

投资中国
税收法律实务指南

刘佐 著 刘铁英 译



INVEST IN CHINA

A PRACTICAL GUIDE T TAX LAW

By LIU Zuo
LIU Tiejing



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LAW PRESS / CHINA

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FOREWORD

Based on the currently effective Chinese tax laws, regulations, rules and relevant authoritative materials issued by the NPC and its Standing Committee, the State Council, the Ministry of Finance, the State Administration of Taxation, the General Administration of Customs, the Tariff and Classification Committee of the State Council, this book briefs an overall picture of the current Chinese foreign tax system, including the taxpayers, taxable items, tax rates, tax base, computation method, tax reduction and exemptions, tax period, tax payment places, tax administration and tax organisation concerning various types of taxes. This book is supported by proper examples for computation and graphs. It is concise, easy to understand and convenient to scan through. We hope this book would be of help to the readers to understand the basic points of Chinese foreign tax system.

Being subject to our ability of and some objective conditions, inadequacy is unavoidable in the book. We would like to apologise for that and welcome criticism and suggestions.

In the future, we will continue to regularly revise the book based on the change of the Chinese foreign tax system in order to update the contents of the book and to make it more applicable.

LIU Zuo
LIU Tiejing
March 1, 2006

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Chapter 1

CURRENT TAX SYSTEM OF CHINA

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1. *Type of Taxes*
 2. *Tax Legislation*
 3. *Foreign Taxation*



The current tax system of China includes 22 types of taxes, out of which 15 types are explicitly applicable to the enterprises with foreign investment, foreign enterprises or foreigners. The fundamental laws and regulations of taxation are formulated by the NPC and its Standing Committee and the State Council.

1. Type of Taxes

Under the current tax system in China, there are 22 types of taxes, which, according to their nature and function, can be divided into the following 4 categories:

a. Category of taxes on goods and services. It includes Value—Added Tax, Consumption Tax, Vehicle Acquisition Tax, Business Tax and Customs Duty. The levies of these taxes are based on the value (volume) of turnover or sales or import & export value (or quantity) of the goods of the taxpayers in the manufacturing, circulation or service sectors.

b. Category of income taxes. It includes Enterprise Income Tax, Income Tax on Enterprises with Foreign Investment and Foreign Enterprises, Individual Income Tax and the Land Appreciation Tax that is of income tax nature. These taxes are levied on the basis of the profits gained by producers or dealers, or of the income earned by individuals.

c. Category of property taxes. It consists of House Property Tax, Urban Real Estate Tax, Urban and Township Land Use Tax, Farmland Occupation Tax, Deed Tax, Resource Tax, Vehicle and Vessel Usage Tax, Vehicle and Vessel Usage License Plate Tax, Vessel Tonnage Tax. These taxes are levied on the properties kept and used by taxpayers.

d. Other taxes. These taxes include Stamp Tax, City Maintenance and Construction Tax, Fixed Asset Investment Orientation Regulation Tax and Banquet Tax.

Among the above taxes, Banquet Tax has been decentralized to the local government for administration for the decision of levying or not according to the local conditions and it is not levied any longer in all areas. The Levying of the Fixed Asset Investment Orientation Regulation Tax has been suspended.

Although designed, the Fuel Tax, Inheritance Tax and Social Security Tax have not yet been enacted for levying.

In addition to taxes, the non-tax revenue collected by the tax department by State uniform rules includes three items: Educational Surcharge, Mining District Use Fee and Culture Construction Fee. The People's Government at provincial level may rule that the tax department collects the Social Security Fee (at present including basic pension, basic medical insurance, unemployment insurance and work injury insurance).

In 2004, the total tax revenue collected by the Chinese tax department, financial department and the Customs is 2416.57 billion yuan, accounting for 91.5% of the total fiscal revenue and for 15.1% of GDP. Out of the total tax revenue, the taxes on goods and services are 1510.62 billion yuan, accounting for 64.4%, the taxes on income are 588.62 billion yuan, accounting for 25.1%, the taxes on property are 127.60 billion yuan, accounting for 5.5%. Within the total tax revenue, the revenue of the Central Government is 1416.61 billion yuan, accounting for 58.6% and the revenue of the local government is 999.96 billion yuan, accounting for 41.4%.

2. Tax Legislation

In the tax legislation and tax policy formulation, China stresses on

centralisation of tax power and uniformity of tax policy. For the time being, the State Organs having authority to formulate tax laws or tax policy mainly include the National People's Congress and its Standing Committee, the State Council, the Ministry of Finance, the State Administration of Taxation, the General Administration of Customs, and the Tariff and Classification Committee of the State Council.

a. The fundamental tax system is ruled by the tax laws. Tax laws are formulated by the National People's Congress, e. g. , the **Individual Income Tax Law of the People's Republic of China**; or formulated by the Standing Committee of the NPC, e. g. , the **Tax Collection and Administration Law of the People's Republic of China**.

b. The administrative regulations and rules concerning taxation are formulated by the State Council in accordance with relevant laws, e. g. , the **Detailed Rules for the Implementation of the Tax Collection and Administration Law of the People's Republic of China**, or under the authorisation of the National People's Congress and its Standing Committee, e. g. , the **Provisional Regulations of the People's Republic of China on Value Added Tax**.

c. The departmental rules concerning taxation are formulated by the Ministry of Finance, the State Administration of Taxation, the General Administration of Customs, and the Tariff and Classification Committee of the State Council in accordance with the relevant laws and administrative rules, e. g. , the **Detailed Rules for the Implementation of the Provisional Regulations of the People's Republic of China on Value Added Tax**, the **Provisional Measures for All People Reporting All Income for the Individual Income Tax**. For some important rules, they shall be promulgated after approval by the State Council, such as the **Measures of**

Taxing Shipping Income of Foreign Companies.

The formulation of tax laws shall follow four steps: drafting, examination, voting and promulgation. The four steps for the formulation of tax administrative regulations and rules are: planning, drafting, verification and promulgation. The four steps mentioned above shall take place in accordance with laws, regulations and rules.

Besides, the laws of China stipulate that some local tax regulations and rules may be formulated by the People's Congress and its Standing Committee in provinces, autonomous regions, municipalities directly under the State Council and some large cities in consideration of the practical condition and needs in their jurisdictions as long as they are not contradictory to the national tax laws, tax regulations and tax rules. The people's government of provinces, autonomous regions, municipalities directly under the State Council and some large cities may formulate tax rules in accordance with tax laws and regulations or local regulations and rules of their provinces, autonomous regions and municipalities directly under the State Council. Separate tax system shall be implemented in Hong Kong and Macao Special Administrative Regions, and the Central Government shall not levy taxes in these two special administrative regions.

The following table summarises up the issuance and implementation of the current tax laws, regulations and rules and relevant legislation in China.

China's Current Tax Legislation Table

Legislation	Date of Issue and Issued By	Effective Date
Provisional Regulations of the People's Republic of China on Value Added Tax Detailed Rules for Its Implementation	13 Dec. 1993, by State Council	1 Jan. ,1994
	25 Dec. , 1993, by Ministry of Finance	1 Jan. ,1994
Provisional Regulations of the People's Republic of China on Consumption Tax Detailed Rules for Its Implementation	13 Dec. ,1993, by State Council	1 Jan. ,1994
	25 Dec. , 1993, by Ministry of Finance	1 Jan. ,1994
Provisional Regulations of the People's Republic of China on Vehicle Acquisition Tax	22 Oct. ,2000, by State Council	1 Jan. ,2001
Provisional Regulations of the People's Republic of China on Import and Export Duty	23 Nov. ,2003, by State Council	1 Jan. ,2004
Provisional Regulations of the People's Republic of China on Business Tax Detailed Rules for Its Implementation	13 Dec. ,1993, by State Council	1 Jan. ,1994
	25 Dec. , 1993, by Ministry of Finance	1 Jan. ,1994
Provisional Regulations of the People's Republic of China on Enterprise Income Tax Detailed Rules for Its Implementation	13 Dec. ,1993, by State Council	1 Jan. ,1994
	4 Feb. , 1994, by Ministry of Finance	1 Jan. ,1994