
# People's Republic of China – Time to Review "Six-Year Rule" Status

The prevailing "Six-Year Rule" in the People's Republic of China ("PRC" or "China") allows eligible non-domiciled individuals to claim a PRC individual income tax ("IIT") exemption on foreign-sourced income in a particular tax year.

The "Six-Year Rule" commences from the calendar year (thereafter referred to as "year") of 2019. The year 2024 is counted as the sixth year from the year 2019.[1]

## WHY THIS MATTERS

Non-domiciled individuals in China inevitably need to review their "Six-Year Rule" status and appropriately plan their number of days residing in China for the year 2024 to mitigate the risk of having to consider their non-China-sourced income (where applicable) in addition for PRC IIT purposes in/from the year 2025 onwards – and, more importantly, to help avoid double taxation on their worldwide income across different countries/locations.

## Background

According to PRC tax regulations, a non-domiciled resident individual would be exempt from PRC IIT on his foreign-sourced income in a given tax year if he meets the requirements to claim relief under the "Six-Year Rule," which applies from 1 January 2019. Specifically, a non-domiciled resident individual is taxed on income derived within the PRC only, if during the six-consecutive-year period immediately preceding the year of assessment, the individual:

- did not reside in the PRC for 183 days or more in any of the tax years; OR
- was away from the PRC on a single trip for more than 30 consecutive days in any of the tax years.

## More Details

In counting the days of residence in China, if the individual is physically present in China for 24 hours, that day should be counted as a day of residence in the country.  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.

The put-on-record filing is required to claim a tax exemption on foreign-sourced income derived by non-domiciled individuals.  However, the tax authority has yet to provide any details on the relevant implementation guidance, and further details may be released in due course.

## KPMG INSIGHTS

As we are already in the middle of 2024, non-domiciled individuals should be making plans around possibly leaving the PRC for more than 30 consecutive days in 2024.  Employers should consider the relevant implications of such departure by a non-domiciled employee and determine the appropriate level of support, as well as ways forward so that they may attract foreign talents, contain employment costs, and reduce associated tax risks.

Questions as to how to track travel status, how to make a plan, whether employee support should be provided by the employer, etc. represent potential “pain points” and key challenges faced by individuals and companies.

We suggest non-domiciled individuals and their employers consider the following:

From an individual perspective:

- Achieve an understanding of the corresponding IIT implications on their non-China sourced income;
- Comprehend the definition of the “Six-Year Rule”;
- Gather and consolidate travel records for the period from 2019 to date; and
- Appropriately plan overseas (out of Mainland China) travel and holidays where needed.

From an employer perspective:

- Devise internal guidance for managing and supporting its employees who are affected by the “Six-Year Rule” (for example, instituting internal approval processes for additional overseas trips or holiday requests to help reduce the associated impact at an operational level); and
- Develop and deliver relevant, timely employee communications.

## FOOTNOTE:

1  Ministry of Finance and the State Taxation Administration Announcement [2019] No. 34 - Announcement of the Ministry of Finance and the State Taxation Administration on the Standards for Determining the Length of Residence of Non-PRC Domiciled Individuals.

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## Contact us

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