

增值税

国家税务总局于 2007 年 3 月 22 日发布国税函[2007]350 号文《关于纳税人进口货物增值税进项税额抵扣有关问题的通知》明确规定：

- 纳税人进口货物取得的合法海关完税凭证，是计算增值税进项税额的唯一依据，其价格差额部分以及从境外供应商取得的退还或返还的资金，不作进项税额转出处理。

财政部、国家税务总局于 2007 年 5 月 11 日发布财税[2007]75 号文《中部地区扩大增值税抵扣范围暂行办法》内容为：

- 本次扩大增值税抵扣的中部地区指山西、安徽、江西、河南、湖北、湖南；
- 可抵扣的行业为制造业、石油化工业、冶金业、汽车制造业、农产品加工业、电力业、采掘业、高新技术产业为主的增值税一般纳税人；
- 下列项目的进项税额在上述地区内准予抵扣：
 - 购进固定资产；
 - 用于自制固定资产的购进货物或增值税应税劳务；通过融资租赁方式取得的固定资产；
 - 为固定资产所支付的运输费用；
- 可抵扣进项的日期为纳税人自 2007 年 7 月 1 日起实际发生，并取得 2007 年 7 月 1 日以后开具的增值税专用发票、交通运输以及海关进口增值税合法扣税凭证。

外商投资企业和外国企业所得税

国家税务总局于 2007 年 4 月 5 日发布国税函[2007]408 号文《关于外商投资企业和外国企业取得政府补助有关所得税处理问题的批复》内容有：

- 按照法律、行政法规和国务院规定，企业取得的政府补助免于征收企业所得税的，企业按接受投资处理，不纳入企业的应纳税所得额。
- 政府补助的资产为企业长期拥有的非流动资产或企业虽以流动资产形式取得政府补助，但已经或必须按政府补助条件用于非流动资产的购置、建造或改良投入的，该政府补助额不记入企业当期损益，但应对以该政府补助所购置或形成的资产，按扣减该政府补助额后的价值计算成本、折旧或摊销。
- 企业取得的其他政府补助额应计入企业当期损益计算缴纳企业所得税。

国家税务总局于 2007 年 4 月 16 日发布国税函[2007]426 号文《关于外商投资产品出口企业出口产品产值比例确定问题的批复》明确：

- 产品出口企业的相关税收优惠适用于该企业的全部所得，既包括企业的自产产品销售所得，也包括其外购产品的销售所得，所称当年出口产品产值和当年产品产值的口径应一致，均包括销售外购产品的产值。

两地税收安排

国家税务总局于 2007 年 4 月 4 日发布国税函[2007]403 号文《关于〈内地和香港特别行政区关于对所得避免双重征税和防止偷漏税的安排〉有关条文解释和执行问题的通知》

- 2006 年 8 月 21 日内地与香港特别行政区正式签署了《内地和香港特别行政区关于对所得避免双重征税和防止偷漏税的安排》，该《安排》于 2007 年 1 月 1 日起在内地执行。本文是再次对《安排》中有关条文作进一步的解释。

☞ 编者按：2008 年 1 月 1 日起将实施内外资统一的《中华人民共和国企业所得税法》，由此外商投资现有的一些优惠政策将被取消。然而，鉴于《安排》和《税收协定》的地位优于国内法，在税收法规与《安排》和《税收协定》规定不一致时，应以《安排》为准。但当税收法规所规定的待遇优于《安排》时，可以按照税收法规处理。为此我们需更加关注其有关定义和征、免税内容。

个人所得税

国家税务总局于 2007 年 4 月 4 日发布国税发[2007]38 号文《关于加强和规范个人取得拍卖收入征收个人所得税有关问题的通知》内容为：

- 作者将自己的文字作品手稿原件或复印件拍卖取得的所得，应按照“特许权使用费”所得项目适用 20% 税率缴纳个人所得税。
- 个人拍卖除文字作品原稿及复印件外的其他个人财产，应按照“财产转让所得”项目适用 20% 税率缴纳个人所得税。
- 对个人财产拍卖所得征收个人所得税时，以该项财产最终拍卖成交价格为其转让收入额。
- 纳税人如不能提供合法、完整、准确的财产原值凭证，不能正确计算财产原值的，按转让收入额的 3% 征收率计算缴纳个人所得税；拍卖品为经文物部门认定是海外回流文物的，按转让收入额的 2% 征收率计算缴纳个人所得税。
- 本通知自 2007 年 5 月 1 日起执行。

车船税

国家税务总局于 2007 年 4 月 29 日发布国税发[2007]55 号文《关于做好车船税代收代缴工作的通知》明确：

- 从事机动车交通事故责任强制险业务的保险机构为机动车车船税的唯一扣缴义务人。

Foreign Investment Enterprises Income Tax (FEIT)

SAT issued Reply on Treatment of Income Tax on Government Subsidy Obtained by FIEs and FEs (GuoShuiHan [2007]No.408) on April 5, 2007, and key points include:

- According to the laws, administrative regulations and the provisions of the State Council, the government subsidy obtained by the enterprises shall be exempted from enterprise income tax, and such government subsidy shall be treated as investments. The income of the government subsidy shall not be calculated into the amount of taxable incomes of the enterprises.
- If government subsidy is treated as a non-current asset owned by enterprise for a long term, or government subsidy obtained by enterprise as a current asset has been or must be used for purchase, construction or improvement of a non-current asset based on certain condition, the government subsidy shall not be put in enterprise's profit or loss of the period. Otherwise, amount of government subsidy shall be deducted when calculating cost, depreciation or amortization of the assets connected with the government subsidy.
- Other government subsidy derived by enterprises shall be put in profit or loss of the period as taxable income of enterprises.

SAT issued Reply on Determination of Production Value Proportion of Exported Products of Foreign-invested Export-oriented Enterprises (GuoShuiHan[2007]No.426) on April 16, 2007, stipulating definitely that

- Tax incentive applicable for export-oriented enterprises aims at the total income of an enterprise, which includes both the income from the sales of its self-made products and the income from the sales of purchased products. The standards for calculating the value of the products exported in that year and for calculating the total output value in that year shall be consistent, and both of the two values include the value of sales of the purchased products.

Taxation Arrangement between the Mainland of China and Hong Kong

SAT issued Circular on Explanation and Implementation of Certain Items of Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for Avoidance of Double Taxation on Income and Prevention of Tax Evasion and Tax Dodging (GuoShuiHan[2007]No.403) on April 4, 2007, stating that:

- The Mainland of China and Hong Kong Special Administrative Region officially signed Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for Avoidance of Double Taxation on Income and Prevention of Tax Evasion and Tax Dodging on August 21, 2006, and the Arrangement came into effect on January 1, 2007 within the Mainland of China. This article is provided to make further explanation on relevant items of the Arrangement.

☞ Editorial comments: Newly-promulgated Corporate Income Tax of People's Republic of China, which unifies the two separate enterprise income tax regimes for domestic-invested enterprises and foreign-invested enterprises into a single regime, will come into effect on January 1, 2008; and existing preferential policy of tax for FIEs will be partly cancelled. Since positions of the Arrangement and Tax Agreement are prior to the domestic tax law, the Arrangement will be prevailing when they are not in conformity with the PRC tax law and relevant regulations. If the tax incentive items in the tax law and regulations are more beneficial to enterprises than the Arrangement, the tax law and regulations could be prevailing. Thus, we should pay more attention to definitions and detailed provisions of tax collection and tax exemption.

Individual Income Tax (IIT)

SAT issued Circular on Issues about Strengthening and Standardizing the Collection of IIT on the Individual Income Arising from Auctions (GuoShuiFa[2007]No.38) on April 4, 2007, stipulating that

- As for the income obtained by writers from auctioning the originals or photocopies of their manuscripts, IIT shall be levied under the item of "income from franchise royalties" and on the basis of the tax rate of 20%.
- As for the income obtained by individuals from the auctioning of property other than the originals and photocopies of manuscripts of writings, individual income tax shall be levied under the item of "income from property transfer" and on the basis of the tax rate of 20%.
- When collecting IIT on auction of personal properties, the final auction price of the properties shall be revenue of properties transfer.

- If the taxpayer could neither provide legal, complete and accurate evidence of original value of the auctioned properties, nor calculate accurately the original value of the properties, the IIT payable shall be calculated at the rate of 3% of properties transfer revenue. If the auctioned article is appraised to be overseas returned cultural relic by Cultural Relic Administration, the IIT payable shall be calculated at the rate of 2% of properties transfer revenue.
- This Circular came into effect on May 1, 2007.

Vehicle and Vessel Tax

SAT issued Circular on Perfecting the Act of Withholding Agent of Vehicle and Vessel Tax (GuoShuiFa[2007]No.55) on April 29, 2007, stating definitely that

- Insurance institutions engaging in compulsory traffic accident liability insurance for motor vehicles shall be the only withholding agent of vehicle and vessel tax for motor vehicles.

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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