

高新技术企业认定

科技部、财政部、国家税务总局于 2008 年 4 月 14 日发布国科发火[2008]172 号文《关于印发〈高新技术企业认定管理办法〉的通知》主要内容为：

- 高新技术企业为：在《国家重点支持的高新技术领域》内，持续进行研究开发与技术成果转化，形成企业核心自主知识产权，并以此为基础开展经营活动，在中国境内注册一年以上的居民企业。
- 高新技术企业认定条件：
 - 在中国境内注册的企业，近三年内通过自主研发、受让、受赠、并购等方式，或通过 5 年以上的独占许可方式，对其主要产品（服务）的核心技术拥有自主知识产权；
 - 产品（服务）属于《国家重点支持的高新技术领域》规定的范围；
 - 具有大学专科以上学历的科技人员占企业当年职工总数的 30% 以上，其中研发人员占企业当年职工总数的 10% 以上；
 - 企业研究开发费用总额占销售收入总额的比例符合 1) 最近一年销售收入小于 5,000 万元的企业，比例不低于 6%；2) 最近一年销售收入在 5,000 万元至 20,000 万元的企业，比例不低于 4%；3) 最近一年销售收入在 20,000 万元以上的企业，比例不低于 3%。且企业在中国境内发生的研究开发费用总额占全部研究开发费用总额的比例不低于 60%。
 - 高新技术产品（服务）收入占企业当年总收入的 60% 以上。
- 高新技术企业认定程序：
 - 企业网上自我评价，认为符合认定条件的，可向认定机构提出认定申请。
 - 提交申请材料，包括经具有资质的中介机构鉴证的企业近三个会计年度研究开发费用情况表。
 - 认定机构进行合规性审查；认定通过后公示并备案。
 - 经认定的高新技术企业领取“高新技术企业证书”。
- 高新技术企业资格自颁发证书之日起有效期为三年。
- 本办法自 2008 年 1 月 1 日起施行。

☞ 编者按：高新技术企业，减按 15% 的税率征收企业所得税。新认定办法中强调的是拥有核心自主知识产权。

企业所得税

国家税务总局于 2008 年 4 月 7 日发布国税函[2008]299 号文《关于房地产开发企业所得税预缴问题的通知》规定：

- 房地产开发企业按当年实际利润据实预缴企业所得税的，对开发、建造的住宅、商业用房以及其他建筑物、附着物、配套设施等开发产品，在未完工前采取预售方式销售取得的预售收入，按照规定的预计利润率计算出预计利润额，计入利润总额预缴，开发产品完工、结算是计税成本后按照实际利润再行调整。
- 预计利润率为：非经济适用房开发项目 10%—20%；经济适用房开发项目不得低于 3%。
- 对经济适用房项目的预售收入进行初始纳税申报时，必须附送有关部门批准经济适用房项目开发、销售的文件以及其他相关证明材料。
- 本通知自 2008 年 1 月 1 日起执行。

国家税务总局于 2008 年 4 月 3 日发布国税函[2008]301 号文《关于外国企业所得税纳税年度有关问题的通知》规定：

- 自 2008 年 1 月 1 日起，外国企业一律以公历年度为纳税年度，按照《中华人民共和国企业所得税法》规定的税率计算缴纳企业所得税。

出口退税

国家税务总局于 2008 年 3 月 25 日发布国税发[2008]32 号文《关于停止为骗取出口退税企业办理出口退税有关问题的通知》规定：

- 骗取国家出口退税款不满 5 万元的，可以停止为其办理出口退税半年以上一年以下。
- 骗取国家出口退税款 5 万元以上不满 50 万元的，可以停止为其办理出口退税一年以上一年半以下。
- 骗取国家出口退税款 50 万元以上不满 250 万元，或因骗取出口退税行为受过行政处罚、两年内又骗取国家出口退税款数额在 30 万元以上不满 150 万元的，停止为其办理出口退税一年半以上两年以下。
- 骗取国家出口退税款 250 万元以上，或因骗取出口退税行为受过行政处罚、两年内又骗取国家出口退税款数额在 150 万元以上的，停止为其办理出口退税两年以上三年以下。
- 本通知自 2008 年 4 月 1 日起执行。

国家税务总局于 2008 年 3 月 25 日发布国税函[2008]265 号文《关于外贸企业出口视同内销货物进项税额抵扣有关问题的通知》规定：

- 外贸企业购进货物后，凡未在规定的认证期限内办理认证手续的增值税专用发票，不予抵扣或退税。
- 外贸企业出口货物，凡未在规定期限内申报退（免）税或虽已申报退（免）税但未在规定期限内向税务机关补齐有关凭证，自规定期限截止之日的次日起 30 天内，由外贸企业向主管退税的税务机关申请开具《外贸企业出口视同内销征税货物进项税额抵扣证明》。
- 本通知自 2008 年 4 月 1 日起执行。

以上信息仅提供德安客户及对本公司业务感兴趣之人士参考，我们将尽量确保上述信息的准确性，我们提请读者注意，上述内容系有关文件的摘要，在实际应用时，须参照全文为准。同时，我们欢迎各位就上述信息咨询本公司的专业人士，也欢迎各位登陆我们的网站 www.deanca.com.cn。我们将为我们的客户提供实实在在的增值服务。上述摘编如中、外文不一致的，以中文为准。

- ✓ Identification authorities shall conduct compliance examination; and enterprises that pass the examination shall be made public and registered for archival purpose.
- ✓ Identified high-tech enterprises shall be granted Certificate of High-Tech Enterprise.
- Valid period of qualification for being high-tech enterprise is three years since the date of issuance of the Certificate.
- This Measure came into effect as of January 1, 2008.

✎ Editorial Comments: High-tech enterprises are subject to corporate income tax of 15%. What the new Measures emphasize is possession of independent intellectual property right.

Corporate Income Tax (CIT)

SAT issued Circular on Prepayment of CIT of Real Estate Development Enterprises (Guo Shui Han [2008]No.299) on April 7, 2008, stipulating that:

- For the real estate development enterprises that prepay CIT based on the actual income of the year, if they derive revenue from pre-sale of their constructions like houses, commercial buildings, other buildings and auxiliary facilities prior to the completion of those constructional work, a pro-forma income shall be worked out according to the prescribed pro-forma profit rate and then calculated into the total income of the enterprises for the CIT prepayment purpose. Such pro-forma income shall be adjusted according to the actual income after the constructional work is completed and taxable cost is settled.
- Pro-forma profit rate shall be 10% - 20% for non-economical construction work, and the rate of no less than 3% shall be applicable for the construction work of economical houses.
- When handling preliminary tax filing for pro-sale income from construction of economical houses, enterprises should present relevant certificates or documents in connection with approval of authorities for construction and sale of economical houses.
- This Circular came into effect as of January 1, 2008.

SAT issued Circular on Fiscal Year for Income Tax on Foreign Enterprises (Guo Shui Han [2008]No.301) on April 3, 2008, stipulating that:

- Since January 1, 2008, foreign enterprises shall take Gregorian calendar year as fiscal year, and calculate and pay CIT according to the tax rate prescribed by China's CIT law.

Export Tax Refund

SAT issued Circular on Cessation of Handling Export Tax Refund for Enterprises Gaining Export Tax Refund by Fraud (Guo Shui Fa[2008]No.32) on March 25, 2008, stipulating that:

- If an enterprise gains export tax refund by fraud of less than 50,000 Yuan from the State, tax authorities shall cease to handle export tax refund for it for more than six months but less than one year.
- If an enterprise gains export tax refund by fraud of more than 50,000 Yuan but less than 500,000, tax authorities shall cease to handle export tax refund for it for more than one year but less than one year and a half.
- If an enterprise gains export tax refund by fraud of more than 500,000 Yuan but less than 2,500,000, or it has incurred any administrative punishment for export tax refund fraud and gained export tax refund again by fraud of more than 300,000 Yuan but less than 1,500,000 Yuan within the following two years, tax authorities shall cease to handle export tax refund for it for more than one year and a half but less than two years.
- If an enterprise gains export tax refund by fraud of more than 2,500,000 Yuan, or it has incurred any administrative punishment for export tax refund fraud and gained export tax refund again by fraud of more than 1,500,000 Yuan within the following two years, tax authorities shall cease to handle export tax refund for it for more than two years but less than three years.
- This Circular came into effect as of April 1, 2008.

SAT issued Circular on Input VAT Deduction of Foreign Trade Enterprises Exporting the Goods That Is Regarded as Domestically-sold Goods (Guo Shui Han [2008]No.265) on March 25, 2008, stipulating that:

- If foreign trade enterprises fail to perform procedures of special VAT invoice authentication within the prescribed time limit after purchasing goods, the VAT invoice shall not be deducted or the VAT shall not be refunded.
- For the foreign trade enterprises exporting goods, if they fail to apply for tax refund/exemption within the prescribed time limit, or they have applied for tax refund/exemption but failed to perfectly provide all the required documents for the competent tax authorities within the prescribed time limit, they should apply to tax authorities for Certificate of Input VAT Deduction of Foreign Trade Enterprises Exporting the Goods That Is Regarded as Taxable Domestically-sold Goods within 30 days since the next day of the deadline.
- This Circular came into effect as of April 1, 2008.

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.deancpa.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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