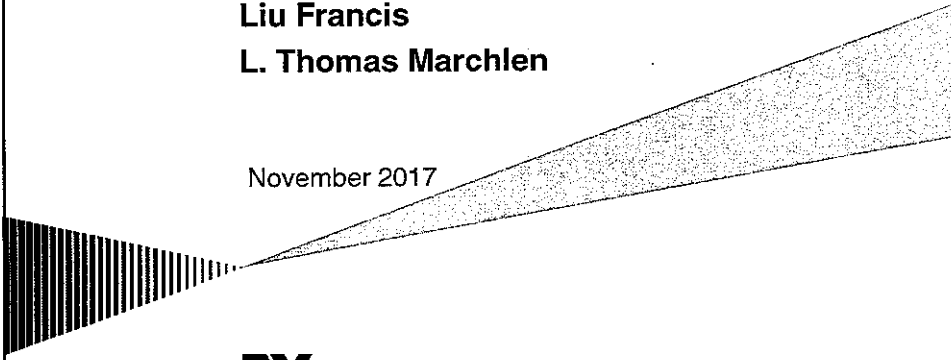



**China Tax Overview**  
Allegheny Tax Society

**Liu Francis**  
**L. Thomas Marchlen**

November 2017

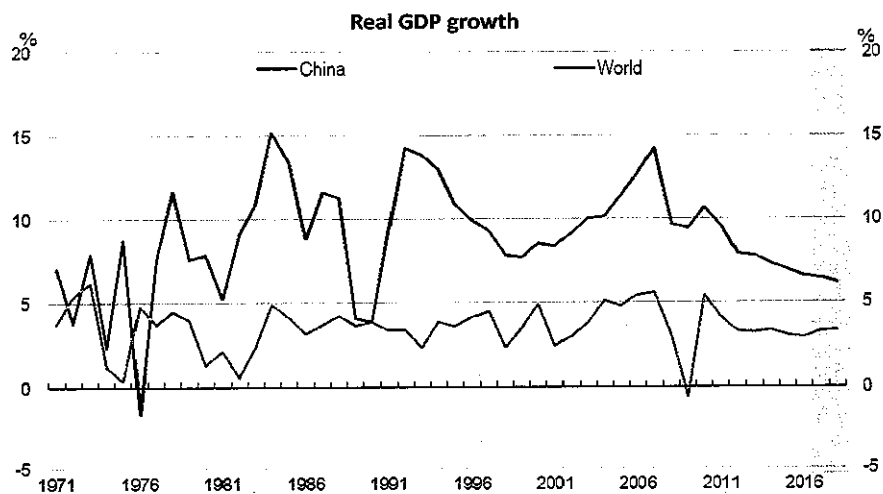


## China Tax Overview Agenda

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- China at a glance
- Foreign Investment in China
- Taxation on business and Individuals
- Tax Administration
- Foreign Exchange Control and China Cash Repatriation

### China remains the major driver of global growth



Source: OECD Economic Outlook Database.

EY 4

### Investment is slowing



Source: National Bureau of Statistics.

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EY 5

## Limitations on foreign investment

- Catalogue of Industries for Guiding Foreign Investment
  - Updated periodically to reflect prevailing economic and political goals of the time
- Four categories of foreign investment
  - **Encouraged**– 348 industries
    - Less strict administrative requirements and may enjoy certain tax, custom and other benefits: fruit drink production, software development
  - **Restricted**– 35 industries
    - Subject to various limitations and approval requirements: telecommunications, banks, insurance or securities companies
  - **Prohibited**– 28 industries
    - Endanger national security, harm public interest, cause pollution, use agricultural land for commercial: postal and domestic express mail delivery, news and media, tobacco, consulting on Chinese legal affairs
  - **Permitted**– all others
    - No particular restrictive or favorable treatment

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EY

## Commonly used legal structure for foreign investment

- Available investment vehicles
  - **Wholly foreign owned enterprise (WFOE)**
    - 100% shares owned by foreign parties, offshore or holding companies.
  - **Equity joint venture (EJV)**
    - E.g. 70% equity, 70% profit
  - **Chinese-foreign cooperative joint venture (CJV)**
    - E.g. 50% equity, 80% profit. Contract can include many things, therefore flexible
  - **Branch**
    - Limited to very few industries, including banking.
  - **Representative office (RO)**
    - Not allowed to conduct business (i.e. generating revenue), activities restricted—liaison, information gathering, market research, etc. (but law firms)
  - **Foreign Invested Partnerships**
    - Mainly in financial services
- Restrictions by sectors
  - Entity type restrictions (e.g., only JV allowed) (e.g., automobile, telecom)
  - Equity interest restrictions (e.g., up to 49% minority) (e.g., banks 20%; insurance <50%)

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EY

## Taxation on Business—Country Comparison

	China	East Asia & Pacific	United States	Germany
Total Share of Taxes (% of Profit)	68.0	33.9	44.0	48.9
Number of Payments of Taxes per Year	9.0	22.9	10.6	9.0
Time Taken For Administrative Formalities (Hours)	259.0	198.0	175.0	218.0

## Taxation on Business—corporate income tax

- Corporate Income Tax (PRC Enterprise Income Tax Law, 2008)
  - Rate: 25%
  - Resident enterprises (except partnerships or sole proprietorships)
    - Worldwide income (foreign tax credit allowed with limitations)
  - Non-resident enterprises
    - China-sourced income
- Tax consolidation
  - Generally not permitted
- Net operating loss (“NOL”)
  - Carryforward: 5 years

## Taxation of non-resident enterprises

- ▷ Permanent establishment (“PE”)
  - ▷ “Place of business” in China
    - ▷ Apply treaty if a treaty exists
    - ▷ Management office, factory, place where services are provided, place of business of an agent
  - ▷ If there is a PE, income attributable to PE is subject to tax
    - ▷ In practice, commonly taxed on a deemed profit basis (e.g. on a cost-plus basis or service fees)
- ▷ Non-resident enterprises without a PE in China
  - ▷ Only China-source income is taxed
  - ▷ Withholding tax (“WHT”):
    - ▷ Dividends, interest, royalties, rental and capital gains: 10%
    - ▷ May be further reduced or exempt by tax treaties
  - ▷ General anti-avoidance rules (“GAAR”)

## Individual income tax

Income from Wages/Salaries	Progressive rates
CNY 3,500 (monthly)	Exempt
CNY 0 - 1,500	3%
CNY 1,501 - 4,500	10%
CNY 4,501 - 9,000	20%
CNY 9,001 - 35,000	25%
CNY 35,001 - 55,000	30%
CNY 55,001 - 80,000	35%
CNY 80,001 and above	45%
Income from Sole Proprietorship	Taxable income = Total Revenue - Expenses - Losses
CNY 0 - 15,000	5%
CNY 15,001 - 30,000	10%
CNY 30,001 - 60,000	20%
CNY 60,001 - 100,000	30%
CNY 100,001 and above	35%
Income from Personal Services	On the amount of each time
Amount of service fee income each time	20%, 30% and 40%

## Tax Authority & Administration

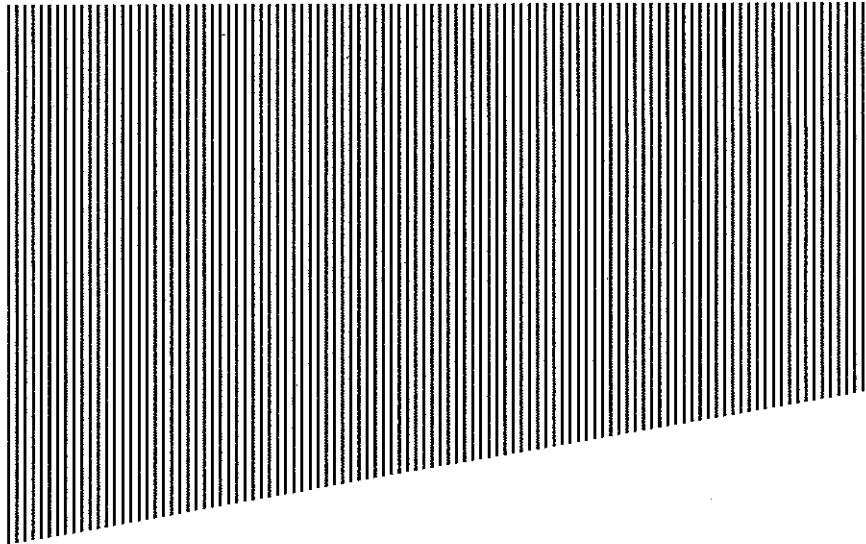
### Tax Authority—State Administration Of Taxation (SAT)

- > Civil law system
  - > Rules are codified. Judges cannot set rules or principles
  - > Lower courts not bound by higher court decision
- > Tax rules
  - > Set by SAT – power of a ministry
  - > Governed by State Council (“SC”) which is under the National People’s Congress (“NPC”)
- > The current tax system in China is regulated by the SAT, but tax laws are enforce and taxes are collected by State Tax Bureau at local levels
  - > Taxes collected are remitted to SAT, who then allocates the revenue at state and local levels

### Tax Administration

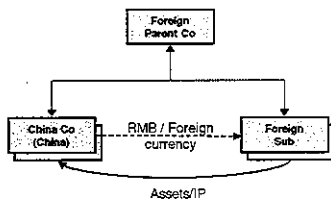
- > Tax year: calendar year
- > Annual CIT return: May 31
- > Tax rulings: no advance ruling procedures (except for APA)

## Foreign Exchange Controls



## China Cash repatriation - Alternatives (cont'd)

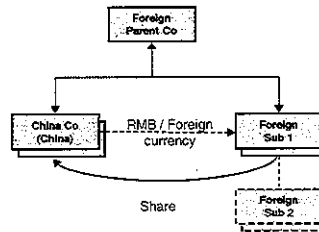
Option 4  
Acquisition of assets



**Description**

- China Co acquires assets from overseas affiliates and makes payment to settle in either RMB or foreign currency
- Consider IP used by China Co; convert China Co to HNTE (15%)

Option 5  
Acquisition of foreign sub



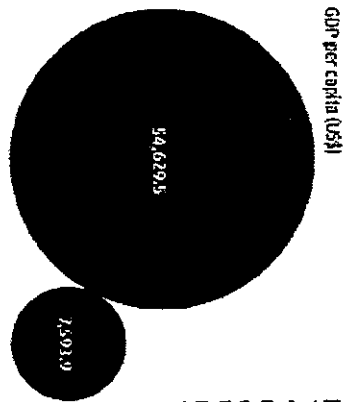
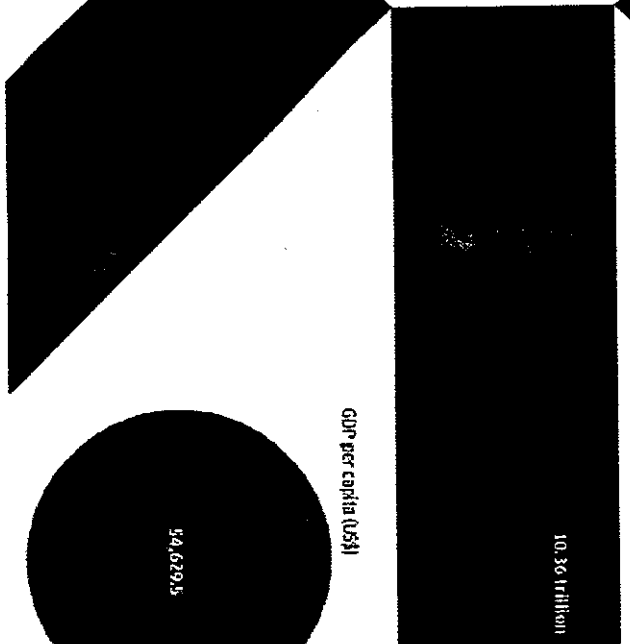
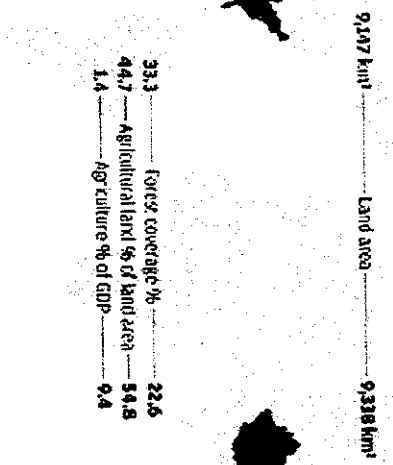
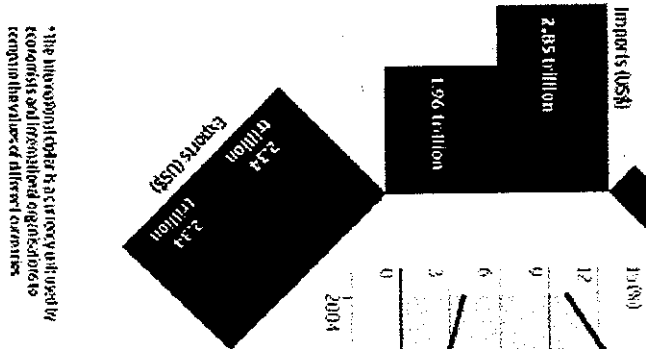
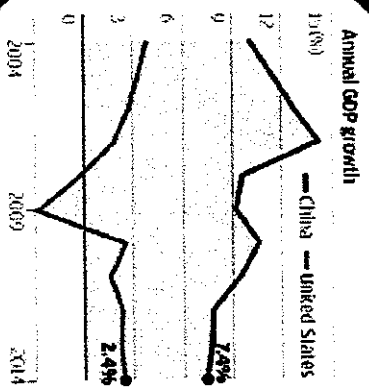
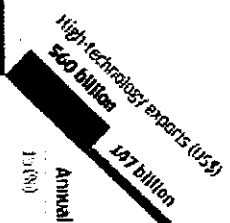
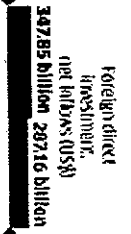
**Description**

- China Co acquires equities of foreign sub from from overseas affiliates and makes payment to settle in either RMB or foreign currency

## Questions?



# China vs. U.S.



**ECONOMY**  
 The Chinese economy is now worth \$17,020 billion, slightly higher than the \$16,810 billion the International Monetary Fund (IMF) estimates for the U.S. This marks the first time the U.S. has been knocked off its perch as the world's largest economy since it overtook Britain back in 1872.

\*The above data taken by a variety of university economists and international organizations to compare the values of different countries.

