

Donations for the earthquake victims in Sichuan – tax update

MAY 2008



Although it has been more than a week since the devastating disaster in Sichuan, donations are still necessary to help the victims. When making donation, the following points deserve attention:

Corporate Enterprises' Donation limit for deduction purpose

Under Article 9 of the <PRC Enterprise Income Tax Law> (“EITL”), an enterprise can claim charitable expenditure against taxable profit up to 12% of its annual accounting profit.

Articles 51 and 52 of the <PRC Enterprise Income Tax Law Implementation Regulations> (“EITLIR”) further prescribe that such donation should be made to charitable social organizations or the People’s Government and their departments at the county level or above. EITLIR lists out many conditions to be qualified as charitable social organizations. Among them, the most important points are that those organizations must be non-profit making and duly comply with the relevant regulations set by the appropriate government departments such as civil administration department.

As an illustration, suppose an enterprise is contemplating to make a donation of RMB 2.5 million in 2008. If its annual profit is RMB 30 million, the deduction limit is therefore RMB 3.6 million (RMB 30 million x 12%). Thus the donation made by this enterprise can be fully deducted against the taxable profit for this year.

Individuals' Donation limit for deduction purpose

Under Article 6 of the <PRC Individual Income Tax Law> and Article 24 of the <PRC Individual Income Tax Law Implementation Regulations>, an individual taxpayer can claim donation to qualified charitable organizations and government bodies up to 30% of his taxable income.

For example if an individual has a gross monthly income of RMB 3,000 and has made a qualified donation of RMB 200. Under the relevant law and regulation, the deduction limit is 30% of taxable income. As such this individual's taxable income should be RMB 1,000 (RMB 3,000 less RMB 2,000 monthly deduction). Therefore, the deduction limit shall be RMB 300 (RMB 1,000 x 30%). Under this circumstance, this individual can fully claim this donation against taxable income.

Things to note

When making donations

- a) Make sure that the donations are made to qualified non-profit making charitable organizations or governments and their departments at appropriate levels
- b) Obtain charitable donation receipt from the qualified organizations with their financial stamps. The format of the receipt must be prescribed by appropriate tax authorities.
- c) Prepare and maintain sufficient supporting documents for inspection by the tax authorities.
- d) Check with your tax authorities in charge as there may be local variations in donation treatment. Full deduction on Enterprise Income Tax with no limitation might be allowed for certain organizations such as the Chinese Red Cross, although this remains to be confirmed formally by the authorities.

Mazars offices in China are pleased to offer assistance on tax treatments for charitable donations. Please contact any one of our offices in China for further enquiry.

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