

## 个人所得税

在近期对存款利息税率调整的基础上，国家税务总局于2007年8月7日发布国税函[2007]872号文《关于外籍个人和港澳台居民个人储蓄存款利息所得适用协定税率有关问题的补充通知》内容有：

- 外籍个人和港澳台居民个人从中国境内取得储蓄存款的利息所得，其所在国（地区）与我国（内地）签有税收协定规定的，协定税率低于我国法规规定税率的，可以享受协定待遇，；协定税率高于我国法规规定税率的，按我国法律法规规定的税率执行。

☞ 编者按：本法规仅就从中国境内取得的所得缴纳个人所得税的个人适用。

国家税务总局于2007年8月1日发布国税函[2007]833号文《关于取消促进科技成果转化暂不征收个人所得税审核权有关问题的通知》明确：

- 2007年8月1日起暂停执行关于科研机构、高等学校转化职务科技成果以股份或出资比例等股权形式给予个人奖励暂不征收个人所得税的规定。

## 外汇管理

国家外汇管理局于2007年8月13日发布汇发[2007]49号文《关于境内机构自行保留经常项目外汇收入的通知》内容有：

- 境内机构可根据经营需要自行保留其经常项目外汇收入。
- 银行在为境内机构开立外汇账户和办理外汇收支业务时，停止使用外汇账户管理信息系统的“限额管理”功能。
- 通知自发文之日执行

国家外汇管理局于2007年8月15日发布汇发[2007]52号文《保税监管区域外汇管理办法》主要内容有：

- 区内企业领取工商营业执照后，应当按规定到所在地外汇局统一办理外汇登记手续。区内企业办理外汇收支业务，应当出示外汇登记证明，凭规定的有效凭证及商业单据办理。
- 区内与境外之间的经济往来，除另有规定外，应当以外币计价结算；区内与境内之间货物贸易项下交易，可以以人民币或以外币计价结算；服务贸易项下交易应当以人民币计价结算；区内机构之间的交易，可以以人民币或以外币计价结算。
- 区内企业对境外支付货款，无须办理进口付汇核销。



## **Individual Income Tax (IIT)**

**Based on the recent adjustment of tax rates on the individual income derived from savings interest, State Administration of Taxation (SAT) issued Supplementary Circular on Issue Regarding the Application of Conventional Tax Rates on Individual Income Derived from Savings Interest by Foreigners and Residents of HongKong, Macao and Taiwan (GuoShuiHan [2007]No.872) on August 7, 2007, including the content as follows:**

- With respect to the income derived from savings interest by a foreigner or resident of Hong Kong, Macao or Taiwan within the territory of China, if the conventional tax rate determined in the tax treaty between his/her country (region) and the Mainland China is lower than the one as prescribed by China's tax law or regulations, he/she can enjoy the treatments under the treaty; and if the conventional tax rate is higher than the one as prescribed by China's law or regulations, the latter shall prevail.

☞ Editorial comments: This regulation is just applicable for those individuals who are subject to IIT on their China source income.

**SAT issued Circular on Issues Regarding Cancellation of Right to Examine Temporary Exemption of IIT for the Purpose of Promoting Transfer of Scientific and Technological Achievement (GuoShuiHan[2007]No.833) on August 1, 2007, confirming that:**

- It was stipulated that individuals, who were rewarded in the form of stock right like stock or proportional investment for transfer of functional scientific and technological achievement of scientific research institutes or universities, would be exempted from IIT on that kind of rewards. The implementation of this stipulation is temporarily stopped as of August 1, 2007.

## **Foreign Exchange Administration**

**State Administration of Foreign Exchange (SAFE) issued Circular on Retaining Foreign Exchange Incomes under Current Items by Domestic Institutions Themselves (HuiFa[2007]No.49) on August 13, 2007, stipulating that:**

- A domestic institution may retain foreign exchange incomes obtained under its current items in light of the operation needs.
- Banks shall stop using the “quota administration” function of the foreign exchange account management information system when opening foreign exchange accounts and handling foreign exchange operation business for domestic institutions.
- This Circular shall be carried out since the date of issuance of it.

**SAFE issued Measures of Foreign Exchange Administration for Bonded Areas (HuiFa[2007]No.52) on August 15, 2007, including the following items:**

- Having obtained business license, enterprises inside Bonded Areas (inside-area enterprises) shall handle registration of foreign exchange at local administration bureau of foreign exchange pursuant to relevant regulations. Inside-area enterprise shall show certificate of foreign exchange registration when handling foreign exchange operation business with required valid vouchers and business bills.
- Overseas business transactions of the bonded areas shall be priced and settled in foreign exchange, unless otherwise prescribed. Goods flowing between the bonded areas and domestic areas shall be priced and settled in both RenMinBi and foreign currency. Service trading transactions shall be priced and settled in RenMinBi. Transactions between inside-area entities shall be priced and settled in both RenMinBi and foreign currency.
- Inside-area enterprises making overseas payment need not to go through the formalities of import payment verification.
- Domestic while outside-area enterprises purchasing inside-area goods shall make payment either to inside-area enterprises, or directly to overseas enterprises, or to domestic while outside-area enterprises who own goods, with valid vouchers and business bills.
- Inside-area enterprises shall open, use and close foreign exchange account according to domestic while outside-area regulations of foreign exchange administration.
- This Measure shall come into effect as of October 1, 2007.

**SAFE issued a Reply with Regard to Launching Experiment in Direct Investment into Overseas Securities Market by Domestic Individual (HuiFu[2007]No.276) on August 20, 2007, stating that:**

- Domestic individuals shall be allowed to make investment with self-owned or purchased foreign exchange into overseas securities market through the proper channels at experimental areas, and amount of foreign exchange purchase shall not be limited by annual total amount of foreign exchange purchase prescribed by the Detailed Rules of Implementation of Administration Measures for Individual Foreign Exchange.

## **Act of Administrative Reconsideration**

**The State Council recently released an Ordinance of the State Council of PRC — Regulations for Implementation of Administrative Reconsideration Act of People's Republic of China (No.499).**

- In respect of smoothing the way to administrative reconsideration and protecting legal rights and interests of citizen, legal entity, etc., emphasize that:
  - Unless administrative reconsideration application does not meet the requirements of administrative reconsideration institutions, they shall be liable for acceptance of such application.
  - If higher administrative institution deem that the reason administrative reconsideration institution reject the application is untenable, they shall urge the reconsideration institution to accept it, or accept it directly if necessary.

- In respect of improving quality, stipulate that:
  - Grave or complicated cases shall be settled in the form of hearing if applicants make such requests or reconsideration institutions deem it necessary.
  - If citizen, legal entities or other organizations have objection to the administrative activities resulting from administration institution's exerting right in free judgement prescribed in the laws and regulations, and apply for administrative reconsideration, the applicants and respondents shall be allowed to make a compromise voluntarily before decision on administrative reconsideration is made.
  - Administrative reconsideration institutions shall make compromise on a voluntary and legal base on following cases: applying for administrative reconsideration due to having objection to administrative activities resulting from administrative institution's exerting legal judgement right, and administrative compensation or dissention as to compensation between related parties.
  - Applicable condition for making a pause in and putting a termination to an administrative reconsideration is definitely stipulated, hearing procedures of the reconsideration is improved.
- In order to avoid respondent's delaying their administrative activities, a time limit is definitely stipulated for respondent's renewing their administrative activities on the receipt of charges from administrative reconsideration institution about renewing the respondent's administrative activities.
- Administrative reconsideration institutes shall not make reconsideration decisions which are more adverse to interests of applicants, within applicant's request for administrative reconsideration.
- This Regulations come into effect as of August 1, 2007.

Act of Administrative Reconsideration was promulgated on May 6, 1999, and the promulgation of this Regulations for Implementation will make it more exercisable.

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