



中美税收协定 (中英文对照)

UNITED STATES-THE PEOPLE'S REPUBLIC OF CHINA INCOME TAX CONVENTION

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中华人民共和国政府和美利坚合众国政府，愿意缔结关于对所得避免双重征税和防止偷漏税的协定，达成协议如下：

The Government of the United States of America and the Government of the People's Republic of China, Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income, Have agreed as follows:

第一条 ARTICLE 1 涉税人 (Persons Covered)

本协议适用于缔约国一方或者双方居民的人。

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

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第二条 ARTICLE 2 税种 (Taxes Covered)

一、本协议适用于下列税种

1. The taxes to which this Agreement applies are

(一) 在中华人民共和国：(a) in the People's Republic of China:

1. 个人所得税；(I) the individual income tax;
2. 中外合资经营企业所得税；(ii) the income tax concerning joint ventures with Chinese and foreign investment;
3. 外国企业所得税；(iii) the income tax concerning foreign enterprises;
4. 地方所得税。（以下简称“中国税收”）(iv) the local income tax (herein after referred to as "Chinese tax").

(二) 在美利坚合众国：根据国内收入法征收的联邦所得税。（以下简称“美国税收”）(b) in the United States of America: the Federal income taxes imposed (hereinafter referred to as "United States tax").

二、本协议也适用于本协议签订之日后增加或者代替第一款所列税种的相同或者实质相似的税收。缔约国双方主管当局应将各自有关税法所作的实质变动，在适当时间内通知对方。

2. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, those referred to in paragraph 1. Within an appropriate time period, the competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

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第三条 ARTICLE 3 定义 (Definitions)



一、在本协定中，除上下文另有规定的以外：

1. In this Agreement, unless the context otherwise requires,

(一)“中华人民共和国”一语用于地理概念时，是指有效行使有关中国税收法律的所有中华人民共和国领土，包括领海，以及根据国际法，中华人民共和国有管辖权和有效行使有关中国税收法律的所有领海以外的区域，包括海底和底土；(a) the term "the People's Republic of China", when used in a geographical sense, means all the territory of the People's Republic of China, including its territorial sea, in which the laws relating to Chinese tax are in force, and all the area beyond its territorial sea, including the sea-bed and subsoil thereof, over which the People's Republic of China has jurisdiction in accordance with international law and in which the laws relating to Chinese tax are in force;

(二)“美利坚合众国”一语用于地理概念时，是指有效行使有关美国税收法律的所有美利坚合众国领土，包括领海，以及根据国际法，美利坚合众国有管辖权和有效行使有关美国税收法律的所有领海以外的区域，包括海底和底土；(b) the term "the United States of America", when used in a geographical sense, means all the territory of the United States of America, including its territorial sea, in which the laws relating to United States tax are in force, and all the area beyond its territorial sea, including the seabed and subsoil thereof, over which the United States of America has jurisdiction in accordance with international law and in which the laws relating to United States tax are in force;

(三)“缔约国一方”和“缔约国另一方”的用语，按照上下文，是指中华人民共和国或者美利坚合众国；(c) the terms "a Contracting State" and "the other Contracting State" mean the People's Republic of China or the United States of America, as the context requires;

(四)“税收”一语，按照上下文，是指中国税收或者美国税收；(d) the term "tax" means Chinese tax or United States tax, as the context requires;

(五)“人”一语包括个人、公司、合伙企业和其它团体；(e) the term "person" includes an individual, a company, a partnership and any other body of persons;

(六)“公司”一语是指法人团体或者在税收上视同法人团体的实体；(f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(七)“缔约国一方企业”和“缔约国另一方企业”的用语，分别指缔约国一方居民经营的企业和缔约国另一方居民经营的企业；(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(八)“国民”一语是指具有缔约国一方国籍的所有个人按照缔约国现行法律取得其地位的所有法人、合伙企业和团体；(h) the term "nationals" means all individuals having the nationality of a Contracting State and all legal persons, partnerships and other bodies of persons deriving their status as such from the law in force in a Contracting State;

(九)“主管当局”一语，在中华人民共和国方面是指财政部或其授权的代表；在美利坚合众国方面是指财政部长或其授权代表。(i) the term "competent authority" means (i) in the People's Republic of China, the Ministry of Finance or its authorized representative; and (ii) in the United States of America, the Secretary of the Treasury or his authorized representative.

二、缔约国一方在实施本协定时，对于未经本协定明确定义的用语，除上下文另有规定的以外，应当具有该缔约国关于适用本协定税种的法律所规定的含义。



2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State concerning the taxes to which the Agreement applies.

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第四条 ARTICLE 4 居民(Residence)

一、本协定中“缔约国一方居民”一语是指按照该缔约国法律，由于住所、居所、总机构、注册所在地，或者其它类似的标准，在该缔约国负有纳税义务的人。

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head office, place of incorporation or any other criterion of a similar nature.

二、由于第一款的规定，同时为缔约国双方居民的个人，双方主管当局应协商确定该人为本协定中缔约国一方的居民。

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall determine through consultations the Contracting State of which that individual shall be deemed to be a resident for the purposes of this Agreement.

三、由于第一款的规定，同时为缔约国双方的居民公司，双方主管当局应协商确定该公司为本协定中缔约国一方的居民。如经协商不能确定时，该公司不应作为任何一方的居民按照本协定享受优惠。

3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, then the competent authorities of the Contracting States shall determine through consultations the Contracting State of which the company shall be deemed to be a resident for the purposes of this Agreement, and, if they are unable to so determine, the company shall not be considered to be a resident of either Contracting State for purposes of enjoying benefits under this Agreement.

四、由于第一款的规定，美利坚合众国的居民公司根据中华人民共和国和第三国的税收协定，同时为第三国居民时，该公司不应作为美利坚合众国的居民按照本协定享受优惠。

4. Where by reason of the provisions of paragraph 1 a company is a resident of the United States of America, and, under a tax agreement between the People's Republic of China and a third country is also a resident of that third country, the company shall not be considered to be a resident of the United States of America for purposes of enjoying benefits under this Agreement.

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第五条 ARTICLE 5 常设机构 (Permanent Establishment)

一、本协定中“常设机构”一语是指企业进行全部或部分营业的固定营业场所。

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1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

二、“常设机构”一语特别包括：

2. The term "permanent establishment" includes especially:

(一) 管理场所； (a) a place of management;

(二) 分支机构； (b) a branch;

(三) 办事处； (c) an office;

(四) 工厂； (d) a factory;

(五) 作业场所； (e) a workshop; and

(六) 矿场、油井或气井、采石场或者其它开采自然资源的场所。 (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

三、“常设机构”一语还包括：

3. The term "permanent establishment" also includes:

(一) 建筑工地，建筑、装配或安装工程，或者与其有关的监督管理活动，仅以连续超过六个月的为限； (a) a building site, a construction, assembly or installation project, or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;

(二) 为勘探或开采自然资源所使用的装置、钻井机或船只，仅以使用期三个月以上的为限； (b) an installation, drilling rig or ship used for the exploration or exploitation of natural resources, but only if so used for a period of more than three months; and

(三) 企业通过雇员或者其他人员，在该国内为同一个项目或有关项目提供的劳务，包括咨询劳务，仅以在任何 1 2 个月中连续或累计超过六个月的为限。 (c) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where such activities continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any twelve month period.

四、虽有第一款至第三款的规定，“常设机构”一语应认为不包括：

4. Notwithstanding the provisions of paragraphs 1 through 3, the term "permanent establishment" shall be deemed not to include:

(一) 专为储存、陈列或者交付本企业货物或者商品的目的而使用的设施； (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(二) 专为储存、陈列或者交付的目的而保存本企业货物或者商品的库存； (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(三) 专为另一企业加工的目的而保存本企业货物或者商品的库存； (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;



(四) 专为本企业采购货物或者商品，或者搜集情报的目的所设的固定营业场所；(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(五) 专为本企业进行任何其它准备性或辅助性活动的目的所设的固定营业场所；(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(六) 专为本款第(一)项至第(五)项活动的结合所设的固定营业场所，如果由于这种结合使该固定营业场所全部活动属于准备性质或辅助性质。(f) the maintenance of a fixed place of business solely for any combination of the activities mentioned in subparagraphs (a) through (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

五、虽有第一款和第二款的规定，当一个人在缔约国一方代表缔约国另一方的企业进行活动，有权并经常行使这种权力代表该企业签订合同，除适用于第六款的独立代理人以外，这个人为该企业进行的任何活动，应认为该企业在该缔约国一方设有常设机构。除非这个人通过固定营业场所进行的活动仅限于第四款的规定，按照该款规定，不应认为该固定营业场所是常设机构。

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person, other than an agent of an independent status to whom paragraph 6 applies, is acting on behalf of an enterprise and has and habitually exercises in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Contracting State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

六、缔约国一方企业仅通过按常规经营本身业务的经纪人，一般佣金代理人或者任何其它独立代理人在缔约国另一方进行营业，不应认为在该缔约国另一方设有常设机构。但如果这个代理人的活动全部或几乎全部代表该企业，该代理人和该企业之间的交易表明不是根据正常条件进行的，不应认为是本款所指的独立代理人。

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph if it is shown that the transactions between the agent and the enterprise were not made under arm's-length conditions.

七、缔约国一方居民公司，控制或被控制于缔约国另一方居民公司或者在该缔约国另一方进行营业的公司（不论是否通过常设机构），此项事实不能据以使任何一方公司构成另一方公司的常设机构。

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.



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第六条 ARTICLE 6 不动产所得 (Income from Real Property)

一、缔约国一方居民从位于缔约国另一方的不动产取得的所得，可以在该缔约国另一方征税。

1. Income derived by a resident of a Contracting State from real property situated in the other Contracting State may be taxed in that other Contracting State.

二、“不动产”一语应具有财产所在地的缔约国的法律所规定的含义。该用语在任何情况下应包括附属于不动产的财产，农业和林业所使用的牲畜和设备，一般法律规定的适用于地产的权利，不动产的用益权以及由于开采或有权开采矿藏、水源和其它自然资源取得的不固定或固定收入的权利。船舶和飞机不应视为不动产。

2. The term "real property" shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to real property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of real property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as real property.

三、第一款的规定适用于从直接使用、出租或者任何其它形式使用不动产取得的所得。

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of real property.

四、第一款和第三款的规定也适用于企业的不动产所得和用于进行独立个人劳务的不动产所得。

4. The provisions of paragraphs 1 and 3 shall also apply to the income from real property of an enterprise and to income from real property used for the performance of independent personal services.

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第七条 ARTICLE 7 经营利润 (Business Profits)

一、缔约国一方企业的利润应仅在该缔约国征税，但该企业通过设在缔约国另一方常设机构在该缔约国另一方进行营业的除外。如果该企业通过设在缔约国另一方的常设机构在该缔约国另一方进行营业，其利润可以在该缔约国另一方征税，但应仅以属于该常设机构的利润为限。

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as is attributable to that permanent establishment.

二、从属于第三款的规定，缔约国一方企业通过设在缔约国另一方的常设机构在该缔约国另一方进行营业，如果该常设机构是一个独立和分设的企业，在相同或相似情况下从事相同或相似活动，



并完全独立地同其所隶属的企业进行交易，该常设机构在缔约国各方可能得到的利润应属于该常设机构。

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

三、确定常设机构的利润时，应允许扣除其进行营业发生的各项费用，包括行政和一般管理费用，不论其发生于常设机构所在国或者其它任何地方。但是，常设机构支付给企业总机构或该企业其它办事处的特许权使用费或其它类似款项，以及因借款所支付的利息，都不作任何扣除（属于偿还代垫实际发生的费用除外）。同样，在确定常设机构的利润时，也不考虑该常设机构从企业总机构或该企业其它办事处取得的特许权使用费或其它类似款项，以及贷款给该企业总机构或该企业其它办事处所收取的利息（属于偿还代垫实际发生的费用除外）。

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties or other similar payments or by way of interest on money lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties or other similar payments or by way of interest on money lent to the head office of the enterprise or any of its other offices.

四、如果缔约国一方的税法规定，对于某具体行业，在核定利润基础上确定属于常设机构的利润，则第二款并不妨碍该缔约国执行其法律的规定。但是所得到的结果，应与本条所规定的原则一致。

4. Insofar as the tax law of a Contracting State provides with respect to a specific industry that the profits to be attributed to a permanent establishment are to be determined on the basis of a deemed profit, nothing in paragraph 2 shall preclude that Contracting State from applying those provisions of its law, provided that the result is in accordance with the principles contained in this Article.

五、不应仅由于常设机构为企业采购货物或商品，将利润归属于该常设机构。

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

六、在第一款至第五款中，除有适当的和充分的理由需要变动外，每年应采用相同的方法确定属于常设机构的利润。

6. For the purpose of paragraphs 1 through 5, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.



七、利润中如果包括本协定其它各条单独规定的所得项目时，本条规定不应影响其它各条的规定。

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

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第八条 ARTICLE 8 关联企业 (Related Enterprises)

一、1. Where

(一) 缔约国一方企业直接或者间接参与缔约国另一方企业的管理、控制或资本，或者
(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

(二) 同一人直接或者间接参与缔约国一方企业和缔约国另一方企业的管理、控制或资本，在上述任何一种情况下，两个企业之间的商业或财务关系不同于独立企业之间的关系，因此，本应由其中一个企业取得，但由于这些情况而没有取得的利润，可以计入该企业的利润，并据以征税。

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case the relationship between the two enterprises in their commercial or financial relations differs from that which would exist between independent enterprises, then any profits which, but for those conditions would have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

二、缔约国一方将缔约国另一方已征税的企业利润，而这部分利润本应由该缔约国一方企业取得的，包括在该缔约国一方企业的利润内，并且加以征税时，如果这两个企业之间的关系是独立企业之间的关系，该缔约国另一方应对这部分利润所征收的税额加以调整。在确定上述调整时，应考虑本协定的其它规定，如有必要，缔约国双方主管当局应相互协商。

2. Where a Contracting State includes in the profits of an enterprise of that Contracting State-and taxes accordingly-profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State, and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be paid to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

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第九条 ARTICLE 9 股息 (Dividends)

一、缔约国一方居民公司支付给缔约国另一方居民的股息，可以在该缔约国另一方征税。



1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other Contracting State.

二、然而，这些股息也可以在支付股息的公司是其居民的缔约国，按照该缔约国的法律征税。但是，如果收款人是该股息受益所有人，则所征税款不应超过该股息总额的 10%。

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 percent of the gross amount of the dividends.

本款规定，不应影响对该公司支付股息前的利润所征收的公司利润税。

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

三、本条“股息”一语是指从股份或者非债权关系分享利润的权利取得的所得，以及按照分配利润的公司是其居民的缔约国税法，视同股份所得同样征税的其它公司权利取得的所得。

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the Contracting State of which the company making the distribution is a resident.

四、如股息受益所有人是缔约国一方居民，在支付股息的公司是其居民的缔约国另一方，通过设在该缔约国另一方的常设机构进行营业或者通过设在该缔约国另一方的固定基地从事独立个人劳务，据以支付该股息的股份或其它公司权利与该常设机构或固定基地有实际联系的，不适用第一款和第二款的规定。在这种情况下，应视具体情况适用第七条或第十三条的规定。

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State, of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the holding or other corporate rights in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 13, as the case may be, shall apply.

五、缔约国一方居民公司从缔约国另一方取得利润或所得，该缔约国另一方不得对该公司支付的股息征收任何税收。但支付给该缔约国的另一方居民股息或者据以支付股息的股份或其它公司权利与设在该缔约国另一方的常设机构或固定基地有实际联系的除外。对于该公司的未分配的利润，即使支付的股息或未分配的利润全部或部分发生于该缔约国另一方的利润或所得，该缔约国另一方也不得征税。

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting State or insofar as the holding or other corporate rights in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Contracting State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid



or the undistributed profits consist wholly or partly of profits or income arising in that other Contracting State.

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第十条 ARTICLE 10 利息 (Interest)

一、发生于缔约国一方而支付给缔约国另一方居民的利息，可以在该缔约国另一方征税。

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

二、然而，这些利息也可以在该利息发生的缔约国，按照该缔约国的法律征税。但是，如果收款人是该利息受益所有人，则所征税款不应超过利息总额的 10 %。

2. However, such interest may also be taxed in the contracting State in which it arises and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 percent of the gross amount of the interest.

三、虽有第二款的规定，发生在缔约国一方而为缔约国另一方政府、行政区、地方当局、中央银行或者完全为其政府所有的金融机构取得的利息；或者为该缔约国另一方居民取得的利息，其债权是由该缔约国另一方政府、行政区、地方当局、中央银行或者完全为其政府所有的金融机构间接提供资金的，应在该缔约国一方免税。

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the government of the other Contracting State, a political subdivision or local authority thereof, the Central Bank of that other Contracting State or any financial institution wholly owned by that government, or by any resident of the other Contracting State with respect to debt-claims indirectly financed by the government of that other Contracting State, a political subdivision or local authority thereof, the Central Bank of that other Contracting State or any financial institution wholly owned by that government, shall be exempt from tax in the first-mentioned Contracting State.

四、本条“利息”一语是指从各种债权取得的所得，不论其有无抵押担保或者是否有权分享债务人的利润；特别是从公债、债券或者信用债券取得的所得，包括其溢价和奖金。

4. The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities, and income from bonds or debentures, including premiums or prizes attaching to such securities, bonds, or debentures.

五、如果利息受益所有人是缔约国一方居民，在该利息发生的缔约国另一方，通过设在该缔约国另一方的常设机构进行营业或者通过设在该缔约国另一方的固定基地从事独立个人劳务，据以支付该利息的债权与该常设机构或者固定基地有实际联系的，不适用第一款、第二款和第三款的规定。在这种情况下，应视具体情况适用第七条或第十三条的规定。

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other Contracting State



independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 13, as the case may be, shall apply.

六、如果支付利息的人为缔约国一方政府、行政区、地方当局或该缔约国居民，应认为该利息发生在该缔约国。然而，当支付利息的人不论是否为缔约国一方居民，在该缔约国一方设有常设机构或者固定基地，支付该利息的债务与该常设机构或者固定基地有联系，并由其负担这种利息，上述利息应认为发生于该常设机构或固定基地所在缔约国。

6. Interest shall be deemed to arise in a Contracting State when the payer is the government of that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

七、由于支付利息的人与受益所有人之间或者他们与其他人之间的特殊关系，就有关债权支付的利息数额超出支付人与受益所有人没有上述关系所能同意的数额时，本条规定应仅适用于后来提及的数额。在这种情况下，对该支付款项的超出部分，仍应按各缔约国的法律征税，但应考虑本协定的其它规定。

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

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第十一条 ARTICLE 11 特许使用费 (Royalties)

一、发生于缔约国一方而支付给缔约国另一方居民的特许权使用费，可以在该缔约国另一方征税。

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

二、然而，这些特许权使用费也可以在其发生的缔约国，按照该缔约国的法律征税。但是，如果收款人是该特许权使用费受益所有人，则所征税款不应超过特许权使用费总额的 10 %。

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 percent of the gross amount of the royalties.

三、本条“特许权使用费”一语是指使用或有权使用文学、艺术或科学著作，包括电影影片、无线电或电视广播使用的胶片、磁带的版权，专利、专有技术、商标、设计、模型、图纸、秘密配方



或秘密程序所支付的作为报酬的各种款项，也包括使用或有权使用工业、商业、科学设备或有关工业、商业、科学经验的情报所支付的作为报酬的各种款项。

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films or films or tapes used for radio or television broadcasting, any patent, technical know-how, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

四、如果特许权使用费受益所有人是缔约国一方居民，在该特许权使用费发生的缔约国另一方，通过设在该缔约国另一方的常设机构进行营业或者通过设在该缔约国另一方的固定基地从事独立个人劳务，据以支付该特许权使用费的权利或财产与该常设机构或固定基地有实际联系的，不适用第一款和第二款的规定。在这种情况下，应视具体情况适用第七条或第十三条的规定。

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein; or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 13, as the case may be, shall apply.

五、5.

(一) 如果支付特许权使用费的人是缔约国一方政府、行政区、地方当局或该缔约国居民，应认为该特许权使用费发生在该缔约国。然而，当支付特许权使用费的人不论是否为缔约国一方居民，在缔约国一方设有常设机构或者固定基地，支付该特许权使用费的义务与该常设机构或者固定基地有联系，并由其负担特许权使用费，上述特许权使用费应认为发生于该常设机构或者固定基地所在缔约国。(a) Royalties will be deemed to arise in a Contracting State when the payer is the government of that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(二) 如果根据第(一)项，特许权使用费不发生于缔约国双方的任何一方，但该特许权使用费与在缔约国双方的一方使用或有权使用该权利或财产有关，上述特许权使用费应认为发生于该缔约国。(b) Where under subparagraph (a) royalties do not arise in one of the Contracting States, and the royalties related to the use of, or the right to use, the right or property in one of the Contracting States, the royalties shall be deemed to arise in that Contracting State.

六、由于支付特许权使用费的人与受益所有人之间或他们与其他人之间的特殊关系，就有关使用、权利或情报支付的特许权使用费数额超出支付人与受益所有人没有上述关系所能同意的数额时，本条规定应仅适用于后来提及的数额。在这种情况下，对该支付款项的超出部分，仍应按各缔约国的法律征税，但应适当考虑本协定的其它规定。



6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right, or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

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第十二条 ARTICLE 12 收益 (Gains)

一、缔约国一方居民转让第六条所述位于缔约国另一方的不动产取得的收益，可以在该缔约国另一方征税。

1. Gains derived by a resident of a Contracting State from the alienation of real property referred to in Article 6 and situated in the other Contracting State may be taxed in that other Contracting State.

二、转让缔约国一方企业在缔约国另一方的常设机构营业财产部分的动产，或者缔约国一方居民在缔约国另一方从事独立个人劳务的固定基地的动产取得的收益，包括转让该常设机构（单独或者随同整个企业）或者该固定基地取得的收益，可以在该缔约国另一方征税。

2. Gains from the alienation of movable (personal) property forming part of the business assets of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or of movable (personal) property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or such a fixed base, may be taxed in that other Contracting State.

三、缔约国一方居民转让从事国际运输的船舶或飞机，或者转让属于经营上述船舶、飞机的动产取得的收益，应仅在该缔约国一方征税。

3. Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic and of movable (personal) property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

四、转让一个公司股本的股票取得的收益，该公司的财产又主要直接或者间接由位于缔约国一方的不动产所组成，可以在该缔约国征税。

4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of real property situated in a Contracting State may be taxed in that Contracting State.

五、转让第四款所述以外的其它股票取得的收益，该项股票又相当于参与缔约国一方居民公司的股权的 25%，可以在该缔约国征税。

5. Gains from the alienation of shares other than those mentioned in paragraph 4 representing a participation of 25 percent in a company which is a resident of a Contracting State may be taxed in that Contracting State.



六、缔约国一方居民转让第一款至第五款所述财产以外的其它财产取得的收益，发生于缔约国另一方的，可以在该缔约国另一方征税。

6. Gains derived by a resident of a Contracting State from the alienation of any property other than that referred to in paragraphs 1 through 5 and arising in the other Contracting State may be taxed in that other Contracting State.

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第十三条 ARTICLE 13 个人劳务收入 (Independent Personal Services)

一、缔约国一方居民的个人由于专业性劳务或者其它独立性活动取得的所得，应仅在该缔约国征税，除非该居民在缔约国另一方为从事上述活动的目的设有经常使用的固定基地，或者在该缔约国另一方有关历年中连续或累计停留超过 183 天。如果该居民拥有上述固定基地或在该缔约国另一方连续或累计停留上述日期，其所得可以在该缔约国另一方征税，但仅限归属于该固定基地的所得，或者在该缔约国另一方上述连续或累计期间取得的所得。

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State, unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other Contracting State for a period or periods exceeding in the aggregate 183 days in the calendar year concerned. If he has such a fixed base or remains in that other Contracting State for the aforesaid period or periods, the income may be taxed in that other Contracting State, but only so much of it as is attributable to that fixed base or is derived in that other Contracting State during the aforesaid period or periods.

二、“专业性劳务”一语特别包括独立的科学、文学、艺术、教育或教学活动，以及医师、律师、工程师、建筑师、牙医师和会计师的独立活动。

2. The term “professional services” includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

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第十四条 ARTICLE 14 雇佣报酬 (Dependent Personal Services)

一、除适用第十五条、第十七条、第十八条、第十九条和第二十条的规定以外，缔约国一方居民因受雇取得的薪金、工资和其它类似报酬，除在缔约国另一方受雇的以外，应仅在该缔约国一方征税。在该缔约国另一方受雇取得的报酬，可以在该缔约国另一方征税。

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the



employment is so exercised, such remuneration as is derived there from may be taxed in that other Contracting State.

二、虽有第一款的规定，缔约国一方居民因在缔约国另一方受雇取得的报酬，同时具有以下三个条件的，应仅在该缔约国一方征税：

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(一) 收款人在有关历年中在该缔约国另一方停留连续或累计不超过 183 天；(a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and

(二) 该项报酬由并非该缔约国另一方居民的雇主支付或代表雇主支付；(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State; and

(三) 该项报酬不是由雇主设在该缔约国另一方的常设机构或固定基地所负担。(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

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第十五条 ARTICLE 15 董事费 (Directors' Fees)

缔约国一方居民作为缔约国另一方居民公司的董事会成员取得的董事费和其它类似款项，可以在该缔约国另一方征税。

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

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第十六条 ARTICLE 16 艺术与体育活动所得 (Artistes and Athletes)

一、虽有第十三条和第十四条的规定，缔约国一方居民，作为表演家，如戏剧、电影、广播或电视艺术家、音乐家或者作为运动员、在缔约国另一方从事其个人活动取得的所得，可以在该缔约国另一方征税。

1. Notwithstanding the provisions of Articles 13 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio, or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.



然而，如果该缔约国一方居民作为表演家或运动员，按照缔约国双方政府同意的文化交流的特别计划从事这些活动，该项所得在该缔约国另一方应予免税。

However, income derived by a resident of a Contracting State as an entertainer or athlete from activities exercised in accordance with a special program for cultural exchange agreed upon by the governments of both Contracting States shall be exempt from tax by the other Contracting State.

二、虽有第七条、第十三条和第十四条的规定，表演家或运动员从事其个人活动取得的所得，并非归属表演家或运动员本人，而是归属于其他人，可以在该表演家或运动员从事其活动的缔约国征税。

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

然而，如果这些活动是按照缔约国双方政府同意的文化交流的特别计划从事，该项所得在该缔约国应予免税。

However, if those activities are exercised in accordance with a special program for cultural exchange agreed upon by the governments of both Contracting States, the income so derived shall be exempt from tax by that Contracting State.

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第十七条 ARTICLE 17 退休金与养老金 (Pensions and Annuities)

一、除适用第十八条第二款的规定以外，因以前的雇佣关系支付给缔约国一方居民的退休金和其它类似报酬，应仅在该缔约国一方征税。

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

二、虽有第一款的规定，缔约国一方政府、行政区或地方当局根据其社会保险制度或公共福利计划支付的退休金和其它款项，应仅在该缔约国征税。

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made by the government, a political subdivision or a local authority of a Contracting State under its social security system or public welfare plan shall be taxable only in that Contracting State.

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第十八条 ARTICLE 18 政府雇员与退休金 (Government Employees and Pensions)

一、（一）缔约国一方政府、行政区或地方当局对向其提供服务的个人支付退休金以外的报酬，应仅在该缔约国征税。



1. (a) Remuneration, other than a pension, paid by the government or a political subdivision or a local authority of a Contracting State to an individual in respect of services rendered to that government or subdivision or authority shall be taxable only in that Contracting State.

(二) 但是，如果该项服务是在缔约国另一方提供，而且提供服务的个人是该缔约国另一方的居民，并且该居民：

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that other Contracting State who:

1. 是该缔约国国民；或者

(i) is a national of that other Contracting State; or

2. 不是为了提供该项服务的目的，而成为该缔约国的居民，该项报酬，应仅在该缔约国另一方征税。

(ii) did not become a resident of that other Contracting State solely for the purpose of rendering the services.

二、（一）缔约国一方政府、行政区、地方当局支付的或者从其建立的基金中对向其提供服务的个人支付的退休金，应仅在该缔约国征税。

2. (a) Any pension paid by, or out of funds created by, the government or a political or a local authority of a Contracting State to an individual in respect of services rendered to that government or subdivision or authority shall be taxable only in that Contracting State.

(二) 但是，如果提供服务的个人是缔约国另一方居民，并且是其国民的，该项退休金应仅在该缔约国另一方征税。

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.

三、第十四条、第十五条、第十六条和第十七条的规定，应适用于为缔约国一方政府、行政区或地方当局进行营业提供服务所取得的报酬和退休金。

3. The provisions of Articles 14, 15, 16 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by the government or a political subdivision or a local authority of a Contracting State.

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第十九条 ARTICLE 19 教学与学术所得 (Teachers, Professors and Researchers)

任何个人是、或者在直接前往缔约国一方之前曾是缔约国另一方居民，主要由于在该缔约国一方的大学、学院、学校或其它公认的教育机构和科研机构从事教学、讲学或研究的目的暂时停留在该缔约国一方，其停留时间累计不超过三年的，该缔约国一方应对其由于教学、讲学或研究取得的报酬，免于征税。

An individual who is, or immediately before visiting a Contracting State was, a resident of the other Contracting State and is temporarily present in the first-mentioned Contracting State for the primary purpose of teaching, giving lectures or conducting research at a university, college, school or other



accredited educational institution or scientific research institution in the first mentioned Contracting State shall be exempt from tax in the first mentioned Contracting State for a period not exceeding three years in the aggregate in respect of remuneration for such teaching, lectures or research.

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第二十条 ARTICLE 20 学生与培训所得 (Students and Trainees)

学生、企业学徒或实习生是、或者在直接前往缔约国一方之前曾是缔约国另一方居民，仅由于接受教育、培训或者获取特别的技术经验的目的，停留在该缔约国一方，对于下列款项，该缔约国应免于征税：

A student, business apprentice or trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education, training or obtaining special technical experience shall be exempt from tax in that

Contracting State with respect to:

- (一) 为了维持生活、接受教育、学习、研究或培训的目的，从国外收到的款项；
(a) payments received from abroad for the purpose of his maintenance, education, study, research or training;
- (二) 政府、科学、教育或其它免税组织给予的赠款或奖金；
(b) grants or awards from a government, scientific, educational or other tax-exempt organization; and
- (三) 在该缔约国从事个人劳务的所得，在任何纳税年度数额不超过 5,000 美元或等值的中国人民币。
(c) income from personal services performed in that Contracting State in an amount not in excess of 5,000 United States dollars or its equivalent in Chinese yuan for any taxable year.

根据本条提供的优惠，仅延伸到为完成接受教育或培训所必要的合理时期。

The benefits provided under this Article shall extend only for such period of time as is reasonably necessary to complete the education or training.

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第二十一条 ARTICLE 21 其他收入 (Other Income)

一、缔约国一方居民的各项所得，不论在什么地方发生，凡本协议上述各条未作规定，应仅在该缔约国征税。

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Contracting State.

二、第六条第二款规定的不动产所得以外的其它所得，如果所得的收款人是缔约国一方居民，通过设在缔约国另一方的常设机构在该缔约国另一方进行营业，或者通过设在该缔约国另一方的固



定基地在该缔约国另一方从事独立个人劳务，据以支付所得的权利或财产与该常设机构或固定基地有实际联系，不适用第一款的规定。在这种情况下，应视具体情况适用第七条或第十三条的规定。

2. The provisions of paragraph 1 shall not apply to income other than that from real property as defined in paragraph 2 of Article 6 if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 13, as the case may be, shall apply.

三、虽有第一款和第二款的规定，缔约国一方居民的各项所得，凡本协议上述各条未作规定，而发生在缔约国另一方的，可以在该缔约国另一方征税。

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other Contracting State.

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第二十二条 ARTICLE 22 避免双重征税 (Elimination of Double Taxation)

一、在中华人民共和国，消除双重征税如下：

1. In the People's Republic of China, double taxation shall be eliminated as follows:

(一) 中国居民从美国取得的所得，按照本协议规定对该项所得缴纳的美国所得税，应允许在对该居民征收的中国税收中抵免。但是，抵免额不应超过对该项所得按照中国税法和规章计算的中国税额。

(a) Where a resident of China derives income from the United States, the amount of the United States income tax payable in respect of that income in accordance with the provisions of this Agreement shall be allowed as a credit against the Chinese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Chinese tax computed with respect to that income in accordance with the taxation laws and regulations of China.

(二) 从美国取得的所得是美国居民公司支付给中国居民公司的股息，同时该中国居民公司拥有支付股息公司股份不少于 10% 的，该项抵免应考虑支付该股息公司对于从中支付股息的利润向美国缴纳的所得税。

(b) Where the income derived from the United States is a dividend paid by a company which is a resident of the United States to a company which is a resident of China and which owns not less than 10 percent of the shares of the company paying the dividend, the credit shall take into account the United States income tax payable by the company paying the dividend in respect of the profits out of which the dividends are paid.

二、在美利坚合众国，按照美国法律规定，美国应允许其居民或公民在对所得征收的美国税收中抵免：



2. In the United States of America, in accordance with the provisions of the law of the United States, the United States shall allow to a resident or citizen of the United States as a credit against the United States tax on income:

(一) 该居民或公民或代表该居民或公民向中国缴纳的所得税;

(a) the income tax paid to China by or on behalf of such resident or citizen; and

(二) 在美国公司拥有中国居民公司的选举权不少于 10%，并且该美国公司从该公司取得股息的情况下，分配公司或代表该分配公司对于从中支付股息的利润向中国缴纳的所得税。

(b) in the case of a United States company owning at least 10 percent of the voting rights in a company which is a resident of China and from which the United States company receives dividends, the income tax paid to China by or on behalf of the distributing company with respect to the profits out of which the dividends are paid.

本协议第二条的第一款第（一）项和第二款中所述的税种应认为是本款所述的所得税。

For the purposes of this paragraph of this Agreement, the taxes referred to in paragraphs 1(a) and 2 of Article 2 shall be considered income taxes.

三、缔约国一方居民取得的，按照本协议可以在缔约国另一方征税的所得，应认为发生于该缔约国另一方。

3. Income derived by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Agreement shall be deemed to arise in that other Contracting State.

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第二十三条 ARTICLE 23 非歧视 (Nondiscrimination)

一、缔约国一方国民在缔约国另一方负担的税收或者有关条件，不应与缔约国另一方国民在相同情况下，负担或可能负担的税收或者有关条件不同或比其更重。虽有第一条的规定，本款规定也适用于不是缔约国一方或者双方居民的人。

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, apply to persons who are not residents of one or both of the Contracting States.

二、缔约国一方企业在缔约国另一方的常设机构税收负担，不应高于该缔约国另一方对其本国进行同样活动的企业。本规定不应被理解为缔约国一方由于民事地位、家庭负担给予本国居民税收上的个人扣除、优惠和减税也必须给予缔约国另一方居民。

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal



allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

三、除适用第八条、第十条第七款或第十一条第六款规定外，缔约国一方居民支付给缔约国另一方居民的利息、特许权使用费和其它款项，在确定该缔约国一方居民应纳税利润时，应与在同样情况下支付给该缔约国一方居民同样予以扣除。

3. Except where the provisions of Article 8, paragraph 7 of Article 10 or paragraph 6 of Article 11 apply, interest, royalties and other disbursements paid by a resident of a Contracting State to a resident of the other Contracting State shall, for the purposes of determining the taxable profits of the first-mentioned resident, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting State.

四、缔约国一方企业的资本全部或部分，直接或间接为缔约国另一方一个或一个以上的居民拥有或控制，该企业在该缔约国一方负担的税收或者有关条件，不应与该缔约国一方其它同类企业的负担或可能负担的税收或者有关条件不同或比其更重。

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting State are or may be subjected.

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第二十四条 ARTICLE 24 共同协议 (Mutual Agreement)

一、当一个人认为，缔约国一方或者双方的措施，导致或将导致对其不符合本协定规定的征税时，可以不考虑各缔约国国内法律的补救办法，将案情提交本人为其居民的缔约国主管当局，或者如果其案情属于第二十三条第一款，可以提交本人为其国民的缔约国主管当局。该项案情必须在不符合本协定规定的征税措施第一次通知之日起，三年内提出。

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

二、上述主管当局如果认为所提意见合理，又不能单方面圆满解决时，应设法同缔约国另一方主管当局相互协商解决，以避免不符合本协定的征税。达成的协议应予执行，而不受各缔约国国内法律的时间限制。

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case through consultation with the competent



authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

三、缔约国双方主管当局应通过协议设法解决在解释或实施本协定时发生的困难或疑义，也可以对本协定未作规定的消除双重征税问题进行协商。

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

四、缔约国双方主管当局为达成第二款和第三款的协议，可以相互直接联系。为有助于达成协议，双方主管当局可以进行会谈，口头交换意见。

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of paragraphs 2 and 3. To facilitate reaching a mutual agreement, the competent authorities of both Contracting States may meet for an oral exchange of opinions.

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第二十五条 ARTICLE 25 交换信息 (Exchange of Information)

一、缔约国双方主管当局应交换为实施本协定的规定所必需的情报，或缔约国双方关于本协定所涉及的税种的国内法律所必需的情报（以根据这些法律征税与本协定不相抵触为限），特别是防止税收欺诈、偷漏税的情报。情报交换不受第一条的限制。缔约国一方收到的情报应作密件处理，仅应告知与本协定所含税种有关的查定、征收、管理、执行或起诉、裁决上诉的有关人员或当局（包括法院和行政管理部门）。上述人员或当局应仅为上述目的使用该情报，但可以在公开法庭的诉讼程序或法庭判决中透露有关情报。

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is not contrary to this Agreement, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or Authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

二、第一款的规定在任何情况下，不应被理解为缔约国一方有以下义务：

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

（一）采取与该缔约国或缔约国另一方法律或行政惯例相违背的行政措施；



(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(二) 提供按照该缔约国或缔约国另一方法律或正常行政渠道不能得到的情报;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(三) 提供泄漏任何贸易、经营、工业、商业、专业秘密、贸易过程的情报或者泄漏会违反公共政策的情报。

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

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第二十六条 ARTICLE 26 外交事务 (Diplomats and Consular Officers)

本协定应不影响按国际法一般规则或特别协定规定的外交代表或领事官员的财政特权。

Nothing in this Agreement shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

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第二十七条 ARTICLE 27 生效 (Entry into Force)

缔约国双方应在完成各自使本协定生效的法律程序后，通过外交途径书面通知对方。本协定自最后一方的通知发出之日后第 30 天生效，并对次年 1 月 1 日或以后开始的纳税年度中取得的所得有效。

Each of the Contracting States shall notify the other Contracting State in writing, through diplomatic channels, upon the completion of their respective legal procedures to bring this Agreement into force. The Agreement shall enter into force on the thirtieth day after the date of the latter of such notifications and shall take effect as respects income derived during taxable years beginning on or after the first day of January next following the date on which this Agreement enters into force.

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第二十八条 ARTICLE 28 中止效力 (Termination)

本协定应长期有效。但缔约国任何一方可以在协定生效之日起五年后任何历年 6 月 30 日或以前，通过外交途径书面通知对方终止本协定。在这种情况下，本协定对终止通知发出后次年一月一日或以后开始的纳税年度中取得的所得停止有效。

This Agreement shall remain in force indefinitely, but either Contracting State may terminate the



Agreement by giving notice to the other Contracting State in writing through diplomatic channels on or before June 30 in any calendar year after five years from the date on which this Agreement enters into force. In such event, the Agreement shall cease to have effect with respect to income derived during taxable years beginning on or after the first day of January of the year following that in which the notice of termination is given.

本协议于1984年4月30日在北京签订，一式两份，每份都用中文和英文写成，两种文本具有同等效力。

Done at Beijing on the 30th day of April, 1984, in duplicate, in the Chinese and English languages, the two texts having equal authenticity.

RONALD REAGAN

美利坚合众国政府代表

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

ZHAO ZIYANG

中华人民共和国政府代表

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA

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议定书 PROTOCOL

在签订中华人民共和国政府和美利坚合众国政府关于对所得避免双重征税和防止偷漏税的协定（以下简称“协定”）时，双方同意下列规定应作为协定的组成部分：

PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF TAX EVASION WITH RESPECT TO TAXES ON INCOME

At the signing of the Agreement between the Government of the United States of America and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Tax Evasion with Respect to Taxes on Income (hereinafter referred to as "the Agreement"), both sides have agreed upon the following provisions which form an integral part of the Agreement:

一、本协定不应以任何方式限制缔约国一方根据该缔约国法律或缔约国双方政府间的协定，已经给予或今后可能给予缔约国另一方的税收优惠。

1. This Agreement shall not restrict in any manner any tax benefit which is or may hereafter be accorded in a Contracting State by the laws of that Contracting State or by any Agreement between the governments of the Contracting States.



二、虽有本协定规定，美国可以对其公民征税。除本协定第八条第二款，第十七条第二款、第十八条、第十九条、第二十条、第二十二、第二十三、第二十四和二十六条规定外，美国可以对其居民（根据第四条确定）征税。

2. Notwithstanding any provision of the Agreement, the United States may tax its citizens. Except as provided in paragraph 2 of Article 8, paragraph 2 of Article 17, and Articles 18, 19, 20, 22, 23, 24 and 26 of this Agreement, the United States may tax its residents (as determined under Article 4).

三、虽有本协定的规定，美国可以征收其社会保险税、个人控股公司税以及累积收益税。但是，对于在一个纳税年度中，一个或一个以上的为中国居民的个人（非美国公民），或中国政府或完全由其拥有的机构，直接或间接地完全拥有的中国公司，美国应在该纳税年度免于征收个人控股公司税和累积收益税。

3. The United States may impose its social security tax, its personal holding company tax and its accumulated earnings tax notwithstanding any provision of this Agreement. However, a Chinese company shall be exempt from the personal holding company tax or the accumulated earnings tax in the United States during a taxable year if during that taxable year the company is wholly-owned, directly or indirectly, either by one or more individuals who are residents of China (and who are not citizens of the United States) or by the Government of China or any wholly-owned agency thereof.

四、协定第三条规定的“人”一语，应包括遗产或信托。

4. The term "person" as defined in Article 3 of the Agreement shall include an estate or a trust.

五、在适用本协定第四条第二款时，缔约国双方主管当局应以联合国关于发达国家和发展中国家双重征税协定范本第四条第二款的规则为准。

5. In applying paragraph 2 of Article 4 of this Agreement, the competent authorities of both Contracting States shall be guided by the rules contained in paragraph 2 of Article 4 of the United Nations Model Double Taxation Convention between Developed and Developing Countries.

六、在本协定第十一条第三款中，双方同意，对于租赁工业、商业或科学设备所支付的特许权使用费，只就这些特许权使用费总额的 70 % 征税。

6. For purposes of paragraph 3 of Article 11 of this Agreement, it is agreed by both sides that, in the case of royalties paid for the rental of industrial, commercial or scientific equipment, the tax shall be imposed on 70 percent of the gross amount of such royalties.

七、双方同意，如果第三国的公司主要为享受本协定优惠的目的而成为缔约国一方居民，缔约国双方主管当局可经协商，不给予本协定第九条、第十条和第十一条的优惠。

7. It is agreed by both sides that the competent authorities of the Contracting States may through consultation deny the benefits of Articles 9, 10 and 11 to a company of a third country if the company becomes a resident of a Contracting State for the principal purpose of enjoying benefits under this Agreement.

八、本协定不应影响两国政府 1982 年 3 月 5 日在北京签订的关于互免海运、空运企业运输收入税收的协定的执行。



8. This Agreement shall not affect the application of the agreement between the two governments with respect to mutual exemption from taxation of transportation income of shipping and air transport enterprises, signed at Beijing on March 5, 1982.

本协议定于1984年4月30日在北京签订，一式两份，每份都用中文和英文写成，两种文本具有同等效力。

Done at Beijing on the 30th day of April, 1984, in duplicate, in the Chinese and English languages, the two texts having equal authenticity.

RONALD REAGAN

美利坚合众国政府代表

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

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