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China Business Advisory

2020 Issue 1 January 2020

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Commencement of Annual Comprehensive Income Reconciliation for Individual Income Tax

2019 is the first year of the full implementation of the new Individual Income Tax ("IIT") Law. As 2019 tax year ended, the first reconciliation and payment of IIT on comprehensive income will soon begin.

In December 2019, the Ministry of Finance ("MOF") and the State Administration of Taxation ("SAT") published a series of announcements on the policies for comprehensive income-related IIT, including Announcement [2019] No. 94, Announcement [2019] No. 44 and Announcement [2019] No. 46, clarifying relevant details of the 2019 annual IIT reconciliation for comprehensive income (hereinafter referred to as "Annual Reconciliation").

The noteworthy points are as below:

Relevant Policies		Notes
Applicable Taxpayer	Resident individuals	-Including the uninhabited individuals who have become tax residents upon living in China over 183 days for the past year; -Not applicable to non-resident individuals

Income Items of Annual Reconciliation	Comprehensive income including: -Wages and salaries; -Remuneration for services; -Remuneration for manuscripts; -Royalties.	The following items are not included: -Income from business operation, interest, dividend and bonus, property lease, property transfer and contingent income; -One-time bonus for the whole year with separate tax calculation, one-time compensation income obtained from termination of labor relations, early retirement and internal retirement, etc.
Circumstances Where Annual Reconciliation is **Required**	-Comprehensive income is obtained from two or more places, and the balance after deducting the annual special deductions exceed RMB60,000; -Tax refund due as a result of tax withheld exceeding total tax liability in 2019; -Annual comprehensive income exceeds RMB120,000 and the underpaid tax liability exceeds RMB400 in 2019.	-Refer to comprehensive income from different payers;
Circumstances Where Annual Reconciliation is **Not Required**	-Individuals who have underpaid tax liability, but the annual comprehensive income is no more than RMB120,000 in 2019; -Underpaid tax liability does not exceed RMB400 in 2019; -Total tax liability equals tax withheld;	

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	-Individuals who decide not to seek tax refund.	
Time frame	-Standard time frame: 1st March 2020 to 30th June 2020	-Non-domiciled individuals who depart from China prior to the standard time frame can file Annual Reconciliation before their departure date.
Filing Process	-Taxpayer self-service; -The withholding agent for handle wages and salaries or continuous remuneration for the individuals; -Appoint professional tax agents or other organizations/individuals.	
Filing Channels	-Online; -Post; -Visit tax bureau service centers.	-Taxpayers are recommended to file online (there are apps for smartphones for easy filing).

As this is the first Annual Reconciliation under the new tax law, it brings challenges to taxpayers and withholding agents. As withholding agent, Foreign Invested Enterprise ("FIE")'s responsibilities include providing tax withholding and payment information to the taxpayers, and assist taxpayers at their request. Withholding agents and taxpayers that are not familiar with the requirements under the new tax law should seek support from tax specialists or professional advisers to ensure that their obligations are fulfilled properly within the prescribed deadlines.

Update on IIT Policy on Charitable Donations

On 30th December 2019, MOF and SAT jointly issued the "MOF and SAT Announcement on IIT Policy in relation to Charitable Donations" (MOF and SAT Announcement No. 99 of 2019, hereinafter referred to as "Announcement 99"), which set-out detailed provisions on tax deduction against IIT payable for donations.

Under the current IIT Law, the amount of charitable donations made in support of education, poverty alleviation and relief through social welfare charitable organizations and public authorities in PRC, may be deducted from the individual's taxable income subject to a cap of 30%. Announcement 99 clarified the basic requirements for personal charitable donations and provides more flexible and reasonable transfer deductions for personal charitable donations, based on the tax system characteristics of the combination and classification under the new IIT system.

The key points are as below:

- Scope of the policy clarification: donation to social welfare organizations and public authorities (at county government level or above) within PRC in support of education, poverty alleviation and relief
- Value of donations determination:
  - Monetary assets: Actual value of donation
  - Equity and real estate: Original value (at acquisition)
  - Other non-monetary assets: Market value
- Limit of tax deduction
  - Residents: 30% of annual taxable income including comprehensive income, Business operating income from self-employment, categorized income (income from lease of property, transfer of property, interest dividends and incidental income)
  - Non-residents: Tax deduction is allowed on the amount not exceeding 30% of his/her monthly taxable income received in the month of donation. Excess donation can be deducted from self-employment business operating income if applicable.

Except for the above, Announcement 99 also specified the time limit for tax deduction and rules for retroactive deduction.

Announcement 99 provided a clearer legal basis for individuals to legally reduce the overall tax burden through charitable donations, encouraging the general public to make donations.

New Laws and Regulations on Foreign Investment

On 1st January 2020, "Foreign Investment Law of the People's Republic of China" ("Foreign Investment Law") along its Implementation Regulations, and the "Regulations on Optimizing the Business Environment" came into force, which further open up China market to foreign investment.

The key features of the Foreign Investment Law and its Implementation Regulations are as follows:

- National treatment for pre-entry plus Negative List mechanism
  - Foreign investments would be subjected to the "Negative List" for foreign investment, with the latest Negative Lists released in July 2019
  - Foreign investments in sectors that are not on the Negative Lists for foreign investment would be subjected to the "Negative List for Market Access (2019 Version)" released in November 2019 same as Chinese investments and enjoy equal treatment in market access
- Equal treatment of domestic enterprise and FIEs
  - All national policies on supporting the development of enterprises shall equally apply to FIEs
  - The local governments are required to treat FIEs and domestic-funded enterprises equally in accordance with the law in terms of capital arrangements, land supply, tax deductions and exemptions, qualification permits, standard formulation, project declaration, and human resources
  - Ensure that FIEs participate in standardization work on an equal basis. Clarify that FIEs participate in the formulation and revision of national standards, industry standards, local standards, and group standards
  - Ensure that FIEs have equal access to government procurement through fair competition. Products and services provided by FIEs are equally treated in government procurement

- FIEs can finance through public offering of stocks, corporate bonds and other securities

- Strengthen the Protection of Foreign Investment
  - The State does not expropriate foreign investment. Under extraordinary circumstances, the expropriation and requisition on FIEs for the needs of the public interest shall be conducted according to legal procedures without any discrimination
  - Government authorities and officials shall not force foreign investors or FIEs to transfer their technology
  - Local governments shall not violate or renege the agreements on the grounds of government transition or adjustments in administrative functions

In addition to implementing the negative list administration system for foreign investment, Foreign Investment Law and its Implementation Regulations further simplified the procedures on administering foreign investment, and reduce FIEs' compliance burdens to facilitate foreign investment.

Implementation on the same date as Foreign Investment Law and its Implementation Regulations on 1st January 2020, the "Regulations on Optimizing the Business Environment", State Council Decree [2019] No. 722, was an important measure for China to create a first-class business environment through the rule of law. The key points are as below:

- Easier market entry and exit: By deepening the reform of the commercial system, continuously relaxing market access, optimizing the cancellation process of market entities, and solving the problem of "difficult to exit" of market entities
- Lower cost of taxes and fees: The State's policies on reducing fees and taxes should be strictly implemented by all departments to ensure the policies comprehensively and timely to benefit market players.
- Fairer competition: adhere to the principles of marketization, legalization, and internationalization, fairly treat all types of market players including FIEs, and actively promote foreign investment

- Strengthening the protection of market entities: The State protects all types of market entities on an equal footing, protects market entities' operational autonomy, property rights, and other legal rights and interests, to promote the establishment of a unified market entity rights protection service platform across the country.

Service Highlight

The Chinese government has been furthering its efforts to improve the business environment in China to attract more foreign investors. We are here to assist you in leveraging these serious initiatives of the Chinese government for the success of your operation in this nation with our consulting experience in this market for over two decades. Please contact our marketing executive, Ms. Rika Wong, by email rikawong@sinobridge-consulting.com or call (852) 3579 8745 for any assistance and support we could provide with.

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