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UNUTILIZED INPUT VAT REFUND POLICIES

The PRC Ministry of Finance (“MOF”) and the State Taxation Administration (“STA”) have jointly released a series of Public Announcements (i.e. Public Announcement [2022] No. 14, 17, 19 and 21) in the past few months to expand the scope of the refund policies related to the accumulated unutilized input VAT (incurred before 1 April 2019) and newly increased unutilized input VAT (incurred after 1 April 2019). These policies apply to (i) all micro and small-sized enterprises; and (ii) medium and large-sized enterprises in 13 specified sectors.

In this Tax Flash, we summarize the salient points of the related policies.

1. ELIGIBLE ENTERPRISES AND INDUSTRY SECTORS

The enterprises and industry sectors that are eligible for the unutilized input VAT refund policies are summarized in the table below:-

| Eligible Enterprises ¹ | Eligible Industry Sectors | |
|------------------------------------|--|---|
| Micro and small-sized enterprises | All Sectors | |
| Medium and large-sized enterprises | 13 sectors | |
| | <ul style="list-style-type: none"> • manufacturing • science research and technology services • Generation and supply of electricity, heat, gas and water | <ul style="list-style-type: none"> • wholesale and retail • agriculture, forestry, animal husbandry and fishery • accommodation and catering • resident services, repair and other services |

¹ Micro, small and medium-sized enterprises are defined based on the operating income and total assets indicators outlined in Circular Gong Xin Bu Lian Qi Ye [2011] No. 300 <Provisions on Classification Standards for Small and Medium-sized Enterprises>, Circular Yin Fa [2015] No. 309 <Provisions on Classification Standards for Financial Sector Enterprises> and Public Announcement [2022]14. Large-sized enterprises are enterprises that are not micro, small or medium enterprises.

| | | |
|--|---|--|
| | <ul style="list-style-type: none"> • software and information technology services • ecology and environment protection • transportation, warehousing and postal services | <ul style="list-style-type: none"> • education • health and social work • culture, sports and entertainment |
|--|---|--|

The applicant should fulfill the following requirements:-

- (1) With an “A” or “B” tax credit rating;
- (2) During the 36 months prior to the application, the applicant:
 - has not committed any frauds on refunds of unutilized input VAT or export VAT and issuance of VAT special invoice;
 - has not been penalized for tax evasion more than once
- (3) Has not been benefited from the “immediate refund of VAT upon payment” (增值税即征即退) or “VAT refund after payment” (增值税先征后退) policies since 1 April 2019.

2. REFUND OF ACCUMULATED UNUTILIZED INPUT VAT (ONE-OFF)

An application for a one-off refund of the accumulated unutilized input VAT (incurred before 1 April 2019) could be made starting from:-

| Eligible Enterprises | Eligible Sectors | VAT refund could be applied from |
|------------------------------------|---|----------------------------------|
| Micro-sized enterprises | All sectors | April 2022 |
| Small-sized enterprises | All sectors | May 2022 |
| Medium-sized enterprises | 6 sectors include: <ul style="list-style-type: none"> • Manufacturing; • Science research and technology services; • Generation and supply of electricity, heat, gas and water; | May 2022 |
| Large-sized enterprises | <ul style="list-style-type: none"> • Software and information technology services; • Ecology and environment protection; • Transportation, warehousing and postal services. | June 2022 |
| Medium and large-sized enterprises | 7 sectors include: <ul style="list-style-type: none"> • Wholesale and retail; • Agriculture, forestry, animal husbandry and fishery; • Accommodation and catering; • Resident services, repair and other services; • Education; • Health and social work; • Culture, sports and entertainment. | July 2022 |

The amount of refundable accumulated unutilized input VAT is calculated as follows:-

| | | | | |
|---|---|---|---|------|
| The minimum of | | | | |
| (a) Accumulated unutilized input VAT c/f on 31 st March 2019; and | x | Refundable input VAT ratio ² | x | 100% |
| (b) Accumulated unutilized input VAT c/f at the end of the current VAT reporting period | | | | |

3. REFUND OF NEWLY INCREASED UNUTILIZED INPUT VAT (MONTHLY BASIS)

Refund on newly increased unutilized input VAT (incurred after 1 April 2019) could be applied starting from April 2022 VAT filing.

The amount of refundable newly increased unutilized input VAT is calculated as follows:-

- If the applicant has successfully claimed the one-off refund of accumulated unutilized input VAT

| | | | | |
|---|---|---|---|------|
| Unutilized input VAT c/f at the end of the current VAT reporting period | x | Refundable input VAT ratio ² | x | 100% |
|---|---|---|---|------|

- If the applicant has not (or unsuccessfully) claimed the one-off refund of accumulated unutilized input VAT

| | | | | |
|--|---|---|---|------|
| The difference of | | | | |
| (a) Unutilized input VAT c/f at the end of the current VAT reporting period; and | x | Refundable input VAT ratio ² | x | 100% |
| (b) Unutilized input VAT c/f on 31 March 2019 | | | | |

POINTS TO NOTE

- The release of Public Announcements [2022] No. 14, 17, 19 and 21 has broadened the scope of the eligible enterprises and industry sectors for the refund policies related to the accumulated and the newly increased unutilized input VAT. This is in line with the government's tax policy landscape for the year 2022.
- Taxpayers should also be aware the STA, the Ministry of Public Security, the Supreme People's Procuratorate, General Administration of Customs, the People's Bank of China, and the State Administration of Foreign Exchange jointly released Circular Shuizongjichafa[2022] No. 42 (税总稽查发[2022] 42号 <国家税务总局等六部门关于严厉打击骗取留抵退税违法犯罪行为的通知>) on 17 May 2022. Based on work needs and specific case circumstances, the above authorities in different localities will actively promote and organize joint inspection and investigation of tax-related violations and crimes and related criminal activities, which include the defrauding VAT refunds.
- Taxpayers should therefore carefully access whether they are entitled to the unutilized input VAT refund policy and the relevant tax benefit for applying such policy.

² Refundable input VAT ratio

=
$$\frac{\text{Input VAT that has been claimed for credit and supported by VAT special invoices, customs import VAT certificates, electronic general VAT invoices for turnpike tolls and withholding tax clearance certificate for the period from 1st April 2019 till the preceding VAT reporting period}}{\text{Total input VAT claimed for credit for the period from 1st April 2019 till the preceding VAT reporting period}}$$

Total input VAT claimed for credit for the period from 1st April 2019 till the preceding VAT reporting period

RSM Tax Advisory (Hong Kong) Limited

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- Assist clients to discuss and clarify matters with tax officials, including transfer pricing and advance rulings
- Act as client representative in tax audits and tax investigations
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