

(Unofficial Translation provided by Deloitte)

Notice of the Ministry of Finance and the State Administration of Taxation on Enterprise Income Tax Treatment of Enterprise Liquidation Caishui [2009] No.60

In accordance with Articles 53 and 55 of the Enterprise Income Tax Law of the People's Republic of China and Article 11 of the Implementation Rules for Enterprise Income Tax Law (Decree No. 512 of the State Council), below is the Notice to clarify the income tax treatment issues involved in enterprise liquidation:

Article 1. Enterprise Income Tax treatments of enterprise liquidation refers to the treatment of matters such as liquidation income, liquidation income tax, and dividend distribution when an enterprise no longer continues operation and carries out economic behaviours such as the cessation of its business, the disposition of its assets, the settlement of its liabilities, and the distribution of the remaining properties to its owners.

Article 2. The following enterprises are subject to the income tax treatment of liquidations:

- (1) Enterprises that are required to carry out a liquidation in accordance with the provisions of the Company Law, Enterprise Bankruptcy Law, etc.;
- (2) Enterprises that are subject to liquidation treatment during an enterprise reorganisation.

Article 3. The Enterprise Income Tax treatment of an enterprise liquidation shall include the following determinations:

- (1) In respect of all assets, the income or loss on the transfer of assets shall be determined based on the realisable value or transaction prices;
- (2) The income or loss on the resolution of debt claims and the settlement of debt obligations shall be determined;
- (3) Where the accounting principle of going concern is changed, the accrued or deferred expenses shall be dealt with;
- (4) The taxable liquidation income shall be determined with tax losses being utilised in accordance with the laws;
- (5) Liquidation income tax shall be computed and paid;
- (6) The remaining properties that are distributable to shareholders, dividends payable, etc., shall be determined.

关于企业清算业务企业所得税处理若干问题的通知 财税[2009]60号

根据《中华人民共和国企业所得税法》第五十三条、第五十五条和《中华人民共和国企业所得税法实施条例》（国务院令512号）第十一条规定，现就企业清算有关所得税处理问题通知如下：

第一条. 企业清算的所得税处理，是指企业在不再持续经营，发生结束自身业务、处置资产、偿还债务以及向所有者分配剩余财产等经济行为时，对清算所得、清算所得税、股息分配等事项的处理。

第二条. 下列企业应进行清算的所得税处理：

- (一) 按《公司法》、《企业破产法》等规定需要进行清算的企业；
- (二) 企业重组中需要按清算处理的企业。

第三条. 企业清算的所得税处理包括以下内容：

- (一) 全部资产均应按可变现价值或交易价格，确认资产转让所得或损失；
- (二) 确认债权清理、债务清偿的所得或损失；
- (三) 改变持续经营核算原则，对预提或待摊性质的费用进行处理；
- (四) 依法弥补亏损，确定清算所得；
- (五) 计算并缴纳清算所得税；
- (六) 确定可向股东分配的剩余财产、应付股息等。

Article 4. The liquidation income shall be computed as the residual amount of the realisable value or transaction prices of all the assets of an enterprise after deducting the tax basis of the assets, liquidation expenses, related taxes, and levies and taking into account the losses or gains arising from the settlement of debt obligations, etc.

An enterprise shall treat the entire liquidation period as one fiscal year in calculating the liquidation income.

Article 5. The remaining assets that can be distributed to the owners shall be computed in accordance with the provisions [of the Company Law and Enterprise Bankruptcy Law], taking into account the realisable value or transaction prices of all the assets of an enterprise after deducting liquidation expenses, wages of staff, social security expenses and statutory compensation, settling taxes such as liquidation income tax, taxes liabilities from previous years, etc., and settling the debt obligations of the enterprise.

The shareholder shall recognise dividend income to the extent of its proportionate interest in the accumulated earnings and surplus reserves; the balance of the residual assets, net of the dividend income, shall be recognised as the enterprise's income or loss from the transfer of the investment to the extent that it exceeds or falls short of the cost of investment of the enterprise.

The tax bases of the assets obtained by a shareholder of the enterprise being liquidated shall be determined based on the realisable values or actual transaction prices of the assets.

Article 6. This Notice is effective from 1 January 2008.

第四条. 企业的全部资产可变现价值或交易价格，减除资产的计税基础、清算费用、相关税费，加上债务清偿损益等后的余额，为清算所得。

企业应将整个清算期作为一个独立的纳税年度计算清算所得。

第五条. 企业全部资产的可变现价值或交易价格减除清算费用，职工的工资、社会保险费用和法定补偿金，结清清算所得税、以前年度欠税等税款，清偿企业债务，按规定计算可以向所有者分配的剩余资产。

被清算企业的股东分得的剩余资产的金额，其中相当于被清算企业累计未分配利润和累计盈余公积中按该股东所占股份比例计算的部分，应确认为股息所得；剩余资产减除股息所得后的余额，超过或低于股东投资成本的部分，应确认为股东的投资转让所得或损失。

被清算企业的股东从被清算企业分得的资产应按可变现价值或实际交易价格确定计税基础。

第六条. 本通知自2008年1月1日起执行。