

# Crucial Changes in Income Tax

## 中國個人所得稅重大改革

Expats working on the Mainland can expect closer scrutiny of their tax affairs as IIT reforms are implemented  
個人所得稅改革實施後，料駐內地工作的外籍人士將受更嚴謹的稅務審查

**R**eform of the PRC's Individual Income Tax (IIT) laws will have a significant impact on expats working in the Mainland – including Hong Kong citizens – and employers with staff stationed there. Daniel Hui, Kate Lai and David Chiu from KPMG highlighted the key changes that members need to be aware of at a round-table luncheon on 14 February.

The new rules, which came into force on 1 January, aim to more closely align the tax position of overseas and local employees in Mainland China. This affects some of the benefits that expats have enjoyed to date.

“In the past, companies offered generous packages to attract overseas talent,” Chiu explained. “But as time goes on, questions are being asked about the difference in treatment between local and overseas workers.”

PRC residents are subject to tax on global income. Under the previous rules, expats were exempt for

five years. In addition, the clock could be “re-set” by leaving the Mainland for more than 90 cumulative days or 30 consecutive days.

Under the new law, expats are considered resident if they have resided in China for 183 days in a calendar year. The exemption period has been extended to six years, but the 90-day allowance has been abolished. Hui pointed out that this may cause problems for some expats.

“When we talk to our clients, they tell us that it is quite hard for them to leave China for 30 days consecutively, because of business meetings and other work demands,” he said.

It seems the authorities also plan to pay closer attention to tax-payers' records. Lai explained that a new clause in this concession adds the caveat that that foreign-sourced income will be exempt after “put-on record” filing.

“The details on this clause have not been released, but we expect the tax authority may step up enforce-

ment,” she said. “Don't overlook this piece of work.”

There is also uncertainty about how the time frame for exemption will be calculated. Lai gave the example of an individual who takes more than 30 days of absence in 2016 – will this re-set the clock to 2016 or 2017?

“It is better to be safe than sorry, and start counting from 2016 until we hear further details from the authorities,” she advised.

Another change affecting expats is the removal of the no-cap deductions for allowances such as housing and children's education. However, this will not be implemented until the end of 2021. This three-year transition period also applies to some other areas.

“The good news is that the non-taxable allowance for foreigners will remain for a few years,” Lai said.

The IIT reform has also introduced new general anti-tax avoidance rules for individuals. Hui explained this will have an impact





on high earners and high-net-worth individuals in the Mainland who invest overseas.

“This is another indication that the PRC tax authority is applying more scrutiny to such arrangements.”

Hui pointed out that the increased scrutiny may affect Hong Kong people who are settled with their families in the Mainland. To ensure they continue to be considered non-domiciled, they may need to re-establish a presence in Hong Kong.

Chiu introduced some other aspects of the IIT reforms such as changes to the taxation of bonus payments and severance payments.

The important thing, Chiu said, is that companies should be prepared for when the three-year transition period ends. “If you have a lot of expats working in China we could be talking about millions of RMB,” he said.

Further guidance is expected on the details. But, generally speaking, it seems advisable for individuals to keep careful records and to err on the side of caution when reviewing their affairs for tax purposes.

Hui added that improvements to the tax reporting system and advances in technology mean it “will be easier for the authorities to target individuals that have tax avoidance issues.”

中國去年通過《個人所得稅法修正案》，此舉將對在內地工作的外籍人士——包括香港市民——以及派遣員工駐守內地工作的企業帶來深遠影響。在總商會2月14日的午餐會上，畢馬威代表許昭淳、賴綺琪和趙顯龍向會員闡明當中的重要變動。

新個人所得稅法於1月1日正式生效，旨在收窄中國內地外籍與當地員工的課稅額差距。這將影響外籍人士在內地一貫享有的優惠。

趙顯龍解釋：「過往，企業都會以豐厚的薪酬福利待遇吸引海外人才。不過隨時代轉變，開始有聲音質疑為何當地與外籍員工待遇上存在差別。」

中國內地居民須就境內外的所有入息繳納個人所得稅。但根據過往的稅制，外籍人士只要不連續在內地居住滿五年，便可獲豁免繳交境外入息的所得稅。而在內地居住滿一年的定義，是指在一納稅年度內連續離境不多於30日，或累計離境不多於90日。

在新例下，繳稅的要求由原先連續居住滿五年，放寬至六年。然而，在內地居住滿一年的定義，則改為在中國境內累計居住滿183日，且在一年度中連續離境不多於30日，取消了原本累計離境超過90日的免稅寬限。許昭淳認為，此項變動可能對某些外籍人士造成影響。

趙顯龍指出：「不少客戶表示，基於商務會議或其他工作需求，要駐國內員工連續離開內地30日相當困難。」

內地當局亦看似有計劃加強對納稅人稅務紀錄的審查。賴綺琪解釋，在免除境外入息個人所得稅的條文中，新增了「經向主管稅務機關備案」等字句，值得關注。

她續道：「該條文的詳情還未公布，但我們預料稅務機關將會加強執法，其影響

不容忽視。」

至於連續居住年限符合重設要求後，重設將在何時生效，也是未有定論。賴綺琪指出了當中的含糊之處：若有人在2016年連續離境超過30日——那連續居住年限重設會在2016年立即生效，還是要待2017年呢？

她建議：「小心為上，若不想誤墮稅網，在當局釐清條例細節前，還是把2016年算作未被重設比較保險。」

另一項關乎外籍人士的改革，是對房屋或子女教育等支出，不再提供無限額扣稅補貼。不過，這項措施到2021年底才生效，而這三年過渡期也適用於若干其他範疇。

賴綺琪補充：「好消息是，外籍人士的免稅津貼將在未來數年繼續保留。」

個人所得稅改革亦針對個人避稅行為，新增了反避稅條款。許昭淳表示，最受影響的會是國內擁有高收入或高淨值資產，而又有海外投資的人士。

「這再次揭示，國家稅務局相較以前對反避稅措施斟酌得更加仔細。」

許昭淳亦指出，國家加強稅務審查，與家人在內地定居的港人也可能會受到影響。要在內地保持「非居民」的身份，他們或許需要每隔不久便回港一段時間。

趙顯龍還講解了個人所得稅的其他事項，例如獎金及遣散費的稅收調整。

他表示，最重要是企業在三年過渡期內做好準備。他說：「假如你的公司有很多外籍人員駐守內地工作，那涉及的金額可能達到數以百萬人民幣。」

可料，更多指引及詳情將陸續發布。但總的來說，在稅務事宜上保留清楚的紀錄，行事加倍謹慎，才是穩妥的做法。

許昭淳補充，隨著科技進步和報稅系統日趨完善，稅務機關將更容易針對避稅人士，加以打擊。