



**DEZAN SHIRA & ASSOCIATES**

Your Partner for Growth in Asia

# China Individual Income Tax Social Insurance Labor Contracts Management

March 18, 2021

**Riccardo Benussi** – Head of European Business Development

Webinar in partnership with



EXECUTIVE SEARCH





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# China HR Trends Executive Recruitment China Individual Income Tax Social Insurance Labor Contracts Management

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**Christian Tagethoff** – Managing Director - CT Executive Search

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# Our Firm In Numbers

1992

Dezan Shira's establishment

300+

Our team of legal, tax, accounting and audit professionals

40%

Almost half of our clients are EU-based

11

Asian countries covered

25

Offices only 5 of which are not in Asia



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Your Partner for Growth in Asia



# DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



## Global Offices

### CHINA

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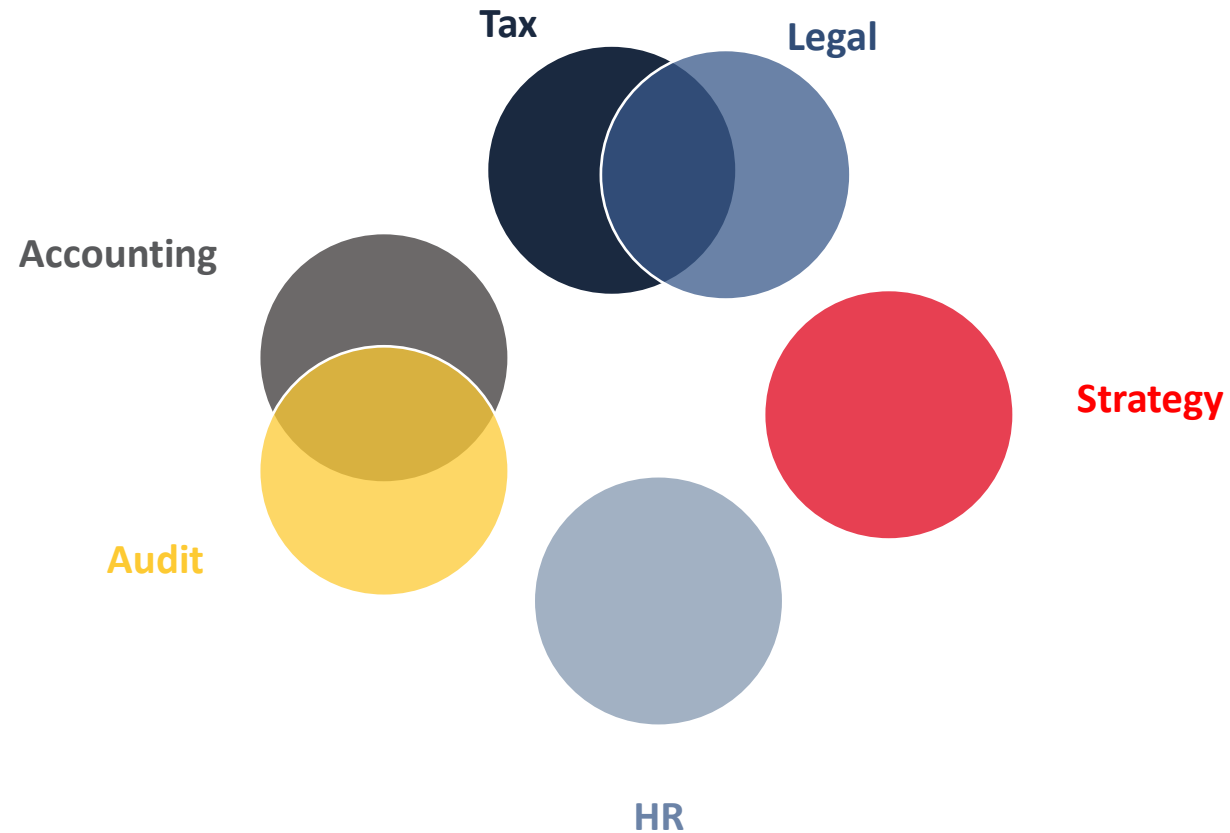
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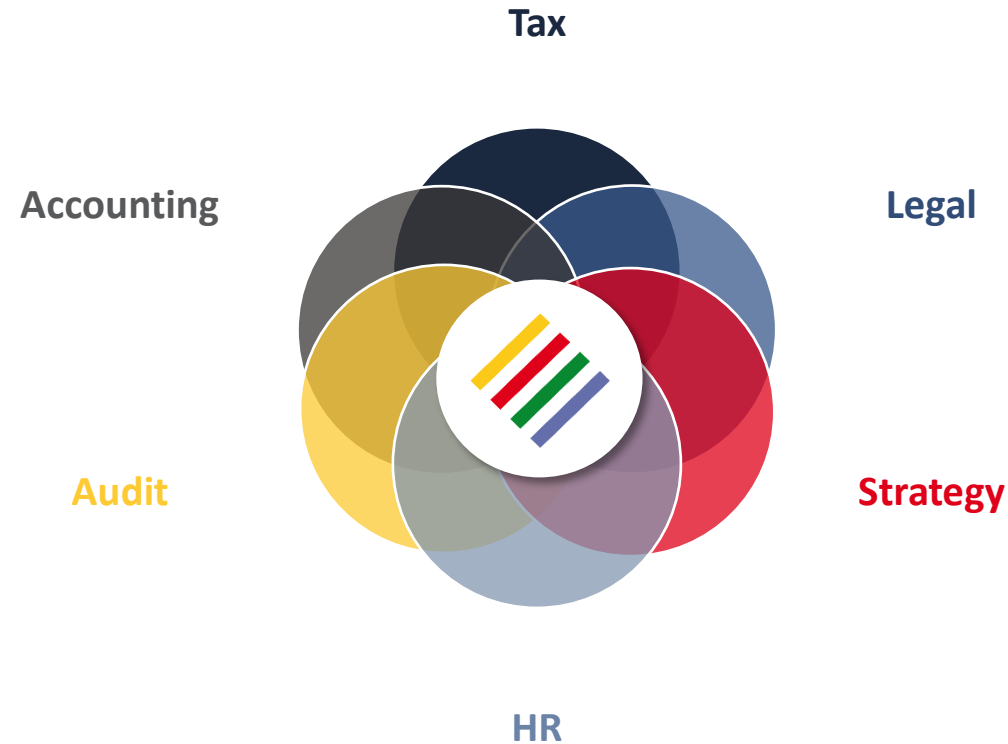


# Multi Provider Approach



# Full-Service Method

Dezan Shira & Associates



## **Discussed Today**

1. Tax Residency Rules
2. Individual Income Tax
3. Deductions
4. Social Insurance
5. Labor Contracts Management

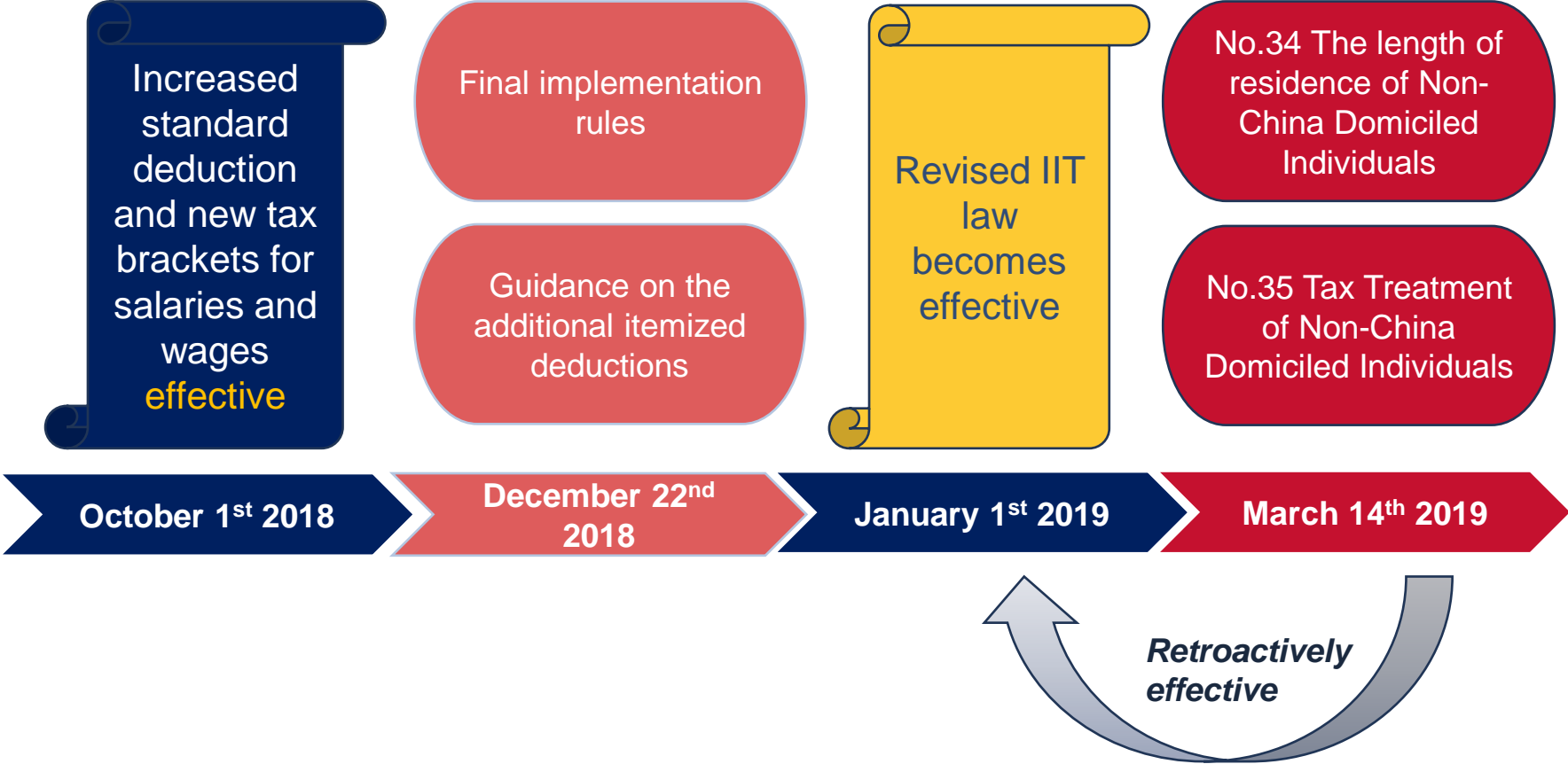


# Chinese Individual Income Tax

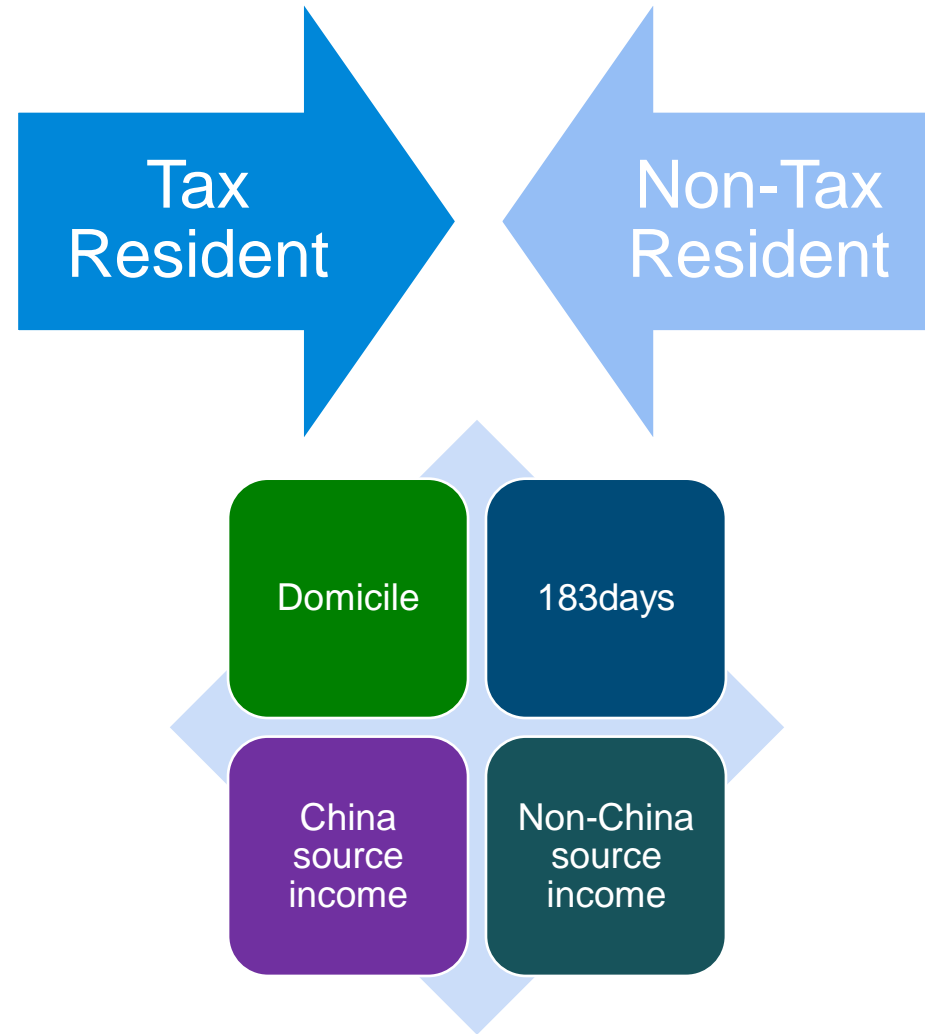
## *A Review*



# China's IIT's Regulation Timeline



# Individual Income Tax Review



# A Tax Resident vs A Non-Tax Resident

|              | Definition  | Tax Scope                 |
|--------------|---|---------------------------|
| Resident     | <ul style="list-style-type: none"><li>• China-domiciled individuals</li><li>• Non-China-domiciled who stay in China for 183 days or more in a calendar year</li></ul> | Worldwide Income          |
| Non-Resident | <ul style="list-style-type: none"><li>• <u>Non-China-domiciled</u> individuals who stay in China for less than 183 days in a calendar year</li></ul>                  | China-Sourced 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. Hujj), 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*

# Individual Income Tax Review

INCOME:

**1) Wages & Salary**

**2) Personal services**

**3) Author's remuneration**

**4) Royalties**

5) Business operation

6) Interest, dividends and bonuses

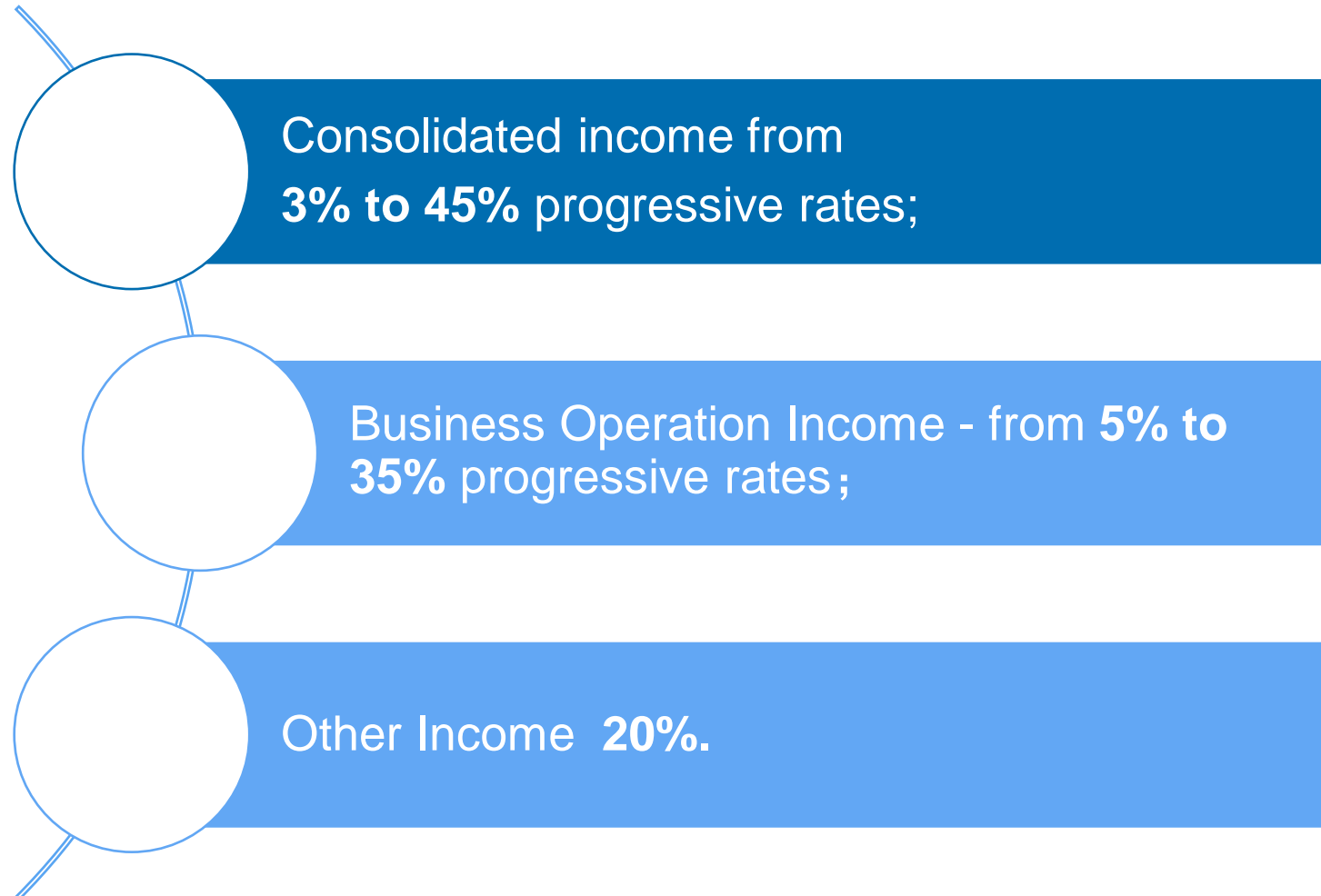
7) Lease of property

8) Transfer of property

9) Contingent income

# Individual Income Tax Review

## TAX RATES



# Tax Brackets Comparison

| The Old IIT Law                    |          |                 | The New IIT Law                    |            |                 |
|------------------------------------|----------|-----------------|------------------------------------|------------|-----------------|
| Monthly Taxable Income (MTI) (RMB) | Tax rate | Quick Deduction | Monthly Taxable Income (MTI) (RMB) | Tax rate   | Quick Deduction |
| 1,500                              | 3%       | 0               | Not exceeding 3,000                | 3%         | 0               |
| 1,501 – 4,500                      | 10%      | 105             | 3,001 – 12,000                     | 10%        | 210             |
| 4,501 – 9,000                      | 20%      | 555             | 12,001 – 25,000                    | 20%        | 1,410           |
| 9,001 – 35,000                     | 25%      | 1,005           | 25,001 – 35,000                    | <b>25%</b> | 2,660           |
| 35,001 – 55,000                    | 30%      | 2,755           | 35,001 – 55,000                    | 30%        | 4,410           |
| 55,001 – 80,000                    | 35%      | 5,505           | 55,001 – 80,000                    | 35%        | 7,160           |
| Exceeding 80,000                   | 45%      | 13,505          | Exceeding 80,000                   | 45%        | 15,160          |

Note:

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

# Categories of Taxable Income

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



# Individual Income Tax Review

**Tax free allowance  
allowed if:**

**Foreigner**

**Tax resident**

**Reasonable**

**Non-cash reimbursement**

**Transition period**

**For only 2019-2021**

**Housing**

**Food & Laundry**

**Relocation fee (one-off)**

**Trips home**

**Children education**

**Language education**



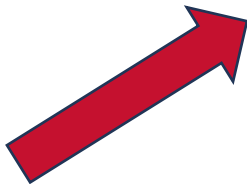
# Definition of Senior Executives

**Directors**

**Supervisors**

**Senior  
management**

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



# Actions To Be Taken in 2021

## ***Non- senior Management level***

### **IIT tax liability of individuals without domicile**

| Period in China      | China Sourced Income                 |                                       | Non-China Sourced Income             |                                       |
|----------------------|--------------------------------------|---------------------------------------|--------------------------------------|---------------------------------------|
|                      | Paid or absorbed by Chinese Employer | Paid or absorbed by overseas Employer | Paid or absorbed by Chinese Employer | Paid or absorbed by overseas Employer |
| <=90 days            | Yes                                  |                                       |                                      |                                       |
| >90 days , <183 days | Yes                                  | Yes                                   |                                      |                                       |
| >183 days ,< 6 years | Yes                                  | Yes                                   | Yes                                  |                                       |
| Over 6 years         | Yes                                  | Yes                                   | Yes                                  | Yes                                   |

# Actions To Be Taken in 2021

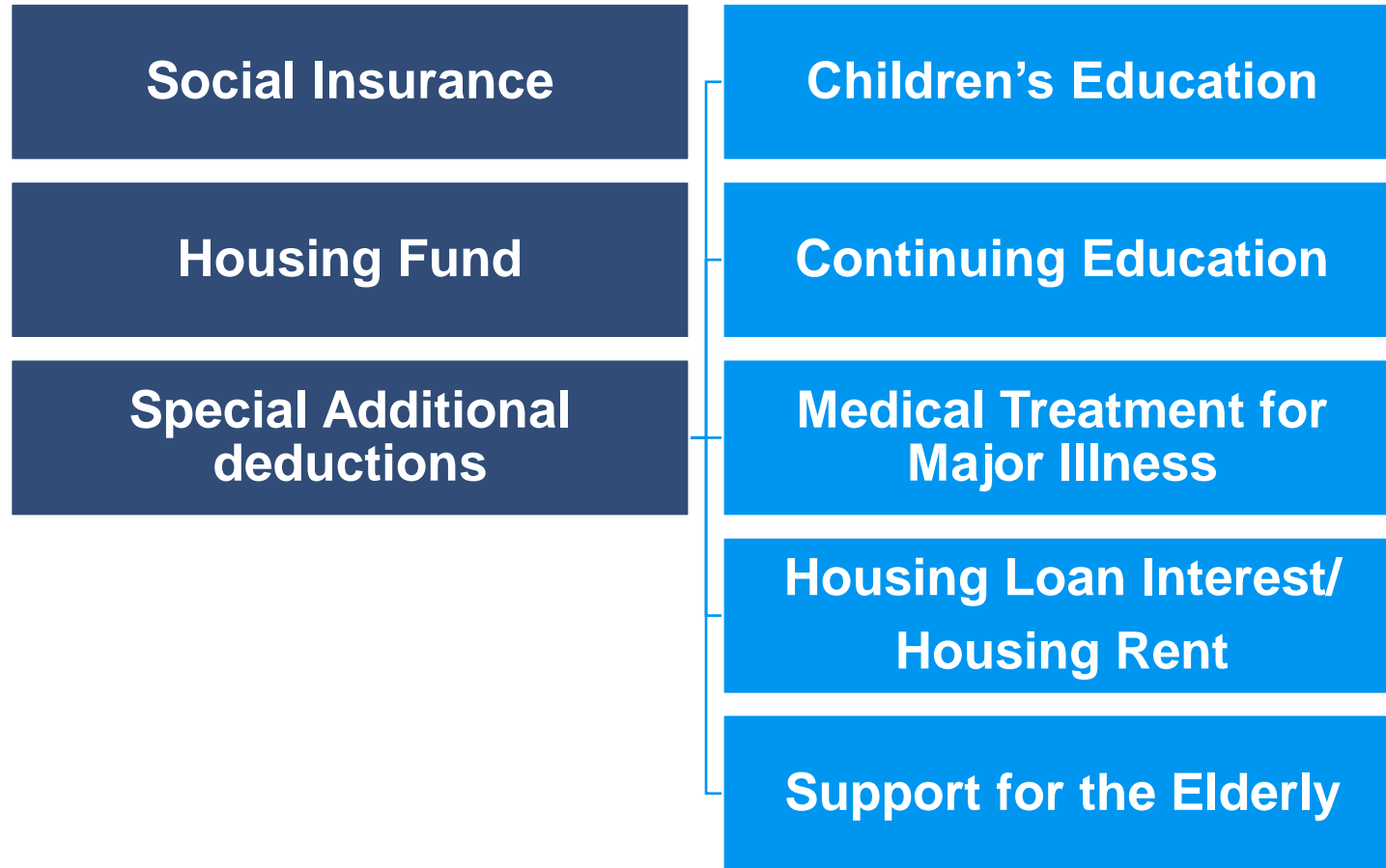
## **Senior Management level**

### **IIT tax liability of individuals without domicile**

| Period in China       | China Sourced Income                 |                                       | Non-China Sourced Income             |                                       |
|-----------------------|--------------------------------------|---------------------------------------|--------------------------------------|---------------------------------------|
|                       | Paid or absorbed by Chinese Employer | Paid or absorbed by overseas Employer | Paid or absorbed by Chinese Employer | Paid or absorbed by overseas Employer |
| <=90 days             | Yes                                  |                                       | Yes                                  |                                       |
| >90 days ,<183 days   | Yes                                  | Yes                                   | Yes                                  |                                       |
| >183 days , < 6 years | Yes                                  | Yes                                   | Yes                                  |                                       |
| Over 6 years          | Yes                                  | Yes                                   | Yes                                  | Yes                                   |

# Individual Income Tax Review

## Special Additional Deductions:



## Additional Itemized Deductions (专项附加扣除) (Circular 41)

| Item  | Applicable scope/requirement  | Standard fixed amount for deduction (RMB)  | Deduction Method  |
|---|---|--|---|
| <b>Children's education</b>                 | <ul style="list-style-type: none"> <li>pre-school (&gt;3 yo)</li> <li>diploma education</li> </ul>                                    | 1,000/child per month<br>In/outside China  | <ul style="list-style-type: none"> <li>50% &amp; 50% split</li> <li>100% by one parent</li> </ul>   |
| <b>Further education</b>                    | Diploma education   | 400 per month<br>(4,800 per year)  | <ul style="list-style-type: none"> <li>Standard deduction</li> <li>A maximum deduction period of 48 months for the same degree.</li> </ul>  |
|   | Professional qualification  | 3,600 in a calendar year   | <ul style="list-style-type: none"> <li>The year which the certificate is obtained.</li> </ul>   |
| <b>Healthcare costs for serious illness</b> | Expenses recorded in social medical insurance management system   | Over 15,000 and below <b>80,000</b> per year                                       | <ul style="list-style-type: none"> <li>On actual expense basis;</li> <li>Family basis (couple and minor child/children);</li> <li>The deduction quota is based on individual basis.</li> </ul>  |
| <b>Housing Mortgage interest</b>            | <ul style="list-style-type: none"> <li>First housing loan under taxpayer or spouse's name</li> <li>Located in China</li> </ul>        | 1,000 per month<br>(12,000 per year)   | <ul style="list-style-type: none"> <li>Could be 100% deducted by one of the couple;</li> <li>50% &amp; 50% split;</li> <li>Up to a period of 240 months.</li> </ul>   |
| <b>Housing rent</b>                         | Taxpayer and spouse does not have house in the city where they work;<br>Three applicable deduction amounts based on working locations | <b>1,500 (18,000 annual)</b><br><b>1,100 (13,200 annual)</b><br>800 (9,600 annual) | <ul style="list-style-type: none"> <li>Shall be 100% deducted by one of the couple if they work in the same city;</li> <li>Can't split deduction</li> <li>This expense if their main work location are different and they do not have house in the two cities.</li> </ul> |
| <b>Expense for supporting the elderly</b>   | <ul style="list-style-type: none"> <li>Parent/grandparents over 60 years old;</li> <li>Other legal dependent</li> </ul>               | 2,000 per month<br>(24,000 per year)   | <ul style="list-style-type: none"> <li>Shall be divided among siblings and each child cannot claim more than 12,000/year (1,000/month)</li> </ul>   |



# Tax-exempt Benefits for Foreign Individuals

*(2019 January to 2021 December)*

Choose to claim (*mutual exclusively, not both*)

## The Additional Itemized Deductions

- Six deductions

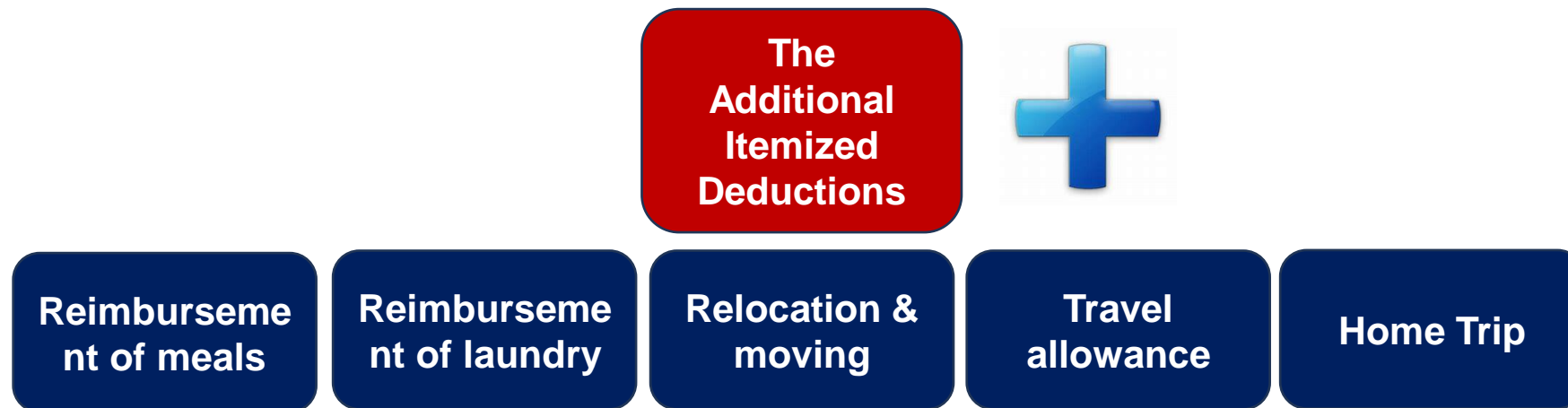
## The Current non-taxable fringe benefits

- Eight items

# Tax Benefits for Foreign Individuals (*After 2022 January*)



*After the Three-Year Transition Period, replaced by:*



Note:

- *The housing allowance, Children's education and Language training will be eliminated and **replaced** by the additional itemized deductions;*
- *The rest non-taxable benefits items will still be kept.*

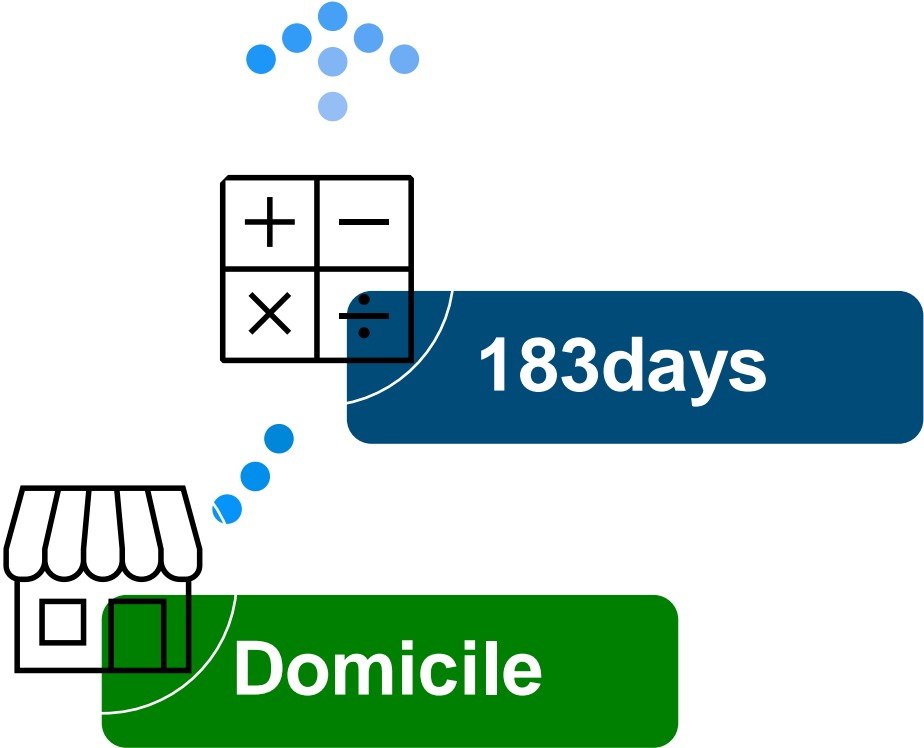


HR Managers:  
Actions To Take In 2021



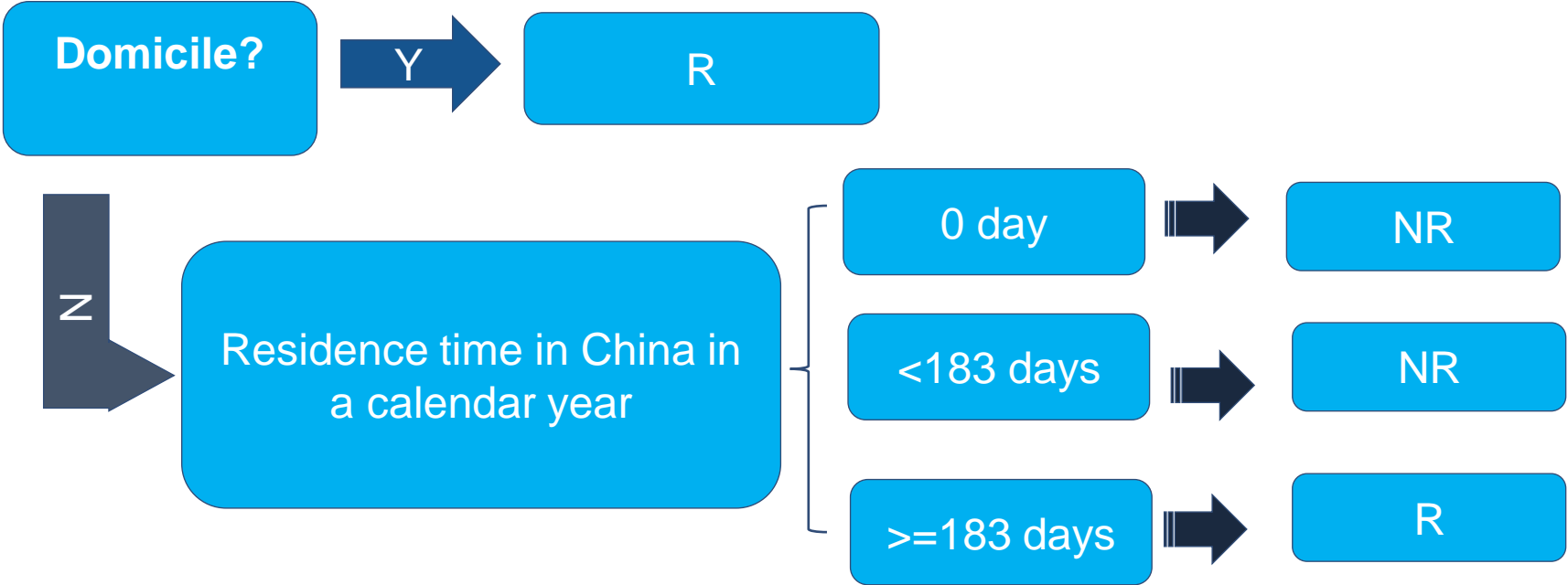
# Actions To Be Taken in 2021

**Tax Status Update**



# Actions To Be Taken in 2021

## Identification of Taxpayer



Note: R – resident, NR – non-resident

# Some Latest News

*From the start of 2019 to the end of 2023, eligible overseas talents working in nine cities of Guangdong province are able to apply for individual income tax (IIT) subsidies, because of a [talent policy](#) for the [Guangdong-Hong Kong-Macao Greater Bay Area \(GBA\)](#).*

*During the period from July 1 to August 31, 2020, all nine cities have successively started and closed their first round of IIT subsidy [applications](#).*

*Successful applicants will get the subsidies, equaling to the portion of the IIT paid in the GBA city that exceeds 15 percent of the taxpayer's taxable income of 2019.*



# Social Insurance Exemptions For Foreigners

# China's Social Security System

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**Pension**

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**Medical**

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**Unemployment**

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**Work-related injury**

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**Maternity**



# China's Social Security System

---

**Pension**

---

**Medical**

---

**Unemployment**

---

**Work-related injury**

---

**Maternity**

---

# Social Insurance Exemptions For Foreigners

## International Social Security Agreements

11 are implemented

|                 |
|-----------------|
| Germany         |
| S. Korea        |
| Denmark         |
| Canada          |
| Finland         |
| Switzerland     |
| The Netherlands |
| Spain           |
| Luxemburg       |
| Japan           |
| Serbia          |
| France          |

# Social Insurance Exemptions For Foreigners

## Categories and Reciprocity



# Social Insurance Exemptions For Foreigners

**Regional / Provincial / Municipal Inconsistencies?**



# Some Conclusions

- **Every Agreement Differs**
- **Claiming benefits requires**
  - Special applications
  - Verification period
- **Time-based**
- **Difficult to claim**
- **The Maternity Issue in Shanghai**

# Employment Contracts Management

# Employment Contracts Management



## 1. Contract template

- Template review
- Sampling review

## 2. Policy and procedure

- Contract tracking
- Length of contract
- Contract renewal etc.

### *Typical Issues:*

- (9) mandatory clauses
- Employee personal information;

# Employment Contracts Management

## Three Types of Employment Contracts

- 1) Fixed term
- 2) Non-fixed term
- 3) Project

## Timing of Employment Contract Signing

- Must be signed within one month of commencement of labor relationship
- Penalties
  - Double salary
  - Open term contract after 12<sup>th</sup> month

## Language

- Employment Contract should be in Chinese or bilingual

## **Mandatory Clauses**

- 1) Name and address of the employer and the legal representative or key person-in-charge of the employer;
- 2) Name, address and identity card number or other valid identity document number of the worker;
- 3) Term of labor contract;
- 4) Job duties and work premises;
- 5) Working hours and rest periods and off days;
- 6) Labor remuneration;
- 7) Social security;
- 8) Labor protection, working conditions and occupational hazard prevention and protection;
- 9) Any other matters to be included in a labor contract as stipulated by the laws and regulations.

## **Additional Optional Clauses**

- 1) Probation period
- 2) Training
- 3) Confidentiality
- 4) Supplementary insurance
- 5) Welfare and incentives
- 6) Others

# Labor Contract Amendments

- **Salary Increase**
- **Salary Decrease**
- **Job Transfer**
- **Renewal of Employment Contract**



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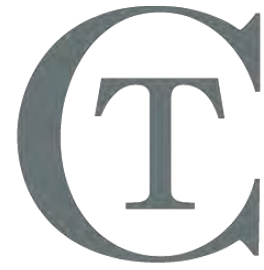
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## EXECUTIVE SEARCH



# Webinar: HR Trends in China – Executive Recruitment



18 March 2021

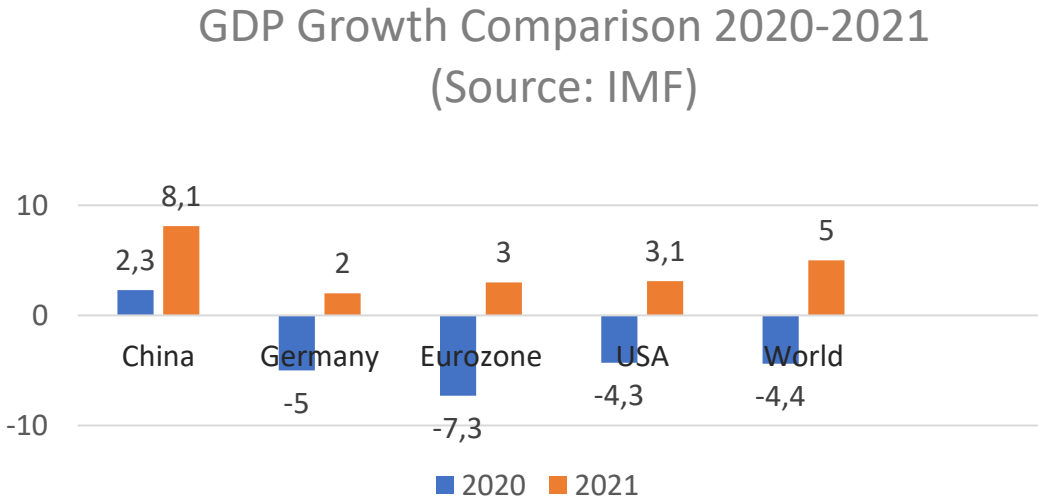
## EXECUTIVE SEARCH EXPERTS IN THE EMERGING MARKETS

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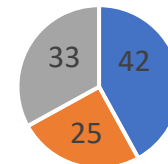
Leveraging a broad network of analysts and consultants across Eastern Europe and the emerging markets, CT Executive Search has established itself as a reliable partner to well-reputed international organizations.



# CHINA: ONLY MAJOR ECONOMY TO GROW in 2020



Profits of German companies in China 2020



■ Increased profit ■ stable profit ■ lower profit



- 72% of German companies expect increased turnover in 2021
- 77% expect their Chinese business to perform better than elsewhere
- 96% have no plans to leave China
- 72% plan further investments
- Only 3% have made decision to relocate production capacity away from China

# CHINESE HR MARKET: BASICS & COVID IMPACT

## What makes the Chinese HR market special?

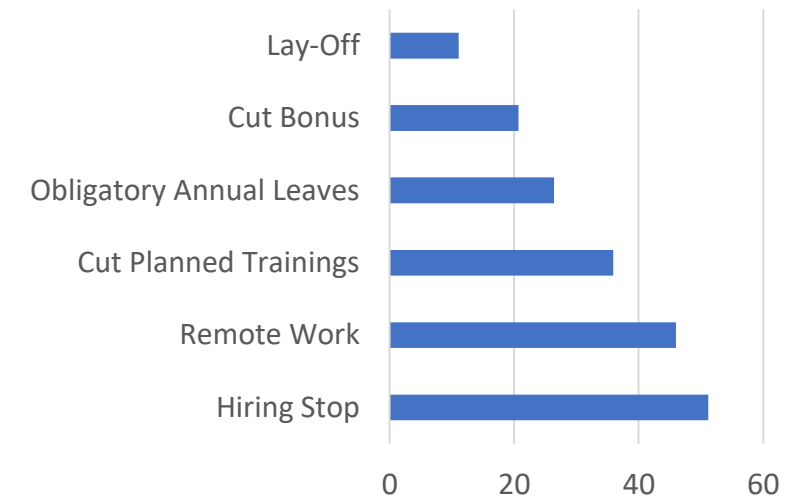
- Diversity (urban vs. rural, tier 1 cities vs. remote locations, local vs. international business environment, private vs. state-owned businesses)
- Employee-friendly labor law
- High competition for qualified employees
- High management salaries
- Talent concentration in few locations
- Generally low unemployment (2020: 4.2%)

## What happened during the pandemic?

- Shrinking demand for labor (CIER=Chinese Institute for Employment Research index dropped to 1.02 from 2.91), especially in industries hit by lockdowns
- But demand spike in IT, E-Commerce, courier services etc.
- Manufacturing companies kept employees through the downturn, no large-scale layoffs

## How did German companies react?

Measures Taken Due to Covid-19



## 2021: 5 TRENDS

**Trend 1:** On average, salaries will further increase (German companies expect increase of 3.8% in 2020, analysts expect 6%)

**Trend 3:** Gap between executive and employee remuneration will widen as bonuses rebound (in 2020, take-home pay for executives was approx. 20 times higher than entry-level staff's)

**Trend 2:** High demand in pharmaceutical, health industries and IT will sustain

**Trend 4:** Swing towards local managers intensifies, demand for expatriates further declines

**Trend 5:** Competition among international companies for talent will pick up as they revisit their long-term strategies



### EXECUTIVE SEARCH in CHINA

#### What candidates do our clients look for?

- Positions reporting into global HQs
- Country Managers, local C-level
- Sales-oriented or manufacturing backgrounds
- Often in “remote” locations (manufacturing)
- Candidates required to have experience in international companies/exposure to international business standards
- Country Managers: require ability to “bridge” local market & HQ

#### How to identify the right people?

- No job advertising in China, but identification of potential candidates among international companies
- Direct approach (“headhunting”) with experienced Shanghai-based team
- Check for cultural fit by Chinese/German consultant team
- Check motivation and long-term commitment
- Rigorous background/reference checks
- Decide if expat/repatriate can be options



### LOCAL OR EXPATRIATE?



#### Local manager

- Familiar with local legal and cultural framework
- Good understanding of local customers' needs
- Potential compliance risks
- Needs to be able to be “bridge” between local market and HQ
- Lower associated total costs than expat/repatriate

#### Expatriate

- Able to bring international best practices to local organization
- Costly option (“expat packages”)
- Usually no long-term solution
- Weak understanding of local peculiarities

Realistic option if:

- A) there is a local management team
- B) Know-how transfer is planned
- C) The more „technical“ a role, the more it is suitable for an expat
- D) bridging function is required
- E) there is local talent pool to be tapped

#### “Local expats”

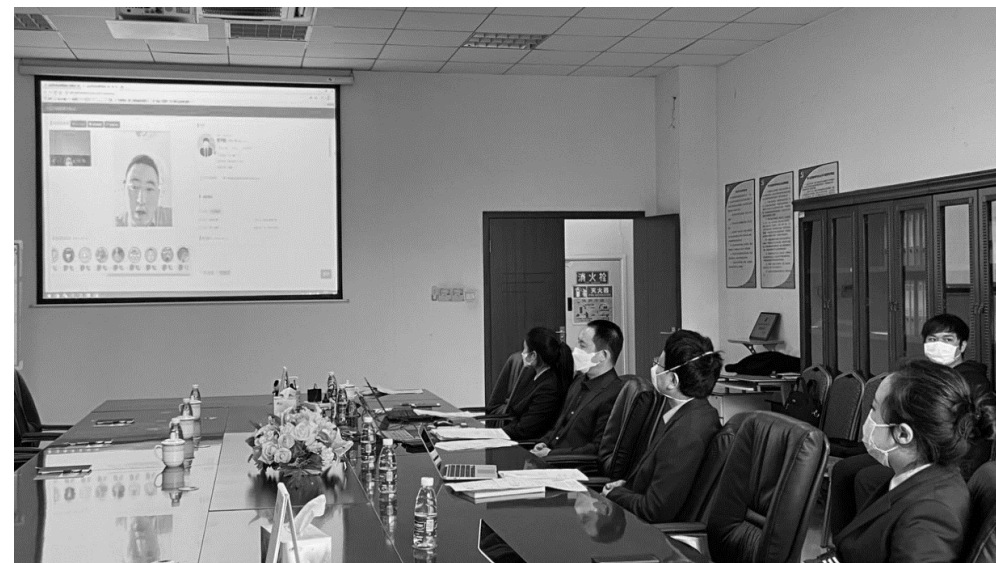
- Pool decreased during pandemic, but still readily available in tier-1 cities
- How well are candidates connected/aware of real life/hands-on?
- Are they prepared to stay long-term?
- Are they able to thrive in a Chinese-only environment?
- Can be best of both worlds, but candidates need to be individually assessed

### DEMAND AND OPERATIONS

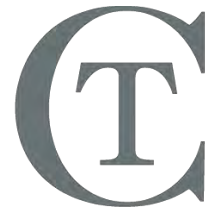
#### How did Covid-19 impact the global executive search business?

- Some ongoing assignments were frozen in Q2 (Q1 in China)
- Companies globally reluctant to recruit (travel restrictions, economic downturn, unclear perspectives) in Q2 and Q3 2020
- Expansion plans postponed, priority on sorting out operational issues
- Remote interviewing/client meetings reluctantly accepted by most, trend is here to stay

Revival seen for cross-border executive search from Q4 seen as German/European SMEs have adapted to new environment and are resuming their pre-Corona business plans.







EXECUTIVE SEARCH



**Thank you for your attention !**

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