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中國稅務及投資顧問有限公司
China Tax & Investment Consultants Ltd

**Legal Rules for Foreign Trade &
 Customs Duty in China (II)**

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Agenda


- General Import/Export Goods
- Bonded goods
- Tax-exempt goods and goods subject to tax reduction
- Temporarily imported and exported goods

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Classification of imported goods under PRC customs law (repeated)

	Types of goods	Customs procedure
1	General goods	General
2	Bonded goods	Special
3	Tax-exempt goods	
4	Temporarily imported goods	

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(II) Bonded goods

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Change of destination for bonded goods under customs law

- If bonded goods, originally used for export processing contracts, are sold in China, taxpayer should obtain approval, pay duty, tax and interest, apply import license (list of goods requiring import license).
- Import license is not required if amount is not exceeding 3% of production contract and value not exceeding RMB10,000.

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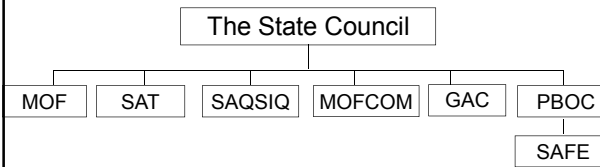
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Policy adjustment on foreign trade in recent years

- (1) Export refund
- (2) I/E duty
- (3) Administration of export processing trade
- (4) Corporate income tax
- (5) VAT reform

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PRC Central Government



Ministries relating to foreign trade

Principle Government Authorities involving in foreign trade in China

Ministry of Finance, State Administration of Taxation, General Administration of Quality Supervision, Inspection and Quarantine, Ministry of Commerce, General Administration of Customs, PBOC, and State Administration of Foreign Exchange, etc

Classification under PRC foreign trade law

Goods under prohibited category	General I/E trade
	Export processing trade
Goods under restricted category	General I/E trade
	Export processing trade
Goods under freely traded category	General I/E trade
Goods under permitted category	Export processing trade

(Classification under Foreign Trade Law)

	Trade mode	Sub-category
1	General import & export	Prohibited, restricted, freely traded
2	Export processing	Prohibited, restricted, permitted

Lists of goods under prohibited and restricted categories are different.

List of goods under the prohibited category for export processing trade

1. Administrative Order No. 110, 2007 by MOFCOM and GAC, effective on 2008.1.21;
2. Administrative Order No. 37, 2009 by MOFCOM and GAC, effective on 2009.6.3.

List of goods under the restricted category for export processing trade

1. Administrative Order No. 44, 2007 by MOFCOM and GAC, effective from 2007.8.23
2. Administrative Order No. 46, 2007 by GAC
3. Administrative Order No. 97, 2008 by MOFCOM and GAC, effective from 2008.12.01

Policy adjustments for VAT export refund in recent years

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Analysis on policy change

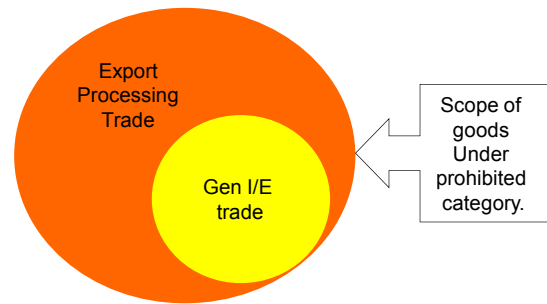
- Order No.139, 2006 by Ministry of Finance (2006.9.15) - Linking VAT export refund policy with ban on export processing trade
- The foreign trade policy and fiscal policy apply concurrently to clamp down on export products either of low value, or **the production of which consumes lots of energy.**

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Policy analysis for export processing goods under the prohibited category

- All the export goods are not eligible for VAT export rebate.
- The policies will not have **smaller** impact on general trading for import and export goods.

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VAT tax liabilities

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Export processing types

Import material -> processing -> export finished goods

- Processing service agreement, no change in legal title (Lai liao jia gong 来料加工);
- Buy-sell agreement, with change in legal title (Jin liao jia gong 进料加工)

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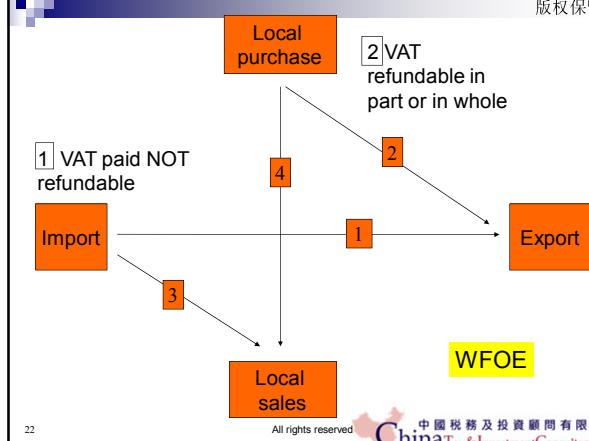
	Gen I/E trade	Export proc. with bought material	Export proc. with supplied material
Legal form	WFOE	WFOE	Contract relationship
VAT Tax mode	Exempt Credit, and Refund (ECR)	Exempt, Credit, and Refund (ECR)	No tax, no refund

VAT liability - Export

	Logistic flow	Tax Mode
I	Import material → Processing → Export	Exempt-Credit-Refund (ECR); Exporter may pay VAT
II	Domestically made material → processing → export	ECR; Refund in whole or in part

VAT liability - Import

	Logistic flow	Tax Mode
III	Import material → processing → domestic sale	Taxed but eligible for input credit
IV	Domestically made material → processing → domestic sale	Taxed but eligible for input credit



End

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