

税务快讯

税务总局调整增值税零税率 应税服务退（免）税管理办法



继财政部、国家税务总局于 10 月末发布通知¹，自 2015 年 12 月 1 日起将零税率待遇扩大适用至影视服务、离岸服务外包等出口服务项目之后，国家税务总局于 2015 年 12 月 14 日出台 2015 年第 88 号公告²（以下简称“88 号公告”），对《适用增值税零税率应税服务退（免）税管理办法》³（国家税务总局公告 2014 年第 11 号发布，以下简称“11 号公告”）中的相关规定进行了调整与补充。88 号公告自 2015 年 12 月 1 日起施行。

公告要点

申报资料

针对新近纳入零税率适用范围的应税服务项目，纳税人在申报退（免）税时，除了应提交 11 号公告所要求的服务合同、发票以及收款凭证等资料以外，88 号公告根据不同的服务类型增列了以下资料要求：

| 服务类型 | 新增资料 |
|---|---|
| <ul style="list-style-type: none"> 向境外单位提供的软件服务、电路设计及测试服务、信息系统服务、业务流程管理服务、离岸服务外包业务 | 合同已在商务部“服务外包及软件出口管理信息系统”中审核通过的系统证明文件 |
| <ul style="list-style-type: none"> 向境外单位提供的广播影视节目（作品）制作和发行服务 | 合同已在商务部“文化贸易管理系统”中审核通过的系统证明文件，行业主管部门出具的在有效期内的影视制作许可证明、发行版权证明、发行许可证明 |
| <ul style="list-style-type: none"> 向境外单位提供的技术转让服务 | 《技术出口合同登记证》及其数据表 |

资料审核

- 在纳税人进行退（免）申报时，11号公告要求税务机关审核收入的支付方必须与服务合同的签订方保持一致。88号公告则明确，如果纳税人所处集团经批准实行外汇资金集中运营管理或经常项下跨境人民币集中收付管理的，由集团内办理集中收付的境内成员公司代为收取境外收入款项也视为满足上述条件，但纳税人应提供相关资料予以证明。
- 在纳税人进行退（免）税申报时，11号公告要求税务机关审核申报适用零税率的收入不得大于合同约定收款额。88号公告对此进行了补充，要求纳税人在申报收入大于合同约定收款额的情形下，提供有关证明材料。这一补充规定表明，在纳税人可提供合理说明的情形下，适用零税率的收入或可大于合同约定收款额。

逾期申报

根据11号公告的规定，对于可适用零税率的应税服务收入，纳税人应在相关收入在财务作销售收入次月起至次年4月30日前办理退（免）税申报。一旦逾期，则纳税人通常需就此缴纳增值税。

88号公告对上述规定进行了调整。根据调整后的管理办法，逾期后纳税人可改按免税进行申报；未按规定申报免税的，应按规定缴纳增值税。

解读与建议

88号公告的及时出台，为企业就新纳入零税率范围的应税服务进行退（免）税申报提供了较为明确的规范与指导。值得一提的是，某些项目（如离岸服务外包服务等）在适用零税率条件的退（免）税资料要求与12月1日前适用的免税申报资料要求基本一致。

受影响的纳税人建议考虑以下行动方案：

- 复核其业务活动现状，对适用增值税零税率的税务影响及其合规成本进行测算，综合评估企业适用零税率待遇的利弊；
- 对决定申请零税率待遇的企业，应尽快办理出口退（免）税备案，及时按照管理办法的规定准备相关文件，以开展退（免）税申报工作；
- 从免税处理改为零税率的企业，应重点关注在2015年12月1日已经签订但仍在执行阶段的应税服务合同，确保此类合同收入的确认时点以及有关期间的进项税处理正确，并能得到合理的文档支持；
- 在适用零税率的过程中，纳税人应与主管税务机关保持密切的沟通，就管理办法中有待明确的问题与税务机关及时进行确认，必要时向专业机构寻求意见与帮助。

参考阅读：

¹ 参见 [2015年11月3日的德勤税务快讯](#)

² 参见 [国家税务总局公告2015年第88号](#)

³ 参见 [国家税务总局公告2014年第11号](#)

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Tax Newsflash

Additional Guidance Issued on VAT Zero- Rated Services



China's State Administration of Taxation (SAT) issued new guidance (Bulletin 88¹) on 14 December 2015 that supplements the *Administrative Measures for VAT Refunds (Exemption) of Zero-Rated Services*, which was originally issued via Bulletin [2014] No. 11². Circular 118³, issued jointly by the Ministry of Finance and the SAT in October 2015, expanded the scope of zero-rated services. Bulletin 88 provides additional guidance relating to the services added to the list of zero-rated items by Circular 118 and clarifies several issues. Bulletin 88 applies retroactively from 1 December 2015, the same date that Circular 118 became effective.

Highlights of Bulletin 88

Documentation requirements

In addition to the typical documents (e.g. service agreements, invoices, remittance receipts, etc.) that must be submitted with a request for a VAT refund for zero-rated services, Bulletin 88 introduces specific documentation requirements that must be met to receive a refund relating to the newly added services:

| Services | Documents required |
|--|---|
| <ul style="list-style-type: none">Software services, circuit design and testing services, information system services, business process management services and offshore outsourcing services provided to overseas companies | Certificate that proves that the service agreement has been recorded in the "Information System for Managing Service Outsourcing and Software Exports" and approved by the Ministry of Commerce |
| <ul style="list-style-type: none">Production and distribution of radio, film and television programs (works) provided to overseas companies | Certificate that proves that the service agreement has been recorded in the "Management System for Trading of Culture-Related Items" and approved by the Ministry of Commerce, as well as film/television production and/or distribution permits and copyright certificates |
| <ul style="list-style-type: none">Technology transfer services provided to overseas companies | Registration Certificate for Technology Export Contracts and the related data form |

Documentation review

When tax officials are reviewing a taxpayer's documentation submitted to support a VAT refund claim for zero-rated services, Bulletin 11 required the reviewer to determine whether the foreign contracting party to the service agreement was the same party that paid the service charge to the service provider. Any discrepancy in the identity of the parties could result in a denial of the refund request. Bulletin 88 relaxes this requirement in the situation where the service fee is collected from the foreign recipient of the services by a domestic entity affiliated with the Chinese service provider and on its behalf under a group-centralized treasury arrangement. However, the service provider will have to submit supporting documentation to the tax authorities to demonstrate that the group/entity with which it is affiliated has obtained approval from the State Administration of Foreign Exchange or the People's Bank of China in respect of the arrangement.

Bulletin 11 requires the reviewer to ascertain whether the zero-rated income reported in the filing documents equals to or is lower than the amount agreed in the service contract. Bulletin 88 clarifies that, if the reported income is higher than the agreed service amount shown in the contract, the taxpayer will have to explain the disparity. The bulletin implies that zero-rated treatment and a VAT refund still may be granted on the excess amount if there is a reasonable explanation for the higher amount.

Late filings

According to Bulletin 11, the VAT refund request must be made by 30 April of the year following the year in which the relevant income was recognized for financial accounting purposes. Failure to file a timely claim will result in denial of zero-rated treatment and VAT will be charged.

Bulletin 88 introduces more flexible procedure that allows a taxpayer to apply for VAT-exempt treatment for the relevant supplies if the refund request was not made in a timely manner. With a VAT exemption filing, no VAT will be charged, but the taxpayer will not be able to recover the relevant input VAT.

Comments and Recommendations

The issuance of Bulletin 88 is welcome as it provides timely guidance for taxpayers to apply for the VAT refunds for services that now are entitled to zero-rated treatment. For certain items (e.g. offshore service outsourcing) that were moved from VAT-exempt to zero-rated treatment on 1 December 2015, the documentation required for a VAT refund under the zero-rated treatment generally are the same as the documentation previously required for VAT-exempt treatment.

Affected taxpayers should consider taking the following actions:

- Review current business operations and quantify the potential tax impact and compliance costs in order to assess the pros and cons of applying for VAT zero-rated treatment;
- If a decision is made to apply for zero-rated treatment, prepare the relevant documents and file the necessary refund claims in a timely manner;
- Consider any service projects that commenced before 1 December 2015 but were completed after that date because different VAT treatment may apply to the same project;

- Maintain communication with the relevant tax authorities with respect to the application of zero-rated treatment, request clarification of uncertain issues in a timely manner and seek professional assistance where needed.

Notes:

¹ See [SAT Bulletin \[2015\] No. 88](#) (Chinese version)

² See [SAT Bulletin \[2014\] No. 11](#) (Chinese version)

³ See [Deloitte Tax Newsflash dated on 3 November 2015](#)

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