

## 公司审批登记管理

国家工商行政管理总局、商务部、海关总署、国家外汇管理局于2006年4月27日联合发布工商外企字[2006]81号文《关于外商投资的公司审批登记管理法律适用若干意见问题的执行意见》主要内容有：

- 外商投资的公司登记管理适用《公司法》和《公司登记管理条例》；有关外商投资企业的法律另有规定的，适用其规定；
- 以外商独资的形式依法设立一人有限公司的，其注册资本最低限额应当符合《公司法》关于一人有限公司的规定；
- 申请外商投资的公司审批和设立登记时向审批和登记机关提交的外国投资者的主体资格证明或身份证明应当经所在国家公证机关公证并经我国驻该国使（领）馆认证。香港、澳门和台湾地区投资者的主体资格证明或身份证明应当依法提供当地公证机构的公证文件。
- 外商投资的公司向公司登记机关申请设立登记、股权转让变更登记时不再提交合资、合作合同和投资者的资信证明。

## 外汇管理

国家外汇管理局于2006年4月13日发布汇发[2006]19号文《国家外汇管理局关于调整经常项目外汇管理政策的通知》调整内容有：

- 取消经常项目外汇帐户开户事前审批，提高经常项目外汇帐户限额；
- 简化服务贸易售付汇凭证，调整服务贸易售付汇审核权限；
- 放宽境内居民个人购汇政策，实行年度总额管理；

## 烟叶税

国务院于2006年4月28日发布[2006]第464号令《中华人民共和国烟叶税暂行条例》规定：

- 在我国境内收购烟叶的单位为烟叶税的纳税人。
- 所称烟叶指晾晒烟叶、烤烟叶。
- 烟叶税实行比例税率，税率为20%。
- 执行时间从公布之日起。

## 契税

财政部、国家税务总局于2006年3月29日发布财税[2006]41号文《关于延长企业改制重组若干契税政策执行期限的通知》明确：

- 企业改制重组涉及的契税政策，继续按照财税[2003]184号文件的有关规定执行，执行期限为2006年1月1日至2008年12月31日。

国家税务总局于 2006 年 4 月 5 日发布国税函[2006]329 号文《关于调整契稅納稅申報表式樣的通知》主要内容：

- 調整後的契稅納稅申報表增加了對營業稅等相關稅種間的資訊轉讓方資訊欄目。
- 增加了承受方和轉讓方的識別號欄目。

## 稅收減免優惠

國家發展改革委、國家稅務總局於 2006 年 4 月 3 日發布發改企業[2006]563 號文《關於中小企業信用擔保機構免徵營業稅有關問題的通告》規定：

符合以下條件的信用擔保機構可享受三年減免營業稅政策：

- 經政府授權部門(中小企業政府管理部門)同意，且主要從事為中小企業提供擔保服務的機構。
- 不以營利為主要目的，擔保業務收費標準報經所在地人民政府中小企業主管部門和同級人民政府物價部門批准。
- 註冊資金超過 2000 萬元。
- 對中小企業累計貸款擔保金額占其累計擔保業務總額的 80%，對單個受保企業提供的擔保餘額不超過擔保機構自身實收資本總額的 10%，並且其單筆擔保責任金額最高不超過 4000 萬元人民幣。
- 擔保資金與擔保貸款放大比例不低於 3 倍，並且其代償額占擔保資金比例不超過 5%。

## 稅收協定

國家稅務總局於 2006 年 3 月 1 日發布國稅函[2006]229 號文《關於執行稅收協定利息條款有關問題的通告》規定：

- 凡協定利息條款中規定締約國對方中央銀行、政府擁有的金融機構或其他組織從我國取得的利息應在我國免予徵稅的，上述有關銀行(機構)可在每項貸款合同簽署後，向利息發生地主管稅務機關申請享受有關協定待遇。
- 凡協定有關條文、議定書、會談紀要或換函等已列名締約國對方在我國免徵利息所得稅具體銀行、金融機構的，納稅人可按规定辦理免徵利息所得稅手續。

## 動態信息

- 4 月 14 日，市工商局與浦東新區人民政府聯合召開新聞發布會，工商部門推進浦東綜合配套改革試點工商若干措施將在浦東新區率先試行，具體包括：擴大工商浦東新區分局登記管轄權、在浦東新區允許商標專用權出資、優化浦東新區外商投資企業審批登記辦法、將企業不良記錄相關責任人員的資訊納入個人徵信系統。

以上資訊僅提供德安客戶及對本公司業務感興趣之人士參考，我們將盡量確保上述資訊的準確性，我們提請讀者注意，上述內容系有關文件的摘要，在實際應用時，須參照全文為準。同時，我們歡迎各位就上述資訊諮詢本公司的專業人士，也歡迎各位登錄我們的網站 [www.dean CPA.com.cn](http://www.dean CPA.com.cn)。我們將為我們的客戶提供实实在在的增值服務。上述摘編如中、外文不一致的，以中文為準。

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## **Administration of Company Examination and Approval, Registration**

The State Administration for Industry and Commerce, the Ministry of Commerce, General Administration of Customs, the State Administration of Foreign Exchange (“SAFE”) jointly issued **Opinions On Implementing The Opinions Regarding Law Application In Administration Of Foreign-invested Company Examination And Approval, Registration (Gong Shang Wai Qi Zi [2006] No.81) on 27 April 2006**. The key points are as follows:

- Foreign-invested company registration administration is subject to *Company Law* and *Regulations On Administration Of Registration Of Companies*. Where the laws or administrative regulations on enterprises with foreign investment provide otherwise, the provisions of such laws or administrative regulations apply;
- For one-person limited company in the form of wholly foreign-owned enterprise, its minimum registered capital shall be in compliance with the provisions for one-person limited company in *Company Law*;
- While examination and approval, establishment registration of foreign-invested company is applied for, the foreign investor’s entity status certificate or identity certificate submitted to the examination and approval, registration authority shall be notarized by the notary organ of the country where the investor is located or resides, and then certified by the Chinese embassy or consulate in the country where the investor is located or resides. Entity status certificate or identity certificate for an investor from regions of Hong Kong, Macau and Taiwan shall be supported by notary papers issued by the local notary organ of the regions where the investor is located or resides.
- When a foreign-invested company applies to the company registration authority for establishment registration, or a change in registration due to equity transfer, submission of equity/cooperative joint venture contracts and investors creditability certificates are no longer required.

## **Foreign Exchange Administration**

SAFE issued **Circular On Foreign Exchange Administration Policy For Adjusting Current Account (Hui Fa [2006] No.19) on 13 April 2006**. The adjustments are as follows:

- To abrogate requirements for examination and approval before applying for opening a foreign exchange account under current account, and raise the amount limit to foreign exchange account under current account;
- To simplify valid documents required in selling and paying foreign exchange under the item of service trade, and adjust the limits of examination and review authorization for selling and paying foreign exchange under the item of service trade;
- To loosen the restriction on purchase of foreign exchange by individual residents within China, and implement the administration of a total amount of foreign exchange purchased within one fiscal year.

## **Tobacco Leaf Tax**

The State Council issued **Provisional Regulations Of the People’s Republic Of China On Tobacco Leaf Tax (Decree No.464 [2006] of the State Council) on 28 April 2006**, saying that:

- Units purchasing tobacco leaf within China are tobacco leaf taxpayers.
- The so-called “tobacco leaf” is dried tobacco leaf and roasted tobacco leaf.
- Tobacco leaf tax is calculated at a flat tax rate of 20%.
- The Regulations shall go into effect on the day of their promulgation.

## **Deed Tax**

**The Ministry of Finance, the State Administration of Taxation (“SAT”) issued Circular On Extending A Number of Deed Tax Policies For Enterprises Transformation And Restructure (Cai Shui [2006] No.41) on 29 March 2006, saying that:**

- Deed tax policies involved in enterprise transformation and restructure shall be continuously implemented according to the relevant provisions in Cai Shui [2003] No.184. The implementation period is from 1 January 2006 to 31 December 2008.

**The SAT issued Circular On Adjusting Deed Tax Return Format (Guo Shui Han [2006] No.329) on 5 April 2006. The key points are as follows:**

- In an adjusted Deed Tax Return, there is an addition of information column for transferor relative to business tax etc..
- There is an addition of mark number column for transferee and transferor.

## **Tax Preferential Policy**

**National Development And Reform Commission, the SAT issued Circular On Business Tax Exemption For Institutions Providing Credit Guaranteeing Services To Small/Medium-sized Enterprises (Fa Gai Qi Ye [2006] No.563) on 3 April 2006, saying that:**

An institution providing credit guaranteeing services can enjoy business tax reduction/exemption policies for 3 years provided that it meets the following conditions:

- The institution is mainly engaged in providing guaranteeing services to small/medium-sized enterprises upon the approval of the authorized departments of governments (government competent departments for small/medium-sized enterprises);
- Making profits is not a primary purpose for the institution. The charge standards for providing guaranteeing services shall be approved by competent departments of governments where the small/medium-sized enterprises are located and the pricing authority of governments at the same level;
- Its required amount of registered capital is more than RMB 20 million.
- Its accumulated guarantee amount for loans of small/medium-sized enterprises accounts for more than 80% of its total amount of guarantee business operation. Guarantee balance amount for one individual guaranteed enterprise shall not exceed 10% of its paid-in capital, and one individual amount of guarantee liability shall not exceed RMB 40 million.
- The ratio of a guarantee amount to a guaranteed loan amount shall not be lower than 3, and the ratio of its compensation amount to a guarantee amount shall not exceed 5%.

## Tax Treaty

The SAT issued Circular On Enforcing Interest-related Provisions In Tax Treaty (Guo Shui Han [2006] No.229) on 1 March 2006, saying that:

- Provided that it is stipulated in interest-related provisions of a tax treaty that interest income gained within China by the other contracting party's central bank, financial institutions or other organizations owned by governments shall be exempted from tax, the foresaid bank/institutions can apply to the competent tax authority where the interest is generated for enjoying the relevant treatment stipulated in the tax treaty after one individual loan contract is signed.
- Provided that the banks or financial institutions of the other contracting party enjoying tax exemption treatment for their interest income within China have been explicitly written in the tax treaty's provisions, protocol, meeting memos/exchanged letters etc., taxpayers can go through tax exemption procedures in accordance with the relevant regulations.

## What's New

- On 14 April, Shanghai Municipal Bureau of Industry and Commerce and People's Government of Pudong New District jointly held a press conference, in which it was announced that a number of measures for the industry and commerce authority to boost reforms in Pudong comprehensive supporting work will be implemented on a trial basis in Pudong New, including that: enlarging the registration jurisdiction of Pudong New District branch of industry and commerce authority, permitting using trade mark proprietary rights as a form of capital contribution in Pudong New District, optimize examination and approval, registration administration methods for foreign-invested enterprises in Pudong New District, incorporating relevant personnel responsible for enterprise bad records into individual personal credit collecting system.

*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.dean CPA.com.cn](http://www.dean CPA.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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