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China Tax Law: NO. 707 Order of the State Council of the People's of Republic of China

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

(Promulgated by NO. 142 Order of the State Council of the People's of Republic of China on January 28th, 1994. Revised for the first time according to the Decision of the State Council on modifying the Regulations for the Implementation of the Individual Income Tax Law of the People's of Republic of China on December 19th, 2005. Revised for the second time according to the Decision of the State Council on modifying the Regulations for the Implementation of the Individual Income Tax Law of the People's of Republic of China on February 18th, 2008. Revised for the third time according to the Decision of the State Council on modifying the Regulations for the Implementation of the Individual Income Tax Law of the People's of Republic of China on July 19th, 2011. Revised for the fourth time according to NO. 707 Order of the State Council of the People's of Republic of China on December 18th, 2018.)

Article 1 These Regulations are formulated in accordance with the Individual Income Tax law of the People's Republic of China (hereinafter referred to as the "Individual Income Tax Law").

Article 2 For the Purposes of Article 1 of the Individual Income Tax Law, the term have domicile in China means reside in the territory of the PRC by reason of their household registration, family or economic interests; the term income gained within and outside China means income derived from sources inside and outside the territory of the PRC respectively.

Article 3 Unless otherwise provided by the finance and tax authorities under the State Council, the following income, whether the place of payment is within the territory of the PRC or not, shall be the income derived from sources inside the PRC:

- (1) Income from personal services provided inside China for the tenure of an office, employment, performance of a contract, and etc.;
- (2) Income from the lease of property to a lessee for use inside China;

- (3) Income from the licensing for use inside China of any kind of licensing rights;
- (4) Income from the assignment of immovable property in the PRC and assignment of other assets within the territory of the PRC;
- (5) Income from interest, dividends and extra dividends derived from enterprises, public institutions, other economic organizations and resident individuals within the PRC.

Article 4 For individuals who do not have domicile within the territory of the PRC reside in the PRC for an accumulated 183 days or more during a year and for less than six consecutive years, their income derived from sources outside the PRC which is paid by an enterprise or individual outside the PRC, shall be exempt from individual income tax after filing with the competent tax authorities. For individuals who reside in the PRC for an accumulated 183 days or more during a year but have a single trip out of the PRC for more than 30 days, their consecutive years threshold for an accumulated 183 days or more during a year shall reset.

Article 5 For individuals who do not have domicile within the territory of the PRC, but reside in the PRC consecutively or accumulatively for not more than 90 days in any one tax year, their income derived from sources inside the PRC which is paid by an employer outside the PRC, and which is not borne by the employer's establishment or business place within the PRC, shall be exempt from individual income tax.

Article 6 The scope of the categories of income stated in the Individual Income Tax Law include:

- (1) The term income from wages and salaries means 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 remuneration for personal services means 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, movie and television, sound recording, video recording, show, performance, advertising, exhibition, technical services, introduction services, brokerage services, agency services and other personal services.
- (3) The term income from author's remuneration means income derived by individuals by virtue of the publication of their works in books, newspapers and periodicals.
- (4) The term income from royalties means 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.

- (5) The term income from business operation means:
 - a) income derived from individual industrial and commercial households, individual proprietorship enterprises, partnership enterprises registered in China for the engagement of production and operation;
 - b) income derived by individuals from engagement in the provision of educational, medical, advisory and other services activities for consideration after having obtained licenses in accordance with the law;
 - c) income derived by individuals from contracted or leased operations, or from assigning such contracts or leases;
 - d) income derived by individuals from engagement in other production and business operation.
- (6) The term income from interest, dividends and extra dividends means income from interest, dividends and extra dividends that is derived by individuals by virtue of their possession of creditor's rights and share rights.
- (7) The term income from lease of property means income derived by individuals from the lease of immovable property, land use rights, machinery, equipment, vehicles and vessels, and other property.
- (8) The term income from transfer of property means income derived by individuals from the assignment of negotiable securities, equity interests, shares of property in partnership enterprise, immovable property, land use rights, machinery, equipment, vehicles and vessels, and other property.
- (9) The term contingent income means 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 by the competent tax authorities.

Article 7 Measures for the levy and collection of individual income tax on income from the transfer of shares shall be separately formulated by the State Council and shall be filed to the Standing Committee of the National People's Congress for record.

Article 8 The form of individual income include cash, property in kind, negotiable securities and other forms of economic interests. For property in kind, the taxable income shall be calculated based on the prices marked on the certificates obtained. For those property without certificates or the prices marked on the certificates are substantially lower, the taxable income shall be determined based on the market price. For negotiable securities, the taxable income shall be determined based on the par value and market price. For other forms of economic interests, the taxable income shall be determined based on the market price.

Article 9 The term interest on national debt obligations, as specified in item (2) of the first paragraph of Article 4 of the Individual Income Tax Law, means 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 means interest income derived by individuals by virtue of holding financial bonds issued with State Council's approval.

Article 10 The term subsidies and allowances paid in accordance with uniform regulations of the state, as specified in item (3) of the first paragraph of Article 4 of the Individual Income Tax Law, means special government subsidies issued in accordance with State Council regulations, academician allowance, and other allowances and subsidies that are exempt from individual income tax by State Council regulations.

Article 11 The term welfare benefits, as specified in item (4) of the first paragraph of Article 4 of the Individual Income Tax Law, means 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 means hardship subsidies paid to individuals by civil affairs authorities of the state.

Article 12 The term income derived by the diplomatic agents, consular officers and other personnel who are exempt from tax under the provisions of the relevant laws, as specified in item (8) of the first paragraph of Article 4 of the Individual Income Tax Law, means income that is tax-exempt under the Regulations of the PRC Concerning Diplomatic Privileges and Immunities and the Regulations of the PRC concerning Consular Privileges and Immunities.

Article 13 Other deductions, as specified in item (1) of the first paragraph of Article 6 of the Individual Income Tax Law, include the enterprise pension, occupational pension, commercial health insurance, tax deferred commercial pension insurance purchased by the individuals in accordance with the state provisions and other deductions that are specified by the State Council.

The total amount of the special deductions, additional deductions and other deductions specified by the law shall be limited to the taxable income of the individual during one tax year. The balance cannot be brought forward to next year.

Article 14 The term each time as specified in item (2), item (4) and item (6) of the first paragraph of Article 6 of the Individual Income Tax Law means:

- (1) in the case of income from remuneration for personal services, income from author's remuneration and income from royalties, 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 the lease of property, the income derived during one month;
- (3) in the case of income from interest, dividends and extra dividends, the income derived each time interest, dividends or extra dividends are paid;
- (4) in the case of contingent income, each payment of such income obtained.

Article 15 The terms costs and expenses, as specified in item (3) of the first paragraph of Article 6 of the Individual Income Tax Law, means all direct expenditures, indirect expenses allocated as costs, as well as marketing expenses, administrative expenses and financial expenses incurred by individual industrial and commercial households, individual proprietorship enterprises, partnership enterprises and individuals while engaging in production and business operation, and the term losses means the fixed assets and inventory losses, damages, abandonment losses, asset transfer losses, bad debt losses, losses caused by natural disasters and other force majeure factors and other losses incurred by individual industrial and commercial households, individual proprietorship enterprises, partnership enterprises and individuals in the course of production and business operation.

For individuals who have income from operations and without comprehensive income, the expenses of RMB60,000, special deductions, special additional deductions and other deductions specified by the law shall be deducted, when calculating the amount of taxable income of each tax year. The special additional deductions shall be deducted during the course of final settlement of tax payment.

For any production and operation activities without complete and accurate tax information and is unable to correctly calculate the amount of taxable income, the amount of taxable income shall be determined by the competent tax authorities.

Article 16 The original value of the property, as specified in item (5) of the first paragraph of Article 6 of the Individual Income Tax Law, shall be calculated in accordance with the following methods:

- (1) For negotiable securities, shall be the price for which they were purchased and related expenses paid according to regulations at the time of purchase;
- (2) For buildings, shall be the construction expenses or purchase price, and other related expenses;
- (3) For land use rights, shall be the amount paid to acquire the land use rights, land development expenses and other related expenses;
- (4) For machinery, equipment, vehicles and vessels, shall be the purchase price, freight, installation expenses and other related expenses;
- (5) For other property, the original value shall be determined by reference to 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 competent tax authorities.

The term reasonable expenses, as specified in item (5) of the first paragraph of Article 6 of the Individual Income Tax Law, means relevant expenses paid in accordance with regulations at the time of sale.

Article 17 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 18 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 Individual Income Tax Law.

Article 19 The term donation to education, poverty relief and other public welfare charities, as specified in the third paragraph of Article 6 of the Individual Income Tax Law, means the donation made by individuals to education, poverty relief and other public welfare charities, through social organizations or government agencies in the PRC. The term taxable income means the taxable income before the deduction of donation amount.

Article 20 For the comprehensive income or income from operations derived by a resident individual from sources inside and outside the PRC shall be combined respectively to calculate the amount of tax payable. For other income derived from sources inside and outside the PRC shall calculate the amount of tax payable separately.

Article 21 The term income tax paid outside the territory of the PRC, as specified in Article 7 of the Individual Income Tax Law, means the amount of income tax payable, and actually paid, on income derived by a resident individual from sources outside the PRC, according to the laws of the country or region from which that income was derived.

The term amount of tax payable on income derived by the taxpayer from sources outside the PRC computed in accordance with this Law, as specified in Article 7 of the Individual Income Tax Law, means the limit for amount of income tax after the deduction of income tax amount for comprehensive income, income from operations and other income paid outside the territory of the PRC (hereinafter referred to as the limit for deductions). Unless otherwise provided by the finance and tax authorities under the State Council, the sum of limit for deductions on comprehensive income, income from operations and other income derived from a country (region) shall be the limit for deductions for that country (region). If the actual amount of individual income tax paid by a resident individual in a country or region outside the PRC 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 PRC. If the amount exceeds the limit for deductions 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 22 When resident individuals apply for approval to deduct the amounts of individual income tax paid outside the PRC in accordance with Article 7 of the Individual Income Tax Law, they shall provide the original tax payment receipts issued by the tax authorities outside the PRC.

Article 23 The interest, as specified in the second paragraph of Article 8 of the Individual Income Tax Law, shall be computed in accordance with the benchmark interest rate for RMB loans published by People's Bank of China at the last day of tax filing period to which the tax payment belongs during the same period as the tax payment period. Additional tax shall be collected on a daily basis from the first day following the expiration of the tax filing period to the day on which the tax payment period expires. If the taxpayer has settled the tax payment before the expiration day of tax payment period, the interest shall be collected up to the payment day.

Article 24 When withholding agents make taxable payments to individuals, they shall withhold tax in accordance with the Individual Income Tax Law, pay the tax over to the treasury in a timely manner, and keep special records for future inspection.

The term payments, as specified in the preceding paragraph, 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 25 The circumstances that final settlement of tax payment is required for comprehensive income include:

- (1) derive comprehensive income from two places or more and the balance exceeds RMB60,000 after deducting special deductions from annual comprehensive income;
- (2) derive one item or more income from remuneration for personal services, income from author's remuneration, income from royalties and the balance exceeds RMB60,000 after deducting special deductions from annual comprehensive income;
- (3) the amount of tax paid in advance in the tax year is less than the amount of tax payable;
- (4) the taxpayer applies for tax refund.

The taxpayers shall provide their bank account opened within the territory of the PRC and apply for tax refund in the place of final settlement of tax payment.

The specific measures for final settlement of tax payment shall be formulated by the competent tax authorities under the State Council.

Article 26 The term withholding and declaration for all the taxpayers and in full amount, as specified in the second paragraph of Article 10 of the Individual Income Tax, means the withholding agents shall submit the relevant information, amount of income, deduction items and amount, specific amount and total amount of tax withheld and other relevant tax related information of the individuals to the competent tax authority for all taxpayers and in full amount within 15 days of the month following the withholding of tax.

Article 27 The specific measures for the tax declaration place for taxpayers and other relevant matters shall be formulated by the competent tax authorities under the State Council.

Article 28 Resident individuals can provide the relevant information of special additional deductions to the withholding agents to deduct special additional deductions from withheld tax when they receive salary and wages. Taxpayers who receive salary and wages from two places or more and deduct special additional deductions by the withholding agents, only can choose to deduct the same special additional deductions item from the income derive from one place during a tax year.

Resident individuals who derive income from remuneration for personal services, income from author's remuneration, income from royalties, shall provide the relevant information to the tax authority and deduct special additional deductions during the course of final settlement of tax payment.

Article 29 Taxpayers can entrust withholding agents or other units or individuals to handle the final settlement of tax payment.

Article 30 Withholding agents shall compute and make the withholding declaration in accordance with the information provided by the taxpayers. No alteration shall be made to the information provided by the taxpayers without authorization.

When the taxpayers find out the personal information, income, withheld tax etc. submitted or declared by the withholding agents are not in line with the actual situation, they are entitled to request the withholding agents to amend. If the withholding agents refuse to amend, they shall report it to the tax authority. The tax authority shall deal with the issue promptly.

Taxpayers and withholding agents shall keep the materials relating to special additional deductions in accordance with the regulations. Tax authorities may carry out spot check on the special additional deductions information provided by the taxpayers. The specific measures shall be formulated separately by the competent tax authorities under the State Council. If tax authorities find out that a taxpayer has provided false information, it shall order it to make corrections and notify the withholding agent. If the circumstances are serious, the relevant departments shall deal with them in accordance with the law, incorporate them into the credit information system and implement joint punishment.

Article 31 If there is any error in the final settlement information provided by a taxpayer when applying for tax refund, the tax authorities shall inform him or her to correct it. The tax authorities shall deal with the tax refund promptly after corrected by the taxpayer.

Where a withholding agent has not turned over and deposited the tax withheld into the Treasury, it shall not affect the taxpayer's application for tax refund in accordance with the regulations. The tax authority shall deal with the tax refund based on the relevant materials provided by the tax payer.

Article 32 Foreign currency income shall be converted into RMB for the computation of the amount of taxable income at the central parity exchange rate published by the People's Bank of China on the last day of the month preceding that the tax declaration or withholding declaration is made. At the time of the annual settlement after the end of the year, 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 RMB according to the central parity exchange rate published by the People's Bank of China on the last day of the preceding Tax Year.

Article 33 When tax authorities pay commissions to withholding agents in accordance with Article 17 of the Individual Income Tax Law, they shall issue to the withholding agents refund certificate on monthly basis, on the strength of which the withholding agent shall carry out treasury refund procedures in accordance with the relevant regulations on state treasury administration.

Article 34 The models for individual income tax returns, individual income tax withholding returns and individual income tax payment receipts shall be formulated by the competent tax authorities under the State Council in a unified manner.

Article 35 Collection of individual income tax for military personnel shall be implemented in accordance with the relevant regulations.

Article 36 These Regulations shall be implemented from January 1, 2019.