

最新消息： 国务院已经原则通过《企业所得税法实施条例》，该条例草案由国务院公布施行。

☞ 编者按：请各企业特别关注、研究该《实施条例》。

消费税

国家税务总局于 2007 年 11 月 2 日发布国税函[2007]1071 号文《关于沙滩车等车辆征收消费税问题的批复》内容为：

- 沙滩车、雪地车、卡丁车、高尔夫车不属于消费税征收范围，不征收消费税。

个人所得税

国家税务总局于 2007 年 10 月 9 日发布国税函[2007]1030 号文《关于阿里巴巴（中国）网络技术有限公司雇员非上市公司股票期权所得个人所得税问题的批复》内容为：

- 现行有关个人股票期权所得征收个人所得税的规定，仅适用于以上市发行的股票。公司雇员以非上市公司股票期权形式取得的工资薪金所得，不能按照财税[2005]35 号规定缴纳个人所得税。
- 公司雇员以非上市公司股票期权形式取得的工资薪金所得，在计算缴纳个人所得税时，因一次收入较多，可比照全年一次性奖金的征税办法，计算征收个人所得税。
- 公司雇员以非上市股票期权形式取得所得的纳税义务发生时间，按雇员的实际购买日确定，其所得额为其从公司取得非上市股票的实际购买价低于购买日该股票价值的差额。
- 购买日股票价值可暂按其境外非上市母公司上一年度经中介机构审计的会计报告中每股净资产数额来确定。

征收管理

国家税务总局于 2007 年 11 月 2 日发布国税函[2007]1077 号文《关于清理简并 报送涉税资料有关问题的通知》内容为：

- 清理结果将涉税资料分为取消、减少和保留三类，税务部门内对于取消和减少的资料，通过计算机系统达到内部纳税人资料共享。
- 取消的办税业务 31 项，不再要求纳税人办理此类业务；
- 减少的主表 18 张，报送份数 195 份，附列资料 375 项，不再要求纳税人提供这些涉税资料；
- 自 2008 年 1 月 1 日起执行。

随着国务院下发对全国产品质量和食品安全监督管理的文件（国务院令第 503 号文）后，工商和税务部门也相继出台了相关的文件

国家工商局发布工商办字[2007]176 号文《国务院关于加强食品等产品质量监督管理的特别规定》的实施意见。内容包括：

- 严格市场主体准入，确保生产经营主体资格合法有效。对按照规定应当取得前置审批的，要坚持先证后照，未依法取得前置审批手续的，不得办理登记注册；
- 对被吊销许可证或许可证到期的，及时责令其限期办理变更登记或依法办理注销登记，逾期不办的吊销营业执照；

国家税务总局于 2007 年 10 月 10 日发布国税函[2007]1032 号文《关于在全国产品质量和食品安全专项整治中加强税务管理的通知》内容包括：

- 严格做好从事相关产品生产经营的纳税人的开业、变更、停业、复业、注销、外出经营报验等登记管理工作。
- 要求纳税人将税务登记证件正本在其生产经营的场所或者办公场所公开悬挂，随时接受检查。
- 对食品生产加工企业、食品流通企业、餐饮行业、涉及人身健康和安全的产品生产企业、进出口产品企业销售产品开具发票情况进行严格管理。

出口关税政策

海关总署发布 2007 年第 61 号令公告。内容为：

- 除法律法规有明确规定可以免征出口关税外，对外商投资企业出口的应税商品，一律照章征收出口关税。

动态信息

- 国家发展改革委和商务部最近联合颁布了《外商投资产业指导目录（2007 年修订）》，自 2007 年 12 月 1 日起施行。此次调整将房地产行业的投资行为全部列入“限制”行列。在制造业领域，此次调整中鼓励类别产品档次比 2004 年版本明显提高。
- 中国将逐步取消服务领域对外商投资在地域、股权、应用范围等方面的限制，同时，不再实施单纯鼓励出口的外商投资政策，限制或禁止高物耗、高污染外资项目进入。
- 今年以来，商务部以及外管局等部门先后发布多个房地产行业限外政策，其中包括 5 月 23 日联合发布的《关于进一步加强、规范外商直接投资房地产业审批和监管的通知》（50 号文），规定外商投资内地房地产项目必须通过审批。与此同时，未来所有由地方部门审批的外资房地产公司必须上报商务部备案。7 月份《国家外汇管理局综合司关于下发第一批通过商务部备案的外商投资房地产项目名单的通知》（130 号文）对外资公司结汇进行了严格限制。这些措施虽没有明令禁止外商投资进入房地产领域，但外商投资中国房地产行业已相当困难，除审批时期延长之外，境外资金结汇困难程度也大大增加。
- 一年一度的年收入 12 万元以上个人个人所得税自行申报工作又在税务部门内部积极准备着，今年将在去年的基础上做进一步的完善。自 2008 年 1 月 1 日起，年所得 12 万元以上的纳税人，将使用修订后的申报表进行申报。

- The purchase day shall be the date of tax imposed on employees' wages/salaries earned in the form of stock options of non-listed company. The taxable income is the difference between the price paid for stock options and the market price of stock options sold.
- The value of shares purchased may be determined by using the value of net asset per share quoted from the last-year audit report of its offshore non-listed parent company provided by the accounting intermediaries.

Tax Levying Administration

On November 2nd, 2007, regarding issues of simplifying and cleaning up tax-related information submitted by tax payers (Guo Shui Han [2007] No.1077), State Administration of Taxation (SAT) stipulated that:

- As a result, the tax-related information is split into three parts: cancellation, simplifying and reservation. Tax authorities will share the information tagged cancellation and simplifying with internal tax payers through internet.
- 31 cancelled tax –related applications are no longer required for operations.
- 18 reduced main forms, 195 copies, and 375 supplements are no longer required for submission.
- This regulation will be effective on Jan. 1st, 2008.

In response to the regulation promulgated by the State Council of the PRC for the quality of products and the safety of food control & management (the State Council Ordinance No.503), State Administration of Industry and Commerce and tax authorities issued several Circulars/regulations as follows:

The implementation guideline corresponding to the special regulation issued by the Central Government of the PRC regarding enhancement of control & management of the safety of food and other products (Gong Shan Ban [2007] No. 176) promulgated that:

- Strictly controlling the permission for goods sale and making sure all permitted enterprises/entities are qualified and legal. For those obtained advanced approval, please continue to insist on having required documents before issuing the business license. Without approval, entity registration must not be granted.
- For those enterprises/entities with suspension or expiration of business license, change of registration record in a limited period of time or write-off in accordance with laws shall be applied in time. Otherwise, suspension of business license will be considered as a punishment for the violation of such regulation.

On October 10, 2007, regarding in the special rectification of the product quality and food safety to strengthen taxation administration (Guo Shui Han [2007] No.1032), State Administration of Taxation (SAT) stipulated that:

- Strictly working on monitoring and reporting for tax payers' registration of business opening, change of registration record, suspension of business, resume of business, write-offs and operation in other locations.
- Taxpayers will be asked to hang their original tax registration documents in their places of production or operation of office space open at any time for inspection.
- Food production and processing enterprises, food circulation enterprises, catering trades involving personal health and safety product manufacturing enterprises, import and export products enterprise are targets for sales invoicing under the strict control.

Import/Export Tariff Policy

China Customs promulgated that:

- In addition to laws and regulations are clearly defined, foreign-invested enterprises may be exempted from export tariffs on the export of foreign-invested enterprises taxable commodities, export tariffs will be levied according to the regulations (Hai Guan Zong Su Gong Gao [2007] No. 61).

What's new?

- National Development and Reform Commission and Ministry of Commerce of the PRC recently jointly promulgated the《Industrial Investment Catalog for Foreign Investor (Year 2007 Amendment)》, which was executed as of December 1, 2007. Investments from real estate industry is restricted in the ranks of all acts in the current adjustment. For the manufacturing field, the grade of product in the encouraged product category is remarkably improved during the period of the current adjustment than it in the year 2004 version.
- China will gradually abolish the restrictions on foreign services trading in geographic areas, equity share, application practice and etc. Meanwhile, in order to restrict or prohibit the entry of projects in high material consumption and high pollution, foreign investment policies for goods exports has no longer been simply implemented.
- Since year 2007, the Ministry of Commerce of the PRC, State Administration of Foreign Exchange (SAFE) and other departments have issued a number of policies to limit foreign investments on real estate industry include the jointly promulgated Circular on May 23 regarding further strengthening and regulating the norm of approval and monitoring on direct foreign investment in the real estate industry (Circular No. 50), which stipulates that foreign investments in the domestic real estate industry must be approved in advance. In addition, in the future, all applications for setting up new real estate companies filed by oversea investors, which are typically approved by local Governments must be submitted to the Ministry of Commerce of the PRC for registration. In July, Circular issued by State Administration of Foreign Exchange regarding the first batch of approved check list for those foreign invested real estate projects that were registered at the Ministry of Commerce of the PRC (No.130 Wen) greatly restricts the foreign currency exchange. Although it does not expressly prohibit foreign investors from investing on real estate industry, it has made foreign investments in China real

estate projects much more difficult than they invested in the past. For example, not only the working days for approval have been extended, but also, the difficulty of foreign currency exchange has been increased.

- In order to further improve the quality of service, tax authorities are actively preparing for the automatic filing of individual income tax by those who have annual income of over RMB 120,000. Since January 1st, 2008, taxpayers whose annual income is over RMB 120,000 are required to use amended tax filing forms for tax filing.
- Agreement between the Government of the People's Republic of China and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was taken effect on September 18, 2007. Since January 1st, 2008, in the event that a company directly holds at least 25% of the capital of the company who is liable for paying dividend, tax on the dividend payable shall be decreased to less than 5% of total amount of the dividend.

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