

## 企业所得税

国家税务总局于 2010 年 7 月 2 日发布 2010 年第 1 号公告——《企业境外所得税收抵免操作指南》，规定：

- 居民企业以及非居民企业在中国境内设立的机构、场所（以下统称企业）依照企业所得税法第二十三条、第二十四条的有关规定，应在其应纳税额中抵免在境外缴纳的所得税额的，适用本通知。
- 居民企业在境外投资设立不具有独立纳税地位的分支机构，其来源于境外的所得，以境外收入总额扣除与取得境外收入有关的各项合理支出后的余额为应纳税所得额。各项收入、支出按企业所得税法及其实施条例的有关规定确定。居民企业在境外设立不具有独立纳税地位的分支机构取得的各项境外所得，无论是否汇回中国境内，均应计入该企业所属纳税年度的境外应纳税所得额。
- 居民企业应就其来源于境外的股息、红利等权益性投资收益，以及利息、租金、特许权使用费等收入，扣除按照企业所得税法及实施条例等规定计算的与取得该项收入有关的各项合理支出后的余额为应纳税所得额。来源于境外的股息、红利等权益性投资收益，应按被投资方作出利润分配决定的日期确认收入实现；来源于境外的利息、租金、特许权使用费等收入，应按有关合同约定应付交易对价款的日期确认收入实现。
- 本办法自 2010 年 1 月 1 日起施行。

## 营业税

为了进一步促进离岸服务外包产业发展，财政部、国家税务总局于 2010 年 7 月 28 日发布财税[2010]64 号文《关于示范城市离岸服务外包业务免征营业税的通知》，通知如下：

- 自 2010 年 7 月 1 日起至 2013 年 12 月 31 日，对注册在北京、天津、大连、哈尔滨、大庆、上海、南京、苏州、无锡、杭州、合肥、南昌、厦门、济南、武汉、长沙、广州、深圳、重庆、成都、西安等 21 个中国服务外包示范城市的企业从事离岸服务外包业务取得的收入免征营业税。
- 从事离岸服务外包业务取得的收入，是指本通知第一条规定的企业根据境外单位与其签订的委托合同，为境外提供本通知附件规定的信息技术外包服务（ITO）、技术性业务流程外包服务（BPO）或技术性知识流程外包服务（KPO），从上述境外单位取得的收入。
- 2010 年 7 月 1 日至本通知到达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。



## Corporate Income Tax

**State Administration of Tax (SAT) issued year-2010 Act No.1 — Guide of Foreign Tax Credit Granted for CIT Paid Abroad by Enterprises on July 2, 2010, stipulating that:**

- This Guide is applicable for resident enterprises and permanent establishments set up in China by non-resident enterprises (“enterprises” hereinafter) who are granted foreign tax credit for their CIT paid outside China in accordance with the article 23 and 24 of CIT law.
- When branches established outside China as non-independent taxpayers by resident enterprises have foreign source income, their taxable income equals total amount of foreign income minus various types of reasonable expenses related to the foreign income. Their income and expenses should be recognized according to the relevant provisions prescribed by CIT law and CIT Implementation Regulations. Foreign source income of those overseas branches of resident enterprises, regardless of whether to be remitted back to China or not, should be treated as taxable foreign income of the fiscal year of the enterprises.
- If a resident enterprise has foreign source equity investment gains like dividend and bonus or income from foreign source interest, rent, royalties, etc., its taxable foreign income equals the foreign income minus reasonable expenses related to the income. Income from foreign source equity investment gains like dividend and bonus should be recognized on the day when the invested enterprise makes decision on profit distribution; and income from foreign source interest, rent, royalties, etc. should be recognized according to the payment date prescribed by relevant agreement.
- This Guide came into effect as of Jan. 1, 2010.

## Business Tax

**In order to promote the development of offshore service outsourcing, Ministry of Finance and SAT issued Circular on Exemption of Business Tax Levied on Offshore Service Outsourcing of Pilot Cities (CaiShui [2010] No.64) on July 28, 2010, stipulating that:**

- From July 1, 2010 to Dec. 31, 2013, enterprises registered in pilot cities are exempt from business tax on revenue from offshore service outsourcing. 21 pilot service outsourcing cities include Beijing, Shanghai, Tianjin, Nanjing and others.
- Offshore service outsourcing revenue refers to the revenue derived by enterprises in the pilot cities from providing foreign enterprises with services of Information Technology Outsourcing (ITO), Business Processing Outsourcing (BPO) and Knowledge Processing Outsourcing (KPO) according to service engagement contract signed with foreign enterprises.
- If an enterprise has paid the above-said kind of business tax during the period from July 1, 2010 to issuance date of this Circular, the paid business tax can be deducted from business tax payable of subsequent tax period.

## Corporate Restructuring

**SAT issued year-2010 Act No.4 — Measures for Administration of CIT Associated with Corporate Restructuring on July 26, 2010, stipulating that:**

- In this Measures, corporate restructuring is defined as various business restructuring specified by article 1 of *Circular on Some Issues Regarding CIT Associated with Corporate Restructuring* (CaiShui [2009] No.59) issued by SAT, including liability restructuring, acquisition of equity, acquisition of assets, merge, separation, etc.

- In a corporate restructuring project, all the related parties should follow the same tax treatment method, i.e. either general tax treatment or special tax treatment.
- Enterprises that incurred corporate restructurings in 2008 or 2009 and have not made relevant CIT treatment can follow rules of this Measures.
- The Measures came into effect as of Jan. 1, 2010.

## The Customs

**In order to encourage development of international service outsourcing, the Customs of China on June 29, 2010 issued Act No.39 — Overall Implementation of Bonded Area’s Supervision on Goods Imported by International Service Outsourcing Business, stipulating that:**

- This Act is applicable for enterprises that are officially recognized as technologically-advanced service enterprises.
- Here service outsourcing enterprises refer to technologically-advanced service enterprises specified by *Circular on Tax Policies for Technologically-Advanced Service Enterprises* (CaiShui [2009] No.63) (“Circular No.63” hereinafter).
- Here international service outsourcing business refers to the international services specified by *Scope of Recognized Technologically-Advanced Services (Trial)*, an attachment of the Circular No.63.
- Imports in association with service outsourcing are under the customs’ supervision, and meant to be used by service outsourcing enterprises for performing service contracts, so the enterprises cannot use the imports for mortgage, pledge and retention without approval of the customs.
- If service outsourcing contract is changed, enterprise should handle formalities of the change at the customs with the changes contract and other required documents.
- This Act came into effect as of July 1, 2010.

*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](http://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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