

企业所得税

财政部、国家税务总局于2010年11月5日发布财税[2010]65号文《关于技术先进型服务企业有关企业所得税政策问题的通知》，规定：

- 自2010年7月1日起至2013年12月31日止，在北京、天津、上海、大连等21个示范城市实行以下企业所得税优惠政策：
 - ✓ 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。
 - ✓ 经认定的技术先进型服务企业发生的职工教育经费支出，不超过工资薪金总额8%的部分，准予在计算应纳税所得额时扣除；超过部分，准予在以后纳税年度结转扣除。
- 享受本通知规定的企业所得税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《技术先进型服务业务认定范围（试行）》中的一种或多种技术先进型服务业务，采用先进技术或具备较强的研发能力；
 - ✓ 企业的注册地及生产经营地在示范城市内；
 - ✓ 企业具有法人资格，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；
 - ✓ 具有大专以上学历的员工占企业职工总数的50%以上；
 - ✓ 从事《技术先进型服务业务认定范围（试行）》中的技术先进型服务业务取得的收入占企业当年总收入的50%以上。
 - ✓ 从事离岸服务外包业务取得的收入不低于企业当年总收入的50%。
- 符合条件的技术先进型服务企业应向所在示范城市人民政府科技部门提出申请，由示范城市人民政府科技部门会同本级商务、财政、税务和发展改革部门联合评审并发文认定。
- 经认定的技术先进型服务企业，持相关认定文件向当地主管税务机关办理享受本通知第一条规定的企业所得税优惠政策事宜。
- 财政部、国家税务总局发布的《关于技术先进型服务企业有关税收政策问题的通知》（财税[2009]63号）自2010年7月1日起废止。

Corporate Income Tax

The Ministry of Finance and State Administration of Tax (SAT) issued Circular on CIT Policies for Technically-Advanced Service Enterprises (CaiShui [2010] No.65) on Nov. 5, 2010, stipulating that:

- In the period from July 1, 2010 to Dec. 31, 2013, 21 specified cities including Beijing, Tianjin, Shanghai and Dalian shall be eligible for the following preferential CIT policies in respect of engaging in service outsourcing:
 - ✓ Officially recognized technically-advanced service enterprises (hereinafter “the enterprises”) shall be entitled to 15% CIT rate;
 - ✓ Staff training expense of the enterprises can be deducted before CIT, but the maximum of the deduction is limited to 8% of total amount of staff salary. The remaining part of the deductible expense can be carried forward to the following year for deduction.
- The enterprises that shall be entitled to the preferential CIT policies prescribed by this Circular should meet the following requirements:
 - ✓ Provide one or more technically-advanced service items prescribed by *Recognition of Scope of Technically-Advanced Services (Trial)*, with advanced technology or strong research and development capacity.
 - ✓ Registered address and site of production and operation of the enterprises are located in the specified cities.
 - ✓ The enterprises own the identity of legal entity, and had no illegal activities in the past two years in respects of import & export, financial affairs, management of tax, foreign exchange and customs, etc.
 - ✓ Employers with educational background of at least college account for more than 50% of total staff members;
 - ✓ Revenue from providing the prescribed technically-advanced service accounts for more than 50% of total revenue of the year;
 - ✓ Revenue from engaging in offshore service outsourcing accounts for more than 50 of total revenue of the year.
- The enterprises that meet the above-said requirements may make application to Technology & Science department of the People’s Government of the cities for joint official verification and approval of departments of technology & science, commerce, finance, tax and development & reform.
- With relevant proof documents, officially recognized technically-advanced service enterprises shall handle formalities of enjoying the preferential CIT policies at local competent tax authorities.
- *Circular on Tax Policies for Technically-Advanced Service Enterprises* (Caishui [2009] No.63) issued by the Ministry of Finance and SAT ceased to be in force on July 1, 2010.

SAT issued Announcement on CIT Treatment in Connection with Corporate Income from Assets Transfer and Others (Announcement [2010] No. 19) on Oct. 27, 2010, stipulating that:

- When an enterprise has income from transfer of property (including various assets, equity, creditor’s rights, etc.), debt restructuring, donation and others, whether they are in monetary or non-monetary form, such income should be totally calculated into the taxable income of the year in which the income is recognized.
- This Announcement shall come into effect 30 days later after the issuance date. Enterprises that have adopted 5-year average amortization of the above-said taxable income in the period from Jan. 1, 2008 to the date of implementation of this Announcement should calculate the remaining income of that kind totally into taxable income of the year and complete the CIT payment

SAT issued Announcement on Using Supplementary Taxable Income to Recover Loss of Previous years (Announcement [2010] No.20) on Oct. 27, 2010, stipulating that:

- According to the article 5 of CIT Law of PRC, supplementary taxable income resulting from tax authorities' examination on CIT payment of previous years of enterprises can be used to recover loss of previous years, as long as the recovery of the loss is allowed by the CIT Law. After the loss recovery, the remaining supplementary taxable income shall be subject to CIT in accordance with the relevant regulations of the CIT Law.
- This Announcement shall come into effect as of Dec. 1, 2010. Same issues that have not been treated as stated above in previous years (including years before 2008) shall be dealt with according to this Announcement.

Urban Maintenance and Construction Tax and Education Surcharge

The Ministry of Finance and SAT issued Circular on Levying Urban Maintenance and Construction Tax and Education Surcharge (CaiShui [2010] No.103) on Nov. 4, 2010, stipulating that:

- In accordance with *Unification of Policies of Levying Urban Maintenance and Construction Tax and Education Surcharge on Domestically-invested and Foreign-invested Enterprises and Individuals* (GuoFa [2010] No.35), since Dec. 1, 2010, foreign-invested enterprises, foreign enterprises and foreign individuals (hereinafter "FIEs") shall be liable for paying urban maintenance and construction tax and education surcharge.
- FIEs shall be subject to urban maintenance and construction tax and education surcharge for their turnover tax liability (value-added tax, consumption tax and business tax) that occur on or after Dec. 1, 2010, but they shall not be liable to them for their turnover tax liability that occurred before Dec. 1, 2010.

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