

China alert

Tax and regulatory developments

TAX

Issue 35, April 2009

VAT repaid for releasing duty-free equipment from customs supervision is VAT creditable

In Brief

- Starting from 1 January 2009, the VAT repaid on duty-free equipment to release it early from customs supervision is creditable for VAT purposes.
- Sales of the above-mentioned equipment are subject to VAT.

Relevant regulation discussed in this issue:

Reply of the State Administration of Taxation on issues concerning the credit of import VAT on the duty-free equipment which was imported in a tax-free manner and is released from the customs supervision, Guoshuihan [2008] No.158, issued by the State Administration of Taxation on 30 March 2009 (Circular 158)

Background

In China, the use of any equipment that qualifies for duty free treatment is supervised by the Customs authorities. Repayment of customs duty and VAT (VAT Repaid) are required in order to have the duty-free equipment released early from customs supervision.

According to the newly promulgated VAT Provisional Regulations, input VAT of fixed assets (including equipment) is creditable for VAT purposes. *Notice on certain issues concerning the VAT reform within China* (Circular 170) (see KPMG China Alert Issue 6 in January 2009 for details) states that starting from 1 January 2009, the policy of import VAT exemptions on equipment will be abolished. VAT payment for equipment importation is VAT creditable. However, Circular 170 does not clarify whether the VAT Repaid is also VAT creditable.

Contents

Circular 158 is a reply to the Shenzhen State Tax Bureau's queries issued by the State Administration of Taxation in Beijing (SAT). In Circular 158, the SAT stated that VAT Repaid is VAT creditable if the relevant VAT invoices are obtained from Customs after 1 January 2009.

Circular 158 also clarifies that subsequent sales of the duty-free equipment released early from customs supervision will be subject to VAT.

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Please be reminded that Circular 158 is a reply issued by the SAT to a specific tax bureau only. Other tax authorities can make reference to Circular 158 but there could be variations in the local treatment adopted and applied by different tax authorities.

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