- To treat the pre-operating expenses as long-term prepaid expenses and amortise in accordance with the new EIT Law.

Once the treatment is determined, it shall not be changed.

For the pre-operating expenses incurred prior to 1 January 2008, which have not been fully amortised, the unamortised expenses can be treated by following the above rule.

¶6-270 Depreciation of bearer biological assets

Under EITIR, the bearer biological assets are separated from other categories of assets such as fixed assets, intangible assets, long-term prepaid expenses, investment or inventories.

The tax base for bearer biological assets shall be determined in accordance with the following principles:

- A purchased bearer biological asset — purchase price + relevant taxes and expenses paid.
- A bearer biological asset that is acquired through donation, investment, non-monetary assets exchange or debt restructuring — fair market value of the asset + relevant taxes and expenses paid.

The aforementioned bearer biological assets refer to biological assets held for use in the generation of agricultural products or rendering of services, or for lease to others, including economic forest, firewood forest, livestock for generation of other biological assets, draught animals, etc (EITIR, Art 62).

Depreciation shall be computed using the straight-line method based on the original value of the bearer biological asset less its estimated residual value over the period of its useful life.

Depreciation commences from the following month after the bearer biological asset is put into use. Depreciation shall cease in the following month after the bearer biological asset ceases to be used.

The net residual value of a bearer biological asset shall be reasonably determined by an enterprise according to the nature and condition of the bearer biological asset. It may be not changed once determined (EITIR, Art 63).

EITIR, Art 64 specifies the minimum depreciation period or useful life of bearer biological assets for computation of depreciation amount as follows:

Biological assets	*Minimum depreciation period/useful life*
• Forestry bearer biological assets	10 years
• Livestock bearer biological assets	3 years

Chapter 7

WITHHOLDING TAX UNDER DOMESTIC LAW

Application of withholding tax ..... ¶7-010
Withholding tax rate ..... ¶7-020
Withholding tax rates under tax treaties ..... ¶7-030
Dividends ..... ¶7-100
Royalties ..... ¶7-110
Interest ..... ¶7-120
Rental income ..... ¶7-130
Guarantee fees ..... ¶7-140
Income from transfer of properties ..... ¶7-150
Other China-sourced income ..... ¶7-160
Procedures for withholding tax payment ..... ¶7-200

¶7-010 Application of withholding tax

Non-resident enterprises without establishments in China are subject to enterprise income tax on a withholding basis on the following categories of China-sourced income (with very limited exemptions):

- Dividend income and profit distributions, which refer to income derived by an enterprise from its invested entities as a result of the equity investment made therein;
- Royalty income, which refers to income derived by an enterprise from providing use rights for patent, non-patent technology, trademark, copyright and other licence rights;
- Interest income, which refers to the income derived by an enterprise from provision of funds to other parties that does not constitute equity interests or from the possession of the enterprise's funds by other parties, including the saving interest, loan interest, bond interest, debt interest, etc;
- Rental income, which refers to income derived by an enterprise from providing use rights for fixed assets, packaging materials and other tangible assets;
- Gains from transfer of assets, which refer to income derived by an enterprise from transferring fixed assets, biological assets, intangible assets, capital investments, creditor's rights, etc; and
- Other income derived from inside China which may be deemed taxable by the government authorities of the State Council in charge of finance and taxation.

(EITL, Art 3, 6, 19; EITIR, Art 6, 16, 17, 18, 19, 20)

The EITIR further sets the principles below for determining the source of the abovementioned items of income (EITIR, Art 7):

- For dividend and profit distributions, source is determined in accordance with the place of the enterprise which makes the distribution;
- For income from royalties, interest and rental, source is determined in accordance with the place of the enterprise or establishment in China which bears or pays the income, or with the place of domicile of the individual who bears or pays the income;
- For income from transfers of immovable properties, source is determined in accordance with the place where the immovable properties are located; for income from transfers of movable properties, source is determined in accordance with the place of the transferor enterprise or establishment which transfers the movable properties;

- For income from transfers of equity interests, source is determined in accordance with the place where the invested enterprise is located; and
- For other income, source will be determined by the government authorities of the State Council in charge of finance and taxation.

Non-resident enterprises with establishments in China deriving the above-listed income which is not effectively connected with that establishment are also subject to EIT on a withholding basis.

Withholding tax is imposed on the total income (including all payments and additional surcharges) derived by a non-resident enterprise from a payer (EITIR, Art 103).

¶7-020 Withholding tax rate

According to Art 4 of EITL, withholding tax rate is 20%. The EITIR (Art 91) reduces withholding tax rate to 10% for all the income items specified in ¶7-010.

¶7-030 Withholding tax rates under tax treaties

The withholding tax rates specified in the domestic tax law and regulations may be reduced by the applicable tax treaties. However, the vast majority of China's tax treaties generally do not provide relief for the withholding tax treatment that is already available under the domestic law.

A table of withholding tax rates under tax treaties is provided in Chapter 11 *Double Tax Relief* (¶11-070).

¶7-100 Dividends

Dividend income and other distributions with respect to the equity interest refer to income derived by an enterprise from its investee as a result of the equity investment made therein.

Unless otherwise stipulated by the government authorities of the State Council in charge of finance and taxation, dividend income is recognised on the date when the profit distribution is legally declared by the invested entity (EITIR, Art 17). Withholding tax on dividend distribution to a non-resident enterprise shall be made on the same declaration date. If the actual payment date precedes the said declaration date, tax shall be withheld by the Chinese resident enterprise at actual payment date (Announcement of SAT (2011) 24 (*Announcement 24*)).

Under the EITL, dividend distributions are subject to a 10% withholding tax rate. The EITL repealed the withholding tax exemption for dividend distribution under the old tax law. The dividend derived from the profits

generated after 1 January 2008 would be subject to 10% withholding tax (*Caishui* (2008) 1, Art 4), while distributions from pre-2008 profits may still enjoy withholding tax exemption even if the dividend is declared and distributed after 1 January 2008.

Under the old law, dividends paid to foreign investors in respect of A Shares, B Shares, H Shares and other overseas listed shares were exempt from withholding tax.

However, under the current EIT regime, the Chinese resident enterprise is required to withhold withholding tax on dividend distributed to non-resident share shareholders with respect to A Shares, B Shares, H Shares and other overseas listed shares.

Total dividend income shall be taxable with no deduction allowed (EITL, Art 19).

¶7-110 Royalties

Royalties derived by non-resident enterprises without establishments in China, and who provide patent rights, proprietary technology, trademarks and copyrights within China, are subject to withholding tax. The royalty income shall be recognised when the royalty becomes payable by the licensee as provided in the licence agreement (EITIR, Art 20).

Under the superseded FEITIR, royalty income subject to withholding tax includes the following items separately charged from royalty:

- drawing and information fees;
- technical service fees;
- personnel training fees; and
- other related fees received from the supply of patent rights or proprietary technology (FEITIR, Art 59).

Further, fees for consulting, training, technical assistance, process design, quality control and data analysis, etc, are considered service income subject to the normal foreign enterprise income tax regime rather than withholding tax, unless they involve the transfer of use rights of proprietary technology (*Caishuizi* (1982) 326).

Withholding tax exemption

Under the old income tax law, certain royalty incomes may be exempt from withholding tax. Upon the approval by the SAT, the exemption may apply to royalties received for the supply of technical know-how in scientific research, exploitation of energy resources, development of communications industries, agricultural, forestry and animal husbandry production, and the development

of important technologies, provided that the know-how is technologically-advanced or the terms are preferential.

The EITL and its Implementation Rules do not grant the same benefit as mentioned above. According to *Guoshuifa* (2008) 23, royalties received under a contract signed before the end of 2007 may continue to enjoy such exemption till the expiry of the contract; however, such exemption would not be applicable to the extension of the contract, supplementary contract or any expansion of the contract.

Deduction of business tax

According to the new EITL and its Implementation Rules, the total royalty payment is subject to withholding tax with no deduction (EITL Art 19; EITIR Art 103). *Caishui* (2008) 130 specifies that business tax paid on royalty income is not deductible for withholding tax purposes.

The EITL repealed the rules under the old tax law regime, which allowed business tax paid to be deductible for withholding tax purposes (*Caishuizi* (1998) 59).

¶7-120 Interest

Interest income refers to the income derived by an enterprise from provision of funds to other parties that does not constitute equity interests or from the possession of the enterprise's funds by other parties, including the saving interest, loan interest, bond interest, debt interest, etc.

Interest income derived from China by foreign enterprises without establishments in China is subject to the relevant withholding tax at 10%, or a lower tax treaty rate, unless specifically exempted as stated below.

Interest income shall be recognised when the interest becomes payable as provided in the agreement (EITIR, Art 18).

Total interest income shall be taxable income (EITL, Art 19). Similar to royalties, business tax paid on the interest is not deductible for withholding tax purpose.

Interest income derived from a finance lease

A cross-border finance lease is a lease arrangement under which a foreign enterprise (the lessor) leases facilities or equipment to a Chinese enterprise (the lessee) for a certain period, where ownership ultimately passes to the Chinese enterprise at the end of the lease period. The lessor has the entire economic value of the assets over the expected life of the lease (*Announcement* 24).

Where a non-resident lessor (without any establishment in China) derives income from aforementioned cross-border finance lease, *Announcement 24* clarifies that the lessor's income shall be treated as interest and subject to 10% EIT (unless a lower treaty rate applies). The income shall be calculated as total leasing payment plus any charges to the lessee when the ownership is ultimately passed, less the actual costs of the facilities or equipment. The lessee (the Chinese enterprise) is the withholding agent for this enterprise income tax at each payment date.

Exemptions

Under Art 91 of the EITIR, the following items would be exempted from withholding tax:

- interest income attribute to loans from foreign governments to the Chinese Government;
- interest income attributable to preferential loans from international financial organisations to Chinese Government and resident enterprises; and
- other income approved by the State Council.

In addition, interest income derived by foreign enterprises without establishments in China may also be subject to business tax at the rate of 5%. Previously, in a tax circular *Guoshuifa* (1997) 35 (*Circular 35*), the tax authorities have clarified that the said 5% business tax is not imposed on interest income derived by foreign enterprises without establishments in China. However, *Circular 35* was withdrawn in April 2006. Furthermore, under the amended PRBTIR effective from 1 January 2009, business tax is imposed on services income where either the service provider or the service recipient is located in China. It appears that 5% business tax should be withheld from the interest income derived by foreign entities providing loans to Chinese enterprises (including foreign-invested banks incorporated in China and foreign banks' branches in China) or individuals.

¶7-130 Rental income

Rental income refers to income derived by an enterprise from providing use rights for fixed assets, packaging materials and other tangible assets.

Rental income shall be recognised when the rental becomes payable as provided in the lease agreement (EITIR, Art 19).

Total rental income shall be taxable income, and no deduction may be allowed (EITL, Art 19).

Rental income received from leasing property in China is subject to withholding tax at the rate of 10%, or a lower tax treaty rate where applicable.

Under the old tax law regime, transportation fees, packaging fees, insurance fees, etc, paid by the lessee shall be added to the rental income received by the foreign enterprise providing the leasing facilities, and the total amount is taxed at 10% on a withholding basis (*Caishuiwaizi* (1985) 210).

It is our understanding that, in general, unless otherwise provided by the new rules in the future, this rule that was issued before the new EITL took effect may continue to apply under the new EITL.

Announcement 24 states that the whole amount of rental income derived from the leasing of real estate should be subject to EIT if the non-resident enterprise owning the property does not have an establishment in China for managing the property. The lessee within the territory of China is the withholding agent for the tax imposed.

The non-resident enterprise property owner will be considered as having an establishment in China under each of the following cases, where it shall file tax returns and pay EIT accordingly:

- the owner assigns persons to conduct routine management of the property; or
- the owner conducts the management through an agent located in China.

In addition, rental income derived by non-resident enterprises without establishments in China from leasing of immovable property in China is also subject to 5% business tax pursuant to the new PRBTIR.

Similar to royalties, according to *Caishui* (2008) 130, business tax on rental income is not deductible for withholding tax purpose.

¶7-140 Guarantee fees

The withholding tax provisions of the EITL and the EITIR do not specifically provide for the withholding tax treatment of guarantee fees.

Under *Announcement 24*, which is consistent with *Caishuizi* (1998) 1 which had been abolished, withholding tax is imposed on China-sourced guarantee fees received by non-resident, at the tax rate applicable to interest income as prescribed in EITL and EITIR, which is presently at a rate of 10%.

Scope of guarantee fees

According to *Announcement 24*, "China-sourced guarantee fees" refers to guarantee fees or fees of similar nature paid or borne by domestic enterprises, organisations or individuals for guarantees provided by non-resident enterprises in business activities, including lending, trading, goods transportation, processing, leasing, contractual projects, etc.

- approval requirement: Non-residents must obtain formal approval from the in-charge tax authorities or designated approving tax authorities when claiming tax treaty benefits (ie a reduced tax rate or exemption) in respect of the China-sourced passive income, namely dividends, interest, royalties and capital gains.
- filing requirement: Non-residents are required to file prescribed reports with the in-charge tax authorities when claiming treaty protection in connection with permanent establishments and business profits, dependent personal services, independent personal services and other tax treaty relief (except for claims subject to the approval requirements). The filing requirement must be fulfilled before the tax liability arises, or at the time the relevant tax liability is reported. Prescribed documents must be prepared and submitted to the in-charge tax authorities.

A non-resident may appoint a local agent to carry out the procedural requirements under *Circular 124* on its behalf.

Tax clearance certificates requirement for payments to non-residents

With respect to a payment remittance to overseas, in general, a tax clearance certificate should be obtained to facilitate the payment under the current foreign exchange and tax rules. *Huifa* (2008) 64 (*Circular 64*) jointly issued by State Administrate of Foreign Exchange (SAFE) and SAT provides that effective from 1 January 2009, a tax clearance certificate must be obtained for any remittance of the following nature that exceeds US$30,000:

- service fee;
- salary and wages, dividends, interest, guarantee fees; or
- financing lease payments, payment for the transfer of real property and equity interest.

Such remittances with an amount no more than US$30,000 can be handled without obtaining a tax clearance certificate. The relevant agreement and invoice are required to be provided to substantiate such remittance. However, that does not release the taxpayer from the obligation of tax payment, if there is any.

Chapter 12

PREFERENTIAL TAX TREATMENT

PREFERENTIAL TAX TREATMENT

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PREFERENTIAL TAX TREATMENT

¶12-010 Introduction to preferential tax treatments under the Enterprise Income Tax Law (EITL)

Before the unification of the enterprise income tax laws applicable to foreign and domestic enterprises, China offered an array of tax incentives to encourage investors to invest and do business in China. Most of the tax incentives relate to foreign investment enterprise income tax. However, with the EITL promulgated on 16 March 2007 and effective on 1 January 2008, most of the tax incentives originally available to foreign investors are abolished. Furthermore, with the issuance of *Enterprise Income Tax Law Implementing Rules* (EITIR) on 6 December 2007 and a series of relevant circulars, the following new trends in the tax preferential treatments are clearer:

- shift from granting incentives only in special regions to the entire country;
- shift from a regional development orientation to an industry orientation; and
- shift from an export-oriented economy to a domestically driven economy.

The new incentive that has attracted the broadest attention is a 15% tax rate that applies to an enterprise that qualifies as a high and new technology enterprise. The EITL includes a complete redesign of tax incentives, which represents a clear move from the wide ranging benefits previously available for manufacturing generally and for specific locations. In addition to the 15% tax rate, other incentives apply to:

- for qualifying R&D expenses (150% super deduction);
- encouraged industries;
- certain venture capital enterprises;
- certain major infrastructure, environmental and agricultural projects;
- encouraged industries in certain autonomous regions; and
- certain labour and welfare services.

By eliminating the dual taxation systems and establishing new incentives, the EITL attempts to balance a number of competing goals. These include the following:

- encouraging and attracting both foreign and domestic investments;
- spurring economic development and innovation;
- enhancing tax administration and achieving fairness; and
- securing the government's revenue needs.

The preferential tax treatments prescribed in the EITL and EITIR are applicable to both foreign and domestic enterprises.

Encouraged activities and industries

Under the EITL, preferential tax treatments are offered to the following encouraged activities and industries:

- high and new technology enterprises;
- software and integrated circuit industries;
- agriculture, forestry, animal husbandry and fishery;
- infrastructure developments;
- environmental protection, water or energy saving projects;
- technology innovation and improvements;
- security investment funds; and
- small scale enterprises, etc.

Details of tax incentives applicable to the encouraged business sectors are discussed in ¶12-110 to ¶12-191 and the summary of key areas is explained below.

Preferential zones and areas

Government of autonomous areas may offer preferential tax treatments to those enterprises which set up business operations there. Meanwhile, the tax incentives granted to the enterprises located in the western region are being extended. In addition, tax holiday had been provided under the transitional rules for State-encouraged high and new technology enterprises newly established in special economic zones, and Shanghai Pudong New Area. The tax treatments applicable to enterprises operating in special zones or areas are discussed in ¶12-210 to ¶12-230.

Reduced tax rates

The standard enterprise income tax rate is 25%. Under the preferential tax treatment, the enterprise income tax rate for qualifying small-scale enterprises can be reduced to 20% (details are discussed in ¶12-190). Meanwhile, a preferential tax rate of 15% is applicable to high and new technology enterprises which are encouraged and supported by the State (details are discussed in ¶12-110).

Tax exemption and reduction

The extent to which tax exemption and reduction are granted to an enterprise normally depends upon:

- the nature of the enterprise's business (details are discussed in ¶12-120 to ¶12-180); and

- the location of the enterprise's business (details are discussed in ¶12-210 to ¶12-230).

Other preferential tax treatments

The State Council shall tailor enterprise income tax incentive policies, to be filed for recording purposes with the Standing Committee of the National People's Congress, in accordance with economic and societal development needs, or in the event of unexpected public incidents, etc, which pose significant impacts on enterprises' operational activities (EITL, Art 36). Details are discussed in ¶12-190 and ¶12-191.

Separate computation of income under different preferential treatment

Where an enterprise engages simultaneously in activities with different applicable tax treatments, the income and expenses for the activities qualifying for tax incentives shall be separately computed. The enterprise shall not be allowed to enjoy tax incentives if there is no such separate computation (EITIR, Art 102).

¶12-020 Introduction to the transitional rule under the EITL

The State Council stipulated that under the EITL, certain enterprises which have been approved to be established prior to the promulgation of the EITL and which enjoy preferential treatments in the form of reduced enterprise income tax rates in accordance with the previous tax laws and regulations, are allowed a transitional period in which tax rates will gradually increase to the current standard EIT rate stipulated under the EITL over a five-year period beginning from the effective date of the EITL. Enterprises currently enjoying preferential treatments in the form of enterprise income tax reduction or exemption may continue to enjoy such treatments until the end of the preferential treatment period. However, enterprises which are entitled to enjoy preferential treatments but have not been in a profitable position yet to enjoy the preferential treatments would have the commencement of the preferential treatment period on the same date that the EITL comes into effect.

Enterprises qualifying for the above transitional rules must have been "approved to be established" prior to the EITL's enactment date, ie 16 March 2007. The EITIR makes it clear that this "approval" means that the business registration must have been issued before this date (EITIR, Art 131; *Caishui* (2007) 115).

As for the enterprises approved to be established before 16 March 2007, the scope for the transitional arrangements for preferential policies could be referred to in section ¶12-310. Transitional rules to foreign investors, other

industries and the western region could be referred to in section ¶12-320, ¶12-330 and ¶12-230 respectively for details.

If transitional relief of enterprise income tax overlaps with preferential policies provided by the new EITL and EITIR, an enterprise may choose the more favourable policy to be implemented, and shall not enjoy both. The policy cannot be changed once determined (*Guofa* (2007) 39).

Where an enterprise meets the requirements for two or more tax incentives stipulated in the new EITL and EITIR, it may enjoy such tax incentives simultaneously (*Caishui* (2009) 69).

¶12-030 Caution on tax incentives

All enterprise income tax preferential policies that were implemented before 1 January 2008 are abolished except those stipulated in the following regulations including the *Enterprise Income Tax Law of the People's Republic of China*, *Implementation Rules of the Enterprise Income Tax Law of the People's Republic of China*, *Notice of the State Council on Implementation of Transition Arrangement for Preferential Policies of Enterprise Income Tax* (*Guofa* (2007) 39), *Notice of the State Council on Implementation of Transitional Tax Incentives for High and new Technology Enterprises newly-established in Special Economic Zones and Shanghai Pudong New Area* (*Guofa* (2007) 40) and *Notice of the Ministry of Finance and State Administration of Taxation on Certain Enterprise Income Tax Preferential Policies* (*Caishui* (2008) 1). No enterprise preferential tax policy can be provided by any local government or any department beyond its authority (*Caishui* (2008) 1).

It is therefore recommended that investors should keep in mind that unauthorised local preferential treatments could be void and they should be cautious when seeking or accepting tax incentives offered by local authorities.

ENCOURAGED INDUSTRIES AND ACTIVITIES

¶12-110 High and new technology enterprises

Reduced tax rate for qualifying high and new technology enterprises

Enterprise income tax rate shall be reduced to 15% for State-encouraged high and new technology enterprises (EITL, Art 28).

State-encouraged high and new technology enterprises refer to enterprises which possess independent ownership of core intellectual property and satisfy the following conditions as stipulated in EITIR, Art 93, "Administration Measures for Recognition of High and new Technology Enterprises" and the "State-encouraged High and new Technology Areas" (*Guokefahuo* (2008) 172):

- The enterprises registered in China (excluding Hong Kong, Macau and Taiwan regions) shall have independent intellectual property rights of key technologies of their main products (services) gained through independent R&D, transfer, donation or acquisition in the recent three years, or through exclusive permission for over five years;
- The products (services) fall within the "Scope of State-encouraged High and New Technology";
- The technicians holding educational credentials of junior college or above shall account for more than 30% of their total number of the employees in the year; the personnel engaged in R&D shall account for more than 10% of the total number of the employees in the year; and
- The ratio of the total expenses earmarked for R&D to its sales income in the last three fiscal years shall meet the following requirements:
  (1) The ratio shall be no lower than 6% for an enterprise whose latest annual sales income is less than RMB50 million;
  (2) The ratio shall be no lower than 4% for an enterprise whose latest annual sales income is between RMB50 million and RMB200 million;
  (3) The ratio shall be no lower than 3% for an enterprise whose latest annual sales income is over RMB200 million;
  (4) Of the expenses earmarked for R&D, the total expenses for R&D incurred in the territory of China shall account for no less than 60% of the total expenses for R&D. Where the period of registration and establishment of the enterprise is less than three years, the said ratio shall be accumulated according to its actual operation period.
- The ratio of sales (or service) income from high and new technology products to total revenue shall not be less than 60%;
- The enterprise's capacity of R&D and organisation, capacity of transformation of scientific achievements, amount of independent intellectual property rights, index of growth of sales and total assets shall be in conformity with requirements of *Directions on Certification and Management of High and New Technology Enterprises* (*Guokefahuo* (2008) 362).

The high and new technology enterprises shall submit an application for renewal three months prior to the expiry of the qualification. Those enterprises may, during the re-examination process and before the qualification expires, report provisional enterprises income tax payable at the reduced tax rate of 15% (*Bulletin* (2011) 4).

For high and new technology enterprises with their total (domestic and overseas) research and development expenses and total revenue, the relevant indicators, reach a certain threshold and apply with the competent tax authorities, their overseas income will be entitled to preferential tax treatment

according to their respective applicable tax preferential policies. Generally, the eligible high and new technology enterprises can apply 15% in computing the amount of overseas tax credit (*Caishui* (2011) 47).

The high and new technology enterprises established after 1 January 2008 in specified areas could further be eligible to enjoy tax holidays. Details are discussed in ¶12-220.

¶12-120 Software and integrated circuit industry

Software production enterprises

Newly established enterprises, upon being recognised as software enterprises by the relevant authorities, are entitled to the preferential tax treatments of "two years exemption, three years 50% reduction in tax rate" commencing from its first profit-making year for enterprise income tax purposes (*Caishui* (2008) 1; *Guofa* (2011) 4).

A reduced enterprise income tax rate at 10% is applied to those key software enterprises under the national development scheme for those years they are not enjoying tax exemption holidays (*Caishui* (2008) 1). The standard for classifying a software enterprise is formulated by the Ministry of Information Industry in consultation with the Ministry of Education, Ministry of Science and Technology, SAT and other related authorities (*Guofa* (2000) 18, Art 28; *Xinbulianchan* (2000) 968).

The actual amount of the employee training expenses of an eligible SPE incurred may be deducted in calculating taxable income for enterprise income tax purposes (*Caishui* (2008) 1). Comparably, as for non-SPE, education expenses for employees incurred are deductible within 2.5% of the total employee salaries and remuneration, except to the extent that government authorities of the State Council in charge of finance and taxation stipulate otherwise. Any excess is allowed to be carried forward to the following tax years for deduction (EITIR, Art 42).

Where the price of software purchased by an enterprise or a public institution meets the standard to be recorded as a fixed asset or an intangible asset, the software may be accounted as a fixed asset or intangible asset from the enterprise income tax perspective. As approved by the tax authorities in-charge, the depreciation or amortisation period can be reduced appropriately with the shortest period being two years (*Caishui* (2008) 1).

Qualified animation companies may apply to enjoy the current tax incentives granted to SPEs as mentioned above in respect of its self-developed animation products (*Caishui* (2009) 65).