# Tax issues in inheritance of estate properties in China

## Description

Many foreigners are concerned with China estate taxes when they inherit estates in China.

As a matter of Law, China has not formally enacted estate tax laws despite rumor about it for many years. I personally don't foresee this enactment any time soon. After all, without this law, Chinese rich people are already fleeing this country for various reasons. An estate tax law will definitely accelerate this flight and seriously undermine China national interests.

That said, when you inherit any estate in China, you are basically free from any taxation on the estate you are going to take back home.

However, in the case of inheritance of real estate such as land and houses in China, there are other tax issues to be taken into account, and a good tax planning may save you substantial money esp when the inheritance involves multiple heirs and real properties.

For this tax planning, we don't just focus on the process of inheritance itself, but consider the future sale of the inherited properties at the same time.

A client of mine is to inherit five properties in Shanghai left by his late father with another two heirs being his mother and sibling. There was a valid will made by the deceased father bequeathing his estate to all these three heirs with each heir entitled to a portion of the estate. The heirs are in no dispute. Before consulting with any professionals, they just proceeded with the inheritance in accordance with the will, with the help of a local friend in Shanghai. It has proven to be a bumpy road in regard of the inheritance because they are asked to prepare documents which are found in conflict at the end. With a leaden heart, the client found me via this blog. Upon learning the situation, I immediately realized that there is a good room for tax planning that can save a lot of money for the client family.

Here are some tax implications which shall also consider China marriage laws. Sorry for not coming too clear about the full picture because, after all, this is something I will rely on to make a few bucks.

(1) Taxes in the course of inheritance by heirs:

Indeed, there are basically no taxes at all. The heirs receiving title in the estate properties don't have to pay the deed tax that is usually charged upon any type of title transfer. In Shanghai, this deed tax is exempted from payment. Exemption of deed tax may not be available in other parts of China.

As this is an inheritance, not a normal sale, there is no business tax, nor income tax to be paid.

However, if the estate receiver is not an heir of next of kin but some non-blood-related acquaintance, then taxes will be different.

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(2) Taxes when the inherited properties are to be sold

Sooner or later, the heirs receiving the estate may sell the properties. It is not always beneficial to hold properties in a foreign country. Indeed, majority of my clients of inheritance wish to sell the real estate in China because most people are seeing no big potential for value hike in China property market in the future.

If not properly planned and structured, the heirs may end up paying millions of RMB more individual income tax.

In regard of individual income tax, there are a few rules most relevant. For example, China tax authority has prescribed that property owners who obtain their properties by way of gift, inheritance from their immediate next of kin shall be subject to 20% of income tax rate based on the price of the property at the time of sale minus items of costs and expenses allowed to be deducted from the sale price. This is a big deal given that most properties in China has doubled or tripled or even quadrupled in value over the last decade.

However there are other rules to counter or avoid that big tax burden so long as the ownership of the properties are structured in a smart way before sale.

There will be also business taxes to be considered.

China Marriage law is also involved when the properties left by the deceased belong to the community property of the couple, which means only half of the property will be counted as estate of the deceased.

There is another technique that can be employed to phase out heavy taxes in China.

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admin