

研究論文

International Experiences of Tax Policies on Natural Disaster Response
and the Implications for Chinese Policy

Yang Moru*

I . Introduction

The national economic policies on natural disaster response include direct fiscal subsidies, policy-related insurance, preferential interest rates on loans, tax obligation relief or delay and tax deduction on public welfare donations, etc. As a component of general financial expenditure, although tax expenditure does not account for the majority of the national disaster relief, it can provide the most direct and prompt support for the affected enterprise and individuals as well as the minimum administrative costs due to its quick and easy privilege to the taxpayers. In the tax reforms in other nations in recent years, some supplements or updates on the policies responding to this field have being developed, and these developments would benefit Chinese holistic tax policies relative to natural disaster response. Based on Chinese current condition and international comparison, the thesis puts forward a number of policy suggestions regarding tax incentives to assist in refining the post national disaster relief system.

. Current Situation of Chinese Tax Policy on Natural Disaster Response

1. General Tax Policy on Natural Disaster Response

Chinese general tax policy on natural disaster response is divided into two parts: one is Law of Tax Collection and

Administration in the People's Republic of China and the implication of provisions via "procedural law" related to delay in filing tax returns or ascertainment of damage; the other is the articles in "substantive law" concerning various taxation categories involving the calculation method for tax reduction amounts on natural disaster. The specific provisions are outlined below:

(1) Articles on Natural Disaster in "Procedural Law"

The articles on natural disaster in "procedural law" mainly refer to the clauses concerning delay in filing tax returns or tax payment deferral in the system of Law of Tax Collection and Administration and others related to validation procedure of assets' loss in other procedural law.

1) The detailed rules of Law of Tax Collection and Administration on delay in filing tax returns regulate that taxpayers and withholding agents may be extended to deal with tax returns filing or tax report forms which are for "withholding and remitting" or "collecting and remitting" tax because of uncontrollable forces leading to the disruption of production schedules. In addition, uncontrollable forces indicate the inevitable natural disasters such as wind, fire, flood and earthquake.

2) The clause in Law of Tax Collection and Administration concerning taxpaying deferral sets taxpayers who cannot afford the taxation on schedule could postpone the payment under the approval of provincial tax bureau. Yet the extension cannot exceed three months.

*中国華僑大学工商管理学院副教授

3) *Pre-tax Deduction Methods of Enterprise Assets losses on Income Tax* (The state administration of taxation announced [2011] no. 25, enacted on January 1, 2011) provides the procedure of loss recognition when the enterprise suffers “uncollectible accounts of receivables and prepayments”, “fixed asset retirement, destroyed loss”, “the project under construction cease or scrap loss” and “debt investment loss”, which resulted from major natural disaster. The regulation specifies the relevant evidential materials and conformation process while the taxpayers are applying for the deduction.

(2) Articles on Natural Disaster in “Substantive Law”

The articles on natural disaster in “substantive law” mainly refer to the tax preference clauses on natural disaster on current different taxes. They can be summarized as follows:

1) The policy relating to value-added tax, the law allows the input VAT of the taxpayer’s damaged goods to be credited from January 1, 2009, which means that the damaged goods can obtain the equal VAT credit as they are in their normal operation. In contrast with the previous, this provides a lightened burden for VAT taxpayers.

2) There are no special articles on natural disaster relating to business tax, consumption tax, land value increment tax, vehicle purchase tax, farmland conversion tax and tobacco tax. The motivation for these exclusion is presumed to be that the levied object of business tax basically includes the intangible service, which is not so vulnerable to natural disasters destruction as tangible goods; consumption tax, land value increment tax and other tax categories themselves have intent of suppression to adjust resources, thus the present bills are less on favorable terms.

3) The decrease of city maintenance and construction tax comes along with the value added tax, business tax and consumption tax, therefore it rarely has specific preferential clauses. This feature is notable because this tax, the only earmarked one in China which at present specifies the legal

usage which totally contributes to the city’s maintenance and construction of public utilities and facilities. As a consequence of the purpose, it is unreasonable to deduct the taxation in the event of a natural disaster.

4) Tariff policies are differentiated from other taxes policies. In that they are administered by the Customs Bureau. Simultaneously the law includes both substantial and procedural clauses, i.e. which permit to delay the deadline within the period of six months. In tariff policies, the change of tariff rate is more frequent than other categories of taxes, which decides the preferences chiefly originate from the administration’s temporary files after natural disaster.

5) The disaster deduction applies to residential property tax, tenure tax and resource tax on condition of the approval of the relevant provincial government or its fiscal and taxation department. Vehicle and vessel taxes are also exempt in the event of a natural disaster. For a period, the stamp tax has the favorable permission about transportation invoice in emergency rescue and disaster relief. Moreover, the provisions of the contract tax reduce or exempt the house purchase taxation for uncontrollable forces leading to home loss.

6) Enterprise income tax (EIT) has relevant regulations in terms of disaster losses and donation deduction. Besides the two aspects of EIT, individual income tax involves more exemption about the compensation.

2. Special Tax Policy on Natural Disaster Response

Chinese special tax policy on natural disaster response also can be divided into two sections: one is the local governmental documents related to the disaster’s preference and the other is the temporary regulations of natural disaster emergency situation. Those two sections both involve diverse tax categories with either substantial or procedural provisions.

(1) Local Policy Documents on Natural Disaster

Provisional and city governments have the power to apply

favorable tax policies. These policies can further be classified in two categories:

1) Policies in need of the central department's instructions

Local governments should ask the central governmental department for the elaborated opinions on the deduction permission and method for affected enterprises. For instance, *Instructions of Tenure Tax Reduction for Enterprises under Natural Calamities* (Jilin provincial local tax [1994] no. 123) seeks the standards of tenure tax preference and the jurisdiction of tax preference's administration.

2) Policies adapted to local situation

Within the stated rights from the central, the local supplements the tax privilege for its jurisdiction. For instance, the Tibet autonomous region has proclaimed the disaster-related provisions of individual income tax in 2007.

(2) Temporary Regulations on Natural Disaster

After every natural disaster in China, the tax authorities declare a number of temporary preferential policies, such as broadening VAT deductions, allowing the delay of tax declaration and payment, and the full deduction of donations in income tax and other clauses.

For instance post the Wenchuan earthquake in Sichuan Province on May 12, 2008, the central government had announced at least seven statutes of temporary policy from the third day after the earthquake to August 1, 2008.

.Weakness of Chinese Tax Policy on Natural Disaster Response

All the statutes grant tax preferences for the affected taxpayers in various aspects especially at the temporary regulations of emergency situation in China, nonetheless, one of the complications is whether the preference will be understood and enjoyed by the payers or not. Although the current tax law has made great contributions to the production and operation recovery, the thesis principally discusses the

shortcomings of the tax policy on natural disaster response.

1. Fragmented Presence of Preferential Provisions Difficult to Utilized by Taxpayers

As mentioned above, the regular articles on natural disaster losses include turnover tax, income tax, resource tax, whereas these regulations are with loose correlation and weak implementation. In addition, some rules need the approval from a regional taxation bureau. The present conditions determine that those preferences are difficult to form "preferential package" or "toolbox" which can show the fragmented and arbitrary and low-level-decisive tax preference intensively, assisting the tax-payers to follow and apply on time. Moreover, it is hard to calculate the amount and effect of tax expenditures and lead to inefficiency because of the complicated process of tax compliance.

2. Supports for Post-disaster Reconstruction or Disaster Prevention Insufficient

For the post-disaster reconstruction, China implements the tax incentive through deduction and exemption of donations and the tax exemption on imported goods. Yet, it lacks the favorable provisions about the deduction of fixed and repair expenses after natural disaster as well as the deduction for predictable losses in the next few years.

Until now, there are no measures such as infrastructure construction, equipment production, technology development and personnel training, in order to prevent and mitigate the unpredictable disaster. Thus the mechanism of risk defense fails to keep an eye on the far future.

3. Stimulation in the Field of Income Tax Weak

In Chinese taxation law, the goods and services tax plays as important role as the income tax. Compared with the developed countries whose income tax acts a leading role, Chinese tax stimulation measures on income tax are less

numerous and play a less important role. For instance, the provision that the material assets loss due to natural disaster can obtain tax credit in Korea indicates taxpayers could enjoy triple income tax benefits, that is, “compensation is exempted from tax”, “general loss are deductible” and “great loss may be further credited from other taxes.”

4. Tax Policy Separated from the National Comprehensive Legal System of National Disaster Prevention and Emergency Plan

The specific items of the tax rules are not included by *the P.R.C. National Law of Earthquake Prevention and Disaster Mitigation*, neither by *National Earthquake Resistance and Disaster Mitigation Plan (2006-2020)*. What's more, tax department isn't one of the members in the national disaster mitigation committee. If given enough attention, the highest tax authorities will enumerate the most universal and punctual taxation articles on disaster response, joining the strategic plan of national disaster prevention and mitigation. It is also urgent for local governmental system of disaster response or emergency plan to include tax provisions.

. Experience of Developed Countries' Tax Policy on Natural Disaster Response

The developed countries have formed their characteristics on tax policies to cope with natural disaster. After analysis, the explanation is shown below.

1. Effect of Tax Policy on Natural Disaster Response Universal and Flexible

(1) “Preferential Tax Package” in National Disaster Relief Legal System American Experience

The National Disaster Relief Act which takes effect in October 2008 supplies a series of tax preferences called “preferential tax package”. The summary is as follows: ① Allows all taxpayers, not just those who itemize, to claim the

casualty loss deduction regardless of the taxpayer's adjusted gross income level; ② Increases the amount by which all individual taxpayers must reduce their personal casualty losses from each casualty from \$100 to \$500 for taxable years beginning after Dec. 31, 2008. The reduction amount returns to \$100 for taxable years beginning after Dec. 31, 2009; ③ Removes the requirement that the net casualty loss deduction be allowed only if the casualty loss exceeds 10 percent of the taxpayer's adjusted gross income; and so on¹⁾.

As long as the President declares an affected region as Federal Disaster Area, then the set of preferential tax will be enacted. Moreover, the situation announced by the President to confirm the tax status extends abroad. For example, in Japanese northeastern catastrophe in 2011, the tax law treatment in the States includes that the U.S. residents working in Japan can obtain income tax preference, etc.

(2) Special Tax Law on Specific situation-Japanese Experience

Japanisches Kabinett introduces the bill of *Special Tax Law* after the seismic tsunami disaster of northeastern Japan in March 2011. The details can be seen from the website of National Tax Agency, such as: ① The removal and evacuated fees of damaged assets (including residual buildings) can be deducted; ② If the cost of repurchasing assets belongs to capital expenditure, it can only be amortized to future periods while the recovery fee of impaired assets could be deducted in current period; ③ If the damaged assets continue to be used, the expected repair costs occurred in future tax years also may be deducted in current period; ④ The deadline of paying duty and drawback declaration is permitted to extend for the affected taxpayers, etc²⁾.

2. Object of Tax Policy on Natural Disaster Response Holistic and Multi-leveled

(1) Improved Relief Due to Package of Preference Tax Korean Experience

The tax policies on natural disasters in Korea tax system (2010)³ encompass:

1) Providing “Tax Credit” and “Tax Deduction” Simultaneously

According to the computing method of tax deduction, the amount is proportional to “the direct loss” and “the applicable tax rate” while the number of tax credit is in proportion to “the relative loss” and “the original tax payments”. Namely, the system comprehensively considers other elements above, which does not only incorporate the degree affect and tax contribution of payers but also is in favor of the financial support means for taxpayers.

2) Integrated Application of Various Tax Breaks

Other tax preferences are also applied in Korea just similar to other countries including donation deductions, loss compensations exemptions.

(2) Different Levels of Tax Treatment Depending on Disaster Japanese Experience

Major natural disasters in Japan are subdivided into the standard and the local categories with different degrees of damage and subsidization range. The central fiscal department would undertake divergent measures to smooth the damage according to the affected degree.

3. Application of Tax Policy on Natural Disaster Response Practicable and Examinable

(1) Publication of Tax Preference in “Toolbox” American Experience

The website Disaster Assistance and Emergency Relief for Individuals and Businesses in Internal Revenue Services (IRS) lists the overall framework for taxpayers in the disaster. The contents include: ① federal tax treatment for personal and business; ② the aid and link of the tax agency; ③ related guidelines for charitable donations; ④ specific aid means of every state’s tax bureau and contact method of their branches; ⑤ a tool box for individuals and enterprises applying for tax

breaks that contains abundant of tax deductions’ application forms and programming instructions⁴ .

IRS respectively arranges the toolboxes on tax reduction instructions to guide those different types of taxpayers in filling out appropriate declaration forms, step by step. As a result, it becomes easy to satisfy the demand in the application which originally seems complex.

(2) Effective Statistics of Tax Expenditure on Disaster Australia Experience

The Treasury of Australian Government not only processes the detailed classification for economic effect of various tax preferences but also compares the number between the specific tax expenditure (one kind of broadly “fiscal expenditure”) and the direct fiscal expenditure, to jointly explain the federal government’s social support measures.

Furthermore, in some other countries, taking the United States as example, the audit departments of some states provide statistical data of their tax expenditure for disaster relief⁵. And some international institutions, such as the American Development Bank and the International Monetary Fund, collects and collates the tax expenditure (containing disaster relief tax expenditure) projects cooperatively aimed at different countries especially the European and American countries⁶.

. Proposals of Chinese Tax Policy on Natural Disaster Response

According to the current state of the relevant legislation globally and the relative weakness of Chinese tax policy on natural disaster response, we can learn from foreign countries and draw on their experience in order to further develop Chinese policy. The proposals are put forward below.

1. Establishment of Emergency Plan by Tax Policy "Package"

(1) Forming a System for Disaster-Response-Tax-Preference which is Normalized, Classified and Available for Emergency

Chinese emergency tax policies' documents in recent years are consistent, thus we can build on these foundations to form a "disaster emergency preferential tax package". All the terms in the different levels of disasters are selectively applied, but the provisions themselves are pre-established. On one hand, it is helpful to keep fair on the tax treatment of the same level disaster in different periods and regions. On the other hand, the package could shorten the period of research and introduction of emergency tax policy, reduce administrative costs, and benefit the taxpayers as soon as possible.

Of course, the application of the preferential tax treatment should combine the principles of standardization and specialization. For significant disasters, preferential terms can be especially beneficial in deficient areas. What's more, for some special zones such as the national minority community and non-resident taxpayers relatively concentrated areas.

(2) Provisions of Post-disaster Reconstruction and Disaster Prevention to be Embedded in Tax Policy

The recovery from a disaster requires systematic engineering. For example, in accordance with certain quality and technical standards, the firms who produce and operate in the reconstruction facilities and product, should be given tax reductions or exemptions. And for the affected enterprises it should be allowed to share the burden in later years or choose to record the expense once in pre-tax cost if they purchase goods or assets and give the repair fee in relations to the disaster. In a broader sense, the post-disaster reconstruction includes the prevention of secondary disasters. The projects such as the technology of disaster prevention and reduction, counseling services and personnel training and dispatching, shall enjoy the same preferential policies. These "tax expenditures" have lower administrative costs and smaller

rent-seeking space than other fiscal assistance, which are worth deliberating and embedded into the "emergency preferential tax package" provisions.

2. Preferences Enhancing on Income Tax

Although the current tax system in China has two "lead-roles" which are goods & services tax (GST) type and income tax type, the problems of the GST's easy burden-shift and the differential treatment between business tax and value-added tax suggest that we should pay more attention to improve disaster response compensation mechanism of income tax. Chinese government should adapt ideas from other countries on the tax credit about losses, not just the tax deduction but also allowing for the disaster losses to be compensated from the former tax periods and to apply for reimbursement, along with the qualification of actual deduction and even accrued deduction to help the affected enterprise to repair and rebuild.

3. Regular Evaluation and Test for Preferential Tax Effect

Chinese government hasn't yet collected the tax expenditure data on disaster relief. Even the fiscal expenditure data is difficult to find in financial almanac, let alone to measure the policy's effect. This requires the collaborative research among tax departments at all levels, including academics and relevant governmental agencies, to develop an international standard statistical method. An advanced statistical system can also supervise the implementation of the domestic and international tax systems in return, thus insuring their appropriate and effective application.

4. Participating in International Mutual Cooperation Platform

Chinese government has not announced that domestic residents' direct donations to other countries after a disaster can be deducted in accordance with some conditions, and not publicly stated that if enterprises of different nations residing abroad are able to gain tax deduction, related to losses and

spending on disaster relief and reconstruction in keeping with certain standards. Therefore, this situation takes disadvantage of the aid for domestic residents or “going abroad” taxpayers in other countries’ disasters. Therefore, we can form disaster response “community” supporting each other in tax interest through bilateral taxation agreements or other alliances together with our strategic partners, especially within the Asia Pacific region⁷⁾.

5. Combining Preferential Tax policies, Fiscal Subsidies and Financial Supports, Timely into Disaster Prevention and Relief Law

Essentially, “tax expenditures” on natural disasters belong to “financial expenditure”. Only combined with the tool of other finance and insurance, can they form an efficient operating system to aid in disaster recovery. In regards to the relative legislation, it should be examined that in the current Chinese tax preferential terms have “low status”, so it is necessary to incorporate important macroeconomic policies into national disaster prevention and reduction legal system., in order to enhance the transparency and credibility the tax system for the mitigation of the effect of the national disaster.

. Conclusion

Tax policies could alleviate the burden on taxpayers effectively which is originated from a natural disaster. Tax policy as an instrument has the potential to be utilized for generations to come. According to the comparison of current situation in China with some more developed countries, we propose the perfecting measures in order to remove the demerits of Chinese tax system on natural disaster response. Meanwhile, we expect to discuss with readers the ideas about how to regulate tax policies in times of emergency.

Notes

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