

**DETAILED RULE FOR THE IMPLEMENTATION OF THE PROVISIONAL
REGULATION OF THE PEOPLE'S REPUBLIC OF CHINA ON VALUE-ADDED TAX**

(Ministry of Finance: 25 December 1993)

Whole Doc.

Article 1

These Detailed Rules are formulated in accordance with the stipulations of Article 28 of the Republic of China on Value-Added Tax (hereinafter referred to as "the Regulations").

Article 2

"Goods" as mentioned in Article 1 of the Regulations refers to tangible moveable goods, including electricity, heat, and gas. "Processing" as mentioned in Article 1 of the Regulations refers to the business of contracting to process goods, where the contractor supplies the raw material and major materials and the subcontractor manufactures the goods in accordance with the requirements of the contractor and receives a processing fee. "Repairs and replacement" as mentioned in Article 1 of the Regulations refers to the business of contracting to carry out repairs of damaged or malfunctioned goods, so as to restore the goods to their original conditions and functions.

Article 3

"Sales of goods" as mentioned in Article 1 of the Regulations refers to the transfer of the ownership of goods for any consideration. "Provision of processing, repairs and replacement services" as mentioned in Article 1 of the Regulations refers to the provision of processing, repairs and replacement services for any consideration. However the provision of processing, repairs and replacement services by the staff employed by the units or individual business operators for their units or employers shall not be included. "Consideration" as mentioned in these Detailed Rules includes money, goods or any economic benefit obtained from the purchasers.

Article 4

The following activities of units or individual operators shall be deemed as sales of goods:

- (1) Consignment of goods to others for sale;
- (2) Sale of goods under consignment;
- (3) Transfer of goods from one establishment to other establishments for sale by a taxpayer that maintains two or more establishments and adopts consolidated accounting, unless the relevant establishments are maintained in the same county (or city);
- (4) Application of self-produced or processed goods to produce non-taxable items;
- (5) Provision of self-produced, processed or purchased goods to other units or individual operators as investments;
- (6) Distribution of self-produced, processed or purchased goods to shareholders or investors;
- (7) Use of self-produced or processed goods for collective welfare or personal consumption;
- (8) Giving out self-produced, processed or purchased goods to others as free gifts.

Article 5

A sales activity that involves goods and non-taxable services shall be a mixed sales activity. Mixed sales activities of enterprises, enterprise units or individual business operators engaged in production, wholesaling or retailing of goods shall be regarded as sales of goods which shall be subject to VAT. The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

Mixed sales activities of other units or individuals shall be regarded as sales of non-taxable services which shall not be subject to VAT. Whether a taxpayer's sales activity is a mixed sales activity shall be determined by the tax collecting authorities under the State Administration of Taxation. "Non-taxable services" as mentioned in the first paragraph of this Article refers to the services subject to Business Tax within the scope of the taxable items of communications and transportation, construction, finance and insurance, posts and telecommunications, culture and sports, entertainment, and service industries. "Enterprises, enterprise units or individual business operators engaged in production, wholesaling or retailing of goods" as mentioned in the first paragraph of this Article includes enterprises, enterprise units, and individual business operators principally engaged in the production, wholesaling or retailing of goods and also engaged in non-taxable services.

Article 6

Taxpayers also engaged in non-taxable services shall account separately for the sales amount of goods and taxable services and non-taxable services. Without separate accounting or where accurate accounting cannot be made, the non-taxable services and goods and taxable services shall together be subject to VAT. Whether non-taxable services so engaged by the taxpayer shall be subject to VAT shall be determined by the tax collecting authorities under the State Administration of Taxation.

Article 7

"Sales of goods within the territory of the People's Republic of China" (hereinafter referred to as "within the territory") as mentioned in Article 1 of the Regulations refers to the place of despatch or the location of the goods sold is within the territory. "Sales of taxable services in the territory" as mentioned in Article 1 of the Regulations refers to the sales of taxable services that takes place within the territory.

Article 8

"Units" as mentioned in Article 1 of the Regulations refers to State-owned enterprises, collectively owned enterprises, privately- owned enterprises, joint-stock enterprises, other enterprises, administrative units, institutions, military units, social organizations and other units. "Individuals" as mentioned in Article 1 of the Regulations refers to individual business operators and other individuals.

Article 9

For enterprises which lease or contract to others for management, the lessees or the sub-contractors shall be the taxpayers.

Article 10

Taxpayers selling goods or taxable services with different tax rates and also engaged in non-taxable services which shall be subject to VAT, the highest of the tax rates on goods or taxable services shall apply to the non taxable services.

Article 11

For taxpayers other than small-scale taxpayers (hereinafter referred to as "general taxpayers"), the VAT refundable to purchasers due to returns inward or discount allowed shall be deducted from the output tax for the period in which the returns inward or discount allowed takes place. The VAT recovered due to the returns outward or discount received shall be deducted from the input tax for the period in which the returns outward or discount received takes place.

Article 12

"Other charges" as mentioned in Article 6 of the Regulations refers to handling fees, subsidies, funds, The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

fund raising fees, profits sharing, incentive bonus, damages on breach of contract (interest on deferred payments), packaging charges, rentals on packaging materials, contingency charges, quality charges, freight and loading and unloading charges, commissioned receipts, commissioned payments and charges of any other nature which is in addition to the price charged to the purchaser. The following items nevertheless shall not be included:

- (1) Output VAT collected from purchasers;
- (2) Consumption Tax withheld on processing of consumer goods subject to Consumption Tax;
- (3) Disbursement of freight charges that satisfies both the following conditions:
 1. A freight invoice of transportation department was issued to the purchaser; and
 2. The same invoice is turned over by the taxpayer to the purchaser. All other charges, regardless of the accounting treatment under the accounting system adopted, shall be included in the sales amount in computing the tax payable.

Article 13

Where the taxpayer is engaged in mixed sales activities and the non-taxable services that are subject to VAT in accordance with Article 5 and Article 6 of these Detailed Rules, his sales amount shall be respectively the sum the his sales amounts of goods and non-taxable services, or the sum of the sales amounts of goods or taxable services and the non-taxable services.

Article 14

For general taxpayers selling goods or taxable services that adopt the pricing method of combining the sales amount and the output tax, the sales amount shall be computed according to the following formula: Sales amount including tax

$$\text{Sales amount} = \frac{\text{Sales amount including tax}}{1 + \text{tax rate}}$$

Article 15

Pursuant to the stipulations of Article 6 of the Regulations, if a taxpayer settles the sales amount in foreign exchange, the RMB conversion rate for the sales amount to be selected can be the foreign exchange rate quoted by the State (the average rate in Principle) prevailing on the date or that on the first day of the month in which the sales take place. Taxpayers shall determine in advance the conversion rate to be adopted. Once determined, no change is allowed within 1 year.

Article 16

For taxpayers whose prices are obviously low and without proper justification as mentioned in Article 7 of the Regulations, or have activities of selling goods as listed in Article 4 of these Detailed Rules but without invoiced sales amounts, the sales amount shall be determined according to the following sequence:

- (1) Determined according to the average selling price of the taxpayer on the same goods in the same month;
- (2) Determined according to the average selling price of the taxpayer on the same goods in the recent period;
- (3) Determined according to the composite assessable value. The formula of the composite assessable value shall be: Composite assessable Value = Cost X (1 + cost plus margin)

For goods subject to Consumption Tax, the composite assessable value shall include Consumption Tax payable. "Cost" in the formula refers to the actual costs of products sold for sales of self-produced goods; and the actual costs of purchases for sales of purchased goods. The rate of cost-plus margin in The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

the formula shall be determined by the State Administration of Taxation.

Article 17

The "Purchase price" as mentioned in Paragraph 3, Article 8 of the Regulations includes the price paid by taxpayers to agricultural producers for purchasing tax-exempt agricultural products and the Agricultural Special Product Tax withheld according to the regulations. The "price paid" as mentioned in the preceding paragraph refers to the price specified on the purchasing voucher approved for use by the competent tax authorities.

Article 18

For mixed sales activities and non-taxable services which are subject to VAT according to the stipulations of Article 5 and Article 6 of these Detailed Rules, the input tax on goods purchased for use in the non-taxable services involved in the mixed sales activities or in the non-taxable services that satisfies the stipulations of Article 8 of the Regulations is allowed to be credited from the output tax.

Article 19

"Fixed assets" as mentioned in Article 10 of the Regulations refers to:

- (1) Machinery, mechanical apparatus, means of transport, and other equipment, tools and apparatus related to production or business operations with a useful life of more than one year;
- (2) Article that are not the main equipment for production or business operations but with a unit value of more than 2000 RMB and a useful life of more than two years.

Article 20

"Non-taxable items" as mentioned in Article 10 of the Regulations refers to the provision of non-taxable services, the transfer of intangible assets, the sales of immovable properties and fixed assets under construction, etc. The construction, re-construction, expansion, repairing and decoration of buildings by the taxpayer, regardless of the accounting treatment under the accounting system adopted, shall be included in the "fixed assets under construction" as mentioned in the proceeding paragraph.

Article 21

"Abnormal losses" as mentioned in Article 10 of the Regulations refers to losses other than the normal wear and tear in the course of production or business operations. They include:

- (1) Losses due to natural disasters;
- (2) Losses due to theft, spoilage or deterioration, etc., resulting from improper management;
- (3) Other abnormal losses.

Article 22

Where input tax has already been claimed on goods purchased or taxable services under the circumstances listed in Paragraphs (2) to (6) in Article 10 of the Regulations, the input tax of these goods purchased or taxable services shall be deducted from the input tax of that period. If that input tax cannot be determined accurately, the input tax to be deducted shall be computed based on the actual costs of that period.

Article 23

For taxpayers engaged in tax-exempt items or non-taxable items (not including fixed assets under construction) and where the input tax cannot be determined accurately, the non-creditable input tax shall be computed according to the following formula: Sum of the sales amounts of tax-exempt items and

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turnover of non-taxable

Non-creditable Total input tax items of the month

= x -----

input tax of the month Sum of the total sales=amount and turnover of the month

Article 24

The standards for small-scale taxpayers as mentioned in Article 11 of the Regulations are as follows:

- (1) Taxpayers engaged in the production of goods or the provision of taxable services, and taxpayers engaged principally in the production of goods or provision of taxable services but also in wholesaling or retailing of goods, the annual sales amount of which subject to VAT (hereinafter referred to as "taxable sales amount") is below 1 million RMB;
- (2) Taxpayers engaged in wholesaling or retailing of goods, the annual taxable sales amount of which is below 1.8 million RMB. Regardless whether the annual taxable sales amounts exceed the standards for small-scale taxpayers, individuals, non-enterprise units, and enterprises which do not often have taxable activities, are chargeable as small-scale taxpayers.

Article 25

The sales amount of small-scale taxpayers does not include the tax payable.

For small-scale taxpayers selling goods or providing taxable services that adopt the method of setting prices by combining the sales amount and the tax payable, the sales amount is computed according to the following formula:

Sales amount including tax

Sales amount = -----

1 + Assessable rate

Article 26

For small-scale taxpayers, the sales amount refunded to the purchasers due to returns inward or discount allowed shall be deducted from the sales amount for the period in which the returns inward or discount allowed occurs.

Article 27

"Sound accounting" as stated in Article 14 of the Regulations refers to the capability of accurately accounting for the output tax, input tax and tax payable in accordance with the accounting regulations and the requirements of the tax authorities.

Article 28

Individual operators that satisfy the conditions as prescribed in Article 14 of the Regulations and after the approval of the bureaux directly under the State Administration of Taxation can be confirmed as general taxpayers.

Article 29

Once the small-scale taxpayers have been confirmed as general taxpayers, they cannot be reclassified as small-scale taxpayers.

Article 30

General taxpayers in any of the following circumstances shall compute the tax payable based on the sales amount and according to the VAT rates, but no input tax can be credited and special VAT invoices shall not be used:

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- (1) The accounting system is unsound or cannot provide accurate tax information;
- (2) The conditions of general taxpayers are satisfied but the taxpayer has not applied or processed the confirmation procedures as general taxpayers.

Article 31

The scope of part of the tax-exempt items listed in Article 16 of the Regulations are prescribed as follows:

- (1) "Agricultural" as mentioned in Item (1) of Paragraph (1) refers to planting, breeding, forestry, animal husbandry and aquatic products industry.

"Agricultural producers" includes units and individuals engaged in agricultural production.

"Agricultural products" refers to primary agricultural products. The detailed scope of this definition shall be determined by the taxation bureaux directly under the State Administration of Taxation.

- (2) "Antique books" as mentioned in Item (3) of Paragraph (1) refers to the ancient books and old books purchased from the public.

- (3) "Articles" as mentioned in Item (8) of Paragraph (1) refers to goods other than yachts, motorcycles, and motor vehicles that are subject to Consumption Tax. "Articles which have been used" refers to goods that have been used by "other individuals" as mentioned in Article 8 of these Detailed Rules.

Article 32

The scope of application of "VAT minimum threshold" as mentioned in Article 18 of the Regulations is limited to individuals. The range of the VAT minimum threshold are stipulated as follows:

- (1) The minimum threshold for sales of goods shall be monthly sales amount of 600 to 2000 RMB.
- (2) The minimum threshold for sales of taxable services shall be monthly sales amount of 200 to 800RMB.
- (3) The minimum threshold for assessment on a transaction-by-transaction basis shall be sales amount per transaction (or per day) of 50 to 80 RMB. "Sales amount" as mentioned in the preceding paragraph refers to the "sales amount of small-scale taxpayers" as mentioned in the first paragraph of Article 25 of these Detailed Rules. The bureaux directly under the State Administration of Taxation shall determine the minimum threshold locally applicable within the prescribed range and in accordance with the actual conditions and shall report these amounts to the State Administration of Taxation for their records.

Article 33

The timing at which the tax liability arises on the sales of goods or taxable services as prescribed in Item (1), Article 19 of the Regulations is specified according to the different methods of settlement as follows:

- (1) For sales of goods under the direct payment method, it shall be the date on which the sales sum is received or the documented evidence of the right to collect the sales sum is obtained, and the bills of lading are delivered to purchasers, regardless whether the goods are delivered;
- (2) For sales of goods where the sales amount is entrusted for collection, including where entrusted to banks for collection, it shall be the date on which the goods are delivered and the procedures for entrusted collection are completed;
- (3) For sales of goods on credit or receipt by installments, it shall be the date of collection agreed according to the contracts;
- (4) For sales of goods with payment received in advance, it shall be the date on which the goods are delivered. The copyright and/or other intellectual property rights of China Business Engine including related text, images, charts, sound, animation, and videos, and their arrangement on the China Business Engine website, are protected by copyright and other protective laws.

delivered;

(5) For sales of goods on a consignment to other taxpayers, it shall be the date on which the detailed account of consignment sales are received from the consignee;

(6) For sales of taxable services, it shall be the date on which the services are provided and the sales sum is received or the documented evidence of the right to collect the sales sum is obtained;

(7) For taxpayers that have the activities that are considered as sales of goods as listed from Item (3) to Item (8) in Article 4 of these Detailed Rules, it shall be the date on which the goods are transferred.

Article 34

For overseas units or individuals selling taxable services within the territory but have not set up any business establishment within the territory, the agents shall be the withholding agents for their tax payable. If there are no agents, the purchaser shall be the withholding agent.

Article 35

For business without a fixed base selling goods or taxable services in a different county (or city) and have not reported and paid tax with the competent tax authorities where the sales take place, the competent tax authorities of the location where the establishments are located or where the individual resides shall collect the overdue tax.

Article 36

"Tax authorities" as mentioned in Article 20 of the Regulations is the State Administration of Taxation, and the collecting authorities thereunder.

"The competent tax authorities" and "the collecting authorities" as mentioned in the Regulations and these Detailed Rules refer to branches offices under the State Administration of Taxation at county level and above.

Article 37

"Above" and "Below" as mentioned in these Detailed Rules also include the figure or the level itself.

Article 38

These Detailed Rules shall be interpreted by the Ministry of Finance or by the State Administration of Taxation.

Article 39

These Detailed rules shall be implemented on the date the Regulations come into effect. The Implementation of the Draft Regulations of the People's Republic of China on Value-Added Tax> and the Implementation of the Draft Regulations of the People's Republic of China on Product Tax> promulgated by the Ministry of Finance on September 28, 1984 shall be repealed on the same date.

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