



## Strategic Regions Tax Newsletter

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### China

#### 1. SAT Issues New Rules on VAT Exemption for Cross-Border Services under VAT Reform

##### (1) Introduction

On 18 September 2013, China's State Administration of Taxation (SAT) issued the long-awaited guidance for the implementation of a VAT exemption for cross-border services under the VAT reform program (SAT Bulletin [2013] No. 52, "Bulletin 52"). A list of VAT-exempt cross-border services was first introduced in 2012 at the time the Shanghai pilot VAT reform was launched, but many taxpayers have been unable to benefit from exempt treatment in practice due to the absence of implementing guidance. Bulletin 52 applies retroactively as from 1 August 2013, but also can apply to qualifying services provided before that date and for which the VAT exemption has not yet been applied.

##### (2) New requirements

Bulletin 52 introduces some new requirements for a cross-border service to benefit from the VAT exemption:

- The service provider must enter into a written contract with the service recipient;

- If the service was provided to overseas entities, all service fees must be collected from overseas, and
- The taxpayer must file for the VAT exemption.

To apply for the exemption, a taxpayer must submit following documents to the tax authorities:

- VAT Exemption Form for Cross-Border VAT-able Services;
- Cross-border service contract (original and photocopy);
- Documents showing that the services were provided outside China (if applicable);
- Documents showing that international transportation services were provided (if applicable);
- Documents showing that the service recipient is outside China (if applicable); and
- Any other documents requested by the tax authorities (e.g. notary letter issued by an authorized foreign institution).

Any documents drafted in a foreign language must be accompanied by a Chinese translation.

### **(3) Retroactive application**

Although Bulletin 52 is effective from 1 August 2013, it also applies to cross-border services provided before that date that qualified for VAT-exempt treatment. The following rules apply for services provided before the effective date:

- If the VAT exemption was already applied, the taxpayer must nevertheless complete the filing requirements under Bulletin 52;
- If VAT has been collected, the taxpayer can apply for the VAT exemption by complying with the filing requirements under Bulletin 52, with any overpaid tax refunded or offset against tax payable in the future. However, if a VAT special invoice has been issued, the VAT exemption will not be granted until all copies of such invoices are withdrawn and cancelled.

## **2. China (Shanghai) Pilot Free Trade Zone - Initial sets of regulations released**

### **(1) Introduction**

The State Council has released the Framework Plan for the China (Shanghai) Pilot Free Trade Zone ("China (Shanghai) Pilot FTZ"), and the pilot zone has been officially launched on 29 September 2013.

The potential impact of the pilot zone on the Chinese economy is being compared to the launch of the Shenzhen Special Economic Zone by Deng Xiaoping in 1980. The package of measures being rolled out in the China (Shanghai) Pilot FTZ, if successful, is expected later to be implemented throughout the country. Experience gained through these pilot measures also will directly inform the position that Chinese negotiators take during free trade agreement negotiations.

Unlike previous "Special Economic Zones", the China (Shanghai) Pilot FTZ is expected to create - as measured by international standards - a largely free and open economy for the pilot area,

as it will operate as a platform for testing full convertibility of the renminbi (RMB) and the opening up of financial services.

### **(2) The Framework Plan for China (Shanghai) Pilot FTZ**

The Framework Plan includes the following:

- A significant relaxation and streamlining of the approval requirements for foreign investors
- Elimination of the pre-approval requirement for certain domestic investors
- Measures aimed at promoting the zone as a center for international trade and shipping and logistics
- Measures aimed at promoting the zone as a financial center
- Competitive tax regime, etc.

### **(3) Related regulations released**

Immediately following the China (Shanghai) Pilot Free Trade Zone's official launch, the Shanghai Municipal Government overnight released six sets of regulations for the zone, all of which are effective from 1 October 2013:

- General administrative measures of the zone;
- Filing procedures of foreign investment projects;
- Filing procedures of outbound investment projects;
- Filing procedures of foreign-invested enterprises;
- Filing procedures of setting up overseas enterprises; and
- Special measures of foreign investment permission (i.e. "Negative List (2013)").

In the meantime, the following departments of the State Council also issued circulars to support the development of the China (Shanghai) Pilot Free Trade Zone:

- The State Administration for Industry and Commerce;
- The China Banking Regulatory Commission;
- The China Insurance Regulatory Commission;
- The China Securities Regulatory Commission;
- The Ministry of Culture; and
- The Ministry of Transport

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