

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - [¶10-100] Basis of tax liability**
 - [¶10-110] Individuals domiciled in China
 - [¶10-120] Expatriates Living in China (At lea
 - [¶10-130] Expatriates Living in China (Less t
 - [¶10-140] Relief for temporary visitors (90/1
 - [¶10-150] Expatriate directors and senior ma
 - [¶10-160] Flowchart for taxation of expatriat
 - [¶10-170] Calculating length of stay in China
- TAXABLE INCOME AND DEDUCTIONS
- EXEMPTIONS AND REDUCTIONS
- TAX CALCULATION
- TAX REGISTRATION, ACCOUNT BOOKS AND VOI
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS, DISPUTES AND PENALTIES
- RECOVERY OF UNPAID TAX
- FORMS
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[Previous](#)[Next](#)

[10-100] Basis of tax liability

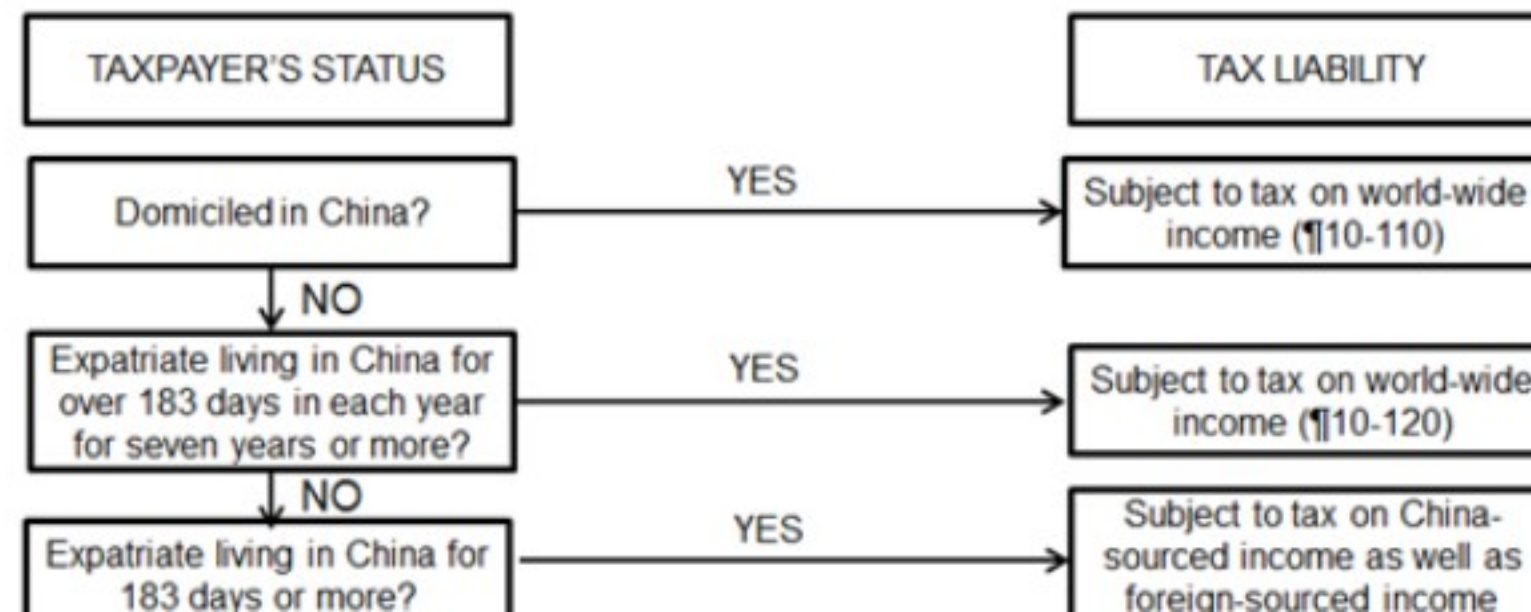
Last Reviewed: 28 08 2020

Whether a person is liable to pay IIT, and the extent to which he or she is liable, depend upon:

- whether the person is a usual resident of China, or, if the person is an expatriate, how long the person has been living in China; and
- the source of the person's income.

Tax liability flowchart

According to the terms of the *Individual Income Tax Law*, the *Individual Income Tax Implementing Rules*, and applicable tax treaties, an individual's income tax liability may be determined by the following flowchart:

[Top](#)

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - [¶10-100] Basis of tax liability
 - [¶10-110] Individuals domiciled in China
 - [¶10-120] Expatriates Living in China (At least 183 days)
 - [¶10-130] Expatriates Living in China (Less than 183 days)
 - [¶10-140] Relief for temporary visitors (90/180 days)
 - [¶10-150] Expatriate directors and senior management
 - [¶10-160] Flowchart for taxation of expatriates
 - [¶10-170] Calculating length of stay in China
- TAXABLE INCOME AND DEDUCTIONS
- EXEMPTIONS AND REDUCTIONS
- TAX CALCULATION
- TAX REGISTRATION, ACCOUNT BOOKS AND VOICED RECORDS
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS, DISPUTES AND PENALTIES
- RECOVERY OF UNPAID TAX
- FORMS
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS



Previous

Next

[10-110] Individuals domiciled in China

Last Reviewed: 28 08 2020

Under the *Individual Income Tax Law*, an individual who is usually resident, i.e., “domiciled” within China, is liable to pay IIT on his or her worldwide income derived from sources both within and outside China (Articles 1).

Categories of income on which IIT is levied are detailed in ¶10-300 and following.

Usual residence/domicile test

An individual is regarded as being domiciled in China if he or she usually or habitually resides in China due to family or business relationships, or because he or she is a registered householder with a personal residence record (*Individual Income Tax Implementing Rules*, Articles 2).

This test does not refer to the place where the taxpayer actually resides or is resident within a specified period of time, but to the taxpayer’s personal connections within the territory of China. An individual who lives abroad for reasons such as education, employment, work assignments, visiting relatives, or touring, etc., and who thereafter must return to China, is regarded as being usually resident or domiciled in China (*Circular [1994] 899*, Articles 1).

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - [¶10-100] Basis of tax liability
 - [¶10-110] Individuals domiciled in China
 - [¶10-120] Expatriates Living in China (At least 183 days)
 - [¶10-130] Expatriates Living in China (Less than 183 days)
 - [¶10-140] Relief for temporary visitors (90/180 days)
 - [¶10-150] Expatriate directors and senior management
 - [¶10-160] Flowchart for taxation of expatriates
 - [¶10-170] Calculating length of stay in China
- TAXABLE INCOME AND DEDUCTIONS
- EXEMPTIONS AND REDUCTIONS
- TAX CALCULATION
- TAX REGISTRATION, ACCOUNT BOOKS AND VOICED RECORDINGS
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS, DISPUTES AND PENALTIES
- RECOVERY OF UNPAID TAX
- FORMS
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[10-120] Expatriates Living in China (At least 183 Days)

Last Reviewed: 28 08 2020

Article 1 of the *Individual Income Tax Law* stipulates that individuals who are not usual residents of China (see ¶10-110), but have lived in China for at least 183 days in a tax year, are subject to individual income tax (IIT) on their worldwide income derived from sources within and outside China.

As a concession, an individual who is not a usual resident of China and has lived in China for at least 183 days, but has not stayed in China for at least 183 days in each year for a consecutive six-year period (beginning from 1 January 2019),, after recordal with the competent taxation authorities, may be taxed only on the portion of his/her income which is derived from China. The foreign-sourced income will not be taxable unless it is paid by individuals or enterprises in China (*Individual Income Tax Implementing Rules*, Art 4).

MOF/STA Bulletin [2019] 35 (Art 2) clarifies that an individual who has lived in China for at least 183 days but has not stayed in China for at least 183 days in each year for a consecutive six-year period (beginning from 1 January 2019) is subject to tax on employment income derived during his/her working period within China from wages and salaries paid by a Chinese enterprise or employer or from an overseas enterprise or employer. If employment income is derived from a period of work outside China, IIT is payable only on the portion of the income which is paid by Chinese enterprises or Chinese individual employers.

For more on the categories of income subject to IIT and “China-sourced income” refer to ¶10-300ff.

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - [¶10-100] Basis of tax liability
 - [¶10-110] Individuals domiciled in China
 - [¶10-120] Expatriates Living in China (At least 183 days)
 - [¶10-130] Expatriates Living in China (Less than 183 days)
 - [¶10-140] Relief for temporary visitors (90/183 days)
 - [¶10-150] Expatriate directors and senior management
 - [¶10-160] Flowchart for taxation of expatriates
 - [¶10-170] Calculating length of stay in China
- TAXABLE INCOME AND DEDUCTIONS
- EXEMPTIONS AND REDUCTIONS
- TAX CALCULATION
- TAX REGISTRATION, ACCOUNT BOOKS AND VOICED RECORDINGS
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS, DISPUTES AND PENALTIES
- RECOVERY OF UNPAID TAX
- FORMS
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS



[10-130] Expatriates Living in China (Less than 183 days)

Last Reviewed: 28 08 2020

An individual who is not a domiciliary of China, and has resided in China for less than 183 days, is subject to individual income tax (IIT) on his/her income derived from sources within China, ie on his/her “China-sourced income” (*Individual Income Tax Law*, Articles 1).

Wages and salaries received by an individual during his/her “actual working period” within China are regarded as being derived from sources within China regardless of whether the enterprise or individual employer making the payments is situated inside or outside China (*MOF/STA Bulletin [2019] 35*, Articles 1).

Certain other categories of income which are regarded as being derived from sources within China, notwithstanding that they may have been paid from outside China, include:

- income derived from performing personal services in China;
- income derived from leasing property within China; and
- income derived from the assignment of property in China (*Individual Income Tax Implementing Rules*, Articles 3).

For more on “China-sourced income” refer to ¶10-305.

“Actual working period within China”

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - [¶10-100] Basis of tax liability
 - [¶10-110] Individuals domiciled in China
 - [¶10-120] Expatriates Living in China (At least 183 days)
 - [¶10-130] Expatriates Living in China (Less than 183 days)
 - [¶10-140] Relief for temporary visitors (90/183 days or less)
 - [¶10-150] Expatriate directors and senior management
 - [¶10-160] Flowchart for taxation of expatriates
 - [¶10-170] Calculating length of stay in China
- TAXABLE INCOME AND DEDUCTIONS
- EXEMPTIONS AND REDUCTIONS
- TAX CALCULATION
- TAX REGISTRATION, ACCOUNT BOOKS AND VOICED RECORDINGS
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS, DISPUTES AND PENALTIES
- RECOVERY OF UNPAID TAX
- FORMS
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[Previous](#)
[Next](#)

[10-140] Relief for temporary visitors (90/183 days or less)

Last Reviewed: 28 08 2020

Article 5 of the *Individual Income Tax Implementing Rules* provides individual income tax (IIT) relief to temporary visitors whose physical presence in China is minimal.

A temporary visitor who lives in China continuously or cumulatively for 90 days or less during a tax year (or 183 days or less during the treaty prescribed period if a tax treaty is applicable) is exempted from IIT on the portion of his/her employment income derived from within China which is paid by an overseas employer, and which is not borne or deemed to have been borne by the overseas employer's establishment or place in China.

For the purpose of counting the number of days that an individual is present in China during a calendar year, in accordance with *MOF/STA Bulletin [2019] 34*, if an individual stays in China for 24 hours in a day, the said day shall be included in the number of days of residence in China; if less than 24 hours, the said day shall not be included.

See ¶10-170 for more on the calculation of time spent in China.

[Top](#)

A temporary visitor is required to pay IIT only on the portion of his/her employment income which is derived during his/her “actual working period within China”.

“Actual working period within China”

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - [¶10-100] Basis of tax liability
 - [¶10-110] Individuals domiciled in China
 - [¶10-120] Expatriates Living in China (At lea
 - [¶10-130] Expatriates Living in China (Less t
 - [¶10-140] Relief for temporary visitors (90/1
 - [¶10-150] Expatriate directors and senior ma**
 - [¶10-160] Flowchart for taxation of expatriat
 - [¶10-170] Calculating length of stay in China
- TAXABLE INCOME AND DEDUCTIONS
- EXEMPTIONS AND REDUCTIONS
- TAX CALCULATION
- TAX REGISTRATION, ACCOUNT BOOKS AND VOI
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS, DISPUTES AND PENALTIES
- RECOVERY OF UNPAID TAX
- FORMS
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS



[10-150] Expatriate directors and senior managers

Last Reviewed: 28 08 2020

An individual who is not a usual or habitual resident of China (see ¶10-110), and who holds the position of director or senior manager in a Chinese domestic enterprise, is subject to IIT (IIT) on all income derived from the Chinese enterprise commencing from the date on which he/she assumed the post until the date on which the post is terminated, unless he/she has dual employment and his/her “working period” within China does not exceed 90/183 days.

The tax relief usually available to expatriates who live in China for 90/183 days or less within a tax year (see ¶10-140) does not apply to income received from a Chinese enterprise by an expatriate director or senior manager of that enterprise, except where the individual has genuine non-China duties with income derived from outside China, in which case the “temporary visitor” relief will apply to the foreign paid non-China employment income (see below) (*MOF/STA Bulletin [2019] 35*, Art 2.3).

For an expatriate senior manager, if the Director Fee clause in the tax treaty between China and his/her domicile country does not explicitly cover senior managers, then his/her income may be subject to IIT based on the Non-independent Personal Service clause in the treaty and Art 2.3 of *MOF/STA Bulletin [2019] 35*.

For an expatriate senior manager who concurrently holds a Board of Directors position in the same Chinese enterprise, or who in fact enjoys a director’s rights and benefits or performs a director’s duties without the title of “Director”, his/her income received from the enterprise, including both income received under the

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - TAXABLE INCOME AND DEDUCTIONS
 - [¶10-300] Categories of income subject to tax**
 - [¶10-305] China-sourced income
 - [¶10-310] Employment income (wages and salaries)
 - [¶10-320] Operating Income
 - [¶10-330] Income from contracting or leasing
 - [¶10-340] Income from personal services
 - [¶10-345] Partnership and sole-proprietor income
 - [¶10-350] Remuneration for manuscripts
 - [¶10-360] Royalty income
 - [¶10-370] Interest income, dividends and bonuses
 - [¶10-380] Income from leasing property
 - [¶10-390] Income from assignment of properties
 - [¶10-395] Conversion of Reserves into Share
 - [¶10-400] Contingency income
 - [¶10-410] Equity Incentives
 - [¶10-420] Other unclassified income
 - [¶10-430] Foreign-Sourced Income
 - EXEMPTIONS AND REDUCTIONS
 - TAX CALCULATION
 - TAX REGISTRATION, ACCOUNT BOOKS AND VOICINGS
 - TAX RETURNS AND PAYMENT OF TAX
 - INVESTIGATIONS, DISPUTES AND PENALTIES
 - RECOVERY OF UNPAID TAX

[10-300] Categories of income subject to tax

Last Reviewed: 28 08 2020

The following categories of individual income are subject to IIT (*Individual Income Tax Law*, Articles 2):

- wages and salaries derived from a position or contract of employment (see ¶10-310);
- operating income (see ¶10-320);
- income derived from contracting for or leasing operations of enterprises or institutions (see ¶10-330);
- remuneration for personal services performed by an independent contractor (see ¶10-340);
- remuneration for manuscripts (see ¶10-350);
- royalty income (see ¶10-360);
- interest income, dividends and bonuses (see ¶10-370);
- income derived from leasing properties (see ¶10-380);
- income derived from assignment or transfer of properties (see ¶10-390); and
- contingency income (see ¶10-400);

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - TAXABLE INCOME AND DEDUCTIONS
 - [¶10-300] Categories of income subject to tax
 - [¶10-305] China-sourced income
 - [¶10-310] Employment income (wages and salaries)
 - [¶10-320] Operating Income
 - [¶10-330] Income from contracting or leasing
 - [¶10-340] Income from personal services
 - [¶10-345] Partnership and sole-proprietor income
 - [¶10-350] Remuneration for manuscripts
 - [¶10-360] Royalty income
 - [¶10-370] Interest income, dividends and bonuses
 - [¶10-380] Income from leasing property
 - [¶10-390] Income from assignment of property
 - [¶10-395] Conversion of Reserves into Share
 - [¶10-400] Contingency income
 - [¶10-410] Equity Incentives
 - [¶10-420] Other unclassified income
 - [¶10-430] Foreign-Sourced Income
 - EXEMPTIONS AND REDUCTIONS
 - TAX CALCULATION
 - TAX REGISTRATION, ACCOUNT BOOKS AND VOICERS
 - TAX RETURNS AND PAYMENT OF TAX
 - INVESTIGATIONS, DISPUTES AND PENALTIES
 - RECOVERY OF UNPAID TAX

[10-305] China-sourced income

Last Reviewed: 28 08 2020

Certain taxpayers are subject to individual income tax (IIT) only in respect of income derived from sources in China (see ¶10-120 and ¶10-130).

Article 3 of the Individual Income Tax Implementing Rules is the sourcing provision which defines China-sourced income. According to that provision the following income is regarded as being derived from sources inside China, irrespective of whether the payments were made within or outside China:

- income derived from services rendered within China pursuant to the holding of an office, employment, or the performance of a contract, etc;
- income derived from the leasing of property for use within China;
- income derived from the assignment of properties, such as buildings, land use rights, etc, located within China, or from the assignment of any other properties within China;
- income derived from granting licensing rights for use within China; and
- income derived from interest, dividends or bonuses paid by companies, enterprises, other economic organisations or individuals within China.

Wages and salaries of expatriates working in China

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - TAXABLE INCOME AND DEDUCTIONS
 - [10-300] Categories of income subject to tax
 - [10-305] China-sourced income
 - [10-310] Employment income (wages and salaries)
 - [10-320] Operating Income
 - [10-330] Income from contracting or leasing
 - [10-340] Income from personal services
 - [10-345] Partnership and sole-proprietor income
 - [10-350] Remuneration for manuscripts
 - [10-360] Royalty income
 - [10-370] Interest income, dividends and bonuses
 - [10-380] Income from leasing property
 - [10-390] Income from assignment of property
 - [10-395] Conversion of Reserves into Share
 - [10-400] Contingency income
 - [10-410] Equity Incentives
 - [10-420] Other unclassified income
 - [10-430] Foreign-Sourced Income
 - EXEMPTIONS AND REDUCTIONS
 - TAX CALCULATION
 - TAX REGISTRATION, ACCOUNT BOOKS AND VOICERS
 - TAX RETURNS AND PAYMENT OF TAX
 - INVESTIGATIONS, DISPUTES AND PENALTIES
 - RECOVERY OF UNPAID TAX



[10-310] Employment income (wages and salaries)

Last Reviewed: 28 08 2020

Tax is levied on wages and salaries received by an individual as consideration for holding a position or contract of employment. Taxable income includes:

- bonuses;
- year-end salary increases;
- labour bonuses;
- allowances;
- subsidies;
- stock or securities subscription rights; and
- any other income related to the individual's position or employment (*Individual Income Tax Implementing Rules*, Articles 8(1)).

The following items are currently not taxable when received by foreigners:

- housing allowances, meal allowances, relocation allowances and laundry expenses received in non-cash form or on a reimbursement basis;

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - OVERVIEW
 - LIABILITY TO TAX
 - TAXABLE INCOME AND DEDUCTIONS
 - EXEMPTIONS AND REDUCTIONS
 - TAX CALCULATION
 - TAX REGISTRATION, ACCOUNT BOOKS AND VOUCHERS
 - [¶11-200] Tax registration**
 - [¶11-210] Account books and vouchers
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS, DISPUTES AND PENALTIES
- RECOVERY OF UNPAID TAX
- FORMS
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS


[Previous](#)
[Next](#)

[11-200] Tax registration

Last Reviewed: 28 08 2020

Depending on different local policies, foreign individuals who are liable to pay IIT may be required to register with the tax authorities. If necessary, registration procedures should be completed at the place where the individual usually resides or exercises his or her employment.

For employees of Chinese foreign joint ventures and co-operative joint ventures, resident representatives of foreign businesses and other individuals holding resident permits, registration can be required to be completed upon entry into China. Other individuals are required to register when they become liable to tax, or earlier in the case of individuals who have reason to believe that the duration of their stay in China will render them liable to tax. In other words, individuals must register when they exceed the 90-day time limit of presence in China during a calendar year (the 183-day time limit if a tax treaty applies), or when they have reason to believe that they will exceed that time limit (see further ¶10-140).

A sample tax registration form for individual taxpayers is reproduced at ¶12-300.

Individuals engaged in production or business operations

[Top](#)

Individuals engaged in production or business operations must complete tax registration formalities with the tax authorities within 30 days following receipt of a business licence (*Administrative Law on Levying and Collection of Taxes*, Articles 15).

When submitting the tax registration form the taxpayer may be required to provide documentation and

- What's New
- Acknowledgment
- + Chapter 1 CHINA TAX IN BRIEF
- + Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
 - + LAWS, RULES AND CIRCULARS
 - + OVERVIEW
 - + LIABILITY TO TAX
 - + TAXABLE INCOME AND DEDUCTIONS
 - + EXEMPTIONS AND REDUCTIONS
 - + TAX CALCULATION
 - + TAX REGISTRATION, ACCOUNT BOOKS AND VOUCHERS
 - + TAX RETURNS AND PAYMENT OF TAX
 - INVESTIGATIONS, DISPUTES AND PENALTIES
 - [11-800] Investigations
 - + Disputes
 - + Penalties for specific offences
- + RECOVERY OF UNPAID TAX
- + FORMS
- + Chapter 3 ENTERPRISE INCOME TAX
- + Chapter 4 VALUE-ADDED TAX
- + Chapter 5 CONSUMPTION TAX
- + Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- + Chapter 7 TAX TREATIES
- + Chapter 8 TAX PLANNING
- + Chapter 9 OTHER TAXES
- + Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[11-800] Investigations

Last Reviewed: 28 08 2020

Article 54 of the *Administrative Law on Levying and Collection of Taxes* empowers tax authorities to investigate taxpayers. The tax authorities can exercise the following investigation powers.

Inspection of documents

The tax authority can inspect a taxpayer's accounting books, supporting vouchers for accounts, statements and other relevant information. In the case of a withholding agent, the tax authority can inspect the documents relating to the amount of tax withheld and remitted, or collected and remitted.

Inspection may be carried out in the taxpayer's or the tax withholding agent's place of business. If circumstances require, and upon the approval of the head of a taxation authority at the county level or above, a tax authority may take away and retain the taxpayer's or the withholding agent's books and records for detailed examination and investigation. However, the tax authorities must provide the taxpayer or the withholding agent with a detailed list of books and records retained in their custody and must return the said books and records to the taxpayer and the withholding agent within three months (*Implementing Rules for Levying and Collection of Taxes*, Articles 86).

Top

Physical goods and inspection of operations

The tax authority can inspect a taxpayer's taxable goods and commodities, or other property at the taxpayer's production or business premises, including storage areas.

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - ENTERPRISE INCOME TAX
 - LIABILITY TO TAX
 - [20-100] Enterprises liable to income tax
 - [20-110] Foreign investment enterprises
 - [20-120] Non-resident enterprises with estab
 - [20-130] Non-resident enterprises without e
 - [20-140] Non-resident enterprises with effe
- TAX YEAR
- TAX RATES
- TAXABLE INCOME
- DEDUCTIONS
- Tax Offsets
- DEPRECIATION OF FIXED ASSETS
- WITHHOLDING TAX
- TRANSFER PRICING
- TAX CREDIT
- CORPORATE REORGANISATIONS
- TAX REGISTRATION AND ACCOUNTING RECORD
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS
- PENALTIES
- DISPUTES
- FORMS
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX

[20-100] Enterprises liable to income tax

Last Reviewed: 28 08 2020

EIT is imposed on enterprises and other organisations (enterprises) that derive revenue in the PRC. The *EIT Law* does not apply to sole proprietary enterprises or partnership enterprises. The *EIT Law* introduces the concept of resident enterprises and non-resident enterprises.

A resident enterprise is an enterprise established in the PRC, or an enterprise that is established under the laws of a foreign country (region) but whose place of effective management is located in the PRC. A resident enterprise is subject to EIT on its worldwide income and the applicable tax rate is 25%. "Place of effective management" is defined under the *EIT Implementing Rules* as a place of exercising the overall management and control over production and business, personnel, accounting, properties, etc.

A non-resident enterprise is an enterprise that is established under the laws of a foreign country (region) and whose place of effective management is not located in the PRC, but:

- (i) has an establishment or place in the PRC; or
- (ii) does not have an establishment or place in the PRC but derives income from sources within the PRC.

A non-resident enterprise that has an establishment or place in the PRC is required to pay EIT at 25% on the PRC-sourced income derived by such an establishment or place, and on income arising outside the PRC that is effectively connected with such an establishment or place. On the other hand, a non-resident enterprise that does not have an establishment or place in the PRC, or that has an establishment or place in

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - ENTERPRISE INCOME TAX
 - LIABILITY TO TAX
 - [20-100] Enterprises liable to income tax
 - [20-110] Foreign investment enterprises
 - [20-120] Non-resident enterprises with esta
 - [20-130] Non-resident enterprises without e
 - [20-140] Non-resident enterprises with effe
- TAX YEAR
- TAX RATES
- TAXABLE INCOME
- DEDUCTIONS
- Tax Offsets
- DEPRECIATION OF FIXED ASSETS
- WITHHOLDING TAX
- TRANSFER PRICING
- TAX CREDIT
- CORPORATE REORGANISATIONS
- TAX REGISTRATION AND ACCOUNTING RECORD
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS
- PENALTIES
- DISPUTES
- FORMS
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX

[Previous](#)
[Next](#)

[20-110] Foreign investment enterprises

Last Reviewed: 28 08 2020

FIEs subject to tax under the *EIT Law* include:

- Chinese-foreign equity joint ventures,
- Chinese-foreign co-operative joint ventures, and
- wholly foreign-owned enterprises.

Chinese holding companies are also subject to tax as FIEs.

Chinese-foreign equity joint venture

A Chinese-foreign equity joint venture is a joint venture between a Chinese company and a foreign participant set up in the form of a Chinese limited liability company. The participants share profits, risks and losses in proportion to their respective contributions to the registered capital of the joint venture.

[Top](#)

Chinese-foreign co-operative joint venture

A co-operative joint venture may be incorporated as a legal person or remain as an unincorporated person without the status of a separate legal entity, depending upon whether the partners of the joint venture intend to run the business and bear the risks and rewards together as partners. If the joint venture is

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - ENTERPRISE INCOME TAX
 - LIABILITY TO TAX
 - [¶20-100] Enterprises liable to income tax
 - [¶20-110] Foreign investment enterprises
 - [¶20-120] Non-resident enterprises with establishments in China
 - [¶20-130] Non-resident enterprises without establishments in China
 - [¶20-140] Non-resident enterprises with effective connections
- TAX YEAR
- TAX RATES
- TAXABLE INCOME
- DEDUCTIONS
- Tax Offsets
- DEPRECIATION OF FIXED ASSETS
- WITHHOLDING TAX
- TRANSFER PRICING
- TAX CREDIT
- CORPORATE REORGANISATIONS
- TAX REGISTRATION AND ACCOUNTING RECORDS
- TAX RETURNS AND PAYMENT OF TAX
- INVESTIGATIONS
- PENALTIES
- DISPUTES
- FORMS
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX



[20-120] Non-resident enterprises with establishments in China

Last Reviewed: 28 08 2020

Foreign companies, enterprises and other economic organisations incorporated outside China that have establishments in China and engage in production or business operations, are subject to tax under the *EIT Law* (Articles 3).

Scope of tax liability

A non-resident enterprise with an establishment in China is taxed on its income derived from production, business operations and from other sources from within China (Articles 1 of the *EIT Law*). Starting from 1 January 2008, when the *EIT Law* took effect, non-resident enterprises with establishments in China are subject to Chinese EIT on both income derived from the establishment in China and income actually connected to the establishment derived outside China.

A non-resident enterprise with a PE in China that receives income from a source in China which is not connected with the PE is subject to withholding tax on the income received (Articles 19 of the *EIT Law*). For more on withholding tax see ¶21-200ff.

[Top](#)

“Establishment” in China

“Establishments” for the purposes of the *EIT Law* include:

- places of management or business organisation;

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - ENTERPRISE INCOME TAX
 - LIABILITY TO TAX
 - TAX YEAR
 - TAX RATES
 - TAXABLE INCOME
 - DEDUCTIONS
 - [120-700] Management fees**
 - [120-710] Interest expenses
 - [120-720] Entertainment expenses
 - [120-730] Wages and salaries
 - [120-740] Bad debts
 - [120-745] Super deduction
 - [120-750] Foreign tax
 - [120-760] Donations
 - [120-770] Pre-operation expenses
 - [120-780] Losses
 - [120-790] Exchange losses
 - [120-800] Deductible fixed assets
 - [120-810] Provisions
 - [120-820] Directors' fees and expenses
 - [120-825] Advertising and publicity expenses
 - [120-830] Staff training and welfare expense
 - [120-835] Research & Development expense
 - [120-840] Non-deductible items
 - [120-850] Property losses

[20-700] Management fees

Last Reviewed: 28 08 2020

Article 49 of the *EIT Implementing Rules* specifically provides that management fees paid between enterprises are not tax-deductible. However, for an establishment or place of business of a non-resident enterprise in China, reasonable expenses allocated from the overseas head office shall be deductible on the condition that these expenses are incurred by its head office and related to the production or business operation of such establishment or place and supporting documents are issued by its head office certifying the overall scope of the expenses, the amount involved and the basis and methods of allocation can be provided (*EIT Implementing Rules*, Articles 50).

Pursuant to Circular [2008] No 86, fees charged by a parent company to a subsidiary for provision of services can be deducted, provided such fee is based on a reasonable profit similar to an arm's length transaction between unrelated parties. Further, the parent and the subsidiaries should enter into service contracts specifying the scope of services to be provided, the fee calculation method, the amount of fees to be charged, etc. Circular [2008] No 86 further confirms that fees charged by the parent company in the form of management fee are not allowed to be deducted by the subsidiary payer.

[Top](#)

Law:

- Articles 49 and 50 of the *Enterprise Income Tax Implementing Rules*;
- Circular [2008] No 86 – Notice of the State Taxation Administration on Questions Concerning Enterprise Income Tax Treatment of Service Fees Paid by Subsidiaries to Parent Enterprise.

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - ENTERPRISE INCOME TAX
 - LIABILITY TO TAX
 - TAX YEAR
 - TAX RATES
 - TAXABLE INCOME
 - DEDUCTIONS
 - [120-700] Management fees
 - [120-710] Interest expenses
 - [120-720] Entertainment expenses
 - [120-730] Wages and salaries**
 - [120-740] Bad debts
 - [120-745] Super deduction
 - [120-750] Foreign tax
 - [120-760] Donations
 - [120-770] Pre-operation expenses
 - [120-780] Losses
 - [120-790] Exchange losses
 - [120-800] Deductible fixed assets
 - [120-810] Provisions
 - [120-820] Directors' fees and expenses
 - [120-825] Advertising and publicity expenses
 - [120-830] Staff training and welfare expense
 - [120-835] Research & Development expense
 - [120-840] Non-deductible items
 - [120-850] Property losses

[20-730] Wages and salaries

Last Reviewed: 28 08 2020

Reasonable wages and salaries of employees incurred by an enterprise are deductible (EIT Implementing Rules, Articles 34). Pursuant to *Circular [2009] 3*, reasonable wages and salaries of employees are defined as “wages and salaries” actually paid by enterprises to employees in accordance with the wage and salary rules formulated by general shareholders’ meeting, board of directors, wage and salary committee or other relevant management institutions. The tax authorities often look at the following principles when they determine the reasonableness of an enterprise’s wages and salaries:

- the enterprise has formulated a comparatively standardised employees’ wage and salary system;
- the wage and salary system formulated by the enterprise is in line with the industrial and regional level;
- the wage and salary paid by the enterprise in certain periods are relatively consistent, and the adjustment of wage and salary is undertaken with order;
- the enterprise has performed its obligation of withholding individual income tax from the wage and salary actually paid in accordance with law; and
- the arrangement relevant to wage and salary is not aimed at deducting or avoiding tax payment.

[Top](#)

Wages accrued based on the previously implemented Performance-Related Salaries and Wage Scheme before 2008 which have never been paid are allowed to be deducted from its remaining balance once it is

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
 - LAWS, RULES AND CIRCULARS
 - ENTERPRISE INCOME TAX
 - LIABILITY TO TAX
 - TAX YEAR
 - TAX RATES
 - TAXABLE INCOME
 - DEDUCTIONS
 - [¶20-700] Management fees
 - [¶20-710] Interest expenses
 - [¶20-720] Entertainment expenses
 - [¶20-730] Wages and salaries
 - [¶20-740] Bad debts
 - [¶20-745] Super deduction
 - [¶20-750] Foreign tax
 - [¶20-760] Donations
 - [¶20-770] Pre-operation expenses
 - [¶20-780] Losses
 - [¶20-790] Exchange losses
 - [¶20-800] Deductible fixed assets
 - [¶20-810] Provisions
 - [¶20-820] Directors' fees and expenses
 - [¶20-825] Advertising and publicity expenses
 - [¶20-830] Staff training and welfare expense
 - [¶20-835] Research & Development expense
 - [¶20-840] Non-deductible items
 - [¶20-850] Property losses

[Previous](#)
[Next](#)

[20-800] Deductible fixed assets

Last Reviewed: 28 08 2020

Fixed assets should be amortised over the period of their useful life in accordance with the relevant rules (EIT Law, Articles 11). See [¶21-000](#).

However, a one-time deduction treatment is provided under *Circular [2018] 54* for fixed assets (excluding houses and buildings) purchased during the period from 1 January 2018 to 31 December 2020, provided the purchase price does not exceed RMB5 million. For more on the one-time deduction policy, see [¶21-020](#).

The following fixed assets are not allowed for depreciation:

- (1) fixed assets other than buildings and structure which have not been put in use;
- (2) fixed assets leased-in under an operating lease arrangement;
- (3) fixed assets leased-out through a financing lease arrangement;
- (4) fixed assets which have been fully depreciated but are still in use;
- (5) fixed assets which are not related to the operation activities;
- (6) land which is separately appraised and booked as a fixed assets; and

[Top](#)

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
 - LAWS, RULES AND CIRCULARS
 - TAX INCENTIVES AND SPECIAL ZONES
 - [60-010] Overview**
 - FORMS OF NEW TAX INCENTIVES
 - TAX RELIEF BY LOCATION
 - TAX RELIEF BY TYPE OF BUSINESS
 - HONG KONG
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[Previous](#)
[Next](#)

[60-010] Overview

Last Reviewed: 28 08 2020

The *Enterprise Income Tax Law* and the *Enterprise Income Tax Implementing Rules* repealed all of the tax incentives applicable to foreign investment enterprises prescribed by the prior *Foreign Enterprise Income Tax Law* and *Foreign Enterprise Income Tax Implementing Rules* and relevant regulations. However, they do provide limited tax incentives for foreign and domestic enterprises engaging in certain encouraged industries, such as high and new technology, venture capital, environmental protection, water/energy efficiency, agriculture, forestry, animal husbandry and certain infrastructure industries.

The new incentives are a combination of tax exemption, tax reduction, tax holidays, lower tax rates, super deductions, investment tax credits and accelerated deductions/depreciation. The tax incentives under the *Enterprise Income Tax Law* apply to all qualified enterprises engaged in the relevant industries, both foreign and domestic.

Circular [2008] 1 seems to imply that tax incentives for export-oriented FIEs and technologically-advanced FIEs are no longer valid as they are not grandfathered in any of the mentioned circulars.

Furthermore, enterprises that are entitled to both grandfathering and any of the new tax incentives stipulated in the *Enterprise Income Tax Law* cannot “double dip” as such that they enjoy both benefits. They must make an election to apply one tax benefit or the other. Such an election cannot be changed once made. *Circular [2007] 39* also clarifies that the general rules prescribed under the *Enterprise Income Tax Law* and the *Enterprise Income Tax Implementing Rules* should be used to calculate the taxable income of enterprises during the transition period.

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
 - LAWS, RULES AND CIRCULARS
 - TAX INCENTIVES AND SPECIAL ZONES
 - [¶60-010] Overview
 - FORMS OF NEW TAX INCENTIVES
 - TAX RELIEF BY LOCATION
 - [¶60-200] Special zones generally
 - [¶60-210] Special Economic Zones
 - [¶60-220] Economic and Technological Devel
 - [¶60-230] Coastal Open Economic Zones and
 - [¶60-240] Hi-tech or New Technology Indust
 - [¶60-250] Border Open Cities
 - [¶60-290] Reduction of or exemption from lo
 - [¶60-300] Other areas
 - [¶60-310] Hainan
 - [¶60-320] Shanghai Pudong New Area
 - [¶60-325] China (Shanghai) Pilot Free Trade
 - [¶60-326] China (Guangdong) Pilot Free Trac
 - [¶60-327] China (Tianjin) Pilot Free Trade Zo
 - [¶60-328] China (Fujian) Pilot Free Trade Zor
 - [¶60-330] Beijing New Technology Industry [
 - [¶60-340] Singapore Suzhou Industrial Park
 - [¶60-350] Shenzhen Qianhai Cooperation Are
 - [¶60-360] Fujian Pingtan Comprehensive Pilc

[Previous](#)
[Next](#)

[60-210] Special Economic Zones

Last Reviewed: 28 08 2020

There are currently five SEZs:

- Shenzhen;
- Zhuhai;
- Shantou;
- Xiamen; and
- Hainan.

The sites were chosen partly because of their close proximity to Hong Kong, Macau and Taiwan, which are potential sources of capital, financial expertise, and technical skill.

Shenzhen, Zhuhai and Shantou are located in Guangdong Province, which adjoins Hong Kong and Macau. Xiamen is on the coast of Fujian Province which is across the strait from Taiwan. Hainan was previously part of Guangdong Province but now enjoys provincial status.

In 1992, the administrative borders of the Shenzhen SEZ were expanded to allow additional space for factories and buildings to accommodate the increasing numbers of foreign establishments.

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
 - LAWS, RULES AND CIRCULARS
 - TAX INCENTIVES AND SPECIAL ZONES
 - [¶60-010] Overview
 - FORMS OF NEW TAX INCENTIVES
 - TAX RELIEF BY LOCATION
 - [¶60-200] Special zones generally
 - [¶60-210] Special Economic Zones
 - [¶60-220] Economic and Technological Devel
 - [¶60-230] Coastal Open Economic Zones and
 - [¶60-240] Hi-tech or New Technology Indust
 - [¶60-250] Border Open Cities
 - [¶60-290] Reduction of or exemption from lo
 - [¶60-300] Other areas
 - [¶60-310] Hainan
 - [¶60-320] Shanghai Pudong New Area
 - [¶60-325] China (Shanghai) Pilot Free Trade
 - [¶60-326] China (Guangdong) Pilot Free Trac
 - [¶60-327] China (Tianjin) Pilot Free Trade Zo
 - [¶60-328] China (Fujian) Pilot Free Trade Zor
 - [¶60-330] Beijing New Technology Industry I
 - [¶60-340] Singapore Suzhou Industrial Park
 - [¶60-350] Shenzhen Qianhai Cooperation Are
 - [¶60-360] Fujian Pingtan Comprehensive Pilc

[60-220] Economic and Technological Development Zones

Last Reviewed: 28 08 2020

In 1984 China allowed 14 coastal cities to establish Economic and Technological Development Zones (ETDZs) to attract further foreign investment. However, the *Enterprise Income Tax Law* repealed the preferential tax treatment to FIEs located in ETDZs. Currently, ETDZs are located in provincial capitals, major coastal and Yangtze River cities and in certain border cities. The following ETDZs have been approved by the State Council:

- Beijing
- Changchun
- Changsha
- Chengdu
- Chongqing
- Dalian
- Dayawan

- Dongshan

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
 - LAWS, RULES AND CIRCULARS
 - TAX INCENTIVES AND SPECIAL ZONES
 - [¶60-010] Overview
 - FORMS OF NEW TAX INCENTIVES
 - TAX RELIEF BY LOCATION
 - [¶60-200] Special zones generally
 - [¶60-210] Special Economic Zones
 - [¶60-220] Economic and Technological Devel
 - [¶60-230] Coastal Open Economic Zones and
 - [¶60-240] Hi-tech or New Technology Indust
 - [¶60-250] Border Open Cities
 - [¶60-290] Reduction of or exemption from lo
 - [¶60-300] Other areas
 - [¶60-310] Hainan
 - [¶60-320] Shanghai Pudong New Area
 - [¶60-325] China (Shanghai) Pilot Free Trade
 - [¶60-326] China (Guangdong) Pilot Free Trac
 - [¶60-327] China (Tianjin) Pilot Free Trade Zo
 - [¶60-328] China (Fujian) Pilot Free Trade Zor
 - [¶60-330] Beijing New Technology Industry I
 - [¶60-340] Singapore Suzhou Industrial Park
 - [¶60-350] Shenzhen Qianhai Cooperation Are
 - [¶60-360] Fujian Pingtan Comprehensive Pilc

[Previous](#)
[Next](#)

[60-230] Coastal Open Economic Zones and old urban districts

Last Reviewed: 28 08 2020

Since 1988, more than 300 Coastal Open Economic Zones (COEZs) have been established in the Liaodong Peninsula and Shandong Peninsula, the Pearl River delta and the Yangtze River delta; and the Southern Fujian, Xiamen, Zhangzhou, and Quanzhou delta areas. Incentives in these areas are similar to those in the old urban districts of the open coastal cities. Pursuant to the *Enterprise Income Tax Law*, FIEs in COEZs are subject to 25% tax rate unless the preferential tax rate they previously enjoyed is grandfathered.

Production-oriented foreign investment enterprises which are established in Coastal Open Economic Zones, or in the old urban districts of cities in which SEZs or ETDZs are located, were subject to tax at the reduced rate of 24% (*Foreign Enterprise Income Tax Law*, Art 7). See ¶60-400 for the meaning of “production-oriented enterprise”.

Subject to approval by the SAT, such enterprises could be eligible for the further reduced tax rate of 15% if they engaged in:

- technology-intensive or knowledge-intensive projects;
- projects with total foreign investment of at least US\$30 million with a long payback period; or
- energy, communications or harbour construction projects (*Foreign Enterprise Income Tax Implementing Rules*, Art 73(1)).

[Top](#)

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
 - LAWS, RULES AND CIRCULARS
 - TAX INCENTIVES AND SPECIAL ZONES
 - [¶60-010] Overview
 - FORMS OF NEW TAX INCENTIVES
 - TAX RELIEF BY LOCATION
 - [¶60-200] Special zones generally
 - [¶60-210] Special Economic Zones
 - [¶60-220] Economic and Technological Devel
 - [¶60-230] Coastal Open Economic Zones and
 - [¶60-240] Hi-tech or New Technology Indust
 - [¶60-250] Border Open Cities
 - [¶60-290] Reduction of or exemption from lo
 - [¶60-300] Other areas
 - [¶60-310] Hainan
 - [¶60-320] Shanghai Pudong New Area
 - [¶60-325] China (Shanghai) Pilot Free Trade
 - [¶60-326] China (Guangdong) Pilot Free Trac
 - [¶60-327] China (Tianjin) Pilot Free Trade Zo
 - [¶60-328] China (Fujian) Pilot Free Trade Zor
 - [¶60-330] Beijing New Technology Industry I
 - [¶60-340] Singapore Suzhou Industrial Park
 - [¶60-350] Shenzhen Qianhai Cooperation Are
 - [¶60-360] Fujian Pingtan Comprehensive Pilc

[Previous](#)
[Next](#)

[60-327] China (Tianjin) Pilot Free Trade Zone

Last Reviewed: 28 08 2020

With the approval from the State Council on 8 April 2014, the China (Tianjin) Pilot Free Trade Zone ("Tianjin PFTZ") officially came into existence.

Tianjin PFTZ comprises the Tianjin Port Area (including Dongjiang Free Trade Port Zone), the Tianjin Airport Area (including airport area of Tianjin Port Free Trade Zone and Binhai New Area Comprehensive Bonded Zone) and the Binhai CBD Area (including the port area and bonded logistics park of Tianjin Port Free Trade Zone), covering a total area of 119.9 sq km.

Preferential tax treatment

Circular [2015] 19 provides that Tianjin PFTZ, in principle, follows those preferential tax policies which have been implemented on a trial basis in the Shanghai PFTZ.

Laws:

- *Circular [2015] 19 – Guofa [2015] No 19 – Notice of the State Council on the Issuance of the Overall Plan for China (Tianjin) Pilot Free Trade Zone.*

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
 - LAWS, RULES AND CIRCULARS
 - TAX TREATIES
 - GENERAL APPLICATION OF TREATIES
 - TAXATION OF INDIVIDUALS
 - TAXATION OF ENTERPRISES
 - DIVIDENDS, INTEREST AND ROYALTIES
 - ELIMINATION OF DOUBLE TAXATION
 - [71-700] China–Hong Kong Double Taxation Arrangem**
 - [71-750] China–Macao double taxation arrangem
 - [71-760] Mauritius–Barbados Tax Treaty
 - [71-770] Tax information exchange agreements
 - [71-800] Tax Treaties Table
- FORMS
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[71-700] China–Hong Kong Double Taxation Arrangement

Last Reviewed: 28 08 2020

The PRC and Hong Kong signed the *Arrangement between the Mainland of China and the Hong Kong Special Administrative Region for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income* on 11 August 2006 (the “Arrangement”). The Arrangement represents an improvement over the previous arrangement entered into in 1998 which did not offer any particular advantage to Hong Kong over other countries. The Arrangement came into effect on 8 December 2006, and became applicable with respect to PRC taxes from 1 January 2007, and with respect to Hong Kong taxes from the year of assessment beginning on or after 1 April 2007.

On 4 April 2007, the STA issued *Circular 403*, an interpretation notice regarding the Arrangement. *Circular 403* states that the Arrangement is applicable to taxpayers of both the Mainland and Hong Kong with the aim to coordinate the tax administration of both Sides. Where there is inconsistency between the Arrangement and domestic laws, the provisions in the Arrangement will prevail unless domestic laws are more favourable to taxpayers. The *Circular* also provides detailed interpretation for certain articles in the Arrangement, such as the articles on Resident, Permanent Establishment, Associated Enterprises, Interest, Capital Gains, Income from Employment, Dependent Personal Services, Elimination of Double Taxation, and Mutual Agreement Procedures.

China and Hong Kong signed a *Second Protocol to the Arrangement for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income* on 30 January 2008. The *Second Protocol* made amendments to the Arrangement with respect to certain provisions where China and Hong Kong held

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
 - LAWS, RULES AND CIRCULARS
 - TAX TREATIES
 - GENERAL APPLICATION OF TREATIES
 - TAXATION OF INDIVIDUALS
 - TAXATION OF ENTERPRISES
 - DIVIDENDS, INTEREST AND ROYALTIES
 - ELIMINATION OF DOUBLE TAXATION
 - [71-700] China-Hong Kong Double Taxation Arrangement
 - [71-750] China-Macao double taxation arrangement
 - [71-760] Mauritius-Barbados Tax Treaty
 - [71-770] Tax information exchange agreements
 - [71-800] Tax Treaties Table
- FORMS
- Chapter 8 TAX PLANNING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS



[71-750] China-Macao double taxation arrangement

Last Reviewed: 28 08 2020

On 27 December 2003, the Macao Special Administrative Region and Mainland China entered into an arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (the “China-Macao Arrangement”). The *China-Macao Arrangement* entered into force of 30 December 2003 and has an effective date of 1 January 2004. The arrangement is very similar both in length and content to the double tax treaties that China has entered into with other countries. The arrangement covers such issues as:

The *China-Macao Arrangement* is consistent with the latest model of the *Organisation of Economic Co-operation and Development Model Tax Convention on Income and on Capital*. It covers the following issues:

- permanent establishment,
- income from immovable property,
- business profits,
- shipping, air and land transport,
- associated enterprises,
- dividends,

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
 - LAWS, RULES AND CIRCULARS
 - TAX PLANNING FOR INDIVIDUALS
 - [80-010] General tax planning considerations**
 - TAX LIABILITY
 - REMUNERATION PACKAGE
 - TIMING OF RECEIPT
 - DUAL EMPLOYMENT ARRANGEMENTS
 - TAX PLANNING FOR ENTERPRISES
 - MANUFACTURING
 - SERVICING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS



Previous

Next

[80-010] General tax planning considerations

Last Reviewed: 28 08 2020

Since the burden of China's individual income tax can be high and the number of expatriate individuals coming to work in China is growing, it is becoming more important to consider how a taxpayer's employment contract and remuneration package can be structured in order to minimise or reduce the taxpayer's liability to individual income tax in China, or to tax in his/her home country.

An individual's tax position in his/her home country should always be considered so that tax planning is not undertaken unnecessarily. For example, if a person is to be taxed in his/her home country at a higher rate than that imposed in China, and a foreign tax credit will be available to cover the double taxation arising on the China income, then there may be no need for in-depth individual income tax planning. However, in most cases there will be an advantage in undertaking careful individual income tax planning particularly at the beginning of a new contract involving work in China.

In some circumstances, proper planning may result in zero tax liability. This may be achieved by careful timing, ie, the length of time the individual needs to work in China, when he/she needs to work, and by ensuring that the individual's salary is not borne by a China entity.

Top

If total exemption from tax is not possible then there are various ways by which the level of tax paid may be minimised by giving careful thought to the structure of the remuneration package and the timing of payments.

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
 - LAWS, RULES AND CIRCULARS
 - TAX PLANNING FOR INDIVIDUALS
 - [80-010] General tax planning considerations
 - TAX LIABILITY
 - [80-100] Who is subject to individual income tax
 - [80-110] Temporary resident exemption
 - [80-120] Exclusion from the temporary resident
 - [80-130] Extent of tax burden
- REMUNERATION PACKAGE
- TIMING OF RECEIPT
- DUAL EMPLOYMENT ARRANGEMENTS
- TAX PLANNING FOR ENTERPRISES
- MANUFACTURING
- SERVICING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[80-110] Temporary resident exemption

Last Reviewed: 28 08 2020

An individual who resides in China for less than 183 days is regarded as a non-resident and is exempt from individual income tax if he or she meets all of the following requirements:

- (i) his or her remuneration must be paid by, or on behalf of, an employer who is not a resident of China;
- (ii) his or her remuneration must not be borne by, or deemed to be borne by, an establishment or a place in China; and
- (iii) he or she must not be present in China for more than 90 days in a calendar year (or 183 days during the prescribed tax period for a resident of a country which has a double taxation treaty with China). In this respect it is essential for the employee to keep an accurate record of the number of days spent in China. For prudence it should be taken that any day in which the employee is physically present in China is a day in China for the 90/183 day rule. In addition, public holidays spent in China during the period of work also count towards the 90/183 day rule.

For any temporary visitor who does not meet the above three exemption criteria, he or she will be taxed on his or her income sourced in China according to the time physically spent in the country.

Also see ¶10-140 in the “Individual Income Tax” tab.

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
 - LAWS, RULES AND CIRCULARS
 - TAX PLANNING FOR INDIVIDUALS
 - [180-010] General tax planning considerations
 - TAX LIABILITY
 - [180-100] Who is subject to individual income tax
 - [180-110] Temporary resident exemption
 - [180-120] Exclusion from the temporary resident exemption**
 - [180-130] Extent of tax burden
- REMUNERATION PACKAGE
- TIMING OF RECEIPT
- DUAL EMPLOYMENT ARRANGEMENTS
- TAX PLANNING FOR ENTERPRISES
- MANUFACTURING
- SERVICING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS


[Previous](#)
[Next](#)

[80-120] Exclusion from the temporary resident exemption

Last Reviewed: 28 08 2020

An expatriate who is based, or deemed to be based, in China is not entitled to the 90/183 day exemption rule (discussed at [180-110](#)), and such expatriates include:

- (i) Expatriates who are chief representatives or registered representatives of representative offices in China; and
- (ii) Expatriates who work for projects which are regarded as having establishments or places in China.

Also see [110-140](#) in the “Individual Income Tax” tab.

[Previous](#)
[Next](#)

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
 - LAWS, RULES AND CIRCULARS
 - TAX PLANNING FOR INDIVIDUALS
 - TAX LIABILITY
 - REMUNERATION PACKAGE
 - [180-300] Structure of remuneration package
 - [180-310] Mobility premium or incentive bonus
 - [180-320] Lump sum settling-in allowance
 - [180-330] Income tax reimbursement
 - [180-340] Benefits-in-kind
 - [180-350] Annual Bonus
 - [180-360] Stock options, restricted stock units
- TIMING OF RECEIPT
- DUAL EMPLOYMENT ARRANGEMENTS
- TAX PLANNING FOR ENTERPRISES
- MANUFACTURING
- SERVICING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS



Previous

Next

[80-310] Mobility premium or incentive bonus

Last Reviewed: 28 08 2020

It is common practice for an employer to pay an expatriate a mobility premium or incentive bonus to encourage him or her move to China. Strictly speaking, this bonus should be taxable in China. However, depending on when the incentive bonus is paid, the bonus may not be subject to tax.

In practice, if the mobility premium is paid in the calendar year before his/her assignment in China begins, when the individual is

- (i) Not yet attached to any establishment or enterprise in China (i.e. not holding a position in China); and
- (ii) Not subject to individual income tax because he/she is a temporary visitor (ie the individual is not present in China for more than 90 days in a calendar year or 183 days during the prescribed treaty period for tax treaty residents),

the mobility premium will not be taxed in China provided that the amount is not charged back to the establishment.

[Top](#)

Similarly, a post-assignment bonus, strictly speaking, is taxable in China if it is paid for services rendered in China even if it is paid after the employee leaves the country. However, if the bonus is actually an inducement for accepting another foreign assignment or resuming an employment in the home country, then it is arguable that the bonus should not be subject to tax in China, provided that it is not charged back to the establishment.

- What's New
- Acknowledgment
- Chapter 1 CHINA TAX IN BRIEF
- Chapter 1A LEGISLATION AND POLICY TRACKER
- Chapter 2 INDIVIDUAL INCOME TAX
- Chapter 3 ENTERPRISE INCOME TAX
- Chapter 4 VALUE-ADDED TAX
- Chapter 5 CONSUMPTION TAX
- Chapter 6 TAX INCENTIVES • SPECIAL ZONES
- Chapter 7 TAX TREATIES
- Chapter 8 TAX PLANNING
 - LAWS, RULES AND CIRCULARS
 - TAX PLANNING FOR INDIVIDUALS
 - TAX LIABILITY
 - REMUNERATION PACKAGE
 - TIMING OF RECEIPT
 - [80-500] Deferred compensation**
 - [80-510] "Rabbi" trust
- DUAL EMPLOYMENT ARRANGEMENTS
- TAX PLANNING FOR ENTERPRISES
- MANUFACTURING
- SERVICING
- Chapter 9 OTHER TAXES
- Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[80-500] Deferred compensation




































Last Reviewed: 28 08 2020

If an expatriate receives consideration following his departure from China there is the possibility that he or she may not be subject to individual income tax on the deferred consideration. Generally, an employee is only subject to China tax on amounts actually received or accrued during the year in which he or she is subject to China taxation.

Technically, a payment which a person becomes entitled to after the cessation of a China employment, when he or she is no longer subject to China tax, will not be subject to China tax. The tax laws of many jurisdictions contain provisions which treat post-cessation receipts as if they accrued on the last day of an employment, allowing the relevant tax authorities to capture the income as taxable. However, technically, in China it is possible to become entitled to payment following cessation of the China employment and not be subject to China tax on the income. To be effective, the employee must only be entitled to payment after the cessation of the employment and at the time when he or she is no longer subject to tax in China. For example, the post-cessation receipt, in the form of a bonus, may depend on the profitability of the company. This can only be ascertained once the accounts are finalised which may be after the employee has successfully completed his or her China contract of employment and repatriation from the country.

[Top](#)

If the amount is received by the expatriate for other purposes not related to his or her China employment (e.g. as an inducement to take up an assignment elsewhere) then the deferred payment should be non-taxable. However, there may be tax implications on receipt of the deferred payment within the tax jurisdiction in which the expatriate employee subsequently resides.

-  What's New
-  Acknowledgment
-   Chapter 1 CHINA TAX IN BRIEF
-   Chapter 1A LEGISLATION AND POLICY TRACKER
-   Chapter 2 INDIVIDUAL INCOME TAX
-   Chapter 3 ENTERPRISE INCOME TAX
-   Chapter 4 VALUE-ADDED TAX
-   Chapter 5 CONSUMPTION TAX
-   Chapter 6 TAX INCENTIVES • SPECIAL ZONES
-   Chapter 7 TAX TREATIES
-   Chapter 8 TAX PLANNING
 -  LAWS, RULES AND CIRCULARS
 -  TAX PLANNING FOR INDIVIDUALS
 -  TAX LIABILITY
 -  REMUNERATION PACKAGE
 -  TIMING OF RECEIPT
 -   DUAL EMPLOYMENT ARRANGEMENTS
 -  **[80-600] Dual employment arrangements**
 -  TAX PLANNING FOR ENTERPRISES
 -  MANUFACTURING
 -  SERVICING
-   Chapter 9 OTHER TAXES
-   Chapter 10 CUSTOMS • IMPORTS • EXPORTS

[80-600] Dual employment arrangements

Last Reviewed: 28 08 2020

An individual who holds a position of employment in China is deemed to derive all of his or her employment income from the country (even though he or she is regarded as residing in China for less than a full year) unless the individual has dual responsibilities inside and outside China which are well documented within a dual employment contract. In such cases it is possible that the salary and benefits provided in respect of the offshore element of the contract will not be subject to individual income tax in China (provided that the individual is not a China domiciliary or a China resident). A dual employment arrangement is often used as a means of minimising the individual income tax exposure of an expatriate having genuine non-China duties.

Care should be taken in structuring the dual employment arrangement. The expatriate's services rendered outside China under the non-China employment should be distinct and separate from those under the other employment. That is to say, the employee should not be required to perform any services under the China employment while he or she is outside China. The separate duties for China and overseas work should be clearly defined in the contractual arrangement. Also, the allocation of income between the two contracts should be reasonable and reflect the time the employee spends inside and outside the country. Finally, the employment costs under the non-China employment should not be charged back to the China establishment or enterprise.

- [What's New](#)
- [Acknowledgment](#)
- [Chapter 1 CHINA TAX IN BRIEF](#)
- [Chapter 1A LEGISLATION AND POLICY TRACKER](#)
- [Chapter 2 INDIVIDUAL INCOME TAX](#)
- [Chapter 3 ENTERPRISE INCOME TAX](#)
- [Chapter 4 VALUE-ADDED TAX](#)
- [Chapter 5 CONSUMPTION TAX](#)
- [Chapter 6 TAX INCENTIVES • SPECIAL ZONES](#)
- [Chapter 7 TAX TREATIES](#)
- [Chapter 8 TAX PLANNING](#)
- [Chapter 9 OTHER TAXES](#)
 - [LAWS, RULES AND CIRCULARS](#)
 - [STAMP DUTY](#)
 - [DEED TAX](#)
 - [LAND VALUE-ADDED TAX](#)
 - [REAL ESTATE TAX](#)
 - [\[94-000\] What is real estate tax?](#)
 - [\[94-100\] Tax Exemption](#)
 - [\[94-200\] Basis of calculation](#)
 - [\[94-300\] Urban real estate tax procedures](#)
 - [\[94-400\] Penalties](#)
 - [RESOURCE TAX](#)
 - [VEHICLE AND VESSEL TAX](#)
 - [URBAN LAND USE TAX](#)
 - [FARMLAND OCCUPATION TAX](#)
 - [URBAN MAINTENANCE AND CONSTRUCTION TAX](#)
 - [EDUCATION SURCHARGE](#)
- [Chapter 10 CUSTOMS • IMPORTS • EXPORTS](#)

[94-100] Tax Exemption

Last Reviewed: 28 08 2020

The following categories of real estate are exempt from urban real estate tax:

- real estate-owned and used by military units, government agencies and social organisations;
- real estate-owned and used by units whose operations are funded by government financial departments;
- real estate-owned and used by temples of other religions, parks, and historic sites;
- real estate-owned and used by individual for non-commercial purposes;
- other real estate to which tax exemptions are granted by the MOF;
- air defense buildings used for business purposes by Foreign Investment Enterprises (*Circular [2000] No 44*);
- real properties purchased by foreign individuals (including residents of Hong Kong, Macao and Taiwan) for non-business use (*Circular [2000] No 44*);
- real estate developed by real estate developers prior to sales, excluding those that have been leased or lent by developers (*Circular [2003] 89*);