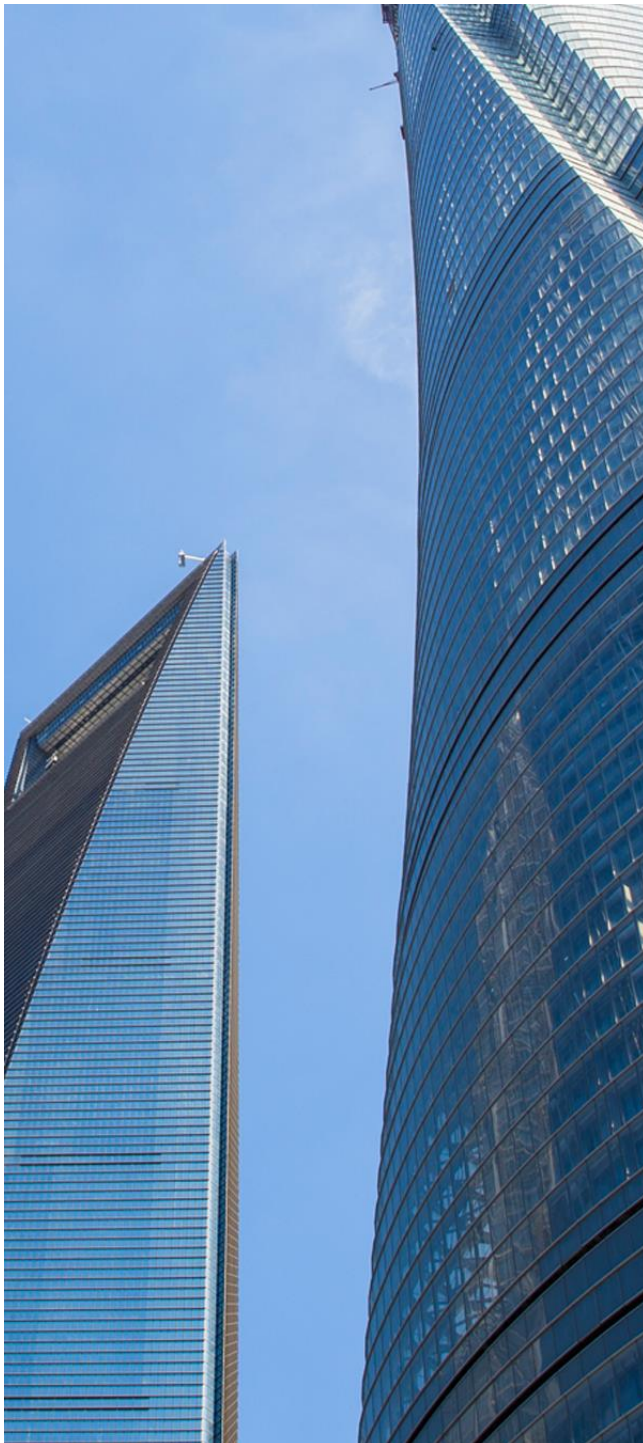

China offices

Legal flash

May 2020



Introduction

New Individual Income Tax (“IIT”) Law implemented on January 1, 2019, introduces a new concept of comprehensive income and the annual declaration procedure for this income.

Since this is the first year the new annual declaration procedure is used (for comprehensive income earned in 2019), taxpayers have many questions.

This legal flash addresses several of these questions to shed light on this topic.



2019 IIT annual declaration - Q & A

Q 1: What is the IIT annual declaration for?

The IIT annual declaration is designed for **resident taxpayers** to consolidate their (i) salary and wages, (ii) service income, (iii) author's remuneration and (iv) royalties (together, "Comprehensive Income") received in a tax year for their annual assessment and settlement with the tax authorities.

Calculation formulas:

Annual taxable income = annual Comprehensive Income – statutory deduction of RMB 60,000 – special deductions – special additional deductions – other qualified deductions – qualified donation

IIT to be paid or refunded = (annual taxable income x applicable tax rate – quick deduction) – withheld and prepaid IIT during the tax year

Until December 31, 2021, resident taxpayers can choose to separate their annual bonus from Comprehensive Income and calculate IIT independently by applying the current preferential tax treatment (i.e., the annual bonus is divided by 12 to find the applicable tax rate in the converted monthly progressive tax rates applicable to the Comprehensive Income), or they can add the annual bonus to the Comprehensive Income to calculate the IIT.

Q 2: Who must submit the 2019 IIT annual declaration?

If you meet all the following criteria, you will need to make the annual declaration:

- ✓ You are a Chinese tax resident (i.e., those who are domiciled in China and those who are not but reside in China for 183 cumulative days or more in a tax year);
- ✓ You received one or more Comprehensive Income payments in the 2019 tax year (January 1, 2019, to December 31, 2019); and
- ✓ After calculating annual tax, you need to claim the tax refund (unless you voluntarily give it up), or you will need to pay additional tax if you are in one of the following situations:
 - a) Your annual Comprehensive Income exceeds RMB 120,000 **and** the additional tax to be paid exceeds RMB 400; or
 - b) When receiving income, your withholding agent did not withhold IIT according to law.



However, if you meet one of the following requirements, you do **not** need to submit the annual declaration:

- ✓ You are not a Chinese tax resident (i.e., those who are not domiciled in China and those who do not reside in China or reside in China for fewer than 183 cumulative days in a tax year).
- ✓ You are a Chinese tax resident and when receiving income your withholding agent withheld IIT according to law, if you meet one of the following requirements:
 - a) Your annual Comprehensive Income does not exceed RMB 120,000;
 - b) The additional tax to be paid does not exceed RMB 400;
 - c) The annual IIT payable equals the IIT withheld and prepaid by the withholding agent; or
 - d) You are not claiming the tax refund.

The above thresholds of RMB 120,000 and RMB 400 only apply to the Comprehensive Income earned in the 2019 and 2020 tax years.

Q 3: What is deductible in the annual declaration?

The following items are deductible in the annual declaration:

- ✓ Statutory deduction of 60,000 RMB.
- ✓ Special deductions (taxpayers' contributions to the basic social security and housing fund).
- ✓ Special additional deductions: (i) children's education; (ii) continued education; (iii) medical treatment for serious illness; (iv) interest on mortgage for first property; (v) housing rental; and (vi) support for the elderly.
- ✓ Other qualified deductions under the law include:
 - a) payments for qualified enterprise annuities and occupational annuities; and
 - b) expenditures for purchasing qualified commercial health insurance and tax-deferred commercial pension insurance;
- ✓ Qualified charitable donation.



Q 4: I am a foreigner. I expected to stay in China for fewer than 183 days at the beginning of the year, so IIT was withheld as a non-tax-resident. However, the situation changed, and I stayed longer than expected and became a tax resident. Do I need to submit the annual declaration?

In general, a foreigner in this situation will need to submit the annual declaration, as IIT is withheld for non-tax-residents on a monthly basis or each time they receive income; applicable tax rates and deductions are different from those for resident taxpayers.

However, if the foreigner meets the exemption requirements mentioned above, the person can also be exempt from submitting the annual declaration.

Q 5: What are the legal consequences of not submitting the annual declaration?

If a taxpayer needs to pay additional tax (except for the exemption situation), failure to submit the annual declaration may be:

- ✓ subject to administrative penalties (under articles 62, 63 and 64 of the Tax Collection and Administration Law, depending on the specific situation of each case); and
- ✓ recorded in the IIT credit record database.

Discredited individuals will be placed on the tax authorities' watch list, and administrative restrictions and penalties will be imposed by law. In serious cases, the names of discredited individuals will be disclosed to the general public, and this information will be shared on the national credit platform.

Q 6: When should a taxpayer submit the annual declaration?

The 2019 annual declaration must be submitted between March 1, 2020, and June 30, 2020.

For the sake of future declarations, if the taxpayer is a foreigner who expects to leave China before the official annual declaration period and does not plan to return in that same year, the person may also complete the declaration before leaving China.



Q 7: How do taxpayers submit the annual declaration?

Taxpayers can prepare the annual declarations (i) by themselves, (ii) by their employer, or (iii) by an engaged agent.

The annual declaration can be submitted through (i) the mobile phone app; (ii) the e-tax bureau; (iii) in-person at the tax authority's service center; or (iv) the post. The mobile phone app and the e-tax bureau are the most convenient and recommended ways to submit the annual declaration.



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