China’s VAT system takes significant steps forward in applying international best practice VAT policies

Background

China’s State Council, Ministry of Finance (MoF), the State Taxation Administration (STA) and General Administration of Customs (GAC) released new VAT policies and implementation rules which significantly progress China’s efforts to better align its VAT rules with OECD principles. The changes will certainly bring welcome relief to businesses, since they will reduce the overall tax burden impact on business and represent a significant step by the government to enhance economic activity in certain sectors.

By way of context, in early March 2019, the Chinese government announced a reduction in its headline VAT rate from 16% to 13%, together with a reduction of its 10% VAT rate to 9%. Premier Li Keqiang recently confirmed that those rate reductions would take effect from 1 April 2019. KPMG’s China Alert issue No.8 of 2019, contains a full analysis of this earlier announcement.

With China’s State Council announcement on 20 March 2019, together with the release on 21 March 2019 of Announcement No.39 of 2019, STA Announcement No. 14 and No. 15 and other regulations, these new policies represent some of the most progressive steps taken in applying international best practice in VAT systems in many years. In particular, in addition to formalizing the reduction in VAT rates in the VAT regulations, these new rules will also necessitate all businesses claiming new credits or altering their compliance practices, including:

- by opening up VAT refunds for excess input VAT credits, potentially to all businesses;
- the implementation of a 10% ‘super deduction’ for certain industries;
- revisions to VAT refund rates affecting exporters and the deemed input tax credit of purchasing agricultural products necessitated by the changes to the VAT rates;

Regulations discussed in this issue:

• Announcement by China’s State Council on 20 March 2019
• Implementation rules released by MoF, STA and GAC dated 21 March 2019
significant cashflow benefits in allowing full input VAT credits up-front for purchases of real estate and projects under construction; and
- allowing input VAT credits for transportation services, which necessitate changes to corporate reimbursement policies.

Each of these measures is discussed below.

**VAT refunds for excess input VAT credits**

A key feature of the Chinese VAT system for many years has been the inability to claim refunds of excess input VAT credits (except to the extent of carrying out zero rated exports). Instead, excess input VAT credits may only be carried forward to be used to offset output VAT in future tax periods. This has often necessitated considerable tax planning to avoid entities or branches with ‘trapped’ credit balances within company groups. It has also led to considerable cashflow issues for businesses in their early stages and as they grow.

Announcement No.39 of 2019 introduces a VAT refund mechanism on a ‘trial basis’ from 1 April 2019. While there are a number of conditions attached to the eligibility for refunds, the major aspects of the new policy are:

- The VAT credit balance must have grown incrementally for 6 consecutive months (or two consecutive quarters, for those who file on a quarterly basis), starting from April 2019;
- The VAT credit balance must have grown by not less than RMB 500,000 over that same 6 month period;
- The taxpayer’s tax credit rating must be an “A” or “B” (which effectively denotes them as being highly compliant taxpayers);
- The taxpayer cannot have had cases of fraudulent refund claims, false issuance of special VAT invoices or tax evasion penalties (no more than twice), within the 3 year period preceding the applicable tax refund;
- The taxpayer has not benefited from the VAT refund upon collection and VAT refund after collection policies from 1 April 2019;
- The refunds which are provided are only those incrementally accruing from 1 April 2019 – in other words, VAT credit balance amounts prior to 1 April 2019 are effectively quarantined and cannot be refunded;
- The refund which is eventually allowed represents 60% of the incremental VAT refund available while only input VAT credits supported by special VAT invoices, customs clearance certificates, or tax clearance certificates for imported services can be refunded.

This is not the first time in which the Chinese government has proposed a ‘trial’ for VAT refunds. However, what is critical is whether these new rules will be applied to grant refunds ‘as of right’, rather than being limited by discretions and other factors beyond the taxpayer’s control.

It is also noteworthy that unlike many other countries, China still does not allow foreign entities to register for VAT and claim VAT credits or refunds on costs incurred. This suggests that while improvements to the VAT system may have been made, full adherence to OECD principles still has a way to go.

**VAT ‘super deductions’**

In a move which seems to have no international precedent to it, the government has announced that for the period from 1 April 2019 to 31 December 2021, taxpayers in the following industries are eligible for a 10% ‘super deduction’:

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— Postal services

— Telecommunications services

— Modern services, which includes research and development and technical services, information technology services, cultural and creative services, logistics services, logistics and ancillary services, certification and consulting services, leasing, radio, film and television services, business support services

— Lifestyle services, which includes cultural and sports services, education and healthcare, travel and entertainment, food and beverage, accommodation and citizens daily services.

Notably, the rules would seem to exclude manufacturers, wholesalers and retailers from the super deduction, as well as the financial services, transportation, real estate and construction service industries.

Broadly, the super deduction rules effectively allow eligible businesses to increase their input VAT credits by 10%. However, there are a number of provisos and rules governing the eligibility for super deductions, including:

— The eligible services referred to above must comprise > 50% of total sales, initially in the 12 months preceding 1 April 2019, with the regulation providing for a statement by taxpayers to self-assess and declare their eligibility for such preferential treatment;

— There are special rules governing new businesses which commence operations on or after 1 April 2019, in which sales from the first 3 months of operations are measured;

— There are special rules governing how input VAT credit carry forward balances impact the calculations;

— There are also special rules preventing access to the super deduction for taxpayers exporting goods and services.

In economic terms, the impact of the super deduction in affected industries will depend on their profit margins and the composition of their inputs. However, conceptually it may mean an effective VAT rate reduction of around 0.5% for those businesses paying VAT at the 6% rate assuming about half of their cost structure is subject to VAT. Taxpayers should set up separate accounts to track the movement of the super deduction and its balance.

**Changes to VAT refund rates**

One unique feature of China’s VAT system is that while exports of goods are zero rated, the concept of ‘zero rating’ does not mean the same as that term ordinarily means in international VAT parlance. In particular, while exports of goods are not subject to output tax, the supplier is potentially not eligible to claim full input VAT credits for its associated costs, such as raw materials and other consumables used in producing the goods being exported. Instead, the refund rate is determined by reference to the HS Customs code used for the goods.

The refund rates reflect a broad principle that exports of goods which the government wishes to promote are generally eligible for full or higher rates of refund, as compared with exports of goods which are highly pollutant to manufacture or produce.

As a consequence of the reduction in the VAT rates, it has been necessary for the government to announce new VAT refund rates. The following table shows the VAT refund rates before and after 1 April 2019:
<table>
<thead>
<tr>
<th>Time</th>
<th>VAT refund rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 1 April 2019</td>
<td>0% 5% 6% 10% 13% 16%</td>
</tr>
<tr>
<td>On or after 1 April 2019</td>
<td>0% 5% 6% 9% 13% 13%</td>
</tr>
</tbody>
</table>

To cater for transitional issues such as stock on hand, for the period to 30 June 2019 the applicable VAT refund rate may reflect the (higher) VAT rates applicable at the time of purchase.

**Full input VAT credit for real estate and projects under construction**

Announcement 39 of 2019 confirms that businesses registered as general VAT taxpayers no longer need to stage their input VAT credit claims for purchases of real estate and projects under construction over a 2 year period. Instead, input VAT credits for purchases of real estate and construction services are claimable in full up-front, provided the purchase is for a taxable purpose. There is a special transitional rule to deal with purchases which have not yet benefited from a full input VAT credit at the time these new policies take effect.

Announcement 14 of 2019 contains ‘change of use’ rules which require input VAT credits to be adjusted where actual use of an asset does not align with intended use for business purposes.

**Transportation services – impact on all businesses**

Announcement No.39 of 2019 provides businesses registered as general VAT taxpayers with the entitlement to claim input VAT credits for domestic passenger transport services. This means, in effect, that for the first time businesses are eligible to claim input VAT credits for domestic flights, rail and road transportation services (including taxi fares if the support invoices are VAT electronic general invoices or have the passenger ID information), all of which become subject to the 9% VAT rate from 1 April 2019.

A key issue which arises from these changes is the impact on business travel. In particular, businesses registered as general VAT taxpayers will need to ensure they obtain special VAT invoices for business-related passenger transport services taken by their employees in the course of their work.

Eligible businesses will need to take steps to either contract directly with transportation service providers (so as to facilitate the issuance of special VAT invoices), or to reimburse their employees upon receiving special VAT invoices addressed to the employer.

Having said that, the new rules do allow input VAT credits to be claimed using alternative forms of evidence such as VAT electronic general invoices, travel itineraries, railway tickets and other similar travel related documentation. However, in practice it may be expected that once transportation service providers have the opportunity to upgrade their systems to issue special VAT invoices, reliance on these alternative forms of documentary evidence may become less common.

Employers will need to be able to configure their systems and processes so as to differentiate:

— International travel (exempt from VAT) from domestic transportation;
— Business-related travel from travel carried out for staff welfare purposes.

One further key consequence of these changes is on travel agents and transportation service providers. In particular, many travel agents apply either a ‘net basis’ method, or alternatively, a ‘buy-sell’ method, depending on the needs of their customer base. These changes may no longer produce any real benefit in applying a ‘net basis’ method to transport services they procure or arrange. Certain transport service providers will need to configure their systems and processes to produce relevant invoice documentation for their customers, and where alternative documents such as passenger tickets are produced, the inclusion of passenger identification information.

Conclusions

The measures introduced by the State Council and in Announcement No.39 of 2019 are all positive for businesses operating in China. In addition to the above rules, there are also VAT invoice issuance and VAT filing related rules designed to facilitate a smooth transition. As such, to take full advantage and to minimise compliance risks, businesses will need to review their contracts, accounting treatment, end to end systems, processes and documentation within a relevant short time period.

Further assistance

For assistance with these issues, please contact a member of our VAT team or your usual KPMG adviser.
Contact us

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