

**Provisional Regulations
of the People's Republic of China on Value-added Tax
(2017 Revision)**

(Promulgated on 13 December 1993 via State Council Order No. 134, amended on 5 November 2008 by the 34th Executive Session of the State Council, first Revision on 6 February 2016 pursuant to the Decision of the State Council on Revision of Some Administrative Regulations, second Revision on 19 November 2017 pursuant to the Decision of the State Council on Abolition of the "Provisional Regulations of the People's Republic of China on Business Tax" and Revision of the "Provisional Regulations of the People's Republic of China on Value-added Tax")

Article 1 Organizations and individuals engaging in sale of goods or processing, repair and assembly services (hereinafter referred to as "labor services"), sale of services, intangible assets, immovables and importation of goods in the People's Republic of China shall be taxpayers of VAT, and shall pay VAT pursuant to these Regulations.

Article 2 VAT tax rate:

(I) The tax rate for taxpayers engaging in sale of goods, services, lease of tangible movables or importation of goods shall be 17%, unless otherwise stipulated in item (2), item (4) and item (5) of this Article.

(II) The tax rate for taxpayers engaging in sale of transportation, postal, basic telecommunications, construction, lease of immovables, sale of immovable, transfer of land use rights, sale or importation of the following goods shall be 11%:

1. foodstuff such as agricultural products, edible vegetable oil and edible salt;
2. tap water, heating, air-conditioning, hot water, gas, liquefied petroleum gas, natural gas, dimethyl ether, biogas and residential coal products;
3. books, newspapers, magazines, audio-visual products and electronic publications;
4. feed, fertilizers, pesticides, agricultural machinery and agricultural firm; and
5. other goods stipulated by the State Council.

(III) the tax rate for taxpayers engaging in sale of services and intangible assets shall be 6%, unless otherwise stipulated in item (1), item (2) and item (5) of this Article.

(IV) the tax rate for taxpayers engaging in exportation of goods shall be zero, unless otherwise stipulated by the State Council.

(V) the tax rate for organizations and individuals in China engaging in cross-border sale of services and intangible assets within the scope stipulated by the State Council shall be zero.

Adjustment of tax rates shall be decided by the State Council.

Article 3 A taxpayer whose business involves goods or taxable labor services subject to different tax rates shall carry out separate accounting of sales amounts of goods or taxable labor services subject to different tax rates; where the taxpayer fails to carry out separate accounting of sales amounts, the higher tax rate shall apply.

Article 4 Except as stipulated in Article 11 of these Regulations, the tax amount payable by a taxpayer engaging in sale of goods, labor services, services, intangible assets and immovable (hereinafter referred to collectively as the "taxable sales") shall be the balance after offsetting the input tax amount for the current period, against the output tax amount for the current period. The formula for computation of tax amount payable shall be:

Tax amount payable = output tax amount for current period - input tax amount for current period

Where the output tax amount for current period is less than the input tax amount for current period and insufficient for offsetting, the shortfall may be carried forward to the next period for offsetting.

Article 5 For occurrence of a taxable sale by a taxpayer, the output tax amount shall be the VAT amount computed in accordance with the sales amount and the tax rate stipulated in Article 2 of these Regulations. The formula for computation of output tax amount shall be:

Output tax amount = sales amount × tax rate

Article 6 The sales amount shall be the total price and out-of-pocket expenses collected by a taxpayer for a taxable sale, but shall exclude output tax amount collected.

Sales amounts shall be computed in Renminbi. Where a taxpayer makes settlement of sales amounts in any currency other than Renminbi, the amounts shall be converted to Renminbi for computation.

Article 7 Where the price for goods sold or taxable labor services by a taxpayer is obviously low and without a valid reason, the tax authorities in charge shall assess the sales amount.

Article 8 The input tax amount shall be the VAT amount paid or borne by a taxpayer for procurement of goods, labor services, services, intangible assets and immovable.

The following input tax amount shall be allowed for offsetting against the output tax:

- (1) The VAT amount stated on the special invoice for VAT obtained from the seller.
- (2) The VAT amount stated on the Special Bill of Payment of Import VAT obtained from the Customs.
- (3) For procurement of agricultural products, in addition to obtaining a special invoice for VAT or a Special Bill of Payment of Import VAT, the input tax amount shall be computed pursuant to the purchase price of agricultural products stated on the purchase invoice of agricultural products or the sales invoice, and a deduction rate of 11%, unless otherwise stipulated by the State Council. The formula for computation of input tax amount shall be:

Input tax amount = purchase price × deduction rate

- (4) For procurement of labor services, services, intangible assets or immovable in China from overseas organizations or individuals, input tax amount shall be the VAT amount stated on the withholding tax payment receipt obtained from the tax authorities or the withholding agent.

Deductibles allowed and adjustment of deduction rates shall be decided by the State Council.

Article 9 Where the proof documents for tax deduction of VAT obtained by a taxpayer for procurement of goods, labor services, services, intangible assets and immovables do not comply with the laws, administrative regulations or the relevant provisions of the tax authorities of the State Council, the input tax amount shall not be allowed for offsetting against the output tax amount.

Article 10 The input tax amount of the following items shall not be allowed for offsetting against the output tax amount:

- (1) procurement of goods, labor services, services, intangible assets and immovables to be used for tax items which adopts the simple tax method, VAT-exempt items, collective welfare or personal consumption;
- (2) procurement of goods of abnormal losses, and the related labor services and transportation services;
- (3) procurement of goods consumed by work-in-progress and finished products of abnormal losses (excluding fixed assets), and the related labor services and transportation services; and
- (4) any other items stipulated by the State Council.

Article 11 The simplified measures for computation of tax amount payable pursuant to the sales amount and levy rate shall apply to taxable sales of small-scale taxpayers, and

the input tax amount shall not be allowed for offsetting. The formula for computation of tax amount payable shall be:

Tax amount payable = sales amount × levy rate

The standards for small-scale taxpayers shall be stipulated by the finance and tax authorities of the State Council.

Article 12 The levy rate for VAT shall be 3% for small-scale taxpayers, unless otherwise stipulated by the State Council.

Article 13 Taxpayers other than small-scale taxpayers shall complete registration formalities with the tax authorities in charge. Detailed registration measures shall be formulated by the tax authorities of the State Council.

A small-scale taxpayer which carries out proper accounting and is able to provide accurate tax information may complete registration formalities with the tax authorities in charge to be treated not as a small-scale taxpayer, and compute tax amount payable pursuant to the relevant provisions of these Regulations.

Article 14 Tax amount payable for goods imported by a taxpayer shall be computed pursuant to the constituent price for tax assessment and the tax rate stipulated in Article 2 of these Regulations. The formulae for computation of constituent price for tax assessment and tax amount payable shall be:

Constituent price for tax assessment = Customs dutiable value + Customs duties + consumption tax

Tax amount payable = constituent price for tax assessment × tax rate

Article 15 The following items shall be exempt from VAT:

- (1) sale by an agricultural producer of self-produced agricultural products;
- (2) contraceptive drugs and apparatuses;
- (3) old books;
- (4) imported instruments and equipment used directly in scientific research, scientific experiments and teaching;
- (5) goods and materials and equipment imported by foreign governments and international organizations for uncompensated aid;
- (6) articles directly imported by organizations for disabled persons for exclusive use by disabled persons; and

(7) sale of articles used by the seller.

Except as stipulated in the preceding paragraph, the tax-exempt and tax-reduced items for VAT shall be stipulated by the State Council. No regions or departments shall stipulate tax-exempt and tax-reduced items.

Article 16 A taxpayer whose business involves tax-exempt and tax-reduced items shall carry out separate accounting for sales amounts of tax-exempt and tax-reduced items; a taxpayer who fails to carry out separate accounting of sales amounts shall not enjoy tax exemption and tax reduction.

Article 17 Where the sales amount of a taxpayer does not attain the starting threshold for levying of VAT stipulated by the finance and tax authorities of the State Council, the taxpayer shall be exempt from VAT; where the sales amount has attained the starting threshold for levying, the taxpayer shall compute and pay VAT fully pursuant to the provisions of these Regulations.

Article 18 Where overseas organizations or individuals engaging in sale of labor services in the People's Republic of China do not have a business establishment in the People's Republic of China, their agent in the People's Republic of China shall act as the withholding agent; where there is no agent in the People's Republic of China, the buyer shall act as the withholding agent.

Article 19 Time of occurrence of VAT payment obligation:

(1) when a taxable sale occurs, the VAT payment obligation shall occur on the date on which the sales amount is collected or the proof of sales amount is obtained; where an invoice is issued beforehand, the VAT payment obligation shall occur on the date on which the invoice is issued; and

(2) for importation of goods, the VAT payment obligation shall occur on the date of Customs declaration for imports.

The withholding obligation for VAT shall occur on the date of occurrence of the taxpayer's tax payment obligation for VAT.

Article 20 VAT shall be levied and collected by the tax authorities; VAT of imports shall be levied by the Customs on behalf of the tax authorities.

VAT on articles brought or mailed into China by an individual for self-consumption shall be computed and collected together with the Customs duties. The detailed measures shall be formulated by the Customs Tariff Commission of the State Council jointly with the relevant authorities.

Article 21 For occurrence of a taxable sale, the taxpayer shall issue a special invoice for VAT to the buyer who requests for a special invoice for VAT, and state the sales amount and the output tax amount respectively on the special invoice for VAT.

Under any of the following circumstances, a special invoice for VAT shall not be issued:

- (1) the buyer for the taxable sales is an individual consumer; or
- (2) the provisions on tax exemption apply to the taxable sales.

Article 22 Venue of payment of VAT:

(1) A fixed establishment shall declare and pay tax at the tax authorities in charge at the location of the fixed establishment. Where the parent organization and branches are located at different counties (cities), they shall declare and pay tax at the tax authorities in charge at their respective locations; upon approval by the finance and tax authorities of the State Council or their authorized finance and tax authorities, the parent organization may submit consolidated declaration and pay tax at the tax authorities in charge at the location of the parent organization.

(2) A fixed establishment which engages in sale of goods or labor services at other counties (cities) shall report its such business activities to the tax authorities in charge at the location of the fixed establishment, and declare and pay tax at the tax authorities in charge at the location of the fixed establishment; if the report is not filed, it shall declare and pay tax at the tax authorities in charge at the place of sale or provision of labor services; where it fails to declare and pay tax at the tax authorities in charge at the place of sale or provision of labor services, the tax authorities in charge at the location of the fixed establishment shall levy tax retrospectively.

(3) A non-fixed establishment engaging in sale of goods or labor services shall declare and pay tax at the tax authorities in charge at the place of sale or provision of labor services; where it fails to declare and pay tax at the tax authorities in charge at the place of sale or provision of labor services, the tax authorities in charge at the location or place of residence of the non-fixed establishment shall levy tax retrospectively.

(4) For imported goods, tax declaration and tax payment shall be made with the Customs at the place of Customs declaration.

A withholding agent shall declare and pay the withheld tax to the tax authorities in charge at the location or place of residence of the withholding agent.

Article 23 The deadline for payment of VAT shall be one day, three days, five days, 10 days, 15 days, one month or one quarter respectively. The specific tax payment deadline for a taxpayer shall be assessed respectively by the tax authorities in charge according to

the tax amount payable of the taxpayer; a taxpayer who is unable to pay tax by fixed deadline may pay tax for each transaction.

A taxpayer who opts for a tax payment period of one month or one quarter shall declare and pay tax within 15 days from the date of expiry of the tax payment period; a taxpayer who opts for the tax payment period of one day, three days, five days, 10 days or 15 days shall pre-pay tax within five days from the date of expiry of the tax payment period, and declare and pay tax within 15 days from the 1st day of the following month as well as settle the tax amount payable for the preceding month fully.

The deadline for turning over tax withheld by a withholding agent shall comply with the provisions of the two preceding paragraphs.

Article 24 A taxpayer shall make tax payment for importation of goods within 15 days from the date of issuance of the Special Bill of Payment of Import VAT issued by the Customs.

Article 25 Where the provisions on tax refund (exemption) apply to the goods exported by a taxpayer, the taxpayer shall process export formalities with the Customs, and present the relevant documentation such as the Customs declaration for Exports to make monthly applications to the tax authorities in charge, within the stipulated tax refund (exemption) application period for exports, for processing of tax refund (exemption) for the exported goods. Where cross-border sale of services and intangible assets by domestic organizations and individuals are subject to the tax refund (exemption) provisions, they shall apply for tax refund (exemption) with the tax authorities in charge in accordance with the schedule. Detailed measures shall be formulated by the finance and tax authorities of the State Council.

In the event that exported goods are returned or rejected by the Customs after tax refund formalities are processed, the taxpayer shall make retrospective payment of taxes which have been refunded pursuant to the law.

Article 26 Administration of levying and collection of VAT shall comply with the Administrative Law of the People's Republic of China on the Levying and Collection of Taxes and the relevant provisions of these Regulations.

Article 27 Where the State Council, or upon consent of the State Council, the finance authorities or tax authorities of the State Council, stipulate(s) otherwise on matters relating to VAT payment by taxpayers, such provisions shall prevail.

Article 28 These Regulations shall be implemented with effect from 1 January 2009.