

## 税务快讯

# 税务总局发布居民企业 企业所得税优惠政策事 项办理办法



国家税务总局于 2015 年 11 月 20 日公布了《企业所得税优惠政策事项办理办法》（国家税务总局公告 2015 年第 76 号，以下简称《办法》），对居民企业如何通过备案方式享受企业所得税优惠政策进行了明确。《办法》的施行将有助于厘清税企双方的权责划分，使纳税人可以更便捷地办理优惠政策事项。然而，需要注意的是，纳税人须自行判断其是否符合优惠政策条件，如果判断错误可能将面临被追缴税款及滞纳金的风险。《办法》将适用于 2015 年及以后年度企业所得税优惠政策事项的办理工作。

## 政策背景

按照国务院的工作部署，在转变政府职能、明确税企责权、减轻企业负担的原则下，税务总局先后清理了大量涉税审批事项，并陆续印发有关文件，明确对企业所得税优惠事项全部取消审批，一律实行备案管理方式。

## 《办法》要点

**适用范围：**《办法》适用于居民企业享受的各项企业所得税优惠政策，并汇总于《企业所得税优惠事项备案管理目录》。该目录由税务总局编制并适时更新。2015年版的目录包含免税收入、减计收入、加计扣除、加速折旧、所得减免、抵扣应纳税所得额、减低税率、税额抵免、民族自治地方分享部分减免等在内的共计 55 项优惠政策。

**备案流程：**在自行判断符合税收优惠政策规定条件的前提之下，凡享受企业所得税优惠的，企业应向税务机关填报《企业所得税优惠事项备案表》（以下简称《备案表》），并按要求附送相关纸质资料（注：半数以上的优惠政策只需填报《备案表》即可；小微企业优惠和加速折旧政策可进一步免于填报《备案表》），以履行备案手续。企业同时享受多项税收优惠，或者某项税收优惠需要分不同项目核算的，应当分别备案。企业对《备案表》和其他备案资料的真实性、合法性承担法律责任。

税务机关受理备案时，只对备案资料进行形式审核，不核实企业备案资料的真实性。《备案表》符合规定形式、填报内容完整、附送资料齐全的，税务机关应当场受理，或在收到电子备案信息起 2 个工作日内受理备案。

**备案时间：**企业享受定期减免税的，在享受优惠起始年度的汇算清缴纳税申报前备案。在减免税起止时间内，备案内容未发生变更的，无须再履行备案手续。

企业享受其他优惠政策的，应当按年在汇算清缴纳税申报前履行备案手续。

除少部分税收优惠只能在汇算清缴时才能享受以外（例如加计扣除政策等），大部分税收优惠可以在预缴环节申报享受。然而，税务机关发现企业预缴申报享受某项税收优惠存在疑点的，必要时可以要求企业提前履行备案手续。

**留存备查资料：**除了履行备案手续以外，享受优惠政策的企业还应当按照《办法》要求妥善保管留存备查资料。税务机关可以要求企业限期提供留存备查资料，以证明其符合税收优惠政策条件。企业同样对留存备查资料的真实性、合法性承担法律责任。

《企业所得税优惠事项备案管理目录》对各项优惠政策的留存备查资料进行了列举，省级税务机关可在此基础上对部分政策的留存备查资料要求进行补充。

留存备查资料的保存期限为享受优惠事项后 10 年；税法规定与会计处理存在差异的优惠事项，保存期限为该优惠事项有效期结束后 10 年。

**跨省经营企业的备案：**对于跨省经营的汇总纳税企业，部分优惠政策由分支机构在当地履行备案——这类优惠政策主要包括所得减免、加计扣除、区域性税收优惠、专用设备投资抵免税额等；其他优惠政策由总机构统一备案。同时，总机构应当汇总分支机构的优惠备案情况，将相关信息随同年度申报表填报总机构主管税务机关。

**未及时备案的后果：**企业已经享受所得税优惠，但未在规定时间内进行备案的，应在发现后及时补办备案手续，同时提交对应的留存备案资料；税务机关发现后，应责令企业限期备案，同时提交对应的留存备案资料。

在上述情形下，税务机关审核后认为企业符合优惠政策条件的，应当对企业未按规定报送相关资料的行为进行处罚；审核后认为企业不符合优惠政策条件的，应当取消所享受优惠，追缴税款，加收滞纳金。

**《办法》实施时间：**《办法》将适用于 2015 年及以后年度企业所得税优惠政策事项的办理工作。但企业之前已经履行审批、审核或者备案程序的定期减免税，不再重新备案。

## 德勤评论

《办法》的发布意味着，企业所得税优惠政策事项的管理从文件层面彻底告别了传统的事前核准模式，纳税人未来只需提交少量简易文件即可享受所得税优惠，因此在办理优惠事项时将更为便捷。同时，《办法》以目录形式明确了各项优惠政策事项所需要的备案资料和留存备查资料，为纳税人享受优惠政策提供了较为清晰的指引。

然而，优惠政策事项管理模式的变化也将凸显纳税人在判断优惠政策适用性中的自主责任，对企业的合规性文档管理提出了更高的要求。与传统的事前核准模式相比，在新的管理模式下企业面临的不确定性风险将有所上升。企业与税务机关在优惠政策适用性上的判断分歧有可能在企业已经享受优惠政策一段时间后才被发现，从而导致企业被追缴税款及滞纳金。随着税务机关将工作重心逐渐转向事后监管，如何正确理解和适用税收优惠政策的规定，并在面对税务机关可能的质疑时，能够和税务机关进行有效的沟通，及时提供适当的资料以证明其符合优惠政策适用条件，将是企业在新模式下需要重点考虑的问题。

同时，鉴于《办法》将自 2015 年度开始适用，因此拟在 2015 年享受企业所得税优惠政策的企业应开始着手考虑相关工作，以便在剩余的约半年时间内（注：2015 年度的企业所得税汇算清缴须在 2016 年 5 月 31 日前完成）及时按照《办法》要求履行备案手续，对相应的留存备查资料进行妥善的收集、编制与保管。

相关文件：

[国家税务总局关于发布《企业所得税优惠政策事项办理办法》的公告（国家税务总局公告 2015 年第 76 号）](#)  
[企业所得税优惠事项备案管理目录（2015 年版）](#)

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## Tax Newsflash

# SAT Simplifies Administrative Procedure for Resident Enterprises to Apply Preferential EIT Treatment



On 20 November 2015, China's State Administration of Taxation (SAT) published a new tax bulletin (Bulletin [2015] No. 76 (Bulletin 76)) on its website that provides guidance on how resident enterprises may claim preferential enterprise income tax (EIT) treatment following the elimination of many advance approval/registration requirements for claiming preferential treatment in other recent guidance. The guidance introduces a "reporting" mechanism with much simpler documentation requirements for a resident enterprise to apply preferential EIT treatment based on its self-assessment, which should enable taxpayers to enjoy benefits more easily. However, the new procedure also may present a potential risk that the tax authorities

subsequently will challenge taxpayers' self-assessments, which could result in the recapture of the tax benefits and the imposition of interest charges. Bulletin 76 generally applies to annual EIT filings for 2015 and subsequent years.

## Background

The SAT recently has abolished many administrative approval/registration requirements to implement the work plans of the State Council, with the purpose of transforming the role of the government, clarifying the rights and responsibilities of the tax authorities and taxpayers and reducing the administrative burden on enterprises. The SAT also has published a series of circulars in the past two years that eliminated the advance approval requirements to obtain preferential EIT treatment and introduced simple reporting requirements.

## Highlights of Bulletin 76

**Scope of application:** A list of the items that are granted preferential EIT treatment is included in the *Category of Preferential EIT Treatment Subject to Reporting Requirements (Category)* that is maintained and published by the SAT. The 2015 version of the Category lists 55 items, including tax exemptions, super deductions, accelerated depreciation, tax credits, reduced tax rates, etc.

**Procedures for reporting:** When applying an item of preferential treatment, a resident enterprise generally must file a *Reporting Form for Enterprise Income Tax Preferential Treatment (Reporting Form)* with the tax authorities, along with supporting documents, if required. (No supporting documents are required for more than half of the 55 items, and an enterprise may be exempt from filing the Reporting Form if the only items it claims relate to accelerated depreciation and/or tax benefits granted to small-scale and "thin profit" enterprises.) Where an enterprise enjoys multiple items of preferential treatment, or preferential treatment covering multiple projects that must be accounted for separately, the enterprise must submit multiple Reporting Forms.

Enterprises that submit Reporting Forms are responsible for the authenticity and validity of the information in the form and supporting documents.

When processing the reporting documents, the tax authorities are required to carry out only a formal examination, as opposed to a substantive verification of the authenticity of the information. As long as the Reporting Forms meet the formal requirements and the relevant information/supporting documents are complete, the tax authorities must accept the reporting immediately, or within two business days from the receipt of the relevant electronic materials.

**Timing for reporting:** Enterprises that enjoy a tax holiday for a fixed period of time covering two years or more must submit the Reporting Form no later than filing the annual tax return for the first year of the tax holiday. No additional reporting will be required if no changes occur to the information provided in the form during the tax holiday.

Enterprises that enjoy other types of preferential treatment must submit the Reporting Form no later than filing the annual tax return for the relevant year.

Most items of preferential tax treatment may be applied as early as the time an enterprise files its monthly or quarterly EIT returns, with certain exceptions (e.g. R&D super deductions) where the preferential tax treatment cannot be applied until the enterprise files its annual return for the relevant year. However, if the tax authorities question the application of certain items of preferential treatment reported in monthly or quarterly returns, they may require an enterprise to submit the Reporting Form in advance.

**Reporting for enterprises operating in multiple provinces:** For enterprises that operate in multiple provinces, the Reporting Forms for some items of preferential treatment that are relevant to the operation of a specific branch (e.g. certain geographical incentives, R&D super deductions, income tax credits arising from purchases of specialized equipment, etc.) must be submitted to the tax authorities in charge of the branch, while other items of preferential treatment must be reported to the tax authorities in charge of the head office. The head office must prepare and submit a summary of all items of preferential tax treatment applied by its branches to the tax authorities in charge of the head office when filing its annual EIT returns.

**Maintenance of documents:** In addition to fulfilling the reporting obligations, enterprises that apply preferential treatment are required to maintain proper documents to respond to any future inspections. The tax authorities may require enterprises to provide these documents within a specified period of time to demonstrate that they are eligible for the preferential treatment. Enterprises are responsible for the authenticity and validity of these documents.

The Category lists the documents to be maintained for each item of preferential treatment. For some items, the tax authorities at the provincial level have the discretion to add more documents to the list.

The relevant documents generally are required to be maintained for 10 years after the enterprise enjoys the preferential treatment. Where preferential treatment covers a period of time and involves a book-to-tax adjustment, the documents must be maintained for 10 years from the end of the period of preferential treatment.

**Consequences of failure to timely report preferential treatment:** Enterprises that enjoy the benefits of preferential treatment but that do not fulfill their reporting obligations within the prescribed time limit (i.e. no later than filing the annual returns) must file the Reporting Form with the tax authorities, along with the documents that must be maintained for the relevant preferential treatment, once they became aware of the noncompliance. If the noncompliance is identified by the tax authorities, the authorities must request the enterprise to file the Reporting Form within a specified period of time, and to provide the documents required to be maintained.

If the tax authorities ultimately conclude that the enterprise is eligible for the preferential treatment, fines will be imposed on the enterprise for failing to fulfill its reporting obligations in a timely manner. Where the tax authorities determine that the criteria for the preferential treatment were not met, any benefits enjoyed will be recaptured and interest charges will be imposed.

**Effective date:** Bulletin 76 generally applies to EIT filings for 2015 and subsequent years. However, under a “grandfathering” provision, a resident enterprise does not need to fulfill the reporting obligation under Bulletin 76 for a tax holiday covering 2015 and subsequent years if it already has obtained an approval or registration of the holiday from the tax authorities.

## Comments

Bulletin 76 signifies that the administration of preferential EIT treatment has moved away from the traditional advance approval mechanism. In the future, taxpayers need only to provide a small number of documents to apply for preferential treatment and, therefore, should be able to enjoy the convenience of the streamlined procedures. Bulletin 76 also provides clear guidance to taxpayers on what documents need to be maintained to demonstrate their eligibility for preferential treatment.

However, the change in the administrative approach relating to preferential EIT treatment increases taxpayers’ responsibilities in assessing their eligibility for preferential treatment. It also highlights the importance of the documentation requirements for compliance purposes. Compared to the traditional advance approval approach, the new method could present a potential risk of uncertainties for taxpayers. Any difference in opinion between taxpayers and the tax authorities may not surface until after the preferential treatment has been applied, which could result in benefits being recaptured and interest charges being imposed. As the tax authorities shift their focus to post-event inspections, enterprises should actively consider how to ensure their understanding and application of preferential tax policies is correct, as well as how to effectively communicate with the tax authorities in response to any challenges and provide appropriate supporting documentation as proof of eligibility for the benefits claimed.



Given that Bulletin 76 will apply to the annual EIT filings for 2015 (which are due on 31 May 2016), enterprises that are expecting to claim the benefits of preferential EIT treatment in 2015 should consider preparing to fulfill the filing obligations, and to collect, compile and maintain the required documents.

Relevant circular:

[Bulletin of the State Administration of Taxation Issuing the Administrative Measures for Enterprise Income Tax Preferential Policies \(Bulletin of the State Administration of Taxation \[2015\] No. 76\) \(Chinese version\)](#)  
[Category of Preferential EIT Treatment Subject to Reporting Requirements \(Chinese version\)](#)

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