

The Concept of Value-Added Tax ('VAT')

VAT is a kind of Turnover Tax. It is also a Sales Tax. Under the scope of VAT, tax liability incurred for sale and purchase of merchandise is the most common situation in the PRC. It is a kind of tax which is levied on various stages of sales and purchases goods. The so-called Turnover Tax is not dependent on whether profits are earned at the 'different assignment stages' in the process of goods being processed from raw materials by manufacturers until they are finally passed to consumers. Therefore, it does not fall within the scope of profits tax, but is a kind of turnover tax levied on different assignment stages. In this arrangement, all tax amounts are eventually borne by the consumers.

Explanations on the concept of different assignment stages

Manufacturer – When raw materials manufacturers import raw materials, the manufacturers must pay the first time VAT to the customs. Subsequently, the manufacturers shall file VAT return with the central tax authorities and pay the second time VAT in respect of the portion of the added value of the processed products.

Wholesaler – When the manufacturers sell the produced products to the wholesalers, they (manufacturers) will receive from the purchasers (wholesalers) all the VAT paid by them (manufacturers). This includes the VAT paid to the customs upon import and the VAT levied on the portion of the added value of the processed products paid to the central tax authorities each month. In this process, the manufacturers shall deliver exclusive VAT invoices to the wholesalers. On top of the first time VAT paid to the manufacturers in respect of the value of the relevant goods purchased, the wholesalers shall file and pay the current second time VAT to the local tax authorities in respect of the relevant added value portion of goods (difference between selling price and purchase cost) sold each month.

Retailer – When the retailers acquire goods from the wholesalers, the wholesalers will request the retailers to pay all the VAT paid by them (wholesalers) upon payment of the price for the goods. Here, the wholesalers shall deliver exclusive VAT invoices to the retailers. The retailers shall file and pay the current VAT on the portion of added value (difference between selling price and purchase cost) of the goods to the central tax authorities.

Consumer – When the retailers sell goods purchased from the wholesalers, the retailers will include all the VAT paid together with the purchase price of the products and the price for the added value as the total sale price to be collected from the consumers. In these transaction processes of the different assign stages, the VAT of PRC is eventually the same as the Sales Tax of Canada, or the Sales Tax which the Hong Kong Government

增值稅實務增值稅概念

增值稅是流轉稅其中的一種，也是銷售稅，在增值稅範圍內，以貨物買賣而負有納稅是中國最普遍的情況，它是在貨物不同買賣環節中徵收的一種稅種，所謂流轉稅是不在乎貨物由生產商將原料加工而徵收的一種稅種，所謂流轉稅是不在乎貨物由生產商將原料加工而徵收的一種稅種，所謂流轉稅是不在乎貨物由生產商將原料加工而徵收的一種稅種，最終轉讓給消費者過程中不同轉讓的環節有否賺取利潤，所以，它不是利得稅的範圍而是在不同轉讓環節中所徵收的流轉稅稅種，在此安排下，所有稅費最終由消費者承擔。

不同轉讓環節說明

生產商 – 原料的生產商進口原料時，生產商必須交付給海關代徵的第一次增值稅，然後生產商在加工過程中針對產品加工增值部份每月要向當地的稅局申報增值稅並且徵付加工產品增值部份的第二次增值稅。

批發商 – 當生產商將所生產出的成品賣給批發商時，他“生產商”會向買家“批發商”收回他“生產商”所付的所有增值稅，包括進口時所繳付給海關的增值稅和每月繳付給當地稅局所增值部份計徵的增值稅。在此過程中，生產商要交增值稅專用發票給批發商，而批發商除付買入相關貨物價值的第一次增值稅給生產商，每月對他銷售有關商品的部份（買入價和賣出價之差）也要向當地稅局申報及繳付當期的第二次增值稅。

零售商 – 當批發商銷售貨物給零售商時，批發商會要求零售商付貨價的同時再付他“批發商”所曾經繳付的所有增值稅，在此，批發商會交增值稅專用發票給零售商，而零售商每月也要向當地稅局申報及繳付當期貨物增值部份（買入價和賣出價之差）的增值稅。

消費者 – 當零售商出售由批發商買入的成品時，零售商會一併將曾經所繳付的增值稅連同成品的買入價，增值價作為總銷售價向消費者收取。在此不同轉讓環節的交易過程中，中國的增值稅最終是等同加拿大實行的銷售稅，或者香港政府

Machinery processing industrial products using agricultural and side-line products as raw materials do not belong to this category of goods.

- (j) *Agricultural transport machines.* This refers to all kinds of transport machines needed in the course of agricultural production, including carts pulled by man or animal and tractor trailers.

Automobiles used in agriculture do not belong to this category of goods.

- (k) *Machines for animal husbandry.* This refers to all kinds of machines needed in animal husbandry, including machinery for the construction of grassland, harvest in animal husbandry, forage processing, raising of animals and poultry, and machines collecting products of animal husbandry.

- (l) *Fishing machines.* This refers to the machines used in fishing and aquatic breeding, including fishing machines, oxygen boosters, and bait machines.

Motorized fishing boats do not belong to this category of goods.

- (m) *Forestry machines.* This refers to the machines used for planting and afforestation, including cleaning machines, afforesting machines, and sapling planting machines.

Tree felling machines used in forests and log gathering machines do not belong to this category of goods.

- (n) *Small farm implements and tools.* This refers to farm tools like animal-drawn plows and harrows, hoes, and sickles.

Parts and spare parts of agricultural machinery do not belong to this category of goods.

VAT Rules on Special Activities and Various Businesses

Explanations on VAT Rules on Special Activities

Categories

VATI Art 5, 6 VAT Tax calculation method of unique operation includes:

- (1) Concurrent operations in goods or taxable service of different tax rate
- (2) Mixed sales activities
- (3) Concurrent operations in sales of goods, taxable service and non-taxable service

以農副產品為原料加工工業產品；品的機械，不屬本貨物的範圍。

- (j) 農業運輸機械。是指農業生產過程中所需的各種運輸機械。包括人力車（不包括二輪運貨車）、畜力車和拖拉機掛車。

農用汽車不屬於本貨物的範圍。

- (k) 畜牧業機械。是指畜牧業生產中所需的各種機械。包括草原建設機械、牧業收穫機械、飼料加工機械、畜禽飼養機械、畜產品採集機械。

- (l) 漁業機械。是指捕撈、養殖水產品所用的機械。包括捕撈機械、增氧機、餌料機。

機動漁船不屬於本貨物的範圍。

- (m) 林業機械。是指用於林業的種植、育林的機械。包括清理機械、育林機械、樹苗栽植機械。

森林砍伐機械、集材機械不屬於本貨物徵收範圍。

- (n) 小農具。包括畜力犁、畜力耙、鋤頭和鐮刀等農具。

農機零部件不屬於本貨物的徵收範圍。

增值稅特殊經營行為及不同行業規定

增值稅特殊經營行為

類別

增值稅特殊經營行為計稅方法類別包括：

增值稅則
§5, 6

- (1) 兼營不同稅率的貨物或應稅勞務
- (2) 混合銷售行為
- (3) 兼營銷售貨物或應稅勞務與非應稅勞務

Regulation on the Use of Exclusive VAT Invoice

THE PURCHASER OF VAT INVOICE

Conditions for persons obtaining for use

GSF 1993
No 150
Art 1 Invoices can only be obtained and used by general VAT taxpayer. Small scale VAT taxpayer of and non-VAT taxpayer shall not obtain and purchase it for use.

GSF 1993
No 150
Art 2(1) Situations where exclusive VAT invoices shall not be obtained and purchased for use

When one of the following circumstances applies to a general taxpayer, VAT invoice shall not be obtained and purchased for use:

1. The accounting system is not reliable, that is the taxpayer is unable to accurately calculate the amount of output VAT, input VAT and value-added tax payable as required by the accounting system and the tax authorities.
2. Taxpayer unable to accurately provide the amount of output VAT, input VAT, value-added tax payable and other taxation data regarding value-added tax.
3. Where the following activities were ordered by the tax authorities to be rectified within a stipulated period, but still not rectified:
 - (1) printing invoice without permission;
 - (2) purchasing exclusive invoice from individuals or units other than the tax authorities;
 - (3) borrowing exclusive invoice from others;
 - (4) provide exclusive invoice to others;
 - (5) failing to issue exclusive invoice as stipulated;
 - (6) failing to retain exclusive invoice as stipulated;
 - (7) failing to report the purchase, use and retention of the exclusive invoices as stipulated;
 - (8) failing to allow inspection of the tax authorities as stipulated.
4. Goods for sales all belong to tax-exempt items.

增值稅專用發票使用規定

增值稅專用發票的領用人

領用人條件

增值稅專用發票只限於增值稅的一般納稅人領購使用，增值稅的小規模納稅人和非增值稅納稅人不得領購使用。

財法字
(1993) 150
號 \$1

財法字
(1993) 150
號 \$2(1)

不得領購使用專用發票的情形

一般納稅人有下列情形之一者，不得領購使用專用發票：

1. 會計核算不健全，即不能按會計制度和稅務機關的要求準確核算增值稅的銷項稅額、進項稅額和應納稅額者。

財法字
(1993) 150
號 \$2(2)

2. 不能向稅務機關準確提供增值稅銷項稅額、進項稅額、應納稅額數據及其他有關增值稅稅務資料者。

財法字
(1993) 150
號 \$2(3)

3. 有以下行為，經稅務機關責令限期改正而仍未改正者：

- (1) 私自印製場發票；
- (2) 向個人或稅務機關以外的單位買取專用發票；
- (3) 借用他人專用發票；
- (4) 向他人提供專用發票；
- (5) 未按規定開具專用發票；
- (6) 未按規定保管專用發票；
- (7) 未按規定申報專用發票的購、用、存情況；

財法字
(1993) 150
號 \$2(4)

(8) 未按規定接受稅務機關檢查。

4. 銷售的貨物全部屬於免稅專案者。

*Administration of the Examination and Approval
of Domestic Sale of Bonded Materials and Parts
Imported for Processing Trade*

Definition of domestic sale of bonded materials and parts imported for processing trade
DS Art 2

Domestic sale of bonded materials and parts imported for processing trade means: Operating enterprise needs to sell the bonded imported materials and parts or their finished products domestically or to use them for the production of goods, which are sold domestically, because the enterprise cannot process the goods and then re-export them as stipulated for certain reasons.

Conditions for domestic sale of bonded materials and parts imported for processing trade

1. The foreign business entity has consulted with the operating unit for certain reasons and requested for termination of the implementation of the originally signed export contract, provided that the operating enterprise can provide the corresponding evidence and after taking the price etc into consideration, it is difficult for the enterprise to enter into a new export contract.
DS Art 4(1)
2. Due to the decrease of the prices in the international market, if the operating enterprise continues implementing the originally signed export contract, it will suffer serious economic losses, provided that it can provide the agreement with the foreign business entity regarding the termination of the implementation of the contract.
DS Art 4(2)
3. The imported materials and parts have been put into processing and use, but the quality of the processed finished products does not conform to the standards of the signed export contract, provided that the operating enterprise can provide the related evidence issued by an export quality inspection authority or a domestic quality supervision authority.
DS Art 4(3)
4. Part of the materials has been created due to the improvement of processing techniques and reduced unit consumption or a reasonable quantity of leftover bits and pieces of materials inevitably created due to technological requirements of processing techniques, provided that the operating enterprise can provide the corresponding evidence from the competent department responsible for the production industry.
DS Art 4(4)
5. The signed export contract is impossible to be implemented due to an event of force majeure events.
DS Art 4(5)
6. The enterprise possesses other proper reasons for requesting domestic sale.
DS Art 4(6)

加工貿易保稅進口料件內銷審批管理

保稅進口料件內銷定義

內銷 §2

加工貿易保稅進口料件內銷是指：經營企業因故不能按規定加工複出口，而需將保稅進口料件或其製成品在國內銷售，或轉用於生產內銷產品。

保稅進口料件內銷條件

1. 外商因故與經營單位協商，要求中止執行原已簽訂的出口合同，經營企業能夠提供有關證明，並且，從價格等方面考慮，很難再簽訂新的出口合同。
內銷 §4(1)
2. 因國際市場價格下跌，經營企業繼續執行原已簽訂的開價出口合同，將遭受嚴重的經濟損失，並且，能夠提供與外商達成的中止執行合同的協定。
內銷 §4(2)
3. 進口料件已投入加工使用，但加工的製成品質量不符合已簽訂的出口合同規定的規定標準，並且，經營企業能夠提供出口質量檢驗部門或國內質量監督部門同具的相應證明。
內銷 §4(3)
4. 因改進加工工藝、降低單耗而產生一部分餘料，或由於加工工藝的技術要求，而不避免地產生了數量合理的邊角料，並且，經營企業能夠提供生產行業主管部門的有關證明。
內銷 §4(4)
5. 因不可抗力致使已簽訂的出口合同無法繼續執行。
內銷 §4(5)
6. 具備其他要求內銷的正當理由。
內銷 §4(6)

3. 'Additional fees' means charges received from buyers not included in the price. They include funds, raising fund fees, returned profits, subsidies, fines for breach of contract, service charges, packing fees, reserve, fine-quality fees, loading and unloading charges, funds collected on someone else's behalf and funds paid on someone else's behalf and other various types of additional fees. But, the following amounts are not included:

CTI Art 14

- (a) freight invoice issued to the buyer by the carrier;
- (b) taxpayer passing the invoice to the buyer;

Other additional fees shall be included in the sales amount for tax calculation, whether they fall under the income of the taxpayer or not.

4. For taxable consumer goods sold by taxpayers on which foreign currencies are used to account for the sales amount, the taxable amount shall be calculated by converting the sales amount into Renminbi with reference to the price in the foreign exchange market.

CTI Art 5

5. For taxable consumer goods which are sold together with the packaging and which adopt the ad valorem fixed rate method for the calculation of consumption tax payable, whether the packaging is independently priced or not, and despite how they are accounted for in accounting, the amount of the packaging shall be included in the sales value of the taxable consumer goods for the levy of consumption tax. If the packaging is not priced and sold together with the goods, but for which cash deposit is received, this cash deposit shall not be included in the sales amount of the taxable consumer goods for the levy of consumption tax. However, the cash deposit which has been received for more than one year or the cash deposit which will not be refunded due to the packaging not being recovered within the time limit, shall be included in the sales amount of the taxable consumer goods and charged with consumption tax at the applicable tax rate for the taxable consumer goods.

CTI Art 13

For packaging which have been priced and sold together with the taxable consumer goods and for which cash deposit is received, if the deposit is not refunded by the taxpayer within the stipulated time period, this amount shall be included in the sales amount of the taxable consumer goods and charged with consumption tax at the applicable tax rate of the taxable consumer goods.

6. Consumption tax shall be calculated and paid on taxable consumer goods manufactured and used by the taxpayer himself according to the sale price of the similar types of consumer goods manufactured by the taxpayer; if sale price for the similar types of consumer goods is not available, consumption tax shall be calculated and paid according to the composite taxable value. The formula for calculating composite taxable value is as follows:

CTI Art 7

$$\text{Composite taxable value} = (\text{Cost} + \text{Profit}) / (1 - \text{consumption tax rate})$$

3. “價外費用”是指價外收取的基金、集資金、返還利潤、補貼、違約金（延期付款利息）和手續費、包裝費、儲備費、優質費、運輸裝卸費、代收款項、代墊款項以及其他各種性質的價外收費。但下列款項不包括在內：

消費細則
§14

- (a) 承運部門的運費發票開具給購貨方的；
- (b) 納稅人將該發票轉給購貨方的。

其他價外費用，無論是否屬於納稅人的收入，均應併入銷售額計算徵稅。

4. 納稅人銷售的應稅消費品，以外匯計算銷售額的，應當按外匯市場價格折合成人民幣計算應納稅額。

消費條例
§5

5. 實行從價定率辦法計算應納稅額的應稅消費品連同包裝銷售的，無論包裝是否單獨計價，也不論在會計上如何核算，均應併入應稅消費品的銷售額中徵收消費稅。如果包裝物不作價隨同產品銷售，而是收取押金，此項押金則不應併入應稅消費品的銷售額中徵稅。但對因逾期未收回的包裝物不再退還的和已收取一年以上的押金，應交入應稅消費品的銷售額，按照應稅消費品的適用稅率徵收消費稅。

消費細則
§13

對既作價隨同應稅消費品銷售，又另外收取押金的包裝物的押金，凡納稅人在規定的期限內不予退還的，均應交入應稅消費品的銷售額，按照應稅消費品的適用稅率徵收消費稅。

6. 納稅人自產自用的應稅消費品，按照納稅人生產的同類消費品的銷售價格計算納稅；沒有同類消費品銷售價格的，按照組成計稅價格計算納稅。組成計稅價格計算公式：

消費細則
§7

$$\text{組成計稅價格} = (\text{成本} + \text{利潤}) / (1 - \text{消費稅稅率})$$

Calculation of the Insurance Premium, Transportation and Related Expenses

Goods imported by land, air, sea transport in general

The calculation of the insurance premium, transportation and related expenses of the imported goods and exported goods:

1. Transportation by sea

For goods imported by sea, the costs of transportation and insurance shall include those incurred up to the point when the goods are delivered to the port of unloading in the territory;

DV Art 24(1) If the port of unloading the good is on an inland river, the cost shall include those incurred up to the point when the good is delivered to this port.

2. Transportation by land

For goods imported by land transport, the costs of transportation and insurance shall include those incurred up to the point when the goods are delivered to the first place of entry in the territory;

DV Art 24(2) If insurance premium, transportation and related fees are paid until the port of destination, the cost shall include those incurred up to the point when the goods reach this port of destination.

3. Transportation by air

For goods imported by air transport, the costs of transportation and insurance shall include those incurred up to the point when the goods are delivered to the first place of entry in the territory;

DV Art 24(3) If the destination of the good is the port other than the first place of entry in the territory, the cost shall include those incurred up to the point when the goods reach this port of destination.

4. Principles of calculation of transportation expenses and insurance premium

DV Art 25 The transportation expenses and insurance premium on the goods imported by land, air and sea transport shall be accounted for according to the amount actually paid.

DV Art 26 If the transportation expenses of the imported goods cannot be determined or has not actually incurred, the customs shall calculate the transportation expenses by referring to the payment rate (amount) announced by the transportation industry for the same period in which the goods are imported; the insurance premium shall be 3% of the sum of 'price of goods and freight expenses'.

進出口貨物完稅價格中的運輸及相關費用、保險費的計算

以一般陸運、空運、海運方式進口的貨物

進口貨物的運輸及相關費用、保險費的地點計算：

1. 海運的地點

海運進口貨物，計算至該貨物運抵境內的卸貨口岸；

如果該貨物的卸貨口岸是內河（江）口岸，則應當計算至內河（江）口岸。

價格 \$24(1)

2. 陸運的地點

陸運進口貨物，計算至該貨物運抵境內的第一口岸；

如果運輸及其相關費用、保險費支付至目的地口岸，則計算至目的地口岸。

價格 \$24(2)

3. 空運的地點

空運進口貨物，計算至該貨物運抵境內的第一口岸；

如果該貨物的目的地為境內的第一口岸外的其他口岸，則計算至目的地口岸。

價格 \$24(3)

4. 運費和保險費計算原則

陸運、空運和海運進口貨物的運費和保險費，應當按照實際支付的費用計算。

價格 \$25

如果進口貨物的運費無法確定或未實際發生，海關應當按照該貨物進口同期運輸行業公佈的支費率（額）計算運費；按照“貨價加運費”者總額的 3% 計算保險費。

價格 \$26

- DV Art 10(1) (iv) Other processing expenses incurred during the production process of that good.
- DV Art 10(2) (v) Profits from the overseas sale of goods with the same class or same type, profits that are related to the general expenses and general expenses.

4. Other reasonable methods

Other reasonable methods adopt the assessment principles stipulated by the WTO agreement and 'Dutiable value method', and use the information obtained in China's territory as the base of assessing the dutiable value.

DV Art 11 However, the following price cannot be used:

- DV Art 11(6) (a) lowest price limit or arbitrarily fabricated price;
- DV Art 11(2) (b) a higher price among the alternative prices;
- DV Art 11(3) (c) selling price of the goods in the market of the export place;
- DV Art 11(4) (d) price calculated from the price or expenses other than those stipulated in the price calculation method;
- DV Art 11(3) (e) selling price of the goods produced and sold in the territory;
- DV Art 11(5) (f) selling price of the goods sold to third country or region.

Customs Duties on Exported Goods

Background of the tariff rate of export duty in China

There is only one column of tariff rate of export duty in the Customs Import and Export Tariff. Since export can bring benefits to China's economy, foreign exchange and employment to a certain extent, therefore, China only levies export duty on a small number of resource type products and semi-finished goods whose export order needs to be regulated due to blind import and keen price competition.

Dutiable value of exported goods

DV Art 21 The transaction price of exported goods means the price paid or payable to seller by the buyer for the goods exported and sold outside the territory.

1. Transaction price of the price paid or payable:

- (1) The transaction price of the goods sold abroad shall be adopted as the basis of the dutiable value of the exported goods, which is examined and determined by the customs.
- (2) The dutiable value of the exported goods shall include transportation and other related expenses, insurance premium incurred before the goods are delivered to the place of exit in the territory.

- (iv) 生產該貨物過程中其他加工的費用。 價格 \$10(1)
- (v) 與向境內出口銷售同等級或同種類貨物的利潤、一般費用相符的利潤和一般費用。 價格 \$10(2)

4. 其他合理方法

其他合理方法以 WTO 協定及《完稅價格辦法》規定的估價原則，在中國境內獲得的資料資料為基礎估定完稅價格，但不得使用以下價格：

- (a) 最低限價或武斷虛構的價格； 價格 \$11(6)
- (b) 可供選擇的價格中較高的價格； 價格 \$11(2)
- (c) 貨物在出口地市場的銷售價格； 價格 \$11(3)
- (d) 以計算價格方法規定的有關各項之外的價值或費用計算的價格； 價格 \$11(4)
- (e) 境內生產的貨物在境內的銷售價格； 價格 \$11(3)
- (f) 出口到第三國或地區的貨物的銷售價格。 價格 \$11(5)

出口貨物關稅

中國出口稅率背景

中國出口稅則只有一欄出口稅率。由於出口商品能為中國經濟、外匯、就業帶來一定程度的好處，因此中國家僅對少數資源性產品及盲目進口、易於競相殺價而需要規範出口秩序的半製成品徵收出口關稅。

出口貨物的完稅價格

出口貨物的成交價格，是指該貨物出口銷售到境外，買方向賣方實付或應付的價格。 價格 \$21

1. 實付或應付的價格的成交價格：

- (1) 出口貨物的完稅價格以貨物向境外銷售的成交價格為基礎，由海關審查確定。
- (2) 出口貨物的完稅價格應包括貨物運至中國境內輸出地點裝載前的運輸及其相關費用、保險費。

Standards and management method of type C enterprise

GSH 1998
No 36
Art 1(3) 1. Standards of enterprise

- (1) no tax deception has been committed for the recent three years;
- (2) the enterprise has a sound and complete financial system.

GSH 1998
No 36 Art 4 2. Management by classification methods

- (1) Implementing a management methods in which tax refund can only be lodged when the invoices and documents are completely collected.
- (2) After the exported goods have been exported through customs, tax refund (exemption) can only be lodged when the tax refund proofs such as exported goods customs declaration forms, copy specifically used for export tax refund, value-added tax payment certificate (specifically used for exported goods), foreign currency receipt verification and cancellation form for goods export 'export currency receipt', special invoice for value-added tax and export invoice) are completely collected.
- (3) The tax authorities responsible for export tax refund examine and approve tax refund on the basis of conscientiously examining and approving the tax refund proofs and electronic information.

Standards and management method of type D enterprise

GSH 1998
No 36 Art 4 1. Standards of enterprise

Export enterprise which has committed tax deception in the recent three years.

GSH 1998
No 36 Art 5 2. Management by classification method

- (1) Implementing a management method in which the lodging, examination and approval of tax refund are strict.
- (2) For the examination and approval of tax refund for exported goods, apart from following the management method for type C enterprises, the competent taxation authorities responsible for export tax refund shall conduct strict examination and verification on the information lodged for tax refund. After verification through investigation, the examination and approval of tax refund shall be made on the basis that the loans on the exported goods are confirmed to have been directly paid to the seller and the tax refund proofs and electronic information are authentic, complete and correct.

類企業標準及管理辦法

1. 企業標準

國稅函
(1998) 36
號 §1(3)

- (1) 近3年來未發生過騙稅或涉嫌騙稅問題;
- (2) 企業財務制度健全。

2. 分類管理辦法

國稅函
(1998) 36
號 §4

- (1) 實行單證齊全方可申報辦理退稅的管理辦法。
- (2) 出口的貨物，在貨物報關出口後，須將出口的貨物報關單（出口退稅聯）、增值稅稅收（出口貨物專用）繳款書、出口收匯銷單、增值稅專用發票等退稅憑證收集齊全後，方可申報退稅。
- (3) 主管出口退稅的稅務機關在認真審核其退稅憑證、電子信息的基礎上審批退稅。

類企業標準及管理辦法

1. 分類標準

國稅函
(1998) 36
號 §4

近3年來曾發生過騙稅問題的出口企業。

2. 分類管理辦法

國稅函
(1998) 36
號 §5

- (1) 實行嚴格的退稅申報、審核、審批管理辦法。
- (2) 出口貨物退稅的申報審批，除按C類企業辦法管理外，主管出口稅的稅務機關對其退稅申報資料須進行嚴格審核，經調查核實，在確定出口貨物的貸款確已直接付給銷貨方且退稅憑證、電子信息真實、齊全、無誤的基礎上審批退稅。

enterprise carries out recording in the enterprise; recording by commissioned middlemen is selected by an enterprise by referring to the actual need.

After finishing recording, the enterprise may calculate the tax refundable amount for this period through the functions of the declaration system, such as summary, inquiry and calculation, make them into a soft copy of computer record 'soft copy' and send to the tax refund authorities for carrying out of pre-examination. With reference to the doubts found in the pre-examination, the enterprise shall readjust the lodged information by referring to the actual condition until the pre-examination is passed and a soft copy is made.

Step 3: Sending to the MOFTEC for verification and signature

An enterprise applies to MOFTEC for export tax refund verification with documents that have passed the pre-examination. MOFTEC department responsible for export tax refund verification carries out verification on the enterprise's documents according to the export tax refund verification administrative method.

The main points of verification are:

- (1) if it falls under long-term collection, whether the long-term collection proof is provided;
- (2) whether the higher tax rate and valuable goods lodging tax refund belong to the goods approved to claim tax refunds by the State Administration of Taxation and MOFTEC;
- (3) whether the price of the exported goods is normal;
- (4) whether the amount of increase or decrease in export is normal; and
- (5) whether the cash operation is normal.

Step 4: Sending to the tax authorities responsible for tax refund for examination, verification and approval

After the documents used for application of tax refund are verified by MOFTEC, the export enterprise sends the documents, which fulfill the rules, and the corresponding lodged information to the tax authorities responsible for tax refund for examination, verification and approval. The main corresponding procedures are as follows:

Firstly, the tax person of the export enterprise transfers the content of soft copy information to the export tax refund examination system under the arrangement of the special personnel of the competent taxation authorities responsible for tax refund;

Secondly, the special personnel of the competent taxation authorities responsible for tax refund carries out the preliminary examination work; the preliminary examination examines the business and found doubts, prepare a list of doubts for carrying out examination or transfer to

的錄入管理中心（科室）進行錄入；分散錄入是經由主管退稅稅務機關批准並安裝錄入系統，由企業辦稅員在本企業錄入；委託中介機構錄入由企業結合實際需要來選擇。

企業完成錄入後，通過申報系統的匯總、查詢、計算等功能可計算出本次應退稅額，並做成申報電腦資料，報送退稅機關進行預審。根據預審疑點，結合實際情況重新調整申報資料或數據，直至預審通過，做成正式申報電腦資料。

步驟 3: 報送外經貿主管部門稽核簽章

企業將預審通過的單證，向外經貿主管部門申請出口退稅稽核。外經貿主管出口退稅稽核的部門按出口退稅稽核管理辦法，對企業的申請單證進行稽核，主要的稽核重點是：

- (1) 屬於遠期收匯的，是否提供了遠期收匯證明；
- (2) 申報退稅的原高稅率、貴重貨物是否屬於國家稅務總局、外經貿部批准行許退稅的貨物。
- (3) 出口貨物價格是否正常；
- (4) 出口額的增減是否正常；
- (5) 資金運作是否正常。

步驟 4: 報送主管退稅稅務機關審核、審批

出口企業的退稅申請單證經外經貿主管部門進行稽核後，由出口企業將符合規定的單證及相應的申報資料報送主管出口退稅的稅務機關審核和審批。有關主要程式如下：

第一，出口企業的辦稅員在主管出口退稅的稅務機關的專管人員的安排下，將申報電腦資料的內容轉錄至出口退稅審核系統；

第二，由主管出口退稅的稅務機關的專管人員進行初審工作：初審審核有疑點的業務，打出疑點表進行核查或轉入調查，審核通過

納稅人和扣繳義務人說明

單位是指國有企業、集體企業、私有企業、股份制企業、外商投資企業、其他企業和行政單位、事業單位、軍事單位、社會團體及其他單位。

個人是指個體工商戶及其他有經營行為的個人，包括中國公民和外國公民。

企業租賃或承包給他人經營的，以承租人或承包人為納稅人。

負有營業稅納稅義務的單位為發生應稅行為並向對方收取貨幣、貨物或其他經營利益的單位，包括獨立核算的單位和不獨立核算的單位。

營業稅則
\$9, 財發字
(1993) 40
號

營業稅則
\$9

營業稅則
\$10

營業稅則
\$11

營業稅的稅目和稅率

營業稅稅目稅率表

營業稅則
\$2

稅目	徵收範圍	稅率
1. 交通運輸業	陸路運輸、水路運輸、航空運輸、管道運輸、裝卸運輸	3%
2. 建築業	建築、安裝、修繕、裝飾及其他工程作業	3%
3. 金融保險業	金融、保險	5%
4. 郵電通信業	郵政、電信	3%
5. 文化體育業	文化業、體育業	3%
6. 娛樂業	卡拉 OK 歌舞廳、音樂茶座	5%-20%

Taxable Items	Scope of tax levy	Tax rate
	Nightclubs, music halls, ballrooms, areas for shooting, hunting and horse racing, arcade rooms and places for playing golf, bowling and billiard.	20%
7. Service industry	Agency services, hotels, food and catering, tourism, storage, rental and leasing services, advertising and other services.	5%
8. Assignment of intangible assets	Assignment of land use rights, patents, non-patented technology, trademarks, copyrights and business reputations.	5%
9. Sales of immovable property	Sales of buildings and other structures attached on the land.	5%

Taxable Items for Business Tax Explanations

GSF 1993 No 149 Traffic and transportation industry

'Traffic and Transportation Industry' refers to goods or passengers transported by using transportation tools, manual or animal forces. The physical location of these goods or passengers is being transferred. The scope of tax levy includes: transportation by land, water, air and pipeline and loading and unloading transport. Any labour services which are related to operational activities shall fall under the scope of this taxable item for tax levy.

1. Land transport

'Land transport' refers to the transportation business which carries goods or passengers via land (above the ground or beneath the ground), including transportation by railways, highways, cable cars, cableways and other land transportation.

2. Water transport

'Water transport' refers to the transportation business which carries goods or passengers via waterways, natural or man-made, in streams, rivers, lakes and plains, etc or via marine courses. 'Salvage' is subject to tax levy similar to water transport.

GSF 1993
No 149 Art
1(2)

Taxpayer and Scope of Taxation of Individual Income Tax

Taxpayer of Individual Income Tax

1. Domiciled in the PRC

Individuals who are domiciled in the PRC, or who are not domiciled but have resided inside the PRC for one year, shall pay individual income tax in accordance with the Law on income derived from sources inside and outside the PRC (Individual Concept)

IT Art 1

2. Not Domiciled in the PRC

Individuals who are neither domiciled nor resident in the PRC, or who are not domiciled and have resided for less than one year inside the PRC, shall pay individual income tax in accordance with the Law on income derived from sources inside the PRC (Source Concept).

IT Art 1

Scope of Taxation of Individual Income Tax

Not domiciled in the PRC (Temporary Residence)

Definitions — Resident inside the PRC consecutively or accumulatively for not more than 90 days, or 183 days within periods under double taxation treaty, in one Tax Year

IT Art 1,
ITI Art 7

Scope of Taxation — Income derived from sources inside the PRC, but only which is paid by employers inside the PRC shall be taxed. Income paid by employers outside the PRC is not taxable. Income paid by an employer outside the PRC shall not be borne by organizations or places of that employer inside the PRC.

GSF 1994
No 148

Not domiciled in the PRC (Permanent Residence)

Definitions — Resident inside the PRC consecutively or accumulatively for more than 90 days, or 183 days within periods under double taxation treaty, in one Tax Year.

Scope of Taxation — Income derived from sources inside the PRC, whether paid by employers within the PRC or paid by an employer outside the PRC, shall be taxed.

GSF 1994
No 148

Domiciled in the PRC (Non-Permanent)

Definitions — Resident for more than one year, but less than five years.

個人所得稅的納稅人和徵稅範圍

個人所得稅的納稅人

1. 居民

在中國境內有住所，或者無住所而在境內居住滿一年的個人從中國境內和境外取得的所得，依照個人所得稅法規定繳納個人所得稅。(屬人主義)

個人條例
\$1

2. 非居民

在中國境內無住所又不居住或者無住所而在境內居住不滿一年的個人，從中國境內取得的所得，依照個人所得稅法規定繳納個人所得稅。(屬地主義)

個人條例
\$1

個人所得稅的徵稅範圍

非居民 (短暫居留)

定義—在一個課稅年度中連續或累計居住不超過90天或在稅收協定規定的期間中在中國境內連續或累計居住不超過183天

個人條例
\$1,
個人細則
\$7

範圍—來源於中國境內的所得，但僅對由中國境內雇主支付的所得課稅，由中國境外雇主支付的所得不課稅。境外雇主支付的所得不得由該雇主在中國境內的機關、場所負擔。

國稅發
(1994) 148
號

非居民 (長期居留)

定義—在一個課稅年度中連續或累計居住超過90天或在稅收協定規定的期間中在中國境內連續或累計居住超過183日，但不滿1年

範圍—來源於中國境內的所得，無論是由中國境內雇主支付或由中國境外雇主支付的所得均須課稅。

國稅發
(1994) 148
號

居民 (非永久性)

定義—居住滿1年以上，但不滿5年

Taxpayers requesting to change the place for tax filing shall first be approved by the original tax authority.

2. When taxpayers file tax returns, deduction for the amount individual income tax levied inside and outside the PRC shall be allowed on amount of payable tax as prescribed by the relevant rules.
3. When filing tax returns, taxpayers shall correctly complete the tax returns in respect of different categories of taxable income, and shall also send the relevant information according to the rules prescribed by the tax authority.
4. Taxpayers may personally or appoint others to file tax returns by post within the period of time for tax filing as prescribed.
5. For tax returns filed by post, the actual date of filing shall be the date of postal chop of the sending place.
6. Where the period of time limited for tax filing ends upon a statutory rest day, the next day after the rest day shall be the last day of the period of time limited.
7. Taxpayers having genuine difficulties who cannot deal with filing tax returns in accordance with the period of time limited, after approval of the tax authority, may postpone filing.
8. Taxpayers who due to special difficulties cannot file tax returns in accordance with the period of time limited, after approval of tax authority (branch) of a level above the provincial level, may postpone paying tax, but not more than three months at maximum.
9. Where tax authority investigate income and tax payment situations of taxpayers as prescribed by law, the taxpayers must report truthfully, and produce relevant information, and shall not refuse or conceal.

Payment of Tax

Levy of tax amount of individual income tax are categorized into the following three types of time limit in total:

Levy per Occasion

- (a) Income from remuneration for personal services
- (b) Income from remuneration for manuscripts
- (c) Royalty Income
- (d) Income from interest, dividends and bonuses
- (e) Income from leasing properties
- (f) Income from assignment or transfer of properties
- (g) Contingency income
- (h) Other income

納稅人要求變更申報納稅地點的，須經原主管稅務機關批准。

2. 納稅人在申報納稅時，其在中國境內、境外已納的個人所得稅稅款，准予按照有關規定從應納稅額中扣除。
3. 納稅人在申報納稅時，應分別不同應納稅所得項目，正確填寫納稅申報表，並必須按照稅務機關的規定報送有關資料。
4. 納稅人可以由本人或委託他人採用郵寄方式在規定的申報期限內申報納稅。
5. 郵寄申報納稅的，以寄出地的郵戳日期為實際申報日期。
6. 納稅期限的最後一日是法定休假日的，以休假的次日為期限的最後一日。
7. 納稅人確有困難，不能按期辦理納稅申報的，經主管稅務機關核准，可以延期申報。
8. 納稅人因有特殊困難，不能按期繳納稅款的，經縣以上稅務局（分局）批准，可以延期繳納稅款，但最長不得超過3個月。
9. 稅務機關依法對納稅人的收入和納稅情況進行檢查，納稅人必須據實報告，並提供有關資料，不得拒絕和隱瞞。

稅款的繳納

個人所得稅稅款的繳納共分為下列三種計徵期限：

按次計徵

- (a) 勞務報酬所得；
- (b) 稿酬所得；
- (c) 特許權使用費所得；
- (d) 利息、股息、紅利所得；
- (e) 財產租賃所得；
- (f) 財產轉讓所得；
- (g) 偶然所得；
- (h) 其他所得。

The issues of taxation treatment concerning the above circumstances are determined as follows:

- (a) foreign investment enterprises inviting guests to their restaurants which are operated for outsiders shall pay business tax according to the operating income computed from the pricing standard charged of the external business operations. The amount shall not be valued at cost to directly offset the operating cost; and
- (b) foreign investment enterprises withdrawing their own products like cigarettes and alcohol etc for receiving guests shall treat the expense as sales and pay value-added tax according to the operating income computed from the external selling price. The amount shall be recognized at the input cost to offset the inventory.

Administrative expenses

Reasonable administrative expenses supported with certificates about the scope, total amount, sharing basis and methods of the overall administrative expenses of the head office, attached with a verification report issued by a chartered public accountant concerning the which are paid to the head office by the establishments or sites inside China established by the foreign enterprises and which are related to the production and business operations of the aforesaid establishments or sites shall be submitted and, subject to the verification and approval of the local tax authorities, may be recognized as expenditure.

LTI No 20

Foreign investment enterprises shall share with their branches reasonable administrative expenses relating to the production and business operations.

LTI Art 58

However, administrative expenses paid by associated enterprises are not recognizable.

Where administrative expenses have been paid by an foreign investment enterprise in a certain proportion of the sales income but the relevant departments have not provided actual services for the enterprise, or an foreign investment enterprise has paid expenses to the respective departments at an amount over the reasonable charging standard of the same type of services in the market, the expenditure belongs to the expenditure unrelated to the production and business operations as stipulated in item 10 of article 19 of 'Detailed rules for the implementation of the income tax law of the PRC for foreign investment enterprises and foreign enterprises', and thereby may not be deducted before income tax payable of the enterprise.

GSH 1993
No 469

Where the relevant departments have actually provided services in respect of property consultation, market information, and sales and purchases of goods etc, and the foreign investment enterprise has paid the service charges one by one to those departments according to the relevant regulated charging standard or the normal charging price of the same type of services in the market, the service charges may be deductible in the computation of the income tax of the enterprise.

- (a) 外商投資企業在本企業對外營業的餐廳宴請賓客，應按照營業稅，不得按成本價直接沖減餐廳營業成本。
- (b) 外商投資企業提取其所經營的香煙、酒類等商品用於招待賓客，應作為銷貨處理，按照增值稅，不得按進價沖減商品庫存。

管理費用

外中國企業在中國境內設立的機構、場所向其總機構支付的本機構、場所生產、經營有關的合理的管理費，應當提供總機構出具的管理費匯集範圍、總額、分攤依據和方法的證明文件，並附有註冊會計師的查證報告，經當地稅務機關審核同意後，准予列支。

所得細則
20 號

外商投資企業應當向其分支機構合理分攤與其生產、經營有關的管理費。

所得細則
§58

企業不得列支向其關聯企業支付的管理費。

有關部門並未向企業實際提供服務而外商投資企業按照銷售收入的一定比例支付的管理費，或者外商投資企業按超過市場同類服務的合理收費標準向有關部門支付的費用，屬於《外商投資企業和外國企業所得稅法實施增值細則》第 19 條第 10 款所規定的與生產經營無關的支出，不得在繳納企業所得稅前列支。

國稅函發
(1993) 469
號

有關部門實際提供產業諮詢、市場訊息、產品供銷等方面的服務，外商投資企業按照有關規定的收費標準或者市場同類服務的 normal 收費價格向這些部門逐項支付的服務費可在計算企業所得稅時予以扣除。

Unit	Procedure	Article
6. Tax authority-in-charge	Issue the 'Notice on Provision of Specific Relevant Information Concerning Business Transactions with Affiliated Enterprises' to enterprises, requiring enterprises to provide the relevant information such as the standards of transaction prices and expenses, etc.	18
7. Tax assessment personnel	Determine the method of taxation adjustments and draft the preliminary proposals.	33
8. Internal deliberation committee	Carry out internal deliberation and form the preliminary opinions of the principal tax authority	34
9. Tax authority-in-charge	Consult and negotiate with enterprises for opinions. Enterprises with dissenting opinions may provide evidential information to explain the reasonableness of the prices within the stipulated period.	35
10. Tax authority-in-charge	Make deliberation decision within 30 days, fill in the 'Form for Submission of Tax Treatment of Transfer Pricing and Adjustment of the Amount of Tax on Transfer Pricing for Approval' and submit it to the senior leaders who shall conduct verification and approval within 20 days.	36
11. Tax authority-in-charge	Fill in the 'Notice of Adjustment of the Amount of Taxable Revenue or Income in Connection With Transfer Pricing' within five days, inform the adjusted enterprises in writing and handle the signature for receipts.	36
12. Enterprises under investigation	Pay the tax according to the stipulated period after receipt of the 'Notice'. Where dissenting opinions arise, tax shall be paid first and application for review shall be submitted to the tax authority one level higher within 60 days. Decision of review shall be made by the tax authority one level higher within 60 days. Enterprises not satisfied with the decision of review may appeal to a people's court within 15 days.	40

序執行單位	作業內容	程序
6. 主管稅務機關	向企業下達《關於提供與關聯企業業務往來有關具體資料的通知》，要求企業提供有關交易的價格、費用標準等資料。	18
7. 稅務審計人員	確定稅收調整方法並擬定初步調整方案。	33
8. 內部審議小組	進行內部審議，形成主管稅務機關的初步意見。	34
9. 主管稅務機關	與企業協商，徵詢意見。企業如有異議可在規定期限內提供證據資料說明價格的合理性。	35
10. 主管稅務機關	30 天內做出審議決定，填寫《轉讓定價稅收處理及稅額調整呈批表》，報上級領導審批，領導應於 20 天內予以審批。	36
11. 主管稅務機關	5 日內填製《轉讓定價應稅收入或應納稅所得額調整通知書》，書面通知被調整企業，並辦理簽收。	36
12. 被調查企業	收到《通知書》之後，應按規定期限繳清稅款。如有異議，須先繳納稅款，並在 60 天內向上一級稅務機關申請復議。上一級稅務機關應在 60 天內作出復議決定。企業對復議決定不服，可在 15 天內向人民法院起訴。	40

without refusals or hiding of truths. Certificates concerning the portion of expenditure incurred outside China signed by the head office and a certified accountant shall also be submitted for verification and approval of tax authorities.

Formulae of taxation based on expenditure amount are as follows:

Computation of business tax:

Income amount = expenditure of this period / (1 - 10% verified profit rate - 5% business tax rate)

Payable business tax amount = income amount × 5% business tax rate

Computation of income tax of enterprises:

Assessable income amount = income amount × 10% (verified profit rate)

Payable income tax amount = assessable income amount × income tax rate of foreign enterprises

Expenditure of resident representative offices related to their business activities shall be regarded as expenditure of the resident representative offices. The following expenditure shall be regarded as expenditure of the resident representative offices:

- (a) sample fees and transportation expenses for acquiring samples from inside China for the head office;
- (b) warehouse and storage expenses and custom declaration fees incurred inside China from delivery of foreign samples to China;
- (c) fees of hiring interpreters for members from head office paying visits to China; and
- (d) fees of buying tenders paid by a resident representative office for the head office bidding for a Chinese project etc.

The payments of the following expenditure by a resident representative office for the head office not belonging to the business activities of the resident representative office itself may be exempt from being regarded as expenditure of the resident representative offices:

- (a) air ticket fees paid by the resident representative office for visits of the relevant personnel invited by the head office;
- (b) expenses paid by the resident representative office on clothing, board and lodging, transportation and entertainment of members of the representative group of the head office during their visits to China. They exclude the above expenses paid for the representative groups visiting China to engage in commercial negotiations or contract conclusions etc;
- (c) decoration expenses, custom duty on samples, transportation fees inside China and other expenses paid by the resident representative office relating to a large scale exhibition held in China organized by the head office.

GSW
No 140

GSW 88
No 333

報，並提供有關資料，不得拒絕或隱瞞。其中屬於在中國境外的經費支出部分，還應提供其總機構和註冊會計師簽字的證明文件，一併報稅務機關審核。

按經費支出額計算徵稅的公式：

營業稅的計算：

收入額 = 本期經費支出額 / (1 - 核定利潤率 10% - 營業稅稅率 5%)

應納營業稅額 = 收入額 × (營業稅稅率) 5%

企業所得稅的計算：

應納所得稅額 = 收入額 × (核定利潤率) 10%

應納所得稅額 = 應納稅所得額 × 外國企業所得稅稅率

常駐代表機構支出的與其自身業務有關的費用，都應作為常駐代表機構的費用。下列費用，亦應作為駐華代表機構的費用：

- (a) 為總機構從中國境內購買樣品所支付的樣品費和運輸費用；
- (b) 國外樣品運往中國發生的在中國境內的倉儲費用、報關費用；
- (c) 總機構人員來華訪問聘請翻譯的費用；
- (d) 總機構為中國某個項目投標，而由代表處支付的購買標書的費用等等。

常駐代表機構為其總機構墊付的不屬於其自身業務活動所發生的下列費用，可不作為常駐代表機構的費用：

- (a) 總機構邀請訪問，由常駐代表機構墊付的有關人員的機票費用；
- (b) 總機構組織的代表團訪華，由常駐代表機構墊付的該代表團人員在華食、宿費用、交通費用以及交際應酬費用，但不包括為來華從事商務洽談、簽訂合同等代表團所墊付的上述費用；
- (c) 總機構在華舉辦大型展覽，由常駐代表機構墊付的有關布展費用、樣品的關稅、境內運輸費用以及其他有關費用；

國稅外字
第 140 號

國稅外字
(88) 第 33 號

SPECIAL RULES ON DETERMINATION OF INCOME

Tax treatment of reduction or refund of turnover tax by tax handling

Tax Treatment of Reduction or Refund of Turnover Tax by Tax handling. Reduction or refund of turnover tax (including Pay First Refund Immediately, Pay First Refund Later) of enterprises is credited into the enterprise's 'subsidy income' ledger. Except the special items for specified purpose stipulated by the State Council, Ministry of Finance, State Administration of Taxation which are exempt from tax, all shall be included as profits of the enterprise and be levied with enterprise income tax as stipulated. Those of direct exemption and pay first refund immediately shall be included as profits of the enterprise for the current year and levied with enterprise income tax. Those of first pay later return or first pay later refund shall be included as the profits of the enterprise in the year of tax refund or return and be levied with enterprise income tax.

CSZ 1994
No 074

Value-added tax amount refunded upon export is not levied with enterprise income tax:

- (a) one reason is that Value-added Tax is a tax on amount excluded from the price, and is not related to the accounting profits of the enterprise; and
- (b) second reason is that Value-added Tax is credited into the 'Payable Tax — Payable Value-added Tax (Export Tax Refund)' ledger and is not treated as income. Amount of consumption tax refunded upon export is set off against 'Principal Business Tax and Extras' ledger, and on the contrary increases the accounting profits of the enterprise. This means that Value-added Tax refunded upon export shall be levied with enterprise income tax.

Taxation treatment for assessed value increase of assets

Net value increase from fixed asset assessments incurred in the course of appraisal of assets and funds in accordance with the uniform rules of the State Council shall not be included in the taxable income amount of the taxpayer.

CSZ (1992)
No 077
Art 1(1)

Net profits or losses of in the transfer of asset rights incurred in the course of transfer of asset rights by taxpayers shall be included in the taxable income and enterprise income tax shall be paid according to the tax laws. Net profits from transfer of State-owned asset rights, where the full amount is submitted to the Ministry of Finance in accordance with the relevant regulations of the State, shall not be included in the transfer income amount.

CSZ (1992)
No 077
Art 1(3)

收入確定的特殊規定

減免或返還流轉稅的稅務處理

減免或返還流轉稅的稅務處理。對企業減免或返還的流轉稅（含即征即退、先征後退），計入企業“補貼收入”賬戶貸方，除國務院、財政部、國家稅務總局規定有指定用途的項目不徵稅外，都應並入企業利潤，照章徵收企業所得稅；對直接減免和即征即退的，應並入企業當年利潤徵收企業所得稅；對先徵稅後返還和先征後退的，應並入企業實際收到退稅或返還稅款年度的企業利潤徵收企業所得稅。

財稅字
(1994) 074
號

出口退回的增值稅額不繳納企業所得稅：

- (a) 一是因增值稅屬於價外稅，與企業的會計利潤沒有關係；
- (b) 二是退回的增值稅，計入“應交稅金——應交增值稅（出口退稅）”賬戶貸方，不作收入處理。出口退回的消費稅稅額，沖減“主營業務稅金及附加”賬戶，相反就增加了企業會計利潤，即出口退回的消費稅稅額應徵收企業所得稅。

資產評估增值的稅務處理

納稅人按照國務院的統一規定，進行清產核資時發生的固定資產評估淨增值，不計入應納稅所得額。

財稅字
(1992) 077
號 §1(1)

納稅人在產權轉讓過程中，發生的產權轉讓淨收益或淨損失，計入應納稅所得額，依法繳納企業所得稅。國有資產產權轉讓淨收益凡按國家有關規定全額上繳財政的，不計入應納稅所得額。

財稅字
(1992) 077
號 §1(3)

6. Donations

Gifts of the taxpayer outside the scope of gifts used on public welfare and of relief nature falling outside the stipulations of the tax laws, and gifts exceeding the deduction standard of the annual taxable income, are not deductible.

ET Art 7(6)

7. Expenditures on various types of sponsorship

All types of sponsorship expenditures mean all types of non-advertisement nature sponsorship expenditures. If it belongs to advertisement nature sponsorship expenditure, it may be deducted with reference to the relevant stipulations on the advertisement fees.

ET Art 7(7)

8. Loan guarantee unrelated to the income of taxpayer

For loan guarantee etc. provided by the taxpayer for other independent taxpayers unrelated to the income of that taxpayer, the capital and interest borne by the guaranteeing taxpayer due to inability to repay loans by the guaranteed party is not deductible before tax.

ET Art 7(8)

9. Other expenditure unrelated to deriving of income

Offset of Losses

Definition of offset of losses

According to the Enterprise Income Tax Law, if the taxpayer incurs losses in an assessable year, the income of the subsequent year may be applied to offset such losses. If the income of the subsequent year is not sufficient to offset such losses, such losses may be gradually offset over the following years, subject to a maximum of five years. Whether there are losses or profits in these five years, these five years are treated as the actual maximum period for the calculation of offset of losses.

ET Art 11,
Offset Art 1

Explanations:

1. Loss does not mean the loss amount reflected in the enterprise's financial statements. It means the loss amount in the enterprise's financial statements as verified and adjusted by the tax authorities according to the tax laws.
2. Profits and losses of overseas operations within the same enterprise may be offset against each other for the purpose of offset of losses. However, profits and losses of domestic and overseas operations of the same enterprise shall not be offset against each other for the purpose of offset of losses. Profits and losses of overseas operations within the same enterprise refer to the profits and losses within the same country. Profits and losses in different countries may not offset against each other.

Offshore
Art 2

6. 捐贈

納稅人超出稅法規定，用於公益、救濟性捐贈範圍以外的捐贈，以及超過全年應納稅所得額扣除標準以外的捐贈，不得扣除。

企業條例
§7(6)

7. 各種贊助支出

各種贊助支出是指各種非廣告性質的贊助支出。如果屬於廣告性贊助支出，可參照廣告費用的相關規定扣除。

企業條例
§7(7)

8. 納稅收入無關的貸款擔保

納稅人爲其他獨立納稅人提供與本身應納稅收入無關的貸款擔保等，因被擔保方不能還清貸款而由該擔保納稅人承擔的本息等，不得在擔保企業稅前扣除。

企業條例
§7(8)

9. 與取得收入無關的其他各項支出不得扣除。

企業所得稅虧損彌補

虧損彌補定義

企業所得稅法規定，納稅人發生年度虧損的，可以用下一納稅年度的所得彌補；下一納稅年度的所得不足彌補的，可以逐年延續彌補，但是延續彌補期最長不得超過5年。5年內不論是盈利或虧損，都作爲實際彌補期限計算。

企業條例
§11,
彌補 §1

說明：

1. 虧損不是企業財務報表中反映的虧損額，而是企業財務報表中的虧損額經主管稅務機關按稅法規定核實調整後的金額。
2. 企業境外業務之間的盈虧可以互相彌補，但企業境內外之間的盈虧不得相互彌補。企業境外業務之間的盈虧可以互相彌補是指同一個國家內的盈虧，不同國家的盈虧不能相互彌補。

境外 §2