

## 个人所得税

国家税务总局于2006年11月6日发布国税发[2006]162号文《关于印发〈个人所得税自行纳税申报办法（试行）〉的通知》内容为：

- 自2006年起，规定条件下的个人收入除代扣代缴外，还需在次年自行纳税申报；
- 需自行申报的个人为：
  - 年所得12万元以上的；
  - 从中国境内两处或者两处以上取得工资、薪金所得的；
  - 从中国境外取得所得的；
  - 取得应税所得，没有扣缴义务人的；
  - 国务院规定的其他情形。
- 即使平常取得收入已经足额缴纳了税款，年终还需进行纳税申报；
- 申报地点分别为受雇单位所在地主管税务机关、选择固定地申报和户籍所在地主管税务机关。
- 申报时间分别为：
  - 年所得12万元以上的纳税人→纳税年度终了后3个月内申报；
  - 个体工商户和企业承包者→纳税年度终了3个月内进行汇算清缴；
  - 境外取得所得者→纳税年度终了后30日内申报；
  - 其他需申报的个人→取得所得的次月7日内申报。
- 纳税人可以委托有税务代理资质的中介机构或者他人代为办理纳税申报。

☞ 编者按：这是国家税务局的重大新举措，将涉及众多人的收入申报问题，存在许多政策上和操作上的关注点，敬请随我们对该项工作进程的关注。

国家税务总局于2006年11月14日发布国税函[2006]902号文《关于个人股票期权所得缴纳个人所得税有关问题的补充通知》就财税[2005]35号文的执行情况作出补充强调。

主要内容有：

- 明确了股票期权的转让净收入问题；
- 明确了每股施权价问题；
- 取得股票期权的员工在行权日不实际买卖股票，而按行权日股票期权所指定股票的市场价与施权价之间的差额，直接从授权企业取得价差收益的，该项价差收益应作为员工取得的股票期权形式的工资薪金所得；
- 员工取得可公开交易的股票期权，属于员工已实际取得有确定价值的财产，应按授权日股票期权的市场价格，作为员工授权日所在月份的工资薪金所得；
- 员工取得可公开交易的股票期权后，转让该股票期权所取得的所得，属于财产转让所得；
- 员工取得可公开交易的股票期权后，实际行使该股票期权购买股票时，不再计算缴纳个人所得税；



## **Individual Income Tax (“IIT”)**

**The State Administration of Taxation (the “SAT”) issued Circular On Printing “Measures for Individual Income Tax Payment by Self-Declaration (Trial)” (Guo Shui Fa [2006] No.162) on 6 November 2006, the contents of which are:**

- Starting from the year of 2006, individuals under the prescribed conditions shall file tax returns and pay tax by themselves in the year following the year when receiving their incomes which are also required to be withheld and paid by withholding agents.
- Those that are required to file tax returns and pay tax by themselves are individuals who:
  - have an annual income of more than RMB 120,000;
  - derive income from wages and salaries from two or more units in the territory of China;
  - derive income outside the territory of China;
  - derive income without a withholding agent;
  - are under other circumstances provided by the State Council.
- The individuals are required to file tax returns and pay tax at the end of a year, even if they usually have paid in full amounts of tax upon the receipts of income ;
- The locations of filing are respectively the competent tax authority where an employer is located, or in which a permanent filing location is selected to be and where “Hukous” of the individuals are registered.
- The timings are:
  - For a taxpayer with an annual income of more than RMB 120,000, within 3 months after the end of the tax year for the purpose of filing tax returns;
  - For individual industrialists and merchants and individual contractors or lessee for the operation of enterprises, within 3 months after the end of the tax year for the purpose of the final settlement of tax payment;
  - For an individual deriving income outside the territory of China, within 30 days after the end of the tax year for the purpose of filing tax returns;
  - For other individuals who need to handle the tax filing, within 7 days in the following month upon the receipts of income.
- Taxpayers can entrust intermediary agents with qualifications of taxation agency service or others to handle the tax filing on their behalf.

✎ **Editorial Comments:** This is a new measure of significance taken by the SAT, which will have an impact on the tax-filing issue of a large population of people. There are a lot of points to note in terms of policy and implementation. Please follow us to pay attention to the progress of such work.

**The SAT issued the Supplementary Notice on Issue of Individual Income Tax Payment on Benefits from Share Option (Guo Shui Han [2006] No.902) on 14 November 2006, to provide further clarifications on the application of the Cai Shui [2005] No.35. The key points are:**

- Providing clarification on the issue of net proceeds derived from the transfer of share options;
- Providing clarification on the issue of exercise price of each share;
- If the employee is granted with the share options and earns the spread (between the market price and the exercise price of shares at the date of vesting) from the employer without going through actual purchase or sale of the shares on the date of vesting, the benefits from the spread will be treated as income from wage and salary in the form of share option;

- Where the employees are given share options which are ready for public trading, it is interpreted as the employees actually obtain property with the determined values, which will be calculated according to the market prices of the share options at the date of option grant and treated as income from wage and salary of the month when the date of option grant occurs.
- After the employees are given share options which are ready for public trading, the incomes derived from the transfer of such share options shall be treated as income from transfer of property;
- After the employees are given share options which are ready for public trading, subsequent exercise of such share options and purchase of shares will be exempt from IIT;
- Where the employees receive income from wage and salary in the form of share option sourced from the territory of China more than once, or more than one income at a time, and there are different periods of months of working in the territory of China when the income from wage and salary in the form of share option is received each time or when the different incomes are received, the weighed average of months of working in the territory of China will be the prescribed period of months which, however, shall not exceed 12 months.

### **Administration of Valued Added Tax Invoice**

**The SAT issued Circular on Amendments to “Provisions on Usage of Special Valued Added Tax Invoice” (Guo Shui Fa [2006] No.156) on 17 October 2006, the contents of which are:**

- General taxpayers shall use special VAT invoices through VAT Anti-fake and Controlling System. So-called “use” includes “to purchase, issue, submit and cancel, ascertain paper special invoices and their corresponding electronic data”.
- Maximum limit of invoices issued is adopted in the administration of special invoices.
- General taxpayers shall apply to the competent tax authorities for alternation in issuance of invoice in case of changes in information including name of enterprise, maximum limit of invoices issued, maximum limit of invoices purchased, name of personnel purchasing invoices, secret code, amount of machines for issuance of invoices, and other information prescribed by the SAT; and shall apply to the competent tax authorities for deregistration in case of changes in information of tax registration code.
- General taxpayers that are commercial enterprises shall not issue special invoices for consumer’s products including cigarette, alcohol, food, apparel, shoe and hat/cap (except for those specially designed for labor protection), cosmetics for retail.
- General taxpayers shall file tax returns with the competent tax authorities within the period of filing VAT in case of issuing special invoices, and can handle the filings with the competent tax authorities at several times within the said period of filing.
- The Circular shall go into effect as of 1 January 2007.

## **Tax Administration of Associated Enterprises**

The SAT issued Circular on Issues of Administration of Tax on Transfer Pricing in Business Transactions between Affiliated Enterprises (Guo Shui Han [2006] No.901) on 3 November 2006, to give provisions on tax administration as follows:

- In the event that an enterprise doesn't go through corresponding procedures to make corresponding adjustments in accounting in respect to the enterprise's taxable income (excluding incomes of interest, rental or royalties) adjusted upwards due to transfer pricing in business transactions between the enterprise and its foreign affiliated enterprise(s), the portion of gains obtained by its foreign affiliated enterprise(s) that exceeds what should be obtained in case of the absence of affiliated relationship shall be subject to income tax as income from dividend distribution, and such dividend shall not enjoy the income tax preferential policies on exemption.
- In the event that an enterprise's taxable income adjusted downwards due to transfer pricing in business transactions between the enterprise and its foreign affiliated enterprises is derived from interest, rental or royalties, the income tax that is already accrued and paid shall not be adjusted.

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