

个人所得税

国家税务总局于2009年5月15日发布国税函[2009]259号文《关于加强个人工资薪金所得与企业的工资费用支出比对问题的通知》，规定：

- 各地国税局应于每年7月底前，将企业的纳税人名称、纳税人识别号、登记注册地址、企业税前扣除工资薪金支出总额等相关信息传递给同级地税局。地税局应对所辖企业及国税局转来的企业的工资薪金支出总额和已经代扣代缴个人所得税的工资薪金所得总额进行比对分析，对差异较大的，税务人员应到企业进行实地核查。
- 地税局到企业进行实地核查时，主要审核其税前扣除的工资薪金支出是否足额扣缴了个人所得税；是否存在将个人工资、薪金所得在福利费或其他科目中列支而未扣缴个人所得税的情况；有无按照企业全部职工平均工资适用税率计算纳税的情况；以非货币形式发放的工资薪金性质的所得是否依法履行了代扣代缴义务。
- 地税局在核查或检查中发现的问题，属于地税局征管权限的，应按照相关法律、法规的规定处理；属于国税局征管权限的，应及时将相关信息转交国税局处理。

国家税务总局于2009年5月28日发布国税函[2009]285号文《关于加强股权转让所得征收个人所得税管理的通知》，内容主要包括：

- 股权交易各方在签订股权转让协议并完成股权转让交易以后至企业变更股权登记之前，负有纳税义务或代扣代缴义务的转让方或受让方，应到主管税务机关办理纳税（扣缴）申报。
- 企业在向工商行政管理部门申请股权变更登记时，应填写《个人股东变动情况报告表》并向主管税务机关申报。
- 个人股东股权转让所得个人所得税以发生股权变更企业所在地地税机关为主管税务机关。纳税人或扣缴义务人应到主管税务机关办理纳税申报手续。

企业所得税

财政部、国家税务总局于 2009 年 6 月 16 日发布财税[2009]87 号文《关于专项用途财政性资金有关企业所得税处理问题的通知》内容包括：

- 对企业 2008 年 1 月 1 日至 2010 年 12 月 31 日期间从县级以上政府财政部门取得的应计入收入总额的财政性资金，凡同时符合以下条件的，可以作为不征税收入，在计算应纳税所得额时从收入总额中减除：
 - ✓ 企业能够提供资金拨付文件，且文件中规定该资金的专项用途；
 - ✓ 财政部门或其他拨付资金的政府部门对该资金有专门的资金管理办法或具体管理要求；
 - ✓ 企业对该资金以及以该资金发生的支出单独进行核算。

为进一步推动技术先进型服务业的发展，促进企业技术创新和技术服务能力的提升，财政部、商务部、国家税务总局于 2009 年 5 月 24 日发布财税[2009]63 号文《关于技术先进型服务企业有关税收政策问题的通知》，内容包括：

- 自 2009 年 1 月 1 日起至 2013 年 12 月 31 日止，20 个服务外包示范城市实行以下税收优惠政策：
 - ✓ 对经认定的技术先进型服务企业，减按 15% 的税率征收企业所得税；
 - ✓ 对经认定的技术先进型服务企业，其发生的职工教育经费按不超过企业工资总额 8% 的比例据实在企业所得税税前扣除，超过部分，准予在以后纳税年度结转扣除；
 - ✓ 对经认定的技术先进型服务企业离岸服务外包业务收入免征营业税。
- 技术先进型服务业务范围：
 - ✓ 信息技术外包服务（ITO）
 - ✓ 技术性业务流程外包服务（BPO）
 - ✓ 技术性知识流程外包服务（KPO）
- 享受税收优惠政策的技术先进型服务企业必须同时符合以下条件：
 - ✓ 从事本通知规定范围内的一种或多种技术先进型服务业务的企业；
 - ✓ 企业的注册地及生产经营地在服务外包示范城市内；
 - ✓ 近两年在进出口业务管理、财务管理、税收管理、外汇管理、海关管理等方面无违法行为；
 - ✓ 企业从事本通知规定范围内的技术先进型服务业务收入总和占本企业当年总收入的 70% 以上。
 - ✓ 企业应获得有关国际资质认证，并与境外客户签订服务外包合同，且其向境外客户提供的外包服务业务收入不低于企业当年总收入的 50%。

国家税务总局于 2009 年 3 月 6 日发布国税发[2009]31 号文《关于印发〈房地产开发经营业务企业所得税处理办法〉的通知》，规定：

- 本办法适用于中国境内从事房地产开发经营业务的企业。

SAT issued Circular on Strengthening Management of Levying IIT on Income from Equity Transfer (GuoShuiHan [2009] No.285) on May 28, 2009, including the following points:

- In the midst of equity transaction, when different parties in equity transaction finish the signing of equity transfer agreements and fulfill the transfer transaction, transferor or transferee who are liable for paying or withholding IIT should handle tax filing and payment (withholding) at competent tax authorities before related enterprises start to deal with change in equity registration.
- When applying for registration of change in shareholders to competent authorities, enterprises shall fill out *Statement of Change in Individual Shareholders* and submit it to competent tax authorities.
- Competent tax authorities in charge of enterprises that incur change in shareholders shall be responsible for levying IIT on individual income from transfer of equity. Tax payers or tax withholders should handle tax filing at tax authorities.

Corporate Income Tax (CIT)

The Ministry of Finance and SAT released Circular on CIT Treatment Related to Financial Fund for Special Use (CaiShui [2009] No.87) on June 16, 2009, stipulating that:

- If an enterprise obtains financial fund that makes up of part of its total income from financial department of county-level governments or above from Jan. 1, 2008 to Dec. 31, 2010, the financial fund could be treated as tax-free income and deducted from the enterprise's taxable income on condition that the enterprise could meet each requirement as follows:
 - ✓ Provide official documents related to the financial fund which prescribes the special use of the fund;
 - ✓ Financial departments or governments allocating the financial fund stipulate special management measures or rules;
 - ✓ Enterprises should make separate accounting treatment with the financial fund as well as expenditure related to that fund.

In order to further promote development of technically-advanced service enterprises, and boost creativity and technical service capacity of enterprises, the Ministry of Finance, the Ministry of Commerce and SAT released Circular on Tax Policies for Technically-advanced Service Enterprises (CaiShui [2009] No.63) on May 24, 2009, stipulating that:

- From Jan. 1, 2009 to Dec. 31, 2013, 20 specified service outsourcing cities are entitled to the following incentive tax policies:
 - ✓ Officially recognized technically-advanced service enterprises shall be eligible for 15% CIT rate;
 - ✓ As for recognized technically-advanced service enterprises, staff training expense shall be deducted before CIT on an actual basis, with ceiling deduction limited to no more than 8% of total amount of staff salary; and excessive part can be carried forward to following fiscal year for deduction;
 - ✓ Offshore service outsourcing business shall be exempt from business tax.
- Business scope of technically-advanced service enterprises:
 - ✓ Information technology outsourcing;
 - ✓ Business process outsourcing; and
 - ✓ Knowledge process outsourcing.
- Technically-advanced service enterprises that meet the following conditions shall be entitled to preferential tax policies:

- ✓ Engage in one or more kinds of technically-advanced service prescribed by this Circular;
- ✓ Registered address and business operation site are located in specified service outsourcing cities;
- ✓ Technically-advanced service enterprises have no illegal operation in respect of export & import, accounting, tax, foreign exchange and the customs issues over the past two years.
- ✓ Revenue from providing prescribed technically-advanced services should account for more than 70% of annual total revenue of the enterprises;
- ✓ Technically-advanced service enterprises should obtain internationally-authenticated license and sign service outsourcing contract with offshore clients. Revenue from offshore service outsourcing business should account for no less than 50% of annual total revenue of the enterprises.

SAT released Circular on Issuing Guidance on CIT Treatment of Real Estate Business (GuoShuiFa [2009] No.31) on March 6, 2009, stipulating that:

- This Guidance is applicable for enterprises engaging in real estate development business within mainland China.
- Business of real estate enterprises includes land development, construction and sale of apartments and commercial buildings, accessorial facilities and others.
- This Guidance covers the following tax issues:
 - ✓ Tax treatment of revenue;
 - ✓ Tax treatment of cost and expenses deduction;

Calculation of tax-related cost;

- ✓ Tax treatment of special issues.
- This Guidance came into effect as of Jan. 1, 2008.

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