

# ADVANT Beiten



## CHINA – INDIVIDUAL INCOME TAX (“IIT”)

The last substantial overhaul of the PRC Individual Income Tax Law (“IIT Law”) and related implementing regulations and other related measures became effective as of 1 January 2019. Some changes were provided to only be gradually phased out during a transitional period now **extended until 31 December 2027** (“**Transitional Period**”) as per several announcements by the PRC Ministry of Finance on 28 August 2023. Also, on 31 August 2023 the State Council announced the increase of three specific deductions for IIT purposes, effective retroactively since 1 January 2023.

### 1. INCOME CATEGORIES AND TAX FILING

The IIT Law recognises the below listed nine income categories. For PRC tax residents, income derived from the first four of these income categories are consolidated under the category “Comprehensive Income”, while for non-PRC tax residents, income obtained from such four categories is taxed separately:

1	Salaries and wages	Comprehensive Income
2	Remuneration for personal services	
3	Author’s remuneration	
4	Royalties	
5	Operating Income	
6	Interest, dividends and bonuses	
7	Lease of property	
8	Transfer of property	
9	Incidental income	

#### 1.1 COMPREHENSIVE INCOME

PRC tax residents: IIT on Comprehensive Income is calculated on a consolidated basis for the tax year (= calendar year) and after the personal standard deduction of RMB 60,000, specific deductions, itemised deductions for specific expenditures, and other deductible items from the gross yearly income. Monthly provisional filings are required and in addition an annual reconciliation filing must be made between 1 March and 30 June of the following year.

Non-PRC tax residents: IIT on income from

- salaries and wages shall be taxed per month after the personal standard deduction of RMB 5,000 from the gross monthly income; and for
- personal services, author’s remuneration and royalties, the taxable income is the amount received each time and shall be taxed accordingly each time.

IIT on wages and salaries, personal service remuneration, author’s remuneration and royalties shall be withheld and paid on a monthly or per-time basis, either by the withholding agent or – if there is none – by the non-PRC tax resident himself/herself. Non-PRC tax residents must not file annual IIT reconciliation filings.

#### 1.2 OPERATING INCOME

This is income derived from the production or business operation by self-employed industrial/commercial households. The taxable income is the gross income obtained in a single tax year after deduction of costs, expenses and losses and is taxed for IIT purposes on a yearly basis. The taxpayer shall file provisional tax return for such Operating Income with the locally competent tax authority within 15 days after the end of each month or quarter and make a prepayment of the taxes. Taxpayers then need to handle the final reconciliation settlement latest by 31 March of the following year.

### 1.3 LEASE / TRANSFER OF PROPERTY, INTEREST, DIVIDENDS, BONUSES & INCIDENTAL INCOME

Property Lease: Taxable income is taxed on the single lease payment amount and based on the following formulas:

- Single lease payment amounting to up to RMB 4,000 = [payment received] – RMB 800
- Single lease payment amounting to over RMB 4,000 = [payment received] – 20% for expenses

Property Transfer: Taxable income is taxed on each transfer based on the following formula: Taxable income = [proceeds from the transfer of property] – [original price of the property] – [reasonable expenses]

Interest, Dividends, Bonuses & Incidental Income: Taxable income is taxed based on the following formula: Taxable income = amount received each time

All above income items received by a taxpayer is taxed for IIT purposes on a monthly or per-time basis. The withholding agent, if any, shall withhold and remit the IIT accordingly. There is no requirement for an annual reconciliation for these income items.

## 2. IIT RATES & BRACKETS FOR DIFFERENT INCOME CATEGORIES

IIT rates and deductions vary depending on the respective type of income and the tax residency status of the taxpayer.

**2.1 Comprehensive Income** derived by a PRC tax resident in one tax year (after deduction of personal deduction of RMB 60,000, specific deductions, itemised deductions for specific expenditures, and other deductible items determined by law) is taxed progressively as follows:

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

**2.2 Salaries and wages, remuneration for personal services, author’s remuneration and royalties** derived by non-PRC tax residents are taxed as follows: (a) salaries and wages are taxed per payment after a personal deduction of RMB 5,000 and (b) taxable income derived from personal services, author’s remuneration and royalties are taxed per payment after lawful deductibles, and in each case (a) & (b), the following progressive tax rates apply:

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

**2.3 Operating Income** is subject to IIT based on the amount of income after deduction of costs, expenses and losses per tax year at the following progressive rates:

Brackets	Annual Taxable Income (after deductions) (RMB)	Tax Rate (%)
1	≤ 30,000	5%
2	30,000 ≤ 90,000	10%
3	90,000 ≤ 300,000	20%
4	300,000 ≤ 500,000	30%
5	> 500,000	35%

**2.4** Income from **Interest, Dividends, Bonuses, Property Lease/Transfer** and **Incidental Income** are taxed at a flat rate of 20%.

### 3. DEDUCTIONS APPLICABLE TO CALCULATION OF TAXABLE INCOME FOR IIT PURPOSES

**Personal Deduction:** PRC tax residents receiving Comprehensive Income are entitled to an annual lump-sum deduction of RMB 60,000. Non-PRC tax residents earning salaries and wages are entitled to a monthly lump-sum deduction of RMB 5,000.

**Specific Deductions:** In addition to the already existing specific deductions (i.e. basic pension insurance, basic medical insurance, unemployment insurance, housing fund), further deductions for specific expenditures for the following expenses can be deducted for IIT calculation purposes by PRC tax residents (see table below):

Deduction Item	Deduction Amount/Cap	Taxpayer Entitled to Deduction
Children’s full-time academic pre- & elementary school education in China & infant care	RMB 2,000/month per child	Parents (shared or individually)
Continuing education in China	RMB 400/month for up to 48 months per academic degree RMB 3,600 during the year of obtaining the vocational qualification certificate	Students (or parents for bachelor degree or below)
Medical costs for serious disease	Amount in excess of RMB 15,000 (after medical insurance reimbursement) up to RMB 80,000 per year	Patients (or spouse or parents for minor children)
Housing loan interest (for first house only)	RMB 1,000/month up to 240 months	Home owners at 100% (or with spouse at 50%)
Housing rental	Between RMB 800 and 1,500/month depending on location	Lessee (either spouse if they reside in the same city)
Elderly support for parents aged 60 years or older	RMB 3,000/month per person	Shared among siblings, up to 1,500 RMB/month per sibling

**Charitable Donations:** Charitable donations not exceeding 30% of an individual’s taxable income are tax deductible (subject to State Council approval, higher thresholds may apply in some cases).

**Deemed Expense Deduction:** Deemed expenses of RMB 800 are tax deductible for income from the provision of personal services, author’s remuneration and royalties if the income on per-payment basis does not exceed RMB 4,000. Deemed expense are calculated at 20% of the income if the income on per-payment basis exceeds RMB 4,000. IIT on author’s remuneration is assessed on 70% of the net income after deduction of deemed expenses.

### 4. TAX RESIDENCY

The taxation of IIT on an employee’s income in China mainly depends on his/her tax residence status and the source of income. In general, individuals who have their domicile in the PRC are subject to IIT on their worldwide income. However, as the term “domicile” refers to “habitual residence”, which is a legal term rather than an actual place of residence, foreigners working for a limited period in the PRC are not deemed to have established their “domicile” in China.

**Tax residency:** An individual with a domicile in China or without such domicile but having stayed in China for 183 or more days in a tax year (= calendar year) is a tax resident and shall pay IIT for any income sourced within and outside the PRC according to law.

Individuals who are regarded as non-domiciled in the PRC and who have not been a PRC tax resident for more than six consecutive years (counting from 1 January 2019, even if they stayed in China before such date) can be exempted from IIT in China for their non-China-sourced income subject to relevant record filing with the tax authorities. For any calendar year during which a non-domiciled individual stays outside China for more than 30 consecutive days, the aforesaid six-year period will restart from zero.

**Non-tax residency:** Individuals without China domicile and not having stayed in China or having stayed in China for less than 183 days in a tax year shall pay IIT for income sourced within China.

## 5. WITHHOLDING AGENT, TAXPAYER AND TAX ID

**Withholding agent** refers to the entity making the income payment while the term **taxpayer** refers to the respective income earner.

Withholding agents must provide IIT withholding statements including information of IIT withheld and other relevant information to the taxpayers to allow them to file accurate annual tax reconciliation returns. Further, withholding agents shall furnish details of the amount of IIT withheld, and other relevant information to individual taxpayers. Taxpayers must notify their tax ID (PRC ID Card number in case of PRC nationals; for foreigners, the tax authorities will allocate tax IDs) to their withholding agents.

If there is a withholding agent who does not withhold/remit IIT when due, the taxpayer shall pay IIT latest by 30 June of the year following the year in which the income was received (if the tax authority notifies of another time limit, such time limit prevails). PRC tax residents must file tax returns for income received from outside the PRC between 1 March and 30 June of the year after the year such income is received. PRC tax residents can either file such tax returns by him-/herself or authorise the withholding agent to file the tax returns on his/her behalf. Non-PRC tax residents receiving wages and salaries from two or more PRC sources must file tax returns within the first 15 days of the month after the month the income is received.

## 6. PREFERENTIAL TAX TREATMENTS UNDER THE IIT LAW

### 6.1 ENTERPRISE ANNUITY WITHDRAWALS

Any withdrawals from qualified enterprise annuities may be treated as separate income source from the Comprehensive Income for IIT calculation purposes. In case of monthly/annual withdrawals the IIT rates applicable to monthly/annual Comprehensive Income tax assessment shall apply respectively. In case of quarterly withdrawals, the amount withdrawn shall be divided by three to determine the applicable IIT rate based on the IIT rates applicable to monthly Comprehensive Income tax assessment.

### 6.2 SEVERANCE PAYMENTS

Qualified severance payments up to three times of local average wages shall be IIT exempt. Qualified severance payments exceeding three times of the local average wages shall be treated as a separate source of income from the Comprehensive Income for IIT calculation purposes and the IIT rates applicable to annual Comprehensive Income tax assessment shall apply in such case. One-off compensation for early retirement can be treated as a separate source of income from the Comprehensive Income and amortised over a period equal to the number of years between the date of early retirement and the mandatory retirement date for IIT calculation purposes and shall be taxed based on IIT rates applicable to annual Comprehensive Income tax assessment.

### 6.3 ANNUAL BONUS

**Until 31 December 2027**, annual bonus shall refer to a one-off bonus paid to the employee by the employer according to its economic returns and comprehensive evaluation on the employee's working performance during a given calendar year. One option to tax-optimize the benefits packages for employees is to use the preferential IIT treatment for one-off annual bonuses. Under this regime – which can be used once every year – annual bonuses are not combined for IIT calculation purposes with the regular monthly salary, but treated as an extra compensation item and the bonus amount is divided by 12. The applicable IIT rate is then the rate applicable to such 1/12 of the annual bonus.

### 6.4 TAX-EXEMPT BENEFITS FOR NON-PRC EMPLOYEES

**Until 31 December 2027**, non-PRC employees can enjoy IIT exemptions on certain reasonable fringe benefits such as e.g. allowances for housing, meal and laundry, relocation, home flights and children's education provided, they can be proven by valid written documents (tax receipts, contracts etc.) and subject to being borne by employers or granted on a reimbursement basis. In any event, also non-PRC employees can choose to apply the specific itemized deductions listed above under Chapter 3 "Deductions" if they are either not eligible to the special IIT exemptions granted to non-PRC employees or otherwise find the "Deductions" outlined under Chapter 3 above constitute a betterment for them.

## 7. ANTI-AVOIDANCE RULES

China concluded anti-tax-avoidance agreements with over 100 countries and regions worldwide and implemented the Common Reporting Standards ("CRS"), bilateral Competent Authority Agreements and activated bilateral exchange relationships with close to 80 countries and regions (including e.g. Germany and most of the European countries). China will strengthen compliance and utilization of automatic exchange of financial account information under CRS to increase IIT collection.

Chinese tax authorities have the right to assess IIT on individuals who are involved in transactions such as asset transfers which are not at arm's length, tax avoidance by use of offshore tax havens or deriving inappropriate tax benefits through unreasonable commercial arrangements, etc. If IIT is assessed in reliance on such measures, not only IIT, but also late payment surcharge are collected by the tax authorities. Late payment surcharge often outweighs the actual IIT amount.

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