

## State Administration of Taxation updates selected IIT Policies

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On 17th August 2009, the State Administration of Taxation (SAT) issued tax notice Guo Shui Fa (2009) No. 121 (hereafter referred to as Notice No.121), which clarifies several issues relating to individual income tax (IIT) liabilities in China.

**Double Pay** Based on Guo Shui Han (2002) No. 629, for the purpose of calculating IIT, double pay should be treated separately as a monthly salary although the statutory expenses are not allowed to be deducted from the double pay. Notice No. 121 canceled this. In other words, double pay should be either treated as yearly bonus, or be added to the current month's salary for IIT calculation purpose.

**Director's Fee** Based on Guo Shui Fa (1996) No. 214, where an individual serves as both an employee and a director of a company (or a related company), he/she may separately report his/her salaries and director's fees for IIT calculation purpose. Notice No. 121 also canceled this. Director's fees should be taken as part of the salary when calculating IIT.

**Overseas Chinese** A Chinese citizen may be treated as overseas Chinese for IIT calculation purpose only if:

- He/ She has obtained long term or permanent residence in a foreign country and he/she has lived in that foreign country for at least 18 months cumulatively in a consecutive two-year period;
- He/she has not obtained long term or permanent residence in a foreign country, but has obtained legal residence in that country for 5 consecutive years or longer, and has cumulatively lived in that country for at least 30 months in the 5 years.

Chinese citizens, who are studying or seconded to work overseas are not treated as overseas Chinese for IIT calculation purpose.

**Residence Property Transfer due to Divorce** Residence property transfer as a result of divorce should not be subject to IIT. The subsequent transfer of the property obtained as a result of divorce shall be subject to IIT policies applicable to normal residence property transfer, with the original value of the property calculated as: total original purchase value of the property plus related taxes and fees x proportion owned by the transferor.

As a result of the implementation of Notice No. 121, the overall IIT liabilities of individuals concerned may be affected. Individuals are recommended to re-examine their IIT packages accordingly.