

Corporate Income Tax Taxpayers

China's Foreign Enterprise Income Tax is a tax levied on the income of the enterprises with foreign investment and foreign enterprises. The current "Income Tax Law of the People's Republic of China on the Enterprises with Foreign Investment and Foreign Enterprises" was passed and promulgated at the Fourth Session of the Seventh National People's Congress on April 9, 1991 and came into effect on July 1, 1991. On June 30, 1991, the State Council promulgated the "Detailed Rules and Regulations for the Implementation of the Income Tax Law of the People's Republic of China on the Enterprises with Foreign Investment and Foreign Enterprises" that came into effect on July 1, 1991.

The Foreign Enterprise Income Tax is administered by the offices of SAT and the revenue from it is shared between the Central Government and the local governments. In 2004, the revenue from Foreign Enterprise Income Tax is 93.25 billion yuan, accounting for 4.0% of the total tax revenue of the State.

Taxpayers of Foreign Enterprise Income Tax include the following two categories:

a. The enterprises with foreign investment, including Chinese-foreign joint ventures, Chinese-foreign co-operative enterprises and wholly foreign funded enterprises.

The enterprises with foreign investment having their head offices in China shall pay the tax on their world-wide income.

b. Foreign enterprises, including foreign companies, enterprises and other economic organizations having establishments or places in China and engaged in production or business operations and those without establishments or places in China but having income from sources within China.

The establishments and places mentioned above refer to the establishments of management, business establishments, representative offices and factories, places for natural resource exploitation, places for engineering work of contracted construction, installation, assembling or prospecting, places for providing labor services and business agents (i.e., the companies, enterprises for business operation).

The foreign enterprises shall pay the income tax only their income from sources within China.

For the income derived by foreign enterprises from construction, installation, assembling and prospecting and provision of consultation, management and training services within China, the tax department may designate the payers of the engineering consideration and the service remuneration as the withholding agents of the income tax.

The Sino-foreign co-operative enterprises which are not legal persons may compute and pay the tax by one of the following ways:

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a. Where each party of the co-operation respectively pays the Enterprise Income Tax, the Chinese party should pay the Enterprise Income Tax in accordance with the Provisional Regulations of Enterprise Income Tax, and the foreign party should be regarded as the foreign companies, enterprises and other economic organizations having establishments, places in China and pay the income tax in accordance with the Income Tax Law on the Enterprises with Foreign Investment and Foreign Enterprises.

b. Where the company charter has been formulated for joint operation and management, unified accounting and jointly bearing the profits and losses and investment risks, the enterprises may apply to the local tax authorities for approval of consolidated report and payment of the income tax according to the Income Tax Law on the Enterprises with Foreign Investment and Foreign Enterprises.

The enterprises with investment from overseas Chinese and compatriots from Hong Kong, Macao and Taiwan are also subject to this tax.

The income taxable according to the law derived from sources inside China by the enterprises with foreign investment and foreign enterprises includes the followings:

a. The income derived from the production or business operations by the enterprises with foreign investment and foreign enterprises which have establishments or places in China, and profits(dividends), interest(excluding interest from State treasury bonds), rentals, royalties and other income derived inside or outside China that are effectively connected with those establishments or places.

b. The following income earned by foreign enterprises that have no establishments or places in China:

- * Profits (dividends) obtained from the enterprises in China.

- * Interest on deposits or loans, interest on bonds (excluding interest from State treasury bonds), interest on payments made on behalf, and interest on deferred payments made on behalf, and interest on deferred payments derived inside China.

- * Rentals on properties rented to and used by renters in China.

- * Royalties obtained from the provision of patents, technical know-how, copyright and trademark for use in China.

- * Gains from the alienation of properties in China such as houses, buildings and their attached facilities, and land use right located.

- * Other incomes derived in China and specified as taxable by the Ministry of Finance.

Income from liquidation (i.e., in liquidation, the excessive part of the net value of assets, or the remained value of the existing assets minus undistributed profits, carious funds and liquidation

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fees, over the paid-in capital) derived by the enterprises with foreign investment shall also be subject to income tax.

At present, the revenue of the Foreign Enterprise Income Tax is mainly from the enterprises with foreign investment and foreign enterprises engaged in manufacturing, mining and digging, power generation and supply, construction, transportation, wholesales and retails, commercial service industry, realty industry.



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