

企业所得税

国家税务总局于2008年6月30日发布国税函[2008]635号文《关于填报企业所得税月(季)度预缴纳税申报表有关问题的通知》明确:

- “利润总额”修改为“实际利润额”，填报按会计制度核算的利润总额减除以前年度待弥补亏损以及不征税收入、免税收入后的余额。房地产开发企业相应填入本期取得预售收入按规定计算出的预计利润额。

国家税务总局于2008年7月2日发布国税函[2008]650号文《关于非居民企业不享受小型微利企业所得税优惠政策问题的通知》明确:

- 仅就来源于我国所得负有我国纳税义务的非居民企业，不适用该条规定的对符合条件的小型微利企业减按20%税率征收企业所得税的政策。

高新技术企业认定

科技部、财政部、国家税务总局于2008年7月8日发布国科发火[2008]362号文《关于印发〈高新技术企业认定管理工作指引〉的通知》强调:

- 认定高新技术企业的程序为:
 - 根据要求自我评定;
 - 网上注册登记;
 - 准备并提交材料;准备的资料包括:
 - ✓ 经具有资质并符合本《工作指引》相关条件的中介机构鉴证的企业近三个会计年度研究开发费用(实际年限不足三年的按实际经营年限)、近一个会计年度高新技术产品(服务)收入专项审计报告;
 - ✓ 经具有资质的中介机构鉴证的企业近三个会计年度的财务报表(含资产负债表、利润及利润分配表、现金流量表,实际年限不足三年的按实际经营年限);
 - ✓ 技术创新活动证明材料。
 - 认定部门组织专家审查与认定;
 - 公示及颁发证书。
- 高新技术企业资格自颁发证书之日起生效,有效期为三年。

☞ 编者按:新老政策衔接为(1)2007年底前已按原认定办法认定的仍在有效期内的高新技术企业资格依然有效,但在按《认定办法》和《工作指引》重新认定合格后方可享受企业所得税优惠政策。(2)对原依法享受企业所得税定期减免税优惠未期满的高新技术企业,可依照《国务院关于实施企业所得税过渡优惠政策的通知》的有关规定执行。

个人所得税

财政部、国家税务总局于 2008 年 7 月 1 日发布财税[2008]7 号文《关于高级专家延长离休退休期间取得工资薪金所得有关个人所得税问题的通知》规定高级专家延长离休退休期间取得的工资薪金所得，其免征个人所得税政策口径按下列标准执行：

- 对高级专家从其劳动人事关系所在单位取得的，单位按国家有关规定向职工统一发放的工资、薪金、奖金、津贴、补贴等收入，视同离休、退休工资，免征个人所得税；
- 除上述收入以外各种名目的津补贴收入等，以及高级专家从其劳动人事关系所在单位之外的其他地方取得的培训费、讲课费、顾问费、稿酬等各种收入，依法计征个人所得税。
- 高级专家从两处以上取得应税工资、薪金所得以及具有税法规定应当自行纳税申报的其他情形的，应在税法规定的期限内自行向主管税务机关办理纳税申报。

国家税务总局于 2008 年 6 月 15 日发布国税函[2008]576 号文《关于个人与房地产开发企业签订有条件优惠价格协议购买商店征收个人所得税问题的批复》强调：

- 房地产开发企业按优惠价格出售其开发的商店给购买者个人，但购买者个人在一定期限内必须将购买的商店无偿提供给房地产开发企业对外出租使用。其实质是购买者个人以所购商店交由房地产开发企业出租而取得的房屋租赁收入支付了部分购房价款。对该等情形的购买者个人少支出的购房价款，应视同个人财产租赁所得，按照“财产租赁所得”项目征收个人所得税。每次财产租赁所得的收入额，按照少支出的购房价款和协议规定的租赁月份数平均计算确定。

财政部、国家税务总局于 2008 年 6 月 10 日发布财税[2008]83 号文《关于企业为个人购买房屋或其他财产征收个人所得税的批复》强调：

- 企业出资购买房屋及其他财产，将所有权登记为投资者个人、投资者家庭成员或企业其他人员的应依法计征个人所得税。
- 企业投资者个人、投资者家庭成员或企业其他人员向企业借款用于购买房屋及其他财产，将所有权登记为投资者、投资者家庭成员或企业其他人员，且借款年度终了后未归还借款的应依法计征个人所得税。
- 对企业的个人投资者或其家庭成员取得的上述所得，视为企业对个人投资者的红利分配，按照“利息、股息、红利所得”项目计征个人所得税；对企业其他人员取得的上述所得，按照“工资、薪金所得”项目计征个人所得税。

出口退税

财政部、国家税务总局于 2008 年 7 月 30 日发布财税[2008]111 号文《关于调整纺织品服装等部分商品出口退税率的通知》内容有：

- 将部分纺织品、服装的出口退税率由 11% 提高到 13%；将部分竹制品的出口退税率提高到 11%。
- 调整自 2008 年 8 月 1 日起执行。具体执行时间，以“出口货物报关单（出口退税专用）”海关注明的出口日期为准。

- Competent authorities assign experts to conduct examination and identification;
- Publication and issuance of certificate.
- Qualification of high-tech enterprises shall take effect as of the issuance of the Certificate, with 3-year valid period.

☞ Editorial Comments: With regard to the transition of the old and the new policies, 1) if an enterprise was identified as high-tech enterprises before the end of year 2007, and now its qualification is still within the period of validity according to the old Identification Measures, its identification of high-tech enterprise shall still be valid; but its qualification should be re-examined in accordance with the Identification Measures and the above-mentioned Administration Guidance before it enjoys preferential CIT policies. 2) High-tech enterprises that are still legally enjoying preferential policy of periodical CIT reduction according to the old regulations shall be subject to the relevant rules of Circular Issued by the State Council on Implementation of Transitional Preferential CIT Policy.

Individual Income Tax (IIT)

MOF and SAT issued Circular Regarding IIT on Salary of Senior Experts Who Postpone the Time of Retirement (Cai Shui[2008]No.7) on July 1, 2008, stipulating that the following implementation standards of IIT exemption policy shall be applicable for the salary paid to senior expert during the period of their postponed retirement:

- Income like salary, bonus, subsidy, allowance and others paid to senior experts according to the relevant government regulations by the units that hold their personnel archives shall be treated as retirement salary and exempt from IIT.
- Except the above-mentioned income, other miscellaneous income, subsidy and allowance, and remuneration for providing services like training, lecturing, advising, authoring work, etc. derived by senior experts from units without holding their personnel archives shall be subject to IIT.
- Senior experts who derive the taxable salary from two or more units, and have duty to complete IIT filing by themselves according to the relevant tax law, should handle IIT filing in person at the competent tax authorities within the required time limit.

SAT issued Official Reply on Levying IIT on Purchase of Store Based on Conditional Favorable Price Contract Signed by Individual and Real Estate Development Enterprises (Guo Shui Han [2008]No.576) on June 15, 2008, stressing the following point:

- If a real estate development enterprise (“the enterprise”) sell store developed by itself to individual at a favorable price, the individual purchaser should voluntarily provide the enterprise with the store for lease purpose within certain time limit. The substantial meaning of such a fact is that the individual purchaser has income from the rent of store through handing over the store to the enterprise to lease, and then the individual shall be considered to use such income to pay partially for the store. With regard to such a case, the saving of the payment of the individual for the store shall be taken as individual income from lease of property and subject to IIT. Each sum of income from lease of property shall be calculated according to the saving of the payment and amount of months of leasing prescribed in the agreement.

MOF and SAT issued Official Reply on Levying IIT on Enterprises' Purchasing House or Other Property for Individuals (Cai Shui [2008] No.83) on June 10, 2008, stipulating that:

- If an enterprises purchases house or other properties with their own capital, and the investor, family member of the investor or other staff member of the enterprises is registered as owner of such house or properties, those individuals shall be liable for paying IIT.
- If the investor, family member of the investor or other staff member of an enterprise gets a loan from the enterprise to purchase house or other properties, and then becomes the registered owner of such properties, and fails to pay back the loan at the end of the year, those kinds of individuals shall be liable for paying IIT.
- The above-said income derived by individual investors of the enterprises or their family members shall be regarded as dividend distributed by enterprises to their individual investors and subject to IIT concerning the items of interest, dividend and bonus. The above-said income derived by other staff members of enterprises shall be subject to IIT concerning salary.

Export Tax Refund

MOF and SAT issued Circular on Adjusting Export Tax Refund Rate of Certain Commodities Like Textile, Clothing and Others (Cai Shui [2008] No.111) on July 30, 2008, including the following points:

- Export tax refund rate of certain textile and clothing shall be increased from 11% to 13%; and the tax refund rate of part of bamboo products shall be increased to 11%.
- The Adjustment came into effect as of August 1, 2008. The definite time of implementation shall be referred to the export date indicated by the Customs in Export Declaration (Special Use for Export Tax Refund).

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