

Clarifications on PRC Value-added Tax Treatments on Export of Services



Mazars Tax Newsletter, January 2012

Background

Pursuant to the tax circulars Caishui [2011] No. 110 ("Circular 110") and 111 ("Circular 111") which outline the framework of the Value-added Tax ("VAT") Pilot Reform in China, the export of services would be subject to either VAT zero-rate or exemption treatments.

However, the details have not been clarified until the issuance of Caishui [2011] No. 131 "Notice On VAT Zero-rate or Exemption Treatments On Pilot Services" ("Circular 131").

Circular 131 is effective from January 1, 2012. We set out below which categories of services are entitled to zero rate or VAT exemption treatments. The different treatments could have tax implications to service providers.

For details, please refer to our comments below.

Pilot Services Subject to VAT Zero-rate or Exemption Treatments

* Transportation of service

Circular 111	Circular 131	
Service scope	Zero-rate (Note 1)	VAT exemption
(1) Land transportation (excluding railway transportation); (2) Water transportation; (3) Air transportation; (4) Pipeline transportation.	Qualified international transportation services (Note 2)	Non-qualified international transportation services (Note 2)

* R&D and technology services

Circular 111	Circular 131	
Service scope	Zero-rate (Note 1)	VAT exemption
R&D services	R&D services to overseas recipients	
Technology transfer services		Technology transfer services to overseas recipients
Technology consulting services		Technology consulting services to overseas recipients
Contract energy management services		Contract energy management services to overseas recipients (excluding the services that the concerned objects are inside China)
Project survey and exploration services		Project survey and exploration services that the concerned projects or mineral resources are outside of China



* Information technology services

Circular 111	Circular 131	
Service scope	Zero-rate (Note 1)	VAT exemption
Software services		Software services to overseas recipients
Circuit design and testing services		Circuit design and testing services to overseas recipients
Information system services		Information system services to overseas recipients
Business process management services		Business process management services to overseas recipients

* Cultural and creative services

Circular 111	Circular 131	
Service scope	Zero-rate (Note 1)	VAT exemption
Design services	Design services to overseas recipients (excluding design services in relation to immovable properties located in China)	
Trademark and copyright transfer services		Trademark and copyright transfer services to overseas recipients
IP services		IP services to overseas recipients
Advertising services		Advertisements that are released outside of China
Conference and exhibition services		Venues of conferences and exhibitions that are held outside of China

* Logistics auxiliary services

Circular 111	Circular 131	
Service scope	Zero-rate (Note 1)	VAT exemption
(1) Aviation services; (2) Port services; (3) Transport terminal services; (4) Salvage assistance services; (5) Cargo transport agent services; (6) Customs brokerage services; (7) Storage services; (8) Load-unloading services.		Storage services that the storage places are located outside of China; Logistics auxiliary services to overseas recipients (excluding storage services).



* Leasing of tangible movable assets

Circular 111	Circular 131	
Service scope	Zero-rate (Note 1)	VAT exemption
(1) Operating leasing; (2) Finance leasing.		Leasing of tangible moveable assets that are used outside of China

* Certification and consulting services

Circular 111	Circular 131	
Service scope	Zero-rate (Note 1)	VAT exemption
(1) Verification services; (2) Certification services; (3) Consulting services.		Verification, certification and consulting services to overseas recipients (excluding services in relation to domestic goods or immovable properties).

Note 1:

The stipulated services should be subject to general VAT computation methods. Otherwise, VAT exemption treatment should be applied.

Note 2:

Qualified international transportation services refer to the following services which are provided by licensed units and individuals:

- Transportation of passengers or goods out of China;
- Transportation of passengers or goods into China;
- Transportation of passengers or goods outside China.

For the international transportation services provided by non-licensed units and individuals, they should be subject to VAT exemption treatment.

Comments

Circular 131 clarifies the long-awaited VAT treatments to the export of services.

As for the VAT zero-rate services (currently the VAT refund rate of the zero-rate services are the same as the respective levy rates), the input VAT can be refunded for a general taxpayer. However, for the VAT exemption services, the input VAT should be transferred out and be treated as the cost of the taxpayer, the affected taxpayers should assess the impact on their business. For the taxpayers that provide VAT-able services and VAT exemption services, the input VAT should be distinguished clearly for input VAT non-credit purpose, otherwise the non-creditable input VAT should be computed according to the method stipulated in Caishui [2011] No. 111.

In addition, Circular 131 regulates that the VAT zero-rate treatment should be filed with the tax office in charge on monthly basis. As to the procedures or documentation requirements for VAT zero-rate treatment, the Ministry of Finance and the State Administration of Taxation will clarify separately at a later stage. Circular 131 does not mention whether VAT exemption treatment should also need to be filed with the tax office in charge.

Mazars Greater China

Beijing

901 Citychamp Building
No.12 Tai Yang Gong Zhong Lu - Chao Yang District
100028 Beijing
Tel.: (+86 10) 8429 8078

Joey ZHOU

Manager
Tel: (+86 10) 8429 8078 #228
Email: joey.zhou@mazars.com.cn

Guangzhou

1308, Grand Tower
No. 228 Tianhe Road - Tianhe District
510620 Guangzhou
Tel.: (+86 20) 3833 0235

Benoit STOS

Partner
Tel: (+86 20) 3833 0235 #210
Email: benoit.stos@mazars.com.cn

Hong Kong

42nd Floor, Central Plaza,
18 Harbour Road
Wanchai, Hong Kong
Tel.: (+ 852) 2909 5555

Michael TO

Executive Director
Tel: (+852) 2909 5680
Email: Michael.to@mazars.com.hk

Shanghai

8th Floor, One Lujiazui
No. 68 Yin Cheng Middle Road
200120 Shanghai
Tel.: (+86 21) 6168 1088

Peter LAW

Senior Manager
Tel: (+86 21) 6168 1088 #321
Email: peter.law@mazars.com.cn

Flame ZHENG

Senior Manager
Tel: (+86 21) 6168 1088 #629
Email: flame.zheng@mazars.com.cn

The information contained in this presentation is for general guidance on matters of interest only and is not meant to be comprehensive. The application and impact of laws can vary widely based on the specific facts involved.

Readers are advised to consult their advisors before acting on any information contained in this presentation.