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## China Individual Income Tax Policies Related to Remuneration for Personal Services

The State Taxation Administration issued an *Announcement of Adjusting Individual Income Tax Withhold and Prepayment for Partial Taxpayers* (Announcement 2020 No. 13) on the 28th July 2020, which shall take effective from 1st July 2020. This announcement is mainly to improve and adjust the method of individual income tax (hereafter as IIT) withholding and prepayment for individuals who obtain wages and salaries income for the first time in the middle of the year, including adjustments to the provisions on remuneration for continuous personal services and student internships. This article will analyze and interpret the IIT regulations related to the remuneration for personal services.

Firstly, it is important to distinguish between wages and salaries income and remuneration for personal services. Both of them are comprehensive income, and they are obtained through various labour activities. The key point of distinction is to see the individual providing labour activities is independent or non-independent. In other words, the main difference is that the former has an employment relationship, while the latter does not.

It is worth noting that according to the relevant laws and regulations, if a part-time individual is authorized by the employer to engage in production and business activities within the authorized scope, the relationship established by the two parties is an employment relationship. The income obtained by part-time individual is wages and salaries income, the IIT shall be calculated according to the wages and salaries income method, then withhold and prepay by withholding agent.

Secondly, the IIT calculation methods for resident individuals and non-resident individuals to obtain remuneration for personal services are different. Regarding the definition of resident individuals and non-resident individuals, please refer to the *“China Individual Income Tax Guide (1) – Determination of Resident Taxpayer and Non-resident Taxpayer”*.

Resident individuals who meet one of the following circumstances need to handle the annual IIT declaration:

1. Where the tax amount withheld is more than the amount of annual tax payable, and taxpayer seeks to apply for tax refund. This could arise from the annual comprehensive income is less than CNY60,000, but certain amount of the individual income tax has already been withheld for the taxpayer; the rate at which tax is withheld on of remuneration for personal services, author's remuneration and royalties is higher than that charged at comprehensive income during the year; at the time when tax is withheld to the allowable deductions, special deductions, special additional deductions and other deductions allowed determined by the laws, have not been fully deducted from the taxable income.
2. Where the annual comprehensive income in a year more than CNY120,000 and additional tax payable is more than CNY400. Including a taxpayer derives comprehensive income from two or more places, and the applicable tax rate is increased after all income are combined.

## Resident Individuals Obtain Remuneration for Personal Services

The new Individual Income Tax Law (hereafter as IIT Law) has been implemented from January 1, 2019, dividing taxable personal income into nine categories and implementing different tax calculation methods. The new IIT Law grouped four categories income including income from salaries and wages, income from provision of independent personal services, income from author's remuneration and income from royalties into the scope of "Comprehensive Income", and seven-level of progressive tax rates from 3% to 45% has been applied for determining the IIT. The IIT of comprehensive income shall be withhold and prepaid monthly by withholding agent and declared annually (annual declaration).

This article will analyse the IIT policy involved in the general remuneration and special remuneration for personal services obtained by resident individuals and interpret the calculation of IIT in the withholding and prepayment stage and the annual declaration stage.

### 1. Remuneration for General Personal Services

Remuneration for general personal services refers to design, decoration, installation, drawing, laboratory testing, testing, medical treatment, law, accounting, consulting, lectures, news, broadcasting, translation, review, calligraphy and painting, sculpture, film and television, recording, video recording, performance, Performances, advertising, exhibitions, technical services, introduction services, brokerage services, agency services and other services.

#### (1) Withholding and Prepayment

For remuneration for general personal services and other remuneration for non-continuous personal services, the deduction amount is CNY800 if the remuneration does not exceed CNY4,000; the deduction amount is 20% of the remuneration if the remuneration is more than CNY4,000 yuan each time. Tax rates are:

#### *IIT Tax Rate Table One -Withholding Rates*

Applicable to resident individual who obtain remuneration for personal services

Grade	Cumulative Taxable Income (CNY)	Tax Rate %	Quick Deduction
1	Less than 20,000	20	0
2	More than 20,000 and less than 50,000	30	2,000
3	Over 50,000	40	7,000

**(2) Annual IIT Declaration**

When a resident individual process the annual IIT declaration for comprehensive income, he shall calculate the amount of remuneration for personal services according to law and aggregate it into the annual comprehensive income to calculate the IIT payable. The seven-level of progressive tax rates shall be applied, and the tax payment shall be refunded or paid. Tax rates are:

*IIT Tax Rate Table Two -Seven-level of Progressive Tax Rates*

Grade	Cumulative Taxable Income (CNY)	Tax Rate %	Quick Deduction
1	Less than 36,000	3	0
2	More than 36,000 and less than 144,000	20	2,520
3	More than 144,000 and less than 300,000	20	16,920
4	More than 300,000 and less than 420,000	25	31,920
5	More than 420,000 and less than 660,000	30	52,920
6	More than 660,000 less than 960,000	35	85,920
7	Over 960,000	45	181,920

**[Example 1]**

Resident individual Mr. Zhang provides translation services for Company A. He will receive a translation fee of CNY12,000 on April 16, 2020, a translation fee of CNY30,000 on August 5, and a translation fee of CNY49,000 on December 19. Assuming Mr. Zhang has no translation income, other income and other deductions in 2020.

The translation fee received by a resident individual for providing translation services belongs to the remuneration for general personal services, and the IIT amount is calculated as follows:

**Withholding and Prepayment**

IIT to be prepaid in April= $12,000 \times (1-20\%) \times 20\%$ = CNY1,920

IIT to be prepaid in August= $30,000 \times (1-20\%) \times 30\% - 2,000$ = CNY5,200

IIT to be prepaid in December= $49,000 \times (1-20\%) \times 30\% - 2,000$ = CNY9,760

**Annual IIT Declaration**

Annual IIT payable =  $(12,000+30,000+49,000-60,000) \times 3\%$ = CNY930

*Mr. Zhang will receive a tax refund =  $1,920+5,200+9,760-930$ = CNY15,950*

## 2. Remuneration for Special Personal Services

For special personal services remuneration, this article mainly analyses the remuneration for continuous personal services (tax calculation is mainly applicable to groups such as insurance marketers and securities brokers) and remuneration for internships received by students who receiving full-time education. The IIT calculation method for remuneration for general and special personal services is different, and the IIT calculation method of these two special personal services remuneration is also different.

The applicable tax rate for these two special personal services remunerations is same when calculating withholding and prepaid IIT and annual IIT declaration. that is, seven-level of progressive tax rates as follows. The difference is the determination of taxable income.

### *Individual Income Tax Rate Table Three-Applicable for Withholding and Prepayment*

Grade	Cumulative Withholding and Prepayment Taxable Income (CNY)	Prepaid Tax Rate %	Quick Deduction
1	Less than 36,000	3	0
2	More than 36,000 and less than 144,000	10	2,520
3	More than 144,000 and less than 300,000	20	16,920
4	More than 300,000 and less than 420,000	25	31,920
5	More than 420,000 and less than 660,000	30	52,920
6	More than 660,000 less than 960,000	35	85,920
7	Over 960,000	45	181,920

### (1) Insurance Marketers and Securities Brokers

#### (a) Withholding and Prepayment

According to the “*Notice of the Ministry of Finance and the State Administration of Taxation on the Connection of Preferential Policies after the Amendment of the Individual Income Tax Law*” (Caishui (2018) 164), the commission income obtained by insurance marketers and securities brokers is remuneration for personal services and shall be withheld and prepaid in accordance with the cumulative method. You can refer to the “*General Questions and Answers on Inclusive Tax Relief for Small and Micro Enterprises*” from the State Administration of Taxation.

The commission income obtained by insurance marketers and securities brokers consists of two parts, the cost of business activities and the remuneration for services. Considering that insurance marketers and securities brokers bear certain business costs when providing personal services, it is unreasonable to calculate tax on their commission income in full. After the new individual income tax law implementation, the commission income of insurance marketers and securities brokers shall be included in the comprehensive income, and a deduction of CNY60,000 per year, social insurance and housing provident fund, special additional deductions and other deductions are allowed to be deducted. The tax calculation methods of insurance marketers and securities brokers have been adjusted to maintain continuous and stable tax policies.

Since insurance marketers and securities brokers have no employment relationship and the personal services provided by insurance marketers and securities brokers are discontinuous, the company does not have the special deductions information for them and cannot be correct calculate the special additional deductions for them. There are a large number of insurance marketers and securities brokers, and they may also be employed by more than one company. There is a problem of double deductions. Therefore, the company does not deduct the special deductions and special additional deductions when withholding and prepaying IIT of remuneration for personal service.

In tax calculation, the taxable income for commission income obtained by insurance marketers and securities brokers shall be the amount after deducting 20% of the income excluding VAT, the cost of business activities and additional taxes. Then the taxable income shall be aggregated to the comprehensive income of the current year to calculate the annual IIT. The cost of business activities is calculated at 25% of the balance after deducting 20% of the commission income excluding VAT.

**The IIT calculation formula for the accumulative withholding method of insurance marketers and securities brokers is:**

***IIT Prepaid of the Current Period*** = (Cumulative Withholding and Prepayment of Taxable Income × Withholding Tax Rate - Quick Deduction) - Cumulative Tax Deductions and Exemptions - Cumulative IIT Paid

***Cumulative Withholding and Prepayment of Taxable Income*** = Cumulative Income - Cumulative Deductions - Cumulative Other deductions

***Income Amount*** = Commission Income Excluding VAT × (1-20%)

***The Cost of Business Activities*** = Income Excluding VAT × (1-20%) × 25%

**(b) Annual IIT Declaration**

When a resident individual process the annual IIT declaration for comprehensive income, he shall submit the “Deduction Information Form” to the tax authority in the place where the tax is declared to deduct the special deductions and special additional deductions. The seven-level of progressive tax rates which are same with the remuneration for general services shall be applied to calculate the IIT, and the tax payment shall be refunded or paid.

**[Example 2]**

Resident individual Mr. Liu is an insurance marketer. In 2020, he will receive CNY15,000 commission income (VAT exclusive) from insurance company A. He will pay CNY2,000 for social insurance and housing provident fund and enjoy a special additional deduction of CNY2,000 every month A total of CNY120 of VAT was paid. There are no other deductions.

**Withholding and Prepayment**

Monthly commission income =  $15,000 \times (1 - 20\%) = \text{CNY}12,000$

Monthly cost of business activities =  $12,000 \times 25\% = \text{CNY}3,000$

Monthly Taxable Income =  $12,000 - 3,000 = \text{CNY}9,000$

IIT to be prepaid in January =  $(9,000 - 5,000) \times 3\% = \text{CNY}120$

IIT to be prepaid in February =  $(9,000 \times 2 - 5,000 \times 2) \times 3\% - 120 = \text{CNY}120$

From March to December, calculate the annual withholding and prepaid income tax of CNY2,280.

**Annual IIT Declaration**

Annual IIT payable =  $(9,000 \times 12 - 5,000 \times 12 - 2,000 \times 12 - 2,000 \times 12 - 120) \times 3\% = \text{CNY}0$

*Mr. Liu will receive a tax refund CNY2,280.*

**(2) Remuneration for Internship Obtained by Students Who are Receiving Full-time Education****(a) Withholding and Prepayment**

According to Article 2 of the “Announcement of Adjusting Individual Income Tax Withhold and Prepayment for Partial Taxpayers” (Announcement 2020 No. 13), the calculation method of IIT withholding and prepayment for remuneration obtained by the students who are receiving full-time education is according to the cumulative withholding method.

After July 1, 2020, the calculation formula for withholding and prepaying IIT for the remuneration obtained by the students who are receiving full-time education due to internship is:

***IIT Prepaid of the Current Period*** = (Cumulative Withholding and Prepayment of Taxable Income - Cumulative Deductions) × Withholding Tax Rate - Quick Deduction - Cumulative IIT Paid

The cumulative deduction is calculated by multiplying CNY5,000 per month by the number of months of internship from the month when the students started the internship in the company to current month.

#### **(b) Annual IIT Declaration**

When a resident individual process the annual IIT declaration for comprehensive income, he shall calculate the taxable income and aggregate to comprehensive income. The seven-level of progressive tax rates which are same with the remuneration for general services shall be applied to calculate the annual IIT, and the tax payment shall be refunded or paid.

#### **[Example 3]**

Mr. Wang is a student who currently studying in a college and will graduate in June 2021. In 2020, during the summer vacation period, he interns at Company A from July to August. The boss will pay CNY6,000 a month for his services (actually released in July and August).

#### **Withholding and Prepayment**

IIT to be prepaid in July =  $(6,000 - 5,000) \times 3\% = \text{CNY}30$

IIT to be prepaid in August =  $(6,000 \times 2 - 5,000 \times 2) \times 3\% - 30 = \text{CNY}60$

#### **Annual IIT declaration**

If his comprehensive income in 2020 does not exceed CNY120,000, the amount of tax that needs to be paid does not exceed CNY400, and there are no special additional deductions and other deductions that are not deducted in full, he is not required for annual IIT declaration.



## Non-resident Individuals Obtain Remuneration for Personal Services

According to Article 6 of the *Individual Income Tax Law*, non-resident individuals' remuneration for personal services shall be the taxable income for each time" and Article 11 stipulates that the withholding agent for non-resident individuals (if have) shall be obliged to withhold the IIT for remuneration for personal services by times or by month and the non-resident individual does not required for annual IIT declaration. According to Article 2 of "Notice of the State Administration of Taxation on the Connection of Policies for New *Individual Income Tax Law*" (Caishui (2018) 56), the taxable income of non-resident individuals from personal services remuneration is the balance of income minus 20% of the income, and the individual income tax rate table four is applicable.

### ***Individual Income Tax Rate Table Four***

*Applicable to non-resident individual obtain wages and salaries, remuneration for personal services, author's remuneration and royalties*

Grade	Taxable Income (CNY)	Tax rate%	Quick Deduction
1	Less than 3,000	3	0
2	More than 3,000 and less than 12,000	10	210
3	More than 12,000 and less than 25,000	20	1,410
4	More than 25,000 and less than 35,000	25	2,660
5	More than 35,000 and less than 55,000	30	4,410
6	More than 55,000 and less than 80,000	35	7,160
7	Over 80,000	45	15,160

### **[Example 4]**

A non-resident individual obtains CNY9,000 from remuneration for personal services, his IIT is calculated as:

$$IIT \text{ payable} = (9,000 - 9,000 \times 20\%) \times 10\% - 210 = \text{CNY}510$$

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