



税务快讯

营改增动态 - 扩大免征增值税金融服务范畴

2016年6月30日，财政部和国家税务总局发布财税[2016]70号文件（简称“70号文”），扩大了免征增值税的金融服务范畴。该文追溯至2016年5月1日起执行。

背景介绍

根据财税[2016]36号（以下简称“36号文”）的规定，大部分金融服务按6%税率计征增值税，免征增值税的项目除外。虽然财政部和国家税务总局随后发布了财税[2016]46号（以下简称“46号文”），对36号文的有关内容进行补充，使得更多的金融机构同业往来业务享受增值税免税政策。然而相比原营业税下的规定与实践，金融行业免征增值税的业务范围依然不够宽泛。在此背景下，金融机构普遍担心“营改增”后的税负可能会比原营业税下有所增加。为了减少“营改增”对金融行业的税负影响，财政部和国家税务总局考虑将更多的金融机构间同业往来业务纳入增值税免税范畴。

另一方面，在原营业税下，境外投资者在境内从事证券投资业务的税务处理并不完全清晰，地方税务机关实务征管也不尽一致。在营改增后，36号文虽然明确了合格境外机构投资者（QFII）和香港市场投资者在境内从事符合规定的证券投资业务免征增值税，但是，针对其他境外投资者的相关规定尚属空白。70号文正是应此需要，将免税政策进一步惠及人民币合格境外机构投资者（RQFII）及其他经人民银行认可的境外机构在华相关投资业务。

70号文主要内容

70号文规定金融机构等开展下列业务取得的有关收入，适用增值税免税政策：

1) 特定金融同业往来利息收入

- a. 同业存款：资金存入方仅为具有吸收存款资格的金融机构。
- b. 同业借款：农村信用社之间以及在金融机构营业执照列示的业务范围中有反映为“向金融机构借款”业务的金融机构开展的同业资金借出和借入业务。
- c. 同业代付：商业银行（受托方）接受金融机构（委托方）的委托向企业客户付款，委托方在约定还款日偿还代付款项本息的资金融通行为。
- d. 买断式买入返售金融商品：金融商品持有人（正回购方）将债券等金融商品卖给债券购买方（逆回购方）的同时，交易双方约定在未来某一日期，正回购方再以约定价格从逆回购方买回相等数量同种债券等金融商品的交易行为。
- e. 持有金融债券：金融债券是指在中国境内设立的金融机构法人在全国银行间和交易所债券市场发行的、按约定还本付息的有价证券。
- f. 同业存单：指银行业存款类金融机构法人在全国银行间市场上发行的记账式定期存款凭证。

2) 联行跨境资金往来业务

- a. 境内银行和其境外总机构或母公司之间的资金往来
- b. 境内银行与其境外的分支机构、全资子公司之间的资金往来

3) 金融机构与中国人民银行之间发生的特定资金往来业务

- a. 商业银行购买央行票据
- b. 商业银行与中国人民银行开展货币掉期和货币互存

4) 离岸投资者获得的特定投资收益

- a. 人民币合格境外机构投资者（RQFII）委托境内公司在国内从事证券买卖业务取得的收入
- b. 经中国人民银行认可的境外机构投资者银行间本币市场取得的收入

评论

70号文进一步明确并扩大了免征增值税的适用范围，将金融机构同业往来的主要业务纳入了增值税免税范畴。文件对这些主要业务的定义与中国人民银行2014年发布的127号文件（即银发[2014]127号）一致，有利于银行业更好地落实“营改增”政策。同时，银行业纳税人的首次增值税申报应于7月份完成，因此70号文的及时发布为银行业纳税人预留了一定时间以明确自身业务适用的增值税税务处理。

虽然 70 号文对适用增值税免税政策的金融机构同业往来业务进行了说明，但是仍有一些方面可能有待进一步的澄清，例如银行间/银行集团内部的跨境资金往来免征增值税政策是否也适用于同一母公司控制下的两家子行之间的跨境资金往来等。另外，银发[2014]127 号文中定义的银行间投资交易包括了多种形式，但在 70 号文中，目前只有金融债券利息收入被包含在了增值税免税范围中；随着“营改增”的继续深入，其他形式的银行间投资交易所得是否未来也会被归入免征增值税范畴仍有待观察。此外，金融机构该如何申请增值税免税，有关的操作程序指引也尚需明确。

而在金融商品的投资和交易领域，相关的“营改增”政策似乎也还有不够清晰的地方，例如通过持有或转让资产证券化产品或信托产品所得收入的增值税处理等。

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 Expands VAT Exemption for Financial Transactions

China’s Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly issued a circular (Caishui [2016] No. 70 (Circular 70)) on 30 June 2016 that clarifies and expands the scope of financial transactions that are subject to VAT-exempt treatment. The new guidance applies retroactively from 1 May 2016.

Background

Based on the main guidance under the VAT reform (Caishui [2016] No. 36 (Circular 36)), major financial services are subject to a 6% VAT rate, with certain exceptions. Although the MOF and SAT issued a supplementary guidance (Caishui [2016] No. 46 (Circular 46)) that expanded the scope of VAT-exempt treatment to cover more inter-FI (financial institution) transactions, the exemption still is narrower than the treatment under the previous business tax (BT) regime. As a result, there are concerns in the market that the VAT burden on FIs could increase as compared to the previous BT burden. The MOF and SAT have been considering the expansion of VAT-exempt treatment to mitigate the impact of the VAT reform on the financial services sector.

On the other hand, the original BT treatment of foreign investors investing in the security investment business was not entirely clear and local practices were inconsistent. Under the VAT reform, Circular 36 clarifies that Qualified Foreign Institutional Investors (QFIIs) and Hong Kong market investors are entitled to VAT-exempt treatment on investments in the qualified security investment business, but the circular is silent on the treatment of other foreign investors. Circular 70 now clarifies that the VAT exemption can be enjoyed by renminbi QFIIs (RQFII) and other foreign investors allowed by the People's Bank of China (PBOC) to carry out certain security investment in China.

Highlights of Circular 70

Circular 70 provides that the VAT exemption will apply to the following:

1) Interest income derived from below inter-FI transactions

- a. Inter-FI deposits: Where the FIs receiving the deposits are qualified deposit-taking FIs.
- b. Inter-FI lending: The borrowing and lending of funds between FIs which include rural credit cooperative institutions and institutions whose business license allows them to engage in "lending to financial institutions."
- c. Inter-FI payments by direction: Where a commercial bank makes payments to a corporate client at the request of another FI, and the FI agrees to repay principal and interest to the commercial bank on an agreed date.
- d. Outright repo: Where there is a sale and buyback of financial products (such as bonds) and the original holder of the products sells and agrees to buy back the same quantity of financial products at an agreed price on a specified date in the future.
- e. Holding of financial bonds: Where bonds are issued by FIs in China through the interbank bond market or the exchange bond market.

- f. Inter-FI fixed deposit certificates: Where fixed deposit certificates are issued by deposit-taking FIs in China via the interbank market.

2) Intra-bank / bank group cross-border lending

- a. Lending between a domestic bank and its overseas headquarters office or parent company
- b. Lending between a domestic bank and its overseas branches or wholly-owned subsidiaries

3) Funding transactions between FIs and the PBOC

- a. Purchase of central bank bills by commercial banks
- b. Currency swaps or currency deposits between commercial banks and the PBOC

4) Investment income derived by offshore investors

- a. Trading in financial products in China by RQFIIs
- b. Investment in the interbank money market by PBOC-approved offshore investors.

Comments

Circular 70 should be welcomed by market players because it clarifies some issues and expands VAT-exempt treatment to cover most major inter-FI transactions. The definitions of these transactions are consistent with those specified in a circular issued by the PBOC in 2014 (Yinfa [2014] No. 127), which makes it easier for the banks to follow. In addition, the issuance of Circular 70 is timely because it allows banks time to take into account the correct VAT treatment when preparing for their first VAT filing, which is due in July.

Despite the clarifications provided in Circular 70, certain areas still need to be addressed, such as whether the VAT exemption for cross-border intra-bank / bank group funding transactions would apply under different holding structures, such as between subsidiaries that are under common control of the same parent company. Not all inter-bank transactions mentioned in the PBOC guidance are included as "exemption" items; e.g. inter-bank investment transactions defined in the PBOC guidance include multiple types of interbank investment, but only FI bonds are included in Circular 70. It remains to be seen whether other inter-bank investment transactions will be brought within the scope of the exemption in the future. Further guidance also is needed on any procedures FIs will need to follow to claim the VAT exemption.

Finally, there are issues pertinent to other FIs and investors that trade financial products (e.g. the VAT treatment of income from holding or transfer of asset-based securitization products or trust products).

Deloitte's indirect tax team will continue to monitor the VAT reform developments and provide updates and insights in due course.

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