The Draft Detailed Implementation Rules of the Value-Added Tax Law is officially released for public consultation, with many key points worthy of attention

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In brief

The *Value-Added Tax Law of the People's Republic of China*[1] (hereinafter referred to as the "VAT Law") was officially promulgated in December 2024 and will take effect on January 1, 2026. To ensure the smooth implementation of the VAT Law and in accordance with the State Council's 2025 Legislative Work Plan, the Ministry of Finance (MOF) together with the State Taxation Administration (STA) released the *Consultation Draft of the Detailed Implementation Regulations (DIRs) of the Value-Added Tax Law of the People's Republic of China*[2] (hereinafter referred to as the "Consultation Draft") on August 11, 2025, to solicit public opinions nationwide.

PwC conducted a study of the Consultation Draft promptly and preliminarily analyzed the differences between the Consultation Draft and the current VAT policies, to hopefully help enterprises to have a better understanding of the content of the document. Meanwhile, we will extensively collect feedback from enterprises and submit them to the MOF and the STA accordingly, contributing to the constructive process of the enactment of the VAT legal system.

In detail

The Consultation Draft made several adjustments to the current VAT policies. The specific ones to be noted are as follows:

General Provisions

I. Clarifying the definition of "consumption within the territory"

For the sales of services and intangible assets, the VAT Law stipulates that taxable transactions occurring within the territory refer to "services and intangible assets are consumed within the territory, or the seller being a domestic entity or individual". Article 4 of the Consultation Draft interprets "consumption within the territory" as: "(1) services or intangible assets sold by overseas entities or individuals to domestic entities or individuals, except for services consumed on-site overseas; (2) services or intangible assets sold by overseas entities or

individuals that are directly related to domestic goods, immovable properties, or natural resources; (3) other circumstances prescribed by the competent authorities of finance and taxation under the State Council."

Under the current VAT policies, the sales of services and intangible assets within the territory refer to the situation where either the seller or the buyer is located within the territory. Services entirely provided overseas or intangible assets sold by overseas entities or individuals to domestic entities or individuals that are entirely used overseas are not within the taxable scope of VAT.

Looking at the Consultation Draft, Article 4 (1) is basically consistent with the current VAT policies based on the VAT Law. The addition of Article 4 (2) implies that **overseas entities or individuals selling services or intangible assets** which are directly related to domestic goods, immovable properties, or natural resources **to other overseas entities or individuals** are subject to Chinese VAT. It should be noted that the concept of "directly related" is still not clear, which may lead to significant disputes in practice as the interpretation of that concept would be very subjective.

Tax Rates

II. The definition of "entirely consumed overseas" remains unclear

The policy of the zero VAT rate for exported goods, services and intangible assets stipulated in Article 9 of the Consultation Draft is basically consistent with the current VAT policies. It should be noted that the Consultation Draft does not clarify the concept of "entirely consumed overseas" nor mention the currently used expression of "unrelated to domestic goods and immovable properties". In addition, according to Appendix 4 of the *Notice Jointly Issued by the MOF and the STA on the Comprehensive Roll-out of the B2V Transformation Pilot Program*[3] (Caishui [2016] No.36), certain services provided to overseas entities that are entirely consumed overseas are **exempt from VAT**, which is not currently in the Consultation Draft. We hope that the concept of "entirely consumed overseas" and the provisions on VAT exemption can be clarified in the future supporting documents. Besides, the Consultation Draft defines "consumption within the territory" as including "sold services or intangible assets that are directly related to domestic goods, immovable properties, or natural resources", which may also serve as a reference for the concept of "entirely consumed overseas".

III. Clarifying the scope of application for "mixed sales"

The VAT Law stipulates that "if a taxpayer's single taxable transaction involves two or more tax rates or tax collection rates, the rates applicable to the main business of the taxable transaction shall be applied". Article 10 of the Consultation Draft further limits the specific situations relating the application of the above article, stating that "there should be an **obvious main-auxiliary relationship** between the businesses. The main business is the one in the dominant position, reflecting the essence and purpose of the transaction; the auxiliary business is the one which is necessary to supplement the main business and with the occurrence of the main business as a pre-requisite". In practice, it is necessary to determine whether the taxable transaction falls into this situation. If not, it does not belong to "a single taxable transaction" and should be subject to the relevant provisions on "concurrent business operations". The sales amounts of different taxable transactions shall be accounted for separately. Otherwise, the higher tax rate shall be applied.

Tax Payable

IV. Introducing a refund mechanism under the simplified VAT calculation method

Under the current VAT policies for simplified VAT calculation method, the sales amounts refunded to the buyers due to sales discounts, suspensions, or returns shall be deducted from the current sales amounts. If there is still a balance resulting in overpaid taxes after deducting the current sales amounts, such overpaid taxes can be deducted from future tax payable. Article 14 of the Consultation Draft proposes that the overpaid taxes mentioned above can be used for future deduction **or be refunded in accordance with the regulations**.

This modification clarifies the refund mechanism under the simplified VAT calculation method, which helps improve the cash flow of taxpayers using the simplified calculation method.

V. Purchasing Loan services still falling into the scope of non-creditable input VAT

According to Article 22 of the VAT Law, input VAT arising from loan services is not included in the scope of the non-creditable input VAT, which triggered heated discussions at the time of the promulgation of the VAT Law. Article 20 of the Consultation Draft clearly states that "input VAT corresponding to loan services purchased by a taxpayer as well as investment and financing advisory fees, handling fees, consulting fees, etc., paid to the lender directly related to the loan shall not be credited against output VAT", which is consistent with the current VAT policies.

VI. Input VAT related to "non-taxable transactions" is not creditable

Under the current VAT policies, input VAT corresponding to "non-taxable" sales amounts can be credited. Article 22 of the Consultation Draft stipulates that "input VAT related to goods, services, intangible assets, or immovable properties purchased by a taxpayer and used for **non-taxable transactions other than those stipulated in Article 6 of the VAT Law** shall not be credited against output VAT". This article should also be considered together with the "five categories of non-creditable items" specified in Article 26 of the Consultation Draft. Due to the broad scope of "non-taxable transactions", such as common examples of equity income, compensation payments without taxable transactions, etc., relevant taxpayers need to review and assess the impact of the non-creditable input VAT related to "non-taxable transactions" as early as possible.

VII. Annual reconciliations and adjustments required for unallocated input VAT that need to be transferred out

For "unallocated and non-creditable input VAT on goods (excluding fixed assets) and services purchased by general VAT taxpayers that are used for items subject to the simplified VAT calculation method or VAT-exempt items", both the current VAT policies and the Consultation Draft stipulate that "the non-creditable input VAT in the current period" shall be calculated based on the proportion of the sales amounts. The difference is that the current VAT policies provide that "the in-charge tax authority may reconcile the non-creditable input VAT based on the annual data using the above formula", while Article 23 of the Consultation Draft requires that "taxpayers shall calculate the non-creditable input VAT period by period using the above formula, reconcile and adjust based on the annual data within the VAT filing period in January of the following year". This helps improve the calculation accuracy of the non-creditable input VAT and brings higher requirements to enterprises on tax filing and compliance. Enterprises need to pay attention to whether there will be specific requirements and detailed rules for annual reconciliations and adjustments in the future, especially whether matters occurring before the VAT Law takes effect will be retroactively pursued or not.

VIII. Introducing the concept of "long-term assets" and adjusting the treatments of relevant input VAT

Article 26 of the Consultation Draft introduces the concept of "long-term assets", which include "fixed assets, intangible assets, and immovable properties", and clarifies the treatments of the input VAT of these acquired long-term assets:

(1) Input VAT of long-term assets exclusively used for the five categories of non-creditable items (items subject to the simplified calculation method, VAT-exempt items, non-taxable transactions, collective welfare, or personal consumption) is not creditable.

(2) Long-term assets concurrently used for taxable items subject to the general VAT calculation method and for items within the scope of non-creditable input VAT (hereinafter referred to as "mixed use"): for **a single long-term asset with an original value not exceeding 5 million yuan, the input VAT can be fully credited; for a single long-term asset with an original value exceeding 5 million yuan, the input VAT shall be fully credited at the time of purchase, and the non-creditable amount shall be calculated according to the depreciation or amortization and adjusted annually during the mixed use period.**

The Consultation Draft has made significant modifications to the input VAT treatments of fixed assets, intangible assets, and immovable properties under the current VAT policies. It distinguishes whether the input VAT of long-term assets for mixed use can be fully credited based on their original values. If an enterprise purchases a single long-term asset for mixed use with an original value exceeding 5 million yuan, its input VAT can no longer be fully credited. In addition, the current VAT policies stipulate that input VAT of "leased" fixed assets and immovable properties for mixed use can be fully credited. The Consultation Draft uses the term "acquired" instead of "purchased", so it should include various ways of acquisition, such as leasing.

Tax Incentives

IX. Clarifying that medical institutions that are eligible for VAT exemption do not include cosmetic medical institutions

Under the current VAT policies, medical institutions eligible for VAT exemption refer to those that have obtained the "Practice License of Medical Institutions" through registration in accordance with the documents released by the competent authorities, as well as all types of medical institutions at all levels of military and armed police forces. Therefore, medical services provided by cosmetic medical institutions with such qualifications are also within the scope of tax exemption. Article 28 of the Consultation Draft clearly states that cosmetic medical institutions will no longer be applicable to the VAT exemption policies.

X. Clarifying that non-compliant enjoyment of VAT preferential treatments shall face recovery by tax authorities

Article 35 of the Consultation Draft states that "if a taxpayer fails to separately account for the sales amounts or input VAT of the items applicable to VAT preferential treatments or illegally enjoys VAT preferential policies through various means such as providing false materials, it shall not be entitled to such VAT preferences. For those who have already enjoyed VAT preferential

policies, the tax authorities shall recover the corresponding taxes for the period during which they were not eligible for preferential policies. If tax evasion is constituted, it shall be dealt with in accordance with relevant regulations". This article clarifies that taxpayers enjoying VAT preferential policies have to separately account for the sales amounts and input VAT of preferential items and there must be no non-compliant or illegal behaviors, further ensuring the tax preferential treatments would be accurately enjoyed by eligible taxpayers and preventing the abuse use of preferential treatments. In addition, tax authorities have the right to recover taxes from taxpayers who have enjoyed VAT preferential treatments through the above-mentioned illegal means. However, it is not clear whether this recovery mechanism is subject to the 3-year or 5-year recovery period stipulated in the *Tax Collection and Administration Law* (in cases other than tax evasion). It is recommended that taxpayers review whether there were similar tax matters in the past so as to avoid related tax risks.

Tax Collection and Administration

XI. Small-scale taxpayers exceeding the standard threshold shall pay VAT according to the general VAT calculation method from the current period

The current VAT policies do not clearly stipulate the specific time when small-scale taxpayers exceeding the standard threshold shall pay VAT according to the general VAT calculation method. In practice, they usually start to calculate and pay VAT by the general calculation method from the month following the one in which they exceed the standard threshold. Article 38 of the Consultation Draft clearly requires that small-scale taxpayers shall calculate and pay VAT by the general calculation method from **the period in which they exceed the standard threshold**, and does not mention that "units and individual industrial and commercial households that exceed the specified standard threshold but do not frequently engage in taxable transactions may choose to pay tax as small-scale taxpayers", which may make the current policy for small-scale taxpayers more rigorous and strict.

XII. Integrating the scope of prepaid taxes

Article 48 of the Consultation Draft integrates and basically maintains the scope of prepaid VAT stipulated in different documents under the current VAT policies, including providing construction services in different locations, providing construction services by way of advance payments, selling immovable properties by way of pre-sale, transferring and leasing immovable properties in different locations, and oil & gas field enterprises selling services related to the production of crude oil and natural gas in different locations. It should be noted that "selling self-developed immovable properties by way of advance payments" in the current VAT policies has been adjusted to "**selling immovable properties by way of pre-sale**" in the Consultation Draft. Therefore, the scope of prepaid taxes may has been expanded.

XIII. Setting the application timeline for export tax refund (exemption)

Articles 51 and 52 of the Consultation Draft add that "if the tax refund (exemption)/VAT exemption is not applied within 36 months from the date of customs declaration for export, the goods/services/intangible assets shall be deemed as sold domestically and VAT shall be paid in accordance with the regulations", **setting the deadline for the application** of export tax refund (exemption)/VAT exemption. The right to apply for the export tax refund (exemption)/VAT exemption for the goods/services/intangible assets shall be cancelled from the perspective of tax collection and administration if the deadline is missed. This means that the provisions in the current VAT policies, which state that "where a taxpayer exports goods and services or engages in cross-border taxable transactions and fails to declare export tax refund (exemption) or issue the 'Certificate of Proxy Export Goods' within the specified timeline, the taxpayer can apply for tax refund (exemption) after collecting all tax refund (exemption) certificates and relevant electronic information; if the taxpayer fails to collect foreign exchange or go through the procedures for non-collection of foreign exchange within the specified timeline, the taxpayer can apply for tax refund (exemption) after collecting foreign exchange or completing the procedures for non-collection of foreign exchange", will be replaced accordingly. It is worth noting that whether there will be exceptional circumstances regarding the 36-month deadline in the future, thereby giving enterprises the possibility to apply for an extension. For example, the *Public Notice Issued by the STA Extending the Timeline for the Application of Export Tax Refund (Exemption)* (Public Notice [2015 No.44])[4] (the Public Notice has been abolished) once provided extension under certain circumstances, including force majeure such as natural disasters and social emergencies, failure to obtain export tax refund (exemption) application documents on time due to economic disputes between buyers and sellers, failure to provide export goods declaration forms on time as the customs has not completed the modification requested by the enterprise by the deadline for tax refund (exemption), etc.

XIV. Adding general anti-avoidance clause

Article 56 of the Consultation Draft adds a general anti-avoidance clause: "where a taxpayer implements arrangements without reasonable commercial purposes to reduce, exempt, or delay the payment of VAT, or increase or advance the refund of VAT,

the tax authority shall have the right to make adjustments by reasonable methods". Article 20 of the VAT Law and Article 18 of the Consultation Draft already contain provisions on the verification of taxpayers' sales amounts that are significantly low or high without valid reasons. However, these may not be sufficient to deal with complex tax avoidance situations in practice. The general anti-avoidance clause as a catch-all provision, covers all types of arrangements lacking reasonable commercial purposes. In addition, the adjustment method of "adjustments by reasonable methods" will be broader than "assessing sales amounts", requiring both tax authorities and taxpayers to conduct comprehensive assessments on commercial purposes and tax avoidance purposes. The *Tax Collection and Administration Law (Revised Draft for Comment)* released in March 2025 also included this clause, which reflects the trend of incorporating general anti-avoidance into tax legislation. Enterprises engaging in VAT-related transactions need to consider reasonable commercial purposes and their impact on taxation to avoid adjustments by the tax authorities.

The takeaway

The deadline for collecting opinions on the Consultation Draft is **September 10, 2025**. The public can put forward their opinions on the Consultation Draft by logging in to the official website of the MOF or by post. You are also welcomed to contact our tax experts to discuss relevant issues. As this issue of News Flash is a preliminary analysis of the Consultation Draft, we will continue to follow the progress of the promulgation of the DIRs of the VAT Law and share our observations in a timely manner.

Endnote

1. *Value-Added Tax Law of the People's Republic of China*
   https://fgk.chinatax.gov.cn/zcfgk/c100009/c5237365/content.html

   For insights on the VAT Law, please refer to PwC's *Tax and Business News Flash Issue 19, 2024*
   https://www.pwccn.com/en/china-tax-news/2024q4/chinatax-news-dec2024-19.pdf

2. *Consultation Draft of the DIRs of Value-Added Tax Law of the People's Republic of China*
   https://www.chinatax.gov.cn/chinatax/n810356/n810961/c5242227/content.html

3. *Notice Jointly Issued by the MOF and the STA on the Comprehensive Roll-out of the B2V Transformation Pilot Program* (Caishui [2016] No.36)
   https://fgk.chinatax.gov.cn/zcfgk/c102416/c5203752/content.html

4. *Public Notice Issued by the STA Extending the Timeline for the Application of Export Tax Refund (Exemption)* (Public Notice [2015] No.44)
   https://www.chinatax.gov.cn/chinatax/n810341/n810765/n1465977/201507/c1813169/content.html

Let's talk

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