

China Tax Weekly Update

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Reference: SAT

Announcement [2015] No. 97
(Announcement 97)

Issuance Date: 29

December 2015

Effective Date: 1 January
2016

Relevant industries: All
industries eligible for R&D
expenses super deduction

Relevant companies: All
companies carrying out R&D
activities

Relevant taxes: CIT

**Potential impacts on
businesses:**

- Compliance risks due to
regulatory uncertainties
reduced

You may click this linkage to
access full content of the
circular:

<http://www.chinatax.gov.cn/n810341/n810755/c1981362/content.html>

Notice regarding Certain Issues on Research and Development Expenses Super Deduction Policies

On 2 November 2015, the State Administration of Taxation (SAT), the Ministry of Finance and the Ministry of Science and Technology jointly issued Notice on Policy Improvement of Research and Development (R&D) Expenses Super Deduction (Cai Shui [2015] No. 119, "Circular 119"), in which the relevant policies regarding R&D expenses super deduction have been clarified. Announcement 97 comes out to further clarify the uncertainties in Circular 119 and to ensure the incentive policies well implemented.

The execution date of Announcement 97 is the same as Circular 119, which applies to the Corporate Income Tax (CIT) annual filing for 2016 and afterwards.

Key points

- Announcement 97 further clarifies below issues:
 - ❑ Scope of R&D personnel
 - ❑ Capture of R&D expenses
 - Calculation of super deduction for the depreciation amount of fixed assets which enjoy accelerated depreciation
 - Requirements on capturing R&D expenses for multi-used items
 - Capture of other relevant expenses and calculation of the cap
 - Specific income to be deducted from eligible R&D expenses in super deduction
 - R&D expenses sourced-from fiscal funds not allowed for super deduction
 - Basic requirements of R&D expenses allowed for super deduction
 - ❑ Eligible R&D expenses claimed by entrusting parties under "entrusted R&D" activities
 - ❑ The specific criterion for determining enterprises within certain industries not eligible for super deduction

- ❑ Template of auxiliary or supplementary expense accounts of R&D projects and daily management requirements
- ❑ Application and filing administration of R&D super deduction for enterprises enjoying the incentive policy
- ❑ Reinforcement of follow-up management and inspection requirements from tax authorities

Reference: None
Issuance Date: None
Effective Date: None

Relevant industries: All
Relevant companies: All
Relevant taxes: CIT

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

Local Notices on 2015 Corporate Income Tax Annual Filing

Recently, a number of tax authorities issued notices to delay the starting of 2015 Corporate Income Tax (CIT) annual filing. It is because that the State Administration of Taxation will shortly clarify some points of the "CIT Annual Filing Return", and the software for CIT annual filing will be updated after that.

Some tax authorities which have issued the notice to suspend the 2015 CIT annual filing:

- Tianjin: http://www.tjcs.gov.cn/art/2016/1/6/art_18_22657.html
- Zhuhai: http://portal.gd-n-tax.gov.cn/pub/001002/bsfw/tzgg/201601/t20160106_856289.html
- Xiamen: <http://www.xm-n-tax.gov.cn/ssbd/sstz/sjsstz/653578782.htm>



Reference: Guo Ban Fa [2015] No. 92

Issuance Date: 28 December 2015

Effective Date: N/A

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

Potential impacts on businesses:

- Compliance costs reduced

You may click this linkage to access full content of the circular:

http://www.gov.cn/zhengce/content/2016-01/05/content_10554.htm

Notice regarding the Pilot Program of Power and Responsibility List Compiled by Several Ministries of the State Council

On 28 December 2015, the General Office of the State Council released the Notice regarding the Pilot Program of Power and Responsibility List Compiled by Several Ministries of the State Council, in which it requires the pilot ministries to set out their administrative powers and responsibilities, practicing body and running process in the form of a list. The pilot work shall be completed by the end of December 2016 and it aims to provide the experience for the expansion of the pilot program to the nationwide.

Key points

Pilot Ministries	<ul style="list-style-type: none"> • National Development and Reform Commission, Ministry of Civil Affairs, Ministry of Justice, Ministry of Culture, <u>General Administration of Customs</u>, <u>State Administration of Taxation</u>, Securities Regulatory Commission
Main tasks	<p>Collation of the existing powers and responsibilities</p> <ul style="list-style-type: none"> • Combining and collating of the powers and responsibilities and setting out the basis of the establishment with reference to the following classification: Administrative license, administrative penalty, administrative enforcement, administrative collection, administrative payment, administrative inspection, administrative verification, administrative reward, administrative adjudication and others • According to the execution of duty, the macro management responsibilities (e.g. plan and formulate etc.) along with the powers and responsibilities items such as standard proposed shall be collated and classified
	<p>Clean-up and standardization of the powers and responsibilities</p> <ul style="list-style-type: none"> • Providing opinions on the cancellation, decentralisation and retention of each powers and responsibilities as well as on the establishment, revision and revocation of laws and regulations. It shall be cancelled in principle for those which have no legal base and be conducted in accordance with the procedures for those are necessary for retention • The pilot ministries shall work out the basic power and responsibility list after the examination. The lists should be submitted to the State Commission Office of Public Sectors Reform (SCOPSR) before end of June 2016
	<p>Review of the power and responsibility list</p> <ul style="list-style-type: none"> • SCOPSR, Legislative Affairs Office of the State Council together with other parties shall jointly study and review the basic power and responsibility list. It requires to establish the assessment mechanism by the third party as well as to fully listen the opinions from the associated departments, local party committee and government

Main tasks (Cont'd)**Optimization of power running process**

- The flow chart of administrative power as well as the clarification of body, standard, procedure, timing and monitor mode are required for the retained power and responsibility items

Reference: Shui Zong Fa [2015] No. 155 (Circular 155)

Issuance Date: 28

December 2015

Effective Date: 28

December 2015

Relevant industries: All

Relevant companies: All

Relevant taxes: All

Potential impacts on businesses:

- Compliance costs reduced

You may click this linkage to access full content of the circular:

<http://law.esnai.com/view/165370/>

Notice regarding the Enhancement of Entrusted Tax Collection between State Tax Bureau and Local Tax Bureau

With the promulgation of Plan for Deepening Reform of the State Tax Bureau and the Local Tax Bureau Collection Administration System (Zhong Ban Fa [2015] No. 56), on 28 December 2015, the State Administration of Taxation issued Circular 155 to clarify the scope covered, assignment of responsibilities, use of receipt and defining of liability in relation to the entrusted levying between the state tax bureau and the local tax bureau.

Key points

Scope covered	<ul style="list-style-type: none"> • On the basis of voluntary between the state tax bureaux and the local tax bureaux, the following situations are focused on determination of type of tax for entrusted levying and management scope: <ul style="list-style-type: none"> <input type="checkbox"/> Tax source is relative dispersive but easy to levy <input type="checkbox"/> Low risk of law enforcement and convenience for management <input type="checkbox"/> Closely connection to the main tax category of commissioned party <input type="checkbox"/> Be beneficial to improve taxpayers satisfaction
Assignment of responsibilities	<ul style="list-style-type: none"> • The state tax bureaux and the local tax bureaux above the county level (including county level) are the executors of entrusted tax collection work
Use of receipt	<ul style="list-style-type: none"> • Where entrusted tax collection takes place between the state tax bureau and the local tax bureau, the receipt issued by the tax authority of entrusting party can be used; Where agreed by both parties, the receipt issued by the tax authority of commissioned party can also be used
Defining of responsibilities	<ul style="list-style-type: none"> • The tax authority of entrusting party shall collect the tax in accordance with the entrusted tax collection agreement, fulfil the responsibilities, provide the high-quality services as well as to pay the full amount of tax timely • Exceptional matters such as tax withdraw need to be processed by entrusting party and be coordinated by commissioned party

Reference: SAT Order No. 38
Issuance Date: 28 December 2015
Effective Date: 1 February 2016

Relevant industries: All
Relevant companies: All
Relevant taxes: Vehicle Purchase Tax

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

You may click this linkage to access full content of the circular:

<http://www.chinatax.gov.cn/n810341/n810755/c1969961/content.html>

Determination regarding the Revision of <Administrative Measures on Collection of Vehicle Purchase Tax>

Pursuant to the Notice of the State Council on Cancelling Non-administrative Approval Items (Guo Fa [2015] No. 27), the State Administration of Taxation (SAT) revised <Administrative Measures on Levying and Collection of Vehicle Purchase Tax> ("the Measures") and published on 28 December 2015. The Measures will be effective from 1 February 2016.

Key points

- Article 21 in the Measures is revised to: "The SAT shall compile the tax exempt atlas on a regular basis. The administrative measures on tax exempt atlas for Vehicle Purchase Tax shall be separately formulated by the SAT."

Reference: SAT Order No. 39
Issuance Date: 28 December 2015
Effective Date: 1 February 2016

Relevant industries: All
Relevant companies: All
Relevant taxes: All

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

You may click this linkage to access full content of the circular:

<http://www.chinatax.gov.cn/n810341/n810755/c1970304/content.html>

Determination regarding the Revision of <Rules for Tax Administrative Reconsideration>

The State Administration of Taxation (SAT) revised <Rules for Tax Administrative Reconsideration> ("the Rules") and published on 28 December 2015. The new Rules shall be effective from 1 February 2016.

Key points

- Article 19. Section 1. Item 1 in the Rules is revised as: "(1) An applicant who refuses to accept any specific administrative action of the state tax bureau of a separately planning city may apply to the SAT for administrative reconsideration; An applicant who refuses to accept any specific administrative action of the local tax bureau of a separately planning city may apply to the local tax bureau at the provincial level or the People's government at the same level for administrative reconsideration."
- Article 52 in the Rules is revised as: "Evidences for administrative reconsideration include the following types: (1) Documented evidences; (2) Material evidences; (3) Audio visual materials; (4) Electronic data; (5) Witness's testimony; (6) Statements of the party concerned; (7) Expert opinion; and (8) Notes of investigation and notes made on the spot."
- One section as Section 2, is added to the Article 86: "The time used for compromise and mediation shall not be counted into the period for administrative reconsideration."

Reference: Guo Fa Ming Dian [2015] No. 3 (Circular 3)
Issuance Date: 31 December 2015
Effective Date: 1 January 2016

Relevant industries: All
Relevant companies: All
Relevant taxes: Stamp Duty

Potential impacts on businesses:

- N/A

You may click this linkage to access full content of the circular:

http://www.gov.cn/zhengce/content/2015-12/31/content_10543.htm

Notice regarding the Adjustment of the Sharing Ratio Between the Central and Local Authorities of the Stamp Duty arising from Transactions in Securities

On 31 December 2015, the State Council issued Circular 3, to adjust the sharing ratio between the central and local authorities of the Stamp Duty arising from transactions in securities.

Key points

- With effect from 1 January 2016, the Stamp Duty arising from transactions in securities shall not be shared between the central and local authorities on ratio basis, and all of which will come to the revenue of the central authorities.

Reference: Bao Jian Ting Fa [2016] No. 1
Issuance Date: 4 January 2016
Effective Date: 4 January 2016

Relevant industries: All
Relevant companies: Enterprises which purchase the eligible for IIT preferential policy health insurance for staff
Relevant taxes: IIT

Potential impacts on businesses:

- Compliance risks due to regulatory uncertainties reduced

You may click this linkage to access full content of the circular:

<http://www.circ.gov.cn/web/site0/tab5168/info4012350.htm>

Notice regarding Health Insurance Businesses Eligible for Preferential Individual Income Tax Policies

On 4 January 2016, the China Insurance Regulatory Commission (CIRC) issued the Notice regarding Health Insurance Businesses Eligible for Preferential Individual Income Tax (IIT) Policies ("the Business"), in which the procedure and documentation requirement in respect of carrying out the Business by the bureaux of CIRC, China Insurance Information Technology Co., Ltd. (CIITC) and life insurance companies have been regulated.

Key points

- The insurance company which intends to carry out the Business shall submit the report on the Business, together with the evidence of acceptance issued by the CIITC, to the CIRC. CIRC shall issue a name list of headquarter office of insurance companies which qualify to carry out the Business in accordance with the relevant regulations and keep the list updated timely.
- The insurance company which carries out the Business shall provide the special insurance application form evidence and insurance contract to the insured party, as well as having the tax incentives identification code marked at the top-right corner of first page of body of insurance contract and identified easily.
- The insurance company shall get the consent from the insured party before carrying out the Business.

List of Key Tax and Customs Policies Take Into Effect from 1 January 2016

Notice regarding the Improvement to Super Deduction Policies for Research and Development Expenses (Cai Shui [2015] No. 119)

- ❑ Key points: To better encourage enterprises to carry out research and development (R&D) activities and standardise the implementation of super deduction incentives for R&D expenses of enterprises, the Ministry of Finance (MOF), the State Administration of Taxation (SAT) and the Ministry of Science and Technology jointly released the notice to clarify the issues in relation to the super deduction policies for R&D expenses, effective from 1 January 2016. Guo Shui Fa [2008] No. 116 and Cai Shui [2013] No. 70 shall be repealed simultaneously.
- ❑ Linkage: <http://www.chinatax.gov.cn/n810341/n810755/c1878881/content.html>

Announcement regarding the Individual Income Tax Collection of Equity Incentives and Increase of Share Capital (SAT Announcement [2015] No. 80)

- ❑ Key points: To implement the Notice on Introducing the Pilot Policies of National Innovation Demonstration Zones to Nationwide (Cai Shui [2015] No. 116), the SAT further clarifies certain Individual Income Tax collection issues in relation to equity incentive and increase of share capital in the Announcement, effective from 1 January 2016.
- ❑ Linkage: <http://www.chinatax.gov.cn/n810341/n810755/c1915569/content.html>

Notice on Launch of Pilot Scheme of Individual Income Tax Policies for Commercial Health Insurance (Cai Shui [2015] No. 126)

- ❑ Key points: The Notice shall take effective from 1 January 2016. Taxpayers who purchase the health insurance products which satisfy the criteria may enjoy the pre-tax deduction policies in accordance with the procedures stipulates in the Notice.
- ❑ Linkage: http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201512/t20151211_1609629.html

Announcement regarding the Tax Collection Issues Relating to the Pilot Scheme of Individual Income Tax Polices for Commercial Health Insurance (SAT Announcement [2015] No. 93)

- ❑ Key points: Expenditure incurred in purchase of commercial health insurance products which comply with the provisions by individuals in the pilot scheme areas may be deducted accordingly for individual income tax purpose pursuant to the standards stipulated in Cai Shui [2015] No. 126. Expenditure incurred in purchase of other commercial health insurance products by individuals in the pilot scheme areas shall not be allowed for pre-tax deduction. The Announcement shall be effective from 1 January 2016.
- ❑ Linkage: <http://www.chinatax.gov.cn/n810341/n810755/c1966088/content.html>

Notice regarding the Real Estate Tax and Urban Land Used Tax for Stadium (Cai Shui [2015] No. 130)

- ❑ Key points: The stadiums are possessed by state organs, army, mass organization, public institutions eligible for fiscal assistance, neighbourhood committee and village committee as well as the house properties and lands are used for sports activities, that are exempted from real estate tax and urban land used tax. The Notice shall be implemented from 1 January 2016.
- ❑ Linkage: http://szs.mof.gov.cn/zhengwuxinxi/zhengcefabu/201512/t20151231_1640427.html

List of Key Tax and Customs Policies Take Into Effect from 1 January 2016 (Cont'd)

Announcement on Release of Trail Administrative Measures on Vehicle and Vessel Tax (SAT Announcement [2015] No. 83)

- ❑ Key points: To further standardise the administration of Vehicle and Vessel Tax (VVT), promote the cooperation between the tax authorities and other authorities, and improve the management level of VVT, the SAT has formulated the Trail Administrative Procedures on VVT which is hereby promulgated and to be implemented with effect from 1 January 2016.
- ❑ Linkage: <http://www.chinatax.gov.cn/n810341/n810755/c1919858/content.html>

Announcement on Clarification of Implementation Standard for Organic Fertilizer Products Eligible for Value Added Tax Exemption (SAT Announcement [2015] No. 86)

- ❑ Key points: The Announcement shall be come into effect from 1 January 2016. Any undealt issues shall be conduct in accordance with the provisions stipulated in the Announcement. Official Reply from the SAT on Issues Concerning the VAT Exemption for Organic Fertilizer Products (Guo Shui Han [2008] No. 1020) shall be repealed simultaneously.
- ❑ Linkage: <http://www.chinatax.gov.cn/n810341/n810755/c1931694/content.html>

Announcement on Introduction of "Two-Dimension Code" for Tax Related Issues in Nationwide (Shui Zong Han [2015] No. 678)

- ❑ Key points: Pursuant to the requirement of innovation tax services system reform raised in the Plan for Deepening Reform of the State Tax and Local Tax Collection Administration System, the SAT decides to introduce "two-dimension code" for tax related issues in nationwide, effective from 1 January 2016.
- ❑ Linkage: <http://www.chinatax.gov.cn/n810341/n810755/c1957217/content.html>

The Tariff Commission of the State Council Releases the Adjustments of Customs Duties for 2016 (Shui Wei Hui [2015] No. 23)

- ❑ Key points: After deliberation by the Tariff Commission of the State Council and with the approval of the State Council, China will make certain adjustments to the import & export duties, effective from 1 January 2016
- ❑ Linkage: http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201512/t20151209_1604527.html

Notice regarding the Implementation of Tariff Rates of Free Trade Agreements of China-Korea and China-Australia (Shui Wei Hui [2015] No. 25)

- ❑ Key points: The Tariff Concession Scheme of China-Korea FTA and China-Australia FTA have passed the deliberation of the Tariff Commission and approved by the State Council, which decided that the tariff rates of the China-Korea FTA and China-Australia FTA for the first year shall be effective from 20 December 2015 and that for the second year shall become effective from 1 January 2016.
- ❑ Linkage: http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201512/t20151216_1617556.html

Notice regarding the Adjustment of Catalogues and Provisions in respect of Imported Duty Polices for Major Technical Equipment (Cai Guan Shui [2015] No. 51)

- ❑ Key points: Appendix II, Appendix III and Appendix IV to the Notice on Adjustment of Import Duty Policies for Major Technical Equipment (Cai Guan Shui [2014] No.2) shall be repealed as from 1 January 2016.
- ❑ Linkage: http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201512/t20151207_1600232.html

List of Key Tax and Customs Policies Take Into Effect from 1 January 2016 (Cont'd)

Announcement of General Administration of Customs on Import Consumption Tax collection of Batteries and Coatings (GAC Announcement [2015] No. 4)

- ❑ Key points: The lead storage battery (HS code: 85071000、85072000) shall be subject to import consumption tax at 4% from 1 January 2016. For the lists of consumption tax items and rates for batteries and coatings, refer to the Appendix I and II respectively.
- ❑ Linkage: <http://www.customs.gov.cn/publish/portal0/tab49661/info731506.htm>

Announcement on Revisions of Original Standard on Zero Tariff Goods under PRC-HK and PRC-Macao CEPAs from 1 January 2016 (GAC Announcement [2015] No. 56)

- ❑ Key points: The name of goods used in <Form of Original Standard on Newly Added Zero Tariff Goods under PRC-HK CEPA from 1 January 2016>, <Form of Original Standard on Revised Zero Tariff Goods under PRC-HK CEPA from 1 January 2016> and <Form of Form of Original Standard on Zero Tariff Goods under PRC-Macao CEPA from 1 January 2016> shall be on simplified basis, and the scopes shall be in consistence with the commodity scope which be corresponding to the relevant HS code listed in <China's Customs Import and Export Tariff for 2015>.
- ❑ Linkage: <http://www.customs.gov.cn/publish/portal0/tab49661/info780698.htm>

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