

Provisional Regulations of the People's Republic of China on Value-Added Tax

GUO WU YUAN LING [134] 1993.12.13

Article 1: All units and individuals, within the borders of the People's Republic of China, who engage in the sale of goods, the provision of processing, repair and replacement services, and the import of goods, are persons liable to pay Value-Added Tax (hereinafter referred to simply as 'taxpayers'), and shall pay VAT in accordance with these Regulations.

Article 2: Value-Added Tax Rates

A. For taxpayers selling or importing goods, other than those stipulated in Items 2 and 3 of this Article, the tax rate shall be 17%.

B. For taxpayers selling or importing the following goods, the tax rate shall be 13%:

a. food grains, edible vegetable oils;

b. tap water, heating, air conditioning, hot water, coal gas, liquefied petroleum gas, natural gas, methane gas, coal/charcoal products for household use;

c. books, newspapers, magazines;

d. feeds, chemical fertilizers, agricultural chemicals, agricultural machinery and plastic covering film for farming;

e. other goods as stipulated by State Council.?

C. For taxpayers exporting goods, the tax rate shall be 0%, except as otherwise stipulated by State Council.

D. For taxpayers providing processing, repair and replacement services (hereinafter referred to as 'taxable services'), the tax rate shall be 17%.

??Any adjustments to the tax rates shall be determined by State Council.

Article 3: For taxpayers dealing in goods or providing taxable services with different tax rates, the sales amounts for goods or taxable services with different tax rates shall be accounted for separately. If the sales amounts have not been accounted for separately, the highest tax rate shall apply.

Article 4: Except as stipulated in Article 13 of these Regulations, for taxpayers engaged in the sales of goods or the provision of taxable services (hereinafter referred to as "sale of goods or taxable services"), tax payable shall be the balance of the output tax for the period after deducting the input tax for the period. The formula for computing the tax payable is as follows:

Tax payable = Output tax payable for the period – Input tax for the period

If the output tax for the period is insufficient to offset the input tax for the period, the excess input tax can be carried forward into the following periods.

Article 5: For taxpayers selling goods or taxable services, the output tax shall be the VAT payable, calculated on the sales amounts and the tax rates prescribed in Article 2 of these Regulations and collected from the purchasers. The formula for computing the output tax is as follows:

Output tax = Sales amount × Tax rate

Article 6: The sales amount shall be the total compensation and all other charges received from the purchasers by the taxpayer selling goods or taxable services, but excluding the output tax due. The sales amount shall be calculated in Renminbi. The sales amounts of taxpayers settled in foreign currencies shall be converted into Renminbi according to the foreign exchange rates prevailing on the foreign exchange market.

Article 7: Where the price used by the taxpayer in selling goods or taxable services is obviously low and without proper justification, the sales amount shall be determined by the responsible Taxation authorities.

Article 8: For taxpayers who purchase goods or receive taxable services (hereinafter referred to as "purchase of goods or taxable services"), VAT paid or borne shall be restricted to the amount of VAT payable as indicated on the following VAT deduction documents:

The input tax allowed for deduction from output tax, apart from the circumstances stipulated in Article 3 of these regulations, is limited to the VAT amounts noted on the deduction documents listed below.

A. VAT indicated in the VAT Special Invoices obtained from the sellers;

B. VAT indicated on the tax payment receipts obtained from Customs offices.

The deductible input tax for purchasing tax-exempt agricultural products is calculated on a deemed deduction rate of 10% of the actual purchase price. The formula for calculating the input tax is as follows:

Input tax = Purchase price × Deduction rate

Article 9: Where taxpayers purchasing goods or taxable services have not obtained and kept the VAT deduction documents in accordance with the regulations, or the VAT payable and other relevant data, in accordance with the regulations, are not indicated on the VAT deduction document, no input tax shall be deducted from the output tax.

Article 10: Input tax on the following items shall not be deducted from output tax:

A. purchased fixed assets;

B. goods purchased or taxable services used for non-taxable items;

C. goods purchased or taxable services used for tax exempt items;

D. goods purchased or taxable services used for group welfare or personal consumption;

E. abnormal losses of goods purchased;

F. goods purchased or taxable services consumed in the production of work-in-progress or finished goods which suffer abnormal losses.

Article 11: Small-scale taxpayers engaged in selling goods or taxable services shall use a simplified method to calculate tax payable.

The standard for small-scale taxpayers is determined by the Ministry of Finance.

Article 12: The rate levied on small-scale taxpayers selling goods or taxable services is 6%.

Adjustments to tax rates shall be determined by State Council.

Article 13: For small-scale taxpayers selling goods or taxable services, the tax payable shall be calculated on the sales amount and the tax rate stipulated in Article 12 of these Regulations. No input tax shall be deducted. The formula for calculating the tax payable is as follows:

Tax payable = Sales amount × Tax rate

The sales amount shall be determined according to Article 6 and Article 7 of these Regulations.

Article 14: Small-scale taxpayers with sound accounting who can provide accurate taxation information,

upon the approval of the responsible tax authorities, need not be treated as small-scale taxpayers. Their tax payable shall be computed pursuant to the relevant stipulations of these Regulations.

Article 15: For taxpayers importing goods, the tax payable shall be computed based on the composite assessable price and the tax rates prescribed in Article 2 of these Regulations. No tax will be deducted. The formulas for computing the composite assessable price and the tax payable are as follows:

Composite assessable price = Customs dutiable value + Customs Duty + Consumption Tax

Tax payable = Composite assessable price × Tax rate

Article 16: The following items are exempt from VAT:

- A. self-produced agricultural products sold by agricultural producers;
- B. contraceptive medicines and devices;
- C. antique books;
- D. importation of materials and equipment directly used in scientific research, experiment and education;
- E. importation of materials and equipment from foreign governments and international organizations as assistance, free of charge;
- F. equipment and machinery required to be imported under contract processing, contract assembly and

compensation trade;

G. articles imported directly by organizations for the disabled for special use by the disabled;

H. sales of goods which have been used by the owner.

Except as stipulated in the above paragraph, the VAT exemption and reduction items shall be regulated by State Council. Local governments or departments shall not make regulations on tax exemption or reduction items.

Article 17: For taxpayers engaged in tax exempt or tax reduced items, the sales amounts for tax exempt or tax reduced items shall be accounted for separately. If the sales amounts have not been separately accounted for, no exemption or reduction is allowed.

Article 18: Taxpayers whose sales amounts have not reached the VAT minimum threshold stipulated by the Ministry of Finance, shall be exempt from VAT.

Article 19: The time at which VAT liability arises is as follows:

A. for sales of goods or taxable services, it is the date on which the sales amount is received or the documented evidence of right to collect the sales amount is obtained;

B. for importation of goods, it is the date of import declaration.

Article 20: VAT shall be collected by the taxation authorities. VAT on the importation of goods shall be collected by the Customs office on behalf of the taxation authorities.

VAT on self-used articles brought or mailed into China by individuals shall be levied together with Customs Duty. The detailed measures shall be formulated by the Tariff Policy Committee of State Council together with relevant departments.

Article 21: Taxpayers selling goods or taxable services shall issue VAT Special Invoices to the purchasers. The sales amounts and the output tax shall be separately indicated in the VAT Special Invoices.

Under one of the following situations, the invoice to be issued shall be an ordinary invoice, rather than a VAT Special Invoice:

- A. sales of goods or taxable services to consumers;
- B. sales of VAT exempt goods;
- C. sales of goods or taxable services by small-scale taxpayers.

Article 22: The Locations for Payment of VAT

A. Businesses with a fixed establishment shall report and pay tax with the local responsible taxation authorities where the establishment is located. If the head office and branch are not situated in the same county (or city), they shall report and pay tax separately with their respective local responsible taxation

authorities. The head office may, upon the approval of the State Administration of Taxation or its authorized taxation authorities, report and pay tax on a consolidated basis with the local responsible taxation authorities where the head office is located.

B. Businesses with a fixed establishment selling goods in a different county (or city) shall apply for an Outbound Business Activities Tax Administration Certificate from the local responsible taxation authorities where the establishment is located and shall report and pay tax. Those who sell goods or taxable services in a different county (or city) without the Outbound Business Activities Tax Administration Certificate issued by the local responsible taxation authorities where the establishment is located, shall report and pay tax to the responsible taxation authorities where the sales activities take place; if they fail to report and pay tax to the responsible taxation authorities where the sales activities take place, their local responsible taxation authorities shall collect the overdue tax.

C. Businesses without a fixed base selling goods or taxable services shall report and pay tax with the local responsible taxation authorities where the sales activities take place.

D. For importation of goods, the importer or his agent shall report and pay tax to the Customs office where the imports are declared.

Article 23: The VAT assessable period shall be one day, three days, five days, ten days, fifteen days or one month. The actual assessable period of the taxpayer shall be determined by the responsible taxation authorities according to the magnitude of the tax payable of the taxpayer; tax that cannot be assessed in regular periods may be assessed on a transaction-by-transaction basis.

Taxpayers that adopt one month as an assessable period shall report and pay tax within ten days following the end of the period. If an assessable period of one day, three days, five days, ten days or fifteen days is adopted, the tax shall be prepaid within five days following the end of the period and a monthly return shall be filed with any balance of tax due settled within ten days from the first day of the following month.

Article 24: Taxpayers importing goods shall pay tax within seven days after the issuance of the tax payment certificates by the Customs office.

Article 25: Taxpayers exporting goods with the applicable 0% tax rate shall, upon completion of export procedures with the Customs office, apply to the taxation authorities on a monthly basis for tax refund on exported goods, based on such relevant documents as the Export Declaration document. The detailed measures shall be formulated by the State Administration of Taxation.??Where the return of goods or the withdrawal of the Customs declaration occurs after the completion of the tax refund on export goods, the taxpayer shall repay the tax refunded, according to law.

Article 26: Administration and collection of Value-Added Tax shall be implemented according to "Law of the People's Republic of China on the Administration of Tax Collection" and relevant stipulations in these Regulations.

Article 27: The collection of VAT from enterprises with foreign investment and foreign enterprises shall be conducted in accordance with the relevant resolutions of the Standing Committee of the National People's Congress.

Article 28: The Ministry of Finance is responsible for interpreting these Regulations; their detailed implementation is determined by the Ministry of Finance.

Article 29: These Regulations take effect as of January 1, 1994. The "Regulations (Draft) on Value-Added Tax of the People's Republic of China" and "Regulations (Draft) on Commodity Tax of the People's Republic of China" issued by State Council on September 18, 1984, at the same time are annulled.