

Provisional Regulations on Value Added Tax of the People's Republic of China  
10-27-2007

(Promulgated on the Order of the State Council [1993] No.134 On Dec. 13, 1993)

Article 1 An institution or individual engaged in marketing goods and/or providing processing, repair and/or replacements services within the territory of the People's Republic of China shall be a payer of value added tax (hereinafter referred to as "taxpayer") and shall pay value added tax (VAT) in accordance with these Regulations.

Article 2 Rates of VAT

1. The rate of VAT on goods marketed or imported by a taxpayer shall be 17%, except for those provided in 2 and 3 of this article.

2. The rate of VAT on the following goods marketed or imported by a taxpayer shall be 13%:

(1) Cereals, edible vegetable oils;

(2) Running water, central heating, air conditioning, hot water, gas, LPG, natural gas, methane gas, coal/charcoal products for household use;

(3) Books, newspapers, magazines;

(4) Feed, chemical fertilizer, chemical pesticides, agricultural machinery, and farm-use plastic sheets;

(5) And other goods stipulated by the State Council.

3. The rate of VAT shall be zero on goods exported by a taxpayer, unless otherwise stipulated by the State Council.

4. The rate of VAT shall be 17% on the processing, repair and/or replacements services (hereinafter referred to as taxable labor service) provided by a taxpayer and any readjustment thereof shall be determined by the State Council.

Article 3 For a taxpayer dealing in goods or providing taxable services taxable at different rates, the volumes of the sales of goods and taxable labor service at different tax rates shall be computed separately. The volumes of sales not computed separately for different rates of VAT shall be subject to the highest rate.

Article 4 The tax payable on goods marketed or taxable services provided by a taxpayer (hereinafter referred to as goods marketed or taxable services ) shall be the amount of the current amount of tax on sales minus the current amount of tax on purchases, except for those provided under Article 13 of these Regulations. The formula shall be:

Tax payable = amount of tax on sales - amount of tax on purchases

In the event the amount of tax on sales is less than the current amount of tax on purchases

and insufficient to offset the amount of tax on purchases, the balance shall be carried over to the next term to be further deducted.

Article 5 The amount of VAT assessed on the basis of the sales volume of goods and/or taxable services at the rate prescribed in Article 2 of these Regulations and collected from the buyer by the taxpayer shall be the amount of tax on sales. The formula shall be:

Amount of tax on sales = sales volume X VAT rate

Article 6 The sales volume shall be the total payment for the price of the goods sold and other charges in addition to the price of the goods collected from the buyer by the taxpayer selling goods or providing services taxable, but excluding the amount of tax on sales.

The sales volume shall be computed in RMB. The taxpayer shall convert the payment settled in a foreign currency into RMB for computation at the current exchange rate.

Article 7 Should the goods sold or services taxable provided by a taxpayer be at a conspicuously low price and without a proper reason, the tax authorities shall determine the sales volume thereof.

Article 8 The amount of VAT payable on goods or services taxable bought by the taxpayer (hereinafter referred to as goods and taxable services bought) paid or borne by the taxpayer shall be the amount of tax on purchases.

The amount of tax on purchases permitted to be deducted from the amount of tax on sales, in addition to those as provided by Article 3 of these Regulations, shall be limited to the amount of VAT payable indicated in the following tax credit vouchers:

1. The amount of VAT payable indicated on the special VAT invoices obtained from the seller;
2. The amount of VAT payable indicated on customs duties payment vouchers obtained from the customs house.

The amount of tax on purchases of tax-free agricultural products permitted to be deducted shall be computed on the basis of the purchase price and a 10% tax credit. The tax amount shall be computed by the following formula:

Tax amount on purchases = payment for the purchase x tax credit rate

Article 9 In case a taxpayer in purchasing goods or services taxable has not obtained or kept the voucher for VAT deduction or the VAT deduction document has not indicated the amount of VAT and the relevant matters in accordance with the regulations, the amount of tax on purchases shall not be deducted from the amount of tax on sales.

Article 10 The amount of tax on purchases of the following items shall not be deducted from the amount of tax on sales:

1. Fixed asset purchased;
2. Purchased goods or taxable services to be used in items not taxable;
3. Purchased goods or taxable services to be used in tax-free items;
4. Purchased goods or taxable services to be used for collective welfare or for personal consumption;
5. Purchased goods or taxable services abnormally damaged or lost;
6. Purchased goods or taxable services abnormally damaged and consumed in the course of making products or semi-finished products.

Article 11 A simplified system of computation of tax payable shall be applied to small-scale taxpayers engaged in selling goods or taxable services.

The norm for the scale of such taxpayers shall be determined by the Ministry of Finance.

Article 12 The VAT rate for small taxpayers engaged in selling goods or taxable services shall be 6%.

Any readjustment thereof shall be determined by the State Council.

Article 13 The amount of tax payable on the goods or taxable services which a small-scale taxpayer sells and is computed in accordance with the volume of sales and at the tax rate provided by Article 12 of these Regulations shall not be deducted by the amount of tax on purchases. The amount of tax payable shall be computed by the following formula:

The amount of tax payable = amount of sales x tax rate

The amount of sales shall be determined with reference to the provisions of Article 6 and Article 7 of these Regulations.

Article 14 A small-scale taxpayer using a sound accounting assessment system and capable of producing documents indicating his accurate performance of tax obligations may not be deemed as a small-scale taxpayer with the approval of the relevant tax authorities and the amount of tax payable thereof may be computed in accordance with the relevant provisions of these Regulations.

Article 15 The tax payable on goods imported by a taxpayer shall be computed on the basis of the composite assessable price and the tax rate provided in Article 2 of these Regulations that shall allow no deduction by the amount of tax on purchases. Formulae for the composite assessable price and tax amount payable are as follows:

Composite assessable price = customs dutiable value + customs duty + consumption tax  
Tax amount payable = composite assessable price X tax rate

Article 16 The following items are free from VAT:

1. Agricultural products sold by farmers themselves;
2. Contraceptive medicine and tools;
3. Old books;
4. Imported instruments and meters to be used directly in scientific research and experiments and/or teaching;
5. Imported goods and equipment granted gratis by foreign governments or international organizations;
6. Equipment needed for processing with supplies provided, assembling with parts provided and other compensation trade;
7. Goods imported by organizations of the handicapped and to be used only for the handicapped;
8. Used articles sold by the user(s).

Except for the above-listed, any item for VAT exemption or reduction shall be determined by the State Council. No locality or department shall determine any item for VAT exemption or reduction.

Article 17 A taxpayer dealing also in items entitled to tax exemption or reduction shall be subject to separate computation of the sales volumes of those items entitled thereto; and no tax exemption or reduction shall be granted to those items without separate computation of the sales volumes thereof.

Article 18 When a taxpayer's sales volume is below the starting point of VAT, it is free from VAT.

Article 19 The time at which VAT payable shall arise:

1. For sales of goods or taxable services, on the day the payment for the sales is collected or the bill payable for the sales is collected.
2. For imported goods, the day the import declared at the customs house.

Article 20 VAT in general shall be collected by tax authorities and VAT on imports shall be collected by the customs house in behalf of the tax authorities.

VAT on imported goods for personal use carried on by the user or mailed in shall be collected together with the customs duties. A detailed procedure thereof shall be formulated by the Tax Rules Committee of the State Council together with the relevant departments.

Article 21 A taxpayer selling goods or taxable services shall issue to the buyer special VAT invoices and indicate thereon the sales volume and the tax amount payable on the

sales.

A general invoice instead of a special VAT invoice shall be issued whereupon an invoice is need in one of the circumstances cited below:

1. Selling goods or taxable services to a consumer;
2. Selling tax-free goods;
3. When a small-scale taxpayer sells goods or taxable service.

Article 22 Locations for paying VAT:

1. An owner of a fixed business operation shall file tax returns to the local tax authorities. When the head office and subsidiaries are located at different counties (cities), they shall file tax returns to their respective local tax authorities for tax payment; or with the approval of the State Administration of Taxation or the tax bureaus authorized thereby, the head office may file tax returns for the head office and subsidiaries to the local authorities of the head office for tax payment.

2. When the owner of a fixed business operation sells goods at another county (city), it shall apply to the tax authorities of its residence for a certificate confirming the tax administration over its outport business operation and file tax returns to the tax authorities of its residence. Without a certificate for sales operation issued by the tax authorities of its residence, the owner of the business shall file tax returns to the tax authorities of the locality of its outport business for tax payment; and if the taxpayer fails to do so, the tax authorities of its residence shall levy the tax in arrears.

3. Owners of mobile business operations shall file tax returns to the tax authorities of the localities of the sales for tax payment.

4. For imported goods, the importer or its agent shall file tax returns to the customs house where import declaration is made.

Article 23 The prescribed time limit for paying VAT shall be one day, three days, five days, ten days, 15 days or one month. The prescribed time limit to tax payment for a taxpayer shall be defined by the tax authorities in the light of the tax amount, and in case tax cannot be paid within the time limit, the taxpayer may pay tax on each transaction.

When a taxpayer's time allowance for tax payment is one month, he shall file tax returns within ten days after expiration of the time limit; if the term is one day, three days, five days, ten days or 15 days, the taxpayer shall make an advance payment within five days after the expiration of the term and file tax returns and clear the tax payable of the previous month within ten days beginning on the first day of the succeeding month.

Article 24 A taxpayer shall pay VAT on imported goods within seven days beginning the next day of the issuance of the tax-paying certificate by the customs house.

Article 25 If the goods a taxpayer exports enjoys zero VAT, the taxpayer shall complete the export procedure with the customs house and with the export declaration document

apply to the tax authorities for reimbursement of the tax paid thereon at the end of each month. The concrete procedure thereof shall be formulated by the State Administration of Taxation.

If the exported goods is returned or withdrawn from the customs house after the VAT thereupon has been reimbursed, the taxpayer shall pay back the reimbursed tax to the tax authorities in accordance with the law.

Article 26 The collection and administration of VAT shall follow the relevant provisions of the Law of the People's Republic of China on the Administration of Tax Collection and these Regulations.

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

Article 28 The Ministry of Finance shall be responsible for the interpretation of these Regulations and formulate the Rules for the implementation thereof.

Article 29 These Regulations shall go into effect as from January 1, 1994. The "Regulations of the People's Republic of China on Value Added Tax"(Draft) and the "Regulations of the People's Republic of China on Product Tax" (Draft) promulgated by the State Council on September 18, 1984 shall be abrogated therefrom.