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Several Issues related to Individual Income Taxes for Expatriates in China

Expatriates on extended business trips to China

If you are sent by your organization to China and your salary is paid offshore (probably in your home country) and you spend more than 90 days in China in a calendar year, then you have to pay IIT in China based on the days you effectively spend in the country. This means that if you spend in China, let's say, 91 days within a calendar year, then you would have to pay taxes on all income sourced from China (meaning income related to your work performed in China).

Foreigners working for legal enterprises in China

Without going into too many complicated calculations and theories, if you hold positions such as the Chief Representative of a Representative Office or the General Manager of a Chinese Limited Company, Wholly Foreign Owned Enterprise or a Joint Venture anywhere in China, then you are subject to IIT from the first day you commence work in the country.

Interestingly, should you not actually visit China within a calendar year but are still acting as the Chief Representative of a Representative Office, then zero tax filings should still be made monthly to the local authorities.

According to the law you should declare the full salary for the position and pay IIT accordingly. In practice, however, it is common to see foreigners declaring an "arranged" fixed salary for their China position (with the rest being paid offshore) and pay taxes accordingly, lowering to a great extent their full tax liability. This practice is illegal so be careful should you decide to pursue this route. While this has been common practice in the past, it also puts the employer out of compliance - fines of several million RMB have been levied just recently to FIE's engaged in such practices in China - and the risk of being caught - with the issue now highlighted at audit - is increasing.

Foreigners holding concurrent posts both in China and elsewhere

Firstly, you should be arriving in China on a business visa and are subject to IIT based on the number of physical days you are in China. This is assessed upon the total salary you are claiming from your local employment position and from the parent company overseas the Chinese tax bureau may want to see proof of earnings from your parent (tax slip, payment voucher etc) to support your case. Your China employer should declare and pay taxes based on the number of days you spent in the PRC each month. The tax bureau will issue tax records showing this has been paid, this can be credited against the tax paid in your resident location (i.e.: you won't have to pay tax both in China and your resident location for the time spent in China).

IIT for global income of foreigner

Be aware that if you have stayed in China for more than 183 days each calendar year and after six consecutive years, you must pay IIT on your worldwide income without limitation of source. This means that shall you have income elsewhere related to property rentals or interests; these shall also be declared to the Chinese tax authorities. The taxes paid overseas can be deducted from the taxes payable to the Chinese tax authorities. It's easy to avoid so count those days and give yourself a month out of China any year of more than 183 days each calendar year.

Work Permits Registration Procedures

If you are based in China and working here, then you should apply for Work Permit and Residence Permit.

Please be aware that constant checks in residential areas are conducted by the local Public Security Bureau and one of the first things you should do when you arrive and rent an apartment in the country is to get registered with the local Pai Chu Suo (local police responsible for your area).

Before you obtain all the documents mentioned above, you should also go through a physical check at the appointed local hospital. It should not take you more than a couple of hours to get through the examination with the results normally being issued after 2 working days.

If your spouse and children also live in China, they would also have to register with the local authorities.

Tax Rates

The RMB5,000 per month of your earnings in China are tax free. That does not mean you can rush out and declare salaries of RMB5,000. The tax bureaus are wise to this and will demand to see concrete proof of your earnings elsewhere.

China's IIT rates are high compared to neighboring countries. The following table demonstrates comprehensive Income and tax rates, deductions for expenses etc.

Individual Income Tax Rate
(Applicable to Comprehensive Income)

Grade	Annual Taxable Income	Tax Rates (%)	Deductions for expenses	Others
1	No more than RMB36000	3	RMB60000/ year	Special deduction, special additional deduction etc.
2	Over RMB36000 to RMB144000	10		
3	Over RMB144000 to RMB300000	20		
4	Over RMB300000 to RMB420000	25		
5	Over RMB420000 to RMB660000	30		
6	Over RMB660000 to RMB960000	35		
7	Over RMB 960000	45		

There are some implicit or explicit benchmarks at tax bureaus on what a reasonable salary is in certain industries, and this could vary with your position, your education background and the country you come from. Local tax authorities have the power to increase your declared salary. Should this be manifestly low or inadequate to your position, they shall assume and obtain the proved confirmation that you are deliberately reducing the figure to escape from a higher IIT threshold. This can be enormously damaging for you and your employer who would be placed under far greater tax scrutiny in the future for potential tax evasion issues within the business.

Deductible Allowances

From January 1, 2019 to December 31, 2021, if you meet the relevant conditions, you can choose to enjoy the special additional deduction. You can choose to enjoy either the special additional deduction, or the relevant provisions of housing subsidies, language training fees, children's education fees and other tax-free preferential policies, but you cannot enjoy the two policies at the same time. Once selected, it cannot be changed within a tax year.

The following common income shall be temporarily exempted from individual income tax:

Housing subsidies, food subsidies, moving expenses and laundry expenses obtained by foreigners in the form of non-cash or reimbursement;

Overseas and domestic travel subsidies obtained by foreigners according to reasonable standards;

Fees for visiting relatives, language training and children's education obtained by foreigners;

Income from dividends and dividends obtained by foreigners from foreign-invested enterprises.

Enterprises are obligated to withhold employees' IIT when paying salaries to them; failing to do so will cause penalties. Meanwhile, the enterprises can get 2% of the IIT withheld from the tax bureau as commission. Pay attention to the calculation of the IIT if the companies are paying IIT for the employees, in this case the income must be grossed up for the purpose of calculating IIT.

Individual Income Tax calculations for standard salaries are fairly easy to assess, but get more intricate according to the complexity of the expatriate's salary package. It makes sense to take professional advice when structuring expatriate salary packages to ensure liabilities can be planned and catered for in the most tax-efficient manner.

Non-Compliance Penalties

No Government likes tax evasion and China is no exception to the rule. The penalties for late payments, non-payment and other transgressions can be severe and often up to five times the amount due, plus the original liability. In cases of blatant evasion, businesses can have their licenses withdrawn and assets seized. This is the one area, and it is best not to mess up with. If you have any doubts, please seek professional advice immediately, because fees spent on decent advice are far less than the amounts levied for fines and penalties!

If you wish to obtain more information or assistance, please visit the official website of Kaizen CPA Limited at www.kaizencpa.com or contact us through the following and talk to our professionals:

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