On 8 November 2017, China’s State Administration of Taxation (the SAT) released Public Notice [2017] No. 40 (PN 40) to expand the scope of qualifying research and development (R&D) expenses eligible for a super deduction and to clarify certain related issues. The super deduction means an additional 50% deduction of the actual R&D expenses.

Pursuant to PN 40, the expanded scope of qualifying R&D expenses includes the following:

- Equity incentives granted to R&D personnel
- Personnel expenses such as salaries and wages included in a payment made to contract a human resource agent that loans R&D personnel
- Employee welfare expenses, supplementary pension funds and supplementary medical insurance premiums
- R&D expense incurred for “failed” projects

PN 40 also clarifies that for outsourced R&D projects, the R&D expenses of the principal and not the subcontractor will be eligible for the super deduction.

PN 40 applies to annual corporate income tax returns for taxable years beginning in 2017. PN 40 is also applicable to any new and pending cases to which retroactive preferential tax treatment is available.
Endnote
1. Equity incentives may include stock options, stock purchase plan, stock appreciation rights and any other similar incentives.

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