

## 营改增试点第二阶段拉开帷幕——行业扩围和重点变化

2013年12月13日，财政部和国家税务总局联合发布了财税 [2013]106号（“106号文”），明确从2014年1月1日起，将铁路运输业和邮政业纳入营改增试点范围。原来预计将会和铁路运输和邮政业同时纳入营改增试点范围的电信业，此次暂未纳入，据悉电信业营改增可能推迟至2014年4月1日开始。此外，106号文进一步扩大了某些已纳入试点行业的具体应税服务范围。

值得重视的是，106号文还针对许多已经纳入营改增试点范围的行业以及相应业务中存在争议的增值税处理作出了重大改变，特别是国际货物运输代理业和融资租赁业。此外，106号文也将离岸服务外包等优惠政策进行延期。

营改增试点开始后，财政部和国家税务总局一直着力于营改增相关税收政策的修订和完善。总体而言，营改增试点新政策的发布呈现出以下的关键性趋势：

1. 当新的行业纳入营改增试点范围，直接在全国范围内进行试点，而不是像营改增初期选择在个别省份先行试点。
2. 新纳入营改增试点范围的铁路和邮政业适用的是11%的税率，而不是6%的低税率。该税率的设置可能会潜在地影响还没有纳入营改增的行业，比如电信业、房地产业、建筑业和金融保险业。
3. 多档增值税税率可能带来潜在的问题，例如性质类似的服务适用不同的增值税税率。这同样会影响企业的进项税抵扣，因为不同类型的支出适用税率不同，会导致可抵扣进项税额产生差异。
4. 营改增范围越快扩围到所有服务行业，对纳税人越有利。现在仍然存在需判断某些服务是属于增值税范围，还是依旧属于营业税应税范围的问题。

### 增值税应税服务范围扩围

#### Expansion of the scope of the VAT pilot program

37号文规定的增值税应税服务范围 Existing scope of VAT pilot program in Circular 37	税率 VAT rate
交通运输业服务（不包括铁路运输） Transportation services (not included railway transportation)	11%
有形动产租赁 Leasing of tangible movable property	17%

研发和技术服务 Research and development (R&D) and technical services	6%
信息技术服务 Information technology (IT) services	6%
文化创意服务 Cultural and creative services	6%
物流辅助服务 Logistics and ancillary services	6%
鉴证咨询服务 Certification and consulting services	6%
广播影视服务 Production, broadcast and publication of radio, film and television programs	6%
106号文增值税应税服务范围新增行业和服务类型 Services added to the scope of the VAT pilot program in Circular 106	税率 VAT rate
<b>新增行业</b> <b>New industry sectors</b>	
铁路运输业 Railway transportation services	11%
邮政业 Postal services	11%
<b>新增服务类型</b> <b>New sub-service types</b>	
航天运输服务 Aerospace transportation services	11%
技术预测、技术培训服务 Technical forecasting and technical training services	6%
采矿、工程施工后进行的工程勘察勘探服务 Engineering survey and exploration services provided after mining construction	6%
依托计算机信息技术提供的审计管理、税务管理服务 Auditing and tax management based on computer information technology	6%
依托计算机信息技术提供的内部数据分析、内部数据挖掘、内部数据管理 Internal data analysis, internal data extraction, and internal data management based on computer information technology	6%
收派服务 Receipt and distribution services	6%
航空培训服务 Aviation training services	6%
翻译服务 Translation services	6%

### 中国开始实施企业年金、职业年金个人所得税递延纳税优惠政策

财政部、人力资源社会保障部和国家税务总局三部门于2013年12月6日联合下发了财税[2013]103号文，即《关于企业年金职业年金个人所得税有关问题的通知》，明确将作为补充养老保险主体的企业年金和职业

年金的个人所得税纳税义务由年金缴费环节递延至领取环节。此递延纳税政策旨在加快推进中国多层次养老保险体系的发展。103号文自2014年1月1日起执行。

下表为103号文实施前后年金个人所得税处理比较：

环节	实施前		实施后	
缴费	企业缴费计入个人账户部分	个人缴费部分	企业缴费计入个人账户部分	个人缴费部分
	视为个人 <b>单独一个月</b> 的工资薪金， <b>全额计征</b> 个人所得税	<b>不得</b> 在当期应纳税所得额中 <b>扣除</b>	<b>暂不缴纳</b> 个人所得税	<b>不超过</b> 本人缴费工资计税基数 <b>4%的部分</b> 暂从当期应纳税所得额中 <b>扣除</b> [注释1]
	按季度、半年或年度缴纳的， <b>不得还原</b> 至所属月份			
基金投资	无		<b>暂不缴纳</b> 个人所得税	
领取	无		按月领取的，按照工资薪金所得 <b>全额计征</b> 个人所得税；按季度或年度领取的， <b>平均分摊</b> 计入各月，按每月领取额 <b>全额计征</b> 个人所得税 [注释2、3]	

注释：

1. 缴费工资计税基数是指员工上一年度月平均工资，但不超过其工作地所在城市上一年度职工月平均工资300%。
2. 个人在103号文实施之前开始缴付，在实施之后领取年金的，减除实施之前缴付且已缴纳个人所得税的单位和**个人**年金，就**余额计征**个人所得税。分期领取年金的，按实施之前的缴费金额占全部缴费金额的百分比**减计**当期应纳税所得额后的余额征税。
3. 因特殊原因（仅指出境定居或个人死亡后其指定受益人或法定继承人**一次性**领取）**一次性**领取年金个人账户资金的，按12个月**分摊**并就每月**分摊**额征税。

### 国家税务总局关于纳税人资产重组有关增值税问题的公告

国家税务总局于2013年11月19日发布了关于纳税人资产重组有关增值税问题的公告（2013年第66号）。纳税人在资产重组过程中，通过合并、分立、出售、置换等方式，将全部或者部分实物资产以及与其相关联的债权、负债经多次转让后，最终的受让方与劳动力接收方为同一单位和个人的，仍适用《国家税务总局关于纳税人资产重组有关增值税问题的公告》（国家税务总局公告2011年第13号）的相关规定，其中货物的多次转让行为均不征收增值税。资产的出让方需将资产重组方案等文件资料报其主管税务机关。

公告自2013年12月1日起施行。纳税人此前已发生并处理的事项，不再做调整；未处理的，按本公告规定执行。

## 企业所得税

营改增后，非居民企业取得企业所得税第三条第三款规定所得，在计算缴纳企业所得税时，应以不含增值税的收入全额作为应纳税所得额。

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## VAT pilot program enters Phase II –expanded scope and significant changes

On 12 December 2013, China’s Ministry of Finance (MoF) and the State Administration of Taxation (SAT) jointly issued Circular Caishui [2013] No. 106 (“Circular 106”) to implement the expansion of the VAT pilot program to the railway transportation industry and postal services industry from 1 January 2014. The telecommunications sector, which had previously been expected to be brought within the VAT pilot program concurrently, is now expected to transition to VAT from 1 April 2014. In addition, Circular 106 further expands the scope of the VAT pilot program in some existing industries which are already subject to VAT.

Importantly, Circular 106 also makes significant changes to the VAT treatment of a number of areas which are already subject to the VAT pilot program and have been problematic for businesses in those industries – specifically, international goods transportation agency services and the finance leasing industry. Finally, Circular 106 extends certain preferential policies such as offshore outsourcing services VAT exemption policies.

From the beginning of the VAT pilot program, the MoF and the SAT have been adjusting the VAT policies for certain industries. From an overall policy perspective, a number of key trends are emerging:

1. As new industries join the VAT pilot program, the expansion is occurring on a national basis, not a province-by-province basis as had previously occurred.
2. New industries joining the VAT pilot program are more likely to be subject to an 11 percent VAT rate, rather than the lower 6 percent VAT rate. This will potentially affect industries such as telecommunications, real estate and construction, and financial services and insurance, which are yet to join the VAT reforms.
3. The policy of using multiple VAT rates can be problematic, with similar services often being subject to VAT at different rates. There is also an impact on businesses claiming input VAT credits, with different types of expenses generating different levels of credit.
4. The sooner the VAT reforms are expanded to all services sectors, the better. The current approach of having to determine whether services fall within the scope of VAT, or whether they remain subject to Business Tax (BT), is problematic.

## Deferred individual income tax treatment for Enterprise Annuity and Occupational Pension plans

On 6 December 2013, the Ministry of Finance (“MOF”), the Ministry of Human Resources and Social Security (“MHRSS”) and the State Administration of Taxation (“SAT”) jointly issued Cai Shui [2013] No. 103 (“Circular 103”), providing guidance pertaining to the collection and administration of Individual Income Tax (“IIT”) on Enterprise Annuities and Occupational Pensions (“the Plans”). The new rules under Circular 103 are likely to promote the establishment of approved Plans and to widen the national retirement savings base by deferring the point of taxation for voluntary employer contributions to retirement age and allowing a tax deduction for voluntary employee contributions to approved Plans. Circular 103 comes into force on 1 January 2014.

Below is a snapshot of the impact on the IIT treatment of annuity plans after 1 January 2014.

Events	Pre-1 January 2014		Post-1 January 2014	
	Employer Contribution	Employee Contribution	Employer Contribution	Employee Contribution
Contribution	Taxable as separate category of monthly salary	Non-deductible	Non- IIT taxable	Deductible (up to 4% of the individual’s contribution basis) [Note 1]
	Quarterly, semi-annual or annual contributions cannot be attributed to the respective month for tax computation purposes			
Fund Investment	N/A		Non-IIT taxable	
Payout	N/A		-Monthly payout: Taxable as salary for the month -Quarterly or annual payout: equally allocated to the respective month and taxable as monthly salary for the respective month [Notes 2 and 3]	

Notes:

1. Contribution basis: Based on the employee’s average monthly salary of the preceding year, subject to a ceiling of 300% of the relevant city’s monthly average salary for the preceding year.

2. Individuals who contributed to an approved Plan prior to 1 January 2014, and that subsequently receive a lump-sum payout after implementation of Circular 103, will be taxed on the balance of their total contributions less any contributions which have been subject to IIT under the old rules. Individuals who receive their payout in installments will be taxed on the balance of their total contributions less the percentage of any contributions which have been subject to IIT under the old rules.

3. For individuals or beneficiaries/legal heirs who receive a lump-sum annuity payout due to special circumstances (i.e. overseas migration or death), the IIT on the payout may be reported in equal installments over a 12-month period.

### VAT issue in asset restructuring issued by the State Administration of Taxation (SAT)

On 19 November 2013, the State Administration of Taxation (SAT) issued Guo Shui [2013] No. 66 (“Announcement 66”), clarifying the value added tax (VAT) issue in asset restructuring. In the process of the asset restructuring, by means of merging, separation, sale or substitution, after the taxpayer transfer all or part of tangible assets and related debts, liabilities many times, when the ultimate transferee and the labor receiver is the same entity or individual, Guo Shui [2011] No. 13 (“Announcement 13”) is still applicable, and the transfer activities are all non-VAT taxable. The transferor should submit the asset restructuring documents to its responsible taxation authority.

The announcement will be effective from 1 December 2013. The issues took place and solved before that needn’t be adjusted; those not solved should be carried out according to this announcement.

### Corporate Income Tax

After the VAT reforms, when non-resident corporate obtain income included in CIT Article 3, Paragraph 3, the total income (VAT excluded) should be calculated as the taxable income.

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