

GMS Flash Alert



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People's Republic of China - Rectification Filing Deadline if Resident Status Change

The 2020 tax year in the People's Republic of China ("China") has come to an end. Therefore, time for making year-end adjustments to the amount of tax withheld during the year is fast approaching. If an employee has a changed resident status during the year, and this has not already been reflected in the monthly withholding from the date of that change of status, a rectification filing might be required. The deadline for such corrections is 15 January 2021.

WHY THIS MATTERS

Actual days in China during 2020 may have changed significantly from the expectation at the start of the year.

Different tax calculation methods and filing obligations apply depending on whether a non-domiciled individual is resident or nonresident in the tax year concerned. In some cases, an individual's resident status can only be determined with hindsight. Therefore, an adjustment to the withholding might be required to make sure the total tax withheld is correct.

Distinction between "Resident" and "Nonresident" under Individual Income Tax (IIT)

The IIT obligation and calculation mechanisms for a resident individual and nonresident individual are different. Consequently, a change of tax residence status could result in a change in the amount of IIT payable.

The table below summarises notable differences between “resident” and “nonresident” requirements:

	Resident	Nonresident
IIT implication	Report IIT on income derived from both within and outside China, subject to a 6-year concession for a non-domiciled tax resident	Report IIT on income derived from China only
Monthly withholding by employer	Calculate IIT by accumulative IIT withholding method on an annual basis	Calculate by each type of income on a monthly or transaction basis
Deductions	Eligible for claiming deductions for the employee’s portion of social security contributions and itemised deductions, e.g., home mortgage interest or rent A non-domiciled tax resident individual can also choose to apply the traditional tax-exempted benefits as an alternative to the itemised deductions	Cannot claim deductions for the employee’s portion of social security contributions and itemised deductions
Annual reconciliation filing	Filing between 1 March and 30 June following the end of the respective tax year, e.g., if he/she has tax due exceeding CNY 400 in 2020, or a tax refund available.	Not applicable

Filing Obligation Due to Residence Status Change

According to prevailing PRC IIT regulations, employers shall make a pre-assessment of their employees’ tax residence status in China from the first monthly IIT filing based on his or her estimated number of days in China during a tax year.

Resident to Nonresident

If a non-domiciled employee is pre-determined to be a tax resident but later determines that he/she would not physically stay in China for 183 days or more in the tax year concerned, the employer should report and remit the tax shortfall or claim a tax refund due to the change in the employee’s residency status to the in-charge tax authority, by no later than 15 January immediately following the end of the respective tax year. No interest surcharge is imposed if the due date (15 January) is met.

Nonresident to Resident

In contrast, if the monthly tax of the employee is withheld using the nonresident method and the employee becomes a resident in the tax year concerned, the monthly IIT calculation method for nonresidents shall continue to apply. The rectification filing should be performed via the annual reconciliation filing from the following 1 March to 30 June.

KPMG NOTE

In 2020, due to the COVID-19 pandemic, China implemented travel restriction policies that have prevented the return of foreign expatriates to their place of work in China. In other cases, foreign employees may have remained in China longer than expected. As a consequence, actual days in China during 2020 may have changed significantly from the expectation at the start of the year. This change could affect the tax residence status of foreign expatriates. With expatriates returning home during the early days of the pandemic, and then having difficulty returning to China, we anticipate more resident-to-nonresident cases arising during the year.

In this regard, we suggest employers:

1. review the residency status during December by collecting the travel information of employees, identifying cases where residence status may have changed, and recalculating IIT for those employees whose resident status has been changed to nonresident;
2. consult with the in-charge tax officials or their qualified tax professional in advance regarding the practicalities of the rectification filing process and required documents, as these may vary between different tax bureaux;
3. reconsider, for the new year 2021, expatriates' expected tax resident status based on their arrangements in light of the worldwide travel restrictions – the residence status should be determined accordingly at the beginning of the year.

Contact us

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