

## 新版居民企业所得税预缴申报表和非居民企业申报表出炉

2014年末，国家税务总局（税务总局）发布了一套新的企业所得税年度纳税申报表（新版居民企业年度申报表）。该申报表适用于据实申报企业所得税的居民企业。近期，税务总局又修订了两套企业所得税申报表，即非居民企业所得税预缴和年度纳税申报表（新版非居民企业预缴和年度申报表）及居民企业预缴纳税申报表（新版居民企业预缴申报表）（统称新版预缴申报表）。

### 新版非居民企业预缴和年度申报表

新版非居民企业申报表包含了以下三类企业所得税申报表。我们在此对每类申报表的主要变化进行介绍。

#### 1. 非居民企业所得税预缴和年度申报表（适用于据实申报企业）

非居民企业所得税预缴和年度申报表包括以下两套表：

- 1.1 新版非居民企业所得税年度纳税申报表，包括1张主表和9张附表。主表内容和旧版相似，附表（除了企业所得税弥补亏损明细表以外）则多为新增。
- 1.2 新版非居民企业所得税预缴纳税申报表，用于非居民企业的季度纳税申报，包括了1张主表（内容和旧版并无显著变化）及1张新增的税收优惠明细表（与新版非居民企业所得税年度纳税申报表中的同名附表类似）。过去，非居民企业是否可以在预缴阶段提前享受税收优惠待遇并无明文规定。现在新增的税收优惠明细表意味着纳税人可以在预缴阶段就享受税收优惠，而无需先在预缴时缴税，然后在年度汇算清缴时再申请退税。

#### 2. 非居民企业所得税预缴和年度申报表（适用于核定征收企业）

这张新的申报表适用于核定征收的非居民企业在季度和年度企业所得税申报时使用。此外，根据相关税收协定未在中国构成常设机构或者享受国际运输所得减免税待遇的非居民企业也需要填报该表。换言之，根据新报表的要求，即使前述非居民企业已经就享受税收协定优惠向税务机关完成了备案手续，仍需要在该表上进行零税款申报，并披露相关的收入、费用明细。

### 3. 扣缴企业所得税报告表

相比于旧版扣缴企业所得税报告表，新版报告表并无太多重要变化。最主要的改变是新版报告表可以同时适用于扣缴申报和自行申报。也就是说，扣缴义务人未履行扣缴义务时，非居民企业可以使用该表自行申报缴税。例如，一非居民企业向另一非居民企业转让其持有的中国公司的股权，如果作为扣缴义务人的股权受让方没有在中国扣缴所得税，则股权转让方可以填报这张新表自行缴税。

#### 新版居民企业预缴申报表

新版居民企业预缴申报表包括以下三类申报表：

1. 适用于据实申报的居民企业所得税预缴纳税申报表（新版据实申报居民企业预缴申报表）
2. 适用于核定征收的居民企业所得税预缴和年度纳税申报表
3. 企业所得税汇总纳税分支机构所得税分配表

后两张表的变化较小，而第一类申报表的内容和旧版有以下显著不同之处：

相比于旧版，新版据实申报居民企业预缴申报表增添了三张附表，分别反映不征税收入和税基类减免应纳税所得额、固定资产加速折旧以及减免所得税额的详细信息。与前述新版非居民企业所得税预缴纳税申报表的变化相同，新版据实申报居民企业预缴申报表也允许居民企业在预缴阶段提前享受税收优惠，这将有助于减轻居民企业的现金流负担。

#### **国家税务总局就7号公告间接转让财产交易颁布实施指引**

国家税务总局（“国税总局”）于2015年5月13日发布了68号文，为中国税务机关管理和实施于2015年2月颁布的7号公告中的境外间接转让财产税务新规定提供了指引。

在68号文中，国税总局就68号文具体管理工作的下列重要事项，为地方税务机关作出指示，包括（i）就按照7号公告报告的纳税人转让交易发出正式回执；（ii）对在不同地点进行的间接转让作合并税务申报；（iii）‘审核’阶段的一般反避税纳税个案评估；（iv）启动一般反避税调查和税务调整的程序；及（v）案件跟进工作。

整体来说，68号文实施指引可令纳税人更加领会7号公告将会以更加透明和一致的方式实施。其中特别是，主管税务机关需要在收到纳税人转让交易的报告时提供书面回执，可有助更加明确地确定纳税人已经履行7号公告的义务；而在所转让的中国应税财产涉及超过一个主管税务区域时，可允许纳税人选择向其中一个主管税务机关进行统一报告也是一个正面的发展，以去除繁琐的监管要求。

此外，68号文明确规定根据7号公告受到质疑的个案将会严格根据一般反避税管理办法进行处理，这是一个受到高度欢迎的做法。一般反避税管理办法具体的立案和裁决程序以及在处理纳税个案时需要取得国税总局认可的做法，可为纳税人提供程序上的保障，避免主管税务机关任意进行纳税评估。



## 2. CIT return for Non-TREs paying CIT on a deemed profit basis

This new return applies to both quarterly and annual filing for Non-TREs which file CIT on a deemed profit basis. In addition, it also applies to Non-TREs which do not constitute a permanent establishment in China according to relevant tax treaties or those which enjoy treaty benefit on international transportation income. In other words, these Non-TREs are now explicitly required to lodge the nil filing return and disclose their relevant income / expense breakdown, even though they have already filed a record with tax authorities on the treaty protection.

## 3. Withholding income tax (WHT) return

The WHT return does not contain many changes as compared with the previous version. The key change is that the WHT return could now be used for both withholding and self-reporting purposes. In particular, Non-TREs could use this return for tax filing under the circumstance that the withholding agent fails to withhold tax for them. For example, for the equity transfer of a Chinese company between two Non-TREs, if the transferee as the withholding agent has not withheld CIT, the transferor can file CIT with this new WHT return.

### ***CIT returns for TREs' provisional filing (the new TRE provisional package)***

The new TRE provisional package is mainly used for TREs' quarterly or monthly filing. It consists of the following three parts:

1. Provisional CIT returns for TREs paying CIT on an actual profit basis (provisional CIT returns for TREs),
2. Provisional and annual CIT return for TREs paying CIT on a deemed profit basis, and
3. CIT allocation form for headquarters and branches for TREs paying CIT on an actual profit basis.

As the changes on the last two sets of returns are not critical, we would mainly highlight the changes on the first part, i.e. provisional CIT returns for TREs.

Compared with its previous counterpart, the new provisional CIT returns for TREs contain three new schedules to capture the details on non-taxable income and tax incentives in relation to the reduction of taxable income, accelerated depreciation of fixed assets, and tax reduction / exemption respectively. Just like the changes observed in the new Non-TRE package, the new provisional CIT returns for TREs also allow TREs to claim tax preferential treatments in provisional filing, which may help taxpayers to improve their tax cash flow.

### **Implementation guidance issued for Announcement 7 indirect transfers**

The Chinese State Administration of Taxation (SAT) issued Circular 68 on 13 May 2015, providing guidance for the PRC tax authorities' administration and implementation of the new indirect offshore disposal rules in Announcement 7, released in February 2015.

In Circular 68 the SAT provides instructions to local tax authorities in relation to the following important aspects of Circular 68 administration, including (i) issuance of an official receipt for taxpayer transaction reporting under Announcement 7, (ii) consolidated tax filing for indirect transfers at multiple locations, (iii) GAAR case evaluation at the 'verification' stage, (iv) procedures for launching GAAR investigation and adjustment, and (v) case follow-up work.

Overall the Circular 68 implementation guidance gives greater comfort to taxpayers that Announcement 7 will be applied in a more transparent and consistent manner. In particular, the requirement on local tax authorities to provide written acknowledgment of receipt of taxpayer transaction reporting helpfully provides more certainty to taxpayers that the discharge of their Announcement 7 obligations has been acknowledged. In addition, the permission for a taxpayer to make a single reporting to a chosen tax authority, where Chinese taxable assets in multiple tax districts have been transferred, is a positive step to remove what would otherwise be a burdensome requirement.

Further, it is highly welcomed that Circular 68 clearly prescribes that cases challenged under Announcement 7 are to be strictly administered under the GAAR Measures. The latter’s detailed procedures for case establishment and adjudication, as well as the requirement for the SAT’s endorsement for actions and determinations by investigating local tax authorities, would provide procedural protections to taxpayers and should prevent local tax authorities from arbitrarily raising tax assessments.

### **Pilot program on promoting commercial health insurance products coupled with individual income tax break**

Following the release of Notice on Issues Pertaining to the Collection and Administration of Individual Income Tax on Enterprise Annuities and Occupational Pensions (Cai Shui [2013] No. 103), which allows tax deductions for voluntary employee contributions to approved Enterprise Annuities and Occupational Pensions, the Ministry of Finance (“MOF”), State Administration of Taxation (“SAT”) and China Insurance Regulatory Commission (“CIRC”) joined forces and issued Cai Shui [2015] (“Circular 56”), introducing favourable tax treatment on premiums paid for qualified commercial health insurance products. The program is to be rolled out in pilot cities throughout China. Circular 56 came into effect on 8 May, 2015.

Circular 56 indicates that a major city of each province will be nominated for the implementation of the pilot program. All the areas of Beijing, Shanghai, Tianjin and Chongqing, municipalities directly under the Central Government, are included in the program.

In a nutshell, taxpayers in the pilot cities who earn income from the following sources will be eligible to claim a tax deduction against the respective category of assessable income, an amount of premium they pay for qualified commercial health insurance products:

- wages and salaries;
- remuneration for providing services;
- production or business operations conducted by self-employed industrial and commercial households;
- contracted or leased operations of enterprises or social service providers partly or wholly funded by state assets

An annual cap of RMB2,400 (or RMB200 per month) has been set as the allowable tax deduction in respect of the relevant premiums paid. The qualified commercial health insurance products in question refer to the comprehensive health insurance products which are developed by the CIRC to cater for the needs of the general public, and approved and released jointly by the MOF, SAT and CIRC.

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