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China

Expatriates’ taxation targeted in China

Tax administration regarding the Individual Income Tax (IIT) filings for Expatriate Personnel is being escalated in a number of cities in China.

Beijing Local Tax Bureau has formalised a regular data system interface with various government departments, including Industrial and Commercial Bureau, Human Resources Bureau, Social Security Bureau and Public Security Bureau, to name a few. With this frequent information exchange, Expatriates’ IIT administration shall be enforced in a 360° manner. With better inter-departmental information exchange, the Tax Authorities may now be able to notify the Exit & Entrance Administration Bureau to block a tax-owing Expatriate from leaving China according to “China’s Tax Collection & Administration Law”.

Xiamen Local Tax Bureau has put all foreign personnel in a categorisation program to facilitate benchmarking on their declaration of bonuses, incentives, stock options and any other offshore-paid income. In addition, an alert system has been put in place to detect failed or nil-tax IIT filings for a long time and to capture the income received from multiple locations without a consolidated tax declaration. Expatriates’ IIT declarations will be centralised and compared against the data they have declared to that of which has been provided by third parties.

Anhui Local Tax Bureau has required Expatriates to conduct IIT self-examinations for themselves for the periods 2011 to 2013.

In general, all Expatriate Personnel in China are advised to ensure that their IIT obligations are fulfilled in a timely and correct manner according to the Chinese laws and regulations.



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Hong Kong

Director fees received from Non – Hong Kong company, taxable in Hong Kong

The Inland Revenue Board of Review (IRBR) has confirmed in a recent case (D21/13), that Directors' fees are taxable in Hong Kong when the Company's residence is located in Hong Kong. It has also clarified that the test of a Company's residence is not based on where its Directors have their residence, where the place of management is, or where the Company itself is located and may therefore be a tax resident in another jurisdiction. But rather, it is based on where the Company maintains its principle place of business.

In the published case a taxpayer received Directors' fees from an Overseas Incorporated Company which was listed at the Hong Kong Stock Exchange and had an office in Hong Kong with its own Employees. As the majority of the Director's had their residence in Mainland China, most of the Board meetings were held by telephone conferences. The place of the board meetings, however, was considered as not "dominating" and therefore not a deciding factor.

The IRBR concluded that the company maintained their place of business in Hong Kong as the Chinese Headquarter was an investment holding for its Chinese subsidiaries and did not have any other business transactions. While the Hong Kong office was established to communicate with investors and banks. The Company was therefore considered as a resident in Hong Kong and the Directors' fees derived by the taxpayer were received from Hong Kong and therefore taxable in Hong Kong.



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India

No Clear Concept of Economic Employer in India

Delhi High Court in its decision of Centrica India Offshore Pvt. Ltd.(CIOP) vs. Commissioner of Income Tax has decided that Employees on "Secondment" from overseas entities in UK and Canada, (not Germany) create a service Permanent Establishment (PE) in India and the PE is subject to withholding tax, therefore CIOP had to withdraw the withholding tax from its payments.

Centrica founded CIOP in order to establish an interface of the overseas entities in India for surveilling work done of a third party for back office work. In their agreement between the different overseas Centrica entities and CIOP in India, CIOP got all costs plus a mark up of 15 % reimbursed. The Employees seconded to CIOP, continued to receive salaries in their home country and continued to stay on the payroll of their home entities overseas.

CIOP went first to the Advance Ruling Authority (AAR) to clear, if the amount paid by CIOP to the Overseas Entities is taxable in India and if there will be withholding tax. The taxability was confirmed by the AAR.

CIOP argued in their written petition before Delhi High Court that the Employees from Overseas work under the supervision of CIOP and that CIOP is the economic Employer. But the Delhi High Court stated that CIOP can terminate the Secondment agreement but not the Seconded's employment contract.

As the Supreme Court did not accept the assessee's arguments against the High Court Decision, Economic Employer concept is no basis for tax planning in India.



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Indonesia

New Update on Social Security Schemes

Based on Government Regulations No. 53/2012 jo. President Decree No. 12/2013 as amended by President Decree No. 111/2013, the previous Social Security Agency Jamsostek has changed its name to Badan Penyelenggara Jaminan Sosial Kesehatan (BPJS).

BPJS consists of 2 departments:

Worker Social Security Agency (BPJS Ketenagakerjaan), which covers accident insurance, death insurance and pensions including the Provident Fund Benefit (Indonesia's national pension scheme)

The current contributions based on a percentage of Employee salaries are as follows:

Coverage	Paid by Employer	Paid by Employee
Provident Fund Benefit	3.7%	2 %
Work – related Accident	0.24% - 1.74 % ¹	0%
Death Benefits	0.3%	0%

¹ Percentage determined by business type.

Healthcare and Social Security Agency (BPJS Kesehatan), which covers health insurance.

Companies of all sizes and business types, have to register on BPJS Kesehatan at the latest by 1 January 2015.

The current contributions based on a percentage of Employee salaries are as follows:

Coverage	Paid by Employer	Paid by Employee
1 January 2014 – 30 June 2015	4% up to maximum IDR 189,000 (approx. EUR 12)	0.5% up to a max. of IDR 23,625 (approx. EUR 1.5)
1 Jul 2015 onwards	4% up to maximum IDR 189,000 (approx. EUR 12)	1 % up to a max. of IDR 47,250 (approx. EUR 3)

This regulation applies to all citizens and residents of Indonesia.



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Philippines

Bureau of Immigration Implements “Alien Registration Project”

The Alien Registration Project (ARP) is a three-phase project to be implemented by the Philippine Bureau of Immigration which aims to map all aliens within the country. The aim is to identify all Foreign Nationals and determine the legality of their entry into the Philippines and establish a tax source.

Under the Phase 1, all Foreign Nationals are required to present themselves before the Bureau of Immigration for biometric capturing and issuance of Special Security Registration Number (SSRN) as of 1 October 2014 until 30 September 2015. Phase 2 and 3 pertain to the implementation of the use of computer servers and data analyzing devices.

The SSRN, issued under Phase 1, shall be the permanent security number for:

- » Foreign Nationals whose lawful stay of 59 days in the country has been exceeded
- » all other registered aliens.

Foreign Nationals who have registered under ARP but are classified as an “illegal foreign national”, may avail of the (90)-day deferred administrative action to comply with the requirement to regularize stay. By doing this they may benefit from any future legislation that may grant a "regular status".

Foreign Nationals who choose not to participate in the ARP within the compliance period, shall be liable to arrest and deportation if found in violation of the Immigration Laws. They may also face a penalty of PHP 200 (approx. EUR 3.50) per month with a maximum of PHP 2,000 (approx. 35) per year.

ACR I-Card Registered Foreign Nationals, Tourists whose stay has not exceeded 59 days and those who are exempt from registration pursuant to law are not required to present themselves as they are automatically-registered under ARP.



Singapore

Not Ordinarily Resident (NOR) Scheme: Tax exemption of Employer’s Contribution to Non – Mandatory Overseas Pension Fund or Social Security Scheme

Under this concession, tax exemption will be given to a resident Singapore Employee on contribution made by the Employer to any non-mandatory overseas contribution scheme. This is provided that the Employer does not claim a deduction for the contribution in the Singapore tax return. The amount of exemption is subject to a capping.

However, if the Employee is employed by an investment holding company or a tax-exempt body, the Employee would not be able to enjoy the tax concession on the contributions made by the Employer to any non-mandatory overseas contribution scheme on or after 1 January 2014.

If the employee is employed by a service company, he will continue to enjoy the tax concession provided the company prepares its tax computation based on "normal trading company" basis from the year of assessment 2016 (i.e. for accounting period ending in 2015) onwards. Employees of a service company that adopt the "cost plus markup" method will not be able to enjoy this tax concession from year of assessment 2016.



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Thailand

Military Government plans tax reforms

- » According to a recommendation from the Thai Revenue Department, domestic package tours and accommodation expenses shall be tax exempt up to THB 15,000 (approx. EUR 365) for the years 2014 and 2015.
- » The planned Negative Income Tax shall promote capital redistribution towards the poor. Citizens with an annual income of less than THB 30,000 (approx. EUR 730) shall receive transfer payments of 20% of their respective annual income. Low-income earners with an annual income between THB 30,001 (approx. EUR 730) and THB 80,000 (approx. EUR 1,947) shall receive transfer payments of 12% of their respective annual income.
- » Investments in Long-term Equity Funds (which are to be held at least 5 years) and Retirement Mutual Funds (where disbursements are only made after the age of 55) are currently tax deductible up to 15% of gross salary with an annual maximum deductible amount of THB 300,000 (EUR 7,302.04) each. The incentives for LTFs shall expire in 2016, whereas those for RMFs will be extended further.



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Vietnam

Updated Regulations on Withholding Personal Income Tax

The Minister of Finance issued Circular 151/2014/TT-BTC guiding the implementation of Decree 91/2014/ND-CP providing some detailing regulations. The new regulations shall take effect from 15 November 2014. Some remarkable changes on Personal Income Tax (PIT) are:

Housing

Residential housing rent, power and water and associated services receivable by employees from employers are subject to PIT under former regulations. However, the new Circular states some exemptions: such housing benefit is not considered to be taxable income of the employee, if the employee can use that housing at no cost and the housing is residential housing constructed by employers

- » in Industrial Zones;
- » in Economic Zones,
- » in areas with difficult socio-economic conditions or with especially difficult socio-economic conditions.

PIT finalization

Individuals working as agent of an insurance company, a lottery and multi-level marketing companies are not required to make PIT finalization if PIT was withheld by the employers.

Business dissolution

Usually the employer has to calculate and pay the PIT on behalf of the employee. In most cases, the employee will authorize the employer to also make the PIT finalization on his behalf. However, in case of business dissolution and cease of operation, the employer shall not be required to make the PIT finalization upon dissolution and cease of operation if they did not withhold PIT. In such case, the employer is only required to provide a list of individuals who received income during the previous year to the tax authority.

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