Individual Income Tax Law of the PRC

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Chapter I — General Provisions

Article 1 — Individuals who have a domicile within the territory of China, or who do not have a domicile but have resided within the territory of China for an aggregate of 183 days or more in a tax year, shall be resident individuals. Resident individuals shall pay individual income tax on their income derived from both within and outside the territory of China in accordance with the provisions of this Law.

Individuals who do not have a domicile and do not reside within the territory of China, or who do not have a domicile but have resided within the territory of China for an aggregate of less than 183 days in a tax year, shall be non-resident individuals. Non-resident individuals shall pay individual income tax on their income derived from within the territory of China in accordance with the provisions of this Law.

The tax year shall commence on January 1 and end on December 31 of the Gregorian calendar year.

Article 2 — Individual income tax shall be paid on the following categories of individual income:

(1) Income from wages and salaries;

(2) Income from remuneration for personal services;

(3) Income from author’s remuneration;

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(4) Income from royalties;

(5) Income from business operations;

(6) Income from interest, dividends and bonuses;

(7) Income from lease of property;

(8) Income from transfer of property;

(9) Incidental income.

Resident individuals shall calculate individual income tax on a consolidated basis on the income specified in items (1) through (4) of the preceding paragraph for each tax year. Non-resident individuals shall calculate individual income tax on a monthly or itemized basis on the income specified in items (1) through (4) of the preceding paragraph. Taxpayers shall calculate individual income tax separately on the income specified in items (5) through (9) of the preceding paragraph in accordance with the provisions of this Law.

Article 3 — Individual income tax rates shall be:

(1) For consolidated income, the progressive tax rates in excess of specific amounts as set forth in the appended Table 1 of this Law shall apply;

(2) For income from business operations, the progressive tax rates in excess of specific amounts as set forth in the appended Table 2 of this Law shall apply;

(3) For income from interest, dividends and bonuses, income from lease of property, income from transfer of property, and incidental income, the proportional tax rate of 20% shall apply.

Article 4 — The following categories of income shall be exempt from individual income tax:

(1) Awards in science, education, technology, culture, public health, sports, environmental protection and other fields granted by the provincial people's governments, ministries and commissions under the State Council, units of the People's Liberation Army at or above the army level, and foreign and international organizations;

(2) Interest on government bonds and financial bonds issued by the State;

(3) Subsidies and allowances distributed in accordance with the uniform provisions of the State;

(4) Welfare benefits, survivor's pensions and relief payments;

(5) Insurance indemnities;

(6) Military demobilization payments and severance pay for servicemen;

(7) Settlement payments, severance pay, retirement pay, and retirement living allowances distributed to cadres and employees in accordance with the uniform provisions of the State;

(8) Income of diplomatic representatives, consular officers and other personnel of foreign embassies and consulates in China that is exempt from tax in accordance with the provisions of relevant laws;

(9) Income exempt from tax under international conventions and agreements to which the Chinese Government is a party;

(10) Other tax-exempt income provided for by the State Council.

Article 5 — Individual income tax may be reduced under any of the following circumstances:

(1) Income of the disabled, the elderly, and the dependents of martyrs;

(2) Losses suffered from natural disasters or other force majeure events.

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The specific measures and extent of tax reduction shall be prescribed by the State Council and submitted to the Standing Committee of the National People's Congress for filing.

Chapter II — Scope of Taxable Income and Tax Rates

Article 6 — The amount of taxable income shall be calculated as follows:

(1) For consolidated income of a resident individual, the taxable income shall be the balance of the total income of each tax year after deducting expenses of 60,000 yuan, special deductions, special additional deductions, and other deductions determined in accordance with the law;

(2) For income from wages and salaries of a non-resident individual, the taxable income shall be the balance of the monthly income after deducting expenses of 5,000 yuan;

(3) For income from remuneration for personal services, author's remuneration and royalties, the taxable income shall be the amount of each instance of income after deducting expenses in accordance with the prescribed methods;

(4) For income from business operations, the taxable income shall be the balance of the total income of each tax year after deducting costs, expenses and losses;

(5) For income from lease of property, the taxable income shall be the amount of each instance of income after deducting expenses in accordance with the prescribed methods;

(6) For income from transfer of property, the taxable income shall be the balance of the income from the transfer of property after deducting the original value of the property and reasonable expenses;

(7) For income from interest, dividends and bonuses, and incidental income, the taxable income shall be the amount of each instance of income.

The special deductions specified in item (1) of the first paragraph of this Article shall include basic old-age insurance, basic medical insurance, unemployment insurance, and housing provident fund paid by resident individuals in accordance with the scope and standards prescribed by the State. The special additional deductions shall include expenses for children's education, continuing education, medical treatment for serious illnesses, housing loan interest or housing rent, and support for the elderly. The specific scope, standards and implementation steps shall be determined by the State Council and submitted to the Standing Committee of the National People's Congress for filing.

Article 7 — The individual income tax paid by a resident individual on income derived from outside the territory of China may be credited against the tax payable. The credit amount shall not exceed the tax payable on such income calculated in accordance with the provisions of this Law.

Article 8 — Under any of the following circumstances, the tax authorities shall have the right to make tax adjustments using reasonable methods:

(1) Where a transaction between an individual and its related parties does not conform to the arm's length principle, thereby reducing the taxable income of the individual or its related parties without justifiable reasons;

(2) Where an enterprise controlled by a resident individual, or by a resident individual and a resident enterprise, is established in a country (region) where the actual tax burden is significantly lower, and it does not distribute or reduces the distribution of its profits attributable to the individual without reasonable business needs;

(3) Where an individual has other arrangements without reasonable commercial purposes, thereby obtaining improper tax benefits.

Where tax adjustment is required in accordance with the provisions of the preceding paragraph and additional tax payment is necessary, the tax plus interest shall be paid in accordance with the law.

Chapter III — Calculation of Tax Payable

Article 9 — Individual income tax shall be calculated with the taxpayer as the tax payment entity and the entity or individual paying the income as the withholding agent.

Article 10 — Under any of the following circumstances, a taxpayer shall file a tax return in accordance with the law:

(1) Having obtained consolidated income and requiring settlement of the tax payable;

(2) Having obtained taxable income for which there is no withholding agent;

(3) Having obtained taxable income for which the withholding agent has failed to withhold the tax;

(4) Having obtained income from outside the territory of China;

(5) Cancellation of Chinese household registration due to emigration;

(6) Having obtained income from business operations;

(7) Other circumstances provided for by the State Council.

Withholding agents shall, in accordance with the provisions of the State, handle full and comprehensive withholding declarations and provide taxpayers with information such as their individual income and the tax withheld.

Article 11 — A resident individual shall settle the consolidated income tax payable within the period from March 1 to June 30 of the following year after the end of the tax year. Where a withholding agent withholds tax on a monthly or itemized basis, the tax shall be turned over to the State Treasury within the first 15 days of the following month and the withholding individual income tax return shall be submitted to the tax authorities.

Article 12 — A taxpayer deriving income from business operations shall calculate and pay individual income tax on a monthly or quarterly prepayment basis. The prepayment of tax returns shall be submitted to the tax authorities within the first 15 days of the following month or quarter, and the tax shall be paid in advance. The settlement shall be made before March 31 of the following year.

Article 13 — Where a taxpayer derives taxable income for which there is no withholding agent, the taxpayer shall file a tax return with the tax authorities and pay the tax within the first 15 days of the following month after the income is derived.

Article 14 — Where a withholding agent fails to withhold or is unable to perform the withholding obligation in accordance with the law, the taxpayer shall pay the tax. Where the taxpayer fails to pay the tax in accordance with the law, the tax authorities may recover the tax payable from other payments receivable by the taxpayer within the territory of China from other payers in China.

Article 15 — The departments of public security, the People’s Bank of China, financial supervision and administration, and other relevant departments shall assist the tax authorities in confirming the identity information and financial account information of taxpayers. The relevant departments shall lawfully include the compliance with this Law by taxpayers and withholding agents in the credit information system and implement joint incentives and disciplinary actions.

Chapter IV — Tax Preferences

Article 16 — The specific scope, standards and implementation steps of the special additional deductions specified in the first paragraph of Article 6 of this Law shall be determined by the State Council and

submitted to the Standing Committee of the National People's Congress for filing.

Article 17 — Where the individual income tax reduction or exemption provided for in Article 4 and Article 5 of this Law is applied, the scope, duration and conditions of the reduction or exemption shall be prescribed by the State Council.

Article 18 — For foreign individuals who are non-resident individuals meeting the conditions prescribed by the State Council, the tax exemption on the following subsidies and allowances may be retained for a transitional period of three years from January 1, 2019 to December 31, 2021:

(1) Housing subsidies, meal subsidies and relocation allowances received in non-cash form or in the form of reimbursement of actual expenses;

(2) Laundry fees received in non-cash form or in the form of reimbursement of actual expenses;

(3) Reasonable allowances for business travel within and outside the territory of China;

(4) Home leave expenses for visiting family;

(5) Language training expenses and children's education expenses.

Chapter V — Collection and Administration

Article 19 — The administration of individual income tax collection shall be governed by the Law of the People's Republic of China on the Administration of Tax Collection and the provisions of this Law.

Article 20 — The tax authorities shall strengthen the administration of individual income tax collection and establish a sound information management system.

Article 21 — Withholding agents shall withhold and turn over the tax payable in accordance with the provisions of tax laws and administrative regulations and shall not refuse to do so. Where a withholding agent refuses to withhold or fails to perform the withholding obligation, the tax authorities shall handle the matter in accordance with the provisions of relevant laws and administrative regulations.

Article 22 — The specific methods for the calculation and collection of individual income tax shall be prescribed by the finance and tax authorities under the State Council.

Chapter VI — Supplementary Provisions

Article 23 — Individual income tax shall be calculated in Renminbi. Where income is derived in a currency other than Renminbi, the amount shall be converted into Renminbi at the market-based central parity rate of Renminbi exchange rate for tax calculation. Where income is settled in advance or on an installment basis, the tax payable shall be calculated in Renminbi in accordance with the exchange rate for the period in which the tax return is filed.

Article 24 — The State Council shall formulate implementing regulations for this Law.

Article 25 — This Law shall come into effect on the date of promulgation.

Note: The appended Table 1 (Consolidated Income Tax Rate Table) and Table 2 (Business Income Tax Rate Table) are not reproduced in this translation but are available in the official Chinese text and on the website of the State Taxation Administration.

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