

# 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 circulars

- **Public notice (PN) regarding certain matters related to further implementing the policies for super deduction of enterprise research and development (R&D) expenses (STA PN [2021] No. 28)**

### Synopsis

According to MOF/STA [2021] No. 13 ("PN 13", i.e., PN regarding further improving the super deduction policy for R&D expenses), from 1 January 2021, manufacturing enterprises<sup>1</sup> are allowed to claim a 200% super deduction on eligible R&D expenses actually incurred in the course of R&D activities for Corporate Income Tax (CIT) purposes. Alternatively, if R&D expenses incurred are capitalized as intangible assets, such enterprises are allowed to amortize the intangible assets based on 200% of the actual costs incurred. In addition, it is prescribed in PN 13 that eligible enterprises may choose to claim the 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).

To further encourage the innovation of enterprises, the State Taxation Administration (STA) released STA PN [2021] No. 28 (“PN 28”) on 13 September 2021 to specify the following issues:

**Claiming super deduction in the provisional CIT filing for the third quarter or the month of September (to be completed in October)**

- ▶ PN 28 specifies that eligible enterprises may choose to claim the super deduction of R&D expenses incurred in the first three quarters of the year (instead of the first half of a year as prescribed in PN 13) under the provisional CIT filing for the third quarter or the month of September (to be completed in October).
- ▶ The enterprises are required to perform self-assessment before applying the tax preference and maintain the relevant supporting documents for future references, and complete the provisional CIT return as well as the schedule for tax preferential treatments on R&D expenses (i.e., schedule A107102). The schedule should be kept with other supporting documents for tax authorities’ future verification, if any.
- ▶ If an eligible enterprise failed to claim the super deduction in the provisional CIT filing to be completed in October 2021, the super deduction can be claimed in the 2021 annual CIT filing to be filed by the end of May 2022.

**Upper limit of other relevant expenses eligible for super deduction purposes**

According to PN 28, where an enterprise engages in multiple R&D projects in a tax year, the “other relevant expenses” directly incurred in R&D activities that are eligible for super deduction are subject to a cap of 10% of total qualifying R&D expenses and should be calculated as follows:

Upper limit of other relevant expenses for all R&D projects = Eligible R&D expenses for all R&D projects excluding other relevant expenses<sup>2</sup> × 10%/ (1-10%)

This formula replaces the previous stipulation in this regard as prescribed in STA PN [2015] No. 97 (“PN 97”, i.e., PN regarding issues related to policies for the super deduction of R&D expenses for CIT purposes) where the upper limit of other relevant expenses eligible for super deduction is required to be calculated on a project-by-project basis.

The new formula may allow an enterprise engaging in multiple R&D projects in a year to come up with a higher amount of upper limit of other relevant expenses comparing to the previous formula<sup>3</sup>.

**Accounting requirements**

- ▶ PN 28 announced a simplified version of subsidiary ledgers (i.e., format and explanatory are set out in Attachments I and II of PN 28) to record qualifying R&D expenses.
- ▶ The enterprises may choose to adopt the simplified ledgers, the original subsidiary ledgers announced in PN 97, or ledgers designed by their own (data and logical relationships displayed in the simplified version should be included in the ledgers designed by the enterprises.) The ledgers should be retained for tax authorities’ future verification.

PN 28 applies to 2021 and onwards (except for the stipulations on claiming super deduction in the provisional CIT filing to be completed in October 2021 which only applies to 2021.) Enterprises are encouraged to read PN 28 and other circulars mentioned for more details. If in doubt, consultations with professionals are always helpful.

<sup>1</sup> Qualifying manufacturing enterprises should derive over 50% of annual operating income from manufacturing industries as prescribed in the prevailing industrial classification for national economic activities (GB/T 4574-2017). Other eligible enterprises are allowed to claim a 175% super deduction in this regard.

<sup>2</sup> Eligible R&D expenses for all R&D projects excluding other relevant expenses refers to the labor cost, direct investment cost, depreciation expenses, amortization expenses of intangible assets, and designing fees for new products as prescribed in the Caishui [2015] No. 119 (“Circular 119”, i.e., Notice regarding the improvement of policies related to the super deduction of R&D expenditure for CIT purposes).

<sup>3</sup> For example, where an enterprise is engaging in R&D projects A and B in 2021 and incurred the relevant expenditure as follows:

(RMB)	Eligible R&D expenses for the project excluding other relevant expenses	Other relevant expenses for the project
Project A	900K	120K
Project B	1M	80K

- ▶ According to the new formula, upper limit of other relevant expenses for all R&D projects = Eligible R&D expenses for all R&D projects excluding other relevant expenses  $\times 10\% / (1-10\%) = (900K + 1M) \times 10\% / (1-10\%) = 211.1K$ , so the other relevant expenses for eligible for super deduction should be 200K (i.e., 120K+80K) because it does not exceed the upper limit.
- ▶ According to the previous formula under PN 97, upper limit of other relevant expenses for projects A and B should be calculated separately, i.e., the upper limit for project A is 100K (i.e.,  $900K \times 10\% / (1-10\%)$ ), so the other relevant expenses for project A eligible for super deduction could only be 100K; while the one for project B is 11.11K (i.e.,  $1M \times 10\% / (1-10\%)$ ), so the other relevant expenses for project B eligible for super deduction could be 80K. In this respect, the total relevant expenses eligible for super deduction should be 180K (i.e., 100K+80K) only.

You can click this link to access the full content of PN 28:

<http://www.chinatax.gov.cn/chinatax/n810341/n810825/c101434/c5169007/content.html>

You can click this link to access the full content of STA's official interpretation on PN 28:

<http://www.chinatax.gov.cn/chinatax/n810341/n810760/c5169008/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>

You can click this link to access the full content of PN 97:

[http://www.gov.cn/zhengce/2016-05/24/content\\_5076369.htm](http://www.gov.cn/zhengce/2016-05/24/content_5076369.htm)

You can click this link to access the full content of Circular 119:

<http://www.chinatax.gov.cn/n810341/n810755/c1878881/content.html>

▶ **Notice regarding public opinions consultation on the “Decisions of the STA on the Revisions to the ‘Administrative Measures for the Formulation of Tax-related Regulatory Documents’ (Discussion Draft)”**

### Synopsis

To implement the Opinions on further deepening the reform of tax collection and administration (hereinafter referred to as the “Opinions”) jointly issued by General Office of the Central Committee of the Communist Party of China and General Office of the State Council, on 15 September 2021, the STA released a discussion draft on the revisions to the existing “Administrative Measures for the Formulation of Tax-related Regulatory Documents” (hereinafter referred to as the “Discussion Draft”) on its official website to seek public opinion. The consultation of public opinion shall be opened until 15 October 2021.

The main purpose of the Discussion Draft is to establish a review system for the formulation of tax-related regulatory documents in order to protect the rights and interests of taxpayers. For example, whether the formulation of a tax-related regulatory document would, without any legal basis, mitigate the legitimate rights and interests of a tax administrative counterpart, or increases his/her/its obligations.

Taxpayers who are interested in this topic can read the Discussion Draft and are encouraged to express opinions on or before 15 October 2021 by sending mails, logging onto <http://www.moj.gov.cn>, <http://www.chinalaw.gov.cn>, <http://www.chinatax.gov.cn> or emailing to [shuiwuzqyj@163.com](mailto:shuiwuzqyj@163.com).

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

[http://www.moj.gov.cn/pub/sfbgw/lfyjzj/lflfyjzj/202109/t20210914\\_437698.html](http://www.moj.gov.cn/pub/sfbgw/lfyjzj/lflfyjzj/202109/t20210914_437698.html)

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

[http://www.gov.cn/zhengce/2021-03/24/content\\_5595384.htm](http://www.gov.cn/zhengce/2021-03/24/content_5595384.htm)

You can click this link to access the full content of the Administrative Measures for the Formulation of Tax-related Regulatory Documents:

<http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5140181/content.html>



- ▶ **PN regarding extending the fifth set of exclusions to the goods originating from the United States that are imposed additional tariffs (Customs Tariff Commission PN [2021] No. 7)**

### Synopsis

According to Customs Tariff Commission PN [2020] No. 8 ("PN 8", i.e., PN regarding extending the first set of exclusions to the goods originating from the United States that are imposed the first round of additional tariffs) and Customs Tariff Commission PN [2021] No. 2 ("PN 2", i.e., PN regarding extending the third set of exclusions to the goods originating from the United States that are imposed additional tariffs), goods in the lists of PN 8 and PN 2 should not be imposed additional tariffs against the US Section 301 until 16 September 2021. On 16 September 2021, the Customs Tariff Commission released Customs Tariff Commission PN [2021] No. 7 ("PN 7") to extend the exclusion.

According to PN 7, 81 types of goods listed in the attachment of PN 7 shall continue to be excluded from the additional tariffs against the US Section 301 measures from 17 September 2021 to 16 April 2022.

Relevant enterprises are encouraged to read the attachment of PN 7 for details of the extended exclusion list. If in doubt, consultations with professionals are always recommended.

You can click this link to access the full content of PN 7:

[http://gss.mof.gov.cn/gzdt/zhengcefabu/202109/t20210916\\_3753336.htm](http://gss.mof.gov.cn/gzdt/zhengcefabu/202109/t20210916_3753336.htm)

You can click this link to access the full content of PN 8:

[http://gss.mof.gov.cn/gzdt/zhengcefabu/202009/t20200915\\_3588427.htm](http://gss.mof.gov.cn/gzdt/zhengcefabu/202009/t20200915_3588427.htm)

You can click this link to access the full content of PN 2:

[http://gss.mof.gov.cn/gzdt/zhengcefabu/202102/t20210226\\_3662916.htm](http://gss.mof.gov.cn/gzdt/zhengcefabu/202102/t20210226_3662916.htm)

## Business circular

- ▶ **The 14th Five-year Plan of Shanghai for the Construction of a Science and Technology Innovation Center with Global Influence**

### Synopsis

On 10 September 2021, the National Development and Reform Commission (NDRC) released the 14th Five-year Plan of Shanghai for the Construction of a Science and Technology Innovation Center with Global Influence (hereinafter referred to as the "Plan"), aiming to further accelerate the construction of Shanghai into a science and technology innovation center with global influence.



Key features of the Plan are as follows:

Goals of the Plan

Indicator	2025 target value
Ratio of R&D expenditure in GDP	4.5%
Ratio of basic research expenditure in R&D expenditure	12%
Number of high and new technology enterprises	26,000
Annual number of international patent applications submitted through the Patent Cooperation Treaty (PCT)	5,000
Number of high-value invention patents per 10,000 population	30
Ratio of added value of strategic emerging industries in GDP	20%
Ratio of technology contract turnover in GDP	6%
Number of foreign-funded R&D centers	560

Key industries

According to the Plan, core technology research of the three key fields (i.e., integrated circuits, biomedicine and artificial intelligence) will be the focus during the 14th Five-year Plan period. Additionally, the development of some other key industries will also be supported, including new materials, new-type information infrastructure, basic software, intelligent connected vehicles and new energy vehicles, intelligent manufacturing and robotics, aerospace, energy equipment, marine technology and engineering equipment.

Optimize the talent system

The Plan specifies the measures for optimizing the talent system of science and technology innovation during the 14th Five-year Plan period, including:

- ▶ Vigorously gather and cultivate a number of high-level science and technology innovation talents and teams with international influence.
- ▶ Increase the support for outstanding young science and technology talents.
- ▶ Comprehensively cultivate the original innovation capabilities and guide scientists to closely combine their scientific research interests with national strategic needs.
- ▶ Accelerate the formation of the aggregation effect of science and technology innovation talents in key areas such as integrated circuits, biomedicine and artificial intelligence.

Relevant enterprises and individuals in the above-mentioned industries are advised to read the Plan for details.

You can click this link to access the full content of the Plan:  
[https://www.ndrc.gov.cn/xxgk/zcfb/ghwb/202109/t20210910\\_1296426.html](https://www.ndrc.gov.cn/xxgk/zcfb/ghwb/202109/t20210910_1296426.html)



### ► **Order on the “Measures of the Customs of the People’s Republic of China on the Enterprise Credit Management for Customs Registration and Record Filing” (GAC Order [2021] No. 251)**

#### **Synopsis**

In order to establish an enterprise credit management system for customs registration and record filing, advance the construction of the social credit system, and promote trade safety and facilitation, the General Administration of Customs (GAC) released the “Measures of the Customs of the People’s Republic of China on the Enterprise Credit Management for Customs Registration and Record Filing” (hereinafter referred to as the “Measures”) via GAC Order [2021] No. 251 on 13 September 2021.

Key points of the Measures are as follows:

#### **Classified administrative measures**

According to the standards and procedures stipulated in the Measures, enterprises are classified into three types: advanced authorized enterprises (高级认证企业) and enterprises acting in bad faith (失信企业), subject to convenient and strict administrative measures respectively, enterprises other than the above two types of enterprises shall be subject to general administrative measures.

#### **Credit repair**

The Customs has established an enterprise credit restoration mechanism to allow enterprises to repair their credit according to law. Qualified enterprises acting in bad faith that are not included in the list of serious dishonest entities may apply to the Customs for credit repair if they correct their dishonest acts and eliminate adverse effects.

#### **Additional preferential measures**

In addition to the prevailing nine preferential measures provided for advanced authorized enterprises, three new preferential measures (e.g., “priority in handling customs clearance procedures of import and export goods”) are added in the Measures, reflecting the principle of encouraging enterprises acting in good faith.

#### **Extension of review period**

According to the Measures, the period for the Customs to review advanced authorized enterprises is extended from prevailing 3 years to 5 years, reducing the burden on enterprises.

#### **List of enterprises with serious dishonest acts**

Disciplinary provisions for serious dishonest acts involving people’s lives and health are added in the Measures. The Customs shall include the dishonest enterprises with relevant violations in the list of enterprises with serious dishonest acts according to law.

#### **Notification of remedy measures**

According to the Measures, where the Customs intends to include an enterprise in the list of enterprises with serious dishonest acts, it shall notify the enterprise of the disciplinary measures, removal conditions, removal procedures and remedy measures, which reflect the principle of openness and justice and protects the legitimate rights and interests of enterprises.

The Measures will become effective on 1 November 2021. Relevant enterprises are advised to read the Measures for 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 Measures:

<http://www.customs.gov.cn/customs/302249/2480148/3871763/index.html>

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

- ▶ **Notice regarding the "Catalog of Energy Saving & New Energy Vehicles Eligible for Preferential Vehicle and Vessel Tax Policies (30th Batch)", "Catalog of New Energy Vehicles Eligible for Vehicle Purchase Tax Exemption (46th Batch)", etc. (MIIT PN [2021] No. 23)**  
[http://www.caam.org.cn/chn/1/cate\\_2/con\\_5234589.html](http://www.caam.org.cn/chn/1/cate_2/con_5234589.html)
- ▶ **Notice regarding adjusting the list of branches of railway and air transport enterprises eligible for consolidated Value-added Tax filing (Caishui [2021] No. 51)**  
[http://szs.mof.gov.cn/zhengcefabu/202109/t20210915\\_3753091.htm](http://szs.mof.gov.cn/zhengcefabu/202109/t20210915_3753091.htm)
- ▶ **Opinions on Deepening the Reform of Compensation System for Ecological Protection**  
[http://www.gov.cn/zhengce/2021-09/12/content\\_5636905.htm](http://www.gov.cn/zhengce/2021-09/12/content_5636905.htm)
- ▶ **Notice regarding the "Implementation Plan for Promoting the Reform of the Notification Commitment Mechanism for the Approval of Practice License of Patent Agencies Nationwide" (Guozhiban fayunzi [2021] No. 36)**  
[http://www.gov.cn/zhengce/zhengceku/2021-09/12/content\\_5636857.htm](http://www.gov.cn/zhengce/zhengceku/2021-09/12/content_5636857.htm)
- ▶ **Notice regarding administrative measures for the market access of insurance company branches (Yinbaojianfa [2021] No. 37)**  
<http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1007338>
- ▶ **PN regarding the equivalence of accounting standards between China and Switzerland (MOF PN [2021] No. 31)**  
[http://kjs.mof.gov.cn/zhengcefabu/202109/t20210913\\_3752460.htm](http://kjs.mof.gov.cn/zhengcefabu/202109/t20210913_3752460.htm)
- ▶ **Notice regarding the application for the 2022 automobile and motorcycle export permits**  
<http://www.mofcom.gov.cn/article/b/c/202109/20210903198568.shtml>
- ▶ **Notice regarding the southbound cooperation on the interconnection of the bound markets between the Mainland and Hong Kong**  
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4341497/index.html>
- ▶ **PN regarding matters related to the southbound cooperation on the interconnection of the bound markets between the Mainland and Hong Kong**  
<http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/4341422/index.html>
- ▶ **Opinions on further clarifying entities' responsibilities of information administration on website platforms**  
[http://www.cac.gov.cn/2021-09/15/c\\_1633296790051342.htm](http://www.cac.gov.cn/2021-09/15/c_1633296790051342.htm)
- ▶ **Notice regarding the key work for further promoting consumption in the commercial field (Shangxiaofei han [2021] No. 491)**  
<http://www.mofcom.gov.cn/article/h/redht/202109/20210903199583.shtml>
- ▶ **PN regarding fully rolling out the central return warehouse model for cross-border e-commerce retail imports (GAC PN [2021] No. 70)**  
<http://www.customs.gov.cn/customs/302249/2480148/3877184/index.html>



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ED None.

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