

## 2009 Interim Regulation of the PRC on Value Added Tax

Order of the State Council of the People's Republic of China (No. 538)

The Interim Regulation of the People's Republic of China on Value Added Tax was amended and adopted at the 34th executive meeting of the State Council on November 5, 2008. The amended Interim Regulation of the People's Republic of China on Value Added Tax is hereby promulgated and shall come into force as of January 1, 2009.

Premier Wen Jiabao  
November 10, 2008

### Interim Regulation of the People's Republic of China on Value Added Tax

(Promulgated by Order No. 134 of the State Council of the People's Republic of China on December 13, 1993 Amended and adopted at the 34th executive meeting of the State Council on November 5, 2008)

中华人民共和国国务院令（第 538 号）

《中华人民共和国增值税暂行条例》已经 2008 年 11 月 5 日国务院第 34 次常务会议修订通过，现将修订后的《中华人民共和国增值税暂行条例》公布，自 2009 年 1 月 1 日起施行。

总 理 温家宝  
二〇〇八年十一月十日

#### 中华人民共和国增值税暂行条例

（1993 年 12 月 13 日中华人民共和国国务院令第 134 号发布 2008 年 11 月 5 日国务院第 34 次常务会议修订通过）

Article 1 Entities and individuals engaged in the sale of goods, supply of processing, repair and replacement services, and import of goods within the territory of the People's Republic of China are taxpayers of value added tax (hereinafter referred to as "taxpayers"), and shall pay VAT in accordance with this Regulation.

第一条 在中华人民共和国境内销售货物或者提供加工、修理修配劳务以及进口货物的单位和个人，为增值税的纳税人，应当依照本条例缴纳增值税。

#### Article 2 VAT rates:

1. For taxpayers selling or importing goods, other than those as specified in Items 2 and 3 of this Article, the tax rate shall be 17%.
2. For taxpayers selling or importing the following goods, the tax rate shall be 13%.
  - (1) food grains, edible vegetable oil;
  - (2) tap water, heating, air conditioning, hot water, coal gas, liquefied petroleum gas, natural gas, methane, and coal/ charcoal products for household use.

- (3) books, newspapers, magazines;
  - (4) feed, fertilizer, pesticide, agricultural machinery and agricultural film; and
  - (5) other goods as prescribed by the State Council.
3. For taxpayers exporting goods, the tax rate shall be zero, except as otherwise prescribed by the State Council.
4. For taxpayers supplying processing, and repair and replacement services (hereinafter referred to as “taxable service”), the tax rate shall be 17 %.
- Any adjustments to the tax rates shall be decided by the State Council.

## 第二条 增值税税率：

（一）纳税人销售或者进口货物，除本条第（二）项、第（三）项规定外，税率为 17%。

（二）纳税人销售或者进口下列货物，税率为 13%：

- 1. 粮食、食用植物油；
- 2. 自来水、暖气、冷气、热水、煤气、石油液化气、天然气、沼气、居民用煤炭制品；
- 3. 图书、报纸、杂志；
- 4. 饲料、化肥、农药、农机、农膜；
- 5. 国务院规定的其他货物。

（三）纳税人出口货物，税率为零；但是，国务院另有规定的除外。

（四）纳税人提供加工、修理修配劳务（以下称应税劳务），税率为 17%。

税率的调整，由国务院决定。

Article 3 For a taxpayer concurrently engaged in goods or taxable services at different tax rates, the sales amounts for goods or taxable services at different tax rates shall be calculated separately, otherwise, the higher tax rate shall apply.

第三条 纳税人兼营不同税率的货物或者应税劳务，应当分别核算不同税率货物或者应税劳务的销售额；未分别核算销售额的，从高适用税率。

Article 4 Except for the provisions in Article 11 of this Regulation, for a taxpayer engaged in selling goods or supplying taxable services, the payable tax amount shall be the balance after offsetting or deducting the input tax amount for the current period against or from the output tax amount for the current period. The formula for computing the payable tax amount:

the payable tax amount = the output tax amount for the current period – the input tax amount for the current period

If the output tax amount for the current period is less than and insufficient to offset against or deduct the input tax amount for the current period, the deficiency can be carried forward to the following period for offset or deduction.

第四条 除本条例第十一条规定外，纳税人销售货物或者提供应税劳务（以下简称销售货物或者应税劳务），应纳税额为当期销项税额抵扣当期进项税额后的余额。应纳税额计算公式：

应纳税额＝当期销项税额－当期进项税额

当期销项税额小于当期进项税额不足抵扣时，其不足部分可以结转下期继续抵扣。

Article 5 The VAT tax amount that a taxpayer selling goods or supplying taxable service calculates on the basis of the sales amount and at the tax rate as prescribed in Article 2 of this Regulation and collects from the buyer is the output tax amount. The formula for the calculation of the output tax amount:

the output tax amount = the sales amount  $\times$  the tax rate

第五条 纳税人销售货物或者应税劳务，按照销售额和本条例第二条规定的税率计算并向购买方收取的增值税额，为销项税额。销项税额计算公式：

销项税额=销售额 $\times$ 税率

Article 6 The sales amount shall be the full price and ex-price fees that a taxpayer charges the buyer for selling goods or supplying taxable service, but exclude the output tax amount collected.

The sales amount shall be calculated in RMB. Where a taxpayer settles the sales amount in a currency other than RMB, it (he) shall convert it into RMB.

第六条 销售额为纳税人销售货物或者应税劳务向购买方收取的全部价款和价外费用，但是不包括收取的销项税额。

销售额以人民币计算。纳税人以人民币以外的货币结算销售额的，应当折合成人民币计算。

Article 7 If the price of the goods sold or taxable service supplied by a taxpayer is obviously low without a justifiable reason, the competent taxation organ shall verify and determine the sales amount.

第七条 纳税人销售货物或者应税劳务的价格明显偏低并无正当理由的，由主管税务机关核定其销售额。

Article 8 The VAT amount that a taxpayer pays or bears for buying goods or accepting taxable service is the input tax amount.

The following input tax amounts are allowed to be offset against or be deducted from the input tax amounts:

1. the VAT amount as indicated in the special VAT invoice obtained from the seller;
2. the VAT amount as indicated in the special bill of payment of import VAT obtained from the customs house;
3. for the purchase of agricultural products, besides obtaining the special VAT invoice or customs special bill of payment of import VAT, the input tax amount is calculated on the basis of the agricultural product purchase price as indicated in the agricultural product purchase invoice or sales invoice and at a deduction rate of 13%. The formula for the calculation of the input tax amount:  
the input tax amounts = the purchase price  $\times$  the deduction rate
4. For the purchase or sale of goods and payments for freight during the production and business operations, the input tax amount is calculated on the basis of the freight amount as indicated in the freight settlement voucher and at the deduction rate of 7%. The formula for the calculation of the input tax:  
the input tax amount = the freight amount  $\times$  the deduction rate

Any adjustments to the allowed deduction items and rates shall be decided by the State Council.

第八条 纳税人购进货物或者接受应税劳务（以下简称购进货物或者应税劳务）支付或者负担的增值税额，为进项税额。

下列进项税额准予从销项税额中抵扣：

（一）从销售方取得的增值税专用发票上注明的增值税额。

（二）从海关取得的海关进口增值税专用缴款书上注明的增值税额。

（三）购进农产品，除取得增值税专用发票或者海关进口增值税专用缴款书外，按照农产品收购发票或者销售发票上注明的农产品买价和 13%的扣除率计算的进项税额。进项税额计算公式：

进项税额=买价×扣除率

（四）购进或者销售货物以及在生产经营过程中支付运输费用的，按照运输费用结算单据上注明的运输费用金额和 7%的扣除率计算的进项税额。进项税额计算公式：

进项税额=运输费用金额×扣除率

准予抵扣的项目和扣除率的调整，由国务院决定。

Article 9 For a taxpayer purchasing any goods or taxable service, if the VAT deduction voucher it (he) obtains does not conform to law, administrative regulation, or relevant provisions of the taxation administrative department of the State Council, the input tax amount shall not be offset against or deducted from the output tax amount.

第九条 纳税人购进货物或者应税劳务，取得的增值税扣税凭证不符合法律、行政法规或者国务院税务主管部门有关规定的，其进项税额不得从销项税额中抵扣。

Article 10 The input tax amount on any of the following items shall not be offset against or be deducted from the output tax amount:

1. the purchased goods or taxable services used for non-VAT taxable items, VAT-free items, collective welfare or individual consumption;
2. the abnormally lost purchased goods and relevant taxable services;
3. the abnormally lost purchased goods or taxable services for products under production or finished products;
4. the taxpayer's self-use consumables as prescribed by the finance and taxation administrative departments of the State Council; and
5. the freight of goods and freight of sold tax-free goods as described in Items 1 through 4 of this Article.

第十条 下列项目的进项税额不得从销项税额中抵扣：

（一）用于非增值税应税项目、免征增值税项目、集体福利或者个人消费的购进货物或者应税劳务；

（二）非正常损失的购进货物及相关的应税劳务；

（三）非正常损失的在产品、产成品所耗用的购进货物或者应税劳务；

（四）国务院财政、税务主管部门规定的纳税人自用消费品；

（五）本条第（一）项至第（四）项规定的货物的运输费用和销售免税货物的运输费用。

Article 11 For selling goods or taxable service of a small-scale taxpayer, a simple approach shall be employed to calculate the taxable amount on the basis of the sales amount and at the tax rate and the input tax amount shall not be offset or deducted. The formula for the calculation of the taxable amount:

the taxable amount = the sales amount × the tax rate

the criteria for small-scale taxpayers shall be formulated by the finance and taxation administrative departments of the State Council.

第十一条 小规模纳税人销售货物或者应税劳务，实行按照销售额和征收率计算应纳税额的简易办法，并不得抵扣进项税额。应纳税额计算公式：

应纳税额=销售额×征收率

小规模纳税人的标准由国务院财政、税务主管部门规定。

Article 12 The tax rate for the VAT on small-scale taxpayers shall be 3%.

Any adjustment to the tax rate shall be decided by the State Council.

第十二条 小规模纳税人增值税征收率为 3%。

征收率的调整，由国务院决定。

Article 13 A taxpayer other than a small-scale taxpayer shall apply to the taxation administrative department for determination of its qualification. The concrete determination measures shall be formulated by the taxation administrative department of the State Council.

Where a small-scale taxpayer with independent accounting is able to provide accurate tax-related materials, it may apply to the competent taxation organ for determination of its qualification for not being treated as a small-scale taxpayer in the calculation of the payable tax amount under this Regulation

第十三条 小规模纳税人以外的纳税人应当向主管税务机关申请资格认定。具体认定办法由国务院税务主管部门制定。

小规模纳税人会计核算健全，能够提供准确税务资料的，可以向主管税务机关申请资格认定，不作为小规模纳税人，依照本条例有关规定计算应纳税额。

Article 14 For goods imported by a taxpayer, the payable tax amount shall be calculated on the basis of the composite assessable value and the tax rates as given in Article 2 of this Regulation. The formulas for the calculation of the composite assessable value and the payable tax amount:

the composite assessable value = the customs duty-paid value + the customs duty + the consumption tax

amount of tax payable = the composite assessable value × the tax rate

第十四条 纳税人进口货物，按照组成计税价格和本条例第二条规定的税率计算应纳税额。组成计税价格和应纳税额计算公式：

组成计税价格=关税完税价格+关税+消费税

应纳税额=组成计税价格×税率

Article 15 The following items shall be exempted from the VAT:

1. self-produced agricultural products sold by agricultural producers;
2. contraceptive medicines and devices;
3. antique books;
4. apparatus and equipment imported and directly used for scientific research, experiment and teaching;
5. imported materials and equipment from foreign governments and international organizations as gratuitous aid;
6. articles exclusively for persons with disabilities that are directly imported by organizations of persons with disabilities; and
7. self-used articles sold by the seller.

Except for the provisions of the preceding paragraph, the VAT exemption and reduction items shall be prescribed by the State Council. No other region or department shall prescribe any tax exemption or reduction item.

第十五条 下列项目免征增值税:

- (一) 农业生产者销售的自产农产品;
- (二) 避孕药品和用具;
- (三) 古旧图书;
- (四) 直接用于科学研究、科学试验和教学的进口仪器、设备;
- (五) 外国政府、国际组织无偿援助的进口物资和设备;
- (六) 由残疾人的组织直接进口供残疾人专用的物品;
- (七) 销售的自己使用过的物品。

除前款规定外, 增值税的免税、减税项目由国务院规定。任何地区、部门均不得规定免税、减税项目。

Article 16 For a taxpayer concurrently engaged in VAT-free or VAT reduction items, it (he) shall calculate the sales amounts of the VAT-free or VAT reduction items separately, otherwise, it (he) shall not enjoy the tax exemptions or reductions.

第十六条 纳税人兼营免税、减税项目的, 应当分别核算免税、减税项目的销售额; 未分别核算销售额的, 不得免税、减税。

Article 17 If the sales amount of a taxpayer does not reach the VAT threshold as prescribed by the finance and taxation administrative departments of the State Council, it shall be exempted from the VAT. If it reaches the aforesaid threshold, the VAT shall be calculated and paid in full amount on the basis of this Regulation.

第十七条 纳税人销售额未达到国务院财政、税务主管部门规定的增值税起征点的, 免征增值税; 达到起征点的, 依照本条例规定全额计算缴纳增值税。

Article 18 Where an entity or individual outside the territory of the People's Republic of China supplies taxable services inside the territory of the People's Republic of China, and it (he) has not established a business institution within China,

its agent within China shall be the withholding obligor. If it (he) has no agent within China, the purchaser shall be the withholding obligor.

第十八条 中华人民共和国境外的单位或者个人在境内提供应税劳务，在境内未设有经营机构的，以其境内代理人为扣缴义务人；在境内没有代理人的，以购买方为扣缴义务人。

Article 19 The time at which an obligation to pay the VAT arises shall be as follows:

1. For the goods or taxable services sold, it is the date on which the sales price payment is received or the sales voucher as requested is obtained. If an invoice is issued in advance, it shall be the same day when the invoice is issued.
  2. For imported goods, it is the date of customs declaration for import.
- The time at which an obligation to withhold the VAT arises shall be the same day when an obligation to pay the VAT arises.

第十九条 增值税纳税义务发生时间：

（一）销售货物或者应税劳务，为收讫销售款项或者取得索取销售款项凭据的当天；先开具发票的，为开具发票的当天。

（二）进口货物，为报关进口的当天。

增值税扣缴义务发生时间为纳税人增值税纳税义务发生的当天。

Article 20 The VAT shall be collected by taxation organs and the VAT on imported goods shall be withheld by the customs houses.

The VAT on self-use articles carried or mailed into China by individuals shall be levied together with the customs duties. The specific measures shall be formulated by the Tariff Policy Committee of the State Council in conjunction with relevant departments.

第二十条 增值税由税务机关征收，进口货物的增值税由海关代征。

个人携带或者邮寄进境自用物品的增值税，连同关税一并计征。具体办法由国务院关税税则委员会会同有关部门制定。

Article 21 The taxpayer of goods or taxable service sold shall issue a special VAT invoice to the buyer requesting for a special VAT invoice and give clear indications of the sales amount and output tax amount on it.

Under any of the following circumstances, no special VAT invoice shall be issued:

1. The goods or taxable services are sold to individual consumers;
2. The tax-free provisions apply to the goods or taxable services sold; and
3. The goods or taxable services are sold by small-scale taxpayers.

第二十一条 纳税人销售货物或者应税劳务，应当向索取增值税专用发票的购买方开具增值税专用发票，并在增值税专用发票上分别注明销售额和销项税额。

属于下列情形之一的，不得开具增值税专用发票：

- （一）向消费者个人销售货物或者应税劳务的；
- （二）销售货物或者应税劳务适用免税规定的；
- （三）小规模纳税人销售货物或者应税劳务的。

Article 22 The VAT payment places:

1. Businesses with a fixed establishment shall file tax returns with the competent taxation organ at the locality where the establishment is located. If the head office and the branch are not situated in the same county (or city), they shall file tax returns separately to their respective local competent taxation organ. The head office may, upon the approval of the finance or taxation administrative department of the State Council or its authorized finance or taxation organ, file tax returns with the competent taxation organ at the locality where the establishment is located on a consolidated basis.
2. Businesses with fixed establishments selling goods or taxable services in different counties (or cities) shall apply for the issuance of an outbound business activities tax administration certificate from the competent taxation authority at the locality where the establishment is located and shall file tax returns with the competent taxation authority at the locality where the establishment is located. If they do not obtain the outbound business activities tax administration certificate, they shall file tax returns with the competent taxation organ at the locality where the sales activities take place or where the taxable services occur. The competent taxation organ at the locality where the establishment is located shall collect the overdue taxes for which no tax return has been filed with the competent taxation organ at the locality where the sales activities take place or where the taxable services occur.
3. Business without a fixed establishment selling goods or taxable services shall file tax returns with the competent taxation organ at the locality where the sales activities take place or where the taxable services occur. If it fails to do so, the competent taxation organ at the locality where it is located or resides shall levy the overdue taxes.
4. For imported goods, tax returns shall be filed with the customs house at the locality where the customs declaration is made.

A withholding obligor shall file tax returns and pay the tax amounts, which it withholds, to the competent taxation organ at the place where its institution or domicile is located.

第二十二条 增值税纳税地点:

(一) 固定业户应当向其机构所在地的主管税务机关申报纳税。总机构和分支机构不在同一县(市)的,应当分别向各自所在地的主管税务机关申报纳税;经国务院财政、税务主管部门或者其授权的财政、税务机关批准,可以由总机构汇总向总机构所在地的主管税务机关申报纳税。

(二) 固定业户到外县(市)销售货物或者应税劳务,应当向其机构所在地的主管税务机关申请开具外出经营活动税收管理证明,并向其机构所在地的主管税务机关申报纳税;未开具证明的,应当向销售地或者劳务发生地的主管税务机关申报纳税;未向销售地或者劳务发生地的主管税务机关申报纳税的,由其机构所在地的主管税务机关补征税款。

(三) 非固定业户销售货物或者应税劳务,应当向销售地或者劳务发生地的主管税务机关申报纳税;未向销售地或者劳务发生地的主管税务机关申报纳税的,由其机构所在地或者居住地的主管税务机关补征税款。

(四) 进口货物,应当向报关地海关申报纳税。

扣缴义务人应当向其机构所在地或者居住地的主管税务机关申报缴纳其扣缴的税款。



Article 23 The VAT taxable period shall be one day, three days, five days, 10 days, 15 days, one month or one quarter. The specific taxable period of a taxpayer shall be determined respectively by the competent taxation organ on the basis of the payable tax amount of the taxpayer. If the taxable amount cannot be assessed on a regular period basis, it can be assessed on a transaction-by-transaction basis.

A taxpayer who adopts one month or one quarter as a taxable period shall file tax returns within 15 days after the expiration of such a period. If it (he) adopts one day, three days, five days, 10 days or 15 days as a taxable period, it (he) shall prepay the tax within five days after the expiration of such a period and within 15 days of the following month, file a tax return and settle the payable tax amount of the immediately previous month.

The time limit for a withholding obligor to deliver tax payment shall be governed by the preceding two paragraphs.

第二十三条 增值税的纳税期限分别为 1 日、3 日、5 日、10 日、15 日、1 个月或者 1 个季度。纳税人的具体纳税期限，由主管税务机关根据纳税人应纳税额的大小分别核定；不能按照固定期限纳税的，可以按次纳税。

纳税人以 1 个月或者 1 个季度为 1 个纳税期的，自期满之日起 15 日内申报纳税；以 1 日、3 日、5 日、10 日或者 15 日为 1 个纳税期的，自期满之日起 5 日内预缴税款，于次月 1 日起 15 日内申报纳税并结清上月应纳税款。

扣缴义务人解缴税款的期限，依照前两款规定执行。

Article 24 A taxpayer of imported goods shall pay the tax within 15 days from the date on which the customs house fills out the special bill of payment of import VAT issued by the customs offices.

第二十四条 纳税人进口货物，应当自海关填发海关进口增值税专用缴款书之日起 15 日内缴纳税款。

Article 25 A taxpayer exporting tax-rebate (exemption) goods shall go through the export formalities in the customs house and within the prescribed time limit for applying for tax rebate (exemption) and on a monthly basis, apply to the competent taxation organ for handling the tax rebate (exemption) for the exported goods on the strength of export declaration forms. The concrete measures shall be formulated by the finance or taxation administrative department of the State Council.

Where any exported goods are returned or a customs declaration is withdrawn after the completion of the tax rebate on the exported goods, the taxpayer shall pay back the said tax rebate according to law.

第二十五条 纳税人出口货物适用退（免）税规定的，应当向海关办理出口手续，凭出口报关单等有关凭证，在规定的出口退（免）税申报期内按月向主管税务机关申报办理该项出口货物的退（免）税。具体办法由国务院财政、税务主管部门制定。

出口货物办理退税后发生退货或者退关的，纳税人应当依法补缴已退的税款。

Article 26 The administration of collection of the VAT shall be governed by the Law of the People's Republic of China on the Administration of Tax Collection and the relevant provisions in this Regulation.

第二十六条 增值税的征收管理，依照《中华人民共和国税收征收管理法》及本条例有关规定执行。

Article 27 This Regulation shall come into force as of January 1, 2009.

第二十七条 本条例自 2009 年 1 月 1 日起施行。