

## 个人所得税

财政部、国家税务总局于 2008 年 6 月 3 日发布财税[2008]65 号文《关于调整个体工商户个人独资企业和合伙企业个人所得税税前扣除标准有关问题的通知》明确：

- 对个体工商户业主、个人独资企业和合伙企业投资者的生产经营所得依法计征个人所得税时，个体工商户业主、个人独资企业和合伙企业投资者本人的费用扣除标准统一确定为 24000 元/年（2000 元/月）。本扣除标准于 2008 年 3 月 1 日起执行。
- 个体工商户、个人独资企业和合伙企业向其从业人员实际支付的合理的工资、薪金支出，允许在税前据实扣除。
- 个体工商户、个人独资企业和合伙企业拨缴的工会经费、发生的职工福利费、职工教育经费支出分别在工资薪金总额 2%、14%、2.5% 的标准内据实扣除。
- 个体工商户、个人独资企业和合伙企业每一纳税年度发生的广告费和业务宣传费用不超过当年销售（营业）收入 15% 的部分，可据实扣除；超过部分，准予在以后纳税年度结转扣除。
- 个体工商户、个人独资企业和合伙企业每一纳税年度发生的与其生产经营业务直接相关的业务招待费支出，按照发生额的 60% 扣除，但最高不得超过当年销售（营业）收入的 5%。

☞ 编者按：虽《企业所得税法》的纳税人未包含个体工商户、个人独资和合伙企业，该文件使其相关列支标准与其他纳税人取得了一致。

## 契税

国家税务总局于 2008 年 5 月 26 日发布国税函[2008]514 号文《关于全资子公司承受母公司资产有关契税政策的通知》明确：

- 公司制企业在重组过程中，以名下土地、房屋权属对其全资子公司进行增资，属同一投资主体内部资产划转，对全资子公司承受母公司土地、房屋权属的行为，不征收契税。

国家税务总局于 2008 年 5 月 12 日发布国税函[2008]438 号文《关于无效产权转移征收契税的批复》规定：

- 对经法院判决的无效产权转移行为不征收契税。
- 法院判决撤销房屋所有权证后，已纳契税款应予退还。

## 发票管理

国家税务总局于 2008 年 5 月 14 日发布国税函[2008]417 号文《关于同意报关代理业专用发票有关问题的通知》规定：

- 《报关代理业专用发票》从 2008 年 8 月 1 日起启用。在办理报关代理业务收取款项时，应开具地方税务机关统一印制的《报关代理业专用发票》，并在发票联加盖发票专用章。
- 《报关代理业专用发票》应使用税控收款机或计算机开具。
- 付款单位名称、收款单位名称必须填开全称，不得简称，否则视为无效。

《企业所得税法》实施后，原有的外商投资企业相关优惠政策被相应取消。国家税务总局于 2008 年 5 月 23 日发布国税发[2008]56 号文《关于国务院取消和调整行政审批项目后涉及简并纳税人涉税资料业务操作处理办法的通知》明确以下业务被正式取消：

- 企业技术改造国产设备投资抵免企业所得税核准；
- 外商投资企业的外国投资者再投资退税审批；
- 外国企业改变纳税年度审批；
- 外商投资企业定期减免企业所得税审批；
- 外商投资企业分阶段投资或追加投资享受税收优惠审批；
- 中西部地区鼓励类外商投资企业延长三年减按 15% 税率征收企业所得税审核；
- 外商投资企业和外国企业购买国产设备投资抵免企业所得税审批；
- 外商投资企业固定资产缩短折旧年限审批；

外商投资企业特许权使用费预提所得税减免审批等。

## 出口货物管理

商务部于 2008 年 6 月 7 日发布 2008 年第 11 号令《货物出口许可证管理办法》内容为：

- 国家对限制出口的货物实行出口许可证管理。
- 出口许可证包括出口配额许可证和出口许可证。凡实行出口配额许可证管理和出口许可证管理的货物，对外贸易经营者应当在出口前按规定向指定的发证机构申领出口许可证，海关凭出口许可证接受申报和验放。
- 外商投资企业出口属于出口配额管理的货物，发证机构凭商务部下达的外商投资企业出口配额数量签发许可证；
- 我国企业在国外及香港、澳门投资设立的独资、合资和合作企业，需国内供应属于出口许可证管理的货物，发证机构凭商务部批准文件和商务部境外企业批准证书或者商务部境外带料加工装配企业批准证书，签发出出口许可证。
- 出口配额的有效期为当年 12 月 31 日前（含 12 月 31 日），经营者应当在配额有效期内向发证机构申领出口许可证。
- 出口许可证的有效期最长不得超过 6 个月，且有效期截止时间不得超过当年 12 月 31 日。
- 以加工贸易方式出口属于配额许可证管理的货物，其出口许可证有效期按《加工贸易业务批准证》核定的出口期限核发，但不得超过当年 12 月 31 日。如《加工贸易业务批准证》核定的出口期限超过当年 12 月 31 日，经营者应在原出口许可证有效期内向发证机构提出换发新一年出口许可证。发证机构收回原证，在发证系统中对原证进行核销，扣除已使用的数量后，按《加工贸易业务批准证》核定的出口期限重新签发新一年度出口许可证，并在备注栏中注明原证证号。

- Capital increase launched by a restructuring incorporated enterprise to its wholly-owned subsidiary with its ownership right of land or property shall be regarded as internal assets allocation under the same investing body. Such wholly-owned subsidiary taking over ownership right of land or property from its holding company shall not be subject to deed tax.

**SAT released Approval Letter on Issue of Deed Tax Related to Invalid Property Right Transfer (Guo Shui Han[2008]No.438) on May 12, 2008, stipulating that:**

- Property right transfer that is ruled to be invalid by court shall not be subject to deed tax.
- If Certificate of Property Ownership is cancelled according to the sentence of court, the paid deed tax shall be returned.

## **Invoice Management**

**SAT issued Circular on Approval for Special Invoice of Customs Declaration Agent (Guo Shui Han[2008]No.417) on May 14, 2008, stipulating that:**

- Special Invoice of Customs Declaration Agent shall come into use on August 1, 2008. When receiving payment for customs declaration service, customs declaration agents shall issue Special Invoice of Customs Declaration Agent formally printed by local tax authorities, with special invoice stamp added to the invoice.
- Special Invoice of Customs Declaration Agent shall be printed by tax gathering machine or computer.
- Full names of payers and payment receivers should be filled in the invoice, and shortened form of name shall make the invoice invalid.

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

**With the implementation of the new corporate income tax law, the old preferential tax policy applicable for foreign-invested enterprises has been abolished accordingly. SAT issued Circular on Measures for Simplifying Operation and Treatment of Tax Documentation of Taxpayers After the State Council's Abolishing and Adjusting Certain Administrative Review and Approval Procedures (Guo Shui Fa[2008]No.56) on May 23, 2008, definitely prescribing that the following operations shall be formally cancelled:**

- Ratification of offsetting CIT by purchasing domestically-made equipment in connection with corporate technical reform.
- Approval for reinvestment tax refund applicable for foreign investors of FIEs.
- Approval for change in fiscal year made by foreign enterprises.
- Approval for periodical reduction and exemption of CIT of foreign-invested enterprises.
- Approval for preferential tax policy enjoyed by the FIEs that make investment by stages or make supplementary investment.
- Examination of CIT reduction applicable for the encouraged FIEs which are located in the middle-west region and eligible for CIT rate of 15% in the postponed three years.
- Approval for offset to the CIT of FIEs and foreign enterprises by their purchasing domestically-made equipment.
- Approval for reduction of depreciation period of FIEs' fixed assets.
- Approval for reduction or exemption of accrued CIT on royalty income derived by FIEs.

## **Export Management**

**The Ministry of Commerce issued year-2008 Ordinance No.11 —— Measures for Management of Export License, including the following points:**

- The state shall use export license to manage the restricted export.
- Export license comprises of export quota license and export license. If foreign trade enterprises export the goods that is subject to the limit of such two kinds of license, they shall apply for export license to the specified authorities before exportation, and the customs shall accept their declaration and conduct examination according to their license.
- For the FIEs exporting the goods subject to limit of export quota, the relevant license authorities shall issue export license to them according to the quantities of export quota of FIEs prescribed by the Ministry of Commerce.
- If China's wholly-owned enterprises or joint venture incorporated abroad or in Hong Kong and Macao need to be supplied with domestic goods that is subject to limit of export license, the relevant license authorities shall issue export license according to Approval Letter and Approval Certificate for Offshore Enterprises issued by the Ministry of Commerce, or Approval Certificate for Offshore Processing & Assembly Enterprises with Domestic Material.
- Export quota shall be valid before or on December 31 of the year. Enterprises should apply for export license to the relevant authorities within the valid period of the export quota.
- The period of validity of export license is six months, and the deadline of the valid period is December 31 of the year.
- With regard to exporting the goods subject to limit of quota license in the form of processing trade, valid period of the export license shall be fixed according to the time limit prescribed by Approval Certificate for Processing Trade, but the deadline shall be no later than December 31 of the year. If the time limit of export on the Approval Certificate for Processing Trade is later than December 31 of the year, enterprises should apply for renewed export license within the valid period of the old export license. The relevant license authorities shall recall, examine and cancel the old export license in the system of license issuance. With the used part of quota deducted, an updated export license for the coming year shall be issued according to the time limit of export prescribed by the Approval Certificate for Processing Trade, and the code of the old export license shall be printed in the column of notes.

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