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People's Republic of China ("PRC") tax facts at a glance

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Individual Income Tax

Individuals who are domiciled in the PRC are subject to China Individual Income Tax ("IIT") on their worldwide income. Individuals who do not domicile in the PRC but reside in the PRC for 183 days or more in a year for six consecutive years may pay tax only on their PRC sourced income and non-PRC sourced income, the payment of which is borne by PRC establishments. They will be taxed on their worldwide income in the seventh year if they reside in the PRC for 183 days or more in that year.

"Consolidated incomes" such as wages and salaries; personal services income, etc. are taxed at progressive rates, ranging from 3% to 45%. A monthly statutory deduction of RMB5,000 is available to foreign individuals working in China. Certain employment benefits for foreign individuals could be specifically treated as not being taxable until 31 December 2021 if certain criteria can be met. For example:

- employee housing costs (with supporting invoices) borne by an employer;
- reasonable home leave fares of 2 trips per annum for the employee (with supporting invoices);
- reasonable employee relocation and moving costs (with supporting invoices); and
- reasonable reimbursement of certain meals, laundry, language training costs and children's education expenses in the PRC (with supporting invoices).

Incomes other than consolidated incomes may also be subject to IIT at different rates, depending on the nature of the income.

Enterprise Income Tax

Under the China Enterprise Income Tax ("EIT") Law, a Tax Resident Enterprise ("TRE") is subject to EIT on worldwide income while a non-TRE is subject to EIT on China sourced income. An enterprise registered in China or a foreign enterprise with effective management in China is regarded as a TRE. A foreign enterprise without effective management in China (i.e. a non-TRE) but having a tax establishment in China is subject to EIT on income derived from the China establishment.

Tax rates: Standard EIT rate - 25% (lower tax rates e.g. 15%, 20% are available to qualified enterprises and designated locations);
Standard withholding tax rate on passive incomes – 10%

Tax incentive policies:

- Key emphasis is placed on "industry-oriented" incentives aiming at directing investments into those industry sectors and projects encouraged and supported by the State e.g. agriculture, infrastructure, high technology, environmental protection, etc.
- EIT tax holiday, reduced EIT rate are available if certain conditions are met.

Turnover taxes

Value Added Tax ("VAT"):

- Charged on sales or importation of goods and the provision of specified services in China. Applicable tax rates for general tapayers are 13%, 9% and 6%, depending on the nature of supplies. The VAT rate for small-scale taxpayers is 3%. For general VAT taxpayers, input VAT incurred may be credited against output VAT in computing the VAT payable.
- Export of goods from China may be entitled to a refund of VAT incurred on materials purchased domestically. There is a prescribed formula for determining the amount of refund, under which many products do not obtain the full refund of input VAT credit and suffer different degree of export VAT costs.

Consumption Tax:

- Consumption tax is levied on manufacturers and importers of specified categories of consumer goods e.g. tobacco, alcoholic beverages, cosmetics, jewellery, fireworks, gasoline and diesel and certain petroleum products, motorcycles, automobiles, golf equipment, yacht, luxury watch, etc.. Tax rates vary and the tax liability is computed based on the sales amount and/or sales volume depending on the goods concerned.

Tax Treaty Network

China has entered into 110 tax treaties with other countries/regions, including the United Kingdom, Hong Kong SAR, etc. Preferential withholding tax rates are available in these tax treaties (if certain conditions are met).

Other taxes/duties

Customs duties: Customs duty is levied on the importation of goods into China. It is collected by the customs authorities at the time of importation. In general, customs duty is computed based on the tariff code and dutiable value of the goods concerned.

Land Appreciation Tax: Charged on certain gains realised from real property transactions at progressive rates from 30% to 60%, based on the "land value appreciation amount" which is the consideration received from the transfer or disposition of real property less the "total deductible amount".

Other taxes: Such as stamp tax, real estate tax, deed tax, resource tax, vehicle & vessel tax, city construction tax, education surcharges, arable land occupation tax, tobacco tax, etc.

NOTE: The above information is not exhaustive and intended for general reference only. It is advisable for you to seek further detailed advice on your particular scenario from our tax team. For enquiries, please contact our International Tax Director, Anthony Hung, at anthony@masson-de-morfontaine.com

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How to set up a company in China

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Types of Wholly Foreign Owned Enterprise (WFOE)

Under the current Chinese law there are three distinct WFOE setups:

1. Service (or Consulting) WFOE
2. Trading WFOE (or Foreign-invested Commercial Enterprise, "FICE")
3. Manufacturing WFOE

Trading WFOEs and Manufacturing WFOEs must derive the majority of their revenue from that main business, but can also provide associated services. Meanwhile, some Service WFOEs can also conduct trading activities related to their services. When applying to set up a WFOE, the business scope must be specified in the application. The business scope is a one sentence description of the business activities in which a business will engage, and will appear on the business license.

Registered capital

Registered capital is the initial investment into a company that is required to fund its business operations until it is in a position to fund itself. The absolute minimum capital requirements under Chinese law are RMB 30,000 for multiple shareholder companies and RMB 100,000 for single shareholder companies. In practice, however, the official requirements for registered capital vary by industry and region.

Registered capital contributions can also be made in-kind (e.g., machinery and equipment, industrial property rights, know-how). Any machinery and equipment contributed must be necessary to the production of the WFOE concerned and valuated at normal market price.

Registration process

The application process to create a company in China generally takes 3 to 6 months. The establishment process varies based on the WFOE form and the planned business scope. For example, a Manufacturing WFOE will require an environmental evaluation report, and Trading WFOEs will need to undergo customs/commodity inspection registration. The application process can be divided into two parts:

- Pre-registration – what happens before the company formally exists
- Post-registration – what happens after the company formally exists

Pre-registration

1. Company name registration
The company name can be translated from English by meaning and/or phonetically. Verification of feasibility of the proposed name by the local Administration of Industry and Commerce (AIC) will take a few working days. Only the Chinese name will be legally binding – the English name is not legally relevant for Chinese authorities. Note that the words "China" and "International" cannot be freely included in the Chinese name, and are subject to further requirements.

2. Issuance of approval certificate and temporary business license
The approval certificate will be issued by the local office of the Ministry of Commerce (MOFCOM). Upon issuance, there is a 30-day limit for registering the company with the AIC, which then issues the temporary business license.

Post-registration

Following the issuance of the temporary business license, the WFOE would need to perform a number of formal registrations at various Chinese government entities such as local tax authorities, including applying for carving various seals (or chops) in order to authorize documents on behalf of the company, as well as opening an RMB account for managing daily operating expenses and a foreign capital account for receiving foreign currency.

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