2019 (No. 01 issue)
January 2019

China IIT reform (taxation for non-domiciled individuals)

Contacts

China

Martin Ng
Managing Partner
martin.ng@wts.cn
+ 86 21 5047 8665 ext.202

Maggie Han
Senior Manager
Maggie.han@wts.cn
+ 86 21 5047 8665 ext.206

Elena Chen
Senior Consultant
elena.chen@wts.cn
+ 86 21 5047 8665 ext.230

In brief

» The new Individual Income Tax ("IIT") laws have substantially revised the taxation on non-domiciled individuals.

» The main amendments concern these areas:

- Definition on tax resident vs. non-tax resident
- Change in taxation on worldwide income
- Non-taxable benefits subject to options

Feedback

2019 (No. 01 issue)

January 2019

In Detail

Further to the new IIT Law (effective from 1 January 2019), the State Council has promulgated its implementation rules (Order No. 707), and the State Administration of Taxation (SAT) has issued some more rulings. The new changes will affect non-domiciled individuals in the following areas.

1. Definition on tax resident vs. non-tax resident

» The new IIT law has aligned the definition for tax residency with the tax treaties. Further, China domiciled or non-domiciled individuals having stayed in China for 183 days or more in a calendar year are now defined as Chinese tax residents.

» China IIT liabilities of tax residents and non-tax residenst under the new IIT laws are summarized below:

Tax residency	Duration in China	Income derived from China		Income derived from overseas		Tax calculation method
		Paid inside China	Paid outside China	Paid inside China	Paid outside China	
Non-tax resident	~ 90 days	Taxable	Exempt	Non-taxable	Non-taxable	Monthly basis
	90 days ~ 183 days	Taxable	Taxable	Non-taxable	Non-taxable	
Tax resident	Under 6 years (each year's accumulative physical presence in China is 183 days or above)	Taxable	Taxable	Taxable	Exempt	Annual basis
	Over 6 years (each year's accumulative presence in China is 183 days or above, without leaving China for more than 30 days in any single trip each year)	Taxable	Taxable	Taxable	Taxable	

2. Change in taxation on worldwide income

» For taxation on worldwide income, the five-year rule is replaced by the six-year rule (technically, it refers to a presence in China for 183 days or more in each of six consecutive years, without any single trip outside China for more than 30 consecutive days in any calendar year within the six years).

» For non-domiciled individuals having stayed in China for more than 6 consecutive years, their worldwide income is subject to China IIT, if they have stayed in China for 183 days or more in each calendar year from the seventh year onward.

» Case study: tax residency assessment for a foreign individual is shown below:

Year	Travel information	Tax residency	Counting of a six-year period	Taxability of foreign sourced income received from overseas
2019	Arriving in China on 1 November 2019	Non-tax resident	N/A	Not subject to China IIT
2020	Staying in China for a whole year	Tax resident	As 1st year	
2021	Travelling outside China from 4 December to 31 December	Tax resident	As 2nd year	
2022	Travelling outside China from 15 May to 30 June	Tax resident	Re-counting starts from the next year due to a single trip outside China for more than 30 days	
2023	Staying in China for the whole year	Tax resident	Re-counted as 1st year	

» To avoid taxation on worldwide income in China, non-domiciled individuals are advised to travel outside China for more than 30 days in a single trip in any calendar year of a six-year period.

3. Non-taxable benefits put under options

» Non-domiciled individuals who satisfy the tax resident criteria, during the period from 1 January 2019 to 31 December 2021, can select to enjoy either the current tax exemption policies for fringe benefits (option a) or the new deductions (option b). They cannot enjoy both at the same time. Once an option is selected, it cannot be changed in a calendar year. The two options are compared as below:

Current tax exempted benefits (Option a)	New deductions (Option b)
Housing rental (no limitation)	Housing rental (with limitation)
Children education fee (no limitation)	Children education (with limitation)
Language training fee (no limitation)	Continuing education (with limitation)
Home leave	Housing loan interest
Meal and laundry	Support for elderly
Relocation allowance	Serious illness medical treatment
Travel expenses	

» From 1 January 2022, some tax exempted benefits mentioned in option (a) will cease to be effective. Only non-domiciled individuals regarded as Chinese tax residents can enjoy the new deductions under option (b).

» Each deduction item under option (b) is capped, as opposed to unlimited deduction in option (a). As a consequence, foreign individuals' IIT cost is expected to rise then. Employers may need to re-consider and structure new salary package for foreign individuals due to the adverse impact.

2019 (No. 01 issue)

January 2019

WTS

China Contact

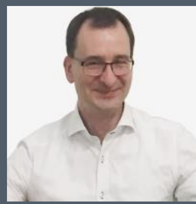
Martin Ng
Managing Partner
martin.ng@wts.cn
+ 86 21 5047 8665 ext.202

Maggie Han
Senior Manager
maggie.han@wts.cn
+ 86 21 5047 8665 ext.206

Elena Chen
Senior Consultant
elena.chen@wts.cn
+ 86 21 5047 8665 ext.230

Germany Contact

Ralf Dietzel
Partner
ralf.dietzel@wts.de
+49 (0) 89 28646 1745



Xiaolun Heijenga
Partner
xiaolun.heijenga@wts.de
+ 49-69-1338 456 320

WTS China Co., Ltd.
Unit 031,29F,Hang Seng Bank Tower ,No.1000 Lujiazui Ring Road,
Pudong New Area, Shanghai, 200120 PRC
T：+86 21 5047 8665
F：+86 21 3882 1211
www.wts.cn
info@wts.cn

WTS tax news on Wechat

Disclaimer