



Chinese Christmas tax gift for foreigners



Good news for foreigners in China – Five-year rule becomes Six-year rule

As you may be aware, on **1 January 2019** the revised Individual Income Tax Law (“new IIT Law”) of the People’s Republic of China (PRC) will enter into force.

The key amendments include:

- New definition of tax residency with revised criteria for determining tax residency status for foreigners
- Augmenting current system of taxing individual income
- Revised tax rates and reshuffling of taxable income brackets
- Expanding standard basic deduction and introducing additional specific deductions
- Introducing new anti-avoidance rules for individuals
- Implementing a taxpayer identification system

Article 1 of the new IIT Law defines a Chinese tax resident as an individual who is domiciled in China or who is not domiciled in China but has stayed in the aggregate for **183 days or more** of a tax year in China. Such resident individual is subject to individual income tax on his or her worldwide income.

So far it was unclear whether and to which extent foreigners living in China will continue to benefit from the so called “Five-year rule” which under certain circumstances in the past allowed for an exemption from taxation of overseas income.

On 18 December 2018, the State Council of PRC published the new Regulation on the Implementation of the new IIT Law (“new RI”) which will also be applicable as of 1 January 2019.

Pursuant to Article 4 of the new RI, individuals who do not have a domicile in China but have stayed in China for more than 183 days in one year but not more than 6 years are exempted from paying IIT on their income sourced outside China which is paid by an overseas entity or individual. However, **foreigners need to file with the competent tax authorities in advance to enjoy the tax incentive.**

Individuals who leave China for **more than 30 days in a single trip** in any one year in which they have stayed for more than 183 days, can **break** the six year period which will be recounted as a new cycle.

Hence, only those expatriates who have been resident taxpayers for six consecutive years without any break or are domiciled in China need to pay IIT on overseas income.



Need help with filing for exemption status?

Contact Us



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