

友情提示

- 2008 年企业所得税汇算清缴工作现已开始启动，尽管新税法规定每年 5 月底为申报汇算清缴截止期，但各地税务部门将根据实际情况作不同的时间要求。
- 今年是执行新企业所得税的第一年，有不少政策与老税法存在差别，主要有：
 - 新购入的固定资产，按照新税法规定折旧期计提折旧；08 年以前购入的固定资产折旧年限不变。
 - 企业捐赠税前列支数额为企业本年度实现会计利润的 12%，超过 12% 未能扣除的部分，也不能向以后年度结转。对汶川地震的捐赠国家出台了特殊优惠政策，即在 2008 年底前企业向灾区的公益性捐赠，准予企业在计算企业所得税时据实税前扣除，但扣除的捐赠数不得超过企业本年度实现的会计利润。亏损企业不得在税前列支捐赠费用。
 - 企业的开办费可以在当期一次性扣除，截止 2007 年 12 月 31 日尚未扣除的开办费余额部分，仍执行“在不短于 5 年的期限内分期扣除”的原规定，在剩余期限内分期扣除。
 - 企业发生的与生产经营活动有关的业务招待费支出，按照发生额的 60% 扣除，但最高不得超过当年销售（营业）收入的 5%。
 - 在本企业任职或与企业有雇佣关系的员工，包括固定职工、合同工、临时工。上述员工必须按规定与企业签订书面劳动合同，确定与企业存在任职或雇佣关系。纳税人提供的劳动合同文本应加盖劳动合同鉴证章或在劳动合同备案表上加盖劳动合同备案专用章。
 - 支付给签订《劳动合同》的职工的工资薪金支出准予税前扣除。对应与劳动者签订劳动合同或劳动协议而未签订的纳税人，不得变相以劳务费发票进行税前扣除。
 - 企业返聘退休人员、退养人员应签订《劳动协议》，其支付的劳动报酬可据实税前扣除，但不纳入工资薪金总额计提职工福利费、工会经费、教育经费。
- 企业财产报损需经向税务部门备案，没有办理备案手续的不得税前列支报损费用。
- 分支机构汇算清缴由总机构一并核算申报，但必须向总机构所在地税务局取得《企业所得税汇总申报确认单》，报送给分支机构所在地税务机关。

增值税

财政部、国家税务总局于 2009 年 1 月 19 日发布财税【2009】9 号文《关于部分货物适用增值税低税率和简易办法征收增值税政策的通知》规定：

- 一般纳税人销售自己使用过的属于不得抵扣且未抵扣进项税额的固定资产，按简易办法依 4% 征收率减半征收增值税。
- 一般纳税人销售自己使用过的其他固定资产，按照财税[2008]170 号文第四条的规定执行。
- 一般纳税人销售自己使用过的除固定资产以外的物品，应当按照适用税率征收增值税。
- 小规模纳税人（除其他个人外，下同）销售自己使用过的固定资产，减按 2% 征收率征收增值税。
- 小规模纳税人销售自己使用过的除固定资产以外的物品，应按 3% 的征收率征收增值税。

Attention, please!

- Year-2008 annual corporate income tax (CIT) filing has been started now. Although the end of May of each year is the prescribed deadline for the CIT filing according to the new CIT law, tax bureaus of different regions shall stipulate different time limit based on their circumstances.
- It is the first year to implement the new CIT law. There exist differences between the new policies and the old CIT law, mainly including:
 - ✓ Newly-purchased fixed assets shall be depreciated within the depreciation period prescribed by the new CIT law; and depreciation period of the fixed assets purchased before 2008 shall keep unchanged.
 - ✓ Deductible amount of enterprises' donation before tax shall be limited to no more than 12% of the accounting profit of the year, and the amount exceeding the 12% cannot be carried forward to the following year for deduction. As for the donation to the earthquake disaster area WenChuan, the nation has enacted a special policy —— public relief donation contributed by enterprises to the disaster area before the end of year 2008 shall be deducted before CIT on an actual basis, but the deductible amount shall be no more than the accounting profit of enterprises of the year. Enterprises in loss shall not be allowed to deduct donation before tax.
 - ✓ Enterprises' start-up expense could be one-off deducted in the period. If an enterprise still has remaining start-up expense that needs to be deducted as of Dec. 31, 2007, it can continue to deduct them by installment within the prescribed period, according to the old policy that start-up can be deducted by installment in a period of no less than five years.
 - ✓ Enterprises' entertainment expense in connection with their production and business activities can be deducted before tax by 60%, but the ceiling deduction cannot be more than 5% of the sales (business) revenue of the year.
 - ✓ Enterprises staff refers to those who take post in the enterprises or have employment relations with the enterprises, including permanent staff, contract employees and temporary employees. The above-said staff should sign employment contract with their enterprises according to relevant regulations to ensure their employment relationship with enterprises. CIT payers should add special employment contract seal to the copies of employment contracts or forms of employment contracts registration while providing them to competent authorities.
 - ✓ Salary and wage paid to the staff who sign the employment contract with enterprises shall be deducted before CIT. CIT payers who fail to sign the required employment contracts with their employees shall be forbidden to make pre-tax deduction in the disguised form of labor remuneration invoice.
 - ✓ Enterprises should sign employment contract with the retired people who are reemployed. Payment for them can be deducted before tax on an actual basis, but cannot be calculated into the total amount of staff payment of enterprises for the purpose of accrual of staff welfare fund, trade union fund and training fund.
- Enterprises should report their discarded assets to the tax authorities for registration; otherwise, expense related to discarding assets cannot be deducted before tax.
- Annual CIT filing of branch entities should be integrated into their headquarters for consolidated CIT filing purpose. In this case, branches should apply for *Letter for Confirmation of Annual Consolidated CIT Filing* to the competent tax authorities of their headquarters, and submit the Letter to their own competent tax authorities.

Value-added Tax (VAT)

The Ministry of Finance and State Administration of Taxation (SAT) issued Circular on Applying Lower VAT Rate and Simplified Levy Method to Part of Goods (CaiShui [2009] No.9) on Jan. 19, 2009, stipulating:

- Ordinary VAT payers shall become eligible for simplified levy method and a half reduction of VAT rate of 4% while selling their used fixed assets of which the input VAT has not been deducted according to relevant regulation.
- Ordinary VAT payers shall abide by the regulations prescribed as Article 4 of the ordinance No.179 (CaiShui [2008]) while selling other fixed assets they have used.
- Ordinary VAT payers selling their used articles exclusive of fixed assets shall be subject to VAT at the tax rate applicable for them.
- Small-scale VAT payers (except individuals, the same hereinafter) selling their used fixed assets shall be subject to VAT at a reduced VAT rate of 2%.
- VAT payers selling their used articles exclusive of fixed assets shall be subject to VAT at the tax rate of 3%.
- VAT payers shall become eligible for simplified levy method and a half reduction of VAT rate of 4% while selling second-hand goods.
- Ordinary VAT payers selling goods on consignment of commission stores (including goods on consignment of individuals) shall be eligible for simplified levy method and 4% VAT rate.
- Pawnshop selling foreclosed pledge shall be temporarily eligible for simplified levy method and 4% VAT rate.
- This Circular came into effect as of Jan. 1, 2009.

Levy Management

SAT released Circular on Issuing Temporary Measures for Management of Withholding Income Tax of Non-resident Enterprises at Source (GuoShuiFa [2009] No.3) on Jan. 9, 2009, including the following points:

- Income tax of non-resident enterprises shall be withheld at source if non-resident enterprises derive following income from China: equity investment gains like dividend, bonus and others, interests, rent, royalty fee, income from property transfer and other income.
- The withholders refer to entities or individuals who are directly liable to paying for those non-resident enterprises.
- The withholders should handle tax withholding registration at competent tax authorities within 30 days following the date when they sign the first business contract or agreement with non-resident enterprises.
- If the withholder shall burden the tax on income of the non-resident enterprise according to their contract, the net income derived by the non-resident enterprise should be converted to gross income for the purpose of calculating tax payable.
- In accordance with the CIT law and its Implementation Regulations and other related policies, non-resident enterprises should abide by relevant management measures for tax reduction and exemption as well as administrative verification procedures while claiming eligibility for preferential policy of tax reduction and exemption applicable for them. Before the application for tax reduction/exemption is approved by authorities, income tax of non-resident enterprises should be withheld by withholders according to relevant regulations.
- These Measures came into effect on Jan. 1, 2009.

SAT issued Ordinance No.19 — Temporary Management Measures for Levying Tax on Non-resident Enterprises Undertaking Contracted Construction Projects and Providing Services on Jan. 20, 2009, stipulating that:

- Non-resident enterprises undertaking contracted construction projects or providing services in the mainland China should handle tax registration at local competent tax authorities within 30 days after signing project or service contract; and handle tax deregistration according to *Measures for Management of Tax Registration* at local competent tax authorities within 15 days after completion of the project or service, with providing copies of required documents like certificates for project completion and examination and others.
- Domestic entities or individuals who are liable for withholding tax should handle tax withholding registration at local competent tax authorities within 30 days since the liability of withholding tax is undertaken.
- If there appear changes in construction project or service contract signed by domestic entities or individual and non-resident enterprises, consignor should submit Statement on Changes in Non-resident Project Contract to local competent tax authorities within 10 days since the changes happen.
- Non-resident enterprises undertaking contracted projects or providing services in the mainland China should calculate CIT based on fiscal year, prepay CIT quarterly and handle annual CIT filing, and make a settlement of CIT when the contracted projects or services are completed.
- If non-resident enterprises become liable for business tax or VAT on their activities in mainland China and they have no any establishments in China, then their agents shall be withholders of business tax or VAT. If they have no agents, then consigners of projects or services or purchasers shall be the withholders.

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