

2018年中国税收政策亮点回顾与展望

China Tax Policy Highlights of 2018 and Outlook

2018年是“十三五”规划承上启下的一年，也正值中国改革开放40周年。2008年金融危机以来，全球经济体经历了一段时间的复苏，但近年来经济恢复的趋势逐渐变缓。为了实现中国经济稳健前行，中国继续深化供给侧结构性改革，促进“中国制造”向高质量转型发展。与此同时，中国正从“世界工厂”的角色转型成为“世界市场”。而民营经济作为中国经济增速的重要部分，在过去一年中获得了诸多关注与支持。这一年中，财政部和国家税务总局（税务总局）围绕减税降负、扩大开放、优化营商环境、税收制度与征管体制改革等方面出台了一系列税收政策与改革措施，而税收立法也在紧锣密鼓地加快步伐。

2018年中国税收政策亮点主要包括以下诸多方面的内容：

- 个人所得税法修订主要内容，包括推行综合与分类相结合的税制，建立综合性扣除机制，引入反避税规则，修订居民/非居民个人的判定标准以及变革个税征管制度等
- 税收营商环境的优化，包括税收数字化、国地税机构改革及涉税事项行政流程简化
- 增值税、企业所得税、契税、土地增值税、关税等减税降负政策的回顾和展望
- 税收政策持续护航，支持创新创业、技术研发
- 吸引外资政策及国际税收方面，涵盖外商投资市场准入放宽、境外再投资递延纳税、“受益所有人”新规、税收协定条款解释更新等话题

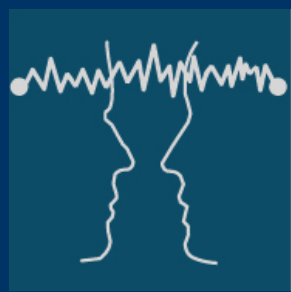
2019年展望的关键词：进一步减税降负、鼓励外资、提振民营经济、税收征管体制改革、纳税服务水平提升、反避税工作、税收法定落实、实质性活动要求、数字经济税收政策、“一带一路”税收合作。税务总局在展望新年演说词中提到2019年将深化税制改革，进一步巩固国地税征管体制改革成果，认真落实各项减税降费措施，持续深化税收领域“放管服”改革和优化税收营商环境。我们相信2019年中国将继续进行财税体系改革，并以财税政策为重心来推动经济发展。对纳税人而言，新的一年诸多税收改革值得期待，如增值税深化改革政策、社保费率调整、若干税法草案的正式出台等等。

2018 is a crucial year for implementing the 13th Five-Year Plan, marks the 40th anniversary of China's reform and opening-up. Since the financial crisis in 2008, the global economy has been reviving for a period of time, but the trend of economic recovery has gradually slowed down in recent years. In order to realize steady growth in the domestic economy, China has continued to deepen the supply-side structural reform and advance the development of "Made in China" high quality transformation. At the same time, China has been transforming its role as the "world's factory" to the "world's market." As an important driver to China's economic growth, the private economy has also gained a lot of attention and support in the past year. During the year, the Ministry of Finance (MOF) and the State Administration of Taxation (SAT) introduced a series of tax policies and reform measures on tax reduction, opening up, business environment improvement, and reform of taxation system as well as tax collection and administration system, while at the same time, process to enact relevant tax legislation are also being speed up. Some highlights from the 2018 China Tax Policy Review and 2019 Outlook:

- The amendment to the IIT Law, including combination of comprehensive and scheduler taxation system, initial establishment of a comprehensive deduction mechanism, introduction of anti-tax avoidance rules, revised criteria in determining the resident/non-resident status, and transformation of IIT collection and administration system, etc.
- Optimizing tax environment, specifically tax digitalization, structural reform of state and local tax administration, and simplified administrative procedures for tax-related matters.
- Review and outlook on policies of reducing taxes and levies such as VAT, CIT, Deed Tax, Land VAT, and tariffs.
- Continuous support by taxation policies in innovation, entrepreneurship, and R&D.
- Attraction of foreign investment and updates of international tax policies, covering further liberalization of market access for foreign investment, expansion of withholding tax deferral treatment for foreign investment, new rules for "Beneficial Ownership", and updated interpretation of tax treaty articles.

Key words on the outlook for 2019 - further tax reduction, encouraging foreign investment, boosting private economy, reform of the tax collection and administration, tax service improvement, anti-tax avoidance, tax legislation, substance requirements, tax policies of digital economy, and Belt and Road Initiative Tax Administration Cooperation.

SAT mentioned that in 2019 further measures would be taken to deepen the reform of the tax regime, consolidate the achievements gained from the reform of the state and local tax collection and administration system, seriously implement the various tax reduction initiatives, continue to deepen the reform of "streamlined administration, delegated powers, improved regulations services", and improve the tax and business environment. We believe China will continue with its fiscal and tax reform and focus on fiscal and tax policies to promote economic development in 2019. For taxpayers, various tax reforms in the coming year are worth looking forward to, such as deepening of the VAT reform, adjustment of social contribution rates, as well as the enactment of various tax laws, etc.



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中华人民共和国外商投资法明年起实行

Foreign Investment Law of the People's Republic of China Will be enforced In Coming Year

国家对外商投资实行准入前国民待遇加负面清单管理制度。

The State maintains a system of pre-entry national treatment plus a negative list management for foreign investment.

前款所称准入前国民待遇，是指在投资准入阶段给予外国投资者及其投资不低于本国投资者及其投资的待遇；所称负面清单，是指国家规定在特定领域对外商投资实施的准入特别管理措施。国家对负面清单之外的外商投资，给予国民待遇。

The pre-entry national treatment mentioned in the preceding paragraph refers to the treatment given to foreign investors and their investment at the stage of investment admission no less than that to domestic investors and their investments; the so-called negative list refers to the special management measures that are adopted for the admission of foreign investment in specific areas. The State gives national treatment to foreign investment outside the negative list.

负面清单由国务院发布或者批准发布。

The negative list is issued or approved by the State Council.

投资保护- Investment Protection

国家对外国投资者的投资不实行征收。

The State does not expropriate foreign investment.

外国投资者在中国境内的出资、利润、资本收益、资产处置所得、知识产权许可使用费、依法获得的补偿或者赔偿、清算所得等，可以依法以人民币或者外汇自由汇入、汇出。

Foreign investors' capital contribution, profits, capital gains, assets disposal income, intellectual property license fees, legally obtained damages or compensation, liquidation proceeds, etc., may be freely remitted to overseas in RMB or foreign exchange according to law.

国家保护外国投资者和外商投资企业的知识产权，保护知识产权权利人和相关权利人的合法权益；对知识产权侵权行为，严格依法追究法律责任。

The State protects the intellectual property rights of foreign investors and foreign-invested enterprises, protects the legitimate rights and interests of intellectual property rights holders and related rights holders, and holds intellectual property rights infringers legally accountable in strict accordance with the law.

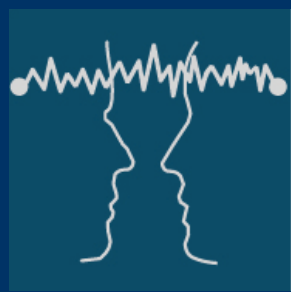
本法自2020年1月1日起施行- This Law shall come into force on January 1, 2020

《中华人民共和国中外合资经营法》、《中华人民共和国外资企业法》、《中华人民共和国中外合作经营法》同时废止。

The Law of the People's Republic of China on Sino-Foreign Equity Joint Ventures, the Law of the People's Republic of China on Wholly Foreign-owned Enterprises, and the Law of the People's Republic on Sino-Foreign Contractual Joint Ventures shall be repealed simultaneously.

本法施行前依照《中华人民共和国中外合资经营法》、《中华人民共和国外资企业法》、《中华人民共和国中外合作经营法》设立的外商投资企业，在本法施行后五年内可以继续保留原企业组织形式等。具体实施办法由国务院规定。

Foreign-invested enterprises that have been established before the implementation of this Law in accordance with the Law of the People's Republic of China on Sino-Foreign Equity Joint Ventures, the Law of the People's Republic of China on Wholly Foreign-owned Enterprises, and the Law of the People's Republic of China on Sino-Foreign Contractual Joint Ventures may continue retaining their original forms of business organizations within five years after the implementation of this Law. The detailed implementation measures of this Law shall be prescribed by the State Council.



两部门：境外人士免缴个税条件放宽

Two Departments Soften Individual Income Tax Exemption Conditions for Overseas Individuals

日前，财政部、国家税务总局发出《关于在中国境内无住所的个人居住时间判定标准的公告》（下称《公告》）和《关于非居民个人和无住所居民个人有关个人所得税政策的公告》，均自2019年1月1日起施行。

根据《公告》，新的个人所得税法实施条例继续保留了原条例对境外支付的境外所得免征优惠制度安排，并进一步放宽了免税条件：一是将免税条件由构成居民纳税人不满五年，放宽到连续不满六年；二是在任一年度中，只要有一次离境超过30天的，就重新计算连续居住年限；三是将管理方式由主管税务机关批准改为备案，简化了流程。《关于非居民个人和无住所居民个人有关个人所得税政策的公告》则明确了所得来源地、无住所个人工资薪金所得收入额计算、无住所个人税款计算、适用税收协定、征管规定等事项。

Recently, the Ministry of Finance ("MOF") and the State Taxation Administration ("STA") have issued the Announcement on the Criteria for the Determination of the Length of Residence of Individuals Having No Place of Abode in China (the "Announcement") and the Announcement on the Individual Income Tax Policies for Non-resident Individuals and Resident Individuals Having No Place of Abode in China, both of which are retrospectively effective from January 1, 2019.

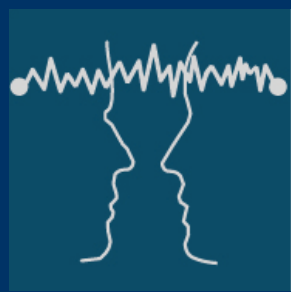
According to the Announcement, the latest Implementing Regulations of the Individual Income Tax Law retain the preferential institutional arrangement for tax exemption for foreign-sourced payments made by overseas payers, as provided in the previous regulations, and further relax the conditions for tax exemption. Specifically, first, the criterion for tax exemption for an alien who is not deemed as a resident taxpayer if he or she has lived in China for shorter than five years, is relaxed to depend on the residence of shorter than six consecutive years. Second, the length of consecutive residence will be recalculated for an alien as long as he or she leaves China for over 30 days one time in any year. Third, as for the administrative mode, the previous approval of competent tax authorities are superseded by the record-filing system, which streamlines the formalities. The Announcement on the Individual Income Tax Policies for Non-resident Individuals and Resident Individuals Having No Place of Abode in China provides clarity on the source of income, the calculation of the income of wages and salaries received by individuals having no place of abode in China, the calculation of tax payments of individuals having no place of abode in China, the applicable tax conventions, provisions for tax levies and administration, among others.

进一步降低增值税税率

Further Reduction on VAT Rates

2019年3月5日上午，李克强总理在第十三届全国人大第二次会议上作政府工作报告。报告指出，2019年我国将进一步深化增值税改革，完善增值税制度，确保所有行业税负只减不增。具体减税措施包括：

- 将制造业等行业增值税税率从16%降至**13%**，将交通运输业、建筑业等行业的增值税税率从10%降至**9%**，确保主要行业税负明显降低。
- 保持**6%**一档的税率不变，但通过采取对生产、生活性服务业增加税收抵扣等配套措施，确保所有行业税负只减不增。
- 抓好落实年初出台的小微企业普惠性减税政策，包括：
 - 对月销售额10万元以下（含本数）的增值税小规模纳税人，免征增值税；
 - 对小型微利企业年应纳税所得额不超过100万元的部分，减按25%计入应纳税所得额，按20%的税率缴纳企业所得税；对年应纳税所得额超过100万元但不超过300万元的部分，减按50%计入应纳税所得额，按20%的税率缴纳企业所得税。



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进一步降低增值税税率 (续)

Further Reduction on VAT Rates (con't)

During Premier Li Keqiang's presentation of the government work report at the second session of China's 13th National People's Congress on 5 March 2019, he announced that the government intends to further reduce the value added tax (VAT) rates. The effective dates of the reductions are yet to be clarified.

According to the Premier's presentation, the following VAT related measures will be (or already have been) implemented in 2019 to provide tax relief to all sectors and ensure the tax burden of key industries (e.g. manufacturing) are significantly lowered:

- Reduction of the VAT rate from 16% to **13%**, which mainly will benefit the manufacturing sector, and reduction of the 10% rate to **9%**, which currently applies to industries, such as transportation, construction, etc.;
- Increasing the input VAT which may be credited for the service sector, even though the **6%** VAT rate for that sector will remain unchanged; and
- Introduction of a VAT exemption as from 1 January 2019 for small-scale VAT payers:
 - Whose monthly sales not exceeding RMB 100,000.
 - In addition, reduced income tax rates are granted to qualifying small enterprises with low profits, i.e. a 5% effective income tax rate on taxable income not exceeding RMB 1 million and a 10% rate on taxable income between RMB 1 million and RMB 3 million.)

观察- Observation

2012 年起，我国开始分步骤推进营改增。从 2016 年 5 月全国范围内全面实行营改增至今，增值税税率也经历了一系列调整--2017 年 7 月，13% 税率取消，并入 11% 税率；2018 年 5 月，17% 税率降至 16%，11% 税率降至 10%。

本轮降税后，增值税税率预期仍然存在 6%、9% 和 13% 三档。根据今年政府工作报告，增值税改革将会继续向税率三档并两档、税制简化方向推进。然而，税率进一步简并的时间，以及最终税率将会具体定在哪两档，仍未明确，企业需对此保持关注。

值得注意的是，虽然此次政府工作报告指出，要确保所有行业税负只减不增，但是对于服务行业，由于应税税率不变，上游供应商税率可能出现下降，所以在含税采购价格不变的前提下，将导致可抵扣进项税额的减少，以及不含税成本的上升。有鉴于此，建议相关企业考虑与供应商进行价格磋商的可行性，以分享降税利益，并密切关注后续可能出台的生产、生活性服务业增加税收抵扣等的配套措施，以综合判断政策影响及解决之道。

同时，关于此次税率调整，相关具体问题还有待进一步明确，包括新税率的生效时间，出口退税率的相应调整（针对生产企业和贸易企业的具体措施是否有所不同），适用新旧税率的过渡期等。我们预计，财政部和税务总局近期内可能会陆续发布相关文件，明确具体的执行办法。

China launched its VAT reform in 2012 and finally transitioned all services from the scope of business tax (which previously was imposed on most service activities) to VAT in May 2016. Since then, there have been two rounds of major adjustments to the VAT rates: the 13% VAT rate was abolished and consolidated into the 11% rate in July 2017 and the 17%/11% rates were reduced to 16%/10% in May 2018.

After this latest round of adjustments, there will be three VAT rates: 6%, 9% and 13%. However, Premier Li stated the three-rate system would be further streamlined to a two-rate system, although it is unclear what those rates will be, and when and how the adjustments will take place. It should be noted that goods suppliers for service enterprises may enjoy a lower VAT rate (i.e. from 16% to 13%) so that a service enterprise's material costs could become higher with lower creditable input VAT if the VAT-inclusive purchase price of the goods remains unchanged. Therefore, service enterprises should consider price re-negotiations with goods suppliers to potentially obtain the benefits of the VAT rate reductions.

The government is expected to release more details about the VAT rate reduction, such as the effective dates and guidance on transitional arrangements, corresponding changes to the VAT export refund rates, etc. Businesses should closely monitor regulatory developments.