

Green Tax Research Report 3

National Environmental Taxation Observation Report of Waste Enterprises

introduction

Lvse Jiangnan reminded the sewage treatment industry and high-tech enterprises in the previous two green tax research reports that if they do not immediately pay attention to their own environmental risks, that might affect tax incentives.

This report are going to focus on some waste incineration companies that are at the same time enjoying the national tax incentives, but also have the risk of environmental violations.

Under the guidance of relevant national laws, regulations and policies, Lvse Jiangnan assists tax authorities to identify corporate environmental risks, promotes enterprises to spontaneously increase the scope and quality of environmental disclosure, encourages enterprises to do energy-saving emission reduction, safe production, and legally enjoy national tax preferences policies to promote high-quality green development of enterprises.

Waste incineration enterprises are public service projects introduced by local governments. From a national perspective, on the one hand, waste incineration enterprises enjoy a number of preferential tax policies given by the state, and on the other hand, they also enjoy special subsidies and special subsidies from local finances, grid-connected power subsidies, etc.

Among the existing waste incineration enterprises in the country, 138 waste incineration enterprises have been subject to administrative penalties by the ecological environment department due to environmental violations.

Based on this, Lvse Jiangnan actively communicated and cooperated with the tax bureaus of 28 provinces and cities across the country in the form of a letter to consult whether relevant waste incineration companies tax incentives were affected due to environmental violations.

1. Overview of the development of waste incineration enterprises

1.1 Overview of development overseas

In 1896, Hamburg, Germany, established the first waste incineration plant in human history. Since then, mankind has begun a new journey of scientific treatment and resource utilization of garbage. By the 1960s, with the maturity of environmental technology and the continuous progress of treatment technology, this method of incineration of garbage has been popularized and developed in Europe.

1.2 Overview of Domestic development

China's waste incineration treatment started relatively late. In 2000, the State Economic and Trade Commission issued a document the "The Current list of State Encouraged Environmental Protection Equipment (Products) Catalogue" (the first batch), including garbage incineration treatment equipment as part of the solid waste treatment equipment list, whereby opened the prelude to China's develop of garbage incineration treatment. As of June 1, 2020, there are 455 waste incineration companies operating in China. During the 13th Five-Year Plan period, the compound annual growth rate of the number of incineration companies was 15.6%.

1.3 The development of waste incineration is a policy trend

With the acceleration of China's urbanization process, a large number of labor have poured into cities, industrial development has ushered in a period of rapid progress, and the living standards of residents have been continuously improved, which has also led to a continuous increase in the total amount of urban waste. At present, the amount of urban waste in China is increasing at a rate of about 7% per year. The early inherent landfill method has caused long-term pollution of soil, groundwater and air due to the large area of use, serious pollution, and low level of resource utilization. Therefore, in the 13th Five-Year Plan period, it was clearly proposed that the development of waste incineration technology should be emphasized, and regions should be encouraged to jointly build and share incineration treatment facilities. The promulgation of relevant policies has further promoted the vigorous construction of waste incineration facilities.

2. Laws and regulations

Ecological and environmental protection is a basic national policy of China. The environmental protection industry is an important material foundation and technical guarantee for environmental protection, and is one of the new growth areas of the national economy. Vigorously developing the environmental protection industry is an important measure to implement the nation's sustainable development strategy. In order to encourage and support the development of the environmental protection industry, China has successively introduced a series of preferential policies. As an important part of the environmental protection industry, waste incineration treatment enjoys multiple tax preferential policies.

2.1 Environmental incentives and penalties in corporate income tax

According to Article 27 of the "Enterprise Income Tax Law of the People's Republic of China", the following income of enterprises, can be exempted or reduced from enterprise income tax:

- (1) Income from agricultural, forestry, animal husbandry and fishery projects.
- (2) Income from investment and operation of key public infrastructure projects which was supported by the state.
- (3) Income from engaging, qualified environmental protection, energy-saving and water-saving projects.
- (4) Eligible technology transfer income.
- (5) The income specified in the third paragraph of Article 3 of this law.

According to Article 88 of the "Implementation Regulations of the Enterprise Income Tax Law of the People's Republic of China," Article 27 (3) of the Enterprise Income Tax Law refers to eligible environmental protection, energy and water saving projects, including public sewage treatment, public garbage treatment, comprehensive development and utilization of biogas, technological transformation of energy saving and emission reduction, seawater desalination, etc. The specific conditions and scope of the project shall be formulated by the Ministry of Finance, State Taxation competent authority and other relevant departments, and be announced and implemented after being approved by the State Council.

For the income of enterprises engaged in the eligible environmental protection, energy-saving and water-saving projects as specified in the preceding paragraph, The first year to the third year is exempted from enterprise income tax, and from the fourth to the sixth year, the corporate income tax is halved.

2.2 Environmental incentives and penalties in corporate value-added tax

According to the State Administration of Taxation, Fiscal and Taxation [2015] No. 78 document, in order to further promote the comprehensive utilization of resources, energy conservation and emission reduction, and to standardize and optimize the value-added tax policy, it has been decided to integrate and adjust the value-added tax preferential policies for products and labor services for

comprehensive utilization of resources. Taxpayers who sell self-produced products for comprehensive utilization of resources and provide labor services for comprehensive utilization of resources (hereinafter referred to as sales of comprehensive utilization products and labor services) can enjoy the VAT refund policy.

The document also clearly stipulates that taxpayers who have benefited from the VAT refund policy will be punished if they violate the taxation and ecological environmental protection laws and regulations (warning or a single time less than 10,000 yuan is not counted), and cannot be the beneficiary of this policy within 36 months from the month after the penalty is issued.

2.3 Environmental incentives and penalties in environmental protection taxes

In order to protect and improve the ecological environment, reduce pollutant emissions, and promote the construction of ecological civilization, the "Environmental Protection Tax Law of the People's Republic of China" (implemented on January 1, 2018) was formulated. The following incomes of enterprises can be exempted from corporate environmental tax:

- (1) Agricultural production (excluding large-scale breeding) discharges taxable pollutants.
- (2) Mobile pollution sources such as motor vehicles, railway locomotives, non-road mobile machinery, ships, and aircraft emit taxable pollutants.
- (3) The corresponding taxable pollutants discharged by the legally established urban and rural centralized sewage treatment and domestic waste centralized treatment sites do not exceed the national and local emission standards.
- (4) The solid waste comprehensively utilized by the taxpayer meets the national and local environmental protection standards.
- (5) Other circumstances under which the State Council has approved tax exemption.

The tax exemption provisions in article 5 shall be reported by the State Council to the Standing Committee of the National People's Congress for the record.

Article 13 If the taxpayer discharges taxable atmospheric pollutants or water pollutants whose concentration value is lower than 30% of the pollutant discharge standards set by the state and local governments, an environmental protection tax shall be levied at 75%

If the concentration value of taxable air pollutants or water pollutants discharged by taxpayers is less than 50% of the national and local pollutant discharge standards, the environmental protection tax shall be reduced by 50%.

3. Overview and process

In the process of development of waste incineration enterprises, on the one hand, they have contributed to solving the comprehensive utilization of waste. On the other hand, due to the lack of operation and management, they have also caused secondary pollution to the environment. This research report takes the waste incineration industry as an example, and is supported by the Institute of Public & Environmental Affairs (hereinafter referred to as IPE) and the Wuhu City Ecological Environmental Protection Volunteer Association. Lvse Jiangnan used the IPE environmental database to screen out 138 waste incineration companies with regulatory records from 2016 to 2019, and classified them according to the amount of fines, environmental penalties, and the impact of safety incidents.

3.1 Overview of 138 waste incineration enterprises in Mainland China

In this issue, 138 waste incineration enterprises in 28 provinces and cities across the country are taken as examples. Among them, enterprises in the eastern region account for the highest proportion, reaching 57.3%, followed by the central and western regions with 27.5% and 15.2% respectively.

The site selection and construction of waste incineration enterprises have a strong relationship with the level of economic development in the region. The waste incineration companies that have

generated environmental risks in this period are mainly distributed in Beijing, Guangdong, Jiangsu, Shandong, Zhejiang and other places, which are related to the local population, economic volume, social environment, etc.

Among the 138 waste incineration enterprises, the main years of environmental supervision records were concentrated in 2017, 2018, and 2019. For a single enterprise, the maximum annual fine was 5 million CNY, and the maximum number of annual penalties was 10 times. In 2019, the average fine per company reached 347,000 CNY.

3.2 Implementation process

Lvse Jiangnan selected waste incineration companies based on “ the List of taxpayers who benefited from Comprehensive utilization of resources of value-added tax in 2018” announced on the official websites of taxation bureaus of various provinces and cities. Environmental supervision records (except for warnings or a single fine of less than 10,000 yuan) are the focus of this report.

Based on this, Lvse Jiangnan sent a letter to the taxation bureaus of 28 provinces and cities across the country to confirm the impact of environmental and safety violations on tax incentives, and provide recommendations and suggestions.

Lvse Jiangnan collects feedback from the taxation department to conduct research, and analyzes the implementation and feedback of the green taxation of 138 waste incineration companies that have been sent this letter, and effectively promotes the environmental safety assessment system and green taxation system of waste incineration companies in many regions. Improve and help waste incineration companies identify their own environmental risks, and legally act up to national tax preferential policies, and promote the development of the national green tax system.

3.3 Feedback analysis from tax authorities

Lvse Jiangnan chooses to promote three tax categories: corporate income tax, value-added tax, and environmental tax, and carries out systematic research based on the overall situation of green taxation of waste incineration enterprises and feedback from taxation departments, and make summarizations and suggestions.

Lvse Jiangnan communicated with nearly 28 tax authorities across the country to remind the ecological environment and tax authorities to jointly review whether relevant waste incinerators that have been punished for illegal discharge continue to benefit from preferential tax policies.

Due to the varying response time of various tax authorities, the longest response period can be up to 60 working days. Therefore, Lvse Jiangnan will continue to follow up feedbacks from the taxation department and release the latest progress. Judging from the replies that have already been received from taxation departments, the main findings are as follows:

3.3.1 When filing time is after environmental protection penalties, enterprise tax benefits are not affected

The Chongqing Taxation Bureau's reply to Lvse Jiangnan mentioned that as long as the taxpayers benefit from the tax incentives after the environmental protection department fines them, the value-added tax incentives will not be affected. For example, companies like Chongqing Tianzhi Environmental Protection Co., Ltd.(重庆天志环保有限公司), Chongqing Lanxiang New Energy Co. Ltd.(重庆蓝翔新能源有限责任公司), and Chongqing Three-dimensional Environmental Co., Ltd(重庆市三维环保有限责任公司) meet this situation and therefore their tax incentives are not affected.

3.3.2 Recovery of tax incentives

Among the 7 companies that Lvse Jiangnan wrote to the Jiangxi Provincial Taxation Bureau, 4 companies' tax incentive related incomes needed to be recovered based on their environmental supervision records, and the preferential value-added tax payment was required to be recovered. One of them was recovered before Lvse Jiangnan was notified. The other 3 companies are in the process of being recovered, and the amount involved is above millions of CNY.

A staff of the Jiangxi Provincial Taxation Service revealed to Lvse Jiangnan that the taxation department needs to go to the official website of the municipal and even town environment bureaus to verify company environmental supervision records, and these tasks are manually verified, and there will inevitably be loopholes and imperfections.

The Inner Mongolia Taxation Service mentioned in its reply to the letter from Lvse Jiangnan that they found that a company with tax incentives actually had environmental fines. It was four months after the tax bureau discovered this fact. After discovering this situation, the tax bureau immediately required taxpayers to recover the preferential tax during this period, and the amount involved was more than 2.6 million.

Henan Provincial Tax Service also expressed a similar situation in its reply to the letter from Lvse Jiangnan. Zhoukou Fengquan Environmental Power Co., Ltd. has been recovered in 2018 when Henan Province implemented a special activity for the preferential VAT on comprehensive utilization of resources. Geshi Hengguang Thermal Power Co., Ltd. Power Generation Branch took the initiative to call and visit Lvse Jiangnan after receiving the reminder from the Henan Provincial Taxation Department to explain relevant information and actively provide timely feedback and disclosure on the enterprise version of blue map software. The regulatory record has been revoked by the local ecological environment department. The active communication and timely disclosure of information to the public by the power generation branch of Changge Hengguang Thermal Power Co., Ltd. deserves praise.

Under the prompt of Lvse Jiangnan, Guangxi Zhuang Autonomous Region Tax Service proactively informed Guangxi Yulin Aimin Medical Waste Treatment Co., Ltd., which is in its jurisdiction, that the tax authority will not accept their VAT refund on comprehensive utilization of resources Since June 2019 to May 2022.

A staff of the Department of Goods and Labor Taxation of Anhui Province called to inform Lvse Jiangnan, Huaibei Yuneng Environmental Protection Energy Co., Ltd. and Bengbu Kaidi Green Energy Development Co., Ltd.'s value-added tax preferential tax needs to be recovered, but Bengbu Kaidi Green Energy Development Co., Ltd. is currently in the stage of bankruptcy, they recorded this situation, but the payment will not be recovered for the time being.

In summary, this reflects that there is an information gap between the taxation department and the ecology and environment department, which has caused some of the above-mentioned companies to be punished in terms of environmental risks but still benefit from preferential tax policies.

3.3.3 If the company has an environmental violation after the environmental tax is implemented, company needs to pay the environmental tax

Since China's ecological and environmental protection tax law came into effect on January 1, 2018, corporate violations before 2018 will not affect the implementation of the environmental tax policy. Zhejiang Provincial Tax Service reply to Lvse Jiangnan and mentioned that because the environmental supervision records of the following companies occurred before the start of environmental tax collection, they will not be affected to benefit from environmental tax-related preferential policies:

Wenzhou Yike Environmental Protection Technology Co., Ltd.

Yuhuan Weiming Environmental Energy Co., Ltd.

Zhejiang Zhongtai Environmental Protection Technology Co., Ltd.

However, Zhejiang Fuchunjiang Environmental Thermal Power Co., Ltd. and Lishui Minkang Medical Waste Treatment Co., Ltd. have already pay environmental taxes in arrears in accordance with regulations due to environmental supervision records generated after January 1, 2018.

Lvse Jiangnan appreciates and approves the Taxation Services that gave above complete response.

3. Future development and suggestions

While the state gives tax incentives to waste incineration companies, do companies actively and truly disclose relevant information? Due to the peculiarities of China's tax system, that is, corporate taxation audits are all vested in the grassroots taxation departments, and corporate taxation is self-declared, enterprises are responsible for the provision of materials and prove that the tax is paid in accordance with the law, and the tax department will file and keep the records after obtaining the enterprise declaration. Therefore on the one hand, the tax departments need to establish a long-term connection mechanism with the ecology and environment department, on the other hand, they need to verify the accuracy and completeness of the enterprise declaration materials on the basis of credit. In response, Lvse Jiangnan puts forward the following suggestions:

4.1 Waste incineration enterprises should improve their comprehensive management and governance capabilities

With the acceleration of China's urbanization process, the urban population continues to increase, and the amount of urban domestic waste and general industrial solid waste generation remains high, which has brought tremendous pressure on the environment. According to the National Annual Report on the Prevention and Control of Environmental Pollution by Solid Waste in Large and Medium-sized Cities (2014-2019) issued by the Ministry of Ecology and Environment over the years, comprehensive utilization is still the main way to deal with garbage.

Taking into account the economic cost factors such as the shortage of land resources, the number of waste incineration companies must be effectively controlled. Some incineration companies with high pollution, high emissions, and low production capacity need to be eliminated and upgraded; secondly, business managers must strengthen learning and adhere to the waste incineration process. The basic principles are reduction, harmlessness, and resource utilization to prevent the lack of secondary pollution control from causing serious impacts on the ecological environment.

4.2 The multi-departmental linkage mechanism needs to be strengthened, and the linkage platform needs to be established as soon as possible

Since January 2, 2020, the Ministry of Ecology and Environment has disclosed to the public the automatic monitoring data of the five conventional air pollutants and incinerator temperature of particulate matter, sulfur dioxide, nitrogen oxide, hydrogen chloride, and carbon monoxide emitted by waste incineration enterprises nationwide. As of June 1, 2020, 455 waste incineration companies across the country have actively disclosed real-time automatic monitoring data to the society through a unified platform established by the Ministry of Ecology and Environment. The electronic supervision platform of the Pollution Source Monitoring Center of the Ministry of Ecology and Environment shall send an electronic supervision form to the relevant local ecology and environment services for the

suspected environmental violation of the waste incineration enterprise, requesting timely investigation and handling according to the law.

Once a waste incineration company is put on record, it will benefit from tax incentives. Some companies that have been punished for polluting the environment also have preferential taxation at the same time. In order to avoid this situation, the ecological environment, emergency response and other departments should change from singleness to diversified close cooperative relations, and open up channels between business departments. Actively discover, review, and realize information sharing on the continuously improved linkage mechanism and platform. Follow the continuous improvement of relevant laws and regulations and supporting systems and mechanisms, act in accordance with laws and regulations, and form a multilateral cooperative supervision and mutual reminder work model, which is conducive to promoting the safer and healthy development of waste incineration enterprises.

4.3 Big data helps tax departments improve administrative efficiency

At present, the development of big data platforms for ecological environment has been relatively mature, whether in official or third-party platforms. Local departments at all levels should strengthen the application of big environmental data to improve corporate environmental protection and safety compliance screening capabilities. For example, the most mature ecological environment big data platform in China, the IPE Blue Map has been widely used by all walks of life, using social resources and professional institutions to help manage environmental issues. IPE has continued to collect environmental data since 2006. The data mainly comes from the ecological and environmental departments, including transportation, water conservancy, ocean, land, housing, construction, industry and information, development and reform, etc. It has now included 8 million companies , More than 1.8 million environmental supervision records. Local Tax Services use the IPE environmental database to look up the environmental performance of enterprises within their jurisdictions, and check with local Ecology and Environment Departments the regulatory records in the database to further confirm whether the enterprise has environmental discharge penalties that affect tax preferences. The tax risk brought about by corporate environmental risk punishment is actually much more serious than imagined.

4.4 Pilot work of "Waste-free City" to help the transformation and upgrading of waste incineration enterprises

In 2018, the General Office of the State Council issued the "Notice on the Pilot Work Plan for the Construction of "Waste-Free Cities"" (hereinafter referred to as the "Plan"), which selected about 10 cities across the country with conditions, foundations, and appropriate scales for development. As a pilot project for the construction of "No-Waste Cities", by 2020, we will systematically establish a construction index system for "Waste-Free Cities", explore the establishment of a comprehensive management system and technical system for the construction of "Waste-Free Cities", and form a batch of replicable and extendable demonstration models of "no-waste city" construction.

The pilot construction of a "waste-free city" puts forward higher requirements for the development of the entire market and industry, develops the "Internet Plus" solid waste treatment industry, and establishes an information exchange mechanism between a government solid waste environmental management platform and a market-oriented solid waste public trading platform. Make full use of information technologies such as the Internet of Things and Global Positioning System to realize the informatization, dynamics and visualization of solid waste collection, transfer and disposal, and improve the efficiency and level of supervision and management. Actively cultivate the third-party market, encourage specialized third-party institutions to engage in solid waste resource utilization, environmental pollution control and consulting services, and build a group of solid waste resource utilization backbone enterprises.

To sum up, through the close friendly cooperation and research promotion between Lvse Jiangnan and local tax services across the country, tax services have changed from passively receiving

information from ecological environment departments to actively cooperating with social organizations, which further promotes the construction of tax-related information sharing platform. Secondly, use the tax lever mechanism to promote energy conservation and emission reduction of enterprises, and make enterprises fully realize that the tax risks caused by environmental violations are extremely serious. As a public welfare and environmental protection organization, Lvse Jiangnan actively builds bridges between government departments, enterprises and the public through multi-party links and building trust.

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