

财行[2005]365号 财政部、国家税务总局、中国人民银行关于 进一步加强代扣代收代征税款手续费管理的通知

财行[2005]365号

各省、自治区、直辖市、计划单列市财政厅（局）、国家税务局、地方税务局，中国人民银行各分行、营业管理部、省会（首府）城市中心支行，大连、青岛、宁波、厦门、深圳市中心支行，财政部驻各省、自治区、直辖市、计划单列市财政监察专员办事处：

为进一步规范和加强代扣代缴、代收代缴和委托代征（以下简称“三代”）税款手续费的管理，根据《中华人民共和国预算法》和《中华人民共和国税收征收管理法》及其他有关法律、行政法规的规定，现就进一步加强“三代”税款手续费管理通知如下：

一、“三代”范围

（一）代扣代缴是指税收法律、行政法规已经明确规定负有扣缴义务的单位和个人在支付款项时，代税务机关从支付给负有纳税义务的单位个人的收入中扣留并向税务机关解缴的行为。

（二）代收代缴是指税收法律、行政法规已经明确规定负有扣缴义务的单位和个人在收取款项时，代税务机关向负有纳税义务的单位和个人收取并向税务机关缴纳的行为。

（三）委托代征是指税务机关根据《中华人民共和国税收征管法》加强税收控管、方便纳税、降低税收成本的规定，按照双方自愿、简便征收、强化管理和依法委托的原则，委托有关单位和人员按照代征协议规定的代征范围、权限及税法规定的征收标准代税务机关征收税款的行为。

二、“三代”税款手续费支付比例

（一）法律、行政法规规定的代扣代缴、代收代缴税款，税务机关按代扣、代收税款的2%支付。

（二）委托金融机构或邮政部门代征个人、个体及实行核定征收税款的小型企业的税收，税务机关按不超过代征税款的1%支付。

（三）税务机关委托单位或个人代征农贸市场、专业市场的税收，税务机关按不超过代征税款的5%支付。

（四）税务机关委托单位或个人代征交通、房地产、屠宰等特殊行业的税款，税务机关按不超过代征税款的5%支付。

（五）委托证券交易所和证券登记结算机构代征证券交易印花税，税务机关按代征税款的0.3%支付；委托有关单位代征代售印花税票按代售金额5%支付。

（六）税务机关委托单位或个人代征其他零星分散、异地缴纳的税收，税务机关按不超过代征税款的5%支付。

三、“三代”的管理

税务机关应严格按照《中华人民共和国税收征收管理法》及其实施细则有关规定和精细化管理的要求开展“三代”工作。除另有规定外，未经财政部、国家税务总局批准，税务机关不得自行扩大“三代”范围和提高“三代”税款手续费支付比例。

（一）税务机关应对负有代扣代缴、代收代缴义务的扣缴义务人办理扣缴税款登记，核发扣缴税款登记证。

对法律、行政法规没有规定负有代扣代缴、代收代缴税款义务的单位和个人，税务机关不得要求履行代扣代缴、代收代缴税款义务。

（二）税务机关委托代征应对代征单位或个人进行资格审定，必须具备以下条件，税务机关方可委托：

1. 财务制度健全、便于税收控管和方便纳税、能够独立承担民事责任,有熟悉税收政策的专门办税人员,并具有承担税收代征条件的单位。

2. 责任心强、具有高中以上文化、熟悉税收政策,能够独立承担民事责任,没有不良记录的个人。

(三) 税务机关委托单位和个人代征税款应签定委托代征协议书,明确双方的权利和义务,职责与责任。

(四) 委托代征应使用全国统一的代征协议文本,核发委托代征证书。

(五) 税务机关应监督代征单位和个人按照法律、法规和税务机关的规定代征税款、解缴票款。

四、手续费的预算管理

(一) “三代”税款手续费纳入预算管理,由财政通过预算支出统一安排。

(二) 各级国税机关负责征收的税款应支付的“三代”税款手续费,由中央财政负担;各级地税机关负责征收的税款应支付的“三代”税款手续费,由省级财政(含计划单列市,下同)明确负担办法。

(三) 各级税务机关应根据“三代”工作开展的实际情况,实事求是地编制预算,并按照财政部门编制部门预算的有关程序和要求向财政部门编报“三代”税款手续费预算。

教育费附加的手续费预算,按代扣、代收、代征所划缴正税的手续费比例编制。

(四) 财政部、地方各级财政部门根据批复的“三代”税款手续费预算,及时核批用款计划或拨付经费。各级税务机关按照实际发生额及时支付相关手续费。

(五) 国税机关、地税机关支付的“三代”税款手续费,分别由财政部与国家税务总局、省级或者省以下财政部门与地税部门在下一年进行据实清算。不足部分,在下一年预算中弥补;结余部分,相应扣减下年“三代”税款手续费预算。

五、手续费核算管理

(一) 各级税务机关应当单独设置会计科目,及时、全面、完整核算“三代”税款手续费收支情况。

(二) “三代”税款手续费的请领和核拨,按财政部有关规定执行。

(三) 省级国税机关应在每年年初将上年“三代”税款手续费收支情况报财政部驻各地财政监察专员办事处,经审核签章后,汇入部门决算报国家税务总局。国家税务总局汇总后报送财政部。

财政部驻各地财政监察专员办事处对“三代”税款手续费进行实地抽样审查,并在10个工作日内完成。

(四) 对地税部门“三代”税款手续费核算要求,由省级地方税务局和省级财政部门比照国税部门共同确定。

六、手续费支付管理

(一) 税务机关应按照本通知规定的比例支付“三代”税款手续费。

(二) 税务机关对单位和个人未按照法律、行政法规或者委托代征协议规定履行代扣、代收、代征义务的,不得支付“三代”税款手续费。

(三) 税务机关应在“三代”单位和个人申报并结报票款后,按有关规定支付“三代”税款手续费。对不能及时支付的,应予说明,并在一个季度内结清,最长不得超过6个月。

(四) 因税务机关的原因,未领或少领“三代”手续费的单位和個人,有权要求税务机关按照规定及时支付手续费。

因“三代”单位和个人自己的原因,三年不到税务机关领取“三代”税款手续费的,税务机关将停止支付手续费。

(五) 税务机关之间委托代征税款,不得支付手续费。

(六) “三代”单位所取得的手续费收入应该单独核算,计入本单位收入,用于“三代”管理支出,也可以适当奖励相关工作人员。

七、手续费的监管

(一) 各级税务机关应加强对“三代”税款手续费监督检查,严禁将“三代”税款手续费作为税务机

关的行政经费或者挪作它用，也不得用行政经费垫付“三代”税款手续费。

有关部门应及时查处“三代”税款手续费中发生的各种违纪行为，并按规定追究有关人员的责任。

（二）财政部驻各地财政监察专员办事处要加强对代扣、代收和代征税款手续费管理的监督检查。对违规使用的手续费，应责令限期予以收回；对违规提退的手续费，应责成以原预算科目补缴入库，并依照法律法规追究有关单位和人员的责任。

（三）除法律、行政法规另有规定外，各级税务机关均不得从税款中直接提取手续费或办理退库。各级国库不得办理代扣、代收、代征税款手续费退库。

本通知自 2006 年 1 月 1 日起执行。省级财政部门 and 省级税务部门应根据本通知规定制定本省具体管理办法。原有规定与本通知不一致的，按本通知规定执行。

**CH [2005] No. 365 Notice of the Ministry of Finance, the State
Administration of Taxation, and the People's Bank of China on
Further Enhancing the Management over Service Charges for Taxes
Withholding, Collection, and Imposition**

CH [2005] No. 365

Each financial department (bureau) of a province/autonomous region/municipality/city specifically designated in the state plan, the State Administration of Taxation, and each local taxation bureau, each branch/operations management department of the People's Bank of China, each central sub-branch of the People's Bank of China in a provincial capital, each central sub-branch of the People's Bank of China in Dalian/Qingdao/Ningbo/Xiamen/Shenzhen, and each financial ombudsman office of the Ministry of Finance in each province//autonomous region/municipality/city specifically designated in the state plan,

To further standardize and enhance the management over the service charges for tax withholding and remittance, tax collection and remittance, and entrusted imposition (hereinafter referred to as "Withholding, Collection and Imposition"), in accordance with the provisions in the *Budget Law of the People's Republic of China*, the *Law of the People's Republic of China on the Administration of Tax Collection*, and other relevant laws and administrative regulations, the notice on further enhancing the management over the service charges for "Withholding, Collection and Imposition" is hereby issued as follows:

I. Scope of "Withholding, Collection and Imposition"

1. Tax withholding and remittance refers to the act that an organization or individual with the obligation of withholding and remittance, as expressly specified in a taxation law or administrative regulation, on behalf of a taxation authority, makes a withholding from the income which is paid to an organization or individual obligated to pay taxes, and then remit the relevant money to the taxation authority, while making the relevant payment.
2. Tax collection and remittance refers to the act that an organization or individual with the obligation of withholding and remittance, as expressly specified in a taxation law or administrative regulation, on behalf of a taxation authority, collects the relevant tax from an organization or individual obligated to pay taxes and then remit such a tax to the taxation authority, while collecting the relevant payment.
3. Entrusted imposition refers to the act that a taxation authority, in accordance with the provisions

of the *Law of the People's Republic of China on the Administration of Tax Collection*, relating to reinforced taxation control and management, assistance in tax payment, and reduced tax cost, on the principle of voluntariness, simplified imposition, strengthened management, and legal entrustment, entrusts relevant organizations and individuals to impose taxes on behalf of the taxation authority as per the imposition scope and the limits of authority under the imposition entrustment agreement as well as the imposition standards specified in the tax law.

II. Payment Ratio of Service Charges for “Withholding, Collection and Imposition”

1. Taxation authorities shall pay for the service charges for the “Withholding, Collection and Imposition” as specified by laws and administrative regulations at the rate of 2% of the taxes from “Withholding, Collection and Imposition”.
2. For the service charges of entrusting financial organizations or postal sectors to impose the taxes on individuals, private businesses and small enterprises where approved tax imposition is carried out, taxation authorities shall pay at the rate of no more than 1% of the taxes imposed.
3. The payment for the service charges to the organizations and the individuals that are entrusted by taxation authorities to impose taxes on farm produce fairs and specialized markets shall be made by the taxation authorities at the rate of no more than 5% of the taxes imposed.
4. When taxation authorities entrust organizations and individuals to impose taxes on such special industries as transportation, real estate, and slaughter, they shall make the relevant payments at the rate of no more than 5% of the taxes imposed.
5. Taxation authorities, when entrusting stock exchanges and securities registration & clearing institutions to impose stock trading stamp taxes on behalf of them, shall pay for the relevant service charges at the rate of 0.3% of the taxes imposed, and shall pay the related service charges to the concerned organizations which are entrusted to impose and sell revenue stamps, at the rate of 5% of the selling amount.
6. The service charges to be paid to organizations and individuals that are entrusted by taxation authorities to impose other scattered taxes and those paid in other places, shall be paid for by taxation authorities at the rate of no more than 5% of the taxes imposed.

III. Management over “Withholding, Collection and Imposition”

A taxation authority shall carry out the work of “Withholding, Collection and Imposition” as per the concerned provisions in the *Law of the People's Republic of China on the Administration of Tax Collection* and the detailed rules of its implementation as well as the delicacy management requirements. Unless otherwise specially specified, any taxation authority shall not arbitrarily expand the scope of “Withholding, Collection and Imposition”

or improve the payment ratio of the service charges for the taxes from “Withholding, Collection and Imposition”, without the approval from the Ministry of Finance or the State Administration of Taxation.

1. A taxation authorities shall deal with the tax withholding registration for the withholding agents with the obligations of withholding & remittance and collection & remittance as well as approve and issue the tax withholding registration licenses to such agents.

Any taxation authority shall not require any relevant organization or individual that does not have the obligation of withholding & remittance or collection & remittance under any law or administrative regulation to fulfill the obligation of withholding & remittance or collection & remittance.

2. A taxation authority, to entrust an organization or individual to do imposition on behalf of it, shall validate the qualification of such an organization or individual, which can be then entrusted by the taxation authority when equipped with the following conditions:

- (1) An organization shall have a sound finance system, provide convenience in tax control & management and tax payment, is capable of independently bear civil liabilities, employs specialists in tax handling who are familiar with tax policies, and owns the condition for undertaking the tax imposition work.

- (2) An individual shall possess a strong sense of responsibility, be provided with a senior high school education or above and familiar with tax policies and able to independently undertake the civil liabilities, and have no record of bad behavior.

3. A taxation authority, which intends to entrust an organization or individual to impose taxes on behalf of it, shall sign an imposition entrustment agreement so as to define the rights, obligations, and responsibilities of both parties.
4. Imposition entrustment shall be made in the nationally uniform imposition entrustment agreement text, with an imposition entrustment certificate to be verified and issued.
5. A taxation authority shall supervise those organizations and individuals that are entrusted to do imposition and they shall follow the related laws and regulations as well as the concerned provisions from the taxation authority to impose and remit taxes.

IV. Budget Management over Service Charges

1. The service charges for “Withholding, Collection and Imposition” shall be included to the budget for management and will be arranged by the Treasury in a uniform way via budget.
2. The payable service charges for Withholding, Collection and Imposition of the taxes on behalf of the national taxation bureau of each level, shall be undertaken by the Central Finance; for those on behalf of the local taxation bureau of each level, the relevant provincial finance

(including the finance of city specifically designated in the state plan, similarly hereinafter) shall define the method of undertaking.

3. The taxation authority of each level shall practically prepare the budget based on the actual situation of the development of Withholding, Collection and Imposition as well as make and report the budget of the service charges for Withholding, Collection and Imposition to the relevant department of finance as per the concerned procedures and requirements for the department of finance to make the budget of the department.

The budget of the service charges for Educational Surtax shall be prepared on the basis of the payment ratio of the service charges for Withholding, Collection and Imposition of regular taxes.

4. The Ministry of Finance and the local financial department of each level shall in time verify and approve the fund utilization plan or allocate funds as per the approved budget of the service charges for Withholding, Collection and Imposition. The taxation authority of each level shall pay for the relevant service charges without delay, as per the actually generated amount.
5. The service charges for Withholding, Collection and Imposition, to be paid by a national taxation bureau and a local taxation bureau, shall be cleared respectively by the Ministry of Finance and the State Administration of Taxation, and the financial department and the local taxation department of a provincial level or below based on the actual situation next year. The deficiency shall be made up for in the next year's budget, while from the excess, the budget of the service charges for Withholding, Collection and Imposition of the next year shall be deducted accordingly.

V. Management over Computation of Service Charges

1. The taxation authority of each level shall separately set up accounting items to compute in a timely, full and complete way the receipts and disbursements of the service charges for Withholding, Collection and Imposition.
2. The service charges for Withholding, Collection and Imposition shall be applied for, verified and allocated in accordance with the relevant provisions of the Ministry of Finance.
3. At the beginning of a year, the national taxation bureau of a provincial level shall report the receipts and disbursements of the service charges for Withholding, Collection and Imposition during the previous year, to the related financial ombudsman office of the Ministry of Finance, which shall be incorporated to the departmental final settlement after reviewed, signed and sealed, and then reported to the State Administration of Taxation. The State Administration of Taxation shall make a summary and then submit it to the Ministry of Finance.

The financial ombudsman office of the Ministry of Finance, resident in each place, shall carry out on-the-spot sampling of the service charges for Withholding, Collection and Imposition, for

the purpose of review, and complete it within ten (10) business days.

4. The requirements for computation of the service charges of a local taxation department for Withholding, Collection and Imposition shall be jointly determined by the local taxation bureau and the financial department of the relevant provincial level with reference to the relevant national taxation bureau.

VI. Management over Payment for Service Charges

1. Each taxation authority shall pay for the service charges for Withholding, Collection and Imposition as per the rate given in the Notice.
2. When any organization or individual fails to perform its obligation of Withholding, Collection or Imposition as required by any relevant law or administrative regulation or the relevant imposition entrustment agreement, the related taxation authority shall not pay the service charges for Withholding, Collection and Imposition.
3. A taxation authority shall pay the service charges for Withholding, Collection and Imposition as per the concerned provisions after the relevant organization or individual providing Withholding, Collection or Imposition service reports, settles, and remits the relevant taxes. Failure to make such a payment in time shall be explained and such a payment shall be made within one season and the maximum period shall not be longer than six months.
4. Any organization or individual that does not get or get fewer service charges for Withholding, Collection and Imposition due to the reason of the relevant taxation authority shall have the right to ask the taxation authority to pay the service charges in a timely way as stipulated.

When an organization or individual have not collected the service charges for Withholding, Collection and Imposition at the relevant taxation authority, for three years, due to its own reason, the taxation authority will stop paying the service charges.

5. If a taxation authority entrusts another taxation authority to impose taxes, no service charge shall be paid.
6. The revenue of the organizations providing Withholding, Collection and Imposition services, from the service charges, shall be separately computed and included to their own revenue, which can be then used as expenditures for Withholding, Collection and Imposition management and also as rewards to be given to relevant staff members.

VII. Supervision over Service Charges

1. The taxation authority of each level shall strengthen the supervision and inspection over the service charges for Withholding, Collection and Imposition and no service charges for Withholding, Collection or Imposition shall be used as administrative costs of the taxation

authority or put to other uses. Additionally, the administrative costs shall not be used to make advance payment for Withholding, Collection and Imposition service charges either.

The relevant department shall investigate and treat without delay various prohibited behaviors involved in the Withholding, Collection and Imposition service charges as well as find out the relevant persons who are to blame.

2. Each financial ombudsman office of the Ministry of Finance shall supervise and inspect in an enhanced way the management over the service charges for Withholding, Collection and Imposition. The illegally-used service charges shall be taken back within an instructed time limit; for the service charges illegally withdrawn, supplementary payments shall be made to the treasury as original budget items and relevant organizations and individuals who are to blame shall be found out in accordance with relevant laws and regulations.
3. Unless separately specified in any law or administrative regulation, the taxation authority of each level shall not directly withdraw the relevant service charges from the relevant taxes or deal with the formalities of exit from the treasury. The treasury of each level shall not deal with the exit of the Withholding, Collection and Imposition service charges from the treasury.

This Notice shall come into effect on January 1, 2006. The financial department and the taxation authority of a provincial level shall specify the specific management measures of the province as per this Notice. In case of inconsistency between any originally existing provision and any provision in the Notice, the latter shall prevail.