



## China

### Introduction

Domiciled individuals are taxed on worldwide income, whereas nondomiciled individuals are generally taxed on Chinese-sourced income only.

In China, the scope of taxation for individuals is generally determined by the source of income, a person's residency status, and the length of the person's residence in China.

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### Key messages

Extended business travelers are likely to be taxed on employment income relating to their Chinese workdays.

## Income tax

### Liability for income tax

A person's liability to Chinese tax is determined by the person's domicile status. For Chinese tax purposes, a person can be a domiciled individual, a nonresident nondomiciled individual, or a resident nondomiciled individual.

A domiciled individual is defined as an individual who, by reason of the individual's permanent registered address, family, and/or economic interests, habitually resides in China. An individual with a Chinese passport, or a *hukou* (household registration), is likely to be deemed as domiciled in China.

A nondomiciled individual is taxed in accordance with the individual's length of residence in China. Such a person would be deemed to be a resident of China for that year if the person has not been physically away from China for more than 30 continuous days or more than 90 cumulative days in a calendar year.

A nondomiciled individual who has been a resident of China for five years or less is taxed on income sourced in China only. A nondomiciled individual who has been a resident of China for five full consecutive years is taxed on the individual's worldwide income.

A nonresident nondomiciled individual may be subject to tax on income sourced in China if the individual is unable to meet the conditions required for exemption.

### Definition of source

Employment income is generally treated as Chinese-sourced compensation where the individual performs the services while physically located in China.

Certain nonresident nondomiciled individuals may be exempt from tax.

### Tax trigger points

Under domestic legislation, a nonresident nondomiciled individual is exempt from the requirements to file and pay tax in China if the individual meets one or more of the following conditions:

- The individual is in China for less than 90 days in a calendar year (this time period is frequently extended if there is a double tax treaty between China and the country in which the individual is a tax resident)
- The individual is paid by an employer outside China
- The individual's costs are not borne by a permanent establishment or place of business of the employer in China. The exemption will not apply, however, if the person holds a position in the Chinese entity

### Types of taxable income

Unless a person is taxed on worldwide income, the types of income on which assignees are generally taxed are employment income, Chinese-sourced income, and gains from taxable Chinese assets (such as real estate).

### Tax rates

Net taxable income is taxed at graduated rates ranging from 5 percent to 45 percent. The maximum tax rate is currently 45 percent on monthly taxable income over 100,000 Chinese renminbi (RMB).

## Social security

### Liability for social security

Social security taxes may apply to nondomiciled individuals from July 1, 2011.

## Compliance obligations

### Employee compliance obligations

Domiciled individuals and resident nondomiciled individuals with an annual income exceeding RMB120,000 must file an annual individual income tax return by March 31. Other circumstances where an individual needs to file returns within seven days of the month following the receipt of income are:

- Individuals receiving wages from two or more employers in China
- Individuals receiving income from sources outside China (this applies only to domiciled individuals and resident nondomiciled individuals)

### Employer reporting and withholding requirements

The payer of any amount that is income to an individual has an obligation to withhold the individual's income tax and remit the amount to the tax authorities. Hence, employers have an obligation to withhold the tax on the income paid to its employees, file individual income tax withholding returns, and remit the amount to the tax authorities within seven days of the month following the payment of amount.

## Other

### Work permit/visa requirements

Visas are required for entry into China with the exception of short-term visits by residents of some countries. The type of visa required will depend on the purpose of the individual's entry into China.

### Double taxation treaties

China has an extensive tax treaty network. In addition to China's domestic arrangements that provide relief from international double taxation, China has entered into double taxation treaties with many countries to prevent double taxation and to allow cooperation between China and overseas tax authorities in enforcing their respective tax laws.

### Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

### **Indirect taxes**

Value-added tax (VAT) of 17 percent is charged on the supply of goods and the provision of repairs and processing services in China, as well as on the importation of goods into China. Business tax may apply on the supply of labor services.

### **Transfer pricing**

China has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing services for the benefit of the entity in another jurisdiction, in other words, a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

### **Local data privacy requirements**

China does not currently have an extensive set of data privacy laws.

### **Exchange control**

China has strict exchange control rules. The RMB is not a freely exchangeable currency. There are strict rules within China applying to the conversion of RMB to other currencies and vice versa.

### **Nondeductible costs for assignees**

Nondeductible costs for assignees may include contributions by an employer to non-Chinese pension funds, benefits-in-kind incurred in China that are not supported by official receipts, and accrued but unpaid costs.

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