

LEGAL AND REGULATORY REFORM OF VALUE-ADDED TAXATION IN THE PEOPLE'S REPUBLIC OF CHINA AND THE REPUBLIC OF INDIA: TRENDS AND CHARACTERISTICS

DMITRY BACHURIN,

Institute of State and Law of the Russian Academy of Sciences
(Moscow, Russia)

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Value-added taxation is a multidimensional theoretical, fiscal and legal structure. It also serves as a tool for the practical transformation of political, legal and socio-economic relations. The objective of the research is to study new concepts of value-added taxation formed in the two largest BRICS economies (the People's Republic of China and the Republic of India). The assumption is that not only "European" model of the legal regulation of VAT can be successful, but alternatively "Chinese" and "Indian models." The author examines and evaluates changes in the legal structure of value added tax in general, and its elements focusing on the current stage of legal regulation of national systems of VAT (GST) in China and India. In addition, the political, legal, social and economic effects of the legal mechanism of VAT (GST) in China and India from 2017 to 2020 are demonstrated.

Keywords: BRICS; People's Republic of China; Republic of India; VAT; GST; legal regulation of value-added taxation; turnover tax.

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Introduction

The novelty of our approach is based on data collection, collation and comprehensive analysis for developing a concept of legal regulation of value-added taxation, which would allow proceeding with the reconfiguration of VAT legal mechanisms, thereby contributing to achievement of the national development objectives of the Russian Federation.

In fact, we now have a unique opportunity to study two value-added taxation models simultaneously implemented in two of the world's leading economies – India and China. In the Russian Federation, fiscal and legal regulation of taxation is still being developed, they are based on legal model, legislative norms and judicial practices of the European Union.

Until the early 2010s, scholars and taxation experts had largely agreed on the peripheral, secondary nature of legal regulation of indirect taxation in China and India, which was based on replication of the best European practices. At the same time, many foreign scholars emphasize the need for tax reforms. In particular, a fundamentally new approach is described in the book 'BRICS and the Emergence of International Tax Coordination' by a group of tax experts, including Yariv Brauner (USA) and Pasquale Pistone (Netherlands). This approach focuses on the shift of power in the global economy from traditionally dominant countries, such as the OECD and the G7, to developing economies (led by the BRICS countries), accompanied by global processes influencing the legal regulation of taxation.¹

In 2016–2017, the situation in India and China's indirect taxation research changed dramatically, when these nations embarked on a new phase of full-scale reforms of legal regulation of value-added taxation aiming to transform its legal mechanism into a tool for financial and legal stimulation of economic development.²

¹ *BRICS and the Emergence of International Tax Coordination* (Yariv Brauner & Pasquale Pistone eds., 2015) (Apr. 14, 2021), also available at https://www.ibfd.org/sites/default/files/2021-06/BRICS_Emergence_International_Tax_Coordination.pdf.

² Aleksandra M. Bal, *Landmark Tax Reform: Introduction of Goods and Services Tax in India*, 27(6) *Int'l VAT Monitor* (2016); Julio López-Laborda & Guillermo Peña, *International Practices of Financial VAT*, 28(6) *Int'l*

The legal and regulatory reforms of value-added taxation were thoroughly planned, the implementation stage began almost simultaneously in the People's Republic of China and the Republic of India in 2017. Both nations with their centuries-old histories have developed in comparable territorial and climatic conditions, and both have built effective social and legal institutions, that are now at nearly the same stage of socio-economic development.

However, there are some principal differences. Legal system in contemporary China has been shaped in the conditions when the majority of citizens share common values are committed to a common goal. Chinese followed the ideas of Confucius in their development and has been historically focused on active social activity in the interests of a large group of people, if not the entire Chinese society.

On the contrary, India is characterised by a diverse culture, with its caste division and English colonial history, the country is still experiencing serious difficulties in overcoming the influence of customary and religious laws. Indian national legal system is heterogeneous with various branches developed under the influence of English law. Law and judicial precedent are the main sources of law in modern India and its public authorities are represented by the different groups of society and demonstrate the full range of views. This allows for the creation of legislation that not only bears the marks of polemics and voter pressure, but also includes mechanisms for reaching a compromise.

1. Development of Legal Regulation of Value-Added Taxation in the Republic of India (2005 to 2017)

The evolution of legal regulation of VAT in India essentially began in 2005, when the introduction of the value-added tax resulted in a hybrid system of universal excise taxes, including VAT, sales tax (levied since 1956), and services tax (levied since 1994). The VAT introduction dramatically increased the efficiency of the indirect taxation system in India³ (Table 1), but it did not solve the problem of general fiscal fragmentation and eclecticism in the national taxation system.

VAT Monitor 457 (2017); V. Krishnamurthy, *India's GST Law and its Input Tax Mechanism: A Commentary*, 28(6) Int'l VAT Monitor (2017); Diheng Xu, *The Convergence and Divergence Between China's Implementation and OECD/G20 BEPS Minimum Standards*, 10(3) Int'l Tax J. 471 (2018); James Sebastian, *India's Goods and Services Tax: Salient Features and Post-Implementation Issues*, 29(2) Int'l VAT Monitor 74 (2018); Tarun Jain, *Transfer Pricing Rules for India's Goods and Services Tax*, 30(2) Int'l VAT Monitor (2019).

³ Ernst & Young, *Worldwide VAT, GST and Sales Tax Guide* (March 2014) (Apr. 14, 2021), available at https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/tax/guides/worldwide-vat-gst-and-sales-tax-guide-2014.pdf.

Table 1. Collection of VAT, sales tax and services tax in the Indian budget from 2007 to 2014 (in millions of Indian rupees)⁴

Year	VAT	Sales tax	Services tax
2007	1,601,372.5	10,871.5	375,978.2
2008	1,657,501.3	10,898.0	513,018.0
2009	1,897,535.1	10,632.1	609,409.9
2010	2,297,862.3	11,698.4	584,221.5
2011	2,906,828.5	14,055.1	710,159.1
2012	3,580,553.5	17,797.7	975,089.6
2013	4,124,867.6	19,471.8	1,326,970.5
2014	4,843,859.1	20,559.5	1,801,410.4

The complex regime of multiple taxation not only made doing business difficult, but also complicated the lives of ordinary Indians who had to constantly revise their personal finances in order to cope with the tax-related rise in the prices of goods and services.

Trading companies incurred additional costs in interregional supply due to the rules of “fiscal sovereignty” of the Indian states. Checkpoints were set up at state borders to collect local duties and taxes. After they were liquidated in the second half of 2017 and the truck checks were cancelled, the time it took for goods transported between states to arrive was reduced by 20%.⁵

The replacement of the archaic system of multiple central and regional taxes levied in a large and complex national market with a single tax payment eliminated the inefficiency of the previous indirect taxation system in three key areas: consumer goods, logistics and manufacturing.

The central event of the tax reform was the introduction of a unified tax on goods and services (GST) on 1 July 2017. The Central Goods and Services Tax Act (CGST Act),⁶ with 21 chapters and 174 sections, is the most comprehensive legislative act in the field of VAT.

⁴ Source: Government of India, Indian Public Finance Statistics 2013–2014 (April 2014) (Apr. 14, 2021), available at https://dea.gov.in/sites/default/files/IPFStat201314_0.pdf.

⁵ Trucks’ travel time in interstate movement drops 20%, says Govt, Business Standard, 31 July 2017 (Apr. 14, 2021), available at http://www.business-standard.com/article/economy-policy/gst-impact-trucks-travel-time-in-interstate-20-says-govt-117073000276_1.html.

⁶ Central Goods and Services Tax Act, 2017 (No. 12 of 2017) (Apr. 14, 2021), available at <https://www.cbic.gov.in/resources/htdocs-cbec/gst/cgst-act.pdf>.

Despite the apparent progressive nature of the Indian tax legislation reform, significant part of Indian society opposes changes in fiscal system. The deep roots of such rejection, in our opinion, lie in Indian culture based on “casting” with a stable system of *jajmani*, cultivating individualism, theism and a lack of sociality.

The implementation of the GST creates certain conflicts regarding indirect taxation in India. The GST was launched on 1 July 2017 by the President and Government of India, immediately following an unprecedented midnight session of both houses of the Indian Parliament. It was the first time in modern Indian history, that a session was urgently convened to discuss the implementation of a government policy.⁸ The need for such extraordinary measures was explained by the persistent boycott of the GST introduction by the parliamentary opposition (including the communist parties of India) due to fears of a decrease in the fiscal potential of Indian states and the negative impact of the new tax on groups of people with middle and low incomes.⁹

The GST introduction was promoted under the slogan of “one nation, one market and one tax” and became one of India’s most important reforms in the tax system since the proclamation of the Republic on 26 January 1950. In terms of social significance, it can only be compared with the economy liberalization under the leadership of Prime Minister Narasimh Rao in 1991, which allowed India to become one of the countries with the highest rates of development by the end of the 1990s.

It was important that the GST project included provisions for tax administration based on consensus and agreement.¹⁰ Such an approach unites the nation by establishing a common goal, while also taking into account regional and social diversity. The specific approach to reforming Indian society, based on the appeal to the doctrine of “maternalism,” presupposes not only the protection of citizens from external and internal threats, but also the government protection of the population in different areas.¹¹ This is clearly manifested in the legal regulation of value-added taxation.

The scale of the fiscal changes is comparable to the Soviet tax reform of the 1930s, when the USSR abolished more than fifteen central and local taxes entering in force

⁷ The author uses this expression in the sense of stabilizing divided social groups and their inherent forms of social organization.

⁸ GST launch: Times when the Parliament convened for a session at midnight, Hindustan Times, 30 June 2017 (Apr. 14, 2021), available at <https://www.hindustantimes.com/india-news/gst-launch-times-when-the-parliament-convened-for-a-session-at-midnight/story-c55g94ewrOMefUvQJVfSEO.html>.

⁹ Sunil Prabhu, *Congress to Boycott GST Launch, Arun Jaitley Suggests Broader Shoulders*, NDTV.com, 29 June 2017 (Apr. 14, 2021), available at <https://www.ndtv.com/india-news/manmohan-singh-will-not-be-on-stage-at-midnight-goods-and-services-tax-gst-launch-1718417>.

¹⁰ Subrata K. Mitra, *Politics in India: Structure, Process and Policy* 121 (2010).

¹¹ Льюис Э. Без оглядки на богов. Взлет современной Индии [Edward Luce, *In Spite of the Gods: The Rise of Modern India*] (2009).

a single turnover tax.¹² It is important to note that the similarity between the Soviet reform and the modern Indian reform is not limited only to the single-step abolition of almost half of the administered fiscal charges (fourteen taxes were abolished in India); their common feature is the scope of coverage, with up to three thousand commodity items taxed at separate rates in both cases.

Unlike the authorities of many other countries with economies in transition, the Indian elite refuse to replicate foreign standards and management methods, contrarily, they propose carefully considered changes in line with the national identity, and refraining from making risky decisions that could violate the established way of social life.

Examining the new legislation on value-added taxation, we see that the objective is not only to achieve immediate fiscal efficiency, but a long-term strategy. In this system, VAT is a fiscal component of reforms aimed at reorganizing Indian society, as well as a financial and legal instrument that provides ample opportunities for socio-economic development.

It should be noted that the reform of legal regulation of value-added taxation went through a preliminary stage, which began in August 2016, when the respective amendments to the Constitution of India were adopted by the Parliament and ratified by eighteen states.

The amendments, in fact, were the basic preconditions providing the constitutional basis for the adoption and subsequent practical application of the CGST Act.¹³ As a result, that the constitutional and legal frameworks of the Indian value-added taxation reform were established.

2. Organizational and Legal Issues of the Indian Reform of Value-Added Taxation (2017 to 2020)

The budgeting and fiscal sphere of the Republic of India in general, and the legal regulation of value-added taxation in particular, are characterized by a number of features inherent in the hybrid system of common law and statutory law inherited from the era of British colonial rule.

The study of Indian norms and standards provides grounds for asserting that the legal technicalities of Indian tax legislation are distinguished by their unique national originality. The general specificity of tax law, characterized by a large volume and a synergistic, multifunctional nature of legal matter, is combined with the historically determined features of Indian legislation, with the obvious predominance

¹² Постановление Совнаркома СССР от 8 июля 1932 г. № 1066 «Об изменении законодательства Союза ССР в связи с налоговой реформой» // Собрание законов СССР. 1932. № 56. Ст. 337 [Decree No. 1066 of 8 July 1932. On Changes of the USSR Legislation in Connection with Tax Reform, Collection of Laws of the USSR, 1932, No. 56, Art. 337].

¹³ *Supra* note 6.

of procedural norms of law over substantive norms, justified casual character of regulations and the complexity of their systemic structuring.

The legal regulation of value-added taxation, in turn, stands out within the Indian tax law system due to its distinctive features.

Fiscal obligations for each type of taxes, as a general rule (Arts. 265 and 266 of the Constitution of India),¹⁴ can be introduced only by legislative acts and are subject to approval by the Parliament. The interconnection of tax regulation and the budgetary process, which Indian legislators borrowed from the British legal tradition, requires certain procedures adjusting the national fiscal policy. They are implemented through the systematic voting of tax charges through the annual adoption of the Finance Act by the Indian Parliament. Thus, the Finance Act of 2019¹⁵ regulates the income-tax rates for the 2019–2020 financial year, as well as the provision of benefits to various categories of taxpayers. The Finance Acts of 2018 and 2019 correct certain provisions of tax laws, but they have no affect the extensive legislation on value-added taxation, which is a relatively distinct area of legal regulation.

The high dynamics of tax reforms from 2017 to 2019 were largely dependent on a rather radical constitutional resolution of the Indian Parliament to establish a specialized body for legal regulation of value-added taxation., Members of this body represented not only the interests of the central government, but also those of the authorities of all Indian states.

The Goods and Services Tax Council (GST Council) was established in compliance with clause 1 of Article 279A of the Constitution of India, which states that the President must form the GST Council by his order within sixty days from the date of commencement of the Constitution Act (One Hundred and First Amendment) of 2016. The GST Council consists of 30 members: 29 Ministers of Finance of all Indian states and the Union Finance Minister (Chairperson).

The GST Council decisions are taken by a majority of not less than three-fourths of the weighted votes of the members present and voting, with a quorum of 50% of the total number of Council members; the vote of the Central Government has a weight of one third of the total votes cast.

The competence of the GST Council extends not only to all issues of legal regulation of value-added taxation, but also to legal procedures for resolving disputes “arising out of the recommendations of the Council or implementation thereof” between the Government of India and one or more states, as well as between two or more states (cl. 11 of Art. 279A of the Constitution of India).

¹⁴ Constitution of India, 1957 (Apr. 14, 2021), available at <https://legislative.gov.in/sites/default/files/COI-updated.pdf>.

¹⁵ Finance Act, 2019 (No. 7 of 2019) (Apr. 14, 2021), available at <https://egazette.nic.in/WriteReadData/2019/198304.pdf>. An Act to continue the existing rates of income-tax for the financial year 2019–2020 and to provide for certain relief to taxpayers and to make amendments in certain enactments.

According to the constitutional provisions (cl. 6 of Art. 279A of the Constitution of India), the GST Council shall perform its functions in compliance with the principle of harmonizing the GST structure with the goals of developing the national market for goods and services. It is intended to ensure such legal regulation of the GST, which could result in a 2% increase in GDP by improving the incentive component of tax policies. In order to achieve these goals, the GST Council develops conceptual guidelines for legal regulation and makes recommendations for the tax on goods and services. In particular, in compliance with clause 4 of Article 279A of the Constitution of India, the Council determines:

- The goods and services that may be subjected to or exempted from the goods and services tax;
- Model GST laws, principles of levy and apportionment of the GST levied on supplies in the course of inter-state trade and the principles that govern the place of supply;
- The threshold limit of turnover below which goods and services may be exempted from the GST;
- The tax rates, including floor rates and any special rates for a specified period in order to raise additional resources during a natural disaster;
- Special GST provisions for a number of states, which are specified in item (g) of clause 4 of Article 279A of the Constitution of India: Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand;
- Any other matter relating to the GST, as the Council may decide.

Because the Indian model of GST is rather innovative, the GST Council activities are highly intensive. From 2016 to 2019, the GST Council held more than sixty meetings to adjust tax rates for over a thousand commodity items and types of activities. It is no coincidence that the constantly supplemented set of legal norms governing the legal regulation of value-added taxation in India is becoming one of the most voluminous and detailed legislations of this kind in the world.

It is important to note that the heads of the country's financial authorities are personally responsible for improving the efficiency of the national economy, and the GST Council decisions follow the logic of ensuring a balance of public interests. This is evident in the differentiating of tax rates:

- The standard GST rate of 12% for all works performed under the contract and the sale of most goods;
- The reduced GST rate of 5% for about 300 essential goods and for domestic transportation by air and rail;
- The increased GST rate of 18% for highly marginal and non-production activities, including the services of banks and financial organizations and companies in the sphere of modern telecommunications and information technologies. The legal regulation of value-added taxation has increased the tax burden on the financial sector of the Indian economy by 3% in comparison with the previously used rates;

– The maximum GST rate of 28% for luxury goods and for vending machines, ATMs, tobacco and alcohol.

The rate of 18% is also used as a penalty rate that is applied to the taxable base if the GST payment does not correspond to the actual tax liability.

The GST Council responds promptly to the impact of the GST legal regulation mechanisms by utilizing the “feedback” technique. To alleviate tensions in the key industries, the GST Council amended the Central Goods and Services Tax Act of 2017, which went into effect on 1 February 2019. They changed the provisions of subsection (4) of Section 9, narrowing the scope of supplies for which the tax should be paid on reverse charge basis. As a result, the policy of universal tax coverage of goods and services is changing by introducing the rule of tax payment on a reverse charge basis for the supply of certain categories of goods or services.

3. Main Characteristics of VAT (GST) Legal Mechanisms in India

Our analysis of key provisions of the CGST Act leads us to the conclusion that Indian authorities prefer to be self-reliant in their search for the most effective ways of legal regulation of value-added taxation. This search is being conducted against the backdrop of a complex and highly specific socio-political situation in a multi-structured economy, and the measures taken by the authorities prove their ability to make non-trivial decisions that significantly expand the regulatory and legal range of VAT opportunities.

A comparative legal study of the approaches to legal regulation of value-added taxation in different legal systems enables us to identify the key distinctive provisions of the reform of taxation of goods and services in the Republic of India.

1. Introduction of reverse charge basis, meaning the liability to pay GST by the recipient of goods or services instead of the supplier of such goods or services, under subsection 98 of Section 2 of the CGST Act. In essence, the reverse charge mechanism (RCM) in the taxation of goods and services is based on the principle that the tax is paid by the recipient on behalf of unregistered, small suppliers of goods and services. To reduce the tax burden, a GST payer acting as the goods recipient is eligible for the preferential tax credit. According to the logic of this regulation, the aggregate value of all taxable supplies is calculated excluding the value of inward supplies on which tax is payable on a reverse charge basis (subsecs. 6 and 112 of Sec. 2 of the CGST Act).

It should be noted that the reverse charge mechanism, creating a financial entry barrier, forces entrepreneurs to divert funds for tax payments by creating a financial barrier. Joining this GST system increases the fiscal burden for an entrepreneur because of the obligation to pay GST not only as a supplier of goods but also as a recipient of goods from other suppliers. Later, the taxpayer can use its right to an input credit for the tax paid, so the fiscal burden decreases.

2. Differentiation between goods and services in tax accounting. The CGST Act establishes two types of GST documents: *a tax invoice* for the supplied goods (Sec. 12 of the CGST Act) and *an invoice for the taxable service* (Sec. 13 of the CGST Act). Such an approach not only contributes to greater transparency of taxpayer data, but also improves information support for managing the national economy in general.

3. It is crucial that Indian legislators recognize that labor supply contracts are subject to value-added taxation and establish a general rate of 12% for them, regardless of the types of goods and services produced by the employees. This solution ensures the most consistent implementation of the principle of neutrality in value-added taxation, because, in general, it eliminates or significantly reduces the corresponding tax burden on labor at higher GST rates.

4. The choice of the rate of 12% as the basic standard in the five-tier GST tax structure (0%, 5%, 12%, 18% and 28%). Because of the widespread use of the VAT (GST) rate of 12%, this type of value-added taxation can be classified as a model of a predominantly neutral legal mechanism for value-added taxation, which does not restrain economic development and has no significant impact on labor.

5. Due consideration of the interests of the informal sector of Indian economy, which accounts for at least one third of the gross domestic product (GDP) and four-fifths of employment,¹⁶ mainly low-skilled workers. Thus, for example, the GST Council, at meeting No. 33 of 24 February 2019, decided to exempt the following services: works of installation and commissioning undertaken for extending electricity distribution network for agricultural use; artificial insemination of livestock; warehousing of minor forest products; and services for food processing industry.

6. Increased value-added taxation in the financial sector of the Indian economy. The introduction of the GTS increased the tax burden on banking services, including both the traditional operational services and charges that are typical of Indian credit organizations. Banks, in particular, charge 2%–5% of the loan amount as an advance payment and 1–2% of the loan amount as a fee for its processing. As a result, Indian banks withhold from 3% to 7% immediately upon issuing a loan to the borrower and pay GST at the rate of 18%. Until 1 July 2017, such transactions had been taxed at the rate of 15%.

It is for the first time that one of the world's three largest value-added taxation systems, with a population of more than 1,360 million people, will compensate taxable legal entities with tax refunds on banking transactions. Non-taxable borrowers, on the other hand, bear the full financial burden of this tax. The majority of the time, these are individuals who take personal, household and mortgage loans, as well as car loans. The most common of these is a personal loan, which is popular due to its versatility and the fact that it does not require collateral. This resulted in

¹⁶ UNCTAD, Trade and Development Report 2017 – Beyond Austerity: Towards a Global New Deal (2017) (Apr. 14, 2021), available at https://unctad.org/en/PublicationsLibrary/tdr2017_en.pdf.

a tax-driven increase in the cost of consumer loans, which is confirmed by official statistics.¹⁷

Fundamental changes in tax legislation are implemented simultaneously with the administrative transformations based on the introduction of electronic technologies in public administration. Tax administration has been moved to a unified information system, the technological basis of which is the GSTN integrated web-platform.¹⁸ In the electronic document management mode the platform operates on the principle of a 'single window' with the mandatory registration and assignment of an individual GST Identification Number.¹⁹ The procedures for GST declaration and tax refunds from the budget are entirely carried out on a dedicated tax portal (gst.gov.in).

The implementation of the electronic value-added taxation project throughout the country was made possible through the concerted efforts of the Indian authorities to develop software and mass communication networks, as well as to train specialists with higher technical education, with over 1 million graduates each year.

Our findings about the comprehensive nature of the GST reform are as follows:

- Coherence among all legislative acts on the VAT (GST) issues;
- Objectives of VAT (GST) legal mechanisms aimed at improving the efficiency of key segments of the national economy: logistics, industrial production and production of consumer goods. The differentiated approach to the legal mechanisms of value-added taxation enables forecasting consumer price declines and additional GDP growth;
- Unique functionality of the GST Council. This governmental body, in fact, acts as the organizational and legal centre of the ongoing tax reform and not only represents the central Government of India and each individual region of the country, but it also has a constitutional and legal status that allows it to carry out all of the functions assigned to it.

4. Development of Legal Regulation of Value-Added Taxation in the People's Republic of China (1979 to 2016)

The development of the VAT legal regulation began in 1979, shortly after the Chinese authorities decided to change the direction of the nation's socio-economic, political and legal development. At the time, the VAT was only applicable to the manufacture of certain machinery and agricultural equipment in the urban districts of Liuzhou (Guangxi Zhuang Autonomous Region), Changsha (Hunan Province),

¹⁷ Will Loans Inflate with GST? Find Out Here, Wishfin (Apr. 14, 2021), available at <https://www.wishfin.com/gst-impact/gst-impact-on-personal-car-home-loans/>.

¹⁸ Goods and Services Tax Network.

¹⁹ GST Identification Number.

Xiangfan (now Xiangyang, Huben Province) and the municipality of Shanghai.²⁰ In contrast to Western European countries, China did not adopt a universal approach to the legal regulation of VAT. The scope of the new tax was limited to a small group of goods, the production and sale of which were taxed at twelve different rates.

In 1981, the VAT was extended to all parts of China, and bicycles, electric fans, and sewing machines were added to the list of taxable goods. In 1984, the State Council of the PRC issued the Regulations on Value-Added Tax, under which the VAT was levied on twelve different types of goods, including machinery, cars and steel.²¹ This limited scope of the VAT collection was maintained until the end of 1993.²²

The needs of economic development, as well as the need to improve tax administration, necessitated further development of the legal mechanism of VAT and expansion of its scope. As a result, a new Chinese model of legal regulation of value-added taxation was developed, drawing inspiration from the tax legislation of the European Union (the traditional model of VAT) and New Zealand (the modernized model of VAT, known as GST) as guidelines. However, the fiscal principles of the European VAT and the New Zealand GST are fundamentally different in terms of the structure of tax rates and the number of exemptions from taxation.

Based on its values, cultural realities and traditions of development, China created its own comprehensive model of industrial and commercial taxation. Its fundamental difference from foreign models was in primary orientation of the legal mechanism of taxation on production rather than on consumption, which is subject to the European VAT and the New Zealand GST.

The Provisional Regulations on Value-Added Tax of the People's Republic of China, approved by the State Council of the PRC on 13 December 1993, went into effect on 1 January 1994.²³ The regulation expanded the scope of the VAT legal regulation to include the sale and import of goods, as well as related production services such as processing and repair.²⁴ However, that initial version of VAT had a very limited taxable base. Such spheres of the Chinese economy as transportation, construction, telecommunication, culture, sports, entertainment, as well as financial, insurance and postal services were not subject to VAT but were subject to the Business Tax (BT).

²⁰ National Accountant Assessment & Certification Centre of Ministry of Finance, *Economic Law* (2015), at 322.

²¹ Dongsheng Jin & Jin Weifu, *On the Development Strategy of China's Value-Added Tax (VAT) Reform*, 3 *J. Chinese Tax Pol'y* 226, 231–232 (2013).

²² B. Mingbo, *Wōguó zēngzhí shuì fāzhān yǔ gǎigé lìchéng* [B. Mingbo, *The Development and the Reform of VAT in China*], 12 *Jiāotōng cáihuì* [Finance & Accounting for Communications] 71 (2008).

²³ State Taxation Administration of the People's Republic of China, *中华人民共和国增值税暂行条例* [Provisional Regulations on Value-Added Tax of the People's Republic of China], promulgated on the Order of the State Council No. 134 on 13 December 1993 (with amendments by the State Council on 5 November 2008, 6 February 2016, 19 November 2017) (Apr. 14, 2021), available at <http://www.chinatax.gov.cn/n810341/n810765/n812171/n812680/c1190937/content.html>.

²⁴ Jin & Weifu 2013, at 232.

The second important legal act on the VAT was the Law of the People's Republic of China on the Administration of Tax Collection, adopted by the Order of the State Council No. 362 of 7 September 2002.²⁵ In compliance with Article 26 of the Provisional Regulations on Value-Added Tax of the People's Republic of China, the Law regulated the collection and administration of VAT.

The initial system of Chinese VAT cannot be compared with the traditional model of value-added taxation because it did not allow for the claiming of the input tax paid on purchased resources used in the production of taxable goods. The absence of fiscal mechanisms for claiming back the input VAT reduced incentives for fixed assets renovation, prevented taxpayers from investing in expensive advanced technologies. As a result, on 20 September 2004, the Ministry of Finance and the State Administration of Taxation were forced to pass the Provision on Extending Reductive Base of VAT in the North-Eastern Region.²⁶ This document introduced a limited possibility to claim the input VAT within three North-Eastern provinces (including Heilongjiang, Jilin and Liaoning). On 1 July 2007, the scope of the Provision was expanded to twenty-six industrial urban areas in six provinces (Shanxi, Anhui, Jiangxi, Henan, Hubei, and Hunan). The expansion of the scope of VAT legal regulation was accompanied by the introduction of a wide range of tax incentives in order to alleviate the severity of the fiscal burden for the enterprises that contributed to the modernization of the country's production assets.

In 2008, the People's Republic of China began testing an entirely new scheme of legal regulation of VAT, based on a nationwide shift from production-based VAT to consumption-based VAT mechanisms nationwide. On 10 November 2008, the State Council of the PRC approved amendments to the Provisional Regulations on Value-Added Tax of the People's Republic of China, including procedures for claiming the input VAT to be applicable from 1 January 2009.

The amendments created a favorable fiscal environment for production modernization, which provided the necessary technological basis for the sustainable growth of the Chinese economy.

On 8 November 2012, Hu Jintao addressed the 18th CPC Congress, calling for a profound transformation of the Chinese growth model by stimulating domestic consumer demand. This process was accompanied by territorial and sectoral expansion of the scope of VAT legal regulation.

The entire system of small business taxation was actively modernized in order to adapt the population of China to the needs of economic development. A number

²⁵ State Taxation Administration of the People's Republic of China, Zhōnghuá rénmín gònghéguó shuishōu zhēngshōu guānlǐ fǎ shìshí xizé [Law of the People's Republic of China on the Administration of Tax Collection, adopted by Order No. 362 of the State Council of 7 September 2002 (with amendments by Order No. 638 of the State Council of 18 July 2013, and by Order No. 666 of the State Council of 6 February 2016)] (Apr. 14, 2021), available at <http://www.chinatax.gov.cn/n810341/n810755/c3357578/content.html>.

²⁶ Kenny Z. Lin & Pauline W.Y. Wong, *Recent Reform in Chinese VAT Policies*, 38(4) Int'l Tax J. 39, 42 (2012).

of measures were implemented in the sphere of legal regulation of VAT for this group of taxpayers, the most important of which was the abolition of the multiple tax rate structure (6%, 4%, 3%), so small businesses began paying VAT at a single unified rate of 3%.

Beginning on 1 May 2016, the scope of VAT was further expanded by gradually replacing the business tax in a wide range of services, including those in the financial sector of the economy.

5. Chinese Reform of Legal Regulation of VAT (2017 to 2020)

China is one of the countries with well-defined, long-term national development programs. The authorities use legal institutions of socio-economic regulation, to ensure the adjustment of the “big system” of Chinese society in the process of implementing such programs. By carefully changing the legal settings for value-added taxation, the Chinese authorities provide the legal mechanism of VAT with broad, socially significant regulating powers, the dynamic improvement of which is contributing to the resolution of the basic tasks of social and economic development of China in the current decade.

In April 2017, in accordance with the decisions of the CPC Central Committee and the State Council of the People’s Republic of China on supporting innovation, aimed at promoting preferences for entrepreneurship, the State Taxation Administration of the People’s Republic of China adopted a special Guideline on Preferential Tax Policies for Mass Entrepreneurship and Innovation, including eighty-nine preferential tax policies and measures in key areas of the economy. The proposed measures covered the entire life cycle of a business entity and included descriptions of preferential positions. In particular, these measures included large-scale VAT exemptions for certain groups of taxpayers:

- by increasing the VAT threshold from CHY 30,000 of monthly sales to CHY 100,000;²⁷
- by exempting from VAT the interest income earned by financial institutions from lending up to CHY 10 million to small and micro-enterprises, as well as to individual industrial and commercial households;
- by providing VAT exemptions to provincial incubators, university science parks and innovation activity spaces authorized by the state.²⁸

²⁷ State Taxation Administration of the People’s Republic of China, Jiā xíngzhèng zǒngjú guānyú miǎn zhēng zēngzhí shuì zhèngcè de xiǎo guīmó nàshuì rén zhēngshōu shuì fèi de gōnggào [Announcement of the State Administration of Taxation on the Collection of Taxes and Administration of Small-Scale Taxpayers Exempted from the Value-Added Tax, Resolution No. 4 of 1 March 2019] (Apr. 14, 2021), available at <http://www.chinatax.gov.cn>.

²⁸ State Taxation Administration of the People’s Republic of China, Chuàngyè yǔ chuàngxīn yōuhuì shuìshōu zhèngcè zhīnán [Guideline on Preferential Tax Policies for Mass Entrepreneurship and Innovation, Resolution of 19 June 2019] (Apr. 14, 2021), available at <http://www.chinatax.gov.cn>.

From 2017 to 2019, the authorities of China, implemented the reform of tax rates, which was objectively the core changes in the legal mechanism of VAT.

On 1 July 2017, the scale of basic VAT rates (17%, 13%, 11%, 6%) was transformed and replaced with a simpler three-tier scale (17%, 11%, 6%).

The reduction of the VAT rates was carried out in two stages:

– on 1 May 2018, the higher VAT rates were reduced from 17% and 11% to 16% and 10%, respectively;

– on 1 April 2019, the basic VAT rates were reduced from 16%, 10% and 6% to 13%, 9% and 6%, respectively.

As a result, a three-tiered structure of rates was formed for ordinary VAT payers (13%, 9%, 6%). The Joint Announcement of the Ministry of Finance, General Administration of Customs and the State Taxation Administration of the People's Republic of China No. 39 of 20 March 2019²⁹ established the rate of 13% as the basic (general) VAT rate, but the new rate for agricultural products was 9%, and for a significant number of commercial operations it was 6%.

In his Report at the 19th CPC National Congress in October 2017, Xi Jinping announced a 30-year program of social and economic transformation of Chinese society to be implemented in three stages (2017–2020, 2021–2035, 2035–2049). The main task of the first stage is defined as overcoming poverty and “building a moderately prosperous society in all respects: a *xiaokang* society that is essentially well off. Its political and legal support should be carried out in strict accordance with the principle of “combining the rule of law and the rule of virtue.”³⁰ The new political and legal attitudes indicate that the practice of harsh punishments, which dates back to the principles of legalism,³¹ and was typically used during periods of strengthening government power, is giving way to control and regulatory measures based on the Confucian rules of *Liji*.³²

Changes in administrative practices lead to corresponding large-scale transformations in the legal regulation of value-added taxation.

One of the most important steps aimed to implement the decisions of the 19th Congress of the CPC in the sphere of taxation is the definition of 110 preferential

²⁹ State Taxation Administration of the People's Republic of China, Public Notice on Relevant Policies for Deepening VAT Reform, Joint Announcement by Ministry of Finance, General Administration of Customs and State Taxation Administration No. 39 of 20 March 2019 (Apr. 14, 2021), available at <http://www.chinatax.gov.cn/chinatax/n810341/n810755/c4559725/content.html>.

³⁰ Xi Jinping, *Report at 19th CPC National Congress*, China Daily, 4 November 2017 (Apr. 14, 2021), available at https://www.chinadaily.com.cn/china/19thcpcnationalcongress/2017-11/04/content_34115212.htm.

³¹ Legalism (Latin, from *lex, legis* meaning “law”), or *Fajia* (from Chinese “house of law”). Theoretical substantiation of the totalitarian-despotic style of administration. The Legalist school of thought was founded by Guan Zhong (720–645 BC). The main message is that the population can be taught to order only through the use of harsh measures and strict laws.

³² *Liji*, or The Book of Rites, is a treatise of Chinese canonical literature, attributed to Confucius and his closest disciples, which has had wide practical application since the Han dynasty period (206–220 BC).

policies to fight with poverty, 36 of which are specific measures to reduce or completely eliminate VAT. The amendment of the VAT legal mechanism is aimed to cover almost all areas that are critical for poverty alleviation (infrastructure, employment, support for small and associated agricultural producers) such as infrastructure development in poor areas, ensuring the safety of drinking water, assistance to the development of agricultural industry, creating proper conditions for the sale of agricultural products; transfer of land to agricultural producers for agricultural purposes, promoting inclusive financing for agricultural producers and encouragement of social donations for poverty alleviation.

The spirit of the most important regulations adopted by the financial and fiscal authorities of China at the current stage of the VAT reform is imbued with the desire to improve the taxpayers' situation. Excessive legal regulation of VAT is currently being revised on a large-scale basis. Its bureaucratic nature has been greatly reduced as a result of the measures enacted following the 19th CPC Congress. These measures are intended to fulfill the requirements of the CPC Central Committee and the PRC State Council aimed at "reduction of permits for people's convenience," further optimization of tax enforcement methods, and improvement of the fiscal business environment. One of these complex solutions is the practical interpretation of the resolution of the State Taxation Administration dated 31 July 2019.

Focusing on "solving problems for the people," this regulation cancels thirty-five tax certification requirements and notices on issues related to stolen and lost invoices (State Taxation Administration Announcement No. 50 of 2016) with regard to the declaration of lost invoices.

Nevertheless, despite a number of novel solutions to fundamental VAT issues, Chinese experts have yet to devise optimal procedures for the tax refund. They continue to fall under the category of complicated issues in the PRC's legal mechanism of value added-taxation necessitating a voluminous array of regulations.

According to the general rule set forth in subsection 3 of Section 7 of Joint Announcement No. 39 of 20 March 2019,³³ the currently valid legal mechanism of VAT allows for the following cases of tax deductions:

1. If the tax amount payable before deduction is zero, all additional deductible amounts of the current period may be carried over to the next period for deduction.
2. If the tax amount payable before deduction is greater than zero and greater than the additional deductible amount of the current period, all the additional deductible amounts of the current period shall be deducted from the tax amount payable before deduction.
3. If the tax amount payable before deduction is greater than zero but less than or equal to the additional deductible amount of the current period, the tax amount payable shall be reduced to zero for the additional deductible amount of the current

³³ Public Notice on Relevant Policies for Deepening VAT Reform, *supra* note 29.

period. The additional deductible amount of the current period that is not deducted completely shall be carried over to the next period for deduction.

Thus, the legal regulation of VAT in the People's Republic of China contains a mechanism for protecting against VAT fraud, which is implemented through the regulation on transferring tax deductions to a later period, which, in general, does not allow for a cash refund from the budget.

Another unique feature of the current Chinese model of legal regulation of VAT is a special procedure for tax deductions, which are most often only partially reimbursed for the full amount.

While in the Russian Federation the taxpayer can receive a full refund of the previously paid VAT after verifying evidence of export or if the input tax exceeds the output tax, the People's Republic of China uses a discounting system.

Thus, for example, subsection 1 of Section 7 of Joint Announcement No. 39 of 20 March 2019, stipulates that "from 1 April 2019 to 31 December 2021, taxpayers in the production and living service industries are allowed to add 10% based on the VAT on purchase deductible in current period to deduct from the tax amount payable."

Subsection 1 of Section 8 of Joint Announcement No. 39 of 20 March 2019, defines four conditions that a VAT payer should meet in order to apply to the competent tax authority for a refund of the incremental uncredited input VAT beginning on 1 April 2019:

1. Starting in April 2019, the incremental uncredited input VAT must remain positive for 6 consecutive months (2 consecutive quarters in the case of quarterly taxation), with a total value of no less than CNY 500,000;

2. The VAT payer's credit rating is A or B;

3. There have not been any cases of defrauding the refund of the input VAT or export refunds, or falsely issuing the VAT special invoice within the 36-month period preceding the claim for the tax refund;

4. The taxpayer has not been punished twice or more by tax authorities for tax evasion within the 36 months preceding the claim for the tax refund.

Tax deductions and the corresponding adjustments to the legal mechanism of VAT are currently formulated as fiscal incentives for the most advanced industries, especially in the manufacturing and energy sectors, thus expanding the list of taxpayers eligible for a refund of the incremental input VAT. The preferential regime of the VAT refund for such taxpayers is specified in the Joint Announcement by the PRN Ministry of Finance and General Administration of Customs No. 84 of 31 August 2019.³⁴ According to the first paragraph of this announcement, taxpayers who are engaged in modern research and development and production of the most advanced

³⁴ Zhōnghuá rénmin gònghéguó cáizhèng bù hé zhōnghuá rénmin gònghéguó guójiā shuìwù zǒngjú yú 2019 nián 8 yuè 31 rì fābù de gōnggào [Joint Announcement by the PRN Ministry of Finance and General Administration of Customs No. 84 of 31 August 2019] (Apr. 14, 2021), available at <http://www.chinadaily.com>.

equipment can apply for the refund of the incremental input VAT, if they also fulfill the conditions stipulated in subsection 3 of Section 7 of the Joint Announcement No. 39 of 20 March 2019.

One of the significant measures of reforming VAT legal regulation is the purposeful integration of small businesses into the chains of division of labour of VAT payers. Paragraph 1 of the Public Notice “On Implementation of the Second Set of New Measures for Tax Collection” No. 243 published by the State Taxation Administration of the People’s Republic of China on 31 August 2019,³⁵ provides for the possibility of issuing special VAT invoices and use of the VAT invoice management system on a voluntary basis for this category of taxpayers. According to our analysis of the regulatory legal acts of the PRC, that were in effect in 2019, small businesses that pay VAT at a reduced rate are permitted to issue their own invoices. The following VAT rates are used in this case:

- 3% – the standard VAT rate for small businesses;
- 5% – the VAT rate for special circumstances (sale and rental of real estate, transfer of land use rights, provision of labour dispatch services and security services).

In his speech at the session of the National People’s Congress of the People’s Republic of China in March 2019, Premier of the State Council of the People’s Republic of China Li Keqiang stated his intention to “keep our mission firmly, stimulating the energy of small enterprises for high-quality economic development.” In terms of fiscal practice, this means that businesses would then pay CNY 2 trillion (U.S. \$291 billion) less in taxes in 2019; for the first five months of 2019, the tax burden for small and medium-sized companies, which account for more than 99% of all registered businesses, was reduced by CNY 816.8 billion (U.S. \$119 billion).

Manufacturing is becoming the primary beneficiary of tax-cutting policies. In April 2019, the tax burden for the manufacturing industry was reduced by CNY 47.6 billion as a result of the VAT reduction. From January 2019 to April 2019, the manufacturing industry received CNY 42 billion as a result of the expanded rights to deduct input VAT. As a result, the VAT payments of the manufacturing sector decreased by CNY 89.6 billion from January 2019 to April 2019.

According to statistics, China’s investments in high-tech manufacturing and high-tech services grew by 11.4% and 15.5%, respectively, in the first four months of 2019, compared to the same period in 2018, while the added value of high-tech manufacturing increased by 11.2%.

Furthermore, the increase in the VAT threshold from CNY 30,000 of monthly sales to CNY 100,000 resulted in a VAT reduction of CNY 49.8 billion for 29.4 million small companies, giving them more opportunities to develop their businesses.³⁶

³⁵ State Taxation Administration of the People’s Republic of China, *Guānyú shíshī dì èr tào xīn de shuìshōu zhēngguǎn cuòshī de tōngzhī* [On Implementation of the Second Set of New Measures for Tax Collection, Public Notice of 31 August 2019] (Apr. 14, 2021), available at <http://www.chinadaily.com>.

³⁶ Over 111 billion yuan of tax reduction realized in first month of deepening VAT reform, State Taxation Administration of the People’s Republic of China, 30 May 2019 (Apr. 14, 2021), available at <http://www.chinatax.gov.cn/eng/c101269/c4472965/content.html>.

Despite the large-scale reduction in tax rates and the expanded scope of tax preferences, VAT continues to account for the majority of China's total tax revenues. VAT revenues totaled CNY 9283.9 billion in 2018, accounting for 54.6% of all tax revenues.³⁷

An important distinctive characteristic of the Chinese VAT reform is the inclusion of financial services in the scope of legal regulation of value-added taxation. Until 2012, financial services in China were subject to a 5% business tax on the taxable turnover calculated as the amount of interest received, with no possibility of subsequent tax deductions for borrowers. This provision rightly qualified as an excessive burden on borrowers, since they fully compensated for the tax paid on interest payments on their loans. As of 1 January 2020, financial services are now subject to a 6% VAT.³⁸

6. Features of Legal Regulation of Value-Added Taxation in the People's Republic of China

When predicting further development of legal regulation of value-added taxation, we should take into account the existing hierarchy of decision-making process in the People's Republic of China. The following public authorities have the rights to develop regulations for value-added taxation, and thus determine the legal conditions for the VAT collection: the National People's Congress (and its Standing Committee) with the powers to adopt and enact the nation's tax laws; the State Council that issues the fundamental statutory acts in the sphere of taxation (regulations on specific taxes, rules and instructions); and the Ministry of Finance, State Taxation Administration and General Administration of Customs that develop important acts of legal regulation of value-added taxation.

Our review of the norms of Chinese tax law governing value-added taxation enables us to identify the range of the most significant legal acts in this area of economic relations, including the following:

The Provisional Regulations on Value-Added Tax of the People's Republic of China promulgated by the Order of the State Council No. 134 on 13 December 1993 (with amendments by the State Council on 5 November 2008, 6 February 2016, 19 November 2017).³⁹ The Provisional Regulations are the fundamental legislative act in the sphere of value-added taxation. They are a fairly limited "framework" regulation for the scope of value-added taxation, consisting of twenty-seven articles, that require the adoption of a wide range of supplementary resolutions, orders, instructions and announcements by the Ministry of Finance and the State Taxation Administration of China;

³⁷ Over 111 billion yuan, *supra* note 36.

³⁸ Public Notice on Relevant Policies for Deepening VAT Reform, *supra* note 29.

³⁹ Provisional Regulations, *supra* note 23.

The Law of the People's Republic of China on the Administration of Tax Collection adopted by Order No. 362 of the State Council on 7 September 2002 (with amendments by Order No. 638 of the State Council on 18 July 2013, and by Order No. 666 of the State Council on 6 February 2016);⁴⁰

Tax administration regulations introduced by Order No. 362 of the State Council on 7 September 2002. In the course of the tax reform, amendments and adjustments are introduced into these regulations.⁴¹ Now the regulations are in effect as amended on 6 February 2016.⁴² It is a fairly voluminous guideline of 113 articles, regulating in detail the legal status of participants in the tax process, tax accounting procedures, control and registration of taxpayers.

Laws and regulations of the central government are supplemented by numerous VAT regulations issued in the provinces. Unlike in many other economies, where the legal regulation of VAT is created at the level of central governments, and in some cases the basic VAT-related provisions are even formulated in national constitutions (for example, in India and Brazil), the Chinese fiscal and legal system of value-added taxation is based on an extremely eclectic set of separate departmental regulations.

This results in a kind of "manual mode" of tax administration, and, however paradoxical it may appear at first glance, we can recognize its positive results, as evidenced by the multiple practices of its legal application. The incomplete set of legal constructs of the Chinese VAT regulation allows it to quickly adapt to specific socio-economic conditions prevailing in different regions of the country at specific times. The active participation of the governing bureaucracy in the selection of procedural modes and patterns reveals a wide variability of decisions, the quality of which may depend on the legal form of the transitional type, interpreted in the modern analytical theory of law as the "open texture."⁴³

With a certain degree of abstraction, we can see that similar approaches to adapting law to changing living conditions, allowing for its active transformation and renewal, can be found throughout history. A classic example in this regard is the application of the method of evolutive improvement of legal regulation in the law-making of the magistrates of Republican Rome, which provided the necessary

⁴⁰ Law of the People's Republic of China on the Administration of Tax Collection, *supra* note 25.

⁴¹ Order No. 628 of the State Council of 9 November 2012 (effective from 1 January 2013); Decision No. 638 of the State Council of 18 July 2013: Second Revision of the Resolution of the State Council on Abolishing and Amending Certain Administrative Regulations (Apr. 14, 2021), available at <http://www.chinatax.gov.cn>.

⁴² State Taxation Administration of the People's Republic of China, Zhōnghuá rénmín gònghéguó shuìshōu zhēngshōu guǎnlǐ fā shìshì xizé [The Third Revision of the State Council Decision on Amending Certain Administrative Regulations, Resolution No. 666 of the State Council of 6 February 2016] (Apr. 14, 2021), available at <http://www.chinatax.gov.cn/n810341/n810755/c3357578/content.html>.

⁴³ Herbert L.A. Hart, *The Concept of Law* 124–135 (1961).

dynamics for the development of legal norms and the resolution of conflicts of law. Such practices, without a doubt, should be subject to appropriate restrictions. The Roman praetors acted within the framework of the basic legal principles of *bona fides* (good faith) and *aequitas* (justice that implies “retribution in kind”).⁴⁴

Similar restrictions are imposed on today’s Chinese administrators, who are encouraged by the party leadership to take effective measures to adapt the legal mechanism of VAT to the specifics of the administration territories entrusted to them. In the regions, a virtually new level of normative regulation of value added taxation is being formed, with the goal of taking into account the needs of mass VAT payers. The Regulations on Value-Added Tax Administration for the province of Guangdong,⁴⁵ for example, state that the purpose of the document is to standardize and unify standards for the administration of value-added taxation in real estate, and Articles 23 to 39 explain the specific taxation procedures in sufficient detail. Another such act is the Guidelines on VAT Invoicing of 28 March 2019, for the province of Hainan,⁴⁶ which is intended to facilitate understanding of VAT invoicing procedures for taxpayers and contains a comprehensive description of the legal status of invoices, including administrative penalties and criminal remedies for fraudulent actions.

Today, Chinese tax administrators operate not only within the limits of legislative restrictions, but are also actively influenced by the objectives set by the higher levels of government, as well as by the general socio-political and moral situation in society and the need for the rule of law and justice. As a result, Chinese scholars claim that the fiscal policy of today’s China is based on the principle of “giving efficiency priority with due consideration to fairness,” implying that the Chinese government now prioritizes social justice over economic efficiency.⁴⁷

An example of the cautious and balanced approach of the Chinese legislators to the VAT legal regulation is the nationwide discussion of the draft law of the People’s Republic of China on land value-added tax, which takes into account the difficult situation in the Chinese real estate market, with the added value of ordinary houses being minimal or even negative.

⁴⁴ История политических и правовых учений. Древний мир [History of Political and Legal Doctrines: Ancient World] 277 (Vladik S. Nersesiants ed., 1985).

⁴⁵ Guangdong Tax Services of State Taxation Administration of the People’s Republic of China, Announcement No. 5 of 28 June 2019 on Issuing Regulations on Value-Added Tax Administration (Apr. 14, 2021), available at http://www.gd-n-tax.gov.cn/gdsw/ssfggds/2019-06/28/content_de90e72141a24f1e88f49d8513c7d2e9.shtml.

⁴⁶ Hainan Tax Services of State Taxation Administration of the People’s Republic of China, Guidelines on VAT Invoicing of 28 March 2019 (Apr. 14, 2021), available at http://www.hitax.gov.cn/sxpd_1_6/28112260.html.

⁴⁷ Gao Peiyong & Ma Jun, *China: Toward the New Stage of Improving its Tax System*, 1(2-3) J. Tax Reform 145 (2015).

According to the preamble of the draft law, the public can submit their views to the financial and tax authorities of the PRC by 15 August 2019, in order to broaden social consensus and promote democratic legislation.⁴⁸

In fact, a fundamentally new significant trend is emerging in Chinese tax law: an act of tax law comes into force following a preliminary expression of opinions by the population, rather than as a legal norm “granted” by the representative, executive or judicial authorities.

The Chinese experience in the legal regulation of value-added taxation confirms the conclusions of sociologists that the consistent effective improvement of law as an institution of modern civilization is possible through the constant accumulation and transfer of the results achieved in a closely organized public association.⁴⁹

As a result, both the government and the general public agree that the ultimate goal of the tax reform in China is to create a modern balanced VAT system with a broad tax base (if possible, including all goods, services and real estate), but with low tax rates and a limited number of tax preferences.⁵⁰

Such characteristics are present in the model of legal regulation of GST in New Zealand, which is considered more advanced, so the next step in the VAT system development in China may bring it closer to the New Zealand model.

Conclusion

Certain technicalities of the latest Indian and Chinese legislation can be considered in terms of their use in the development and improvement of advanced VAT models in other countries. In particular, special attention should be paid to their experience in taxation of the financial sector and to the reverse charge mechanism, which requires tax payments from each taxpayer individually, making it impossible to transfer tax liabilities from one taxpayer to another in a chain of interconnected supplies.

Our preliminary study of the main trends and the achieved results of the VAT reforms in India and China from 2017 to 2019 allows us to assess the possibility of acquiring new knowledge necessary to deal with similar “problems and challenges in the economic and social areas, stemming from the need for their large-scale modernisation.”⁵¹

⁴⁸ State Taxation Administration of the People’s Republic of China, Zhōnghuá rénmín gònghéguó tǔdì zēngzhí shuǐfǎ [Law of the People’s Republic of China on Land Value-Added Tax, Draft for comments of 15 July 2019] (Apr. 14, 2021), available at <http://www.chinatax.gov.cn/chinatax/n810356/n810961/c5136578/content.html>.

⁴⁹ Дюркгейм Э. Социология. Ее предмет, метод, предназначение [Emile Durkheim, *Sociology: Its Subject, Method and Purpose*] 271–272 (1995).

⁵⁰ 胡怡建, 我国增值税“扩围”改革面临八大挑战 [Yijian Hu, *Eight Challenges in the Reform of VAT Expansion of Levying Scope in China*], 7 涉外税务 [International Taxation in China] 5, 6 (2011).

⁵¹ Указ Президента Российской Федерации от 30 ноября 2016 г. № 640 «Об утверждении Концепции внешней политики Российской Федерации» // Собрание законодательства РФ. 2016. № 49.

A thoughtful and consistent study of the extremely difficult circumstances related to the current changes in the modern fiscal legislation in the Republic of India and the People's Republic of China can objectively promote the development of the productive complex of ideas for the fiscal withdrawal and redistribution of the added value. This approach can be effectively used to make managerial decisions contributing to the recovery and growth of the national economy in the current highly turbulent conditions.

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Information about the author

Dmitry Bachurin (Moscow, Russia) – Leading Researcher, Financial, Tax, Banking and Competition Law Sector, Institute of State and Law of the Russian Academy of Sciences (10 Znamenska St., Moscow, 119019, Russian Federation; e-mail: 01ter@mail.ru).