

税务快讯

国家税务总局重新发布营改增 跨境应税服务增值税免税 管理办法



国家税务总局于近日重新发布了营改增跨境应税服务增值税免税管理办法（国家税务总局公告 2014 年第 49 号）。49 号公告将取代原国家税务总局 2013 年 52 号公告，于 2014 年 10 月 1 日起开始执行。新办法也适用于在 10 月 1 日之前提供的、符合免税条件但未申请增值税免税处理的服务。

在增值税免税政策下，不征收销项税，同时进项税额不得抵扣。虽然其政策优势小于可以退还进项税额的零税率待遇，但是增值税免税政策一般仍被视为促进跨境服务发展的激励政策之一。

52 号公告发布之后，营改增范围又陆续拓展至铁路运输、邮政和电信业，在此背景下国家税务总局重新发布了管理办法，同时也对部分政策执行事项进行了澄清。

新办法的主要变化

• 免税跨境邮政及收派服务和电信业服务

49号公告在可适用免税待遇的跨境增值税应税服务类别中新增了以下两类：

- 为出口货物提供的邮政业服务和收派服务：例如寄递函件、包裹等邮件出境等
- 向境外单位提供的电信业服务：向境外单位或者个人提供国际语音通话服务、国际短信服务、国际彩信服务，通过境外电信单位结算费用的，服务接受方为境外电信单位，属于向境外单位提供的电信业服务。

新办法同时明确，由境外单位或者个人为出境的函件、包裹在境外提供的邮政服务和收派服务，属于完全在境外消费的应税服务，不征收增值税。

• 视同从境外取得收入的情形

向境外单位提供跨境服务并适用增值税免税政策时，境内纳税人的服务收入应从境外取得。

49号公告规定下列情形视同从境外取得收入：

- 纳税人向境外关联单位提供跨境服务，从境内第三方结算公司取得的收入。上述所称第三方结算公司，是指承担跨国企业集团内部成员单位资金集中运营管理职能的资金结算公司，包括财务公司、资金池、资金结算中心等。
- 纳税人向外国航空运输企业提供物流辅助服务，从中国民用航空局清算中心、中国航空结算有限责任公司或者经中国民用航空局批准设立的外国航空运输企业常驻代表机构取得的收入。
- 国税总局规定的其他情形。

• 与港澳台地区有关的应税服务

新办法明确，纳税人提供的与香港、澳门、台湾有关的应税服务，一般可参照该办法执行。

建议

受影响的纳税人可以考虑以下行动方案：

- 复核其业务活动，以评估其是否可以从跨境服务免税待遇中获益；
- 如果企业决定申请免税，则需要准备好相关文件（如服务合同、付款证明等），与主管税务机关进行沟通，及时办理跨境服务免税备案手续并申请多缴税款的退回或抵减；
- 与主管税务机关就新办法中有待明确的内容进行沟通与确认；
- 必要时咨询专业机构的意见或寻求帮助。

如您有任何问题，请联系：

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Tax Newsflash



SAT reissues guidance on VAT-exempt treatment for cross-border services

China's State Administration of Taxation (SAT) has re-issued the implementation guidance on the application of VAT-exempt treatment for cross-border services. Bulletin [2014] No. 49, which will become effective on 1 October 2014, supersedes the existing guidance in Bulletin [2013] No. 52 and also will apply to qualifying services provided before 1 October and for which the VAT exemption has not yet been applied.

Under VAT-exempt treatment, no output VAT is payable, but the input VAT incurred on costs is not recoverable. Although less beneficial than zero-rated VAT treatment, under which the input VAT incurred on cost is recoverable, the VAT exemption still is considered as an incentive to promote the development of cross-border services.

The updates in Bulletin 49 generally result from the further expansion of the VAT reform after the issuance of Bulletin 52 to new industries, such as railway transportation, post and telecommunications. The new guidance also clarifies certain issues.

Key updates

- **Qualifying cross-border postal/delivery and telecommunications services**

Bulletin 49 adds the following two categories to the list of cross-border services qualifying for VAT-exempt treatment:

- *Postal/delivery services for export goods:* Couriers for mail or parcels being sent overseas, etc.; and
- *Telecommunications services provided to foreign entities:* Where a Chinese party provides international voice, SMS or MMS communication services to foreign customers with the service charges settled through a foreign telecommunications company, the foreign company will be considered the service recipient for VAT exemption purposes.

The guidance also confirms that postal or delivery services provided by foreign parties in overseas in relation to mail or parcels sent from China to overseas is outside the scope of Chinese VAT.

- **Service income "deemed" to be received from overseas**

To apply for the VAT exemption on service income where the service is provided to a foreign entity, a Chinese taxpayer must receive all such income from overseas. Bulletin 49 contains a "deeming" rule for the following situations where the service income will be deemed to be received from overseas:

- Qualifying cross-border services provided to a foreign related party, where the income actually is received from a domestic company that acts as an internal treasury/clearing house for a multinational group (e.g. a group finance company, group cash pooling center);
- Logistic ancillary services provided to a foreign airline, where the income actually is received from the Accounting Centre of China Aviation, the Settlement Center of the Civil Aviation Administration of China (CAAC) or the foreign airline's CAAC-approved representative office in China; and
- Any other situations approved by the SAT.

- **Services in relation to Hong Kong, Macau and Taiwan**

Bulletin 49 confirms that Hong Kong, Macau and Taiwan are considered foreign jurisdictions for VAT exemption purposes.

Recommendations

Affected taxpayers may want to consider the following actions:

- Review their business activities and assess whether the company can benefit from VAT-exempt treatment for qualifying cross-border services;
- If a company decides to apply for the exemption, prepare required documentation (e.g. service contract, payment certificate, etc.) and contact the competent tax authorities to file the VAT exemption application, and reclaim any overpaid VAT;
- Proactively communicate with the competent tax authorities to seek clarifications or guidance for any issues; and
- Seek professional advice or assistance from external consultants, where needed.

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