Administrative Measures for the Recognition of High and New Technology Enterprises of the PRC

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Chapter I — General Provisions

Article 1 — These Measures are formulated in accordance with the Enterprise Income Tax Law of the People's Republic of China and its Implementing Regulations, for the purpose of supporting and encouraging the development of high and new technology enterprises and regulating the recognition and administration of High and New Technology Enterprises (HNTEs).

Article 2 — A High and New Technology Enterprise refers to a resident enterprise registered in China (excluding Hong Kong, Macao, and Taiwan regions) that continuously conducts research and development and transformation of technological achievements within the High and New Technology fields supported by the State, forms core independent intellectual property rights, and carries out business activities on that basis.

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Article 3 — HNTEs recognized in accordance with these Measures may enjoy the preferential enterprise income tax rate of 15% in accordance with the EIT Law and its Implementing Regulations.

Chapter II — Recognition Conditions

Article 4 — An enterprise seeking recognition as an HNTE shall simultaneously satisfy the following conditions:

(1) The enterprise must have been registered for at least one year at the time of application;

(2) The enterprise must own the ownership of core independent intellectual property rights that play a core supporting role in the technology of its main products or services, acquired through independent research and development, transfer, donation, merger and acquisition, or other means;

(3) The core technologies of the enterprise's main products or services must fall within the scope of the High and New Technology fields supported by the State;

(4) Scientific and technical personnel engaged in R&D and related technological innovation activities shall account for at least 10% of the total number of employees of the enterprise in the current year;

(5) The enterprise's R&D expenditure ratios over the most recent three fiscal years (or the actual operating period, if less than three full years) must satisfy the following requirements:

(a) For enterprises with sales revenue not exceeding RMB 50 million in the most recent year: R&D expenditure shall be at least 5% of sales revenue;

(b) For enterprises with sales revenue between RMB 50 million and RMB 200 million in the most recent year: R&D expenditure shall be at least 4% of sales revenue;

(c) For enterprises with sales revenue exceeding RMB 200 million in the most recent year: R&D expenditure shall be at least 3% of sales revenue.

Of the total R&D expenditure incurred in China, at least 60% shall be incurred within China;

(6) Revenue from high and new technology products or services shall account for at least 60% of the enterprise's total revenue in the most recent year;

(7) The enterprise's innovation capability evaluation shall meet the corresponding requirements, assessed based on four indicators: the quantity and quality of intellectual property rights, the capacity for technological achievement transformation, the level of R&D organization and management, and indicators of enterprise growth;

(8) No major safety or quality accident or serious environmental violation has occurred in the year preceding the application.

Chapter III — Recognition Procedures

Article 5 — The recognition of HNTEs shall be conducted through a process of enterprise application, review by expert panels, and determination by the recognition authority. The recognition authority shall be the provincial-level science and technology administrative department in conjunction with the finance department and tax authority at the same level.

Article 6 — An enterprise applying for HNTE recognition shall submit the following materials:

(1) An HNTE recognition application form;

(2) Documentary proof of the enterprise's legal establishment, such as a business license;

(3) Intellectual property rights materials, including certificates or authorization notices for patents, software copyrights, layout designs of integrated circuits, new plant variety rights, and other intellectual property

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rights;

(4) Description of the key technologies of the enterprise's main products or services and relevant supporting materials;

(5) A roster of scientific and technical personnel and R&D personnel, including educational background and employment information;

(6) Audit reports on R&D expenditure and revenue from high-tech products or services for the most recent three fiscal years, issued by a qualified accounting firm, including details of R&D activities and materials;

(7) Financial audit reports for the most recent three fiscal years, including tax returns;

(8) Materials demonstrating the enterprise's innovation capability;

(9) Other materials as required by the recognition authority.

Article 7 — Expert panels shall conduct reviews of applications based on the recognition conditions and evaluation indicators. Each panel shall consist of at least five experts, including both technical experts and financial experts.

Article 8 — The recognition authority shall make a decision within 60 working days from the date of receipt of a complete application. Approved enterprises shall be granted an HNTE Certificate, which shall be valid for three years from the date of issuance.

Chapter IV — Supervision and Administration

Article 9 — The relevant authorities shall establish a random inspection mechanism and conduct spot checks on recognized HNTEs. Enterprises that fail random inspections shall be subject to rectification or, in serious cases, revocation of HNTE status.

Article 10 — An HNTE shall submit an annual development report and statistical reports to the recognition authority. Where an HNTE undergoes a major change, such as a change of name or a reorganization involving a change in the enterprise's substantive business activities, it shall report to the recognition authority within three months.

Article 11 — An HNTE whose recognition period has expired may reapply for recognition. The re-recognition procedure shall follow the same application and review process as an initial recognition.

Article 12 — Where an HNTE is found to have committed fraud in the application process, its HNTE status shall be revoked, and it shall not reapply for HNTE recognition within five years. The enterprise shall also be liable for the enterprise income tax benefits improperly obtained.

Article 13 — Where an HNTE ceases to meet the recognition conditions due to changes in its operations, technology, personnel or other circumstances, the recognition authority shall revoke its HNTE status, and the enterprise shall pay enterprise income tax at the statutory rate of 25% from the year in which the conditions are no longer satisfied.

Chapter V — Supplementary Provisions

Article 14 — The Ministry of Science and Technology, the Ministry of Finance, and the State Administration of Taxation shall be responsible for the interpretation of these Measures.

Article 15 — These Measures shall be effective as of January 1, 2016. The Administrative Measures for the Recognition of High and New Technology Enterprises (Guo Ke Fa Huo [2008] No. 172) shall be repealed simultaneously.

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