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# AGN TAXPRESSO

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# CHINA

## China Tax Update – Personal and Corporate Taxes

In 2018, China's economy grew at the slowest pace in 28 years, so it's no surprise that the government has pledged to help businesses weather the slowdown by reducing their tax burden. As we outline below, it's already delivering on its promise through a new set of favourable value-added tax (VAT) and corporate income tax (CIT) policies.

At the same time, the newly updated personal income tax law, intended primarily to cut taxes for low and middle income earners, will also have important implications for expat taxpayers. Read on for more details and get in touch with our tax advisors if you're unsure about how these updates will affect you.

### Individual Income Tax (IIT) Updates

China's new IIT law became effective on January 1, 2019. Some changes are in force since October 2018, including a higher standard deduction and lower tax rates for low and middle income brackets.

But details on how the new law would impact foreign taxpayers emerged slowly. The government has now released further guidelines to clarify the new law's implications on expats. Here are the most important.

#### 1. EXPATS' TAXPAYER STATUS

a. 183-day rule: Foreigners will be treated as tax residents if they stay in China for more than 183 days in one year (January to December), down from one whole year

b. Six-year rule: Foreigners who are tax residents for six consecutive years in China will have to pay Chinese taxes on their global incomes

c. 30-day rule: If a foreign tax resident exits China for more than 30 consecutive days in one year, their six-year period is reset. Previously, leaving China for 90 cumulative days in a year would also break the six-year period, but this option is no longer available

| Length of stay in China | Taxpayer status | Income earned in China | | Income earned overseas | |
|---|---|---|---|---|---|
| | | from Chinese entity | from overseas entity | from Chinese entity | from overseas entity |
| Up to 90 days per year (or up to 183 days if there is a tax treaty in place) | Non-resident taxpayer | Pay | **Exempt** | **Exempt** | **Exempt** |
| Over 90 days per year but less than 183 | | Pay | Pay | **Exempt** | **Exempt** |
| Over 183 days but less than 6 years | Resident taxpayer | Pay | Pay | Pay | **Exempt** |
| 6 years or more | Resident taxpayer (worldwide tax) | Pay | Pay | Pay | Pay |

#### 2. TAX-DEDUCTIBLE EXPENSES

a. New "special deductions": Previously, only expats enjoyed tax-deductible allowances. The new law outlines six deductions that apply for all tax residents: children's education, continued education, major illness, rent, home loan interest, and elderly care

b. Bad news for expats? Starting January 1, 2022, foreign taxpayers will enjoy the same "special deductions" that apply to all residents, thus losing some of their current tax-free allowances, e.g. flights home, language training, and laundry fees. By that date, however, the government may well modify the six-item list

c. Transition period: Up until December 31, 2021, foreign taxpayers can choose between the old allowances system or the newly-introduced "special deductions", bearing in mind that they cannot change their choice within a given tax year

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3. TAX ON ANNUAL BONUSES

**a. Transition period**: Until December 31, 2021, annual bonuses will continue to be taxed as a separate income (i.e. annual bonus ÷ 12, then taxed according to the monthly taxable income brackets)

**b. Factored in**: Starting January 1, 2022, one-off year-end bonuses will be taxed as part of an individual's annual taxable income. The way in which an employee's salary package is distributed (fixed versus bonus) will no longer affect his/her overall tax liability

4. CHANGES TO IIT CALCULATION AND FILING:

**a. New IIT calculation method**: the IIT liability of resident taxpayers will be calculated based on a person's annual consolidated income (salaries, service income, author's remuneration, and royalties) rather than their monthly taxable income

| Year-to-date taxable income (YTI) RMB | Tax rate | Quick deduction* RMB |
|---|---|---|
| YTI ≤ 36,000 | 3% | 0 |
| 36,000 < YTI ≤ 144,000 | 10% | 2,520 |
| 144,000 < YTI ≤ 300,000 | 20% | 16,920 |
| 300,000 < YTI ≤ 420,000 | 25% | 31,920 |
| 420,000 < YTI ≤ 660,000 | 30% | 52,920 |
| 660,000 < YTI ≤ 960,000 | 35% | 85,920 |
| YTI > 960,000 | 45% | 181,920 |

***Calculated based on standard deduction of RMB 5,000 per month***

**b. New tax brackets**: income tax brackets were updated in a way that reduces the tax burden on low and middle income earners (effective since October 1, 2018)

**c. Higher standard deduction**: the standard deduction was raised to RMB 5,000 per month (or RMB 60,000 per year), up from RMB 3,500 for residents and RMB 4,800 for non-residents previously (also effective since October 1, 2018)

**d. New tax filing method**: individuals can use the new IIT app to self-file for tax deductions or pass on the information to their employers for them to handle it on a monthly basis

Individual taxpayers and companies should familiarise themselves with the implications of the new IIT law to take advantage of preferential updates, minimise the impact of unfavourable provisions, and ensure compliance.

## Business-Friendly Tax Reforms

On January 17, 2019, the government announced a set of tax policies meant to ease the tax burden on small to medium-sized enterprises, both domestic and foreign-invested (Circular No.13). The new policies, outlined below, will be applied on taxes paid from January 1, 2019 to December 31, 2021.

1. Broader eligibility for value-added tax (VAT) exemption: Small-scale VAT taxpayers with monthly sales of less than RMB 100,000 will be exempt from VAT. The exemption threshold was previously RMB 30,000

2. Broader eligibility to preferential corporate income tax (CIT) rates: The definition of what counts as a small and low-profit enterprise has been broadened so that more businesses can enjoy preferential CIT rates. More than 95% of enterprises in China fit the new criteria.

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| Eligibility criteria for preferential CIT rate* | Previous threshold | New threshold |
| --- | --- | --- |
| Annual taxable income | ≤RMB 1m | ≤RMB 3m |
| Number of employees | ≤80 (≤100 for industrial enterprises) | ≤300 |
| Total assets | ≤RMB 10m (≤RMB 30m for industrial enterprises) | ≤RMB 50m |

*All 3 criteria must be met for an enterprise to qualify for preferential treatment

Lower preferential CIT rates: Businesses that are eligible for preferential CIT rates will enjoy even lower tax rates than before. The standard CIT rate in China is 25%. Previously, the preferential CIT rate was 10% for enterprises with an annual taxable income of up to RMB 1m. Now, eligible companies will pay only 5% CIT rate on their first RMB 1m of taxable income and 10% on the next RMB 2m.

| Annual taxable income (ATI) | Previous Preferential CIT rate | New (Progressive) Preferential CIT rate |
| --- | --- | --- |
| ATI ≤RMB 1m | 10% | 5% |
| RMB 1m< ATI ≤RMB 3m | Not applicable | 10% |

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# NEW ZEALAND

## NZ Structuring – Perhaps Plain Old Vanilla Is Not The Right Flavour After All

One of the reasons we joined AGN, was not only to facilitate our existing client's offshore expansion plans by being able to make available to them a trusted collection of in-country local expert advisers in our client's destination jurisdiction of choice, but to also offer our own advisory service to those offshore businesses looking to come and establish a NZ operation.

It is not an uncommon scenario to be asked by either another AGN member, or by their client who has been referred directly, to establish a NZ company to undertake the NZ operation. While unfortunately I have experienced far too many situations where the NZ adviser has simply proceeded to act on the request because it is the typical "vanilla flavoured" structure for the NZ environment, my approach is to instead push back just a little, and really try to understand exactly what the offshore person is trying to achieve, and why therefore they have taken the view that a NZ company is the vehicle of choice for them.

On a fair number of occasions, what has transpired, is that all the offshore business was actually looking to do, was to export their goods into the NZ market, and their expectation was that the only way they could facilitate the arrangement, was to have a NZ company importing the goods. They wanted to have their own entity importing the goods into NZ, simply because they wanted to be listed as the "importer of record" with NZ Customs, so that there was no risk of their customers being in a position to appreciate the true value of the goods (thereby perhaps strengthening their negotiating position), which could occur if the NZ customer/distributor was importing the goods on behalf of the offshore business instead.

What the offshore business did not appreciate however, was that unless their goods were of a particular kind which legislatively required the presence of a NZ company to import the goods (certain food products for example), as long as the offshore business was not looking to establish any sort of physical presence in NZ (a NZ based office or sales team for example), it is a relatively simple process for us to obtain an exemption letter from the NZ Companies Office, which can then permit the offshore business to directly register as the "importer of record" with NZ Customs, and then attend to all requirements from their offshore office relatively seamlessly, with reduced NZ cost exposures.

Included in the cost exposures for those offshore businesses who did proceed with the vanilla flavoured NZ company structure without fully appreciating the impacts of creating a NZ presence (commonly referred to as a permanent establishment or PE) when perhaps they did not have to, was often a misunderstanding of the NZ income tax system, particularly our imputation credit regime (identical in nature to Australia's franking credit regime in case you are more familiar with that terminology).

A standard NZ company has income tax levied on its annual taxable profit, at a flat rate of 28%. The 28% tax paid then converts to what is referred to as an imputation credit, which the company can then attach to any subsequent distribution of the 72% retained tax paid profit, as a dividend payment to shareholders. The imputation credit regime works well for NZ resident shareholders, as it ensures that the shareholder is not taxed again on the income that the company has already been taxed on,

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and therefore, only when the shareholders marginal tax rate is higher than 28% (NZ's top marginal rate is 33%), does the shareholder need to personally pay further taxes on the dividend income to Inland Revenue.

However from a non-resident shareholders perspective, most taxing jurisdictions around the world, do not acknowledge a NZ imputation credit, and consequently the recipient of the dividend is then subject to full taxation on the dividend receipt, in addition to the 28% tax that has already been paid.

As an example, take our Aussie cousins across the ditch. So the offshore business trades through a PTY company ("PTY") which is owned by a natural person Australian tax resident shareholder. PTY has a wholly owned NZ subsidiary company which makes $100 of profit. The NZ company pays $28 tax on the $100. The $72 left over is then paid back to PTY as a dividend, which then distributes the $72 to its natural person shareholder for inclusion in their Australian income tax return. The Australian shareholder obtains no foreign tax credit in respect of the $28 paid to the NZ tax authorities, and consequently is fully taxed on the $72 again. Let's assume the Australian individual already earns $90,000 of income so the $72 is subject to taxation at 37%. A further $27 is therefore payable to the Australian tax authorities, so the initial $100 of NZ profit has now been subject to taxes of $55, or 55%.

It is post explaining this potential scenario to the offshore person and listening to the resultant gasp for breath, that I then ask the question as to whether the offshore person has the flexibility to explore the use of alternative trading vehicles for their NZ operation rather than simply reverting to the vanilla flavoured option. In this regard, the use of a trading trust or taking advantage of a NZ Limited Partnership (actually introduced by the NZ government in 2008 to facilitate foreign investors), can actually circumvent the imputation credit issue discussed previously, to the extent of capping the Australian individuals effective tax rate on the NZ earned profit in the previous example, to 37%.

At the end of the day however, it must always be remembered that taxation is but one consideration that arises within a myriad of other commercial issues which can present themselves in any cross-border structuring scenario. One thing that should never be overlooked though, is you or your client seeking professional advice from a suitably qualified adviser well in advance of pushing the green light with respect to any offshore restructure, and you never know, vanilla just might not be the right flavour for you.

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# SINGAPORE

## Singapore Budget 2019

The Minister of Finance announced the Budget on 18 Feb 2019. In 2018 the Singapore economy grew 3.2% with an overall budget surplus of S$2.1b. For 2019, the Budget projects a deficit of S$3.5b. The 2019 Budget is an expansionary budget with many feel good factors enabling Singaporean to face future challenges and tackle social needs and requirements of higher cost of living and health care as well as becoming a more skilled work force ready for the new digital and smart nation initiatives.

The main thrusts of the 2019 Budget are for Singapore to be: a Safe and Secure Country, Vibrant and Innovative Economy, Caring and Inclusive Society and Global City and Home for All.

### 1. Safe and Secure Country

Singapore is one of the safest cities in the world. However, security and terrorism threats are evolving and becoming complex as well as cyberattacks and spreading of fake news abound. Consequently, the Budget has allocated 30% of the total expenditure to defence to protect the sovereignty and well-being of Singapore.

### 2. Vibrant and Innovative Economy

As part of the Singapore government policies to support and nourish the Start-Up ecosystem, today more than 150 global venture capital funds, incubators and accelerators are based in Singapore. To further deepen smart patient capital, $100m will be set up to establish SME Co-Investment Fund III, in addition to the $400m government capital already set up in the past. Further through Innovation Agents Programme as well as Enterprise Financing Schemes, Small and Medium Enterprises ("SMEs") can obtain both expertise in using technology to improve their businesses as well as have access to working capital loans.

Further as part of the economic transformation process the $4.6b will be spent over the next three years on new and enhanced economic capability-building measures in Budget 2019. $3.6b will go towards helping workers to thrive amid industry and technological changes and $1b will go towards helping SMEs build deep enterprise capabilities.

### 3. Caring and Inclusive Society

Singapore is celebrating 200 years since Sir Stamford Raffles landed in Singapore. As part of the Bicentennial celebration the Budget 2019 has set aside $1.1b for Singaporeans to commemorate this significant milestone. Lower-income Singaporeans will receive up to $300 in GST Voucher and Singaporeans who received Workfare income supplements in 2018 will receive additional 10% Workfare Bicentennial Bonus. Further senior citizens aged 50 to 64 will receive up to $1000 CPF top-ups where their existing CPF balances are below $60,000. To support parents with school going children, students in primary and secondary schools will receive $150 in Edusave top-ups, and those aged 17 to 20 will get up to $500.

Further all Singapore resident individuals will enjoy a 50% tax rebate for YA 2019 subject to a cap of $200.

### 4. Goods and Services Tax

The Minister of Finance had announced in the last year budget for the planned increase of GST to 9% from the current 7% which should be implemented gradually from 2021 onwards, though the government will continue to absorb GST on subsidised education and healthcare. To

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help cushion the impact of the GST increase, the government has committed to enhancing the permanent GST Voucher scheme for lower-income households and the elderly as well as introducing a GST offset package, in which lower and middle income households will receive more.

With effect from 19 February 2019, GST Import Reliefs for travellers have been tightened. For travellers who spend less than 48 hours outside Singapore, the relief cap will be reduced from $150 to $100, while those who spend 48 hours or more outside of Singapore, the relief will be reduced from $600 to $500. This will likely affect those who go to Malaysia frequently for shopping.

### 5. Corporate Tax

There is no change to the corporate tax rate which remains competitively low in the world. The headline corporate tax rate is 17%. The partial tax exemption from year of assessment 2020 is at 75% on the first $10,000 and 50% on the next $190,000 applicable to all companies.

From year of assessment 2020, the start-up tax exemption scheme applicable to new qualifying companies is at 75% of the first $100,000 chargeable income and 50% on the next $100,000 chargeable income of qualifying new companies will be exempt from tax for the first three consecutive years of assessment.

Singapore tax system remains progressive and is being made more resilient for Singapore's future economic growth and robustness.

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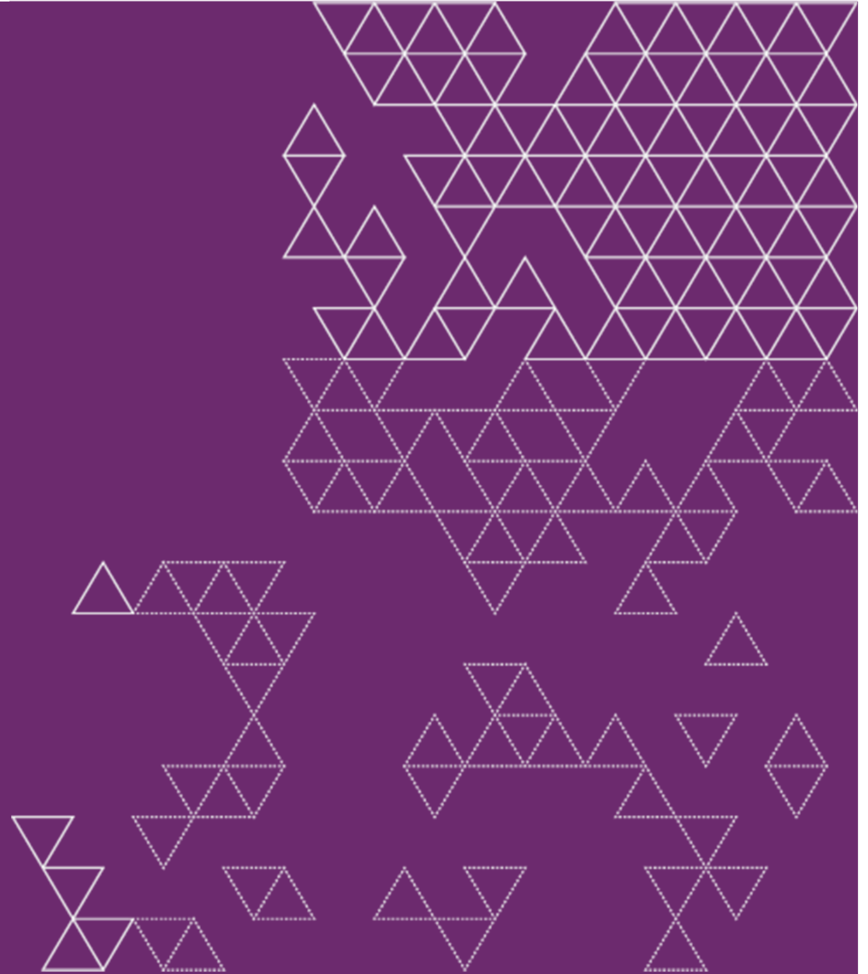

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