DEZAN SHIRA & ASSOCIATES
Your Partner for Growth in Asia

"Optimize Your Tax Strategies under the New IIT Law" – WeChat Group

- we will share our presentation slides in this group

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Optimize Your Tax Strategies under the New IIT Law

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Agenda:

Section 1: Welcome

Section 2: Key Changes of PRC Individual Income Tax ("IIT") for Foreigners

Section 3: How to Define Tax Liability and What are the Filing procedures

Section 4: Preferential IIT Policy

Section 5: Dispatching Foreign Employees to China

Section 6: Suggested Actions for the Company to Take

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Section 1:

Welcome

Welcome

- On behalf of Dezan Shira & Associates, as well as the European Chamber of Commerce in China, we are pleased to welcome all participants to this presentation to *Optimize Your Tax Strategies under the New IIT Law*.

- Please refer to the next slide for an overview of the key topics which will be covered in this evenings presentation.

Section 2:

Key Changes of PRC Individual Income Tax (“IIT”) for Foreigners

New Criteria for China Tax Residency Status

New Definition for Tax Residence

Resident taxpayer (Old)	Resident Taxpayer (New)
• China-domiciled individuals; or • Non-China-domiciled individuals who reside in China and he/she does **NOT** have: ➢ A single trip outside China for a period of more than 30 days; or ➢ Multiple trips outside China for a total of more than 90 days	• China-domiciled individuals; or • Non-China-domiciled individuals who stay in China for **183 days or more** in a calendar year;

Tax on global income

New Definition for Non-Resident Taxpayer

Non-Resident taxpayer (Old)	Non-Resident Taxpayer (New)
• Non-China-domiciled individuals who do NOT reside in China; or • Non-China-domiciled individuals who reside in China and he/she does have: ➢ A single trip outside China for a period of more than 30 days; or ➢ Multiple trips outside China for a total of more than 90 days	• Non-China-domiciled individuals who do NOT reside in China; or • Non-China-domiciled individuals who stay in China for **less than 183 days** in a calendar year;

Tax on China-sourced income

A Tax Resident V.S. A Non-Tax Resident

	Definition	Tax Scope
Resident	• China-domiciled individuals • Non-China-domiciled who stay in China for 183 days or more in a calendar year	Worldwide Income
Non-Resident	• Non-China-domiciled individuals who stay in China for less than 183 days in a calendar year	China-Source Income Only

The concept of domicile under People's Republic of China:

"*A domiciled individual is defined as one who, by reason of the individual's permanent registered address (e.g. Huji), family, and/or economic interests, habitually resides in China. A PRC national with a Chinese passport or a domicile registration is likely to be deemed as domiciled in China–whether resident in China or not–and therefore attract liability for individual income tax on worldwide income.* " – Wikipedia

Compliance

- **Tax Resident individuals**

  - Comprehensive income 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-Tax residents**

  - Comprehensive income derived by nonresidents will be assessed on monthly or transactional basis.

  - For non-residents, 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 annual return would normally not be required.

Tax Residency

- Foreign individuals who reside in China for less than 183 days will be taxed only on their China-source income.

- Foreign individuals who reside in China for 183 days or more in a tax year but not more than six consecutive 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 or individual.

- Foreign individuals who reside in China for 183 days or more per year for over six consecutive years will be subject to IIT on their worldwide income from the seventh consecutive year onward if foreign individuals reside in China for 183 days or more during the year.

- Foreign individuals who travel to China and derive income from an overseas employer with no permanent establishment in China will be tax exempt if they do not physically stay in China cumulatively for more than 90 days in a calendar year. If the individual is a tax resident of a country/region that has concluded a tax treaty/arrangement with China, the 90-day threshold is extended to 183 days during a calendar year or any 12 consecutive months, depending on the applicable tax treaty/arrangement.

New Six Year Rule

Compliance

- Under the old policy, if a foreigner stayed in China for five consecutive years, his or her worldwide income would be taxed in China. Now, the new IIT Law extends the five years to six, allowing foreign workers in China more time to avoid paying taxes on income sourced overseas.

- In relation to the six-year rule, if there is a single departure outside of mainland China of more than 30 consecutive days at any point during the six years, the clock to count tax residency will be reset.

- The management of tax filing will be streamlined so that taxpayers no longer need to get pre-approval from local tax authorities to enjoy tax benefits. Now, taxpayers can enjoy tax benefits at the point of filing.

New Six-Year Rule

- Since the start of 2019, a foreigner is deemed to have spent a year in China if he or she stays in the country for at least 183 days within a given calendar year.

- Those who stay in China for less than 24 hours within a single day will not be counted as having a day of residence.

- The number of years of residence to calculate the six-year rule will be determined beginning from January 1, 2019. The number of years spent in China before 2019 will not be included in the calculation.

Taxpayer Identification Number

New taxpayer identification number (TIN)

- Each tax payer will have a unique personal TIN(纳税人识别号）for individual tax issues.
  - For Chinese, TIN is the China ID card number;
  - Tax authority will assign a TIN to taxpayer who does not have a China ID card

- Tax payer is required to provide their identity document to the tax authorities or the withholding agent, when he/she handles a tax-related matter for the first time.

Individuals	Identity Document
Chinese citizen who holds resident Identity Card	PRC Resident Identity Card
Chinese compatriot and does not hold a resident identity card	China Passport and Chinese Compatriot Identity Proof
Hong Kong or Macau resident	Mainland Travel Permit for Hong Kong and Macau Residents, or PRC Residence Permit for Hong Kong and Macau Residents
Taiwan resident	Mainland Travel Permit for Taiwan Residents, or PRC Residence Permit for Taiwan Residents
Foreigners	• Permanent Resident Card and foreign passport; or • PRC Work Permit and foreign passport; or • Foreign passport

Section 3:

How to Define Tax Liability and What are the Filing procedures

Source of Income

Categories of Taxable Income

Categories	Scope	Taxable Income	Applicable Tax Rate
Comprehensive Income *(Consolidated)*	Wages and Salaries	Full amount (note 1)	3% - 45% progressive rates
	Remuneration for personal Services	Full amount minus 20% expense	
	Royalties	Full amount minus 20% expense	
	Authors' remuneration	(Full amount minus 20% expense)*70%	
Income from Operations		Full amount	5% - 45% progressive rates (the min. threshold applicable to 35% tax rate increased to RMB 500,000)
Interest, Dividends		Full amount	20%
Lease of Assets		Full amount	20%
Transfer of Assets		Full amount	20%
Contingent income		Full amount	20%

Note:

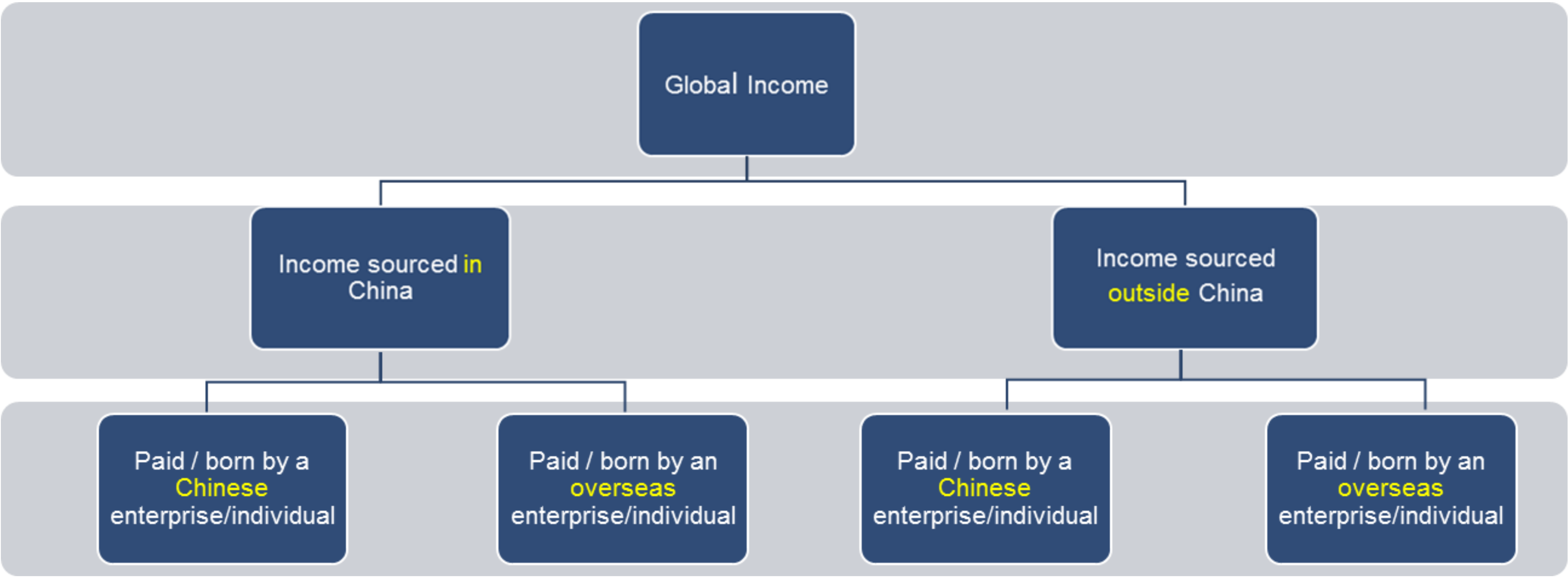
1. *For non-domiciled individual who holds positions concurrently in domestic and overseas organizations or only holds position in an overseas organization, the taxable salaries and wages shall be determined based on the individuals PRC workdays.*

Defining Source of Income, from overseas or China?

- Income derived from labour services provided in China due to employment, performance of contract, etc
- Income derived from lease of property for use in China
- Income derived from licensing of proprietary rights for use in China
- Income derived from transfer of properties such as immovable property located in China or transfer of other properties in China
- Authors' remuneration paid or born by enterprises or other organization in China
- Income from interest, dividends and bonuses derived from entities or resident individuals in China

Tax Liability for Salaries and Wages

Tax Liability for Salaries and Wages

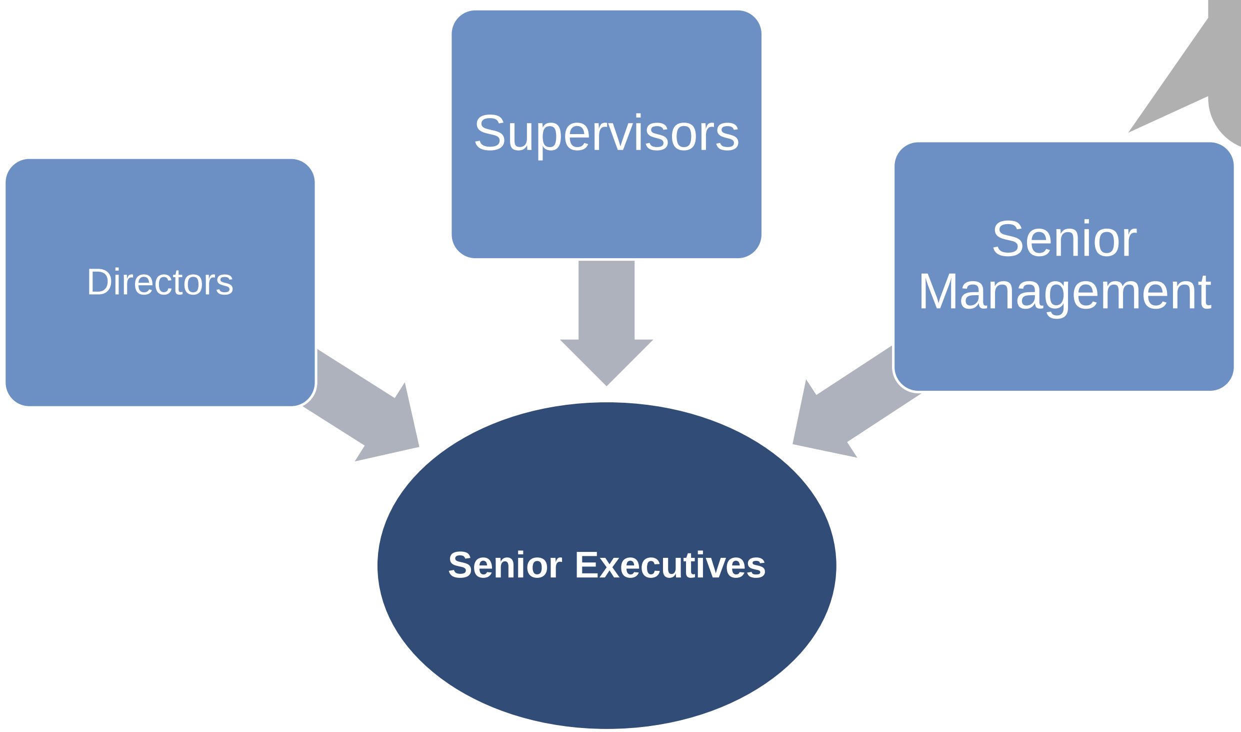


Basic rule:

Whether or not income is sourced inside or outside of China is determined by where an individual has actually worked. Income from wages and salaries derived by an individual, which is attributed to working period in China shall be income from wages and salaries sourced within China.

Tax Liability for Salaries and Wages

- General manager
- deputy general manager
- department heads
- chief officers, and
- other similar company management positions



Exceptional rule for Senior Executives:

For an individual who holds senior executive position in a domestic resident enterprise, regardless if he/she performs job duties in China, the director's fee, supervisor's fee, wages and salaries or other similar remuneration (including multiple-month bonus and equity incentive) paid or borne by the domestic resident enterprise shall be deemed income sourced in China.

Tax Liability for Salaries and Wages (Non-Senior Executives, No DTA applies)

Period in China	China Sourced Income		Foreign sourced Income	
	Paid or borne by Chinese entities/individual	Paid or borne by foreign entities/individual	Paid or borne by Chinese entities/individual	Paid or borne by foreign entities/individual
no more than 90 days	pay	Exempted	Not taxed	Not taxed
more than 90 days but less than 183 days	pay	pay	Not taxed	Not taxed
183 days or more, but no more than 6 years	pay	pay	pay	Exempted
183 days or more in current tax year and more than 6 years (note 2)	pay	pay	pay	pay
China-domiciled individuals	pay	pay	pay	pay

NOTE:

1. *This form is applicable for individuals who do not hold senior executive positions, and Double Taxation Agreement is not taken into consideration.*

2. *Meeting both criteria below is considered as 6 years:*

   - *Staying in China for 183 days or more in each year in six successive years; and*

   - *Not leaving China for more than 30 days for a single trip in any year of this 6 years.*

Tax Liability for Salaries and Wages (Non-Senior Executives, DTA applies)

Period in China	China Sourced Income		Foreign sourced Income	
	Paid or borne by Chinese entities/individual	Paid or borne by foreign entities/individual	Paid or borne by Chinese entities/individual	Paid or borne by foreign entities/individual
No more than 183 days	pay	Exempted	Not taxed	Not taxed
183 days or more, but no more than 6 years	pay	pay	pay	Exempted
183 days or more in current tax year and more than 6 years (note 3)	pay	pay	pay	pay
China-domiciled individuals	pay	pay	pay	pay

NOTE:

1. *This form is applicable for individuals who do not hold senior executive positions;*
2. *Double Taxation Agreement applies in this form.*
3. *Meeting both criteria below is considered as 6 years:*
    - *Staying in China for 183 days or more in each year in six successive years; and*
    - *Not leaving China for more than 30 days for a single trip in any year of this 6 years.*

Tax Liability for Salaries and Wages (Senior Executives, No DTA applied)

Period in China	China Sourced Income		Foreign sourced Income	
	Paid or borne by Chinese entities/individual	Paid or borne by foreign entities/individual	Paid or borne by Chinese entities/individual	Paid or borne by foreign entities/individual
no more than 90 days	pay	Exempted	Pay	Not taxed
more than 90 days but less than 183 days	pay	pay	Pay	Not taxed
183 days or more, but no more than 6 years	pay	pay	pay	Exempted
183 days or more in current tax year and more than 6 years (note 2)	pay	pay	pay	pay
China-domiciled individuals	pay	pay	pay	pay

NOTE:

1. *This form is applicable for individuals who do not hold senior executive positions, and Double Taxation Agreement is not taken into consideration.*
2. *Meeting both criteria below is considered as 6 years:*
   - *Staying in China for 183 days or more in each year in six successive years; and*
   - *Not leaving China for more than 30 days for a single trip in any year of this 6 years.*

Tax Calculations for Comprehensive Income

Determining Taxable Income for Salaries and Wages: Non-PRC Domiciled Individuals

PRC Workdays

- Workdays can broadly be regarded to be calendar days which are spent by the individual in the PRC for business purposes.
- In the case of an individual who holds positions concurrently in domestic and overseas organizations or only holds position in an overseas organization, a stay of less than 24 hours in the PRC is counted as a half workday for the purpose of IIT computation.
- Workdays in the PRC include days spent for business, public holidays, personal leave and training received in China and overseas during the domestic working period.

Determining Taxable Income for Salaries and Wages

For non-domiciled individual who holds positions concurrently in domestic and overseas organizations or only holds position in an overseas organization, the taxable income of domestic-sourced and overseas-sourced wages and salaries shall be computed according to the ratios of the number of domestic and overseas workdays respectively to the number of calendar days in the current period.

Determining Taxable Income for Salaries and Wages: Non-PRC Domiciled Individuals

Non-Senior Executive whose presence in China does not exceed 90 days

- *Monthly taxable income = Total monthly wages and salaries paid from PRC and abroad x (wages and salaries paid/born by PRC / Total wages and salaries paid by PRC and abroad) x (Workdays in the PRC during the month / Total number of calendar days in the month)*

Non-Senior Executive whose presence in China exceeds 90 days but less than 183 days

- *Monthly taxable income = Total wages and salaries paid from PRC and abroad x (Workdays in PRC during the month / Total number of calendar days in a month)*

Senior Executive whose presence in China does not exceed 90 days

- *Monthly taxable income = Income paid or borne by PRC*

Senior Executive whose presence in China exceeds 90 days but less than 183 days / Senior or Non-Senior Executive whose presence in PRC exceeds 183 days but less than 6 consecutive years

- *Monthly taxable income = Total wages and salaries paid from PRC and abroad x (1 – (Wages and salaries paid abroad / Total wages and salaries paid by PRC and abroad) x (Workdays outside of PRC during the month / Total number of calendar days in the month)*

Note: DTA is not taken into consideration.

Tax Calculations for Salaries and Wages (Non-Resident Taxpayer)

Formula:

***IIT for* salaries and wages per month**

= *(Monthly taxable income* (note) - Standard deduction (RMB 5,000 per month)) *x applicable rate -*
- applicable quick deduction

Tax Bracket	Monthly Taxable Income (RMB)	Withholding Tax Rate(%)	Monthly Quick Deduction (RMB)
1	≤ 3,000	3	0
2	3,000 to 12,000	10	210
3	12,000 to 25,000	20	1,410
4	25,000 to 35,000	25	2,660
5	35,000 to 55,000	30	4,410
6	55,000 to 800,000	35	7,160
7	> 80,000	45	15,160

Note:

1. *For non-domiciled individual who holds positions concurrently in domestic and overseas organizations or only holds position in an overseas organization, the taxable income for salaries and wages shall be determined based on the individuals PRC workdays.*

Tax Calculations for Salaries and Wages (Non-Resident Taxpayer)

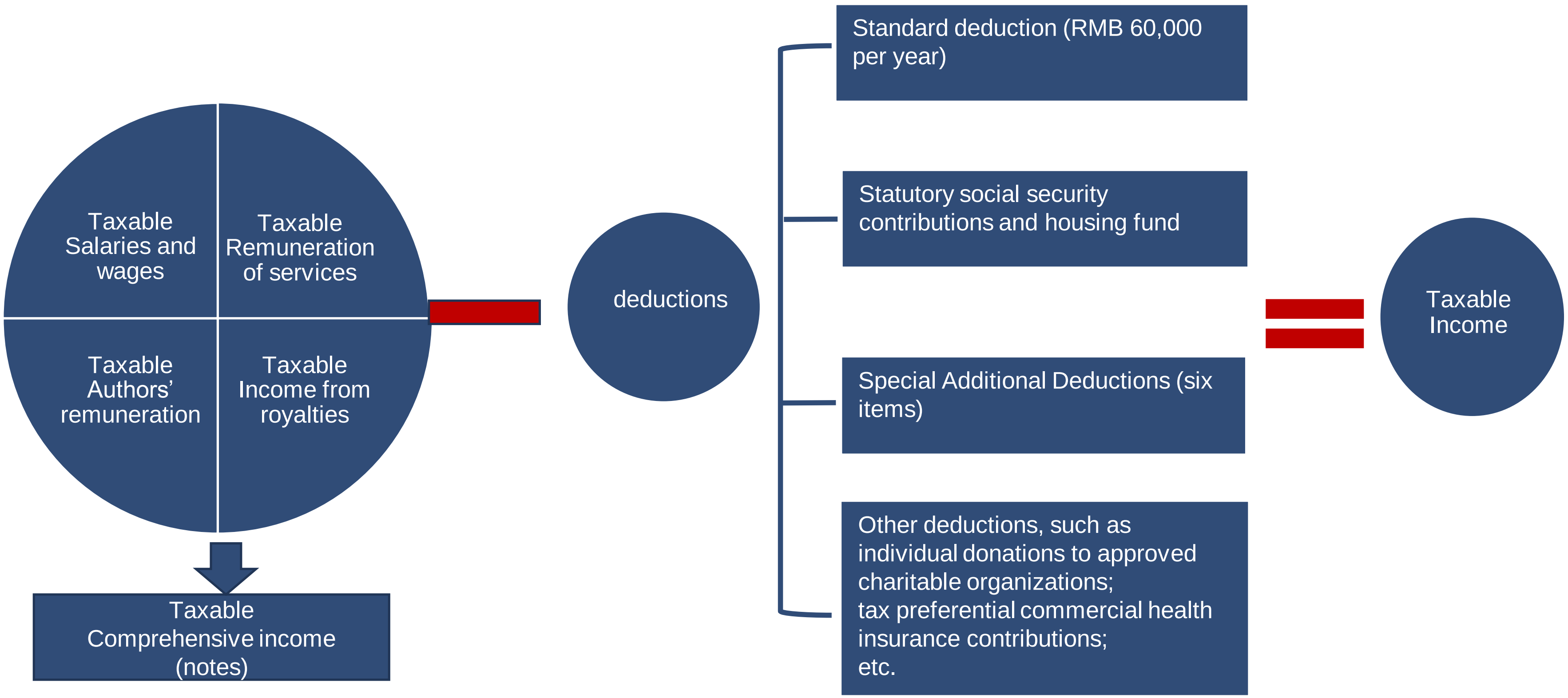
Filing procedures:

- Comprehensive income derived by non-residents shall be withheld and prepaid by the withholding agent on monthly or transactional basis, and normally annual reconciliation is NOT required.

- If tax is not withheld by a withholding agent, the non-resident individual shall make tax declaration with the tax authority in charge at the location of the withholding agent before 30 June of the year following the obtaining of income. Where a non-resident individual leaves China before 30 June of the following year (except where he/she leaves China temporarily), he/she shall make tax declaration before leaving China.

- The withholding method for a non-resident individual within a tax year shall remain unchanged; when a non-resident individual satisfies the criteria for resident individual, he/she shall notify the withholding agent of the change in basic information, and complete tax declaration at end of the year pursuant to the relevant provisions on resident individuals.

Tax Calculations for Salaries and Wages (Resident Taxpayer)



Notes:

Taxable comprehensive income amount for IIT calculation may not equal to gross income.

1. *The taxable income of remuneration for services and royalties shall be 80% of the gross income. The taxable income of author's remuneration shall be 56% of the gross income.*
2. *For non-domiciled individual who holds positions concurrently in domestic and overseas organizations or only holds position in an overseas organization, the taxable income for salaries and wages shall be determined based on the individuals PRC workdays*

Tax Calculations for Salaries and Wages (Resident Taxpayer)

1 Monthly Withholding

Comprehensive income will be taxed on an annual basis for tax residents，however, for salary and wages, the withholding agent shall withhold on monthly basis using a Cumulative Withholding Method (累计预扣法)

Tax Bracket	Annual Taxable Income (RMB)	Advanced withholding Tax Rate(%)	Annual Quick Deduction (RMB)
1	≤ 36,000	3 %	0
2	36,000 to 144,000	10%	2,520
3	144,000 to 300,000	20%	16,920
4	300,000 to 420,000	25%	31,920
5	420,000 to 660,000	30%	52,920
6	660,000 to 960,000	35%	85,920
7	> 960,000	45%	181,920

Formulas

Tax to be withheld for the current period =

(**Cumulative** taxable income of salaries to date x annual withholding rate – annual quick deduction) - **Cumulative** tax that has been withheld and remitted

Cumulative taxable income of salaries to date =

Cumulative salaries to date – **Cumulative** tax-exempt salaries - **Cumulative** standard deductions – **Cumulative** applicable deductions (*including special deductions, additional itemized deductions and other applicable ded*uctions)

Tax Calculations for Salaries and Wages (Resident Taxpayer)

2 Annual Tax Reconciliation

The annual tax reconciliation shall be filed between 1 March and 30 June of the following year when the taxpayer has any one of below situation:

- Receiving comprehensive income from two or more sources, and the total comprehensive income net of itemized deductions is more than RMB60,000;
- Receiving independent personal services income, author’s remuneration and/or royalties; and total comprehensive income net of itemized deductions is more than RMB60,000;
- Provisional IIT withholding on comprehensive income is less than the IIT payable in the relevant tax year;
- Applying for tax refund.

Conversion Between Resident Taxpayer and Non-resident Taxpayer

When a non-domiciled individual makes declaration in a tax year for the first time, he/she shall estimate the number of days he/she resides in China within a tax year in accordance with employment contract, and other agreements, and compute and pay tax in accordance with the estimation. If the actual situation is different from the estimation, treatment:

Estimation	Actual Situation	Treatment
Non-resident individual	Resident individual	1 The tax withholding method within a tax year shall remain unchanged; and 2 Complete annual tax clearance between 1 March and 30 June of the following year or before permanently leaving China.
Resident individual	Non-resident individual	1 Report to the tax authorities by Jan 15th of the following year and recompute tax payable amount as a Non-resident individual, and make tax payment retrospectively or apply tax refund if any. 2 NO late tax payment fine will be charged.
Estimated staying days is no more than 90 days (183 days if DTA applies)	Actual staying days s is more than 90 days (183 days if DTA appliers)	1 Report to the tax authorities within 15 days from end of the month in which his/her stay attains 90 days or 183 days, recompute tax payable amount for income from wages and salaries in previous months, and pay tax retrospectively; 2 NO late tax payment fine will be charged.

PRC Employer's Liability

Non-domiciled individual receives China-sourced salaries and wages

+

An oversea related party pays all or partial salaries and wages which should have been paid by the PRC employer

Non-domiciled individual

The non-domiciled individual can declare and pay tax on his/her own; or

OR

The non-domiciled individual may entrust the domestic employer to pay tax on his/her behalf.

PRC Employer

The PRC employer shall report the relevant information to the tax authorities charge within 15 days from end of the payment month, including:

- The individual's work arrangements by the domestic employer and the overseas related party; and
- Overseas payment information; and
- Contact details of the non-domiciled individual;
- etc.

Avoidance of Double Tax

- A non-PRC domiciled individual who is defined as a PRC tax resident of a country where PRC has concluded a relevant DTA may enjoy the tax treatment of income from employment, independent personal services or business profits as stated under that DTA and shall be exempt from individual income tax in the PRC if all conditions are met.

- To see what the implications are of this, it is necessary to look at the facts and circumstances of each case, which treaty applies, what does the treaty say etc.

- Income from royalties or technical service fees obtained by non-PRC domiciled individuals may be subject to PRC IIT as per the tax rate stipulated in the relevant DTA.

- For example, according to PRC domestic law, a 20% tax rate is usually applied to royalties. However, under some of the DTAs concluded between the PRC and other countries, royalties may be taxed at a lower rate of 10%.

Section 4:

Preferential Tax Policies

Tax Exemption Benefits vs. Specific Additional Deductions

Item	Applicable scope/requirement	Deduction Amount	Deduction Method
Children's education	• Pre-school education • Diploma education	1,000/child per month (12,000/child per year)	• Standard deduction • 50% & 50% split • 100% by one parent
Continuing education expenses	• Diploma education	400 per month (4,800 per year, up to 48 months)	• Standard deduction • Parent could chose to claim such • Expense, instead of taxpayer (child) if • It is for diploma education
	• Professional qualification	3,600 in the year when relevant Certificate issued	
Healthcare costs for serious illness	• Expenses recorded in social medical insurance • Mmanagement system	Over 15,000 and below 80,000	On actual expense basis (claimed via annual tax clarance)
Housing Mortgage interest	• First housing loan under taxpayer or spouse's name	1,000 per month (12,000 per year, up to 240 months/ 20 years)	• Standard deduction • Could be 100% deducted by one of the couple
Expense for supporting the elderly	• Parent over 60 years old • Other legal dependent	2,000 per month (24,000 per year)	• Standard deduction and shall not be multiplied by actual number of elderly • Shall be divided among siblings and each child cannot claim more than 12,000/year (1,000/month)
Housing rent	• Taxpayer and spouse does not have house in the city where they work • Three applicable deduction amounts based on working locations	• 1,500/per month (first tier city) • 1,100 / per month (over 1million population city) • 800 / per month (less 1 million population city)	• Standard deduction • Shall be 100% deducted by one of the couple if they work in the same city; • Both husband and wife could claim; • this expense if their main work location are different and they do not have house in the two cities.

Administrative Procedure for Specific Additional Deductions

Taxpayers' Obligation:

- Before a taxpayer claims the additional itemized deduction for the first time, taxpayers must submit information to the employers (withholding agents) or the tax authorities; in the case of any information changes for the deduction, taxpayers shall notify the withholding agents or the tax authorities in a timely manner.
- Taxpayers are responsible for the authenticity, accuracy and completeness of the submitted information;
- Taxpayers must maintain their personal information and the relevant documents as evidence for at least five years after completion of the annual reconciliation filing.

The Duty of Withholding Agents:

- The withholding agent shall not refuse taxpayer's claim for the special additional deduction.
- The withholding agent shall keep confidentiality for the special additional deduction information
- If withholding agent discovers that the information provided by the taxpayer does not match the facts, the withholding agent may request the taxpayer to amend the information.
- Where the taxpayer refuses to amend, the withholding agent shall report to the tax authorities.

Tax Exemption Benefits vs. Specific Additional Deductions

Tax Exemption Benefits (“TEB”)

Foreigners

- Meal allowance
- Housing allowance
- Laundry allowance
- Relocation allowance
- Travel allowance
- Chinese language training allowance
- Children's education allowance
- Home visit allowance

Specific Additional Deductions (“SAD”)

Resident Taxpayer

- Expenditure on supporting the elderly
- Housing rental or housing mortgage interest
- Medical expenses for critical illnesses
- Continuing education expenses
- Children's education

Either TEB or SAD | before | Jan 1, 2022 | On and after | Only SAD is allowed

Preferential Taxing Method For Annual Bonus

Resident Taxpayer

Taxpayer could choose either of below two methods for one-time annual performance bonus:

1 Tax separately using a calculation method which allows the bonus is divided by 12 to determine applicable tax rate (notes).
2 Included in annual comprehensive income

One-time annual performance bonus can only be included in annual comprehensive income.

before

Jan 1, 2022

On and after

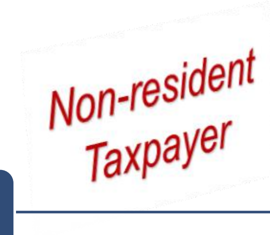
Notes:

1 Calculation formula:

Annual bonus (one-off lump sum)/12 x applicable tax rate – applicable quick deduction

2 This method can only be used once in a tax year.

Preferential Taxing Method For Annual Bonus

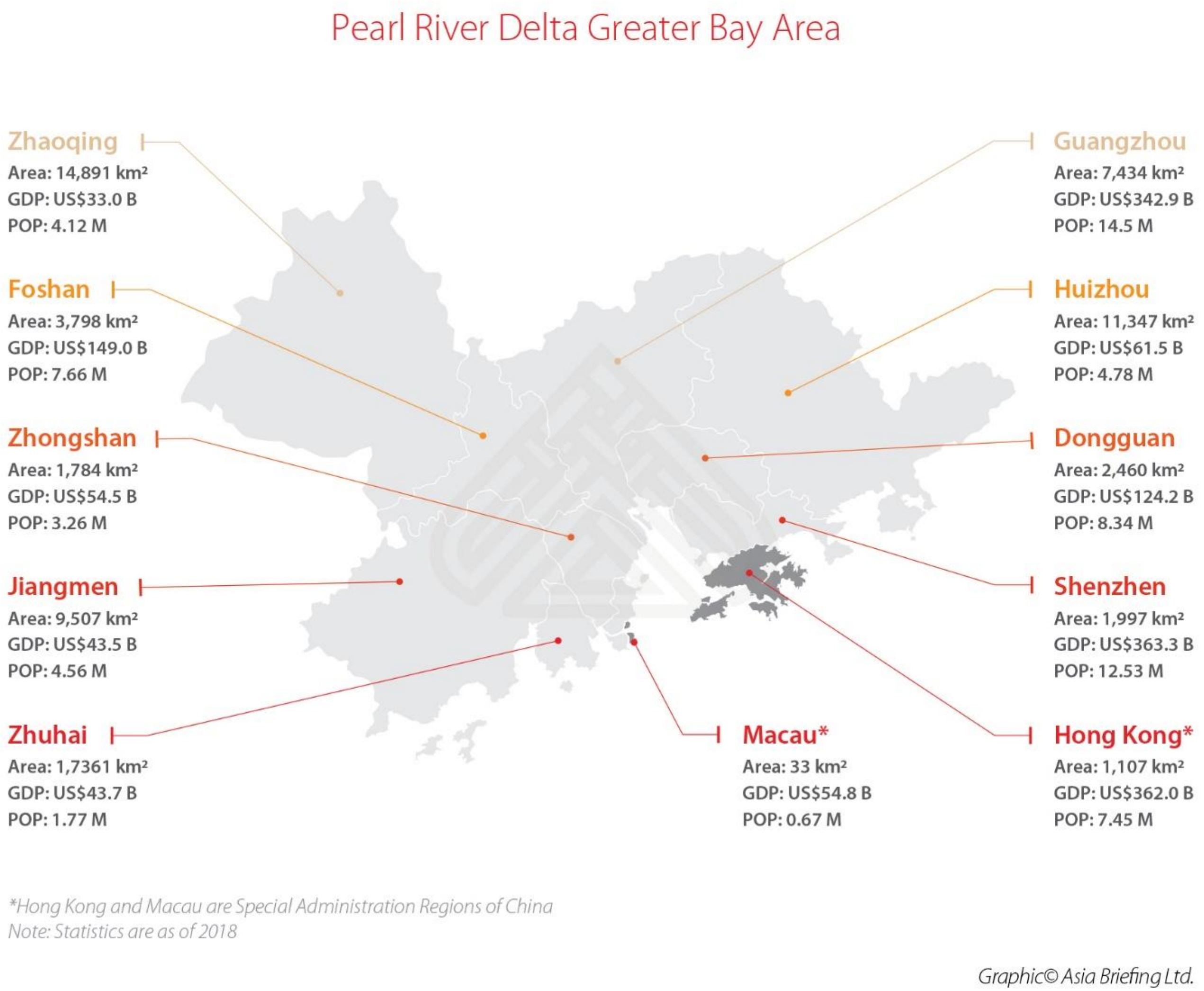


- Computed separately and not combined in monthly salary
- No deductions of RMB 5000
- Bonus shall be apportioned over six months for tax computation purpose
- Monthly tax rate shall apply
- This method can only be used once a year

Formula:

IIT for bonus = (Annual bonus (one-off lump sum) / 6 x applicable rate - applicable quick deduction) * 6

IIT Incentives for Guangdong-Hong Kong-Macao Greater Bay Area (GBA)



IIT Incentives for GBA Area

Incentives

- Subsidy will be granted to qualified talent to offset differences in the IIT burden between mainland China and HK
- The subsidies will be exempt from IIT itself.
- The subsidies will be for a period of five years, ending December 31, 2023.

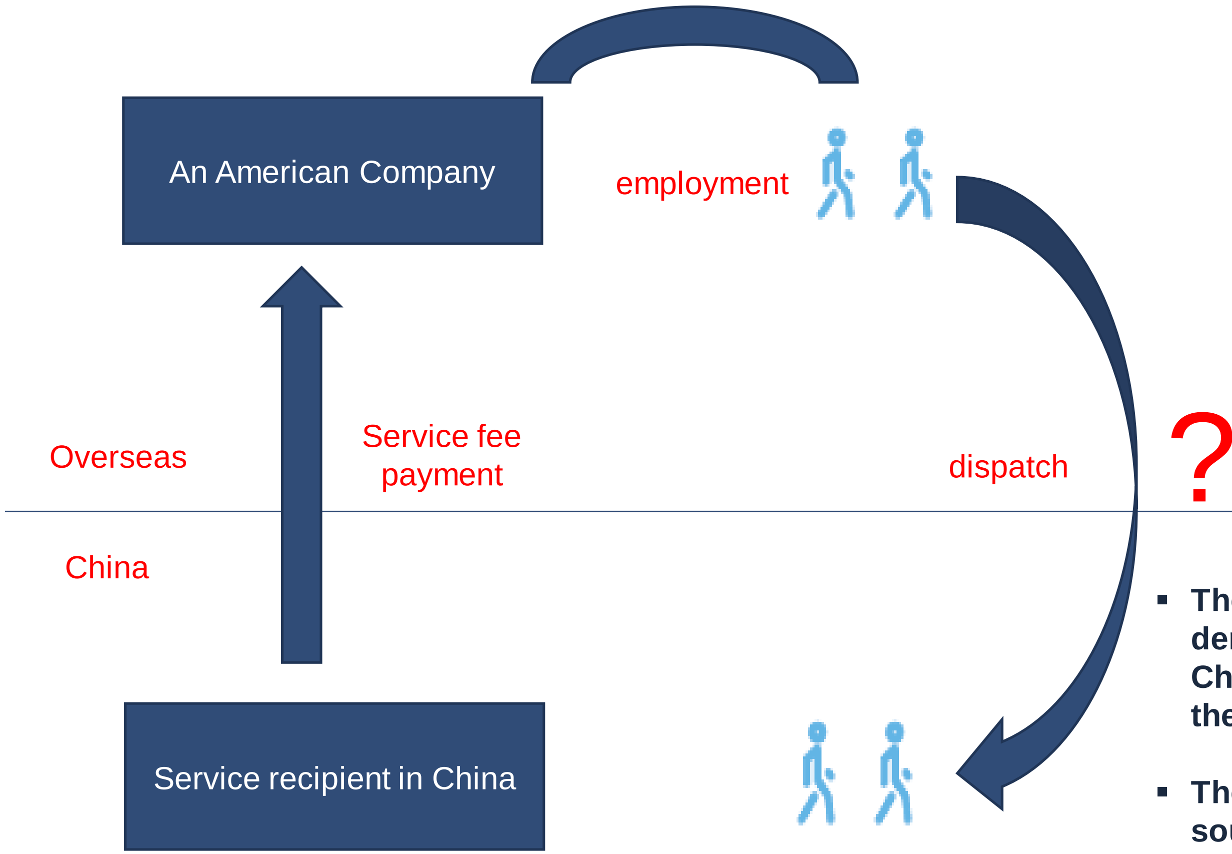
Qualification

- Overseas individuals who works in Guangdong-Hong Kong-Macao Greater Bay Area (GBA) and are qualified as high-end and urgently-needed talents;
- Detailed standards for oversea high-end and urgently-needed talents are to be issued.

Section 5:

Dispatching Foreign Employees to China

Dispatching Foreign Employees to China



- **The American company derives income sourced from China, any taxes liability for the Hong Kong company?**
- **The individual derives income sourced from China, any taxes?**

Dispatching Foreign Employees to China

DTA between China and the USA

Article 5 Permanent Establishment (“PE”)

The term “permanent establishment” includes especially:

- a place of management;
- a branch;
- an office;
- a factory;
- a workshop; and
- a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources.
- a building site, a construction, assembly or installation project, or related supervisory activities which continue for a period of more than six months;
- an installation, drilling rig or ship used for the exploration or exploitation of natural resources, which used for a period of more than three months; and
- an enterprise provides services in China, including consultancy services, through the dispatch of its employees or other personnel, where such activities continue within China for a period or periods aggregating more than 183 days within any twelve month period.

Article 7 Business Profits

If the enterprise carries on business though the PE in China, the profits of the enterprise which is attributable to that PE can be taxed in China.

Dispatching Foreign Employees to China

Corporate Income Tax (“CIT”) = Actual taxable income X CIT rate (25%)

Actual revenue method:

Taxable income = total revenue x deemed profit rate

Type of business	Deemed profit rate
Construction projects, design and consulting services	15% - 30%
Management service	30% - 50%
Other services or operating activities other than service	No less than 15%

Note:

Value-added tax and other taxes are not taken into consideration.

Dispatching Foreign Employees to China

DTA between China and the USA

Article 14 Dependent Personal Services

The individual shall NOT be subject to China individual income taxes if meeting all of below criteria:

1. the individual is present in China for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and

2. The remuneration is paid by, or on behalf of, an employer who is not a resident of China; and

3. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in China.

Section 6:

Suggested Actions for the Company to Take

DSA’s Observations

- **New tax residency rule - a mixed bag**
  - Tax resident status will be triggered more easily because of shorter time requirements
  - Expatriates don’t have to leave China as frequently to get IIT exemption on global income
  - The clock-reset rule is less convenient for certain expatriates working in China, such as those who travel internationally frequently

- **Standard deduction increased slightly (RMB4.5k to 5k per month)**

- **Specific additional deductions available to foreign employees**
  - Children’s education expenses, continuing education expenses, healthcare costs for serious illness, housing mortgage interest, expense for supporting the elderly, housing rent.

- **Tax-exempt allowances applicable for another three years**
  - Foreign employees can still apply for the allowance (if qualified) from January 1, 2019 to December 31, 2021.

DSA’s Observations

- New IIT measures represents the governments aim to streamline tax administration, delegate power and optimise services to taxpayers. Whilst strengthening tax collection and administration, the government is also seeking to reduce the tax burdens arising to individuals as well as withholding agents.

- There are different IIT withholding methods for resident taxpayers (cumulative annual basis) versus nonresident taxpayers (monthly basis); employers need to assess and determine the residency status of their employees to ensure the proper method is used.

- The six year rule and the details regarding the put-on-record filing required to claim tax exemption in respect to foreign sourced income derived by non-PRC domiciled persons raises many issues and further guidance is expected.

- Employers should adjust the PRC IIT withholding tax calculation for non-domiciled individuals, taking note these new rules retrospectively apply from 1 January 2019 (which means employers may need to see if taxes are underpaid or overpaid from 1 January 2019 to present).

How DSA can help you

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

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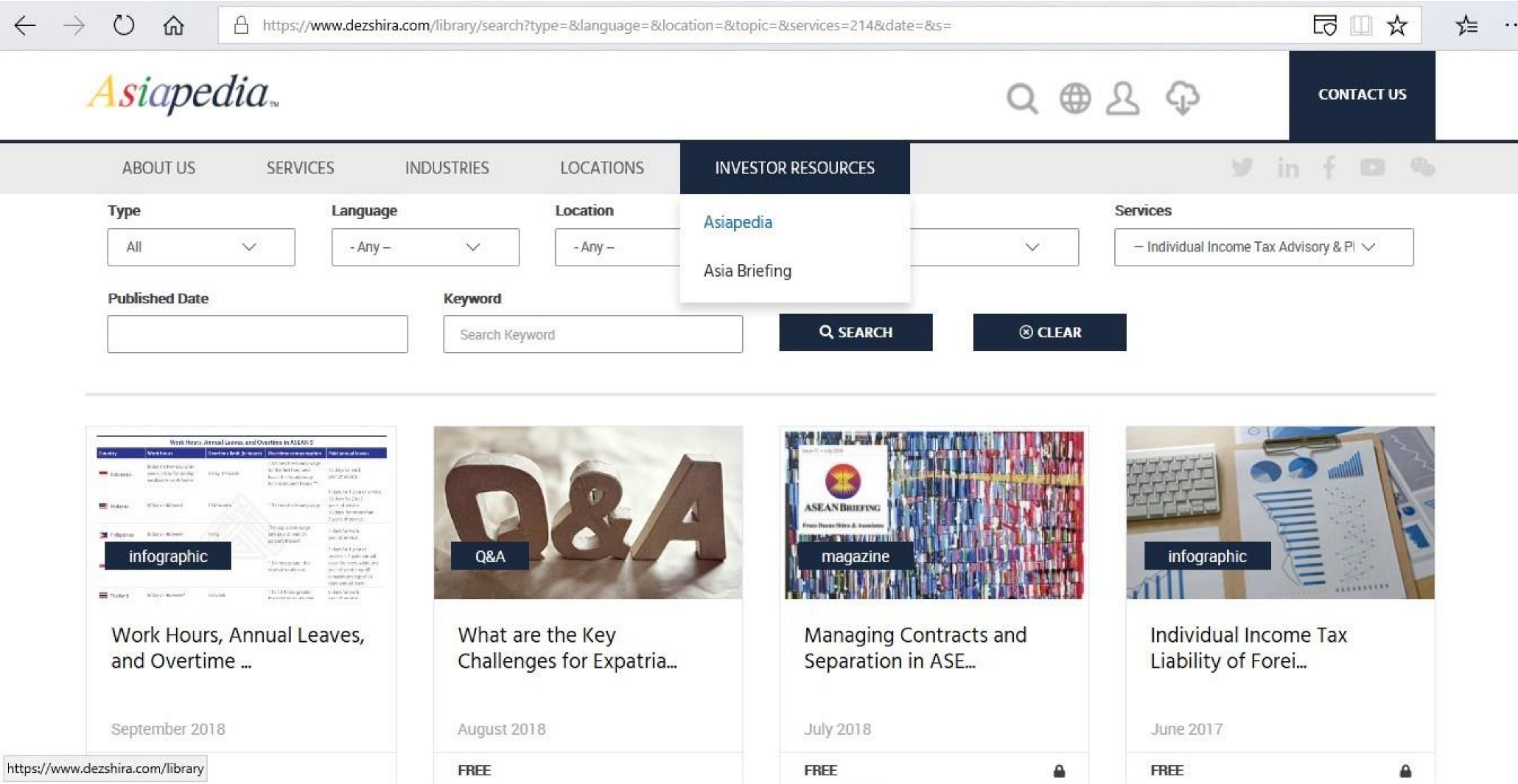

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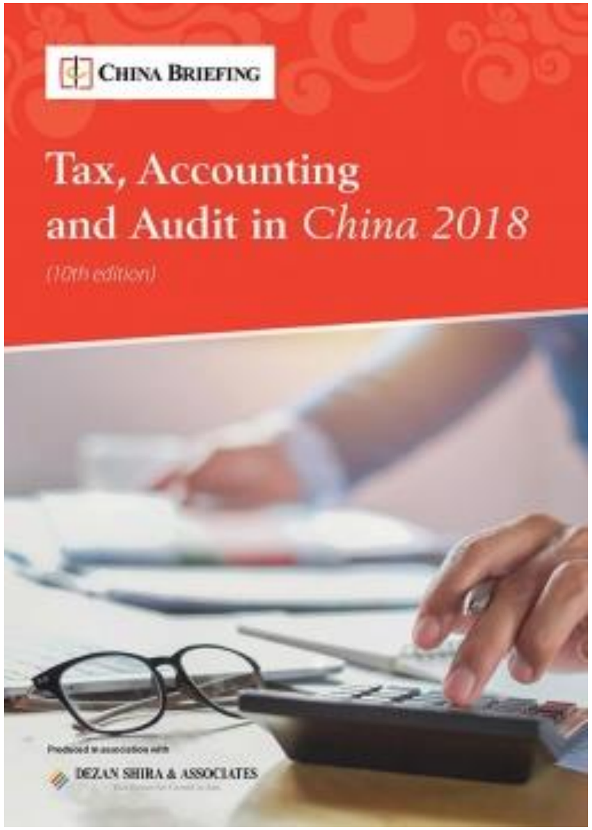

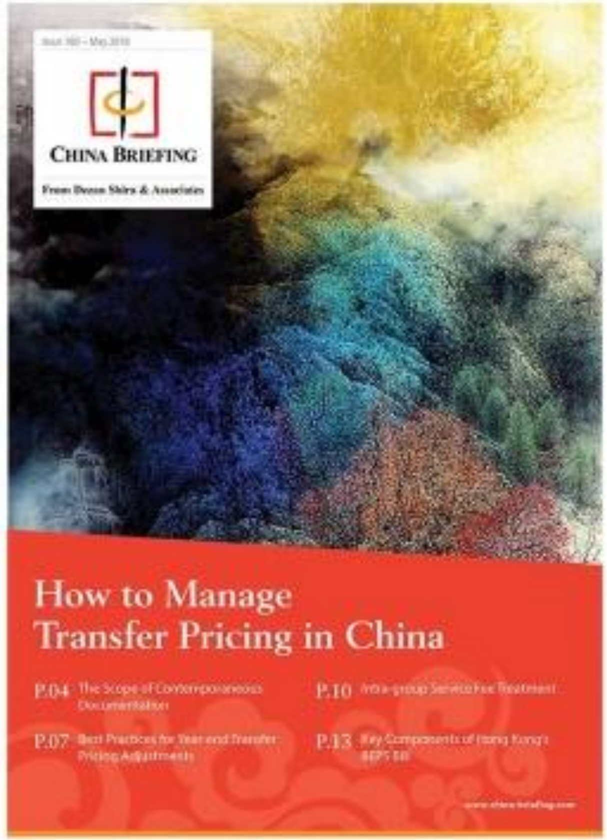

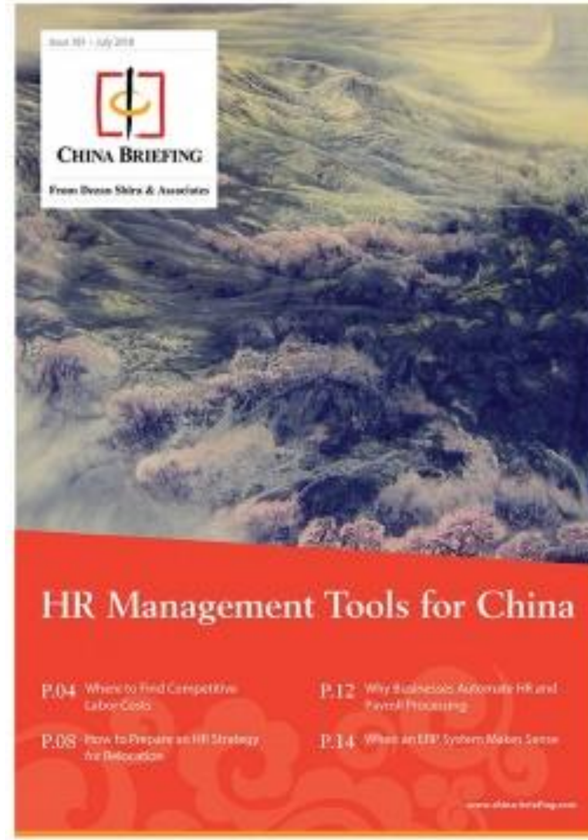

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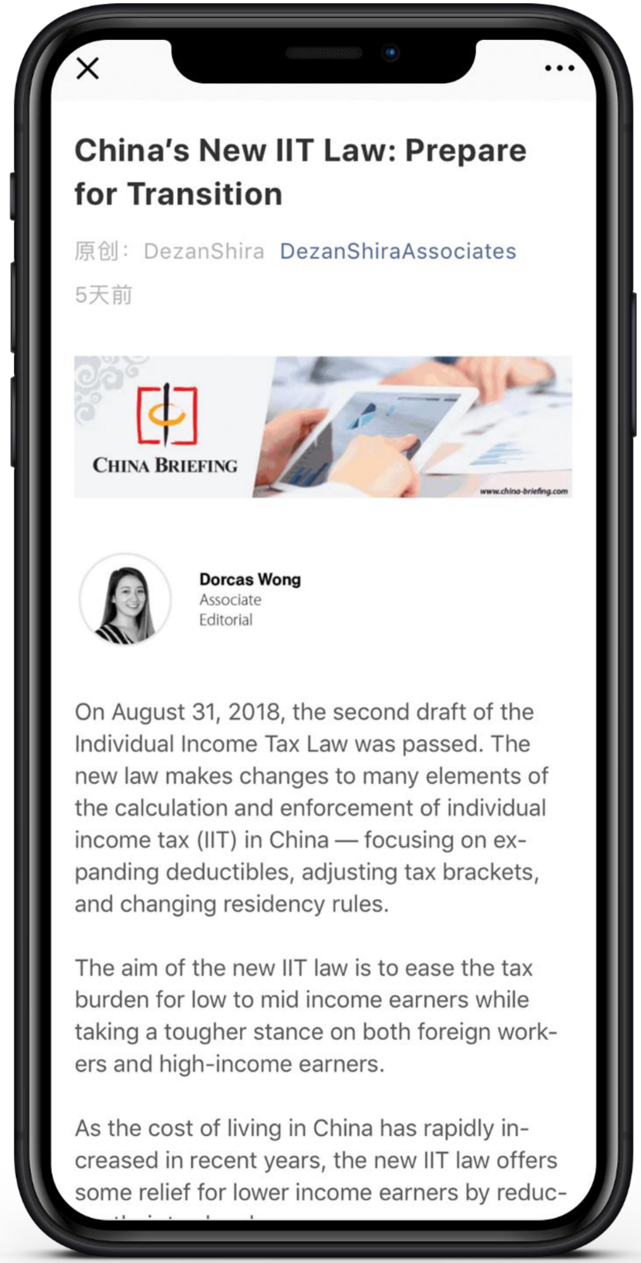

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