

Wang Xuanhui. *Taxation in China 1997/98*. Hong Kong: FT Law and Tax Asia Pacific, 1997. v, 261 pp. Paperback, ISBN 962-661-003-4.

Since the early 1980s, the laws of the People's Republic of China (PRC) governing foreign-related business activity have increased exponentially in terms of both number and complexity. This was in no small part due to the phenomenal expansion of the PRC's economy. However, as equity joint ventures gave way (in part) to more flexible cooperative or contractual joint ventures and, more recently, to entities such as wholly-owned foreign enterprises and joint-stock limited liability companies, the development of the PRC's business laws regulating these entities could only be described as ad hoc. Tax laws followed suit.

It comes as no surprise, therefore, that enormous pressure was placed on the PRC's fledgling tax system during this time. By the late 1980s a panoply of regulations governed the taxation of foreign-related business transactions in the PRC, with tax treatment very much dependent on the type of entity and the location and type of the business activity. Combined with a plethora of both authorized and unauthorized tax breaks offered by local governments in an increasingly competitive market to attract foreign investment, the PRC's numerous tax regimes and sub-regimes appeared Byzantine.

Partially in response to this situation, tax reform in the PRC became an imperative. The first significant step took place in 1991, when the taxation of business income derived by foreign investment enterprises and by foreign entities from sources in the PRC became governed by the same law.¹ This was followed in late 1992 by the enactment of a truly unified law on taxation administration and collection,² applying to domestic entities and foreign enterprises alike. Within a further short period of time, a major tax reform package was implemented on 1 January 1994, which, among other things, (1) allocated responsibility between central and local taxation bureaus for administering and collecting national and local taxes,³ (2) enacted an individual income tax law that in most respects treated foreigners and PRC domiciliaries in the same manner,⁴ and (3) enacted a broad-based system of indirect taxation, again generally applying to both foreign enterprises and PRC entities alike.⁵

Given this historical background and the recent and many important changes to the taxation laws of the PRC, it is pleasing to report that the legislative amendments arising from the law reforms of 1991 to 1994 have been adequately reflected and explained in *Taxation in China 1997/98*. For this reason alone, this volume could be added to the library of the researcher on PRC economic law, and to the business community and advisers interested in PRC taxation generally.

The avowed aim of *Taxation in China* is to offer a detailed explanation of China's current tax law and regulations. It also promises to include a number of case studies to demonstrate actual practice and shows the procedures for assessment. Does the book fulfill these promises? The initial, and abiding, impressions upon reading *Taxation in China* are that it can best be classified as an introductory guide to the PRC's increasingly complex tax system. Chapter by chapter, it summarizes all the main taxes applicable to foreign investment in the PRC, including the trilogy of indirect taxes that have proved so important—and controversial—since they were introduced in 1994. The book concludes with a fairly detailed but eclectic chapter on the tax treaties to which the PRC is a party: tax sparing is considered in detail; transfer pricing, competent authority procedures, and the exchange of information are not considered at all. Worked examples appear throughout the text. They are generally helpful.⁶

On the negative side, it must be said that *Taxation in China* can hardly be called well documented. There are virtually no references to specific provisions of the relevant taxation laws, regulations, and rules and no reference to the very important interpretative notices issued by relevant government bodies, although some are obviously incorporated into the text. Indeed, the full text of over 250 pages contains not one footnote or bibliographic reference. In common with so many commercial publications on PRC business-related law and practice, *Taxation in China* is useful as a guide and, occasionally, it provides more than this;⁷ but it is a road map without any legend. When this is combined with the absence of any critical textual or conceptual analysis, it is hardly surprising that the traps and pitfalls of the taxation system that this book seeks to portray lie dormant for the unwary and ill advised.

Unlike other books available on PRC taxation, the book does not include any of the major taxation laws as an appendix. Furthermore, the application of these laws to significant transactions such as technology transfers, financing arrangements, the establishment and reorganization of PRC legal entities, and the import of capital equipment is not considered in any great detail, if at all.

The potential reader should be aware of further limitations in using this text. Why are Chinese characters *never* used? Readers familiar with Chinese script would find the bilingual rendition of laws and important terms to be particularly useful. There is no administration chart showing the structure of the State Tax Bureau. Indeed, the administrative changes that were so important a part of the 1994 reforms have not been mentioned. From the perspective of the reader having a business background or even having black-letter tax-law interests, this omission is (arguably) excusable. But it is not excusable from the perspective of the reader wishing to understand the nature and structure of the taxation system with which this book is concerned.

In summary, the strengths and weaknesses of *Taxation in China* 1997/98 are obvious. As a general guide for the business executive and professional interested in PRC taxation, it achieves its goal. The coverage is broad and it endeavors to be of practical use to the lay reader. It is much less useful for the specialist adviser, and even less so for the academic and researcher.

Before concluding, it seems timely to reflect upon the current English-language publishing environment in the field of Chinese foreign-related business law. As indicated above, it is trite to say that readers appreciate the advantages of good footnoting and a comprehensive bibliography of both primary and secondary source materials. Why, then, do so many of the PRC business-law texts fail so miserably in this regard? And why do publishers continue to tout these guides as "state-of-the-art" for the relevant field (perhaps even to the chagrin of the authors) when their utility for academic and research purposes is so severely limited?

Many readers of *China Review International* will recall the early days of PRC business-law reform when publishers could command premium prices for what were often simply English translations of Chinese law. Indeed, it would not be unfair to note that the more erudite the piece, the cheaper the price. Although vestiges of this practice remain, those days should surely now come to an end. Returning to the field of PRC taxation law, English-language readers are now fortunate in having the benefit of wide choice for their preferred texts. To the extent that *Taxation in China* adds to that choice, that is no bad thing. What is clear, however, is that the definitive English text on taxation in China is yet to be written.

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NOTES

1. Income Tax Law of the PRC Concerning Foreign Investment Enterprises and Foreign Enterprises, adopted by the National People's Congress on 9 April 1991 and effective from 1 July 1991. Previously, equity and cooperative joint ventures (as well as wholly owned foreign enterprises) were taxed differently under separate laws.
2. Administration of Tax Collection Law of the PRC, adopted by the National People's Congress on 4 September 1992 and effective from 1 January 1993. See, generally, Li Jinyan, "The New Law on Tax Administration" (International Bureau of Fiscal Documentation, May 1993), p. 263.
3. This structural reform, unfortunately somewhat neglected in academic writing, is continuing. In September 1996, the Beijing Local Taxation Bureau, in what is doubtless a pilot project, was the first of the PRC local tax bureaus to administer certain taxes collected from foreign investment enterprises and foreign enterprises that were previously handled by the State Taxation Bureau. See, generally, Joseph Fu and Joseph Lee, "New Responsibilities for Tax Authorities," *China Tax Review* (1996): 3(9), p. 7.
4. Individual Income Tax Law of the PRC, adopted by the National People's Congress on 31 October 1993 and effective from 1 January 1994. See, generally, Timothy A Gelatt, "China's

New Individual Income Tax Law: Implications for Foreign Business," *East Asian Executive Reports* (November 1993): p. 7.

5. It is still of interest to note that, from the perspective of the foreign investor in the PRC, the last major part of the drive toward tax unification and harmonization focuses on ensuring that the business profits of both foreign-owned and domestic entities are taxed equally. Paradoxically, foreign-owned enterprises are currently granted numerous tax exemptions and other incentives that are simply not available to other taxpayers. Although government officials have indicated on numerous occasions that, sooner rather than later there will be "a level playing field," the perceived need to attract foreign investment to the PRC has ensured that this has not yet happened. Again, seemingly paradoxically, many foreign-owned enterprises would welcome a truly "level playing field" in both its taxation (consider, e.g., the current VAT controversies such as VAT refunds on exports) and general commercial (e.g., access to the PRC domestic market) aspects.

6. Such as those in chapter 3 relating to the application of the PRC's foreign tax-credit rules and the taxation of contracted projects, and those in chapters 4 to 6 on liability to Value Added Tax, Consumption Tax, and Business Tax.

7. For example, reasonable emphasis is placed throughout the book on taxation and accounting compliance obligations (see particularly, chapter 2 and p. 48); thin capitalization is dealt with as is the contentious issue of deductibility of management fees paid to an associate (see pp. 50–51).



Ellen Widmer and Kang-I Sun Chang, editors. *Writing Women in Late Imperial China*. Stanford: Stanford University Press, 1997. xiii, 544 pp. Hardcover \$65.00, ISBN 0-8047-2871-2. Paperback \$24.95, ISBN 0-8047-2872-0.

Writing Women in Late Imperial China is a landmark book, one that stands as a confirmation of the recent changes in the study of Chinese literature and culture. Its thirteen essays combine solid scholarship and useful critical methods, applying them deftly, undogmatically, and with appropriate self-awareness. What is more, they bring these to bear on important, and fascinating, material—much of it previously neglected in English and little treated in Chinese. Every academic library should own a copy; every person interested in Chinese literature or the late imperial period should read it.

The authors examine both women writers and representations of women in writing (and a few paintings) from the Ming—especially after the mid-sixteenth century—and Qing, with scattered references to earlier times. In so doing, they recognize the challenging questions that must accompany their task, questions too