

**REGULATIONS FOR THE IMPLEMENTATION OF THE INDIVIDUAL INCOME TAX
LAW OF THE PEOPLE'S REPUBLIC OF CHINA**

(State Council: 28 January 1994)

Whole Doc.

Article 1

These Regulations are formulated in accordance with the Individual Income Tax law of the People's Republic of China (the "Tax Law").

Article 2

For the Purposes of the first paragraph of Article 1 of the Tax Law, the term "individuals who have domicile in China" shall mean individuals who by reason of their permanent registered address, family or economic interests, habitually reside in the People's Republic of China.

Article 3

For the purposes of the first paragraph of Article 1 of the Tax Law, the term "have resided for one year or move in China" shall mean to have resided within the People's Republic of China for 365 days in a Tax Year. No deductions shall be made from that number of days for Temporary Trips out of the People's Republic of China. For the purposes of preceding paragraph, the term "Temporary Trips out of the People's Republic of China" shall mean absence from the People's Republic of China for not more than 30 days during a single trip, or not more than a cumulative total of 90 days over a number of trips, within the same Tax Year.

Article 4

For the purposes of the first and second paragraphs of Article 1 of the Tax Law, the term "income derived from sources within China" shall mean income the source of which is inside the People's Republic of China, and the term "from sources outside China" shall mean income the source of which is outside the People's Republic of China.

Article 5

The following income, whether the place of payment is inside the People's Republic of China or not, shall be income derived from sources inside the People's Republic of China.

- (1) income from personal services provided inside the People's Republic of China because of the tenure of an office, employment, the performance of a contract, etc.;
- (2) income from the lease of property to a lessee for use inside the People's Republic of China;
- (3) income from the assignment of property such as buildings, land use rights, etc. inside the People's Republic of China or the assignment inside the People's Republic of China of any other property;
- (4) Income from the licensing for use inside the People's Republic of China of any kind of licensing rights;
- (5) income from interest, dividends and extra dividends derived from companies, enterprises and other economic organizations or individuals inside the People's Republic of China.

Article 6

For income derived from sources outside the People's Republic of China of individuals not domiciled in the People's Republic of China, but resident for more than one year and less than five years, subject The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

to the approval of the tax authorities-in-charge, individual income tax may be paid on only that part which was paid by companies, enterprises or other economic organizations or individuals which are inside the People's Republic of China. Individuals who reside for more than five years shall, commencing from the sixth year, pay individual income tax on the whole amount of income derived from sources outside the People's Republic of China.

Article 7

For individuals who are not domiciled in the People's Republic of China, but who reside inside the People's Republic of China consecutively or accumulatively for not more than 90 days in any one Tax Year, their income derived from sources inside the People's Republic of China which is paid by an employer outside the People's Republic of China, and which is not borne by the employer's establishment or business place within the People's Republic of China, shall be exempt from individual income tax.

Article 8

The scope of the categories of income mentioned in Article 2 of the Tax Law shall be as set forth below;

(1) The term "income from wages and salaries" shall mean wages, salaries, bonuses, year-end extras, profit shares, subsidies, allowances and other income related to the tenure of an office or employment that is derived by individuals by virtue of the tenure of an office or employment.

(2) The term "income from production or business operation derived by individual industrial and commercial households" shall mean the following:

(a) income derived by individual industrial and commercial households from engagement in industry, handicrafts, construction, transportation, commerce, the food and beverage industry, the service industry, the repair industry and production and business in other industries;

(b) income derived by individuals from engagement, with approval from the relevant government authorities and after having obtained licenses, in the provision of educational, medical, advisory and other services activities for consideration;

(c) other income derived by individuals from engagement in individual industrial and commercial production and business;

(d) all taxable income related to production and business of the above individual industrial and commercial households and individuals.

(3) The term "income from contracted or leased operation of enterprises or institutions" shall mean income derived by individuals from contracted or leased operations, or from assigning such contracts or leases, including income of a wage or salary nature derived by individuals on a monthly basis or from time to time.

(4) The term "income from remuneration for personal services" shall mean income derived by individuals from engagement in design, decoration, installation, drafting, laboratory testing, other testing, medical treatment, legal accounting, advisory, lecturing, news, broadcasting, translation, proofreading, painting and calligraphic, carving, moving picture and television, sound recording, video recording, show, performance, advertising, exhibition and technical services, introduction services, brokerage services, agency services and other personal services.

(5) The term "income from author's remuneration" shall mean income derived by individuals by virtue of the publication of their works in books, newspapers and periodicals.

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(6) The term "income from royalties" shall mean income derived by individuals from provision of the right to use patent rights, trademark rights, copyrights, non-patented technology and other licensing rights, Income from provision of the right to use copyrights shall not include income from author's remuneration.

(7) The term "income from interest, dividends and extra dividends" shall mean income from interest, dividends and extra dividends that is derived by individuals by virtue of their possession of creditor's rights and share rights.

(8) The term "income from lease of property" shall mean income derived by individuals from the lease of buildings, land use rights, machinery, equipment, means of transportation and other property.

(9) The term "income from transfer of property" shall mean income derived by individuals from the assignment of negotiable securities, share rights, structures, land use rights, machinery, equipment, means of transportation and other property.

(10) The term "contingent income" shall mean income derived by individuals from winning awards, prizes and lotteries and other income of an occasional nature. Income derived by individuals for which the taxable category is difficult to determine shall be decided upon by the tax authorities-in-charge.

Article 9

Measures for the levy and collection of individual income tax on income from the transfer of shares shall be separately formulated by the Ministry of Finance and implemented upon approval by the State Council.

Article 10

Taxable income derived by individuals shall include cash, physical objects and negotiable securities. If the income is in the form of physical objects, the amount of taxable income shall be determined according to the price specified on the voucher obtained. If there is no receipt for the physical objects or if the price specified on the voucher is obviously on the low side, the tax authorities-in-charge shall determine the amount of taxable income by reference to the local market price. If the income is in the form of negotiable securities, the amount of taxable income shall be determined by the tax authorities-in-charge according to the face value and the market price.

Article 11

For the purposes of item (4) of Article 3 of the Tax Law, the phrase "a specific payment of income from remuneration for personal service is excessively high" shall mean a payment received as remuneration for personal service with an amount of taxable income exceeding RMB 20000. That part of taxable income as mentioned in the preceding paragraph which exceeds RMB 20000 but does not exceed RMB 50000 shall, after the amount of tax payable is calculated in accordance with the Tax Law. Be subject to an additional levy at the rate of 50 percent of the amount of tax payable. That part which exceeds RMB 50000 shall be subject to an additional levy at the rate of 100 percent of tax payable.

Article 12

For the purposes of item (2) of Article 4 of the Tax Law, the term "interest on national debt obligations" shall mean interest income derived by individuals by virtue of holding bonds issued by the Ministry of Finance of the People's Republic of China, and the term "interest on financial debentures issued by the state" shall mean interest income derived by individuals by virtue of holding financial bonds issued with State Council approval.

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Article 13

For the purposes of item (3) of Article 4 of the Tax Law, the term "subsidies and allowances paid in accordance with uniform regulations of the state" shall mean special government subsidies issued in accordance with State Council regulations and allowances and subsidies that are exempt from individual income tax by State Council regulations.

Article 14

For the purposes of item (4) of Article 4 of the Tax Law, the term "welfare benefits" shall mean cost-of-living subsidies paid to individuals according to relevant state regulations out of the welfare benefits or labor union funds allocated by enterprises, institutions, government agencies and social organizations, and the term "relief payments" shall mean hardship subsidies paid to individuals by civil affairs authorities of the state.

Article 15

For the purposes of item (8) of Article 4 of the Tax Law, the "income derived by the diplomatic agents, consular officers and other personnel who are exempt from tax under the provisions of the relevant Laws of China" shall mean income that is tax-exempt under the Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities and the Regulations of the People's Republic of China concerning Consular Privileges and Immunities.

Article 16

The ranges and periods of the reductions in individual income tax referred to in Article 5 of the Tax Law shall be stipulated by the People's Governments of the provinces, autonomous regions and municipalities directly under the central government.

Article 17

For the purposes of item (2) of the first paragraph of Article 6 of the Tax Law, the terms "costs" and "expenses" shall mean all direct expenditures, indirect expenses allocated as costs, as well as marketing expenses, administrative expenses and financial expenses incurred by taxpayers while engaging in production and business, and the term "losses" shall mean all non-operating expenditures incurred by taxpayers in the course of production and business. If a taxpayer engaging in production or business fails to provide complete and accurate tax information and is unable to correctly calculate the amount of taxable income, his amount of taxable income shall be determined by the tax authorities-in-charge.

Article 18

For the purposes of item (3) of the first paragraph of Article 6 of the Tax Law, the term "the gross income in a tax year" shall mean the share of the operating profit or the income of a wage or salary nature derived by the taxpayer according to the contract for the contracted or leased operation and the term "deduction of necessary expenses" shall mean a monthly deduction of RMB 800.

Article 19

For the purposes of item (5) of the first paragraph of Article 6 of the Tax Law, the term "the original value of the property" shall mean:

- (1) in the case of negotiable securities, the price for which they were purchased and related expenses paid according to regulations at the time of purchase;
 - (2) in the case of buildings, the construction expenses or purchase price, and other related expenses;
 - (3) in the case of land use rights, amount paid to acquire the land use rights, land development
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expenses and other related expenses;

(4) in the case of machinery, equipment, vehicles and vessels, the purchase, freight, installation expenses and other related expenses;

(5) in the case of other property, the original value shall be determined by reference of the above methods. If a taxpayer fails to provide complete and accurate vouchers concerning the original value of the property and is unable to correctly calculate the original value of the property, the original value of the property shall be determined by the tax authorities-in-charge.

Article 20

For the purposes of item (5) of the first paragraph of Article 6 of the Tax Law, the term "reasonable expenses" shall mean relevant expenses paid in accordance with regulations at the time of sale.

Article 21

For the purposes of items (4) and (6) of the first paragraph of Article 6 of the Tax Law, the term "each payment" shall mean:

(1) in the case of income from remuneration for personal services, the amount, if the income is derived in a lump sum, of that lump sum; and, if the income is of a continuing nature and pertains to the same project, the income derived during one month;

(2) in the case of income from author's remuneration, the income derived on each instance of publication;

(3) in the case of income from royalties, the income derived from each instance of licensing a licensing right;

(4) in the case of income from the lease of property, the income derived during one month;

(5) in the case of income from interest, dividends and extra dividends, the income derived each time interest, dividends or extra dividends are paid;

(6) in the case of contingent income, each payment of such income obtained.

Article 22

Tax on income from the assignment of property shall be calculated and paid on the proceeds of a single assignment of property less the original value of the property and reasonable expenses.

Article 23

If the same item of income is derived by two or more individuals, tax thereon shall be calculated and paid separately on the income derived by each individual after the deduction of expenses respectively in accordance with the Tax Law.

Article 24

For the purposes of the second paragraph of Article 6 of the Tax Law, the term "individual income donated to educational and other public welfare undertakings" refers to the donation by individuals of their income to educational and other public welfare undertakings, and to areas suffering from serious natural disasters or poverty, through social organizations or government agencies in the People's Republic of China. That part of the amount of donations which does not exceed 30 percent of the amount of taxable income declared by the taxpayer may be deducted from his amount of taxable income.

Article 25

For the purposes of the third paragraph of Article 6 of the Tax Law, the term "income from wages and salaries from sources outside China" shall mean income from wages and salaries derived from the The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

tenure of an office or employment outside the People's Republic of China.

Article 26

For the purposes of the third paragraph of Article 6 of the Tax Law, the term: "additional deductions for expenses" shall mean a monthly deduction for expenses in the amount specified in Article 28 hereof in addition to the deduction for expenses of RMB 800.

Article 27

For the purposes of the third paragraph of Article 6 of the Tax Law, the term "the scope of applicability of such additional deductions for expenses" shall mean:

- (1) foreign nationals working in foreign investment enterprises and foreign enterprises in the People's Republic of China;
- (2) foreign experts hired to work in enterprises, institutions, social organizations and government agencies in the People's Republic of China;
- (3) individuals who are domiciled in the People's Republic of China and derive income from wages and salaries by virtue of their tenure of an office or employment outside the People's Republic of China; and
- (4) other personal as determined by the Ministry of Finance.

Article 28

The standard for the additional deductions for expenses mentioned in the third paragraph of Article 6 of the Tax Law shall be RMB 3200.

Article 29

Overseas Chinese and Hong Kong, Macao and Taiwan compatriots shall be treated by reference to Article 26, 27 and 28 hereof.

Article 30

Individuals who are domiciled in the People's Republic of China, or who are not domiciled but have resided in the People's Republic of China for at least one year shall calculate the amounts of tax payable for income derived from sources within and outside the People's Republic of China separately.

Article 31

For the purposes of Article 7 of the Tax Law, the term "income tax paid to foreign authorities" shall mean the amount of income tax payable, and actually paid, on income derived by a taxpayer from sources outside the People's Republic of China, according to the laws of the country or region from which that income was derived.

Article 32

For the purposes of Article 7 of the Tax Law, the term "the amount of tax otherwise payable under this Law" shall mean the amount of tax payable on income derived by a taxpayer from sources outside the People's Republic of China, computed separately for each different country or region and for each different income category, in accordance with the standards for the deduction of expenses and the applicable tax rates stipulated in the Tax Law. The sum of the amounts of tax payable in the different income categories within the same country or region shall be the limit for deductions for that country or region. If the actual amount of individual income tax paid by a taxpayer in a country or region outside the People's Republic of China is less than the limit for deductions for that country or region computed in accordance with the provisions of the preceding paragraph, the balance shall be paid in the People's Republic of China. If the amount exceeds the limit for deductions

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for that country or areas, the excess portion may not be deducted from the amount of tax payable for that Tax Year; however, such excess portion may be deducted from any unused portion of the limit for deductions for that country or region during subsequent Tax Years, for a maximum period of five years.

Article 33

When taxpayers apply for approval to deduct the amounts of individual income tax paid outside the People's Republic of China in accordance with Article 7 of the Tax Law, they shall provide the original tax payment receipts issued by the tax authorities outside the People's Republic of China.

Article 34

When withholding agents make taxable payments to individuals, they shall withhold tax in accordance with the Tax Law, pay the tax over to the treasury in a timely manner, and keep special records for future inspection. For the purposes of the preceding paragraph, the term "payments" shall include payments in cash, payments by remittance, payments by account transfer, and payments in the form of negotiable securities, physical objects and other forms.

Article 35

Taxpayers who personally file tax returns shall file the returns with and pay tax to the tax authorities-in-charge of the place where their income is derived. Taxpayers who derive income from sources outside the People's Republic of China, or who derive income in two or more places inside the People's Republic of China, may select one place in which to file tax returns and pay tax. Taxpayers who wish to change the location in which they file tax returns and pay tax shall obtain the approval of the original tax authorities-in-charge.

Article 36

When taxpayers who personally file tax returns file their returns, tax payments that have been withheld inside the People's Republic of China may be deducted from the amount of tax payable, in accordance with relevant regulations.

Article 37

Taxpayers who concurrently derive income under two or more of the categories listed in Article 2 of the Tax Law shall compute and pay tax separately for each category. Taxpayers who derive income under items (1), (2) or (3) of Article 2 of the Tax Law in two or more places inside the People's Republic of China shall combine the income under the same category for the computation and payment of tax.

Article 38

For the purposes of the second paragraph of Article 9 of the Tax Law, the term "specified industries" shall mean the excavation industry, ocean-shipping industry, deepsea fishing industry and other industries as determined by the Ministry of Finance.

Article 39

For the purposes of the second paragraph of Article 9 of the Tax Law, the term "tax computed on an annual basis and paid in advance in monthly installments" shall mean the monthly prepayment of the tax payable on the income from wages and salaries of staff and workers in the specified industries listed in Article 38 hereof, and the computation of the actual tax payment due, within 30 days from the last day of the year, by averaging over 12 months the total wages and salary income for the whole year, at which time excess payments shall be refunded and deficiencies shall be made good.

Article 40

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For the purposes of the fourth paragraph of Article 9 of the Tax Law, the phrase "the tax shall be paid into the state treasury within 30 days after the end of each tax year" shall mean that taxpayers who derive their income from contracted or leased operation of enterprises in a lump sum payment at the end of the year, shall pay the tax payable thereon into the State treasury within 30 days of the date on which the income is derived.

Article 41

In accordance with Article 10 of the Tax Law, foreign currency income shall be converted into Renminbi for the computation of the amount of taxable income at the exchange rate published by the People's Bank of China on the last day of the month preceding that in which the tax payment receipt is issued. At the time of the annual settlement after the end of the year in accordance with the Tax Law, the amounts of foreign currency income on which tax has been prepaid on a monthly basis or each time the income was derived shall not be converted again. As for the portion of income the tax on which is to be made up, the amount of taxable income shall be computed by converting such portion of income into Renminbi according to the exchange rate published by the People's Bank of China on the last day of the preceding Tax Year.

Article 42

When tax authorities pay commissions to withholding agents in accordance with Article 11 of the Tax Law, they shall issue to the withholding agents monthly refund certificate, on the strength of which the withholding agent shall carry out treasury refund procedures with designated banks.

Article 43

The models for individual income tax returns, individual income tax withholding returns and individual income tax payment receipts shall be formulated by the State Administration of Taxation in a unified manner.

Article 44

For the purposes of the Tax Law and these Regulations, the term "Tax Year" shall mean the period commencing on January 1 and ending on December 31 on the Gregorian calendar.

Article 45

Commencing with the 1994 Tax Year, individual income tax shall be computed, levied and collected in accordance with the Tax Law and these Regulations.

Article 46

These Regulations shall be interpreted by the Ministry of Finance and the State Administration of Taxation.

Article 47

These Regulations shall be implemented as from the date of promulgation. The Provisional Regulations of the State Council of the People's Republic of China Concerning the Reduction of Individual Income Tax on the Income From Wages and Salaries Derived by Foreign Personnel Working in China promulgated by the State Council on August 8, 1987 shall be repealed at the same time.

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