



# Thinking beyond borders: Management of extended business travelers - China



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**01**

**Key message**

Domiciled individuals are taxed on worldwide income, whereas non-domiciled individuals are generally taxed on Chinese-sourced income only. In China, the scope of taxation for individuals is generally determined by the source of income, a person's residency status, and the length of the person's residence in China.

# 1 Key message

Extended business travelers are likely to be taxed on employment income relating to their Chinese workdays.

**02**

# **Income tax**

# 2 Income Tax

## 2.1 Liability for Income tax

A person's liability to Chinese tax is determined by the person's domicile and residency status. For Chinese tax purposes, a person can be a domiciled individual, a non-resident non-domiciled individual, or a resident non-domiciled individual.

A domiciled individual is defined as an individual who, by reason of the individual's permanent registered address, family, and/or economic interests, habitually resides in China. An individual with a Chinese passport, or a hukou (household registration), is likely to be deemed as domiciled in China.

A non-domiciled individual is taxed in accordance with the individual's length of residence in China. Prior to 1 January 2019, they would be deemed to be a resident of China for that year if the person has not been physically away from China for more than 30 continuous days, or more than 90 cumulative days, in a calendar year. Effective 1 January 2019, they would be deemed to be a resident of China if they reside in China for 183 days or more during a calendar year.

Prior to 1 January 2019, a non-domiciled individual who has been a resident of China for 5 years or less is taxed on income sourced in China only. A non-domiciled individual who has been a resident of China for 5 full consecutive years may be taxed on their worldwide income, if they are deemed a tax resident in any of the years thereafter. Effective 1 January 2019, the 5 - year tax exemption period has been changed to the 6 - year tax exemption period during which a non - domiciled individual would not require to pay PRC IIT on non - PRC sourced income, subject to a put - on - record filing with the PRC tax authorities.

A non-resident non-domiciled individual may be subject to tax on income sourced in China if the individual is unable to meet the conditions required for exemption.

## 2.2 Definition of source

Employment income is generally treated as Chinese-sourced compensation where the individual performs the services while physically located in China.

Certain non-resident non-domiciled individuals may be exempt from tax.

## 2.3 Tax trigger points

Under domestic legislation, a non-domiciled individual is exempt from the requirements to file and pay tax in China if the individual meets all the following conditions.

- The individual is in China for a period or periods not exceeding 90 days in a calendar year (this time period may be extended to 183 days if there is a double tax treaty between China and the country/jurisdiction in which the individual is a tax resident).
- The individual's remuneration is paid by, or on behalf, an employer who is not a resident of China.
- The individual's remuneration costs are not borne by a permanent establishment ("PE") or a fixed base which the employer has in China. The exemption will not apply, however, if the person holds a position in the Chinese entity.

## **2.4 Types of taxable income**

Unless a person is taxed on worldwide income, the types of income on which assignees are generally taxed are employment income, Chinese-sourced income, and gains from taxable Chinese assets (such as real estate).

## **2.5 Tax rates**

The taxable comprehensive income (including employment income, income from independent personal services, author's remuneration, and royalties) is subject to a progressive range of tax rates from 3 percent to 45 percent. The maximum tax rate is currently 45 percent on monthly taxable income over 80,000 Renminbi (CNY) or annual taxable income over CNY960,000.

**03**

# **Social Security**



# 3 Social Security

## 3.1 Liability for social security

Social security taxes may apply to foreign individuals starting 1 July 2011.

**04**

# **Compliance obligations**

# 4 Compliance obligations

## 4.1 Employee compliance obligations

Effective from 1 January 2019, resident individuals who meet certain conditions (e.g., receive comprehensive income from two or more sources, or have income from independent personal services, author's remuneration, and/or royalties, with annual comprehensive income (after deduction of itemized deductions) exceeding CNY60,000; have IIT underpaid/overpaid; or have income derived from overseas, etc.) are required to file an annual return. The annual filing due date is from 1 March – 30 June following the end of each year.

Non-resident individuals may be required to file the IIT due/refund with the tax bureau by 15 January following the end of the year if certain conditions are met.

## 4.2 Employer reporting and withholding requirements

The payer of any amount that is income to an individual has an obligation to withhold the individual's income tax and remit the amount to the tax authorities. Employers have an obligation to withhold the tax on the income paid to its employees, file individual income tax withholding returns, and remit the amount to the tax authorities within 15 days of the month following the payment.

The PRC tax authority may impose late payment surcharge assessed at 0.05 percent per day of the overdue tax amount. In addition, failure to comply with the withholding obligation may result in a penalty of 50 percent to 300 percent of the tax amount involved.

**05**

# **Immigration**

# 5 Immigration

## 5.1 Work permit/visa requirements

Visas are required for entry into China with the exception of short-term visits by residents of some countries/jurisdictions. The type of visa required will depend on the purpose of the individual's entry into China.

**06**

**Other issues**

# 6 Other issues

## 6.1 Double taxation treaties

China has an extensive tax treaty network. In addition to China's domestic arrangements that provide relief from international double taxation, China has entered into double taxation treaties with many countries/jurisdictions to prevent double taxation and to allow cooperation between China and overseas tax authorities in enforcing their respective tax laws.

## 6.2 Permanent establishment implications

There is the potential that a PE could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

## 6.3 Indirect taxes

Value-added tax (VAT) of up to 13 percent is applying to both goods and service sectors. VAT may apply on the supply of labor services depending on location of services.

## 6.4 Transfer pricing

China has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

## 6.5 Local data privacy requirements

The PRC Personal Information Protection Law takes effect from 1 November 2021.

## 6.6 Exchange control

China has strict exchange control rules. The CNY is not a freely exchangeable currency. There are strict rules within China applying to the conversion of CNY to other currencies, and vice versa.

## 6.7 Non-deductible cost for assignees

Non-deductible costs for assignees may include contributions by an employer to non-Chinese pension funds, benefits-in-kind incurred in China that are not supported by official receipts and accrued but unpaid costs.

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