

## 企业所得税

国家税务总局关于发布《企业资产损失所得税税前扣除管理办法》的公告，国家税务总局公告 2011 年第 25 号，国家税务总局 2011 年 3 月 31 日发布，自 2011 年 1 月 1 日起执行。其主要内容包含：

- ✓ 本办法所称资产是指企业拥有或者控制的、用于经营管理活动相关的资产，包括现金、银行存款、应收及预付款项(包括应收票据、各类垫款、企业之间往来款项)等货币性资产，存货、固定资产、无形资产、在建工程、生产性生物资产等非货币性资产，以及债权性投资和股权(权益)性投资。
- ✓ 准予在企业所得税税前扣除的资产损失，是指企业在实际处置、转让上述资产过程中发生的合理损失(以下简称**实际资产损失**)，以及企业虽未实际处置、转让上述资产，但符合《通知》和本办法规定条件计算确认的损失(以下简称**法定资产损失**)，例如：57 号文和本办法。
- ✓ 企业以前年度发生的资产损失未能在当年税前扣除的，可以按照本办法的规定，向税务机关说明并进行专项申报扣除。
- ✓ 企业因以前年度实际资产损失未在税前扣除而多缴的企业所得税税款，可在追补确认年度企业所得税应纳税款中予以抵扣，不足抵扣的，向以后年度递延抵扣。
- ✓ 企业实际资产损失发生年度扣除追补确认的损失后出现亏损的，应先调整资产损失发生年度的亏损额，再按弥补亏损的原则计算以后年度多缴的企业所得税税款，并按前款办法进行税务处理。
- ✓ 企业在进行企业所得税年度汇算清缴申报时，可将资产损失申报材料和纳税资料作为企业所得税年度纳税申报表的附件一并向税务机关报送。
- ✓ 企业资产损失相关的证据包括具有法律效力的外部证据和特定事项的企业内部证据。

资产损失确认分为：

1. 货币资产损失的确认
2. 非货币资产损失的确认
3. 投资损失的确认
4. 其他资产损失的确认



assets covered by New Measures. (2) Statutory asset losses means there are losses on assets that have not actually been disposed of or transferred but are calculated and identified by operation of the relevant regulations i.e. Circular 57 and New Measures.

- ✓ According to the New Measures, if the enterprise did not deduct the prior year asset loss in the current year, the enterprise has to declare it to the tax authorities and apply itemized reporting for deduction.
- ✓ According to the New Measures, if the enterprise did not deduct the prior year actual asset loss and paid for the CIT, it allowed to deduct in the year in making belated claims, however, if the amount is not enough for deduction, it can be extended for deduction.
- ✓ If there is a loss after deducting the retroactive recognized loss from the actual asset's impairment loss of the year, adjust the loss figure of the year while impairment incurred, then using the offset losing principle to calculate over-paid corporate income tax of the coming years, tax treatments should be in line with the preceding clause.
- ✓ The enterprise allowed submitting the required asset loss evidence and information with tax filing together to the tax authorities during annual income tax filing.
- ✓ For loss of assets in general, the evidence consist of legal validity external evidence and corporate internal evidence.

Types for loss of assets in general:

1. Monetary asset losses
2. Non-monetary asset losses
3. Investment losses
4. Other asset losses

New Measures are effective from 1 January 2011. At the same time, Old Measures and the circulars, Guoshuifa [2009] No.88, Guoshuihan [2009] No. 772 and Guoshuihan [2010] No. 196 were abolished.

### **Individual Income Tax (IIT)**

**SAT regarding on 'IIT levy issues for the individual used shares to invest in listed company on unpublished issued new capital share', Guoshuihan [2011] No. 89 circular, issued on 17<sup>th</sup> February 2011:**

Under the "P.R.C Individual Income Tax Law" and its implementing regulations and other rules, Nanjing Pudong Construction and Development Co., Ltd. held by natural person in its assessment of the company's equity value, to participate in unpublished issued new capital share from SuNing Universal Co., Ltd., it considered as equity transfer, those accessed income should be treated in accordance with the "income from transfer of property" to pay individual income tax.

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