

个人所得税

国家税务总局于 2008 年 5 月 21 日发布国税发[2008]55 号文《关于个人向地震灾区捐赠有关个人所得税征管问题的通知》明确：

- 个人通过扣缴单位统一向灾区的捐赠，由扣缴单位凭政府机关或非营利组织开具的汇总捐赠凭据、扣缴单位记载的个人捐赠明细表等，由扣缴单位在代扣代缴税款时，依法据实扣除。
- 个人直接通过政府机关、非营利组织向灾区的捐赠，捐赠人应及时向扣缴单位出示政府机关、非营利组织开具的捐赠凭据，由扣缴单位在代扣代缴税款时，依法据实扣除。
- 个人自行申报纳税的，税务机关凭政府机关、非营利组织开具的接受捐赠凭据，依法据实扣除。

☞ 编者按：（1）根据《个人所得税法》规定，个人向政府机关、非营利组织捐赠，可在捐赠的当月中报个人所得税时税前扣除，扣除限额为当月应纳税所得额的 30%。（2）新《企业所得税法》规定，企业发生的公益性捐赠支出，在不超过年度利润总额 12% 的部分，准予扣除。

取消优惠

国家税务总局于 2008 年 5 月 16 日发布国税发[2008]52 号文《关于停止执行企业购买国产设备投资抵免企业所得税政策问题的通知》明确：

- 自 2008 年 1 月 1 日起，停止执行企业购买国产设备投资抵免企业所得税的政策。

残疾人就业优惠

上海市国家、地方税务局和上海市民政局、上海市残疾人联合会联合发文沪国税流[2008]10 号《关于本市残疾人就业税收优惠政策征收管理的实施意见》内容有：

- 本市实际安置的每位残疾人每年可退还的增值税或减征的营业税的最高限额，确定为每人每年 3.5 万元。
- 申请享受残疾人集中就业企业税收优惠政策的用人单位，安置残疾人超过 25%（含 25%），且残疾职工人数不少于 10 人的，在向税务机关申请减免税前，应当先行办理企业的资质认定。
- 属于符合福利企业条件的用人单位，应向市民政局申请资质认定；属于盲人按摩机构、工疗机构等集中安置残疾人的用人单位，应向市残疾人联合会申请资质认定。

Individual Income Tax (IIT)

State Administration of Taxation (SAT) issued Circular on Levy of IIT on Individual Presenting Donation to the Earthquake Area (Guo Shui Fa [2008]No.55) on May 21, 2008, stipulating that:

- If individual present donation to the earthquake area through their units that withhold their IIT, their donation shall be legally deducted before tax by virtue of receipt of consolidated donation issued by governments or non-profit organizations, detail of individual donation made by withholding units and other vouchers, while the units withhold their IIT.
- If individual present donation to the earthquake area directly through government or non-profit organization, the donators should submit receipt of donation issued by governments or non-profit organizations to their tax-withholding units, so that the units could deduct the donation before tax on an actual basis while withholding IIT.
- As for the individual who handle IIT filing by themselves, their donation could be legally deducted before tax on an actual basis, by virtue of receipt of donation issued by governments or non-profit organizations.

☞ Editorial Comments: According to relevant regulations of the IIT law, individual donation presented through governments or non-profit organizations could be deducted before tax while they handle IIT filing in the month of donating, and the amount of deduction is limited to 30% of taxable income of the month. Additionally, according to relevant regulations of the Corporate Income Tax (CIT) law, expenditure of charity donation presented by enterprises could be deducted before tax, but the donation deduction shall be limited to no more than 12% of total amount of annual profit.

Abolishment of Preferential Policies

SAT issued Circular on Suspending Implementation of Policy Concerning CIT Offset by Purchasing Domestically-made Equipment (Guo Shui Fa [2008]No.52) on May 16, 2008, definitely stipulating that:

- Since Jan. 1, 2008, the policy stipulating that enterprise could use expenditure of purchasing domestically-made equipment to offset its CIT is suspended.

Preferential Employment Policy for the Disabled

State Tax Bureau and Local Tax Bureau of Shanghai, Civil Affairs Bureau of Shanghai and The Disabled Association of Shanghai jointly issued Opinions on Implementation of Preferential Tax Policy for Employment of the Disabled in Shanghai (Hu Guo Shui Liu [2008]No.10), including the following points:

- Enterprises actually employing any disabled individual in Shanghai shall be eligible for VAT refund and business tax reduction, and the ceiling refund/reduction shall be limited to RMB 35,000 per individual each year.

- Enterprises in which the disabled employees account for 25% at least of staff and number of disabled staff members is no less than 10 could apply for enjoying preferential tax policy applicable for the disabled grouping enterprises. Prior to applying for tax reduction and exemption to tax authorities, those enterprises should acquire identification of the disabled grouping enterprises first.
- Employers meeting the requirements for being a social welfare enterprise could apply for approval of such an enterprise identification to the Civil Affairs Bureau of Shanghai. Enterprises like the blind massage clinic and salutarium in which the disabled are employed should apply for approval of social welfare enterprise identification to Shanghai Association of the Disabled.

Management of Export Tax Refund

SAT issued Circular on Time Limit of Applying for Export Tax Refund by Foreign Trade Enterprises (Guo Shui Han [2007]No.1150), stipulating that:

- As for the foreign trade enterprises that applied for export tax refund after Jan. 1, 2008, the deadline of the application is fixed on the last day of the 1st VAT filing period which starts from the 90th day of completing the application to the customs for export (date of export is up to the date indicated in the customs declaration which is used specially for the purpose of export tax refund).
- If a foreign trade enterprise fails apply for export tax refund within the time limit prescribed in the Article 1 of this Circular due to certain special reasons, it could apply to handle the postponed application according to the relevant regulations.

SAT issued Circular on Time Limit of Providing Verification & Writing-off Form of Export Proceeds in Foreign Exchange by Export Enterprises (Guo Shui Fa[2008]No.47) on May 5, 2008, stipulating that:

- When applying for export tax refund/exemption, export enterprises shall provide verification & writing-off form of export proceeds in foreign exchange (exclusive of long-term export proceeds) to the competent tax refund divisions within 210 days since the date of customs declaration, instead of 180 days prescribed originally.
- This Circular shall come into effect on June 1, 2008.

Management of VAT Invoice

State Tax Bureau and Local Tax Bureau of Shanghai issued Circular on Restating the Regulations Related to Standardizing Issuance of VAT Invoice (Hu Guo Shui Zheng[2008]No.7), emphasizing that:

- If suppliers incur returned goods or defect in issuance of invoice after issuing special VAT invoice, and the returned invoice, which has not been filed, and deduction statement of the invoice have not been authenticated by purchaser for VAT deduction purpose, such invoice could be cancelled and the supplier issue new invoice.

- If suppliers are aware of defect in the VAT invoice they just issued, they could cancel those invoices and issue the new.
- As for the VAT invoice ineligible for being cancelled, enterprises could issue special VAT invoice of negative sum according to the following requirements (finance stamp and invoice stamp of purchaser should be added to the invoice):
 - Application Form;
 - Relevant original invoice and copies;
 - If returned goods, discount or rebate involved, original and duplicate copies of relevant contract or agreement are required;
 - Original and duplicate copies of bookkeeping voucher related to the invoice;
 - Letter of Guaranty (declaring that the return of goods is a true business, and promising not to use such invoice for deduction purpose even if the goods is not actually returned. This is applicable only for overdue invoice.)
 - Other document required by the competent tax authorities.

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