Individual Income Taxpayers

The taxpayers of Individual Income Tax are the income earners, which can be divided into the following two situations:

1) Individual Income Tax shall be paid on their world wide income by the individuals who have domicile in China (refer to individuals who by reason of their family registration administration, family or economic interests habitually reside in China) or who, though without domicile in China, have resided in China for on year or more.

For the income derived from sources outside China by individuals not domiciled in China, they may, upon approval by the enterprises and other economic organizations or individuals within China provided they reside in China for a period between one year and five years. Those with residing period longer than five years in China should pay Individual Income Tax on all of their foreign income starting from the sixth year.

2)Individuals who are neither domiciled nor resident in China or those do not have domicile an dare resident for less than one year in China shall pay Individual Income Tax only on the income obtained from sources within China.

For individuals having no domicile in China and residing in China continuously of cumulatively for less than 90 days in one tax year, the part of their income from China which is paid by oversea employers and is not borne by the employees' establishments or places in China shall be exempt from Individual Income Tax.

Residing in China for one year means residing in China for 365 days in one tax year. No deductions days shall be made from the number of days for temporary trips out of China for not more than 30 days during a single trip or not more than 90 days on accumulative basis over a number of tips within the same tax year.

The tax year starts from January 1 and ends on December 31 under Gregorian calendar. The above period of days includes the day of entry, departure and the time on route.

Examples:

a. Chinese citizen Mr. Li was sent to work in the office resident in France for two years. Before going to France, Mr.Li went to the public security department for cancellation of resident registration by Chinese Law. But, since Mr. Li's family and key economic interest lied in China an he resided in France only for performance of duty and would come back to China after expiration, Mr.Li was still, according to Chinese tax law, the resident taxpayer of China during his stay in France. He should pay Individual Income Tax on his income from both China and from outside China.

b. British professor Henry came to China at invitation for teaching of one year. During that period, he left China twice for business trip and vocation for respectively 15 days and 30 days. According to Chinese tax law, the two leaves were temporary absence from China and each leave was not over 30 days and the accumulative time period was less than 90 days. Therefore, when computing the residing time in China, the two leaves could not be deducted. Since Henry resided in China for one full year in one tax year, he became resident taxpayer of Chinese Individual Income Tax.

c. An American John was sent to China to work in the company office in China for 5 years. During the 5 years, he resided in China all the time. During his post, John rented out his house in America to other person and received a sum of rental. Since John had worked in China for 5 years, he had become resident taxpayer of Chinese Individual Income Tax. According to Chinese tax law, he should pay income tax on his worldwide income. However, according to the incentives of Chinese tax law, his rental income came from outside China and was not paid by company, enterprise or other economic organization or individual, therefore his rental income might be free from the Chinese Individual Income Tax.

d. A German Mark was sent by his company to China for installation and testing of large equipment with the period of stay of 50 days during which his wage would be paid by German company. The wage of Mark during his work in China was sourced from China and he should pay income tax according to Chinese tax law. But, since Mark stayed in China for less than 90 days and his wage was paid by German company outside China, his wage might be free from the income tax of China according to the incentives of Chinese tax law.

Regardless of the place of payment, the following income earned by taxpayers shall be regarded as from sources within China:

1)The income derived from provision of labor services within China for to post holding, employment or convention performance.

2)The income from leasing properties to lessees to use within China.

3)The income from transfer of buildings and land use rights within China or of other properties within China.

4)The income from permitting the franchises to be used within China.

5)The income of interest, dividends and/or bonuses obtained from enterprises and other economic organizations or individuals within China.

Examples:

a. A Japanese was sent by his company to China to take a post in a Sino-Japanese joint venture. According to the contract, his wage during his work in China would be paid by the Japanese company by half and by the joint venture by other half. Though half of his wage was paid by the Japanese company, yet he worked in China and the half of the wage paid by the Japanese company was sourced from China according to the principle of judging the source of wage, salary based on place of service provision. He should pay the Individual

Income Tax in China.

b. A Korean Mr. Kim bought a house in Shanghai during his work in China. Before return to Korea, he transferred his house to a Thai company's representative office and obtained a sum of income. Though Mr. Kim was Korean, the income was paid by Thai company, yet his house was situated in China, Mr. Kim should pay income tax on the transfer income based on the principle of location of the property.

Regardless of the places of payment, the following income shall be regarded as from sources outside China:

1) The income from provision of labor services outside China for post holding, Employment or convention performance.

2) The income from leasing properties to lessees to use outside China.

3) The income from transfer of buildings an land use rights outside China or of other properties outside China.

4) The income from permitting the franchises to be used outside China.

5) The income of interest, dividends and/or bonuses obtained from enterprises and other economic organizations or individuals located outside China.

Examples:

Chinese writer Mr. Zhang gave his work of story to a French publishing house for publication and received 5000 Euro remuneration. According to the principle of judging source of royalties based on place of source, Mr. Zhang's income was from France since his work was used in France.

The part of the income of taxpayers from outside China that is paid to the dispatching units by rules may be deducted from the income from outside China after the tax authorities examine the valid contracts or relevant vouchers provided by the taxpayers.

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