# China Individual Income Tax (IIT) Reform - Implications for Corporations

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# Agenda

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# 1. Introduction to new IIT Law

# Background & Implementation

- On 31 August 2018
  - The amendments to the new IIT Law were adopted by the Standing Committee during the fifth plenary session
- On 18 December 2018
  - The Regulation on the Implementation of the new IIT was issued by Order No. 707 of the State Council of PRC
- On 1 January 2019
  - Both the newly amended IIT Law and the Regulation on the Implementation have come into force

# 2. Key Changes

# Key Changes to the new IIT Law

- Revised Income tax brackets/rates
- Expanding standard basic deduction (RMB 60’000 per year) and additional specific deductions
- IIT liability now on an annual basis versus monthly basis
- New definition of tax residency
- Former five-year rule becomes six-year rule
- New anti-taxi avoidance rules

# Tax Brackets Adjusted: 10% Bracket Expanded and 30%-45% Bracket Unchanged

| Previous Tax Brackets (Prior to 1 Oct 2018) | | | |
|---|---|---|---|
| Income from salary and wages | | | |
| Taxable Income (Monthly) | Marginal Tax Rate | Quick Deduction (Monthly) | |
| ≤1,500 | 3% | 0 | 3% |
| 1,501 to 4,500 | 10% | 105 | 10% |
| 4,501 to 9,000 | 20% | 555 | 20% |
| 9,001 to 35,000 | 25% | 1,005 | 25% |
| 35,001 to 55,000 | 30% | 2,755 | 30% |
| 55,001 to 80,000 | 35% | 5,505 | 35% |
| >80,000 | 45% | 13,505 | 45% |

| Revised Tax Brackets (Effective from 1 Oct 2018) | | | |
|---|---|---|---|
| Comprehensive Income* | | | |
| | Taxable Income (Annual) | Marginal Tax Rate | Quick Deduction |
| 3% | ≤36,000 | 3% | 0 |
| 10% | 36,001 to 144,000 | 10% | 2,520 |
| 20% | 144,001 to 300,000 | 20% | 16,920 |
| 25% | 300,001 to 420,000 | 25% | 31,920 |
| 30% | 420,001 to 660,000 | 30% | 52,920 |
| 35% | 660,001 to 960,000 | 35% | 85,920 |
| 45% | >960,000 | 45% | 181,920 |

** Tax brackets are now based on comprehensive income (salaries and wages, remuneration for independent services, author's remuneration, and income from royalties ), not just income from salary and wages*

# 3. Tax Residency

# “183 Day Rule” instead of one-year rule

| Tax Resident | Non-Tax Resident |
| --- | --- |
| China domiciled individual | Non-China domiciled individual |
| Non-China domiciled individual who resides in China **183 days or more** in a calendar year | Non-China domiciled individual who resides in China **less than 183 days** in a calendar year |
| **Tax Liability:**<br>Worldwide income | **Tax Liability:**<br>China sourced income |

# Impact on Corporations

- Employer in China is obliged to withhold IIT of employees
- Take a look at the travel schedule of foreign expats to ensure their IIT payment are in compliance with the new rules
- Foreign expats seconded into China or performing roles inside and outside China under dual contracts need to have contracts updated to reflect the new tax position
- Create, revise and match internal processes and systems which cover collection, verification and storage of income tax payment related documents

# 5-year rule becomes 6-year rule

- Worldwide non-China sourced income is taxable if:
  - Non-China domiciled individual spends **183 days or more** in a calendar **year for 6 consecutive years**

**AND**

  - Did not leave China during those 6 years for **at least 31 consecutive days i.e. in a single trip** (cumulative absence from China for over 90 days in multiple trips during a tax year does no longer allow for an exemption)

**IMPORTANT:**

**Art. 4 of the implementation regulation requires taxpayers to file with the competent tax authorities in advance to enjoy the tax exemption**

# Impact on Corporations

- Review the past records and future travel plans of foreign employees to China
- Take advantage of future tax breaks to the extent available to reduce exposure to IIT on worldwide income
- Consider to arrange a tax break for expats if possible

# 4. Anti-Tax Avoidance and CRS

# Anti-Tax Avoidance Rules and CRS

- Pursuant to Art. 8 of the new IIT Law, under any of the following circumstances, tax authorities shall have the authority to **make tax payment adjustments** in reasonable methods:

  (1) Business transactions between an individual and his or her affiliates do **not conform to the independent transaction principle**, resulting in reduction of the amount of tax payable by the individual or his or her affiliates, which is not justified;

  (2) **An enterprise formed in a country (or region) with an evidently low actual tax burden**, which is **controlled by a resident** individual or is jointly controlled by a resident individual and a resident enterprise, fails to distribute or distributes a reduced amount of profits attributable to the resident individual without any reasonable operational need;

  (3) An individual obtains **inappropriate tax benefits from** the implementation of **any other arrangement without any reasonable commercial purpose.**

- China is a signatory of **OECD's Common Reporting Standard (CRS)**

# 5. Conclusions

- China is replicating global tax systems and principles and intends to cooperate internationally
- Analysing the existing ITT withholding process
- Assessing and implementing changes to HR and payroll policies
- Employment contracts or internal policies related to foreigner’s tax free allowances may need to be updated
- If necessary consult with tax professionals, hire additional staff or outsource the payroll and tax reporting function

# 6. Questions?

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