



CHINA

Changes to Individual Income Tax Law in China

The newly amended Individual Income Tax (IIT) law was officially approved on 31 August 2018 during the 13th National People's Congress of the People's Republic of China. This is the seventh amendment since the IIT law was enacted in 1980. The amended law would be effective from 1 January 2019, although some measures, such as increased statutory deduction, have taken effect as early as 1 October 2018.

Here are the major changes introduced by the new legislation:

Redefinition of 'Resident' & 'Non-Resident' Taxpayer

The amended law reduces the qualification of residency from 1 year to 183 days. Any individual who has stayed in China for 183 days or longer in a calendar year will be considered as a resident and subject to IIT on any income derived from within and outside China. A non-resident who has lived in China for less than 183 days within a tax year will be subject to IIT only on income derived in China.

According to the existing IIT laws, if tax residents without domicile in China spend more than 1 year in China, they will remain exempt from tax on worldwide non-PRC sourced income until they have resided in China for five consecutive full years. To break the five-year period and reset tax residency, they should travel out of China for a period of more than 30 days consecutively in one trip or for cumulative

periods of more than 90 full days during the fiscal year.

Under the amendment law, it does not specify whether the 'five-year tax rule' will still apply in the future. The impact will only be clear once the new detailed implementation rules and guidelines are released.

Reclassification of Income Categories

The new law groups the following four labour income categories within the scope of comprehensive income:

- Salaries and wages
- Remuneration for personal services
- Author's remuneration
- Royalties

Remuneration for personal services and royalties are subject to a proportional rate of 20% while on the other hand, author's remuneration is at a rate of 44% to arrive at the taxable income.

Statutory Deduction Increase

The amendment law proposes to increase the statutory deduction for comprehensive income from RMB3,500 per month (or RMB4,800 per month for foreigners) to RMB5,000 per month i.e. RMB60,000 per year. This new personal deduction applies to all, and the current step-up in personal deduction) RMB1,300 per month for foreign nationals will no longer apply.

Adjustment of Income Tax Brackets

The existing 7-bracket progressive tax scale on comprehensive income remains the same but tax brackets at 3%, 10% and 20% have broadened considerably to benefit middle- and low-income earners.

The adjusted tax rates are shown in the table below:

Individual Income Tax Law					
Income Categories		Proportional Rate (%)	Standard Tax Deduction (RMB)	Annual Taxable Income (RMB)	Tax Rate (%)
Comprehensive Income	Wages	100	60,000 per year	0 – 36,000	3
	Remuneration for personal services	20		36,001 – 144,000	10
				144,000 – 300,000	20
	Royalties	44		300,001 – 420,000	25
	Author's remuneration			420,001 – 660,000	30
				660,000 – 960,000	35
		Above 960,000	45		

Introduction of a Unique Anti-Tax Avoidance Rule to Enhance Tax Management

High net-worth taxpayers now need to review new rules for related-party transactions and controlled foreign corporation under China's General Anti-Avoidance Rule (GAAR). The GAAR allows the tax authority to make tax adjustments in certain circumstances which include:

- an individual's transactions are unreasonable and do not comply with the arm's length principle
- an individual reduces their tax burden by deploying a foreign tax haven
- an individual enjoys tax benefits through commercial arrangements that lack reasonable purpose.

Additional Itemised Deductions

To promote the well-being of the population and reduce the cost of living, the new IIT law introduces further special expense deductions, which include children's education, continued education, medical expenses for serious illness, mortgage interest or rental expenses and elderly care expenses.

Detailed implementation rules to clarify the scope of these deductions are yet to be issued. In the meantime, the Ministry of Finance and the State Administration of Taxation has published 'Interim Measures on Additional Itemised Deductions for Individual Income Tax (Exposure Draft)', which illustrates a fixed amount to be deducted from the taxable income each year for all items except medical expenses for serious illness, which can be deducted according to the actual conditions.

The interim measures are summarised in the table on the next page:

Deductible Items	Qualifying Conditions	Deduction Method	Applicable Scope		Deductible Amount (RMB)		Deduction Frequency	Who can Claim?		
					Year	Month				
Children's education	Per number of children	Fixed	Pre-school education	From age 3 to before primary school		12,000 per child	1,000 per child	Annual or monthly	50% per parent or 100% claimed by	
			Diploma and Degree education	Compulsory education	Primary school to junior high school					
				Intermediate education	High school or vocational school					
				Higher education	Bachelor, Master's, and Doctor degree in university or college					
Continued education	Self	Fixed	Formal education	As per above levels of education		4,800	400	Annual or monthly	Parent/ Individual	
			Professional education	Occupational qualifications for skilled personnel		3,600		Annual claim in the year of obtaining the diploma/ certificate / qualification	Individual	
				Occupational qualifications for professionals						
Medical expenses for serious illness	Self	Actual	Portion above RMB 15,000, subject to an annual cap of RMB 60,000		Actual expense not exceeding 60,000		Annual	Individual		
Mortgage interest	Limited to first property only	Fixed	First residential property mortgage (commercial or housing fund) of the taxpayer or spouse		12,000	1,000.00	Annual or monthly	If joint owned, either one of a couple has to claim		
Rental expense	Not owning a property in the place of work	Fixed	State administered, provincial, planned municipal cities and other cities designated by the State Council		14,400	1,200	Annual or monthly	If joint rental, either one of a couple has to claim		
			Cities with population over 1 million		12,000	1,000				
			Cities with population of 1 million or less		9,600	800				
Elderly care expenses	Care of parents age 60 and above or other legally designated person (irrespective of the number of persons)	Fixed	Single child		24,000	2,000	Annual or monthly	Individual		
			Non-single child		12,000 per person	Maximum claim of 1,000 per person				

To support the IIT reform, more follow-up measures will be introduced in the coming months. Individuals and businesses should monitor the developments closely and seek professional advice to avoid unnecessary cost from non-compliance.

At BIPO, we are always here to help companies review and optimise their HR policies to ensure they are kept dynamic and compliant. For more information, please contact:

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