

## China escalates land VAT legislation

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#### In brief

- » A draft Land VAT Law has been published to seek public's feedback.
- » The draft law covers the following:
  - Scope of Land VAT
  - Tax rate and tax calculation basis
  - Deductible items
  - Preferential policies
  - Tax obligation term and filing period
  - Administration

Feedback

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**In Detail**

China's Ministry of Finance (MOF) and the State Administration of Taxation (SAT) have jointly issued the draft Land VAT (LVAT) Law to seek public's advice.

**1. Scope of LVAT**

- » Besides state-owned land use rights, including buildings and their structural attachments on the land, the draft has now included also collectively-owned land use rights in the taxation scope of LVAT.

**2. Tax rate and tax calculation basis**

- » The existing calculation formulas and the four-tier progressive LVAT rate system are still maintained by the draft law, being:

$$\text{LVAT} = \text{value-added amount} * \text{tax rate} - \text{deductible amount} * \text{quick deductible rate}$$

$$= (\text{income} - \text{deductible amount}) * \text{tax rate} - \text{deductible amount} * \text{quick deductible rate}$$

Level	Value-added rate (X)	Tax rate (%)	Quick deductible rate (%)
1	$X \leq 50\%$	30	0
2	$50\% < X \leq 100\%$	40	5
3	$100\% < X \leq 200\%$	50	15
4	$X > 200\%$	60	35

**3. Deductible items**

- » The deductible items include:
  - The cost paid for obtaining the land use rights;
  - Land development costs and expenses;
  - Costs and expenses of a new building and facilities attached to it, or the evaluated price of an old building;
  - Taxes in relation to the transfer of real estate; and
  - Any other deductible items stipulated by the State Council.

**4. Preferential policies**

- » LVAT exemption can be granted to the following transfers:
  - If the housing is for social welfare purpose and its value-added rate does not exceed 20% of the deductible items' value;
  - If the housing is expropriated or recovered by the government for state construction purposes;
  - Other circumstances determined by the State Council.
- » The provincial governments are empowered to grant reductions or exemptions to the following transfers, but should report the granting to the Standing Committee of the People's Congress of the same jurisdictional level:

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- Transfer of a normal housing whose value-added rate does not exceed 20% of the deductible items' value;
- Transfer in an underdeveloped real estate market where the land is relatively low priced, or making investment using the land use right of the collectively-owned real estate in the said market.

### 5. Timing of tax obligation

- » The tax obligation occurs when the real estate transfer contract is signed.
- » Real estate developers should make a preliminary LVAT filing within 15 days after the end of the month when the tax obligation has occurred, and a final tax filing should be completed within 90 days when they have met the criteria which make a final filing mandatory.
- » Other taxpayers should file and pay LVAT within 30 days after a real estate transfer contract is signed.

### WTS observation

- » Land VAT is not a new tax. The main purpose of the amendments this time is to escalate the Land VAT legislation level from a provisional regulation, which has been in effect for over 20 years, to a law. Otherwise, there is no change to its current tax calculation methods and rates. The noteworthy part of the amendments is to include in its taxable scope the transfer of collectively-owned land use right (plus any buildings and fixtures on top of them).
- » In recent years, the real estate market has grown rapidly, and has become one of the backbone of China's economy. The fast development and the relating prices of the real estate sector has justified a more rigorous attention from the central government, and the escalation of the current LVAT legislation from provisional regulations to a state law. Once the draft is passed, significant impacts will be brought to the real estate industry, especially the real estate developers, in terms of tax collection and audits.

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