

China Business Advisory

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Chinese permanent resident's entitlements

In order to attract foreign talents and investors to China, the Chinese government had enacted “Administrative Measure of Approval of Chinese Permanent Residency of Foreigners” in 2004. Further to this, 25 Chinese authorities jointly issued a circular, Renshebufa [2012] No. 53, in December 2012 to clarify the entitlements

of foreigners who have the Chinese permanent residency. Some of the points are listed as follows:

- Living and working in China
Foreigners with Chinese permanent residency (“PR”) can live in China indefinitely. Foreigners can leave and enter into China with a valid passport together with their Chinese PR permit without the need to obtain the visa. They need not apply for work permit for employment in China;
- Social insurance coverage in China
The Chinese social insurance system includes basic medical, injury, maternity and unemployment insurance and pension. Foreigners who have PR are also allowed to contribute towards the Chinese Housing Fund to receive relevant benefits from the fund;
- Investing in China
Foreigners with Chinese PR are allowed to invest in the form of foreign invested enterprises or foreign direct investment with RMB obtained from legitimate sources. They are entitled to the same rights as Chinese citizens on transactions involving banking, insurance policy, stock, futures and other financial related transactions;

- Income tax

Foreigners who obtain the Chinese PR are required to pay income tax according to the Chinese laws and regulations as well as relevant Double Tax Agreement;

Generally speaking, Chinese PR holding foreigners are entitled to almost the same rights and subject to similar obligations as Chinese citizens. Those who are interested in this or to become a Chinese PR can study the detailed regulations.

Income tax withheld at source for Non-Resident Enterprises

A “non-resident enterprise” that is required to pay withholding taxes refers to an enterprise established according to foreign law, whose management organization is not based within the territory of China and has no permanent establishment in China or the income giving rise to the withholding taxes is not related to any permanent establishment in China.

Income earned by “non-resident enterprises” will be subject to withholding tax at source if its source of income comes from China. These incomes may be in the nature of dividends, bonuses, other equity investment proceeds, interest, rental income, royalties, services and property transfer. Other kinds of income subject to Corporate Income Tax (“CIT”) earned by non-resident enterprises in China are also subject to withholding tax at source. The withholding obligors are the entities or individuals that bear direct obligation to make relevant payments to the non-resident enterprises pursuant to relevant laws or stipulations of relevant contracts. Where a withholding obligor fails to withhold taxes or perform its obligation of withholding taxes in accordance with laws, the relevant non-resident enterprises shall, within seven days from the payment date of withholding obligors, declare and pay corporate income tax to the competent tax authority at the place where the income occurs.

Additional to the withholding of CIT, other taxes may have to be withheld at the same time depending on the nature and content of the transaction e.g. Value Added Tax (“VAT”), Business Tax (“BT”), Urban Maintenance and Construction Tax, Stamp Duty. The deductibility of withheld taxes in the jurisdiction where the non-resident enterprise is registered rests with the laws and regulations in that jurisdiction among which is whether there is any Double Tax Agreement with China bearing relevance to the taxes

in question.

Taking RMB Out of China

China has strict foreign exchange control regulations enforced by SAFE –The State Administration of Foreign Exchange. But for those expatriates legitimately employed in China and paying tax here, getting their earned income out of China is not a problem. In order to legitimately take your money out of China you however need to provide proof due income tax paid in China. Normally, your bank will assist with the procedures. However, many expatriates in China fall into a different category. Either by design or default, they are not properly registered with the authorities and are not paying taxes. These foreigners are suggested to seek professional advice as to how to address their issues.

Update of VAT reform in China

In December 2012, several new regulations regarding the VAT reform in China underway were announced. We would like to summarize the key points below to keep you updated.

- Circular Caishui [2012] No 86, jointly announced by State Administration of Taxation (“SAT”) and Ministry of Finance (“MOF”), clarifies the classification of some services and some other issues. For instance, accounting service will be taxed under the “consulting service” category stipulated in the previous regulations. And transportation service relating to Hong Kong, Macau and Taiwan is zero-rated. This circular took effect from 1st December 2012;
- Circular Caizong [2012] No. 86, also jointly issued by SAT and MOF, stipulates the specific administration measures for Culture Industry Development Fee levied on tax payers in the advertisement industry after the VAT reform;
- To fit the VAT reform, Pronouncement No. 54 in 2012 publicized by SAT updates the format of the application form for tax certificate for fees to be paid to overseas service providers.

Service Highlight



Thank you for offering us the opportunities to be of service to you.

At this festive time and the close of 2012, we would like to wish you and your loved ones a very happy Christmas and a new year that will bring success, joy and good health.

It has always been in our mind to provide useful information to our clients who operate in China and help them in any way we could with our solid experience in China. For any assistance from us, you are encouraged to contact our Marketing Executive, Ms Mary Li, on +852 3579 8745 or email her at maryli@sinobridge-consulting.com

for any advice you may need.

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