

Characteristics of the Chinese Tax System and its Cultural Underpinnings: A Comparison with the West

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China's tax system is characterised by the co-existence of formal taxes, sundry levies and hidden taxes. In China, multiple authorities with tax law-making powers and tax administration powers exist. This leads to issues of tax jurisdiction and tax compliance such as differential treatment between local administrative areas and between taxpayers who have different status in the tax system. These unique characteristics of the Chinese tax system are rooted in China's special national circumstances. These national circumstances include issues of economic development, political system and issues that are culturally specific. Further, a 'human relationship system' arises from that culture, where the behaviour of politicians, grassroots administrators and the taxpayers cannot be viewed in isolation. Looking deeper, the reasons behind these characteristics relate to the status-conscious culture in China. This is exemplified in the saying 'Criminal punishment does not apply to senior officials and the etiquette does not apply to common people'¹, and the selfish culture of human sympathy², face relationships, and 'if it is not my business, hang it up'³.

INTRODUCTION

Taxation and the budget have always been amongst a nation's major concerns. The characteristics of a tax system often reflect a government's governing philosophy. Most people view China's tax and legal framework through its published laws and regulations, but this is far from enough. China is a country with thousands of years of culture and history, developing a human relationship system that is difficult for even its own citizens to comprehend. It can be explained neither verbally nor in writing; it can only be experienced — only those who are immersed in it and have analysed it can understand it. These cultural as well as economic developments and political system characteristics together form the characteristics of the Chinese tax system. This article discusses the main characteristics of the Chinese tax system, comparing it to prevailing systems in Western developed nations. It focuses on cultural attributes, providing a backdrop for understanding the full picture of the Chinese tax system.

MAIN CHARACTERISTICS OF THE CHINESE TAX SYSTEM

In order to clearly explain the characteristics of taxes in China, 'tax' needs to be defined. 'Taxation is a compulsory exaction of money by a government for public purposes, being neither a pecuniary penalty nor a fee for services rendered'⁴. This means 'tax' is the activity of a government in extorting amounts of money, goods or labour from those engaged in economic activities within its administration (including individuals, groups and enterprises). Further, it is a compulsory contribution by economic participants to the government to sustain public expenditure. Tax has a natural relationship with government. Only amounts contributed to governments by economic participants can be called a tax.

When viewing taxation in China, it has four characteristics: Compulsory, non-compensating, certainty and uniform. The compulsory nature of taxes is reflected in levying taxes according to the law. Taxes are based on political authorities (such as) the government, rather than debt or equity rights. The 'without repayment' nature of taxes is also called non-direct remittance. This means that governments do not give taxpayers goods or compensation of an equal value in return for the tax collected. Although governments do provide public goods from tax revenue, the amount of public goods received by individual taxpayers does not directly coincide with the amount of tax they have paid. The certainty nature of taxes means that tax cannot be randomly levied, there should be specified rules on whom to tax, what to tax, how much to tax, collection mechanism, collection time and location. In addition, the powers and responsibilities of collection authorities all need to be stipulated clearly by tax laws. The uniform nature of taxes means the same amount of tax will be collected from the same type of product, same activity, same type of tax object and taxpayers who have the same ability to pay. A tax that is not uniform will have internal conflicts between the public interest

and private interest of taxpayers, leading to fundamental issues of revenue collection⁵. Some government levies are not called taxes, but as these amounts are extorted without repayment, they are, in reality, taxes. For example, the provincial or local governments in China currently levy different 'funds', 'fees' or 'charges' on enterprises and individuals for specific purposes; although these are not formally called taxes, they behave like taxes. Restricting the definition of taxes as above gives rise to four characteristics of the Chinese tax system:

A. Other than Formal Taxes, There Are Many Sundry Levies and Hidden Taxes

1. The distinction between formal taxes, sundry levies and hidden taxes

In societies with a sound legal system, a tax cannot be levied without the consent of citizens. For a government to levy taxes, whether these are formally prescribed as taxes or otherwise, laws need to be enacted in parliament. However, in China, only a very limited number of tax laws have been passed in parliament (the National People's Congress (NPC) and its Standing Committee).

There are still major differences between Chinese law-making bodies and those of western constitutional democracies. Chinese law-making bodies provide transition positions for officials approaching retirement or facing a career change, they are also a propaganda platform for governments to provide working agenda information to the public. Therefore, whether China makes law through the NPC or through the State Council, there is no material difference. To a certain degree, laws made by top-level officials from the State Council are easier to administer. Therefore, this paper not only treats tax laws made by the NPC or its Standing Committee as formal law, it also treats regulations made by the State Council and its Ministry of Finance, the State Administration of Taxation and the General Administration of Customs as formal law. Currently, out of the levies imposed in the name of taxes, only Individual Income Tax and Enterprise Income Tax are legislated by the NPC. The other taxes have been legislated by the State Council, and its Ministry of Finance, the State Administration of Taxation, the General Administrations of Customers, the Ministry of Human Resources and Social Security, and the Ministry of Environmental Protection, through Regulations or circulars or decrees. These taxes, levied through the legislative process, are called formal taxes.

Other than formal taxes, China has a large volume of levies that exhibit tax characteristics. They are often called fees, funds, charges, etc, and are levied through specialists, regulations or departmental decrees or administrative regulations, rulings or circulars by the departments of central government, or even departments of different-level local governments. These include, for example, 'Education Law' levies, 'additional education fees', 'Forestry Law' levies, 'forestry industry fund', 'Land Law' levies, 'new vegetable patch development fund'. The 'rural power repayment

fund' are levied through Cai Qi [2001]#820, Cai Zong [2007]#3; the 'three gorges project development fund' is levied through Guo Fa Ban[1993] #34, Cai Qi [2002]#651, Cai Qi [2003]#155. From the early 1990s, China started going through a stock take of so-called government funds and administrative fees. They are reducing in number every year. However in 2009, there were still 34 types of government funds, 236 types of national administrative fees, and numerous local government levies. Some of these funds and fees are temporary, some permanent. There are various levying methods, and there are many more variants of taxation outside of formal taxes. Levies which possess tax characteristics, but which have not been through formal legislative processes, are called sundry levies. At some point in China's history, the government collected cash or goods from specific economic participants through price mechanisms. As an example, in a system where important agricultural goods such as grains are purchased and sold centrally, and farming equipment is allocated by plan, the government may deliberately raise the price of farming equipment and sell it to farmers above its value. At the same time the government would deliberately lower the price of agricultural goods such as grains. This creates what is termed a price 'scissors difference'. In reality this is an indirect tax on farmers, but the 'taxpayer' is unaware of it. Researchers call this taxing method 'hidden tax'. The 'hidden tax' system was in operation from 1953 to 1985, during which the Chinese government collected RMB 600 Billion⁶ from farmers. This is six times the amount of agricultural tax and equals the total industrial investment capital of the state-owned enterprises of the time. Some scholars are therefore of the view that China's initial industrial capital accumulation came mainly through depriving farmers. In order to achieve this deprivation, China has a strict population register system, dividing the population into two worlds — urban and rural.

In contemporary China, the land ownership system is prejudiced against farmers. Farmers can utilise the land but do not have ownership of the land. Land belongs to the collective or the government. The government can compulsorily acquire the land that farmers are using with compensation, but the land cannot be bought and sold. In the course of industrialisation and urbanisation, not only could farmers not receive profits from rising land prices, but due to inadequate compensation from the government, they lose wealth. In substance this deliberate legal arrangement is also a 'hidden tax' on farmers. Recent research reveals that in the decade between 1998 and 2007, the 'hidden tax' collected by the Chinese government through acquiring land from farmers is at least RMB 2007.984 Billion, which is five times the amount levied from the agricultural tax abolished in 2006. In 2008, this increased to RMB 494.071 Billion, which means that although the Chinese government abolished the agriculture tax borne by farmers, the 'hidden taxes' paid by farmers are much greater. From 1998 to 2007, these 'hidden taxes' plus the direct and indirect taxes farmers paid as consumers totalled RMB7869.519 Billion. At the same time, the public goods

provided by the government to farmers are valued at less than RMB 3521.898 Billion, which is only 44.75 per cent of the tax burden of farmers. Total net wealth taken from farmers was RMB 4347.711 Billion. The Chinese fiscal mechanism is therefore seen as strongly regressive, i.e. it does not take from the wealthy to assist the poor, but takes from the poor to assist the wealthy.⁷

2. Formal taxes

From the above characterisations, we treat tax laws made by the NPC and regulations made by the State Council as formal taxes. These include the 19 levies that are called taxes, social insurance charges and pollution discharge fees. In terms of tax objects, they can be characterised as:

- Indirect taxes (taxes on goods and services): value added tax (VAT), consumption tax, sales tax, customs duty, resource tax, city and rural area maintenance and development tax, tobacco tax, vehicle purchase tax.
- Income taxes: individual income tax, enterprise income tax, social insurance charge.
- Wealth and activity taxes: property tax, city real estate tax, deed tax, stamp duty, land capital gains tax, land usage tax, arable land occupancy tax, ship tonnage tax, vehicle and shipping tax, pollutant discharge fee.

In 2008, total collection of formal taxes minus export tax rebates was RMB 6638.103 Billion, which is 69.32 per cent of total 2008 government revenue of RMB 9575.902 Billion⁸, which in turn is 22.78 per cent of GDP of RMB 30067 Billion. If the social insurance charge and pollution discharge fee is disregarded, formal tax totals RMB 5422.379 Billion, which is 56.63 per cent of total government revenue, and 88.41 per cent of normal budgeted revenue of RMB 6133.035 Billion, and 18.34 per cent of GDP. This shows that the main source of revenue for normal budgeted revenue is formal taxes. Social insurance charge is a large proportion of formal taxes, but is not calculated in the normal budget. Below we will analyse the tax structure according to the data that includes social insurance charge and pollutant discharge fee.

Looking at the structure of the three types of taxes, of the total amount of formal tax of RMB 6638.103 Billion, indirect tax is 49.91 per cent, income tax (including social insurance charge) is 40.48 per cent, wealth and activity tax is only 9.61 per cent. This reflects that the Chinese tax system exhibits a mixed tax structure based on indirect taxes and income tax, as shown in Table 1 and Graph 1.

From the main tax types, the most revenue is gained through the VAT, at RMB 1933.167 Billion, which is 29.12 per cent of total tax revenue raised. Second place is social insurance charge, revenue is RMB 1197.2 Billion, which is 18.04 per cent of total tax revenue raised; third place is enterprise income tax, revenue of RMB 1117.563 Billion, which is 16.84 per cent of total tax revenue raised; fourth place is sales tax, revenue of RMB 762.639 Billion,

which is 11.49 per cent of total tax revenue raised; fifth place is individual income tax, revenue is RMB 372.231 Billion, which is 5.61 per cent of total tax revenue raised; sixth place is consumption tax, revenue is RMB 275.874 Billion, which is 4.16 per cent of total tax revenue raised; 7th place is customs duty, revenue is RMB 176.995 Billion,

which is 2.67 per cent of total tax revenue raised. Other small tax type total RMB 802.434 Billion, which is 12.09 per cent of total tax revenue raised. Please see Table 1 and Graph 2.

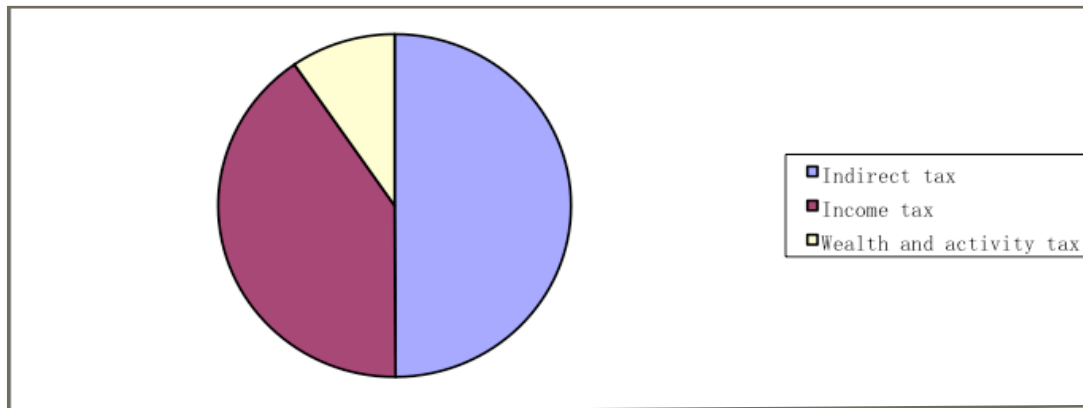
TABLE 1: 2008 FORMAL TAX STRUCTURE

CLASS	TAX TYPE	AMOUNT (RMB BILLION)	%
INDIRECT TAX	VAT	1933.167	29.12
	Consumption Tax	275.874	4.16
	Customs Duty	176.995	2.67
	Sales Tax	762.639	11.49
	City and Rural Area Maintenance Development Tax	134.409	2.02
	Resource Tax	30.176	0.45
	Total Indirect Tax	3313.260	49.91
INCOME TAX	Enterprise Income Tax	1117.563	16.84
	Individual Income Tax	372.231	5.61
	Social Insurance Charge ¹⁰	1197.200	18.04
	Total Income Tax	2686.994	40.48
WEALTH & ACTIVITY TAXES	Property Tax (including city real estate tax)	68.034	1.02
	Deed Tax	130.753	1.97
	Tobacco Tax	6.745	0.10

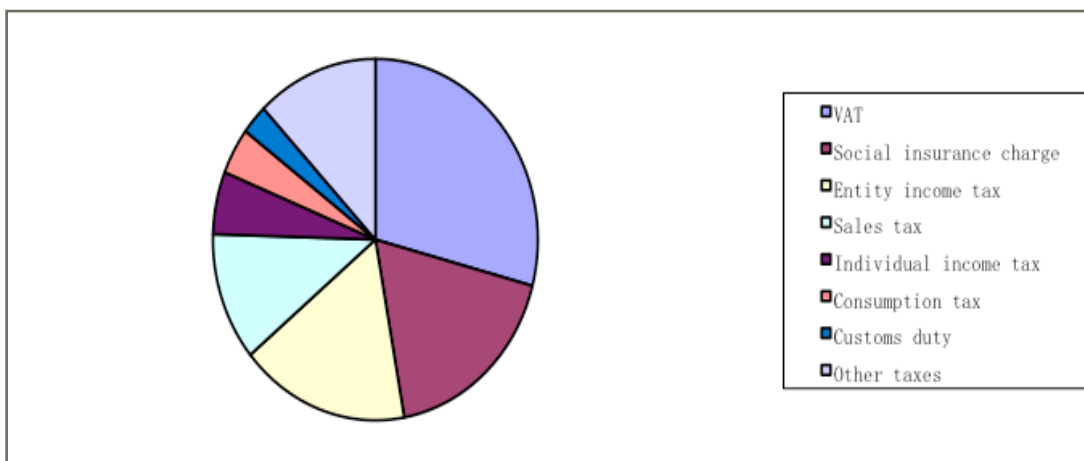
	TAX TYPE	AMOUNT (RMB BILLION)	%
	Arable Land Occupancy Tax	31.441	0.47
	Land Usage Tax	81.69	1.23
	Land Capital Gains Tax	53.743	0.81
	Ship Tonnage Tax	2.012	0.03
	Vehicle and Shipping Tax	14.421	0.22
	Vehicle Purchase Tax	98.989	1.49
	Stamp Duty	131.129	1.98
	Pollutant Discharge Fee ¹¹	18.524	0.28
	Other Tax Type ¹²	0.368	0.01
	Total Wealth and Activity Taxes	637.849	9.61
TOTAL FORMAL TAXES		6638.103	100.00

Data Source: Other than noted items, based on National Bureau of Statistics of China, China Statistics Yearbook 2009.

GRAPH 1: THE STRUCTURE OF THE THREE TYPES OF FORMAL TAXES 2008



GRAPH 2: MAIN FORMAL TAXES PROPORTION 2008



3. Sundry Levies

For a long time in China, central government and local governments at each level collected a substantial level of revenue by charging funds, fees and charges. This revenue is not listed in the budget for administrative purposes, thus treated as extra-budgetary funding, where some organisations even put them in the petty cash account for accounting purposes. These funds are away from the supervision of fiscal management and the People's Congress at each level, leading to serious issues of arbitrary levy and careless spending. Thus, not only does it create disorder in fiscal transfers and public income redistribution, it also increases the possibility of corruption.¹³ For this reason, central government and finance ministries began to manage the situation from 1993, cancelling a large amount of inappropriate, unlawful fees and funds, and gradually bringing government funds and administrative fees into the budgetary management process. Sundry levies mainly consist of the so-called government funds and administrative fees.

Almost all government funds have characteristics of taxes. These funds are not 'fees', not capital returns, not goods and services purchase. They therefore fit the four basic characteristics of taxes. People who pay the funds or fees (feepayers) cannot use without charge the facilities that are funded by the funds or fees, thus the payments by feepayers are without repayment; feepayers cannot choose how much to pay or when to pay, the payment is controlled by levying circulars, whenever the levying instance happens, the feepayer has to pay, otherwise they face penalties, the imperative nature is obvious; the amount or ratio of payment is set by the circular. This makes it certain as long as the feepayer is faced with the same situation. Thus, there is uniformity as the fee/fund type would be the same and amount the same. In the past few years, as the central government manages the situation, the number of government funds is decreasing, but until 2009, there are 34 types¹⁴ (details please see table 2), of revenue that are counted towards the budget, totalling RMB 422.802 Billion¹⁵.

NUMBER	FUND NAME	LEVY RIGHT	FUND MANAGEMENT
1	Rural Power Repayment fund	State Council agreed, Cai Qi [2001]#820, Cai Zong [2007] #3	Pay to Central and Local Coffers
2	Three Gorges Project Development Fund	Guo Fa Ban [1993] #34, Cai Qi [2002] #651, Cai Qi [2003] #155.	Pay to Central Government Coffers
3	New Wall Material Fund	Guo Fa [1992] #66, Cai Zong [2007] #3, Cai Zong [2007] #77.	Pay to Local Government Coffers
4	Harbour Development Fund	Guo Fa [1985] #124, Jiao Cai Fa [1993] #456, Cai Zong [2007] #3	Pay to Central Government Coffers
5	Civil Aviation Airport Management and Development Fund	GuoYue [1991] #144, Guo Ban Fa [1995] #57, Cai Zong Zi [1999]#147, Cai Gui [2000]#28, Cai Zong [2004]#51, Cai Zong [2007] #3, Cai Zong [2007]#78	Pay to Central Government Coffers
6	Civil Aviation Infrastructure Fund	Guo Fa [2002] #6, Cai Zong [2004] #38, Cai Kuai [2004]#8	Pay to Central Government Coffers
7	Railway Construction Fund	Guo Fa[1992] #37, Cai Gong Zi [1996] #371, Cai Zong [2007] #3	Pay to Central Government Coffers
8	Railroad Construction Additional Fee (Fujian Province)	Guo Fa[1998] #17, Cai Zong [2001] #26, Cai Zong [2007] #3	Pay to Local Provincial Government Coffers
9	National Silk Development Venture Fund	Guo Yue [1996] #151, Guo Jian [1997] #11, Cai Zong [2004] #40, Cai Zong [2007] #3.	Pay to Central Government Coffers
10	Bulk Cement Fund	Guo Han [1997] #8, Cai Zong [2002] #23, Cai Zong [2007] #3	Pay to Local Government Coffers
11	Central International Trade Development Fund	Guo Han [1996] #17, Cai Zong [2007] #3.	Pay to Central Government Coffers
12	Silviculture Fund	Forestry Law, Cai Shi Zi [1972] #250, Qing Zhong [1988] #122, Lin Cai Zi [1991] #74, (91) Cai Nong #333 (93) Cai Nong Zi #144	Pay to Central and Local Coffers
12-1	Collective Silviculture and Variation Fund	Same as Si Chuan Province Lin Cai [1986] #20	Pay to Local Government Coffers
12-2	National Silviculture and Variation Fund	Same as Si Chuan Province Lin Cai [1986] #20	Pay to Local Government Coffers
12-3	Continual Simple Reproduction fee	(93) Cai Nong Zi #144	Pay to Local Government Coffers
12-4	Forestry Continual Simple Reproduction fee	(93) Cai Nong Zi #144, Qian Fu Ban [1989] #39	Pay to Local Government Coffers

NUMBER	FUND NAME	LEVY RIGHT	FUND MANAGEMENT
13	Forestry Fund (Shanxi Province)	Forestry Law, Cai Zong Han [2003] #1	Pay to Local Government Coffers
14	Forestry Vegetation Regrowth Fund	Forestry Law, Cai Zong [2002] #73	Pay to Central and Local Coffers
15	Water Conservancy Construction Fund	Guo Fa [1997] #7, Cai Zong Zi [1998] #117– #145	Pay to Central and Local Coffers
16	Large and Medium Dam Post Migration Assistance Fund	Guo Fa [2006] #17, Cai Zong [2006] #29, Jian Cha Bu Ren Shi Bu Cai Zhen Bu Ling #13	Pay to Central Government Coffers
17	Large and Medium Dam Fund (Qinghai, Guangdong, Chong- qing, Sichuan, Jilin, Shanxi, Hebei, Shanxi, Anhui, Hubei, Hunan, Guizhou, Hainan, Fu- jian, Guangxi, Liaoning, Yunnan Provinces)	Guo Fa [2006] #17, Cai Zong [2007] #26, Cai Zong [2008] #17, Cai Zong [2008] #29 、 #30、 #31、 #32、 #33、 #34 、 #35, Cai zong [2008] #64 、 #65、 #66、 #67、 #68, Cai Zong [2008] #85、 #86、 #87 、 #88、 #89、 #90	Pay to Central and Local Coffers
18	Three Gorges Dam Area Fund	CPG Ruling #299, Guo Fa [2006] #1, Cai Zong [2007] #69	Pay to Central Government Coffers
19	South Water to North Project Fund (Beijing, Tinjin, Hebei, Jiangsu, Shandong and Henan)	Guo Han [2002] #17, Guo Ban Fa [2004] #86	Pay to Central Government Coffers
20	New Vegetable Patch Development Fund	Land Law, National Construction Land Acquisition Regulation, [1985] Nong (Tu) Zi #11	Pay to Local Government Coffers
21	City Public Services Additional Fee	(64) Cai Yu Wang Zi #380, (78) Cai Yu #26, (78) Jian Fa Cheng #584, Cai Zong [2007] #3	Pay to Local Government Coffers
22	Cultural Development Fee	Guo Fa [1996] #37, Cai Shui Fa [1997] #95, Guo Fa Ban [2006] #43	Pay to Central and Local Coffers
23	National Film Industry	Guo Fa Ban [2006] #43, Cai Jiao [2006] #115	Pay to Central and Local Coffers

24	City Education Additional Fee	Education Law, State Council Ruling #60, Guo Fa [1986] #50, Guo Fa Ming Dian [1994] #2、#23 [1992] Cai Yu Zi #11	Pay to Central and Local Coffers
25	Local Education Additional Fee (Liaoning, Anhui, Fujian, Sichuan, Jiangsu, Guangxi, Ningxia, Guizhou, Qinghai, Hebei, Shandong, Zhejiang, Inner Mongolia, Yunnan, Heilongjiang, Hunan, Hubei)	Education Law, Cai Zong Han [2003] #2、#9、#10、#12、#13、#14、#15、#16、#18, Cai Zong [2001] #58, Cai Zong [2004] #73, Cai Zong Han [2005] #33, Cai Zong Han [2006] #9, Cai Zong Han [2006] #2、#61, Cai Zong Han [2007] #45, Cai Zong Han [2008] #7	Pay to Local Government Coffers
26	Local Education Fund (Beijing, Jiangsu)	Education Law, Cai Zong Han [2002] #31、Cai Zong Han [2003] #12	Pay to Local Government Coffers
27	Travel Development Fund	Guo Fa [1995] #57, Nu Fa Ban [1991] #124, Cai Wai Zi [1996] #396, Cai Hang [2001] #24, Cai zong	Pay to Central Government Coffers
28	Disabled Persons Employment Guarantee Fund	Disabled Person Guarantee Law, Cai Zong Zi [1995] #5、Cai Zong [2001] #16	Pay to Local Government Coffers
29	Coal Sustainable Development Fund (Shanxi)	Guo Han [2006] #52, Cai Zong Han [2007] #3, Fa Gai Ban Neng Yuan [2007] #1805, Jin Cai Mei [2007] #8	Pay to Local Government Coffers
30	Water Resource Compensation Fee (Shanxi)	State Council Agreement, Ji Ji Chu [2001] #349, Cai Zong [2001] #62, Cai Zong [2007] #3, Cai Ban Zong [2009] #5	Pay to Local Government Coffers
31	Electricity Base Construction Fund (Shanxi)	State Council Agreement, Ji Jia Guan [1997] #440, Zai Zong [2002] #33, Cai Zong [2007] #3	Pay to Local Government Coffers
32	Highway Vehicle Passage Additional Fee (Hainan)	Cai Zong [2008] #84	Pay to Local Government Coffers
33	City Infrastructure Associated Fee	Ji Jia Ge [2001] #58, Cai Zong Han [2002] #3	Pay to Local Government Coffers
34	Small Dam Post Migration Assistance Fund	Guo Fa [2006] #17	Pay to Local Government Coffers

Other than the above government funds, there are numerous numbers of administrative fees. These are fees that government or quasi-government departments receive from residents. There are three situations:

Firstly, whether the fees are levied on beneficiaries of specific services at cost, or they are fees for using specific national resources. These fees are of a pricing nature and are reasonable. They include: passport fees, notary fees, visa fees, normal high school fees, higher education fees, higher education accommodation fees, various examination fees, certificates fees, property ownership registration fees, waste water testing fee, maritime mediation fee, satellite transponder channel fee, radio channel occupancy fee, telecom numbering resource occupancy fee, farming watering water source and equipment occupancy compensation fee, Yangtze river sand and gravel resources fee, measuring instruments using fee, patent fee, etc. However, when some levying organisations continue to levy administrative fees after receiving fiscal funding, it becomes an extra sundry levy on residents. In addition, the amount above cost has the characteristics of tax where the fees levied to service beneficiaries for specific services are provided to residents above cost. Secondly, fees levied to beneficiaries of specific services at above cost, the amount above cost has the characteristics of tax.

Thirdly, government or its departments raise tax by authorising public institutions to issue licences, registrations, test and assessments to levy imperative contributions from residents. This includes an automobile safety test fee, foreign law firm annual review fee, ship and shipping equipment testing fee. These are taxes on the one hand because the operation funding of these institutions are already gained from fiscal funding and, on the other hand, these fee-paying activities are not based on services but on government administrative purposes. Therefore, they are not required by residents themselves and are accurately characterised as taxes.

The Fourth situation is fees levied by concocting various excuses — they are certainly sundry levies, for example, sole proprietor business management fee, pedlar's market management fee (these two were cancelled from 1 September 2008¹⁶), channel maintenance fee, road transport management fee, waterway transport management fee (these were cancelled from 1 September 2009¹⁷), education fee extras, mining registration fee, land acquisition management fee, land return to farming fee, land

idle fee, termite prevention and treatment fee, vehicle passage fee, port charge, river sand and gravel mining fee, water and soil erosion management fee, water wild animal resource protection fee, fishing resource reproduction protection fee, wild animal and plant export management fee, land wild animal resource protection fee, greening fee, plant new variety protection fee, hygiene management fee, hygiene quality testing fee, air defence basement relocation development fee, custom monitor filing fee, intellectual property customs protection filing fee, product quality monitor testing fee, manufacturing production authorisation certificate fee (including audit fee), pharmaceutical product administration protection fee, Chinese medicine variety protection fee, security marketing monitoring fee, futures market monitoring fee, insurance business monitoring fee, etc. All these fees, with the exception of the first, fall within the scope of 'sundry levies'. It is difficult to list and count the different sundry levies, take transportation and vehicles as an example, the items abolished by the State Council in 2000 is up to 238, which reduces the burden of cities of RMB 14.5 Billion per year¹⁸. After that, some items are abolished each year. In 2008 alone, the number of abolished national administrative fees items was 100.¹⁹ There are still 236 fee items that continue to be levied.²⁰ Currently, for administrative fees, some are included in normal budgetary management; others are included in extra-budgetary management.

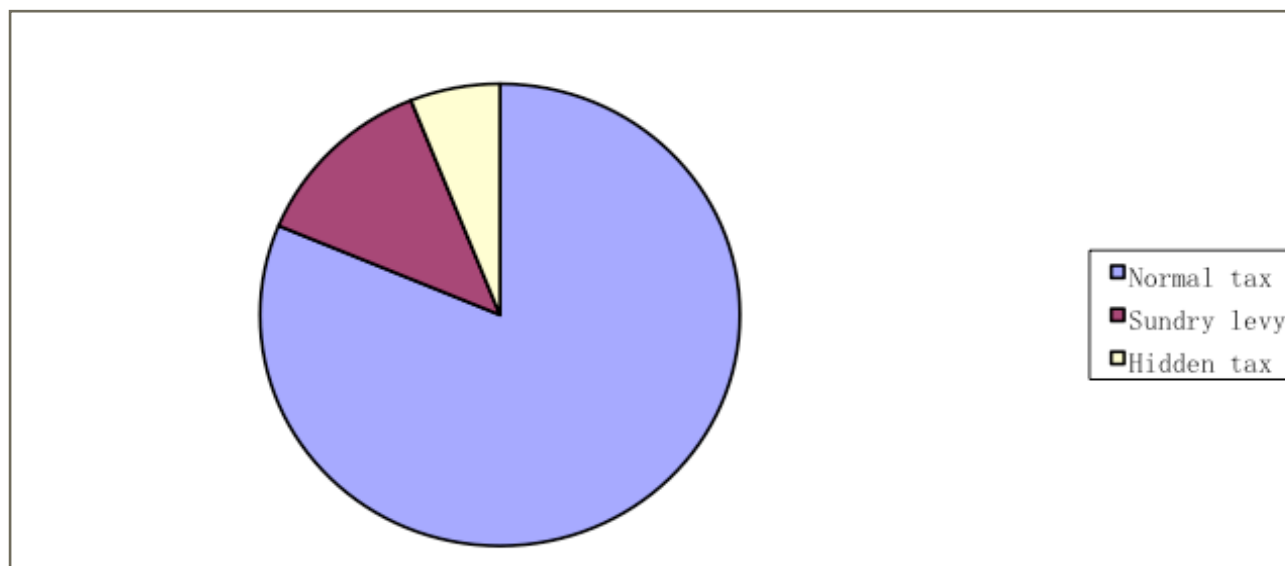
In 2008, the administrative fees included in normal budgetary management is RMB 213.486 Billion, extra-budgetary management amount is RMB 516.213 Billion, totalling RMB 681.591 Billion. Subtracting an amount around RMB 120 Billion is reasonable payment for the service supplied by the government such as normal high school fees, higher education fees, etc. The remaining sum is RMB 609.699 Billion, which is the sundry levy amount. Add to the fund budget sundry levy amounts of RMB 422.802 Billion, and the total sundry levy in 2008 is RMB 1032.501 Billion.

4. Total Tax Amount Relative to Total Government Revenue and GDP

According to the above calculation, we know that total tax revenue in 2008 was RMB 8164.675 Billion, comprising formal tax of RMB 6638.103 Billion or 81.30 per cent; sundry levy of RMB 1032.501 Billion, which is 12.65 per cent; hidden tax totalling RMB 494.071 Billion²¹, which is 6.05 per cent (Refer to graph 3). Total tax revenue is 85.26 per cent of total government revenue, or 27.15 per cent of GDP.

The graph reveals that tax revenue is not a small part of GDP. When considering the tax burden in China, sundry levies and hidden taxes have to be considered; merely considering formal tax will largely underestimate the tax burden of Chinese residents.

GRAPH 3: FORMAL TAX, SUNDRY LEVY AND HIDDEN PROPORTION 2008



a) Type	b) Amount (Billion)	c) Percentage of government revenue	Percentage of GDP
Formal tax revenue	6638.103	69.32%	22.08%
Sundry levy revenue	1032.501	10.78%	3.43%
Hidden taxes	494.071	5.16%	1.64%
Total tax revenue	8164.675	85.26%	27.15%
Government revenue	9575.902	100.00%	31.85%
GDP	30067		100.00%

B. Plurality in Law Making and Administration of Tax Law in China

Section 3 of the Tax Collection and Administration Law in China stipulates: 'The levying and stopping to levy of a tax and tax cuts, exemptions, rebates and payment of unpaid tax would be executed according to the law; those that are authorised by the law to be regulated by the State Council, will be prosecuted following the administrative laws and regulations issued by the State Council. Any departments, organisations and individuals cannot disobey laws, administrative laws and regulations to unilaterally make decisions relating to the levying and stopping to levy of a tax and tax cuts, exemptions, rebates and payment of unpaid tax and any related activities that are against tax laws, administrative laws and regulations'. However, an important characteristic of Chinese culture is that name is above reality.²² This law only administers taxes which are formally termed as 'tax', and levies which are in reality taxes, but not called a 'tax' (for example, the government funds and administrative fees which have tax characteristics, i.e. sundry levies) are not included within its scope. Taxation in China exhibits plurality in law-making, execution and administration. The following discussion details the distinction between formal tax and sundry tax.

1. The legal system and administration characteristics of formal tax

Formal taxes are those which are levied as a tax, according to the Tax Collection and Administration Law mentioned above and other laws and regulations. In principle, the National People's Congress (NPC) and its Standing Committee are the law-making bodies; Courts of all levels are the judiciary, State Council, different levels of governments and their finance departments are the law enforcement bodies. However, in reality, this is not the full picture. The following helps reveal the entire picture:

i. Coexistence of law making and delegated law making

Tax law in China is enacted through legislation passed by the legislature as well as through delegated legislation. This means that tax law can be made by the NPC or its Standing Committee, or even by a State Council authorised by the abovementioned law-making bodies. Legislature legislation²³ are commonly called 'XX laws', delegated legislation are called 'XX tax regulation'. Currently, only Individual Income Tax Law and Enterprise Income Tax Law are legislature legislation, the rest are regulations made by the State Council. Before a tax law or tax regulation is issued,

there is a consideration process. Normally the finance and tax departments will draft legislation according to research and consultation, pass the review from the legal system office of the State Council, then the State Council will meet to discuss and pass the legislation. Draft legislation that needs to be passed by the NPC will be sent for review by the appropriate offices of the NPC; the NPC or its Standing Committee will convene to pass the legislation. Finally the President of China will announce the law. During the process, if there are issues relating to tax law principles involving significant systemic or policy changes before the final legislative process or before going to the NPC, the draft legislation has to be sent to the Political Bureau of the CPC Central Committee or its standing committee. The principle following their decision-making process will be the accepted legislative basis. This reflects the uniformity of the principle that governs post-1949 China 'where country is lead by the party, the people own the country, and the country is government by laws'.

ii. The multi-layered nature of the source of tax law

The formal laws made by the NPC are usually principle-based, the State Council would need to issue related enforcement regulations to explain the laws. When enforcement regulations are not detailed enough, the Ministry of Finance, the State Administration of Tax, and General Administration of Customs will explain the regulations in more detail through circulars. The regulations made by the State Council are normally also principle-based. The State Council issues related implementation rulings to explain further. Some tax types such as property tax, arable land occupancy tax, city and rural land usage tax, deed tax, social insurance charge etc. will be administered by measures of implementation issued by provincial local governments, the standard to levy pollutant discharge fee is jointly set by the State Council's pricing departments, finance departments, environmental protection administration departments and economic commercial departments. These laws, regulations, enforcement regulations, implementation rulings and department circulars (or department rulings) combine to form the source of law for tax law, they are the legal basis taxpayers and tax administrators follow, they are also the legal basis for the judiciary to follow. However, in western countries, only tax laws made by the legislature and the cases decided by courts with authority (in common law countries such as the US and the UK) are the source of law. These are the only things binding upon the judiciary. The legislature can disregard any decisions made by government departments. In China, as has been

explained above, the situation is rather different.

iii. Separation of tax law explanation, policy making and tax administration

The Ministry of Finance has specialised tax policy departments (i.e. the tax policy group and customs group), who are responsible for tax law explanation and tax policy making. The circulars are often issued in the name of the Ministry of Finance, or Ministry of Finance, and State Administration of Tax or Ministry of Finance and General Administration of Customs. For issues of pollutant discharge fee and social insurance charge, circulars are normally issued by the Ministry of Environmental Protection, Ministry of Human Resources and Social Security respectively. When the policy affects special industries and departments, circulars will be issued in the names of the Ministry of Finance and the other department. Local governments have the right to decide on detailed taxing standards, tax rates and taxes that require policy adjustments. Further, detailed policies are made by local finance departments. Tax administration is separately enforced by administrations or departments of tax, customs, environmental protection and human resources and social security at all levels of government. Among the taxes, customs duty, ship tonnage tax, import/export VAT and consumption tax are administered by customs departments; administrations of tax at all levels are responsible for administering all other formal taxes. In addition, the pollutant discharge fee is administered by environmental protection departments. However, in more and more provinces, the administration is done by local tax administrators. Social insurance charges on the other hand are administered by departments of human resources and social security. However, even the administration of this is shifting to local administrators in a growing number of provinces.

iv. In the process of tax administration, the two sets of administrations of tax and administration of customs operate both separately and overlaps

Currently the State Administration of Tax in China has two tax administration systems for levels of governments at or below provincial levels — one national tax administration system and one local tax administration system. In principle, national tax bureaus are responsible for central taxes and shared taxes, while local tax bureaus are responsible for local taxes, but in reality this separation of powers is unclear. For example, it is originally stipulated that for enterprise income tax, according to subordination relationships, central state-owned enterprises' enterprise income tax would be levied by national tax

bureaus, local enterprises' enterprise income tax would be levied by local tax bureaus. For new enterprises that are registered after 2002, no matter of their subordination relationships, their enterprise income taxes would be administered by national tax bureaus. At the same time, individual income tax becomes a shared tax, but would continue to be administered by local tax bureaus. VAT and consumption tax would be administered by national administration of tax, but import/export VAT and consumption are administered by customs.

2. Plurality in law making and administration of sundry levies in China

From the early 1990s, central government started to manage the 'three arbitrary' situation of urban and rural areas — 'arbitrary levy, arbitrary fines and arbitrary requisition of donations'. It has carried on rural area tax reforms and reforms of management of extra-budgetary funds. Up to now, the disastrous situation of large volumes of sundry levies have been relatively controlled, most sundry levies are included in budgetary management and are relatively controlled and monitored. However comparing with standard situations in societies with a rule of law, the issue, levy and usage of sundry levies still exhibit the following:

i) The levying of tax did not go through legislature legislation or a delegated legislation process

An obvious sign of a nation with a rule of law is no taxes without representation, where the people agreed to the new tax through elected members of parliament. So called agreement of the people is the passing of legislation through the legislature or having delegated legislation. However, most sundry levies are revenues collected by central government or its departments, or local governments or its departments for specific reasons or projects. They are levied on enterprises, organisations or individuals. Some sundry levies are based on a single piece of legislation, for example, education addition levy is based on Education Law. Many sundry levies are levied because funding of specific reasons or projects cannot be passed in the normal budgetary management process, so as temporary levying 'policy'. The result is in a particular historical moment, these sundry levies became a disaster. To regain control, central government has to manage the situation, abandon some items and agree to keep others.

ii) The laws the levies are based on are not systematic

The legal basis for sundry levies is normally government circulars, i.e. a document, although it fits the imperative, without repayment and unambiguous

nature of taxes, its regulations are not as systematic and clear as formal taxes. For example, the levy of Continual Simple Reforestation fee (Continual Simple Reforestation fee is the combination of the original publicly-owned forest felling area road extension fee and collectively-owned forest renewal redevelopment fund), is based on the Ministry of Finance 'Circular re issues on forestry production business implementing new financial standards' ([93] Cai Nong #144). The ratio, quantity of sundry levies are changeable, the changes also do not require consideration through a legislative process. For example, the railway construction fund's levying standard started at RMB 0.002 per ton per kilometre and has risen to RMB 0.033 per ton per kilometre through five adjustments in seven years, becoming a higher proportion of rail transportation price. This measure was wholly decided by the administering department, without any public discussion, consultation or debate process.

iii) Revenue not included in normal budget

Before the State Council started managing the situation, establishing the separation of revenue collection and expenditure, sundry levies are levied and spent by the same administering department. Currently sundry levies are still not included in normal budget, the Ministry of Finance established the 'fund budget' to manage this revenue, and some sundry levies in the name of government funds are still managed extra-budgetary.

iv) Administering organisation is the same as spending organisation

Most sundry levies are administered by the government department spending the levy or the authorised organisation; they are not managed by tax administrators. For example, the railway construction fund is collected by railway transportation enterprises when they are collecting transportation fees authorised by the Ministry of Railways, to be spent on national planned large or medium-sized railway construction projects²⁴. The civil aviation basic infrastructure fund is levied by civil aviation administrators on civil passenger and goods transport aviation businesses who are registered in China and who utilise national air way resources, to be spent on the development of civil aviation safety, air traffic control, airports, scientific education and information management.²⁵

C Difference between the Letters of Law and Real Operation of Law of Chinese Tax Law

In China, there isn't a tradition to strictly follow the letter of the law to solve problems. It is the same regarding tax. There is a further layer of complication

in the laws of China. When the letters of the law are applied, depending on the situation, they may still need to be discounted to greater extends.

1. Geographical development disparities

Economic development in China is very unbalanced. Throughout the country, there is a large difference between the East and the West, and between urban and rural areas, the extent of polarity is evidence. On the one end of the scale is the development of large cities and a number of townships in developed areas of the East, they are close to the levels of developed nations; on the other end the mountain areas of the middle and west and the townships that mainly have an agricultural economy are relatively poor. Even in developed provinces, the differences between localities are still large. Not only are there large differences in economic development, there are large cultural differences.

The uniform national tax system is often based on urban areas, and most formal taxes are modelled on western developed nations. In developed areas, businesses are relatively larger, there is sound financial management and appropriate information exchange channels, and tax laws can thus be enforced relatively smoothly. In less developed areas, businesses are relatively smaller, tax sources are scattered, administration is often inappropriate and the basic conditions for operating modern tax systems are lacking. Within such a pluralistic, diverse economic scenario, the tax law is often administered as a set of basic principles, allowing local tax authorities a relatively wide ambit for enforcement. As tax administrators often have wide discretionary powers, the end result is that the same laws and policies are executed differently in different places, and the difference can often be substantial.

Within the tax administration itself, China currently uses an administrative method of 'planned collection tasks' instead of collection according to the tax law. In the system of 'planned collection tasks', the central government decides on the required annual revenue amount, according to fiscal need and economic development, and then issues the tasks to each of the lower level tax administrators by its higher level administrator. Each tax administrator has to complete the task, which forms their main working agenda. How these tasks are set is by mechanism to add or take away from the collection level of the previous year, normally only add, not subtract; even when there is an economic downturn, the tax authority still has a task to increase collection volume. Each local tax

bureaus, in order to fulfil their tasks, needs to adjust tax amounts between years within the legal limits. In years when the economy performs well and when there is a large tax source, there is under collection according to the law, collection stops when the task is finished or slightly over collected, thus hide the tax in businesses. When collection the task increases in the following years, that task becomes easier, this is called slowing down the collection of taxes. The basic method is to negotiate with businesses, in order to not pay taxes on time, especially in the fourth quarter of each year, or to administer relatively loosely during normal times, to allow avoidance by businesses, to allow for years of economic downturn, when there is inadequate tax source, to increase auditing pressure to collect overdue taxes. The existence of this mechanism leads to the difference between the letters of tax law and the execution of tax law. Furthermore, it leads to different tax treatments of taxpayers in areas of different levels of development. In more developed areas where the economy grows faster, the tax source is larger, and it is easier for the tax administrator to finish its task, thus tax audits are less frequent, and leading to a lower ratio of discovery for tax avoidance, resulting in a lowered tax burden. In less developed areas, where the economy grows slower, the tax source is small, the tax administrators normally need to audit a lot harder to finish their tasks, in years of economic downturn, it is even possible for over-collection of tax above the legal requirement to occur.

In a fiscal system where there is separation of taxing powers, local level governments will pay close attention to tax revenue that it could be spent by, and thus will award tax administrations who can better finish their tasks, the bonuses from the awards will become employee benefits, local tax administrators even of the national tax administrations will have vested material interests. Under these circumstances, some administrative practices will be compromised, leading to different tax law enforcement practices in different areas. For example, the new enterprise income tax law that began operation in 2008 is based on a legal person taxpayer system, with a collection mechanism of cross-locality, consolidation between head office and subsidiary for tax purposes. In the past, the taxpayer is an 'independent economic unit', subsidiaries pay tax to its local government, the result of the new tax affects local fiscal interest. To look after vested interests, the State Administration of Tax implemented a collection method of 'uniform calculation, separate level management, local withholding, consolidate for settlement, fiscal transfer' to share the tax revenue.²⁶ The tax administration headquarters needs to provide 'distribution forms'

to the tax administrations at subsidiary levels. This leads to a situation where the tax bureaus at the location of the head office and at the location of the subsidiaries are constantly in a gaming position, everybody tries to compromise the administrative practices. In areas where subsidiaries are located, tax is originally collected from the independent economic entities, now they have to withhold by proportion, the source of tax revenue is significantly smaller, directly affecting the collection task and local government revenue, some tax administrations even ignore the 'distribution forms', and directly collect tax from subsidiaries through deeming.

2. Status

Other than locality differences, there are differences in tax treatment due to the status of the taxpayer. With regard to business enterprises, the same tax laws have different administrative practices for transnational companies, state-owned enterprises, public companies, small to medium enterprises and sole proprietor businesses. For sole proprietor businesses and small to medium enterprises, tax is normally levied by deeming on a fixed rate or fixed volume; for the other enterprises, taxes are levied according to accounts.

For enterprises that are levied by assessment, depending on the information transparency, the effective collection rates are different. For more transparent enterprises, the collection ratio is higher, tax laws are more enforceable. At the same time, these enterprises often have larger tax planning space, and they can use legal means to lower their tax burden. For other enterprises, this route is usually not as simple as negotiating with or bribing tax officials. For individuals, it is difficult to apply uniform treatments on officials, salary earners, celebrities, workers, farmers and underground figures. When tax avoidance is discovered, ordinary citizens without social connections or citizens of low social standing often receive treatment and penalties according to the law, while citizens of differential social standing and with connections to people in power often find that law enforcement authorities and the judiciary can be quite accommodating, sometimes even cancelling the penalties.

CULTURAL UNDERPINNINGS OF THE CHARACTERISTICS OF THE CHINESE TAX SYSTEM

Tax systemic characteristics c highlighted above include: the coexistence of formal taxes, sundry levies and hidden taxes; legislation without a

democratic mandate; law-making and administration by numerous authorities and a multiplicity of tax jurisdictions; the difficulty in implementing issued tax laws uniformly, with execution often dependent on locality and taxpayer status.

These unique characteristics of the Chinese tax system are drawn from China's specific national circumstances. These include economic development, political system and cultural specific issues, as well as the 'human relationship rules' arising from them. The imbalance within China's economy and political structure are certainly important influences on its tax systems, but cultural issues are undoubtedly the more fundamental reason. These cultural reasons explain why the political system is hard to change — when change is attempted, it often manifests more in structural form than real substance. Cultural circumstances also affect the final result of economic development. High levels of trust and abundant social capital are necessarily connected with continual economic prosperity.²⁷ The following pays attention to the effects China's culture has on its tax system.

A. Defining Culture

Broadly speaking, culture is the material and spiritual result of human activity. However, this paper uses a narrow definition of culture, it is a moral tradition formed by the value norms, which are behavioural rules that exist in society at the time. Cultural characteristics can only be shown in comparison. Here we compare Chinese cultural attributes against Western cultural norms. The different ethnic groups and different countries of the West have different cultures. For the purposes of our discussion, Western culture is defined as the moral tradition including value norms and behavioural rules that arose and developed from England and Germany, especially the standards of human relationships.²⁸

China is a nation with multiple cultures, a large geographical area and different ethnic groups. The same ethnic group residing in different locations may have internal cultural differences. In this paper, Chinese culture is the culture shared by the Han ethnic group, which finds its origins in two main sources. One is the moral standards and values of Confucianism — in summary, the 'three cardinal guides and five constant virtues'. The three cardinal guides are: ruler guides subject, father guides son and husband guides wife; the five constant virtues are: benevolence, righteousness, propriety, wisdom and fidelity, its core is propriety. Propriety is the class system based on the three cardinal guides of the rights

of the ruler, the rights of the father and the rights of the husband. In this system, the courtier serving the ruler, the son serving the father and the wife serving the husband are natural rights. Society is divided into classes, and every person needs to consider of their position and keep to their station in life. Thus the notion of 'criminal law not applying to senior officials and the etiquette not applying to common people' is in operation. The benevolence of Confucius thought is not universal love, but rather benevolent love that follows propriety, i.e. love depends on classes; it is charity of a higher class person bestowed on a lower class person, not love based on equality. Righteousness (do right, appropriate moral behaviour or reason) is the same — there is no righteousness between people of different classes. Wisdom too has its own unique meaning — the maintenance of proper class differences and the general status quo, balancing relationships and keeping the peace are considered the highest virtues of wisdom, not creativity and criticism. The same principle applies to fidelity, trust is differentiated in relation to classes, integrity means loyalty, it is only applicable when considering the behaviour of the lower classes to higher classes.

This gave rise to a series of moral codes such as loyalty, chastity and filial piety. In the Chinese context, loyalty required that even if one's ruler was cruel, the courtier could not resist, he could only persuade; chastity required a woman to obey her husband regardless of his status, when he dies, she shall not remarry but keep herself; filial piety require a child to obey his parents wholly, and without hesitation rebellion was forbidden even if the parents were unreasonable. This Confucian ethical code, based on strict class-consciousness which favours the interests of the upper class minority, possesses certain similarities with Western religious codes.

There have been sweeping changes in China in recent years. Some traditional practices including filial piety, the favouring of male children, loyalty and complete chastity no longer exist; however, thousands of years of Confucianism still remains embedded in the cultural subconsciousness. In particular, especially that of autocracy, class-consciousness, formalism, exploiting the weak, the suppression of basic freedoms and benevolent love in the Confucius tradition are still the source of many social problems, including compliance to tax laws.

Another influence was custom, i.e. tradition. Although Confucianism affected the historical development and cultural traditions of China, that influence remained

largely academic and political? The general rules and value norms that governed day-to-day behaviour and accepted ways of doing things — whether consciously or unconsciously — were derived mainly from custom. Basic concepts included ‘saving face’, human sympathy and Guanxi (relationships) ; some academics have termed these unwritten cultural rules as ‘covert rules’.

Cultural differences are differences arising from situations where although people are similar because human nature is similar, but people deal with each other differently, and this interaction does not reflect on the quality of the people. Whether in China or the West, when a culture is seen as the norm of social life, and it becomes the moral tradition for the people living in it, without judging the culture, or whether people realise it exists, it becomes an invisible net that covers everybody’s social life. As Weber said, culture is a factually unalterable case in which a person must live²⁹. E.g. in western culture, when a social participant he sets out on a series of market relations, the capitalist economic structure will compel him to follow rules of capitalism. A manufacturer that disregards these rules faces commercial failure; workers who cannot or will not adapt to these rules face unemployment. In Chinese society, ‘saving face’ and ‘human relationship are important social norms beyond the law and market economy and a person ignores these norms to his own detriment. Thus when living in a specific culture, people will consciously or unconsciously adjust themselves to suit the culture, otherwise they will face difficulties in their lives.

B. Cultural Underpinnings of Tax System Characteristics: In Comparison with the West

Any system would have a cultural basis for its existence and evolution, when the system matches with its cultural basis, the system thrives and evolves; when the system does not match its cultural basis, the system would be dissected by the culture, or will create an opposing system.

In Western developed nations such as the UK, US and Germany, culture exhibits the following characteristics:

Firstly, religious belief is prevalent, deep-rooted and less varied; even in contemporary technologically-advanced society, the religious nature of society has not decreased³⁰. This religious nature leads to different observations to morality. For example, advancing economic interest is a common motivation for most people, the acquisition of wealth is seen as an end itself, this end happens to meet consumption needs. This is

consistent with Weber’s analysis of modern Western society — ‘Here, people are oriented to acquisition as the purpose of life; acquisition is no longer viewed as a means to the end [in] satisfying the substantive needs of life’. As long as it is carried out in a legal manner, the acquisition of money in the modern economic order is the result and manifestation of competence and proficiency in a vocational calling’.³¹ It is tantamount to treating the acquisition of wealth as a God-imposed responsibility; a person lives to work, not works to live. Weber believes this abnormal spirituality is the core of capitalism, and endows humans with the motivation to create wealth and gain profit.

Secondly, value can be realised from within the self not dependent on societal perceptions of status. While networks of influence and social connections are still important, the benefits derived are not above the law. The overt flaunting of wealth and strict adherence to formal rules of propriety are also less prevalent in Western culture.

Thirdly, the wealth creation mechanisms are based on strict calculations, thus rational. In both manners of lifestyle and behaviour there are characteristics of precision leading to emphasising on efficiency, i.e. the productivity rationale. The prevalence of rational calculations make people in the west sensitive to price signals, they are often more fussy, which gives rise to an economic operation mechanism that is conscious of quality.

Fourthly, trust that extends beyond blood ties is common. Personal relationships in the West are concerned more with mutual interests and long-term development. This is the reason why in developed societies organisations such as churches, specialist organisations, unions, clubs, welfare organisations, private schools and other volunteer organisations are common historically, especially the modern business enterprises that are established based on non-blood relations. In these social organisations, people from the west cooperate with each other well and are very social.³² In western culture, not only is this competition based on promotion of economic interest, but there is cooperation based on trust, it is a selfish culture, but it also is a trust and cooperating culture based on links through social organisations. If a market only has competition, without trust and communication, the market economy will not be able to exert its basic function of resource reallocation.

The abovementioned culture brought about some important social management characteristics:

perfectionism allows for long-term planning and high quality, where information is relatively symmetric, although there are often events of fraud, but they are not viewed with distain; credit rating is high as there is a high cost for untrustworthiness; high credit rating leads to low social cost, which allows businesses to exist on a large scale for a long time; business people have individual social status, they have enough powers to resist dictators, this is the basis for constitutional democracy. When making laws, details can be considered, individual situations could be clarified, making the enforceability of laws relatively high; people knows the power of laws when doing things. Economic interest is of core importance, everyone protects their own interests, there is no human sympathy, leading to democratic consciousness, democratic activities and democratic systems — where law is the measurement. Law becomes the basic rules for human relationship, the separation of judicial, executive and enforcement powers stop illegal activities of officials effectively. Taxes can only be imposed by popular mandate through the mechanism of an elected government. In such a society, levying taxes without a legal mandate is stopped at source, and the concept of a 'sundry levy' is virtually non-existent. The system of property rights is also generally clear and transparent, with property transfers effected through legal transactions that curtail the imposition of hidden taxes. While industry monopolies will lead to excessive profits, these revenues do not enter government coffers, thus it is impossible for them to become hidden taxes. Tax administration and payment are governed by law, not 'human relationships'. Here the principle is equality in the eyes of the law. While there are stringent penalties for tax evasion and avoidance, the dynamic of social connections or networks of influence rarely have any mitigating effect in the West, unlike in China, creating a social psychology that accepts the high costs of tax non-compliance and a public perception of shame attached to non-compliant behaviour. While some instances of tax avoidance and evasion are unavoidable, this is usually limited to a minority and is far from common practice. In this cultural background, tax administration is equitable in the western taxing model. E.g. The Value added tax allows input tax credit to be offset through invoices (there is no need to print centrally with an anti-fraud symbol); individual income tax is based on self assessment; property tax adheres to the beneficiary principle³³, these are all achieved with relatively low cost and controllable loss of welfare in the economy.

In comparison with western countries, China's current

cultural characteristics are as follows:

Firstly, low religious involvement of the general populace, with the vast majority not holding specific religious beliefs. Some people pray to Buddha or the gods, but with little knowledge of religious philosophies. China is an atheist, pantheist and polytheist country, an extra-moral value scope does not exist and most people live completely secular lives. Few believe their chosen professions to be vocation, money is seen as a means to live and the acquisition of wealth perceived as the keys to a better life or a means to demonstrate social standing. nobody considers earning money itself as a way to relate to God in the way described by Weber.³⁴ The result is economic activities naturally lack longevity.

Secondly, the custom of 'saving face' leads to receiving a way to represent values from external means. In China, 'face' is a metaphor for reputation or regard; reputation is reflected in the individual's position in the social ladder. For those with status (reflected in wealth, power or social connections), society will give him 'face'. A large 'face' means you have more social resources. Personal dignity is derived from right conduct and the social approval it has secured. Personal worth is not considered innate within each human soul as it is in the West; it is extraneous and has to be acquired externally.³⁵ Since value is largely derived from external means, this means that the major motivation behind economic gain is not improvement or innovation, but self-interest. 'In the Chinese tradition, however, the economic man will do best not by increasing production but by increasing his own share of what has already been produced. He will rise by competing against his fellows directly rather than by creating new wealth through the conquest of nature, or the increased exploitation of her resources, or applications of improved technologies. The incentive for innovative enterprise, to win a market for new products, has been less than the incentive for monopoly, to control a market by paying for an official license to do so. The tradition in Chinese has been not to build a better mousetrap but to get the official mouse monopoly'.³⁶

Thirdly, the tradition where human sympathy is of the utmost importance and where relationships need to be taken into consideration, leads to difficulties in enforcing laws strictly. Human sympathy is the way to deal with people.³⁷ A person belongs to the society, thus each ethnic group has human sympathy issues, but in China's society, human sympathy is one of the basic moral rules to constrain people by a social exchange relationship based on mutual help. Sometimes its

power of constraint is higher than the law and material exchange relationships. In China, human sympathy differs according to relationship, for those who have special relationships (e.g. blood relations), mutual help is not considered as 'exchange', others there is equal exchange--social exchange. People use this social exchange to establish relationship networks (Guanxi). The grouping of Chinese people is based on the lowest common denominator, e.g. place of origin, extended family, work colleagues, classmates, sworn brothers and teacher and students, etc.³⁸ Therefore, these relationship networks differentiates by whether you belong or not, within the network, there is equal treatment and mutual trust and when dealing with strangers, there is selfishness 'when a person does not consider the self, the heavens and earth will kill him'. There is a mentality of 'it is not my business, hang it up' and 'I only have to clean the snow in front of my door, I don't worry about the ice on the neighbour's roof'.

Fourthly, the relationship network system that differentiates by belonging leads to trust being very uncommon. In the analects of Confucius, 'trust' came up 38 times, which is only less frequent than 'benevolence' and 'propriety'. It recorded, 'If a person is not trustworthy, how is it possible for him to live'. The idea that Confucianism promotes trust is a misunderstanding. The basis for Confucianism is propriety and class, hence only the gentlemen³⁹ / ruling class are seen as trustworthy, while 'small men' who are not respectable persons, strangers and women (who are perceived as similar to 'small men') are not considered trustworthy. Therefore 'trustworthiness' in Chinese culture is dependent on class. This is different from the West.

In the abovementioned cultural environment of human sympathy, saving face, relationship networks, 'it is not my business, hang it up', people who rebel against inequality are rare, the weaker in society can only keep quiet and allow themselves to be exploited. It is impossible to establish a system that prevents inappropriate levying, one can only hope for wise rulers and good courtiers. The uncommonality of trust means private businesses cannot escape the saying that 'wealth will not stay in one family for more than three generations', it is difficult to grow large and strong. Society still cannot have a civilian class with business people as the core, making constitutional democracy hard to develop. Laws do not need the approval of the people; taxes can be levied without representation, making the situation where there are many sundry levies and hidden taxes besides formal taxes hard to avoid.

In China, helping family and friends is a matter of course in human sympathy; one has a larger responsibility to help those who are closer related. This creates conflict, for people who human sympathy is more important, they have to look after their selfish interest over the public interest, they have more human sympathy, but less public responsibility. For those who are officials, as a public servant, they have to follow the law, the law demands 'do the public's business in a public manner', 'treat everyone equally' and 'do not consider self interest', 'if the prince disobeys the law, they will be guilty as the peasant'; but as a person belonging to the society, he has to be constraint by the moral rule of 'human sympathy', human sympathy as a rule is more basic and has better constraints. If he does not follow this rule, he would be considered as not knowing how to be a person, thus isolated. This thus gives rise to role conflicts, in the majority of situations, people will compromise the law for human sympathy, under certain circumstances, human sympathy is the moral rule accepted by the society⁴⁰. In China, the enforcement of administrative rulings and regulations that differs according to individuals is a matter of course, an attitude of equal treatment for all would be considered as ignorance of common customs⁴¹. The person with 'face' is normally the leader of the law enforcer, their colleague, teacher or otherwise related by family or friendship, if the law enforcer does not answer the favours asked, and coldly follow the law, they are not giving the pleader 'face'. The less serious consequence is they will lose the relationship, i.e. lose the opportunity to return the favour; seriously they will face jealousy and retaliation, thus the case may not continue in their hands. In a society full of these 'face', human sympathy relations, the wise law enforcer will have to consider rationally when dealing with cases, to find a way that meets both the law and the human sympathy. This leads to the social psychology of low expected cost for one being punished from disobeying a law. Therefore there is no tradition in China where laws have to be followed to the letter. When illegal activities are discovered, if the accused can find someone in the relationship network with 'face' to plead for them, a large issue will become small, and a small issue will go away. Thus the administration of laws is far from uniform.

In a situation where constitutional democracy cannot be created, in order to deal with the above problem, one has to design systems that 'face', human sympathy and relationship networks cannot operate, therefore anti face, human sympathy and relationship systems⁴².

CONCLUSION

In today's increasingly globalised economy, it is harder to view China and its tax system from either the point of view of an 'insider' or that of an 'outsider'. The 'insiders' may want to see China in its deep rooted culture of saving face, human sympathy and the system of 'guanxi' relationships, and design a tax system for those purposes. The 'outsiders' look from the west in, where these cultural underpinnings seem difficult to understand, but urge China to design a tax system following western ideals⁴³. This paper discussed the tax systems currently present in China and the relationship with their cultural underpinnings, providing evidence that China and its Ataxes can now be studied objectively, from a theoretical basis familiar to scholars and in a context understandable to stakeholders in its tax system. It also presented the cultural reality of China and advocates that when debating tax reforms in China, these cultural sensitivities need to be taken into consideration.

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NOTES

- ¹ Translation of '礼不下庶人，刑不上大夫' from Liji. Liji is an ancient Confucian Classic on the law and system of government written during the War Lords period.
- ² Human Sympathy operates parallel to the law in China's administrative system and governance structure.
- ³ Translation of '事不关己，高高挂起'.
- ⁴ Defined in Peter E Nygh and Peter Butt (eds), Butterworths Australian Legal Dictionary (Butterworths, 1997) 1150.
- ⁵ For Further Analysis, see Yang Bin Principle of Taxation, (《税收学原理》), Higher Education Press, Beijing, 2008, pp 2-5.
- ⁶ 杨斌,《农民广义税收负担走向》,《税务研究》,2007年第10期. Yang Bin, 'The Direction of Broad Sense Tax Burden of Farmers', in *Tax Research*, Vol 10, 2007.
- ⁷ 杨斌,《中国财政的特殊规律:逆向财政机制——城乡收入差距拉大和多数县乡财政持续困难的隐性原因》,2009年公共经济学与管理国际论坛,厦门大学,2009年11月28-29日. Yang Bin, "The Particular Order of China's Public Finance: the Reverse Fiscal Mechanism", 2009 International Conference on Public Economics and Management, Nov 28-29, 2009, Xiamen, China.
- ⁸ 2009 Government Revenue included general budget revenue of RMB 6133.035 Billion, fund budget income is RMB 1563.635 Billion, social insurance charge revenue RMB 1197.2 Billion, extra-budgetary revenue of RMB 682.032 Billion (Data of 2007), these do not include income from national or international debt and extra-systemic government income that are collected and used by the same organization and which are not included in fund budget management. Detailed calculation method please see Yang Bin, ed, chapter 1 in Public Finance (《财政学》), North Eastern Finance University Press, 2007.
- ⁹ Includes import consumption tax withheld by customs, but excludes export deduction.
- ¹⁰ According to Ministry of Human Resources and Social Security and National Bureau of Statistics, 2008 China Human Resources and Social Security Industry Development Statistics Public Announcement.
- ¹¹ According to State Administration of Environmental Protection, 2008 National Environment Statistics Public Announcement.
- ¹² Includes the collection of unpaid amounts from taxes that are temporarily stopped such as property investment direction adjustment tax.
- ¹³ State Council, Decision on Improving Management of Extra-budgetary Funds, Guo Fa [1996]#29.
- ¹⁴ Ministry of Finance, Circular on publishing the list of national government funds of 2008, Cai Zong [2009]#12.
- ¹⁵ Calculated according to the data provided by Minister of Finance, Xie X R, Report on the administering of central

and local government budgets of 2008 and the central and local government budget drafts of 2009 (Second meeting of the 11th Conference of the National People's Congress on 5th March 2009).

¹⁶ Ministry of Finance, National Development and Reform Committee, Administration of National Commercial and Administrative Management, Circular on issues relating to stopping the levy of sole trader business management fees and wholesale market management fees, Cai Zong [2008]#61.

¹⁷ Ministry of Finance, National Development and Reform Committee, Ministry of Transport, Ministry of Monitoring and Ministry of auditing, Circular on abolishing fees relating to transportation and vehicles such as road maintenance fees, Cai Zong [2008]#84.

¹⁸ Xinhua web, Q & A for journalists regarding reforming transportation and vehicle fees by the law making committee of the NPC and the legislative office of the State Council, Xinhua Web, 23 Nov 2006.

¹⁹ Ministry of Finance, National Development and Reform Committee, Circular on abolishing 100 administrative fees, Cai Zong [2008]#78.

²⁰ Ministry of Finance, National Development and Reform Committee, Circular on printing the 2008 list of national departmental and administrative organization fees, Cai Zong (2009) #46.

²¹ Calculated according to the data provided by Minister of Finance, Xie XR, Report on the administering of central and local government budgets of 2008 and the central and local government budget drafts of 2009 (Second meeting of the 11th Conference of the National People's Congress on 5th March 2009), in 2008, government fund revenue is RMB1563.635 Billion, including land sales and new construction land compensation fee revenue of RMB 1037.528 Billion, subtracting land acquisition, compensation for force removal and compensation for land acquired from farmers equaling RMB 377.815 Billion, land development and arable land protection expenditure equaling RMB 128.622 Billion, rural area infrastructure, basic farm development and protection expenditure of RMB 36.988 Billion etc. which are compensation to farmers and other land owners, the remaining amount is RMB 494.103 Billion.

²² Authors' note, this is similar to form over substance that is familiar to western researchers, but the emphasis is placed on what the tax is called.

²³ A distinction is made between legislature legislation in China and laws made by parliaments of developed democratic countries. The legislature includes both the NPC and its standing committees.

²⁴ Ministry of Finance, Railroad Construction Fund Management Method (Cai Gong Zi [1996] #371, section 3, section 9.

²⁵ Ministry of Finance, Civil Aviation Infrastructure

Construction Fund Collection and Appropriation Management Temporary Method (Cai Zong (2004) #38), sections 1-4.

²⁶ Ministry of Finance, State Administration of Taxation, The People's Bank of China, Circular on printing 'cross province temporary budget management and tax revenue appropriation method of head office and subsidiary enterprise income tax revenue', Guo Shui Fa (2008) #28.

²⁷ Fukuyama F, *Trust: The Social Virtues and the Creation of Prosperity*, 1995, New York: Free Press, pp. 356-362.

²⁸ Guenther R and Wittich C ed, Weber M, *Economy and Society*, 2010, Berkeley: University of California Press.

²⁹ Weber M, Kalberg S trans, *The Protestant Ethic and the Spirit of Capitalism*, 1905. Los Angeles, CA: Roxbury Publishing Company, 2002, pp.18-19.

³⁰ Stark, Rodney and Roger Finke, *Acts of Faith: Explaining the Human Side of Religion*, 2000, Berkeley, CA: University of California Press, p.105.

³¹ Ibid.

³² Fukuyama F, *Trust: The Social Virtues and the Creation of Prosperity*, 1995, New York: Free Press, pp.15-60.

³³ See Yang B, *Debate on Tax Reform in China* (《中国税改论辩》), Beijing, China Finance and Economics Press, 2007, pp. 188-197.

³⁴ Weber M, Kalberg S trans, *The Protestant Ethic and the Spirit of Capitalism*, 1905. Los Angeles, CA: Roxbury Publishing Company, 2002.

³⁵ Fairbank J K, *The United States and China*, 1971, Cambridge, CA: Harvard University Press, p. 119.

³⁶ Ibid.

³⁷ Ch'ien Mu, *Ethnicity and Culture* (《民族与文化》), Hong Kong, New Asia College, 1962, p. 6.

³⁸ Ambrose Yeo-Chi King, *The Society and Culture of China* (《中国社会与文化》), Hong Kong, Oxford University Press, 1993, pp 71-72.

³⁹ 士大夫。

⁴⁰ Ambrose Yeo-Chi King, *The Society and Culture of China* (《中国社会与文化》), Hong Kong, Oxford University Press, 1993, 17-40.

⁴¹ Zhang C A, *Managing Chinese* (《管理中国人》), Beijing, China Economics Press, 1996, pp 85-86.

⁴² For further discussion, please see Yang B, 'Tax reform and China-West Cultural Differences' (《中西文化差异和税制改革》), in *Taxation Research* (《税务研究》) 2003 Vol 5.

⁴³ Bin Yang, *Debate on China's Tax Reforms — The Effects of Cultural Differences on Fiscal System Design and their Implementation*, China Fiscal and Economics Press, 2005.