CHINA

As per 1 January 2020

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EXPATRIATE AND EMPLOYER TAX COMPLIANCE AND ADVISORY

Personal Income Tax Rates – Employment Income	
Tax rate	Progressive tax rate: 3% – 45%.
Tax period	Calendar year.
Tax residency / Domicile according to domestic law	Persons are deemed to be tax residents in PRC for tax purposes: 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. 2. A non-PRC domiciled individual who physically stays and works in the PRC for 183 days or morein a tax year is regarded as a tax resident in the PRC as well. (If the individual is physically present in China for less than 24 hours, it would not be counted as a day of residence in China.)
Tax registration	Not required.
Employment income definition	Taxable employment income includes all wages, salaries, bonuses, annual bonuses, incentives, allowances, subsidies and benefits.
Examples of tax exemption	Some employment benefits provided on a reimbursement basis to expatriates working in the PRC are not subject to IIT, for example: – Provision of accommodation or rental reimbursement; – 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; – Reimbursement of relocation and moving costs upon commencement or cessation of the PRC assignment; – Reimbursement of language training expenses for the expatriate; – Reimbursement of education expenses incurred in the PRC for the children of the expatriate; and – Reimbursement of meal and laundry expenses. Such expenses should be in reasonable amounts. Furthermore, the expatriates need to provide valid tax invoices for these expenses. It is noted that aforesaid expatriates tax benefits would be expired after December 31, 2021.

Specific expatriate concession	Foreign individuals residing in the PRC for less than 183 days in a tax 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. Employees of foreign employers can be taxed based on the actual number of days residing in the PRC if certain criteria are met. If a non-PRC domiciled individual who has resided in China for 183 days or more annually for 6 consecutive years, without absence of more than 30 consecutive days out of China, if he/she still resided in China for more than 183 days in "the seventh year", he/she would be liable for IIT on his/her worldwide income (e.g. income from transfer of property which is located in overseas) in the seventh year. Moreover, if a non-PRC domiciled individual has spent more than 30 consecutive days out of China during a tax year in any of the 6 consecutive years, the counting of "6-year rule" can be reset. Such a year will "break" the 6-year rule and a new 6-year period should be re-counted from the next year.
Income of board members	Depending on the functions performed in the company. 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. 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.
Tax returns	Resident individual – Withholding method: When a withholding agent (i.e. employer) pays wages and salaries to a resident individual, it must calculate the IIT using a cumulative salaries-based approach, which effectively is based on cumulative annual wages and salaries, but tax is withheld on a monthly basis. – Annual reconciliation:The amount of tax withheld during the year should be equal to the taxpayer's annual IIT liability. If there is a disparity, a resident individual must make a reconciliation at the time he/she files the annual income tax return between 1 March and 30 June of the year following the tax year. Any overpayment of tax will be refunded and underpayment must be paid.Non-resident individual – Withholding method: When a withholding agent(i.e emplpyer) pays comprehensive income to a non-resident individual, IIT must be withheld and paid on a monthly basis; – Annual reconciliation: Non-resident individuals are not required to make an annual reconciliation, and their withholding method will remain unchanged during a tax year. However, if a non-resident individual subsequently meets the criteria to qualify as a Chinese tax resident, he/she must notify the withholding agent and make an annual reconciliation.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. Thus, the Chinese entity would be the withholding agent of the expatriate. if the expatriates receive wages and salaries without withholding agnet, he/she must submit his/her tax return to the tax bureau and pay IIT by the 15th of the following month. As non-resident individual, he/she may also may self-declaration before: -30 June of the following year; -when leaving the country where a non-resident leaves Mainland China (except for a temporary departure) before 30 June of the following year.

Tax payments	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.
Tax on real estate property	

TAX TREATIES

Employment income / income from board members	Art 15/16 Model OECD Tax treaties

INTERNATIONAL SOCIAL SECURITY

Cross border employments	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.
Exception under Art 16 of Reg. 883/2004 **and Art 17 of Reg. 1408/71**	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.
Social Security Cost as % from gross salary and absolute amounts	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: (see table below) The social security contribution standard is the monthly average wages and salaries of Beijing in the previous year (e.g. RMB 7,855 for the year of 2018). The employee's contribution ratio and employer's contribution ratio should fell into the range between lower limit and upper limit

	Lower limit	Upper limit	Employer	Employee
Pension	3,613	23,565	16.0%	8.0%
Unemployment insurance	3,613	23,565	0.8%	0.2%
Medical insurance	3,613	23,565	10.0%	2%+3
Injury insurance	5,557	27,786	0.2-1.9%	N/A
Maternity insurance	5,557	27,786	0.8%	N/A

IMMIGRATION

Work permit	Foreigners working in China must have a valid working permit and Visa.
Visa	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.
Residency permits / registration certificate	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.
Driving license	Driving licences issued in other countries are not recognized in China. Driver may exchange his license to grant Chinese driving license under certain conditions.

STOCK OPTION PLAN	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. 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%.

ARTICLE 15 OF THE OECD MODEL

183 days	
Notion of employer	
Existence of a permanent establishment	


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