



# PRC IIT Issues for Expatriates Working in China

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# Agenda



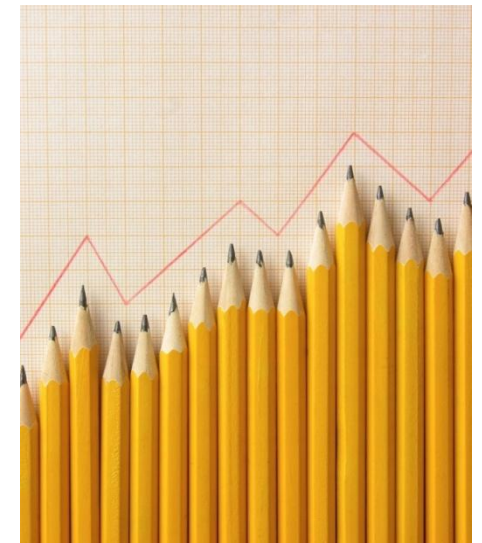
- **Brief Introduction of PRC IIT Policy**
  - **General IIT Planning Opportunities**
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# PRC IIT Implications

## When are foreigners liable to individual income tax (“IIT”)?

Three criteria to ascertain whether an expatriate is subject to PRC IIT:

- Ø China-sourced income or non-China-sourced income
- Ø How long is the expatriate physically present in the PRC during a calendar year?
- Ø Who bears the expatriate’s compensation? A PRC entity or non-PRC entity or a PE in China?



# PRC IIT Implications

## Non-China-domiciled Individuals

- Resided in China for less than 1 full year
  - Ø Taxable on China sourced income only
- Resided in China for more than 1 full year but less than 5 full years
  - Ø Taxable on China source income, plus foreign source income paid or borne by China entity or individual
- Resided in China for more than 5 full years
  - Ø Taxable on world-wide income
- Definition of China sourced employment income
  - Ø Income attributable to China assignment or working period in China
  - Ø Payroll location is not a factor to determine the source of income

# PRC IIT Implications

## Non-China-domiciled Individuals

- Tax exempted if:
  - Ø Physical presence in China is less than 90 (not protected by tax treaty) or 183 (protected by tax treaty) days during the relevant period; and
  - Ø Compensation is paid by an employer who is a non-China entity; and
  - Ø Compensation is not re-charged to or borne by a China entity/ a permanent establishment of the employer in China
- Exceptions: 90/183 grace period not applicable to:
  - Ø Chief Representative or Representative of a representative office in China
  - Ø Foreign employee who works for a project which is deemed as a permanent establishment in China

# Five-year Residence Rule

## Five-year residence rule

- Effective date - 1 January 1994
- Resided in China for five full, consecutive years
- Temporary absence from China ignored
  - Ø One-off absence of not exceeding 30 days consecutively
  - Ø Multiple absences of not exceeding 90 days in aggregate in a calendar year
- Tax on worldwide income from the sixth year with full year residence
- Re-count five-year residence from the year with residence less than 90 days in China

# Five-year Residence Rule

## How to break the 5-year rule

***REMEMBER TO KEEP TRACK OF ALL CHINA DAYS***

**If not having stayed in China for five full consecutives:**

Being absence from China for more than 30 consecutive days or more than 90 accumulative days in a calendar year

**If having stayed in China for five full consecutives:**

Staying in China for less than 90 days in the 6th year

5-year Rule

# Taxable/Non-taxable Employment Income

## Taxable Income

Wages and salaries include:

- Ø Basic salary
- Ø Bonuses\*
- Ø Commission
- Ø Allowances/subsidies
- Ø Tax paid by employer
- Ø Severance pay \*
- Ø Stock-based incentive plan related income\*
- Ø Any other income related to the individual's employment

\* Special rules apply



# Taxable/Non-taxable Employment Income

## Non-Taxable Benefits-in-kind

- Ø Housing accommodation
- Ø Meal and laundry expenses
- Ø Language training expense
- Ø Children education expenses
- Ø Relocation expenses
- Ø Home leave (twice per year, for employee only)

**ALL SHOULD BE OF REASONABLE AMOUNT AND SUPPORTED BY “FA PIAO”**

# Tax Rate for Employment Income

## Tax Rate Table

Monthly Taxable Income Including Tax (RMB) (i.e. PRC IIT borne by employee) (A)	Monthly Taxable Income Net of Tax (RMB) (i.e. PRC IIT borne by employer) (B)	Applicable IIT rate	Quick deduction (RMB)
0 – 500	0 – 475	5%	0
501 - 2,000	476 – 1,825	10%	25
2,001- 5,000	1,826 – 4,375	15%	125
5,001- 20,000	4,376 – 16,375	20%	375
20,001 – 40,000	16,376 – 31,375	25%	1,375
40,001 – 60,000	31,376 – 45,375	30%	3,375
60,001 – 80,000	45,376 – 58,375	35%	6,375
80,001 -100,000	58,376 – 70,375	40%	10,375
100,000 and up	70,376 and up	45%	15,375

# Tax Equalization Scheme

- **Purpose**
  - Ø Provides equitable and consistent tax treatment
  - Ø Provides tax neutrality for employee
  - Ø Ensures tax to be paid by employee is comparable to that he or she lived/worked in home country
- **How it works?**
  - Ø Assuming the assignee not pursuing overseas assignment and remaining in home location
  - Ø Employer will pay actual home and host countries income taxes
  - Ø Assignees is subject to deduction of hypothetical tax which:
    - Represents the tax an expatriate would have paid if not on foreign assignment
    - Computed on hypothetical compensation – base salary, bonus and other compensation, normally not including assignment-related allowances
    - Usually deducted from employee's monthly pay check

# IIT Planning Opportunities

## General IIT planning ideas for foreign employees

- Tax exempt benefits-in-kind
- Bonus structuring
- Dual contracts arrangement
- 5 year monitoring

**Q & A**



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