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Measures for the Administration of Final Settlement and Payment of Enterprise Income Taxes

企业所得税汇算清缴管理办法

Issued By State Administration of Taxation
Subject Income Tax
Promulgated on December 15th 2005
Effective from January 1st 2006
Source www.chinatax.gov.cn

In order to strengthen the administration of enterprise income taxes collection, further improve the final settlement of enterprise income taxes, State Administration of Taxation issued Measures for the Administration of Final Settlement and Payment of Enterprise Income Taxes (hereinafter referred to as “the Measures”) on 15th December 2005 in accordance with the Interim Regulation of the People’s Republic of China on Enterprise Income Taxes and the Detailed Rules for the Implementation Thereof (hereinafter referred to as the Regulation and the Detailed Rules for the Implementation Thereof). The main contents of the Measures are as follows:

According to the Measures, final settlement of enterprise income taxes shall refer to the activities whereby a taxpayer calculates the taxable income and the payable amount of income taxes of the whole year by itself in accordance with the taxation laws, regulations, rules and other relevant provisions on enterprise income taxes within 4 months after the end of the tax year, determines the amount of taxes to be made up or refunded in the current year on the basis of the monthly or quarterly prepaid amount of income taxes, fills out the annual enterprise income tax return forms, files annual enterprise income tax return to the competent taxation authority, provides relevant documents as required by the taxation authority, and settles the amount of enterprise income taxes of the whole year.

A taxpayer whose enterprise income taxes are collected by way of payment by self-assessment or of verifying the taxable income rate shall, no matter whether it is within the period of tax reduction or exemption, or whether it makes profits or suffers from losses, make final settlement in accordance with the Regulation and the Detailed Rules for the Implementation Thereof as well as the relevant provisions of the present Measures. A taxpayer whose enterprise income taxes are collected in a way of verifying the fixed amount need not make final settlement.

A taxpayer shall, when making final settlement of enterprise income taxes, make tax payment adjustments in accordance with the taxation laws, regulations and the relevant provisions on enterprise income taxes. Where the amount of taxes prepaid by a taxpayer

within a tax year is less than the payable amount of taxes of the whole year, the taxpayer shall, within the time limit for the final settlement, settle all the taxes to be supplemented; while if the amount of prepaid taxes is more than the payable amount of taxes of the whole year, the competent taxation authority shall timely refund the excessively prepaid amount or use the excessive amount to offset the income taxes payable in the next year.

After the final settlement work is finished, the taxation authority shall organize the enterprise income tax payment evaluation and inspection. The objects, contents, methods and procedures, etc. of the tax payment evaluation shall be governed by the relevant provisions of the State Administration of Taxation.

The Measures shall come into force on January 1st 2006. The “Notice of the State Administration of Taxation on Printing and Distributing the Measures for the Administration of Final Settlement and Payment of Enterprise Income Taxes” (No. 182 [1998] of the State Administration of Taxation) shall be repealed simultaneously.

Notice of the State Administration of Taxation on Relevant Issues Concerning Refund of Enterprise Income Tax to Foreign Investors for Reinvestments

关于外国投资者再投资退还企业所得税有关问题的通知

Issued By State Administration of Taxation
Subject Income Tax
Promulgated on November 17th 2005
Effective from November 17th 2005
Source www.chinatax.gov.cn

As to the issue on the refund of enterprise income tax to the foreign investors for reinvestments with the profits gained before they assign stock rights, the State Administration of Taxation issued the Notice on Relevant Issues concerning Refund of Enterprise Income Tax to Foreign Investors for Reinvestments (hereinafter referred to as “the Notice”) on 17th November 2005.

According to the Notice, where a foreign investor that obtained the stock rights of a foreign-funded enterprise makes reinvestment inside the territory of China after the assignment of stock rights with the profits gained prior to the assignment and distributed by the foreign-funded enterprise, the profits from such reinvestment shall not be regarded as the profits to used for direct reinvestments as prescribed in Article 80 of the “Detailed Rules for the Implementation of the Law of the People’s Republic of China on the Income

Tax of Foreign-funded Enterprises and Foreign Enterprise”, and the foreign investor may not enjoy the relevant preferences on tax refund due to making reinvestments with profits.

Where a foreign investor is assigned stock rights from the parties with whom it has a direct or indirect ownership relationship or whose equity rights are 100% owned by an identical party, the assignment is transacted at the cost price of the associated assignor’s stock rights, and the said foreign investor makes a reinvestment inside the territory of China after the assignment with the profits gained prior to the assignment and distributed by the foreign-funded enterprise, it may enjoy preferences on tax refund due to making reinvestments with profits in accordance with the relevant provisions.

This Notice shall come into force on the date of promulgation. Those who began to enjoy the tax refund preferences for reinvestments prior to the said date shall not be governed by this Notice.

Supplementary Notice of the People’s Bank of China on Relevant Issues Concerning the Operation of Renminbi Business by Mainland Banks and Hong Kong Banks

中国人民银行关于内地银行与香港银行办理人民币业务有关问题的补充通知

Issued By	People's Bank of China
Subject	Others Provisions
Promulgated on	December 4th 2005
Effective from	December 4th 2005
Source	www.puc.gov.cn

The People’s Bank of China issued Supplementary Notice of the People’s Bank of China on Relevant Issues Concerning the Operation of Renminbi Business by Mainland Banks and Hong Kong Banks (hereinafter referred to as “the Notice”) on 4th December 2005.

According to the Notice, for the money remitted via liquidation banks by individuals holding a resident identity card of Hong Kong into the Mainland banks, with the remitters as payees, the maximum limit of remittance for each remitter per day shall be raised from RMB 50,000 Yuan to RMB 80,000 Yuan.

The restriction on Renminbi credit line, that is, the individual Renminbi bank card issued by a licensed Hong Kong bank or its subsidiary body shall not exceed 100,000 Yuan, is

cancelled. The Renminbi credit line shall be decided by each card-issuing bank itself.

A Mainland resident may bring an individual Renminbi bank card issued by a Mainland commercial bank to make tourism and consumptive payments in Hong Kong for shopping, catering, accommodation, traffic, communications, medical treatment, education, etc., provided that he does not use it to pay for capital or financial account transactions other than tourism or consumption, such as operative transactions, securities investments, and real estate, etc., or for transactions prohibited by the laws and regulations of the Mainland such as gambling, etc.

Wenger & Vieli, Beijing, March 17, 2006

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