KPMG

GMS Flash Alert

2018-121 | September 14, 2018

People's Republic of China - Amendments to Individual Income Tax Law Passed

New rules modifying the determination of residence, the income tax brackets, and the allowable personal deduction on comprehensive income and special itemised deductions will soon take effect in the People's Republic of China ("PRC" or "China").

On 31 August 2018, the Standing Committee of the National People's Congress passed the amendments to reform the PRC Individual Income Tax ("IIT") Law (hereinafter, "the Amendment"). The Amendment will take full effect from 1 January 2019.[1]

The revised standard personal deduction on comprehensive income and personal tax rates table will apply from 1 October 2018.

WHY THIS MATTERS

The reform of the IIT Law will mean significant modifications to the PRC individual income tax system.[2] Global mobility advisers and employers, as well as employees, should be prepared for important changes to how individuals subject to Chinese tax law are treated for income tax purposes and the potential changes to international assignment costs and budgeting. Payroll administrators may need to make adjustments in light of the 1 October start date for the personal deduction and tax table changes.

There are still several issues tied to the tax treatment of foreign source income, bonuses, and foreign employees' tax-exempt benefits that remain to be clarified.

Key Amendments

In addition to the key amendments which we discussed in GMS *Flash Alert* 2018-098 (17 July 2018) and GMS Flash Alert 2018-093 (6 July 2018), the following are notable changes which were raised in the second review of the Draft and passed under the new law:

- **Deemed expense deduction allowable for income from provision of independent personal services, author's remuneration, and royalties at 20 percent of gross income**: A deduction for deemed expenses at the rate of 20 percent of gross income will be allowed for income arising from the provision of independent personal services, income from author's remuneration, and income from royalties. Income tax on author's remuneration will be assessed on 70 percent of the individual's net income after deducting the 20-percent deemed expenses.

- **Charitable donations allowable for personal tax deduction**: Charitable donations not exceeding 30 percent of one's gross taxable income are allowable for tax deduction. Donations made to certain charities may not be subject to the 30-percent deductibility cap if approved by the State Council.

- **Expenditures on supporting the elderly allowable for personal tax deduction**: This measure takes on board the aging population and the financial burden of supporting the elderly.

- **Withholding agents shall furnish tax withholding statements to individual taxpayers**: In order for individual taxpayers to lodge accurate annual tax reconciliation returns, withholding agents shall furnish details of the amount of tax withheld, and other relevant information, to individual taxpayers.

KPMG NOTE

The passing of the Amendment is a significant milestone in the evolution of China's tax system. Further regulations and guidelines are expected from the State Council in due course.

There are several items of interest, with practical considerations, associated with the new IIT Law that are expected to be further addressed by means of implementing rules and guidelines:

- Whether an exemption on foreign-source income will still be available to non-domiciled individuals (including residents of Hong Kong, Macau, and Taiwan) residing in China for not more than five full consecutive years.
- How the new tax laws will interact with the preferential treatment applied to annual bonuses.
- The quantum (or total amount) of allowable itemised deductions through the application of caps.
- Whether foreign employees' tax-exempt benefits will still apply.

It is recommended that individual taxpayers and organisations review the implications of the Amendment on their tax affairs, and company policies concerning employees that focus on the following areas:

- Corporate HR Policy updates;
- Implementation of an updated HR policy;
- Financial impact forecasting and budgeting;
- Employee communications; and
- Individual tax risk assessments.

FOOTNOTE:

1 Amendments to the PRC Individual Income Tax ("IIT") Law. The Amendments were promulgated through Presidential Decree No. 9.

2 For more information on the IIT reforms from the KPMG International member firm in the People's Republic of China, click here.

* * * * *

RELATED RESOURCE

This article is excerpted, with permission, from "The Amendments to the PRC IIT Law Were Passed," in *China Tax Alert* (Issue 18, August 2018), a publication from the KPMG International member firm in the People's Republic of China.

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in the People's Republic of China:

Michelle Zhou
Partner
Tel. +86 (21) 2212 3458
Michelle.b.zhou@kpmg.com

Vincent Pang
Partner
Tel. +86 108 508 7516
Vincent.pang@kpmg.com

Murray Sarelius
Partner
Tel. +852 3927 5671
Murray.sarelius@kpmg.com

* *Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in the People's Republic of China.

www.kpmg.com

kpmg.com/socialmedia

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to http://www.kpmg.com.