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Issuance date: 3 May 2017
Effective date: 3 May 2017

Relevant industries: Technology Industry
Relevant companies: Science and technology-related SMEs
Relevant taxes: N/A

Potential impacts on businesses:

- Compliance costs due to regulatory uncertainties reduced

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Recognition criteria for science and technology-related SMEs clarified

As highlighted in KPMG *China Tax Weekly Update (Issue 18, May 2017)*, on 28 April 2017 the Ministry of Finance (MOF), the State Administration of Taxation (SAT) and the Ministry of Science and Technology (MOST) jointly issued Cai Shui [2017] No. 34, which clarifies that:

- From 1 January 2017 to 31 December 2019, "science and technology-related small and medium enterprises" (SMEs) can obtain enhanced deductions for their research and development (R&D) expenses. Where the expenses are not capitalized as intangible assets, and are booked to the current period income statement, 75% of the R&D expenses may be taken as a super deduction for Corporate Income Ta (CIT) purposes, in addition to the normal deduction. Where, instead, the expenses give rise to capitalized intangible assets, amortisation for tax purposes shall be made based on 175% of the cost of the intangible assets.
- The general qualifying criteria for the R&D expense super deduction are set out in Cai Shui [2015] No. 119.

The recognition criteria and administrative measures for "science and technology-related SMEs" now have been separately promulgated by MOST, MOF and SAT, with the issuance of Guo Ke Fa Zheng [2017] No. 115 ("Circular 115") on 3 May 2017. These measures clarifiy, inter alia, that:

- The qualification of enterprises as 'science and technology-related SMEs', which may access the incentive, follows a process involving an element of self-evaluation. An enterprise shall firstly file relevant information through the "National Information Service Platform for Science and Technology-related SMEs", which is an online service platform. The administrative department for science and technology at the provincial level will then confirm the completeness of the information filed by the enterprise. Enterprises which have filed complete information and meet the conditions shall be publicized as candidates for the relief on the online service platform for a period of 10 working days. Where no objections are lodged in this period, the enterprises are included in the "National Information Database for Science and Technology-related SMEs" and are granted special registration numbers.

- A science and technology-related SME must meet all the following requirements:
  1) It must be a tax resident enterprise registered within Mainland China;
  2) The total number of employees must not exceed 500, and neither its annual sales nor its total assets may exceed RMB200 million;
  3) The products and services provided by the enterprise must not be prohibited or restricted for supply under Chinese law;
  4) The enterprise must not have been involved in any major safety incidents or quality issues, or any serious violations of environmental law or scientific research fraud in the year in which the enterprise makes its online service platform filing, or in the prior year. In addition, the enterprise must not be included on the lists of enterprises, maintained by the State Administration for Industry & Commerce, which have been involved in operational improprieties or fraud.
  5) The enterprise's comprehensive evaluation score must be not less than 60 points. This is calculated on the basis of a range of innovation-related evaluation indicators specifically set out for science and technology-related SMEs. Within this composite score, the enterprises score on the scientific and technical staff indicator must be greater than 0 points.
- An enterprise that meets the requirements set forth in 1) to 4) may be directly recognized as a science and technology-related SME if it also conforms to one of the following conditions [i.e. such enterprises need not satisfy the points requirements]:
  1) It holds a valid high and new technology enterprise qualification certificate;
  2) It has won a national science and technology award within the past five years, and ranked in the top three among all the prize winners;
  3) It is granted recognition as an 'R&D institution' by a science and technology administration at the provincial level or above; and
  4) It has played a leading role in developing international or national technical standards in the last five years.
- The above-mentioned innovation-related evaluation indicators for science and technology-related SMEs include the three categories of (i) scientific and technical staff, (ii) R&D expenditure and (iii) scientific and technological achievement. A maximum score of 100 points is possible.
  - ❖ Indicator for scientific and technical staff (20 points maximum). Scientific and technical staff are those directly engaged in R&D and related technical innovation activities, those engaged in the management of innovation activities and certain support staff. The proportion of these staff in the total staff determines how many points are earned. Six different scoring levels are obtainable; where scientific and technical staff make 10% or less of the total the score is 0; increasing numbers of points are obtainable for proportions above this level and the maximum 20 points is granted for a proportion of 30% and above.
  - ❖ Indicator for R&D expenditure (50 points maximum). An enterprises may choose either one of the following indicators:
    1) It may evaluate itself based on R&D expenses as a proportion of total sales; or
    2) It may evaluate itself based on R&D expenses as a proportion of total costs and expenses.

The scores for 1) and 2) are each divided into 6 grades. If the R&D expense/total sales is 2% and below the score will be 0; the score increases in line with the ratio, and the maximum 50 points is obtained where the proportion is 6% and above. If the R&D expense/total costs ratio is 10% and below the score will be 0; the score increases in line with the ratio, and the maximum 50 points will be scored if the proportion is 30% and above.

- Indicators for scientific and technological achievements (30 points maximum). An enterprise evaluates itself based on the intellectual property (IP) rights it possesses. These rights must be related to the main products (or services) provided by the enterprise. The scores are divided into 6 grades:
  - If an enterprise has no IP rights, the score will be 0;
  - If an enterprise has one or more IP right, and such IP right is classified as type I, such as invention patents, nationally registered new drugs, integrated circuit layout design exclusive rights, the score will be 30 points;
  - If an enterprise's IP rights are classified as type II, including utility model patents, design patents and software copyright, the enterprise will be scored in the range of 6 to 24 points.

- Enterprises included in the National Information Database for Science and Technology-related SMEs shall update their information through the online service platform. They must, on an annual basis (by end March), carry out the self-evaluation to see whether they are still qualified as science and technology-related SMEs, entitled to the incentive.

* Detailed analysis of the recognition criteria and administrative measures for "science and technology-related SMEs" are set out in KPMG " China Tax Alert: (Issue 14, May 2017).

R&D "super deduction" for 2016 CIT annual filing

Reference: SAT Announcement [2017] No. 12
Issuance date: 2 May 2017
Effective date: 2016 CIT annual filing

Relevant industries: All
Relevant companies: Enterprises with potential R&D expenses occurred
Relevant taxes: CIT

Potential impacts on businesses:
- Compliance costs due to regulatory uncertainties reduced

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On 2 May 2017, the SAT issued Announcement [2017] No.12 ("Announcement 12") to guide taxpayers how to fill in the relevant filing forms for enterprises enjoying the R&D expense "super deduction" when performing CIT annual filing for year 2016.

* For more information about the R&D "super deduction" policy, you may access the following KPMG publications:

- China Tax Alert: Notice of the State Administration of Taxation on Further Implementation of the R&D Expenses Super Deduction Policy (Issue 6, February 2017)
- China Tax Alert: 150% Super Deduction Regulation Update (Issue 3, January 2016)
- China Tax Alert: R&D Super Deduction Regulation Update (Issue 31, November 2015)

Reference: Fa Gai Jia Ge [2017] No. 790
Issuance date: 25 April 2017
Effective date: N/A

Relevant industries: All
Relevant companies: All
Relevant taxes: N/A

Potential impacts on businesses:
- Operational costs reduced

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Reductions in non-tax business charges clarified

As highlighted in KPMG *China Tax Weekly Update (Issue 7, February 2017)*, the Standing Committee of the State Council 8 February 2017 had committed to further reduce and regularize business charges to lower the corporate fiscal burden. To this end, on 25 April 2017, the National Development and Reform Commission (NDRC), MOF, Ministry of Industry and Information Technology (MIIT) and Ministry of Civil Affairs (MCA) jointly issued Fa Gai Jia Ge [2017] No. 790. This clarfies the implementation issues for reducing and regularizing business charges:

- The specific business charges subject to reduction and regularization have been identified. The use, by brokerage businesses and industry associations, of their relationships with officials and their official status to extract various charges from businesses is to be subjected to particular scrutiny and review. These include broker charges for various services, such as technical reviews, assessment, evaluation, inspection, authentication, consulting. These are typically provided by intermediary service agencies and are required by government for administrative approval purposes.
- The relevant work will be carried out in three stages:
  - ❖ Government authority self inspection, fee reduction and regularization is to be completed by the end of June 2017 with the steps as follows:
    - i. Each department of the State Council shall be responsible for the business and service charges which they have set. The MCA and relevant departments of the State Council be responsible for charges currently levied by nationwide industry associations;
    - ii. The People's Governments of each province, autonomous region and centrally-administered municipality shall be responsible for the local business and services charges, as well as charges levied by industry associations operating at the regional/municipal level.
  - ❖ Central government review is to be completed by the end of August 2017. NDRC, MOF, MIIT, MCA shall review the results of the self inspections, and of the fee reduction and regularization efforts, as well as the opinions offered by the relevant departments of the State Council and People's Governments of provinces, autonomous regions and centrally-administered municipalities. The latter shall then, following on from the central government review, implement the reduction and regularization of business charges in accordance with the review recommendations.
  - ❖ Review of broker and industry association charges is to be completed by end of August 2017: in parallel with the review of government charges, the NDRC and People’s Governments at provincial level shall carry out a comprehensive review of charges collected by brokerage businesses, industry associations, import and export administrations, and e-government platforms, with inspections conducted on a random basis.

Reference: N/A
Issuance date: 5 May 2017
Effective date: N/A

Relevant industries: All
Relevant companies: MNEs
Relevant taxes: N/A

Potential impacts on businesses:
- Risks of being challenged due to cross-border tax anti-avoidance supervision increased

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OECD tackles CRS avoidance schemes and provides update on CRS exchange arrangements

OECD launches facility to disclose CRS avoidance schemes

Per a posting to the OECD website on 5 May 2017, the OECD is launching a disclosure facility on its Automatic Exchange Portal which allows interested parties to report potential schemes to circumvent the Common Reporting Standard (CRS). This is part of a wider three step process the OECD has put in place to deal with schemes that purport to avoid reporting under the CRS, which also includes requirements for CRS participant jurisdictions to put in place anti-abuse rules to prevent any practices intended to circumvent the reporting and due diligence procedures. This complements the ongoing peer reviews carried out by the Global Forum on Tax Transparency and Exchange of Information for Tax Purposes to ensure the effective implementation of the CRS in all jurisdictions. China, as a CRS participant, is engaged with all the above measures.

Over 1800 bilateral exchange relationships for CRS in place

The same OECD news posting observed that there are now over 1800 bilateral relationships in place across the globe, most of them based on the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information ("the CRS MCAA"), to which China is also a signatory. The full list of automatic exchange relationships that are currently in place under the CRS MCAA is available online. With respect to the jurisdictions exchanging as of 2017, now virtually all have activated their relationships under the CRS MCAA, while a significant number of new exchange relationships have now been put in place with respect to 2018 jurisdictions. The remaining exchange relationships are expected to be activated in the course of this year, including those of China which have not yet been notified.

A further activation round is scheduled to take place in July 2017 which will allow the remaining jurisdictions to nominate the partners with which they will undertake automatic exchanges.

In total, 100 jurisdictions have agreed to start automatically exchanging financial account information in September 2017 and 2018, under the CRS.

* In September 2014, China committed to implement the OECD CRS for Automatic Exchange of Financial Account Information in Tax Matters. China is expected to engage in the first information exchange in September 2018. China subsequently signed the CRS MCAA and is in the process of developing domestic CRS guidance for financial institutions, a draft of which was publicised in November 2016.

With regard to the impact of the Discussion Draft on China tax management, you may click the following links to access the relevant analysis by KPMG:

- ❑ *China Tax Weekly Update (Issue 12, April 2017)*
- ❑ *China Tax Weekly Update (Issue 40, October 2016)*
- ❑ *China Tax Alert: Public Consultation for the Draft Measures on the Due Diligence of Non-resident Financial Account Information in Tax Matters (Issue 32, November 2016)*

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