



## 税务快讯

### 税务总局新公告释疑多项增值税实务问题

国家税务总局于2019年9月16日发布今年第31号公告，就多项增值税实践问题作出明确。其中既包括如国内旅客运输服务进项税抵扣、加计抵减等大部分纳税人所关心的事项，亦有涉及运输、房地产、金融等领域的行业性特殊问题，请点击以下各项链接快速浏览相关内容。

除特别注明以外，公告中的相关规定将自2019年10月1日起施行。此前已发生未处理的事项，按照公告规定执行，已处理的事项不再调整。

#### 31号公告要点

- [国内旅客运输服务进项抵扣](#)
- [加计抵减](#)
- [交通运输业相关事项](#)
- [建筑与房地产业相关事项](#)
- [限售股买入价确定](#)
- [财险赔付进项抵扣](#)
- [餐饮服务](#)
- [开具原适用税率发票](#)
- [其他](#)

#### 国内旅客运输服务进项抵扣

2019年4月1日起，增值税一般纳税人购进国内旅客运输服务的进项税允许抵扣。31号公告对可抵扣进项税的“旅客”范围、扣税凭证管理作出如下明确，相关规定自9月16日起实施：

- 可抵扣进项税的“国内旅客运输服务”中，“旅客”限于与纳税人签订了劳动合同的员工，以及纳税人作为用工单位接受的劳务派遣员工（以下统称“员工”）。

实践中，由于经营业务或管理活动的需要，企业往往会为员工范围以外的人员购买国内旅客运输服务，如客户或供应商的相关人员，以及

与企业不具有劳动关系的董事、监事等。根据 31 号公告，这些运输服务的进项税应不得抵扣。

- 购进国内旅客运输服务以增值税电子普通发票作为扣税凭证的，**发票上注明的购买方“名称”“纳税人识别号”等信息，必须与实际抵扣方一致，否则不予抵扣。**该规定意味着，如果企业员工提交的增值税电子普通发票以其个人名义作为购买方，则该发票注明的增值税税额不得由企业抵扣。
- 允许抵扣的国内旅客运输服务进项税，是指**纳税人 2019 年 4 月 1 日及以后实际发生，并取得合法有效扣税凭证注明的或依据其计算的增值税税额；**以增值税专用发票或增值税电子普通发票为扣税凭证的，**该发票开具日期不得早于 2019 年 4 月 1 日。**

虽然 31 号公告未对“实际发生（增值税税额）”作出解释，但结合公告官方解读中对该条款遵循纳税义务发生时间基本原则的内容来看，似乎应以运输服务的纳税义务发生时间来判定“实际发生”时间。以部分网约车平台为例，由于平台企业可实现多次行程的合并开票，因此即使 4 月 1 日以后开具的发票中也可能包含发生在 4 月 1 日之前的旅客运输行为的销售额，这部分销售额的纳税义务发生在 4 月 1 日之前，则相应的增值税税额实际发生在 4 月 1 日之前，应不得抵扣。

鉴于上述规定，我们建议企业可以考虑以下行动：

- 企业财税部门应及时更新完善内控措施，在差旅费报销环节关注旅客是否具备员工身份、发票的购买方信息栏次是否填写正确、扣税凭证的开具日期是否在 4 月 1 日或以后等，以确保合规抵扣。
- 提请员工在索取差旅费发票时，若存在电子版与纸质版增值税普通发票可选情形，优先选择电子版发票以支持进项税抵扣，同时注意确保发票上注明的购买方信息与企业信息一致；
- 对采购等相关职能部门进行统一培训，并考虑在有关商业场景下是否需要涉及差旅费用的合同安排或条款进行调整或明确。

[回页首](#)

## 加计抵减

自 2019 年 4 月 1 日至 2021 年 12 月 31 日，在一定期间内提供邮政服务、电信服务、现代服务、生活服务（以下统称“四项服务”）取得销售额占全部销售额超过 50% 的一般纳税人可享受 10% 的进项税加计抵减。31 号公告就上述条件的计算判断规则作出如下明确，相关规定自 9 月 16 日起实施：

- 在计算纳税人的四项服务销售额是否符合 50% 比例要求时，“**销售额**”按**纳税申报销售额、稽查查补销售额、纳税评估调整销售额**加总计算。其中，适用增值税差额征收的，以差额后的销售额计算。
- 在销售额期间归属方面，**稽查查补销售额和纳税评估调整销售额**应计入查补或评估调整当期销售额（而非税款所属期销售额）。
- 对以下两类**暂无销售额的纳税人**，以首次产生销售额当月起连续 3 个月的销售额确定适用加计抵减政策：
  - 3 月 31 日及之前设立，且在 2018 年 4 月至 2019 年 3 月期间无销售额的纳税人；

- 4月1日及之后设立，且设立后3个月无销售额的纳税人。

- 实行汇总缴纳增值税的总分机构，应以总分机构合计销售额计算判断。如果符合销售额比例的，则总分机构均可适用加计抵减；反之则总分机构都不得适用。

[回页首](#)

## 交通运输业相关事项

31号公告对航运业常见的运输工具舱位承包和舱位互换业务的增值税处理作出明确：

**舱位承包**——即承包方以承运人身份与托运人签订运输服务合同，收取运费并承担承运人责任，然后以承包他人运输工具舱位的方式，委托发包方实际完成相关运输服务的经营活动。发包方和承包方以其各自向承包方和托运人收取的全部价款和价外费用为销售额，按照“交通运输服务”缴纳增值税。

在上述业务中，对外承揽运输业务的承运人自身并不实际提供运输服务，甚至不拥有运输工具，而是委托他人实际完成运输服务。因此在适用增值税处理时，业界对于此类承运人取得的收入是否能够适用“交通运输服务”税目时有顾虑，31号公告对此作出了肯定答复。

**舱位互换**——即纳税人之间签订运输协议，在各自以承运人身份承揽的运输业务中，互相利用对方交通运输工具的舱位完成相关运输服务的经营活动。税务总局在公告解读中表示，该业务中双方纳税人各自都以换出舱位的方式向对方提供了交通运输服务，应以各自换出舱位确认的全部价款和价外费用为销售额，按照“交通运输服务”缴纳增值税。

[回页首](#)

## 建筑与房地产业相关事项

### 建筑服务分包款差额扣除

按照现行规定，纳税人提供特定建筑服务以取得的全部价款和价外费用扣除支付的分包款后的余额作为销售额计税。商业实践中，除了建筑服务价款以外，总包方也可能会向分包方支付部分货物价款（如购买建筑材料等）。对于货物价款是否能作为“分包款”的一部分作差额扣除，实务中各地口径不一。有鉴于此，31号公告明确此处可扣除的分包款为实际支付给分包方的全部价款和价外费用，即包括货物价款。

### 取消简易计税项目备案

为简化办税流程，31号公告取消了一般纳税人提供建筑服务按规定适用或选择适用简易计税方法下的备案要求，改为纳税人将相关证明资料自行留存备查。

### 围填海开发房地产项目适用简易计税

以围填海方式取得土地的房产项目，其围填海开工日期可能早于房产项目施工许可证注明的开工日期。延续房产老项目的政策精神，31号公告明确此类项目下，围填海工程《建筑工程施工许可证》或建筑工程承包合同注明的围填海开工日期在2016年4月30日前的，均属于房地产老项目，房地产企业可以选择适用简易计税方法按照5%的征收率计算缴纳增值税。

[回页首](#)

## 限售股买入价确定

出售限售股及相关的送转股并按“金融商品转让”税目计缴增值税时，如何确定买入价是实务中反映较多的问题。在前期已发布的政策指引的基础上，31号公告进一步明确了以下两类情形下的买入价确定规则。但值得注意的是，围绕股票买入价问题实务中仍有不少事项有待澄清（例如解禁后的送转股买入价如何确定等），建议纳税人继续关注有关的法规和实践进展。

**多情形形成的限售股**——此前发布的总局公告2016年第53号分别规定了股权分置改革、首次公开发行股票并上市、重大资产重组三种不同情形形成的限售股的买入价确定规则。但实践中还存在一种情形，即因同时实施股权分置改革和重大资产重组而首次公开发行股票并上市形成的限售股。对于这类限售股及其上市首日至解禁日期间孳生的送转股，31号公告明确以该股票上市首日开盘价为买入价。

**重大资产重组形成的限售股**——根据53号公告，此类限售股应以因重大资产重组股票停牌前一交易日的收盘价为买入价。实践中，上市公司实施重大资产重组可能出现多次停牌，因此31号公告进一步澄清，53号公告中的“股票停牌”是指证监会就上市公司重大资产重组申请作出予以核准决定前的最后一次停牌。

[回页首](#)

## 财险赔付进项抵扣

涉及实物的保险赔付支出是否能参与进项抵扣，是财产保险行业较为关注的一项热点问题。税务总局首次在31号公告及其公告解读中表达了其技术立场。具体而言，应区分以下“实物赔付”和“现金赔付”两种情形进行处理：

**实物赔付**——以车险为例，即合同约定由保险公司将投保车辆修理至恢复原状。出险后，保险公司以自身名义向修理厂购买修理服务支付修理款项，若取得合规发票则可进行抵扣。

**现金赔付**——以车险为例，即合同约定保险公司向被保险人支付赔偿金，出险后车辆由被保险人自行修理。因此，该赔付支出不产生可抵扣的进项税额。实际操作中，为提高客户满意度，保险公司可能直接将赔偿金转付给修理厂并取得增值税专用发票。在这种情况下，修理服务的接受方仍为被保险人，即使保险公司取得增值税专用发票也不得进行抵扣。

由此可见，在包含增值税的赔付支出额相等的情形下，实物赔付较现金赔付于险企在财务上更为有利。相关保险企业在根据新公告关注税务合规的同时，也应在设计保险产品及相关合同条款时将上述涉税因素纳入考量。

[回页首](#)

## 餐饮服务

31号公告规定，**纳税人现场制作食品并直接销售给消费者，按照“餐饮服务”缴纳增值税。**



餐饮行业的外卖、打包等销售模式在进行流转税处理时应作为餐饮服务，还是货物销售；这一问题在营业税时代便已存在。营改增后，由于餐饮服务与货物销售仍适用不同的增值税税率，相关争议依然不绝于耳。尤其随着技术与业态的更新带动社会消费习惯的变化，近年来餐饮业非现场消费的比例大幅上升，对传统税目分类带来更大冲击。

有鉴于此，财税机关出台了相关指引，如 2016 年通过财税[2016]140 号文件明确，提供餐饮服务的纳税人销售的外卖食品（注：纳税人须参与该食品的生产加工过程），按照“餐饮服务”缴纳增值税；此次 31 号公告的规定主要针对餐饮业的“打包带走”模式。由此来看，财税机关意在保持“堂食”、“外卖”以及“打包带走”等常见餐饮消费模式在税收处理上的一致性。值得注意的是，“餐饮服务”的税目注释要求纳税人“同时提供饮食和饮食场所”，而 31 号公告的规定不再提及“饮食场所”的要求。

[回页首](#)

### 开具原适用税率发票

近年来国家数次降低增值税税率，对于企业在税率调整前发生的增值税应税销售行为，未能及时开具原适用税率（包含 17%、16%、11%、10%）发票或者已开具发票信息有误需要重新开具的，现行政策允许纳税人按照原适用税率开具增值税发票。

根据 31 号公告，自 2019 年 9 月 20 日起，纳税人通过增值税发票管理系统自行开具原适用税率发票的权限已被关闭。如果纳税人需要开具原适用税率发票的，应到主管税务机关办理临时开票权限，并在 24 小时的规定期限内开具原适用税率发票。

纳税人办理临时开票权限的，只需提交开票承诺书即可，但需要保留交易合同、红字发票、收讫款项证明等相关材料以备查验。

上述变化意味着税务机关一定程度上加强了对开具原适用税率发票的管理，因此纳税人更应关注相关的合规操作，正确判断历史交易的纳税义务发生时间及其适用税率，重点注意以下事项：

- 需开具原适用税率发票但相关交易此前未作正确申报的，纳税人应进行补充申报或更正申报，并缴纳相应的滞纳金；
- 若纳税义务发生时间在 2019 年 4 月 1 日后，则不得开具原适用税率发票；已经开具的，应按规定作废，不符合作废条件的应按规定开具红字发票并随后按新适用税率开具正确发票。

另一方面，我们建议确有开具原适用税率发票需求的纳税人，与主管税务机关就实务操作中的相关问题进行沟通确认（如具体的临时权限开通流程，以及开通次数或开票数量有无限制等）。考虑到临时开票权限有效期为 24 小时，所以相关企业应做好开票前与相关方的沟通工作，在各方就开票事宜达成一致的基础上再办理开票权限的开通，并尽量集中处理此类发票的开具事宜，减少办理开通临时权限的频率和资源耗费。

[回页首](#)

### 其他

31 号公告同时就其他部分事项作出以下规定：

- 自 2019 年 6 月 1 日起，符合 84 号公告有关条件的制造业纳税人可享受更为优惠的期末留抵退税（84 号公告相关内容请参见 9 月 6 日的德勤[税务快讯](#)）；31 号公告明确此类纳税人应按照[税务总局公告 2019 年第 20 号](#)办理留抵退税，并对退税申请表单进行了修订。
- 自 2019 年 1 月 1 日起，以 1 个季度为纳税期限的增值税小规模纳税人，因在季度中间成立或注销而导致当期实际经营期不足 1 个季度，当期销售额未超过 30 万元的，免征增值税。
- 现行政策允许具备相关运输资质的货物运输业小规模纳税人向税务机关或符合条件的互联网物流平台企业申请为其代开增值税专用发票。鉴于交通管理部门对运输资质要求进行了调整，31 号公告对此作出同步调整。

[回页首](#)

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## Tax Newsflash

### STA released guidance on multiple VAT issues

On 16 September 2019, China's State Taxation Administration (STA) released guidance (Bulletin [2019] No. 31 ("Bulletin 31")), which clarifies multiple VAT issues, including input VAT credit issues related to domestic passenger transportation services and the VAT super credit, as well as specific issues related to the transportation, real estate and financial sectors. Unless otherwise specified, the rules set out in Bulletin 31 apply as from 1 October 2019. Issues that arose and were not settled prior to the release of this bulletin will be governed pursuant to Bulletin 31; issues that were settled prior to the release will not be adjusted on a retroactive basis.

Bulletin 31 provides guidance on the following VAT issues:

- [Input VAT credit related to domestic passenger transportation services](#)
- [VAT super credit](#)
- [Transportation industry-related issues](#)
- [Construction and real estate industries issues](#)
- [Determination of purchase price for restricted shares](#)
- [Input VAT credit related to property insurance compensation](#)
- [Catering services](#)
- [Issuance of VAT invoice applicable to prior VAT rates](#)
- [Other issues](#)

### **Input VAT credit related to domestic passenger transportation services**

As from 1 April 2019, general taxpayers may credit input VAT related to the purchase of domestic passenger transportation services against their output VAT. Bulletin 31 makes several clarifications relating to such services and details the management of vouchers for VAT credit purposes, which took effect on 16 September 2019, including the following:

- For purposes of the input VAT credit for domestic passenger transportation services, the term "passenger" refers only to employees who have concluded an employment agreement with the taxpayer, as well as staff assigned to the taxpayer under a staff assignment arrangement (hereinafter referred to as "employees").

In practice, due to business needs or management activities, taxpayers often purchase domestic transportation services for personnel other than their employees, such as clients or vendors, directors and supervisors that do not have an employment agreement. According to Bulletin 31, the input VAT related to such transportation services may not be credited.

- Where a taxpayer purchases domestic passenger transportation services and receives an electronic VAT invoice, the information stated on the invoice, such as the name and taxpayer identification number of the buyer, must be consistent with that of the taxpayer claiming the credit. If the name of the buyer shown on the electronic VAT invoice submitted by an employee is the name of the individual employee rather than the taxpayer, the taxpayer will not be entitled to an input VAT credit.
- The creditable input VAT associated with domestic passenger transportation services must be input VAT that actually is incurred on or after 1 April 2019 and is shown on a valid voucher or calculated on the basis of such a voucher. Where a special VAT invoice or a normal electronic VAT invoice is used to support input VAT credit, such invoice must be issued on or after 1 April 2019.

Bulletin 31 does not define the term "input VAT amount that actually is incurred." However, the official interpretation of Bulletin 31 states that the provisions on the input VAT credit in Bulletin 31 shall follow the basic principle of taxing at "the time tax liability arises," which



may indicate that the "input VAT amount that actually is incurred" will be determined based on the point in time the tax liability of the transportation service arises. Taking the online car-hailing platform as an example, some platforms can issue a VAT invoice for several trips, which means that even though the VAT invoice is issued after 1 April, it possibly could be issued for services that were provided before 1 April for which the tax liability arises before that date. In such a case, the corresponding input VAT may be regarded as incurred before 1 April and will not be allowed as a credit.

In view of the above, companies should consider the following actions:

- To ensure compliance with the input VAT credit rules, finance departments should update internal control policies as needed, and carefully examine key information when reviewing the reimbursement of travel expenses, including whether the passenger on the voucher is an employee, whether the buyer's information on the voucher is accurate and whether the VAT invoice is issued on or after 1 April 2019.
- Remind employees to choose an electronic VAT invoice when available if requesting an invoice for domestic passenger transportation services, and ensure that the buyer's information on the invoice is consistent with that of the taxpayer.
- Schedule training for functions such as procurement, and consider clarification in contractual arrangements related to travel expenses under different business scenarios.

[Back to top](#)

### **VAT super credit**

From 1 April 2019 to 31 December 2021, a general VAT taxpayer that is mainly engaged in providing postal services, telecommunications services, modern services and lifestyle services (the "four services") can enjoy an additional 10% VAT super credit provided the taxpayer's sales from the four services accounts for more than 50% of its total sales within a certain period (i.e. the "50% sales test"). Bulletin 31 clarifies the calculation method, which applies as from 16 September 2019, as well as the following:

- When determining whether a taxpayer's sales from the four services qualifies for the 50% sales test, the sales amount includes the total sales amount stated in the VAT return, any additional sales amount adjusted during a tax audit, and the sales amount adjusted based on the taxpayer's compliance status as assessed by the tax authorities. Where the net basis calculation method is applied in calculating the taxable sales amount, the net sales amount will be used to determine whether the taxpayer's sales qualify for the 50% sales test.
- In terms of the attribution period of sales revenue, both the additional sales amount adjusted during a tax audit and the sales amount adjusted based on the tax compliance

assessment must be included in the current period's sales amount (i.e. the period in which the adjustment is made), rather than the period in which the tax liabilities arose.

- For the following two types of taxpayers, the sales amount for the three consecutive months following the occurrence of the first sales amount will be the basis to determine eligibility for the VAT super credit:
  - Taxpayers established before 31 March 2019 whose sales revenue are zero throughout the period 1 April 2018 to 31 March 2019;
  - Taxpayers established on and after 1 April 2019 whose sales are zero throughout the three months since the date of establishment.
- For head offices and branches that use consolidated filing for VAT purposes, the total sales volume of the head office and its branches must be taken into account in determining eligibility for the VAT super credit. If qualifying for the 50% sales test, both the head office and its branches can apply the VAT super credit.

[Back to top](#)

## Transportation industry-related issues

Bulletin 31 clarifies the VAT treatment for transportation businesses that either subcontract transportation services to another transporter or exchange shipping space with other transporters, both of which are common businesses in the transportation industry.

Certain transportation businesses enter into a transportation service agreement with a consignor, collect freight charges, bear carrier responsibilities, and then engage a subcontractor to complete the relevant transport services using the subcontractor's vehicles. The subcontractor and contractor must account for the gross revenue collected from the contractor and consignor, respectively, and pay VAT for the provision of transportation services. In this business arrangement, the carrier does not actually provide transportation services or own the transportation vehicle, but engages others to carry out the services. Bulletin 31 confirms that the associated revenue of such carrier will be subject to the VAT rate applicable to the transportation service provided.

A shipping space exchange business refers to business activities where taxpayers enter into a transportation service agreement, utilizing the shipping space of each other's transport vehicles to provide the relevant transportation services for the transportation business of each carrier. According to the official interpretation in Bulletin 31, since both taxpayers provide transportation services by exchanging shipping space of transportation vehicles, the amount on which VAT is charged will be the gross revenue for each taxpayer from exchanging shipping space, at the rate applicable to the provision of transportation services.

[Back to top](#)

## Construction and real estate industries issues

### *Net basis calculation method for subcontracting construction services*

According to current rules, where certain construction services are provided by a taxpayer, the taxpayer may deduct subcontracting charges from the total gross revenue received for VAT purposes. In practice, in addition to a construction service fee, the general contractor also may pay the subcontractor for purchased goods (e.g. building materials, etc.). Practices differ with respect to whether the payment for such purchased goods may be deducted from gross revenue. Bulletin 31 clarifies that the deductible charges are the total payment made to the subcontractor, including the payment for purchased goods.

### *Cancellation of registration for simplified taxation method*

To simplify the taxation process, Bulletin 31 eliminates the registration requirement for a general VAT taxpayer if the taxpayer applies the simplified taxation method for the provision of construction services, either according to regulation or by election. Instead, Bulletin 31 requires that the taxpayer maintain relevant supporting documents for future inspection.

### *Simplified taxation method for real estate projects on land reclamation*

For real estate projects based on land reclamation from the sea, the date of commencement of land reclamation may be earlier than the date stated on the "Construction Permit." Bulletin 31 clarifies that where either the commencement date for a land reclamation project stated on the Construction Permit or the date stipulated in the relevant construction contract is before 30 April 2016, the relevant project will be considered an "Old Real Estate Project (OREP)," so that the taxpayer may elect to apply the simplified taxation method to compute and pay VAT at a rate of 5%.

[Back to top](#)

## Determination of purchase price for restricted shares

A common issue when calculating VAT on the sale of restricted shares and the corresponding stock dividends is how the purchase price should be determined. Bulletin 31 clarifies the rule to determine the purchase prices for two situations. Some practical issues still need to be clarified regarding the purchase price of shares (e.g. how to determine the purchase price of stock dividends obtained after the lifting of a sale restriction, etc.), so taxpayers should monitor future developments.

Bulletin [2016] No. 53 sets out the rule for determining the purchase price for restricted shares arising in three situations: (i) nontradable shares reform; (ii) initial public offerings (IPOs); and (iii) significant reorganizations; in practice, there also are shares subject to sale restrictions due to all three of these situations occurring simultaneously.

Bulletin 31 specifies that for the sale of such restricted shares and the corresponding stock dividends relating to such restricted shares arising during the period from the IPO date to the date the restriction is lifted, the purchase price is the opening price on the first trading day.

According to Bulletin [2016] No. 53, the purchase price for restricted shares arising from significant reorganizations is the closing price of the stock on the last trading day before the stock trading is suspended as a result of a reorganization. In practice, there may be multiple suspensions on stock trading due to a reorganization, so Bulletin 31 clarifies that a "suspension on stock trading" referred to in Bulletin [2016] No. 53 means the last suspension before the China Securities Regulatory Commission approves the significant reorganization.

[Back to top](#)

### **Input VAT credit related to property insurance compensation**

A controversial issue in the property insurance industry is whether the input VAT associated with insurance claims on tangible goods can be creditable. The STA has issued its first technical position on this issue in Bulletin 31. The VAT treatment for "claims on tangible goods" and "cash claims" are as follows:

- Claims on tangible goods: Taking car insurance as an example, the insurance company undertakes to provide a guarantee of compensation for a vehicle and has the vehicle repaired so it is brought back to its original condition. The insurance company arranges for the vehicle repair services from the repair shop and pays the service fee in its own name. Given that a qualified VAT special invoice is obtained, an input VAT credit is allowed.
- Cash claims: Again, taking car insurance as an example, the insurance company undertakes to provide a guarantee of compensation for the vehicle and pays cash to the insured party. The insured party then has the vehicle repaired. Hence, no credit is allowed for the associated input VAT relating to the cash compensation paid by the insurance company. However, in practice, insurance companies typically pay the vehicle repair shop directly on behalf of the insured and obtains a VAT special invoice. In this case, the actual service recipient is still the insured party, so the insurance company may not claim an input VAT credit, even if a VAT special invoice is obtained.

Where the compensation amount (VAT-inclusive) is the same between claims in tangible goods and cash payouts, the former is more financially advantageous for the insurance company.

[Back to top](#)

### **Catering services**

According to Bulletin 31, a taxpayer that prepares food onsite and sells the food directly to consumers must pay VAT for the

provision of "catering services." According to Caishui [2016] No. 36, "catering services" refers to business activities that offer consumers food and a "place for dining" at the same time, while Bulletin 31 does not include the requirement of a "place for dining" for VAT treatment to apply as the provision of catering services.

Even before China's recent VAT reform, there were many debates as to whether the sale of food delivery and takeaway should be treated as catering services or the sale of goods for indirect tax purposes. Although the debate has continued after the VAT reform, catering services and the sale of goods are treated differently for VAT purposes, and different VAT rates apply in each case. Due to technology developments that have driven changes in social consumption habits, there has been a significant increase in off-site consumption (i.e. food delivery and takeaway) in the catering industry, so clarification of the VAT implications is needed.

China's Ministry of Finance (MOF) has released a series of rules and guidance (e.g. Caishui [2016] No. 140) clarifying that the sale of food delivery by the taxpayer providing catering services is subject to VAT as the provision of catering services. The official interpretation of Caishui [2016] No. 140 further clarifies that taxpayers shall engage in preparing the food delivered (rather than purchasing the food from other parties and then selling them without any material processing) for such VAT treatment to apply.

Bulletin 31 mainly addresses the VAT treatment of the sale of takeaway food in the catering industry. It seems that both the MOF and the STA want to ensure consistent VAT treatment among common consumption patterns, such as "dine-in," "takeaway" and "food delivery."

[Back to top](#)

### **Issuance of VAT invoice applicable to prior VAT rates**

The government has announced a series of VAT rate reductions in recent years. According to current rules, for VAT supplies where sales took place before each reduction but VAT invoices were not issued at the prior VAT rates (including 17%, 16%, 11% and 10%), or the issued VAT invoices need to be re-issued because the invoice contained incorrect information, taxpayers may issue VAT invoice at the prior VAT rates. According to Bulletin 31, with effect from 20 September 2019, taxpayers are not allowed to access the VAT Invoice Administration System to issue VAT invoices at the prior VAT rates by themselves. If the taxpayer needs to issue a VAT invoice at prior rates, it must apply for temporary access with the in-charge tax authority and issue the invoice within 24 hours.

The submission of a confirmation letter by taxpayers to confirm their reasons for applying for the temporary access is sufficient when requesting access, but relevant supporting documents such as a contract, "red letter" VAT invoice and payment collection voucher must be retained for future inspection.



The above changes mean that the tax authorities have strengthened their management of the issuance of VAT invoices at the old VAT rates. Taxpayers should ensure they are in compliance with relevant rules, properly determine when tax liabilities arise and the corresponding applicable VAT rates for the historical transactions. Key points for consideration are:

- Where VAT invoices at prior VAT rates are needed, but the VAT returns were not filed correctly, the taxpayer must make proper filings or rectify the previous VAT returns and pay late surcharges.
- If the tax liabilities are incurred after 1 April 2019, the taxpayer may not issue VAT invoices at the prior VAT rates. If such VAT invoices have been issued, they will be cancelled or credited via issuing a "red letter" invoice if the invoice may not be cancelled.

On the other hand, taxpayers that need to issue VAT invoices at prior VAT rates must proactively communicate with the in-charge tax authorities to confirm the details (e.g. the procedure to apply for temporary access, whether there is any cap on the application, as well as the number of invoices that may be issued). Considering that the valid period for temporary access is only 24 hours, the taxpayer should have a discussion with related parties and align on the details of the invoices to be issued before requesting temporary access from the tax authorities. The taxpayer should collectively handle as many invoices as possible in one batch and reduce the frequency for requesting temporary access.

[Back to top](#)

## Other issues

Bulletin 31 also clarifies miscellaneous VAT issues as follows:

- With effect from 1 June 2019, advanced manufacturing taxpayers that satisfy the criteria in Bulletin No. 84 can enjoy a refund of unutilized input VAT with fewer restrictions. Bulletin 31 clarifies that advanced manufacturing taxpayers must complete the relevant formalities for requesting a VAT refund pursuant to Bulletin [2019] No. 20, and revise the refund application form.
- With effect from 1 January 2019, small-scale taxpayers making quarterly VAT filings that are established or terminated during a quarter and thus operate for less than a quarter in the current period are exempt from VAT if the sales amount in the current period does not exceed RMB 300,000.
- According to the prevailing VAT rules, small-scale taxpayers in the cargo transportation industry that meet the transportation qualifications can apply to the tax bureau or a qualified internet logistics platform enterprise to issue a special VAT invoice on their behalf. Since the transportation administration department has adjusted the requirements for transportation qualification, Bulletin 31 makes the corresponding adjustment to reflect these changes.

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