

## PUBLIC VERSION

**Address**

Room 1-4, No. 5800 Huyi Road, Jiading District, Shanghai

**Parent company**

The GOC could find nothing to indicate Shanghai Jinheli Aluminium Hub Manufacturing Co., Ltd has a parent company.

**Subsidiaries**

The GOC could find nothing to indicate Shanghai Jinheli Aluminium Hub Manufacturing Co., Ltd has subsidiaries.

**Organizational structure**

The GOC could find no information about the organizational structure of this entity.

**Scope of business**

The production of machine products, production of aluminium alloy wheel hub, aluminium coil manufacturing.

**Involvement in ARW /other aluminium products**

Shanghai Jinheli Aluminium Hub Manufacturing Co., Ltd produces ARWs.

**Entity with State Investment**

Shanghai Jiading State-Owned Assets Management Co., Ltd holds 55% of total shares issued by the company, according to SAIC.

**Annual reports**

The GOC has been unable to find annual reports for Shanghai Jinheli Aluminium Hub Manufacturing Co., Ltd.

**Nanjing Huashun Aluminium Wheels Co., Ltd****Address**

298 Middle Puzhu Road, Nanjing, China 86967512

**Parent company**

The GOC could find nothing to indicate Nanjing Huashun Aluminium Wheels Co., Ltd has a parent company.

**Subsidiaries**

The GOC could find nothing to indicate Nanjing Huashun Aluminium Wheels Co., Ltd has subsidiaries.

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**Organizational structure**

The GOC could find no information about the organizational structure of this entity.

**Scope of business**

Nanjing Huashun Aluminium Wheels Co., Ltd produces:

- automobile aluminum;
- aluminium wheels; and
- custom made aluminum wheels.

**Involvement in ARW /other aluminium products:**

Nanjing Huashun Aluminium Wheels Co., Ltd produces ARW.

**Entity with State Investment**

The GOC has seen no evidence to suggest this entity is an entity with State Investment

**Annual reports**

The GOC has been unable to find annual reports for Nanjing Huashun Aluminium Wheels Co.

**Shenyang Dooray Wheels Co., Ltd****Address**

No 18A Zhongyang Street, Econ. & Tech. Development Zone, Tiexi District, Shenyang PRC  
110141

**Parent company**

The GOC could find nothing to indicate Shenyang Dooray Wheels Co., Ltd has a parent company.

**Subsidiaries**

The GOC could find nothing to indicate Shenyang Dooray Wheels Co., Ltd has any subsidiaries.

**Organizational structure**

The GOC could find no information about the organizational structure of this entity.

**Scope of business**

Shenyang Dooray Wheels Co., Ltd produces 12 inch- 24 inch aluminum alloy wheels.

**Involvement in ARW /other aluminium products**

Shenyang Dooray Wheels Co., Ltd produces 12 inch- 24 inch aluminum alloy wheels.

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**Entity with State investment**

The GOC has seen no evidence to suggest this entity is an entity with State investment.

**Annual reports**

The GOC has been unable to find annual reports for Shenyang Dooray Wheels Co., Ltd.

**Foshan Nanhai Zhongnan Wheel Co., Ltd****Address**

North of Yanbu Xiaofang, Guangfo Road, Nanhai District, Foshan City, Guangdong, PR  
China 528247

**Parent company**

The GOC could find nothing to indicate Foshan Nanhai Zhongnan Wheel Co., Ltd has a parent company.

**Subsidiaries**

The GOC could find nothing to indicate Foshan Nanhai Zhongnan Wheel Co., Ltd has any subsidiaries.

**Organizational structure**

The GOC could find no information about the organizational structure of this entity.

**Scope of business**

Foshan Nanhai Zhongnan Wheel Co., Ltd produces auto and motorcycle aluminium wheels.

**Involvement in ARV/other aluminium products**

Please refer to the previous answer.

**Entity with State investment**

The GOC has seen no evidence to suggest this entity is an entity with State investment.

**Annual reports**

The GOC has been unable to find annual reports for Foshan Nanhai Zhongnan Wheel Co., Ltd.

**Tai'an Huatai Aluminium Wheel-hub Co., Ltd****Address**

## PUBLIC VERSION

West Xiaojing Village, Taifo Road, Tai'an City, 271000

**Parent company**

The GOC could find nothing to indicate Tai'an Huatai Aluminium Wheel-hub Co., Ltd has a parent company.

**Subsidiaries**

The GOC could find nothing to indicate Tai'an Huatai Aluminium Wheel-hub Co., Ltd has any subsidiaries.

**Organizational structure**

The GOC could find no information about the organizational structure of this entity.

**Scope of business**

Tai'an Huatai Aluminium Wheel-hub Co., Ltd produces high-quality ARW.

**Involvement in ARW /other aluminium products**

Please refer to the above answer.

**Entity with State investment**

The GOC has seen no evidence to suggest this entity is an entity with State investment.

**Annual reports**

The GOC has been unable to find annual reports for Tai'an Huatai Aluminium Wheel-hub Co., Ltd.

**C3.12** The applicant claims that the ARW industry in China is purchasing its aluminium raw material on the Changjiang River Exchange. The following questions relate to that claim.

(a) Customs and Border Protection was of the understanding that the SHFE is the only futures exchange in China that trades futures contracts for aluminium.

Please confirm whether the Changjiang River Exchange is also a futures exchange that trades aluminium futures contracts.

The GOC does not know of any "Changjiang River Exchange" operating within China.

The GOC believes Customs may be referring to the "Shanghai Yangtsi Non-ferrous Metal Network" ([www.scccj.com](http://www.scccj.com)). The GOC confirms that "Changjiang River Exchange", is a nonferrous metal spot market, not a futures exchange, which trades aluminium futures contracts.

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(b) Explain in detail, the GOC's oversight of the Changjiang River Exchange, including an explanation of the role and functions of the government body that is responsible for establishing securities market regulations with respect to the Changjiang River Exchange.

Please refer to response to the question C3.12(a).

(c) Provide the annual reports for the Changjiang River Exchange for the two year period prior to 30 June 2011.

Please refer to response to the question C3.12(a).

(d) Provide the requirements, guidelines or rules for trading membership on the Changjiang River Exchange.

Please refer to response to the question C3.12(a).

(e) Provide the trading rules of the Changjiang River Exchange.

Not applicable, since Changjiang River Exchange is not a futures market.

(f) Indicate the exact contract specifications and other specific trading rules for the aluminium futures contracts that are traded on the Changjiang River Exchange.

Not applicable, since Changjiang River Exchange is not a futures market.

(g) Can foreign, non-Chinese domestic companies, trade aluminium futures contracts on the Changjiang River Exchange? If not, explain the purpose of this limitation.

Not applicable, since Changjiang River Exchange is not a futures market.

(h) Provide a list of the Changjiang River Exchange's member companies that had aluminium futures contract trading rights during the investigation period.

Provide the companies' full names and addresses.

Indicate which companies are SOEs and which companies are otherwise associated with the GOC, as per the definition of associated

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persons found in the glossary. Also, indicate which companies are involved in the production or selling of aluminium and/or ARWs.

Not applicable, since Changjiang River Exchange is not a futures market.

(i) Are there any restrictions or limitations preventing Chinese companies from trading in foreign commodity exchange futures contracts? If so, please explain.

Pursuant to section 46 of **Attachment 58 - Regulation on the Administration of Futures Trading**, the Commerce Administrative Department of the State Council examines and verifies the selection of overseas commodity futures that may be traded by domestic entities or individuals.

(j) In addition to the trading of aluminium futures contracts, does the Changjiang River Exchange also have an aluminium (including pre-alloy aluminium A356 and/or A356.2 or similar) spot market?

Changjiang River Exchange is not an aluminium futures contract trading exchange, but does operate an aluminium (including pre-alloy aluminium A356 and/or A356.2 or similar) spot market.

Please refer to response to the response to question 3.12(a) above.

(k) Provide the monthly trading volume and average settlement price for aluminium futures contracts, and spot settlement prices if spot trading occurs, for every month during the investigation period (1 July 2006 to 30 June 2011).

The GOC has been unable to gather the information as yet, however the GOC is requesting the assistance of the relevant sources and hopes to be able to provide relevant information soon.

**C3.13** The following questions relate to other Chinese aluminium commodity exchanges.

(a) Aside from the SHFE and Changjiang River Exchange, list the names and addresses of any other Chinese domestic commodity markets that have a physical exchange, or spot market, for aluminium.

Spot trading (cash sales for immediate delivery) for aluminium is very active in China.

Since 1990, a large number of spot markets for aluminium have been set up in many cities of

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China such as Shanghai, Tianjin, Shandong, Guangdong, Yunnan etc, in response to the demands of aluminium traders. Aluminium spot trading markets have evolved over the last 20 years from simple markets with limited functions, to modern multifunctional markets. Spot markets enjoy full autonomy in their business operation and generally adopt flexible trading approaches to provide high-quality services to buyers and sellers. To be successful it is necessary for them to adhere to the principles of fairness, impartiality, publicity; to trade in genuine goods at fair prices; and to provide quality service, efficiency and standardized management.

For example, the Nonferrous Metals Trading Market of Shanghai Material Trading Centre was established in 1992 and is composed of more than 170 sales representatives of aluminium manufactures and traders. In the past, the Nonferrous Metals Trading Market of Shanghai Material Trading Centre only focused on providing workplaces and information services. It is now gradually realizing the goal of forming a large-scale physical trading platform, establishing financial settlement and goods distribution system, and developing a virtual market characterized by e commerce. This will enable it to provide comprehensive, timely, accurate information and quality services to both sellers and buyers in the market. Other spot markets also have succeeded in providing more complete service offerings and have improved service quality in recent years.

In addition, e-commerce trading of aluminium has also been developing rapidly in China and while specific research on this is not available at this time, the GOC understands that it now represents a significant share of the domestic market.

It is important to understand that the Chinese aluminium industry is different from most overseas aluminium markets in that it is highly fragmented. The top ten aluminium producers in China control only a modest portion of the domestic market. By contrast, in the US, the top ten producers control a large portion of the market.

Since no company in China controls a large market share, traders in the market are unable to exert control over the market. The market continues to be characterized by fierce price competition. In other words, competition in the aluminium market is intense and the level of marketisation of SIEs and former SIEs who participate in the market is also very high.

The characteristics of the Chinese aluminium market favors the development of a very active B2B market-space to expand market access, to improve information exchange for market participants, to reduce marketing costs for suppliers, to reduce procurement costs for buyers, to increase supply chain efficiency and to maximise the usage of all market resources.

There is no official record of the first aluminium e-commerce website, nor does the GOC keep official statistics on the number of existing aluminium e-commerce websites. Generally speaking, most e-commerce websites in the aluminium industry were established in the 1990s and early 2000s. For example, i-metal (<http://www.imetal.com>) was established in

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2000. Metal China (<http://www.metalchina.net/>) was established at the end of the 1990s.

A simple Google search reveals that there are literally hundreds of e-commerce websites participating in buying and selling in the aluminium industry in China. Among these, over 40 websites appear to be significant in size and scope. Through these web sites, the more significant traders provide a full scale of services online, including but not limited to information delivery and update, membership management and payment assistance, to ease the trading process and enhance the success of trades.

The larger websites list hundreds of thousands of members. Most of them have teamed up with other associations, banking organisations and/or e-commerce websites.

For some of the more successful sites, typical daily visits and click rates can reach over one hundred thousand in number, leading to a large volume of daily leads. For example, at the China Aluminium Network website (<http://www.alu.com.cn/enNews/NewsInfo-1592.html>), daily visits average over 60,000, and daily click rates averaged over 90,000.

All of these aluminium e-commerce sites are voluntary and privately established by aluminium trading or manufacturing companies, industries guilds or professional associations. The government plays no role in their establishment or operations.

The e-commerce site "i-Metal" is a good example of this phenomenon in the Chinese aluminium market place. i-Metal ([www.i-metal.com](http://www.i-metal.com)) was founded in March 2000 by Asia Aluminium Holdings (AAH, see [www.asiaaluminum.com](http://www.asiaaluminum.com)), which operates China's largest aluminium extrusion and fabrication business and is listed on the Stock Exchange of Hong Kong. i-Metal is a typical example of the development of E-commerce in the aluminium industry in China. The highly developed nature of the Chinese aluminium spot markets and the importance of aluminium E-commerce websites and the public Shanghai Futures Exchange are indicative of a highly sophisticated and well-functioning domestic market characterized by the transparent free flow of pricing information, resulting in intense competition and fair aluminium pricing mechanisms.

There are no comprehensive official statistics about the spot markets for aluminium in China. However, some basic internet research discloses the following major trading market operators:

Name:	Nonferrous Metals Trading Market of Shanghai Material Trading Centre
Address:	2550 Zhongshan Road North, Shanghai
Name:	East China Nonferrous Metals Market
Address:	Jinsheng Industrial Park, 2 Qingnian Road, Linyi City, Shangdong Province
Name:	Guangdong Nanchu Repository Management Co., Ltd
Address:	46 Foluo Road, Chancheng District, Foshan City, Guangdong



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(b) Explain in detail, the GOC's oversight of these aluminium spot markets, including the an explanation of the role and functions of the government body that is responsible for establishing commodities market regulations with respect to these aluminium spot markets

As already explained, there is no specific government body that is responsible for establishing commodities market regulations concerning these aluminium spot markets. The spot markets operate privately, without specific government intervention or supervision. They operate under normal market conditions and carry out purchases and sales based on the commercially free play of negotiations between independent parties.

(c) Provide the any official trading rules governing the trading of aluminium on these other spot markets.

There are no official trading rules governing aluminium trading. Transactions occurring in these markets are subject to basic commercial and contract laws.

(d) Provide the monthly trading volume and average spot price for aluminium for each of these other aluminium spot markets for every month during the investigation period (1 July 2010 to 30 June 2011).

The GOC does not track or collect the data for each and every spot market it has mentioned, and it has not been able to collect this information in the time provided. Collecting this information would require the mobilisation of officials in various locations, and this is presently being attempted.

(e) Explain any GOC restrictions to either the volume or prices placed on these aluminium spot markets.

There is no government restriction for volume or prices placed on these aluminium spot markets. The volume and prices depend on completed trading and are influenced by supply and demand relations.

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## SECTION D: SUBSIDIES

*The applicant alleges that producers in China of ARWs have benefited from a number of subsidies granted by the GOC, and that these subsidies are countervailable.*

## INVESTIGATED PROGRAMS

The following programs are currently being investigated by Customs and Border Protection:

**Program 1:** Aluminium provided by government at less than fair market value

**Program 2:** Transitional preferential tax policies for tax resident enterprise

**Program 3:** Preferential policies on Enterprise Income Tax

**Program 4:** Preferential income tax for hi-tech enterprises

**Program 5:** "Go west" strategy

**Program 6:** Preferential tax policies for FIEs established in the coastal economic open areas and in the economic and technological development zones

**Program 7:** Reduced tax rate for productive FIEs scheduled to operate for a period not less than 10 years: "two years of exemption and three years fifty per cent reduction"

**Program 8:** Preferential tax policies for FIE export enterprises whose annual output value of all export products amounted to 70% or more

**Program 9:** Preferential tax policies for FIEs which are technology-intensive and knowledge-intensive

**Program 10:** Preferential tax policies for enterprises which provide employment to unemployed people

**Program 11:** Preferential tax policies for FIEs in State high- or new-technology industrial development zones, and for advanced technology enterprises invested in and operated by FIEs

**Program 12:** 100% refund of income tax paid on direct reinvestment

**Program 13:** Preferential tax policies for enterprises transferring technology

**Program 14:** Preferential tax policies for enterprises making little profits

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**Program 15:** Preferential tax policies for enterprises with foreign investment in the border cities

**Program 16:** Preferential tax policies for FIEs in central and western China

**Program 17:** Preferential tax policies for FIEs established in the Pudong area of Shanghai

**Program 18:** Preferential tax policies for domestic companies and FIEs in the western regions

**Program 19:** Preferential tax policies for FIEs in the *Three Gorges of Yangtze River Economic Zone*

**Program 20:** Preferential tax policies for enterprises established in poverty stricken areas

**Program 21:** Grants for encouraging the establishment of headquarters and regional headquarters with foreign investment

**Program 22:** Preferential tax treatments for new hi-tech enterprises (NHTEs) in special zones

**Program 23:** Preferential policies in industrial zones in China including Economic & Technological Development Zones (ETDZ), High & New Technological Development Zones (High Tech Parks), Export Processing Zones (EPZ), Special Economic Zones (SEZ), Free Trade Cooperation Zones (FTZ), Industrial Zones (IZ) and Export Processing Zones (EPZ) - Provinces include Beijing, Dalian, Fujian, Guangdong, Guangzhou, Lianyungang, Nantong, Ningbo, Qingdao, Qinhuangdao, Shanghai

**Program 24:** Preferential Policies in Xinzhuang Industrial Zone, Shanghai

**Program 25:** Preferential policies in Shanghai

**Program 26:** Preferential policies in Weihai Economic Development, High-tech Industry Development and Export Processing zones, Shandong province

**Program 27:** Tax incentives for manufacturing FIEs in Jiangsu province

**Program 28:** Preferential tax rates in Guangzhou, Guangdong province

**Program 29:** Patent award of Guangdong Province

**Program 30:** Termination of tax refund policies for FIEs on their purchase of domestically manufactured equipment

**Program 31:** Exemption of tariff and import VAT for imported technologies and equipments

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**Program 32:** Full refund of VAT to FIEs on purchasing unused domestic equipment with currency in China

**Program 33:** Preferential tax treatment for casting and forging products

**Program 34:** Preferential tax treatment to dies product

**Program 35:** Matching funds for international market development for SMEs

**Program 36:** "Innovative Experimental Enterprise Grant"

**Program 37:** Special Support Fund for non-State-owned enterprises (NSOEs)

**Program 38:** "Venture Investment Fund for Hi-Tech Industry"

**Program 39:** Superstar Enterprise Grant

**Program 40:** One-time awards to enterprises whose products qualify for "Well-Known Trademarks of China" or "Famous Brands of China"

*Note: the above titles of programs are to the best of Customs and Border Protection's knowledge and in some cases may simply be descriptions of the program. Consequently, the above titles may not exactly reflect any official titles that the GOC has in place.*

*In responding to this questionnaire, if the GOC is unfamiliar with the title given to a program, but is aware of the existence of a similar program or one that it appears is being referred to, please identify this (including providing the official title of any such program) and respond to the questionnaire in relation to that program.*

**ANY OTHER PROGRAM NOT PREVIOUSLY ADDRESSED**

If the GOC, any of its agencies, or any other authorized non-governmental body provides any other assistance programs not previously addressed (including market development assistance programs or any domestic support programs related to the manufacture of subject goods) to manufacturers of ARWs in China, identify these program(s).

Such assistance programs are those that constitute a subsidy as defined in the Glossary of Terms.

Please provide the information requested in the following Section D-1 for each program identified above and any additional programs you have identified. In addition, please respond to the program-specific information requested in Section I-2.

**PART D1 - GENERAL QUESTIONS**

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For **each of the 40 programs** identified above, and any applicable additional programs the GOC identifies, answer the following questions.

*Note: In responding to the questions in this part, you are required to provide information on each program, regardless of the year the benefit was granted by the GOC or the year that the benefit was received by the recipient company, as well as those further identified by the GOC, where the program benefits impact on the production and sale of ARWs and aluminium during the investigation period.*

Provide a copy of the laws, regulations, circulars, notice or other documents identified in Appendix B to this questionnaire.

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## 1 PROGRAM 1: ALUMINIUM PROVIDED BY GOVERNMENT AT LESS THAN FAIR MARKET VALUE

There is no such subsidy program.

The GOC therefore cannot answer the questions posed.

The GOC is of course aware of the findings in *Report No. 175 – Reinvestigation of certain findings in Report No. 148 in relation to certain aluminium extrusions exported from China*. The GOC rejects those findings and will restate its objections to those findings in due course.

For current purposes, the GOC makes the following submissions:

- (a) The GOC rejects the claim that aluminium supplier enterprises with State investment are public bodies. They neither exercise governmental authority, nor are they "meaningfully controlled" by the government. The GOC finds the contrary proposition – that these commercial entities are public bodies exercising governmental functions or authority – to be absurd.
- (b) The GOC maintains that SIEs operate commercially and in accordance with the market economy. All of the evidence points to that proposition, and it seems strange to have to defend the proposition. GOC laws and regulations are all directed towards the operation and protection of the market economy. These laws including the following:
- Company Law Attachment 12
  - Contract Law Attachment 59
  - Regulation on the Administration of Company Registration Attachment 60
  - Security Law Attachment 61
  - Negotiable Instrument Law Attachment 62
  - General Principles of the Civil Law Attachment 63
  - Property Law Attachment 64
  - Law on Enterprise Bankruptcy Attachment 65
  - Guarantee Law Attachment 66
  - Anti-Monopoly Law Attachment 67
  - Labour Law Attachment 68
  - Anti-Unfair Competition Law Attachment 69

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- Patent Law **Attachment 70**
  - Trademark Law **Attachment 71**
  - Accounting Standards on Business Enterprises **Attachment 72**
  - Arbitration Law of China **Attachment 73**
  - Civil Procedure Law **Attachment 74**
  - The Constitution of China **Attachment 75**
  - Law of China on the State-Owned Assets in Enterprises **Attachment 76**
  - Budget Law of China **Attachment 77**
  - Law on Supervision by the Standing Committee of People's Congress **Attachment 78**
- (c) The GOC provides a list of enterprise suppliers in the aluminium industry and the business registration sheets of these enterprises at **Attachment 2 - List of Suppliers of Aluminium Alloy and Business Registration Sheets [CONFIDENTIAL ATTACHMENT]** to indicate the diversified ownership of major producers.
- (d) The GOC notes that aluminium alloy producing companies are not necessarily one and the same companies as those that produce aluminium, and that aluminium alloy is a diversified product available in multiple forms.

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**2 PROGRAM 2: TRANSITIONAL PREFERENTIAL TAX POLICIES FOR TAX RESIDENT ENTERPRISE**

There is no such subsidy program.

"Tax resident enterprise" is a concept under the Enterprise Income Tax Law. The law classifies enterprises into "tax resident enterprise" and "non-tax resident enterprise". A tax resident enterprise is defined as an "enterprise[ ] that [is] set up in China in accordance with the law, or that [is] set up in accordance with the law of the foreign country (region) whose actual administration institution is in China". A "non-resident enterprise" is defined as an "enterprise[ ] that [is] set up in accordance with the law of the foreign country (region) whose actual administration institution is outside China, but [has] set up institutions or establishments in China or [has] income originating from China without setting up institutions or establishments in China".

The two types of enterprises pay income tax differently. A tax resident enterprise must pay income tax regardless the origin of the income, whereas a non-tax resident enterprise pays income tax depending on the source of income and/or the connection between the income and its establishment in China.



**PUBLIC VERSION****3 PROGRAM 3: PREFERENTIAL POLICIES ON ENTERPRISE INCOME TAX**

The GOC submits that this is a very broad description. However, to cooperate with the investigation, the GOC advises that there are several preferential tax policies in relation to enterprise income tax. The GOC has responded to in respect of each of those preferential tax policies under specific programs of this questionnaire.

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**4 PROGRAM 4: PREFERENTIAL INCOME TAX FOR HI-TECH ENTERPRISES****D1.1** Provide details of the program including the following.**(a)** Policy objective and/or purpose of the program.

The purpose of this program is to encourage domestic investment and support technology upgrading of an eligible enterprise.

**(b)** Legislation under which the subsidy is granted.

*Enterprise Income Tax Law of the People's Republic of China – see Attachment 79*  
*Regulations on the Implementation of Enterprise Income Tax Law of the People's Republic of China by the State Council – see Attachment 80*

**(c)** Nature or form of the subsidy.

Preferential income tax treatment at a tax rate of 15%.

**(d)** When the program was established.

The program was established on 1 January 2008.

**(e)** Duration of the program.

From 1 January 2008 to the present.

**(f)** How the program is administered and explain how it operates.

The program is administered by the State Administration of Taxation of the People's Republic of China, with the assistance of other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that apply for the available tax reduction are required to file relevant materials with the taxation authority for registration and recording. After consideration by SAT, the applicant may receive the status for enjoying the benefits under this program.

**(g)** To whom and how is the program provided.

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Enterprises which own key intellectual property rights and satisfy the following conditions can be eligible for the program:

- (a) compliance with the scope of the Key State Supported High and New Technology Areas;
- (b) the enterprise's proportion of research and development must be no less than the prescribed proportion;
- (c) the enterprise's proportion of income from high-tech technology/ products/ services in the enterprise's total revenue shall be no less than the prescribed proportion;
- (d) the proportion of the technical personnel in the enterprise's total employees shall be no less than the prescribed proportion.

(h) The eligibility criteria in order to receive benefits under the program.

Please refer to D1.1 (g).

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Enterprise Income Tax Law of the People's Republic of China – see Attachment 79.*

*Regulations on the Implementation of Enterprise Income Tax Law of the People's Republic of China by the State Council see Attachment 80*

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please refer to D1.2.

**D1.4** Identify the GOC department or agency administering the program.

Authority:	State Administration of Taxation of the People's Republic of China
Address:	No 5, Yangfangdian West Road, Haidian District, Beijing, China
Authority:	State Administration of Taxation of Huangshi City
Address:	No.8, Cihu East Road, Huangshi City

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Authority: State Administration of Taxation of Wenling City  
Address: No.175, Wanshou Road, Taiping Town, Wenling City

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011.

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

[CONFIDENTIAL TEXT DELETED]

- D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

Any enterprise that intends to apply for this preferential tax treatment shall submit to the competent tax authority the registration for reduction together with a copy of its business license, financial statements and other documents requested by the competent authority.

There are no registration fees charged by the authority.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

After receiving the registration for reduction, the competent authority examines whether the documentation is complete and properly documented so that it can determine whether the applicant qualifies for the reduction. Upon registration by the competent authority, the applicant will be entitled to receive the reduction.

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(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the registration is approved, it means the applicant satisfied the eligibility criteria listed in the response to D1.1(g).

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the registration is refused, it means the applicant did not satisfy the eligibility criteria listed in the response to D1.1 (g) or the registration process listed in the response to D1.7 (a).

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

No. This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

No. This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

No. This program is not limited to enterprises or industries located within designated regions. Please see the eligibility criteria in D1.1 (g).

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

No. This program is not limited to any enterprise or group of enterprises, or to any industry or group of industries. Please see the eligibility criteria in D1.1 (g).

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**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is a reduction in the rate of tax from 25% to 15%.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

*Enterprise Income Tax Law of the People's Republic of China – see Attachment 79*  
*Regulations on the Implementation of Enterprise Income Tax Law of the People's Republic of China by the State Council - see Attachment 80*

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, the applicant will always receive the benefit.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by the established criteria found in the law, regulation or other official document.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

This program is established by the laws and regulations or other official documents.  
No contractual agreements between the Government of China and an enterprise receiving a benefit under the program are needed or contemplated.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of

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benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not keep such data.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

The information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The GOC does not anticipate any changes to the program

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## 5 PROGRAM 5: "GO WEST" STRATEGY

The GOC is not aware of such a program. However, the GOC considers the following program may meet this description:

- *Preferential Tax Policies in the Western Regions*

The GOC has responded to the standard questions on the assumption that this is the program referred to.

## D1.1 Provide details of the program including the following.

## (a) Policy objective and/or purpose of the program.

To accelerate the development of China's Western Regions by promoting increased liberalisation and thereby reducing the imbalance in economic development among different areas in China.

## (b) Legislation under which the subsidy is granted.

*Circular of the State Council Concerning Several Policies on Carrying out the Development of China's Vast Western Regions, State Council Circular Guo Fa No. 33 of 2000 – see Attachment 81*

*Implementing Some Policies and Measures for the Development of Western Regions, General Office of State Council Circular Guo Ban Fa No. 73 of 2001 – see Attachment 82*

*Circular of the Ministry of Finance, the State Administration of Taxation, the General Administration of Customs on Issues of Incentive Policies on Taxation for the Strategy of the Development in the Western Areas (Cai Shui (2001) No. 202) – see Attachment 83*

*Circular on Deepening the Implementation of Tax Policy concerning Development of Western Regions (Cai Shui [2011] No. 58) – see Attachment 84*

## (c) Nature or form of the subsidy.

Tax exemption

## (d) When the program was established.

26 December 1999



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(e) Duration of the program.

1 January 2001 to 31 December 2020

Exemption for import VAT for imported equipment has been terminated since 2009

(f) How the program is administered and explain how it operates.

The program is administered by the State Administration of Taxation and is implemented by the local tax authorities within their respective territorial jurisdictions.

Enterprises that apply for a tax reduction or exemption are required to file their application and other relevant supporting materials with the taxation authority for examination. If the application meets the eligibility criteria, it is approved and the applicant receives the benefits.

(g) To whom and how is the program provided.

The GOC provides its response in relation to this question as follows.

Before 1 January 2011:

- (a) The income tax on enterprises, domestic and foreign-invested, established in the Western regions which are engaged in industries encouraged by the State was levied at the reduced rate of 15% from the year 2001 to 2010.

- In relation to domestic enterprises which are engaged in industries encouraged by the State, the GOC draws Australian Customs attention to the *Catalogue of the Industries, Products and Technologies Particularly Encouraged by the State Attachment 85*. According to the *Circular on Development of China's Western Regions Attachment 81* as of 1 January 2006, domestic enterprises of encouraged projects enjoying preferential tax policies for Western region development were required to be re-examined to confirm that they fall within the category of encouraged projects under the *Guiding Catalogue for Industry Restructuring* (hereafter the "New Catalogue") **Attachment 86**. Under the *Circular on the Preferential Tax Policy of the Western Regions Attachment 83*, "domestic enterprises of encouraged projects" refers to those that have the industrial items

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specified in the *Catalogue of Industries, Products and Technology Particularly Encouraged by the State for Development 2000*

**Attachment 85** as their main business, and whose main revenue takes up at least 70% of the total revenue. With respect to enterprises that have been approved to enjoy the preferential tax policies according to the older Catalogue (ie, the one prior to 1 January 2006), the measures continue and will be implemented until their expiration, as restricted and prohibited under the *New Catalogue*. Regarding enterprises listed as restricted and prohibited projects under the *New Catalogue*, all the preferential tax policies for the Western region development shall be suspended. Those enterprises that fall within the category of encouraged projects under the *New Catalogue* shall enjoy preferential policies on income tax as from 2006.

- In relation to foreign-invested enterprises that are engaged in industries encouraged by the State, the GOC draws Australian Customs attention to the *Catalogue for the Guidance of the Foreign Investment Industries Attachment 87* and listed in the *Catalogue for the Guidance of the Advantageous Industries in Central and Western Regions for Foreign Investment Attachment 88* and the enterprises must have the items as listed in the two Catalogues as its major business revenue and the revenue from that must amount to over 70% of their total business revenue.

- (b) The new enterprises (including both domestic enterprises and foreign-invested enterprises) that are established in the Western regions and engaged in business such as transportation, electricity, water conservation, of which the revenue accounts for over 70% of total revenue, shall be, from the year production or operation commenced (for domestic enterprises) and from the year profit was first earned (for foreign-invested enterprises), having a period of operation of ten years or more, exempt from income tax for the first and second years and subject to enterprise income tax at a rate reduced by one half for the third year through the fifth year.
- (c) The land used to construct highways in Western regions is exempt from farmland occupation tax.
- (d) Domestic and foreign-invested enterprises established in the Western regions and engaged in the respective "encouraged industries", as explained above in item (a), are exempt from tariff and import VAT for imported equipment for self use within the total amount of the capital

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invested, except for those listed in *Catalogue for the imported products not subject to tax exemption in foreign invested projects Attachment 89* or in the *Catalogue for the imported products not subject to tax exemption in domestic invested projects Attachment 90*.

- (e) Since 1 January 2000, foreign-invested enterprises established in nineteen provinces, autonomous regions and municipalities directly under the Central Government in central and western regions, namely Shanxi Province, Jilin Province, Heilongjiang Province, Anhui Province, Jiangxi Province, Henan Province, Hubei Province, Hunan Province, Chongqing Municipality, Sichuan Province, Guizhou Province, Yunnan Province, Tibet Autonomous Region, Shaanxi Province, Gansu Province, Ningxia Hui Autonomous Region, Qinghai Province, Xinjiang Uygur Autonomous Region, Inner Mongolia Autonomous Region, Guangxi Zhuang Autonomous Region, which are engaged in the industries encouraged by the State as listed in the *Catalogue for the Guidance of Foreign Investment Industries Attachment 87* as well as engaged in the advantageous industries and projects approved by the State Council, shall be subject to income tax at a reduced rate of 15% for another three years following the expiration of the period of two years exemption and three years of fifty per cent reduction (ie "two free three half").

After 1 January 2011, some preferential tax policies in the Western Regions have been adjusted in accordance with *Circular on Deepening the Implementation of Tax Policy concerning Development of Western Regions (Cai Shui [2011] No.58)*. Attachment 84.

- (h) The eligibility criteria in order to receive benefits under the program.

Please refer to above response to D1.1(g).

- D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Circular of the State Council Concerning Several Policies on Carrying out the Development of China's Vast Western Regions ("Circular on Development of China's Western Regions") Attachment 81*

*Implementing Some Policies and Measures for the Development of Western Regions, General Office of State Council ("Circular on Development of Western*

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*Regions") Attachment 82*

*Circular on Preferential Tax Policy for Western Region Attachment 83*

*Circular on Deepening the Implementation of Tax Policy concerning Development of Western Regions Attachment 84*

*Catalogue of Industrial Restructuring ("New Catalogue") Attachment 86*

*Catalogue for the Guidance of the Foreign Investment Industries 2007 Attachment 87*

*Catalogue of Guidance of Advantageous Industries in Central and West for Foreign Investment (2008) Attachment 88*

*Directory of Imported Commodities of Non-Tax-Exemption to be Used in Foreign Invested Projects (2008) Attachment 89*

*Directory of Imported Commodities of Non-Tax-Exemption to be Used in Domestic Invested Projects (2008) Attachment 90*

- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4** Identify the GOC department or agency administering the program.

Authority:	Ministry of Finance
Address:	3 South Three Alley of Sanli River, Xicheng District, Beijing 100820
Authority:	State Administration of Taxation
Address:	5 Yangfangdian West Road, Haidian District, Beijing 100038
Authority:	Ministry of Commerce
Address:	2 Dong Chang'an Avenue, Beijing 100731
Authority:	State Council Development-Oriented Poverty Alleviation Leading Group
Address:	11 Nongzhanguan Nanli, Beijing 100026
Authority:	National Development and Reform Commission
Address:	38 Yuetan South Avenue, Beijing 100824

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

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The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies are located in the Western Region, and as such none of them applied for or received any benefits under this program.

- D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

Please refer to **Attachment 91** and **Attachment 92** for copies of the relevant application forms.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Upon receipt of an application the competent authority will assess the complete materials in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the application. If the application does not satisfy the relevant criteria the application will be rejected.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

Please see above response to D1.1(g) for an explanation of the criteria for assessment.

There are no specific approval documents, successful enterprises simply receive the reduction or exemption as a matter of course.

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(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the applicant does not meet the eligibility criteria it will not be accorded the preferential tax rate and will not receive a reduction or exemption.

There is no specific, single-purpose disapproval document or form.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is available to enterprises located in the Western Regions. Before the promulgation of the *Circular on Deepening the Implementation of Tax Policy concerning Development of Western Regions*, the "Western Regions" includes Shanxi Province, Jilin Province, Heilongjiang Province, Anhui Province, Jiangxi Province, Henan Province, Hubei Province, Hunan Province, Chongqing Municipality, Sichuan Province, Guizhou Province, Yunnan Province, Tibet Autonomous Region, Shaanxi Province, Gansu Province, Ningxia Hui Autonomous Region, Qinghai Province, Xinjiang Uygur Autonomous Region, Inner Mongolia Autonomous Region and Guangxi Zhuang Autonomous Region.

After the promulgation of that Circular, the "Western Regions" enjoying relevant preferential tax policies under that document includes Chongqing, Sichuan Province, Guizhou Province, Yunnan Province, Tibet Autonomous Region, Shaanxi Province, Gansu Province, Ningxia Hui Autonomous Region, Qinghai Province, Xinjiang Uygur Autonomous Region, Xinjiang Production and Construction Corps, Inner Mongolia

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Autonomous Region and Guangxi Zhuang Autonomous Region.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

This program is available to some enterprises that are engaged in industries encouraged by the State and advantageous industries. Under the relevant legislative instruments these include industries and sectors such as agriculture, mining, power generation, waste, ceramics, equipment, electronics, chemicals and transportation.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

Please see above response to D1.1(g).

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2, no further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the applicant meets the eligibility criteria discussed above the applicant will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

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(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not record such data and as such is unable to respond to this question.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

The information is not available. Please see above response D1.10

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

Since 1 January 2011, some preferential tax policies in the Western Regions have been adjusted in accordance with *Circular on Deepening the Implementation of Tax Policy concerning Development of Western Regions*. From that date, the aforementioned document *Circular on Preferential Tax Policy for Western Region* (Cai Shui [2001] No. 202) Attachment 83 is no longer being implemented.



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**6 PROGRAM 6: PREFERENTIAL TAX POLICIES FOR FIEs ESTABLISHED IN THE COASTAL ECONOMIC OPEN AREAS AND IN THE ECONOMIC AND TECHNOLOGICAL DEVELOPMENT ZONES**

**D1.1** Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

To encourage foreign investment in and to enhance development of coastal economic open areas and economic and technological development zones.

(b) Legislation under which the subsidy is granted.

This program was previously granted under the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise* ("the Foreign Enterprise Tax Law") **Attachment 93**, the *Rules for the Implementation of the Foreign Enterprise Tax Law* and the *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94.*

(i) N

a

(c) Nature or form of the subsidy.

Preferential tax treatment

(d) When the program was established.

1984

(e) Duration of the program.

The program was in operation from 1984 through to 31 December 2007. Transitional provisions are now in operation until 2012.

(f) How the program is administered and explain how it operates.

The program is administered by the State Administration of Taxation in conjunction with other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that apply for a tax reduction do so in the normal course of their income tax assessment.

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(g) To whom and how is the program provided.

The income tax on production enterprises with foreign investment that are established in the economic and technological development zones may be levied at the reduced rate of 15%.

The income tax on production enterprises with foreign investment established in the coastal economic open areas and in the old urban districts of cities where the economic and technological development zones are located may be levied at the reduced rate of 24%.

The income tax on the production enterprises with foreign investment established in the coastal economic open areas and in the old urban districts of cities where the economic and technological development zones are located and which are engaged technology-intensive or knowledge-intensive projects; projects with foreign investments of over USD30 million and long term outlooks for return on investment; or energy resource, transportation and port construction projects may be levied at the reduced rate of 15%.

(h) The eligibility criteria in order to receive benefits under the program.

Enterprises will receive benefits under the program if they satisfy the requirements outlined in Article 7 of the *Foreign Enterprise Income Tax Law* and Article 73 of the *Rules for the Implementation of the Foreign Enterprise Tax Law Attachment 95*

Please see above response to D. 1.1(g) for an explanation of these criteria.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94*

*Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise ("the Foreign Enterprise Tax Law") (Repealed) Attachment 93*

*Rules for the Implementation of the Foreign Enterprise Tax Law Attachment 95*

**PUBLIC VERSION**

- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4** Identify the GOC department or agency administering the program.

Authority:	Ministry of Finance of the People's Republic of China
Address:	No 3, South Three Alley of Sanli River, Xicheng District, Beijing, People's Republic of China, 100820
Authority:	State Administration of Taxation
Address:	No 5, Yangfangdian West Road, Haidian District, Beijing, People's Republic of China, 100038
Authority:	Ministry of Commerce of the People's Republic of China
Address:	No.2 Dong Chang'an Avenue Beijing, People's Republic of China, 100731

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011.

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the investigation period.

- D1.7** Answer the following questions regarding the application process:

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(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

There is no specific application form.

An enterprise's eligibility is assessed on the basis of its standard annual income tax reporting. Enterprises indicate on their standard reporting documents whether they are seeking to be considered under this program and quote the percentage to which they claim to be entitled for reduction or exemption.

Copies of the standard income tax assessment forms have been provided in **Attachment 96**

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

Upon receipt of standard income tax reporting the competent authority examines the submitted materials to determine whether they are complete and properly documented.

The competent authority will assess complete materials in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the reduction or exemption. If the enterprise does not meet the relevant criteria the reduction or exemption will not be provided.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the enterprise meets the eligibility criteria outlined in D1.1(g) the enterprise will receive the legislated reduction or exemption.

There are no specific approval documents, successful enterprises simply receives the reduction or exemption as a matter of course.

(d) If the application is not approved, provide the disapproval documents together with the reasons for disapproval.

If the enterprise does not meet the eligibility criteria it will not be afforded the preferential tax rate and will not enjoy the reduction or exemption.

There is no specific, single-purpose disapproval document or form.

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**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is available to enterprises located within economic and technological development zones, coastal economic open areas, and old urban districts of cities where the economic and technological development zones are located.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

Please see above response to D1.1(g) for an explanation of the criteria determining the size of the benefit.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2. No further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the enterprise meets the eligibility criteria discussed above the enterprise will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the GOC and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not keep such data

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2007 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

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**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The *Enterprise Income Tax Law Attachment 79* was adopted at the fifth session of the Tenth National People's Congress on 16 March 2007, and it came into effect on 1 January 2008. This program is not included in the law.

According to *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94* as of 1 January 2008 enterprises that previously enjoyed the preferential policies of reduced tax rates shall be gradually transitioned to the statutory tax rate over a 5 year period after the implementation of the Income Tax Law.

In particular the enterprises that enjoyed a tax rate of 15% are subject to the following increases:

- 18% in 2008;
- 20% in 2009;
- 22% in 2010;
- 24% in 2011; and
- 25% in 2012.

Enterprises that previously enjoyed tax rate of 24% were immediately subject to a 25% rate as of 2008.

The program will be completely terminated at the expiration of transitional period in 2012.

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- 7 **PROGRAM 7: REDUCED TAX RATE FOR PRODUCTIVE FIEs SCHEDULED TO OPERATE FOR A PERIOD NOT LESS THAN 10 YEARS: "TWO YEARS OF EXEMPTION AND THREE YEARS FIFTY PER CENT REDUCTION"**

**D1.1** Provide details of the program including the following.

- (a) Policy objective and/or purpose of the program.

To encourage foreign investment.

- (b) Legislation under which the subsidy is granted.

*The Foreign Enterprise Tax Law (repealed) Attachment 93*

*Rules for Foreign Enterprise Tax Law Attachment 95*

*Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94*

- (c) Nature or form of the subsidy.

Preferential tax treatment.

- (d) When the program was established.

1 July 1991.

- (e) Duration of the program.

The program was in operation from 1991 through to 31 December 2007. Transitional provisions are now in operation until 2012.

- (f) How the program is administered and explains how it operates.

The program is administered by the State Administration of Taxation in conjunction with other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that seek the tax reduction do so in the normal course of their income tax assessment.

- (g) To whom and how is the program provided.

Any production enterprise with foreign investment that is intended to operate for a



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period of not less than ten years shall, from the year it begins to make a profit, be exempted from income tax in the first and second years of operation and provided a 50% reduction from the third to fifth year of operation.

Any foreign investor of an enterprise with foreign investment that reinvests its share of profit directly into that enterprise by increasing its registered capital, or uses the profit as capital investment to establish other enterprises with foreign investment to operate for a period of not less than five years, may be refunded 40% of the income tax already paid on the reinvested amount.

Where a foreign investor directly reinvests profits in expansion of export-oriented enterprises or advanced technology enterprises, the entire portion of enterprises income tax that has been paid on the reinvested amount may be refunded.

(h) The eligibility criteria in order to receive benefits under the program.

According to *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94* as of 1 January 2008 enterprises that previously enjoyed a two year exemption and three year half payment of the enterprise income tax and other preferential treatments (including periodic tax deductions and exemptions) may continue to enjoy any preferential treatments previously enjoyed until the expiration of the transitional time period.

For enterprises that previously had not enjoyed preferential treatment, the preferential time period shall be calculated from 2008.

The program will be completely terminated at the expiration of transitional period (ie, by 2012).

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Foreign Enterprise Tax Law (repealed) Attachment 93*

*Rules for the Implementation of the Foreign Enterprise Tax Law Attachment 95*

*Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94*

*Enterprise Income Tax Law 2008 Attachment 79*

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- D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

- D1.4** Identify the GOC department or agency administering the program.

Authority:	Ministry of Finance
Address:	3 South Three Alley of Sanli River, Xicheng District, Beijing 100820
Authority:	Administration of Taxation
Address:	6 Jianguomen Avenue, Dongcheng District, Beijing 100730
Authority:	Ministry of Commerce
Address:	No.2 Dong Chang'an Avenue, Beijing, 100731
Authority:	State Administration of Taxation of Ninghai County
Address:	No.316, Qixiang North Road, Yuelong Street, Ninghai County, Zhejiang Province

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

[CONFIDENTIAL TEXT DELETED]

- D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

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There is no specific application form.

An enterprise's eligibility is assessed on the basis of their standard annual income tax reporting. Enterprises indicate on standard reporting documents whether they are seeking to be considered under this program.

Copies of the standard income tax assessment forms are provided in **Attachment 96**

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or disapproved.

Upon receipt of standard income tax reporting the competent authority examines the submitted materials to determine whether they are complete and properly documented.

The competent authority will assess complete materials in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the reduction or exemption. If the enterprise does not meet the relevant criteria the reduction or exemption will not be provided.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the enterprise meets the eligibility criteria outlined in D1.1(h) the enterprise will receive the legislated exemption or reduction.

There are no specific approval documents, successful enterprises simply receive the exemption or reduction as a matter of course.

(d) If the application is not approved, provide the disapproval documents together with the reasons for disapproval.

If the enterprise does not meet the eligibility criteria it will not be afforded the preferential tax rate and will not receive an exemption or reduction.

There is no specific, single-purpose disapproval document or form.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

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(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is not limited to particular designated regions.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program is not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is determined by direct reference to the relevant regulations and laws. Please see above response D1.1(g) for details of the relevant rates.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2, no further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a

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benefit or is final approval contingent upon the government agency or authority that administers the program?

If the enterprise meets the eligibility criteria discussed above the enterprise will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2010 to 30 June 2011.

The GOC does not keep such data.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

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As previously explained, the new *Enterprise Income Tax Law Attachment 79* was adopted at the fifth session of the Tenth National People's Congress on 16 March 2007. It came into effect on 1 January 2008.

The new *Enterprise Income Tax Law* repeals the laws under which this program was established.

According to *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax Attachment 94* as of 1 January 2008 enterprises that previously enjoyed a 2-year exemption and 3-year half payment of the enterprise income tax and other preferential treatments (including periodic tax deductions and exemptions) may continue to enjoy any preferential treatments previously enjoyed until the expiration of the transitional time period.

For enterprises that previously had not enjoyed preferential treatment, the preferential time period shall be calculated from 2008.

The program will be completely terminated at the expiration of the transitional period at 31 December, 2012.

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**8 PROGRAM 8: PREFERENTIAL TAX POLICIES FOR FIE EXPORT ENTERPRISES  
WHOSE ANNUAL OUTPUT VALUE OF ALL EXPORT PRODUCTS AMOUNTED TO 70%  
OR MORE**

**D1.1** Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

To encourage foreign investment.

(b) Legislation under which the subsidy is granted.

*Income Tax Law of the People's Republic of China for Enterprises with Foreign  
Investment and Foreign Enterprise ("the Foreign Enterprise Tax Law") Attachment  
93*

*Rules for the Implementation of the Foreign Enterprise Tax Law Attachment 95*

(c) Nature or form of the subsidy.

Preferential tax treatment

(d) When the program was established.

1 July 1991

(e) Duration of the program.

The program was in operation from 1991 through to 31 December 2007.

(f) How the program is administered and explain how it operates.

The program was administered by the State Administration of Taxation in conjunction with other competent authorities, and was implemented by the local tax authorities within their respective jurisdictions. Enterprises that applied for a tax reduction did so in the normal course of their income tax assessment.

(g) To whom and how is the program provided.

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Export-oriented enterprises invested in and operated by foreign businesses were eligible for a 50% discount on tax paid for any year in which the value of all export products amounts to 70% or more of the total output of the products of the enterprise for that year.

Eligible enterprises located in the special economic zones or in the economic and technological development zones and other such enterprises subject to enterprise income tax at the tax rate of 15% received a reduced rate of 10%.

(h) The eligibility criteria in order to receive benefits under the program.

Please see above response to D1.1(g)

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise ("the Foreign Enterprise Tax Law") (Repealed)*  
Attachment 93

*Rules for the Implementation of the Foreign Enterprise Tax Law* Attachment 95

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

**D1.4** Identify the GOC department or agency administering the program.

Authority:	State Administration of Taxation
Address:	5 Yangfangdian West Road, Haidian District, Beijing 100038
Authority:	Ministry of Commerce
Address:	2 Dong Chang'an Avenue, Beijing 100731

**D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are



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provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the POI.

- D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

Not applicable. The program has been terminated before the investigated period.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Upon receipt of standard income tax reporting the competent authority examined the submitted materials to determine whether they were complete and properly documented.

The competent authority assessed the complete materials in accordance with the relevant regulations. Provided the enterprise satisfied all the relevant criteria the authority approved the reduction or exemption. If the enterprise did not meet the relevant criteria the reduction or exemption was not provided.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the enterprise met the eligibility criteria outlined in D1.1(g) the enterprise received the legislated reduction or exemption.

There were no specific approval documents, successful enterprises simply received the reduction or exemption as a matter of course.

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(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the enterprise did not meet the eligibility criteria it was not afforded the preferential tax rate and would not have enjoyed the reduction or exemption.

There was no specific, single-purpose disapproval document or form.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program was contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program was not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program was not limited to particular designated regions.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

Eligibility for this program was not limited to any particular enterprise, group of enterprises or to any industry or group of industries.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

Please see above response to D1.1(g) for an explanation of the criteria which

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determined the size of the benefit.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2. No further legal instruments governed the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the enterprise met the eligibility criteria discussed above the enterprise will have received the benefit, no further discretion was exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided was exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion was required.

(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There were no contractual agreements between the Government of China and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not keep such data.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial

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assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The new Income Tax Law was adopted at the fifth session of the Tenth National People's Congress on 16 March 2007, and it came into effect as of 1 January 2008. The program is neither included in the new Income Tax Law nor in the transitional regulation, and therefore terminated on 31 December 2007, which was the last date on which a company could apply for or claim benefits under the program.

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## 9 PROGRAM 9: PREFERENTIAL TAX POLICIES FOR FIES WHICH ARE TECHNOLOGY-INTENSIVE AND KNOWLEDGE-INTENSIVE

D1.1 Provide details of the program including the following.

(a) Policy objective and/or purpose of the program.

To encourage foreign investment and the introduction of advanced technology in the old downtown areas of cities which are located in the special economic zones, the open coastal economic areas and the technology and economic development zones.

(b) Legislation under which the subsidy is granted.

*Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprise Attachment 95*

*Circular of the State Administration of Taxation Concerning Enjoying the Preferential Taxation Policy of "the Two Intensive Enterprises" by Enterprises with Foreign Investment Attachment 97*

*Circular of the State Administration of Taxation Concerning the Tax Preferential Policy Applicable to Enterprises with Foreign Investment with Regard to Technology-Intensive and Knowledge-Intensive Projects Attachment 98*

(c) Nature or form of the subsidy.

Preferential tax treatment.

(d) When the program was established.

1 July 1991.

(e) Duration of the program.

The program was in operation from 1991 through to 31 December 2007. Transitional provisions are now in operation until 2012.

(f) How the program is administered and explain how it operates.

The program is administered by the State Administration of Taxation in conjunction

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with other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that apply for a tax reduction do so in the normal course of their income tax assessment.

(g) To whom and how is the program provided.

This program offers eligible foreign invested enterprises a reduced income tax rate of 15%.

(h) The eligibility criteria in order to receive benefits under the program.

This program is available to foreign invested enterprises engaged in technology-intensive and knowledge-intensive activities with central productions lines listed in the *Catalogue of High and New Technology Products of China* provided that sales revenue generated by these eligible products accounts for over 50% of the total annual sales revenue in the subject year.

**D1.2** Provide translated copies in English of the decrees, laws and regulations relating to the program and any reports pertaining to the program published during or since the investigation period.

*Rules for the Implementation of the Foreign Enterprise Tax Law Attachment 95*

*Circular of the State Administration of Taxation Concerning Enjoying the Preferential Taxation Policy of "the Two Intensive Enterprises" by Enterprises with Foreign Investment Attachment 97*

*Circular of the State Administration of Taxation Concerning the Tax Preferential Policy Applicable to Enterprises with Foreign Investment with Regard to Technology-Intensive and Knowledge-Intensive Projects Attachment 98*

*Catalogue of High and New Technological Products 2006 (Attachment 184)*

**D1.3.** Provide copies together with translations in English of all legislative, regulatory, administrative and public documents relating to this program.

Please see above response to D1.2.

**D1.4** Identify the GOC department or agency administering the program.

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Authority: State Administration of Taxation  
Address: 5 Yangfangdian West Road, Haidian District, Beijing, 100038  
Authority: Ministry of Science and Technology  
Address: Yi No.15, Fuxing Road, Beijing, 100862

- D1.5** Identify and explain the types of records maintained by the relevant government or governments (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding the program.

The tax authority in charge of respondents keeps the relevant documents which are provided by respondents under the program.

- D1.6** Indicate which of the companies listed in your response to Question B3 applied for, accrued, or received benefits under the program for the following periods: 1 July 2010 to 30 June 2011

Provide, on an annual basis by calendar year (separating July – Dec 2006 and January – June 2011) the amount(s) and/or nature of the benefit or concession granted (monetary and/or non-monetary) under the program.

None of the responding companies were in receipt of benefits under the program during the POI.

- D1.7** Answer the following questions regarding the application process:

(a) Describe the application process (including any application fees charged by the government agency or authority) for the program and provide a blank copy of the application form (translated, if necessary).

Any enterprise that applies for this tax treatment submits application forms and other requested documents to the competent tax authority.

There are no application fees charged by the authority.

Please refer to the sample application form at **Attachment 96**.

(b) After an application is submitted, describe the procedures by which an application is analysed and eventually approved or refused.

Upon receipt of standard income tax reporting the competent authority examines the submitted materials to determine whether they are complete and properly

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documented.

The competent authority will assess complete materials in accordance with the relevant regulations. Provided the enterprise satisfies all the relevant criteria the authority will approve the reduced tax rate. If the enterprise does not meet the relevant criteria the reduced tax rate will not be applicable.

(c) If the application is approved, provide the approval documents together with any conditions or criteria subject to which the approval is made.

If the enterprise meets the eligibility criteria outlined in E1.1(h) the enterprise will receive the legislated reduced tax rate.

There are no specific approval documents, successful enterprises simply receive the reduced tax rate as a matter of course.

(d) If the application is refused, provide the refusal documents together with the reasons for refusal.

If the enterprise does not meet the eligibility criteria it will not be afforded the preferential tax rate and will not receive a reduced tax rate.

**D1.8** Answer the following questions regarding eligibility for and actual use of the benefits provided under this program.

(a) Is eligibility for, or actual use of this program contingent, whether solely or as one of several other conditions, upon export performance? If so, please describe.

This program is not contingent on export performance.

(b) Is eligibility for this program contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods? If so, please describe.

This program is not contingent on the use of domestic over imported goods.

(c) Is eligibility for the subsidy limited to enterprises or industries located within designated regions? If so, specify the enterprises or industries and the designated regions.

This program is limited to the old downtown areas of cities in the special economic



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zones, the open coastal economic areas and the technology and economic development zones.

(d) Is eligibility limited, by law, to any enterprise or group of enterprises, or to any industry or group of industries? If so, describe and specify the eligible enterprises or industries.

This program is available to FIEs. There are no further restrictions on the type of industry they can be engaged in.

**D1.9** Respond to the following questions regarding the criteria governing the eligibility for and receipt of any benefit under this program.

(a) Describe the criteria governing the size of the benefit provided.

The size of the benefit is determined by direct reference to the relevant regulations and laws. Please refer to the above response to D1.1(g) for a discussion of the criteria.

(b) Provide a copy of any law, regulation or other official document detailing these criteria.

Please see above response to D1.2, no further legal instruments govern the application of this program.

(c) If the eligibility criteria as listed in the applicable law, regulation or other official documents are met, will the applicant always receive a benefit or is final approval contingent upon the government agency or authority that administers the program?

If the enterprise meets the eligibility criteria discussed above the enterprise will receive the benefit, no further discretion is exercised by the administering agency.

(d) Is the amount of the benefit provided exclusively determined by established criteria found in the law, regulation or other official document or does the government agency or authority that administers the program determine the benefit amount?

The amount of the benefit provided is exclusively determined by established criteria found in the legal instruments provided and explained above. No further official discretion is required.

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(e) Provide any contractual agreements between the GOC and the companies that are receiving the benefits under the program (e.g., loan contracts, grant contracts, etc.).

There are no contractual agreements between the Government of China and companies benefiting from this program.

**D1.10** Provide a list by industry and by region of the companies that have received benefits under this program in the year the provision of benefits was approved and in each of the years from 1 July 2006 to 30 June 2011.

The GOC does not record such data and as such is unable to respond to this question.

**D1.11** How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and in each of the years from 1 July 2006 to 30 June 2011? Provide the main reasons why applicants have been rejected.

This information is not available. Please see above response to D1.10.

**D1.12** Describe any anticipated changes in the program. Provide documentation substantiating your answer. If the program has been terminated, state the last date that a company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

The *Enterprise Income Tax Law (Attachment 79)* was adopted at the fifth session of the Tenth National People's Congress on 16 March 2007, and it came into effect on 1 January 2008. This program is not included in the law.

According to *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax (Attachment 94)* as of 1 January 2008 enterprises that previously enjoyed the preferential policies of reduced tax rates shall be gradually transitioned to the statutory tax rate over a 5 year period after the implementation of the Income Tax Law.

In particular the enterprises that enjoyed a tax rate of 15% are subject to the following increases:

- 18% in 2008;

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- 20% in 2009;
- 22% in 2010;
- 24% in 2011; and
- 25% in 2012.

Enterprises that previously enjoyed tax rate of 24% were immediately subject to a 25% rate as of 2008.

The program will be completely terminated at the expiration of transitional period in 2012.

**PUBLIC VERSION****10 PROGRAM 10: PREFERENTIAL TAX POLICIES FOR ENTERPRISES WHICH PROVIDE  
EMPLOYMENT TO UNEMPLOYED PEOPLE**

The GOC confirms that this program was established in 1994 under the Interim Regulation of Enterprise Income Tax.

This Regulation was repealed on 1 January 2008. There is no transitional period.

Accordingly the GOC can readily advise that none of the responding companies have applied for or benefited from this program, such as it might have impacted on the production and sale of the subject goods during the investigation period.