



Contents of this Edition

1. **Tax** - SAT Notice on the Issuance of the Administrative Measures for the Deduction of R&D Expenses (Trial)
2. **Technology** - Administrative Measures on the Registration of Technology Import and Export Contracts
3. **Technology** - Administrative Measures for Technologies Prohibited or Restricted from Import
4. **Banking** - Notice on Certain Issues Regarding Trial Bond Trading on Stock Exchanges by Listed Commercial Banks
5. **Tax** - SAT Notice on Issues relating to Withholding Tax on Dividends and Interest Paid by a Resident Enterprise to a Qualified Foreign Institutional Investor (QFII)
6. **Intellectual Property Rights** - Trial Measures for Online Trademark Applications

1. SAT Notice on the Issuance of the Administrative Measures for the Deduction of R&D Expenses (Trial)

国家税务总局关于印发《企业研究开发费用税前扣除管理办法（试行）》的通知

Issuing Authority: State Administration of Taxation

Date of Issuance: December 10, 2008

Effective Date: January 1, 2008

According to the Enterprise Income Tax Law, 50% of certain R&D expenses may be deducted twice for enterprise income tax purposes. This is often described as the so-called "150% R&D super deduction." This Notice limits the scope of enterprises which qualify for the deduction to resident enterprises with complete accounting systems and sets forth new standards for qualified R&D activities, including those for the service industry. Eight types of deductible expenditures are provided along with their application requirements. This Notice also addressed the following scenarios:

- In cooperative R&D projects, the deduction may be shared in accordance with the actual costs borne by each party.
- In contract R&D projects, only the principal may apply for the deduction after the contracted party provides a breakdown of project expenditures.
- In company-group-wide R&D projects, benefiting members of the group may share R&D expenses according to their R&D project agreements with the parent company in charge.

2. Administrative Measures on the Registration of Technology Import and Export Contracts

技术进出口合同登记管理办法

Issuing Authority: Ministry of Commerce

Date of Issuance: February 1, 2009

Effective Date: March 3, 2009

MOFCOM promulgated the amended Administrative Measures on Registration of Technology Import and Export Contracts on February 1, 2009. The new rules take effect 30 days after promulgation and supersede the previous Measures promulgated in 2001.

The new Measures do not change the basic regime requiring that contracts for the import and export of technologies that may be freely imported/exported be registered through MOFCOM's online system and hardcopies be filed with competent commerce authorities, who will issue Registration Certificates.

The following summarizes the main changes introduced by the new Measures:

- The Measures state that MOFCOM administers the registration of technology import contracts for projects under the Catalogue of Investment Projects Subject to Government Verification and government-invested projects that are verified or approved by the State Council or the NDRC, while provincial commerce departments administer the registration of other technology import and export contracts.
- While the old rules were silent on time limits, the new Measures require the technology importer/exporter to register the contract within 60 days after the contract takes effect. For contracts with royalty-based payments, the contract must be registered within 60 days after the initial royalty basis has been determined, and such registration should be amended each time after the determination of a subsequent royalty basis.
- With respect to the registration items, the method of foreign exchange settlement and form of credit are no longer required, while the effective term of the contract has been added to the list of required items.
- If there is an amendment to technology import/export contracts, importers/exporters must amend the registration (compared with "redo the registration" under the old rules). The Measures describe the amendment procedures.
- If a Registration Certificate is lost, the importer/exporter must publicly report the loss and apply for reissuance of the certificate.
- MOFCOM should periodically publish nationwide statistics on technology imports and exports, and local commerce departments are responsible for compiling local statistics on the same.

3. Administrative Measures for Technologies Prohibited or Restricted from Import

禁止进口限制进口技术管理办法

Issuing Authority: Ministry of Commerce

Date of Issuance: February 1, 2009

Effective Date: March 3, 2009

MOFCOM promulgated the amended Measures on Administration of Technologies Prohibited or Restricted from Import on February 1, 2009. The new rules take effect 30 days after promulgation and supersede the previous Measures promulgated in 2001.

The new Measures do not change the basic regime prohibiting the import of technologies listed as prohibited in the Catalogue of Technologies Prohibited or Restricted from Import and subjecting technologies listed as restricted in the same Catalogue to technology import licensing, whereby the competent commerce authority conducts trade and technology review before issuing a Proposal for Technology Import License and authenticity review before granting a Technology Import License.

The following summarizes the main changes introduced by the new Measures:

- MOFCOM has delegated examination and approval authority for the import of restricted technologies to provincial commerce departments. MOFCOM will supervise provincial commerce departments in this regard and provincial commerce departments should file licenses granted by them with MOFCOM annually.

- Whether an import would adversely impact the establishment or acceleration of certain specific domestic industry has been added as a criterion for the trade review of technologies restricted from import.
- Whether an import would harm public morals, human safety and life or health of animals and plants has been added as a criterion for the technology review of technologies restricted from import.
- The Proposal for Technology Import License is valid for three years; the old rules were silent on the validity period.
- Prior to (compared with "upon" under the old rules) receiving the Technology Import License, the importer must register the contract through MOFCOM's online system.
- The new forms of Application Form for Technologies Restricted from Import, Proposal for Technology Import License and Technology Import License have been published by MOFCOM together with the new Measures.

4. Notice on Certain Issues Regarding Trial Bond Trading on Stock Exchanges by Listed Commercial Banks

关于开展上市商业银行在证券交易所参与债券交易试点有关问题的通知

Issuing Authority: China Securities Regulatory Commission and China Banking Regulatory Commission

Date of Issuance: January 19, 2009

Subject to the examination and approval of the China Banking Regulatory Commission, listed commercial banks may apply to relevant stock exchanges to trade bonds on a trial basis. Qualified listed commercial banks are permitted to trade treasury bonds, enterprise bonds, corporate bonds, and other types of bonds approved by the competent supervising authorities.

5. SAT Notice on Issues relating to Withholding Tax on Dividends and Interest Paid by a Resident Enterprise to a Qualified Foreign Institutional Investor (QFII)

国家税务总局关于中国居民企业向QFII支付股息、红利、利息代扣代缴企业所得税有关问题的通知

Issuing Authority: State Administration of Taxation

Date of Issuance: January 23, 2009

Effective Date: January 23, 2009

China-sourced dividends and interest received by QFIIs are subject to a 10% withholding tax. The withholding agent is the enterprise paying the dividends and interest. QFIIs can apply to the tax authorities to receive such tax rate under applicable treaties.

6. Trial Measures for Online Trademark Applications

商标网上申请试用办法

Issuing Authority: Trademark Office of State Administration for Industry and Commerce ("Trademark Office")

Date of Issuance: January 17, 2009

Effective Date: January 20, 2009

Trademark applicants and their agents can submit trademark applications online via the designated website (<http://www.ctmo.gov.cn>). However, applications involving prior rights, portrait trademarks, collective trademarks, certification trademarks, foreign applicants who do not engage a trademark agent and certain other applications must still be handled by paper submissions. The date on which the Trademark Office receives the proper electronic application data is regarded as the trademark application date.

Other New Legislation & Policies

Implementing Measures on Employing Staff and Workers by Enterprises in

Shenzhen

关于印发《深圳市企业招调员工实施办法》的通知

Issuing Authority: Labor and Social Security Bureau of Shenzhen Municipality
Date of Issuance: January 15, 2009
Effective Date: January 15, 2009

Guidelines on Corporate Social Responsibility for Financial Institutions in the Banking Industry of China

中国银行业金融机构企业社会责任指引

Issuing Authority: China Banking Association
Date of Issuance: January 12, 2009
Effective Date: January 12, 2009

Announcement on Issues relating to the Implementation by Customs of the Catalogue of Priority Industries for Foreign Investment in Central-Western Areas (Revised in 2008)

海关总署公告2009年第4号—关于海关执行《中西部地区外商投资优势产业目录（2008年修订）》中的有关问题公告

Issuing Authority: General Administration of Customs
Date of Issuance: January 19, 2009
Effective Date: January 19, 2009

Circular of the China Insurance Regulatory Commission on Soliciting Public Comments Regarding the Administrative Measures on Information Disclosure of Life Insurance New Products (Draft for Comments)

中国保监会关于就《人身保险新型产品信息披露管理办法（征求意见稿）》公开征求意见的通知

Issuing Authority: China Insurance Regulatory Commission
Date of Issuance: January 20, 2009
Effective Date: January 20, 2009

O'Melveny & Myers LLP

Beijing Office:

Yintai Centre, Office Tower, 37th Floor
2 Jianguomenwai Avenue
Beijing, 100022
People's Republic of China
Tel. (86-10) 6563-4200
Fax. (86-10) 6563-4201

Shanghai Office:

Plaza 66, Tower 1, 37th Floor
1266 Nanjing Road West
Shanghai 200040
People's Republic of China
Tel. (86-21) 2307-7000
Fax. (86-21) 2307-7300

Hong Kong Office:

31st Floor
AIG Tower
1 Connaught Road Central
Hong Kong S.A.R.
Tel. (852) 3512-2300
Fax. (852) 2522-1760

Singapore Office:

9 Raffles Place
#22-01/02
Republic Plaza 1
Singapore 048619
Tel. (65) 6593-1800
Fax. (65) 6593-1801

Tokyo Office:

Meiji Yasuda Seimei Building, 11th Floor
2-1-1, Marunouchi
Chiyoda-ku
Tokyo 100-0005
Japan
Tel. (81-3) 5293-2700
Fax. (81-3) 5293-2780

To request removal from our mailing list, please reply to unsubscribe@omm.com

Legal Notice:

This publication is for general information only, and is not a substitute for legal consultation in any particular case. It may be considered an advertisement for certain purposes. The information presented is not legal advice, and your use of it does not create an attorney-client relationship. Please read our Disclaimers/Terms of use of use for important additional disclosures and for information on terms and conditions of the use of this publication and our website, privacy, and security, as well as our disclaimers and protected rights. Any liability that might arise from your use or reliance on the information in or any links from this publication or our website is expressly disclaimed. The content of any communication you send to us via the Internet or through e-mail may not be considered confidential.

© Copyright 2000-2009 O'Melveny & Myers LLP. All Rights Reserved.
<http://www.lawofchina.com> <http://www.omm.com> <http://www.omm-china.com>