<u>INDIVIDUAL INCOME TAX FOR EXPATRIATES WORKING IN CHINA</u>

Because of increasing economic ties and foreign direct investments in Mainland China, more expatriates are working in China these days. This article is to outline an overall view on the key aspects of taxation for expatriates working in China.

TAXABLE INDIVIDUALS

Under PRC individual income tax laws, taxpayers are distinguished into two categories: PRC-domiciled and Non-PRC domiciled individuals. Expatriates working in Mainland China could fall under either category. According to the principle laid down by the PRC Individual Income Tax (IIT) Law, PRC-domiciled individuals are charged tax on income sourced from China and offshore, but non-PRC domiciled individuals are charged tax on income sourced from China only. PRC-domiciled individuals are defined as Chinese citizens, persons habitually reside in China, or persons residing in China for more than one full year residence. Non-PRC domiciled individuals are defined as persons not habitually reside in China or persons residing in China for less than one full year residence.

The test for one full year residence is that a person is qualified to reside in China for 365 days in a calendar year, temporary absences are not deducted. Temporary absence from China is defined as not more than 30 days per trip, or 90 days in aggregate multiple trips in a calendar year. In other words, if an expatriate is absent from China for more than 30 days per trip, or 90 days in multiple trips in a calendar year, he is not regarded as one full year residence.

In general, the scope of tax on services rendered by expatriates is dependent on the length of residency in China. Non-PRC domiciled individuals (less than one full year residence) are subjected to IIT on income derived from services rendered in China only. In order to arrive at the income deemed to be derived in China, the total income paid in or outside China for the month will be taken into account for apportionment. However, a Non-PRC domiciled individual might apply for tax exemption if he or she stays in China for not more than 90 days (183 days for specific nationalities) for a calendar year and provided that such income was not paid or borne by a China establishment.

PRC domiciled individuals (more than one full year residence) are subjected to IIT on income derived from services rendered both in China and outside China. The total income paid in or outside China for the month is apportioned for arriving at the taxable income for services rendered. PRC domiciled individuals who stay for more than 5 full year residence would be subject to world wide income in the sixth year. The chain of five full year residence can be broken down by restricting the residence in the sixth year with less than one full year residence. If the residence in the sixth year is less than one full year, the overseas income will not be taxable in the sixth year.

For expatriates representing or holding out as senior officers for a China establishment, whose income paid or borne by China establishment is wholly taxable irrespective of where the services are rendered.
The Charging of IIT on expatriate working in China (apart from those holding senior officers position of a China establishment) can be summarised as follows:

Length of residency	Services rendered in China	Services rendered in China	Services rendered outside China	Services rendered outside China
Payment	Income paid / borne by China establishment	Income paid / borne by overseas entity	Income paid / borne by China establishment	Income paid / borne by overseas entity
less than 90 or 183 days	Taxable	Non-taxable	Non-taxable	Non-taxable
more than 90 or 183 days, less than 1 full year test	Taxable	Taxable	Non-taxable	Non-taxable
more than 1 full year & less than 5 full year	Taxable	Taxable	Taxable	Non-taxable
more than 5 full year	Taxable	Taxable	Taxable	Taxable

TAXABLE INCOME AND TAX RATES
Taxable incomes from employment comprise salaries and wages, housing allowance (in excess of statutory limit), bonuses, tax reimbursements, stock option, severance payment (in excess of statutory limit), and so on. Standard monthly tax deduction is

RMB 4,800 per month for an expatriate, and RMB 1,600 per month for a local citizen. Taxable income is arrived at after deduction of monthly standard deduction.
Tax rates are progressive ranging from 5% to 45% on different respective hierarchy of income levels from RMB500 to above RMB100,000 per month.

Class	Taxable income (RMB)	Tax rate	Quick deduction (RMB)
1	Not exceeding 500	5%	0
2	Between 500 and 2000	10%	25
3	Between 2,000 and 5,000	15%	125
4	Between 5,000 and 20,000	20%	375
5	Between 20,000 and 40,000	25%	1375
6	Between 40,000 and 60,000	30%	3375
7	Between 60,000 and 80,000	35%	6375
8	Between 80,000 and 100,000	40%	10375
9	Exceeding 100,000	45%	15375

Example:
Tax payable for RMB 30,000 monthly flat salary payable to expatriate
= RMB (30,000 - 4,800) X 25% - 1,375
= RMB 4,925

FILING OF TAX RETURNS AND TAX PAYMENT

Generally speaking, tax returns are filed by the employers (China establishment) on monthly basis, individual income tax is withheld by employers for direct payment to the tax authorities concurrently. But the State of Administration has recently issued a circular no. 162 Guo Shui Fa [2006] on 2006 November 6 to request filing of tax returns by individuals themselves. As stipulated by the circular the following group of individuals (Group a to e) are required to report their income directly to tax authorities for clearance:

a. annual total income more than RMB120,000
b. income derived from two sources of employment or more
c. income derived from overseas entity
d. without withholding agent (China establishment)
e. others as specified by the State of Admin

These groups are required to file self reporting returns for clearance irrespective of tax due already paid. However, non-PRC domiciled expatriates with less than one full year residence falling under group (a) are exempted from filing self reporting tax returns.

DUE DATES

The due date for filing yearly self declaration individual tax return is by 31 March in the following year.