

融资费可以扣除，税收政策为混合性投资松绑

自2013年9月1日起，《国家税务总局关于企业混合性投资业务企业所得税处理问题的公告》（国家税务总局公告2013年第41号，以下简称41号公告）开始实施。41号公告规范了混合性投资业务的所得税处理办法，有利于减轻融资方的税负。

41号公告的亮点在于，明确规定符合一定条件的混合性投资业务，可以按照业务的实质进行所得税处理，即被投资企业支付利息和投资企业收取利息分别按照企业所得税法的相关规定确认为利息支出和利息收入，计入到各自企业的应纳税所得额中，该扣除的扣除，该纳税的纳税；另外，在股权投资回购时，回购价与当时投资价之间的差额可确认为债务重组损益，分别计入各自企业的当期应纳税所得额，也就是说股权的回购价与初始成本之间的差额可以在被投资企业税前扣除，同时计入到投资方的企业所得税收入总额中缴纳企业所得税。

按照以上原则处理，需要同时符合以下5个条件：

1. 被投资企业接受投资后，需要按投资合同或协议约定的利率定期支付利息（或定期支付保底利息、固定利润、固定股息）；
2. 有明确的投资期限或特定的投资条件，并在投资期满或者满足特定投资条件后，被投资企业需要赎回投资或偿还本金；
3. 投资企业对被投资企业净资产不拥有所有权；
4. 投资企业不具有选举权和被选举权；
5. 投资企业不参与被投资企业日常生产经营活动。

服务贸易外汇管理新变革

国家外汇管理局发布《国家外汇管理局关于印发服务贸易外汇管理法规的通知》（即汇发[2013]30号文，以下简称“《通知》”）。这一期待已久的重要文件，整合、废止并规范原有有关服务贸易外汇管理的规定。在这的基础上，它对于完善服务贸易外汇管理及促进贸易投资便利化，做出里程碑性的重大改革。

《通知》包括《服务贸易外汇管理指引》（以下简称“《管理指引》”）、其实施细则（以下简称“《实施细则》”）及废止文件目录三个重要附件。《通知》自2013年9月1日起实施，为涉外主体办理服务贸易外汇业务提供便利、系统、清晰、透明的法规依据。改革的主要内容包括：

推进简政放权

国家对服务贸易项下国际支付不予限制，取消服务贸易购付汇核准，减少了外汇管理局（以下简称“外管局”）的审核流程。服务贸易购付汇管理将主要交给银行办理。

简化单证审核并取消小额交易审单

服务贸易小额收付汇业务可在银行直接办理。银行对单笔等值5万美元（含）以下的服务贸易收付汇业务原则上可不审核交易凭证。对于单笔等值5万美元以上等仍需审核凭证的业务，银行将简化审核要求，包括对现行的数十类凭证审核规定进行简化与合并，取消对绝大部分原需核准、备案文件的审核要求。

放宽境外存放

《通知》放宽境内机构服务贸易外汇收入境外存放的条件并允许符合条件的企业集团将服务贸易外汇收入集中境外存放。

强化均衡管理和事后管理

此次服务贸易外汇管理改革体现三个主要改变。首先，将原有外汇“重流出、轻流入”的管理方式转变为加强对服务贸易外汇资金流入、流出的双向均衡管理。其次，外汇管理由审核、核准工作为主的事前管理转变为监测、分析为主的事后管理。再者，由逐笔交易行为的监管转变为对交易主体外汇收支的综合监管。

国务院正式批准设立中国（上海）自由贸易试验区

2013年7月3日，国务院通过了《中国(上海)自由贸易试验区总体方案》；8月，中国（上海）自由贸易试验区正式批准设立。

中国（上海）自由贸易试验区将涵盖上海市外高桥保税区、外高桥保税物流园区、洋山保税港区和上海浦东机场综合保税区等4个海关特殊监管区域，总面积为28.78平方公里。

自由贸易区的建立，将引领“中国经济升级版”的打造，引发新一轮全国性改革的破局，也意味着目前全球贸易投资规则的重构，具有重大的意义。

以上信息仅提供德安客户及对本公司业务感兴趣之人士参考，我们将尽量确保上述信息的准确性，我们提请读者注意，上述内容系有关文件的摘要，在实际应用时，须参照全文为准。同时，我们欢迎各位就上述信息咨询本公司的专业人士，也欢迎各位登陆我们的网站 www.deancpa.com.cn。我们将为我们的客户提供实实在在的增值服务。上述摘编如中、外文不一致的，以中文为准。

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Financing cost deductible, lightening tax burden of mixed investment

From 1 September 2013, Announcement 41 regarding mixed investment corporate income tax (CIT) treatment issued by the State Administration of Taxation (SAT) came into effect. Announcement 41 standardizes the treatment of corporate income tax (CIT) in mixed investment, lightening tax burden of the financing side.

Announcement 41 prescribes that corporate income tax (CIT) in mixed investment in accordance with certain qualifications could be treated according to the substance of the investment. The invested corporate pays the interest, the investing corporate receives the interest. Interest expense and interest income are calculated into respective taxable income. Additionally, in equity investment repurchases, the difference between the repurchase price and the original cost is deductible for the invested corporate and calculated into the total taxable income of the investing corporate.

Five conditions should be satisfied simultaneously when treated according to the above principles:

1. When the invested corporate receives the investment, it should regularly pay the interest according to the interest rate agreed in investment contract or agreement (or regularly pay base interest, fixed profit and fixed dividend);
2. Having specific investment period or specific investment conditions, and when the investment period ended or specific investment conditions satisfied, the invested corporate should redeem the investment or reimburse the principal;
3. The investing corporate does not have the ownership of the invested corporate's net assets.
4. The investing corporate does not have the voting rights and being voted rights;
5. The investing corporate does not participate in the daily business operation of the invested corporate.

A new page for the foreign exchange administration for service trade

China's State Administration of Foreign Exchange (SAFE) issued Circular Huifa [2013] No.30, titled Notice Releasing the Regulations Regarding Foreign Exchange Administration for Service Trade (hereinafter referred to as 'Circular 30' or the 'Notice'). This long-awaited notice consolidates, abolishes and standardizes the existing regulations on foreign exchange (forex) administration related to service trade. As such it streamlines the forex administration of service trade and makes it easier for investing in service trade. Circular 30 includes three important appendices, i.e., Guidance on Foreign Exchange Administration for Service Trade (hereinafter referred to as the 'Guidance'), its detailed implementation rules (DIRs), and a list of abolished forex regulations. Circular 30, effective from 1 September 2013, simplifies the forex procedures under the service trade account for foreign-funded entities and outlines regulations that are comprehensive, systematic, clear and transparent. The major changes brought by Circular 30 include:

Streamlined administration and decentralization of authorities

China's restrictions on international payments under service trade items are eliminated and the approval requirement for forex purchases and payments under service trade is removed. This streamlines the approval process with the SAFE. Forex administration for service trade will be delegated to the banks.

Simplified verification procedures and cancellation of document verification for transactions with an amount under the prescribed threshold

Any single forex receipt and payment transaction under the service trade of amount less than or equivalent to USD 50,000 could be processed at the banks, generally without document verification. While transactions more than USD 50,000 are still subject to verification, the relevant procedures are simplified. This includes simplifying and consolidating the current ten categories of document verification procedures, and cancellation of most verification requirements subject to approval or record filing.

Relaxed regulation on service trade forex income deposited overseas

The requirement on forex income derived from service trade and retained overseas by domestic companies is relaxed. This enables corporate groups to retain such earnings overseas on a consolidated basis if certain conditions are met.

Reinforcement of balanced administration on forex in-flow and out-flow as well as post remittance examinations

The reformed system of forex administration for service trade reflects three key changes. Firstly, the focus of forex administration is changed from administration of forex out-flow to a balanced administration of both forex out-flow and in-flow. Secondly, there is a shift from upfront examination and approval to a post remittance supervision and administration system. Finally, the forex administration is no longer based on individual transactions but on a comprehensive basis for each entity.

State Council approves the establishment of China (Shanghai) Pilot Free Trade Zone

On 3 July 2013, the State Council passed the Overall Plan for China (Shanghai) Pilot Free Trade Zone. In August 2013, the establishment of the zone was formally approved.

China (Shanghai) Pilot Free Trade Zone will cover a total area of 28.78km² and will include Shanghai Waigaoqiao Free Trade Zone, Waigaoqiao Bonded Logistics Park, Yangshan Bonded Port and Shanghai Pudong Airport Comprehensive Bonded Zone.

The establishment of the China (Shanghai) Pilot Free Trade Zone will initiate the launch of a restructured Chinese economy, prepare the ground for a new round of nationwide reforms, and reconstruct global rules for trade and investment, all of which will herald the arrival of a new epoch in China.

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