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China Tax Center
China Tax & Investment Express

Tax circulars

► Notice regarding the “Key Work Arrangements for Tax Inspections in 2017” (Shuizongjibianhan [2017] No. 29)

Synopsis

Recently, the Key Work Arrangements for Tax Inspections in 2017 released by the Auditing Bureau of the State Administration of Taxation (SAT) via Shuizongjibianhan [2017] No. 29 (“Circular 29”) on 13 February 2017 have been announced in an official website of a local tax bureau.

According to Circular 29, the following key work arrangements for tax inspections are worth noting:

► The Auditing Bureau of SAT shall select 30 key cases involving special Value-added Tax (VAT) invoice issuance without business substances and export tax fraud to be investigated by the Auditing Bureau of SAT and tax authorities at the local level. Among the 30 key cases, the Auditing Bureau of SAT should further select and investigate the relevant case sources related to special VAT invoices issuance without business substances.
The Auditing Bureau of SAT shall select 500 cases involving export tax fraud, which are related to textile, garment, furniture, mobile phone and gold industries; these are to be investigated by tax authorities at the local level.

The Auditing Bureau of SAT shall select five integrated foreign trade service enterprises in five port areas for acquiring any information about possible tax fraud risks within the industry and provide guidance in this regard.

Regarding the issuance of VAT invoices and import VAT payment demand notes (海关进口增值税专用缴款书) related to gold, agricultural products, refined oil, the Auditing Bureau of SAT shall select 1,000 case sources to be investigated by tax authorities at the local level.

The Auditing Bureau of SAT shall select 720 case sources regarding VAT invoice issuance without business substances from the VAT pilot industries, i.e., construction, real estate, lifestyle services and transportation industries to be investigated by tax authorities at the local level.

The below tax investigations shall be enforced in the following regions on an industrial basis:

- The medical care and pharmaceutical industries of Tibet and Anhui, etc.
- The agricultural industry in south-west regions
- VAT invoices related to gold transactions in Guangxi, Guizhou, etc.
- Investigations to be performed in selected regions regarding special VAT invoice issuance without business substances related to tax fraud of newly established trading enterprises in Beijing, etc.

Also, the Auditing Bureau of SAT shall select 30 high-level executives and artists through share transfer transactions and investment companies, funds, securities and artist management companies for tax investigations related to Individual Income Tax (IIT) and Corporate Income Tax (CIT); these cases are to be handled by tax authorities at the local level.

In addition, it is indicated in Circular 29 that the tax authorities shall intensify the use of big data through selection of tax inspection cases, as well as establishing a database for enterprises and individuals involving in significant tax violation cases.

Taxpayers should be aware of the new trends regarding tax inspections for 2017. Those who are engaging in the key industries specified in Circular 29 should evaluate and manage their potential tax risks. An internal health check by in-house resources or tax professionals with follow-up rectifications would be helpful.

You can click this link to access the full content of Circular 29:
http://dishuiju.dingtao.gov.cn/contents/2100/102445.html

Public notice (PN) regarding issues related to the super deduction of Research & Development (R&D) expenses for filing the 2016 annual Corporate Income Tax (CIT) (SAT PN [2017] No. 12)

Synopsis

According to SAT PN [2015] No. 97 (“PN 97”, i.e., Notice regarding issues related to policies for the super deduction of R&D expenses for CIT purposes), the SAT released SAT PN [2017] No. 12 (“PN 12”) on 2 May 2017 to specify the following issues related to super deduction of R&D expenses for filing the 2016 annual CIT (please refer to CTIE2016003 for details of PN 97):

- During the annual CIT filing, an enterprise that applies super deduction of R&D expenses is required to submit the computation sheet of R&D expenses qualifying for super deduction (i.e., Appendix 6 of Announcement 97) according to Article 6.1 of PN 97.
In addition, for sheet A107014 (i.e., for R&D expenses qualifying for super deduction) of the annual CIT filing package, the enterprise is only required to fill in the amount of “aggregated R&D expenses qualifying for super deduction for the current year (本年研发费用加计扣除额合计)” at row 10 column 19. The amount to be filled in should be consistent with that filled in item 11 of the abovementioned Appendix 6 (i.e., the aggregated amount deducted in the current period). Other contents of sheet A107014 is no longer required to be filled in by taxpayers.

PN 12 applies to the 2016 annual CIT filing.

You can click this link to access the full content of PN 12:
http://www.chinatax.gov.cn/n810341/n810755/c2608005/content.html

You can click this link to access the full content of SAT’s interpretation of PN 12:
http://www.chinatax.gov.cn/n810341/n810760/c2607979/content.html

You can click this link to access the full content of PN 97:
http://www.chinatax.gov.cn/n810341/n810755/c1981362/content.html

Notice regarding the “Measures on the Evaluation of Technology-based Small and Medium-sized Enterprises” (Guokefazheng [2017] No. 115)

Synopsis

According to Caishui [2017] No. 34 (“Circular 34”, i.e., Notice regarding raising super deduction percentage for eligible R&D expenses of qualifying technology-based small and medium-sized enterprises), from 1 January 2017 to 31 December 2019, qualifying technology-based small and medium-sized enterprises are allowed to claim a super deduction of 75% on eligible R&D expenses actually incurred in the course of R&D activities. Alternatively, if R&D expenses incurred are capitalized as intangible assets, the qualifying technology-based small and medium-sized enterprises are allowed to amortize the intangible assets based on 175% of the actual cost incurred. (Please refer to CTIE2017018 for details of Circular 34.)

In this regard, on 3 May 2017, the Ministry of Science and Technology (MOST), Ministry of Finance (MOF) and SAT jointly released the Measures on the Evaluation of Technology-based Small and Medium-sized Enterprises (hereinafter referred to as the “Measures”) via Guokefazheng [2017] No. 115 to set out the criteria and standards for qualifying technology-based small and medium-sized enterprises which are eligible for the abovementioned preferential tax treatment.

Key features of the Measures are as follows:

General criteria

An enterprise should meet all of the following criteria to be recognized as a technology-based small and medium-sized enterprise:

► The enterprise is a resident enterprise registered in China (excluding those registered in Hong Kong, Macau and Taiwan);

► The enterprise should have no more than 500 employees, with an annual turnover no more than RMB 200 million and total assets no more than RMB 200 million;

► The products and services provided by the enterprise do not fall under the category of prohibited, restricted or eliminated products and services as prescribed by Chinese government authorities;

► No significant accident related to safety or quality has happened in the enterprise, nor it has committed any seriously illegal acts in respect of environmental protection or serious acts in bad faith in scientific studies and is neither included in Directory of Enterprises with Abnormal Operations nor the List of Dishonest Enterprises with Serious Violations, in the previous year and the current year when it applies for technology-based small and medium-sized enterprise status.
The enterprise should be able to achieve a score of at least 60 points in accordance with the evaluation indicators as prescribed in the Measures. Among the evaluation indicators, the score achieved by the enterprise for the indicators under the category of scientific and technical staff should be above zero.

**Fast track for technology-based small and medium-sized enterprise status**

An enterprise that satisfies all of the abovementioned general criteria can be directly recognized as a technology-based small and medium-sized enterprise, provided that it can also meet at least one of the following conditions:

- The enterprise holds a valid certificate of high and new technology enterprise.
- The enterprise has been granted an award for science and technology at the national level in the recent five years and was ranked in the top three among all awarded entities.
- The enterprise has an R&D department that has been recognized as a key laboratory, engineering technology R&D center, engineering laboratory, enterprise technology center, or international joint research center at the national/provincial/ministerial level.
- The enterprise has led in the formulation of international standards, national standards or industrial standards in the recent five years.

**Evaluation indicators for technology-based small and medium-sized enterprise recognition**

Enterprises applying for the technology-based small and medium-sized enterprise recognition shall be evaluated with indicators under three categories with a maximum score of 100:

<table>
<thead>
<tr>
<th>Categories of indicators</th>
<th>Scores</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scientific and technical staff</td>
<td>20 points</td>
</tr>
<tr>
<td>R&amp;D investment</td>
<td>50 points</td>
</tr>
<tr>
<td>Scientific and technological achievements</td>
<td>30 points</td>
</tr>
</tbody>
</table>

(To be recognized as a technology-based small and medium-sized enterprise, the enterprise should gain more than 0 points under this category)

(An enterprise applying for recognition may choose to be evaluated based on either of the following aspects:)

- **Ratio of R&D expenses against total sales revenue of the enterprise**
  
  If the R&D expenses incurred by the enterprise account for 6% of its total sales revenue or above, the enterprise will gain the full score of 50.

- **Ratio of R&D expenses against the total costs of the enterprise**
  
  If the R&D expenses incurred by the enterprise account for 30% of its total costs or above, the enterprise will gain the full score of 50.)

(An enterprise should be evaluated on the types and quantities of valid intellectual property rights owned by the enterprise which are relevant to its main products or services. The ownership of intellectual property rights should be free from controversy or dispute.)

Detailed descriptions of the indicators are also specified in the Measures.
According to the Measures, an enterprise may perform a self-evaluation based on the prescribed criteria and conditions for the recognition of technology-based small and medium-sized enterprises, before completion of the information form (attached in the Measures) online via the service platform.

The supervising government authority at the provincial level shall check the information submitted by the enterprise. If the information submitted is complete and can satisfy the relevant criteria, the supervising government authority shall announce the information to the public via the service platform for 10 working days. If no objections are raised, the enterprise shall be accepted in the information database of national technology-based small and medium-sized enterprises with a unique registration number, which can be used to search for the status of the technology-based small and medium-sized enterprises.

The Measures came into force on the promulgation date, i.e., 3 May 2017. The provincial authorities under the MOST, MOF and SAT may further stipulate local implementation rules in this regard.

You can click this link to access the full content of the Measures:

You can click this link to access the full content of Circular 34:
http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201705/t20170502_2591722.html

Business circular

Decision on further cancellation of certain pre-approval items for business registration purposes (Guofa [2017] No. 32)

Synopsis

On 7 May 2017, the State Council released Guofa [2017] No. 32 (“Circular 32”) to eliminate the following pre-approval requirements for business registration purposes:

► The establishments of pawn shops and their branches to be approved by the provincial authorities under the Ministry of Commerce

► The establishments of Sino-foreign Equity Joint Ventures or Sino-foreign Cooperative Joint Ventures engaging in printing and wholly foreign owned enterprises engaging in packaging, decoration and printing, as well as enterprises engaging in publication printing to be approved by provincial authorities under the State Administration of Press, Publication, Radio, Film and Television

► The establishments of Representative Office of foreign airline companies and the license for the manufacturing of civil aircraft (engine and propeller) to be approved by the Civil Aviation Administration

The abovementioned pre-approval requirements shall be cancelled and adjusted to post-event approvals. In this respect, the applicants applying for the abovementioned matters may apply for business license first before applying for the relevant approvals.

Also, it is mentioned in Circular 32 that the State Council suggests to change one additional pre-approval item for business registration purposes, which is set out in accordance with the prevailing laws, to post-event approval. The State Council shall propose revision of the relevant laws which are to be approved by the Standing Committee of National People’s Congress.

You can click this link to access the full content of Circular 32:
http://www.gov.cn/zhengce/content/2017-05/11/content_5192882.htm
Other business and tax related circulars recently announced by central government authorities:

► Notice regarding the “Implementation Measures on Shortening the Time in Handling Financial/Tax Incentives related Matters” (Caifa [2017] No. 2)
http://tfs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201705/t20170508_2595338.html

► PN regarding the “Measures for the Administration and Supervision of Tax Consultation Services (Trial)” (SAT PN [2017] No. 13)
http://www.chinatax.gov.cn/n810341/n810755/c2608065/content.html

► Notice regarding cleaning up and regulating the operational service charges related to enterprises (Fagaijiage [2017] No. 790)
http://www.ndrc.gov.cn/zcfb/zcfbtz/201705/t20170505_846635.html

► Notice regarding the “Development Plan of the International Service Outsourcing Industry during the 13th Five-Year Plan Period” (Shangfumaofa [2017] No. 170)
http://xxgk.xm.gov.cn/swj/gh/smgh/201705/t20170517_1673126.htm
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