DEZAN SHIRA & ASSOCIATES
Your Partner for Growth in Asia

China's New IIT Regime

19 September, 2018

Paul Dwyer
Director, Head of International Tax and Transfer Pricing

James Zheng
Senior Tax Specialist, PRC Tax

1. Welcome

Welcome & Disclaimer

- On behalf of Dezan Shira & Associates, we are pleased to provide this presentation on China's new individual income tax (IIT) regime.

- Please note however that the contents of this document are general in nature and not to be relied upon. Dezan Shira & Associates accepts no legal responsibility for the accuracy of the contents of this presentation. We recommend you consult your professional advisor if you have any questions.

2. Introduction to new IIT law

Background

- A draft law containing broad changes to the IIT system was submitted by the Standing Committee of the National People's Congress for deliberation on June 19, 2018.

- The draft amendments were then released for public consultation on June 29, 2018. The Public Consultation program closed on July 28, 2018. Thousands of comments were received.

- On 31 August 2018, the amendments to the new IIT law were passed by the Standing Committee during the fifth plenary session.

- The recent changes are profound. Although the IIT law has been amended several times since being enacted in 1980, these latest amendments are the most significant, making changes in several areas.

Introduction to key changes and policy rationale

- **The new IIT law impacts every taxpayer.**

- **The news laws include the following:**

  - **Changes to the definition of tax resident**
  - **Consolidation of different categories of income**
  - **Introduction or more itemized deductions**
  - **General anti avoidance rules (GAAR)**

- **The changes aim to:**

  - **Promote social fairness and justice by alleviating the tax burden**
  - **Increase personal income**
  - **Boost consumption for lower and middle income classes**
  - **Expansion of the taxation scope of foreign individuals in China, and the associated costs to their onshore and offshore employers**
  - **Increases scrutiny over High Net Worth Individuals' global investment strategy and the relevant tax compliance costs**

3. Key changes

3.1 Consolidation of income categories

- **The new IIT law groups 4 types of labour income into the one category of ‘comprehensive income’:**
  - **Salaries and wages**
  - **Income from provision of independent personal services**
  - **Income from author’s remuneration**
  - **Income from royalties, into the category of ‘comprehensive Income**

- **One set of progressive tax rates will apply for determining the IIT in respect to comprehensive income.**

- **Income from operations, interest income, dividends, income from property leasing, income from transfer of assets, and incidental income will be taxed separately at the rate prescribed for that category of income.**

3.2 Deductions

- **Specific additional deductions have been introduced.**

- **Further, an increase to the standard basic deduction has also been made.**

3.2 Specific deductions

Specific

- The new IIT law has introduced specific additional deductible items including:

  - Children’s education and continuing education expenses
  - Medical expenses for critical illnesses
  - Housing mortgage interest
  - Housing rent
  - Expenditure on supporting the elderly

- The deductible amounts for these items are still to be determined by the relevant departments of the State Council.

3.2 Standard deduction

Standard

- **The new IIT law raises the personal deduction amount for Comprehensive Income to RMB60,000 per year (i.e. RMB5,000 per month) for residents and RMB5,000 per month/time for non-residents.**

- **Previously, the standard deduction for expatriates was RMB4,800 (3500 + 1300) 4800) and RMB3,500 for PRC nationals per month.**

3.3 New income tax brackets – Comprehensive income – Per month

Current IIT Law

Monthly taxable income	Tax rate	Quick calculation deduction (QCD)
Not exceeding RMB1,500	3%	RMB0
RMB1,501 – RMB4,500	10%	RMB105
RMB4,501 – RMB9,000	20%	RMB555
RMB9,001– RMB35,000	25%	RMB1,005
RMB35,001 – RMB55,000	30%	RMB2,755
RMB55,001 – RMB80,000	35%	RMB5,505
Exceeding RMB80,000	45%	RMB13,505

New IIT Law

Monthly taxable income	Tax rate	Quick calculation deduction (QCD)
Not exceeding RMB3,000	3%	RMB0
RMB3,001 – RMB12,000	10%	RMB210
RMB12,001 – RMB25,000	20%	RMB1,410
RMB25,001– RMB35,000	25%	RMB2,660
RMB35,001 – RMB55,000	30%	RMB4,410
RMB55,001 – RMB80,000	35%	RMB7,160
Exceeding RMB80,000	45%	RMB15,160

- **The following tax brackets have been widened: 3%, 10% and 20%.**
- **The 25% tax bracket has been narrowed.**
- **The 30%, 35%, and 45% tax brackets have been maintained/kept the same.**

3.4 Taxation of non-residents

Old law

- **Foreign individuals who reside in China for less than one year will be taxed only on their China-source income.**
- **Foreign individuals who reside in China for more than one year but not more than five consecutive 'full' years will be subject to tax on both their China-source income and their foreign-source income. However, as a concession, foreign-source income is taxed only to the extent of income paid and/or borne by a China entity.**
- **Foreign individuals who reside in China for more than five consecutive 'full' years will be subject to IIT on their worldwide income from the sixth consecutive 'full' year onward.**

New law

- **An individual who is domiciled in China, or a non-domicile of China who resides in China for 183 days or more, is considered a resident and is liable to PRC IIT on their global incomes.**
- **A non-domicile of China who does not reside in China or who resides in China for less than 183 days is considered a non-resident and is liable to PRC IIT on their China sourced income only.**

3.5 General Anti Avoidance Rules (GAAR)

The new IIT law introduces anti-avoidance rules which allow the Chinese tax authorities to initiate tax adjustments and collect underpaid tax with overdue interest in the following situations:

- **When transactions between an individual and his/her related parties do not comply with the arm's length principle.**
- **When a resident individual controls a company established in a jurisdiction where the effective tax rate is significantly low and the company does not distribute profits or distributes less profits than it should without a reasonable business justification.**
- **When an individual obtains improper tax benefits through an arrangement that lacks a reasonable business/commercial purpose.**

3.6 Compliance and administration

Resident individuals

- **Comprehensive income (i.e. salary and wages) derived by resident individuals will be assessed on an annual basis.**
- **The IIT for resident individuals will be collected through advance tax payments withheld and remitted by the payer (if any) on a monthly or transactional basis, with a final settlement made by the taxpayer at the time the annual return is filed. The annual return must be filed between 1 March and 30 June of the year following the calendar year/year of assessment.**

Non-residents

- **Comprehensive income (i.e. salary and wages) derived by nonresidents will be assessed on monthly or transactional basis.**
- **For nonresidents, an income payer can act as a withholding agent to withhold and remit IIT on a monthly basis on behalf of the taxpayer by the 15th of the following month, and an annual return would normally not be required.**

4. Next steps

4.1 Two step implementation

- **The new IIT law will fully take effect from 1 January 2019.**

- **Prior to full implementation, the updated monthly personal deduction of RMB 5,000 and the adjusted tax rate bands which apply to the category of Comprehensive Income will be applied to salary and wages earned from 1 October 2018.**

4.2 Further guidance and DIR

- **The new amendments released are broad in nature and not detailed/specific.**

- **Further guidance and detailed implementation rules (DIRs) are expected by November. These will be extremely important for a number of reasons, namely, they will hopefully outline and provide guidance on how the local tax bureaus should apply the new laws under certain scenario's.**

- **Will the 5 year rule continue? Will it be transitioned out?**

- **Will expats still be eligible to receive non-taxable benefits?**

5. DSA's observations

5. DSA's observations

Deductions

- **The new law contains various measures to reduce the overall tax burden on individual taxpayers. Taxpayers in the middle to low income groups will benefit most.**

Taxation on non-residents

- **The news laws are set to have a substantial impact on foreigners living in China. Under the new tax residents test, more foreigners will be regarded to be tax residents of China. It is unclear whether the five year test will be repealed.**
- **The removal of the RMB1300 additional standard deduction applicable to foreigners also signals the Chinese governments intention to treat PRC nationals and foreigners on a more equal playing field.**
- **It is also unclear whether the various non taxable benefits (meal and laundry, housing etc.) that foreigners currently benefit from will be repealed.**

5. DSA's observations

Compliance

- **The new laws provide for a taxation system which includes both monthly withholding of salary and wages as well as an annual reconciliation.**
- **The new laws confirm the requirement of withholding agents to withhold IIT per month/per payment.**
- **However, withholding agents should not refuse to deduct any specific allowable deductions being claimed by taxpayers on a monthly basis, provided the relevant information is provided by the employee. The claiming of these deductions can be done monthly and the employee doesn't have to wait until he end of the year. This may increase the tax withholding agents responsibility and the complexity of the work involved, especially where a large number of employees are hired.**

GAAR

- **Individuals with cross border arrangements and overseas assets should consider reviewing their overall tax compliance status and put in place measures to mitigate any potential risks.**

6. How can DSA help you

6. How DSA can help you

- Tax advice for individuals and companies.
- Policy updates.
- Implementation guidance.

DSA Service Suite

Pre-Investment and Entry Strategy Advisory

Accounting, Payroll, and Treasury

Corporate and Tax Structuring

Tax and Compliance

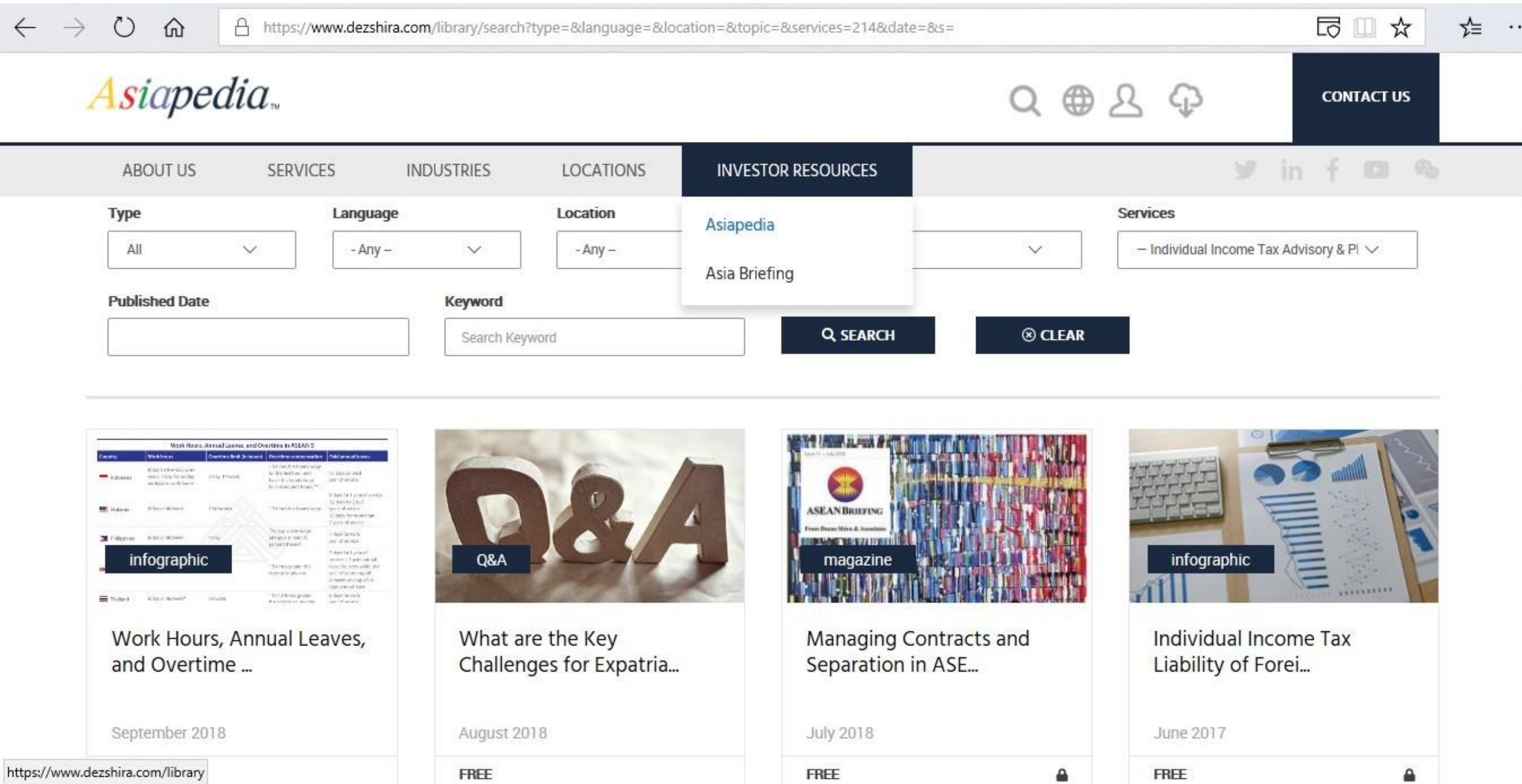
Cross-border Transactional Support

Employment law and HR

Audit Financial Review, Due Diligence

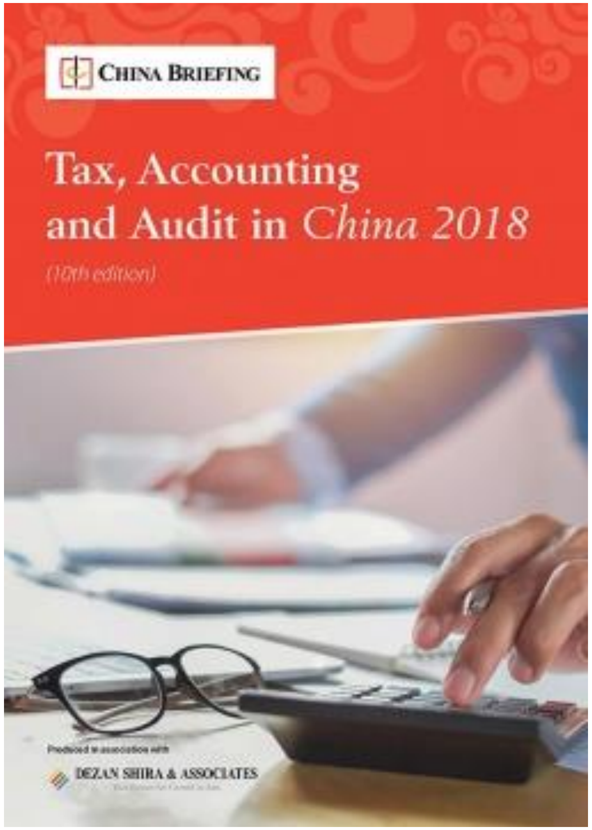
ERP and Financial System Advisory

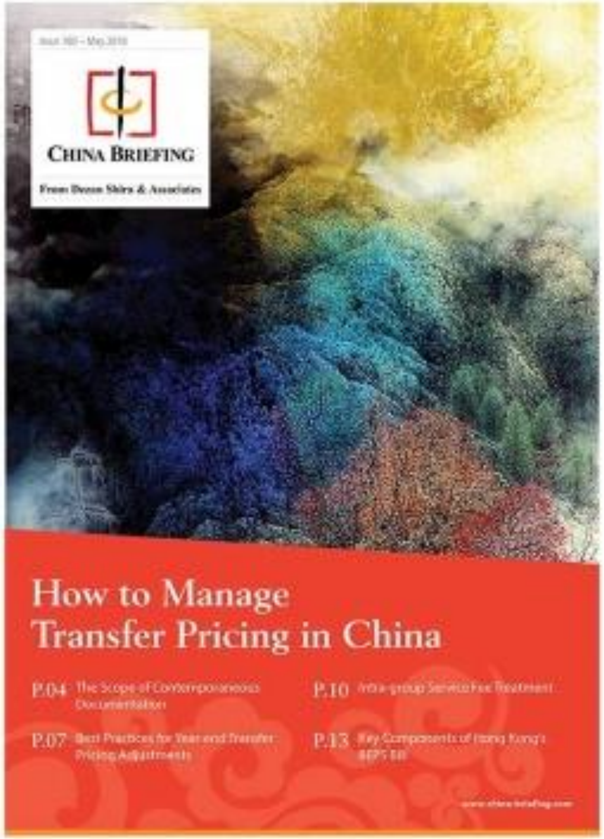
AsiaPedia

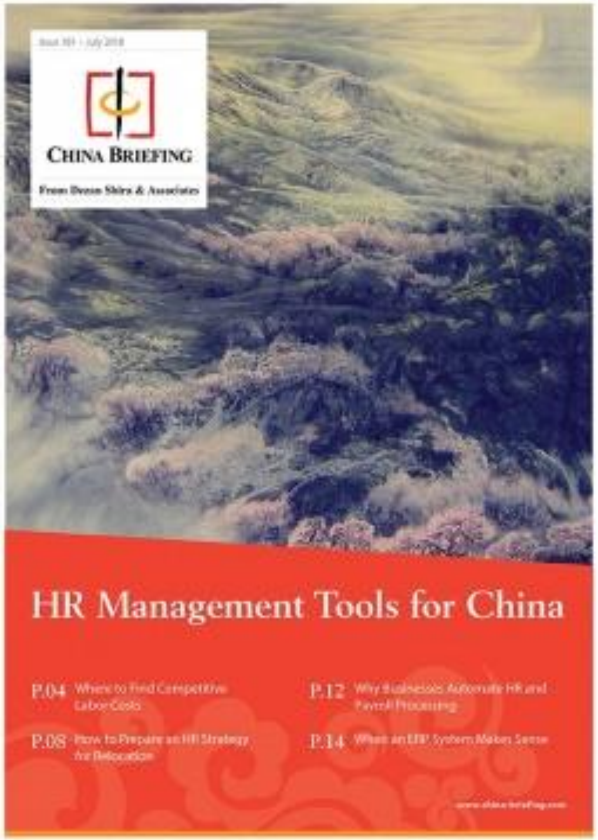


To learn more knowledge on doing business in Asia, Please visit ***AsiaPedia***:
https://www.dezshira.com/library

Asia Briefing HR Publications







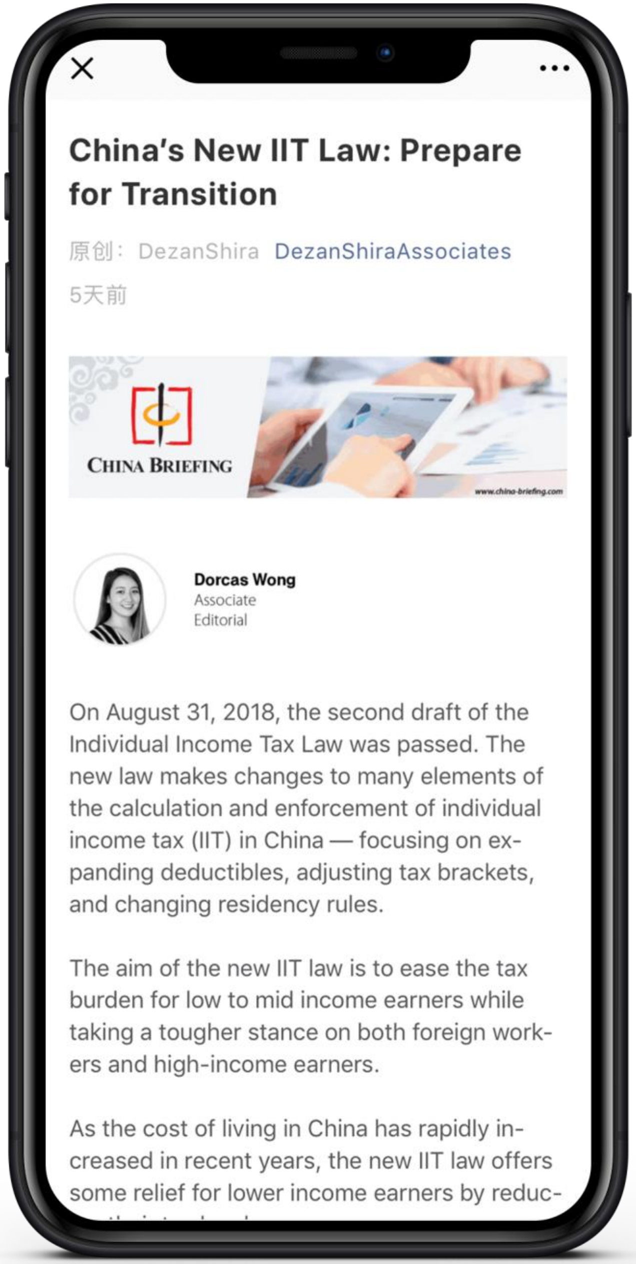
For more business publications, Please visit *Asia Briefing Bookstore*:
http://www.asiabriefing.com/store/

DEZAN SHIRA & ASSOCIATES
Your Partner for Growth in Asia

FOLLOW US

Scan the QR code to discover
a collection of resources
based on our on-the-ground experience.

www.dezshira.com



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia

- Dezan Shira & Associates Offices
- Dezan Shira Asian Alliance Members

Global Offices

CHINA

Beijing
beijing@dezshira.com

Hangzhou
hangzhou@dezshira.com

Shenzhen
shenzhen@dezshira.com

Dalian
dalian@dezshira.com

Ningbo
ningbo@dezshira.com

Suzhou
suzhou@dezshira.com

Dongguan
dongguan@dezshira.com

Qingdao
qingdao@dezshira.com

Tianjin
tianjin@dezshira.com

Guangzhou
guangzhou@dezshira.com

Shanghai
shanghai@dezshira.com

Zhongshan
zhongshan@dezshira.com

HONG KONG

hongkong@dezshira.com

INDONESIA

indonesia@dezshira.com

SINGAPORE

singapore@dezshira.com

INDIA

Delhi
delhi@dezshira.com

Mumbai
mumbai@dezshira.com

VIETNAM

Hanoi
hanoi@dezshira.com

Ho Chi Minh City
hcmc@dezshira.com

DEZAN SHIRA ASIAN ALLIANCE MEMBERS

Malaysia
malaysia@dezshira.com

The Philippines
philippines@dezshira.com

Thailand
thailand@dezshira.com

DEZAN SHIRA LIAISON OFFICES

Germany
germandesk@dezshira.com

Italy
italiandesk@dezshira.com

United States
usa@dezshira.com

For more information, please visit **www.dezshira.com**

DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia

Paul Dwyer

Director, International Tax and Transfer Pricing

paul.dwyer@dezshira.com

James Zheng

Senior Tax Specialist, PRC Tax

james.zheng@dezshira.com

Scan this QR code

Visit our mobile page and
get the latest updates investors
news and resources with us