

营业税

财政部、国家税务总局于 2006 年 8 月 17 日发布财税[2006]114 号文《关于纳税人以清包工形式提供装饰劳务征收营业税问题的通知》内容为

- 采用清包工形式提供的装饰劳务，按照其向客户实际收取的人工费、管理费和辅助材料费等收入(不含客户自行采购的材料价款和设备价款)确认计税营业额。

消费税

财政部、国家税务总局于 2006 年 8 月 30 日发布财税[2006]125 号文《关于消费税若干具体政策的通知》明确规定：

- 对当期投入生产的原材料可抵扣的已纳消费税大于当期应纳消费税情形的，在目前消费税纳税申报表未增加上期留抵消费税填报栏目的情况下，采用按当期应纳消费税的数额申报抵扣，不足抵扣部分结转下一期申报抵扣的方式处理。

企业所得税

财政部、国家税务总局于 2006 年 9 月 1 日发布财税[2006]126 号文《关于调整企业所得税工资支出税前扣除政策的通知》规定：

- 自 2006 年 7 月 1 日起，将内资企业工资支出的税前扣除限额调整为人均每月 1600 元。企业实际发放的工资额在上述扣除限额以内的部分，允许在企业所得税税前据实扣除。
- 对企业在 2006 年 6 月 30 日前发放的工资仍按政策调整前的扣除标准执行，超过规定扣除标准的部分，不得结转到今年后 6 个月扣除。
- 企业支付给职工的各种形式的劳动报酬及其他相关支出，包括奖金、津贴、补贴和其他工资性支出，都应计入企业的工资总额。

税收管理

上海市财政局、税务局于 2006 年 8 月 29 日发布沪地税征[2006]8 号文《关于进一步规范本市房地产市场税收征收管理的操作意见》主要内容为：

- 对房地产交易市场的税收征收管理实行“一窗式”管理，在专设的“二手房”涉税申报专窗可负责受理、审核、开具“二手房”交易中涉及的契税、营业税、个人所得税、土地增值税、印花税等各类税费的缴款凭证或完税凭证；《上海市房地产销售统一发票》、《个人住房转让所得个人所得税纳税保证金解缴单》、《税务代保管资金专用收据》、《纳税保证金退还专用存折开户通知书》等文书，以及个人所得税纳税保证金退保等工作。

国家税务总局于 2006 年 8 月 24 日发布国税发[2006]128 号文《不动产、建筑业营业税项目管理及发票使用管理暂行办法》要求：

- 纳税人销售不动产或提供建筑业应税劳务的，应在不动产销售合同签订或建筑业工程合同签订并领取建筑施工许可证之日起 30 日内，持有相关资料向不动产所在地或建筑业应税劳务发生地主管税务机关进行不动产、建筑工程项目登记；
- 纳税人不动产销售完毕和建筑业工程项目完工注销的，应自不动产销售完毕和建筑业工程项目完工之日起 30 日内，持有相关资料向不动产所在地和建筑业应税劳务发生地主管税务机关进行项目登记。
- 纳税人异地提供建筑业应税劳务的，应同时按照规定向机构所在地主管税务机关进行相应的项目登记。

外汇管理

国家外汇管理局、建设部于 2006 年 9 月 1 日发布汇发[2006]47 号文《关于规范房地产市场外汇管理有关问题的通知》规定：

- 境外机构在境内设立的分支、代表机构在注册登记地购买符合实际需要的自用商品房应按规定办理；
- 在境内工作、学习时间超过一年的境外个人，可购买符合实际需要的自住商品房，并按规定办理外汇手续；
- 港澳台居民和华侨因生活需要，可在境内购买一定面积的自住商品房，并按规定办理外汇手续；
- 外商投资房地产企业注册资本未全部缴付的，或未取得《国有土地使用证》的，或开发项目资本金未达到项目投资总额的 35% 的，不得向境外借用外债，外汇局不予办理外债登记和外债结汇核准；
- 境外机构和个人通过股权转让及其他方式并购境内房地产企业，或收购合资企业中方股权，未能以自有资金一次性支付全部转让款的，外汇局不予办理转股收汇外资外汇登记。
- 境外机构和个人在境内银行开立的外国投资者专用外汇账户内的资金，不得用于房地产开发和经营。

国家外汇管理局于 2006 年 8 月 24 日发布汇综发[2006]73 号文《关于调整部分服务贸易项下售付汇政策有关问题的通知》规定：

- 对境外机构支付等值 5 万美元以下（含 5 万美元），对境外个人支付等值 5 千美元以下（含 5 千美元）国际空运和陆运项下运费及相关费用时，可持合同（协议）或发票（支付通知书）直接到外汇指定银行办理购付汇手续；超过上述限额的，需持空运或陆运单清单（传真件）、发票（支付通知书）直接到外汇指定银行办理购付汇手续。
- 对出口项下单笔不超过合同总金额 10% 或者虽超过上述比例但未超过等值 10 万美元的佣金售付汇，可凭相关单证直接到外汇指定银行办理。
- 保税区、出口加工区等海关特殊监管区域适用本通知。

Enterprise Income Tax

The MOF and the SAT issued Circular Regarding Adjusting Deduction Policy For Salary Expenditure Before Enterprise Income Tax (Cai Shui [2006] No. 126) on 1 September 2006, which stipulates:

- Starting from 1 July 2006, the deduction limit of staff salary per person for domestic enterprises shall be adjusted to be RMB 1,600 per capita. The portion of salary amounts actually paid by enterprises within the above-said deduction limit is allowed to be deducted on an actual basis before enterprise income tax.
- The salaries paid by enterprises before 30 June 2006 shall be treated according to the deduction criteria before the policy adjustment. The portion of salaries that exceeds the deduction criteria shall in no case be carried forward to the latter six (6) months (latter half) of this year for a deduction purpose.
- All kinds of working compensation and other related expenditures including bonus, allowance, subsidy and other expenditures with a salary nature paid by enterprises shall be included in total salary amounts of the enterprises.

Taxation Administration

Shanghai Finance Bureau and Tax Bureau issued Implemental Opinions On Further Regulating Administration Of Tax Levying Upon Local Real Estate Trade Market (Hu Di Shui Zheng [2006] No.8) on 29 August 2006. The key points are:

- In administering tax levying, “one-window” type of administration will be adopted, including opening windows specially for “second-hand houses” related tax filing with such responsibilities as: processing, reviewing, and issuing certificates for paying such taxes or certificates for completing payments of such taxes as deed tax, business tax, individual income tax, land appreciation tax, stamp duty relative to “secondhand houses” trade; “Unified Invoice For Real Estate Sale In Shanghai”, “Payment Notification On Individual Income Tax Deposit For Individual-owned Property Transfer”, “Special Receipt For Tax Custodial Fund, Notice On Opening Special Bankbooks For Tax Deposit Refund”, refunding individual income tax deposits etc..

The SAT issued Provisional Measures For Real Property, Construction Industry Business Tax Project Administration And Invoice Use Administration (Guo Shui Fa [2006] No.128) on 24 August 2006, which requires that:

- In case of selling real properties, or providing taxable services in construction industry, taxpayers shall go through the relative formalities of real property and construction engineering project registration with their competent tax authority in the places where the real properties are located or taxable services in construction industry occur with relative supporting documentation, within thirty (30) days from concluding real property sale contracts or construction industry engineering contracts and obtaining construction permits;
- In case of selling up real properties and deregistering construction industry projects upon completion of the projects, taxpayers shall go through the relative formalities of project registration with their

competent tax authority in the places where the real properties are located or taxable services in construction industry occur with relative supporting documentation, within thirty (30) days from selling up real properties and completing construction industry projects.

- In case of providing taxable services in construction industry in the places where taxpayer-institutions are not located, the taxpayers shall also go through the relative formalities of project registration with their competent tax authority in the places where the institutions are located according to regulations or rules.

Foreign Exchange Administration

The State Administration of Foreign Exchange (“SAFE”) and the Ministry of Construction issued Circular Regarding Standardizing Real Estate Market Foreign Exchange Administration (Hui Fa [2006] No.47) on 1 September 2006, which stipulates:

- In the event that branches, representative institutions established in the PRC by oversea institutions purchase for self use in the places where they are registered commodity premises in line with actual needs, the prescribed procedures shall be followed;
- Oversea individuals that domicile for work or study in the PRC for more than one (1) year can purchase for self use commodity houses in line with actual needs, and go through the formalities of foreign exchange according to regulations or rules;
- Residents from Hong Kong, Macau and Taiwan, and overseas Chinese, for living needs, can purchase for self use commodity houses that meet the requirements for area size in the PRC, and go through the formalities of foreign exchange according to regulations or rules;
- In the event that foreign invested real property enterprises have not fully paid their registered capital, or have not obtained “Certificate For State-owned Land Use”, or their capital amounts for developing projects have not reached 35% of their total investment amounts, they can in no case borrow foreign loans from oversea, and no foreign loan registration and approval of foreign exchange settlement for foreign loans shall be processed by administrative bureaus of foreign exchange;
- In the event that overseas institutions and individuals that conduct mergers or acquisitions of domestic real estate enterprises by equity transfer or other means or purchase equity shares held by Chinese parties of equity joint ventures, fail to make full payments for transfers with their own funds in one installment, no registration of receiving foreign exchange for equity transfer, foreign investment and foreign exchange shall be processed in administrative bureaus of foreign exchange;
- Funds that overseas institutions and individuals deposit in foreign exchange accounts specially for foreign investors’ use in domestic banks can in no case be used for real estate development and operation.

The SAFE issued Circular Regarding Adjusting Policy For Selling Foreign Exchange Under Some Accounts For Trade In Services (Hui Zong Fa [2006] No.73) on 24 August 2006, which stipulates:

- In the event that foreign institutions and/or foreign individual need to pay freight and relative expenses under the accounts for international air and overland transportation which is less than USD 50,000 or equivalent (inclusive) in the case of foreign institutions, and less than USD 5,000 or equivalent (inclusive) in the case of foreign individuals, they can directly go through the formalities

of purchasing foreign exchange at designated foreign exchange banks with supporting documentation such as contracts (agreements) or invoices (payment notification letters); in the event that the payments exceed the above-said limits, air or overland transportation lists (fax copies) and invoices (payment notification letters) are needed for going through the formalities of purchasing foreign exchange at designated foreign exchange banks.

- In the event that a single transaction of selling and paying foreign exchange for commission under the export account doesn't exceed 10% of total contract amount or doesn't exceed USD 100,000 or equivalents even though it exceeds the above-said percentage, the transaction can be processed directly at designated foreign exchange banks with supporting relative documentation.
- The Circular is applicable to such special areas of the Customs supervision as bonded zones, export processing zones.

What's New

- National Development and Reform Commission, the MOF and the SAT jointly issued Administrative Measures For Designating Resource Comprehensive Utilization Encouraged By The State (Fa Gai Huan Zi [2006] No.1864) on 7 September 2006, on a basis of revisions to Administrative Measures For Designating Resource Comprehensive Utilization (Guo Jing Mao Zi Yuan [1998] No.716) and Administrative Measures For Designating Power Plants (Machine Sets) With Resource Comprehensive Utilization (Guo Jing Mao Zi Yuan [2000] No.660) issued by the government authorities including the State Economic and Trade Commission.

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