



Date: 23 September 2014

**The Provisional Measures of Administration of Taxation on Non-Resident
Enterprises Engaging in International Transport Service**
非居民企业从事国际运输业务税收管理暂行办法

Chapter I General Provisions
第一章 总 则

Article 1 To regulate the administration of taxation on non-resident enterprises engaging in international transport service, *the Measures* are formulated in accordance with the *Enterprise Income Tax Law of PRC* and its implementation Regulations (hereinafter referred to as the “*Enterprise Income Tax Law*”), the *Law of PRC on the Administration of Tax Collection* and its implementation Regulations (hereinafter referred to as the “*Law on the Administration of Tax Collection*”), as well as the treaties on avoidance of double taxation entered between PRC Government and governments of foreign countries (including taxation arrangements signed between the mainland China and Hong Kong and Macao, agreements for reciprocal tax exemption on international ocean shipping or air transport revenues, ocean shipping or air transport agreements, as well as other relevant agreements or exchange notes, hereinafter collectively referred to as the “tax treaties”) and other relevant laws and regulations.

第一条 为规范非居民企业从事国际运输业务的税收管理，根据《中华人民共和国企业所得税法》及其实施条例（以下简称企业所得税法）、《中华人民共和国税收征收管理法》及其实施细则（以下简称税收征管法），以及中国政府对外签署的避免双重征税协定〔含与香港、澳门特别行政区签署的税收安排、互免海运（空运）国际运输收入协定、海运（空运）协定以及其他有关协议或者换文，以下统称税收协定〕等相关法律法规，制定本办法。

Article 2 “Engaging in international transport service” as stated in *the Measures* means business activities such as carriage of passengers, goods or mails, among others, in or out of the ports within Chinese territory by non-resident enterprises through vessels, airplanes and ship space owned or leased by such enterprises, as well as the relevant loading and discharging, storage and other subsidiary businesses.

第二条 本办法所称从事国际运输业务，是指非居民企业以自有或者租赁的船舶、飞机、舱位，运载旅客、货物或者邮件等进出中国境内口岸的经营活动以及相关装卸、仓储等附属业务。

The business activity in which a non-resident enterprise earns revenues from leasing out vessels or aircrafts by means such as voyage charter, time charter or wet lease falls within the scope of international transport service.

非居民企业以程租、期租、湿租的方式出租船舶、飞机取得收入的经营属于国际运输业务。

The rental revenues obtained by a non-resident enterprise from leasing out vessels or aircrafts by bareboat charter or dry lease etc or leasing out containers or other loading tools to domestic entities or individuals shall not fall within the scope of international transport service revenues as stated in *the Measures*, and shall be governed by the provisions of paragraph 3 of Article 3 of the *Enterprise Income Tax Law* and the *Notice of the State Administration of Taxation on Issuing the Provisional Measures on Administration of Withholding Enterprise Income Tax at Source on Non-Resident Enterprises* (GSF No. 3 [2009]) (except as otherwise provided for by tax treaties).

非居民企业以光租、干租等方式出租船舶、飞机，或者出租集装箱及其他装载工具给境内机构或者个人取得的租金收入，不属于本办法规定的国际运输业务收入，应按照企业所得税法第三条第三款和《国家税务总局关于印发〈非居民企业所得税源泉扣缴管理暂行办法〉的通知》（国税发〔2009〕3号）的规定执行（税收协定有特殊规定的除外）。

Article 3 Where a non-resident enterprise which engages in the international transport service as provided in *the Measures* has obtained transport revenues, it shall be deemed as a taxpayer.

第三条 非居民企业从事本办法规定的国际运输业务，以取得运输收入的非居民企业为纳税人。

Article 4 Except for any other taxes involved in implementing tax treaties, *the Measures* only apply to enterprise income tax.

第四条 除执行税收协定涉及的其他税种外，本办法仅适用于企业所得税。

“Competent tax authorities” as stated in *the Measures* mean competent state tax authorities.

本办法所称主管税务机关是指主管国税机关。

Chapter II Administration of Tax Collection

第二章 征收管理

Article 5 A non-resident enterprise shall, within 30 days from the date when the relevant authority approves its business qualification or a transport contract or agreement is concluded, have, by itself or via an agent authorized by it, tax registration done with the competent tax authority at the place where a business port within Chinese territory is located, and, at the same time, provide its business license, operating voyage details, relevant business contract, contact persons within Chinese territory and other relevant information.

第五条 非居民企业应自有关部门批准其经营资格或运输合同、协议签订之日起 30 日内，自行或委托代理人选择向境内一处业务口岸所在地主管税务机关办理税务登记，并同时提供经营资格证书、经营航线资料、相关业务合同以及境内联系人等相

关信息。

After having tax registration done at a port within Chinese territory, a non-resident enterprise shall, when conducting business at any other port, submit the photocopies of tax registration certificate/materials, transport contracts and other relevant materials to the local competent tax authority at such port.

非居民企业选择境内一处口岸办理税务登记后，应当在其他业务口岸发生业务时向所在地主管税务机关报送税务登记资料、运输合同及其他相关资料的复印件。

Article 6 Where a non-resident enterprise has tax registration formalities done in accordance with the provisions of Article 5 of *the Measures*, it shall establish account books in accordance with the *Law on the Administration of Tax Collection* and other relevant laws and regulations, arrange bookkeeping and accounting on the basis of legal and valid vouchers, accurately calculate the amount of taxable income, and declare and pay enterprise income tax to the competent tax authority at the place of tax registration in accordance with the law by itself or via its authorized agent.

第六条 非居民企业按照本办法第五条规定已经办理税务登记的，应当按照税收征管法及有关法律法规设置账簿，根据合法、有效凭证记账，进行核算，准确计算应纳税所得额，自行或委托代理人向税务登记所在地主管税务机关依法申报缴纳企业所得税。

Article 7 With respect to the income earned by a non-resident enterprise from engaging in international transport service, the amount of taxable income shall be determined in accordance with the provisions of the *Enterprise Income Tax Law* on the basis of the balance after deducting from the total revenues the actually incurred reasonable expenses which are related to the revenues earned.

第七条 非居民企业从事国际运输业务取得的所得应根据企业所得税法的规定，从收入总额中减除实际发生并与取得收入有关、合理的支出后的余额确定应纳税所得额。

Total revenues means the sum of the passenger transport revenues and goods transport revenues earned by a non-resident enterprise from carrying passengers, goods or mails and etc, in or out of the ports within Chinese territory. Passenger transport revenues include the passenger ticket revenues and fees paid for over-weight luggage, catering fees, insurance premiums, service charges and recreation expenses; and goods transport revenues include basic freight, various surcharges and etc.

收入总额是指非居民企业运载旅客、货物或者邮件等进出中国境内口岸所取得的客运收入、货运收入的总和。客运收入包括客票收入以及逾重行李运费、餐费、保险费、服务费和娱乐费等；货运收入包括基本运费以及各项附加费等。

Article 8 Where a non-resident enterprise is unable to accurately calculate and truly declare taxable income, the competent tax authority shall assess its taxable income as per the provisions of the *Notice of State Administration of Taxation on Issuing the Administrative Measures for the Assessment and Collection of Enterprise Income Tax on*

Non-Resident Enterprises (GSF No. 19 [2010]).

第八条 非居民企业不能准确计算并据实申报其应纳税所得额的，由主管税务机关按照《国家税务总局关于印发〈非居民企业所得税核定征收管理办法〉的通知》（国税发〔2010〕19号）的规定核定其应纳税所得额。

Article 9 Where a non-resident enterprise engaging in international transport service falls within any of withholding circumstances as provided in the *Enterprise Income Tax Law*, the competent tax authority at the place where a payer is located shall, as per the procedures as provided in Article 14 of the *Provisional Measures of Administration of Taxation on Non-Residents for Contracting Engineering Projects and Providing Labor Services* (Order No.19, SAT), designate the payer as a withholding agent. Payers include:

第九条 非居民企业从事国际运输业务符合企业所得税法指定扣缴情形的，支付人所在地主管税务机关应按照《非居民承包工程作业和提供劳务税收管理暂行办法》（国家税务总局令第19号）第十四条规定的程序，指定支付人为扣缴义务人。支付人包括：

(1) the entities or individuals which make payments to a non-resident enterprise or its domestic subsidiaries, branches or representative offices, or to the agents at home and abroad entitled to receive payments on behalf of the non-resident enterprise;

（一）向非居民企业或其境内子公司、分公司或代表机构，或者有权代表非居民企业收取款项的境内外代理人支付款项的单位或个人；

(2) the entities or individuals which make payments through their overseas affiliates or any third parties which have special interest relationship with them; and

（二）通过其境外关联方或有特殊利益联系的第三方支付款项的单位或个人；

(3) other entities or individuals which comply with the provisions of the *Enterprise Income Tax Law*.

（三）其他符合企业所得税法规定的单位或个人。

Article 10 Each time when taxes are withheld, the withholding agent shall submit the *Declaration Form of PRC for Withholding Enterprise Income Tax* and other relevant materials to the competent tax authorities, and pay such taxes to the state treasury within seven days of the date of withholding.

第十条 支付人每次代扣代缴税款时，应向其主管税务机关报送《中华人民共和国扣缴企业所得税申报表》及相关资料，并自代扣之日起7日内将税款缴入国库。

Chapter III Administration on Enjoying Treatments under Tax Treaties 第二章 享受税收协定待遇管理

Article 11 The scope of international transport revenues or income and tax categories applicable to non-resident enterprises' enjoying treatments under tax treaties shall be governed by the relevant provisions of tax treaties.

第十一条 非居民企业享受税收协定待遇适用的国际运输收入或所得以及税种的范

围，按照税收协定有关规定执行。

Article 12 Any non-resident enterprise that would enjoy treatments under tax treaties shall, before its tax payment obligation occurs or when it declares relevant tax payment obligation under the provisions of domestic tax laws, report to the competent tax authority at the place of its registration for recordation, and submit in duplicate *the Non-resident's claim for treatment under Double Taxation Agreement* (see Annex 1 to the *Notice of the State Administration of Taxation on Issuing the Measures on Administration of Non-Residents' Enjoying Treatments under Tax Treaties (for Trial Implementation)* (GSF No. 124 [2009]), hereinafter referred to as "*Claim for Treatment under Tax Treaties*") and the following materials:

第十二条 非居民企业需要享受税收协定待遇的，应在按照国内税法规定发生纳税义务之前或者申报相关纳税义务时，向其登记地主管税务机关备案，一式两份提交《非居民享受税收协定待遇备案报告表》（见《国家税务总局关于印发〈非居民享受协定待遇管理办法（试行）〉的通知》（国税发〔2009〕124号）附件1，以下简称享受协定待遇备案表）及下列资料：

(1) The duplicate or photocopy of the enterprise's registration certificate issued by the country where the enterprise is registered.

（一）企业注册地所在国签发的企业注册证明副本或复印件；

(2) The originals or photocopies of resident identity certificate or legal entity certificate issued by the competent tax authority or the competent shipping authority of the other contracting party to tax treaties after the start of the last calendar year (where photocopies are provided, the storage places of originals shall be indicated).

（二）税收协定缔约对方税务主管当局或者航运主管部门在上一公历年度开始以后出具的居民身份证明、法人证明原件或复印件（提供复印件的，应标明原件存放处）；

(3) Photocopies of the contracts or agreements related to earning international transport revenues or income.

（三）与取得国际运输收入、所得有关的合同或协议复印件；

(4) Written statements on the operating voyages/routes, the transport of passengers, goods and mails and the ports of call within Chinese territory.

（四）关于运行航线、运输客货邮件及在中国境内的沿途停泊口岸情况的书面说明；

(5) Other materials related to enjoying treatments under tax treaties as required by tax authorities.

（五）税务机关要求提交的与享受税收协定待遇有关的其他资料。

Where the recordation materials provided by a non-resident enterprise are complete and integrate, the competent tax authority shall affix on site its seal to two *Claim for Treatment under Tax Treaties*. One will be archived for future reference, and the other will be returned to the non-resident enterprise. If the recordation materials submitted by a

non-resident enterprise are incomplete or fail to be filled in a complete manner, the competent tax authority shall notify the enterprise to make supplements and corrections on site. For the aforesaid recordation materials, those have been submitted to the competent tax authority are not required to be filed once again.

非居民企业提供的备案资料齐全、完整的，主管税务机关应当场在两份享受协定待遇备案表上加盖印章，一份存档备查，一份退还非居民企业。对于非居民企业提交的备案资料不齐全或填写不完整的，主管税务机关应当场告知其予以补正。上述备案资料中已报送主管税务机关的，可不再重复报送。

Where the same non-resident enterprise would enjoy multiple times the treatments under tax treaties at the same place, it may be exempt from filling again the recordation formalities within three calendar years (including this year) after it completes the recordation formalities for the first time.

同一非居民企业在一地需要多次享受税收协定待遇的，在首次办理上述备案后3个公历年度内（含本年度）可免于重复办理备案手续。

Article 13 If a non-resident enterprise fails to complete recordation formalities and submit materials in accordance with the provisions of Article 12 of *the Measures*, it may not enjoy treatments under tax treaties; and where such enterprise has enjoyed the treatments under tax treaties at its own discretion, and fails to make corrections within a provided time limit after it is ordered to do so by the competent tax authority without any reasonable reason, it shall make up the underpaid taxes, and be handled in accordance with the relevant provisions of the *Law on the Administration of Tax Collection*.

第十三条 非居民企业未按本办法第十二条规定备案并提交资料的，不得享受税收协定待遇；已经自行享受税收协定待遇的，经主管税务机关责令限期改正仍未改正，又无正当理由的，应补缴税款，并根据税收征管法有关规定处理。

Article 14 Where a non-resident enterprise conducts international transport service at multiple ports within Chinese territory, it shall submit a photocopy of the *Claim for Treatment under Tax Treaties* that has been accepted by the competent tax authority to the competent tax authorities at other ports for retention and future reference. If the competent tax authority at other port raises any objection, it shall conduct communication and coordination with the competent tax authority which accepts the *Claim for Treatment under Tax Treaties*. Where a consensus fails after coordination, the divergence shall be reported to the common tax authority at the next higher level.

第十四条 非居民企业在境内多个口岸发生国际运输业务的，应将主管税务机关受理后的享受协定待遇备案表复印件提交给其他口岸主管税务机关留存备查。其他口岸主管税务机关如有异议，应与受理享受协定待遇备案的主管税务机关沟通协调，协调不一致的向共同上一级税务机关报告。

Article 15 Where a non-resident enterprise, which is eligible to enjoy treatments under tax treaties but has never enjoyed such treatments or has overpaid taxes due to its failure to enjoy treatments under tax treaties that it is eligible to enjoy, it may, within three years of the date of payment of such overpaid taxes, file a request with the competent tax

authority for enjoying treatments under tax treaties which it should have enjoyed, and shall complete supplementary recordation formalities in accordance with the provisions of *the Measures*, and have the overpaid taxes refunded; where it fails to make the request within the aforesaid time limit, the competent tax authority will refuse to accept its request.

第十五条 非居民企业可享受但未曾享受税收协定待遇，且因未享受本可享受的税收协定待遇而多缴税款的，可自结算缴纳该多缴税款之日起三年内向主管税务机关提出追补享受税收协定待遇的要求，并按本办法规定补办备案手续，退还多缴的税款；超过前述规定时限的，主管税务机关不予受理。

Chapter IV Track and Administration 第四章 跟踪管理

Article 16 A competent tax authority shall, in principles of one archive for one entity and one-by-one administration, establish management ledgers and tax payment archives for non-resident enterprises engaging in international transport service, and timely obtain accurate information on their collection of freights and monies, tax payment, enjoying treatments under tax treaties and etc.

第十六条 主管税务机关应当按照逐户建档、按户管理的原则，建立非居民企业从事国际运输业务的管理台账和纳税档案，及时、准确掌握其收取运费及相关款项、税款缴纳、享受税收协定待遇等情况。

Article 17 A competent tax authority shall track and administrate what and how non-resident enterprises enjoy treatments under tax treaties. Where it is found upon comparison and audit of the materials filed by a non-resident enterprise as per Article 12 of *the Measures* and the contents of international transport service that it engages and the materials submitted for recordation/file that the non-resident enterprise fails to satisfy requirements for enjoying the treatments under tax treaties and fails to perform the tax payment obligation, it shall be dealt with as per relevant provisions of the *Law on the Administration of Tax Collection*.

第十七条 主管税务机关应对非居民企业享受税收协定待遇情况进行跟踪管理。对其按本办法第十二条规定报送的资料与所从事的国际运输业务内容，以及备案提交的资料进行对比稽核，对于不符合享受税收协定待遇条件且未履行纳税义务的情形，应按照税收征管法有关规定处理。

Article 18 Competent tax authorities shall strengthen their cooperation with administration of port affairs, administration of shipping, customs, commodity inspection, maritime surveillance, foreign exchange administration, commerce and other departments, obtain relevant tax source information, and monitor the situation of non-resident enterprises' entry into and departure from ports within Chinese territory, performance of tax payment obligation, collection of freights and relevant monies and other information.

第十八条 主管税务机关应与港务、航管、海关、商检、海监、外汇管理、商务等部门加强合作，获取相关税源信息，对非居民企业进出境内口岸、履行纳税义务、收取运费及相关款项等情况实施监控。

Article 19 Where it is difficult for a competent tax authority to obtain the tax-related information within Chinese territory, it may work out a plan for special information, and the State Administration of Taxation shall make a special request to the other contracting state for information.

第十九条 主管税务机关在境内难以获取涉税信息时，可以制作专项情报，由税务总局向缔约国对方提出专项情报请求。

Chapter V Supplementary Provisions 第五章 附则

Article 20 Where a non-resident enterprise, a withholding agent or any other agent commits any violation of tax laws, the competent tax authority shall deal with it in accordance with the relevant provisions of the *Law on the Administration of Tax Collection*.

第二十条 非居民企业、扣缴义务人或代理人存在税收违法行为的，税务机关应按照税收征管法的有关规定处理。

Article 21 Tax authorities of all provinces, autonomous regions, municipalities directly under the Central Government, and cities under separate state planning may formulate specific implementation measures in accordance with *the Measures* appropriate to local prevailing circumstances.

第二十一条 各省、自治区、直辖市和计划单列市税务机关可根据本办法，结合本地区实际情况，制定具体实施办法。

Article 22 *The Measures* shall come into force on 1 August 2014. Where any non-resident enterprise has undergone formalities in relation to approval for enjoying treatments under tax treaties, recordation or tax exemption certificate or other relevant formalities before *the Measures* come into force, it shall be deemed to have made recordation as per Article 12.1 of *the Measures*, and may be exempted from making new recordation within the time limit as provided in Article 12.3 of *the Measures*.

第二十二条 本办法自2014年8月1日起施行。非居民企业在本办法施行之日以前已经办理享受税收协定待遇审批、备案或免税证明等相关手续的，视同已按本办法第十二条第一款规定备案，在本办法第十二条第三款规定的时限内可免于重新备案。

Article 23 The provisions related to enterprise income tax in the following documents the *Notice of the State Administration of Taxation on Several Issues concerning International Air Transport Service* (GSF No. 097 [1993]), the *Notice of the State Administration of Taxation on the Issuance and Use of the Report Form of Taxes on Foreign Ships related Transport Revenues* (GSHF No. 729 [1996]), the *Notice of the State Administration of Taxation on the Issuance and Use of the Declaration Form for Enterprise Income Tax Exemption on Ship Transport Revenues of Foreign Companies & Certification of Business Tax Exemption on Ship Transport Revenues of Foreign Companies* (GSH No. 160 [2002]), and the *Notice of the State Administration of Taxation*

on Issuing the Report Form for the Relevant Shipping Taxation Information of Foreign Companies (GSH No. 384 [2002]) shall be repealed on 1 August 2014, so shall the Notice of the State Administration of Taxation on Issues concerning the Calculation of Enterprise Income Tax on Non-Resident Enterprises' Revenues from Shipping or Air Transport be (GSH No. 952 [2008]).

第二十三条 《国家税务总局关于国际航空运输业务若干问题的通知》(国税发〔1993〕097号)、《国家税务总局关于印制使用〈外轮运输收入税收报告表〉的通知》(国税函发〔1996〕729号)、《国家税务总局关于印制使用〈外国公司船舶运输收入免征企业所得税申报表〉和〈外国公司船舶运输收入免征营业税证明表〉的通知》(国税函〔2002〕160号)、《国家税务总局关于印制外国公司有关船舶运输税收情况报告表格的通知》(国税函〔2002〕384号)等上述文件涉及企业所得税的规定和《国家税务总局关于非居民企业船舶、航空运输收入计算征收企业所得税有关问题的通知》(国税函〔2008〕952号)自2014年8月1日起废止。