

高新技术资格认定

继国科火[2008]172号文《高新技术企业认定管理办法》及国科火[2008]362号文《高新技术企业认定管理工作指引》后，上海市又出台相应的沪科合[2008]025号文《上海高新技术企业认定管理实施办法》进一步明确了上海注册企业的高新技术资格认定申请的具体办法及程序，并强调需由上海科技网站公布的有资质的会计师事务所等中介机构出具专项审计报告。同时发布公告，通知：

- 从9月起在全市开展2008年度上海市高新技术企业认定的申报工作，接受符合条件的企业申报高新技术企业认定，原来按照以往认定标准获得的高新技术企业同时进行重新认定。
- 具体步骤及时间节点为：
 - 申请认定的企业，于9月1日—9月10日先在“全国高新技术企业认定管理工作网”(<http://www.innocom.gov.cn>)按要求注册登记。
 - 9月11日—10月10日企业根据获得的用户填报号，在“上海市高新技术企业认定管理工作网”(<http://www5.stcsm.gov.cn>)上按要求填报相关材料，确认后正式网上递交。
 - 从网上打印带有STCSM水印的申报材料（共两份）并盖章后送到相关的业务受理部门。经审查确定材料完备、真实后，出具正式受理证明并在网上确认，同时将通过形式审查的书面材料及其正式受理证。
 - 10月11日开始进行专家评价，当年度审批完10月11日前递交的申请，并在网上公示结果。

企业所得税

国家税务总局于2008年8月14日发布国税发[2008]86号文《关于母子公司间提供服务支付费用有关企业所得税处理问题的通知》就其在中国境内，属于不同独立法人的母子公司之间提供服务支付费用有关企业所得税处理问题规定如下：

- 母公司为其子公司（以下简称子公司）提供各种服务而发生的费用，应按照独立企业之间公平交易原则确定服务的价格，作为企业正常的劳务费用进行税务处理。
- 母子公司未按照独立企业之间的业务往来收取价款的，税务机关有权予以调整。
- 母公司向其子公司提供各项服务，双方应签订服务合同或协议，明确规定提供服务的内容、收费标准及金额等，凡按上述合同或协议规定所发生的服务费，母公司应作为营业收入申报纳税；子公司作为成本费用在税前扣除。
- 母公司以管理费形式向子公司提取费用，子公司因此支付给母公司的管理费，不得在税前扣除。
- 子公司申报税前扣除向母公司支付的服务费用，应向主管税务机关提供与母公司签订的服务合同或者协议等与税前扣除该项费用相关的材料。不能提供相关材料的，支付的服务费用不得税前扣除。

外汇管理

国务院于 2008 年 8 月 5 日发布中华人民共和国第 532 号令《中华人民共和国外汇管理条例》

内容包括：总则、经常项目外汇管理、资本项目外汇管理、金融机构外汇业务管理、人民币汇率和外汇市场管理、监督管理和罚则等；

并规定：

- 境内机构、境内个人的外汇收支或者外汇经营活动，以及境外机构、境外个人在境内的外汇收支或者外汇经营活动，适用本条例。
- 国家对经常性国际支付和转移不予限制。
- 中国境内禁止外币流通，并不得以外币计价结算，但国家另有规定的除外。
- 境内机构、境内个人的外汇收入可以调回境内或者存放境外；调回境内或者存放境外的条件、期限等，由国务院外汇管理部门根据国际收支状况和外汇管理的需要作出规定。
- 国际收支出现或者可能出现严重失衡，以及国民经济出现或者可能出现严重危机时，国家可以对国际收支采取必要的保障、控制等措施。

投资管理

商务部于 2008 年 8 月 5 日发布商资函[2008]50 号文《关于下放外商投资股份公司、企业变更、审批事项的通知》规定：

- 商务部批准的外商投资企业，如新增投资总额及新增注册资本属于限额以下的，由省级商务主管部门负责审批。
- 限额以下外商投资股份公司的设立及其变更，由省级商务主管部门负责审批。
- 外商投资有专项规定的行业、特定产业政策、宏观调控行业继续按现行规定办理。外国投资者对上市公司进行战略投资仍按有关规定报商务部审核。

商务部发布商资函[2008]23 号文《关于做好外商投资房地产业备案工作的通知》内容强调：

- 商务部委托省级商务主管部门对外商投资房地产业备案材料进行核对。地方商务主管部门依法批准外商投资房地产事项后（包括设立企业、增资、扩股、股权转让、并购等），将原需报商务部备案的材料送省级商务主管部门进行核对。
- 商务部会同国务院有关部门对外商投资房地产企业进行抽查，原则上每季度随机抽查 5—10 家。

特刊

编者按：上海市人民政府最近出台《关于推进经济发展方式转变和产业结构调整若干政策意见》沪府办发[2008]38号文，推出11条具体的财税政策。作为最直接的企业扶持政策，目标指向“先进制造业”、“现代服务业”和“总部经济”等。我们特意对大家共同关心的几条内容作了整理，希望能及时给您参考。如需进一步了解可联系我们，我们愿竭诚为您提供服务。

● 购买固定资产的增值税进项税额给予财政补贴

对于电子信息业、装备业、汽车制造业、船舶与海洋装备业、石油化工和精细化工业、精细钢材业、航空业、新能源产业、新材料产业、生物医药产业等10个重点领域的重点企业购进、自制或融资租赁方式新增的固定资产（不包括不动产，但包括运输费），对其购进时相应的增值税进项税额，可以给予一定的财政补贴。

具体补贴方式是：对于新增固定资产的进项税额，以缴纳的增值税收入超过上年同期的增量为限给予补贴。

这项政策将于2008年9月1日起开始实施，一直延续到国家全面实施增值税扩大抵扣范围出台。

● 商业连锁企业，由总部统一核算、统一纳税，纳入市、区财力分配范围

自2008年1月1日起，在本市注册登记，如果跨区开设连锁分支机构经营，且其分支机构也设立在本市范围内的商业连锁企业，由总机构统一核算、统一纳税。

纳入市、区财力分配范围的条件：企业缴纳的年可分配收入[地方财力部分：（25%增值税+100%营业税）×85%]超过500万元。

● 有资质的中介机构差额征收营业税

对本市具有鉴证职能的各类会计、税务、资产评估、律师等事务所的代理业务收入，可扣除支付给协作方相关费用后的余额征收营业税

● 会展公司收入差额征税

对本市主办或承办的会展业务企业，收入中可扣除给第三方的场租费、场地搭建费、广告费、食宿费、门票费、交通费之后的余额征收营业税

● 对跨国公司地区总部实行资助和奖励

对新入驻（新注册或新迁入）本市的跨国公司地区总部，通过资助和奖励等方式实施政策扶持。

具体扶持政策：

新入驻时给予开办资助；

租赁或购置办公用房的按一定比例给予资助；

对商务部认定的国家级跨国公司地区总部，给予一次性奖励；

对地区总部法人代表等高级管理人员，给予奖励。

此外，今年7月7日起，上海放宽了准入标准，跨国公司在上海设立地区总部的注册资金准入门槛由原来的3000万美元降为1000万美元。

- If parent company and its subsidiary fail to determine the service price on arm's length transaction basis, tax authorities have right to adjust the price.
- When parent company provides services for its subsidiary, they should sign service contract or agreement which includes definite stipulation of service scope, pricing standards, fees and others. Service fees prescribed by the above contract/agreement shall be regarded as business revenue of parent company and subject to tax, and on the other hand, such service fees shall be deducted before tax as expense of the subsidiary.
- If parent company allocate expense to its subsidiary in the form of General & Administration expenses, i.e. subsidiary pay G&A fee to its parent company, the G&A expenses cannot be deducted before tax.
- When applying for pre-tax deduction of service fee paid to its parent company, subsidiary should provide the service contract or agreement signed with the parent company or other supporting documents to the competent tax authorities. Without provision of relevant documents, the service fee cannot be deducted before tax.

Administration of Foreign Exchange

The State Council issued Regulations of People's Republic of China on Administration of Foreign Exchange (Ordinance No.532 of PRC) on August 5, 2008, including general provisions, administration of foreign exchange under current accounts, administration of foreign exchange under capital accounts, administration of foreign exchange business of finance institutions, administration of RMB exchange rate and foreign exchange markets, administration of supervision, penalty provision and others. The Regulations also stipulate that:

- This Regulations is applicable for domestic institutions and individuals that deal with receipts and payment of foreign exchange or engage in operational activities of foreign exchange, and also for offshore institutions and individuals involved in those businesses of foreign exchange within PRC.
- International payment in foreign exchange and transfer of foreign exchange under current accounts shall not be subject to the restriction of the state.
- It is prohibited to circulate foreign currencies in China or use foreign currencies for pricing or account settlement, except as otherwise stipulated by the state.
- The income of foreign exchange of domestic institutions or individuals can be transferred back into China or deposited overseas. The specific requirements and term related to the transfer or deposit shall be prescribed by foreign exchange administration department of the State Council in light of the balance of international payment and the status of foreign exchange administration.
- In the event that the international payments becomes or may become seriously unbalanced, or the national economy falls or may fall into a serious crisis, the state may take necessary protective or controlling measures for the balance of international payments.

Administration of Investment

The Ministry of Commerce issued Circular on Delegating Foreign-invested Incorporated Companies, Enterprises Changes, and Certain Items of Examination and Approval to Lower Administrative Authorities (ShangZiHan [2008] No.50) on August 5, 2008, stipulating that:

- Foreign-invested enterprises (FIEs) that needed to be approved by the Ministry of Commerce, such as FIEs whose newly-increased total investment and registered capital is below the limit, shall be approved by the competent commercial authorities of provincial level.
- Establishment and changes of foreign-invested incorporated companies below the limit shall be examined and approved by the competent commercial authorities of provincial level.
- The existing regulations are still applicable for foreign investment into specially prescribed industries, specific industry policies and macro-controlled industries. Strategic investment into listed companies by foreign investors should be reported to the Ministry of Commerce for examination according to the relevant regulations.

The Ministry of Commerce issued Circular on Smoothly Completing the Record-keeping Job for Foreign Investment into Real Estate Industry (ShangZiHan [2008] No.23), emphasizing the following points:

- The Ministry of Commerce shall authorize competent commercial authorities of provincial level to check documents of records of foreign investment into real estate industry. After legally approving the foreign investment into real estate (including registration of enterprise, increase of capital or shares, transfer of share, merger and acquisition, etc.), local competent commercial authorities shall submit the documents, which would be submitted to the Ministry of Commerce for archival purposes, to the competent commercial authorities of provincial level for their review.
- The Ministry of Commerce shall exercise spot check on the foreign-invested real estate enterprises together with the relevant departments of the State Council. In principle, 5 to 10 enterprises shall be checked at random each quarter.

EXTRA

☞ Editorial Comments: People's Government of Shanghai recently released Opinions on Certain Policies for Propelling Transformation of Economic Development Mode and Adjustment of Industrial Structure (HuFuBanFa [2008] No.38), proposing 11 finance and tax policies. These immediate incentive policies for enterprises aim at advanced manufacturers, modern services industry, headquarter economy, etc. Hereby we make a special summary of certain articles that enterprises may be more concerned about. For more information on the policies, please contact us. We'll sincerely provide our services for you.

- **Financial benefits to input VAT of purchasing fixed assets**

As for the major enterprises in the 10 important industries of electronic information, equipment, auto manufacturing, ship and marine equipment, petrochemical and fine chemicals, fine steel, aeronautics, new energy, new material and biopharmaceutical, when they acquire fixed assets (exclusive of real property, but including transportation fees) by way of purchase, self-making or financing lease, they shall enjoy a financial benefit related to the input VAT.

In detail, the financial benefit to the input VAT of newly-purchased fixed assets shall be limited to the increment of paid-in VAT exceeding the VAT paid in the same period of the last year.

These Policies came into effect as of September 1, 2008, and shall keep valid till the nationwide implementation of expanded scope of VAT deduction.

- **Integrate accounting and tax of chain commercial enterprises into uniform accounting treatment of their headquarters, and bring the chain commercial enterprises into the allocation of financial resource of the city and the districts**

Since January 1, 2008, accounting and tax of chain commercial enterprises shall be brought into the uniform accounting and tax system of their headquarters, as long as those enterprises are registered in Shanghai and have cross-district chain branches in the city.

Requirement for entering the scope of financial resource allocation of the city and the districts: annual distributable revenue from an enterprise exceeds RMB 5 millions [local financial resource: (VAT of 25% + business tax of 100) × 85%].

- **Levy business tax on balance of revenue of licensed agents**

In respect of revenue from agency services derived by the agency firms with legal authentication functions such as accounting firm, tax agent, assets assessment firm, lawyers' office, etc. business tax shall be levied on the balance of that kind of revenue, i.e. the revenue minus the fees the above-said agency firms pay to their cooperative parties.

- **Levy tax on balance of revenue of conference & exhibition service enterprises**

As for the enterprises registered in Shanghai and hosting or undertaking conference & exhibition service, business tax shall be levied on their revenue minus rent of space, booth layout fee, advertisement fee, accommodation fee, tickets and traffic fee paid to the third party.

- **Financial aid and rewards for regional headquarters of multinational companies (MNC)**

Incentive policies for regional headquarters of MNC newly-stationed in Shanghai (newly registered or newly moved in) shall be carried out in the form of financial aid, rewards and others.

In detail:

- ✓ Start-up aid for the stage of registration;
- ✓ Financial aid on a proportional basis for the headquarters leasing or purchasing offices;
- ✓ One-off rewards for national-grade regional headquarters of MNC identified by the Ministry of Commerce;
- ✓ Rewards for senior management like legal representative and others of the regional headquarters of MNC.

Additionally, since July 7, Shanghai government has relaxed the requirements for admission. Registered capital of regional headquarters of MNC set up in Shanghai was decreased from USD 30 millions to USD 10 millions.

The newsletter is merely provided to our clients and those who have interest in our business for reference. We'll do our best to ensure the accuracy of the information in the newsletter. We have to remind you that the content in the newsletter is abstracted from relevant documents, and therefore in practice the original documents should be used for reference. Meanwhile, we welcome all of you to consult professionals in our firm regarding the information in the newsletter, and also welcome all of you visit our website www.dean CPA.com.cn. We will render affordable and value-added services to our clients. If there is a discrepancy between Chinese and English versions, Chinese version will prevail.

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