

Notice of the Ministry of Finance on the Issues concerning the Collection of Site Use Fees on Foreign-funded Enterprises

(No. 166 [2008] of the Ministry of Finance)

The Public Finance Department of Guangdong Province:

Your Request for Instructions on the Issues concerning the Collection of Site Use Fees on Foreign-funded Enterprises (No. 62 [2008] of the Public Finance Department of Guangdong Province) has been received. Upon deliberation, we hereby give the following opinions:

I. According to the current land management laws, regulations and policies of China, whether a foreign-funded enterprise shall pay the site use fee shall be determined according to the following different circumstances:

1. Where the land use right is obtained by allocation, the foreign-funded enterprise shall pay the site use fee since it does not pay the land assignment cost;

2. Where the land use right is obtained by assignment, the foreign-funded enterprise need not pay the site use fee since it has already paid the land assignment cost;

3. Where the land use right is obtained by lease, the foreign-funded enterprise need not pay the site use fee if the site development and land use fees have been taken into account at the time of rent calculation; otherwise, the foreign-funded enterprise shall pay the site use fee; or

4. Where the foreign-funded enterprise is a Sino-foreign equity or cooperative joint venture, if the Chinese party has made a capital contribution with the land use right or provides the land use right as a cooperation condition, the Chinese party shall pay the site use fee as determined according to the above-mentioned different circumstances.

II. The site use fee or land assignment cost paid by a foreign-funded enterprise shall be handled in accounting as the acquisition cost of land resources, and at the same time the urban land use tax shall be paid according to law.

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