

投资与税务

· 德安通讯 · 2011 年 7 月 〈 总第 127 期 >

双边税收协定

2011年6月27日,中国和英国签署了新的双边税收协定(以下简称"新协定")。新协定生效后将取代两国1984年7月26日签订的原双边税收协定(包括1996年议定书中所修订的内容)。新协定在中国最早可能于2012年1月1日起生效。新协定的主要变化:

✓ 股息、特许权使用费和财产收益适用的预提所得税税率降低

- ▶ 股息,在拥有支付股息公司至少25%资本的情况下,所征税款为股息总额的5%; 免税的房地产投资企业所分配的股息适用新的预提所得税税率。
- ▶ 特许权使用费,使用或有权使用工业、商业、科学设备所支付的特许权使用费适用的预提所得税税率从7%降至到6%。
- ▶ 财产收益,若英国公司拥有所转让中国公司的股权比例不足 25%,则免于缴纳预提 所得税。反之,则仍应在中国缴纳 10%的预提所得税。

✓ 有关常设机构定义及利润归属方法的规定更加明确

- ▶ 增加了"劳务活动有关的常设机构"条款,以劳务活动在任何 12 个月内是否超过 183 天为标准来判断是否构成常设机构;
- ▶ 建筑和安装工程只有在连续 12 个月以上的情况下才构成常设机构:
- ▶ 如代理人和委托方之间的交易未按照独立交易原则进行,则该代理人不属于"独立代理人":
- ▶ 取消了原协定中有关支付总机构相关款项不得在税前扣除的规定:
- ✓ 在预提所得税相关条款中引入反滥用规定并允许适用国内反避税法规
- ✓ 基于经合组织范本最新版本更新情报交换条款

个人所得税

2011年6月30日,全国人民代表大会常务委员会第二十一次会议审议通过了《中华人民共和国个人所得税法》第6次修正案。新修改的税法自2011年9月1日起施行。

修正案对个人所得税法作出如下修改并最终获得通过:

- 1. 工资薪金所得月费用扣除标准将由人民币 2,000 元提高至人民币 3,500 元
- 2. 工资薪金所得的9级超额累进税率将修改为7级,取消15%和40%两档税率
- 3. 个体工商户生产经营所得和承包承租经营所得的级距进行了调整
- 4. 个人所得税纳税申报期限延长至次月 15 日内



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Double Tax Agreement

On 27th June 2011, China and the United Kingdom (UK) signed a new double tax agreement (new DTA) which, once in before, will replace the previous DTA of 26th July 1984 (as amended by the 1996 protocol). It may be effective from as early as 1st January 2012 in China. Key changes at a glance:

✓ Lower rates of withholding tax on dividends, royalties and capital gains

- ➤ Dividends. The withholding tax on dividends, from shareholdings of 25% or more of the total capital of the paying company, is reduced from 10%, for all dividends under the old DTA, to 5%. New rates of dividend withholding tax apply to distributions from exempt real estate investment entities.
- Royalties. While the general withholding tax on royalties is unchanged at 10%, it has been lowered from 7% to 6% for royalties from the use of, or right to use, industrial, commercial or scientific equipment.
- ➤ Capital gains. If the UK companies disposals of shareholdings less than 25% should now be exempt from Chinese withholding tax; conversely, disposals of shareholdings 25% and above continue to be subject to tax 10% in China.

✓ Clearer definition of PE and PE profit attribution methodology

- A 'services PE's' clause has been introduced in the new DTA as encompassing the provision of services for a period of more than 183 days in a 12-month period.
- ➤ Construction and installation projects now only constitute a PE if they continue for more than 12 months
- ➤ The agent must additionally deal with the principal on non-arm's length terms in order not to be regarded as independent
- ➤ The clause in the business profits article, which states that executive and general administrative expenses incurred for the purposes of the PE, is now no longer qualified by the previous wording, which stated that recharged from head office to the PE are not deductible.
- ✓ Extensive anti-abuse rules in the withholding tax articles, and article authorizing the use of domestic anti-avoidance rules
- ✓ Inclusion of the latest version of the Exchange of Information article



Individual Income Tax (IIT)

On 30th June 2011, the 21st Standing Committee of the National People's Congress (NPC) passed the 6th amendment to the Individual Income Tax Law of the PRC (PRC IIT Law). The amended PRC IIT Law will take effect on 1st September 2011.

The amendment to the PRC IIT Law was finally passed with the following changes:

- 1. Standard monthly deduction on employment income increased from RMB 2,000 to RMB 3,500;
- 2. Number of tax brackets reduced from 9 to 7, 15% and 40% brackets removed;
- 3. Adjustment to tax on income of sole traders from production or business operation and income from contracting or leasing activities;
- 4. IIT filing deadline extended to within 15 days of the following month.

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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