

税务快讯

新版高新技术企业认定管理办法出台



2016 年 1 月 29 日，科技部、财政部和国家税务总局联合发布新修订的《高新技术企业认定管理办法》([国科发火\[2016\]32 号](#)，以下简称“新办法”)。新办法调整了高新技术企业的认定门槛，同时强化了事中事后的监管措施，以提高相关规定的合理性、实用性及普适性，亦体现了政府“简政放权”的思路。新办法自 2016 年 1 月 1 日起执行。

政策背景

由于高新技术企业可以享受 15% 的企业所得税税率，因此相对于 25% 的法定税率而言，高新技术企业资格在税收待遇方面颇为优惠。

修订前的《高新技术企业认定管理办法》([国科发火\[2008\]172 号](#)，以下简称“原办法”)颁布于 2008 年。随着近年来科学技术的发展，原办法已无法充分适应现行发展需求，实践中反映出高新技术领域范围与当下产业现状不符，对中小企业支持力度不够等问题。有鉴于此，今年 1 月 13 日的国务院常务会议决定，修订完善高新技术企业认定办法，加大对科技企业特别是中小企业的普惠性政策扶持，促进经济升级发展。

变化要点

调整认定条件

新办法对高新技术企业的认定条件主要进行了以下调整：

原办法	新办法	简评
<p>知识产权要求:</p> <ul style="list-style-type: none"> 近三年内通过自主研发、受让、受赠、并购等方式，或通过5年以上的独占许可方式，对其主要产品（服务）的核心技术拥有自主知识产权； 产品（服务）属于《国家重点支持的高新技术领域》规定的范围 	<ul style="list-style-type: none"> 通过自主研发、受让、受赠、并购等方式，获得对其主要产品（服务）在技术上发挥核心支持作用的知识产权的所有权； 对企业主要产品（服务）发挥核心支持作用的技术属于《国家重点支持的高新技术领域》规定的范围 	<p>为鼓励企业自主研发，新办法取消了“近三年内”获得知识产权的限制，以及“5年以上独占许可”获得知识产权的方式。</p> <p>新办法明确关注企业主要产品（服务）的内在技术含量，并强调知识产权与主要产品（服务）之间的关联性。</p>
<p>科技人员占比:</p> <ul style="list-style-type: none"> 具有大学专科以上学历的科技人员占企业当年职工总数的30%以上，其中研发人员占企业当年职工总数的10%以上 	<ul style="list-style-type: none"> 企业从事研发和相关技术创新活动的科技人员占企业当年职工总数的比例不低于10% 	<p>新办法降低科技人员占比要求，以适应目前研发外包的发展趋势。</p>
<p>研发费用占比:</p> <ul style="list-style-type: none"> 近三个会计年度的研究开发费用总额占销售收入总额的比例符合如下要求： <ol style="list-style-type: none"> 最近一年销售收入小于5,000万元的企业，比例不低于6%； 最近一年销售收入在5,000万元至2亿元的企业，比例不低于4%； 最近一年销售收入在2亿元以上的企业，比例不低于3%。 	<ul style="list-style-type: none"> 近三个会计年度的研究开发费用总额占同期销售收入总额的比例符合如下要求： <ol style="list-style-type: none"> 最近一年销售收入小于5,000万元的企业，比例不低于5%； 最近一年销售收入在5,000万元至2亿元的企业，比例不低于4%； 最近一年销售收入在2亿元以上的企业，比例不低于3%。 	<p>新办法降低年销售额小于5,000万元企业的研发费用占比指标，将使更多中小企业有望享受高新技术企业优惠。</p>
<p>指标评价体系:</p> <ul style="list-style-type: none"> 企业研究开发组织管理水平、科技成果转化能力、自主知识产权数量、销售与总资产成长性等指标符合《高新技术企业认定管理工作指引》的要求 	<ul style="list-style-type: none"> 企业创新能力评价应达到相应要求 	<p>新办法调整了原有的指标评价体系，相关的具体内容预期将在工作指引中得到反映。</p>

安全、质量等要求：

未在资格申请审核条件中明确提及（但原办法将重大安全质量事故和环境违法行为列为事后应取消高新技术企业资格的情况之一）

- **企业申请认定前一年内未发生重大安全、重大质量事故或严重环境违法行为**

新办法新增对企业安全、质量及环保领域的合规要求。

优化认定程序

新办法对高新技术企业的认定程序及有关要求进行了优化，主要调整包括：

- 在企业申请认定环节，新增企业提交近三个会计年度企业所得税年度纳税申报表的要求；
- 在认定公示环节，公示时间由原来的 15 个工作日缩短为 10 个工作日；
- 对已认定的高新技术企业，新增每年 5 月底前填报上一年度知识产权、科技人员、研发费用、经营收入等年度发展情况报表的要求；
- 已认定的高新技术企业发生更名时，由企业主动报告并经认定机构审核确认其资格有效性，新办法不再提及备案要求；
- 明确跨认定机构管理区域整体迁移的高新技术企业，在其高新技术企业资格有效期内，原资格继续有效。
- 同时值得关注的是，根据原办法的规定，首次获得高新技术企业资格的企业可以在资格期满前三个月内提出复审申请，通过复审的企业其高新技术企业资格可在期满后延续三年，复审的材料要求和程序较首次申请时更为简易。而修订后的新办法取消了复审程序的有关规定。这意味着一旦高新技术企业资格期满，企业如果希望继续享受高新技术企业政策的，必须按首次申请程序重新办理认定手续。

调整高新技术领域

根据科技发展现状，新办法对国家重点支持的高新技术领域范围进行了适当的调整。本次调整在扩充诸多新兴产业技术领域的同时，也删除了一些已落后的产业技术与产品内容。此外，新办法对相关技术表述也进行了完善，增强内容的规范性和技术特点，尽可能去除产业性、产品化描述，力求指向准确。

新增产业与技术举例

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">• 云计算服务技术• 检验检测认证与标准服务• 电子商务与现代物流技术• 城市管理与社会服务• 文化创意产业支撑技术 | <ul style="list-style-type: none">• 增材制造• 石墨烯材料制备与应用• 重大自然灾害监测• 预警与应急处置• 新能源汽车试验测试及基础设施 |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|

加强事中事后监管

建立监督管理机制：新办法增加了“监督管理”章节，明确要求科技部、财政部和税务总局建立随机抽查与重点检查机制，加强对各地高新技术企业认定管理工作的监督检查。新办法规定，对已认定的高新技术企业，有关部门在日常管理过程中发现其不符合认定条件的，应提请认定机构复核。复核后确认不符合认定条件的，由认定机构取消其高新技术企业资格，并通知税务机关追缴其不符合认定条件年度起已享受的税收优惠。

新办法同时保留了高新技术企业向认定机构主动报告重大变化的规定，但明确该重大变化应与认定条件有关，并且将报告期限由 15 日内放宽至 3 个月内。

调整取消高新技术企业资格的情况：已认定高新技术企业有下列行为之一的，认定机构应取消其高新技术企业资格（附新办法与原办法的对照比较）：

原办法	新办法	简评
<p>（一）在申请认定过程中提供虚假信息；</p> <p>（二）有偷、骗税等行为的；</p> <p>（三）发生重大安全、质量事故的；</p> <p>（四）有环境等违法、违规行为，受到有关部门处罚的。</p>	<p>（一）在申请认定过程中存在严重弄虚作假行为的；</p> <p>（二）发生重大安全、重大质量事故或有严重环境违法行为的；</p> <p>（三）未按期报告与认定条件有关重大变化情况，或累计两年未填报年度发展情况报表的。</p>	<p>新办法在判断相关行为是否导致高新技术企业资格被取消时，较为关注该行为的情节或后果的严重程度，这一调整将有助于避免产生不区分行为影响而有失公平的“一刀切”式处理。但“重大”、“严重”等概念有待明确。</p>

另外，对于被取消资格的企业，原办法下“认定机构在 5 年内不再受理该企业的认定申请”的规定不再适用。新办法同时明确，对被取消资格的企业“按《税收征管法》及有关规定，追缴其自发生上述行为之日所属年度起已享受的高新技术企业税收优惠”。

解读与建议

针对当前的科技和经济发展需要，此次颁布的《高新技术企业认定管理办法》在原办法的基础上对高新技术企业的认定条件、程序等进行了明确与完善；其中对高新技术领域范围的扩充，以及部分认定条件的放宽和流程的简化将给不少企业（尤其是中小型企业）申请高新技术企业认定带来一定的便利。但需要注意的是，申请享受高新技术企业优惠政策的纳税人须履行相应的合规义务，而且与高新技术企业资格密切相关的知识产权安排仍应服从于集团的商业战略和产业链布局的需要，因此如何在集团战略下合规合理地享受高新技术企业优惠政策，是相关纳

税人必须审慎思考的问题。新办法对事后监管的强化意味着相关纳税人更应提高与此有关的风险意识。

建议拟申请高新技术企业资格以享受其优惠政策的企业应根据此次出台的新办法着手进行可行性评估，并相应展开有关的申请准备工作。同时，预计有关高新技术企业认定的更多实施细节将在下一步工作指引的修订过程中得到明确；有鉴于此，建议相关纳税人继续密切关注高新技术企业认定有关的法规和实践动态，并在必要时寻求专业机构的协助，以确保相关的申请流程得到及时而顺利的推进。

作者：

陆易

合伙人

勤理^注

+86 21 6141 1488

clu@qinlilawfirm.com

周瑜杰

高级经理

德勤上海

+86 21 6141 1381

rozhou@deloitte.com.cn

如您有任何问题，请联系研发与政府激励服务团队：

蒋颖

合伙人

德勤上海

+86 21 6141 1098

vivjiang@deloitte.com.cn

陆易

合伙人

勤理^注

+86 21 6141 1488

clu@qinlilawfirm.com

曹菲

合伙人

德勤北京

+86 10 8520 7525

fcao@deloitte.com.cn

李枫

总监

德勤深圳

+86 755 3353 8527

lisali@deloitte.com.cn

注：上海勤理律师事务所是一家中国律师事务所，也是德勤全球网络的一员。



中国上海
延安东路 222 号
外滩中心 30 楼

Deloitte (“德勤”) 泛指一家或多家德勤有限公司 (即根据英国法律组成的私人担保有限公司, 以下称“德勤有限公司”), 以及其成员所网络和它们的关联机构。德勤有限公司与其每一家成员所均为具有独立法律地位的法律实体。德勤有限公司 (又称“德勤全球”) 并不向客户提供服务。请参阅[关于德勤](#)中有关德勤有限公司及其成员所更为详细的描述。

隐私

感谢您对德勤中国服务的关注。德勤中国希望可以继续使用您的个人资料 (特别是姓名及联系信息), 以向您发送市场和政策最新动态, 以及由德勤中国举办、赞助或宣传之研讨会及其他活动的邀请函。如您日后不希望收到由德勤中国发出的信息, 请回复电邮并在邮件主题栏中填上“Unsubscribe”。

如欲更新您的个人资料, 请点击[此处](#)。

德勤中国泛指德勤·关黄陈方会计师行 (香港)、德勤·关黄陈方会计师行 (澳门)、德勤华永会计师事务所 (特殊普通合伙) (中国大陆) 以及其于香港、澳门及中国大陆从事业务之关联机构。

© 2016 德勤·关黄陈方会计师行 (香港)、德勤·关黄陈方会计师行 (澳门)、德勤华永会计师事务所 (特殊普通合伙) (中国大陆) 版权所有 保留一切权利



China | Tax & Business Advisory | Research & Development and Government Incentives | 25 February 2016 [中文](#)

Tax Newsflash

New Rules Issued for HNTe Status Recognition



Rules issued by China's Ministry of Finance, the State Administration of Taxation and the Ministry of Science and Technology on 29 January 2016 amend the requirements to qualify for High-New Technology Enterprise (HNTe) status (Guo Ke Fa Huo [2016] No. 32, see [full text in Chinese](#) (hereinafter, "New Measures")). Specifically, the New Measures lower certain thresholds for a company to be recognized as an HNTe, streamline the application process and update the list of state-encouraged high-new technologies, but they also

enhance the post-recognition audits of HNTEs. The New Measures apply retroactively as from 1 January 2016.

Background

HNTE status is beneficial because such companies are subject to a 15% enterprise income tax rate, rather than the standard 25% rate.

The previous rules governing HNTEs (Guo Ke Fa Huo [2008] No. 172, see [full text in Chinese](#)) were issued in 2008. As a result of the rapid pace of technological developments over the past eight years, these rules have become somewhat out of step with the realities of the global economy. During an executive meeting held on 13 January 2016, the State Council agreed it was time to revise the 2008 rules to eliminate certain impediments to qualify for HNTE status, such as the requirement relating to R&D expenses for small and medium sized enterprises (SMEs).

Key Changes

HNTE Requirements

The New Measures make the following changes to the requirements for a company to qualify for HNTE status:

2008 Measures	New Measures	Comments
<p>Intellectual property (IP)</p> <ul style="list-style-type: none"> The company must have owned the core proprietary IP rights used in its main products and services for the past three years. The proprietary IP rights had to be obtained through the company's own R&D efforts or through a transfer, purchase, donation, merger and acquisition transaction, or an exclusive license to use the IP for at least five years. The products and/or services must fall within the scope of <i>State-Encouraged High-New Technologies</i>. 	<ul style="list-style-type: none"> The company must have owned the IP that has a core function in supporting the main products and/or services of the company from a technology perspective. The proprietary IP rights still must be obtained through the company's own R&D efforts or through a transfer, purchase, donation, merger and acquisition. Technologies that have a core function in supporting the main products and/or services of the company must fall within the scope of <i>State-Encouraged High-New Technologies</i>. 	<p>The New Measures remove the restriction that the company must have held the IP for the past three years, as well as the requirement for a five-year exclusive license right.</p> <p>The New Measures emphasize the "core function" of the IP rights in supporting the company's business.</p>

<p>Technical personnel</p> <ul style="list-style-type: none"> On an annual basis, at least 30% of the total number of employees of the company had to be technical personnel that held a college diploma or a higher degree; included in the 30% technical personnel requirement was that personnel dedicated to R&D activities must represent 10% of the total number of employees of the company. 	<ul style="list-style-type: none"> Technical personnel engaged in R&D and relevant technological innovation activities must represent at least 10% of the total number of employees annually. 	<p>The New Measures acknowledge the rise in R&D outsourcing and relax the requirement relating to technical personnel.</p>
<p>R&D expenses</p> <ul style="list-style-type: none"> Qualifying R&D expenses had to exceed the following as a percentage of the company's sales revenue for the last three fiscal years: <ol style="list-style-type: none"> At least 6% if the revenue was less than RMB 50 million in the most recent fiscal year; At least 4% if the revenue was between RMB 50 million and RMB 200 million in the most recent fiscal year; and At least 3% if the revenue was more than RMB 200 million. 	<ul style="list-style-type: none"> Qualifying R&D expenses must exceed the following as a percentage of the company's sales revenue for the last three fiscal years: <ol style="list-style-type: none"> At least 5% if the revenue is less than RMB 50 million in the most recent fiscal year; At least 4% if the revenue is between RMB 50 million and RMB 200 million in the most recent fiscal year; and At least 3% if the revenue is more than RMB 200 million. 	<p>The New Measures lower the percentage of revenue criteria for companies whose sales revenue is less than RMB 50 million, which should enable more SMEs to enjoy the preferential policies for HNTes.</p>
<p>Other requirements</p> <ul style="list-style-type: none"> The company had to meet the requirements in the "Operating Guidelines for Recognition of HNTes" (Operating Guidelines) in areas such as organization and management of the R&D activities, the ability to convert the results of research into commercial production, the number of independent IP rights 	<ul style="list-style-type: none"> The company's innovation ability must meet the requirements. 	<p>More details are expected to be discussed in the upcoming revisions to the Operating Guidelines.</p>

<p>owned and the growth of sales and the total assets.</p>		
<p>Violation/accident records</p> <p>Not mentioned in the requirements to be reviewed during the application process (however, the 2008 rules listed significant accidents relating to the safety or quality of products and/or services or environmental breaches as one of the post-recognition events that would result in the revocation of HNTE status).</p>	<ul style="list-style-type: none"> • The company must not have had any significant accidents relating to the safety or quality of its products and/or services or violations of environmental laws during the year before HNTE status is granted. 	<p>The New Measures require a company to meet certain safety, quality and environment protection standards.</p>

Application and administration

The New Measures make the following adjustments and/or clarifications to the application and administrative procedure:

- When applying for HNTE status, a company must submit copies of its enterprise income tax returns for the last three years to the relevant authorities.
- The public notice period, during which objections can be raised to a company that has favorably passed through relevant HNTE review process, is reduced from 15 to 10 business days.
- An HNTE must submit an annual report ("HNTE status report") to the relevant authorities that contains details on the IP, technical personnel, R&D expenses, business revenue, etc. for each fiscal year during the validity period of the HNTE status. The report for a fiscal year must be submitted by the end of May of the following year.
- The record filing requirement where an HNTE changes its company name is revoked, but the HNTE still must notify the relevant authorities to confirm that its HNTE status continues to be valid.
- The validity of HNTE status will not be negatively impacted if an HNTE relocates to another province.
- The simplified procedure to renew HNTE status is revoked. Under the 2008 rules, a company was allowed to apply for a simplified "renewal" procedure so that HNTE status could be extended for an additional three-year period after the expiration of the original HNTE status. Under the New Measures, once HNTE status expires, the company must re-apply under the normal procedure if it wishes to continue to enjoy the tax incentives available for HNTEs.

State-Encouraged High-New Technologies

The New Measures revise the scope of state-encouraged high-new technologies by adding various emerging technologies and removing some outdated ones. The New Measures also refine the language by focusing more on technical descriptions of technologies rather than the products supported by the technologies.

Examples of Newly Added Industries/Technologies

<ul style="list-style-type: none"> • Technology for cloud computing services • Inspection, testing and certification services • Technology for e-business and modern logistics • City management and social-related services • Supporting technology for the creative cultural industry 	<ul style="list-style-type: none"> • Additive manufacturing (i.e. 3D printing) • Manufacturing and application of graphene materials • Natural disaster monitoring • Warning and emergency disposals • New energy automotive testing and infrastructure
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Post-recognition audits

Audit mechanism: The New Measures require the relevant national and provincial government authorities to set up a formal post-recognition audit mechanism.

If the relevant government department discovers that an HNTE company no longer meets the HNTE requirements due to changed circumstances, the department can request the competent authorities to conduct a review. If the review confirms the company's failure, HNTE status will be revoked and the tax authorities will be notified to recapture the tax benefits relating to the year in which the company became ineligible for HNTE status.

An HNTE must report any significant changes relating to HNTE status to the competent authorities within three months (extended from 15 days).

Revocation of HNTE status: The competent authorities must revoke HNTE status in the following cases:

2008 Measures	New Measures	Comments
<ol style="list-style-type: none"> 1) The company provided false information when applying for HNTE status; 2) The company committed tax evasion or fraud; 3) The company had a significant safety or quality accident; or 4) The company committed illegal acts or violations of environmental protection laws and regulations and was penalized by the relevant authorities. 	<ol style="list-style-type: none"> 1) The company provided significant false information when applying for HNTE status; 2) The company had a significant safety or quality incident, or committed significant illegal acts or violations of environmental protection laws and regulations; or 3) The company did not report significant changes relating to the HNTE requirements or failed to submit the annual HNTE status report for more than two years 	<p>Under the New Measures, the violation must be "significant"; insignificant violations will not result in revocation of HNTE status. The New Measures do not provide further guidance on what will be deemed to be significant for these purposes.</p>

The New Measures eliminate the rule that prevented a company from re-applying for HNTTE status for five years following the revocation of HNTTE status.

The New Measures confirm that relevant tax benefits must be recaptured according to the tax administration laws and regulations from the year in which the disqualifying event took place.

Comments and recommendations

The New Measures broaden the scope of State-Encouraged High-New Technologies, relax certain requirements and streamline the application process for HNTTEs. Therefore, it is expected that more companies (SMEs, in particular) will be able to obtain HNTTE status and enjoy the relevant tax benefits. However, companies still need to carefully consider whether to apply for HNTTE status since HNTTE status results in various ongoing compliance obligations and the company must ensure that the associated IP arrangement is aligned with the group strategy. It also is worth noting that post-recognition scrutiny and audits will be enhanced following the issuance of the New Measures.

Companies that wish to enjoy the tax benefits of HNTTE status should start to assess whether they would qualify under the New Measures and prepare the application materials accordingly. More details relating to the application process likely will be provided in the upcoming revisions to the Operating Guidelines. Therefore, it is important to closely monitor future developments and seek professional assistance if necessary to ensure that an HNTTE application is accurate and submitted in a timely manner.

Authors:

Clare Lu

Partner

Qinli

+86 21 6141 1488

cllu@qinlilawfirm.com**Roger Zhou**

Senior Manager

Deloitte Shanghai

+86 21 6141 1381

rozhou@deloitte.com.cn

If you have any questions, please contact our Research & Development and Government Incentives team:

Vivian Jiang

Partner

Deloitte Shanghai

+86 21 6141 1098

vivjiang@deloitte.com.cn**Clare Lu**

Partner

Qinli

+86 21 6141 1488

cllu@qinlilawfirm.com

Finny Cao

Partner

Deloitte Beijing

+86 10 8520 7525

fcao@deloitte.com.cn**Lisa Li**

Director

Deloitte Shenzhen

+86 755 3353 8527

lisali@deloitte.com.cn

Note: Qin Li Law Firm is a Chinese law firm and forms part of the international Deloitte network.

[Homepage](#) | [Add Deloitte as a safe sender](#)



30/F Bund Center
222 Yan An Road East
Shanghai, China

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see [About Deloitte](#) for a more detailed description of DTTL and its member firms.

Privacy

Thank you for your interest in Deloitte China services. Deloitte China would like to continue to use your personal information (in particular name and contact details) for the purpose of sending you marketing and regulatory updates, invitations to seminars and other events organized, sponsored or promoted by Deloitte China. If you do not wish to receive further communications from Deloitte China, please send a return email to the sender with the word "Unsubscribe" in the subject line.

If you would like to update your personal information, please click [here](#).

Deloitte China refers to Deloitte Touche Tohmatsu in Hong Kong, Deloitte Touche Tohmatsu in Macau, Deloitte Touche Tohmatsu Certified Public Accountants LLP in the Chinese Mainland and their respective affiliates practising in Hong Kong, Macau and the Chinese Mainland.

© 2016 Deloitte Touche Tohmatsu in Hong Kong, Deloitte Touche Tohmatsu in Macau, and Deloitte Touche Tohmatsu Certified Public Accountants LLP in the Chinese Mainland. All rights reserved.