

China Insight – Chinese Tax Regulation Update



Dear Sir or Madam,

Please find enclosed our update on the latest developments on Chinese Tax Law.

Kind regards,

CMS, China

Circular Number	Issuance Date	Effective Date	Topic	What is new?
Announcement [2021] No. 15 jointly released by the Ministry of Finance ("MOF") and the State Administration of Taxation ("SAT")	2021-04-23	2021-04-01	Refund of uncredited input VAT of enterprises of the advanced manufacturing sector	<p>The Announcement clarifies the policy of the refund of uncredited input VAT of enterprises of the advanced manufacturing sector as stated in Announcement [2019] No. 84 ("Announcement 84") jointly released by the MOF and the SAT. The key points that are worth attention of the Announcement mainly include the following:</p> <ul style="list-style-type: none"> For the tax periods beginning from 1 April 2021 onwards, taxpayers in the advanced manufacturing sector which meet five conditions as mentioned in Announcement 84 may apply with the tax authorities for the refund of incremental uncredited input VAT. Advanced manufacturing taxpayers refer to the taxpayers which manufacture and sell "non-metallic mineral products, general equipment, special equipment and computers, communications and other electronic equipment, pharmaceuticals, chemical fibers, railroads, ships, aerospace and other transport equipment, electrical machinery and equipment, instrumentation" in accordance with the Industrial Classification of National Economic Activities and the turnover from sales of the above products shall account for more than 50% of the total sales. Taxpayers in the advanced manufacturing sector shall not be eligible for VAT Refund-upon-Levy and Levy-First-Refund-Later policies if they have obtained the refund of the uncredited input VAT according to this Announcement.

<p>Announcement [2021] No. 9 jointly released by the MOF, SAT, the National Development and Reform Commission ("NDRC") and the Ministry of Industry and Information Technology ("MIIT")</p>	<p>2021-04-22</p>	<p>2020-01-01</p>	<p>Enterprises qualified for the preferential tax policies granted to the integrated circuit industry</p>	<p>The Announcement clarifies the conditions that the enterprises of the integrated circuit industry should meet for enjoying the preferential tax policies stipulated in the circular Guo Fa [2020] No. 8. Enterprises specialized in integrated circuit design, equipment, materials, packaging or testing encouraged by the state must meet all the following conditions:</p> <ul style="list-style-type: none"> • The enterprise shall be an independent legal entity which is established in Mainland China and is engaged in integrated circuit design (or equipment, materials, packaging, or testing). • The average number of employees and staff under labor dispatch arrangement (collectively referred to as "Workers") per month of a qualified enterprise shall not be less than 20. The average number of Workers with bachelor's degree or above shall account for at least 50% of the total average number of Workers per month of a designing enterprise, and 40% of an equipment manufacturing enterprise, a material manufacturing enterprise and a packaging and testing enterprise. The average number of R&D personnel per month shall account for at least 40% of the total average number of Workers per month of a designing enterprise, 20% of an equipment manufacturing enterprise, and 15% of a material manufacturing enterprise and a packaging and testing enterprise. • The total R&D expenses of a designing enterprise shall account for at least 6% of the total sales revenue of a designing enterprise, 5% of an equipment manufacturing enterprise and a material manufacturing enterprise, and 3% of a packaging and testing enterprise. • The revenue from design of integrated circuits or from packaging and testing shall account for at least 60% of the total revenue of a designing enterprise or a packaging and testing enterprise. The sales revenue of integrated circuit equipment and the key parts or integrated circuit material shall account for at least 30% of the total revenue of an equipment manufacturing enterprise or a material manufacturing enterprise. In particular, for a designing enterprise, the revenue from self-designing shall account for at least 50% of the total revenue of the enterprise. The total revenue of a designing enterprise and an equipment manufacturing enterprise shall be at least RMB 15 million, of a material manufacturing enterprise at least RMB 10 million, and of a packaging and testing enterprise at least 20 million. • The enterprise shall have the core key technologies and intellectual property rights. The number of authorized invention patents, layout designs registrations and computer software copyrights relating to the design of
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Announcement [2021] No. 10 jointly released by the MOF, SAT, NDRC and MIIT	2021-04-23	2020-01-01	Software enterprises qualified for the preferential tax policies	<p>The Announcement clarifies the conditions that the software enterprises should meet for enjoying the preferential tax policies stipulated in the circular Guo Fa [2020] No. 8. Software enterprises encouraged by the state must meet all the following conditions:</p> <ul style="list-style-type: none"> • The enterprise shall be an independent legal entity which is established in Mainland China with software product development and related information technology services as the main business. The enterprise shall be established with reasonable commercial purposes and shall not have the main purposes of reducing, exempting or deferring the payment of taxes. • The average number of employees and staff under labor dispatch arrangement (collectively referred to as "Workers") per month with bachelor's degree or above shall account for at least 40% of the total average number of Workers per month, and the average number of R&D personnel shall account for at least 25% of the total average number of Workers per month. • The enterprise possesses core key technologies and use them as the basis for business activities. The total R&D expenses shall account for at least 7% of the total sales revenue of the enterprise and the R&D expenses incurred in China shall account for at least 60% of the total R&D expenses. • Revenues from software product development and sales and related information technology services shall account for at least 55% of the total revenue of the enterprise (revenues from embedded software product development and sales shall account for at least 45% of the total revenue of the enterprise). Revenues from sales of self-developed software products and related

information technology services shall account for at least 45% of the total revenue of the enterprise (revenues from sales of self-developed embedded software products shall account for at least 40% of the total revenue of the enterprise).

- The enterprise shall own the patents or computer software copyrights used in the main business or main products.
- The enterprise has production and business premises, hardware and software facilities and other development environments (such as legitimate development tools, etc.) appropriate for software development. The enterprise shall establish quality management systems that match the requirements of software engineering and continue running effectively.
- The enterprise shall not have major safety accidents, major quality accidents, intellectual property infringements, etc. and the enterprise shall be operated legally.

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Our team of legal experts are from China, Germany and the UK, and have an in - depth knowledge and understanding in many industrial sectors such as automotive, manufacturing, machinery and equipment, life sciences and healthcare, energy, banking & finance and TMC. We focus on serving the needs of our clients and on providing them with solution driven and business-oriented advice.

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