China alert

Tax and regulatory developments

TAX

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Exports from China can be subject to VAT at 17 percent

In brief

- Export tax will be levied on certain types of export goods
- The tax refund calculation method for new exporting enterprises has also been adjusted
- This issue of China alert introduces the changes, and their likely impact on exporting enterprises in China

Relevant regulations discussed in this issue:

Notice regarding tax refund (exemption) for export goods, Guoshuifa [2006] No. 102, issued on 12 July 2006 by the State Administration of Taxation, effective from 1 July 2006 (Notice 102)

Notice regarding tax refund for export goods, Guoshuifa [2000] No. 165, issued on 22 December 2000 by the State Administration of Taxation, effective from 22 December 2000 (Notice 165)

In July 2006, the State Administration of Taxation (SAT) issued Notice 102, which labelled certain categories of export goods as "sold in the domestic market", and hence subject to export VAT of 17 percent. In order to reduce the associated tax costs, export enterprises should seek alternatives to exporting the specified goods.

Categories of export goods deemed to be "sold in the domestic market" include:

- State-specified non-refundable/non-exempt goods, e.g. timber and paper pulp
- Non self-manufactured goods of manufacturing enterprises, with the exception of the following four types of goods automatically deemed to be "self-manufactured" under Notice 165 :
  - Goods with the same brand name, function and trademark as self-manufactured goods
  - Goods attached or supplementary to the self-manufactured goods
  - Goods purchased from group companies which were approved by the tax authorities
  - Goods, subject to certain criteria, received from commissioned enterprises
- Goods on which tax refunds or exemptions were not declared within 90 days of the customs declaration

- For goods exported via an agent who has failed to apply to the relevant tax authorities for issuance of a "Export Agent Certificate" within 60 days of customs declaration

- Goods on which the statutory documentation was not submitted to the relevant tax bureau within the below deadlines:

Declaration documents	Statutory deadlines
Export declaration certificate (the export tax refund copy)	90 days after export declaration
Export-related foreign currency receipt certificate	180 days after export declaration (except for forward collection)
Export agent certificate (for goods exported via an agent)	90 days after export declaration
Export VAT invoice tax credit copy/Consumption tax payment receipt (if applicable)	90 days after export declaration

VAT calculations

In Notice 102, the Output VAT for export goods deemed to be "sold in the domestic market" is calculated as follows. The Input VAT in relation to the said export goods is now creditable.

Export under general trade:

Output VAT = [(Export FOB value x official RMB exchange rate) ÷ (1+VAT rate)] x VAT rate

Formula is amended for export under import processing:

Old: Output VAT = [((Export FOB value – VAT free imports CIF) x official RMB exchange rate) ÷ (1+ applicable tax rate)] x applicable tax rate

Amended (results in higher Output VAT):
Output VAT = [(Export FOB value x official RMB exchange rate) ÷ (1+ applicable tax rate)] x applicable tax rate

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Contact us

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How Notice 102 affects your company

Areas to consider	Manufacturing enterprises	Trading enterprises
For manufacturing enterprises exporting significant amount of non-self manufactured goods which are not one of the four types of exempt goods	Consider setting up a Foreign Investment Commercial Enterprise to handle such export trade and reduce tax costs	Not applicable
Monitoring critical deadlines for export refunds	Set up an internal control system for monitoring the critical deadlines	Set up an internal control system for monitoring the critical deadlines

Tax refund for enterprises first doing export business

Prior to Notice 102, enterprises which had been exporting for less than 12 months were not allowed to refund export tax paid on a monthly basis. That amount of tax refundable had to be carried forward to offset the Output VAT for domestic sales. After the 12-month period, enterprises not falling into the scope of "small export enterprise" can calculate their tax refunds on a monthly basis under the "Exempt, Set-off, Refund" method.

Notice 102 now allows export enterprises, regardless of their size, to calculate their tax refunds on a monthly basis using the "Exempt, Set-off, Refund" method from the date of their first export. New export enterprises will benefit from obtaining their tax refund earlier, thereby improving their cash flow situation.

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