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Newsletter Covering Technical Development in Taxation

2019 PRC INDIVIDUAL ANNUAL COMPREHENSIVE INCOME TAX RECONCILIATION

On 7 December 2019, the China Ministry of Finance (“MOF”) and the State Administration of Taxation (“SAT”) jointly issued Public Notice [2019] No.94 – “Announcement on relevant policies regarding individual annual comprehensive income tax reconciliation” (“PN 94”). The SAT further issued Public Notice [2019] No.44 – “Announcement on 2019 individual annual comprehensive income tax reconciliation” (“PN 44”) on 31 December 2019. These two Public Notices give guidance on the requirements for 2019 PRC individual annual comprehensive income tax reconciliation (“Annual IIT reconciliation”).

In this Tax Flash, we will provide you the salient points of PN 94 and PN 44.

1. BACKGROUND

The 7th revision of the PRC Individual Income Tax (“IIT”) Law (effective 1 January 2019) consolidates the following four types of income derived by a PRC tax resident¹ as one integrated income category “Comprehensive Income” (综合所得):

- Employment Income (工资、薪金所得);
- Income from provision of independent services (劳务报酬所得);
- Income from authors' remuneration (稿酬所得); and
- Income from royalties (特许权使用费所得)

¹ A PRC tax resident is defined as either (i) an individual domiciled in the PRC; or (ii) a non-domiciled individual who is in the PRC for 183 days or more in a calendar year.

IIT on comprehensive income is assessed on an annual basis, but IIT withholding would be performed by the withholding agent (e.g. the PRC employer) on a monthly basis (or when taxable income arises). Final settlement/refund will be made at the time the taxpayer performs his/her annual IIT reconciliation² for comprehensive income.

Year 2019 is the first year an annual IIT reconciliation is required for comprehensive income.

2. 2019 ANNUAL IIT RECONCILIATION

PN94 and PN44 applies to individuals who were PRC tax residents receiving comprehensive income³ during the period from 1 January 2019 to 31 December 2019:

Step 1: Calculation of 2019 additional IIT payable or refundable

Taxpayer should first calculate his/her 2019 additional IIT payable or refundable as follow: -

$$= \{ \text{Comprehensive Income} - \text{Statutory Deduction@RMB60,000, social security contribution, itemized deduction, specific itemized deduction, other allowable deduction (e.g. donation), etc.} \} \times \text{Applicable Tax Rate} - \text{Quick Reckoning Deduction} - \text{IIT withheld for 2019}$$

Step 2: Check if 2019 Annual IIT Reconciliation is Required

Taxpayer should then check if he/she is required to perform the 2019 Annual IIT Reconciliation: -

Taxpayers required to perform 2019 Annual IIT Reconciliation	Taxpayers <u>NOT</u> required to perform 2019 Annual IIT Reconciliation
<ul style="list-style-type: none"> Taxpayers who have 2019 IIT refundable and decided to apply for IIT refund 	<ul style="list-style-type: none"> Taxpayers with additional IIT payable but their annual comprehensive income does not exceed RMB120,000 in the year 2019^{4,5}
<ul style="list-style-type: none"> Taxpayers with annual comprehensive income exceeding RMB120,000 in the year 2019 and additional IIT payable more than RMB400 	<ul style="list-style-type: none"> Taxpayers with additional IIT payable less than RMB400^{4,5}
<ul style="list-style-type: none"> Taxpayers who had not claimed for itemized deduction / specific itemized deduction / other allowable deduction (e.g. donation) in the IIT filing during the year 2019 but wish to claim for the same during the Annual IIT Reconciliation 	<ul style="list-style-type: none"> Taxpayers with no 2019 additional IIT payable / refundable
	<ul style="list-style-type: none"> Taxpayers with 2019 IIT refundable but decided not to apply for IIT refund

² A non-domiciled individual would be exempt from the 2019 Annual IIT Reconciliation if he/she is in China for less than 183 days in 2019.

³ Excluding incomes which are subject to separate IIT treatment, such as annual bonus payment, one-off compensation payments for lay-off/ redundancy, rental income, etc.

⁴ On the condition that withholding agents have duly fulfilled their withholding obligation.

⁵ Also applies to year 2020 Annual IIT Reconciliation.

Timeframe and Competent Tax Authorities

If a taxpayer is required to perform the 2019 Annual IIT Reconciliation, it could be done⁶ by either the taxpayer, his/her IIT withholding agents or appointed tax agents during the period from 1 March 2020 to 30 June 2020. A PRC tax resident who is non-PRC domiciled may file the 2019 Annual IIT Reconciliation earlier if he/she would permanently be departing from PRC before 1 March 2020.

The competent tax authorities for the 2019 Annual IIT Reconciliation are as follow: -

Competent Tax Authorities	
Taxpayer with PRC employer	The PRC employer's in-charge tax authority
Taxpayer with more than one employer	Any ONE of the employers' in-charge tax authorities
No PRC employer	The tax authority where taxpayer's household registration is located or his/her habitual place of residence

Others

- Taxpayers applying for IIT refund should provide qualified PRC bank account information to the competent tax authorities
- Taxpayers with additional IIT payable could settle via online banking, POS machine at tax service centres, bank or other accepted payment methods.

POINTS TO NOTE

PN 94 and PN 44 give guidance on the requirements for 2019 Annual IIT Reconciliation which has numerous changes to the previous annual IIT filing rules. Consistent with the PRC tax reform direction, the two Public Notices reflect the tax authorities' effort in relieving taxpayer's compliance burdens through streamlining the 2019 Annual IIT Reconciliation procedures. Taxpayers and withholding agents should have a thorough understanding of this new filing requirement and pay close attention to their respective responsibilities.

Although taxpayer may authorize the withholding agent or engage a third-party service provider to handle the Annual IIT Reconciliation, he/she still bears the ultimate and primary responsibilities for the authenticity, accuracy and completeness of the information reported to the tax authorities. Relevant supporting documents should also be retained by the taxpayer for future inspection.

The employer, being the IIT withholding agent of its employees, should be fully aware of the complexity in dealing with its employee's Annual IIT Reconciliation. Employer is also obligated to timely perform IIT withholding or otherwise the employees with annual comprehensive income less than RMB120,000 or additional IIT payable less than RMB400 may not be eligible to the Annual IIT Reconciliation exemption.

For further information on the above subject and to discuss the potential impact on your company and employees, please feel free to contact us.

⁶ The 2019 Annual IIT Reconciliation can be filed electronically via the tax authorities' website (including APP on mobile devices), by mail or in person at the tax authorities' service centres.

RSM Tax Advisory (Hong Kong) Limited

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- Advise on tax efficient holding and operational structures for new cross-border investment, including the formation of Hong Kong and Chinese business entities
- Review existing cross-border investment structures, advise on identified deficiencies, quantify any potential exposure from such deficiencies, and further advise on restructuring approach and procedures
- Assist clients to discuss and clarify matters with tax officials, including transfer pricing and advance rulings
- Act as client representative in tax audits and tax investigations
- Provide transaction support services on mergers and acquisitions, including tax due diligence, deal structure advice, tax health checks, related human resources arrangements and other tax compliance and consultation services
- Advise on human resources and structuring employment arrangements in a tax-efficient manner
- Advise on tax equalization schemes
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