

Circular of the State Administration of Taxation for Defining the Incomes of Foreign Enterprises and Individuals from Technology Transfer which Are to Be Exempt from Business Tax

Full text

The bureau of Local Taxation of every province, autonomous region, municipality directly under the Central Government and municipality separately listed on the State plan:

According to the provisions of 'Circular of the Ministry of Finance and the State Administration of Taxation for Implementation of Provisions Concerning Taxation in "Decision of the Central Committee of the Chinese Communist Party and the State Council on Promotion of Technological Innovation, Development of High Technologies and Accomplishment of Industrialization "(CaiShuiZi [1999] No.273), incomes of foreign enterprises and individuals from technology transfer, business of technology development and related business of technical consultancy and service shall be exempt from business tax. For the purpose of convenient implementation, provisions are hereby made for clarification of the incomes of foreign enterprises and individuals from technology transfer which are exempt from business tax.

1. The income from technology transfer that is exempt from business tax means those earned by the transferor from compensated transfer of, the ownership of, or the right to use his patent or non-patent technology and from the provision of relevant technical consultancy and service. Incomes relating to technology transfer earned in the form of 'admission fee' or 'royalty' determined according to a certain percentage of the sales shall all be incomes that are free from business tax.
2. Trademark royalty or other similar incomes under a technology transfer contract are not incomes that are free from business tax under the CaiShuiZi [1999] No.273. So the tax bearer shall reasonably divide the income that is subject to business tax such as trademark royalty from the contract price. In case of failure to divide precisely and reasonably, the taxation organ may determine the amount for which the business tax is to be exempted provided that such amount shall not exceed 50% of the total contract price.
3. The procedure for examination and approval of the above-mentioned exemption of business tax shall still continue to be handled according to Item (3), Article 2 of CaiShuiZi [1999] No.273 .