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PRC State Council Decree No. 512

Implementation Rules of the Enterprise Income Tax Law of the People's Republic of China

(adopted by 197th Session of Executive Meeting of the State Council is hereby promulgated and will take effect as of January 1, 2008)

Premier Wen Jiabao

December 6, 2007

Chapter 1 General provisions

Article 1 This rule is enacted in accordance with the provisions of the Enterprise Income Tax Law of the People's Republic of China (the "EIT Law").

Article 2 Individually-owned sole proprietorship enterprises, partnership enterprises referred to in Article 1 of the EIT Law means individually-owned sole proprietorship enterprises and partnership enterprises established under the laws, administrative rules and regulations of the PRC.

Article 3 Enterprises established in the PRC under PRC laws referred to in Article 2 of the EIT Law shall include enterprises, institutions, social groups and other organizations that derive income and are incorporated in accordance with PRC laws and administrative rules and regulations.

Enterprises incorporated under the law of other countries or regions referred to in Article 2 of the EIT Law shall include such enterprises and other organizations incorporated in accordance with the laws of other countries or regions thereof.

Article 4 Effective management institutions referred to in Article 2 of the EIT Law means such institution as exercise substantive and comprehensive management and control over an enterprise's production, operation, staff, accounting and property, etc.

Article 5 An establishment and place of business referred to in Article 2(3) of the EIT Law means an establishment and place of business by which production and business operations are conducted in the PRC, including:

- (1) Administrative and operational institutions and office;
- (2) Factory, farm land and site for exploiting natural resources;
- (3) Place of furnishing labor services;
- (4) Place for providing such engineering projects as construction, installment, assembly, repair, exploitation, etc.; and
- (5) Other institutions and places wherein production and operation is engaged.

Where non-resident enterprises instruct agents to conduct such production and operational activities within the PRC through entering into agreements by way of agency either as entities or individuals or storing and delivering goods, etc., such agency shall be deemed to be the institution and offices of such non-resident enterprises within PRC.

Article 6 The income referred to in Article 3 of the EIT Law shall include such income as derived from sale of goods, offer of labor services, property transference, dividends from entity investment, interest, rental, licensing fees, receipt of donations and others.

Article 7 PRC-sourced income and foreign-sourced income referred to in Article 3 of the EIT Law shall be determined in accordance with the principles as follows:

- (1) as for income from sale of goods, the source thereof shall be the place where the transaction occurs;
- (2) as for income from offer of labor services, the source thereof shall be the place where employment is rendered;
- (3) as for income from property transference, the source thereof for transfer of real property shall be the place where the real property is located; the source thereof for transfer of personal property shall be the place where the transferor enterprise or institution and place of business thereof are located; the source thereof for transfer of entity investment shall be the place where the investment-receiving enterprise is located;
- (4) as for income from dividends and bonuses from entity investment, the source thereof shall be the place where the distribution-receiving enterprise is located;
- (5) as for income from interest, rental and licensing fees, the source thereof shall be the place where such receiving enterprise or institution is located or the places of business where such receiving entity is located, or the place where such receiving individual resides;
- (6) as for income from other sources, the place thereof shall be determined by the financial and taxation authority of the State Council.

Article 8 The term “effective connections” as used in Article 3 of the EIT Law shall refer to the circumstance where establishments or places of business of non-resident enterprises within the territory of China own equity interests or creditor’s rights through which income may be earned, or in which they own, manage or control properties through which income may be earned.

Chapter 2 Taxable Income

Section 1 General provisions

Article 9 Computation of an enterprise's taxable income shall be determined by the principal of accrual basis, i.e., income and expense Items are credited as incurred or earned, although they may not have been received or actually paid in cash, except those Items otherwise provided by this rule and the financial and taxation authority of the State Council.

Article 10 Allowable loss referred to in Article 5 of the EIT Law shall be the amount less than zero after deduction of non-taxable revenue, tax-exempt revenue and various deductions from an enterprise's total revenue for each tax year in accordance with the provisions of the EIT Law and this rule.

Article 11 Liquidation income as cited in Article 55 of the EIT Law shall refer to the balance of the realizable value or trading price for the total assets of an enterprise less the net assets value, liquidation expenses and relevant taxes or expenses.

The portion of residual assets distributed by a liquidated enterprise to an investing enterprise, which is equivalent to the investing enterprise's share of accumulated retained earnings and accumulated surplus reserves of the liquidated enterprise, shall be recognized as dividend income; as for the balance obtained after deduction of the aforementioned dividend income from the residual assets, any excess or deficiency in comparison the investment, shall be recognized as gains or losses from the transfer of investment.

Section 2 Income

Article 12 Monetary revenues referred to in Article 6 of the EIT Law shall include cash, deposits, accounts receivable, notes receivable, and debentures to be held until their maturity and debt relief, etc.

Non-monetary revenues as referred to in Article 6 of the EIT Law shall include fixed assets, biological assets, intangible assets, equity investments, inventory, debentures to be held until their maturity, labor services and relevant returns, etc.

Article 13 Non-monetary revenues referred to in Article 6 of the EIT Law shall be established in accordance with the fair value. Fair value in this Article shall mean such value as determined on the basis of market price.

Article 14 Revenue from sales of goods contained in Article 6(1) of the EIT Law shall mean revenue from sales of goods, products, raw materials, packages, consumable goods with low value and other inventories.

Article 15 Revenue from provision of labor services referred to in Article 6(2) of the EIT Law shall mean revenues from an enterprise's engagement in construction assembly, repair and maintenance, transportation, rental of stock house, financial insurance, post and

telecommunications, consulting and brokerage, culture and physical education, scientific study, technology services, education and training, restaurant and hotel, middle-man agency, sanitation and healthcare, community service, travel, recreation, processing and other labor services.

Article 16 Revenues from transfer of property referred to in Article 6(3) of the EIT Law shall mean revenues from an enterprise's transfer of such property as fixed-assets, biological asset, intangible assets, equity rights, and creditor rights, etc.

Article 17 Revenues from dividends, profit distributions and other returns on equity investment referred to in Article 6(4) of the EIT Law shall mean such revenues as acquired from the investment-receiving party as per the enterprise's equity investment thereto.

Realization of dividends and profit distributions and other returns on equity investment shall be established on the date when the investment-receiving party determines the revenue distribution thereon, except as otherwise provided by the financial and taxation authority of the State Council.

Article 18 Revenues from interest referred to in Article 6(5) of the EIT Law shall mean revenues acquired by enterprises in a manner of providing capital to another party for the sole purpose of use other than equity investment or revenues acquired because of its capital being used by another party, including deposit interest, loan interest, debenture interest, outstanding amount interests, etc.

Realization of revenues from interest shall be established on such date as agreed in the contract whereon debtor shall make payment for payable interest.

Article 19 Rental income as cited in Article 6(6) of the EIT Law shall refer to income derived by an enterprise from providing the right to use fixed assets, packaging materials or other tangible assets.

Realization of revenues from rentals shall be established on such date as agreed in contract whereon lessee shall make payment for payable rental.

Article 20 Revenues from royalties referred to in Article 6(7) of The EIT Law shall mean revenues acquired by enterprises with the provision of patent rights, non-patent technology, trademark rights, copyrights and other use rights of licensing.

Realization from revenues from royalties shall be established on such date as agreed in contract whereon user of licensing rights shall make payment for payable licensing fees thereof.

Article 21 Revenues from donations as referred in Article 6(8) of the EIT Law shall include such monetary assets and non-monetary assets as donated to the enterprise by other enterprises, organizations or individuals without any charge.

Realization of revenues from donations shall be established on such date whereon donated assets are actually received.

Article 22 Revenues from other revenues as referred to in Article 6(9) of the EIT Law shall mean other revenues except for those as acquired by enterprises in accordance with Item 1 to 8 of Article 6 of the EIT Law, including such revenues as capital surplus, deposit for overdue packages not returned, payable amount that remain unpayable, recalled payable amount which has been recorded as bad debt loss, debt restructuring, allowance, penalty, and exchange gains, etc.

Article 23 Revenue realization for the following production and business may be established through installment:

- (1) in the case of installment sale of goods, revenue realization shall be established on payment date as agreed in contract;
- (2) in the case of enterprise processing and manufacturing of large-scale machinery equipment, ships and airplanes or their engagement in construction, installation and engineering assembly or provision of other labor services, if the duration thereof exceeds 12 months, revenue realization thereof shall be established on the basis of work volume already performed within the tax year.

Article 24 Realization of revenues acquired in the manner of production sharing shall be established on the date whereon the enterprise receives proportional products, and revenues thereof shall be established in accordance with the product's market value.

Article 25 Non-monetary asset exchange and the application of goods, property and labor services for the purposes of donation, debt payment, sponsorship, investment collection, advertisement, samples, worker welfare or profit distribution, etc. shall be deemed as sale of goods, property transfer or provision of labor services, except as otherwise provided by the financial and taxation authority of the State Council.

Article 26 Funds allocated under public finance as referred in Article 7(1) of the EIT Law means finance funds allocated by the people's government at various levels to such institutions, and social groups, etc. as fall into the category of budget administration, except as otherwise provided by the State Council or the financing and taxation authority of the State Council.

Government administrative charges as referred to in Article 7(2) of the EIT Law means such fees as levied on a specified party and classified as financing administration in the course of execution of social public management and provision of public services for citizen, legal representatives or other entities in compliance with ratification from the State Council and in accordance with relevant laws and regulations.

Government reserve funds referred to in Article 7(2) of the EIT Law shall mean such financing funds for particular purposes as withheld by enterprises for the government in accordance laws, administrative rules and regulations.

Other non-taxable revenues as referred to in Article 7(3) of the EIT Law shall mean such financing funds as acquired by enterprises, ratified by the State Council and for particular purposes as regulated by the financing and taxation authority of the State Council.

Section 3 Deduction

Article 27 Relevant expenses as referred in Article 8 of the EIT Law shall mean such expenses as directly incurred in connection with acquired revenues.

Reasonable expenses as referred in Article 8 of the EIT Law shall mean such necessary and regular expenses in compliance with production and business activities as shall be recorded as current profits and losses or pertinent asset costs.

Article 28 Expenses incurred by enterprises shall be classified as revenue expenditures and capital expenditures. Revenue expenditures shall be directly deducted as they are currently incurred; capital expenditures shall be deducted by installment or be recorded into pertinent capital cost without being directly deducted as they are currently incurred.

Non-taxable revenues for the expenditure of fees or property as they are rendered shall not be deducted or for deduction computation of corresponding depreciation and deduction of amortization.

Article 29 Costs referred to in Article 8 of the EIT Law shall mean the cost of sale and product sales, business expenditure, and other expenses.

Article 30 Expenses referred to in Article 8 of the EIT Law shall mean such expenses as sales expenses, management expenses and finance expenses as incurred in an enterprise's production and business with the exception of such relevant expenses as already recorded as cost.

Article 31 Taxes as cited in Article 8 of the EIT Law shall refer to various taxes and surcharges thereof incurred by an enterprise other than enterprise income tax and recoverable value-added tax.

Article 32 Losses referred to in Article 8 of the EIT Law shall mean loss of fixed assets and inventory, destruction, loss on retirement, loss of property transfer, loss of bad debts and such other losses as resulting from force majeure, such as Acts of God etc.

Proceeds from losses incurred by enterprises less compensation from responsible parties and insurance proceeds shall be deducted in compliance with provisions of the financing and taxation authority of the State Council.

Assets written off as losses by an enterprise shall be recognized as revenue of the period in which they are fully or partially recovered in later tax years (if so recovered).

Article 33 Expenditures as referred to in Article 8 of the EIT Law shall mean such reasonable expenditures in connection with an enterprises' production and business activities as incurred in the course thereof other than costs, expenses, taxes and losses.

Article 34 Such reasonable expenditures as salaries and remunerations of enterprises shall be deductible.

The aforesaid salaries and remunerations means any and all work remunerations for employees or seconded employees in each tax year in both monetary and non-monetary form including basic salaries, bonus, allowance, compensation, annual bonus, overwork salary and other expenditures with regard to employment.

Article 35 Such welfare as basic retirement insurance, medical and healthcare insurance, unemployment insurance, work injury insurance, maternity insurance and housing funds which are paid by enterprises subject to such extent and standard as provided by the State Council's relevant authority or the People's Government at the provincial level shall be deductible.

Such additional retirement insurance, medical and healthcare insurance as paid by enterprises for investors or employees within the scope and standard as provided by the financing and taxation authority of the State Council shall be deductible.

Article 36 Other than life/accident insurance premiums paid by an enterprise for employees in special job positions as stipulated by relevant state regulations and other deductible commercial insurance stipulated by the administrative departments for finance and taxation under the State Council, commercial insurance paid by an enterprise for investors or employees may not be deducted.

Article 37 Reasonable loan costs not necessary for capitalization incurred in the course of an enterprise's production and business activities may be deductible.

Where lending occurs for the purpose of purchase and construction of fixed-assets, intangible assets and such inventories as needed for more than 12 months for the purposes of construction before they are saleable, such lending costs as incurred in the course of relevant asset purchase and construction thereof shall be recorded as capital expenditure into the relevant asset's cost and deducted in accordance with the provisions hereof.

Article 38 The following interest expenditures incurred in the course of an enterprise's production and business activities may be deductible:

- (1) such interest expenditures as incurred in connection with non-financial enterprises making loans to financial enterprises, various deposit interests of financial enterprises and inter-bank lending, and enterprise's debenture issuance through ratification;
- (2) in the case of interest expenditures resulting from one non-financial enterprise making loans to another non-financial enterprise, the proportion thereof which does not exceed the amount computed on the basis of interest rate of inter-bank lending among financial enterprises;

Article 39 Exchange losses occurred in the course of an enterprise's cash transactions and those converted at the Renminbi middle spot exchange rate at the end of the period for monetary assets other than Renminbi and debts may be deducted except for those which have already been recorded into relevant capital costs and those relating to profit distribution to owners.

Article 40 With respect to workers' welfare expenditures, the portion thereof which does not exceed 14% of total salary may be deducted.

Article 41 With respect to trade union outlay allocated by enterprises, the portion thereof which does not exceed 2% of total salaries may be deducted.

Article 42 Except as otherwise provided by financing and taxation authority of the State Council, with respect to employee education outlay, the portion thereof which does not exceed 2.5% of total salaries may be deducted, and the portion that exceeds 2.5% thereof may be deducted in later tax year.

Article 43 Such entertainment outlay as incurred by enterprises in relation to their production and business activities may be deducted by 60% out of the total outlay thereof provided that the cap thereof shall not exceed 5‰ of current annual sales (operation) revenue.

Article 44 With respect to such expenditures as qualified advertisement and business promotion fees incurred by enterprises, the portion thereof which does not exceed 15% of current annual sales (operation) revenue may be deducted and portion which exceeds 15% thereof may be deducted in later tax years, except as otherwise provided by the financing and advertising authority of the State Council.

Article 45 Such funds as withdrawn by enterprises in accordance with laws and administrative rules and regulations for the application of environmental protection and ecological restoration, etc., may be deducted, provided however that such funds must are not deductible if they are otherwise applied.

Article 46 Insurance policies as paid by enterprises for property insurance in compliance with rules and regulations may be deducted.

Article 47 Rental paid by enterprises for fixed assets in accordance with the needs of their production and business activities shall be deducted in the following manner:

- (1) The average rental expenditure incurred in lease operations shall be deducted during the lease term thereof;
- (2) With respect to rental expenditures incurred in financial leasing, the portion thereof which constitutes fixed asset value under the financing lease shall be withheld depreciation expenses before being deducted by installment.

Article 48 Reasonable labor protection expenditures incurred by enterprises may be deducted.

Article 49 Management fees paid among enterprises, rentals and royalties paid among interior operation bodies within one enterprise and interests paid among operation bodies within one non-bank enterprise shall not be deducted.

Article 50 With respect to institutions and business locations established in China by non-resident enterprises, such fees as relating to production and operational activities of the institutions and places of business thereof but incurred at headquarters outside China may be deducted if the headquarters thereof issues certificate documents regarding fee collection scope, ration, distribution basis and method thereof and renders reasonable amortization thereof.

Article 51 Donations for public welfare means such donations as made by enterprises through public welfare social groups or People's Government above county level and their departments for the purposes of public welfare in accordance with the People's Republic of China Public Welfare Donation Law.

Article 52 Public welfare social groups referred to in Article 51 hereof shall include such fund commissions, philanthropic organizations and other social groups that meet the following conditions:

- (1) legally organized with legal representative qualification;
- (2) committed solely to the development of public welfare and are non-profit;
- (3) any and all asset and their added value are solely owned by its legal representative thereof;
- (4) proceeds and operation balances are mainly applied in fields consistent with their establishment objective;
- (5) remainder property after their expiration do not belong to any individual or profitable organization;
- (6) not engaged in business which are unrelated to their establishment objective;
- (7) have a healthy finance and accounting system;
- (8) do not participate in any manner in the distribution of social group property;
- (9) other conditions as jointly provided by the financing and taxation authorities and record administration authorities of the civil administration department of the State Council.

Article 53 With respect to public welfare donations, the portion thereof which does not exceed 12% of total annual revenues may be deductible.

Total annual revenue is the accounting profit in the annual accounting year as computed in accordance with the State unified accounting system.

Article 54 Sponsorship as referred to in Article 10(6) of the EIT Law shall be construed as those various non-advertising expenditures incurred by enterprises and are unrelated to their production and business activities.

Article 55 Unapproved provisions as referred to in Article 10(7) of the EIT Law shall be construed as those provisions not inconsistent with various devalued asset provisions and risk provisions as provided by the State Council's financing and taxation authorities.

Section 4 Tax disposal in asset

Article 56 Taxes of an enterprise's various assets including fixed-assets, biological asset, long-term unamortized expenses, investment assets, and inventory etc., shall be computed based on their historical expenses.

The forgoing historical expenses shall mean expenses actually incurred at the time whereon such assets were acquired.

Tax computation basis for various assets shall not be adjusted if there are capital increases or decreases thereof during the period wherein enterprises are holding such assets provided that loss and profit may be confirmed as set forth by the State Council's financing and taxation authority.

Article 57 Fixed-assets as referred to in Article 11 of the EIT Law shall mean non-monetary assets which have been held and are used by enterprises for more than 12 months for the purposes of product production, labor service provision, lease or operation including housing, construction, machineries, traffic vehicles and other relevant equipment, appliances and tools etc. in connection with production and operational activities.

Article 58 Tax computation basis for fixed-assets shall be determined in accordance with the following methods:

- (1) for externally purchased fixed assets, tax computation basis thereof shall be determined by relevant taxation of purchase price and payment thereof and such other expenses as incurred directly in application of the realization of the expected usage for the asset thereof;
- (2) for self-constructed fixed assets, the tax computation basis thereof shall be determined by expenses incurred prior to the settlement of construction completion;
- (3) for fixed assets from financial lease, the tax computation basis thereof shall be determined by the total pricing as agreed in the lease contract thereof and such other relevant expenses as incurred in the course of entering into the lease contract thereof by the lessee, if lease contract thereof is silent on total pricing, tax computation basis thereof shall be determined by the market value of the asset thereof and such relevant expenses as incurred in the course of entering into the lease contract thereof by lessee;
- (4) for fixed assets of inventory profit, the tax computation basis thereof shall be determined by the whole and complete value of the fixed asset of the same kind thereof in reacquisition;
- (5) for fixed assets acquired through donation, investment, non-monetary asset exchange, debt restructuring etc, the market value thereof and the relevant taxation in payment shall be the tax computation basis thereof;
- (6) for reconstructed fixed assets, the reconstruction expenses incurred in the course of reconstruction shall be added to the tax computation basis thereof.

Article 59 Straight line depreciation of fixed asset may be deducted

Enterprises shall compute depreciation for fixed assets as from the next month when such fixed asset are put into use; for fixed assets which cease to be in use, depreciation thereof shall be computed as from the next month of such stop in use.

Enterprises shall reasonably establish the fixed asset's expected net salvage value in accordance with the nature and extent of usage of such fixed asset. Once established, such expected net salvage shall not be changed.

Article 60 Except as otherwise provided by the State Council's financing and taxation authority, the minimum years for computation of fix asset depreciation shall be as follows:

- (1) for house and construction, 20 years;
- (2) for airplanes, trains, ships, machines, machineries and other production equipment, 10 years;
- (3) for appliances, tools and furniture in connection with production activities, 5 years;
- (4) for traffic vehicles other than airplanes, trains and ships, 4 years;
- (5) for electronic equipment, 3 years.

Article 61 Depreciation and depletion of relevant fixed asset and expenses incurred prior to the commencement of commercial production by enterprises engaged in the exploitation of oil, natural gas and other mineral resources shall be otherwise provided by State Council's financing and taxation authorities.

Article 62 Tax computation basis for productive biological assets may be determined in the following methods:

- (1) for externally purchased productive biological assets, the computation basis thereof shall be the purchase price and relevant taxation as paid;
- (2) for productive biological asset acquired through donation, investment and non-monetary exchange etc, the computation basis thereof shall be the market value thereof and relevant taxation as paid;

Productive biological assets as mentioned in the forgoing Item in this Article shall mean biological assets as held by enterprises for the purpose of production of agricultural products, provision of labor services or lease etc., including forests, firewood forests, self-breeding productive live stock and draught animals, etc.

Article 63 Straight line depreciation of productive biological assets may be deducted.

Depreciation of productive biological assets shall be computed from the next month in which such assets are put into use; for productive biological assets which cease to be in use, depreciation thereof shall be computed from the next month of such stop in use.

Enterprises shall reasonably establish the net salvage value of productive biological assets in accordance with the nature and extent usage thereof. Once established, such net salvage value thereof shall not be changed.

Article 64 The minimum years for computation of productive biological assets depreciation shall be as follows:

- (1) productive biological asset of forest, 10 years;
- (2) productive biological asset of livestock, 3 years.

Article 65 Intangible assets as referred to in Article 12 of the EIT Law shall mean such long-term, non-monetary assets without physical status as held by enterprises for the purpose of product production, provision of labor services, lease or operation management, including patent rights, trademark rights, copyrights, land use rights, non-patent technologies, business reputation etc.

Article 66 Tax computation basis for intangible assets shall be determined through the following methods:

- (1) for externally purchased intangible assets, computation basis thereof shall be the purchase price and the relevant taxation as paid and other expenses directly applied to the realization of the expected usages of such assets;
- (2) for self-developed intangible assets, computation basis thereof shall be the expenses incurred during the period after the capitalization condition thereof has been met and prior to the expected usage thereof has been achieved;
- (3) for intangible assets acquired through donation, investment, non-monetary asset exchanges and debt restructuring, computation basis thereof shall be the fair market value thereof and relevant taxation as paid.

Article 67 Straight line amortization expenses for intangible assets may be deducted.

Amortization years for intangible assets shall not be less than 10 years.

As for intangible assets used as investment or transferred, if the usage years are regulated by relevant laws or agreed by contract, amortization years thereof may be amortized in accordance with such rules or the agreed usage years thereof.

Expenses for externally purchased business reputation may be deductible on the transfer of enterprise as a whole or on their liquidation.

Article 68 Reconstruction expenses of fixed-assets as referred to in Article 13(1) and (2) of the EIT Law shall mean such expenses as incurred in the alteration of house or construction frame or in lengthening usage years etc.

Expenses as referred to in Article 13(1) of the EIT Law shall be amortized by installment pursuant to the foreseeable usage years of fixed assets; expenses as referred to in Article 13(2) shall be amortized by installment pursuant to the remaining lease years as agreed in contract.

Reconstructed fixed assets with lengthening use years shall be correspondingly depreciated based on such lengthening use years except as otherwise provided by Articles 13(1) and (2) of the EIT Law.

Article 69 Expenses incurred for overhaul of fixed assets as referred to in Article 13(3) of the EIT Law shall mean such expenses as which simultaneously meet all of the following conditions:

- (1) repair expenses thereof exceed 50% of the tax computation basis of the time when such assets were acquired;
- (2) usage years thereof after repair sustain additional two or more years;

Expenses referred to in Article 13(3) of the EIT Law shall be amortized by installment based on the fixed assets' foreseeable usage years.

Article 70 Other expenses that shall be treated as long-term deferred expenses as referred to in Article 13(4) of the EIT Law shall be amortized by installment as from the month wherein such expenses are incurred for not less than 3 years.

Article 71 Investment assets as referred to in Article 14 of the EIT Law shall mean such assets as acquired by enterprises through external equity investment and debt investment.

Investment asset costs may be deducted on the transfer or disposal of such investment assets.

Investment asset cost may be established under the following method:

- (1) for investment asset acquired through cash payment, the purchase price shall be the cost thereof;
- (2) for investment asset acquired other than through cash payment, the fair market value and relevant taxation as paid shall be the cost thereof.

Article 72 Inventory as referred to in Article 15 of the EIT Law shall mean such products or commodities as held by enterprises for sale or such materials and raw materials etc to be consumed or applied in the course of product production or provision of labor services.

Cost of inventory shall be determined in accordance with the following methods:

- (1) for inventory acquired through cash payment, the purchase price and relevant taxation as paid shall be the cost thereof;
- (2) for inventory acquired other than through cash payment, the fair market value and relevant taxation as paid shall be the cost thereof;
- (3) for agricultural products of productive biological assets, the cost thereof shall be computed in accordance with material fees, labor fees and indirect amortization fees etc. as incurred in the course of production or collection thereof.

Article 73 Enterprises may select one of the following methods for computation of inventory cost for use or sale, namely, first-in first-out, weighted average method, or specific identification method. Once selected and applied, the method thereof shall not be changed.

Article 74 Net book value in Article 16 and net book value of assets in Article 19 of the EIT Law shall mean such balance computed by tax computation basis of relevant assets and property less amortization, depreciation, depletion and reserve funds etc. which have already been deducted pursuant to relevant rules.

Article 75 Except as otherwise provided by the State Council's financing and taxation authorities, in the course of restructuring, enterprises shall determine transfer profits and loss of relevant assets upon the transaction thereof, tax computation basis of relevant assets shall be reestablished pursuant to transaction price.

Chapter 3 Income Tax Payable

Article 76 Formula for income tax payable in Article 22 of the EIT Law shall be:

Income tax payable = taxable income * applicable tax rate – reductions and exemptions – other tax credits

Allowable reductions and exemptions shall mean such taxable amount as is reduced, exempted or credited pursuant to regulations of the EIT Law and tax incentives by the State Council.

Article 77 Taxable income from sources outside the PRC shall mean such taxation of enterprise income tax nature that is payable and actually paid by enterprises pursuant to tax laws outside the PRC and relevant rulings with regard to income from sources outside the PRC.

Article 78 Tax credit in Article 23 of the EIT Law shall mean the taxable amount as computed pursuant to the EIT Law and rules hereof with regards to income from sources outside the PRC. Except as otherwise provided by the State Council's financing and taxation authorities, such tax credit shall be computed based on the difference of each countries thereof (region) but recorded in the same category, specifically, the formula thereof shall be:

Tax credit = total taxable income from sources inside and outside the PRC pursuant to the EIT Law and rules hereof * taxable income of a certain country (region) / total taxable income from sources inside and outside the PRC.

Article 79 Five years in Article 23 of the EIT Law shall mean such successive five taxable years as from the next year of such current year wherein taxation of enterprise income nature which has been paid outside the PRC exceeds the tax credit with regards to income from sources outside the PRC.

Article 80 Directly control as referred to in Article 24 of the EIT Law shall mean resident enterprises directly holding more than 20% of shares of foreign enterprises.

Indirectly control as referred in the same Article of the same law shall mean resident enterprises indirectly holding more than 20% of shares of foreign enterprises, such indirect holding will be separately construed by the State Council's financing and taxation authorities.

Article 81 Enterprises shall provide relevant tax payment receipts for the corresponding tax year issued by tax authorities outside the PRC if enterprise income taxes are credited pursuant to Article 23 and 24 of the EIT Law.

Chapter 4 Tax Incentive

Article 82 Interest income from government bonds, as cited in Article 26(1) of the EIT Law, shall refer to interest income derived from an enterprise's holdings of government bonds issued by the administrative department for finance under the State Council.

Article 83 Dividend income and other distributions with respect to equity interests paid between qualifying resident enterprises, as cited in Article 26(2) of the EIT Law, shall refer to investment income derived by a resident enterprise from direct investment in another resident enterprise. Dividend income and other distributions with respect to equity interests, as cited in Article 26(2) and (3) of the EIT Law, do not include investment income derived from the holding of shares less than 12 months, where the shares are publicly listed and traded by resident enterprises.

Article 84 Qualifying non-profit making organizations, as cited in Article 26(4) of the EIT Law, shall refer to organizations which fulfill all of the following criteria:

- 1) completed registration procedures for a non-profit organization in accordance with relevant laws and regulations;
- 2) engaged in charitable or non-profit activities;
- 3) used derived income wholly for charitable or non-profit activities within the registered scope or in accordance with the provisions of the Articles of Association, with the exception of reasonable expenses incurred with respect to the organization;
- 4) shall not distribute assets and associated interests of the organization;
- 5) use remaining assets after de-registration within the registered scope or in accordance with the provisions of the Articles of Association for charitable or non-profit purposes; or donate remaining assets along with public announcement to other organizations of similar nature and mission;
- 6) founders shall not keep or enjoy any property rights over the asset invested into the organization;
- 7) the salaries and welfare of employees shall be limited to a range as stipulated and shall not be used as a means to distribute the organization's assets.

The regulations on the qualification of the above mentioned organization will be enacted by the government authorities of the State Council in charge of finance and taxation with the relevant departments of the State Council.

Article 85 Incomes of qualifying non-profit organizations referred to in Article 26(4) of the EIT Law shall not include such income as is obtained by non-profit organizations from engaging in profit-making activities, unless otherwise provided by the administrative departments for finance and taxation under the State Council.

Article 86 The incomes incurred from projects of agriculture, forestry, husbandry and fishery that may be exempted or reduced, as cited in Article 27(1) of the EIT Law, shall refer to:

- (i) income earned by enterprises from activities in the below categories:
 - (a) Planting vegetables, corns, potatoes, oil-bearing crops, legumes, cotton, ramie, sugar crops, fruits and nuts;
 - (b) Breeding a selection of new variety of agricultural products;
 - (c) Planting Chinese medicine herbs;
 - (d) Cultivating and growing trees;
 - (e) Rearing livestock and poultry;
 - (f) Harvesting forestry products;
 - (g) Providing services pertaining to agriculture, forestry, husbandry and fishery, such as irrigation, initial processing of farm products, promotion of agricultural technologies, agricultural mechanization and maintenance and the occupation of veterinarian; and
 - (h) High sea fishing;
- (ii) In the event of income incurred by enterprises from activities in the following categories, they shall be allowed a 50% credit against the enterprise income tax:
 - (a) Planting of flower, tea and other beverages and perfume crops; and
 - (b) Sea and inland water aquaculture.

Tax incentives of this Article shall not be allowed where the income is earned by enterprises from engaging in projects in restricted or prohibited industries by the State.

Article 87 The important public infrastructure investment projects supported by the state referred to in Article 27(2) of EIT Law shall mean projects as listed in *Catalogue of Enterprise Income Tax Incentives for Public Infrastructure Investment Projects*, such as port terminal, airport, railroads, highway, urban public transportation, power and water conservancy, etc..

The enterprise income tax on the income incurred by enterprises from business operations of the important public infrastructure investment projects supported by the state as set forth in the preceding paragraph shall, with effect from the first tax year to which the amount of income obtained by such enterprises from business operations is attributable, be exempted during the period from the first year to the third year and reduced by half during the period from the fourth year to the sixth year.

Enterprises that are subcontractors for the operation or construction, or that undergo internal construction projects for self use shall not be eligible for enterprise income tax incentives as stipulated in this Article.

Article 88 The income incurred from the projects of environmental protection, energy and water conservation, which meet the relevant requirements referred to in Article 27(3) of the EIT Law shall comprise projects involving public sewage treatment, public garbage disposal, comprehensive development and utility of biogas, technical improvement for energy saving and emission reduction, sea water desalination and so on. The specific conditions and scope in respect of such projects shall be formulated after discussion between the administrative departments for finance and taxation under the State Council and the related departments under the State Council and be accordingly promulgated and put into implementation subject to approval by the State Council.

The enterprise income tax on the income incurred by enterprises from the projects of environmental protection, energy and water conservation, which meet the relevant requirements as set forth in the preceding paragraph shall, with effect from the first year to which the first amount of income obtained by such enterprises from business operations is attributable, be exempted during the period from the first year to the third year and reduced by half from the fourth year to the sixth year.

Article 89 Where the projects enjoying preferential tax treatment in accordance with the provisions of Article 87 and 88 hereof are transferred to other parties within the exemption or reduction period, the transferee shall be entitled to the preferential tax treatment during the remainder of the said period; where such projects are transferred to other parties subsequent to the said period, the transferee may not have the right to the preferential tax treatment with regard to the transferred projects.

Article 90 The enterprise income tax on the incomes incurred from the transfer of technologies which meet the relevant requirements shall be exempted or reduced as cited in Article 27(4) of the EIT Law shall specifically mean that “the enterprise income tax on the income incurred by the resident enterprises from transfer of technologies during a tax year not exceeding RMB 5 million shall be exempted; in the case of any excess of such income over RMB 5 million, there shall be allowed a 50% enterprise income tax credit.

Article 91 The enterprise income tax rate for income earned by a non-resident enterprise as provided in Article 27(5) of the EIT Law shall be 10%.

The enterprise income tax on the following types of income shall be exempted:

- (a) interest income attributable to loans from foreign governments to the Chinese government;
- (b) Interest income attributable to preferential loans from international financial organizations to Chinese government and resident enterprises; and
- (c) other incomes approved by the State Council.

Article 92 The small enterprises meeting the relevant conditions referred to in the first paragraph of Article 28(5) of the EIT Law shall refer to enterprises that are not limited and prohibited by the state and concurrently in conformity with the following conditions:

- (a) industrial enterprises whose annual taxable income does not exceed RMB 0.3 million, number of employees does not exceed 100 and total assets do not exceed RMB 30 million.
- (b) other kinds of enterprises whose annual taxable income does not exceed RMB 0.3 million, number of employees does not exceed 80 and total assets do not exceed RMB 10 million.

Article 93 The state encouraged high- and new-tech enterprises as cited in the Paragraph 2 of Article 28 of the EIT Law shall refer to enterprises that hold core proprietary intellectual property rights and simultaneously whose:

- (a) products (or services) which fall into the scope as provided in the *Stated-encouraged High- and new-tech Realm*;
- (b) proportion of research and development funds in the sales revenue is not less than the ratio prescribed;
- (c) proportion of sales (or services) income from high- and new-tech products in the total revenue of the enterprise is not less than the ratio prescribed;
- (d) percentage of technical staff in the total employees is not less than ratio prescribed; and
- (e) that is in compliance with conditions otherwise provided in *Measures on Verification and Management of High- and new-tech Enterprise*.

The *State-encouraged High- and new-tech Realm* and the *Measures on Verification and Management of High- and new-tech Enterprise* shall be drafted after discussion between the relevant scientific and technology departments, administrative departments for finance and taxation under the State Council and the related departments under the State Council, and shall be accordingly promulgated and put into implementation upon approval by the State Council.

Article 94 The autonomous organ of an autonomous region of ethnic minorities used in Article 29 of the EIT Law shall refer to such autonomous regions, autonomous prefectures and autonomous counties as are practicing regional autonomy by ethnic minorities according to the provisions of the *Law of the People's Republic of China on Regional Autonomy by Ethnic Minorities*.

Enterprises of restricted or prohibited industries located in minority autonomous areas shall not be eligible for enterprise income tax exemptions and reductions.

Article 95 Where research and development expenses are incurred during the development of new technologies, new products or new production techniques, the additional deduction for research and development expenses as cited in Article 30 (1) of the EIT Law refers to, if the expenses are not capitalized as intangible assets but are charged to the income statement of the current period, a 50% additional deduction that is allowable in addition to the actual expense

deduction; if the expenditures are capitalized as intangible assets, cost bases of the intangible assets equal to 150% of actual costs are allowable for amortization purposes.

Article 96 The additional deduction for salaries paid to disabled persons as cited in Article 30 (2) of the EIT Law shall refer to a 100% additional deduction on the expenses for an enterprise hiring the disabled person based on the deduction of salaries so paid. The scope for the disabled persons shall be governed by the relevant provisions as contained in the *Law of the People's Republic of China on the Protection of the Disabled Persons*.

The measures on the additional deduction of the salaries paid to other employees whom the state encourages to hire referred to in Article 30(2) of the EIT Law shall be separately provided by the State Council.

Article 97 The tax deductions toward taxable income as cited in Article 31 of the EIT Law shall refer to where a venture capital enterprise invests in the shareholdings of small- to medium-high- and new-tech enterprises for more than 2 years. In such cases, 70% of the investment amount in small- to medium- high- and new-tech enterprise may be deducted toward the taxable income of the venture capital enterprise for the year when the two-year holding is completed. Where the amount of the deduction is not fully utilized in that year, the unused amount is allowed to be carried forward to the following tax years.

Article 98 The fixed assets which may adopt a shortened depreciation period or accelerated depreciation referred to in Article 32 of the EIT Law shall be inclusive of:

- (a) fixed assets which experience rapid replacement by next generation products due to technological progress;
- (b) fixed assets which experience long term usage from strong motion, and heavy corrosion;

Where the depreciation period is shortened, the shortest term of depreciation shall not be less than 60% of the minimum term of depreciation as provided in Article 60 hereof; where an accelerated depreciation method is applied, either the double-declining-balance method or the sum-of-the-years'-digits method may be used.

Article 99 A deduction against total revenue as cited in Article 33 of the EIT Law shall refer to where enterprises utilize resources listed in the *Catalogue of Enterprise Income Tax Incentive for Comprehensive Utilization of Resources* as main raw materials to manufacture products not restricted or prohibited by the state which meet relevant national and industry standards. In such cases, 10% of the revenue derived from such product sales may be recognized as a deduction for enterprise income tax purpose.

The proportion of the main raw material in the production materials shall not be less than the standard as prescribed in the *Catalogue of Enterprise Income Tax Incentive for Comprehensive Utilization of Resources*.

Article 100 The credit against income tax as cited in Article 34 of the EIT Law shall refer to where enterprises purchase and actually use specialized equipment which inures to

environmental protection, water conservation and energy usage reduction, or the enhancement of production safety and which are listed in the *Catalogue of Enterprise Income Tax Incentive for Specialized Equipment in Environment Protection*, *Catalogue of Enterprise Income Tax Incentive for Specialized Equipment in Water Conservation or Energy Usage Reduction*, or *“Catalogue of Enterprise Income Tax Incentive for Specialized Equipment in Production Safety”*. In such cases, 10% of the equipment’s investment cost may be credited against the current year’s income tax payable of the enterprise. If the credit is not fully utilized, the remaining balance may be carried forward to the following five tax years.

The enterprise enjoying the tax credit provided for in the preceding paragraph must be truly purchase and put into use such special equipments as are prescribed in the preceding paragraph; where the enterprise purchasing the above-mentioned special equipments transfer and/or lease the same during a period of five years, it shall cease enjoyment of the relevant preferential tax treatment and submit the enterprise tax amount which has been deducted already.

Article 101 The enterprise income tax incentive Catalogues as provided for in Article 87, 99 and 100 shall be drafted after discussion between the administrative departments for finance and taxation under the State Council and the related departments under the State Council and be promulgated and put into implementation upon approval by the State Council.

Article 102 Where an enterprise concurrently engages in different projects to which different enterprise income tax treatments apply, the income incurred from projects qualifying for tax incentives shall be separately computed and be used to amortize the circulation cost of the enterprise. The enterprise shall not be entitled to the tax incentives if it fails to conduct such separate computation.

Chapter 5 Withholding Tax by Sources

Article 103 Where the payable enterprise income tax of a non-resident enterprise is withheld by sources pursuant to the EIT Law, the taxable income shall be calculated in accordance with Article 19 of the EIT Law.

The total sum of incomes referred to in Article 19 of the EIT Law shall mean the total sum inclusive of the price and fees in addition thereto collected by the non-resident enterprise from the payer.

Article 104 The payer as cited in Article 37 of the EIT Law shall refer to entities or individual directly bearing the obligation to make the relevant payment to the non-resident enterprise in accordance with the relevant laws and regulations.

Article 105 The term payment as used in Article 37 of the EIT Law shall refer to payments in monetary form or in kind, such as payments of cash remittances, payments through account transfers, payments using equity interests, etc.

The amount due as cited in Article 37 of the EIT Law shall refer to the payable amount that shall, pursuant to the accrual basis accounting method, be credited by the payer to the relevant costs or expenses.

Article 106 The circumstance referred to in Article 38 of the EIT Law in which the tax organ may designate the payer of the project price or remuneration as the obligatory withholding agent shall include situations in which:

- 1) it is estimated that the term of the engineering project or provisions of labor service is under one tax year and further there is evidence proving non-performance of tax payment obligations by the enterprise;
- 2) the enterprise fails to proceed with formalities regarding tax registration or interim taxation registration and entrusts an agent within the territory of the PRC to perform the tax payment obligations; or
- 3) The enterprise fails to, within a prescribed time limit, submit to the tax organ its enterprise income tax returns or enterprise income tax returns for advance payment.

The obligatory withholding agent as provided for in the preceding paragraph shall be designated by tax organs above the county level which shall at the same time notify the obligatory withholding agent of the calculation basis and method of the taxes withheld and the term and method for the withholding.

Article 107 The place where the income has been earned as mentioned in Article 39 of the EIT Law shall refer to a place as recognized according to the principle set forth in Article 7 hereof. Where the income of an enterprise has been earned in multiple places, the tax payer may choose one to submit its enterprise income tax return.

Article 108 Other incomes of the tax payer earned within the territory of the PRC as mentioned in Article 39 of the EIT Law refers to incomes of such tax payer obtained from various sources within the territory of China.

The tax organ shall, while collecting taxes payable by the above taxpayer, inform it of the reasons, amount, time limit and method regarding the tax collection.

Chapter 6 Special Tax Adjustments

Article 109 The affiliates as used in Article 41 of the EIT Law shall refer to enterprises, other organizations or individuals that have either of the following affiliated relations with the taxpayer.

- 1) direct or indirect controlling relations in respect of capital, operation, purchase and sales, etc.;
- 2) directly or indirectly under the normal control of a third party; or
- 3) such other relations as having connections in respect of mutual interests.

Article 110 The arm's length principle as stated in Article 41 of the EIT Law shall refer to such principle as is applied on when parties without affiliated relations with each other do businesses according to fair-trade price and normal business regulations.

Article 111 The reasonable method as stated in Article 41 of the EIT Law shall contain:

- 1) Comparable Uncontrolled Price Method, a method to decide the price according to the price agreed between non-affiliated parties for the transaction of the same or similar goods or services;
- 2) Resale Price Method, which starts from the selling price (at which the party involved sold the goods purchased from its connected parties to its unconnected parties) less the gross margin incurred from the sale of the same or similar businesses;
- 3) Cost Plus Method, which starts by computing the cost of providing the goods or services and adds an appropriate mark up;
- 4) Transactional Net Margin Method (TNMM), a method to decide the margin according to the net margin level obtained from the same or similar business transactions by non-affiliated parties;
- 5) Profit Split Method, a method to distribute the consolidated price margin or loss of an enterprise and its affiliated parties among them by adopting a reasonable standard; or
- 6) Other methods in conformity with the arm's length principle.

Article 112 An enterprise may, according to the provisions provided for in Article 41(2) of the EIT Law and together with its affiliates, apportion the costs incurred by it and its affiliates by reaching an apportionment agreement.

The apportionment of costs by an enterprise with its affiliates shall be made on the principle that the cost should be in proportion to the estimated proceeds; and the relevant materials shall, within the prescribed period, be submitted to the tax organ pursuant to the relevant requirements.

Where the apportionment of costs jointly by an enterprise with its affiliates is made in breach of the provisions set forth in the first and second paragraph of this Article, the costs unduly apportioned may not be deducted from the taxable amount.

Article 113 The advance pricing arrangement as used in Article 42 of the EIT Law shall refer to the agreement reached upon negotiation and confirmation between an enterprise and the tax organ on the principle of arm's length principle after such enterprise files with the tax organ the pricing principles and computation approach for the transactions between it and its affiliates.

Article 114 The pertinent materials as used in Article 43 of the EIT Law shall include:

- 1) Contemporaneous documents regarding the affiliated party transactions such as pricing, standards for determining expenditures, computation methods, explanatory notes, etc.;
- 2) Materials regarding the resale (transfer) price or final sale (transfer) price of property, the right to use property and provision of labor services involved in the business transaction with affiliated parties;
- 3) Information such as product price, pricing method, profit level, etc. that are comparable

to the enterprise being investigated, which shall be provided by other enterprises involved in the investigation of affiliated party transactions; and

- 4) Such other materials pertaining to the business transactions with affiliated parties.

Other enterprises involved in the investigation on related party transactions as mentioned in Article 43 of the EIT Law shall refer to those enterprises similar to the enterprise under such investigation in respect of the content and ways of production and operation.

An enterprise shall, within the prescribed time limit, provide the tax organ the materials relating to the establishment standard, calculation methods and explanation for the price and fees related to the business transactions with affiliated parties. The affiliated parties and other enterprises in connection with the investigation on the related party transactions shall furnish the relevant materials within the period agreed upon between them and the tax organ.

Article 115 The tax organ, while ratifying the taxable incomes of an enterprise according to the provisions contained in Article 44 of the EIT Law, may adopt the following methods:

- 1) referring to the margin level of an enterprise of a similar or the same nature;
- 2) according to the cost of the enterprise plus reasonable expenditures and margin;
- 3) according to a reasonable proportion of the unitary margin of the affiliated enterprise group; and
- 4) other rational methods.

Where an enterprise disagrees with the taxable income as ratified by the tax organ pursuant to the methods provided for in the preceding paragraph, it shall supply the relevant evidences to the tax organ, who shall adjust such taxable income upon confirmation of said evidence.

Article 116 PRC residents as used in Article 45 of the EIT Law shall refer to individuals who shall, pursuant to the provisions of the *Individual Income Tax Law of the People's Republic of China*, pay the individual income tax on their income incurred from inside and outside of the territory of the PRC.

Article 117 The term “controlled” as used in Article 45 of the EIT Law shall include the following conditions:

- 1) A resident enterprise or a PRC resident, in each case, possesses, directly or indirectly, 10% or more voting share of a foreign enterprise, and 50% of the total share of which is jointly possessed by both the resident enterprise and the China residents;
- 2) A resident enterprise by itself or together with a PRC resident does not possess shares of a foreign enterprise in the proportion standard prescribed in the above Item (1), however, has material control over such foreign enterprise in respect of its shares, capital, operation, purchase and sales, etc.

Article 118 The circumstances in which the effective tax burden is distinctly lower than the tax rate set forth in the first paragraph of Article 4 of the EIT Law means that such effective tax burden is lower than 50% as stipulated in the first paragraph of Article 4 of the EIT Law.

Article 119 The debt investments as cited in Article 46 of the EIT Law shall refer to financing obtained by an enterprise directly or indirectly from its affiliated parties and demanding repayment of principal and interests or compensation by way of payment of fees such as interests.

The credit investment obtained by an enterprise from its affiliated party shall include:

- 1) credit investment provided by the affiliated party through an unaffiliated party;
- 2) credit investment provided by an unaffiliated third party with surety from an affiliated party who, moreover, shall assume joint and several liability therefore; and
- 3) Such other credit investment as is obtained indirectly from an affiliated party and belongs to debt in nature.

The equity investments as used in Article 46 of the EIT Law shall refer to investment received by an enterprise, which demands no repayment of principal and interest, and in return, and because of which, the investor shall have ownership in and to the net assets of the enterprise.

The criterion referred to in Article 46 of the EIT Law shall be separately prescribed by the administrative departments for finance and taxation under the State Council.

Article 120 Business arrangements without bona fide commercial purposes as cited in Article 47 of the EIT Law shall refer to arrangements whose primary purpose is to reduce, avoid or defer tax payments.

Article 121 Where the tax organ shall make special tax adjustments to an enterprise in accordance with the provisions of the taxation law and administrative laws and regulations, it shall collect additional interest on a daily basis in respect of the additional taxes for the period from the 1st day of June of the year following the tax year for such taxes to the date when the taxes are paid.

The interest levied set forth in the preceding paragraph may not be deducted from the taxable income.

Article 122 The interest referred to in Article 48 of the EIT Law shall be the Renminbi benchmark lending rate promulgated by the People's Bank of China during the same period of the same tax year for the additional taxes plus 5%.

The interest as cited in Article 48 of the EIT Law shall be the sum of an amount calculated using the Renminbi benchmark lending rate published by the People's Bank of China during the same term of the same tax year as the underpaid taxes in the year to which such underpaid tax is attributed plus an additional 5%.

Where an enterprise provides the relevant information according to the provision of Article 43 of the EIT Law and this Article, the interest on the additional taxes it shall submit may be computed pursuant to the Renminbi benchmark lending rate provided for in the preceding paragraph.

Article 123 Where an enterprise carries out business transactions with its affiliated parties not in conformity with the arm's length principle or it implements other arrangements without a bona fide commercial purpose, the tax organ shall have the right to make special tax adjustments to such enterprise within 10 years commencing from the tax year when the said transactions occurred.

Chapter 7 Tax Collection and Administration

Article 124 The registered address of an enterprise as cited in Article 50 of the EIT Law shall refer to the domicile of the enterprise registered in accordance with the relevant registration regulations of the state.

Article 125 Where an enterprise computes and pays enterprise income tax on a consolidated basis, it shall account for the combined taxable income based on the relevant administrative measures, the details of which shall be separately enacted by the administrative departments for finance and taxation under the State Council.

Article 126 The principal establishment or place of business referred to in Article 51 of the EIT Law shall meet both of the following conditions:

Such principal establishment or place of business shall:

- 1) bear responsibilities of supervision and administration of the productions and operations of other establishments or places of business;
- 2) establish complete account books and vouchers thereof to accurately reflect the revenues, costs, fees, profit and loss of each establishment or place of business.

Article 127 The examination and approval of the tax organ referred to in Article 51 of the EIT Law shall be conducted by the common superior tax organ of the tax organs of each establishment or place of business.

Where a non-resident enterprise intends to add, amalgamate, move, close its establishments, places of business or cease the business of its establishments and/or places of business after consolidation and payment of its enterprise income taxes upon examination and approval, its principal establishment or place of business in charge of consolidating and filing its enterprise income taxes return shall submit a relevant report to the tax organ of such principal establishment or place of business; where modification is necessary to made with regard to the payment of the enterprise income taxes, the same shall be handled according to provisions of the preceding Article.

Article 128 The enterprise income tax may be paid on a monthly or quarterly basis, the choice of which shall be dependent on the determination of the tax organ.

Where an enterprise makes provisional enterprise income tax payments on a monthly or quarterly basis in accordance with Article 54 of the EIT Law, it shall make provisional tax payments based on actual profits in the month or quarter.

An enterprise shall, while paying its enterprise income taxes on a monthly or quarterly basis according to the provisions of Article 54 of the EIT Law, shall submit advance payment on the actual profits of that month or quarter; where if having difficulty in submitting the advance payment according to the actual profits of a month or quarter, the enterprise may submit the advance payment according to the average amount of the monthly or quarterly taxable income of the previous year or such other methods as may be ratified by the tax organ. Once determined, the methods pertinent to the advance payment may not be modified without authorization during a taxation year.

Article 129 Regardless of whether an enterprise incurs profits or losses in a tax year, the enterprise shall, within the period prescribed in Article 54 of the EIT Law, submit to the tax organ the provisional enterprise income tax returns, annual enterprise income tax return, financial and accounting reports and such other materials as may be required by the tax organ.

Article 130 Where the income of an enterprise is earned in currencies other than Renminbi, it shall be converted into Renminbi at the average exchange rate of RMB against such other currencies on the last day of the month or quarter to compute taxable income when advance tax payments are made. When settling the final tax payment at year-end, for incomes in foreign currencies whose tax has been paid during the monthly or quarterly provisional tax payment system, it is not necessary to re-convert such income in the tax computation. To compute taxable income, only the portion of income in foreign currencies for which tax has yet to be paid within the tax year needs to be converted into Renminbi, with such conversion being at the average exchange rate on the last day of the tax year.

Where the tax organ conducts an audit and verifies that an enterprise has under-reported or over-reported the aforementioned income, the enterprise shall convert the under-reported or over-reported income into Renminbi at the average exchange rate on the last day of the month previous to the month of the audit and verification to compute the taxable income and further the tax amount which shall be paid or refunded.

Chapter 8 Supplementary Provisions

Article 131 The enterprises that have been approved to be established prior to the promulgation of this Law as cited in Article 57 of the EIT Law shall refer to such enterprise as have completed registration procedures prior to the promulgation of the EIT Law.

Article 132 Enterprises incorporated in Hong Kong Special Administrative Region of the PRC, Macau Special Administrative Region of PRC and the region of Taiwan shall be governed by reference to the relevant provisions as stipulated in Paragraph 2 and 3 of Article 2 of the EIT Law.

Article 133 These Rules shall become effective on 1 January, 2008.

The Implementation Rules of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises promulgated by the State Council

on June 30, 1991 and the *Implementation Rules of the Provisional Regulations of the People's Republic of China on Enterprise Income Tax* promulgated by the Ministry of Finance on February 4, 1994 shall be annulled as of the same date.