

Типологический анализ налоговых положений в неналоговом законодательстве Typological Analysis of Tax Provisions in Non-Tax Legislation

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Аннотация. В законодательных актах Китая, специально не регулирующих налоговые отношения, содержится значительное количество положений, связанных с налогообложением. Однако в отличие от положений налогового законодательства, характеризующегося строгой структурой и институциональной завершенностью, положениям, предусмотренным в неналоговых законах, свойственны разнообразие форм, неопределенность формулировок и широкое делегирование полномочий. В статье исходя из систематического анализа налоговых положений, содержащихся в 290 неналоговых законах, выстраивается типологическая модель, основаниями которой выступают функциональная направленность, предметное содержание и положение нормы в системе законодательства.

Определены основные типы налоговых норм в неналоговом законодательстве и проведено их сопоставление с положениями 16 налоговых законов. Исследование выявило системные проблемы: избыточность законодательного регулирования, несогласованность правоприменительной практики и фрагментарность регулирования. Для их устранения предлагается уточнить сферу применения норм, стандартизировать оговорки о делегировании и обеспечить консолидацию материально-правовых норм. Реализация этих мер будет способствовать совершенствованию налогового законодательства и модернизации налогового управления.

Ключевые слова: неналоговое законодательство, налоговые положения, типология, принцип обязательного налогообложения, налоговое управление

Abstract. A significant number of tax-related provisions are embedded within China's non-tax legislation. However, compared with the structurally rigorous and institutionally complete tax provisions found in tax laws, those in non-tax laws tend to exhibit diverse forms, ambiguous language, and broadly delegated authority. This paper systematically analyzes tax provisions in 290 non-tax laws and constructs a typological framework based on criteria such as functional orientation, substantive content, and legal structural positioning. The analysis identifies the fundamental types of tax provisions in non-tax legislation and compares them with those in 16 formal tax laws. The study reveals common issues including legislative overreach, disjointed enforcement, and regulatory fragmentation. To address these, the paper recommends clarifying the boundaries of application, standardizing authorization clauses, and promoting the consolidation of substantive rules. These measures aim to enhance the tax legislative framework and advance the modernization of tax governance.

Keywords: non-tax legislation, tax provisions, typology, principle of statutory taxation, tax governance

With the ongoing refinement of China's tax law system and the deepening of national governance modernization, the embedding of tax-related provisions in non-tax laws has become increasingly common. These provisions serve as critical junctures connecting the tax system with sectoral governance, and fiscal policy with industry-specific legislation. They reflect a growing trend toward the integration of policy objectives and legal mechanisms, but also expose institutional vulnerabilities. This paper centers on the principle of statutory taxation and adopts a typological perspective to treat tax provisions in non-tax laws as a distinct subject of study. By systematically categorizing tax provisions in 290 non-tax statutes and comparing them with provisions in 16 dedicated tax laws, the study fills a gap in the horizontal application of the statutory taxation principle across different legal domains. The recommendations presented aim to assist legislators, enforcement authorities, and oversight bodies in maintaining appropriate legal boundaries and adherence to the rule of law. Ultimately, the paper seeks to ensure that tax measures are aligned with both national development needs and constitutional mandates, thereby achieving a balance between lawful taxation and effective macroeconomic governance.

1. Systematic Analysis and Comparison of Tax Provisions

1.1. Typologies of Tax Provisions in Non-Tax Legislation

First Category: Tax Administration Provisions. This category includes two subtypes: (1) Legislative authority provisions, which define the boundaries for tax imposition. Examples include Article 11 of the Legislation Law of the People's Republic of China, as well as delegated authorization clauses such as Article 29 of the Budget Law and Article 53 of the

Customs Law. (2) Implementation-oriented provisions, which regulate tax collection or exemption. For instance, Article 41 of the State Compensation Law and Article 52 of the Legal Aid Law contain clauses exempting certain actions from taxation. Meanwhile, provisions such as Article 56 of the 2018 Amendment to the Constitution and Article 6 of the Law on State-Owned Industrial Enterprises (2009 Revision) stipulate positive obligations to pay taxes. Typical phrases include: "XX shall pay taxes in accordance with the law," "XX has the obligation to pay taxes in accordance with the law," and "XX shall bear the obligation to pay taxes in accordance with the provisions of laws and administrative regulations."

Second category: Policy-Oriented Provisions. This category includes: (1) Tax incentive provisions, which form the majority — spanning 104 clauses across 53 laws. These clauses utilize preferential tax treatment or supportive fiscal measures to promote national strategies, industrial growth, regional revitalization, or social development objectives¹. They reflect the deep integration of taxation as a policy instrument within broader legal frameworks. (2) Prohibitory or restrictive provisions, found in 27 clauses across 9 laws. These function as legal "red lines" by defining illicit activities, authorizing enforcement powers, imposing severe penalties, and revoking tax benefits to deter misuse — thereby playing a vital role in safeguarding national fiscal security.²

Third category: Procedural and Coordination Provisions. This category consists of: (1) Administrative and judicial coordination provisions, including referral and inter-agency cooperation clauses — 14 in total, across 14 statutes. Referral provisions define obligations such as tax withholding or designate the legal basis for tax actions; cooperation clauses require tax authorities to engage in information sharing, joint regulation, or enforcement collaboration with other governmental bodies. (2) Procedural provisions, comprising 46 clauses across 29 laws, which fall into

¹ Liu Jianwen. Legal Reflections and Institutional Optimization of Personal Income Tax under the Principle of Fair Distribution [J] // Law Review. 2025. № 43 (04). P. 1—12.

² Chen Jinlin. Thirty Years of Tax Crime Governance: The Expansion and Contraction of Typical Statutory Offenses [J] // Law Review. 2025. № 43 (02). P. 62—72.

three types: Processing procedures — regulating application processes, timeframes, and preconditions; Tax calculation — defining the priority of tax liabilities in debt settlements and outlining computational rules; Explanatory provisions — clarifying the policy function, evidentiary role, or disclosure requirements related to taxation. While these provisions do not impose or design new taxes, they function by embedding tax-related elements into broader legal procedures — such as in cases involving guarantees or customs clearance — thus ensuring legal completeness and enhancing both the stability and traceability of tax obligations.

Fourth category: Special provisions. These provisions typically appear in the context of special administrative regions, ethnic autonomous regions, consular affairs, or diplomatic missions. They frequently address unique tax regimes, exemptions, or jurisdiction-specific rules for tax applicability.

1.2. Common Features Between Tax Provisions in Non-Tax Laws and Those in Tax Laws

Although non-tax legislation is not primarily designed to establish tax systems, the tax-related provisions it contains exhibit several structural commonalities with those found in formal tax laws. These commonalities are evident in three key dimensions: authority logic, normative classification, and institutional function. First, the tax-related provisions in both legal categories are grounded in a consistent logic of legislative authority. The establishment, adjustment, and collection of tax matters must be enacted by the National People's Congress and its Standing Committee, or legally authorized to the State Council, as stipulated in Article 11 of the Legislation Law. In tax laws, this principle is explicitly reflected in foundational statutes such as the Tax Collection and Administration Law and the Value-Added Tax

Law. While non-tax laws tend to express tax-related matters in a more policy-oriented manner, they nonetheless adhere to the premise of “enjoyment in accordance with the law,” thereby implicitly recognizing the authority framework established by tax law. Second, the two types of provisions share a consistent logic of normative classification. Whether embedded in tax or non-tax legislation, tax-related clauses can generally be grouped into four categories based on their functional roles: Dispositive provisions, which establish tax obligations by defining elements such as tax categories, rates, subjects, and collection stages; Policy-oriented provisions, which aim to achieve policy goals through tax incentives or penalties; Procedural provisions, which regulate tax collection processes and enforcement mechanisms; Special provisions, which address exceptional cases or particular jurisdictions. Third, both tax laws and non-tax laws exhibit functional synergy in terms of institutional objectives and governance goals. As a key instrument of state governance, taxation fulfills multiple core roles — namely, revenue generation, economic regulation, and the promotion of social equity. While the two legal frameworks may approach these objectives through different legislative pathways, their underlying intent often converges on advancing the public interest and supporting macro-level policy implementation. In tax law, this is achieved through mechanisms such as preferential tax rates, additional deductions, and periodic exemptions that promote high-tech industries, green energy, and public welfare sectors.³ In non-tax legislation, tax provisions frequently serve as complementary tools for public service delivery and social governance, such as encouraging charitable donations, supporting disadvantaged groups, or incentivizing regional development. Despite their formal differences, both forms of regulation reflect a high degree of consistency in their policy logic.

1.3. Analysis of Differences Between Non-Tax Law Tax Provisions and Tax Law Provision

Comparative Analysis of Differences Across Dimensions

Dimension	Comparison Item	Non-Tax Law Tax Provisions	Tax Law Provisions
Functional Role	Purpose of Provisions	Primarily serve as policy declarations, such as “tax incentives shall be enjoyed in accordance with the law”	Primarily establish substantive rules that clearly define tax obligations
	Regulatory Intent	Emphasize supportive, encouraging, and guiding language	Emphasize mandatory, regulatory, and constraining logic
Regulatory Density	Expression Style	Employ flexible language such as “may” or “in accordance with the law”	Use rigid formulations such as “shall” and “shall not”
	Provision Structure	Often appear as supplementary or incentive clauses	Typically appear as independent chapters or core legal provisions
Enforceability	Applicability Standards	No unified standards; rely on administrative interpretation	Clearly defined rules for calculation and collection

³ Gu Cheng, Wang Qian. A Review of Tax Theory Research in 2022 [J] // Tax Research. 2023. № 03. P. 25—33.

Dimension	Comparison Item	Non-Tax Law Tax Provisions	Tax Law Provisions
	Dispute Resolution	Lack explicit procedural foundations; depend on ad hoc coordination in practice	Equipped with complete administrative reconsideration and judicial relief mechanisms
Regional Scope	Application Scope	Often apply only to specific regions or targeted groups	Uniformly applicable nationwide, with clearly defined applicability boundaries
	Exceptions	Commonly allow for franchises, special zones, or exemptions	Exceptions are only permitted under specific legal provisions
Legislative Basis	Legal Foundation	Derived from departmental laws, often serving as supplementary clauses	Based on Article 11 of the Legislation Law; enacted by the NPC or its Standing Committee
	Authorization Level	Typically authorized by State Council or ministry-level normative documents	Often authorize the State Council to issue implementing rules, subject to legal filing requirements
Implementation	Enforcement Mechanism	Executed by competent authorities with high discretion	Enforced by tax authorities under a comprehensive legal framework
	Supporting Regulations	Lacks a complete institutional framework; enforcement tends to be fragmented	Supported by Tax Administration Law and related implementation guidelines
Discretionary Power	Flexibility of Interpretation	Wide room for interpretation; enforcement discretion is high	Interpretation is limited and strictly regulated
	Subject Applicability	Mostly targeted at specific natural persons or enterprises	Universally applicable to all taxpayers with uniform criteria

The differences between tax provisions in non-tax laws and those in tax laws reflect not only the divergence in legislative purposes but also expose a lack of systemic alignment in China's current tax legal framework. To advance tax governance modernization, it is essential to institutionalize and standardize tax-related provisions within non-tax laws. This includes upgrading legislative authority, improving enforcement mechanisms, enhancing operational feasibility, and promoting integration with the tax law system through legal interpretation and judicial practice.

2. Analysis of Issues with Tax Provisions in Non-Tax Laws

2.1. Conflict Between Tax Content and the Principle of Tax Legality

This conflict is primarily reflected in how differing densities of legal norms impact the principle of tax legality. According to Article 11 of the Legislation Law,⁴ major tax elements — such as the establishment of

tax categories, determination of tax obligations, and tax rates — must be stipulated by law, highlighting the foundational role of the principle of tax legality in China's tax system. Among the 290 existing non-tax laws, there are already several hundred provisions involving tax-related content. Many of these provisions establish tax obligations or grant preferential treatment indirectly, through means such as “authorization,” “guiding provisions,” or “ancillary clauses,” thus forming what is referred to as an “implicit tax regime.”

Article 86 of the Charity Law states that “charitable organizations and their income shall enjoy tax incentives in accordance with the law.”⁵ This authorization is highly abstract and vague: it neither specifies the tax types, forms of incentives, nor the eligibility criteria. Instead, it merely offers a blanket statement that “tax incentives shall be enjoyed in accordance with the law.” In practice, many of the tax incentives enjoyed by charitable organizations are not determined by law.⁶ For example, qualification for tax-exempt status, exemption of donation income, and tax exemption on self-owned real estate and land

⁴ Article 11, paragraph 6, of the Legislative Law of the People's Republic of China [as amended in 2023]: Only laws may be enacted on the following matters: (f) the basic system of taxation, such as the establishment of tax types, the determination of tax rates and the administration of tax collection.

⁵ Article 86 of the Charity Law: Charitable organisations and the income they obtain are entitled to tax incentives in accordance with the law.

⁶ *Gong Puguang*. Promoting High-Quality Development of Charitable Causes in the New Era Through Good Laws and Governance: A Retrospective and Outlook on the Revision of the Charity Law [J] // *Social Policy Research*. 2024. № 3. P. 3—14.

are almost entirely governed by the Implementing Regulations of the Enterprise Income Tax Law, an administrative regulation. Such “blank” or “sweeping” authorizations seriously violate the clarity requirement of the tax legality principle, undermining both the rule of law and taxpayer reliance interests.

Article 50 of the Law of the People’s Republic of China on Science and Technology Popularization (2024 Revision)—which states that “the state shall implement tax incentives for science and technology popularization in accordance with the law”⁷ — presents similar, if not more serious, issues. Initially, science popularization tax incentives were supported mainly by normative documents. For example, in 2003, five ministries including the Ministry of Finance, State Administration of Taxation, and Ministry of Science and Technology jointly issued the Tax Incentive Policies for Encouraging the Development of Science Popularization, which exempted ticket revenues from science museums, natural history museums, planetariums, meteorological stations, seismological stations, and science popularization bases at universities and research institutions, as well as from science activities organized by county-level or higher Party and government agencies and the China Association for Science and Technology, from business tax.⁸ After the “business tax to VAT” reform, [2016] No. 78 by the Ministry of Finance and the State Administration of Taxation continued this exemption under the VAT system. Although this document has since been repealed, the incentives have been renewed repeatedly. The most recent regulation, Announcement No. 60 (2023) by the Ministry of Finance and the State Administration of Taxation, continues the VAT exemption on ticket revenues from science popularization units and activities until the end of 2027.⁹ The statutory expression “the state shall

implement tax incentives for science and technology popularization in accordance with the law” fails to clarify the eligible entities, the scope of beneficiaries, or the specific qualifications or conditions required. Most crucially, the reference to “in accordance with the law” is ambiguous — it does not identify the specific law nor limit its legal hierarchy. This opens broad space for lower-level laws, particularly administrative regulations and normative documents, to define the core tax elements, thereby weakening the legislature’s control over taxation.

2.2. Abuse of Delegated Provisions and Lack of Enforceability

The abuse of delegated provisions is primarily reflected in the legal framework characterized by “overly broad authorization and weak procedural safeguards.” Numerous provisions in non-tax laws delegate authority using vague expressions such as “the State Council shall formulate specific measures” or “shall be otherwise prescribed by law,” yet most fail to specify the timeline for implementation, procedural standards, or mechanisms for accountability.¹⁰

Article 38 of the Film Industry Promotion Law authorizes the State Council to formulate specific tax incentive policies.¹¹ However, since the law came into force in 2017, the State Council has not issued any corresponding regulations, and only a few local governments have introduced supporting policies. For instance: The Haikou Municipal Government in Hainan Province issued the Several Provisions on Promoting the Development of the Film and Television Industry in Haikou, which provides graded rewards to film and television enterprises based on their contributions to local public finances;¹² In June 2025, Guangdong Province issued the Several Policies on Promoting the High-Quality Development of the An-

⁷ Article 50 of the Law of the People’s Republic of China on Popularisation of Science and Technology (Revised 2024): The State shall, in accordance with the law, provide tax incentives for the popularisation of science and technology.

⁸ Ministry of Science and Technology of the People’s Republic of China . Circular of the Ministry of Finance, State Administration of Taxation, General Administration of Customs, Ministry of Science and Technology, and General Administration of Press and Publication on Tax Policy Issues Regarding Encouraging the Development of Science and Technology Cai Shui [2003] No. 55 [EB/OL] [2003-05-08] [2025-07-21] // URL: https://www.most.gov.cn/xxgk/xinxifenlei/fdzdgknr/fgzc/gfxwj/gfxwj2010before/200512/t20051214_143314.html.

⁹ Ministry of Finance of the People’s Republic of China. Announcement on the Renewal of the Implementation of Preferential VAT Policies on Propaganda and Culture [EB/OL] [2024-09-22] [2025-07-21] // URL: https://szs.mof.gov.cn/zhengcefabu/202309/t20230926_3909095.htm.

¹⁰ Xiong Wei. The Systemic Construction and Practical Pathways for Fully Implementing the Principle of Tax Legality [J] // Chinese Journal of Law. 2025. № 03. P. 5—23.

¹¹ Article 38 of the Law on the Promotion of the Film Industry: The State shall implement the necessary tax incentives to promote the development of the film industry, and the specific measures shall be formulated by the competent department of finance and taxation under the State Council in accordance with the provisions of tax laws and administrative regulations.

¹² Haikou Municipal People’s Government. Notice of the People’s Government of Haikou City on the Issuance of Several Provisions on Promoting the Development of the Film and Television Industry in Haikou City (Haifu Regulation [2020] No. 2) [EB/OL][2020-05-08][2025-07-21] // URL: <https://www.haikou.gov.cn/xxgk/szfbjxxgk/zcfg/fzsz/202005/t410954.shtml>.

imation and Film Industry;¹³ In July 2025, Chongqing Municipality issued the Several Incentive Policies on Supporting the High-Quality Development of the Science and Technology Film Industry, allowing film and cultural enterprises to benefit from the “Western Development” tax policy, with a reduced corporate income tax rate of 15%.¹⁴ Beyond these examples, no other relevant implementation documents have been released. The current policy implementation path mainly relies on agencies such as the Ministry of Finance and the State Taxation Administration, which issue specific policies through administrative rules and notices. While this approach has provided some degree of tax and fiscal support for key segments like production, distribution, and exhibition, the low legal hierarchy of such instruments, their narrow scope of application, and the absence of clear statutory delegation have led to a fragmented and temporary regulatory structure. This, in turn, undermines long-term policy stability and predictability, resulting in inconsistent application across regions, substantial variation in local implementation standards, and growing regional disparities in industrial development. These inconsistencies further weaken the overall effectiveness of central government policy incentives.

The widespread use of such delegated provisions in non-tax legislation also raises serious enforceability concerns. Legislatures often transfer the responsibility for rulemaking to the State Council or relevant administrative authorities. However, in the absence of clear limits on delegation, procedural requirements, deadlines, or accountability mechanisms,¹⁵ these pro-

visions frequently fail to result in concrete and operable subordinate rules. Consequently, when rights are infringed, affected parties often find it difficult to assert claims or initiate administrative review or litigation based on such vague provisions. This leads to a regulatory vacuum in which authority is granted without normative guidance, and rules exist without accompanying remedies.

2.3. Fragmented provisions hinder system integration

In applying the tax registration system, Article 11 of the E-Commerce Law¹⁶ and Article 15 of the Tax Collection¹⁷ and Administration Law intersect in terms of their authorization mechanisms. Article 11 of the E-Commerce Law establishes the tax registration obligations of unregistered e-commerce operators, which appears to be supplementary legislation to Article 15 of the Tax Collection and Administration Law, intended to address regulatory gaps in the digital economy. However, from the perspective of legislative structure and authorization logic, this approach effectively constitutes a “preemptive replacement” of the existing authorization pathway: Article 15 of the Tax Collection and Administration Law explicitly authorizes the State Council to stipulate tax registration matters for non-business license entities. While this authorization is not exclusive, it does not explicitly authorize the Standing Committee of the National People’s Congress to intervene directly without amending the foundational legislation. According to the principles of legislative authority allocation under Articles 10¹⁸ and 13 of the Legislation

¹³ People’s Government of Guangdong Province. Guangdong Issues Several Policies and Measures on Promoting the High-Quality Development of Guangdong’s Animation, Film and Television Industry [EB/OL] [2025-05-22] [2025-07-21] // URL: https://www.gd.gov.cn/zwggk/zcjd/snzcsd/content/post_4714662.html.

¹⁴ Chongqing Finance Bureau. Chongqing Daily | Chongqing introduces incentives to support the development of the whole industry chain of science and technology film and television [EB/OL] [2025-07-07] [2025-07-21] // URL: https://czj.cq.gov.cn/zwx_268/czdt/cjsd/202507/t20250707_14791694.html.

¹⁵ Wu Siyuan. A Systematic Reflection and Optimization of Authorized Legislation in China [J] // Journal of Shanghai University (Social Sciences Edition), 2025. 42. № 04. P. 29–42.

¹⁶ Article 11 of the Law of the People’s Republic of China on Electronic Commerce: E-commerce operators shall fulfill their tax obligations in accordance with the law and enjoy tax benefits in accordance with the law. E-commerce operators who are not required to register as market entities in accordance with the provisions of the preceding article shall, after the occurrence of their first tax obligation, apply for tax registration in accordance with the provisions of the laws and administrative regulations on tax collection and management, and truthfully declare their taxes.

¹⁷ Article 15 of the Law on the Administration of Taxation: Enterprises, branches of enterprises set up outside the country and premises engaged in production or business, individual businessmen and institutions engaged in production or business (hereinafter collectively referred to as taxpayers engaged in production or business) shall, within 30 days from the date of receipt of their business licenses, make a declaration to the tax authorities for registration of their tax affairs, holding the relevant documents. The tax authorities shall register and issue tax registration documents on the same day they receive the declaration. The administrative authorities for industry and commerce shall inform the tax authorities on a regular basis of the registration and issuance of business licenses. The scope and methods for taxpayers other than those provided for in the first paragraph of this article to apply for tax registration and for withholding agents to apply for registration to withhold taxes shall be prescribed by the State Council.

¹⁸ Article 10 of the Legislative Law: The National People’s Congress and the Standing Committee of the National People’s Congress exercise the legislative power of the State in accordance with the provisions of the Constitution. The National People’s Congress enacts and amends criminal, civil, State institutional and other basic laws. The Standing Committee

Law,¹⁹ authorization decisions must clearly define their purpose, scope, and duration. The legislative body's "reverse setting" of matters already clearly authorized does not constitute an overreach of authority but raises issues of procedural rationality. While the "pre-emptive substitution" legislative practice has filled governance gaps, it has also exposed three structural defects in the system's operation: first, the absence of legislative interpretation. The State Council and its competent authorities have not issued formal documents on the relationship between the two laws, leading to inconsistent application standards by local tax authorities in determining registration obligations and a lack of unified legal basis; second, the issue of inverted hierarchical structure is prominent. In practice, taxpayers' tax registration is primarily based on departmental regulations such as the "Tax Registration Administration Measures" and the "Natural Person Tax Filing Operational Guidelines," rather than directly on legal provisions, creating a factual inversion in which "regulations supersede statutes," violating the fundamental principles of legal hierarchy stipulated in Article 80 of the Legislation Law. Third, fragmented enforcement has intensified, further amplifying administrative discretion and undermining the uniformity and fairness of the tax system.

Article 86 of the Charity Law²⁰ requires that "tax incentives be enjoyed in accordance with the law," reflecting the state's institutional orientation of encouraging charitable behavior and safeguarding the tax rights of charitable organizations. The term "in

accordance with the law" used in this provision has a clear authorizing and guiding nature, and its specific application must rely on explicit provisions in relevant tax laws. Regarding corporate donations, Article 9 of the Enterprise Income Tax Law,²¹ sets a rigid limit of "up to 12% of annual profit total may be deducted, with excess amounts carried forward for three years", effectively establishing an upper limit for pre-tax deductions. Such institutional arrangements have created certain tensions in practice: on the one hand, the Charity Law aims to expand the scale of charitable resource mobilization through tax incentives; on the other hand, the deduction ratio restrictions under the Enterprise Income Tax Law may suppress corporate donation enthusiasm in practical implementation. Take the Alibaba Public Welfare Foundation as an example. Its donation expenditures in 2020 exceeded 1.5 billion yuan,²² far exceeding the 12% pre-tax deduction ratio of its profit total. The excess donations can only be carried forward annually over the next three years, which to some extent weakens the company's willingness to make immediate charitable contributions. It must be noted that Article 86 of the Charity Law does not have the effect of overriding the substantive provisions of the Enterprise Income Tax Law. The phrase "enjoying tax benefits in accordance with the law" should be understood as applying within the scope authorized by tax law. Therefore, the contradiction between "promoting institutional objectives" and "substantive tax constraints" reveals that the current tax legal system still lacks sufficient coordination.

of the National People's Congress enacts and amends laws other than those which should be enacted by the National People's Congress; when the National People's Congress is not in session, it makes some additions to and amendments of laws enacted by the National People's Congress, provided that they do not conflict with the basic principles of the law. The National People's Congress may authorize the Standing Committee of the National People's Congress to enact relevant laws.

¹⁹ Article 13 of the Legislative Law: An authorization decision shall specify the purpose, matters, scope and duration of the authorization, as well as the principles to be followed by the authorized organ in implementing the authorization decision. The duration of the authorization shall not exceed five years, unless otherwise provided for in the authorization decision. Six months before the expiry of the term of authorization, the authorized organ shall report to the authorizing organ on the implementation of the authorization decision and submit an opinion on the need to enact the relevant law; where continued authorization is needed, it may submit a relevant opinion for decision by the National People's Congress and its Standing Committee.

²⁰ Article 86 of the Charity Law: Charitable organisations and the income they obtain are entitled to tax incentives in accordance with the law.

²¹ Article 9 of the Enterprise Income Tax Law: Expenditures for public welfare donations incurred by enterprises are allowed to be deducted from the calculation of taxable income up to 12 per cent of the total annual profit; the portion exceeding 12 per cent of the total annual profit is allowed to be carried forward and deducted from the calculation of taxable income within the next three years.

²² Alibaba Public Welfare Foundation. 2020 Major Fund Expenditures [EB/OL][2025-07-22] // URL: <http://www.alijijinhui.org/disclosure/info/expenditure/2020>.

3. Concrete Optimization Pathways for Tax Provisions in Non-Tax Legislation

3.1. Clarify Application Boundaries and Establish a Pre-Legislative Review Mechanism for Tax Provisions

A fundamental principle should be established whereby core tax elements are to be exclusively prescribed by tax legislation.²³ Core tax elements such as the establishment of tax types, tax bases, taxpayer identification, application of tax rates, and collection procedures should only be stipulated by tax laws enacted by the National People's Congress and its Standing Committee. Non-tax legislation must not implicitly impose tax obligations or define tax exemptions through ambiguous expressions or policy-laden language. At the same time, explore the creation of a "negative list" mechanism for tax elements as an institutionalized instrument to delineate the limits of legislative authority. This list should be led by the Finance and Economics Committee of the National People's Congress and revised in collaboration with the Ministry of Finance and the State Taxation Administration, clearly listing tax matters that non-tax laws are prohibited from creating, such as establishing new tax types, setting new ranges for tax exemptions or reductions, expanding the scope of tax incentives, or authorizing local authorities to reinterpret core elements of the tax system. The list should be updated regularly in tandem with the progress of fiscal budget compilation, establishing a dual-track operational mechanism combining "list-based authority constraints" and "case interpretations" to provide legislative bodies with operational boundary references.

Additionally, a systematic pre-review mechanism should be established,²⁴ a systematic pre-legislative review mechanism should be instituted to shift the principle of tax legality from a static procedural commitment to a model of dynamic institutional coordination. It is recommended to establish a Joint Review Office for Tax-Related Provisions to conduct substantive evaluations of all legislative drafts involving tax issues, and to implement a structured "three-tier review" framework. First, if provisions involve constituent elements such as tax types, tax rates, taxpayers, or tax bases, they should be prohibited from being established in non-tax laws; Second, if the provisions pertain to tax incentives, they should be subject to a validity period and accompanied by

a performance evaluation mechanism; Third, if the provisions involve procedural rules such as reporting and collection, they should be structurally compatible with the Tax Administration Law to prevent duplication or conflicts.

3.2. Establish Standardized Norms for Tax Authorization

The widespread presence of delegated provisions in non-tax laws constitutes a key structural problem, resulting in implementation stagnation and an imbalance of powers and responsibilities. While authorization provisions are necessary in institutional design, they must not be overly broad, ambiguous, or subject to abuse.²⁵ To standardize the logic of authorization, define the scope of implementation, and enhance the controllability of the rule of law, it is urgent to establish a systematic "standardized system for authorization provisions." Therefore, all tax-related authorization provisions in non-tax laws should follow a unified model that clearly defines four key elements: the authorizing body, scope of authorization, procedural steps, and time limits,²⁶ and establishing a responsibility mechanism for failure to formulate implementation regulations within the specified timeframe or for the abuse of authorization. Additionally, the scope of authorization content and entities should be limited. Vaguely formulated phrases such as "implementing necessary tax policy support" should be clarified, allowing only specific, already established tax types to be detailed within their legislative authorization scope; The authorizing authority should be confined to the Ministry of Finance and the State Taxation Administration under the State Council, and should not be vaguely directed at relevant departments or local governments. To prevent authorization provisions from becoming obsolete or ineffective, a dynamic review mechanism accompanied by retrospective revisions should be instituted. Authorization clauses that have not issued implementing regulations after implementation or whose regulations lack performance should be included in the "legislative cleanup" process. The Ministry of Finance and the Legislative Affairs Commission of the National People's Congress may jointly conduct an assessment of the implementation of tax-related authorization clauses in current non-tax laws every two years, producing a "recommendation list for the rectification of authorization clauses." For authorization clauses that have not been implemented with

²³ Liu Jianwen, Chen Lijiao. The Logic and Pathways of Tax Law in Promoting the High-Quality Development of the Private Economy [J] // Learning and Practice. 2025. № 06. P. 24—34.

²⁴ Ye Jinyu. The Unity of Order and Systemic Advancement of Administrative Approval Clauses in Tax Law [J] // Law and Business Research. 2024. № 41 (06). P. 151—166.

²⁵ Zhou Bo, Zhang Aixue. China's Tax System Reform: Successful Experiences, Challenges, and Prospects for Future Reforms [J/OL] // Journal of Guizhou University of Finance and Economics. 1—9.

²⁶ Zhang Wansu. The Practical Advancement from Tax Legality to Tax Rule of Law: Centered on Further Implementing the Principle of Tax Legality [J] // Legal Studies. 2023. № 45 (01). P. 162—178.

detailed regulations, lack performance, or are clearly abused, recommendations for revision, abolition, or replacement should be proposed and incorporated into the regular “legislative cleanup” process to ensure that the logic of authorization returns to rationality and that the implementation of laws does not fail or deviate from their intended purpose.

3.3. Promoting the Consolidation of Substantive Rules

Tax codification, as the ultimate path for institutional integration and legal system restructuring, carries significant legal and normative value. However, its implementation is currently hindered by the slow progress of the revision of the Tax Collection and Administration Law and the severe fragmentation across tax-related provisions. Therefore, a pre-codification approach should be adopted by gradually building a sub-database of tax-related provisions in non-tax laws, categorized by topics such as budget management, registration procedures, preferential policies, and coordination of tax administration. This sub-database would serve as a practical foundation for structuring future chapters in the codified tax law. For instance, the removal of the pre-payment requirement in tax appeals, as proposed in the draft revision of the Law of the People’s Republic of China on the Administration of Tax Collection, is a representative example of procedural optimization. Similar institutional innovations can be prioritized in the non-tax domain, such as the establishment of dispute coordination mechanisms, clause interpretation databases, and local pilot platforms. These not only respond to real-world demands but also accumulate empirical data and institutional prototypes for future codification.²⁷

For tax incentive provisions frequently found in non-tax laws, a hub clause for tax incentives could be introduced in the Tax Collection and Administration Law.²⁸ This hub clause would stipulate that any measure involving tax exemptions or reductions must be implemented strictly within the framework of tax laws or under properly delegated legislative authority. It should also define corresponding record-filing or review procedures, thereby creating a legal “master switch” that governs scattered preferential policies and ensures that administrative authorities implement them in accordance with clear legal norms and procedures. At the same time, the legislative expression of such provisions should be standardized by creating tax clause templates across non-tax laws.

For areas that require tax-related support, legal texts should adopt consistent terminology with clearly defined preconditions, avoiding inconsistency and ambiguous wording. This harmonization of legislative language would enhance the coordination of tax provisions across different legal instruments and promote a more unified legal order. This approach would ultimately absorb fragmented tax incentive provisions scattered throughout non-tax laws into a codified, coherent legal structure, thus addressing the fundamental issue of disjointed tax legislation.

4. Conclusion

Amid China’s accelerated efforts to advance the rule of law in taxation and modernize national governance, the embedding of tax-related provisions in non-tax legislation has become an increasingly common phenomenon. These provisions, serving as crucial points of connection between the tax system and sectoral governance, carry certain significance in terms of institutional innovation. However, they still exhibit considerable deficiencies in legislative logic and structural coherence. This paper classifies the core types of tax-related provisions found in non-tax laws and conducts a comparative analysis with normative clauses in tax legislation to identify key differences and commonalities. The findings highlight widespread issues, including legislative overreach, disconnection in implementation, and the fragmentation of legal provisions. In response, this study proposes three tiers of optimization strategies: Clarify the scope of application of tax-related provisions in non-tax laws to ensure the exclusivity and precision of their institutional function; Standardize the formulation of authorization clauses to avoid administrative arbitrariness and legal uncertainty arising from overly broad delegations of authority; Promote the legislative-level integration of tax rules to enhance the internal logic and practical applicability of the overall legal framework. Overall, this typological analysis of tax-related provisions in non-tax legislation not only addresses a longstanding gap in the horizontal application of the principle of tax legality, but also provides legislators and law enforcers with a structured reference for the drafting and application of such clauses — ultimately supporting the steady enhancement of tax governance capacity under the rule of law.

²⁷ Zhai Jiguang, Ou Yuanyuan. A Review of Tax Rule of Law Research in 2024 [J] // Tax Research. 2025. № 03. P. 23—30.

²⁸ Ye Jinyu. Legal Reflections on Tax Preferential Provisions in Non-Tax Laws and Legislative Coordination [J] // Law. 2024. № 9. P. 156—176.

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