



Income Tax of Foreign-Invested Business and Organization of Its Payment in DPRK

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Abstract: We have explained about income tax of foreign-invested businesses in DPRK, including types of enterprise incomes and others, the way of tax calculation and its payment, and exemption or reduction measures to them in DPRK. We set different kinds as incomes of a foreign-invested business, object of enterprise income tax, according different sectors. And more favorable tax rates and mode of its payment over other countries in DPRK are fixed in this paper.

Keywords: Enterprise Income Tax, Foreign-Invested Business, Income, Object of Taxation, Tax, Mode of Payment

1. Introduction

Recently many countries are applying tax incentives such as low tax rate and exemption measures.

China grants a five-year tax holiday to FIEs engaged in a production business, and which are scheduled to operate for a period of at least ten years. A company is exempt from enterprise income tax in its first two profitable years. The first profitable year is defined as the year in which the firm makes a profit after offsetting allowable accumulated losses. The company is then allowed a 50 percent tax reduction over the third, fourth and fifth years.[2, 3, 6]

In India, corporate income tax rate is 30 percent for resident companies and 40 percent for nonresident companies.[1, 4, 5]

In china corporate income tax will likely be applicable to FIE such as 25 percent for general tax payers, 20 percent for small and medium enterprises, and 15 percent for specific encouraged industries. [7]

Dividends paid to a Hong Kong parent company which has 25% or more shareholding in a FIE is subject to a reduced withholding tax rate of 5%.

In a couple recent decisions made by two local tax authorities in China, both involving equity transaction of a non-resident foreign enterprise with operational subsidiary in China, the incomes realized from such offshore equity transfer were deemed as PRC-sourced income and a 10% income tax was imposed on the capital gain. [3, 8-10]

Today in our country there has been enforcing the struggle for transforming the state into the economic power state, and expanding and developing our external economic relations by carrying out the 5 –year strategy for developing the national economy pointed in Report of the Seventh Congress of the Workers’ Party of Korea on the Work of the Central Committee by the respected Comrade Kim Jong Un.

In the course of socialist construction the Democratic People’s Republic of Korea has enhanced the might of self-independent national economy with self-strength under the wise leadership of the great leaders and developed economic cooperation with other countries upon the principle of equality and mutual benefit.

And the state takes system and law action needed for developing the foreign economic relations and conducted the amendment to them in keeping with real conditions and the world trend continuously, which can guarantee more favorable investment environment and conditions for foreign investors.

The Tax Law of the DPRK for Foreign-Invested Businesses and Foreign Individuals formulates enterprise income tax that is applied to foreign-invested business more favorable than the other countries and areas.

So in this paper we have dealt with more favorable income tax and the way of paying it in foreign-invested businesses in DPRK

2. Object of Income Tax of Foreign-Invested Business

It is mentioned that a foreign-invested business shall pay income tax on earnings derived from business activities in the territory of the DPRK and other incomes earned in the DPRK in the Article 8 of the Tax Law of the DPRK for Foreign-Invested Businesses and Foreign Individuals.

A foreign-invested business which conducts business activity shall pay to taxation organs enterprise income tax on earning inside the territory of the DPRK, other income and earnings outside the DPRK.

Enterprise income tax is a kind of income tax on earnings derived from production and business activities of a foreign-invested business.

In other words, it is tax on earnings from a result of business activities of a foreign-invested business for a particular period.

Foreign-invested businesses, the payer of enterprise income tax, include contractual joint venture, equity joint venture or wholly foreign-owned enterprises, foreign enterprises.

Incomes of a foreign-invested business, object of enterprise income tax, consist of different kinds of income in different sectors.

They can be divided into incomes derived from business activities and other incomes which are not direct related to main types of business activities, and incomes earned outside the DPRK.

Incomes from business activities of a foreign-invested business include the income from sales proceeds of products in a production sector(industrial, agricultural, fishery sectors), from the delivery of finished structures in construction, prospecting and development projects, from sales proceeds of products in a scientific research and technical development sector, from sales proceeds of products in a information industry, and from publishing and printing sectors, charges for transport, telecommunications and electricity, the sales proceeds in commercial sectors (including trade), interests and commissions in financial and insurance sectors, the sales proceeds of foodstuffs, public service, tourist, advertising, game, hotel and service fees, incomes from agencies of a foreign enterprise, and other incomes within the admitted categories.

Other incomes created by a foreign-invested business not directly related to main types of business include income from interests, dividends, lease or transfer of fixed assets, sales proceeds of assets, royalties for intellectual property rights and technical know-how, from such business services as technical adviser, counsel, growing skilled-workers, royalties for donation, and from reprocessing and exporting refuse dumps and by-products or selling them to trade or service institutions.

Incomes created by a foreign-invested business outside the territory of the DPRK shall include earnings made in branches, agencies, representative or subsidiaries such as income from dividends, sales proceeds of assets, royalties or

transfer for intellectual property rights and technical know-how, from such business services as technical adviser, counsel, growing skilled-workers, from donation, from penalties or arrearage, commissions and the profits due to the change of the rate of foreign exchange, and income from the delivery of finished structures.

In the DPRK the fiscal year of enterprise income tax collection shall be regulated as the period from January 1 to ends on December 31 of each calendar year.

For the first year in which the foreign-invested business starts its operation, the year of tax payment shall be from the date of establishment to December 31 of the same year, and for the last year in which it is dissolved, the year of tax payment shall be from January 1 to the day of dissolution.

Enterprise income tax shall be applied to the net profit or to incomes.

Enterprise income tax of a foreign-invested enterprise shall be applied to the net profit, which remains after the deduction of turnover tax, business tax, or resources tax from the gross profit, which shall be determined by deducting costs from gross revenue.

Enterprise income tax of a foreign enterprise shall be applied to its total incomes including different earnings.

In case construction, assembling or installing a project, or processing or manufacturing of a heavy machine and equipment takes more than one year to complete, enterprise income tax shall be imposed in each fiscal year on the remainder after deduction of expenditures from the revenue created according to the amount of work performed during the same year.

3. Income Tax Rate

The income tax rate which is applied to foreign-invested businesses in our country is more helpful than other countries and areas.

The rates of enterprises income tax shall be 25 per cent of the net profit of a foreign-invested business and 20 percent in case of a business funded by an overseas Korean holding the citizenship of the DPRK.

The rates of enterprise income tax shall be 10 per cent of the net profit of a foreign-invested business engaged in such priority sectors as high technology, infrastructure construction, scientific research and technological development.

The rates of enterprise income tax shall be 20 per cent of the amount of earnings created by a foreign enterprise such as income from dividends, interests, rent, royalties or other sources.

Enterprise income tax shall be calculated by applying the set rate either to the net profit or to the amount of income.

Enterprise income tax of a foreign-invested business shall be calculated by applying set rate to the net profit after the deduction of turnover tax, business tax, resource tax, production and distribution cost and other expenses from total income(incomes from business activities, other incomes, incomes outside the territory of the DPRK).

Enterprise income tax of a foreign enterprise shall be determined by applying the set rate to income earned by its permanent representatives (commissions, dividends and other incomes created after completion of transactions in its permanent representatives in the territory of the DPRK).

An estimated amount of enterprise income tax shall be paid for each quarter and the full amount shall be settled at the end of the year.

Where it is impossible to calculate the exact figures for any quarterly net profit, the estimated amount equivalent to 25 per cent of the income tax paid for the previous year shall be paid. In case of a business of a seasonal character, the estimated amount may be paid at the end of the year, without reference to the quarter.

4. Mode of Income Tax Payment

The quarterly estimated amount of enterprise income tax is the quarterly net profit multiplied by the set rate.

Where it is impossible to calculate the exact figures for any quarterly net profit, the estimated amount equivalent to 25 per cent of the income tax paid for the previous year shall be paid.

In case of starting a business within the fiscal year or no enterprise income tax paid the last year, enterprise income tax should be paid by an estimated quarter profit plan in financial plan multiplied by the set rate.

An estimated amount of enterprise income tax shall not be paid for last quarter of the given year, but the full amount shall be settled at the end of the year.

A foreign-invested business which is conducting production activities over a year such as in an agricultural, farming, fruit-growing, and fishery sector shall pay an estimate amount upon raising the quarter net profit and full amount by the given year.

Where it is impossible to calculate the exact figures for any net profit, it shall pay an estimated amount of the year regardless of any quarter.

When the full enterprise income tax shall be paid according to the annual settlement, the overpaid amount shall be subtracted or repaid from the amount of next settlement and the shortfall shall be paid additionally.

Enterprise income tax shall be paid within 15 days of the first month of the following quarter.

A foreign-invested business shall, within 2 months from the end of each fiscal year, submit the enterprise income tax returns and the financial statements audited by an office concerned to the taxation institution, before paying enterprise income tax for the year.

A foreign-invested business shall submit to the taxation organ the annual financial statements examined by an audit office within 40 days after the end of the fiscal year.

In case of dissolution due to the expiry of the term of operation, judgment by a court or natural disasters and other unavoidable circumstances, a foreign-invested business shall, within 20 days of the declaration of dissolution, have 50 per cent of the payable enterprise income tax retained by the

taxation institution as a security for tax and, within 15 days of the decision of the liquidation, pay the enterprise income tax.

The security for tax may be used for the payment of income tax.

In case of merger or break-up, the foreign-invested business shall settle accounts of the enterprise income earned till then and pay the outstanding enterprise income tax with priority over its other liabilities within 20 days of the declaration of the event.

The day of the declaration of the merger or break-up of a foreign-invested business shall be the day due to the expiry of the term of operation, the day of the declaration of break-up due to judgment by a court or the day of break-up set by the state due to natural disasters and other unavoidable circumstances.

A foreign-invested business that is dissolved, integrated or separated shall submit financial statements to the taxation institution within 20 days of the declaration of the event.

An enterprise income tax on other incomes created by foreign enterprises with their permanent representatives in the territory of the DPRK shall be notified and paid by the person enriched.

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Enterprise income tax on the income earned by a branch of a foreign-invested business shall be paid by the head office.

In case enterprise income tax rates to be applied to the head office and branches of a foreign-invested business in the territory of the DPRK vary due to differences in categories of business and locations, different rates shall be applied respectively.

In case the head office of a foreign-invested business is outside and its branches are inside the Economic and Trade Zone, the head office shall pay to the taxation organs outside the Zone by applying different tax rates respectively.

In case the head office of a foreign-invested business is inside and its branches are outside the Economic and Trade Zone, the head office shall pay to the taxation organs outside the Zone by applying different tax rates respectively.

Enterprise income tax on the income earned by a branch of a foreign-invested enterprise shall be paid by a branch.

The gross revenue of a foreign-invested business shall not include the income of its branches.

Where enterprise income tax on the income earned by establishing a branch outside the territory of the DPRK has been paid in the country concerned, the amount in question may be deducted.

In case the amount of enterprise income tax paid abroad is equivalent to or less than the sum calculated on the basis of the tax rates stipulated in these regulations, the amount which has been actually paid shall be deducted, and in case the amount paid is greater than the amount calculated, the surplus shall not be deducted.

In case a foreign-invested business in the territory of the

DPRK established contractual or equity joint venture and subsidiaries(agencies), enterprise income tax on dividends from them, other incomes, shall be paid according to the set rates and methods.

Several favorable exemption measures shall be applied on enterprise income tax for a foreign-invested business.

First, tax may not be imposed on the dividends earned by a foreign-invested enterprise from business activities inside the DPRK.

In case the government of a foreign country or an international financial organization grants loans to the government of the DPRK or a state bank, or in case a foreign-invested bank gives loan to a bank or an enterprise of the DPRK on such favorable terms as low interest rates(lower than the London Inter-Bank Offered Rate) and the return period of at least 10 years including a grace period, the enterprise income tax on the interest on the loan may be exempted.

In this case, the bank or enterprise of the DPRK which gets loan from other country's bank shall submit to the taxation institution an application of exempting or reducing enterprise income tax including the certificates of the institutions.

The foreign-invested business that operates for at least 10 years either in the priority sectors may be entitled to an exemption from enterprise income tax for 3 years from the first profit-producing year and reduction of up to 50 per cent for the 2 ensuing years.

In case a foreign-invested business that is confirmed as a priority sector is going to exempt or reduce enterprise income tax, a copy of the certificate approved by the state or an application of exempting or reducing enterprise income tax including the certificates of the institutions shall be submitted to the taxation institution and examined.

The DPRK has been applying exemption or reduction measures more favorable to a foreign-invested business which invests in infrastructure development

A foreign-invested business engaged in infrastructure development such as railways and roads, communications, airports and ports may be granted full exemption from enterprise income tax for 4 years after the first profit-producing year and a reduction of up to 50 percent for the following 3 years.

In case a foreign-invested business is engaged in infrastructure development is going to exempt or reduce enterprise income tax, an application of exempting or reducing enterprise income tax including the certificates of the institutions shall be submitted to the taxation institution and examined.

In case the term of a foreign-invested bank is longer than 10 years, enterprise income tax shall be exempted for the first profit-producing year and may be reduced by up to 50 per cent for the following 2 years.

And no tax or, as the case may be, low-rate tax shall be payable for the income accruing from offshore banking.

In case a foreign investor reinvests his legal profits from business inside the territory of the DPRK to increase his registered capital or establish another foreign-invested

enterprise and run it for more than 5 years, 100 percent of the enterprise income tax that has been paid on the reinvested portion of the profit may be refunded.

In case a foreign investor reinvests his legal profits from business, 50 per cent of the enterprise income tax that has been paid on the reinvested portion of the profit may be refunded and the amount deducted from the enterprise income tax to be paid next time may be 50 percent of his legal profits multiplied by the tax rate of the reinvested portion of the profit.

In case the reinvested capital is withdrawn within 5 years of the start of operation, the enterprise income tax of the reinvested purport of profit shall not be deducted or refunded.

The term of exemption or reduction of enterprise income tax shall be calculated successively from the first profit-producing year.

The profit-producing year shall be set as the year when profit is made in financial settlement

In case loss is caused during the term of exemption or reduction of enterprise income tax, the loss-causing year is included in the term of exemption or reduction of enterprise income tax.

In case of a loss in the operation, a foreign-invested business may carry forward its loss in reserve funds, if it fails to do so, it may carry it forward in financial settlement remaining after paying enterprise income tax, but the total period does not exceed 4 years.

A foreign-invested business that wishes to have its enterprise income tax exempted or reduced shall submit an application to the taxation institution for evaluation and approval.

In case the foreign-invested business which had the enterprise income tax exempted or reduced withdraws or is dissolved within 10 years of the exemption or reduction, or in case it fails to make due investment or is engaged only in the service business instead of the licensed manufacturing business, it shall repay the enterprise income tax which has been exempted or reduced.

The enterprise income tax which has been exempted or reduced shall be repaid, in principle, in the form of currency, but in case it cannot do so, for unavoidable reasons, a foreign-invested business shall repay in the form of floating or fixed assets.

The value of property in kind for enterprise income tax shall be determined by evaluated scrip value based on the international market value.

Like this, in the DPRK, enterprise income tax shall be applied to foreign-invested business in overall spheres including tax rate, mode of payment, measures for exemption and reduction.

Recently our country have taken continuously real measures for developing external economic relations, so that work for establishing and running economic development zone in keeping with the characteristics of each province, which make attractive to investors in the world countries.

It is the consistent policy of our Party and state to contribute to developing the economy of our country and

improving people's lives by developing external economic relations under the principle of complete equality and mutual benefit and to promote friendly relations with other countries.

We should arrange more favorable investment environment and conditions and contribute to the development of external economic relations on the view point of Juche by consolidating the taxation management.

5. Conclusion

We have explained more favorable tax system of DPRK than other countries and areas through the study on income tax applied to FIEs in DPRK.

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