

企业所得税

国家税务总局于2008年1月29日发布国税函[2008]85号文《关于做好2007年度内、外资企业所得税汇算清缴工作的通知》强调：

- 2007年度汇算清缴适用的企业所得税各项政策，仍按照原内、外资企业所得税的有关规定执行。
- 汇算清缴的期限按照新企业所得税法第五十四条第三款的规定执行，即企业应当自年度终了之日起五个月内，向税务机关报送年度纳税申报表，并汇算清缴，结清应缴应退税款。
- 外资企业分支（营业）机构汇总纳税，汇缴机构所在地主管税务机关在接受企业年度企业所得税汇总或合并申报后，应于2008年5月31日前为纳税人开具《外商投资企业和外国企业汇总或合并申报企业所得税证明》；企业所属各分支机构（营业机构）应于2008年6月30日前，将该证明及其年度申报表和会计报表送交其所在地主管税务机关。

☞ 编者按：本次企业所得税的汇算清缴关系到新、老税法的政策和工作的衔接，每一个企业在企业所得税核算中都需关注到这个问题。

国家税务总局于2008年1月30日发布国税发[2008]17号文《关于企业所得税预缴问题的通知》明确：

- 2008年1月1日之前已经被认定为高新技术企业的，在按照新税法有关规定重新认定之前，暂按25%的税率预缴企业所得税。
- 深圳市、厦门市经济特区以外的企业以及上海浦东新区内非生产性外商投资企业和内资企业，原采取按月预缴方式的，2008年一季度改为按季度预缴。
- 原经批准实行合并纳税的企业，采取按月预缴方式的，2008年一季度改为按季度预缴。

☞ 编者按：施行新的企业所得税法后，对于企业设在异地的分公司，考虑到地区税率优惠和地方财力的分配问题，税务部门将对各分公司的经营收入、人员配置比例和占用资金等方面问题进行事先的预测，以便合理划分总公司和各分公司的收入、费用，正确计算利润和相应的企业所得税。

个人所得税

国务院于2008年2月28日签发国务院第519号令《关于修改〈中华人民共和国个人所得税法实施条例〉的决定》、2008年2月20日国家税务总局又发布国税发[2008]20号文《关于个人所得税工资薪金所得减除费用标准政策衔接问题的通知》主要内容有：

- 将原个人所得形式扩充为现金、实物、有价证券和其他形式的经济利益；
- 将原有的税前允许扣除费用从1,600元/月上调为2,000元/月，并且包括承包经营者和承租经营者；

Corporate Income Tax (CIT)

The State Administration of Taxation (SAT) issued Circular on Smoothly Carrying out Year-2007 Annual CIT Filing of Domestic and Foreign-invested Enterprises (FIEs) (Guo Shui Han[2008]No.85) on Jan. 29, 2008, stressing the points that:

- Regulations of the former CIT laws respectively for domestic enterprises and FIEs shall be still applicable to the year-2007 annual CIT filing.
- Time limit of the annual CIT filing shall be prescribed according to the Article 54-3 of the new CIT law, i.e. enterprises should report tax return and annual financial statement, handle the CIT filing, and settle tax payable or tax refund within 5 months after the end of fiscal year.
- In respect of the consolidated tax filing done by FIEs with branches, upon receiving enterprises' application for the annual consolidated CIT filing, the competent tax authorities of head offices of the FIEs shall issue Certificate of Consolidated CIT Filing of FIEs to taxpayers before May 31, 2008. Branches of enterprises shall submit the above-said Certificate, annual CIT return and financial statement to their competent tax authorities before June 30, 2008.

☞ Editorial Comments: Enterprises should be aware that they're meeting with the transitional link between the former CIT law and the new one while handling the year-2007 annual CIT filing.

The SAT issued Circular on CIT Prepayment (Guo Shui Fa[2008]No.17) on Jan. 30, 2008, definitely stipulating that:

- The enterprises who were identified as high-tech enterprises before Jan. 1, 2008 shall prepay CIT provisionally at the tax rate of 25%, before their identification as high-tech enterprises is re-determined according to the relevant regulations of the new CIT law.
- Except enterprises located in the Special Economic Zone of ShenZhen and XiaMen and non-productive FIEs and domestic enterprises located in Shanghai Pudong District, those enterprises shall prepay CIT quarterly instead of monthly since the first quarter of year 2008.
- Enterprises granted approval for consolidated CIT payment and monthly CIT prepayment shall become eligible for quarterly prepayment since the first quarter of year 2008.

☞ Editorial Comments: After the implementation of the new CIT law, considering that enterprises setting up branches at other places may be in connection with regional preferential tax policy and allocation of local financial capacity, tax authorities shall make prediction on revenue of those branches, proportion of personnel allocation, use of capital and other issues, so as to get reasonable division of revenue and expenses among headquarters and their branches, and correctly calculate profit and CIT.

Individual Income Tax (IIT)

The State Council issued the Ordinance No.519 — Resolution on Amendment to Implementation Regulations of IIT Law of PRC on Feb. 28, 2008, and the SAT issued Circular on Transitional Link of Policies of Expenses Deduction Standards Related to Calculating IIT on Salary (Guo Shui Fa[2008]No.20) on Feb. 20, 2008, mainly including the following points:

- The forms of individual income shall be expanded to include cash, the tangible material, securities and other economic benefits.
- The deductible expenses before IIT shall be increased from RMB 1,600 to RMB 2,000 per month, and this is also applicable for the individuals who go into business as contractor or leaser.
- The additional deductible expenses of individuals with no domicile in China and expatriates shall be decreased to RMB 2,800 from RMB 3,200 per month, so the total amount of monthly deductible expenses for those individuals shall remain unchanged, i.e. RMB 4,800 per month.
- This Resolution came into effect as of March 1, 2008.

Policy of Export

The Ministry of Finance, the SAT and China Customs issued Circular on Tax Refund Policy Applicable for Material Purchased in China Entering Export Processing Zone and Other Areas under the Special Supervision of the Customs (“the Zones”) (Cai Shui [2008]No.10) on Feb. 2, 2008, prescribing the policy applicable for material purchased in China with cancellation of export tax refund and then entering the Zones:

- Material used for the construction of the Zones and enterprise workshops shall not be eligible for tax refund, if those materials are registered at the checkpoint of the customs while entering the Zone.
- If productive enterprises in the Zones purchase raw material in China such as finished leather, steel, aluminum and nonferrous metals (primarily-manufactured products that exclude the metals like billet, steel ingot, electrolytic aluminum, electrolytic copper, etc.) and others used for manufacturing export products, and the export tax refund for those material has been cancelled, tax refund shall be allowed according to the statutory VAT rate while those materials entering the Zones.
- If the above-mentioned raw materials purchased in China by the productive enterprises in the Zones are not substantially processed, the enterprises shall not be allowed to transfer those material to the non-productive enterprises in the Zones (such as storage logistics, trading companies and others), and export them directly or carry them out of the Zones in the bonded form.
- Non-productive enterprises in the Zones (such as companies engaged in bonded logistics, storage, trading and others) that purchase the above-mentioned materials in China and carry them to the Zones shall not be eligible for enjoying the tax refund policy.
- This Circular came into effect as of Feb. 15, 2008.

Customs Tariff Committee of the State Council issued Circular on Exemption of Export Customs Duty on Part of Products Entering the Zones under the Special Supervision of the Customs (“the Zones”) (Shui Wei Hui [2008]No.3) on Feb. 4, 2008, stipulating that:

- Materials carried into the Zones and used for construction of the Zones and construction of enterprise workshops shall be exempt from export customs duty while entering the Zones.
- Materials purchased in China by the productive enterprises in the Zones and used to manufacture the export products shall be exempt from export customs duty while entering the Zones.
- If such materials purchased in China by the productive enterprises in the Zones are not substantially processed, the enterprises shall not be allowed to transfer or sell those material to the non-productive enterprises in the Zones (such as bonded logistics, storage, trading companies and others), and export them directly or carry them out of the Zones in the bonded form.
- If materials exempt from export customs duty are sold to the area outside the Zones but within the China’s territory without being substantially processed, they shall be subject to import tariff and import VAT according to the relevant regulations.
- Non-productive enterprises in the Zones (such as companies of bonded logistics, storage, trading and others) purchasing those materials in China and carrying them to the Zones shall not be eligible for the exemption of the customs duty.
- This Circular came into effect as of Feb. 15, 2008.

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