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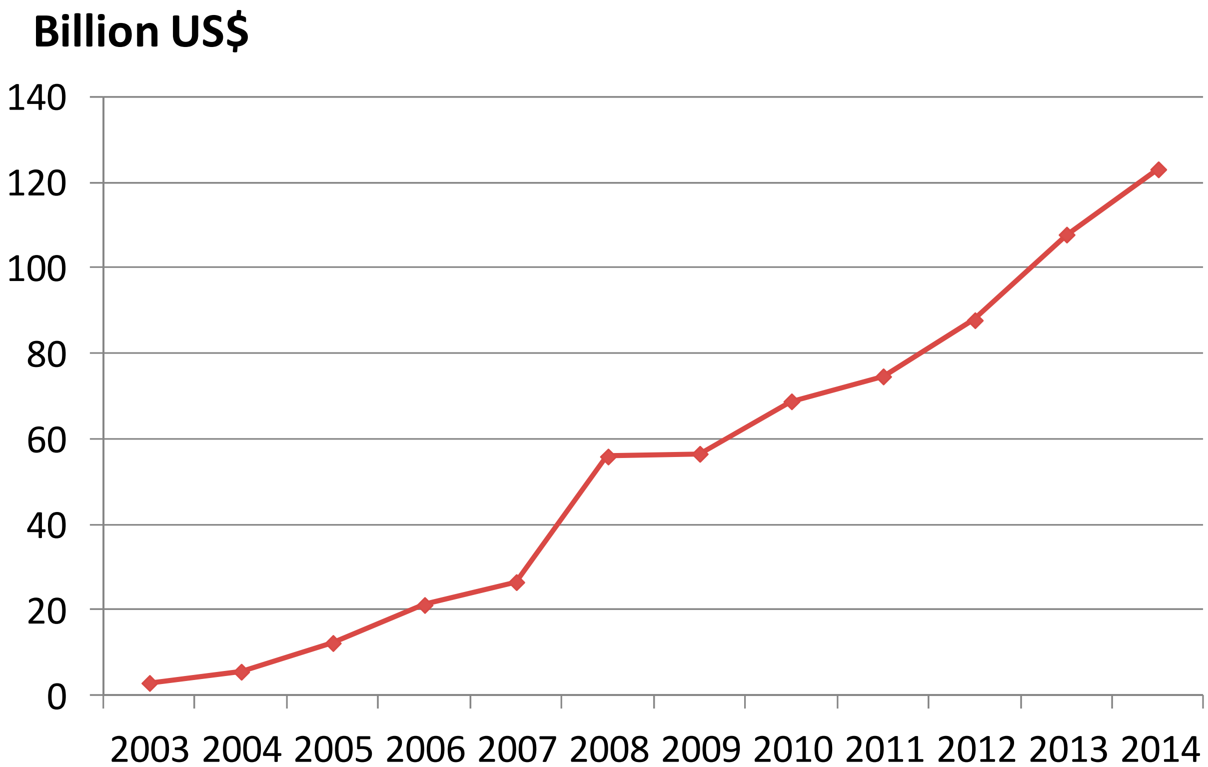
Tax Theory and Practice on Outbound Investment

China's Perspective

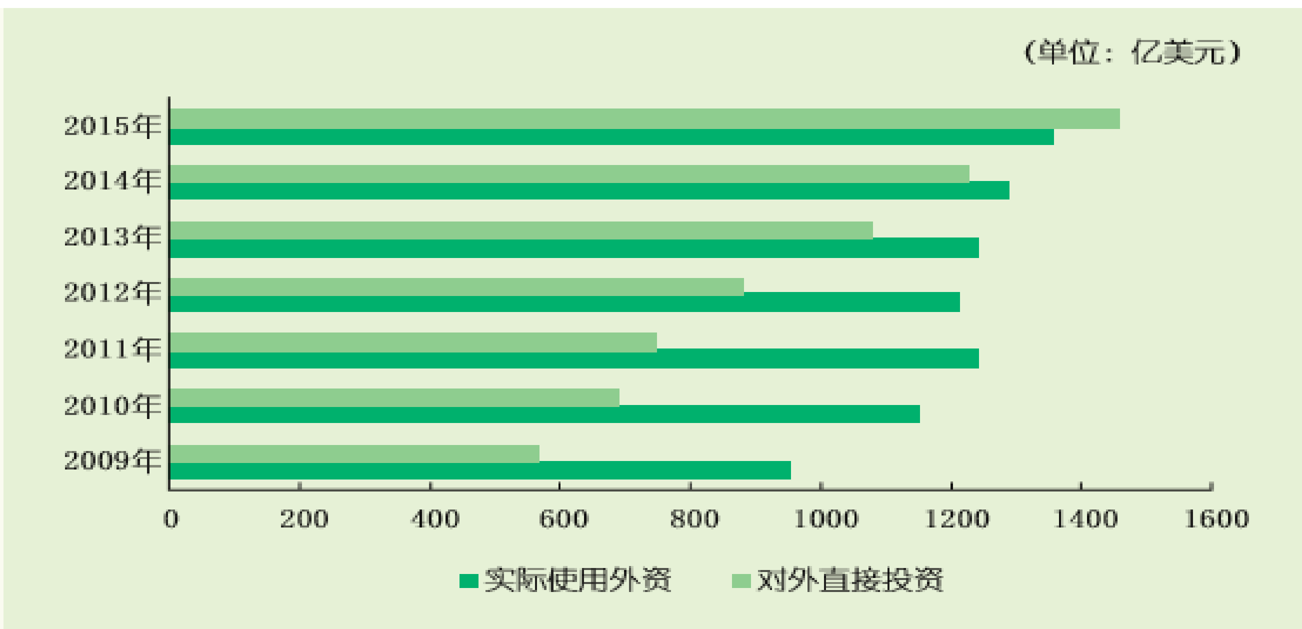
XU Yuncheng
State Administration of Taxation
PRC

Rise of China's Outbound Investment



Rise of China’s Outbound Investment

2015, for the first time, China’s ODI(oversea direct investment, USD145.6 billion) surpassed the FDI(foreign direct investment)



Implication

- **Consistent with Development Economics**
- **Benefitted from Pro-outward Strategy**
  "The Silk Road Economic Belt and the 21st-century Maritime Silk Road (OBOR)" 2013'
- **Posing more risks both to taxpayers and tax authority**

One Belt and One Road

China’s tax policies on outbound Investment

- Worldwide Taxation

  e.g resident tax payer
- Eliminating double-taxtion

  e.g. EIT tax credit on a per-country basis
- SAAR

  e.g. Transfer pricing /CFC
- Tax Treaty

  e.g. PE /MAP

Worldwide Taxation

- Resident Tax Payer : all income globally is taxable
  e.g. income derived from branches; dividends

- Ring- fencing of foreign losses
  losses from particular branch cannot be offset against profits from domestic or other countries'

- "Resident Tax Payer"
  Place of effective management
  e.g. Incorporated abroad Chinese holding enterprise "resident company"

China's Foreign Tax Credit System

- Country-by-country and overall credit limitation

  Formula: FTC limit=total EIT payable computed pursuant to Chinese tax law on worldwide taxable income × (taxable income sourced from a particular country)/total worldwide taxable income
- Direct / Indirect tax credit(up to 3-tiers)
- Tax sparing credit according to Tax Conventions

CFC

- First introduced in EITL 2008
 Essential part in SAAR

- Three core elements:
 Controlled (10%; 50%)
 low-tax burden (<12.5%)
 No or reduced distributed profits

- “Safe harbor”
 annual profit <500m (*de minimis*)
 active income
 non-low-tax-rate jurisdiction (white list)

Practice

- Reporting regulation

  Specific information reporting rules relating to outbound investment

- Implementation of SAAR

  Some CFC cases (First one in 2014)

- Tax compliance program

  Risk management to enhance oversea tax compliance, but still at the early stage

Challenges we face

- Mindset changing   "more-outward focus"
- Legislation

  Eliminating double-taxation

  e.g. Credit method V.S. Exemption method

  Implementing BEPS APs

  e.g. CFC / CRS /Hybrid mismatch

  Tax policy to facilitate outbound investment
- Administration

  Improving information reporting

  Enhancing tax compliance

Thank You All