



China Tax Newsletter

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1. Further Clarification on Taxable Services Recently Allowed to be Applicable to Zero-rated Value-added Tax Policy and Application Measures of Value-added Tax Refund (Exemption)

Caishui [2015] No.118 clarifies that, starting from 1 December 2015, the zero-rated value-added tax ("VAT") policy applies to such taxable services as technology transfer services, software services and other services provided by domestic entities or individuals to foreign entities. Announcement of the State Administration of Taxation [2015] No.88 further clarifies the application measures of VAT refund (exemption) for the taxable services recently allowed to be applicable to zero VAT rate.

The Announcement includes three sections:

Firstly, it further defines the scope of the taxable services recently allowed to be applicable to the zero-rated VAT policy. The announcement has added in an appendix of "Offshore Outsourcing Services". It further clarifies that the zero-rated VAT policy does not apply to the aforesaid taxable services if provided to entities or individuals which locate in special customs-controlled areas and premises in China.

Secondly, it clarifies that the providers of the newly applicable taxable services shall complete the filing formalities according to relevant provisions when applying for export VAT refund (exemption).

Thirdly, it clarifies the application requirement on documents with regard to contracts, certificates and vouchers of foreign currency receipts.

The Announcement shall be implemented with effect from 1 December 2015.

2. Further Clarification on VAT Issues Emerged During the Implementation of the Pilot Programme of Switching from Business Tax to VAT

The announcement mainly clarifies the VAT policies related to the following three types of business transactions:

Firstly, it clarifies that where taxpayers sell their self-used fixed assets and are applicable to the simplified tax computation method, they can choose to abandon the 2% preferential tax rate and to apply the 3% tax rate, under which condition they are eligible to issue special VAT invoice for the sale.

Secondly, regarding the financial leasing, it clarifies that the principal of the price of tangible movables deductible from sales amount of the current period of taxpayers who provide finance leaseback services shall be the principal to be collected of the current period which has been specified in agreement, otherwise, it shall be the actually principal received at the current period. Furthermore, the lessor, i.e. the financial leasing company, shall still pay VAT pursuant to related provisions as the financial leasing relation between the lessor and the lessee stays the same under the factoring mode.

Thirdly, regarding the telecom operations, the cellular digital mobile communication tower (pole) used by telecom companies shall be classified as item of "communication equipment-other communication devices" and the input VAT is deductible. In addition, taxpayers offering different services to telecom enterprises are subject to different VAT items.

The Announcement shall be implemented with effect from 1 February 2016.

3. Further Clarification on Preferential Enterprise Income Tax Policy of Additional Deduction of Research and Development Expenses

Caishui [2015] No.119 promulgates the tax policy of additional deduction of research and development ("R&D") expenses. Announcement of State Administration of Taxation [2015]

No. 97 further clarifies the following issues:

- (1) Scope of personnel engaging in R&D activities, including research personnel, technical personnel and auxiliary personnel.
- (2) Calculation on additional deduction of depreciation of fixed assets which are also applicable to the accelerated depreciation policy.
- (3) Requirement on collection and allocation of expenses incurred from various resources such as personnel, equipment and intangible assets which are utilized in both R&D and non-R&D activities. The actually incurred expenses shall be differentiated and apportioned according to actual working hours or other reasonable measures, then the expenses incurred for R&D activities are eligible for additional deduction.
- (4) The collection and calculation of deduction limit of other expenses directly related to R&D activities shall be separated based on project items.
- (5) The exceptional income obtained from the materials (including scraps, defectives, test products etc.) already included into R&D expenses shall be deducted before calculation of R&D additional deduction.
- (6) Where the government grant is treated as non-taxable income and used in R&D activities, the relevant R&D expenses or intangible assets generated are not eligible to additional deduction or amortization.
- (7) The additionally deductible R&D expenses of an entrusting party. The circular further clarifies that where the entrusted party is an individual, the calculation of R&D expense additional deduction shall be based on invoices or other legal and valid vouchers provided by the individual. It also explains the definition of foreign organizations and individuals entrusted for R&D activities.
- (8) The detailed measurements of whether companies fall into the scope of the industries for which the policies of additional deduction are not applicable. The companies meeting the criteria are those whose main operating activities belong to the prescribed seven industries, and the income from main operating activities accounts for more than 50% (excluded) of total income deducted by non-taxable income and investment income.

The Announcement shall be implemented with effect from 1 January 2016.

4. Further Clarification on Relevant Issues Related to Business Tax

Starting from 25 December 2015:

- (1) Where an enterprise group that raised funds via issuance of bonds loans the funds in a unified borrowing and repayment manner within the group, in essence, the act of the group has the same nature of loaning funds in a unified borrowing and repayment manner after borrowing funds from financial institutions. The interest not exceeding the coupon rate of the bonds as collected by the enterprise group or the core enterprise of the enterprise group is exempted from business tax.
- (2) The scope of legal and valid vouchers stipulated in Article 6 of Provisional Regulation on Business Tax for tax levying on balancing figure has been expanded. The court rulings, judgments and other proof documents shall also be accepted.

5. Promulgation of the Stamp Duty Policy of Financial Leasing Contracts

Starting from 24 December 2015, financial leasing contracts (including financial leaseback service) shall be subject to 0.005% stamp duty under the tax item of "loan contract" according to the stipulated total rental amount. Regarding the finance leaseback services, the contracts signed for sales of leased assets and buyback of leased assets are exempted from stamp duty.

6. Promulgation of Policies of the Real Estate Tax and Urban Land Use Tax on Stadiums

Starting from 1 January 2016, the large stadiums owned, operated and managed by companies are eligible for 50% reduction on real estate tax and urban land use tax if the buildings and the land are used for holding physical activities.

For the stadiums owned, operated and managed by other organizations such as state organs, army, and public institution, the buildings and land of the stadiums shall be exempted from real estate tax and urban land use tax if they are used for holding physical activities that meet the stipulated criteria.

To enjoy the preferential tax policy, the stadiums shall be used for holding physical activities for days not less than 70% of the annual calendar days. In addition, the notice also stipulates that golf, horsemanship, etc. are not eligible to the aforesaid preferential policies.

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