

## 企业所得税

国家税务总局于2010年4月21日发布国税函[2010]157号文《关于进一步明确企业所得税过渡期优惠政策执行口径问题的通知》，进一步明确以下问题：

- 关于居民企业选择适用税率及减半征税的具体界定问题
  - ✓ 居民企业的高新技术企业处于《国务院关于实施企业所得税过渡优惠政策的通知》（国发[2007]39号）第一条第三款规定享受企业所得税“两免三减半”、“五免五减半”等定期减免税优惠过渡期的，该居民企业的所得税适用税率可以选择依照过渡期适用税率并适用减半征税至期满，或者选择适用高新技术企业的15%税率，但不能享受15%税率的减半征税。
  - ✓ 居民企业的高新技术企业符合软件生产企业和集成电路生产企业定期减半征收企业所得税优惠条件的，该居民企业的所得税适用税率可以选择适用高新技术企业的15%税率，也可以选择依照25%的法定税率减半征税，但不能享受15%税率的减半征税。
  - ✓ 居民企业取得中华人民共和国企业所得税法实施条例第八十六条、第八十七条、第八十八条和第九十条规定可减半征收企业所得税的所得，是指居民企业应就该部分所得单独核算并依照25%的法定税率减半缴纳企业所得税。
  - ✓ 居民企业经税务机关核准2007年度及以前享受高新技术企业或新技术企业所得税优惠，2008年及以后年度未被认定为高新技术企业的，自2008年起不得适用高新技术企业的15%税率，也不适用《国务院实施企业所得税过渡优惠政策的通知》（国发[2007]39号）第一条第二款规定的过渡税率，而应自2008年度起适用25%的法定税率。
- 关于居民企业总分机构的过渡期税率执行问题
  - ✓ 居民企业经税务机关核准2007年度以前依照《国家税务总局关于外商投资企业分支机构适用所得税税率问题的通知》（国税发[1997]49号）规定，其处于不同税率地区的分支机构可以单独享受所得税减低税率优惠的，仍可继续单独适用减低税率优惠过渡政策。

## 营业税

财政部、国家税务总局于 2010 年 4 月 23 日发布财税[2010]8 号文《关于国际运输劳务免征营业税的通知》，规定：

- 自 2010 年 1 月 1 日起，对中华人民共和国境内（以下简称境内）单位或者个人提供的国际运输劳务免征营业税。
- 国际运输劳务是指：
  - ✓ 在境内载运旅客或者货物出境；
  - ✓ 在境外载运旅客或者货物入境；
  - ✓ 在境外发生载运旅客或者货物的行为。
- 本通知自 2010 年 1 月 1 日起执行，2010 年 1 月 1 日至文到之日已征的应予免征的营业税税额在纳税人以后的应纳营业税税额中抵减或者予以退税。

☞ 编者按：免征营业税：国际运输企业迎来政策利好。根据新、旧《营业税暂行条例实施细则》的规定，对于中国境内单位或个人从境内载运旅客或货物出境，都属于境内劳务，需要征收营业税。而财税[2010]8 号文件对于从事国际货物运输劳务企业的营业税优惠，主要在境内单位和个人从境内载运旅客或货物出境的劳务上，即在境内载运旅客或者货物出境免征营业税。

## 增值税

为鼓励外商投资企业设立研发中心，商务部、财政部、国家税务总局于 2010 年 3 月 22 日发布商资发[2010]93 号文《关于外资研发中心采购设备免/退税资格审核办法的通知》，其中包括以下内容：

- 外资研发中心应由商务主管部门依照有关规定批准或确认。
- 外资研发中心为独立法人的，投资总额以外商投资企业批准证书所载明的金额为准。
- 对新设立不足两年且为非独立法人的外资研发中心，研发总投入是指其所在外商投资企业在近两年内专门为设立和建设研发中心而投入的资产，包括即将投入并签订购置合同的资产。
- 审核部门每两年对已获得免/退税资格的外资研发中心进行资格复审。对于不再符合条件的外资研发中心取消其享受免/退税优惠政策的资格。



## Business Tax

**The Ministry of Finance and SAT issued Circular on Exemption of Business Tax on International Transportation Service (CaiShui [2010] No.8) on April 23, 2010, stipulating that:**

- Since Jan. 1, 2010, China's entities or individuals providing international transportation services are exempt from business tax on those services.
- Here international transportation services refer to:
  - ✓ Carrying passengers or goods out of China;
  - ✓ Carrying passengers or goods into China;
  - ✓ Carrying passengers or goods outside China.
- This Circular came into effect on Jan. 1, 2010. If an entity or individual has paid business tax on the above-mentioned services during the period from Jan.1, 2010 to the issuance date of this Circular, the paid business tax can be refunded or deducted from its other business tax payable.

☞ Editorial Comments: Exemption of business tax, a favorable policy for international transportation enterprises. In accordance with the relevant clauses of both the old Implementation Rules of Provisional Business Tax Regulations and the newly-promulgated one, China's entities or individuals carrying passengers or goods out of China would be regarded as provision of domestic service and subject to business tax. The Circular of CaiShui [2010] No.8 gave a preferential business tax policy to international transportation enterprises, i.e. China's entities or individuals carrying passengers or goods out of China shall be exempt from business tax.

## Value-Added Tax

**In order to encourage FIEs to set up research & development centers, the Ministry of Commerce, the Ministry of Finance and SAT jointly issued Circular on Measures for Verification of Tax Exemption/Refund in Connection with Equipment Purchase of R&D Centers of FIEs (ShangZiFa [2010] No. 93) on March 22, 2010, including the following points:**

- Establishment of R&D center of FIEs should be approved or verified by commercial authorities according to relevant regulations.
- If a R&D center of FIE is an independent legal entity, total investment should be in conformity with the amount written in the Approval Letter for FIE.
- As for R&D centers that are less than 2 years old and not independent legal entities, total investment in R&D refers to all the assets invested by their holding FIEs in the past two years especially for establishment of R&D centers, including assets that are about to be used and purchased under contracts.
- Competent authorities shall review the eligibility of the FIE R&D centers for tax exemption/reduction every two years. For R&D centers that fail to meet the relevant requirements, their eligibility for tax exemption/reduction shall not be cancelled.

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