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Human Resource & Tax Alert

Amendment to PRC Individual Income Tax Law (Draft) soliciting for your opinion

Executive summary

The twentieth meeting of the Standing Committee of the 11th National People's Congress (NPC) discussed but has not yet passed the initial "Amendment to the Law of the People's Republic of China on Individual Income Tax (Draft)" (the "Draft Amendment"). The Draft Amendment and its explanatory notes have been published on the website of the NPC to solicit public opinion. The general public can submit their opinions on or before 31 May 2011.

This issue of Human Resource & Tax Alert aims to discuss the key changes that the Draft Amendment may bring about and areas where the Individual Income Tax (IIT) law may be modified to bring it closer to general international practices.



Key changes

1. The monthly standard deduction (MSD) for Chinese employees' income from salaries and wages will increase from RMB2,000 to RMB3,000. However, it remains silent on whether the MSD for expatriate employees will also be increased as it is regulated in the Implementation Regulations of the IIT Law (hereinafter referred to as the "IITLIR"). Currently, the MSD for the expatriate is RMB4,800 (i.e., RMB2,000 plus an additional amount of RMB2,800). In March 2008 when the MSD for Chinese employees increased from RMB1,600 to RMB2,000, the MSD for foreign employees was not increased accordingly. Therefore, foreign individual taxpayers will have to wait until the Standing Committee of the NPC brings forth further amendments.
2. The deadline for monthly individual income tax reporting and payment would be extended from the 7th day after the end of a month to the 15th day.
3. The income tax rates applicable to income of wages and salaries will change from the current nine-bracket progressive rates to seven-bracket progressive rates, eliminating income tax rates of 15% and 40% and adjusting the income level applicable to each tax rate. The individual income tax rate table will be modified as follows:

Grade	Monthly Taxable Income	Tax Rate (%)
1	Income of RMB1,500 or less	5
2	Income in excess of RMB1,500 to RMB4,500	10
3	Income in excess of RMB4,500 to RMB9,000	20
4	Income in excess of RMB9,000 to RMB35,000	25
5	Income in excess of RMB35,000 to RMB55,000	30
6	Income in excess of RMB55,000 to RMB80,000	35
7	Income in excess of RMB80,000	45

Assuming the MSD in the amount of RMB 4,800 for foreign employees remains unchanged and employees bear tax, the individual income tax liability on both local and expatriate employees would be altered as follows:

Local employees		Expatriate employees	
Monthly salaries and wages range (before deducting MSD)	Tax burden	Monthly salaries and wages range (before deducting MSD)	Tax burden
Less than RMB19,000	Reduction of IIT from RMB350 or less per month	Less than RMB16,800	Reduction of IIT from RMB175 or less per month
RMB19,000 (the threshold)	Remains unchanged	RMB16,800 (the threshold)	Remains unchanged
In excess of RMB19,000	Increase in IIT up to RMB1,450 per month	In excess of RMB16,800	Increase in IIT up to RMB1,900 per month

Although both local employees earning a monthly salary less than RMB19,000 (for locals) and RMB16,800 (for expatriates) would benefit from the Draft Amendment, the rest of the population that are chargeable to IIT would be expecting a higher IIT burden in the future.

4. The income tax brackets 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 adjusted. The individual income tax rate table will be modified as follows:

Grade	Annual Taxable Income	Tax Rate (%)
1	Income of RMB15,000 or less	5
2	Income in excess of RMB15,000 to RMB30,000	10
3	Income in excess of RMB30,000 to RMB60,000	20
4	Income in excess of RMB60,000 to RMB100,000	30
5	Income in excess of RMB100,000	35



Some views on the Draft Amendment

The Draft Amendment appears to be simple and straightforward. On the other hand, some additional modifications may be helpful to the general public so that it could be closer to the hearts of those people who have made significant contributions to the economic development of the country through their hard work on an individual basis.

More people are earning high income, can the thresholds be higher?

- ▶ The Draft Amendment is drafted based on the principle that people derived higher income should pay more tax and it could reduce tax burden on both local and expatriate employees to a certain extent (i.e., the maximum amount of monthly IIT reduction would be RMB350 for locals and RMB175 for expatriates). However, for employees who only derive income from their salaries and wages in first-tier cities such as Beijing, Shanghai, Shenzhen, etc., the IIT reduction of RMB350/175 per month may not be helpful to even out the effect of surging living costs. Instead, the Draft Amendment would increase the tax burden for those who are considered as high-income earners. Therefore, it becomes debatable whether such thresholds are commensurate with the current and future economic developments of Mainland China.

Inflation is getting serious, can relief be more?

- ▶ There was seen quite a bit of argument over the amount of increase of MSD to RMB3,000. Some people think that it is still relatively low even though all IIT taxpayers would benefit from the increase of MSD. Such increase would only decrease the IIT burden by RMB100 per month to most; not to mention the increase of tax in effect due to change of tax rate brackets. In many other countries, the MSD would be

sufficient to cover the monthly basic living cost of an individual at a reasonable level. In view of the rising CPI index and increasing living costs, the RMB1,000 increase may not be sufficient to reflect the acute increase of standard living costs in recent years.

Living standards have increased, would it be possible to bring in additional allowances?

- ▶ In many countries (regions), individuals are permitted to deduct allowances for dependents including spouse, parents, grandparents, children, siblings and additional allowances if the dependents are physically challenged. Some other allowances that take into account extra personal burdens, e.g., home mortgage interest, are also very common. By granting different types of allowances, it would turn the IIT system from an authority angle to a taxpayer angle and shows that the authority cares about their taxpayers. In certain countries, for instance Singapore, continuous education relief is given to encourage taxpayers to pursue continuous study to enhance one's competitiveness. The various allowances would adjust the disparity of inhabitant's income after taking into account their household burden; this can also demonstrate the authority's desire to improve service to taxpayers.

Next Step

The Draft Amendment was not approved by the NPC in the initial review. The NPC has published the Draft Amendment on its website, open to the public for comments. The public can log on to the website www.npc.gov.cn to express opinions. The deadline for submitting opinions is 31 May 2011.

According to recent news, by the first day the Amendment was released, over 100,000 people have already submitted their opinions to the official website of NPC. It shows that the taxpayers may expect more from the Amendment of IIT Law.

Whoever wishes to express their opinions on the Draft Amendment should log on to the NPC website to provide their comments (in Chinese only) for the government's consideration as further modifications may be possible. We will pay close attention to new developments on this subject and keep you posted.

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