

增值税抵扣

财政部、国家税务总局于2008年12月19日发布《财税【2008】170号文《关于全国实施增值税转型改革若干问题的通知》内容有：

- 自2009年1月1日起，增值税一般纳税人购进（包括接受捐赠、实物投资，）或者自制（包括改扩建、安装，）固定资产发生的进项税额凭增值税专用发票、海关进口增值税专用缴款书和运输费用结算单据（以下简称增值税扣税凭证）从销项税额中抵扣；
- 纳税人允许抵扣的固定资产进项税额，是指纳税人2009年1月1日以后实际发生，并取得2009年1月1日以后开具的增值税扣税凭证上注明的或者依据增值税扣税凭证计算的增值税税额。
- 自2009年1月1日起，纳税人销售自己使用过的固定资产应区分不同情形征收增值税：
 - 销售自己使用过的2009年1月1日以后购进或者自制的固定资产，按照适用税率征收增值税；
 - 销售自己使用过的2008年12月31日以前购进或者自制的固定资产，按照4%征收率减半征收增值税；

☞ 编者按：小规模纳税人和非增值税一般纳税人自2009年1月1日后购进的固定资产不得用以抵扣，其销售的2009年以前购买的自己使用过的固定资产，按照4%征收率减半征收增值税；销售2009年以后购买的自己使用过的固定资产，按照2%征收率征收增值税。

国家税务总局于2008年12月31日发布国税函【2008】1079号文《关于增值税一般纳税人认定有关问题的通知》规定：

- 2008年应税销售额超过新标准的小规模纳税人向主管税务机关申请一般纳税人资格认定的，主管税务机关应按照现行规定为其办理一般纳税人认定手续。
- 2009年应税销售额超过新标准的小规模纳税人，应当向主管税务机关申请一般纳税人资格认定。未申请办理一般纳税人认定手续的，应按销售额依照增值税税率计算应纳税额，不得抵扣进项税额，也不得使用增值税专用发票。
- 年应税销售额未超过新标准的小规模纳税人，可以按照现行规定向主管税务机关申请一般纳税人资格认定。

☞ 编者按：根据新增值税条例实施细则规定，小规模纳税人的标准为：从事货物生产或者提供应税劳务的纳税人，以及以从事货物生产或者提供应税劳务为主，并兼营货物批发或者零售的纳税人，年应征增值税销售额在50万元以下；除此以外的纳税人，年应税销售额在80万元以下的。

国家税务总局于2008年12月31日发布2008年第1号公告《关于废旧物资发票抵扣增值税有关事项的公告》内容为：

- 自2009年1月1日起，从事废旧物资回收经营业务的增值税一般纳税人销售废旧物资，不得开具印有“废旧物资”字样的增值税专用发票。

- 纳税人取得的 2008 年 12 月 31 日以前开具的废旧物资专用发票，应在开具之日起 90 天内办理认证，并在认证通过的当月核算当期增值税进项税额申报抵扣。
- 自 2009 年 4 月 1 日起，废旧物资专用发票一律不得作为增值税扣税凭证计算抵扣进项税额。

财政部、国家税务总局于 2008 年 12 月 25 日发布财税【2008】176 号文《关于国产设备退税政策的通知》规定：

- 自 2009 年 1 月 1 日起，对外商投资企业在投资总额内采购国产设备可全额退还国产设备增值税的政策停止执行。
- 为保证政策调整平稳过渡，外商投资企业在 2009 年 6 月 30 日以前（含本日，下同）购进的国产设备，在增值税专用发票稽核信息核对无误的情况下，同时符合下列条件时，可选择按原规定继续执行增值税退税政策。
 - 2008 年 11 月 9 日以前获得《符合国家产业政策的外商投资项目确认书》，并已于 2008 年 12 月 31 日以前在主管税务机关备案；
 - 2009 年 6 月 30 日以前实际购进国产设备并开具增值税专用发票，且已在主管税务机关申报退税；
 - 购进的国产设备已列入《项目采购国产设备清单》。
- 外商投资企业购进的已享受增值税退税政策国产设备的增值税额，不得再作为进项税额抵扣销项税额。

企业所得税

国家税务总局于 2009 年 1 月 4 日发布国税函【2009】3 号文《关于企业工资薪金及职工福利费扣除问题的通知》规定：

- 企业所得税中规定可在税前扣除的“合理工资薪金”应符合：
 - 企业制订了较为规范的与员工工资薪金制度；
 - 企业所制订的工资薪金制度符合行业及地区水平；
 - 企业在一定时期发放的工资薪金是相对固定的，工资薪金的调整是有序进行的；
 - 企业对实际发放的工资薪金，已依法履行了代扣代缴个人所得税义务。
- 工资薪金总额不包括企业的职工福利费、职工教育经费、工会经费以及养老保险费、医疗保险费、失业保险费、工伤保险费、生育保险费和住房公积金。

国家税务总局按照新企业所得税法内容要求，发布国税发【2009】2 号文《特别纳税调整实施办法（试行）》，对关联交易行为作了较完整的规范。届时，国家税务总局将在企业所得税汇算清缴时，对关联交易企业的关联交易情况申报提出新的要求。

房产交易营业税

财政部、国家税务总局于 2008 年 12 月 29 日发布财税【2008】174 号文《关于个人住房转让营业税政策的通知》规定：

- 自 2009 年 1 月 1 日至 12 月 31 日，个人将购买不足 2 年的非普通住房对外销售的，全额征收营业税；
- 个人将购买超过 2 年（含 2 年）的非普通住房或者不足 2 年的普通住房对外销售的，按照其销售收入减去购买房屋的价款后的差额征收营业税；
- 个人将购买超过 2 年（含 2 年）的普通住房对外销售的，免征营业税。

- The small-scale VAT payers whose year-2009 taxable sales are up to the new standard should apply to competent tax authorities for identification of ordinary VAT payers. If they do not make the application, their VAT payable shall be calculated based on their sales and the relevant VAT rate, and they shall not be allowed to deduct input VAT and use special VAT invoice.
- The small-scale VAT payers whose annual taxable sales fail to reach the new standard may apply to competent tax authorities for identification of ordinary VAT payers according to the existing regulations.

☞ Editorial Comments: The newly-amended Detailed Implementation Rules of VAT Regulations prescribe the standards for identification of small-scale VAT payer as follows: engaging in production or providing taxable services, and taking production or provision of taxable services as their main businesses, with wholesale or retail as their minor businesses; and having annual VAT-related sales of less than RMB 500 thousand; and the other VAT payers with annual taxable sales of less than RMB 800 thousand.

SAT released year-2008 No.1 Bulletin Regarding Deduction of Waste Material Invoice from VAT on Dec. 31, 2008, stimulating that:

- Since Jan. 1, 2009, ordinary VAT payers dealing in waste material shall not be allowed to issue the VAT invoice with the words “waste material” printed on it while selling waste material.
- VAT payers who receive the special invoice for waste material issued before Dec. 31, 2008 should handle the invoice verification within 90 days after the issuance day, and calculate the deductible input VAT of the period in the month when the verification is completed.
- Since April 1, 2009, waste material invoice cannot be deducted from VAT as VAT deduction proof.

The Ministry of Finance and SAT issued Circular on Tax Refund Policy for Homemade Equipment (CaiShui [2008]No.176) on Dec. 25, 2008, stimulating that:

- Since Jan. 1, 2009, foreign-invested enterprises purchasing homemade equipment within their total investment shall no longer enjoy policy of homemade equipment VAT refund.
- To ensure a smooth transition of the amended policies, it is prescribed that FIEs purchasing homemade equipment on or before June 30, 2009 can still enjoy the VAT refund policy, if their VAT invoice passes the official verification, and simultaneously those FIEs meet the following requirements:
 - ✓ Obtaining Letter for Being Foreign-invested Projects Prescribed by the Nation’s Industrial Policies before Nov. 9, 2008, and applying for registration to the competent tax authorities before Dec. 31, 2008.
 - ✓ Purchasing homemade equipment with VAT invoice issued on or before June 30, 2009, and applying for VAT refund to the competent tax authorities.
 - ✓ The purchased homemade equipment has been in the List of Homemade Equipments for Prescribed Projects.
- If a foreign-invested enterprise purchases homemade equipment which is eligible for the VAT refund policy, the input VAT cannot be deducted from its output VAT.

Corporate Income Tax (CIT)

SAT issued Circular on Deduction of Corporate Expenses of Staff Salary and Welfare Payment (GuoShuiHan [2009]No.3) on Jan. 4, 2009, stipulating that:

- According to the regulations of CIT law, deductible “reasonable salary” before tax should meet the following requirements:
 - ✓ Enterprises have formal staff compensation system;
 - ✓ Staff compensation system made by enterprises should be in conformity with the level of industry and region they belong to;
 - ✓ The level of staff salary should be relatively steady during a certain period, and the adjustment of salary should be rational;
 - ✓ Enterprises should be responsible for withholding individual income tax on their actual payment of staff salary.
- The salary cannot include staff welfare fee and training fee, trade union fund, pension, medical insurance, unemployment insurance, hurt compensation, maternity insurance and housing fund.

In accordance with the regulation of the new CIT law, SAT issued Trial Measures for Implementation of Special CIT Payment Adjustment (GuoShuiFa [2009]No2) to further standardize the transaction activities between related parties. SAT shall bring forth new requirements for the related party transactions reported by enterprises.

Business Tax on Real Estate Trading

The Ministry of Finance and SAT issued Circular on Business Tax Policy for Individuals Transferring Property (CaiShui [2008]No.174) on Dec. 29, 2008, stimulating that:

- From Jan. 1 to Dec. 31, 2009, individuals who sell non-ordinary house they bought in the past two years shall be liable for business tax;
- Individuals who sell non-ordinary houses they bought two years ago or sell ordinary houses they bought in the past two years shall be liable for business tax on their sales revenue minus cost of buying them.
- Individuals who sell ordinary houses they bought in the past two years shall be exempt from business tax.

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