

China Tax Center China Tax & Investment Express

*China Tax & Investment Express (CTIE)** brings you the latest tax and business announcements on a weekly basis. We selected some comparatively key announcements to provide for a synopsis and we also provide a link that leads you to the full content of each latest announcement (in Chinese). Please feel free to contact your EY client service professionals for further assistance if you find the announcements have an impact on your business operations.

CTIE does not replace our *China Tax & Investment News** which will continue to be prepared and distributed to provide more in-depth analyses of topical tax and business developments in China.

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Tax circulars

- **Guidelines on new policies related to the super deduction of research and development (R&D) expenses for Corporate Income Tax (CIT) purposes**

Synopsis

According to MOF/STA PN [2021] No. 13 ("PN 13", i.e., Public notice (PN) regarding further improving the super deduction policy for R&D expenses), and other prevailing tax policies, on 15 April 2021, the State Taxation Administration (STA) released the Guidelines on the new policies related to the super deduction of R&D expenses for CIT purposes (hereinafter referred to as the "Guidelines") to further summarize and clarify issues in this regard.



Key features of the Guidelines are as follows:

Items	Details
Applicable enterprises	<p>Enterprises that engage in all industries are applicable enterprises, except for those engaging in the following industries:</p> <ul style="list-style-type: none"> ▶ Tobacco industry ▶ Accommodation and catering industry ▶ Wholesale and retail industry ▶ Real estate industry ▶ Leasing and commercial service industry ▶ Entertainment industry
Eligible activities	<p>Eligible R&D expenses should be incurred in the activities of gaining new knowledge in science and technology; creative usage of new knowledge in science and technology; or improving technology, products (services), and processes in a substantial way.</p> <p>Expenses incurred in the following activities shall not be eligible for the super deduction of R&D expenses:</p> <ul style="list-style-type: none"> ▶ Routine upgrades of products/services; ▶ Simple application of R&D results, such as direct application of public techniques, materials, devices, products, services, or knowledge, etc.; ▶ Technical support to the customers after the commoditization; ▶ Repeated or simple changes made to existing products, services, technologies, materials or processes; ▶ Research on market, efficiency or management; ▶ Regular quality control, test and analysis, repairs and maintenance; ▶ Research on social sciences, arts or humanities.
Super deduction policies	<ul style="list-style-type: none"> ▶ From 1 January 2021, manufacturing enterprises can claim a 200% super deduction on eligible R&D expenses actually incurred in the course of R&D activities for CIT purposes. Alternatively, if R&D expenses incurred are capitalized as intangible assets, such enterprises can amortize the intangible assets based on 200% of the actual costs incurred. ▶ Except for the above, enterprises engaging in other applicable industries can still claim a 175% super deduction on eligible R&D expenses or amortize the intangible assets based on 175% of the actual costs incurred. <p>All eligible enterprises may choose to claim a 200% or 175% super deduction of R&D expenses incurred in the first half of a year under the provisional CIT filing for the third quarter or the month of September (to be completed in October).</p>
Determination of manufacturing enterprises	<p>An enterprise shall be determined as a manufacturing enterprise if its annual income derived from manufacturing accounts for over 50% of its total annual business operating income.</p>

Related taxpayers are advised to read PN 13 and other relevant circulars mentioned in the Guidelines in detail so as to properly enjoy the tax preferences offered. If in doubt, consultations with professionals are always recommended.

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

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5164426/content.html>

You can click this link to access the full content of PN 13:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5163160/content.html>

► **PN regarding the arrangements for transferring the responsibilities for the administration and collection of idle land charges and urban garbage disposal fees (STA/MOF/MNR/MHURD/PBOC PN [2021] No. 12)**

Synopsis

According to Caishui [2021] No. 8 ("Circular 8", i.e., Notice regarding transferring the responsibilities of collection of idle land charges¹ and urban garbage disposal fees to tax authorities), the collection and administration of such fees shall be taken over by the tax authorities from 1 July 2021. On 12 May 2021, the STA, Ministry of Finance (MOF), Ministry of Natural Resources (MNR), Ministry of Housing and Urban-Rural Development (MHURD) and People's Bank of China (PBOC) jointly released STA/MOF/MNR/MHURD/PBOC PN [2021] No. 12 ("PN 12") to specify the detail arrangements in this regard.

Among these, for the process of collecting idle land charges, the competent department under the MNR shall issue a decision for idle land charges (hereinafter referred to as the "Decision") to an obligated payer (i.e., the owner of the land use right) and the relevant information shall be sent to the supervising tax authority in the meantime. In case an obligated payer failed to pay the idle land charges within the prescribed deadline, the tax authority shall issue a notification and chase such fees with the existing tax-related systems.

This may be regarded as a tighten-up of the collection of the above fees, however, information still needs to be fed by the corresponding authorities before tax authorities can take any action against the ones who default the payments. In any case, relevant parties who may have respective exposure should carefully assess whether the change would bring about an increased level of exposure and should act to fix the respective issue, if any.

¹ According to the Measures on Management of Idle Lands which were released via Ministry of Land and Resources Order [2012] No. 53, from 1 July 2012, owners of a land use right may be liable to the idle land charges at 20% of the land transfer fees if the owner of the land use right is presumed to have the acquired land idled, e.g., it fails to commence construction on plots of land obtained after one year upon the agreed commencement date of development, etc.

You can click this link to access the full content of PN 12:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5164412/content.html>

You can click this link to access the full content of the official interpretation on PN 12:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5164417/content.html>

You can click this link to access the full content of Measures on Management of Idle Lands:

http://www.gov.cn/gongbao/content/2012/content_2251660.htm

► **PN regarding extending the fourth set of exclusions to the goods originating from the United States that are imposed with additional tariffs (Customs Tariff Commission (CTC) PN [2021] No. 5)**

Synopsis

According to CTC PN [2020] No. 4 ("PN 4", i.e., PN regarding the second set of goods originating from the United States to be excluded from the second round of additional tariffs), the second set of exclusions to the second round of additional tariffs on imports from the United States expired on 18 May 2021. On 16 May 2021, the CTC of the State Council released CTC PN [2021] No. 5 ("PN 5") to extend the exclusions:

From 19 May 2021 until 25 December 2021, the 79 types of goods listed in the Annex of PN 4 continue to be excluded from the additional tariffs against the US Section 301 measures.

Relevant enterprises are advised to make reference to the Annex of PN 5 for details of the fourth set of exclusions. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 5:

http://gss.mof.gov.cn/gzdt/zhengcefabu/202105/t20210517_3703290.htm

Business circular

► **2021 Regulation and Legislation plan of the Ministry of Commerce**

Synopsis

On 19 May 2021, the Ministry of Commerce (MOFCOM) released the 2021 Regulation and Legislation plan (hereinafter referred to as the "2021 Plan") to clarify the arrangements on revision and stipulation of regulations and laws for year 2021.

2021 Plan divided the arrangements into three aspects which key features are as follows:

- ▶ Enhance the construction on the circulation system of domestic trade (e.g., revise the Administrative Measures on Standardization in Commercial Area (Trial), etc.)
- ▶ Improve the regulations on trade remedy (e.g., stipulate four rules related to anti-dumping)
- ▶ Improve the system for foreign investment, i.e., the MOFCOM proposed to revise the Administrative Measures on Strategic Investments made by Foreign Investors in Listed Enterprises to reduce the limits on the strategy investment of foreign investors in listed enterprise and innovate the supervision method.

Related parties are encouraged to read 2021 Plan for more details. We will keep an eye on any further progress in this regard and bring you the most updated news. Please stay tuned.

You can click this link to access the full content of 2021 Plan:

<http://www.mofcom.gov.cn/article/b/fwzl/202105/20210503062509.shtml>

Other tax and business related circulars publicly announced by central government authorities in the past week:

- ▶ **PN regarding imposing import-level Consumption Tax on certain refined oils (MOF/STA/GAC PN [2021] No. 19)**
http://gss.mof.gov.cn/gzdt/zhengcefabu/202105/t20210514_3702362.htm
- ▶ **PN regarding adjusting the technical requirements for new energy vehicles exempted from Vehicle and Vessel Tax (MIIT/MOF/STA PN [2021] No. 13)**
https://www.miit.gov.cn/zwgk/zcwj/wjfb/gg/art/2021/art_71dd39dc2e79409fba8d956b14cbcbcd.html
- ▶ **PN regarding extending the implementation period of certain preferential tax policies for poverty alleviation (MOF/STA/MHRSS/NARR PN [2021] No. 18)**
http://szs.mof.gov.cn/zhengcefabu/202105/t20210518_3704339.htm
- ▶ **Notice regarding opinions on the pilot program of recognition of and assistance to Hong Kong bankruptcy proceedings (Fafa [2021] No. 15)**
<http://www.court.gov.cn/fabu-xiangqing-302041.html>
- ▶ **Implementation Regulations of the People's Republic of China on the Private Education Promotion Law (State Council Order [2021] No. 741)**
http://www.gov.cn/zhengce/content/2021-05/14/content_5606463.htm
- ▶ **Notice regarding the "Best Practices" for fully deepening the pilot run of the innovative development of trade in services (Shangfumaohan [2021] No. 163)**
<http://www.mofcom.gov.cn/article/h/redht/202105/20210503061923.shtml>
- ▶ **Notice regarding certain measures for supporting the high-quality development of national traditional Chinese medicine service and export bases (Shangfumaoguifa [2021] No. 73)**
<http://images.mofcom.gov.cn/fms/202105/2021051718430492.pdf>
- ▶ **PN regarding forestalling risks of speculation in virtual currency transactions**
http://www.sz.gov.cn/cn/xxgk/zfxxgj/tzgg/content/post_8777359.html
- ▶ **Opinions on regulating the registration and use of the names of "University" and "College" (Jiaofa [2021] No. 5)**
http://www.gov.cn/zhengce/zhengceku/2021-05/19/content_5608515.htm
- ▶ **Decisions on abolishing and amending certain regulations (MOFCOM Order [2021] No. 2)**
<http://www.mofcom.gov.cn/article/b/c/202105/20210503062498.shtml>
- ▶ **PN regarding the "Administrative Regulations for the Registration of Carbon Emission Rights (Trial)", the "Administrative Regulations for the Trading of Carbon Emissions Rights (Trial)" and the "Administrative Regulations for the Settlement of Carbon Emissions Rights (Trial)" (MEE Order [2021] No. 21)**
http://www.mee.gov.cn/xxgk2018/xxgk/xxgk01/202105/t20210519_833574.html

Contact us

For more information, please contact your usual EY contact or one of the following EY's China tax leaders.

Author - China Tax Center

Jane Hui
+852 2629 3836
jane.hui@hk.ey.com

Greater China Tax Leader

Henry Chan
+86 10 5815 3397
henry.chan@cn.ey.com

Our tax leaders by market segment and service areas

Martin Ngai (China North)

+86 10 5815 3231
martin.ngai@cn.ey.com

Patricia Xia (China Central)

+86 21 2228 2878
patricia.xia@cn.ey.com

Ho Sing Mak (China South)

+86 755 25028289
Ho-Sing.Mak@cn.ey.com

David Chan (Hong Kong SAR/Macau SAR)

+852 2629 3228
david.chan@hk.ey.com

Heidi Liu (Taiwan)

+886 2 2757 8888
heidi.liu@tw.ey.com

Carrie Tang

Business Tax Services
+86 21 2228 2116
carrie.tang@cn.ey.com

Vickie Tan

Global Compliance and Reporting
+86 21 2228 2648
vickie.tan@cn.ey.com

Becky Lai

Tax Policy
+852 2629 3188
becky.lai@hk.ey.com

Andrew Choy

International Tax and Transaction Services
+86 10 5815 3230
andrew.choy@cn.ey.com

Travis Qiu

ITTS - Transfer Pricing
+86 21 2228 2941
travis.qiu@cn.ey.com

Jesse Lv

ITTS - Transaction Tax
+86 21 2228 2798
jesse.lv@cn.ey.com

Kevin Zhou

Indirect Tax - VAT
+86 21 2228 2178
kevin.zhou@cn.ey.com

Bryan Tang

Indirect Tax - Global Trade
+86 21 2228 2294
bryan.tang@cn.ey.com

Patricia Xia

Tax Technology
and Transformation
+86 21 2228 2878
patricia.xia@cn.ey.com

Paul Wen

People Advisory Services
+852 2629 3876
paul.wen@hk.ey.com

Catherine Li

Financial Services
+86 10 5815 3890
catherine.li@cn.ey.com

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