Regulations for the Implementation of the Value-Added Tax Law of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — These Regulations are formulated in accordance with the Value-Added Tax Law of the People's Republic of China (hereinafter referred to as the "VAT Law") for the purposes of implementing the provisions of the VAT Law and ensuring the proper collection and administration of value-added tax.

Article 2 — These Regulations shall apply to the determination of VAT taxpayers, the scope of taxation, the computation of tax payable, input tax credits, tax preference treatments, and collection and administration matters within the territory of the People's Republic of China.

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Article 3 — The State Council's competent tax department shall be responsible for the unified interpretation and administration of these Regulations. The tax authorities under the local people's governments at or above the county level shall be responsible for the collection and administration of VAT within their respective jurisdictions.

Chapter II — Taxpayers

Article 4 — Entities and individuals that sell goods, provide services, sell intangible assets, or import goods within the territory of the People's Republic of China shall be taxpayers of VAT and shall pay VAT in accordance with these Regulations.

Article 5 — VAT taxpayers shall be classified as general taxpayers and small-scale taxpayers. The criteria for classifying general taxpayers and small-scale taxpayers shall be determined by the State Council's competent tax department in accordance with the annual taxable sales amount and other standards.

Article 6 — A small-scale taxpayer whose annual taxable sales amount exceeds the prescribed standard shall apply to the tax authority for registration as a general taxpayer, unless otherwise provided for by the State. A taxpayer that fails to apply for registration as a general taxpayer shall compute the tax payable at the applicable tax rate but may not claim input tax credits, and may not issue special VAT invoices.

Article 7 — A taxpayer that engages in both taxable and non-taxable activities shall separately account for the turnover of taxable activities and that of non-taxable activities. Where a taxpayer fails to separately account for such turnover, the turnover of its taxable activities shall be determined by the tax authority.

Article 8 — A taxpayer that concurrently engages in taxable activities subject to different tax rates or collection rates shall separately account for the turnover of taxable activities subject to different tax rates or collection rates. Where a taxpayer fails to separately account for such turnover, the higher tax rate or collection rate shall apply.

Chapter III — Scope of Taxation and Tax Rates

Article 9 — The sale of goods shall be subject to VAT at the tax rate of 13%, unless otherwise provided for by laws, administrative regulations, or the provisions of the State Council. Goods subject to the 9% tax rate shall include: (1) agricultural products such as grains, edible vegetable oil, and edible salt; (2) tap water, heating, air conditioning, hot water, coal gas, liquefied petroleum gas, natural gas, biogas, and coal products for residential use; (3) books, newspapers, magazines, audio-visual products, and electronic publications; (4) feeds, chemical fertilizers, pesticides, agricultural machinery, and agricultural plastic film; and (5) other goods specified by the State Council.

Article 10 — The processing, repair, and replacement services for goods shall be subject to VAT at the tax rate of 13%.

Article 11 — Services shall be subject to VAT at the tax rates respectively applicable to them. The tax rate for the provision of transport, postal, basic telecommunications, construction, and real estate leasing services, the sale of immovable property, and the transfer of land use rights shall be 9%. The tax rate for the provision of value-added telecommunications services, financial services, modern services, and consumer services, and the sale of intangible assets other than land use rights shall be 6%. The tax rate for the export of goods by a taxpayer shall be zero, unless otherwise provided for by the State Council.

Article 12 — The collection rate for small-scale taxpayers shall be 3%, unless otherwise provided for by the State Council.

Chapter IV — Computation of Tax Payable

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Article 13 — For a general taxpayer selling goods or providing taxable services or activities, the VAT payable shall be the balance of the output tax for the current period after deducting the input tax for the current period. The computation formula is: VAT Payable = Output Tax for the Current Period − Input Tax for the Current Period. Where the output tax for the current period is less than the input tax for the current period, the shortfall may be carried forward to the subsequent period for deduction.

Article 14 — The output tax of a general taxpayer shall be computed by multiplying its sales amount by the applicable tax rate and collected from the purchaser. Where a taxpayer's sales amount is denominated in a foreign currency, it shall be converted into RMB at the central parity rate of the RMB exchange rate or a rate determined by other methods on the date on which the sales amount is incurred. Where a taxpayer cannot provide a certificate of the RMB central parity rate, the conversion shall be made at the RMB central parity rate on the first day of the month in which the sales amount is incurred. The sales amount incurred by a taxpayer shall be the total consideration and all other charges received from the purchaser for the sale of goods or the provision of taxable services or activities, excluding the output tax collected. Where a taxpayer sells goods or provides taxable services or activities at a price that is obviously low and without justifiable reasons, the tax authority shall determine the sales amount.

Article 15 — A general taxpayer selling goods or providing taxable services or activities that adopts a consolidated pricing method combining the sales amount and the output tax shall compute the sales amount using the following formula: Sales Amount = Sales Amount Inclusive of Tax ÷ (1 + Tax Rate).

Article 16 — For a small-scale taxpayer selling goods or providing taxable services or activities, the VAT payable shall be computed using the simplified method. The computation formula is: VAT Payable = Sales Amount × Collection Rate. The sales amount of a small-scale taxpayer shall exclude the VAT payable. Where a small-scale taxpayer adopts a consolidated pricing method combining the sales amount and the VAT payable, the sales amount shall be computed using the following formula: Sales Amount = Sales Amount Inclusive of Tax ÷ (1 + Collection Rate).

Article 17 — For a taxpayer importing goods, the VAT payable shall be computed based on the dutiable value and the applicable tax rate, and may not be subject to any deduction. The computation formula is: VAT Payable = Composite Assessable Price × Tax Rate. The composite assessable price shall be the dutiable value plus customs duty and, where applicable, consumption tax.

Article 18 — Where a taxpayer concurrently engages in tax-exempt or tax-reduced activities, the input tax attributable to the tax-exempt or tax-reduced activities shall be computed separately. Where such input tax cannot be computed separately, the non-deductible input tax shall be computed based on a pro rata ratio.

Chapter V — Input Tax Credits

Article 19 — Input tax that may be credited against output tax shall be limited to the amount of VAT indicated on the following tax payment certificates: (1) special VAT invoices obtained from sellers; (2) special customs VAT payment receipts obtained from the customs authority; (3) input tax computed on the purchase of agricultural products from agricultural producers or small-scale taxpayers; and (4) other tax payment certificates specified by the State Council's competent tax department.

Article 20 — The following input tax amounts may not be credited against output tax: (1) input tax on purchased goods, services, intangible assets, or immovable property used for the calculation of tax under the simplified method, tax-exempt activities, collective welfare, or personal consumption; (2) input tax on purchased goods that suffer abnormal losses, and related services; (3) input tax on purchased goods, services, intangible assets, or immovable property consumed in products in process or finished products that suffer abnormal losses; (4) input tax on daily consumption services such as entertainment services, catering services, and resident day-to-day services; (5) input tax on loan services; and (6) other circumstances provided for by the State Council.

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Article 21 — For the purposes of these Regulations, "abnormal losses" means losses caused by poor management resulting in theft, loss, spoilage, or deterioration of purchased goods, and losses caused by violations of laws or regulations leading to the confiscation, destruction, or dismantling of purchased goods.

Article 22 — Where a general taxpayer purchases goods, services, intangible assets, or immovable property and obtains a special VAT invoice, the input tax indicated on the special VAT invoice may be credited against the output tax, and the special VAT invoice shall be authenticated before being used as a tax payment certificate.

Article 23 — Where a small-scale taxpayer, due to business needs, issues a special VAT invoice on a commissioned basis, the tax authority issuing the special VAT invoice on its behalf shall collect the VAT payable in accordance with the provisions on the administration of special VAT invoices.

Chapter VI — Tax Preference Treatments

Article 24 — The following activities shall be exempt from VAT: (1) agricultural products sold directly by agricultural producers; (2) contraceptive drugs and devices; (3) antique books; (4) imported instruments and equipment directly used in scientific research, scientific experimentation, and education; (5) imported materials and equipment provided free of charge by foreign governments and international organizations; (6) articles for the use of persons with disabilities imported directly by organizations of persons with disabilities; (7) used goods sold by natural persons; and (8) other activities exempt from VAT under the provisions of the State Council.

Article 25 — Except as provided in Article 24 of these Regulations, the items for which VAT is to be exempted or reduced shall be prescribed by the State Council. No region or department may decide on any VAT exemption or reduction item.

Article 26 — A taxpayer engaged in tax-exempt activities shall separately account for the turnover of the tax-exempt activities. Where a taxpayer fails to separately account for such turnover, the tax exemption shall not apply, and the taxpayer shall pay VAT in accordance with the relevant provisions.

Article 27 — Where a general taxpayer concurrently engages in tax-exempt activities and is unable to separately account for the non-deductible input tax, the non-deductible input tax shall be computed using the following formula: Non-Deductible Input Tax = Total Input Tax for the Current Period × (Turnover of Tax-Exempt Activities for the Current Period ÷ Total Turnover for the Current Period).

Article 28 — A taxpayer may waive tax exemption or reduction treatment in accordance with the provisions of the State, and shall pay VAT in accordance with the relevant provisions. A taxpayer that has waived tax exemption or reduction treatment may not re-apply for tax exemption or reduction treatment within 36 months.

Chapter VII — Collection and Administration

Article 29 — The time when the VAT obligation arises shall be: (1) for the sale of goods or taxable services or activities, the date on which the sales amount is received or the document for claiming the sales amount is obtained, or the date on which the goods are delivered or the services are completed, whichever is the earlier; (2) for the sale of goods on a consignment basis, the date on which the consignment sales report is received or the sales amount is fully received, or the date which is 180 days from the date of consignment, whichever is the earlier; (3) for the importation of goods, the date of import declaration; and (4) for the provision of services or the sale of intangible assets or immovable property on an advance collection basis, the date on which the advance payment is received.

Article 30 — The place of VAT payment shall be: (1) for a taxpayer with a fixed place of business, the place where its institution is located; (2) where a taxpayer with a fixed place of business sells goods or provides taxable services or activities in a different county or city, the place where its institution is located, or the place

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of sale or service provision, as determined by the tax authorities in the places where its institution is located and where the sale or service provision occurs through consultation; (3) for a taxpayer without a fixed place of business, the place where the sale of goods, services, intangible assets, or immovable property occurs; and (4) for the importation of goods, the place where the customs declaration is made.

Article 31 — The VAT period for tax payment purposes shall be one day, three days, five days, 10 days, 15 days, one month, or one quarter. The specific tax payment period of a taxpayer shall be determined by the tax authority based on the amount of tax payable by the taxpayer. Where a taxpayer cannot pay tax in accordance with a fixed period, it may pay tax on a transaction-by-transaction basis. A taxpayer whose tax payment period is one month or one quarter shall file its tax return and pay tax within 15 days from the expiry of the period. A taxpayer whose tax payment period is one day, three days, five days, 10 days, or 15 days shall prepay tax within five days from the expiry of the period and file its tax return and settle the tax payment within 15 days from the first day of the following month. A taxpayer importing goods shall pay tax within 15 days from the date on which the customs authority issues the special customs VAT payment receipt.

Article 32 — A taxpayer selling goods or providing taxable services or activities shall issue a special VAT invoice to the purchaser that requests a special VAT invoice, and shall indicate the sales amount and output tax separately on the special VAT invoice. For any of the following circumstances, a special VAT invoice may not be issued: (1) the purchaser is a consumer in a retail sale of goods or provision of taxable services or activities; or (2) the goods or taxable services or activities sold are tax-exempt.

Article 33 — A taxpayer selling goods or providing taxable services or activities shall issue a general VAT invoice to a small-scale taxpayer. A small-scale taxpayer that needs a special VAT invoice may request the tax authority to issue one on its behalf.

Article 34 — The VAT collection and administration shall be governed by the provisions of the Tax Collection Administration Law of the People's Republic of China and the relevant provisions of these Regulations.

Chapter VIII — Supplementary Provisions

Article 35 — For the purposes of these Regulations, the following terms shall have the meanings ascribed to them below: (1) "goods" means tangible movable property, including electricity, heat, gas, and water; (2) "processing" means the business of processing goods on a commission basis, where the principal provides raw materials and principal materials and the commissioned party manufactures the goods and collects processing fees; (3) "repair and replacement" means the business of repairing damaged or non-functional goods to restore them to their original condition and function; and (4) "importation of goods" means the transportation of goods into the territory of the People's Republic of China from outside the customs border.

Article 36 — The State Council's competent tax department shall be responsible for the interpretation of these Regulations, and shall formulate detailed implementing rules.

Article 37 — These Regulations shall come into force simultaneously with the Value-Added Tax Law of the People's Republic of China. The Provisional Regulations of the People's Republic of China on Value-Added Tax and the relevant provisions promulgated prior to the implementation of these Regulations that are inconsistent with these Regulations shall cease to have effect.

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