

企业所得税

根据国家税务总局发布的财税[2008]119号《关于试点企业集团缴纳企业所得税有关问题的通知》，自2009年度开始，一些企业集团取消了合并申报缴纳企业所得税。国家税务总局于2010年7月30日发布《关于取消合并纳税后以前年度尚未弥补亏损有关企业所得税问题的公告》（2010年第7号公告），规定：

- 企业集团取消了合并申报缴纳企业所得税后，截至2008年底，企业集团合并计算的累计亏损，属于符合《中华人民共和国企业所得税法》第十八条规定5年结转期限内的，可分配给其合并成员企业（包括企业集团总部）在剩余结转期限内，结转弥补。
- 根据各成员企业截至2008年底的年度所得税申报表中的盈亏情况，凡单独计算是亏损的各成员企业，参与分配第一条所指的可继续弥补的亏损；盈利企业不参与分配。
- 企业集团在按照第二条所规定的方法分配亏损时，应根据集团每年汇总计算中这些亏损发生的实际所属年度，确定各成员企业所分配的亏损额中具体所属年度及剩余结转期限。
- 企业集团按照上述方法分配各成员企业亏损额后，应填写《企业集团累计亏损分配表》并下发给各成员企业，同时抄送企业集团主管税务机关。
- 本公告自2009年1月1日起执行。

根据《中华人民共和国企业所得税法》第八条及其有关规定，国家税务总局于2010年7月28日发布《关于企业股权投资损失所得税处理问题的公告》（2010年第6号公告），就企业股权投资损失所得税处理问题公告如下：

- 企业对外进行权益性（以下简称股权）投资所发生的损失，在经确认的损失发生年度，作为企业损失在计算企业应纳税所得额时一次性扣除。
- 本规定发布以前，企业发生的尚未处理的股权投资损失，按照本规定，准予在2010年度一次性扣除。
- 本规定自2010年1月1日起执行。

Corporate Income Tax

Following the Circular on Issues Regarding CIT Payment of Pilot Groups (CaiShui [2008] No.119) issued by State Administration of Tax (SAT), some enterprise groups have cancelled consolidated CIT filing and payment. SAT released Act on CIT Issues in Association with Unrecovered Loss of Previous Years That Happened After Cancellation of Consolidated CIT Payment ([2010] Act No.7) on July 30, 2010, stipulating that:

- For groups that have canceled consolidated CIT filing and payment, their accumulated loss (calculated on consolidation basis) by the end of 2008 can be allocated to their member enterprises (including headquarters of group) for the purpose of recovery of loss of previous years in the rest of prescribed carry-over period, if these groups are subject to the article 18 of the CIT Law which stipulates a carry-over period of 5 years.
- Based on the profit/loss results as of the end of 2008 shown in annual CIT filing returns of every member enterprises, member enterprises in loss shall be assigned share of loss for recovery; and those having profits shall not be assigned share of loss.
- When groups assign loss according to the above-said rule, they should exactly recognize the fiscal year of loss assigned to member enterprises as well as the rest of carry-over period, in accordance with the actual fiscal year of the loss calculated in group's annual consolidated financial statement.
- After completing the assignment of loss to member enterprises, groups should fill out Form for Assignment of Group's Accumulated Loss and then sent it to member enterprises and competent tax authorities of them.
- This Act came into effect as of Jan. 1, 2009.

Based on the article 8 of CIT Law of PRC and other relevant regulations, SAT issued Act on CIT Treatment in Association with Equity Investment Loss Incurred by Enterprises (Year-2010 Act No.6) on July 28, 2010, stipulating that:

- Enterprise's loss in equity investment shall be one-off deducted before CIT in the fiscal year in which the recognized loss occurs.
- If an enterprise who ever incurred equity investment loss has not treated with the loss on its accounting book before promulgation of this Act, it can deduct the loss one off in 2010 according to the regulation of this Act.
- This Act came into effect as of Jan. 1, 2010.

Business Tax

Shanghai Local Tax Bureau issued Circular on Promulgation of Measures for Levy of Business Tax on Balance (HuDiShuiHuo [2010] No.28) On Aug. 18, 2010, including the following stipulations:

- Those who deal in foreign exchange, securities, futures and other financial products shall pay business tax on selling price minus buying price.
- If a technically-advanced service company in Shanghai subcontracts its business of information technology outsourcing (ITO), business processing outsourcing (BPO) or knowledge processing outsourcing (KPO) to other companies, its business tax payable shall be equal to its revenue minus cost paid to the subcontractor(s).

- For a freight forwarding enterprise that subcontract their business to other freight forwarders, it shall pay business tax on its revenue minus cost paid to the subcontractor(s), and the enterprise shall be subject to 5% business tax rate in line with the tax item of “agent of service industry”.
- Taxable revenue of freight forwarding equals to all the proceeds and non-price charges minus transportation cost paid to transportation enterprises as well as various expenses like harbor dues, transshipment charges, packing fee, port charges, storage fee, miscellaneous work charges, costumes declaration commission, goods insurance and others.
- Advertisement agents shall pay business tax on their business revenue minus advertisement fees paid to other advertisement media.

Foreign Investment Administration

General Office of the State Council issued Circular on Carrying out the State Council’s Guidance for Further Utilization of Foreign Investment (GuoBanHan [2010] No.128) on Aug. 18, 2010, including the following points:

- To amend Category of Foreign-invested Industries, broaden scope of open industries, and guide foreign investment to high-end manufacturing, high-tech sectors, modern service, and newly-developed resource and energy-saved industries.
- Policies for the state industry adjustment and development program are also applicable for foreign-invested enterprises.
- To encourage foreign investors to aim at high-tech sectors, and improve statutory procedures for granting identification to high-tech enterprises.
- To encourage trans-national enterprises to set up regional headquarters, R&D centers, and centers of purchasing, financial management, settlement, cost and profit calculation and other functional establishments in China.
- To encourage foreign-investors to participate into domestic corporate restructuring in way of equity participation, merge and acquisition and others.

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