



Newsletter No. 100 (EN)

**Taxation of foreign-sourced salaries of
expats living in China**

June 2017

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I. Introduction

A question regularly raised by expats living in China refers to the taxation and declaration obligations of their foreign-sourced salary income in China.

The relevant salaries are typically paid and borne by a foreign (group) company. This is typically a situation where the expat has two or more functions and employment contracts, often one with a local Chinese entity and one with a regional entity (Hong Kong) or the foreign mother company.

This normally arises in situations where one employee has several employment contracts within the same company group, which is quite common for leading positions such as director, general manager, etc. For instance, the director of the local Chinese subsidiary has a contract with this Chinese entity, but has also an employment contract with the German mother company or a Hong Kong company for business development in Asia.

A differentiation needs to be made between the obligation to declare income and the actual taxation.

Generally, two different tax returns have to be made. A monthly tax return being

the basis for the monthly Individual Income Tax (IIT) payment. This return has to be filed with the tax office by the 7th day of the following month. Furthermore, an annual return has to be filed generally by 31 March of the following year.

II. Tax computation for non-domiciled employees

Expatriates, without a domicile in China and who have resided in China for less than 90 days in a year or less than 183 days where a double taxation agreement applies, are taxable under China IIT only with regard to their China-sourced income (“time apportionment”). Only that portion of the income is taxable in China which is received for the actual work performed in China and which is paid or borne by a Chinese employer.

However, in the computation of monthly IIT, both the income from within China as well as the portion from offshore needs to be taken into consideration.

According to *Guo Shui Fa [2004] No. 97* in connection with *Guo Shui Fa [1994] No. 148*, the computation of the IIT is as follows:

Individual Income Tax payable =

(amount of taxable income derived from wages and salaries earned in and outside China in the current month X applicable tax rate – quick calculation deduction)

X

(wages paid for working in China in the current month divided by total wages paid for working in and outside China in the current month)

X

(number of working days in China in the current month divided by number of days in the current month)

This formula is applicable for all non-Chinese, including senior management.

So generally, foreign income has to be included in the calculation for the determination of the taxable income and the IIT and is thus part of the IIT declaration with regards to the time apportionment, despite that no tax has to be paid on the foreign income.

III. Annual IIT Filing

An annual tax return has to be filed by foreign employees who

- a) receive a salary above RMB 120,000 (approx. EUR 15,000) and reside in China for a full year. The requirement of a full year residence is not fulfilled where a person spends more than 30 days in one trip outside of China or spends in total more than 90 days during a calendar year outside of China; or
- b) receives income from more than one employer; or
- c) receives other foreign-sourced income; or
- d) receives income for which there is no withholding agent.

In the case of a), b) and d), the filing deadline is 31 March of the following

year. In case of c), the filing deadline is 30 January of the following year.

This regulation is being applied slightly differently in various locations. It is therefore advisable to check with the tax office in charge and with local experts when to file and what to declare in the return.

The annual filing form has a separate column to declare non-China sourced income (see attachment).

IV. Declaration of non-China sourced Income according to the “Provisional Measures on the Personal Lodging of Individual Income Tax”

Also, non-China sourced income has to be declared in China for cases where tax has already been paid in another country. The taxpayer has to file a tax return with his tax office in charge within 30 days after the end of the foreign tax year. This applies in cases where the tax becomes due upon the end of the foreign tax year. If the tax is due in the foreign country at the time of receiving the income, then the tax filing is due on 30 January of the year following the receipt of the income. This also applies in case the income is tax exempt in the foreign country.

V. Summary

Non-China sourced income has to be considered in various circumstances in the Chinese tax declarations. This is similar to international standards. Such information is increasingly being used in information exchange with tax authorities in other countries. It is therefore highly important to prepare such tax declarations in accordance with all regulations and compliance requirements.

We hope the information provided herein was helpful for you and your business.

If you have any further questions, please do not hesitate to contact us at

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ATTACHMENT

个人所得税年度申报表

INDIVIDUAL INCOME TAX ANNUAL RETURN 纳税月份:

自 年 月 日至 年 月 日 填表日期: 年 月 日
 Taxable month: From _date_ month __year Date of filling __date__ month __year
 to _date_ month __year 金额单位:
 人民币元 Monetary unit: RMB Yuan

纳税人编码:
Tax payer's file number:

纳税人姓名 Tax payer's name	国籍 Nationality		抵华日期 Date arrived in China									
在中国境内住址 Address in China	省、市、县、街道及号数 (包括公寓号码) Street name and number (including number of apartment.) _____ 公寓 Apartment _____ 街道 Street _____ 县/市 County/City _____ 省 Province											
在中国境内通讯地址 (如非上述住址) Mailing address in China (if not the		邮编 Post code	电话 Tel. number									
职业 Profession	服务单位 Employer	服务地点 Working location										
中国境内所得已纳税额 Amount of income tax paid in China			境外所得应纳税额 Tax on income from sources outside China									
所得项目 Categories of income	所得期间 Income period	应纳税所得额 Taxable income	已纳所得税额 Income tax paid	自缴或扣缴 self-reporting or withholding	所得项目 Categories of income	收入额 Receipts	减费用额 Deductions	应纳税所得额 Taxable income	税率 Tax rate	速算扣除数 Quick calculation de-	应纳税所得额 Income tax	境外已缴税额 Foreign tax paid