

## EXPATRIATE AND EMPLOYER TAX COMPLIANCE AND ADVISORY

<b>Tax rate</b>	Progressive tax rate: 3% – 45% (expatriates enjoy a statutory deduction of RMB4,800 per month for employment income.)
<b>Tax period</b>	Calendar month
<b>Tax residency / Domicile according to domestic law</b>	<p>Persons are deemed to be tax residents in PRC for tax purposes:</p> <ol style="list-style-type: none"> <li>1. A PRC-domiciled individual is a tax resident for PRC Individual Income Tax Law purpose. "PRC-domiciled individual" means individual who habitually resides in China due to household registration, family and economic interests. The term "habitually resides" is a legal definition by which a taxpayer is judged to be a resident or non-resident and does not refer to the place where a taxpayer actually resides or is resident within a specified period of time. If an individual who resides outside of the territory of China for reasons of study, work, family visit or travel and must return to the territory of China after the reasons disappear, the place of habitually resides shall be China.</li> <li>2. A non-PRC domiciled individual who physically stays and works in the PRC for one "full year" is regarded as a tax resident in the PRC as well. "Full year" means foreigners having stayed in the PRC in a calendar year with temporary absence for not more than thirty days a time or less than accumulated ninety days.</li> </ol>
<b>Tax registration</b>	Not required.
<b>Employment income definition</b>	Taxable employment income includes all wages, salaries, bonuses, annual bonuses, incentives, allowances, subsidies and benefits.
<b>Examples of tax exemption</b>	<p>Some employment benefits provided on a reimbursement basis to expatriates working in the PRC are not subject to IIT, for example:</p> <ul style="list-style-type: none"> <li>– Provision of accommodation or rental reimbursement;</li> <li>– Reimbursement of transportation expenses incurred by the expatriate for traveling between the place of employment in the PRC and the family residences, limited to two trips a year;</li> <li>– Reimbursement of relocation and moving costs upon commencement or cessation of the PRC assignment;</li> <li>– Reimbursement of language training expenses for the expatriate;</li> <li>– Reimbursement of education expenses incurred in the PRC for the children of the expatriate; and</li> <li>– Reimbursement of meal and laundry expenses.</li> </ul> <p>Such expenses should be in reasonable amounts. Furthermore, the expatriates need to provide valid tax invoices for these expenses.</p>
<b>Specific expatriate concession</b>	<p>Foreign individuals residing in the PRC for less than one year are subject to IIT on their PRC sourced income only. Remuneration from foreign employers to individuals working in the PRC is exempt from tax if the individual resides in the PRC for less than 90 days in a calendar year, provided that the remuneration is not borne or paid by an establishment in the PRC. This 90- day period may normally be extended to 183 days if the individual is entitled to protection under a relevant tax treaty/tax arrangement.</p> <p>Employees of foreign employers can be taxed based on the actual number of days residing in the PRC if certain criteria are met.</p> <p>Individuals who do not domicile in the PRC but reside in the PRC between one to five years may, with approval, pay tax only on their PRC sourced income and non-PRC sourced income, the payment of which is borne by PRC establishments. They will be taxed on their worldwide income for each full year residing in the PRC from the sixth year onward.</p>

<b>Income of board members</b>	<p>Depending on the functions performed in the company.</p> <p>If board members in the companies do not hold a position and are not employed by the companies, such board members fee is regarded as income from labour services and is taxable at 20% if the taxable income (after allowable deductions) from a single payment does not exceed RMB20,000; 30% for the portion over RMB20,000 but not exceeding RMB50,000; and 40% for the portion exceeding RMB50,000.</p> <p>If board members are also holding a position and are employed in the companies (including affiliated companies), the board members fee should be included in the salary income and taxed accordingly.</p>
<b>Tax returns</b>	<p><b>Monthly IIT filing</b></p> <p>In China, there are two kinds of filing methods: withholding method, and self-declaration method for monthly IIT filing. In general, the employer should be the withholding agent for the monthly IIT of the employees. However, for the foreign company without physical presence in China, the expatriates whose salary is paid by the foreign company may select to file the PRC IIT on self-declaration method or withholding method by the Chinese entity on behalf of its overseas related party. In most cases, the Chinese entity withholds the IIT for expatriates. The filing due date is within 15 days following the month in which the 183 days is due or the first date of the expatriate in China.</p> <p><b>Annual filing</b></p> <p>Annual IIT filing should be filed by an individual taxpayer. For expatriates, if they stay in China for one full year in a calendar year and the annual taxable income is more than RMB120K, they should file annual tax return in the tax authority in-charge within 3 months following the concerned year.</p>
<b>Tax payments</b>	<p>IIT is normally withheld from wages or salaries by employers and paid to the tax authorities on a monthly basis. Individual income tax returns must be filed within 15 days following the end of each month.</p>

## TAX TREATIES

<b>Employment income / income from board members</b>	Art 15/16 Model OECD Tax treaties
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## INTERNATIONAL SOCIAL SECURITY

<b>Cross border employments</b>	<p>An expatriate should participate in PRC social security scheme if he/she enters employment contract with a PRC company. The implementation of social security contribution for foreign workers is strictly enforced in most cities of China.</p>																								
<b>Exception under Art 16 of Reg. 883/2004 and Art 17 of Reg. 1408/71</b>	<p>Foreign employees who come from countries that have concluded bilateral social security agreements with China could be exempted from certain Chinese social security contributions in accordance with such agreements. Currently, China has only entered into bilateral social security agreements with several countries such as Germany, South Korea, Denmark, and France, etc.</p>																								
<b>Social Security Cost as % from gross salary and absolute amounts</b>	<p>The threshold basis to calculate the monthly social security is three times the yearly average salary of the city. In China the applicable rate for social security depend on the city you are in. You will find below the new applicable rates for Beijing as an example:</p> <p>Applicable rate from 1st July 2017, Beijing</p> <table border="1" data-bbox="478 1747 1516 2020"> <thead> <tr> <th>Maximum basis</th> <th>Employer</th> <th>Employee</th> <th></th> </tr> </thead> <tbody> <tr> <td>Pension</td> <td>23,118 RMB</td> <td>19.0%</td> <td>8.0%</td> </tr> <tr> <td>Unemployment insurance</td> <td>23,118 RMB</td> <td>0.8%</td> <td>0.2%</td> </tr> <tr> <td>Medical insurance</td> <td>23,118 RMB</td> <td>10.0%</td> <td>2%+3</td> </tr> <tr> <td>Injury insurance</td> <td>23,118 RMB</td> <td>0.5%</td> <td>N/A</td> </tr> <tr> <td>Maternity insurance</td> <td>23,118 RMB</td> <td>0.8%</td> <td>N/A</td> </tr> </tbody> </table>	Maximum basis	Employer	Employee		Pension	23,118 RMB	19.0%	8.0%	Unemployment insurance	23,118 RMB	0.8%	0.2%	Medical insurance	23,118 RMB	10.0%	2%+3	Injury insurance	23,118 RMB	0.5%	N/A	Maternity insurance	23,118 RMB	0.8%	N/A
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## IMMIGRATION

<b>Work permit</b>	Foreigners working in China must have a valid working permit and Visa.
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<p><b>Visa</b></p>	<p>Concerning the immigration process, whether you are planning on working in China for a long period or just visit for a short-term mission (under 3 months) a visa is not expendable. A company based in China looking forward to expatriate an employee or a third party to perform a mission throughout a short time period of less than 90 days will have to prepare an invitation letter in order for his/her employee to be able to apply for a visa. There are many different kinds of visa regarding the purpose and time of your stay in China you should apply for.</p>
<p><b>Residency permits / registration certificate</b></p>	<p>Depending on the type of visa you are holding it can be extended into a working residency permit of one year or more if you intend on staying longer. Every demand has its own special kinds of procedures.</p>
<p><b>Driving license</b></p>	<p>Driving licences issued in other countries are not recognized in China. Driver may exchange his license to grant Chinese driving license under certain conditions.</p>
<p><b>STOCK OPTION PLAN</b></p>	<p>From PRC Individual Income Tax ("IIT") perspective, the China employer has the obligation to withhold IIT from the salary income (including salaries, gains derived from equity incentive plan, etc.) of its employees (regardless of the nationality of the employees) and settle the tax with the China tax bureau.</p> <p>There is no IIT liability or reporting obligation when the stock option is granted to the employees of the China company or during the vesting period. When the employee exercises the options, the gain (i.e. difference between exercise price and market value of the shares on exercise date) will be treated as salary income of the employee and subject to IIT at the progressive rate of 3% to 45%. There are preferential IIT treatments for calculating the IIT liabilities on share option/ share awards granted by listed companies or private Chinese companies in China. At this moment, as mentioned above, the employer has an obligation to withhold the IIT for the employees. Besides, any dividends received or any capital gain derived from the subsequent share transfer are subject to IIT at 20%.</p>

**ARTICLE 15 OF THE OECD MODEL**

<p><b>183 days</b></p>	
<p><b>Notion of employer</b></p>	
<p><b>Existence of a permanent establishment</b></p>	



([http://publicationsdrafts.ro/expat-tax-2014/wp-content/uploads/2018/05/Joey-Zhou\\_profile.jpg](http://publicationsdrafts.ro/expat-tax-2014/wp-content/uploads/2018/05/Joey-Zhou_profile.jpg))

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