

This appendix contains a summary of laws and regulations in respect of taxation and foreign exchange in Hong Kong and the PRC.

TAXATION

A. Taxation in the PRC

Taxes Applicable to Joint-Stock Limited Companies

Enterprise Income Tax

Enterprise Income Tax Law of the People's Republic of China (the "New Enterprise Income Tax Law") was promulgated on March 16, 2007, effective January 1, 2008. The Income Tax Law regulates the rate of enterprise income tax at 25%. Enterprises established before the promulgation of the Income Tax Law are entitled to benefit from a preferential tax rate as per the tax laws and administrative regulations then prevailing may gradually shift to the tax rate defined by the Income Tax Law within five years after effectiveness of the Income Tax Law according to requirements of the State Council. Those entitled to the preference of fixed tax holiday or fixed-term tax reductions may continue to benefit in the same manner according to the requirements of the State Council until expiration of the tax holiday or the term of the preference. For those who have not benefited from such preference due to the failure to realize profit, the preference will be applied starting from the effective date of the Income Tax Law, January 1, 2008.

Business Tax

According to the *Provisional Regulations of The People's Republic of China on Business Tax and the Detailed Rules for Implementation of the Provisional Regulations of The People's Republic of China on Business Tax*, both of which became effective on January 1, 1994 and first amended on January 1, 2009, all institutions and individuals providing taxable services, transferring intangible assets or selling real estate within the PRC shall pay business tax. The latest amendments of the abovementioned regulations and rules supplemented the regulatory system in the following aspects:

- Insurance services provided by domestic insurance institutions for exporting goods are exempted from business tax.
- The withholding agent of the business tax should be: (i) the domestic agents of foreign entities or individuals, who provide taxable services, transferring intangible assets or selling real estate within the territory of the PRC but have no business institutions in the PRC; or (ii) the assignee of the assets or the purchaser of the services in case there is no domestic agent.
- The column specifying the taxable services and business is deleted from the appendix of the regulations, which enable the Ministry of Finance and the SAFE to define the scope of taxable business and services.

- The preferential policies approved by the State Council before the effectiveness of the abovementioned amendments on January 1, 2009 could still be applied.

Value-added Tax (VAT)

According to the *Provisional Regulations of the People's Republic of China on Value-added Tax* in effect since January 1, 1994 and the *Detailed Rules for Implementation of the Provisional Regulations of the People's Republic of China on Value-added Tax* in effect since December 25, 1993, both of which are first amended on January 1, 2009, all institutions and individuals selling goods or providing processing, repairing or replacement services or importing goods within the PRC shall pay VAT. The tax rate of 13% shall be levied on general taxpayers selling or importing grain, edible vegetable oil, tap water, heating supply, air-conditioning, gas, liquefied petroleum gas, natural gas, marsh gas, coal products for civil use, books, newspapers, magazines, feedstuff, chemical fertilizer, pesticide, farming machines, films for agricultural use and other goods specified by the State Council. The rate applicable to goods exported by taxpayers shall be zero unless otherwise prescribed by the State Council. The rate of 17% shall be levied on taxpayers selling or importing goods other than the abovementioned items, and to taxpayers providing processing, repair or replacement services. The rate applicable to goods sold or taxable services provided by small-scale taxpayers is 3% (formerly 6%). A small-scale taxpayer is defined as a taxpayer engaged in the manufacturing of goods or the supply of taxable services, or primarily dealing in the manufacturing of goods or supply of taxable services while concurrently engaged in the wholesale or retail of goods as secondary operations, and has annual taxable sales (hereinafter referred to as "taxable sales") of less than RMB0.5 million; or a taxpayer engaged in the wholesale or retail of goods and having annual taxable sales of less than RMB0.8 million. Individuals, non-enterprise institutions, and enterprises not frequently incurring taxable activities with annual taxable income beyond the figure set for small-scale taxpayers shall be deemed as small-scale taxpayers for the purpose of VAT payment.

In addition, the new regulations and rules also provide the following:

- The input tax for purchasing fixed assets could be deducted from the output tax.
- The withholding agent of the VAT should be: (i) the domestic agents of foreign entities or individuals, who provide taxable services within the territory of the PRC but have no business institutions in the PRC; or (ii) the assignee of the assets or the purchaser of the services in case there is no domestic agent.
- The preferential policies approved by the State Council before the effectiveness of the abovementioned amendments on January 1, 2009 could still be applied.

Stamp Tax

According to the *Provisional Regulations of the People's Republic of China on Stamp Duty and the Detailed Rules for Implementation of the Provisional Regulations of the People's Republic of China on Stamp Tax* as brought into effect on October 1, 1988, all institutions and

individuals executing or receiving taxable documents within the PRC shall pay stamp tax. The list of taxable documents includes purchase and sale contracts, processing contracts, construction project contracts, property lease contracts, cargo freight contracts, warehousing and storage contracts, loan contracts, property insurance contracts, technical contracts, other documents that resemble contracts in nature, title transfer deeds, business account books, certificates of rights, licenses and other taxable documents specified by the Ministry of Finance.

Taxes Applicable to Shareholders of Companies

Dividend-related Tax

Individual Investors

Pursuant to the Provisional Regulations Concerning Questions of Taxation on Enterprise Experimenting with the Share System (《中華人民共和國股份制試點企業有關稅收問題的暫行規定》) and the Individual Income Tax Law of the PRC (《中華人民共和國個人所得稅法》) which was amended on December 29, 2007 and became effective on March 1, 2008 (the “New Individual Income Tax Law”), dividends paid by PRC companies are generally subject to a PRC withholding tax levied at a rate of 20%. For a foreign individual who is not resident of the PRC, the receipt of dividends from a company in the PRC is subject to a withholding tax of 20% unless reduced by an applicable tax treaty or specially exempted by the tax authority of the State Council.

In the letter dated July 26, 1994 to the former State Commission for Restructuring the Economic Systems of the PRC, the former Securities Commission of the State Council and CSRC, the SAT reiterated the temporary tax exemption set out in the Tax Notice for dividends received from a PRC company listed overseas. In the event that this temporary tax exemption is revoked, a 20% tax may be withheld on dividends in accordance with the provisional regulations and individual income tax law. Such withholding tax may be reduced or exempted pursuant to an applicable double taxation treaty. To date, the relevant tax authority has not been collecting any withholding tax on dividend payments on the exempted shares according to notices of tax collection.

Enterprise

Pursuant to the Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Tax on Income (《內地和香港特別行政區關於對所得避免雙重徵稅和防止偷漏稅的安排》) signed on August 21, 2006, the PRC government may impose tax on dividends paid to a Hong Kong resident including natural person and legal entity from a PRC company, but such tax shall not exceed 10% of the total sum of the dividends payable. If a Hong Kong resident holds 25% or more of equity interest in a PRC company, such tax shall not exceed 5% of the total sum of dividends payable by that PRC company.

Pursuant to the Enterprise Income Tax Law of the PRC (《中華人民共和國企業所得稅法》) enforced from January 1, 2008 (the “New Enterprise Income Tax Law”) and Regulation

on the Implementation of the Enterprise Income Tax Law of PRC (《中華人民共和國企業所得稅法實施條例》), a non-resident enterprise, which did not establish representative office or other facilities or its established representative office or facility has no actual connections with the dividends and bonus received, shall be subject to a 10% enterprise income tax on its revenues sourced in China. Such withholding tax may be reduced or exempted pursuant to an applicable double taxation treaty.

Pursuant to the Notice of the State Administration of Taxation on the Issues concerning Withholding the Enterprise Income Tax on the Dividends Paid by Chinese Resident Enterprises to H-share Holders Which Are Overseas Non-resident Enterprises (《關於中國居民企業向境外H股非居民企業股東派發股息代扣代繳企業所得稅有關問題的通知》) (GuoShuiHan [2008] No.897) which was promulgated by the State Administration of Taxation and became effective on November 6, 2008, a PRC resident enterprise, when distributing dividends for 2008 and for the years afterwards, shall be subject to the enterprise income tax withheld at a uniform rate of 10%. Such withholding tax may be reduced or exempted pursuant to an applicable double taxation treaty.

Tax Treaties

Investors who are not PRC residents but either reside in countries which have entered into double-taxation treaties with the PRC or reside in Hong Kong SAR or Macau SAR, may be entitled to a reduction of the withholding tax imposed on the dividends paid to such investors by a PRC company. The PRC currently has signed double-taxation avoidance arrangements with Hong Kong SAR and Macau SAR respectively, and has double-taxation avoidance treaties with a number of other countries, which include but not limited to Australia, Canada, France, Germany, Japan, Malaysia, the Netherlands, Singapore, the United Kingdom, the United States and etc. Under each of such double taxation avoidance treaties or arrangements, the rate of withholding tax imposed by PRC's taxation authorities may be generally reduced.

Share transfer-related tax

Individual Investors

According to the New Individual Tax Law and the Implementation Rules of the Individual Income Tax Law of the PRC (《中華人民共和國個人所得稅法實施條例》) as amended on February 18, 2008, gains realized on the sale of equity interests shall be subject to individual income tax at a rate of 20%.

Pursuant to the Notice on Continuing the Income Tax-Free Policy on the Share Transfer of Individual Holders (《關於個人轉讓股票所得繼續暫免徵收個人所得稅的通知》) jointly issued by the Ministry of Finance and the SAT dated March 30, 1998, in respect of suspending the enforcement of the collection of the individual Income tax on gains realized in connection with sales of shares, gains on sales of shares by individuals are temporarily exempted from individual income tax. Individual holders of H Shares shall be subject to income tax at a rate of 20% on capital gains, unless such tax is reduced or eliminated by an applicable double taxation treaty.

Enterprise

Pursuant to the New Enterprise Income Tax Law and Regulation on the Implementation of the Enterprise Income Tax Law of PRC (《中華人民共和國企業所得稅法實施條例》), a non-resident enterprise, which did not establish representative office or other facilities or its established representative office or facility has no actual connections with the dividends and bonus received, shall be subject to a 10% enterprise income tax on its revenues sourced in China. Such withholding tax may be reduced or exempted pursuant to an applicable double taxation treaty.

Estate duty or inheritance tax

There is no estate duty or inheritance tax levied in China at present.

Stamp Tax

According to the terms of the *Provisional Regulations of the People's Republic of China on Stamp Duty*, the applicable stamp tax of the PRC on transfers of shares of PRC public companies shall not apply to purchases and dispositions of H-shares that take place outside the PRC. The Provisional Rules provide that PRC stamp tax shall be only levied on all the types of documents executed or received and legally bound within the territory of the PRC and protected under the PRC laws.

B. TAXATION IN HONG KONG

Tax on Dividends

Under the current practice of the Hong Kong Inland Revenue Department, no tax is payable in Hong Kong in respect of dividends paid by us.

Taxation on Gains from Sale

No tax is imposed in Hong Kong in respect of capital gains from the sale of property such as the H-Shares. However, trading gains from the sale of property by persons carrying on a trade, profession or business in Hong Kong where such gains are derived from or arise in Hong Kong from such trade, profession or business will be chargeable to Hong Kong profits tax, which is currently imposed at the rate of 16.5% on corporations and at a maximum rate on individuals of 15%. Certain categories of taxpayers (for examples, financial institutions, insurance companies and securities dealers) are likely to be regarded as deriving trading gains rather than capital gains unless these taxpayers can prove that the investment securities are held for long-term investment. Trading gains from sales of H-Shares effected on the Hong Kong Stock Exchange will be considered to be derived from or arising in Hong Kong. Liability for Hong Kong profits tax would thus arise in respect of trading gains from sales of H-Shares effected on the Hong Kong Stock Exchange realised by persons carrying on a business of trading or dealing in securities in Hong Kong.

Stamp Duty

Hong Kong stamp duty, currently charged at the ad valorem rate of 0.1% on the higher of the consideration for, or the market value of, the H-shares, will be payable by the purchaser on every purchase and by the seller on every sale of H shares (in other words, a total of 0.2% is currently payable on a typical sale and purchase transaction involving H shares). In addition, a fixed duty of HK\$5 is currently payable on any instrument of transfer of H-shares. Where one of the parties to a transfer is resident outside Hong Kong and does not pay the ad valorem duty due by it, the duty not paid will be assessed on the instrument of transfer (if any) and will be payable by the transferee. If stamp duty is not paid on or before the due date, a penalty of up to ten times the duty payable may be imposed.

Estate Duty

The Revenue (Abolition of Estate Duty) Ordinance 2005 came into effect on February 11, 2006 in Hong Kong, pursuant to which estate duty ceased to be chargeable in Hong Kong in respect of the estates of persons dying on or after that date. No Hong Kong estate duty is payable and no estate duty clearance papers are needed for an application for a grant of representation in respect of holders of H shares whose deaths occur on or after February 11, 2006.

PRC LAWS AND REGULATIONS CONCERNING FOREIGN EXCHANGE CONTROL

The foreign exchange control system of China has experienced a number of reforms and the current system contains three major regulatory laws and regulations since 1993. The People's Bank of China ("PBOC"), as authorized by the State Council, promulgated the *Announcement Concerning Further Reformation of the Foreign Exchange Control System* on December 28, 1993, which was brought into force on January 1, 1994. The *Regulations of the People's Republic of China on Management of Foreign Exchanges* ("Foreign Exchange Regulations") promulgated by the State Council, implemented on April 1, 1996, first amendment on January 14, 1997 and latest amendment on August 6, 2008, applies to the receipts, payments or business activities in China that are transacted in foreign currencies by domestic institutions, individuals, foreign institutions and foreign individuals visiting China. The *Regulations on Control of Foreign Exchange Settlements, Sales and Payments* issued by PBOC on June 20, 1996 and implemented on July 1, 1996 governs the foreign exchange settlements, purchases, foreign exchange account openings and payments to foreign countries that are incurred in China by domestic institutions, individual residents, foreign organizations' institutions in China and foreign individuals visiting China.

PBOC publicizes the exchange rates between RMB and other major foreign currencies on each business day. The exchange rates are determined by reference to the preceding day's trading prices of RMB against major foreign currencies in the inter-bank foreign exchange market.

Before the second amendment of the Foreign Exchange Regulations in August 2008, unless special immunity had been obtained, all organizations and individuals in China shall sell their exchange income to designated banks, but foreign-funded enterprises are permitted to retain a certain percentage of their exchange income, to be deposited in a foreign exchange bank account opened in designated banks. In addition, exchange income arising from loans from foreign institutions or from issuance of shares or bonds valued in foreign currencies need not be sold to designated banks but shall be deposited in designated foreign exchange accounts with designated banks. Capital foreign exchange must be deposited in foreign exchange accounts opened with designated banks. However, the newly revised Foreign Exchange Regulation substantially changed the regulatory system by abolishing the compulsory sale principle of the exchanges income under current items, which means enterprises and individuals have the option either to sell to banks or keep the exchange income.

The PRC government has been loosening its control over foreign exchange purchases. Any Chinese enterprise in need of foreign currencies in their day-to-day business activities, trade and nontrade operations, import business and payment of foreign debts may purchase foreign currencies from designated banks, provided that they submit the required appropriate supporting documents. In addition, if foreign-funded enterprises are in need of foreign currencies for distributing dividends, capital bonuses or profits to foreign investors, the amount so needed after payment of the appropriate dividend tax may be drawn from the enterprises' foreign exchange accounts maintained with designated banks. If the foreign currency in such an account is insufficient, the foreign-funded enterprise may apply to the government authority in charge for purchasing the necessary amount of foreign currency from a designated bank to cover the deficiency. Although the foreign exchange control over transactions under current accounts has decreased, enterprises shall obtain approval from the State Administration of Foreign Exchange before they accept foreign-currency loans, provide foreign-currency guarantees, make investments in foreign countries or carry out any other capital account transactions involving the purchase of foreign currencies.

In foreign exchange transactions, designated banks may freely determine applicable exchange rates based on the rates published by PBOC and subject to certain governmental restrictions.

The *Notice Concerning Foreign Exchange Control of Overseas-listed Enterprises*, as jointly promulgated by China Securities Regulatory Commission (“CSRC”) and the State Administration of Foreign Exchange (“SAFE”), came into effect on January 13, 1994, and provides that:

- Funds raised by domestic enterprises through issuing shares overseas shall be categorized as income from capital projects, and may be deposited in cash in foreign exchange accounts opened in China as approved by the SAFE.
- A domestic enterprise issuing shares overseas shall, within ten days after the foreign funds raised through the issuance of the shares have become available, transfer the full amount of the funds into China and deposit the amount in a foreign exchange account opened with approval.

- Foreign currencies needed by domestic enterprises issuing shares overseas for the purpose of distributing dividends and capital bonuses to overseas shareholders may be paid and remitted by the enterprises' banks from their foreign exchange accounts with approval of the SAFE. The enterprises' foreign currency uses for other purposes shall be handled according to applicable regulations.
- If the sum of foreign-currency funds raised by a domestic enterprise through the issuance of shares overseas reaches 25% or more of the enterprise's total equity, it may apply to the Ministry of Commerce of the PRC (previously known as the Ministry of Foreign Trade and Economic Cooperation of China) or its authorized department to establish a Sino-foreign joint venture according to the Law on Sino-foreign Joint Ventures. If it is granted the status of a Sino-foreign joint venture, its foreign-currency income and expenses shall be handled pursuant to the foreign exchange control regulation governing foreign invested enterprises.

The Notice Concerning Further Improving Foreign Exchange Control of Overseas-listed Enterprises, jointly issued by CSRC and SAFE, took effect on September 1, 2002, and provides that:

- Domestic equity holders of companies with foreign shares listed overseas and of overseas listed companies controlled by Chinese investors shall, within 30 days after obtaining CSRC's approval for issuing and listing shares in foreign countries, fulfill the procedure with local branches SAFE for foreign exchange registration of overseas-listed stocks.
- Companies with foreign shares listed overseas shall, within 30 days after the funds raised have become ready, transfer into China the amount of the funds remaining after deduction of associated costs, and shall not retain the funds in foreign countries without permission of local branches SAFE. The funds transferred are managed as funds directly invested by foreign investors and may be kept in earmarked accounts or be used for foreign exchange settlement if approved by local branches SAFE.
- Foreign-currency funds, obtained by domestic equity holders of companies with foreign shares listed overseas and of overseas listed companies controlled by Chinese investors through reducing holdings of shares in listed companies or through the listed companies' sale of their assets (or equity), shall be transferred back into China within 30 days after the funds become available and after deduction of associated costs, which may not be detained in foreign countries without approval of local branches SAFE. Foreign exchange settlement shall be made for such funds as approved by local branches SAFE after they are transferred back into China.
- If overseas accounts are to be opened to temporarily keep the abovementioned foreign-currency funds before they are transferred back into China, application may be made to local branches SAFE for opening such earmarked foreign exchange accounts, of which the maximum term shall be 3 months from the date of account opening.

- Overseas listed companies controlled by Chinese investors who have injected funds raised in China as investment or foreign debts shall fulfill appropriate procedures according to prevailing regulations governing investments, foreign debts and foreign exchange control.
- The procedure for foreign exchange registration of overseas investment shall be carried out according to regulations for overseas investments of domestic equity holders of overseas listed companies controlled by Chinese investors who inject assets or equity overseas. The asset or equity to be so injected shall be appraised, the amount of the overseas investment shall not be less than the appraised value of the asset or equity to be injected, and the asset appraisal and confirmation procedure prescribed by the state-owned assets administration shall be fulfilled if the investment involves state-owned assets.
- Companies with foreign shares listed overseas needing to repurchase their own shares listed and circulated in foreign countries shall, after obtaining the approval from CSRC, follow procedures set by local branches of SAFE for changing foreign exchange registration of their overseas-listed shares and for approval of opening an overseas account and remittance of funds to foreign countries.

On September 9, 2003, SAFE issued the Notice Concerning Improving Foreign Exchange Control of Overseas Listings, clarifying relevant issues in the Notice Concerning Further Improving Foreign Exchange Control of Overseas Listings. On February 1, 2005, SAFE issued the Notice Concerning Foreign Exchange Control of Overseas Listings, further revising and supplementing the abovementioned notices as follows:

- The time limit for domestic equity holders of companies with foreign shares listed overseas and of overseas listed companies controlled by Chinese investors to transfer funds back into China has been extended to “within 6 months after the funds so raised have become ready,” and for earmarked overseas foreign exchange accounts, the time period has been extended to “2 years from the date of account opening.”
- Domestic equity holders of companies with foreign shares listed overseas and of overseas listed companies controlled by Chinese investors who reduce their holdings of stocks in listed companies through the sale of their assets (equity) may apply for the opening of earmarked accounts at the local branches of SAFE (or use existing earmarked accounts) to transfer such foreign-currency proceeds into China. Such foreign-currency proceeds/funds may not be used for foreign exchange settlement without the prior approval of the local branches of SAFE.

According to the second amendment of the Foreign Exchange Regulations effective on August 6, 2008, the aforesaid requirement to transfer the exchange income back into China is further loosened. It states that the exchange incomes could be transferred back to China or kept in oversea accounts under prescribed conditions and/or within prescribed time limit.