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

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ABSTRACT

The research approach used in this article is based on a new concept of value-added taxation as a complex multidimensional theoretical, fiscal and legal structure and an applied tool for the practical transformation of political, legal and socio-economic reality. It can be effectively used not only within the frames of the "European" model of the legal regulation of VAT but also in alternative "Chinese" and "Indian" models.

The article explores the trends in legal regulation of value-added taxation in the largest BRICS economies (the People's Republic of China and the Republic of India).

The author considers and evaluates changes in the legal structure of value added tax in general and its individual elements in particular at the current stage of legal regulation of national systems of VAT (GST) in China and India. The political, legal, social and economic effects of the legal mechanism of VAT (GST) in China and India in 2017–2020 are also analysed.

INTRODUCTION

The novelty of our approach relies on the 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, contributing to achievement of the national

development objectives of the Russian Federation.

In fact, today we have a unique opportunity to study two simultaneously implemented value-added taxation projects carried out by two leading world economies. In the Russian Federation, fiscal and legal regulation of taxation is still developed only by borrowing its basic forms and methods from the legislation and judicial practice of the European Union.

Until the early 2010-s, scholars and taxation experts had mostly agreed on the peripheral, secondary nature of the development of legal regulation of indirect taxation in China and India, which was based on replication of the European best practices. At the same time, many foreign scholars pay a considerable attention to 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), which focuses on the shift of power in the global economy from the traditionally dominant countries, comprising the OECD and the G7, to developing economies (led by the BRICS countries), accompanied by global processes of reformatting the legal regulation of taxation.¹

The situation in the research dedicated to indirect taxation in India and China changed dramatically in 2016-2017, when these nations entered a new stage of full-scale reforms of legal regulation of value-added taxation in order to transform the legal mechanism of this type of taxation into a tool for financial and legal stimulation of economic development.²

The key stage of reforming the legal regulation of value-added taxation in the People's Republic of China and the Republic of India began almost at the same time in 2017 after a period of thorough preparation for the implementation of the planned reforms. We should keep in mind that these nations with their centuries-old histories have been developing in comparable territorial and climatic conditions, and both have built fairly modern social and legal institutions, which are now at almost the same stage of socio-economic development.

However, there are some principal differences. The law-making in contemporary China has been shaped in the presence of a system of values shared by the majority of citizens and their commitment to a common goal. Chinese thought (first of all, the ideas of Confucius in their development) is

¹ Brauner Y., Pistone P. (Eds.) *BRICS and the Emergence of International Tax Coordination*. IBFD, 2015. Available at: www.ibfd.org/IBFD-Products/BRICS-and-Emergence-International-Tax-Coordination Accessed on 01.07.2019.

² Bal A.M. Landmark Tax Reform: Introduction of Goods and Services Tax in India. *International VAT Monitor*, 2016, vol. 27, no. 6; López-Laborda J., Peña G. International Practices of Financial VAT. *International VAT Monitor*, 2017, vol. 28, no. 6; Krishnamurthy V. India's GST Law and Its Input Tax Mechanism: A Commentary. *International VAT Monitor*, 2017, vol. 28, no. 6; Xu D. The Convergence and Divergence between China's Implementation and OECD/G20 BEPS Minimum Standards. *World Tax Journal*, 2018, vol. 10, no. 3; Sebastian J. India's Goods and Services Tax: Salient Features and Post-Implementation Issues. *International VAT Monitor*, 2018, vol. 29, no. 2; Jain T. Transfer Pricing Rules for India's Goods and Services Tax. *International VAT Monitor*, 2019, vol. 30, no. 2.

historically focused on the active social activity in the interests of a large group of people or even the entire Chinese society.

On the contrary, India is characterised by a heterogeneous culture, in which law often fulfils the tasks for which in China there are informal norms of the canon that is generally accepted in the society. The representative authorities in India are organised in such a way as to reflect the full range of views, which can be so wide that it includes incompatible positions of parliamentarians. This makes it possible to create legislation that not only bears traces of polemics and voter pressure, but also contains mechanisms for reaching a compromise.

Development of legal regulation of value-added taxation in the Republic of India (2005–2017)

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

Table 1.

Collection of VAT, sales tax and services tax to the Indian budget in 2007–2014 (in million 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

³ Ernst & Young. Worldwide VAT, GST and Sales Tax Guide, 2014. Available at [http://www.ey.com/Publication/vwLUAssets/Worldwide-VAT-GST-and-salestax-guide-2014/\\$FILE/Worldwide-VATGST-and-sales-tax-guide-2014.pdf](http://www.ey.com/Publication/vwLUAssets/Worldwide-VAT-GST-and-salestax-guide-2014/$FILE/Worldwide-VATGST-and-sales-tax-guide-2014.pdf) Accessed on: 25.12.2018.

⁴ Source: Government of India. Indian Public Finance Statistics 2013–2014. Available at <http://www.finmin.nic.in/reports/IPFStat201314.pdf> Accessed on: 25.12.2018.

2014	4,843,859.1	20,559.5	1,801,410.4

The complex regime of multiple taxation not only made it difficult to do business, 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 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 of delivery of goods transported between states was reduced by 20%.⁵

Replacement of the archaic system of multiple central and regional taxes levied in a large and complicated 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 01 July, 2017. The Central Goods and Services Tax Act (CGST Act),⁶ including 21 chapters and 174 sections, is the most voluminous legislative act known to the author in the field of VAT.

Despite the apparently progressive nature of the changes in the Indian tax legislation, the fiscal reform is opposed by a significant part of Indian society. The deep roots of such rejection, in our opinion, lie in the culture of Indian society, which determines the process of "casteing"⁷ with a stable system of *jajmani*, cultivating individualism, theism, and the lack of sociality.

Even the circumstances of the GST introduction indicate the degree of conflict around indirect taxation in India. The GST was launched on 01 July, 2017 by President and Government of India immediately after an unprecedented midnight session of both houses of the Indian Parliament. In the modern India's history, it was the first time that a session was urgently convened to consider 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 the Indian states and the negative impact of the new tax on groups of people with middle and

⁵http://www.business-standard.com/article/economy-policy/gst-impact-trucks-travel-time-in-interstate-20-says-govt-117073000276_1.html.

⁶ The Central Goods and Services Tax Act. *The Gazette of India*, 2017, 12 April.

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. *The MIT Press*, 2017, 30 June.

low incomes.⁹

The GST introduction was promoted with the slogan of "one nation, one market and one tax" and became one of the most outstanding reforms in the tax system of India 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 by the end of the 1990-s allowed India to become one of the countries with the highest rates of development.

It is important that the GST project provided for the tax administration based on consensus and agreement.¹⁰ Such approach unifies the nation by setting a common goal, while at the same time taking into account regional and social diversity of views. 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 maternal care of the government in solving the vital problems of the population.¹¹ This is clearly manifested in the legal regulation of value-added taxation.

The scale of the fiscal changes is, in fact, comparable to the Soviet tax reform in the 1930-s, when more than 15 central and local taxes were abolished in the USSR with the introduction of 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 (14 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 authorities of many other countries with economies in transition, the Indian elite refuse to replicate foreign standards and management methods, carefully looking for possible options in line with the national identity, and do not make dangerous decisions that could violate the established way of social life.

Examining the new legislation on value-added taxation, we see that the focus is not on immediate objectives to achieve fiscal efficiency but on a long-term strategy. VAT in this system is not only a fiscal component of the programs for reorganizing Indian society, but also a financial and legal instrument that provides ample opportunities for socio-economic development.

It should be mentioned that the reform of legal regulation of value-added taxation itself had a preliminary stage, which began in August 2016, when the

⁹ Congress to Boycott GST Launch, Arun Jaitley Suggests Broader Shoulders. 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.M. *Politics in India. Structure, Process and Policy*. New Delhi, 2014, p. 121.

¹¹ Luce E. *In Spite of the Gods: The Rise of Modern India*. [In Russian]. Moscow, 2009.

¹² Council of People's Commissars of the Soviet Union. On Changes in the USSR Legislation in Connection with Tax Reform. Decree No. 1066 of 08.07.1932. *Sobranie zakonov SSSR*, 1932, no. 56, art. 337.

respective amendments to the Constitution of India were adopted by the Parliament and ratified by 18 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 Therefore, we can state that the constitutional and legal aspect of the Indian value-added taxation reform is its important distinctive feature.

Organizational and legal aspects of the Indian reform of value-added taxation (2017–2020)

The budgeting and fiscal sphere of the Republic of India in general, and the legal regulation of value-added taxation in particular, is characterised 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 gives 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 of procedural norms of law over substantive norms, pronounced 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.

As a general rule (Articles 265 and 266 of the Constitution of India)¹⁴, fiscal obligations for each type of taxes can be introduced only by legislative acts and are subject to approval by the Parliament. The close relationship between the legal mechanism of tax regulation and the budgetary process, borrowed by Indian legislators from the British legal tradition, requires procedures for adjusting the national financial 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 and the provision of benefits to various categories of taxpayers. While correcting certain provisions of tax laws, the Finance Acts of 2018 and 2019, however, do not affect the extensive legislation on value-added taxation, which is a relatively distinct area of legal regulation.

¹³ The Central Goods and Services Tax Act. *The Gazette of India*, New Delhi, 2017, 12 April.

¹⁴ The Constitution of India, 1957. // <http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm>.

¹⁵ The Finance Act, 2019, №.7 of 21 February 2019. 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. *The Gazette of India*, New Delhi, 2019, 21 February.

The high dynamics of tax reforms in 2017–2019 largely depended on a rather radical constitutional resolution of the Indian Parliament to create a specialized body for legal regulation of value-added taxation, the members of which represented the interests of not only the central government, but also of 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 was to constitute 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 Constitution of India (clauses 7 and 9 of Article 279A) determines the procedures for the GST Council decision-making: 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 the 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.

It is very important that the competence of the GST Council includes not only all issues of legal regulation of value-added taxation, but also 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 and between two or more states (clause 11 of Article 279A of the Constitution of India).

According to the constitutional provisions (clause 6 of Article 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 planned to ensure such legal regulation of the GST that could result in an additional increase in GDP by 2% through improving the incentive component of tax policies. In line with these objectives, the GST Council develops conceptual guidelines for the 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.

As the Indian model of GST is rather innovative, the GST Council activities are highly intensive. In 2016-2019, the GST Council held more than 60 meetings to adjust tax rates for more than 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 clearly manifested in the differentiation 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 the 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 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 prompt response of the GST Council to the impact of the GST legal regulation mechanisms is achieved through the use of the "feedback" technique. In order to ease tensions in the most important industries, the GST Council adopted amendments to the Central Goods and Services Tax Act of

2017, which entered into force on 01 February, 2019. They changed the provisions of sub-section (4) of Section 9, narrowing the scope of supplies for which the tax should be paid on reverse charge basis. So, the policy of universal tax coverage of goods and services is changing by introducing the rule of tax payment on reverse charge basis for supply of some categories of goods or services.

Main provisions of the current model of legal mechanisms of VAT (GST) in India

Our analysis of key provisions of the CGST Act allows us to conclude 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 carried out against the background 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 allows 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 sub-section 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 ease the taxation burden, a GST payer acting as the goods recipient is entitled to the preferential tax credit. By 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 reverse charge basis (sub-sections 6 and 112 of Section 2 of the CGST Act).

It should be mentioned that the reverse charge mechanism, creating a financial entry barrier, forces entrepreneurs to divert funds for tax payments. Joining this GST system leads to higher fiscal burden for an entrepreneur due to the liability to pay GST not only as the supplier of goods but also as the 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 special GST documents: *a tax invoice* for the supplied goods (Section 12 of the CGST Act) and *an invoice for the taxable service* (Section 13 of the CGST Act). Such approach not only contributes to greater transparency of taxpayer data, but also improves information support for

managing national economy in general.

(3) It is of fundamental importance that Indian legislators recognize the fact that labour supply contracts are subject to value-added taxation and sets a general rate of 12% for them, regardless of the types of goods and services produced by the employees. This solution provides for the most consistent implementation of the principle of neutrality in the value-added taxation, since in the general case it eliminates or, at higher GST rates, significantly reduces the corresponding tax burden on labour.

(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%). The predominant use of the VAT (GST) rate of 12% makes it possible to classify this type of value-added taxation as a model of a predominantly neutral legal mechanism for value-added taxation, which does not restrain economic development and does not have a significant impact on labour.

(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-qualified 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 Indian economy. The introduction of the GTS increased the tax burden on banking services, including both the traditional operational services and the charges that are typical of Indian credit organizations. In particular, banks charge 2–5% of the loan amount as an advance payment and 1–2% of the loan amount as a fee for its processing. So, Indian banks withhold from 3% to 7% immediately at the moment of issuing a loan to the borrower and pay GST at the rate of 18%. Until 01 July, 2017, such transactions had been levied at the rate of 15%.

It is for the first time that one of three largest value-added taxation systems in the world, covering more than 1,360 million people, would compensate taxable legal entities with tax refunds on banking transactions. However, non-taxable borrowers bear the full burden of this tax. Usually, they are individuals who take personal, household and mortgage loans, as well as car loans. The most common of them is a personal loan because of its multi-purpose nature and absence of a collateral requirement. This resulted in a tax-driven increase in the cost of consumer loans, which is confirmed by the official statistics.¹⁷

Fundamental changes in tax legislation are carried out simultaneously with the

¹⁶ UNCTAD. Trade and Development Report 2017. Available at https://unctad.org/en/PublicationsLibrary/tdr2017_en.pdf

¹⁷ Will Loans Inflate with GST? Available at <https://www.wishfin.com/gst-impact/gst-impact-on-personal-car-home-loans/>

administrative transformations based on the introduction of electronic technologies in public administration. Tax administration has been moved to the unified information system, the technological base of which is the GSTN integrated web-platform.¹⁸ The platform works in accordance with the principle of a "single window" in the electronic document management mode with the mandatory registration and assignment of an individual GST Identification Number.¹⁹ The procedures for GST declaring and tax refunds from the budget is fully carried out on a special tax portal gst.gov.in.

The implementation of the project of electronic value-added taxation throughout the country became possible through the purposeful efforts of the Indian authorities to develop software and mass communication networks and to train specialists with higher technical education, with more than 1 million of them graduating each year.

Thus, we can make the conclusion about the comprehensive nature of the GST reform with the following characteristics:

first, coherent interlinkages among all legislative acts on the VAT (GST) issues;

second, targeted impact of the 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 allows predicting a decline in consumer prices and additional GDP growth;

third, 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 is also endowed with a constitutional and legal status that is sufficient for performing all the functions assigned to it.

Enhancement of legal regulation of value-added taxation in the People's Republic of China (1979-2016)

Development of the VAT legal regulation began in 1979, immediately after the Chinese authorities decided to change the direction of the national socio-economic, political and legal development. At that stage, the VAT applied to the production of certain machinery and agricultural equipment in the urban districts of Liuzhou (Guangxi Zhuang Autonomous Region), Changsha (Hunan Province), Xiangfan (now Xiangyang, Huben Province) and the municipality of Shanghai.²⁰ In contrast to the Western European countries, China did not adopt a universal approach to the legal regulation of VAT. The

¹⁸ Goods and Services Tax Network

¹⁹ GST Identification Number

²⁰ National Accountant Assessment & Certification Centre of Ministry of Finance. Economic Law, Beijing: China Financial & Economic Publishing House, 2015, no. 1, p. 322.

scope of the new tax was limited to a small group of goods, the production and sale of which was levied at 12 tax 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 the taxable goods. In 1984, the State Council of the PRC issued the Regulations on Value Added Tax, under which the VAT was levied on 12 types of goods, including machinery, cars and steel.²¹ This limited scope of the VAT collection was preserved till the end of 1993.²²

The needs of economic development and the necessity to improve tax administration required further development of the legal mechanism of VAT and expansion of its scope. So, a new Chinese model of legal regulation of value-added taxation was developed, using the tax legislation of the European Union (the traditional model of VAT) and New Zealand (the modernized model of VAT, called GST) as guidelines. However, the fiscal principles of the European VAT and the New Zealand GST are fundamentally different in the structure of tax rates and the number of exemptions from taxation.

Based on the current realities of its own development, the PRC developed its own comprehensive model of the industrial and commercial tax. 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.

On 01 January, 1994, 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, came into force.²³ The regulation expanded the scope of the VAT legal regulation with the sale and import of goods and the related production services of 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).

The second important legal act on the VAT legal regulation 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

²¹ Dongsheng Jin, Weifu Jin. On the Development Strategy of China's Value-Added Tax (VAT) Reform. *Journal of Chinese Tax and Policy*, no. 3, pp. 231–232.

²² Mingbo Bi. Wǒguó zēngzhí shuì fāzhǎn yǔ gǎigé lìchéng (The development and the reform of VAT in China). *Jiāotōng cáihuì (Finance & Accounting for Communications)*, 2008, no. 12, p. 71.

²³ State Taxation Administration of the People's Republic of China. Zhōnghuá rénmín gònghéguó zēngzhí shuì zhàn xíng tiáoli (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 05.11.2008, 06.02.2016, 19.11.2017). <http://www.chinatax.gov.cn/n810341/n810765/n812171/n812680/c1190937/content.html> Accessed on: 30.06.2019.

²⁴ Dongsheng Jin, Weifu Jin. On the Development Strategy of China's Value-Added Tax (VAT) Reform. *Journal of Chinese Tax and Policy*, 2013, no. 3, p. 232.

²⁵ State Taxation Administration of the People's Republic of China. Zhōnghuá rénmín gònghéguó shuìshōu zhēngshōu guǎnlǐ fǎ shíshī 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

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.

That initial system of Chinese VAT can hardly be compared with the traditional model of value-added taxation, because it did not provide for claiming the input tax paid on the purchased resources used for the production of taxable goods. The absence of fiscal mechanisms for claiming back the input VAT reduced incentives for the fixed assets renovation, which prevented taxpayers from investing in expensive advanced technologies. Therefore, the Ministry of Finance and the State Administration of Taxation had to adopt the Provision on Extending Reductive Base of VAT in the North-Eastern Region on 20 September, 2004.²⁶ That document introduced a limited possibility to claim the input VAT within three North-Eastern provinces (including Heilongjiang, Jilin, and Liaoning) On 01 July 2007, the scope of the Provision was further extended to 26 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 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 transfer from the production-based VAT to the 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 01 January, 2009.

The amendments created beneficial fiscal environment for the production modernisation, which provided the necessary technological basis for the sustainable growth of 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. That process was accompanied by territorial and sectoral expansion of the scope of legal regulation of VAT.

In order to adapt the PRC population to the needs of economic development, the entire system of taxation of small businesses was actively modernized. A number of measures were taken 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 started paying

the State Council of 6 February, 2016). <http://www.chinatax.gov.cn/n810341/n810755/c3357578/content.html> Accessed on: 30.06.2019.

²⁶ Kenny Lin, Pauline Wong. Recent reform in Chinese VAT policies. *International Tax Journal*, 2012, 38, p. 42.

VAT at a single unified rate of 3%.

Starting from 01 May, 2016, the scope of VAT was further expanding by gradually replacing the BT in a wide range of services, including those in the financial sector of economy.

Chinese reform of legal regulation of VAT (2017–2020)

China is one of those countries that have a pronounced long-term national development programs. In the process of implementing such program, the authorities use legal institutions of socio-economic regulation, ensuring the adjustment of the "big system" of Chinese society. 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 solution of the basic tasks of social and economic development of China in the current decade.

In April 2017, in line 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 89 preferential tax policies and measures in key areas of the economy. The proposed measures covered the entire life cycle of a business entity and contained descriptions of preferential positions. In particular, these measures included a large-scale exemption from VAT for certain groups of taxpayers:

first, by increasing the VAT threshold from CHY 30,000 of monthly sales to CHY 100,000²⁷;

second, by exempting from VAT the interest income gained by financial institutions from issuing a loan of up to CHY 10 million to small and micro enterprises and individual industrial and commercial households;

third, by providing VAT exemption to provincial incubators, university science parks and innovation activity spaces authorized by the state.²⁸

In 2017–2019, the PRC authorities were implementing the reform of tax rates, which was objectively the core of changes in the legal mechanism of VAT.

On 01 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%).

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 01 March, 2019. Available at <http://www.chinatax.gov.cn>. Accessed on: 30.06.2019.

²⁸ State Taxation Administration of the People's Republic of China. Chuàngyè yǔ chuàngxīn yōuhuì shuìshōu zhèngcè zhǐnán (Guideline on Preferential Tax Policies for Mass Entrepreneurship and Innovation). Resolution of 19 June, 2019. <http://www.chinatax.gov.cn>. Accessed on: 30.06.2019.

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

- on 01 May, 2018, the higher VAT rates were reduced from 17% and 11% to 16% and 10% respectively;
- on 01 April, 2019, the basic VAT rates were reduced from 16%, 10% and 6% to 13%, 9% and 6% respectively.

As a result, a three-tier 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 considerable amount of commercial operations — 6%.

Xi Jinping, in his Report at 19th CPC National Congress in October 2017, launched 50-year program of social and economic transformation of Chinese society, which was 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 basically well-off society of *xiaokang*. Its political and legal support should be carried out on the basis of strict observance of 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, going back to the principles of legalism³¹, usually applied in the periods of strengthening the government power, give way to control and regulatory measures based on the Confucian rules of *Liji*.³²

The change of administrative practices leads to the 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 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): 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 of own production; transfer of land to agricultural producers for agricultural

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. Available at <http://www.chinatax.gov.cn/chinatax/n810341/n810755/c4559725/content.html>. Accessed on: 30.07.2019.

³⁰ Xi Jinping. Report at 19th CPC National Congress. Available at http://www.chinadaily.com.cn/china/19thcpcnationalcongress/2017-1/04/content_34115212.htm. Accessed on: 30.06.2019.

³¹ Legalism (lat., from *lex, legis* — "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).

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 the PRC at the current stage of the VAT reform is imbued with the desire to improve the taxpayers' situation. Excessive legal regulation of VAT is now subject to a large-scale revision. Its bureaucratic nature has been greatly reduced by the measures taken after the 19th CPC Congress. These measures are focused to fulfil 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 such complex solutions is the practical interpretation of the resolution of the State Taxation Administration of 31 July, 2019.

Focusing on "solving problems for the people", this regulation cancels 35 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 original solutions to fundamental VAT issues, Chinese experts have not yet been able to work out optimal procedures for the tax refund. In the legal mechanism of value added-taxation in the PRC, they still belong to the category of complicated issues and require a very voluminous array of regulations.

According to the general rule set forth in sub-section 3 of Section 7 of Joint Announcement No. 39 of 20 March, 2019³³, the currently valid legal mechanism of VAT provides 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 and 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 period. The additional deductible amount of the current period that is not deducted completely shall be carried over to the next period for deduction.

³³ 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. Available at <http://www.chinatax.gov.cn/chinatax/n810341/n810755/c4559725/content.html>. Accessed on: 30.07.2019.

Thus, the legal regulation of VAT in the PRC contains a mechanism for protecting against VAT frauds, which is implemented through the regulation on transferring tax deductions to a later period, which, as a rule, does not provide for the possibility of a cash refund from the budget.

Another original feature of the current Chinese model of legal regulation of VAT is a special procedure for tax deductions, which in most cases are not reimbursed for the full amount, but only partially.

While in the Russian Federation, after confirming the fact of export or in case of the input tax exceeding the output tax, the taxpayer can receive a full refund of the previously paid VAT, the PRC uses a discounting system.

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

Sub-section 1 of Section 8 of Joint Announcement No. 39 of 20 March, 2019, defines four conditions a VAT payer should meet to be able to apply to the competent tax authority for a refund of the incremental uncredited input VAT from 01 April, 2019:

1. Starting from April 2019, the incremental uncredited input VAT must remain positive for 6 consecutive months (2 consecutive quarters in case of quarterly taxation), and its total amount is 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 36 months prior to the claim for tax refund;
4. The taxpayer has not been punished twice or more by tax authorities for tax evasion within 36 months prior to the claim for 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 industries, thus expanding the list of taxpayers qualified 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 In accordance with the first paragraph of this announcement, the taxpayers who are engaged in modern research and development and production of the most

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). <http://www.chinadaily.com>. Accessed on: 30.09.2019.

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

One of the significant measures of reforming the legal regulation of value-added taxation 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, 2019³⁵, provides for the possibility of issuing special VAT invoices and voluntary use of the VAT invoice management system for this category of taxpayers. Our analysis of the regulatory legal acts of the PRC, which were valid in 2019, shows that small businesses that pay VAT at a reduced rate are entitled to issue their own invoices. In this case, the following VAT rates are used:

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 March, 2019, Premier of the State Council of the People's Republic of China Li Keqiang, in his speech at the session of the National People's Congress of the People's Republic of China, stated the 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 in 2019 businesses were to pay CNY 2 trillion (\$ 291 billion) less in taxes; for the first five months of 2019 alone, the tax burden for small and medium companies, which account for more than 99% of all registered businesses, was reduced by CNY 816.8 billion (119 billion US dollars).

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

Statistics show that in the first four months of 2019, compared to 2018, China's investments in high-tech manufacturing and high-tech services grew by 11.4% and 15.5%, while the added value of high-tech manufacturing increased by 11.2%.

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. <http://www.chinadaily.com>. Accessed on: 30.09.2019.

Moreover, it should be mentioned that the increase of the VAT threshold from CNY 30,000 of monthly sales to CNY 100,000 resulted in the VAT reduction of CNY 49.8 billion for 29.4 million small companies, which got additional opportunities to develop their businesses.³⁶

In spite of the large-scale reduction in tax rates and the expanded scope of tax preferences, VAT still accounts for the major share of China's total tax revenues. In 2018, VAT revenues amounted to CNY 9283.9 billion, or 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 the PRC were subject to 5% Business Tax on the taxable turnover calculated as the amount of interest received, and there was no possibility of subsequent tax deductions for borrowers. This provision rightly qualified as an excessive burden on borrowers, since they fully compensated the tax paid on interest payments on their loans. As on 01.01.2020, financial services are subject to 6% VAT.³⁸

Distinctive features of current 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 in this sphere in the PRC. The following public authorities are empowered to develop regulations for value-added taxation, and so 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 PRC tax laws; the State Council that issues the fundamental statutory acts in the sphere of taxation (regulations on specific taxes, rules and instructions); 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 makes it possible to determine 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 05.11.2008,

³⁶ State Taxation Administration of the People's Republic of China. Over 111 billion yuan of tax reduction realized in first month of deepening VAT reform. Available at <http://www.chinatax.gov.cn/eng/n2367726/index.html>. Accessed on: 30.06.2019.

³⁷ Ibid.

³⁸ 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. Available at <http://www.chinatax.gov.cn/chinatax/n810341/n810755/c4559725/content.html>. Accessed on: 30.07.2019.

06.02.2016, 19.11.2017).³⁹ The Provisional Regulations is the basic legislative act in the sphere of value-added taxation and is a fairly limited "framework" regulation for the scope of value-added taxation, consisting of 27 articles, which requires the adoption of a wide range of supplementary resolutions, orders, instructions, and announcements by the Ministry of Finance of the PRC and the State Taxation Administration of the PRC;

The 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)⁴⁰;

Tax administration regulations introduced by Order No. 362 of the State Council of 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 06 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 VAT legislations 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 seem at first glance, we can recognize its positive results, which is testified by the multiple practices of its legal application. The incomplete set of legal constructs of the Chinese VAT regulation makes it possible to quickly adapt to specific socio-economic conditions prevailing in different regions of the country at certain periods. 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

³⁹ State Taxation Administration of the People's Republic of China. Zhōnghuá rénmin gònghégúo zēngzhí shuì zhàn xíng tiáoli (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 05.11.2008, 06.02.2016, 19.11.2017). Available at <http://www.chinatax.gov.cn/n810341/n810765/n812171/n812680/c1190937/content.html>. Accessed on: 30.06.2019.

⁴⁰ State Taxation Administration of the People's Republic of China. Zhōnghuá rénmin gònghégúo shuìshōu zhēngshōu guǎnlǐ fǎ shìshī 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). Available at <http://www.chinatax.gov.cn/n810341/n810755/c3357578/content.html>. Accessed on: 30.06.2019.

⁴¹ Order No. 628 of the State Council of 09 November, 2012 (effective from 01 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. Available at <http://www.chinatax.gov.cn>.

⁴² State Taxation Administration of the People's Republic of China. Zhōnghuá rénmin gònghégúo shuìshōu zhēngshōu guǎnlǐ fǎ shìshī xizé (The Third Revision of the State Council Decision on Amending Certain Administrative Regulations). Resolution No. 666 of the State Council of 06 February, 2016. Available at <http://www.chinatax.gov.cn/n810341/n810755/c3357578/content.html>. Accessed on: 30.06.2019.

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 note that similar approaches to adapting law to changing living conditions, providing for its active transformation and renewal, can be found in many periods of the known 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 dynamics for the development of legal norms and the resolution of conflicts of law. Such practices, certainly, should have appropriate restrictions. The Roman praetors acted within the framework of the basic legal principles of *bona fides* (good faith) and *aequitas* (justice in the meaning of "retribution in kind").⁴⁴

Similar restrictions are imposed on today's Chinese administrators, 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, striving to take into account the needs of mass VAT payers. As an example of such regional regulation, we can refer to the Regulations on Value-Added Tax Administration for the province of Guangdong⁴⁵, the preamble to which states that the purpose of the document is to standardize and unify standards for the administration of value-added taxation in real estate, and Articles 23–39 explain in sufficient detail the specific taxation procedures. Another such act is the Guidelines on VAT Invoicing of 28 March, 2019, for the province of Hainan⁴⁶, which is intended to facilitate understanding of VAT invoicing procedures for the taxpayers and contains a comprehensive description of the legal status of invoices, including administrative penalties and criminal remedies for fraudulent actions.

Today the Chinese tax administrators conduct their activities not only within the limits of legislative restrictions, but are also actively determined 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. Therefore, Chinese scholars state that the fiscal policy of today's China is based on the principle of "giving efficiency priority with due consideration to fairness", meaning that the Chinese government now puts more weight on social justice than on economic efficiency.⁴⁷

⁴³ Hart H.L.A. *The Concept of Law*. Oxford: Clarendon Press, 1961, pp. 124–135.

⁴⁴ Nersesyants V.S. (Ed.) *Istorija politicheskikh i pravovykh uchenij. Drevnij mir (History of Political and Legal Doctrines: Ancient World)*. Moscow, 1985. p. 277.

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. Available at http://www.gd-n-tax.gov.cn/gdsw/ssfggds/2019-06/28/content_de90e72141a24f1e88f49d8513c7d2e9.shtml. Accessed on: 30.06.2019.

⁴⁶ Hainan Tax Services of State Taxation Administration of the People's Republic of China. Guidelines on VAT Invoicing of 28 March, 2019. Available at http://www.hitax.gov.cn/sxpd_1_6/28112260.html. Accessed on: 30.06.2019.

⁴⁷ Gao P., Ma Ju. China: Toward the New Stage of Improving Its Tax System. *Journal of Tax Reform*, 2015, vol. 1, no. 2–3, pp. 145–160.

As an example of the cautious and balanced approach of the Chinese legislators to the VAT legal regulation, we can refer to the nationwide discussion of the draft law of the PRC on land value-added tax, which takes into account the difficult situation on the Chinese real estate market, with the added value of ordinary houses being minimal or even negative.

The preamble of the draft law states that, in order to expand social consensus and promote democratic legislation, the public can submit their views to the financial and tax authorities of the PRC by August 15, 2019.⁴⁸

In fact, a fundamentally new significant trend is opening up in Chinese tax law: an act of tax law comes into force after a preliminary expression of opinions by the population, but not 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 consistently 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, the authorities and the public share the opinion 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, it should include all goods, services and real estate), but with low tax rates and a small number of tax preferences.⁵⁰

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

CONCLUSIONS

In our opinion, certain technicalities of the latest Indian and Chinese legislation can be considered from the standpoint of their use in the development and improvement of the advanced VAT models in other countries. In particular, a special attention should be paid to their experience in taxation of the financial sector and to the reverse charge mechanism, as it provides for tax payments by 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 in the period 2017–2019 allows us to assess the

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. Available at <http://www.chinatax.gov.cn/chinatax/n810356/n810961/c5136578/content.html>. Accessed on: 30.08.2019.

⁴⁹ Durkheim E. *Sociology. Sociologija. Ee predmet, metod, prednaznachenie (Sociology: Its Subject, Method and Purpose)*. Moscow, 1995. pp. 271–272.

⁵⁰ Hu Y. Eight Challenges in the Reform of VAT Expansion of Levying Scope in China. *International Taxation in China*, 2011. no. 5, p. 6.

possibility of obtaining 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

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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⁵¹ Koncepcija vneshnej politiki Rossijskoj Federacii (Foreign Policy Concept of the Russian Federation). Approved by Decree of the President of the Russian Federation No. 640 of November 30, 2016 "On Approval of the Foreign Policy Concept of the Russian Federation". Section 2, article 8, item c). Sobranie zakonodatel'stva Rossijskoj Federacii, 2016. no. 49, art. 6886.

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