

Individual Income Tax (IIT) for Expatriates in the PRC

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Regulations Regarding Expatriates IIT

- **Individual Income Tax Law of the People's Republic of China (2008)**
- **Guoshuifa (1994) 148**
Tax Payment Obligations for non-residents in China
- **Guoshuihanfa (1995) 125**
Clarification of IIT Calculation and Payment for non-residents in China
- **Guoshuifa (2004) 97**
Clarification of Tax Treaties and IIT Law for non-residents in China

Resident and Non-resident

Resident

- Mainland Chinese nationals
 - Non-mainland Chinese nationals who have lived and worked in China for five years consecutively
- ➔ **“Five Year Rule”**

Non-resident

- Non-mainland Chinese nationals who do not meet the “Five Year Rule”

Individual Income Tax

Three Basic Concepts

- Resident tax payer will pay tax on global income
- Non-resident tax payer will pay tax on income derived from China and income paid by Chinese employers
- Apportionment
First work out tax payment first based on your total income, then apply apportionment to work out IIT for China

“Income Derived from China”

China Sourced Income (CSI):

- Wages and salaries earned by an individual during the actual period of work in the territory of China, regardless of whether they are paid by enterprises or individual employers inside or outside China, are deemed income derived from China.

Non-China Sourced Income (Non-CSI):

- Wages and salaries earned by an individual during the actual period of work outside the territory of China, regardless of whether they are paid by enterprises or individual employers inside or outside China, are deemed income derived outside China.

Residing in China for One Year

Residing in China for one calendar year means: in a calendar year, temporary absences from China is less than 30 days continuously or 90 days altogether.

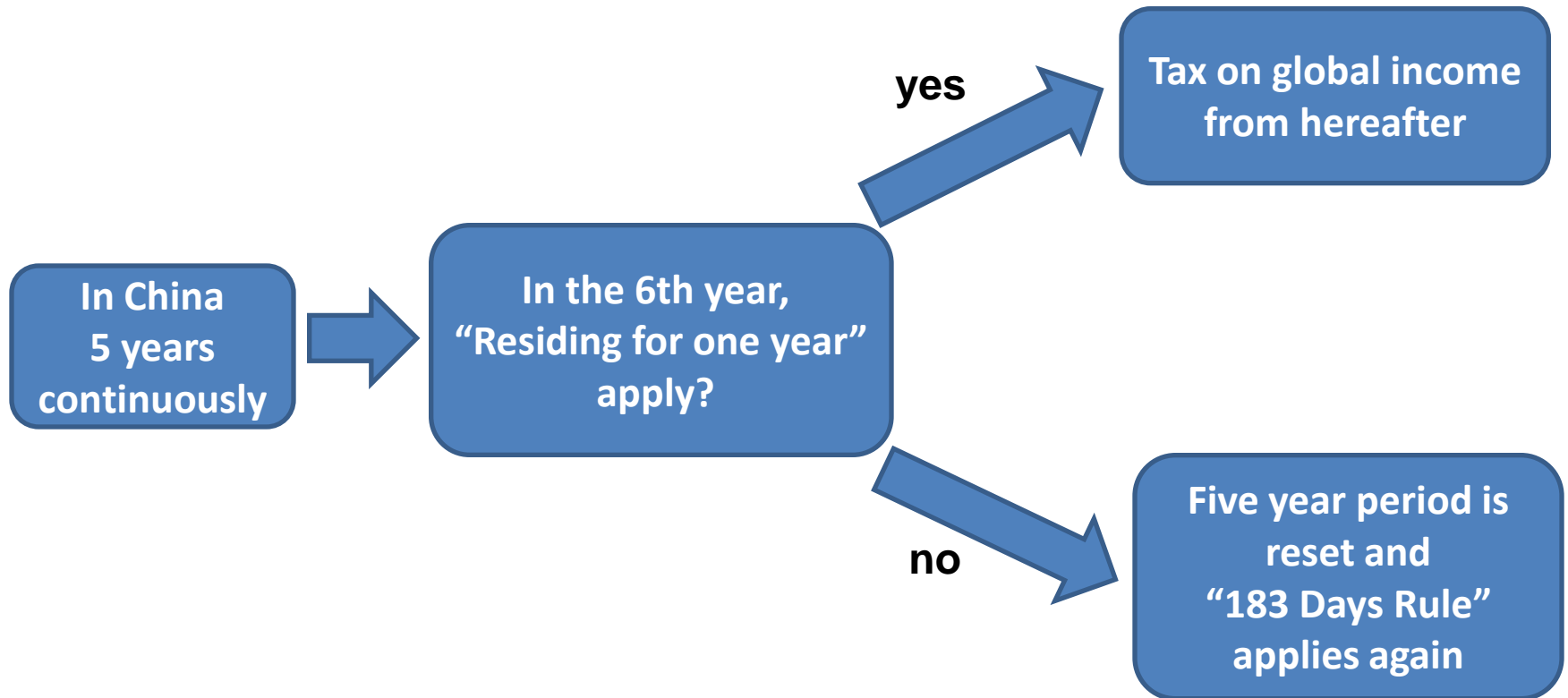
Year of 2010	Entry Records		Number of days spent overseas	
	Depart	Enter		
UK Citizen Mr. Cameron	Nov 1, 2010	Dec 4, 2010	33	
US Citizen Mr. Obama	Jul 1, 2010	Jul 16, 2010	15	36
	Oct 22, 2010	Nov 1, 2010	10	
	Dec 20, 2010	Jan 4, 2011	11	

“183 Days Rule”

Depending on the number of days you stay in China over the calendar year, the following incomes are deemed to be your Taxable Income:

Period in China	China Sourced Income		Non-China Sourced Income	
	Paid by Employer in China	Paid by Overseas Employer	Paid by Employer in China	Paid by Employer Overseas
Less than 183 days	Yes			
183 days to 1 year	Yes	Yes		
1 year to 5 years	Yes	Yes	Yes	

“Five Year Rule”



Apportionment System

The apportionment system is built into the tax calculations, by using formulas similar to this:

$$\left[(\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD} \right] \times \left(\frac{\text{DaysChina}}{\text{DaysTotal}} \right) \times \left(\frac{\text{IncomeChina}}{\text{Total Income}} \right)$$

Total Income	Total income for employment related to China
Income China	Part of the income paid by Chinese Employer
Income Overseas	Part of the income paid by Overseas Employer
Days Total	Total number of days in the current month
Days China	The days spent by the individual inside China in a month
Days Overseas	The days spent by the individual outside China in a month
QD	Quick Deduction (set by government)

Tax Rate Table

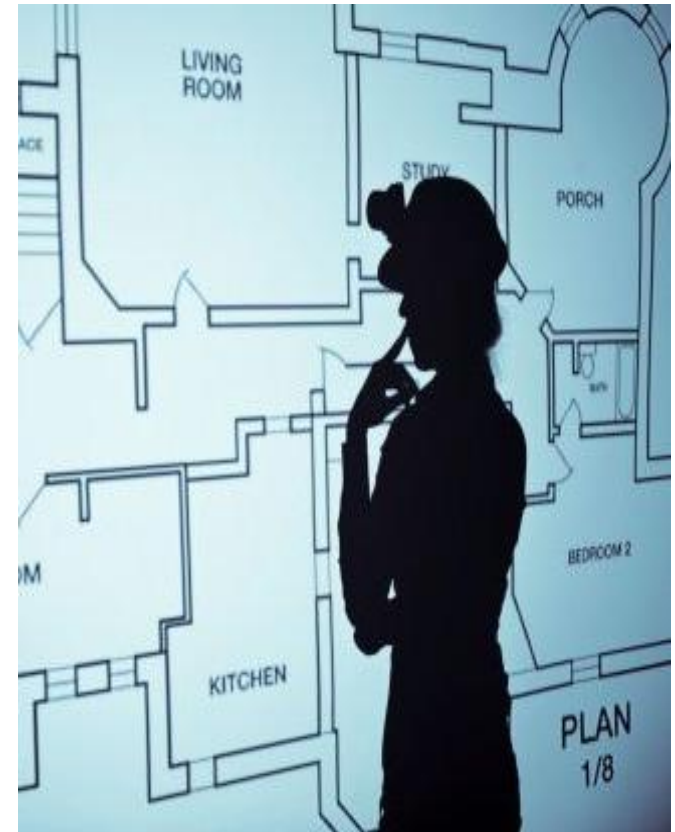
Grade	Monthly Taxable Income (RMB)*	Tax Rate(%)	Quick Deduction
1	Less than 500	5	0
2	$500 \leq \text{RMB} < 2,000$	10	25
3	$2,000 \leq \text{RMB} < 5,000$	15	125
4	$5,000 \leq \text{RMB} < 20,000$	20	375
5	$20,000 \leq \text{RMB} < 40,000$	25	1,375
6	$40,000 \leq \text{RMB} < 60,000$	30	3,375
7	$60,000 \leq \text{RMB} < 80,000$	35	6,375
8	$80,000 \leq \text{RMB} < 100,000$	40	10,375
9	Over 100,000	45	15,375

Useful Formulas

Total days in China	IIT Calculation for monthly salary
Less than 183 days	$\left[(\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD} \right] \times \left(\frac{\text{DaysChina}}{\text{DaysTotal}} \right) \times \left(\frac{\text{IncomeChina}}{\text{Total Income}} \right)$
183 days to 1 year	$\left[(\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD} \right] \times \left(\frac{\text{DaysChina}}{\text{DaysTotal}} \right)$
1 year to 5 years	$\left[(\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD} \right] \times \left(1 - \left(\frac{\text{DaysOverseas}}{\text{DaysTotal}} \right) \times \left(\frac{\text{IncomeOverseas}}{\text{Total Income}} \right) \right)$
Over 5 years	$(\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD}$ <p>Remark: Non-China sourced incomes are also taxable, but the tax paid overseas can be offset against taxes paid in China</p>

Case Study 1 Income Derived From China

Name:	Mrs. Bouvier
Nationality:	French
Company:	WFOE
Total No. of Days in China within one year:	120 days (Less than 183 days)
Total No. of Days in China within One Month:	10 days
Total income:	80,000 RMB
Part of income paid by Company in China:	30,000 RMB
Part of income paid by parent Company in France:	50,000 RMB



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$$\begin{aligned} & [(\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD}] \times \left(\frac{\text{DaysChina}}{\text{DaysTotal}} \right) \times \left(\frac{\text{IncomeChina}}{\text{Total Income}} \right) \\ & = [(80,000 - 4,800) \times 35\% - 6,375] \times \left(\frac{10}{30} \right) \times \left(\frac{30,000}{80,000} \right) \\ & = \mathbf{2,493 \text{ RMB}} \end{aligned}$$

Name	Nationality	Company	Days in China in One Year	Days in China in One Month	Total Income	Part paid by company in China	Part paid by company in France
Mrs. Bouvier	French	WFOE	120 days (Less than 183 days)	10 days	80,000	30,000	50,000

Case Study 2

Income Derived From China

Name	Nationality	Company	Days in China in One Year	Total Income	Part paid by company in China	Part paid by company in France
Mrs. Bouvier	French	WFOE	240 days (Over 183 days)	80,000	30,000	50,000

$$\begin{aligned} & [(\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD}] \times \left(\frac{\text{DaysChina}}{\text{DaysTotal}} \right) \\ & = [(80,000 - 4,800) \times 35\% - 6,375] \times \left(\frac{20}{30} \right) \\ & = \mathbf{13,297 \text{ RMB}} \end{aligned}$$

Definition of “Senior Management”

What is “Senior Management”?

- Director
 - Chief Executive Officer
 - General Manager
 - Vice President
 - Chief Representative
 - Persons occupying functional chief positions
 - Other persons occupying similar company management level positions
- (Guoshuifa (1995) No.125, Art. 3)

Countries with “Senior Manager” clause

The follow countries have a special “Senior Manager” clause in their Double Taxation Agreement with China:

Norway	Canada	Portugal
Sweden	Thailand	Kuwait
Pakistan	Jamaica	

IIT Liability of CR in an RO

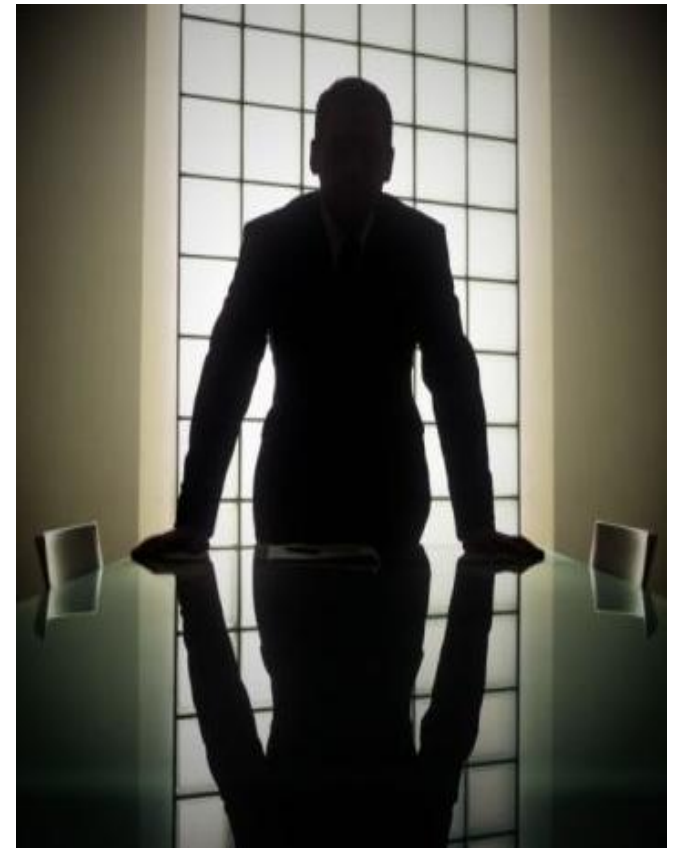
CR IIT calculation also depends on “full time” and “part time” status. For part-time CR, the tax could be apportioned and the CR would only need to pay IIT for the time spent in China.

	IIT Calculation Basis	Time Apportionment
Full Time CR	Entire salary	No
Part time CR (two or more employment contracts)	The salary is divided into two parts <ul style="list-style-type: none">• Income paid by China entity• Income paid by oversea entity	Yes

Case Study 3

Chief Representative (CR)

Name:	Mr. Hoffman
Nationality:	German
Company:	Representative Office
Position:	Chief Representative
Total No. of Days in China within one year:	120 days (Less than 183 days)
Total No. of Days in China within One Month:	10 days
Total Income:	80,000 RMB
Part of income paid by company in China:	30,000 RMB
Part of income paid by parent company in Germany:	50,000 RMB



Case Study 3

Full Time Chief Representative

(cont'd)

$$\begin{aligned} & (\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD} \\ & = (80,000 - 4,800) \times 35\% - 6,375 \\ & = \mathbf{19,945\text{RMB}} \end{aligned}$$

Name	Nationality	Company/ Position	Days in China in One Year	Days in China in One Month	Total Income	Part paid by Company in China	Part paid by Company in Germany
Mr. Hoffman	German	RO / CR	120 days (Less than 183 days)	10 days	80,000	30,000	50,000

Case Study 3

Part Time Chief Representative

(Cont'd)

$$\begin{aligned} & [(\text{Total Income} - 4,800) \times \text{TaxRate} - \text{QD}] \times \left(\frac{\text{Days China}}{\text{Days Total}} \right) \\ & = [(80,000 - 4,800) \times 35\% - 6,375] \times \frac{10}{30} \\ & = \mathbf{6,648 \text{ RMB}} \end{aligned}$$

Provisional Exemption of Fringe Benefits Received by Expatriates

- Housing, meal and laundry allowances
- Relocation expenses
- Travel allowance
- Home Trip allowance
- Language training
- Children education allowance
- Social security benefits

Provisional Exemption of Fringe Benefits Received by Expatriates

(cont'd)

Categories

- Non-cash basis
- Reimbursement basis

Approval

- Reasonable
- Employment contract
- Valid commercial invoice - fapiao

Regular IIT payment

Frequency	Monthly
Location	Income source
Filing method	<ul style="list-style-type: none">• Internet, or• Hard Copy
Payment method	<ul style="list-style-type: none">• Cash• Bank
Owner	Income distributor

Who Should File a Self Declaration?

Classification of Income

- Annual income \geq RMB 120,000
- Wages and salaries from 2 or more sources
- Overseas income
- Taxable income derived but no withholding agent

What is considered annual income?

- Wages and salaries
- Income from individually-owned industrial and commercial households
- Income from subcontracting or subleasing
- Remuneration for labor services
- Author's remuneration
- Incomes from royalties
- Incomes from interests, stocks dividends and bonuses
- Incomes from lease, transfer of property
- Occasional incomes

附件

个人所得税纳税申报表

(适用于年所得12万元以上的纳税人申报)

INDIVIDUAL INCOME TAX RETURN

(For individuals with an annual income of over 120,000 Yuan)

所得年份: 年

申报表日期: 年 月 日

金额单位: 人民币元 (列属角分)

Year of income incurred:

Date of filing: date month year

Amount in RMB Yuan

所得项目 Categories of income	年所得额 Annual Income			应纳税所得额 Taxable income	应纳税额 Tax payable	已缴(扣)税额 Tax pre-paid and withheld	抵扣税额 Tax credit	减免税额 Tax exempted or deducted	应补税额 Tax owed	应退税额 Tax refundable	备注 Notes
	境内 Income from within China	境外 Income from outside China	合计 Total								
1. 工资、薪金所得 Wages and salaries											
2. 个体工商户的生产、经营所得 Income from production or business operation conducted by self-employed industrial and commercial households											
3. 对企事业单位承包经营、承租经营所得 Income from contracted or leased operation of enterprises or social service providers partly or wholly funded by state assets											
4. 劳务报酬所得 Remuneration for providing services											
5. 稿酬所得 Author's remuneration											
6. 特许权使用费所得 Royalties											
7. 利息、股息、红利所得 Interest, dividends and bonuses											
8. 财产租赁所得 Income from lease of property											
9. 财产转让所得 Income from transfer of property											
其中, 股票转让所得 Income from transfer of stocks											
个人房屋转让所得 Income from transfer of personal estate											
10. 偶然所得 Incidental income											
11. 其他所得 Other income											
合计 Total											

Annual Return
IIT Form
by Thu 31 Mar 2011

Penalties for Violations

Violation	Penalties
Late filing	≤ RMB 10,000
Under-declaration of IIT by taxpayer	50% - 500%
Taxpayer involved in falsifications and misreporting of figures	≤ RMB 50,000
Wrong calculation of IIT by withholding agent	50% - 300%

How to File Annual IIT Returns?

Method

- Self-declaration
 - Handed in person to at the Tax Bureau
 - Internet filing
 - Registered mail
- Outsourcing to qualified agents

Language

- Chinese
- Chinese + English

Q&A



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