




 中國稅務及投資顧問有限公司  
 China Tax & Investment Consultants Ltd



## Published Articles 刊登的文章

1. PRC: Tax Planning for VAT, Tax Planning International Asia-Pacific Focus, BNA International Inc., July 2007
2. Commentary on Hong Kong's Tax Treaties, Asia-Pacific Tax Bulletin, Volume 13, Number 2, 2007, IBFD Publications BV
3. Tax Compliance and Planning for Trading Business in the PRC, Tax Planning International Asia-Pacific Focus, BNA International Inc., May 2007

## Presentations and Seminars 已舉辦的講座及內容

1. Topic: 2008 PRC Enterprise Income Tax Law  
Organizer: Hong Kong Science and Technology Park  
Date: 20th November 2007, Hong Kong  
題目：2008中國企業所得稅法  
主辦單位：香港科技園  
日期：2007年11月20日·香港
2. Topic: 2007 PRC Accounting Standards  
Organizer: ConventionPro International  
Date: 14th August 2007, Singapore and 16th August 2007, Kuala Lumpur  
題目：2007中國會計準則  
主辦單位：ConventionPro International  
日期：2007年8月14日及2007年8月16日·新加坡及吉隆坡
3. Topic: Chinese Beauty Product Market  
Organizer: Business Media China AG  
Date: 30th January 2007, Singapore  
題目：中國美容商品市場進出口關稅及其他稅務規定  
主辦單位：Business Media China AG  
日期：2007年1月30日·新加坡



## Contents 內容簡介

1. Highlights in the 2008 PRC Enterprise Income Tax Law  
1. 2008年企業所得稅法一些亮點
2. 稅負持平計劃僱主承擔稅款比較  
2. Comparing tax equalization plan and employer bearing the tax
3. 進出境快件報關規定  
3. Customs declaration for cross border express mail
4. 海關對暫時進出口商品徵稅規定  
4. PRC Customs Rules on Temporarily Imported & Exported Goods





## Highlights in the 2008 PRC Enterprise Income Tax Law

### 2008年企业所得税法一些亮点

Q: When will the PRC Enterprise Income Tax Law (the EIT Law) come into force?

A: The EIT Law will come into force on 1<sup>st</sup> January 2008.

问：“中华人民共和国企业所得税法”在何时生效？

答：新税法将在2008年1月1日生效。

Q: Is there any change in the scope of income tax?

A: The old PRC Tax Law for Foreign Investment Enterprise and Foreign Enterprise (the FIE tax law) set out two conditions for the determination of tax residence: (i) place of incorporation and (ii) place of management and control. Tax residents shall pay tax on worldwide income. The EIT Law retains the two conditions in the FIE tax law, but the place of incorporation and place of management and control is changed from "and" to "or". Article 2 and Article 3 of the EIT Law provide that the resident enterprise shall be the one that is incorporation in China OR if it is incorporated outside China, of which the effective place of management is located within China. All resident enterprises shall be taxed on worldwide income.

问：新税法在征收范围方面有什么变化？

答：现行的外商投资企业和外国企业所得税法，在确定居民企业身份的时候，采用两个标准：一是注册地标准，二是管理机构所在地标准。旧税法规定居民企业应当按境内所得缴纳所得税。新税法也采用上述两个标准，但是新税法的第2条和第3条规定，在确定居民企业身份的时候，只要符合两个标准之中的其中之一就成为居民企业，居民企业应该就其境内境外所得缴纳所得税。

Q: What is the implication of the change in tax rules?

A: The scope of tax net will be larger than before. The impact of the change in the EIT Law will affect foreign enterprises either that have registered a fixed place of business in China, or that have not officially registered but effectively maintained a place of business in China. Previously these types of taxpayer are only subject to tax on PRC-source income. Under the new EIT Law if the management and control is located in China, the foreign enterprise will be liable to tax on worldwide income. One example of this is the representative office that carries out management and control over business activities across border. Most of these representative offices are set up by Hong Kong companies to take advantage of lower labor and land costs in the Mainland of China.

问：上述税法的改动有什么影响？

答：新税法扩大了原来的征收管辖范围。税法改动对在中国境内已注册及设立了固定经营场所的外国公司，或者在中国境内未有正式注册但设立了固定经营场所的外国公司，都有直接影响。在之前，该类外国公司只需要就来源于境内收入缴纳所得税。新税法规定倘若外国公司或企业的管理控制中心设在中国境内，就要按其境内外收入征收所得税。外国公司的办事处在境内管理或控制其总机构的生产经营业务就是例子之一。很多香港公司为了节省人力和土地成本，在大陆境内设立了代表处跨境管理其总机构的生产经营业务。

Previously non-PRC companies will not exposed to PRC income tax on worldwide income since it is not incorporated in China. The EIT Law will change the status quo as from 2008. It not only takes into consideration the place of incorporation, but also takes into consideration the location of the management control in China. A non-PRC company may be subject to tax on worldwide income under the EIT Law.

在之前，境外注册的公司因为注册地不在中国，不发生交纳所得税的义务。新税法实施后将会改变以往的情况。它不限于看公司注册地，也同时看该公司的管和控制中心的所在地是在境内还是境外。根据新税法，中国政府可以对境外注册的公司按境内外收入征收所得税。

Tax rules 税法规定	Old tax law 旧税法	EIT Law 新税法
1. Country of incorporation 1. 注册地（国）	Both rule 1 and 2 第一項及第二項	Either rule 1 or rule 2 第一項或第二項
2. Management control 2. 管理与控制		

Q: Are there any change in the income tax rate?

A: The EIT Law will impose tax on FIE at a rate of 25%. Non-resident taxpayers that earn PRC-source income will be taxed at 20%, subject to the reduction under PRC tax treaties in force.

问：新税法有没有改变税率？

答：居民企业的所得税率是25%。非居民纳税人就来源于境内所得按20%纳税，如果双边税收协定有减免规定的，按生效的双边税收协定执行。

Q: Is there any change to the tax rules that impose tax on dividend income?

A: Yes, the dividend distributed by FIE will be subject to tax at 20%. If there is a tax treaty concluded between China and the country of which the investor is a tax resident, the tax rate will be reduced to 10% in most cases (Hong Kong company is only taxed at 5%).

问：新税法有没有改变对股息的征税规定？

答：有的。从外商投资企业派发的股息或红利等取得的投资性收益按20%征税。如果双边税收协定有减免规定的而且投资者也是协定国居民的话，按10%执行（香港公司只需要按5%征收所得税）。

Q: How is the tax computed on dividend, interest and royalty that is distributed by the FIE to the foreign investors situated outside China?

A: The distribution of dividend, interest and royalty is subject to income tax on a gross basis (without deduction for any expenses incurred in connection with the earning of that income). The tax is withheld at source at the time of payment.

问：如何计算从外商投资企业取得的股息、利息、和特许权使用费的所得税？

答：按取得的总额计算（不扣减因为要取得有关收入而需要发生的费用）。支付单位在支付时候代扣代缴。



Q: What are the tax rates that apply to the payments of dividend, interest and royalty?

A: The withholding income tax rate is at 20%, subject to the unilateral reduction by the Chinese government and the applicable tax treaties. For Hong Kong holding companies that receive payments from PRC WFOE the following tax rate shall apply:

问:股息、利息、和特许权使用费的所得税率是多少?

答:预提税税率是20%。但是中国政府可单方面将税率降低。从中国大陆支付股息、利息、和特许权使用费给香港控股公司,适用的税率如下:

Up to 1st Jan 2007 2007年1月1日前

Nature of Payment 支付性质	WIT 预提所得税	BT 营业税	Remarks 注
Dividend 股息	Exempted 免税	Not applicable 不适用	
Interest 利息	10%	Not applicable 不适用	
Royalty 特许权使用费	10%	5%	
Service charges 服务费	15%-33%	5%	

The PRC Income Tax Law for Foreign Invested Enterprises and Foreign Enterprises (the PRC IT Law for FIE and FE) exempts the income tax on the distribution of dividends to the holding company situated outside China.

《外商投资企业和外国企业所得税法》对三资企业派发的股息免征所得税。

1st Jan 2007 to 31st Dec 2007 2007年1月1日至2007年12月31日

The DTA between HKSAR government and the Mainland government came into force on 1st January 2007. Between 1st Jan 2007 and 31st Dec 2007, the repatriation of dividend from China to Hong Kong is exempted from WIT. But the repatriation of royalty and interest will be liable to WIT at 7% because of the operation of the DTA between HKSAR and Mainland China.

香港与中國大陸订立的双边税收安排在2007年1月1日生效。在2007年1月1日至2007年12月31日期间,股息依然免税。但是,因为有税收安排的规定,利息和特许权使用费要只需要按7%交税。

Nature of Payment 支付性质	WIT 预提所得税	BT 营业税	Remarks 注
Dividend 股息	Exempted 免税	Not applicable 不适用	
Interest 利息	7%	Not applicable 不适用	
Royalty 特许权使用费	7%	5%	
Service charges 服务费	15-33%	5%	

1st Jan 2008 and onwards 在2008年11月之后

The PRC Enterprise Income Tax Law (the EIT Law) will take effect on 1st January 2008. The PRC IT Law for FIE and FE will be repealed on the same date. The EIT Law removes the income tax exemption on the repatriation of dividend. However, the operation of the DTA can reduce the withholding income tax (the WIT) on the repatriation of dividends.

企业所得税法在2008年1月1日取代旧税法。新税法取消了股息免税的规定。但是,双边税收安排可降低股息的预提税。

Nature of Payment 支付性质	WIT 预提所得税	BT 营业税	Remarks 注
1. Dividend 股息	5%	Not applicable 不适用	
2. Interest 利息	7%	Not applicable 不适用	
3. Royalty 特许权使用费	7%	5%	
4. Service charges 服务费	20%	5%	

## Computations 计算方法

Suppose that the WFOE in Shanghai is to pay a software licensing fee of 100 to US Company, the computation of withholding income tax and business tax will be as follows (assuming that the WIT rate is 10%, and business tax rate is 5%):

假设一上海外资企业支付软件费100给一间美国公司。预提税、营业税的计算方式如下(假设预提税率和营业税率分别是10%和5%):

Business Tax营业税:  $100 \times 5\% = 5$

Withholding Income Tax预提税:  $(100 - 5) \times 10\% = 9.5$

Total tax will be 税款总额 = (BT 营业税 + IT 预提税) =  $5 + 9.5 = 14.5$

Note that the amount of business tax is deductible from the gross payment when the WFOE computes the income tax.

营业税可以从应纳税所得额中扣减。





Q: Our company has used BVI Companies as the investors for the FIE. Will this legal structure be affected?

A: It will be affected adversely under the EIT Law. BVI is not a sovereign state, and it has not entered into any tax treaty with China. Therefore, the investor will be subject to 20% (that may be unilaterally reduced by China to 10%) withholding income tax on dividends to be received from subsidiaries in China.

问: 我们用英属处女岛BVI公司作为外商独资企业的投资者。新税法是否对这公司架构有影响?

答: 新税法对BVI公司有不利影响。英属处女岛不是主权国, 它不可以和大陆签订双边税收协定。中国税务当局在外商独资企业派发股息的时候会向英属处女岛公司征收20%的预提税(根据先行做法也可能单方面将税率降低到10%)。

Q: What steps should be taken to reduce the withholding income tax rate?

A: Your Company should effect a re-organization by replacing the BVI Company with a HK company (or other company of a PRC treaty country) as the holding company. The re-organization will be exempted from income tax under the tax law before 2007. It is uncertain whether the tax exemption will be available after the EIT comes into force on 1st January 2008. One has to wait for the detailed implementation regulations as promulgated by the State Council or the interpretations as issued by the Ministry of Finance or State Administration of Taxation.

Before re-structure: Holding company	→ BVI Co	→ WFOE
After re-structure: Holding company	→ HK Co	→ WFOE

问: 请问有什么措施可以减低预提所得税?

答: 你们的集团可以进行股份重组, 用香港公司(或者其他在中国税收协定国注册的公司)代替BVI公司作为直接控股公司。如果股份重组前后的最终的控制权没有变化, 按照2007年12月31日前的规定, 该重组可以免税。新税法对2008年1月1日之后的重组是否可以申请免税没有明确规定, 还要看之后国务院颁布的实施细则或者财政部税务总局的解释。

重组前: 最终控股公司 → BVI 公司 → 独资企业  
重组后: 最终控股公司 → 香港公司 → 独资企业

Q: What about the tax on disposal of landed properties by non-residents?

A: The tax rules for the disposal of assets are different from what we have mentioned above. The EIT Law permits the deduction of the cost of the asset and other tax expenses from the sales proceeds. The amount that represents the excess of sales proceeds over the cost of the asset is subject to income tax. The payer inside China has the legal obligation to withhold the income tax before paying the seller situated outside China.

问: 外国投资者在中国境内出让资产或者房产如何纳税?

答: 出让资产或者房产纳税规定与取得投资收益的纳税规定不一样。新税法允许在转让收入总额中减去投资成本和税费, 然后按照两者的差额纳税。境内的买方在支付购买价款前需要依照法律规定, 代扣代缴预提所得税。

## Comparing tax equalization plan and employer bearing the tax

### 税负持平计划雇主承担税款比较

问: 倘若一个香港员工被派到广州工作, 该员工月工资港币30000元、餐费补贴港币2000元, 全部由雇主在香港支付, 双方约定大陆与香港税款的差额由公司承担, 如何实施税负持平计划? 假设税额应该是多少?

Q: If a staff works in Guangzhou, with HK\$30000 paid by the employer in Hong Kong, how do we implement the tax equalization plan? What is the amount of hypo tax?

答: 假设该员工全年收港币\$390,000 = 30,000 x 13, 而且, 该员工如果交香港税享有已婚人士免税额\$200,000及可扣除强积金供款\$12,000。

A: Assuming that the employee's annual income is HK\$30,000x13=390,000, and that he/she is eligible for a married couple allowance and mandatory fund contribution allowance of HK\$200,000 and HK\$12,000 respectively for HK tax purposes.

一、假设税计算如下:

[a] 应课税实额 = (390,000-200,000-12,000) = 178,000;

[b] 薪俸税 = 35,000x2% + 35,000x7% + 35,000x12% + 73,000x17% = HK\$19,760, 除以12个月 = 19760/12=1647 (假设税)

[c] 雇主每个月从工资总额扣除假设税1647。尽管该员工在税率较高的广州工作, 但是他只需要缴交一如在香港工作的税额。

[1] The computation of HK salaries tax (hypo-tax) will be as follows:

(a) Assessable income = (390,000-200,000-12,000) = 178,000;

(b) Salaries tax is: 35,000x2% + 35,000x7% + 35,000x12% + 73,000x17% = HK\$19,760, which is divided by 12 months = 19760/12=1647 (hypo tax)

(c) The hypo tax is to be deducted each month from the employee's gross pay, so that he pays the same tax as if he worked in Hong Kong.

二、根据国家税务总局文件(1994) 89号及(1996) 199号, 由雇主负担税款的个人所得税计算如下:

(a) (月薪 - 假设税) x 汇率 (1对0.96; 中国人民银行上月最后一日外汇牌价)

(30,000-1647) x 0.96 = RMB27,218.88

(b) 然后, 将上述金额转为含税应纳税所得额?

(27,218.88 - 4,800 - 1,375)/(1-25%) = 28,058.51; 公式中的4800是法定扣除金额, 25%和1,375分别是在附表中第5行相对应的税率和速算扣除数。

(c) 应纳税额: 应纳税所得额 x 税率 - 速算扣除数 = 28,058.51 x 25% - 1375 = RMB5,639.63 (or HK\$5,874.61).

[II] The PRC individual income tax (IIT), wholly borne by the employer, should be computed in the following way according to the circulars no. (1994) 89 and (1996) 199 as issued by the State Administration of Taxation in China:

(a) (Monthly salary - hypo tax) x exchange rate (Say 1: 0.96; the rate on last date of preceding month as announced by the People's Bank of China)

(30,000-1647) x 0.96 = RMB27,218.88

(b) Then the salaries are grossed up to arrive at taxable income.

(27,218.88 - 4,800 - 1,375)/(1-25%) = 28,058.51; where the amount of 4,800 is the statutory deduction for foreign employees as per PRC IIT law. 25% and 1,375 are the tax rate and quick deduction amount obtainable from the fifth row of the IIT computation table.

(c) The amount of IIT is: taxable income x tax rate - quick deduction = 28,058.51 x 25% - 1375 = RMB5,639.63 (or HK\$5,874.61).



三、按照与员工的约定，雇主每月替该员工支付5874.61的国内个人所得税款，也同时从工资中扣除1647的假设税。雇主实施税负持平计划的成本是 $5874.61 - 1647 = 4227.61$ 。如果该员工有小孩子或者可以申请父母免税额的话，假设税额是计算结果就完全不同了。该员工在申报香港薪俸税的时候，由于已经在大陆申报了全部收入并且交了个人所得税，他可以根据税务条例第8(1A)条(c)项，申请豁免薪俸税。

[III] Under the tax equalization plan, the employer shall pay the IIT (equal to HK\$5,874.61) for the employee in China and deduct HK\$1,647 from the gross pay of the employee in HK. The cost of equalizing the tax is  $5874.61 - 1647 = 4227.61$  each month. Note that if the employee has children or parents that are eligible for additional allowances in HK, the computation of hypo tax will be different. In HK, the employee can claim tax exemption under section 8(1A)(c) of the Inland Revenue Ordinance since all of his employment income is reported in China and IIT has been paid.

Table I: PRC Income Tax Rates and Brackets (in RMB)  
表一：個人所得稅稅階及稅率（人民幣）：

Tax borne by employee 由僱主支付稅款	Tax borne by employer 由僱主支付稅款	Tax rate 稅率	Quick deduction 速算扣除數
Less than 少於 500	Less than 少於 475	5%	0
501 - 2,000	476 - 1,825	10%	25
2,001 - 5,000	1,826 - 4,375	15%	125
5,001 - 20,000	4,376 - 16,375	20%	375
20,001 - 40,000	16,376 - 31,375	25%	1,375
40,001 - 60,000	31,376 - 45,375	30%	3,375
60,001 - 80,000	48,376 - 58,375	35%	6,375
80,001 - 100,000	58,376 - 70,375	40%	10,375
Over 超過 100,000	Over 超過 70,375	45%	15,375



问：假如雇主只承诺为员工承担50%的税款，各自承担的税款如何计算？

Q: What is the tax burden for the employer and the employee respectively if the employer only offers to bear 50% of the PRC IIT

答：先按以下公式将不含税的工资收入换成含税应纳税所得额，然后才计算应纳税额：

含税应纳税所得额： $(\text{工资} - \text{扣除额} - \text{速算扣除数} \times \text{雇主承担比例}) / (1 - \text{税率} - \text{雇主承担比例}) = ((30,000 \times 0.96 - 28800) - 4800 - 1375 \times 50\%) / (1 - 25\% \times 50\%) = 26642.86$ ；25%和1375可从附表中第5项找到。

应纳税额： $\text{含税应纳税所得额} \times \text{税率} - \text{速算扣除数} = 26642.86 \times 25\% - 1375 = 5285.71$  (0.96:1 = HK\$5505.95)

A: The taxable income should be converted into income including employer's share of tax by the following formula, and then compute the tax payable.

Taxable income = (RMB income – statutory deduction – quick deduction x employer's share) / (1 - tax rate x employer's share) =  $((30,000 \times 0.96 - 28800) - 4800 - 1375 \times 50\%) / (1 - 25\% \times 50\%) = 26642.86$ ; where the 25% and 1375 are obtainable from the computation table.

Tax payable = taxable income x tax rate – quick deduction =  $26642.86 \times 25\% - 1375 = 5285.71$  (0.96:1 = HK\$5505.95)

因为雇主只承担一半的税款，员工需要交税 $5285.71/2 = 2642.86$ 。以上计算结果可以用下面方法复核：

1. 含税收入： $26642.86 + 4800 = 31442.86$

2. 应纳税额： $(31442.86 - 4800) \times 25\% - 1375 = 5285.72$

3. 不含税收入： $31442.86 - 5285.72 \times 1/2 = 28800$

Since the employer is to share 50%, the employee has to pay  $5285.71/2 = 2642.86$ . One can perform the verification in the following way:

(a) Income including tax borne by employer =  $26642.86 + 4800 = 31442.86$

(b) Tax payable =  $(31442.86 - 4800) \times 25\% - 1375 = 5285.72$

(c) Income excluding employer's share  $31442.86 - 5285.72 \times 1/2 = 28800$

以下是雇主分别承担100%、50%、33.33%三个不同方案的计算结果：

The following computations produce different results where the employer bears 100%, 50% and 33.33% of the PRC tax for the employees respectively:



Options 选择方案		[I]	[II]	[III]
Income in HK\$ 香港工资		30,000.00	30,000.00	30,000.00
Hypo-tax 假设税款 (N/A不适用)		-	-	-
		30,000.00	30,000.00	30,000.00
Exchange rate 汇率		0.96	0.96	0.96
Income in RMB 工资		28,800.00	28,800.00	28,800.00
Standard deduction 法定扣除		4,800.00	4,800.00	4,800.00
Quick deduction 速算扣除数		1,375.00	1,375.00	1,375.00
Tax borne by employer	[a]	100%	50%	33%
雇主承担的百分比				
Taxable income	[b]	30,166.67	26,642.86	25,663.49
含税收入				
Tax rate 税率		25%	25%	25%
Quick deduction 速算扣除数		1,375.00	1,375.00	1,375.00
Tax payable 应纳税额	[c]	6,166.67	5,285.71	5,040.87
Tax payable in HK\$		6,423.61	5,505.95	5,250.91
Taxable income	[1] = [b]	30,166.67	26,642.86	25,663.49
Standard deduction	[2]	4,800.00	4,800.00	4,800.00
Income plus tax				
含税收入	[3] = [1] + [2]	34,966.67	31,442.86	30,463.49
Tax payable				
应纳税额	[4] = [c]	6,166.67	5,285.71	5,040.87
Employer's share				
雇主承担部分	[5] = [4] x [a]	6,166.67	2,642.86	1,663.49
Income net of tax				
不含税收入	[6] = [3] - [5]	28,800.00	28,800.00	28,800.00
Employee's share				
员工承担税款	[7] = [4] - [5]	-	2,642.86	3,377.38
Effective tax rate	[7]/[1] x 100%	0.00%	9.92%	13.16%
员工实际税率				
[b] Income including tax = (28800- 4800- 1375 x 100%) / (1-25% x 100%)=30166.67				
[b] 含税收入=(28800- 4800- 1375 x 100%) / (1-25%x100%)= 30166.67				
[c] Tax payable = 30166.67 x 25% - 1375 = 6166.67				
[c] 应纳税额 = 30166.67 x 25% - 1375 = 6166.67				

比较而言，雇主承担全部或者部分税款计算方便和较为容易操作，灵活性也比税负持平计划要高。要注意在雇主承担全部的情况下，员工的收益高于税负持平计划，雇主因成本太高一般不会采用。

Compared with tax equalization plan, the sharing of tax burden between the employer and the employee is easier in terms of computation and administration. It gives greater degree of flexibility than tax equalization plan. Note that where the employer bears all the tax, the employee's position is far better than that under tax equalization plan. The employer rarely adopts this in practice for cost reasons.

<By China Tax & Investment Consultants Ltd www.china-tax.net >

## Customs declaration for cross border express mail

### 进出境快件报关规定

根据海关总署规定，进出境快件(拼音Kuai Jian缩写为KJ)可以分为文件类、个人物品类和货物类，分别使用1. 进出境快件KJ1报关单2.进出境快件KJ2报关单 3.进出境快件KJ3报关单和4. 进出境快件个人物品报关单，及5.进出口货物报关单。进出口商需要按有关要求指示快件营运人或货运代理人使用适当报关单申报。

According to the rules of the General Administration of Customs, cross-border express mails (Pronounced as Kuai Jian in Romanization and KJ for short) can be classified into categories: documents, personal articles and goods categories. Different declaration forms are used for each of those categories: (1) KJ1 declaration form, (2) KJ2 declaration form, (3) KJ3 declaration form, (4) declaration form for personal articles, and (5) declaration form for general import-export goods. The importer and the exporter should be aware of the actual requirements so that they can instruct the express mail operator or forwarding agent to use the correct declaration form for each category of goods.

项目 Item	进境货品物品类别 Category of imports	使用进境报关单 Declaration form to use	备注 Remarks
1	文件 Documents	进出境快件KJ1报关单 KJ1 Declaration Form	
2	个人物品 Personal Articles	进出境快件个人物品报关单 Declaration Form for personal articles	海关考虑进境目的和停留时间，数量合理和自用的可免税 Tax-exempted for self use in reasonable quantity taking into consideration for entry purposes & period of stays
3	免税货物；无商业价值货样、广告品 Tax-exempt goods, samples of no commercial value and advertising materials	进出境快件KJ2报关单 KJ2 Declaration Form	关税税额在人民币50元以下货物免税 Tax exemption for goods of value not exceeding RMB50 per consignment
4	需要征税货样、广告品 Dutiable samples and advertising materials	进出境快件KJ3报关单 KJ3 Declaration Form	不适用于进口付汇和进口许可证管理的货物 Excluding goods for which payment of foreign currency is required or under automatic import licensing administration
5	其他货物类快件 Other express mail goods	进口货物报关单 Import Declaration Form	适用于上述第1至4项以外的进口货物 For goods not included under items 1 to 4 above



货物类进境快件应分为两类：（一）包括无商业价值货样、广告品的免税的货物，营运人应该提交《进出境快件KJ2报关单》；（二）需要征税的货样、广告品，营运人应该提交《进出境快件KJ3报关单》。其他货物类快件使用《进口货物报关单》。进境快件在运输工具申报进境之日起十四天内，营运人应当向海关申报。

Inbound express mails falling under the goods category are divided into two types: (a) tax-exempt goods including samples of no commercial value and advertising materials for which the express mail operator should present a copy of KJ2 declaration form to the Customs; (b) dutiable samples and advertising materials, for which the express mail operator should present a copy of KJ3 declaration form to the Customs. For inbound goods other than that as mentioned above, the express mail operator or forwarding agent shall submit a copy of import declaration for general import-export goods to the Customs. There is a time requirement to make the import declaration. The express mail operator or forwarding agent shall submit the import declarations within 14 days after the date the entry of the means of transportation carrying the inbound express mails and goods has been declared.

货物类出境快件报关时，营运人应按以下情况分别向海关提交报关单证：（一）对货样、广告品（法律规定实行许可证管理的、应征出口税的、需出口收汇和退税的货物除外），应该提交《进出境快件KJ2报关单》；（二）对上述以外的其他货物，一律提交《出口货物报关单》。出境快件在运输工具离境3小时前，营运人应当向海关申报。

In respect of outbound express mail, the operator or the forwarding agent shall submit the following declarations respectively: (a) the KJ2 declaration form should be used for samples and advertising materials (except for goods for which export licenses are required, export duty is payable, foreign exchange collections and export refunds are required); (b) the export declaration form for general import-export goods should be used for goods other than that mentioned above. The operator or forwarding agent shall submit the all export declarations for express mails within 3 hours before the exit of the means of transportation.

问：某公司从南韩以快件方式进口传真机使用的传感器一批（10纸箱，价值18万美元），应该以什么方式报关？是否要进口许可证？

Q: By express mail, a Chinese company imports a batch of sensors used for fax machines (packed in 10 cartons and valued at USD180,000). Show how this importation should be declared and whether or not import licenses are needed.

答：该批以快件方式进口的传真机传感器，既超出法定减免税额，又属于自动进口许可证管理的货物，商品编码是84433290。营运人应该以一般贸易方式报关进口。在向海关申报进口传感器同时，报关员应向海关提交的代码为“O”的新旧机电类商品自动进口许可证。（注：代码为“7”的自动进口许可证适用于一般进出口贸易商品，代码为“V”的自动进口许可证适用于加工贸易进口商品。）



A: This batch of fax machine sensors, imported by way of express mail, not only exceeds the amount of statutory exemption, but also falls into the scope of automatic import license administration. The HS code is 84433290. The operator or the forwarding agent should submit the import declaration form for general import-export goods. At the same time, the customs attendant should submit a copy of the automatic import license for new and used electrical products with the "O" code for customs control purposes. (Note that the customs control code is "7" for general import-export goods subject to automatic import licensing administration, and "V" for export processing goods subject to automatic import licensing administration respectively.)

问：供货方免费提供传真机使用说明书200份（2纸箱，标明总价值80美元），设1美元=8元人民币；说明书进口关税税率7.5%，进口环节增值税税率17%；计算进口关税与进口环节增值税。

Q: The supplier provides 200 copies of user manuals of fax machines (packed in 2 cartons and valued at USD80 in total) at no consideration. Suppose that the exchange rate of USD to RMB is 1 to 8, the import duty rate and VAT rate is 7.5% and 17% respectively. Show the computation for import duty and VAT.

答：先计算关税，再按组成价格计算增值税  
进口关税  $80 \times 8 \times 7.5\% = 48$  元（一票价值不超过50元免征）  
进口环节增值税 = 组成计税价格  $\times$  税率 = (成交价格 + 关税)  $\times$  税率  
=  $(80 \times 8 + 48) \times 17\% = 116.96$  元（注：税基包括关税）

A: Compute the import duty, then compute the VAT on the basis of composite value.  
Import duty:  $80 \times 8 \times 7.5\% = 48$  (exempted per consignment valued below RMB50)  
Import stage VAT: composite value  $\times$  tax rate = (dutiable value + duty)  $\times$  tax rate  
=  $(80 \times 8 + 48) \times 17\% = 116.96$  (Note: the VAT tax base includes import duty)



## PRC Customs Rules on Temporarily Imported & Exported Goods

### 海关对暂时进出口商品征税规定

Subject to the approval by the Chinese customs, the following goods temporarily imported into China, for a period not exceeding 6 months, are exempted from tariff and VAT: (i) the exhibits, items to be used in exhibitions, trade fairs, conference or other similar activities; (ii) items to be used for performing or competition in cultural activities and sports events; (iii) instrument, equipment and articles for use in news reporting, film shooting and TV programming; (iv) instrument, equipment and articles for use in activities relating to scientific research, education and medical services; (v) special purpose transportation means and vehicles for use in activities as listed in (i) to (iv) above; (vi) samples of goods; (vii) instrument, equipment and articles for use in charitable activities, (viii) tools and instruments for purpose of installation, testing and setting equipment; (ix) containers used for cargos; (x) self-use means of transportation and supplies for traveling purpose; (xi) instrument, equipment and articles for use in engineering and construction projects; (xii) other goods as permitted by the customs to import into or export out of China temporarily.

经海关批准，下列货物可以免税进出境，期限为六个月：（一）在展览会、交易会、会议及类似活动中展示或者使用的货物；（二）文化、体育交流活动中使用的表演、比赛用品；（三）进行新闻报道或者摄制电影、电视节目使用的仪器、设备及用品；（四）开展科研、教学、医疗活动使用的仪器、设备和用品；（五）在本款第（一）项至第（四）项所列活动中使用的交通工具及特种车辆；（六）货样；（七）慈善活动使用的仪器、设备及用品；（八）供安装、调试、检测、修理设备时使用的仪器及工具；（九）盛装货物的容器；（十）旅游用自驾交通工具及其用品；（十一）工程施工中使用的设备、仪器及用品；（十二）海关批准的其他暂时进出境货物。

However the consignee is required to place a refundable security deposit at the bank equal to the amount of the duty and taxes payable. The customs may grant an extension of stay for the goods upon the application of the taxpayer. If the goods are shipped out of China within the time period prescribed by the customs, the taxpayer will not be liable for duty and import VAT. The consignee is required to close the customs record filed in connection with the temporarily imported goods and get a refund of the deposit after the goods are shipped out of China. If the temporarily imported goods remain staying in the Chinese territories after the period as prescribed by the customs is over, then the consignee is liable to pay the duty and taxes. After the payment of tax, the goods can be freely traded inside the Chinese territories. They are classified into general imported goods to which the general customs clearance procedure shall apply. Therefore, the consignee can apply to cancel the record filing and get a refund for the deposit. The temporarily imported goods become general goods. The above provision shall apply equally to those temporarily exported goods. The taxpayer can apply to cancel the record filing at the customs and get back the security deposit provided that the goods are returned to China in original shape and conditions.

但是，进口商或主办单位需要向海关提供相关等入境商品的等额税款押金，在批准期限内复运出境的，纳税人无须缴纳关税和进口环节增值税，及可向海关核销进口登记及申请发还保证金。如果没有在批准期限内复运出境的，纳税人需要依法纳税，在缴纳税款之后，相关进口货物物品成为一般进口货物，可以在境内自由流通，适用一般清关程序，纳税人可以向海关申请核销进出口登记及申请发还保证金。以上规定同样适用于暂时出境货物，在货物原状运回境内之后，纳税人可以向海关申请办理结关手续。

Temporarily imported goods falling outside the scope as prescribed in above 12 classes receive different tax treatments. The customs shall impose tax on the goods with reference to the dutiable value, taking into account of the period of stay in months in proportion to the total number of months for duty and VAT computation purposes. The total taxable period is limited to 60 months. The monthly amount of duty and VAT is, "dutiable value x 1/ 60" + "VAT x 1/ 60". Where the number of days is over 15, it is counted as one month; where the number of days is 15 or less, it is not counted as one month. The period for duty and import VAT purposes runs from the date when the Customs releases the goods.

上述列举十二项可以暂时免征关税范围以外的其他暂准进境货物，应当按照该货物的完税价格和其在境内滞留时间与折旧时间的比例计算征收进口关税，计征税款的期限为60个月，按月征收税款的计算公式为：每月关税税额=关税总额 X ( 1/60 ) + 每月进口环节代征税税额=进口环节代征税总额 X ( 1/60 )，计征税款的期限为60个月，不足一个月但超过15天的，按一个月计征；不超过15天的，免予计征，计征税款的期限自货物放行之日起计算。

After the payment of duty and taxes, the goods can be freely transferred in the Chinese territories. The temporarily imported goods will be re-classified into general goods. The PRC customs shall lift its supervision over the goods accordingly. The division of authority to grant the approval preceding the importation of the temporarily imported goods in question is as follows:

纳税之后，暂时进口成为一般贸易进口商品，海关不再实施事后监管，暂时进口货物在进口之前需要向主管海关备案批准进口文件，签发批准文件的行政机关的分工如下：

Items and equipment to be imported 进口货物和设备	The local departments and offices 签发进口批准文件的行政机关
News reporting (excluding those for use by reporters from Hong Kong, Macau and Taiwan) 新闻报道（不包括港澳台地区）	Ministry of Foreign Affairs 外交部
Award winning film contests and exchange programs 电影颁奖及交流活动	State Administration of Radio, Film and Television 国家广播电影电视总局
Entertainment and artistic performance 娱乐和文艺表演	Ministry of Culture 文化部
Science, education and medical services exchange activities 科研、教育及医疗交流活动	Ministry of Science & Technology 信息产业部
Conventions and exhibitions 会议及展览活动	Ministry of Commerce 商务部



## ATA Certificate

### ATA单证册

China joined the ATA Carnet in 1993, and has become a member of the International Bureau of Chamber of Commerce (the IBCC) since 1998. Since then, the Chinese customs has accepted the ATA Carnets issued by the authorized issuing associations of countries which are contracting parties to the Customs Convention on the ATA Carnet for the Temporary Admission of Goods or, the Convention on Temporary Admission (Istanbul Convention). As an alternative to a refundable deposit or bank guarantee, the holder of ATA certificate, who imports the exhibits and related items into the PRC for use in exhibitions, expo or trade fairs, is not required to put up deposits or provide any guarantee to the Chinese customs. The holder can apply for the ATA certificate from the local chamber of commerce of the BCC in its own country before the exhibits and the related items are shipped to the PRC. The ATA certificate serves a dual purpose: a common import/export declaration for the temporary importation of goods into the PRC; an internationally accepted security for goods entitled to temporary admission without payment of duties and taxes. In case that the temporarily imported goods still stay in the PRC after the allowed period is over, the Chinese customs shall collect the duty and VAT from the CICC, which is the local member of the IBCC. Upon the settlement of the duty and VAT, the local member of IBCC in the PRC has a right to claim reimbursement from the chamber that issued the ATA certificate to the holder in their home country. The General Administration of Customs has authorized the China Council for the Promotion of International Trade / China International Chamber of Commerce (CICC) to be the agency to issue the ATA certificates and provide guarantee to the customs, which grants release for temporary export goods to be used for exhibitions outside China.

中国于1993年加入ATA公约，1998年成为国际商会会员国，在1998年正式实施ATA单证册制度。中国海关接受暂准货物进口的海关公约或暂准进口公约(伊斯坦布尔公约)的缔约国授权签发组织所签发的暂准进口证(A.T.A. Carnet)。这给予进口参展商无须提供担保的另类安排。ATA单证册持册人进口在展览会、交易会、会议及类似活动中供陈列或使用货物时，不需要交纳保证金。持册人在展品及有关物资进口前可以向所在国的商会申请ATA单证册。ATA单证册概是国际通用报关单，也是担保凭证。倘若暂时进境货物逾期停留，中国海关可以向中国国际商会收取税金。在代支税金之后，中国国际商会可以向持册人所在国发证商会取回税金。经国务院批准并由海关总署授权，中国国际贸易促进委员会/中国国际商会为我国ATA单证册的担保协会和出证协会，海关凭中国国际商会签发的ATA单证册验放用于国际展览会议的暂准出口货物。



## Contact Us

### 聯絡我們

#### Hong Kong 香港

Unit 1506, 15/F, Wing On House, 71 Des Voeux Road, Central, Hong Kong.  
Tel : (852) 2374 0067  
Fax : (852) 2374 1813  
Email : enquiry@china-tax.net  
Website : www.china-tax.net  
Contact : Mr. Alfred K K Chan

#### Shenzhen 深圳

Room 1201, Block B, Carrianna Friendship Square  
No. 2002 Renminnan Road, Luohu District  
Shenzhen, China  
Tel : 86755-8236-1977  
Fax : 86755-8236-1978  
Contact : Ms. Alice Rui (Mandarin)

#### Beijing 北京

Tel : 8610-65398576, 86-13911088241  
Fax : 86-10-6539-8576  
Contact : Mr. William Chan

#### Shanghai 上海

Tel : 86-21-5150-4121  
Fax : 86-21-5150-4122  
Contact : Mr. Steven Leung

## Disclaimer

### 免责声明

The Company shall not accept any responsibilities for any loss or damage arising from the use of the information within this booklet. Materials in the booklet are distributed without responsibility on the part of the Company for the loss occasioned by any person acting or refraining from acting as a result of any views expressed therein.

如任何人因使用本书册的资料而引致损失或蒙受损害，本公司对其不负有任何责任。如果任何人接受本书册中表达的观点，因此作出一些行为或者不作任何行为，对该人因此而引致损失，本公司概不承担责任。