

投资管理

商务部于2006年6月5日发布商务部2006年第3号令《关于外商投资举办投资性公司的补充规定》补充内容主要有：

- 外国投资者必须以可自由兑换的货币或其在中国境内获得的人民币利润或因转股、清算等活动获得的人民币合法收益作为其向投资性公司注册资本的出资。自营业执照签发之日起两年内出资应不低于三千万美元，注册资本中剩余部分出资应在营业执照签发之日起五年内缴清。
- 允许投资性公司承接境外公司的服务外包业务。
- 投资性公司从事货物进出口或者技术进出口的，应符合商务部《对外贸易经营者备案登记办法》的规定；投资性公司出口产品可按有关规定办理出口退税。
- 投资性公司可通过佣金代理（拍卖除外）、批发方式在国内销售其进口及在国内采购的商品；特殊商品及以零售和特许经营方式销售的，应符合相关规定。
- 符合有关条件的投资性公司，在其所投资企业投产前或其所投资企业新产品投产前，为进行产品市场开发，可进口相关产品在国内试销；并可委托境内其他企业生产/加工其产品或其母公司产品并在国内外销售。
- 本补充规定自2006年7月1日起施行。

财务会计

财政部于2006年3月15日发布财企[2006]67号文《关于〈公司法〉施行后有关企业财务处理问题的通知》主要内容：

- 企业以实物、知识产权、土地使用权等非货币资产出资设立公司的，应当评估作价，核实资产；
- 从2006年1月1日起，按照《公司法》不再提取公益金；企业对2005年12月31日的公益金结余，转作盈余公积金管理使用；公益金赤字，依次以盈余公积金、资本公积金、以前年度未分配利润弥补，仍有赤字的，结转未分配利润帐户，用以后年度实现的税后利润弥补；
- 企业停止实行公益金制度后，外商投资企业的职工奖励及福利基金，经董事会确定继续提取的，应当明确用途、使用条件和程序，作为负债管理；
- 本通知自2006年4月1日起施行。

国家税务总局于2006年5月14日发布国税函[2006]452号文《关于固定资产折旧方法有关问题的批复》内容为：

- 按照企业会计制度和相关会计准则规定，工作量法与年限平均法同属直线折旧法，在会计处理上按工作量法计提固定资产折旧的纳税人，可依照《企业所得税税前扣除办法》规定进行税务处理。

国产设备退税

财政部、国家税务总局于 2006 年 5 月 10 日发布财税[2006]61 号文《关于调整外商投资项目购买国产设备退税政策范围的通知》调整内容为：

- 享受国产设备退税的企业范围是指，被认定为增值税一般纳税人的外商投资企业和非增值税一般纳税人从事交通运输、开发普通住宅的外商投资企业以及从事海洋石油勘探开发生产的中外合作企业。外商投资企业包括中外合资企业、中外合作企业和外商投资企业。
- 调整鼓励类外资目录时，项目采购国产设备实行退税政策以项目核准时施行的鼓励类外资目录为准。国家调整不予免税目录时，设备是否属于不予免税目录范围以购进国产设备的增值税专用发票开具时施行的不予免税目录为准。
- 国产设备是指，鼓励类外商投资项目采购的中华人民共和国境内生产、作为固定资产管理的设备，包括按照购货合同随设备购进的配套件、备件等。

征收管理

上海市国家、地方税务局于 2006 年 4 月 30 日发布沪国税征[2006]19 号文《注销税务登记管理办法》规定：

- 纳税人发生下列情形的，应当向主管税务机关提出办理注销税务登记的申请：
 - 生产经营期满解散或未到期被撤销、解散的；
 - 发生合并、分立、改制等，需注销税务登记的；
 - 被法院依法宣告破产的；
 - 被工商行政管理机关吊销营业执照或者被其他机关予以撤销登记的；
 - 因生产、经营地变动，且涉及改变主管税务机关的；
 - 境外企业纳税人在中国境内承接工程和提供劳务，项目完工的；
 - 发生需要注销税务登记的其他特殊情况的。
- 纳税人应当在向工商行政管理机关或者其他机关办理注销登记前，向主管税务机关申报办理注销税务登记。纳税人发生迁移的，应当在向工商行政管理机关或者其他机关申请办理变更、注销登记前，向主管税务机关申报办理注销税务登记，并自工商行政管理机关或者其他机关批准变更之日起 30 日内向迁达地税务机关申报办理税务登记。
- 纳税人申报办理注销税务登记程序包括：纳税人申请、清税、清票和税务机关审核、核准两个环节。增值税一般纳税人应先取消一般纳税人资格后，在清票的同时注销增值税专用发票防伪税控系统。
- 税务机关受理纳税人的注销税务登记后，对纳税人清税、清票情况进行全面审核，必要时可组织实施税务检查。税务机关可将中介机构为纳税人出具的注销税务登记税收清理报告（鉴证报告），作为对纳税人清税审核的重要依据。

个人所得税

国家税务总局于 2006 年 5 月 15 日发布国税函[2006]454 号文《关于保险营销员取得佣金收入征免个人所得税问题的通知》内容为：

- 对保险营销员的佣金中的展业成本，不征收个人所得税；对劳务报酬部分，扣除实际缴纳的营业税金及附加后，依照税法有关规定计算征收个人所得税。
- 佣金中展业成本的比例暂定为 40%。

conform to *Rules Of MOCOM For Putting On Records And Registering Foreign Trade Operators*; an investment company engaging in the export of goods can apply for export tax refund in accordance with relevant laws and regulations.

- The investment company can sell the commodities imported and domestically purchased by itself by means of commission agency (except for auction), wholesale; special commodities and commodities sold by means of retail and franchise shall conform to relevant regulations.
- For an investment company subject to the relevant conditions, before its invested company starts production activities or its invested company starts producing a new product, it is allowed to import relevant product for a trial sale in the PRC for the purpose of product marketing development; and it is allowed to engage other domestic enterprise(s) to produce/process its product or its parent company's product for domestic and oversea sale.
- The Supplemental Regulations will be effective as of 1 July 2006.

Finance & Accounting

The Ministry of Finance (“MOF”) issued *Circular On Enterprise Financial Treatments After Company Law Going Into Effect (Cai Qi [2006] No.67) on 15 March 2006.* The key points are as follows:

- For investment in kind, intellectual property, land use rights or other non-monetary assets used by an enterprise to make capital contributions for the purpose of establishing a company, an appraisal on value shall be carried out and the property contributed shall be verified;
- Starting from 1 January 2006, an enterprise shall not set aside statutory common welfare fund; if there is a surplus in the account of common welfare fund on 31 December 2005, the surplus shall be transferred into the account of surplus common reserve fund; if there is a deficit in common welfare fund, the deficit shall be made up by a sequence of surplus common reserve fund, capital surplus, retained earnings for the prior years; if there is still a balance after the making-up, the deficit will be made up continuously by the after-tax profits for the coming years with the account of retained earnings carried forward;
- After the implementation of common welfare fund system is stopped, staff bonus and welfare fund in an foreign invested enterprise can be set aside continuously upon the confirmation of the board of directors, but shall be accompanied with definitions on uses, use conditions and procedures, and shall be managed as a liability;
- The Circular will be effective as of 1 April 2006.

The State Administration of Taxation (“SAT”) issued *Reply To Issues Relative To Fixed Asset Depreciation Methodologies (Guo Shui Han [2006] No.452) on 14 May 2006.* The key points are as follows:

- According to enterprise accounting system and relevant accounting regulations, units-of-production depreciation method and average-useful-life depreciation method belong to the straight-line depreciation method. A taxpayer adopting the units-of-production depreciation method for the perspective of accounting treatment, can comply with the provisions stipulated in *Rules For Deductions Before Enterprise Income Tax* for the perspective of tax treatment.

Domestically Made Equipment Tax Refund

The MOF and SAT issued *Circular On Adjusting Tax Refund Scope Of Domestically Made Equipment Purchased For Foreign Investment Project (Cai Shui [2006] No.61)* on 10 May 2006. The key points regarding the adjustment are as follows:

- The enterprises eligible for domestically made equipment tax refund are foreign invested enterprises that are certified as value-added tax (“VAT”) ordinary taxpayer; foreign invested enterprises as non-VAT ordinary taxpayer that engage in communications and transportation, ordinary housing development; and Chinese-foreign contractual joint ventures that engage in offshore petroleum exploitation and development. Enterprises with foreign investment include Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures and wholly foreign-owned enterprises.
- When encouraged categories for foreign investment projects are officially adjusted, the tax refund policy for domestically made equipment purchased for a foreign investment project shall be implemented in compliance with the encouraged categories applicable when the project is approved. When non-tax-free commodity index is officially adjusted, whether an equipment falls into the scope of non-tax-free commodity index shall be determined in compliance with the non-tax-free commodity index applicable when the special VAT invoice of the domestically made equipment is issued.
- Domestically made equipment is the equipment produced in the PRC and managed as a fixed asset after its purchase for foreign investment projects falling into the encouraged categories, plus accessories and spare parts etc. purchased along with the equipment per a purchase contract.

Tax Levying Administration

Shanghai Municipal Office, State Administration of Taxation and Shanghai Local Tax Bureau issued *Rules For Control Of Tax Deregistration (Hu Guo Shui Zheng [2006] No.19)* on 30 April 2006. The key points are as follows:

- A taxpayer shall apply for deregistering tax registration to its competent tax authority under one of the following circumstances:
 - if it disbands after the expiration of its production and operation or it is dissolved, disbanded before the expiration;
 - if a deregistration of tax registration is needed for the reasons of merger, breaking-up, enterprise system transformation etc.;
 - if it is declared bankrupt by a people’s court;
 - if its business license is revoked by the industrial and commercial authority or its registration is cancelled by other authorities;
 - if the change of its competent tax authority is involved in the change of its production and operation place;
 - if it as an oversea enterprise taxpayer carries out an engineering and provides services under contracts within the PRC, and completes the work or project;
 - other particular circumstances where a deregistration is needed.
- The taxpayer shall apply for tax deregistration to its competent tax authority before applying for its relevant deregistration to the industrial and commercial authority or other authorities. If a taxpayer is

to relocate, it shall apply for tax deregistration to its competent tax authority before applying for a change in registration or deregistration to the industrial and commercial authority or other authorities, and apply for tax registration with the tax authority where it is to be relocated within 30 days starting from the date of approval of the change granted by the industrial and commercial authority or other authorities.

- The tax deregistration procedures include the taxpayer application, tax clearance, tax invoice clearance, and the tax authority's examination and approval. For a VAT ordinary taxpayer, the protective tax control system for special VAT invoice shall be terminated in tax invoice clearance after the cancellation of its VAT ordinary taxpayer status.
- After accepting the taxpayer's application for tax deregistration, the tax authority will conduct an overall examination over the taxpayer's tax clearance and tax invoice clearance, and will organize a tax inspection if necessary. The tax authority can use Tax Clearance Report For Tax Deregistration (a tax audit report) issued for the taxpayer by an intermediary agency as an important proof in examining the taxpayer's clearance of tax.

Individual Income Tax (“IIT”)

The SAT issued *Circular On IIT Levying And Exemption Issues Concerning Insurance Salesman's Commission Income (Guo Shui Han [2006] No.454) on 15 May 2006*. The key points are as follows:

- Job cost covered in insurance salesman commission income is exempted from IIT; for the part of income from remuneration for personal service, IIT imposed on this part of income shall be calculated in according to the relevant provisions stipulated in *Tax Law* after the deduction of the actually paid amount of business tax and its surcharges.
- The percentage of job cost accounting for commission is temporarily 40%.
- The Circular will be effective as of 1 June 2006.

Business Tax

The SAT issued *Circular On Strengthening Administration Of Levying Housing Business Tax (Guo Shui Fa [2006] No.74) on 30 May 2006*. The key points are as follows:

- Starting from 1 June 2006, an individual shall pay business tax in full based on the selling income of a housing unit purchased within 5 years.
- Starting from 1 June 2006, when an individual sells an ordinary housing unit purchased more than 5 years (including 5 years) ago, he or she can apply to the local tax authority for business tax exemption with the support of relevant documents. After examination over the relevant documents used for the taxpayer's tax exemption application, the local tax authority will grant business tax exemption to the taxpayer who is fit for the prescribed conditions.
- Starting from 1 June 2006, when an individual sells a housing unit purchased more than 5 years (including 5 years) ago, and he or she can't provide documents to prove that the housing unit falls into the category of an ordinary housing unit or isn't fit for the prescribed conditions after the tax authority's examination over the documents provided, the policy for sale of non-ordinary housing unit shall be implemented: business tax will be levied on the balance amount from the selling income less

the original purchased price of the housing unit

What's New

- Recently the SAT decided to incorporate the administration of ordinary tax invoices issued by value-added taxpayers into the protective tax control system for special VAT invoice, pushing for the uniform use of Protective VAT Control System: One Machine Multiple Tax Invoices starting from the mid-June 2006.

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. 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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