

## Administrative Measures on Qualifications for High and New Technology Enterprises ("HNTEs") ("Administrative Measures")

June 2008

The long awaited Administrative Measures are finally issued in which they set out details on the qualifications for being recognized as HNTEs. Enterprises with the status of HNTEs will be entitled to a preferential enterprise income tax rate of 15% comparing to the normal rate of 25%

### A. QUALIFICATIONS OF A HNTE

A HNTE must fulfill all of the following six conditions:

#### 1. Core Technology

- (a) A qualified enterprise must be incorporated in the PRC and it has been in existence for at least one year; and
- (b) The enterprise must own a core technology which was obtained in the last 3 years by means of self-development, transfer, gift, or merger etc; or it has possessed an exclusive right of the core technology for at least 5 years.

#### 2. Catalogue of High and New Technologies ("Catalogue").

The technology of a HNTE must also fall into the Catalogue of High and New Technology. This catalogue contains eight types of technology which are specifically supported by the PRC government including:

- Electronic information technology
- Biological and new medical technology
- Aviation and space technology
- New material technology
- High technological service sector
- New energy and energy conservation technology
- Resources and environmental technology
- Transformation of traditional industries by high and new technology

These 8 categories are further sub-divided into sub-categories.

### 3. Staff Requirements for HNTEs

A HNTE is required to have more than 30% of its staff who are technical staff with university degree or above; and more than 10% of the staff should be engaged in research and development activities.

### 4. Research and Development Expenditure Requirements

The Measures also require a HNTE to spend certain amount of scientific research and development expenses in the past 3 accounting years. The requirements are as follows:

Total Revenue in the most recent year	Percentage of Total Research and Development Expenditure over Total Revenue
Below RMB 50 million	Not less than 6%
Between RMB 50 million and 200 million	Not less than 4%
Above RMB 200 million	Not less than 3%

Besides, 60% of these expenditures of a HNTE must be incurred in the PRC.

### 5. Income Requirement

A HNTE is required to derive income from high and new technology services or products and it should account for not less than 60% of its total annual income.

### 6. Others

A Work Guidance on Recognition of High and New Technology Enterprises will soon be issued. The Guidance will set out details for HNTEs to follow whereby they are expected to fulfill certain requirements on management capability, commercial viability, volume of know how, sales and future growth etc.

## B. ADMINISTRATION

Under the Administrative Measures, a leading committee will be formed by officers from various authorities, including those from The Ministry of Science and Technology, The Ministry of Finance and The State Administration of Taxation. The leading group is expected to manage the implementation process of the Administrative Measures and maintain a web-site for providing information; whereas, at the district level, offices will be set up for assessment purposes and will be responsible for granting high and new technology status to enterprises.

## C. CONCLUSION

The Administrative Measures set out more specific conditions which enterprises may find them difficult to meet as these conditions are much stringent than those in the past. Some enterprises currently being recognized as HNTEs may lose such status as they will no longer be able to meet these criteria, for instances, HNTEs may have difficulty to satisfy the requirements on the number of qualified employees for carrying out research and development activities. Also, the Administrative Measures expect research and development activities will be successfully converted into products / services that will derive income to enterprises. Not only that these requirements are difficult to satisfy, it seems that they are not realistic. A score point system will be introduced for assessment of HNTEs. However, it is not known when the details will be announced. Enterprises are therefore encouraged to review their current status and consider if proper restructuring would help.

The Administrative Measures are new and it is not surprising that different interpretations will be taken by local authorities. Professional advice may be required.

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