

中国：税務居住者 vs. 非税務居住者 – 今年度上半期を振り返って

2019年6月

概要

新たな中国個人所得税 (IIT) 法が施行されてから納税年度の半期にあたるため、納税者は新たな 183 日基準によって、住所を有さない個人について、税務居住者と非税務居住者としてのステータスがどのように区分されるのか、そして当該個人の中国における業務への影響を再確認する必要があります。納税者の税負担とコンプライアンス確保を考えると、新たな税務居住者判定基準、及び、そのコンプライアンス要件を適切に理解することが重要です。

詳細

新たな IIT 法では、課税年度 (暦年) において、住所を有さない個人が中国において 183 日以上滞在する場合、当該個人は当該課税年度において税務居住者であるとみなされます。一方、当該個人の当該課税年度における中国での滞在期間が 183 日未満である場合、当該個人は当該課税年度において非税務居住者であるとみなされます。当該目的における中国での滞在日数の計算では、中国への入国日及び中国からの出国日はともに 183 日間の計算から除外されます。

税務居住者については、中国 IIT は年間ベースで計算され、累計所得に基づき月次で税額が源泉徴収されます。非税務居住者と比較して、中国 IIT は実際の月次所得に基づき月次ベースで計算されます。下表にて、税務居住者と非税務居住者の税額計算方法を比較しています (2019 年 1 月から 6 月の月次課税所得額が RMB100,000 であることを前提とする)：

(Amount in RMB)	Tax residents		Non tax residents	
	YTD taxable income	Monthly tax payable	Monthly taxable income	Monthly tax payable
January	100,000	6,980	100,000	27,590
February	200,000	14,100	100,000	27,590
March	300,000	19,000	100,000	27,590
April	400,000	23,000	100,000	27,590
May	500,000	26,500	100,000	27,590
June	600,000	28,500	100,000	27,590
		118,080		165,540

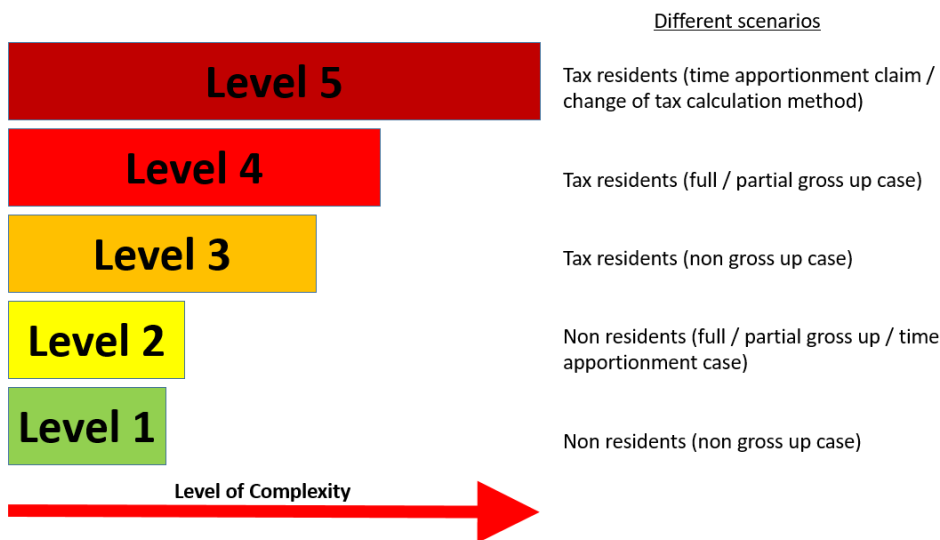
月次源泉徴収額の計算方法の違いに加えて、他にも考慮すべき違いがあります。例えば、賞与や株式所得に関する課税処理は税務居住者と非税務居住者とでは異なり、タックスエクスポージャーが異なります。

また、住所を有さない個人、特に外国から派遣された駐在員は、特に赴任の年と帰任の年において中国における滞在日数（または不在日数）を事前に計画することができ、その駐在がある年の6月または7月に終了する場合はその年度において実際の納税負担上の大きな違いが出てきます。上記の例で再度考えた場合、当該駐在員が7月に中国を出国し、その課税年度において中国での滞在日数が183日以上であれば、税務居住者としての課税総額は、非税務居住者のそれと比較して約30%低くなります。

新たな税務居住者と非税務居住者のコンセプトはまた、複雑な月次課税額の計算をまねきます。特に税務居住者については月次源泉徴収額の計算に累計所得を使用するため、実効税率が毎月異なることとなります。

(Amount in RMB)	Tax residents		
	YTD taxable income	Monthly tax payable	Monthly effective tax withholding rate
January	100,000	6,980	6.98%
February	200,000	14,100	14.10%
March	300,000	19,000	19.00%
April	400,000	23,000	23.00%
May	500,000	26,500	26.50%
June	600,000	28,500	28.50%

税の均衡及び/又は期間按分が関与する場合、課税年度中に税額計算式の変更を伴い、さらに遡及調整が生じる可能性もあるため、計算がさらに複雑になります。下図で、各シナリオにおける複雑性の程度を図示します。



まとめ

中国では2019年から、税務居住者と非税務居住者に関する新たな源泉徴収方法とコンプライアンス要件を規定する改正個人所得税法が施行されています。異なるタックスエクスポージャーとコンプライアンスプロセスに鑑み、住所を有さない個人、及び、その雇用主は税務上の居住ステータスを可能な限り、正確に評価・把握することが重要です。また課税年度において、個人の中国における滞在日数を追跡管理し、遡及調整にも対応できる体制作りも同様に重要になります。

課税年度末において、源泉徴収の過少または過大部分を調整するために年末調整が必要であるか否かを最終評価することも必須となります。

さらに、年度の途中において新規赴任者や帰任者が出て、税務居住者であると判定されるか否か見極めが難しい状況については注意が必要です。同時に賞与や株式所得等、特別な課税項目について、個人の潜在的な税負担を考慮するにあたり、より包括的なアプローチをもって対処することが必要になります。

お問い合わせ

新たな IIT 法の貴社のビジネスに対する影響についてより深くご検討されたい場合は、PwC Global Mobility Services エンゲージメントチームまたは下記の担当者まで随時ご連絡ください:

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China: Tax resident vs. non-tax resident – a mid-year recap

June, 2019

In brief

Taxpayers should revisit how the new 183 days threshold distinguishes 'tax residents' and 'non-tax residents' for non-domiciled individuals and how it may affect them working in China, given that we are approaching the middle of the tax year in which the new China Individual Income Tax (IIT) law came into effect. A proper understanding of the new tax resident rule and the respective compliance requirements is important because of the implications to overall tax burdens as well as compliance processes.

In detail

Under the new IIT Law, if a non-domiciled individual stays in China for 183 days or more in the tax (calendar) year concerned, he/she will be regarded as a tax resident for the tax year; if he/she stays in China for less than 183 days in the tax year, he/she would be regarded as a non-tax resident for the tax year. In counting the number of days for this purpose, both the arrival and departure days are excluded from the 183 days counting.

For tax residents, the China IIT is calculated on an annual basis with monthly tax withheld calculated based on the cumulative income. As compared to non-tax residents, the China IIT is calculated on a monthly basis based on the actual monthly income. The table below compares the tax calculation methods for tax residents and non-tax residents (assuming a monthly taxable income of RMB100,000 from January to June 2019.)

(Amount in RMB)	Tax residents		Non tax residents	
	YTD taxable income	Monthly tax payable	Monthly taxable income	Monthly tax payable
January	100,000	6,980	100,000	27,590
February	200,000	14,100	100,000	27,590
March	300,000	19,000	100,000	27,590
April	400,000	23,000	100,000	27,590
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June	600,000	28,500	100,000	27,590
		118,080		165,540

In addition to the difference in the way the monthly tax withholding is calculated, there are other tax calculation differences that need to be taken into account. For example, the special tax treatments for

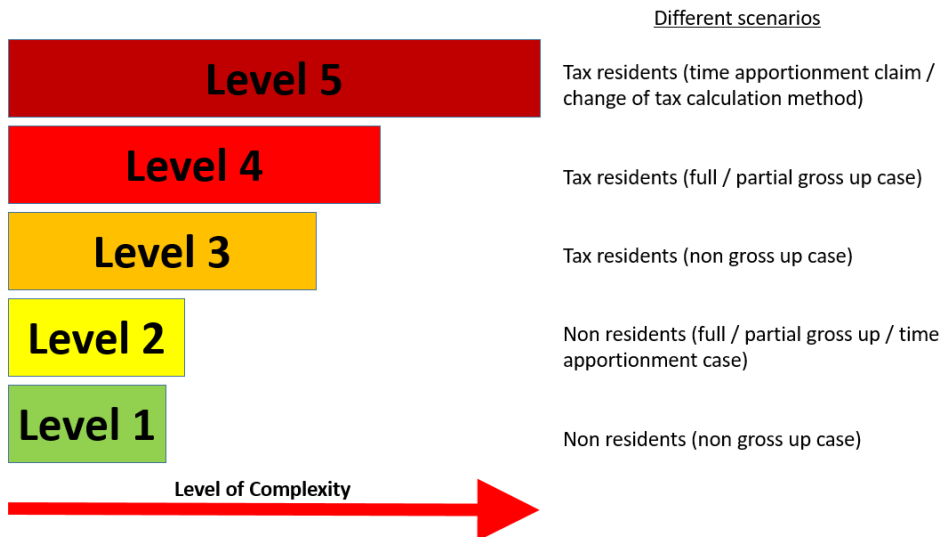
bonuses and equity income are different for tax residents and non-tax residents, resulting in disparate tax exposures.

Also, non-domiciled individual can plan and manage the number of days spent (or to be spent) in China especially during the arrival or departure years, which can make a significant difference with respect to the actual tax liability for the year if the China assignment starts or ends in June or July. Using the same example above, if he/she leaves China in July and spends around 183 days in China during the tax year, the total tax payable as a tax resident (with more than 183 days in China) can be around 30% lower than being a non-tax resident (with less than 183 days in China).

The new tax resident and non-tax resident concept also leads to a more complex monthly tax calculation process, especially when it involves tax residents (where the cumulative income is used to calculate the monthly withholding tax) because the effective tax withholding rate changes every month.

(Amount in RMB)	Tax residents		
	YTD taxable income	Monthly tax payable	Monthly effective tax withholding rate
January	100,000	6,980	6.98%
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In the case where tax equalization or/and time apportionment are involved, the calculation is even more complicated as it will involve the change of the tax calculation formula during the tax year and, possibly, retroactive adjustments. The diagram below illustrates the level of complexity involved under different scenarios.



The takeaway

New, different tax withholding methods and compliance requirements for tax residents and non-tax residents have been implemented in China starting from the tax year 2019. Given the varying tax exposures and compliance process, it is important for non-domiciled individuals and their employers to make a preliminary assessment of the tax residence status as accurate as possible. During the year, it is also necessary to keep track of the number of days in China as there can be retroactive adjustments required.

After the end of the tax year, a final assessment should be made to determine if an annual reconciliation is needed to adjust any tax over/under-withheld.

Special attention also should be placed on the mid-year ‘joiners’ or ‘leavers’ especially for those marginal cases who may or may not become a tax resident in China. In doing so, a more holistic approach also should be adopted to consider the potential tax implications of certain special tax treatments (e.g., annual bonus and equity income.)

Let’s talk

For a deeper discussion of how the new IIT Law might affect your business, please contact your PwC Global Mobility Services engagement team or one of the following team members:

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