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# Chinese Tax Treatment of Wages and Salary Income of French individuals

**On June 30, 2011, the Standing Committee of the National People's Congress of China has passed new revisions to the Individual Income Tax Law (IIT Law).**

**The major revisions to the IIT Law are as follows:**

- **IIT on income from salaries is subject to revised progressive tax rates, which range from 3 percent to 45 percent;**
- **The existing 9-bracket progressive tax rates for employment income is reduced to a 7-bracket scale, with the brackets of 15 percent and 40 percent being removed;**
- **Basic exemption amount for domestic PRC individuals increased from RMB2,000 to RMB3,500 per month, basic exemption amount for foreign individuals remains unchanged at RMB4,800 per month;**
- **The monthly IIT filing due date is extended from 7 days to 15 days of the following month.**

**The revised IIT Law will take effect on *September 1st, 2011*.**

**This LNA presents an updated summary regarding the general Individual Income Tax (IIT) treatment of wages and salary income of French individuals in China** (i.e. mainland China, excluding Hong Kong, Macao and Taiwan).

Main considerations when approaching the subject if Chinese IIT on wages and salary income of a French individual include (i) his/her residency status, (ii) whether his/her income is China sourced or foreign sourced, and (iii) whether the income is paid and borne by an enterprise in China or by a foreign enterprise. Also the position a French individual takes up in China will affect the PRC tax treatment of his/her income. For instance, PRC tax treatment of wages and salary income of a French individual who is a director of an enterprise in China or a representative (or chief representative) of a representative office in China differs somewhat from the general PRC tax treatment of wages and salary income.

In our quick reference chart and table further below, we will focus on the general PRC tax treatment of wages and salary income, without presenting thos specific treatments for directors and representatives, which specific treatments could be further developed in a later LNA.

## Residency status of the French individual

For any given tax year, which corresponds to a calendar year from 1 January to 31 December, a French individual could be a tax resident of China, a non-tax resident of China but who has lived in China for a period of time during the year, or a non-tax resident of China who has not lived in China during the year.

- Chinese tax resident: Tax resident of China means an individual who has habitually resided in China because of household registration, or family or economic involvements.
- Non-tax resident but has lived in China during a calendar year: Where a French individual is not a tax resident of China, but has lived in China for a period of time during the calendar year in question.
- Non-tax resident: Where a French individual is not a tax resident of China and has not lived in China during the calendar year in question.

## China or foreign sourced income

- China sourced income: It means wages and salaries gained by an individual during the period of his actual work in China which are paid by enterprises or individual employers whether inside or outside China.
- Foreign sourced income: It means wages and salaries gained by an individual during the period of his actual work overseas which are paid by enterprises or individual employers whether inside or outside China.

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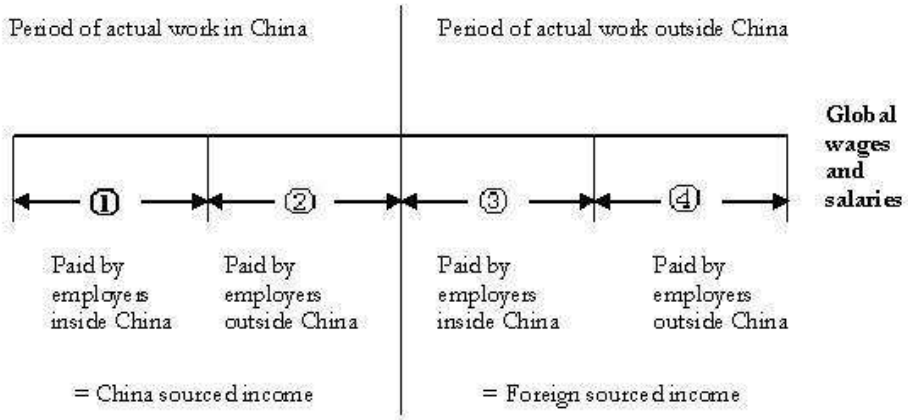
## Income paid and borne by enterprise in China or by overseas enterprise

Whether a wage or salary income is paid and borne by an enterprise in China or by an overseas enterprise would have an impact on the Chinese tax treatment of such income as well.

## Quick reference chart and table on who and what is subject to Chinese IIT




**Quick Reference Table: General Chinese tax treatment of wages and salary income of French individuals (excluding expatriate holding Director's position in China)**

| Residency status of individual | Description | Chart Codes | Income subject to Chinese tax? |
|---|---|---|---|
| NR (not tax resident of China) | Not tax resident of China, and has not lived in China during a calendar year. | ① | **Yes** |
| | | ② | No |
| | | ③ | No |
| | | ④ | No |
| NR + ≤ 6 mths | Not tax resident of China but, during a calendar year, has lived in China for 183 days or less cumulatively. | ① | **Yes** |
| | | ② | No |
| | | ③ | No |
| | | ④ | No |
| NR + > 6mths < 1 yr | Not tax resident of China but, during a calendar year, has lived in China for more than 183 days and has left China for:<br>○ any single period of more than 30 days; or<br>○ more than 90 days cumulatively. | ① | **Yes** |
| | | ② | **Yes** |
| | | ③ | No |
| | | ④ | No |
| NR + 1 yr | Not tax resident of China but, during a calendar year, has lived in China for more than 183 days and not having left China for:<br>○ any single period of more than 30 days; or<br>○ more than 90 days cumulatively. | ① | **Yes** |
| | | ② | **Yes** |
| | | ③ | **Yes** |
| | | ④ | No |
| NR + > 1 yr ≤ 5 yrs | Same as "NR + 1 yr" for each of the 2nd, 3rd, 4th and 5th consecutive years. | ① | **Yes** |
| | | ② | **Yes** |
| | | ③ | **Yes** |

| | | | |
|---|---|---|---|
| | | ④ | No |
| NR + 5 yrs + 1 yr | "NR + 5 yrs". From the 6th year onwards, he is "NR + 1 yr" for a particular year. | ① | **Yes** |
| | | ② | **Yes** |
| | | ③ | **Yes** |
| | | ④ | **Yes** |

NB: Exceptions to this quick reference table would need to be made for individuals holding a Director's position in China and to employees working for an enterprise or organisation in China, where Chinese enterprise income tax for such enterprise or organisation is calculated and levied by using the method of deemed profits, or where no Chinese enterprise income tax is calculated and levied in respect of such enterprise or organisation for they have no enterprise income (eg. representative office of a foreign enterprise).

## Common types of permitted deductions from wages and salary income of a foreign employee include

- Insurance and pension contributions made by a French employer that are mandatory under French laws, and which payments have not been deducted from the employer's enterprise income;
- Payment or reimbursement of actual housing expenses;
- Reimbursement of reasonable relocation expenses incurred;
- Reimbursement of reasonable domectic and international business travel expenses;
- Reasonable family visit expenses, language training expenses and children's education costs;

## Chinese IIT tax rates, calculation and filing

Taxable income must be calculated in RMB. If the income has been paid in a foreign currency, then it would be taxed on the equivalent amount converted into RMB.

Foreigners are entitled to a basic monthly exemption of RMB 4,800. Untill August 31, 2011, any taxable wages and salaries received in the month above and beyond RMB 4,800 are subject to Chinese tax at progressive rates ranging from 5% to 45%, as set out in the table below.

**Existing table (to be replaced on 1 September 2011)**

| Monthly income (RMB) | Marginal tax rate | Quick deduction quotient |
|---|---|---|
| **First 4,800 (see below for amounts above 4,800)** | -- | -- |
| **0 - 500** | 5% | 0 |
| **501 - 2 000** | 10% | 25 |
| **2 001 - 5 000** | 15% | 125 |
| **5 001 - 20 000** | 20% | 375 |
| **20 001 - 40 000** | 25% | 1 375 |
| **40 001 - 60 000** | 30% | 3 375 |
| **60 001 - 80 000** | 35% | 6 375 |
| **80 001 - 100 000** | 40% | 10 375 |
| **100 001 and up** | 45% | 15 375 |

As from September 1st, 2011, any taxable wages and salaries received in the month above and beyond RMB4,800 will be subject to Chinese tax at progressive rates ranging from 3% to 45%. The revised tax rates can be seen in the table below:

**New table (effective as of 1 September 2011)**

| Monthly income (RMB) | Marginal tax rate | Quick deduction quotient |
|---|---|---|
| **First 4 800 (see below for amounts above 4 800)** | -- | -- |
| **0 - 1 500** | 3% | 0 |
| **1 501 - 4 500** | 10% | 105 |
| **4 501 - 9 000** | 20% | 555 |
| **9 001 - 35 000** | 25% | 1 005 |
| **35 001 - 55 000** | 30% | 2 755 |
| **55 001 - 80 000** | 35% | 5 505 |
| **80 001 and up** | 45% | 13 505 |

As a result of the reform, starting from September 1st 2011, foreigners with gross monthly income above RMB17,400 per month will start to pay higher taxes:

| Individual Income Tax Comparison | | | |
|---|---|---|---|
| **Gross Income (in Renminbi)** | **IIT Payable before Sept. 1st 2011 (in Renminbi)** | **IIT Payable as from Sept. 1st 2011 (in Renminbi)** | **IIT Change (in Renminbi)** |
| 10 000 | 665 | 485 | -180 |
| 17 400 | 2 145 | 2 145 | 0 |
| 20 000 | 2 665 | 2 795 | +130 |
| 25 000 | 3 675 | 4 045 | +370 |
| 45 000 | 8 685 | 9 305 | +620 |
| 60 000 | 13 185 | 13 815 | +630 |
| 75 000 | 18 195 | 19 065 | +870 |
| 90 000 | 23 705 | 24 835 | +1 130 |
| 120 000 | 36 465 | 38 335 | +1 870 |

The formula for calculating Chinese IIT payable using the quick calculation method is as follows:

Monthly Chinese tax payable = (monthly income - basic monthly exemption) x marginal tax rate - quick deduction quotient.

As a general rule, Chinese IIT on taxable wages and salary income of an individual should be declared and paid to the competent local tax bureau on a monthly basis, usually at the beginning of the month immediately following the month in which the taxable wages and salary payment(s) were made.

An individual with income in excess of RMB 120,000 in a year is required to complete an individual income tax return summarizing income earned during the year before March 31st of the following year.

## Special tax treatment for annual bonus

In addition to the major types of deductions from income described further above, Chinese tax rules allow for "averaging out" one annual payment a year. We note that this "averaging out" treatment cannot be used for more than one payment in a year.

Chinese IIT on annual bonus = amount of bonus x [marginal tax rate for (amount of bonus / 12)] - [quick deduction quotient for (amount of prime / 12)]

A slightly adjusted formula would apply in the unlikely event that the monthly income of the French individual for the month in which his annual bonus payment is made is less than his basic monthly exemption of RMB 4,800.

**Example:** Let us compare the special tax treatment of annual bonus with the regular tax treatment for a same amount of pre-tax income.

For December 2010, a French individual receives his regular monthly salary of RMB 80,000, plus an annual bonus payment of RMB 80,000. He has not received any other bonus payments in the year.

1. **Chinese IIT on annual bonus of RMB 80,000:**

   The applicable marginal taxe rate for 80 000 / 12 = 6 666 is 20%, quick deduction quotient is 555.

   As such, Chinese IIT on annual bonus = (80 000 x 20%) - 555 = 16 000 - 555 = **RMB 15 445**

2. **Chinese IIT on regular monthly income of RMB 80 000:**

   Chinese IIT on December salary = [(80 000 - 4 800) x 35%] - 5 505 = (75 200 x 35%) - 5 505 = 26 320 - 5 505 = **RMB 20 815**

   Total Chinese IIT on December salary and bonus = 15 625 + 20 815 = **RMB 36 260**

3. **Regular tax treatment on monthly income of RMB 160,000:**

   Without the above-mentioned preferential tax treatment of annual bonus, the additional amount of 80,000 received by the French individual would have been added to his monthly salary of 80,000.

   Chinese IIT on December salary:
   = (80 000 + 80 000 - 4 800) x marginal tax rate - quick deduction quotient
   = (160 000 - 4 800) x marginal tax rate - quick deduction quotient
   = (155 200 x 45%) - 13 505
   = 69 840 - 13 505
   **= 56 335**

   **Tax saving = 56 335 - 36 260 = RMB 20 075**

We stay at your disposal to assist you, if necessary, in the analysis of your tax situation and/or to provide you any further information.

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