

Withholding Tax (“WHT”) and Corporate Income Tax (“CIT”) treatment on Royalty Fee, Interest and Rental Fee



Mazars Tax Newsletter, February 2012

According to the State Administration of Taxation Announcement [2011] No. 24, if the above three fees are:

- (a) accounted as costs or expenses and
- (b) claimed as tax deductible expenses (i.e., no tax increase adjustment is made) in annual Corporate Income Tax (“CIT”) filings,

The WHT should be paid upon the annual CIT filing.

This rule indicates that the expense will not be considered as tax deductible until the WHT is paid.

This rule is effective from 1 April 2011, with retrospective effect, meaning the previous unsettled fees should follow this rule as well.

This rule does not mention tax treatment on Service Fee due to pay but not yet paid to overseas. The tax treatment of the service fee should be assessed separately.

Summary of the different situations:

Income	Timing
Interest/rental/royalty	If the payment of the income is in accordance with the payment date stipulated in the contracts On the day when the payment is actually made
If the payment is postponed but the expenses has been deducted by the Chinese payer of the income in its annual EIT filing	On the day when the annual EIT filing of the Chinese payer is filed
If the payment is postponed but the expenses has been capitalized as assets, pre-operating expenses and depreciated or amortized for EIT purpose in subsequent years	On the day when the annual EIT filing of the Chinese payer is filed for the year in which such expenses is capitalized
If the payment of the income is prior to the payment date stipulated in the contract	On the day when the payment is actually made

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