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

Promulgated by Order No. 142 of the State Council of the People's Republic of China on December 28, 1994;  
revised for the first time in accordance with Decision of the State Council on Revising the Implementation  
Regulations for Individual Income Tax Law of the People's Republic of China on December 19, 2005; revised  
for the second time in accordance with Decision of the State Council on Revising the Implementation Regu-  
lations for Individual Income Tax Law of the People's Republic of China on February 18, 2008; revised for the  
third time in accordance with Decision of the State Council on Revising the Implementation Regulations for  
Individual Income Tax Law of the People's Republic of China on July 19, 2011; revised for the fourth time in  
accordance with Order No. 707 of the State Council of the People's Republic of China on December 18, 2018;  
and implemented from January 1, 2019.



#### **Article 1**

The Regulations are formulated in accordance with Individual Income Tax Law of the People's Republic of China (hereinafter referred to as Individual Income Tax Law).

#### **Article 2**

"Domiciled in China", mentioned in Individual Income Tax Law, refers to habitually residing in China due to household registration, family or economic interests; "income received from within China or overseas" refers to income derived from sources inside and outside China respectively.

#### **Article 3**

Unless otherwise specified by the finance and taxation departments of the State Council, the following categories of income, regardless of whether the payment is made within China or not, shall be regarded as income sourced from inside China:

1. income from providing personal services within China due to appointment, employment, performance of contract, etc.;
2. income from leasing assets to the lessee for use within China;
3. income from licensing royalties for use within China;
4. income from transfer of immovable property located in China, and income from transfer of other assets within China; and
5. income from interest, dividends, and bonuses paid by enterprises, institutions, other organizations or resident individuals within China.

#### **Article 4**

For an individual who is not domiciled in China and has resided in China for an aggregate of 183 days or more for an aggregate of less than 6 consecutive years, his or her income sourced from outside China and paid by institutions or individuals outside China shall be exempted from individual income tax upon filing with the tax authority in charge; and where an individual leaves China for 30 days or more in a single trip in any of the years in which his/her residence in China aggregates 183 days or more, the number of consecutive years in which his/her residence in China aggregates 183 days or more shall be recounted.

#### **Article 5**

For an individual who is not domiciled in China and

has resided in China for less than an aggregate of 90 days within a tax year, his or her income which is sourced from inside China, paid by his/her employer outside China and not borne by the employer's establishment or place within China, shall be exempted from individual income tax.

#### **Article 6**

The scope of various categories of individual income mentioned in Individual Income Tax Law is as follows:

1. income from salary and wages, refers to the income obtained by individuals due to appointment or employment, including salaries, wages, bonuses, year-end raise, labor dividends, allowances, subsidies, etc.;
2. income from remuneration for personal services, refers to the income obtained by individuals from engaging in services in designing, decoration, installation, drafting, chemical examination, testing, medical treatment, legal work, accounting, consulting, lecturing, translating, proof-reading, calligraphy and painting, carving, film and television work, audio and video recording, performance, acting, advertising, exhibition, technical services, go-between services, brokerage services, commissioned services, etc.;
3. income from author's remuneration, refers to the income obtained by individuals for the publication of their works in the form of books, newspapers, magazines, etc.;
4. income from royalties, refers to the income obtained by individuals from licensing the right to use patents, trademarks, copyrights, non-patented technologies, etc.; the income of author's remuneration is not included in the income obtained from licensing the right to use copyrights;
5. income from business operation, refers to:
  - a. the income received by individual industrial and commercial households from production and business activities, and income of investors of sole-proprietorship enterprises and individual partners of partnerships from the production and business activities of sole-proprietorship enterprises and partnerships registered in China;
  - b. the income received by individuals from provision of educational, medical, advisory and other paid services in accordance with the law;

- c. the income received by individuals from contracted operation and leased operation of enterprises and institutions and subcontracting and subleasing; and
  - d. the income received by individuals from engagement in other production and business activities;
6. income from interest, dividends or bonuses, refers to the income from interest, dividends or bonuses received by individuals from their ownership of creditor's rights, equities, etc.;
  7. income from leasing of assets, refers to the income received by individuals from leasing immovable properties, machines and equipment, vehicles and vessels, etc.;
  8. income from transfer of assets, refers to the income received by individuals from transferring marketable securities, equities, property shares in partnerships, immovable properties, machines and equipment, vehicles and vessels, etc. and;
  9. incidental income, refers to the income received by individuals from awards, prizes, lotteries, etc.

Where the taxable income derived by an individual is difficult to be categorized, the taxation department of the State Council shall determine.

#### **Article 7**

The measures for the collection of individual income tax on income from transferring of stocks shall be separately stipulated by the State Council and be submitted to the Standing Committee of the National People's Congress for the record.

#### **Article 8**

Individual income may assume certain forms including cash, payment in kind, marketable securities, and other forms of economic benefits; where the income is paid in kind, the amount of taxable income shall be calculated based on the prices indicated on the certificates obtained; or the amount of taxable income shall be determined based on the market price if certificates are not provided or the price indicated on the certificates is evidently lower than the market price; where the income is paid in forms of marketable securities, the amount of taxable income shall be determined based on both the parvalue and the market price; where the income is paid in other forms of economic benefits, the amount of taxable income shall be determined based on the market price.

#### **Article 9**

Interest on the national debt, mentioned in paragraph 1(2) of Article 4 of Individual Income Tax Law, refers to the interest obtained by individuals from treasury bonds issued by the Ministry of Finance of the People's Republic of China; interest on financial bonds issued by the State, mentioned therein, refers to the interest obtained by individuals from financial bonds issued upon approval by the State Council.

#### **Article 10**

Subsidies and allowances paid according to the unified regulations of the State, mentioned in paragraph 1(3) of Article 4 of Individual Income Tax Law, refer to government special allowances and academicians allowance granted in accordance with the regulations issued by the State Council, and other subsidies and allowances exempted from individual income tax as specified by the State Council.

#### **Article 11**

Welfare benefits, mentioned in paragraph 1(4) of Article 4 of Individual Income Tax Law, refer to the living allowances paid to individuals from the welfare benefits or trade union funds appropriated by enterprises, institutions, state authorities or public organizations in accordance with relevant provisions of the State; relief payments, mentioned therein, refer to hardship allowances paid to individuals by civil affairs departments of governments at various levels.

#### **Article 12**

Income of diplomatic representatives, consular officers and other personnel of foreign embassies and consulates in China, which shall be exempted from tax in accordance with the provisions of relevant laws, as mentioned in paragraph 1(8) of Article 4 of Individual Income Tax Law, refers to the tax-exempted income specified in Regulations of the People's Republic of China Concerning Diplomatic Privileges and Immunities and Regulations of the People's Republic of China Concerning Consular Privileges and Immunities.

#### **Article 13**

Other deductible items determined in accordance with the law, mentioned in paragraph 1(1) of Article 6 of Individual Income Tax Law, include contributions made by individuals to enterprise annuities

and occupational annuities that comply with the regulations of the State, expenses of individuals for the purchasing of commercial health insurance and individual tax-deferred commercial pension insurance that comply with the regulations of the State, and other deductible items specified by the State Council.

Special deductions, itemized deductions for specific expenditures, and other deductible items determined in accordance with the law shall be deducted within the limit of the taxable income of a resident individual in a tax year. The aforementioned deductions shall not be carried forward to the following years for deduction if the deductions are not deducted in full in the current tax year.

#### **Article 14**

A single payment, mentioned in paragraph 1(2) and 1(4) of Article 6 of Individual Income Tax Law, and each payment, mentioned in paragraph 1(6) of Article 6 of Individual Income Tax Law, shall be determined in accordance with the following methods, respectively:

1. For income from remuneration for personal services, author's remuneration or royalties which is a lump-sum income, it is regarded as a single payment when such income is obtained; and for income from the same item of service or work and obtained by successive payments, income obtained in a month is regarded as a single payment.
2. For income from leasing of assets, income obtained in a month is regarded as a single payment.
3. For income of interest, dividends, and bonuses, income obtained at each payment of interest, dividends, and bonuses is regarded as each payment.
4. For incidental income, income obtained each time is regarded as each payment.

#### **Article 15**

Costs and expenses, mentioned in paragraph 1(3) of Article 6 of Individual Income Tax Law, refer to the various direct expenditures incurred in the process of production and business activities, and the indirect expenses allocated to and included in costs, sales expenses, management expenses and financial expenses; ; and losses, mentioned in paragraph 1(3) of Article 6 of Individual Income Tax Law, refer to the losses from the shortage, destruction,

damage and scrapping of fixed assets and inventory, losses from property transfers, losses from bad debts, losses caused by force majeure such as natural disasters, as well as other losses incurred in the course of production and business activities.

For an individual who obtains income from business operation but receives none of comprehensive income, the expenses of 60,000 yuan, special deductions, itemized deductions for specific expenditures, and other deductible items determined in accordance with the law shall be deducted in calculating the amount of his/her taxable income of each tax year. Itemized deductions for specific expenditures shall be deducted in the process of annual reconciliation of individual income tax.

For an individual who obtains income from business operation, if he/she fails to provide complete and accurate tax-related materials, the amount of his/her taxable income or tax payable shall be assessed and determined by the tax authority in charge.

#### **Article 16**

The original value of the asset, mentioned in paragraph 1(3) of Article 6 of Individual Income Tax Law, shall be determined in accordance with the following methods:

1. For marketable securities, the original value of the asset shall consist of the purchase price and relevant expenses paid in accordance with regulations at the time of purchase;
2. For houses and structures, the original value of the asset shall consist of expenses incurred in construction or the purchase price and the relevant expenses paid;
3. For land use rights, the original value of the asset shall consist of the amounts paid for obtaining the rights, expenses incurred for land development, and other related expenses;
4. For machines, equipment, vehicles and vessels, the original value of the asset shall consist of the purchase price, fees for transportation and installation, and other related expenses.

The original value of other assets shall be determined by referring to the methods specified in the preceding paragraphs.

If the taxpayer fails to provide complete and accurate certificate of the original value of the asset and is unable to determine the original value by referring to the methods specified in the preceding paragraphs, the tax authority in charge shall assess and determine the original value of the asset.

Reasonable expenses, mentioned in paragraph 1(5) of Article 6 of Individual Income Tax Law, refer to the relevant taxes and fees paid in accordance with the regulations at the time of sale.

#### **Article 17**

The tax payable on income from transfer of assets shall be calculated based on the balance after the deduction of the original value of the asset and reasonable expenses from the income gained from transfer of assets.

#### **Article 18**

For income from one item but jointly obtained by two or more individuals, the tax payable by each individual shall be calculated separately based on the income obtained by every single individual in accordance with the provisions of Individual Income Tax Law.

#### **Article 19**

Amounts donated out of individual income to education, poverty alleviation or other public welfare undertakings, mentioned in paragraph 3 of Article 6 of Individual Income Tax Law, refer to the donations that are made by an individual and, through social public welfare organizations or State organs in China, used for education, poverty alleviation or other public welfare undertakings; and the taxable income, mentioned in the paragraph 3 of Article 6 of Individual Income Tax Law, refers to the taxable income calculated before deducting the amount of donations.

#### **Article 20**

For comprehensive income and income from business operation received by a resident individual from sources inside and outside China, the tax payable shall be calculated on an aggregate basis respectively; for other income obtained from sources inside and outside China, the tax payable shall be calculated separately.

#### **Article 21**

Individual income tax paid outside China, mentioned in Article 7 of Individual Income Tax Law, refers to the tax on income derived by a resident individual from sources outside China, which is payable in the nature of individual income tax and has actually been paid in accordance with the law of the country (region) where the income is derived.

The individual income tax payable on the foreign income calculated in accordance with this Law mentioned in Article 7 of Individual Income Tax Law, refers to the limit of tax credit against the tax paid on comprehensive income, income from business operation, and other income derived by a resident individual from sources outside China (hereinafter referred to as credit limit). Credit limit on income derived from a country (region) outside China shall be the sum of credit limit on comprehensive income, credit limit on income from business operation, and credit limit on other income derived from the said country (region), unless otherwise prescribed by the finance and taxation departments of the State Council.

Where the individual income tax actually paid in a country (region) outside China is less than the credit limit on the income derived from the said country (region) as calculated in accordance with the provisions of the preceding paragraph, the difference of the credit limit and the tax actually paid shall be levied in China. Where the tax actually paid in a country (region) outside China is more than the credit limit on the income derived from the said country (region), the excessive part shall not be credited against the tax payable in the current tax year, but may be carried forward and credited against the balance of the credit limit on income derived from the same country (region) in the next five years.

#### **Article 22**

A resident individual who applies for crediting individual income tax already paid outside China shall provide relevant tax payment certificates for the corresponding tax year issued by tax authorities outside China.

#### **Article 23**

Late payment surcharge, mentioned in paragraph 2 of Article 8 of Individual Income Tax Law, shall be calculated on the basis of the benchmark interest rate for loans in Chinese yuan published by the People's Bank of China on the last day of the tax period in which the tax should be paid and during the same period in which the tax is paid retroactively. The interest shall be charged on a daily basis for the period from the next day of the tax period in which the tax should be paid, to the last day of the time limit for supplementary tax payment. If the taxpayer makes a supplementary tax payment

before the time limit, the interest shall be charged to the date on which the supplementary tax payment is completed.

#### **Article 24**

A withholding agent that makes a payment of taxable income shall withhold individual income tax as prescribed by Individual Income Tax Law, and shall turn over the tax to the State treasury within the prescribed time limit with itemized records for future inquiry.

A payment, mentioned in the preceding paragraph, includes payment in cash, payment by remittance, payment by account transfer, payment made in marketable securities and in kind and in other forms.

#### **Article 25**

The circumstances under which a resident individual obtains comprehensive income and is subject to annual tax reconciliation include:

1. where a resident individual obtains comprehensive income from two or more sources, and the balance after deducting special deductions from annual comprehensive income exceeds 60,000 yuan;
2. where a resident individual obtains one or several items of income from remuneration for personal services, income from author's remuneration and income from royalties, and the balance after deducting special deductions from annual comprehensive income exceeds 60,000 yuan;
3. where the tax prepaid within a tax year is less than the tax payable;
4. where a taxpayer applies for tax refund.

A taxpayer who applies for tax refund shall provide his/her bank account opened in China and claims tax refund in the place where the annual tax reconciliation return is filed.

The specific measures for annual tax reconciliation shall be formulated by the taxation department of the State Council.

#### **Article 26**

Withholding and paying tax in full for all its taxpayers, mentioned in paragraph 2 of Article 10 of Individual Income Tax Law, refers to the process that a withholding agent shall submit relevant information on all individuals to whom it makes a payment of income, the amount of such income paid, de-

ductible items and the amounts thereof, specific amounts of the tax withheld and paid as well as the total amount thereof, and other relevant tax-related information and materials, to the tax authority in charge within 15 days after the end of each month in which the tax is withheld.

#### **Article 27**

The specific measures relating to the locality of tax filing and other matters shall be formulated by the taxation department of the State Council.

#### **Article 28**

Where a resident individual obtains income from salary and wages, the individual may provide the withholding agent with information on itemized deductions for specific expenditures, and the withholding agent shall deduct such deductions when withholding taxes. Where a taxpayer obtains income from salary and wages from two or more sources and requires his/her withholding agents to handle the itemized deductions for specific expenditures, for one itemized deduction for specific expenditures, the taxpayer can only select one source to deduct such deductions in a tax year.

A resident individual who obtains income from remuneration for personal services, income from author's remuneration and income from royalties shall provide relevant information to the tax authority and deduct itemized deductions for specific expenditures when filing annual tax reconciliation return.

#### **Article 29**

A taxpayer may entrust a withholding agent or other institution or individual with the filing of annual tax reconciliation return on his/her behalf.

#### **Article 30**

A withholding agent shall calculate, withhold and pay tax based on the information provided by the taxpayers and shall not alter the information provided by the taxpayers without authorization.

A taxpayer has the right to require a withholding agent to make modifications where he or she finds that the personal information, income, tax amounts withheld, and other information provided by the withholding agent are inconsistent with the actual circumstances. Where the withholding agent refuses to make modifications, the taxpayer shall report it to the tax authority and the tax authority shall handle it in a timely manner.

Taxpayers and withholding agents shall preserve the relevant documents related to itemized deductions for specific expenditures in accordance with the requirements. Tax authorities may conduct random examinations on the information of itemized deductions for specific expenditures provided by taxpayers, and the specific measures for random examination shall be formulated separately by the taxation department of the State Council. Where a tax authority finds a taxpayer providing false information, the tax authority shall order the taxpayer to make rectification within a time limit and notify his or her withholding agent. Where the circumstances are serious, the relevant departments shall handle the matter in accordance with the law, incorporate relevant information into the credit information system, and implement joint sanctions.

#### **Article 31**

Where there are errors in the annual tax reconciliation return filed by taxpayers applying for tax refund, the tax authority shall tell the taxpayer to make corrections thereof; and if the taxpayer has corrected the information, the tax authority shall deal with the tax refund in a timely manner.

Where a withholding agent does not turn over the tax withheld to the State treasury, it shall not affect the taxpayers' right to apply for tax refund in accordance with the regulations, and the tax authority shall deal with the tax refund based on the relevant documents provided by the taxpayer.

#### **Article 32**

Where an income is paid in a currency other than Chinese yuan, the amount of taxable income shall be calculated by converting the income into Chinese yuan based on the Chinese yuan central parity rate quoted on the last day of the month preceding the one in which the tax return or withholding return is filed. When taxpayers file the annual tax reconciliation return at the end of the year, the amount of the income which is paid in a currency other than Chinese yuan shall not be calculated again if the tax has already been prepaid on a monthly or quarterly basis or each time. For the amount of the income which is paid in a currency other than Chinese yuan, if supplementary tax payment is needed, the Chinese yuan central parity rate on the last day of the previous tax year shall be used to convert it into Chinese yuan and calculate the taxable income.

**Article 33**

Where tax authorities pay handling fees to withholding agents in accordance with Article 17 of Individual Income Tax Law, the tax authorities shall issue refund documents; and withholding agents shall, based on the refund documents, file for refunds in accordance with relevant laws and regulations on the administration of the State treasury.

**Article 34**

The format of the individual income tax return, the tax return for individual income tax withheld, and the certificate for payment of individual income tax shall be formulated by the taxation department of the State Council in a unified manner.

**Article 35**

The matters on the collection of individual income tax on military personnel shall be subject to relevant laws and regulations.

**Article 36**

The Regulations shall enter into force from January 1, 2019.



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