

国务院财政部等官员就流转税修订问题答记者问

Reply by State Council officials to Questions Raised by Reporters on Revisions of Turnover Taxes

中国税务及投资顾问有限公司翻译

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国务院法制办财政部国家税务总局负责人就《中华人民共和国增值税暂行条例》、《中华人民共和国消费税暂行条例》、《中华人民共和国营业税暂行条例》修订有关问题答记者问

Officials of the State Council Legal Office, the Ministry of Finance, and the State Administration of Taxation giving answers to questions raised by newspaper reporters on the PRC Interim VAT Regulations, the PRC Interim Business Tax Regulations, and the PRC Interim Consumption Tax Regulations

在 11 月 10 日，国务院总理温家宝签署国务院令，公布修订后的《中华人民共和国增值税暂行条例》、《中华人民共和国消费税暂行条例》和《中华人民共和国营业税暂行条例》。新修订的三个条例将于 2009 年 1 月 1 日起施行。为便于大家理解三个条例的有关内容，国务院法制办、财政部、国家税务总局负责人接受了记者的采访。

On 10<sup>th</sup> November 2008, Wen Jia-bao, the Premier of the State Council, signed the decree and promulgated the revised PRC Interim VAT Regulations, the revised PRC Interim Business Tax Regulations, and the revised PRC Interim Consumption Tax Regulations. The three revised regulations shall come into effect on 1<sup>st</sup> January 2009. To enhance the understanding of the three regulations, the officials of the State Council Legal Office, the Ministry of Finance, and the State Administration of Taxation accepted an interview conducted by the press reporters.

问：增值税条例修订的主要背景是什么？

Q: What is the background for the revision of the PRC Interim VAT Regulations?

答：修订前的增值税条例对于保障财政收入、调控国民经济发展发挥了积极作用。但修订前的增值税条例实行的是生产型增值税，不允许企业抵扣购进固定资产的进项税额，存在重复征税问题，制约了企业技术改进的积极性。随着这些年来经济社会环境的发展变化，各界要求增值税由生产型向消费型转变的呼声很高。党的十六届三中全会明确提出适时实施增值税转型改革，“十一五规划”明确在十一五期间完成这一改革。自 2004 年 7 月 1 日起，经国务院批准，东北、中部等部分地区已先后进行改革试点，取得了成功经验。为了进一步消除重复征税因素，降低企业设备投资税收负担，鼓励企业技术进步和促进产业

结构调整，有必要尽快在全国推开转型改革；尤其为应对目前国际金融危机对我国经济发展带来的不利影响，努力扩大需求，作为一项促进企业设备投资和扩大生产，保持我国经济平稳较快增长的重要举措，全面推行增值税转型改革的紧迫性更加突出。因此，国务院决定自 2009 年 1 月 1 日起，在全国推开增值税转型改革。

The old VAT regulations have played a positive role in ensuring the fiscal revenue and regulate the national economic development in the past. But the old VAT regulations are production type VAT that did not allow the input VAT for the purchased fixed assets to be offset against output VAT, and that has resulted in double taxation and put a brake on the enterprise's incentive for its technological improvement. The voice in all sectors for the VAT transformation reform has got very loud in view of the development and change in social and economic environment these years. The issue that the VAT transformation reform was to be introduced at the appropriate time was raised during the third plenary of the 16<sup>th</sup> session of the China Communist Party clearly. The "11<sup>th</sup> Five-year Plan" clearly outlines that the VAT reform should be completed during the period of the 11<sup>th</sup> Five-year Plan. With the approval from the State Council, as from 1<sup>st</sup> July 2004, the experimental trials have been launched in the Northeastern and Central regions and that gives us successful experiences. To eliminate double taxation, reduce the tax burden, encouraged technological improvement and industrial structure adjustment, it is necessary to introduce the transformation reform on a nationwide scale. The introduction of VAT transformation reform in full scale is especially urgent, as a measure of coping with the negative impact of the international financial crises on the economic development of our country, increasing domestic demand, promoting investment in equipment and expansion in production, and maintaining the steady and relatively fast growth of our country's economy. Therefore, the State Council made a decision to implement the VAT transformation reform on a nationwide basis as from 1<sup>st</sup> January 2009.

增值税转型改革的核心是在企业计算应缴增值税时，允许扣除购入机器设备所含的增值税，这一变化，与修订前的增值税条例关于不得抵扣固定资产进项税额的规定有冲突。因此，实行增值税转型改革需要对增值税条例进行修订。

The core issue for the VAT transformation reform is that the input VAT for the purchased machinery is deductible from the output VAT in the computation of the VAT payable. This change is inconsistent with the provisions in the old VAT regulation that the input VAT for purchased fixed assets is not deductible from the output VAT. Therefore, it is necessary to amend the VAT regulations before the VAT transformation reform is being introduced.

问：增值税条例修订遵循了哪些主要原则？

Q: What principles have been followed in the amendment of the VAT regulations?

答：考虑到当前经济形势和转型改革的紧迫性，此次对增值税条例进行修订的原则是：

- （一）确保改革重点，不作全面修订，为增值税转型改革提供法律依据。
- （二）体现法治要求，保持政策稳定，将现行政策和条例的相关规定进行衔接。
- （三）满足征管需要，优化纳税服务，促进征管水平的提高和执法行为的规范。

A: The principles having been followed in the amended VAT regulations taking into consideration of the economic situation and the urgency of the transformation reform are as follows:

- (1) Ensuring the major point of reform without an amendment across the board, and that provides for the legal base for the VAT transformation reform;
- (2) Keeping policy stable and linking the current policy and regulations with relevant provisions to show that the requirement for the rule of law has been followed;
- (3) Satisfying the requirement for tax collection and administration, optimizing the tax services, enhancing the standard of tax collection and administration, and the standard of conduct in law enforcement.

问：增值税条例主要作了哪些修订？

Q: What major amendments have been made in the VAT regulations?

答：增值税条例主要作了以下五个方面的修订：

A: The VAT regulations have been amended in the following five areas:

一是允许抵扣固定资产进项税额。修订前的增值税条例规定，购进固定资产的进项税额不得从销项税额中抵扣，即实行生产型增值税，这样企业购进机器设备税负比较重。为减轻企业负担，修订后的增值税条例删除了有关不得抵扣购进固定资产的进项税额的规定，允许纳税人抵扣购进固定资产的进项税额，实现增值税由生产型向消费型的转换。

The first is to allow deduction of the input VAT for purchased fixed assets. Before the amendment, input VAT is not allowed to get deducted from the output VAT. The production type VAT system is adopted and that has increased the tax burden of the enterprise buying the machinery and equipment. To reduce the tax burden, the revised VAT regulations remove the practice of such non-deduction, and allow the taxpayer to deduct the input VAT for purchased fixed assets. That helps achieve the transformation of the production type VAT system to one of consumption type.

二是为堵塞因转型可能会带来的一些税收漏洞，修订后的增值税条例规定，与企业技术更新无关且容易混为个人消费的自用消费品（如小汽车、游艇等）所含的进项税额，不得予以抵扣。

The second is to plug the tax loophole arising from the transformation. The revised VAT regulations provide that the input VAT for consumables (like vehicles and yachts) is not allowed to get deduction from output VAT since it is easy to mix up corporate consumption with personal consumption that is not relevant to the technological improvement of the enterprise.

三是降低小规模纳税人的征收率。修订前的增值税条例规定，小规模纳税人的征收率为 6%。根据条例的规定，经国务院批准，从 1998 年起已经将小规模纳税人划分为工业和商业两类，征收率分别为 6%和 4%。考虑到增值税转型改革后，一般纳税人的增值税负担水平总体降低，为了平衡小规模纳税人与一般纳税人之间的税负水平，促进中小企业的发展和扩大就业，应当降低小规模纳税人的征收率。同时考虑到现实经济活动中，小规模纳税人混业经营十分普遍，实际征管中难以明确划分工业和商业小规模纳税人，因此修订后的增值税条例对小规模纳税人不再设置工业和商业两档征收率，将征收率统一降至 3%。

The third is to reduce the levy rate for small-scale taxpayer. Before the amendment, small-scale taxpayer who is engaged in production activities is subject to VAT at a 6% levy rate. According to the original VAT regulations, with the approval from the State Council, small-scale taxpayers carrying on production activities and non-production activities are taxed at a levy rate of 6% and 4% respectively. After the transformation reform, the tax burden of the VAT ordinary (general) taxpayer has been reduced across the board. To balance the tax burden between the VAT ordinary taxpayer and the small-scale taxpayer and promote the growth of small and medium size enterprises to raise employment level, it is necessary to reduce the tax burden of the small-scale taxpayer. Taking into account the fact that it is commonplace for the small-scale taxpayer to carry on production and non-production activities at the same time, it is difficult to distinguish between the small-scale taxpayer who is doing production business and the one who is not. Therefore, the revised VAT regulations no longer provide for two levy rates for different line of businesses, and fix the levy rate at 3% across the board for the small-scale taxpayer.

四是将一些现行增值税政策体现到修订后的条例中。主要是补充了有关农产品和运输费用扣除率、对增值税一般纳税人进行资格认定等规定，取消了已不再执行的对来料加工、来料装配和补偿贸易所需进口设备的免税规定。

The fourth is to incorporate some current VAT policies into the revised VAT regulations, mainly including the deduction rates for agricultural produce and transportation charges, the provisions for the qualifications for being recognized as the VAT general taxpayer, and the abolition of tax exemption for the equipment

imported for use in export processing with supplied materials, export processing with samples, and compensation trade.

五是根据税收征管实践，为了方便纳税人纳税申报，提高纳税服务水平，缓解征收大厅的申报压力，将纳税申报期限从 10 日延长至 15 日。明确了对境外纳税人如何确定扣缴义务人、扣缴义务发生时间、扣缴地点和扣缴期限的规定。

The fifth is to extend the VAT filing deadline from 10 days to 15 days after the month end in order to provide convenience to taxpayers, improve revenue service level and relieve the workload for handling VAT filing at the counter of the local tax bureaus in accordance with the practices of tax levy and administration. The revised VAT regulations also clarify the issue how to determine the tax withholding agent, the time the tax liabilities arise, the location of paying taxes and the period within which payments should be made for the taxpayer situated outside China.

问：为什么要同时修订消费税条例和营业税条例，修订的主要内容有哪些？

Q: Why is it that the Interim Consumption Tax Regulations and the Interim Business Tax Regulations are also amended at the same time, and what are the contents of the amendments?

答：增值税、消费税和营业税是我国流转税体系中三大主体税种，在我国税制中占有十分重要的地位。增值税的征税范围是所有货物和加工修理修配劳务，而交通运输、建筑安装等其他劳务则属于营业税的征税范围，在税收实践中纳税人同时缴纳增值税和营业税的情形十分普遍；消费税是在对所有货物普遍征收增值税的基础上选择少量消费品征收的，因此，消费税纳税人同时也是增值税纳税人。

A: The VAT, consumption tax and business tax are type of the three main taxes in China's turnover tax system, and it plays an important part in the PRC tax system. The scope of VAT covers the supply of all goods, the supply of services for processing, repairing and replacement. But the provision of transportation service, the construction services, the installation services and other taxable services fall under the scope of business tax. It is commonplace for the taxpayer to pay both VAT and business tax in the course of tax administrations. The consumption tax is imposed on a few consumable goods that are subject to VAT. Therefore, the taxpayer who pays the consumption tax also pays VAT.

增值税条例除了为转型改革的需要作相应修订外，还存在以下问题需要在此次修订时一并解决：首先，纳税申报期限较短，不便于纳税人申报纳税；其次，经国务院同意，财政部、国家税务总局对增值税条例的有些内容已经作了调整，增值税条例需要作相应的补充完善。鉴于营业税、消费税与增值税之间存在较强的相关性，消费税条例和营业税条例也存在增值税条例的上述两个问

题，因此为了保持这三个税种相关政策和征管措施之间的有效衔接，有必要同时对消费税条例和营业税条例进行相应修改。

In addition to the amendment in the VAT regulations for the transformation reform, the following problems have to be solved: first, the tax filing period is too short for the taxpayer to comply with; the second is to incorporate the adjustments previously made, with the approval from the State Council, by the Ministry of Finance and the State Administration of Taxation into the new regulations. The new VAT regulations should implement and perfect such adjustments. In view of the fact that the VAT has a co-relationship with the business tax and consumption tax, and the fact that the consumption tax regulations and the business tax regulations also have the same relationship with the VAT regulations, it is necessary to amend the PRC interim consumption tax regulations and the PRC interim business tax regulations accordingly in order to achieve the effective links among the three relevant tax policies.

问：消费税条例修订的主要内容是什么？

Q: What are the contents of the amendments to the consumption tax regulations?

答：消费税条例主要作了以下两方面的修订：

一是将 1994 年以来出台的政策调整内容，更新到新修订的消费税条例中，如：部分消费品（金银首饰、铂金首饰、钻石及钻石饰品）的消费税调整在零售环节征收、对卷烟和白酒增加复合计税办法、消费税税目税率调整等。

A: There have been two areas of amendments in the consumption tax regulations: The first is to incorporate in the new consumption tax regulations the policies made and adopted since 1994, such as the adjustments made to collect the consumption tax in the retail chain for certain consumable goods (gold jewelry, platinum, diamond and diamond jewelry), the compound computation method for cigarettes and white wines, and the adjustments to consumption tax rates for some items of goods subject to the consumption tax.

二是与增值税条例衔接，将纳税申报期限从 10 日延长至 15 日，对消费税的纳税地点等规定进行了调整。

The second is to achieve the linking of the consumption tax regulations with VAT regulations by extending the tax filing deadline from 10 days to 15 days, and the adjustment to the place for the payment of consumption tax.

问：营业税条例修订的主要内容是什么？

Q: What are the contents of the amendments to the business tax regulations?

答：营业税条例主要作了以下四个方面修订：

A: There have been four areas of amendments in the business tax regulations:

一是调整了纳税地点的表述方式。为了解决在实际执行中一些应税劳务的发生地难以确定的问题，考虑到大多数应税劳务的发生地与机构所在地是一致的，而且有些应税劳务的纳税地点现行政策已经规定为机构所在地，将营业税纳税人提供应税劳务的纳税地点由按劳务发生地原则确定调整为按机构所在地或者居住地原则确定。

The first is to adjust the place of paying business taxes. To solve the problem that it is difficult to determine the place where the taxable services are delivered in practices, we have considered that most taxable services take place in the city where the taxpayer's registered office is located and that the place of tax payment for the supply of taxable services is fixed at the city where the taxpayer's registered office is located under the current policies. It is decided to change the place of tax payment from the city where the taxable services are delivered to the city where the taxpayer's registered office or residence is located.

二是删除了转贷业务差额征税的规定。这一规定在实际执行中仅适用于外汇转贷业务，造成外汇转贷与人民币转贷之间的政策不平衡，因此，删除了这一规定。

The second is to remove the policy to impose tax on the spread between the money loaned out and the money borrowed. This policy only applies to foreign currency loan business in practices, causing an imbalance between the foreign currency loan business and the RMB loan business. Therefore, this provision has been deleted.

三是考虑到营业税各税目的具体征收范围难以列举全面，删除了营业税条例所附的税目税率表中征收范围一栏，具体范围由财政部和国家税务总局规定。

Third, it is difficult to list out all the detailed scope of business tax for each taxable item. The scope of taxable services is removed in the rate table for each taxable item in the appendix to the business tax regulations. Instead, the detailed scope of tax shall be determined jointly by the Ministry of Finance and the State Administration of Taxation.

四是与增值税条例衔接，将纳税申报期限从 10 日延长至 15 日。进一步明确了对境外纳税人如何确定扣缴义务人、扣缴义务发生时间、扣缴地点和扣缴期限的规定。

The fourth is to establish the link with the VAT regulations by extending the tax filing deadline from 10 days to 15 days, further clarifying how to determine the tax withholding agent, the time the withholding obligation arises, and place of tax payment and the deadline for payment for taxpayer situated outside China.

问：此次修订对现行增值税、消费税、营业税优惠政策是如何处理的？

Q: How does this amendment provides for the tax preferential policy on VAT, consumption tax and business tax?

答：此次修订条例主要是为了增值税转型改革的需要，时间十分紧迫，因此基本上没有对优惠政策作出新的调整。对过去已经国务院批准同意的优惠政策可以继续执行，而不必对三个条例的有关内容进行修改，因为三个条例都已经明确规定，国务院可以在执行中对税收优惠范围进行调整。

A: The objective of this amendment is to meet the requirement for the VAT transformation reform, for which there is no sufficient time. Therefore, there will be no adjustments to the tax preferential policies. The policies that have been approved by the State Council shall be continued and it is not necessary to make any amendment to that. The three revised regulations have expressly provided that the State Council will make adjustments to the tax preferential policies in the course of their implementation.