

# Human Resource & Tax Alert

## Amendment to the PRC Individual Income Tax Law in 2011

In April 2011, the Standing Committee of the National People's Congress published a draft version of the "Amendment to the Law of the People's Republic of China on Individual Income Tax" (the "Draft Amendment") on its own website to solicit public opinion. After receiving over 230,000 pieces of opinion, the twenty-first meeting of the Standing Committee of the 11th National People's Congress (NPC) has discussed and passed the latest version of the "Amendment to the Law of the People's Republic of China on Individual Income Tax" on 30 June 2011. This is the sixth revision to the "Law of the People's Republic of China on Individual Income Tax" (the "Revised IIT Law") ever since it was published in 1980. The Revised IIT Law will become effective from 1 September 2011.

This issue of Human Resource & Tax Alert summarizes the key changes that will be brought about by the Revised IIT Law starting from 1 September 2011 and the major impacts on both local and expatriate employees.

### Key changes

- ▶ The monthly standard deduction (MSD) for Chinese individuals' income from salaries and wages will increase from RMB2,000 to RMB3,500 instead of RMB3,000 as previously proposed in the Draft Amendment after taking into account interests of different stakeholders. However, it remains silent on whether the MSD for expatriates will also be increased. Foreign individual taxpayers will have to wait until the issuance of the Implementation Regulations of the Revised IIT Law which is to be announced by the State Council later.
- ▶ The deadline for monthly individual income tax reporting and payment is going to be extended from the 7th day after the end of a month to the 15th day. As the Revised IIT Law will come into force on 1 September, company executives overseeing human resources and/or Individual Income Tax (IIT) reporting functions are recommended to stay tuned for any further clarification or take a proactive approach to clarify with their companies' in-charge tax authorities whether the new "15th day" deadline will apply to individual income derived for the month of August or September.



- ▶ The income tax rates applicable to income of salaries and wages will change from the current nine-bracket progressive rates to seven-bracket progressive rates, reducing the lowest rate from 5% to 3%, eliminating income tax rates of 15% and 40% and adjusting the income level applicable to each tax rate.

For your easy reference, a new IIT liability computation schedule is shown in Appendix I to show the seven-bracket of incomes under both non-gross up and gross-up (i.e., employers bear tax) methods and the respective tax rates and quick reckoning amounts.

- ▶ Assuming the MSD in the amount of RMB4,800 for foreign employees remains unchanged and employees bear tax, the individual income tax liability impacts on both local and expatriate employees under the Revised IIT Law will be as follows:

Local employees		Expatriate employees	
Monthly salaries and wages (before deducting MSD)	Tax burden	Monthly salaries and wages (before deducting MSD)	Tax burden
Less than RMB38,600	Reduction of IIT from RMB480 or less per month	Less than RMB17,400	Reduction of IIT from RMB205 or less per month
RMB38,600	Remain unchanged	RMB17,400	Remain unchanged
In excess of RMB38,600	Increase in IIT up to RMB1,195 per month	In excess of RMB17,400	Increase in IIT up to RMB1,870 per month

As compared to the Draft Amendment, the Revised IIT Law will allow more people of mainland China (people earning less than RMB38,600 per month) to enjoy reduction in their tax burdens despite the limited relief. Conversely, foreigners working in the mainland will generally face a higher tax burden.

- ▶ The individual income tax rate table applicable to income earned by self-employed industrial and commercial households from production or business operation and income from contracting and leasing operation will be modified as follows, with no change compared to the Draft Amendment:

Total annual taxable income (non gross-up)	Tax rate
Up to RMB15,000	5%
RMB15,001 to RMB30,000	10%
RMB30,001 to RMB60,000	20%
RMB60,001 to RMB100,000	30%
RMB100,001 and above	35%

### What's next?

Although the Revised IIT Law has met the goals of further reducing the tax burden for people with middle or low income and adjusting the same on high income individuals as laid down in the country's 12th five-year plan (the "Plan"), there is still a pending task in the Plan. Under Chapter 47 of the Plan, the current IIT system, taxing people separately based on different categories of income they earn each month (e.g., salaries and wages, income from labor services), should be reformed towards a system which would tax people not only based on different income categories but also on an integrated basis (综合与分类相结合税制).

It is anticipated that the current practice of IIT self-declaration by individuals with an annual income of RMB120,000 or above could be turned from a mere annual listing of different types of incomes in their annual returns into a real computation of IIT liabilities on their total annual income from different sources in the future. Hopefully, more additional amendments (including the introduction of different types of deduction allowances, lowering of highest tax rate, etc.) could be brought into the next round of the IIT reform.

Stay tuned and we will keep you informed of the latest development.

## Appendix I

### PRC Individual Income Tax

#### Tax Liabilities Computation Schedule

Gross-up taxable income or income after standard deduction for non Gross-up calculation	(Gross-Up Method) Income after standard deduction	Effective tax rate	Quick reckoning amount
RMB	RMB	%	RMB
(A)	(B)	(C)	(D)
0 - 1,500	0 - 1,455	3	0
1,501 - 4,500	1,456 - 4,155	10	105
4,501 - 9,000	4,156 - 7,755	20	555
9,001 - 35,000	7,756 - 27,255	25	1,005
35,001 - 55,000	27,256 - 41,255	30	2,755
55,001 - 80,000	41,256 - 57,505	35	5,505
At or above 80,001	At or above 57,506	45	13,505

#### Tax Computation Formulas

##### ► Gross-up Method (Tax liability borne by the employer)

Gross-up Taxable Income

= Income after standard deduction + Gross-up amount

= {Income after standard deduction (per Column B) - D} / (1-C)

Tax Payable

= {Gross-up taxable income (per Column A) x C} - D

##### ► Non Gross-up Method (Tax liability borne by the employee personally)

Tax Payable

= {Income after standard deduction (per Column A) x C} - D

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