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GMS Flash Alert

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People's Republic of China - Hong Kong Teachers and Researchers Arrangement

Guidance has been issued on the 2019 protocol to the income tax treaty between the People's Republic of China and Hong Kong that provides tax relief to eligible teachers and researchers.

Protocol V of the "Arrangement Between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income" was formally signed in Beijing on 19 July 2019. On 31 December 2019, the State Taxation Administration ("STA") issued the "Announcement on the Enforcement of Protocol V" (Announcement 51 of 2019), providing that in Mainland China, relevant provisions under Protocol V will apply for income earned in the tax years beginning on or after 1 January 2020.

WHY THIS MATTERS

Protocol V incorporates provisions entitling eligible teachers and researchers to tax exemption for up to three years. The provisions aim to promote exchanges of education and scientific research between Mainland China and Hong Kong and the development of the Greater Bay Area.

Key Conditions

Eligible Individuals

- Employed by a university, college, school, or government-accredited educational or research institution in Hong Kong ("Academic Institutions"); and

- Residents of Hong Kong who are primarily engaged in teaching or researching at Academic Institutions based in Mainland China, or individuals who were Hong Kong residents immediately before relocating to Mainland China.

Tax-Exempt Income

- Income earned from teaching or research for the benefit of the public interest rather than for personal gain paid by (or on behalf of) a Hong Kong employer, and the income is subject to tax in Hong Kong.

Tax-Exemption Period

- For a period of three years beginning 1 January 2020 or the date of arrival in Mainland China (after 1 January 2020) for the purpose of teaching or research.[1]

KPMG NOTE

The provisions set out under Protocol V reflect the determination to actively promote educational and scientific exchanges between the Mainland and Hong Kong, and to vigorously develop the science and culture of the Greater Bay Area of Guangdong, Hong Kong, and Macao.

The People's Republic of China ("PRC" or "China") has double taxation agreements ("DTAs") in place with over 100 countries and regions, among which the DTAs with more than 80 countries and regions include provisions for teachers and researchers, and the relevant tax exemption conditions and periods vary. For example, the U.S.-China DTA grants eligible individuals a cumulative tax-exemption period of up to three years. The tax-exemption period will be suspended if the eligible individual leaves China before the end of the three-year period, and the period will resume if the eligible individual returns to China for teaching or research activities. The Germany-China DTA grants the eligible individual a tax-exempt period of two years on income earned outside China for teaching or research activities. It further provides that if the individual stays in China for more than two years, the relevant income shall be taxed from the date of arrival in China.

Therefore, employers and academic staff intending to enjoy the tax-exempt treatment need to assess whether they meet the eligibility criteria, including:

- Whether the employer is an educational or research institution recognised by the government;
- Tax-residency status of the individual;
- Whether the activities performed by the individual meet the tax-exemption conditions;
- Whether the relevant income is paid in accordance with the tax-exemption conditions.

In addition, in October 2019, the STA issued the "Treatment of Non-Resident Taxpayers Benefiting from Double Taxation Agreements" (Announcement 35 of 2019), which stated that the relevant documentation related to DTA applications should be retained by the taxpayers (instead of submitted to the tax authorities). This announcement simplified the reporting requirements for taxpayers or withholding agents. After Announcement 35, the KPMG International member firm in China consulted on and discussed the requirements with various local tax authorities. The tax authorities in some regions still maintain older information reporting requirements and thus need to provide guidance to local taxpayers on how to apply DTAs correctly. Therefore, it is recommended that withholding agents and individuals who wish to apply the tax-exemption treatments under DTAs clarify the documentation and reporting requirements with the local tax authorities. If required, professional agents can be engaged to provide necessary support.

FOOTNOTE:

1 For example: If a Hong Kong resident employed by a university in Hong Kong is engaged in teaching at a Mainland Academic Institution from 1 July 2019, and the eligibility conditions are met, the income paid by the Hong Kong university and taxed in Hong Kong is entitled to the tax exemption in Mainland China for three years from 1 January 2020.

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RELATED RESOURCE:

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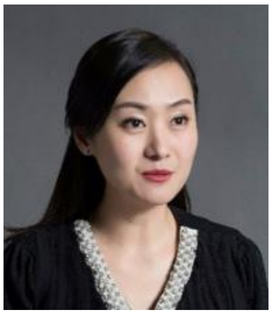
Contact us

For additional information or assistance, please contact your local GMS or People Services professional or the following professional with the KPMG International member firm in the People's Republic of China:



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