

China - Individual Income Tax (“IIT”) Annual Filing under New IIT System



ASIA

The new PRC IIT law, which is effective from January 1, 2019, combines four categories of income into a single category named “comprehensive income” (hereinafter the “Comprehensive Income”), i.e. salaries and wages, service remuneration, income from authors’ remuneration and income from royalties. The IIT on Comprehensive Income for PRC tax residents is collected through advance payments on a monthly basis or per time when the taxpayer receives such income. Then the latter needs to perform the IIT annual filing regarding the Comprehensive Income. Under the new IIT system, 2019 is the first year to perform the IIT annual filing.

On December 7 and December 31, the PRC Ministry of Finance and the State Taxation Administration issued two bulletins (“Bulletin 44” and “Bulletin 94”) to provide guidance on the filing requirements.

The main points are summarized below:

I. WHICH INCOMES SHALL BE INCLUDED FOR THE IIT ANNUAL FILING?

The IIT annual filing means that the taxpayer consolidates all his Comprehensive Income and the deductions applied in the previous year to calculate the final IIT amount based on the IIT law, then compares it with the total IIT advances paid in the previous year and, at the end and if any, settles the IIT owed or applies for the refund of overpaid amount with the tax authority.

Based on Bulletin 44, the formula of calculation is as follows:

*IIT owed or IIT refund = [(Annual comprehensive income – 60,000 – Specific deductions, i.e. social contribution – Additional specific deductions, i.e. child’s education – Other eligible deductions – Allowed charitable donation) * applied IIT rate – Quick deduction] – tax advance payment*

II. WHO NEEDS TO PERFORM IIT ANNUAL FILING?

Only PRC tax residents need to perform IIT annual filing. The PRC tax resident refers to an individual domiciled in China or a non-domiciled individual who stays in China for 183 days or more in a calendar year. As a result, a foreign national, who is usually considered as a non-domiciled individual from tax perspective, will be exempt from 2019 IIT annual filing if he has been in China for less than 183 days during 2019.

If a PRC tax resident meets one of the following conditions, he is also exempt from performing the 2019 IIT annual filing:

- His total Comprehensive Income for 2019 does not exceed RMB 120,000 Yuan;
- The final IIT owed for 2019 on Comprehensive Income does not exceed RMB 400 Yuan;
- The IIT for 2019 on Comprehensive Income is same as the total IIT advance payments OR the individual waives to apply for the refund of overpaid IIT.

III. WHEN AND WHERE SHOULD TAXPAYERS PERFORM IIT ANNUAL FILING?

The 2019 IIT filing for Comprehensive Income must be made between March 1, 2020 and June 30, 2020. However, a non-domiciled PRC tax resident (usually a foreign national) may file earlier if he is no longer in China prior to March 1, 2020.



Bulletin 44 provides the following rules related to the determination of the in-charge tax bureau for accepting and handling the IIT annual filing:

- The in-charge tax bureau of the employer if the taxpayer performs the IIT annual filing by himself or engages an agent (except the agent in charge of withholding taxes at source - hereinafter the "Withholding Agent" ¹) to perform it;
- The in-charge tax bureau of any of his employers if the taxpayer has more than one employer;
- The in-charge tax bureau of his household (Hukou) or habitual residence, if the taxpayer has no employer;
- The in-charge tax bureau of the Withholding Agent if the latter performs the IIT annual filing.

IV. DOES THE EMPLOYER HAVE THE OBLIGATION TO DO IIT ANNUAL FILING ON BEHALF OF THE EMPLOYEES?

Based on Bulletin 44, if a taxpayer requests his employer to perform the IIT annual filing on the taxpayer's behalf, the employer, as the Withholding Agent, cannot refuse and should perform it or alternatively train the taxpayer to file electronically via the tax authorities' website (including IIT APP on the mobile phone).

If the employer performs the IIT annual filing on behalf of the employee, the latter needs to confirm in writing the empowerment given to his employer before April 30, 2020, and provides the relevant information to the employer. However, the employee is responsible for the authenticity, accuracy and completeness of the information provided.

V. HOW TO APPLY FOR THE REFUND OF OVERPAID IIT?

A taxpayer can directly apply for the refund of overpaid IIT with the tax authority in charge of the annual IIT filing. To receive the refund, the taxpayer must have a valid Chinese bank account.

If the total Comprehensive Income in 2019 does not exceed RMB 60,000 Yuan and IIT advance payments have been paid, a simplified online refund will be available between March 1 and May 31, 2020.



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¹ i.e. the employer who pays salaries or a person who continuously pays for the services rendered