

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.

*If you wish to access the previous issues of CTIE and *China Tax & Investment News*, please contact us.

Tax circular

► **Operating Guidelines for Tax and Fee Reduction Policies**

Synopsis

On 30 July 2021, the State Taxation Administration (STA) announced the Operating Guidelines for Tax and Fee Reduction Policies (hereinafter referred to as the "Guidelines") aiming to provide a convenient and intuitive way for taxpayers to check on several tax preferential policies, including the super deduction policies of research and development (R&D) expenses, tax preferential policies for small and micro sized enterprises, etc.



In which, the guideline for the super deduction policies of R&D expenses not only reiterates the policies from aspects of qualifying entities, contents of policies and operating procedures, but also further illustrates the application of the super deduction policies in 13 Q&As.

For example, where a manufacturing company capitalized an intangible asset that was entitled to the super deduction policy before year 2021 and the asset shall continue to be amortized in the following years, it is elaborated that:

- ▶ The intangible asset can be amortized based on 200% of the actual costs incurred in 2021 and the following years (hereinafter referred to as the "200% super deduction policies"); and
- ▶ The previous amortization based on 175% of the actual costs incurred in 2020 or before shall not be affected.

On the other hand, the Q&As also elaborate on the super deduction on expenses incurred for R&D activities outsourced by manufacturing enterprises that are qualified for the 200% super deduction policies:

- ▶ The manufacturing enterprise, as the consignor, is eligible for the 200% super deduction policies based on 80% of expenses incurred for outsourcing R&D activities to domestic entities/individuals.
- ▶ The manufacturing enterprise, as the consignor, is eligible for the 200% super deduction policies based on 80% of expenses incurred for outsourcing R&D activities to overseas entities, provided that the expenses do not exceed 2/3 of the enterprise's total eligible R&D expenses incurred domestically.

Related taxpayers are advised to read Guidelines and the 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/n3723562/c101826/jzfzcczy.html>

Business circulars

- ▶ **Notice regarding further improving simplified de-registration to facilitate the market exit of medium, small and micro-sized enterprises (Guoshijianzhufa [2021] No. 45)**
- ▶ **Notice regarding the pilot program of the standardization of business establishment (Guoshijianzhufa [2021] No. 44)**

Synopsis

In recent years, the State Administration for Market Regulation (SAMR) and STA proactively promote the reform of simplified de-registration for enterprises to facilitate the market exit of market participants that do not carry out business or have no creditor's rights and debts. To further implement the State Council's deployment and requirements set out in the 2021 Report on the Work of the Government, the SAMR and STA jointly released Guoshijianzhufa [2021] No. 45 ("Circular 45") on 30 July 2021 to improve the simplified de-registration processes and facilitate the market exit of medium, small and micro-sized enterprises.

Key features of Circular 45 are as follows:

Expanded scope of simplified de-registration processes

- ▶ Further expand the scope of simplified de-registration processes to include all market participants (excluding listed companies) that have no unsettled creditor's rights and debts. On the date of application for simplified de-registration, market participants should have no unsettled liabilities, including but not limited to general expenses, salaries, social securities, legal compensations, tax payables, etc.

- ▶ Tax authorities should obtain the data related to the application for simplified de-registration through the information sharing system and search on the tax-related status of such enterprises. If either of the following criteria is met, the tax authorities shall not raise objection:
 - ▶ The enterprise has not engaged in any tax-related matters;
 - ▶ The enterprise has engaged in tax-related matters but has not applied and collected tax invoices (including tax invoices issued by the tax authorities on its behalf);
 - ▶ By the time the search is performed, the enterprise had canceled and handed in all unused tax invoices and had no unpaid taxes or non-completed tax related matters.

Reduced public announcement period and a fault-tolerant mechanism

- ▶ The public announcement period for simplified deregistration shall be reduced from 45 to 20 days. Furthermore, a fault-tolerant mechanism shall be established so that an enterprise that is not eligible for simplified deregistration processes in the past due to being listed in the Directory of Enterprises with Abnormal Operations, etc. may re-apply for the simplified de-registration when it meets the relevant criteria.

In addition, the online simplified de-registration processes shall be improved to allow qualifying market participants to complete the simplified de-registration process online.

On the other hand, the SAMR, STA and four other central government authorities jointly released Guoshijianzhufa [2021] No. 44 ("Circular 44") on 27 July 2021 to launch a pilot program of the standardization of business establishment (hereinafter referred to as the "pilot") from August 2021 to January 2022 in selected provinces, i.e., Hebei, Hunan and Sichuan Provinces, etc. Under the pilot, the competent authorities of selected areas shall improve the online application system and explore on the construction of a standardization of business establishment.

Relevant businesses should read Circulars 45 and 44 for details.

You can click this link to access the full content of circular 45:

http://gkml.samr.gov.cn/nsjg/djzci/202108/t20210803_333340.html

You can click this link to access the full content of circular 44:

http://gkml.samr.gov.cn/nsjg/djzci/202108/t20210803_333343.html

You can click this link to access the full content of the 2021 Report on the Work of the Government:

http://www.gov.cn/premier/2021-03/05/content_5590492.htm

▶ **Administrative Measures of Market Supervision and Administration for the List of Enterprises with Serious Illegal and Dishonest Acts (SAMR Order [2021] No. 44)**

Synopsis

In order to establish and improve the unified and standardized list management system of market supervision and administration authorities for serious illegal and dishonest acts, the SAMR revised the Interim Measures for the Administration of List of Enterprises with Serious Illegal and Dishonest Acts (hereinafter referred to as the "Interim Measures") that have been implemented since 2016 and released the Administrative Measures of Market Supervision and Administration for the List of Enterprises with Serious Illegal and Dishonest Acts (hereinafter referred to as the "Administrative Measures") via SAMR Order [2021] No. 44 on 30 July 2021. The Administrative Measures shall become effective on 1 September 2021 and the Interim Measures shall be abolished at the same time.

Key points in the Administrative Measures are summarized as follows:

Criteria for inclusion in the list of enterprises with serious illegal and dishonest acts

Market supervision and administration authorities shall include the party that seriously violates laws and administrative regulations with bad nature and great social harm, and is subject to severe administrative penalties by the market supervision and administration authorities in the list of enterprises with serious illegal and dishonest acts in accordance with the provisions of the Administrative Measures, publicize it through the National Enterprise Credit Information Publicity System, and implement corresponding administrative measures.

Supervision in key areas

The Administrative Measures focus on the supervision of food, drugs, medical devices, cosmetics, quality and safety, consumer rights and interests, etc. and clarify the respective standards for inclusion in the list of enterprises with serious illegal and dishonest acts (see Articles 5 to 10 of the Administrative Measures for details).

Procedures for inclusion in the list of enterprises with serious illegal and dishonest acts

When making a decision on administrative penalties, the market supervision and administration authority shall decide whether to include the party in the list of enterprises with serious illegal and dishonest acts and shall also specify the reason, basis, reminder for disciplinary measures, removal conditions and procedures, remedy measures, etc. Before an inclusion decision is made, the party shall be informed of the reason, basis for the decision and the rights of the party in accordance with laws.

Procedures and conditions of credit repair

A party that has been included in the list of enterprises with serious illegal and dishonest acts for one year, has consciously performed the obligations stipulated in the administrative penalty decision, has taken the initiative to eliminate the harmful consequences and adverse impact, and has not been subject to severe administrative penalties, may apply to the market supervision and administration authorities for early removal from the list in accordance with the provisions of the Administrative Measures.

Relevant parties are advised to make reference to the Administrative Measures for greater details and observe the regulations. If in doubt, consultations with professionals are always recommended.

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

http://gkml.samr.gov.cn/nsjg/fgs/202108/t20210801_333255.html

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

http://www.gov.cn/gongbao/content/2016/content_5059098.htm

► **Notice regarding the “Administrative Measures of Market Supervision and Administration for Credit Repair” (Guoshijianxingui [2021] No. 3)**

Synopsis

In order to encourage parties with illegal and dishonest acts to take the initiative to correct their acts, rebuild good credit and protect the legitimate rights and interests of the parties, on 30 July 2021, the SAMR released the Administrative Measures of Market Supervision and Administration for Credit Repair (“Credit Repair Measures”) via Guoshijianxingui [2021] No. 3. The Credit Repair Measures will become effective from 1 September 2021.

Key features of the Credit Repair Measures are as follows:

What is credit repair?

Credit repair means that market supervision and administration authorities remove qualified parties from the abnormal operation list, restore the normal recording status of self-employed industrial and commercial households, remove parties from the list of enterprises with serious illegal and dishonest acts earlier, stop publicizing the information on administrative penalties through the National Enterprise Credit Information Publicity System earlier, and cancel the relevant administrative measures in accordance with laws.

Conditions and procedures

Conditions and procedures for parties that are included in the abnormal operation list, marked as abnormal status, publicized for information on administrative penalties, and included in the list of enterprises with serious illegal and dishonest acts to apply for credit repair are respectively introduced in the Credit Repair Measures. (See Articles 5, 6 and 7 of the Credit Repair Measures for details.)

Application materials

When applying for credit repair, the party shall submit the following materials:

- ▶ Application for credit repair;
- ▶ Letter of commitment to keep promise;
- ▶ Relevant materials for performing legal obligations and correcting illegal acts;
- ▶ Other materials required by the SAMR.

Relevant parties are advised to read the Credit Repair Measures for more details, they are also encouraged to make reference to STA PN [2019] No. 37 ("PN 37", i.e., Public notice (PN) regarding matters related to tax credit repair) for information on the matters related to tax credit repair. If in doubt, consultations with professionals are always recommended.

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

http://gkml.samr.gov.cn/nsjg/xyjgs/202108/t20210801_333258.html

You can click this link to access the full content of PN 37:

<http://www.chinatax.gov.cn/chinatax/n810341/n810765/n4182981/201911/c5141965/content.html>

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

- ▶ **Notice regarding implementing the import-level tax policies on the import of maintenance and repair supplies in support of civil aviation for 2021-2030 (Shuiguanhan [2021] No. 82)**
<http://www.customs.gov.cn/customs/302249/zfxxgk/zfxxgkml34/3802584/index.html>
- ▶ **PN regarding revising certain tax law enforcement documents (STA PN [2021] No. 23)**
<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5167449/content.html>
- ▶ **Notice regarding cleaning up and regulating the business of non-financial subsidiaries of trust companies**
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=999287>
- ▶ **Notice regarding public opinion consultation on the "Arbitration Law of the People's Republic of China (Revised) (Discussion Draft)"**
http://www.moj.gov.cn/pub/sfbgw/lfyjzj/lflfyjzj/202107/t20210730_432967.html
- ▶ **Notice regarding delegating the administrative approval authorities of human resources service agencies of departments under the State Council**
http://www.mohrss.gov.cn/SYrlzyhshbz/jiuye/zcwj/202108/t20210803_419942.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

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients, nor does it own or control any member firm or act as the headquarters of any member firm. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

© 2021 Ernst & Young, China.
All Rights Reserved.

APAC no. 03012934
ED None.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

ey.com/china

Follow us on WeChat

Scan the QR code and stay up-to-date with the latest EY news.

