

SHANGHAI SHARK NEWSLETTER

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FAQ-TAXES IN CHINA

Tax is one of the biggest concerns of our clients who plan to enter into China market. We provide brief answers to some frequent asked questions. FIEs below refer to foreign investment enterprises; FEs refer to foreign enterprises.

Q: How Chinese tax laws classify the entities with foreign investment?

A: Chinese tax laws classify the entities with foreign investment into two categories: Foreign Investment Enterprises (hereinafter refers to FIEs) and Foreign Enterprises (hereinafter refers to FEs). FIEs, which incorporate under relevant Chinese Laws, include Chinese-foreign Equity Joint Ventures, Chinese-foreign Contractual Joint Ventures and Wholly Foreign Owned Enterprises. FEs, which are not legal entities of China, include Foreign Companies, Enterprises and other economic organizations, but have establishments or places and are engaged in production or business operations in China.

Q: What are the taxes to which the entities with foreign investment and foreigners are liable?

A: The entities with foreign investment are subject to 12 taxes, including Value-added Tax, Consumption Tax, Business Tax, Customs Duties, Income Tax of FIEs and FEs, Resource Tax, Urban Real Estate Tax, Vehicle and Vessel Usage License Plate Tax, Stamp Duty, Deed Tax, Slaughter Tax, and Agriculture Tax. Among these 12 taxes, the Value-added Tax and Income Tax of FIEs and FEs, general speaking, form the big portion of their tax liability. To a specific entity of FIEs and FEs, not all of these 12 taxes are applicable at one time: it depends. The foreigners are subject to individual income tax.

Q: What's the different tax treatment between FIEs and FEs?

A: FIEs in China shall pay income tax on its world- wide income, with a tax credit for foreign taxes paid on foreign sourced income. The FEs shall pay the income tax on its income derived from sources within China.

Q: From a tax point of view, which one is more beneficial, Chinese-foreign Joint Ventures, a joint venture or wholly owned foreign entities?

A: The Income Tax Law gives FIEs the same tax treatment. So, there is No Difference between these three kinds of FIEs.

[Q: What's the tax benefit for FIEs in China?](#)

A: Actually, The China provides a comprehensive program of tax incentives based on such considerations as total investment, technical standard and export potential. Most important of all, if a FIE is of production nature and are scheduled to operate no less than ten years, it shall, from the year beginning to make profit after making up previous loss within 5 years, be exempt from income tax in the first and second year and enjoy a 50% reduced tax rate of income tax from the third to fifth year.

[Q: Does China also have both the federal income tax and the local income tax?](#)

A: There is no local income tax in China. The income tax of FIEs and FEs adopts flat rate of 33%. 30% of it is federal revenue, and the rest 3% of it is local revenue.

[Q: How can FIEs and FES pay income tax?](#)

A: Provisional payments are due 15 days after the end of each season and a final settlement is due within five months after the end of a year.

[Q: How can foreigners pay Individual Income Tax?](#)

A: Normally, Individual income tax from wages or salaries for employers shall be withheld and paid to tax authorities within seven days after the end of each month.

[Q: What's the federal and local administration of tax in China?](#)

A: Generally, the local branches of State Administration of Taxation collect the income tax of FIEs and FEs and Value-added tax whereas the local tax bureaux collect Business Tax, Individual Tax and other local taxes.

[Q: What's the penalty for tax evasion?](#)

A: According to Chinese Criminal Law, The taxpayer with severe tax invasion aspect is subject to a penalty of up to 7 years in jail and a fine of up to 5 times of the tax evaded.

[Q: How long do I need to keep the records as a corporation and individual for auditing?](#)

A: Taxpayers and withholding agents should maintain the accounting records, accounting vouchers, tax payment leaf and other relevant documents for a time period no less than 10 years.