

## 房产税

财政部、国家税务总局于 2005 年 12 月 23 日发布财税[2005]181 号文《关于具备房屋功能的地下建筑征收房产税的通知》强调：

- 凡在房产税征收范围内的具备房屋功能的地下建筑，包括与地上房屋相连的地下建筑以及完全建在地面以下的建筑、地下人防设施等，均应当依照有关规定征收房产税；
- 对于与地上房屋相连的地下建筑，如房屋的地下室、地下停车场、商场的地下部分等，应将地下部分与地上房屋视为一个整体按照地上房屋建筑的有关规定计算征收房产税；
- 出租的地下建筑，按照出租地上房屋建筑的有关规定计算征收房产税；
- 本通知自 2006 年 1 月 1 日起执行。

✎ **编者按：**此前就这方面进行过“税收筹划”的企业应引起足够的重视。

## 优惠政策

财政部、国家税务总局发布财税[2005]186 号和国税发[2006]8 号文《关于下岗失业人员再就业有关税收问题的通知》及具体实施意见。主要政策有：

- 对商贸企业、服务型企业(除广告业、房屋中介、典当、桑拿、按摩、氧吧外)、劳动就业服务企业中的加工型企业和街道社区具有加工性质的小型企业实体，在新增加的岗位中，按实际招用人数予以定额依次扣减营业税及附加，企业所得税，定额标准为每人每年 4000 元。
- 对从事个体经营的(除建筑业、娱乐业以及销售不动产、转让土地使用权、广告业、房屋中介、桑拿、按摩、网吧、氧吧外)，按每户每年 8000 元为限额依次扣减其当年实际应缴纳的营业税、城市维护建设税、教育费附加和个人所得税。
- 对 2005 年底前核准享受再就业减免税政策的企业，在剩余期限内仍按原优惠方式继续享受减免税政策至期满；对 2005 年底前核准享受再就业减免税优惠的个体经营人员，从 2006 年 1 月 1 日起按上述政策规定执行，原政策优惠规定停止执行。
- 符合条件的国有大中型企业通过主辅分离和辅业改制分流安置本企业富余人员兴办的经济实体(从事金融保险业、邮电通讯业、娱乐业以及销售不动产、转让土地使用权，服务型企业中的广告业、桑拿、按摩、氧吧，建筑业中从事工程总承包的除外)，经有关部门认定，税务机关审核，3 年内免征企业所得税。
- 上述优惠政策审批期限为 2006 年 1 月 1 日至 2008 年 12 月 31 日。

财政部、国家税务总局于 2006 年 1 月 9 日发布 财税[2006]1 号文《关于享受企业所得税优惠政策的新办企业认定标准的通知》享受政策须满足：

- 在工商行政主管部门办理设立登记，新注册成立的企业；
- 新办企业的权益性出资人(股东或其他权益投资方)实际出资中固定资产、无形资产等非货币性资产的累计出资额占新办企业注册资金的比例一般不得超过 25%。
- 已批准享受新办企业所得税优惠政策的新办企业，可按规定执行到期。

## 征收管理

### 个人所得税档案管理

国家税务总局于 2006 年 1 月 23 日发布国税函[2006]58 号文《关于加强外籍人员个人所得税档案管理的通知》要求如下：

- 以企业为单位建立外籍人员台帐，台帐包括所有的外籍人员，无论来华时间长短，内容包括姓名、国籍、职务、任职时间等信息；
- 税务机关内对外籍人员实行一人一档制台帐管理；
- 在 2006 年 6 月底前自行完善台帐制。

✎ **编者按：**这是加强对外籍人员个人所得税征管的又一项措施。

### 出口发票管理

商务部、海关总署、国家税务总局于 2006 年 1 月 10 日发布商务部第 26 号令《低开出口发票行为处罚暂行办法》规定：

- "低开出口发票"是指对外贸易经营者在对外贸易中，向进口商提供的自制出口发票的票面价值低于出口报关时所提供发票票面价值的行为。
- 凡商务部接到来自于举报，进口国政府通报，海关查处等的关于企业低开出口发票的行为，将联合税务部门和海关予以查处。
- 对存在低开出口发票行为的对外贸易经营者处罚：
  - 初次违反的企业予以警告；
  - 警告后 2 年内再次违反的企业，可以并处 3 万元人民币以下的罚款；
  - 对外贸经营秩序造成严重影响的，可视其情节，给予违法企业禁止其 1 年以上 3 年以下从事有关对外贸易经营活动的处罚。
  - 负有主要责任的企业法定代表人，可视情节，禁止其在 1 年以上 3 年以下期限内担任外贸企业法定代表人。
  - 发现涉嫌低开监制出口发票的行为，由税务总局依据《中华人民共和国发票管理办法》的有关规定进行调查和处罚。
  - 发现走私及违反海关监管规定的，由海关依据《中华人民共和国海关法》及《中华人民共和国海关行政处罚实施条例》的规定处罚。

## 动态信息

- 国家税务总局新近规定：自 2006 年 3 月 1 日起，交通运输业、娱乐业、服务业、建筑业营业税纳税人，除经税务机关核准实行简易申报方式外，均需按照新申报办法申报。要求纳税人报送新的《营业税纳税申报表》，并根据纳税人发生营业税应税行为所属税目，分别填报相应税目的营业税纳税申报表附表。同时发生两种或两种以上税目应税行为的，应同时填报相应的纳税申报表附表。



- For self-employed business (excluding construction industry, entertainment industry, sale of real property, transfer of right of land use, advertisement industry, real estate agency, sauna bars, massage bars, and oxygen bars) run by laid-off workers, fixed deduction of tax (in order of business tax, city construction tax, education additional tax and individual income tax) to be paid in the current fiscal year is limited to RMB 8,000 per unit per year.
- For enterprises that obtain approval of tax preference for reemployment before the year end of 2005, the original tax preferential policy shall be carried out until its expiry. For self-employed business run by lay-off workers that obtain approval of tax preference for reemployment before the year end of 2005, the new tax preferential provisions mentioned above will be implemented from the date of 1 January 2006, while the original tax preferential policy will not be implemented any longer.
- For economic entities (excluding finance and insurance industry, postal communication industry, entertainment industry, sale of real property, transfer of right of land use, advertisement industry, sauna bars, massage bars, and oxygen bars, general contractors in construction industry) set up by surplus people diverted from state-owned enterprises through division of main business operations and other business operations, and transformation of other business operations, providing that they fit the conditions for tax preference, they can pay no EIT within 3 years with the confirmation of authority concerned and examination and approval of tax authority.
- The examination and approval period for the above-mentioned preferential policy is from 1 January 2006 to 31 December 2008.

**The MOF and the SAT issued Circular Regarding Qualification Criteria For Newly-established Enterprises Enjoying Tax Preferential Policy (Cai Shui [2006] No.1) on 9 January 2006.** The qualifications are as follows:

- The newly-established enterprises should be in registration with the regulatory authorities for industry and commerce;
- The accumulated amounts of non-monetary assets like fixed assets, intangible assets etc. that equity investors (shareholders or other equity investors) of newly-established enterprises actually contribute as capital should account for no more than 25% of the total capital contribution.
- Newly-established enterprises that already obtain approval for enjoying the tax preferences for newly-established enterprises can continue to enjoy the relevant tax preferences until the expiry of tax preferences.

## **Tax Levying Administration**

### **Individual Income Tax File Administration**

**The SAT issued Circular On Strengthening The Administration Of Individual Income Tax Record Files For Expatriates (Guo Shui Han [2006] No. 58) on 23 January 2006.** The key points are as follows:

- Each individual enterprise shall establish record files for all expatriate people, regardless of how long they have come to China, including names, nationalities, positions, term of office etc.;
- The tax authority will administer the expatriate individual income tax by establishing each record file

for each expatriate;

- Enterprises shall set up a sound record file system on their own by the end of June 2006.

➤ **Editorial Comments:** This is one more measure in strengthening the levying of IIT for expatriates.

### **Export Invoice Management**

**The Ministry of Commerce (“MOCOM”), the General Administration of Customs, the SAT issued Interim Punitive Measures For Issuing Undervalued Export Invoices (Decree No. 26 of the MOCOM) on 10 January 2006.** The key points are as follows:

- By “Issuing Undervalued Export Invoices”, it means that foreign trade dealers submit to oversea importers a self-issued export invoice with a value lower than that on an invoice submitted for customs declaration for the same foreign trade transaction.
- The MOCOM, the tax authority and the customs authority will jointly conduct an examination and give a punishment over enterprises issuing undervalued export invoices as long as the MOCOM receives reports in whatever forms (verbal or written) disclosing the deed, reports transmitted by importing state governments, or information of examination and punishment of the customs authority
- The punishments to foreign trade dealers issuing undervalued export invoices are as follows:
  - A warning will be given to enterprises in violation of the provision for the first time;
  - A fine of no more than RMB 30,000 will be imposed on enterprises in violation of the provision again within 2 years from receiving a warning;
  - Enterprises in violation of the provision that incur material adverse impact on foreign trade order will be banned to engage in the relevant foreign trade operations for a period ranging from 1 year to 3 years in light of the seriousness of the case.
  - Legal representatives of enterprises who take key responsibility in violation of the provision will be banned to assume the post of legal representative of foreign trade enterprises within a period ranging from 1 years to 3 years in light of the seriousness of the case;
  - The SAT will conduct an examination or give a punishment in according to the relevant regulation of Invoice Management Rules to enterprises that are suspected of issuing undervalued invoices.
  - The customs authority will give a punishment in according to Customs Law of the PRC and Punitive Measures to enterprises that are found to engage in smuggling or other deeds in violation of the customs supervision regulations.

### **What's New**

- According to the new regulation recently released by the SAT, starting from 1 March 2006, except those subject to the fast-track tax returns approved by tax bureaus, business taxpayers in transportation, entertainment, service construction industries shall proceed with their tax returns in compliance with the new regulation. Under the new regulation for the purpose of tax return, the taxpayers are required to submit business tax return statement in a new form, and appendix to the statement classified by the taxpayers’ transactions. If the taxpayers’ transactions fall into two or more categories, appendixes to the statement corresponding to the two or more categories shall be filled

respectively and submitted together.

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