

Broadening horizons

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中国个人所得税法修正案正式通过

Steve Qin / Kai Kang

Rödl & Partner 中国上海

2018年8月31日,《中华人民共和国个人所得税法》修订案正式通过,部分规定将于2018年10月1日起实施,而全法将于2019年1月1日起生效。

此次通过的新个人所得税法正式修订了以下内容:

新个人所得税体系和标准扣除金额

根据新个人所得税法,个税计算模式将改为“综合所得”模式,即将工资、劳务、稿酬和特许权使用费收入合并征税。税款计算会由按月计算改为按年计算,但仍需要按月预扣预缴税款并在次年三月一日至六月三十日内办理汇算清缴。

“综合所得”税率表如下:

级次 Level	年应纳税所得额 (人民币) Annual Taxable Income (RMB)	税率 Tax Rate (%)
1	0 - 36,000	3
2	36,000 - 144,000	10
3	144,000 - 300,000	20
4	300,000 - 420,000	25
5	420,000 - 660,000	30
6	660,000 - 960,000	35
7	超过/above 960,000	45

China: The Amendment to the Individual Income Tax Law Is Officially Approved

Steve Qin / Kai Kang,

Rödl & Partner Shanghai, China

On August 31, 2018, the Amendment to the Individual Income Tax Law ("Individual Income Tax - IIT") was officially approved. Some of the regulations will be implemented from October 1, 2018 and the whole amendments will be implemented from January 1, 2019.

The new IIT law includes following amendments:

New IIT system and standard deduction amount

According to the new IIT law, the IIT calculation mode will be changed to the "General Income Mode", in which the incomes derived from salary, labor services, author's remuneration and royalty will be taxed on a consolidated basis. The tax calculation will be changed from monthly basis to annual basis, but the IIT should be still pre-paid on monthly basis and subject to annual IIT filing from March 1 to June 30 in the following year.

The new tax rate for this so-called "general income" is as follows:

上述计算模式只适用于被认定为中国居民纳税人。对于非居民纳税人，仍按月或按次计算。应纳税额按上表所列年度收入折算为月度收入进行计算。

标准扣除额将增加到每月 5000 元。

新税率和标准扣除金额将于 2018 年 10 月 1 日起执行。

专项附加扣除

除包括社会保险的专项扣除外，此次修订还新增了“专项附加扣除”，包括子女教育、继续教育、大病医疗、住房贷款利息或住房租金、赡养老人等支出。具体细则尚未公布，但是有预测可能会因为便于操作而采用定额扣除方法。

居民纳税人定义

根据此次修订，在中国境内有住所，或者无住所而一个纳税年度内在中国境内居住累计满 183 天的个人，为居民个人。居民个人从中国境内和境外取得的所得，应在中国按规定缴纳个人所得税。

根据目前个人所得税法实施条例规定，在中国境内无住所但居住一年以上五年以下的个人，经主管税务机关批准，可以只就由中国境内公司支付的部分缴纳个人所得税；居住超过五年的个人，从第六年起，应当就其来源于中国境内外的全部所得缴纳个人所得税。

修正案就单一纳税年度居民纳税人身份判断标准做出了收紧。原“五年规则”是否延续，目前新税法尚未提及。因此，新税法下外籍人士的超国民待遇是否就此终结，仍有待具体实施条例的进一步明确。

此外，新政策对于居民身份的判断与 CRS 也息息相关。符合条件的个人，可能将被视为中国的居民纳税人，金融机构可能需要将其的信息传递给中国。

总结

虽然《个人所得税法修正案》已通过表决并正式公布，但对于以下备受关注的问题仍需要进一步明确：

This calculation mode only applies to the Chinese resident taxpayers. For those who are classified as non-resident taxpayers, IIT is still calculated by month or by time. Their payable tax amount shall be calculated according to the monthly income converted from the annual income provided in the table above.

The standard deduction amount will increase to RMB 5,000 per month.

The new tax rate and standard deduction amount will take effective from October 1, 2018.

Special extra deductions

Apart from special deductions which include social insurances, the Amendment also introduces "special extra deductions", which refer to expenses for children's education, continuing education, medical treatment for major diseases, interest on housing loans, house rents, support on elderly, etc. The detailed rules are still not published, but it is forecast that a lump-sum deduction could be applied due to feasibility.

Definition of resident taxpayer

According to the Amendment, any individual who has a domicile in China or who has no domicile but has stayed in China for 183 days or longer in a single tax year is considered as Chinese tax resident and shall pay IIT on any income derived from within and outside China.

According to the current IIT implementation rules, for individual who has no domicile in China but stay in China for between one and five years, IIT may be paid only on the income derived from enterprises inside China upon the approval of the competent tax authority. Any individual who has resided in China for more than five years shall, commencing from the sixth year, pay IIT on worldwide income.

The Amendment has tightened the criteria for determining the identity of resident taxpayers in a single tax year. Therefore, whether the "five-year rule" will still be valid and whether the super national treatment of foreign individual will be ended are still to be further clarified by the specific implementation regulations.

Furthermore, the new definition of tax residence will also have impact to Common Reporting Standard. If the individuals are recognized as Chinese tax residents, the finance institute shall transfer their information to Chinese authority.

Summary

Although the Amendment to the IIT Law is officially approved and published, the following hot topics still need to be further clarified:

- > 全年一次性奖金优惠政策是否保留；
- > 在华外籍人士以实报实销的形式获取的免税补贴是否继续有效；
- > 外籍个人一直沿用至今的“五年规则”是否会被取消；
- > 专项附加扣除标准和范围。
- > Whether the preferential treatment on one-time annual bonus will still remain valid;
- > Whether foreign expatriates can still enjoy tax-exempted benefits on reimbursement basis;
- > Whether the current “five-year-rule” for foreign expatriates will be abolished;
- > The special extra deduction standard and scope.

联系人 / Kontakt



Steve QIN

业务合伙人 / Associate Partner

电话 / Tel.: + 86 (21) 61 63 – 53 31

邮箱 / E-Mail: steve.qin@roedl.com

联系人 / Contact



Kai KANG

税务咨询师 / Tax Advisor (China)

电话 / Tel.: + 86 (21) 61 63 – 53 56

邮箱 / E-Mail: kai.kang@roedl.com

Broadening horizons

„We must be continuously on alert for new developments to be able to master challenges in the best possible way. With curiosity and an innovative approach, we are creating forward-looking solutions.“

Rödl & Partner

„The building of human towers requires each team member to again and again attempt something new. In this way, we are able to rise above the challenge together.“

Castellers de Barcelona



„Each and every person counts“ – to the Castellers and to us.

Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today. „Força, Equilibri, Valor i Seny“ (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

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31/F LIZ Plaza
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Responsible for the content:
Vivian Yao – vivian.yao@roedl.com

Layout/Type: Elisa Guo – elisa.guo@roedl.com

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