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China significantly amends its IIT Law

On 31 August 2018, the Standing Committee of the National People's Congress (SCNPC) passed and issued a final bill to amend the Individual Income Tax (IIT) Law. Although the consultation draft released on 19 June 2018 contained a suggested effective date of 1 January 2019, it is still surprising to see the final bill so quickly considering that: (i) the bill introduces substantial changes to the IIT Law; (ii) the bill received numerous public comments[1] during the consultation period; and (iii) the SCNPC just completed the second reading of the bill on 27 August 2018.[2]

The amendment bill will take effect from 1 January 2019, but adjustments to tax brackets and deduction items will also apply to salaries and wages, as well as operating income derived starting from 1 October 2018. Once the bill takes effect, it will have far-reaching impact on the tax liabilities of both Chinese and foreign individuals in China. Given the substantial changes introduced under the bill, other IIT rules will need to be revised in order to implement the new IIT Law. The rules that will undergo revision include the IIT Law Implementing Regulations, and certain rules issued by the Ministry of Finance (MOF) and State Administration of Taxation (SAT).

In this article, we will first discuss the bill's major changes to the existing IIT regime, the implications of those changes, and the uncertainties created by those changes that need further clarification. Next, we will discuss how individual taxpayers should respond to the new IIT regime.

1. What are the key changes introduced under the bill?

The major changes introduced under the bill were basically consistent with the June draft. These changes include:

- reducing the time presence threshold from a "full year" to 183 days for a non-domiciliary to constitute a Chinese tax resident
- adjusting taxable income categories, tax brackets and deduction items
- introducing new anti-avoidance rules
- adding tax clearance requirement on emigrants

For further details on these changes, please refer to our client alert in July 2018.

Meanwhile, the final bill also introduces other notable changes to the IIT Law that were not included in the June draft. Notably, the final bill:

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[1] The draft bill received 131,207 comments by the end of 28 July 2018, see http://www.npc.gov.cn/npc/flcazqyj/node_8176.htm.

[2] Generally, the SCNPC needs to conduct three readings before a vote can be called on a draft bill. A vote can be called after fewer than three readings if there are no significantly different views on the draft bill.

- Removes from taxable income "other income as specified by the financial department of the State Council." By removing this income category, the bill curbs MOF and SAT authority to create taxable income items under the category "other income." Instead, the bill will likely limit taxable income to only those income items expressly listed in the IIT Law.

  However, uncertainty still remains. First, the MOF and the SAT have already subjected a variety of income items to IIT by introducing them under the "other income" category over the years;[3] no one is sure how these income items will be treated in terms of IIT liability moving forward. Second, as the bill maintains the "contingent income" category, the MOF and the SAT could attempt to subject new income items to IIT by broadly interpreting the contingent income category.

- Adds an additional 20% expense deduction for income derived from labor remuneration, author's remuneration and royalties. This 20% additional deduction is similar to the provision under the current IIT Law. It allows a deduction equal to CNY 800 or 20% of the income (whichever is higher) when calculating taxable income for service fees, author's remuneration or royalties.

- Clarifies the annual filing period for Chinese tax residents deriving "comprehensive income" is 1 March to 30 June of the next year. Like the June draft, the bill provides that the annual filing requirement for "comprehensive income"[4] only applies to Chinese tax residents.[5] Non-residents will be taxed on a monthly/transactional basis.

- Requires the corporate registration authority to verify the IIT payment certificate when handling registration of shareholder change. Some local corporate registration authorities have for some time been verifying IIT payment certificates under these circumstances even though no existing rule has called for it. With this local practice now being formally adopted into legislation by the bill, we can expect all corporate registration authorities to implement this requirement and thus add pressure on individual transferors to fulfil their tax obligations.

- Adds expenses incurred for supporting the elderly as a new special deduction item for resident taxpayers deriving "comprehensive income." The five special deduction items introduced under the June draft, i.e., children's education, continuing education, medical treatment for serious disease, housing loan interest and housing rental fees, are all still available under the final bill. The detailed scope and standards for these special deduction items have not yet been determined by the State Council.

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[3] For example, the MOF and the SAT provided in Cai Shui [2009] No. 78 that individual donees are subject to tax for "other income" on real estate donated by a person who is not the donee's spouse, lineal relative by blood, or sibling. As another example, the MOF and SAT stated in Cai Shui [2015] No. 94 that individuals are subject to tax on guarantee fees under the income category of "other income."

[4] "Comprehensive income" includes salaries and wages, labor remuneration, author's remuneration, and royalties.

[5] That said, IIT will first be withheld and paid by the withholding agent on a monthly/transactional basis.

2. What are the major implications for taxpayers?

We consider that the bill will impact individual taxpayers mainly from the following aspects.

2.1 Anti-avoidance provision

The most notable change under the bill is the introduction of anti-avoidance rules that will parallel the general anti-avoidance rule (GAAR) and other anti-avoidance measures in the enterprise income tax (EIT) regime. These anti-avoidance rules will prevent individuals from evading their tax obligations through related-party transactions, offshore structures and other special arrangements that do not have a reasonable commercial purpose. While we have seen several IIT audits based on concepts that are similar to the GAAR over the years, these audits have not been common in practice. The infrequent audits are likely because the Chinese tax authorities lack the legal basis to initiate anti-avoidance investigations on individuals under the current IIT regime. With the anti-avoidance provision introduced under the IIT Law, we expect an increase in anti-avoidance enforcement against individuals.

Another aspect of the new anti-avoidance provision that should concern individuals is the automatic exchange of financial account information under the common reporting standard (CRS). As of September 2018, China, as an information receiving jurisdiction, has activated the CRS exchange relationship with 87 jurisdictions, which include most jurisdictions frequently used by Chinese residents for wealth management purposes, such as Hong Kong, Singapore, Switzerland, British Virgin Islands and Cayman Islands.[6] China has conducted the first automatic exchange of CRS information with several jurisdictions this September. The automatic exchange network will enable the Chinese tax authorities to have greater visibility over Chinese tax residents' offshore income. The tax authorities can then use the anti-avoidance provisions as a tool to collect taxes on Chinese tax residents' worldwide income.

2.2 Revised tax resident concept

The bill revises the tax resident concept by reducing the time presence threshold for a non-domiciliary to become a Chinese tax resident. With the time presence threshold reduced from a "full year"[7] to 183 days, a non-domiciliary can more easily be deemed a Chinese tax resident, triggering potential PRC tax liability on the individual's worldwide income. That said, it appears that China does not intend to enforce tax collection on worldwide income against all non-domiciliary tax residents. Under the current IIT Law Implementing Regulations, non-domiciliary tax residents who have not stayed in China for more than five "full years" are exempt from tax on income that is both foreign-sourced and foreign-paid. The SAT has expressed the intention to retain a degree of tax exemption for foreign expatriates, but the scope of this tax exemption under the new IIT regime remains unclear. China may continue to grant exemption from taxation on worldwide income to non-domiciliary tax residents who have not reached PRC tax residency status for more than five consecutive years; however, it is also possible that China may narrow the scope of this exemption.

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[6] See http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/.

[7] A "full year" means the person is not absent from China for more than 30 days in a single trip or more than 90 days in multiple trips during the tax year.

2.3 Taxation of comprehensive income

The bill combines four categories of income (i.e., salaries and wages, labor remuneration, author's remuneration, and royalties) under the category "comprehensive income." Comprehensive income is subject to the seven-tier progressive rate structure currently applicable to salaries and wages.

Although the bill expands the income brackets for lower-level rates, raises the standard deduction,[8] and adds several special deduction items, whether these changes can effectively reduce the tax burden on the working class remains an open question.

First, the current IIT rules provide preferential tax treatments to certain salary income such as annual bonus and equity incentive income, and these preferential treatments are based on the concept of **monthly** taxation under the IIT rules. With the bill shifting to **annual** taxation of "comprehensive income" for resident taxpayers, it is unclear whether these preferential tax treatments for annual bonuses and equity incentive income will be retained. Second, it remains to be seen whether foreign expatriates working in China will still be permitted to receive tax-exempted allowances. Third, expatriates will need to wait for further rules to clarify the tax liability of non-domiciliary tax residents .

3. How individual taxpayers should respond to the new IIT regime?

The anti-avoidance provisions indicate China's intent to act more aggressively against IIT planning arrangements that do not have a reasonable commercial purpose. Individual taxpayers (especially high net worth individuals) should monitor the implementation of the anti-avoidance provision, review the sustainability of existing tax arrangements, identify potential tax risks in advance, and take necessary measures to address potential tax audit risks.

In response to the reduced time presence threshold for a non-domiciliary to become a Chinese tax resident, expatriates should proactively manage their time presence in China in order to mitigate the risk of PRC tax liability on their foreign-sourced income. On one hand, the new IIT regime may retain tax exemption for certain non-domiciliary tax residents, and thus expatriates who stay in China for more than 183 days in a tax year and thus constitute Chinese tax residents may still enjoy exemption from taxation on worldwide income as long as they have not been PRC tax residents for more than the prescribed years. On the other hand, the new tax exemption provision is likely to also consider tax years prior to 2019 in which an expatriate constitutes a tax resident by staying in China for a "full-year". Considering that it will be more difficult to break the Chinese tax residency status under the new rules as compared to that under the existing rules, expatriates should take immediate action and avoid staying in China for a "full-year" in 2018 so that their past PRC tax residency status (if any) will not be considered under the new tax exemption provision.

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[8] Under the current IIT rules, the standard deduction is CNY 3,500 per month and expatriates are entitled to an additional standard deduction of CNY 1,300 per month. Under the bill, the standard deduction would increase to CNY 60,000 per year for residents or CNY 5,000 per month for non-residents.

In addition to the new tax exemption provision, expatriates who are tax residents of both China and a treaty partner jurisdiction may consider mitigating Chinese tax liability on their foreign-sourced income by resorting to the "tie-breaker rule" under an applicable tax treaty to break their PRC tax residency. However, whether an individual can successfully break PRC tax residency under the treaty "tie-breaker" rule depends on the specific treaty provisions, the specific circumstances (e.g., location of the taxpayer's permanent home, center of vital interests, habitual abode and nationality), and China's domestic rules governing the application of the "tie-breaker" rule. In the case where an expatriate has constituted a PRC resident for more than five consecutive years and therefore is not exempt from tax on overseas income under China's domestic law, we recommend that expatriates from a treaty partner jurisdiction fully assess the likelihood of success in using the treaty "tie-breaker" rule to mitigate their tax exposure in China.

Finally, individual taxpayers should note the potential impacts from the implementation of the CRS information exchange. Taxpayers must fully assess whether information on their overseas income will be shared with China, and, if so, whether that information will reveal any previous tax non-compliance or trigger additional PRC tax liabilities. Taxpayers must actively address potential consequences for prior tax non-compliance on previous overseas income and establish appropriate arrangements to mitigate potential PRC tax costs on future overseas income.

Appendix

Unofficial Translation Prepared by Baker McKenzie

Decision of the Standing Committee of the National People's Congress to Amend the Individual Income Tax Law of the People's Republic of China

(Passed by the 5th Session of the 13th Standing Committee of the National People's Congress on 31 August 2018)

The 5th Session of the Standing Committee of the 13th National People's Congress decided to amend the Individual Income Tax Law of the People's Republic of China as follows:

1. Amend Article 1 to read, "An individual who has a domicile in China, or an individual who does not have a domicile but has stayed in China for a total of 183 days or more cumulatively within a tax year, shall be deemed as a resident individual. A resident individual shall pay individual income tax for income derived within and outside the territory of China pursuant to the provisions of this Law.

   "An individual who does not have a domicile and has not stayed in China, or an individual who does not have a domicile but has stayed in China for less than 183 days cumulatively within a tax year, shall be deemed as a non-resident individual. The non-resident individual shall pay individual income tax for income derived within the territory of China pursuant to the provisions of this Law.

   "A tax year begins on 1 January and ends on 31 December of a calendar year. "

2. Amend Article 2 to read, "The following income of an individual shall be subject to individual income tax:

   "(1) Income from wages and salaries;

   "(2) Income from labor remuneration;

   "(3) Income from author's remuneration;

   "(4) Income from royalties;

   "(5) Income from business operations;

   "(6) Income from interest, dividends and bonuses;

   "(7) Income from lease of property;

   "(8) Income from transfer of property; and

   "(9) Contingent income.

   "For resident individuals deriving income set out in item (1) to item (4) of the preceding paragraph (hereinafter referred to as "comprehensive income"), the individual income tax shall be calculated based on the total combined income amount throughout the respective tax year; for non-resident individuals deriving income set out in item (1) to item (4) of the preceding paragraph, the individual income tax shall be calculated on a monthly or transaction basis. For taxpayers deriving income set out in item (5) to item (9) of the preceding paragraph, the individual income tax shall be calculated separately pursuant to the provisions of this Law."

3. Amend Article 3 to read, "Individual income tax rates:

   "(1) Comprehensive income shall be taxed at progressive tax rates ranging from 3% to 45% (see tax rate table attached);

   "(2) Income from business operations shall be taxed at progressive tax rates ranging from 5% to 35% (see tax rate table attached);

   "(3) Income from interest, dividends and bonuses, income from lease of property, income from transfer of property and contingent income shall be taxed at a flat rate of 20%."

4. Amend "exempt from tax payment" in Article 4 to read "exempt from tax collection".

   Insert "military severance pay" after "decommission pay" in item (6).

   Amend "retirement pay, retirement allowances" in item (7) to read "basic pension or retirement pay, retirement allowances".

   Delete "China" in item (8).

   Amend item (10) to read, "Any other tax-exempt income stipulated by the State Council".

   Insert a paragraph as the second paragraph to read, "The State Council shall file tax exemption provisions issued under item (10) of the preceding paragraph with the Standing Committee of National People's Congress for recordal."

5. Amend Article 5 to read, "Individual income tax may be reduced in any of the following circumstances; the People's government of a province, autonomous region or direct-controlled municipality shall provide a specific range and term for such tax reduction, and shall file the provisions for such range and term with the Standing Committee of People's Congress at the counterpart level:

   "(1) Income derived by the disabled, the old and childless, or the family of martyred soldiers; or

   "(2) Income derived by a person who suffers heavy losses due to severe natural disasters.

   "The State Council may stipulate other circumstances for tax reduction. In such a situation, the State Council shall, and file the provisions for such reduction with the Standing Committee of National People's Congress for recordal."

6. Amend Article 6 to read, "Calculation of taxable income amount:

"(1) For comprehensive income derived by resident individuals, the taxable income amount shall equal the income amount per tax year less CNY 60,000 (as expenses), special deduction items, additional special deduction items and other deduction items as determined pursuant to the law.

"(2) For salaries and wages derived by non-resident individuals, the taxable income amount shall equal the monthly income amount less CNY 5,000 (as expenses); for labor remuneration, author's remuneration and royalties derived by non-resident individuals, the taxable income amount shall equal the income amount received for each transaction.

"(3) For income from business operations, the taxable income amount shall equal the total income amount per tax year less costs, expenses and losses.

"(4) For income from lease of property, the taxable income amount shall equal the income amount received from each transaction less CNY 800 (as expenses, if the income amount does not exceed CNY 4,000) or 20% of the income amount (as expenses, if the income amount exceeds CNY 4,000).

"(5) For income from the transfer of property, the taxable income amount shall equal the income received from the transfer of property less the original value of the property and reasonable expenses.

"(6) For interest, dividends, bonuses, and contingent income, the taxable income amount shall equal the income received from each transaction.

"For labor remuneration, author's remuneration and royalties, the income amount shall be calculated at 80% of the gross income (with 20% of the gross income being deducted as expenses). For author's remuneration, only 70% of the income amount shall be considered (for calculating the tax payable amount).

"Where an individual donates to education, poverty relief and other public welfare and charitable undertakings, the portion of the donation that does not exceed 30% of the donor's declared taxable income amount may be deducted from the donor's taxable income amount; where the State Council stipulates that the full amount of the donation to public welfare and charitable undertakings are tax deductible, such provisions shall prevail.

"Special deduction items stipulated in item (1) of the first paragraph of this Article shall include basic pension insurance, basic medical insurance, unemployment insurance and other social security charges, the housing provident fund, etc., contributed by resident individuals in accordance with the scope and standards stipulated by the State; additional special deduction items shall include expenses for children's education, continuing education and medical treatment for serious disease, housing loan interest or housing rental fees, expenses for supporting the elderly, etc., the detailed scope, standards and implementation steps of which shall be determined by the State Council, and filed with the Standing Committee of National People's Congress for recordal."

7. Amend Article 7 to read, "For income derived by a resident individual from outside of China, the individual income tax paid in a foreign jurisdiction may be credited from taxpayer's tax payable amount; however, the credit amount shall not exceed the tax payable amount calculated pursuant to the provisions of this Law for the taxpayer's overseas income."

8. Insert a clause as Article 8 to read "The tax authorities shall have the right to make tax adjustments based on a reasonable method under any of the following circumstances:

   "(1) The business transactions between an individual and the individual's related parties do not comply with the arm's length principle, and the tax payable amount of the individual or the individual's related parties is thereby reduced, when there is no proper reason;

   "(2) An enterprise, which is established in a country (region) with obviously low effective tax rate and is controlled by one or more resident individuals, or jointly controlled by one or more resident individuals and one or more resident enterprises, does not distribute or reduces distribution of profits that are attributable to those resident individuals, when there are no reasonable operational needs;

   "(3) An individual achieves improper tax benefits by carrying out other arrangements without a reasonable commercial purpose.

   "Where there is a need to collect additional tax after making tax adjustments pursuant to the provisions of the preceding paragraph, the tax authorities shall collect additional tax and impose interest pursuant to the law."

9. Article 8 shall be split into Article 9 and Article 10 and amended to read:

   "Article 9 For the purpose of individual income tax, the person deriving the income is the taxpayer, and the organization or individual which pays the income is the withholding agent.

   "Where a taxpayer has a Chinese citizen identity number, the Chinese citizen identity number shall be the taxpayer's tax identification number; where a taxpayer does not have a Chinese citizen identity number, the tax authorities shall issue a tax identification number to the taxpayer. When a withholding agent withholds tax, the taxpayer shall provide the taxpayer's tax identification number to the withholding agent.

   "Article 10 Under any of the following circumstances, the taxpayer shall make a tax declaration pursuant to the law:

   "(1) the taxpayer derives comprehensive income and needs to process a final tax settlement;

   "(2) the taxpayer derives taxable income and there is no withholding agent;

"(3) the taxpayer derives taxable income and the withholding agent fails to withhold the tax;

"(4) the taxpayer derives overseas income;

"(5) the taxpayer has migrated overseas and needs to deregister the taxpayer's permanent household registration in China;

"(6) a non-resident individual derives salaries and wages from two or more sources in China; or

"(7) any other circumstances stipulated by the State Council.

"Withholding agents shall declare and withhold tax at the full amount for all staff in accordance with the provisions of the State, and shall provide taxpayers with information such as the income amount and the amount of withheld tax."

10. Article 9 shall be split into Article 11, Article 12, Article 13, Article 14 and amended to read:

"Article 11 Where a resident individual derives comprehensive income, the individual income tax shall be calculated on a yearly basis; where there is a withholding agent, the withholding agent shall withhold and prepay tax on a monthly or transactional basis; where there is a need for final tax settlement, the taxpayer shall do so during the period from 1 March to 30 June of the following year. The withholding and prepayment measures shall be formulated by the tax department of the State Council.

"Where a resident individual provides information on additional special deduction items to the withholding agent, the withholding agent shall make the deduction pursuant to the relevant provisions when withholding and prepaying tax on a monthly basis.

"Where a non-resident individual derives salaries and wages, labor remuneration, author's remuneration and royalties, the tax shall be withheld and prepaid by the withholding agent, if any, on a monthly or transactional basis, and the non-resident taxpayer is not subject to final tax settlement.

"Article 12 Where a taxpayer derives income from business operations, the individual income tax shall be calculated on a yearly basis, and the taxpayer shall file tax returns with and prepay taxes to the tax authorities within 15 days from the end of each month or quarter; the taxpayer shall make final tax settlement before 31 March of the following year.

"Where a taxpayers derives income from interest, dividends and bonuses, income from the lease of property, income from the transfer of property and contingent income, the individual income tax shall be calculated on a monthly or transactional basis; where there is a withholding agent, the withholding agent shall withhold and pay the tax on a monthly or transactional basis.

"Article 13 Where a taxpayer derives taxable income and there is no withholding agent, the taxpayer shall file tax returns with and pay tax to the tax authorities within the first 15 days of the following month.

"Where a taxpayer obtains taxable income and the withholding agent fails to withhold tax, the taxpayer shall pay tax before 30 June of the following year; where the taxpayer is notified by the tax authorities to pay tax within a certain period, the taxpayer shall pay tax within the notified period.

"Where a resident individual derives overseas income, that individual shall declare and pay tax during the period from 1 March to 30 June of the following year.

"Where a non-resident individual derives salaries and wages from two or more sources in China, that individual shall declare and pay tax within the first 15 days of the following month.

"Where a taxpayer has migrated overseas and needs to deregister the taxpayer's permanent household registration in China, the taxpayer shall settle any tax payments before deregistering the permanent household registration in China.

"Article 14 Withholding agents shall remit the taxes withheld in each month or each transaction to the Treasury within the first 15 days of the following month and shall submit the individual income tax withholding returns to the tax authorities.

"Where a taxpayer processes final settlement for tax refund, or a withholding agent processes final settlement for tax refund for a taxpayer, the tax authorities shall examine and verify the case and process the tax refund pursuant to the relevant provisions of the Treasury administration."

11. Insert a clause as Article 15 to read, "The public security authorities, the People's Bank of China, the financial supervision and administration authorities, etc. shall assist the tax authorities in confirming each taxpayer's identity and financial account information. The education authorities, sanitation authorities, health care authorities, civil administration authorities, human resources and social security authorities, housing and urban-rural development authorities, public security authorities, People's Bank of China, financial supervision and administration authorities, etc. shall provide the tax authorities with any additional information related to the taxpayer's special deductions, such as information about the taxpayer's children's education, continuing education, medical treatment for serious disease, housing loan interest or housing rental fees, elder support, etc.

    "Where an individual transfers real estate, the tax authority shall verify the individual income tax payable based on relevant information such as real estate registration; when the registration authority handles the registration of the real property title transfer, it shall verify the tax payment certificate for the individual income tax payable on the transfer of the real estate. When an individual transfers equities and applies for change of corporate registration, the corporate registration authority shall verify the tax payment certificate for the individual income tax payable on the transfer of the equities.

"The relevant authorities shall enter information in the credit information system on taxpayer and withholding agent compliance with this Law, and implement joint incentives and punitive measures."

12. Article 10 shall be renumbered as Article 16 and amended to read, "All categories of income shall be calculated in Renminbi. Income in a foreign currency shall be converted to Renminbi based on the middle Renminbi foreign exchange rate for tax calculation purposes."

13. Article 12 shall be renumbered as Article 18 and amended to read, "The decision to collect, reduce or stop collecting individual income tax on interest from savings deposits and the detailed measures thereof shall be stipulated by the State Council and shall be filed with the Standing Committee of National People's Congress for recordal."

14. Insert a clause as Article 19 to read, "Any taxpayer, withholding agent, tax authority and tax official who violates the provisions of this Law shall bear legal liabilities in accordance with the Administrative Law of the People's Republic of China on Tax Collection and other relevant laws and regulations."

15. Article 13 shall be renumbered as Article 20 and amended to read, "The administration of individual income tax collection shall be implemented in accordance with the provisions of this Law and the Administrative Law of the People's Republic of China on Tax Collection."

16. Amend Schedule 1 — Individual income tax rates (applicable to income from wages and salaries) to read:

Schedule 1 — Individual income tax rates
(applicable to comprehensive income)

Tier	Annual taxable income amount	Tax rate (%)
1	CNY 36,000 or less	3
2	CNY 36,000 (exclusive) to CNY 144,000 (inclusive)	10
3	CNY 144,000 (exclusive) to CNY 300,000 (inclusive)	20
4	CNY 300,000 (exclusive) to CNY 420,000 (inclusive)	25
5	CNY 420,000 (exclusive) to CNY 660,000 (inclusive)	30
6	CNY 660,000 (exclusive) to CNY 960,000 (inclusive)	35
7	Above 960,000	45

(Note 1: The annual taxable income amount used in this Schedule shall mean the taxable income amount as determined in accordance with Article 6 of this law for resident individuals deriving comprehensive income, which shall equal the income amount per tax year less CNY 60,000 (as expenses), special deduction items, additional special deduction items and other deduction items as determined pursuant to the law.

Note 2: For non-resident individuals deriving wages and salaries, labor remuneration, author's remuneration, and royalties, the applicable tax rate shall be determined by converting the annual taxable income amount in this schedule into a monthly income amount.)

17. Amend Schedule 2 — Individual income tax rates (applicable to production and operating income derived by sole proprietors and income from contracted or leased operations of enterprises and public institutions) to read:

Schedule 2 — Individual income tax rates
(applicable to income from business operations)

Tier	Annual taxable income amount	Tax rate (%)
1	CNY 30,000 or less	5
2	CNY 30,000 (exclusive) to CNY 90,000 (inclusive)	10
3	CNY 90,000 (exclusive) to CNY 300,000 (inclusive)	20
4	CNY 300,000 (exclusive) to CNY 500,000 (inclusive)	30
5	Above CNY 500,000	35

(Note: The annual taxable income amount used in this Schedule shall mean the taxable income amount as determined in accordance with Article 6 of this law, which shall equal the total income amount per tax year less costs, expenses and losses.)

In addition, the clauses shall be renumbered accordingly.

This Decision shall be implemented with effect from 1 January 2019.

During the period from 1 October 2018 to 31 December 2018, for taxpayers' salaries and wages, the taxable income amount shall equal the monthly income less CNY 5,000 (as expenses), special deduction items and other deduction items as determined pursuant to the law (the additional special deduction items are not available), and the tax payable shall be calculated at the applicable tax rate as determined by converting the annual taxable income amount in Schedule 1 (applicable to comprehensive income) of Article 16 into monthly income; for production and operating income derived by sole proprietors and income from contracted or leased operations of enterprises and public institutions, the tax payable shall be calculated in accordance with Schedule 2 — Individual income tax rates (applicable to income from business operations) in Article 17 of this Decision.

The Individual Income Tax Law of the People's Republic of China shall be amended in accordance with this Decision and re-promulgated.

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