



税务快讯

营改增 - 新文件明确再保险业务等增值税政策

2016年6月18日，财政部和国家税务总局发布财税[2016]68号文件（简称“68号文”），针对此前财税[2016]36号文件（简称“36号文”）未予明确的再保险、不动产经营租赁、非学历教育服务等增值税政策作出规定。该文件自2016年5月1日起追溯执行。

68号文的主要内容包括：

再保险

- 1) 纳税人提供再保险服务（以下情形2）中所描述的境内保险公司向境外保险公司提供的再保险服务除外），实行与原保险服务一致的增值税政策。例如，一年期以上的人身保险产品所取得的保费收入目前适用免征增值税处理，因此相应的再保险合同也应作免税处理。与之同理，原保险合同适用非免税处理的，那么相应的再保险合同也不得免税。另外，如果再保险合同对应多个原保险合同的，则在所有原保险合同均适用免征增值税政策时，该再保险合同才能适用免征增值税政策。
- 2) 境内保险公司向境外保险公司提供的“完全在境外消费”的再保险服务，免征增值税。根据36号文的定义，“完全在境外消费”是指，服务的实际接受方在境外，且与境内的货物和不动产无关。

值得注意的是，有关再保险业务的增值税处理，68号文仍然有未明确之处。比如，分保佣金是否应该作为一项独立应税收入计征增值税，还是应在计算再保险人的增值税时从再保险费收入中扣减。此外，如果境外再保险经纪人参与了境内再保险人和再保险分出人之间的再保险业务，增值税适用规定是否有所不同也有待明确。我们希望财政部和国家税务总局可以尽快发布相关规定，以澄清有关事项。

不动产经营租赁

- 1) 房地产开发企业中的一般纳税人，出租自行开发的房地产老项目，可以选择适用简易计税方法，按照 5% 的征收率计算应纳税额。若沿用 36 号文的有关定义，则上述“房地产老项目”是指合同开工日期在 2016 年 4 月 30 日前的房地产项目。
- 2) 房地产开发企业中的一般纳税人，出租其 2016 年 5 月 1 日后自行开发的房地产项目，应适用一般计税方法。
- 3) 房地产开发企业中的小规模纳税人，出租自行开发的房地产项目，应适用简易计税方法，按照 5% 的征收率计算应纳税额。

在上述各情形下，纳税人出租自行开发的房地产项目与其机构所在地不在同一县（市）的，应按照简易计税方法在不动产所在地预缴税款后（其中，情形 1）、3）适用 5% 征收率，情形 2）适用 3% 预征率），向机构所在地主管税务机关进行纳税申报。

其他

- 一般纳税人提供非学历教育服务，可以选择适用简易计税方法按照 3% 征收率计算应纳税额。在原营业税法规下，提供非学历教育服务按 3% 计征营业税。68 号文的这一规定可使营改增后有关纳税人的增值税计税方法在本质上接近于此前的营业税处理，因此有助于减轻营改增对此行业的影响。
- 纳税人提供安全保护服务，比照劳务派遣服务政策执行。即纳税人可选择差额纳税，以取得的全部价款和价外费用，扣除有关项目后的余额作为销售额，按照简易计税方法依 5% 的征收率计算缴纳增值税。
- 各党派、共青团、工会、妇联、中科协、青联、台联、侨联收取党费、团费、会费，以及政府间国际组织收取会费，属于非经营活动，不征收增值税。

虽然营改增的全面推开已从 2016 年 5 月 1 日起实施，但目前仍有诸多问题有待明确。德勤间接税服务团队会继续跟进营改增的有关进展，给您提供及时的更新并分享我们的洞察。

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Tax Newsflash

VAT Reform - New Guidance Clarifies VAT Treatment of Reinsurance Business and Other Transactions

China's Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly issued guidance (Caishui [2016] No. 68 (Circular 68)) on 18 June 2016 that clarifies the VAT treatment of reinsurance arrangements, operating leases relating to immovable property, education services, etc. The guidance specifically addresses areas where Circular 36, the general VAT reform guideline, is silent. Circular 68 applies retroactively as from 1 May 2016.

The salient features of Circular 68 are as follows:

Reinsurance business

- 1) Reinsurance services generally should be subject to the same VAT treatment as the underlying insurance policy that is being reinsured (except for the scenario described in 2)). For example, a life insurance policy with a term of more than one year currently is exempt from VAT, so reinsurance of that policy also should be exempt; conversely, reinsurance of a non-exempt insurance policy cannot be VAT-exempt. Where a reinsurance arrangement covers multiple underlying insurance policies, the reinsurance service will be VAT-exempt only if *all* of the underlying insurance policies are eligible for the VAT exemption.
- 2) Reinsurance services provided by a Chinese insurance company to a foreign insurance company may be exempt from VAT if the services are "wholly consumed outside China." According to Circular 36, "(services) wholly consumed outside China" refers to a situation where the actual service recipient is outside China and the services are not related to any goods or immovable property in China.

It should be noted that Circular 68 does not clarify all areas, such as whether reinsurance commission income paid by a reinsurer to the original insurer should be considered a separate taxable supply or an item deductible from the reinsurance premium to account for the VAT. Further

clarification also is needed as to whether the VAT treatment would differ if an overseas reinsurance broker is interposed between a Chinese reinsurer and a Chinese original insurer. It is hoped that the MOF and SAT will clarify these issues in further guidance.

Operating lease of immovable property

- 1) A property developer that is a general VAT payer may opt to use the simplified method to compute VAT (5%) for operating leases of self-developed immovable property that qualify as "old projects." Although Circular 68 does not explain what constitutes "old projects," presumably it will follow the definition in Circular 36 to refer to projects whose construction commencement date was before 30 April 2016.
- 2) A property developer that is a general VAT payer only may use the general method to compute VAT for operating leases of immovable property that are self-developed after 1 May 2016.
- 3) A property developer that is a small-scale VAT payer only may use the simplified method to compute VAT (5%) for operating leases of self-developed immovable property.

In all cases, if the immovable property and the property developer are located in different provinces (or cities), the developer must use the simplified method to compute and pay VAT (5% for the scenarios described in 1) and 3); 3% for 2)) to the competent tax authorities in the place where the immovable property is located, with a final VAT return filed (with any final tax settlement) with the competent tax bureau in the place where the property developer is located.

Miscellaneous

- General VAT payers that provide non-academic education services may opt to use the simplified method to compute VAT (3%). Non-academic education services previously were subject to a 3% business tax. The option to use the simplified method with a 3% rate will help to achieve a similar indirect tax burden and, hence, mitigate the impact of the VAT reform on this sector.
- Safety and protection services may apply the same method that applies for labor dispatching services, i.e. a taxpayer may opt to use the simplified method to compute VAT (5%) and deduct qualifying items from the gross revenue for VAT purposes.
- Membership fees received by inter-governmental international organizations and certain specified Chinese government-sponsored associations are confirmed to be of a non-operating character and, therefore, outside the scope of VAT.

Although the VAT reform was rolled out to all sectors of the economy on 1 May 2016, some issues still need to be clarified. Deloitte's indirect tax team will continue to monitor the VAT reform developments and provide updates and insights.

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