

增值税

财政部、国家税务总局于 2005 年 11 月 28 日发布财税[2005]165 号文 《关于增值税若干政策的通知》对一些长期未明确的问题作了规定：

- 进口环节与国内环节以及国内地区间增值税税率执行不一致的，应按其取得的增值税专用发票和海关进口完税凭证上注明的增值税额抵扣进项税额。
- 纳税人一经认定为正式一般纳税人，不得再转为小规模纳税人，辅导期一般纳税人除外。
- 一般纳税人注销或被取消辅导期一般纳税人资格，转为小规模纳税人时，其存货不作进项税额转出处理，其留抵税额也不予以退税。
- 一般纳税人取得的国际货物运输代理业发票和国际货物运输发票，不得计算抵扣进项税额。
- 纳税人受托开发软件产品，著作权属于受托方的征收增值税，著作权属于委托方或属于双方共同拥有的不征收增值税。
- 对增值税纳税人收取的会员费收入不征收增值税。

营业税

国家税务总局于 2005 年 11 月 30 日发布国税函[2005]1128 号文 《关于垃圾处置费征收营业税问题的批复》内容如下：

- 单位和个人提供的垃圾处置劳务不属于营业税应税劳务，对其处置垃圾取得的垃圾处置费，不征收营业税。

财政部、国家税务总局发布财税[2005]155 号文 《关于合格境外机构投资者营业税政策的通知》规定：

- 对 QFII 委托境内公司在我国从事证券买卖业务取得的差价收入，免征营业税。

企业所得税

国家税务总局发布国税发[2005]200 号 《企业所得税汇算清缴管理办法》进一步规范了企业所得税的征收管理。并解决了三方面问题：

- 明确界定了汇算清缴的法律承担者为纳税人，税务部门不对企业申报中的错误承担任何责任。
- 将年度纳税申报期限延续至年度终了后 4 个月内。
- 参加汇算清缴的对象为实行查账征收和核定应税所得率征收的企业所得税纳税人；对无论盈利和亏损、是否在减税、免税期内，均应按规定进行汇算清缴。
- 纳税人在办理年度企业所得税纳税申报时，如委托中介机构代理纳税申报的，中介机构应当出具包括纳税调整的项目、原因、依据、计算过程、调整金额等内容的报告。

个人所得税

国务院以[2005]第 142 号令发布 《关于修改〈中华人民共和国个人所得税法实施条例〉的决定》主要内容：

- 税前减除费用为 1600 元；
- 增加“按照国家规定，单位为个人缴付的基本养老保险费、基本医疗保险费、失业保险费、住房公积金，从纳税义务人的应纳税所得额中扣除”；
- 外籍个人税前扣除费用为 1600 元及附加减除费用 3200 元；
- 施行全员全额扣缴申报办法；即扣缴义务人在代扣税款的次月 7 日内，向主管税务机关报送其支付所得个人的基本信息、支付所得数额、扣缴税款的具体数额和总额以及其他相关信息。

✎ **编者按：**除提高税前扣除费用外，税务部门同时提高了管理要求。

国家税务总局于 2005 年 12 月 28 日发布国税发[2005]207 号文 《关于个人所得税纳税人纳税申报有关事项的通知》要求：

- 纳税人自 2006 年 1 月 1 日起，当年取得所得 12 万元以上的，按规定于次年 3 月底前向主管税务机关申报年度全部所得。
- 2005 年内取得的年所得 12 万元以上的、从中国境内二处或以上取得工资、薪金所得、从境外取得所得的以及取得所得没有扣缴义务人的均按原办法执行。

✎ **编者按：**以上情形的个人，除单位代扣代缴个人所得税外，还必须自行前往税务机关办理纳税申报。但必须亲自去还是可以请代理机构，有两处以上收入者，他/她的主管税务机构在哪，尚待明确。

出口退税

国家税务总局于 2005 年 12 月 19 日发布国税发[2005]197 号文 《关于取消出口货物退（免）税清算的通知》规定：

- 自 2006 年 1 月 1 日起，对出口企业上一年度出口货物退（免）税，不再进行清算；
- 对上一年度出口货物，出口企业应在有关文件规定的退（免）税申报期限内，向税务机关申报出口货物退（免）税。

国家税务总局于 2005 年 12 月 7 日发布国税函[2005]1153 号文 《关于从保税仓库和出口监管仓库提取的料件有关税收处理办法的批复》内容为：

- 对企业从境外外商购进、从海关保税仓库提取并办理海关进料加工手册的料件，予以开具进料加工贸易免税证明；对企业从海关出口监管仓库提取的料件，不予开具进料加工贸易免税证明。

征收管理

国家税务总局 中国人民银行最近发布国税发[2005]193 号文 《关于实行电子缴税后使用电子缴款书有关问题的通知》

- 规范了电子申报、电子缴税方式中使用的电子缴款书的格式及所含内容。

- Waste disposal service rendered by units and individuals doesn't fall into the scope of services subject to BT, and no BT shall be imposed upon their revenues from disposal of waste.

The MOF and the SAT issued Circular On Business Tax Policy For Qualified Foreign Institutional Investor (Cai Shui [2005] No. 155), with one stipulation as follows:

- No business tax shall be imposed upon qualified foreign institutional investors' revenue after commission paid to domestic companies that are commissioned to engage in purchasing and selling securities by the former.

Enterprise Income Tax

The SAT issued Measures For Administering Enterprise Income Tax Annual Filing (Guo Shui Fa [2005] No. 200), in a view to further standardizing the administration of levying enterprise income tax, in which the issues in three main aspects are resolved in the following ways:

- Expressly stipulating that taxpayers are bearers for legal liabilities associated with the annual filing, and the tax authorities take no responsibility whatever for errors in the filing conducted by enterprise taxpayers.
- Extending the annual filing duration as within 4 months following the current fiscal year.
- Clarifying that participants in annual filing are enterprise taxpayers for whose accounting records the tax authorities reserve a right to inspect and also enterprise taxpayers whose applicable tax rate is officially deemed by the local tax authorities. All the said taxpayers are obliged to conduct annual filing in compliance with relevant regulations, regardless of their financial operation results (gain or loss), or the validity of their tax holiday (tax reduction or exemption).
- Stipulating that if taxpayers authorize intermediary agencies to conduct the enterprise income tax annual filing on behalf of the taxpayers, the intermediary agencies shall issued a report covering items, causes, supporting evidence, calculation process, amounts associated with tax reconciliation.

Individual Income Tax (“IIT”)

The State Council issued Resolution On Amending Regulations For The Implementation Of The Individual Income Tax Law ([2005] Order No. 142). The key points are as follows:

- The threshold for IIT is RMB 1,600;
- There is an additional provision stipulating that in accordance with state regulations, taxable income of individual taxpayer shall be exclusive of basic pension, basic medical insurance, and unemployment insurance, housing accumulation fund paid by the unit which employs the individual;
- The threshold for IIT paid by expatriates is RMB 1,600, and additional allowance exempt from IIT is RMB 3,200;
- The method referred to as “Withholding And Filing For All Member All Amount” is implemented. By this method, it means that withholding agents shall submit to the regulatory tax authorities documents covering basic information of each individual taxpayer, paid income amount, details of each withheld tax amount and total amount, and other relevant information.

➤ Editorial Comments: In addition to increasing the threshold for IIT, the tax authorities also increase

requirements for administration work.

The SAT issued Circular Regarding Points To Note For Individual Income Taxpayer Tax Filing (Guo Shui Fa [2005] No. 207) on 28 December 2005, stipulating that:

- Starting from 1 January 2006, an individual taxpayer who has received a total income of more than RMB 120,000 (including RMB 120,000) for a fiscal year, shall report the total income to the regulatory tax authorities before the end of March in the following year.
 - The original regulatory method before the issuance of the Circular shall be enforced in a case that an individual taxpayer has received a total income of more than RMB 120,000, or has received incomes of salary and wage from two sources or more within the territory of the PRC, or has received any foreign-sourced incomes or there is no withholding agent in place.
- Editorial Comments: The above-mentioned individual taxpayer shall go to the tax authorities for tax filing in person unless units with a tax-withholding obligation handle his or her tax filing. Nevertheless there is a need for further clarification upon whether “engaging an intermediary agency” can serve as an alternative to “going to the tax authorities in person”, and what is the regulatory tax authority for individual taxpayers having two or more income sources.

Export Tax Refund

The SAT issued Circular Regarding Cancellation On Liquidation Of Export Tax Refund (Exemption) (Guo Shui Fa [2005] No. 197) on 19 December 2005, stipulating that:

- Starting from 1 January 2006, liquidation shall not be conducted any more on export-oriented enterprise’s export tax refund (exemption) for the previous fiscal year;
- For the goods exported during the previous fiscal year, export-oriented enterprises shall submit to the tax authorities an application for export tax refund (exemption) with the application period prescribed in the relevant ruling document.

The SAT issued Reply To Tax Levying Issue Regarding Materials Taken From Bonded Warehouses And Export Warehouses Under Supervision (Guo Shui Han [2005] No. 1153) on 7 December 2005.

One key point is as follows:

- Tax exemption certificate for processing purchased imported materials shall be issued by the authorities to enterprises taking materials (previously purchased overseas) from the Customs bonded warehouses, and also completing the procedure for Processing Purchased Imported Materials Manual issued by the Customs. Tax exemption certificate for processing purchased imported materials shall not be issued to enterprises taking materials from export warehouses under the Customs’ supervision.

Tax Levying Administration

The SAT and the People’s Bank of China recently issued Circular On Use Of Electronic Tax Certificate After Paying Tax Electronically (Guo Shui Fa [2005] No. 193), which

- Standardized the form and contents of electronic tax certificate used in electronic tax filing, electronic

tax paying.

What's New

- Enterprise Income Tax Law has been officially listed in Legislation Agenda For The Year Of 2006, which implies that the issue of unification of income tax laws for enterprises with domestic investment and enterprises with foreign investments which has long attracted attention from all walks of life, has gone into the People's National Congress' legislative process.

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