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增值税试点改革（续）

德安已从客户中收集了他们对近期上海增值税扩围试点最为关切的问题。现列举一些问题并试做出解答，以供参考。

问题 1：试点纳税人收到的营业税改征增值税试点过渡性财政扶持资金是否要计入收入总额缴纳企业所得税？

回答 1：沪财税[2012]5 号文下的过渡性财政扶持资金，其性质与原营业税政策下的地方财政补贴相类似，不符合财税[2011]70 号《财政部国家税务总局关于专项用途财政性资金企业所得税处理问题的通知》所规定的可以作为不征税收入的专项用途财政性资金的条件，因此应计入收入总额缴纳企业所得税。

问题 2：我公司了解到最近出台了营业税改征增值税试点过渡性财政扶持政策。请问财政扶持的对象是否有行业限制？

回答 2：根据沪财税[2012]5 号《市财政局等关于实施营业税改征增值税试点过渡性扶持政策通知》的规定，财政扶持的对象是在营业税改征增值税试点以后，按照新税制规定缴纳的增值税比按照老税制规定计算的营业税确实有所增加的试点企业，并未规定行业限制。试点企业根据税制改革前后比较，实际税负确实是有所增加的，可向财税部门申请财政专项资金扶持。

问题 3：我公司是一般纳税人，主营货物进出口贸易，同时也向境外单位提供少量适用零税率的应税服务。公司的货物出口业务一直以来适用贸易型公司的出口退（免）税政策。请问自 2012 年起，是否需要对适用零税率的出口服务单独适用免抵退税办法？

回答 3：从实践角度看，同一纳税人同时适用退（免）税和免抵退方法在现行的税收征管系统中仍较难实现。因此，我们认为对货物出口和服务出口分别适用不同出口退税处理方式在操作中的可行性较低。据我们了解，在目前的实务操作中，兼营服务出口业务的贸易企业需向主管税务机关办理出口计税计算方法认定变更手续，即由原来的退（免）税变更为“免抵退税”。变更后，所有业务（包括货物出口和适用零税率的服务出口）均适用免抵退税政策。一旦实行“免抵退税”方法，退税方法不得再予变更。建议公司与主管税务机关就以上问题进行及时沟通。

问题 4：我公司是增值税小规模纳税人。请问我公司因接受境外公司提供的应税服务而为其代扣代缴增值税时应适用 3%的征收率还是应税服务的适用税率？

回答 4: 133 号文明确规定，中国境内的代理人或服务接受方为境外单位和个人扣缴增值税的，按照应税服务的适用税率扣缴增值税。

问题 5：我公司是增值税一般纳税人，主营业务之一为向位于中国境外的企业提供研发服务。是否只要相关的服务内容符合财税[2011]111 号文附件中对于研发服务的定义即可自动适用增值税零税率以及出口增值税免抵退政策？

回答 5：并非如此。根据我们的了解，目前的实务操作中，具有增值税一般纳税人资格的试点企业向境外企业提供零税率应税服务，在申报办理服务出口免抵退税前需要先向主管税务机关办理免抵退税企业认定；其中，对于向境外企业提供研发设计服务的，需要在办理免抵退税企业认定时向主管税务机关提供《技术出口合同登记证》。因此，建议试点纳税人及时向境外客户提供的应税服务进行评估，如其符合财税[2011]111 号文附件中关于相关服务范围的定义、且根据 131 号文可适用增值税零税率，则应准备相关资料以备登记认定程序的需要。

问题 6：我公司（A 公司）与境外某公司（B 公司）签订设计服务合同，合同约定由 A 公司协助 B 公司向境内某公司（C 公司）提供服务，服务费由 B 公司支付给 A 公司。在这种情况下 A 公司的服务是否属于向境外单位提供应税服务？

回答 6：向“境外单位提供服务”的定义仍有待进一步明确。在目前的实践中，不同地方税务局对于上述问题可能有不同的意见。建议企业应审核合同关系、确保服务内容、服务接受方以及服务费支付流的一致性，从而降低潜在的税务风险。

问题 7：增值税零税率和免征增值税的主要区别是什么？

回答 7：零税率和免税的主要区别在于相应的增值税进项税额是否能够得到抵扣。

零税率情况下	免税情况下
向境外提供的应税服务无需缴纳增值税; 与之相关的增值税进项税额允许全额抵扣.	向境外提供的应税服务无需要缴纳增值税; 与之相关的增值税进项税额不许抵扣，须做进项转出.

131 号文采用列举方式，规定了适用零税率和免税的应税服务范围。同时规定，试点地区的单位和个人提供适用零税率的应税服务，如果属于适用增值税一般计税方法的，实行免抵退税办法；如果属于适用简易计税方法的，实行免征增值税办法。具体的操作指引仍有待国家税务总局和财政部进一步明确。

问题 8：我公司主要从事家电维修业务，并同时负责家电物品的运输。请问我公司从事的运输服务应当按照“交通运输业”缴纳 11%的增值税，还是将运输劳务视为维修业务的一个组成部分，按照 17%的税率缴纳增值税？

回答 8：如果上述服务是单独分别提供的，不属于同一业务活动，则纳税人应当分开核算，分别缴纳增值税；若无法分开核算，则应当按照 111 号文规定，从高适用税率。实务操作中情况较为复杂，我们也建议纳税人在必要时就此寻求主管税务机关的确认。

问题 9：我公司从事鉴证业务，在提供服务的同时还会将部分业务分包给相关的协作方。我公司是否能够以全部收入扣除支付给协作方的价款后的余额为销售额进行增值税申报？

回答 9：根据试点规定，允许扣除分包价款的项目应当以国家营业税差额征收政策的规定为准。鉴证业务的营业税差额征收系上海的地区性政策，并未明确涵盖在国家有关的营业税差额征收政策中。因此，我们认为在鉴证业务中，不能以扣除支付给协作方的价款后的余额作为销售额计算增值税。

问题 10：作为设立在试点地区的中国投资性公司，针对此次上海增值税改革试点，我公司是否需要调整目前为下属子公司提供一揽子服务的交易定价？

回答 10：很可能需要。我们理解，在实践中，中国投资性公司一般采用成本加成方式对其向下属子公司提供的一揽子服务进行收费。这些服务通常涵盖了市场营销、计算机技术支持、财务、

人力资源和法律支持等方面。增值税试点改革后，应税服务的收入和相关税费的会计核算与试点改革前相比发生变化，由此可能会导致 2012 年 1 月 1 日之后的服务交易实际利润率与定价政策的设定预期产生差异，影响定价政策的执行结果。建议公司评估试点改革对服务交易定价的影响，并视情况考虑进行调整以符合转让定价规范。

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VAT Reform Q&A

We have surveyed some of the most important questions from our clients with respect to the VAT reform pilot program to be launched in Shanghai. We have listed down the frequently asked questions and our answers.

Q1: Is the financial subsidy subject to Corporate Income Tax (“CIT”)?

A1: The substance of financial subsidies granted under Circular 5 is similar to those under the former BT system which does not qualify for being non-taxable according to the provisions in the circular Caishui [2011] No.70. As such, the financial subsidy of the VAT Pilot shall be accounted for as part of the taxable income, subject to CIT.

Q2: We understand that a new policy is published recently regarding the financial subsidy in relation to the VAT Pilot. Is there any restriction on industry that is eligible for the financial subsidy?

A2: According to the newly issued circular Hucaishui [2012] No.5 (“Circular 5”), taxpayers, whose tax liability increases in the VAT Pilot program in comparison with that of the former Business Tax system, are entitled to the financial subsidy. There is no provision of restrictions on industry in

Circular 5. The afore-mentioned companies can apply for the financial subsidy with the competent finance and tax authorities.

Q3: Our company is a trading company, and a general VAT payer. We also provide a few Pilot Services to overseas customers which are eligible for zero rating. We have been adopting the "Refund/Exempt" method for exported goods, which is widely applied to trading companies. Starting from 2012, do we need to use the "Exempt, Credit and Refund" method for the exported services separately?

Q3: From a practical standpoint, it may not be feasible for the administration system of tax authorities to accommodate two different VAT refund methods (i.e. "Refund/Exempt" and "Exempt, Credit and Refund") for one general VAT payer. Therefore, we do not expect the aforementioned treatment will be much likely accepted in practice. As far as we are aware, in the current practice, trading companies who also export services at zero rating are required to re-register with the competent tax authority, changing the VAT refund method from the "Refund/Exempt" to "Exempt, Credit and Refund". Once changed, the VAT refund method shall apply to all the export businesses (including the export of goods and the zero-rating exported services) and cannot be changed retroactively. In this regard, we would suggest the taxpayers to communicate with the competent tax authorities regarding the re-registration and other related matters on a timely basis.

Q4: Our company is a small-scale VAT payer. Which rate shall we adopt when we withhold VAT for the Pilot Services provided by overseas suppliers, the levy rate of 3% or the applicable tax rate for the services?

A4: Circular 133 has clarified that the applicable VAT rate shall apply when the domestic agents or the service recipients withhold VAT for overseas entities or individuals.

Q5: Our company is a general VAT payer engaging in the provision of R&D services to offshore companies. Will the zero rate and "Exempt, Credit and Refund" method apply automatically as long as our service fall into the scope of R&D services defined in the circular Caishui [2011] No.111?

A5: No exactly. In practice, a general VAT payer who provides zero-rated services to overseas entities shall apply and register with the competent tax authority before it is allowed to adopt the "Exempt,

Credit and Refund" method in VAT filing. In doing the application, companies engaged in R&D or design services must submit to the tax authority the Registration Certificate of Technology Export Contract. In this regard, it is advisable for the taxpayer to review and assess the nature of the exported services on a timely basis. If the services fall within the scope as defined in Circular 111 and are eligible for zero rating under Circular 131, the taxpayer shall prepare and collect relevant documents in due course for the purposes of the afore-said application and registration.

Q6: Our company, a Chinese entity ("Company A"), and an overseas company ("Company B") has entered into a design service contract, under which Company A will assist Company B in providing services to another Chinese entity ("Company C") inside China and get paid directly from Company B. in this case, will the services provided by Company A be considered as services provided to overseas entities?

A6: The definition of "services provided to overseas entities" is so far unclear. In practice, the treatment of tax authorities regarding this sort of cases may differ from location to location. It is advisable for the company to review the contractual relationship and ensure the consistency amongst the substance of services, location of service recipient and the flow of service fee payment so as to mitigate potential tax risks.

Q7: What is the main difference between the tax treatments of zero rating and VAT exemption?

A7: The main difference between the tax treatments of zero rating and exemption is the ability to cover input VAT incurred on a transaction.

Zero rating	VAT Exemption
No output VAT is charged on the services provided to the overseas customers; Input VAT associated with such services is fully recoverable.	No output VAT is charged on the services provided to the overseas customers; Input VAT associated with such services is not recoverable but accounted for as an expense.

Circular 131 specifies the respective scope of services that are eligible for zero rating or VAT exemption. It also provides that the zero-rated services provided by general VAT payers are subject to the "Exempt, Credit and Refund" method in VAT computation, while the same provided by small scale taxpayers are subject to the treatment of VAT exemption. Detailed implementation rules are yet to be announced by the SAT and MOF.

Q8: Our company is mainly engaged in repair services of electronic appliances and meanwhile the transportation of the electronic appliances. Will our transportation services be subject to 11% VAT rate of be regarded as a part of the repair business and thus subject to 17% VAT rate?

A8: If the above two types of services are provided separately, these services shall be accounted for separately and subject to different VAT rates. A higher VAT rate may apply if the revenue could not be separately accounted for. In practice, due to the complexity, it is suggested that taxpayers further confirm with the in-charge tax authorities on a needed basis.

Q9: Our firm is engaged in attestation services and meanwhile subcontracts part of our businesses to other firms. Can we deduct the payment to our subcontractors from the total sales revenue of attestation services for VAT purpose?

A9: According to the pilot program, payments to subcontractors maybe deducted from the sales revenue for VAT purpose only if the deduction is also allowed under the current State-level Business Tax regulations. Deduction of payments to subcontractors in attestation services is allowed pursuant to the local rules of Shanghai, but not specified in State-level Business Tax regulations. Therefore, we believe such payments to the subcontractor in attestation services shall not be deducted from the sales revenue for VAT purpose.

Q10: As a Chinese Holding Company ("CHC") registered in Shanghai under the VAT Pilot Program, do we need to adjust our current pricing policy in respect of services provided to our subsidiaries?

A10: You may consider the need to do that. As far as we are aware, it is common practice for CHCs to adopt a cost plus method to charge the subsidiaries for the bundled services provided, which typically include marketing, IT support, financial reporting, HR and legal support services, etc. under the Pilot Program, the operating income and taxes in relation to the provision of Vat-able services will be

accounted for in a different manner compared with that before 1st January 2012 when Business Tax ("BT") applied. As a result, the actual profit margin of those services may vary from what was expected under the previous pricing policy. We strongly recommend the CHC to review intercompany pricing, and make adjustment when necessary to adhere to the arm-length transfer pricing policy.

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