

## 个人所得税

- 2007年度年收入12万人民币元以上个人的申报工作即将开始，申报到三月底截止。纳税人不涉及补税、退还个人所得税税款的，可以采用上门申报、邮寄申报或网上申报方式，涉及补缴、退还的，应到主管税务机关办税服务厅办理自行申报。2007年度中有少报、未报个人所得税的，可以一并借此机会补报，由此可避免产生滞纳金。
- 2008年3月1日起个人所得税税前可抵扣数由每月1,600元上升至每月2,000元，而外籍人员税前可抵扣数维持每月4,800元不变。

## 增值税

国家税务总局于2007年12月12日发布国税函[2007]1240号文《关于纳税人善意取得虚开增值税专用发票已抵扣税款加收滞纳金问题的批复》内容为：

- 纳税人善意取得虚开的增值税专用发票指购货方与销售方存在真实交易，且购货方不知取得的增值税专用发票是以非法手段获得的。
- 如能重新取得合法、有效的专用发票，准许其抵扣进项税款；
- 如不能重新取得合法、有效的专用发票，不得抵扣进项税款，追缴其已抵扣的进项税款，但不加收滞纳金。

## 企业所得税

继《实施企业所得税过渡优惠政策》后，国务院又于2007年12月26日发布《经济特区和上海浦东新区新设立高新技术企业实行过渡性税收优惠的通知》明确：

- 国家需要重点扶持的高新技术企业，是指拥有核心自主知识产权，同时符合《中华人民共和国企业所得税法实施条例》第九十三条规定的条件，并按照《高新技术企业认定管理办法》认定的高新技术企业。
- 经济特区和上海浦东新区内新设高新技术企业同时在经济特区和上海浦东新区以外的地区从事生产经营的，应当单独计算其在经济特区和上海浦东新区内取得的所得，并合理分摊企业的期间费用；没有单独计算的，不得享受企业所得税优惠。
- 在按照本通知的规定享受过渡性税收优惠期间，由于复审或抽查不合格而不再具有高新技术企业资格的，从其不再具有高新技术企业资格年度起，停止享受过渡性税收优惠；以后再次被认定为高新技术企业的，不得继续享受或者重新享受过渡性税收优惠。

国家税务总局于 2007 年 12 月 18 日发布国税函[2007]1272 号文? 《关于企业之间相互提供担保发生担保损失税前扣除问题的批复》规定:

- 企业之间签订贷款互保合同, 相互提供的贷款担保, 与企业的融资活动密切相关, 因此, 签订贷款互保合同的一方(担保企业)为另一方(被担保企业)提供的贷款担保, 在被担保企业为担保企业所提供的贷款担保总额之内(含)的部分, 应认为与其本身应纳税收入有关。
- 担保企业为被担保企业提供贷款担保, 因承担担保连带责任所发生的损失, 在被担保企业为担保企业所提供的贷款担保总额之内(含)的部分可税前扣除, 超过被担保企业为担保企业所提供的贷款担保总额的部分, 不得扣除。

## 土地增值税

国家税务总局于 2007 年 12 月 29 日发布国税发[2007]132 号文《关于印发〈土地增值税清算鉴证业务准则〉的通知》强调:

- 为了认真执行《国家税务总局关于房地产企业土地增值税清算管理有关问题的通知》(国税发[2006]187 号文), 配套制订本准则;
- 可以从事土地增值税的鉴证工作的中介机构为被纳入税务机关行政监管并通过年检的税务师事务所。
- 税务师事务所按照本准则的规定出具的鉴证报告, 税务机关应当受理。

## 出口退税

国家税务总局于 2008 年 1 月 7 日发布国税函[2008]5 号文《关于委托加工出口货物消费税退税问题的批复》内容有:

- 出口企业委托其他企业加工再收回后出口的应税消费品, 可比照执行免、抵、退税企业出口退税办法办理消费税退税手续。
- 生产企业在申报消费税退税时, 还应附送征税部门出具的“出口货物已纳消费税未抵扣证明”。
- 对已在内销应税消费品应纳消费税中抵扣的, 不能办理消费税的退税。

国家税务总局于 2008 年 1 月 8 日发布国税函[2008]8 号文《关于生产企业正式投产前委托加工收回同类产品出口退税问题的通知》明确:

- 生产企业正式投产前, 委托加工的产品与正式投产后自产产品属于同类产品, 收回后出口, 并且是首次出口的, 不受“出口给进口本企业自产产品的外商”的限制。若同时满足原文件中的其他条件, 主管税务机关在严格审核的前提下, 准予视同自产产品办理出口退(免)税。

## 契税

财政部、国家税务总局于 2007 年 12 月 11 日发布财税[2007]162 号文《关于土地使用权转让契税计税依据的批复》内容为:

- 土地使用者将土地使用权及所附建筑物、构筑物等(包括在建的房屋、其他建筑物、构筑物和其他附着物)转让给他人的, 应按照转让的总价款计征契税。



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## **Corporate Income Tax (CIT)**

**Following the issuance of Implementation of Transitional Preferential CIT Policy, the State Council issued Circular on Transitional Preferential Tax Policy Applicable for Newly-formed High-tech Enterprises in Special Economic Regions and Shanghai Pudong District on Dec. 26, 2007, stipulating that:**

- High-tech enterprises specially encouraged by the State are defined as such high-tech enterprises that have independent intellectual property right, and meet the requirement prescribed by the article 93 in the Regulations for Implementation of CIT Law of PRC, and get identified according to Measures for Identification and Management of High-tech Enterprises.
- If a newly-formed high-tech enterprise in the special economic regions or Shanghai Pudong also engages in business or production at a place out of the two above-said areas, its income derived from the special economic regions or Shanghai Pudong shall be separately calculated, and its period expenses shall be reasonably allocated; otherwise, the enterprise shall not be allowed to enjoy the preferential CIT policy.
- When enjoying the transitional preferential tax policy prescribed by this Circular, enterprises that fail to pass the reexamination and accordingly lose the qualification for being high-tech enterprise shall no longer enjoy the transitional preferential tax policy since the year of cancellation of such qualification, even if the enterprises would be identified again as high-tech enterprises.

**SAT gave Reply to the Issue of Pre-tax Deduction of Loss Related to Mutual Loan Guaranties Between Enterprises (Guo Shui Han [2007]No.1272) on Dec. 18, 2007, stipulating that:**

- Signing mutual loan guaranties agreements and providing mutual loans guaranties between enterprises are closely connected with corporate financing activities. Therefore, in such an agreement, the part of the value of guaranty provided by the guarantor for the guaranteed party, which is no more than the value of guaranty provided by the guaranteed party for the guarantor, shall be considered to have connection with taxable income.
- A guarantor providing loan guaranty for a guaranteed party may incur loss caused by joint liability. The part of the loss, which is no more than the guaranty provided by the guaranteed party for the guarantor shall be deducted before tax, and the part of the loss, which exceeds the guaranty provided by the guaranteed party for the guarantor, shall not be deducted before tax.

## **Land Appreciation Tax (LAT)**

**SAT issued Circular on Promulgation of Verification Standards for LAT Liquidation (Guo Shui Fa [2007]No.132) on Dec. 29, 2007, emphasizing that:**

- This Standards is made for the purpose of propelling the strict implementation of SAT's Circular on Issues Regarding Management of LAT Liquidation of Real Estate Enterprises (Guo Shui Fa[2006]No.187).
- Certified Tax Agents (CTA), which are admitted into the administration and supervision of tax authorities and pass the annual inspection, are granted qualification for verification of LAT.
- Verification report issued by CTAs according to the regulation of this Standards shall be accepted by tax authorities.

## **Export Tax Refund**

**SAT gave Reply to the Issue on Consumption Tax (CT) Refund Related to Export Contract Processing (Guo Shui Han[2008]No.5) on Jan. 7, 2008, including the following items:**

- Export enterprises entrusting other enterprises to process taxable consumption goods for the export purpose may handle CT refund according to the export tax refund measures applicable to the enterprises enjoying tax exemption, offset and refund.
- While applying for CT refund, manufacturing enterprises should provide Certificate of Not Offsetting the Paid Export Consumption Tax issued by tax authorities.
- As for the CT that has been offset in payable CT of consumption goods for domestic sales, enterprises shall not be allowed to handle CT refund.

**SAT issued Circular on Export Tax Refund of Same-type Products from Contract Processing before Formal Putting-into-production of Manufacturing Enterprises (Guo Shui Han[2008]No.8) on Jan. 8, 2008, definitely stipulating that:**

- Before manufacturing enterprises' formally putting into production, if their products called back from contract processing can be categorized into the same type of their self-made products after their formal putting-into-production, and those called-back products would be exported for the first time, the enterprises shall not be limited by "exporting to the foreign enterprises who import the self-made products of the their own enterprises". If the enterprises simultaneously meet the other requirements of the original document, they shall be approved to handle export tax refund (exemption) for their self-made products under the strict examination of competent tax authorities.

## Deed Tax

**The Ministry of Finance and SAT issued Reply to Deed Tax Calculation Basis Related to Transfer of Land Use Right (Cai Shui[2007]No.162) on Dec. 11, 2007, including the following items:**

- Land users who transfer the land use right and buildings on the land (including houses, other buildings and other things attached to the land under construction) to others shall be subject to deed tax calculated on the basis of total price of the transfer.

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