

企业所得税

国家税务总局于 2010 年 6 月 2 日发布国税函[2010]266 号文《关于境外分行取得来源于境内利息所得扣缴企业所得税问题的通知》，规定：

- 税收协定列名的免税外国金融机构设在第三国的非法人分支机构与其总机构属于同一法人，除税收协定中明确规定只有列名金融机构的总机构可以享受免税待遇情况外，该分支机构取得的利息可以享受中国与其总机构所在国签订的税收协定中规定的免税待遇。在执行上述规定时，应严格按《国家税务总局关于印发〈非居民享受税收协定待遇管理办法（试行）〉的通知》（国税发[2009]124号）有关规定办理审批手续。
- 属于中国居民企业的银行在境外设立的非法人分支机构同样是中国的居民，该分支机构取得的来源于中国的利息，不论是由中国居民还是外国居民设在中国的常设机构支付，均不适用我国与该分支机构所在国签订的税收协定。

国家税务总局于 2010 年 5 月 28 日发布国税函[2010]249 号文《关于 2009 年度企业所得税纳税申报有关问题的通知》，规定：

- 因 2010 年 5 月 31 日后出台的个别企业所得税政策，涉及 2009 年度企业所得税纳税申报调整、需要补（退）企业所得税款的少数纳税人，可以在 2010 年 12 月 31 日前自行到税务机关更正申报企业所得税，相应所补企业所得税款不予加收滞纳金。

个人所得税

国家税务总局于 2010 年 5 月 31 日发布国税发[2010]54 号文《关于进一步加强高收入者个人所得税征收管理的通知》，主要包括以下内容：

- 加强财产转让所得征收管理。财产转让所得主要包括限售股转让所得、非上市公司股权转让所得、房屋转让所得、以及拍卖所得。
- 加强利息、股息、红利所得征收管理

- ✓ 加强股息、红利所得征收管理。重点加强股份有限公司分配股息、红利时的扣缴税款管理。加强企业转增注册资本和股本管理，对以未分配利润、盈余公积和除股票溢价发行外的其他资本公积转增注册资本和股本的，要按照“利息、股息、红利所得”项目，依据现行政策规定计征个人所得税。
- ✓ 加强利息所得征收管理。要通过查阅财务报表相关科目、资产盘查等方式，调查自然人、企业及其他组织向自然人借款及支付利息情况，对其利息所得依法计征个人所得税。
- ✓ 加强个人从法人企业列支消费性支出和从投资企业借款的管理。
- 加强规模较大的个人独资企业、合伙企业的生产、经营所得征收管理
 - ✓ 税务师、会计师、律师、资产评估和房地产估价等鉴证类中介机构不得实行核定征收个人所得税。
 - ✓ 企业投资者在注销工商登记之前，应向主管税务机关结清有关税务事宜，未纳税所得应依法征收个人所得税。
- 加强劳务报酬所得征收管理和工资、薪金所得管理。
- 加强外籍个人取得所得的征收管理
 - ✓ 积极与银行及外汇管理部门协调配合，加强对外支付税务证明管理，把住资金转移关口。各级国税局、地税局要密切配合，建立外籍个人管理档案，掌握不同国家外派人员的薪酬标准，重点加强来源于中国境内、由境外机构支付所得的管理。

海关法规

海关总署于 2010 年 5 月 25 日发布总署公告（2010）32 号《关于常驻机构和常驻人员进境机动车辆有关事宜》，规定：

- 自 2010 年 7 月 1 日起，除按照有关政府间协定可以免税进境机动车辆的常驻机构和常驻人员、国家专门引进的高层次人才和专家以外，其他常驻机构和常驻人员不得进境旧机动车辆，对其旧机动车辆进境申请，海关不予受理。2010 年 7 月 1 日以前已按照有关规定向海关申请进境机动车辆的，可不受上款规定限制。
- 对常驻机构和常驻人员申请进境的新机动车辆，海关按照现行有关规定办理审批、征税、验放等手续。
- 本公告中所述“常驻机构”是指境外企业、新闻机构、经贸机构、文化团体及其他境外法人经中华人民共和国政府主管部门批准，在境内设立的常设机构；“常驻人员”是指经公安部门批准进境并在境内连续居留一年以上（含一年），期满后仍回到境外定居地的外国公民、港澳台地区人员、华侨，并且其属于上述常驻机构内的工作人员，或在海关注册登记的外商投资企业内的人员，或入境长期工作的专家。

- ✓ Regulatory authorities shall keep a close eye on withholding IIT on dividend and bonus distributed by stock companies. In particular, if an enterprise uses its undistributed profits, surplus reserves or other capital reserves (except stock premium) to increase registered capital or equity capital, the individual shareholders shall be subject to IIT on such capital increase as income items of “interest, dividend and bonus”.
- ✓ Regulatory authorities shall review interest payment in connection with loan made by natural individuals, enterprises and other social institutions to natural individuals through checking on financial statements and assets and other means, to collect IIT on such interest income.
- ✓ Further administration on individual spending item in accounting books of legal entity, as well as individual loan obtained from investment enterprise.
- Administration on business income derived by large-scale sole proprietorship enterprises and partnership enterprises
 - ✓ Professional firms with authentication functions like certified tax agent, certified public accountants, lawyer’s office, assets evaluation and real estate appraisal business cannot be subject to IIT payment on a deem basis.
 - ✓ Investor of the above-said enterprises should make a tax settlement with tax authorities before deregistering the enterprise, so as to make sure of full payment of IIT.
- Further administration on remuneration for individual services as well as salary and compensation.
- Income derived by foreign individuals
 - ✓ Keeping fund transfer under supervision through cooperating with bank and foreign exchange authorities and strengthening examination of tax voucher of overseas payment. State tax bureau and local tax bureau should collaborate and build files for foreign individuals, so as to assess the standards of income levels of different countries. Tax authorities should put emphasis on those foreign individuals who have China-sourced income paid by offshore entities.

The Customs Policies

The Customs of China released Notice —— Issues Regarding Bringing in Vehicle to China by Permanent Establishments and Permanent Individuals ([2010] No.32) on May 25, 2010, stipulating that:

- Since July 1, 2010, except upper-level professionals and experts brought in by governments as well as permanent establishments and permanent individuals who can bring in vehicles with tax exemption treatment according to relevant governments’ treaties, other permanent establishments and permanent individuals shall not be allowed to bring in old vehicles to China. The customs shall not accept application for bringing in old vehicles. The above-said policy is not applicable for those who had made application to the customs for vehicle entry in accordance with relevant rules.
- If permanent establishments and permanent individuals apply for bring in new vehicles, the customs shall handle formalities like verification, approval, taxation and release, following relevant regulations.
- In this Notice, “permanent establishment” is defined as standing institutions set up in China with approval of China’s regulatory authorities by offshore enterprises, news agency, economic and trade institution, culture organization and other legal entities. “Permanent individuals” refer to citizens of foreign countries, Hong Kong, Macao and TaiWan and overseas Chinese who reside in the Mainland of China with approval of PRC public security authorities continuously for (more than) one year, and return back to their homelands after expiration; simultaneously they should be staff members of the above-said permanent establishment, or personnel of foreign-invested enterprises registered in the customs, or experts working in China.
- In this Notice, “old vehicle” refers to vehicles that have been used, and “new vehicle” refers to those vehicles that have never been used before.

The newsletter is merely provided to our clients and those who have interest in our business for reference. We'll do our best to ensure the accuracy of the information in the newsletter. We have to remind you that the content in the newsletter is abstracted from relevant documents, and therefore in practice the original documents should be used for reference. Meanwhile, we welcome all of you to consult professionals in our firm regarding the information in the newsletter, and also welcome all of you visit our website www.deancpa.com.cn. We will render affordable and value-added services to our clients. If there is a discrepancy between Chinese and English versions, Chinese version will prevail.

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