to be seen*

In accordance with the Environmental Protection Tax Law, the competent environmental protection authorities will be responsible for pollutant monitoring and management, with the tax authorities responsible for implementation and collection of the tax. Emission data collection of taxable pollutants largely relies on the automatic pollutant monitors installed by enterprises themselves, data from monitoring agencies or other methods. Restricted by available technology and current conditions, the competent environmental protection authorities face daunting challenges in achieving comprehensive and effective monitoring of taxable pollutants, which also affects the collection of environmental protection tax that will be paid.

Moreover, enterprises sometimes emit pollutants surreptitiously, which will make it more difficult for the tax authorities to effectively implement the environmental protection tax. Overall, the full play of the Environmental Protection Tax Law to reduce pollutant emissions will require the joint efforts of tax, environmental protection and other

government authorities to establish an effective and more robust monitoring mechanism. There is a one-year gap between the adoption and implementation of the Environmental Protection Tax Law, which will give the authorities time to develop and promulgate detailed rules for pollutant emission monitoring and tax administration. Affected companies should closely monitor future developments.

*Industrial upgrading may be expected*

As mentioned above, with the implementation of the environmental protection tax, enterprises' pollutant emission costs are bound to increase as the tax rates may rise and tax administration intensifies, thus inevitably affecting profits. To address these challenges, enterprises may decide to accelerate industrial upgrading and reduce pollutant emissions to boost their reputations and achieve competitive cost advantages. Meanwhile, manufacturers of environment-friendly equipment, providers of environmental protection technologies, suppliers of online monitoring equipment for environmental protection are expected to benefit from the new law and gain more opportunities for future development.

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