

Further Clarifications on the Pilot Value-added Tax Reform



Mazars Tax Newsletter, January 2012

Background

On November 16, 2011, the Ministry of Finance (“MOF”) and the State Administration of Taxation (“SAT”) jointly issued two circulars Caishui [2011] No. 110 (“Circular 110”) and Caishui [2011] No. 111 (“Circular 111”) effective from January 1, 2012.

The two circulars introduce changes to the prevailing tax treatments and procedures on pilot services in Shanghai. Caishui [2011] No. 133 (“Circular 133”) provides clarification to various issues.

Detailed Regulations

Circular 133 addresses the following key points in relation to the pilot VAT reform:

(1) Sales of used fixed assets

“Used fixed assets” refers to fixed assets which have been depreciated according to the PRC GAAP.

For the pilot general VAT payers,

- When they sell used fixed assets which are purchased or self-made on or after January 1, 2012, the VAT payable should be computed as follows:

$$\text{VAT payable} = \text{Sales revenue including VAT} / (1+17\%) * 17\%$$

- When they sell used fixed assets which are purchased or self-made on or before December 31, 2011, the VAT payable should be computed as follows:

$$\text{VAT payable} = \text{Sales revenue including VAT} / (1+4\%) * 4\% / 2$$

(2) Taxation methods

Pilot general VAT payers who also sell goods or provide processing and repairs and replacement services should be subject to PRC VAT under the general taxation methods unless they are entitled to selecting simplified tax method under the relevant regulations.

Currently only the following taxpayers may select the simplified taxation methods:

- Non-corporate entity;
- Enterprises or individual household businesses which do not provide taxable services on a recurring basis;
- Pilot general VAT payers who render the public transportation services.



(3) Provision of cross-year services

For pilot VAT payers that are originally subject to business tax (“BT”) on a “net income” basis pursuant to the BT regulations (except for cross-year leasing of moveable and tangible assets), if the deductible items exceed the total services revenue and the additional charges on or before December 31, 2011, the taxpayers should only apply for BT refund.

Under Article 5 of the Interim Regulations of the People’s Republic of China on BT, taxpayers who subcontract their transportation work to other units or individuals, taxpayers engaged in tourism, taxpayers who subcontract construction work to others and transactions of financial products are subject to BT based on turnover less certain qualifying payments to subcontractors or other deductions or charges.

If BT was paid for taxable services provided by a pilot VAT taxpayer on or before December 31, 2011, the turnover is subsequently reduced as a result of refund, say to customer, made on or after January 1, 2012, the taxpayer should apply for BT refund.

For pilot services provided on or before December 31, 2011, if it is found that there is additional tax to be paid during subsequent tax inspection, the taxpayer should pay BT according to the prevailing BT regulations.

According to Circular 111, pilot VAT payers who are taxed on a net income basis pursuant to the current BT regulations could continue to deduct the “payment to the Non-pilot taxpayers” from the total fee for VAT purpose. The “payment to the Non-pilot taxpayers” does not include payment which has already been used for input VAT credit purpose.

Comments

It is expected that the SAT and MOF may issue further regulations and rules. Affected taxpayers should pay close attention to the upcoming tax regulations and take swift action to comply with the new requirements.

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 contains 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.