



中国经济
贸易法

CHINESE BUSINESS LAW

N°102
2007

TAX

The National Tax Bureau published on the 6th November 2006 a new circular establishing the need for certain categories of tax payers to personally carry out an additional individual income tax statement.

As opposed to the monthly income tax statement and income tax payments paid by the employer, this new obligation is down to the tax payer. However, the Tax bureau considers it the employers responsibility to inform their employees of this new circular and to assist them with the declaration.

☛ Tax payers concerned

Taxpayers (whatever their nationality) satisfying one of the following conditions must conform with the provisions of the new circular and carry out a personal declaration of their income.

1. Taxpayers with an annual income of more than 120 000 Yuan (about 12,000 Euros):

It must be noted that foreigners <resident in China less than 12 months per year> are not subject to this obligation. The term <resident in China less than 12 months per year> applies to foreigners who during a calendar year have left the Chinese territory for a consecutive period of more than 30 days, or more than 90 days over several non-consecutive periods.

2. Taxpayers receiving a salary in China from two or more different employers;
3. Taxpayers receiving a salary abroad (that is mainly Chinese individuals receiving a salary abroad).
4. Taxpayers earning a taxable salary, but that do not have an employer that can carry out the withholding at source.

Taxpayers that come into categories 2, 3, or 4 here-above, must make an independent tax declaration within 7 (or 30) days after the month end, or



within 30 days of the calendar year end (depending on the taxpayers' category). The conditions and contents of the declaration are not detailed in this article.

Tax-payers that come into category 1 here-above, (whether or not they have settled their total tax bill) must voluntarily fill out an annual individual income tax statement declaration, within three months after the end of the fiscal year (that is before the 31st March).

☞ Definition of individual taxable income which is included in the calculation of 120 000 Yuan

The individual taxable income is composed of the total gross income (as defined in article two of the PRC's law on individual income tax) earned by an individual during the calendar year preceding year of the tax statement, and namely includes, salary and wages, provision of services, royalties, interest, rent, etc.

On the other hand, non taxable income (as defined in article 4 of the PRC's law on individual income tax) are not taken into account in the calculation of 120 000 Yuan. Generally, for a Chinese individual, it shall be social security contributions and housing benefit (part employer and part employee) within the limits of the compulsory amounts contributed.

In the case of a foreign individual, the individual taxable income must be declared annually and generally includes:

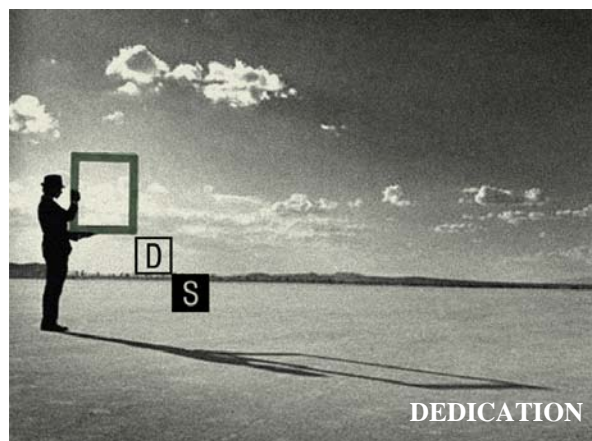
- all China sourced income (irrelevant of the place of payment and entity making the payment), including salaries, expatriate bonuses, interest on bank accounts opened in China, and rent from real property in China.

- Social security benefits (part employer) that are borne (directly or indirectly) by the employer resident in China;

- The total worldwide income of an individual resident in China for more than 5 consecutive years (that is an individual that over a consecutive period of five years has not left China for a consecutive period of more than 30 days over a period of one year, or a total of 90 days over several non consecutive periods).

☞ Place and method of annual statement

The annual tax statement must be made within three months after the calendar year end, through the local tax bureau where the employer is established. In the case of more than one employer, the tax payer is free to choose the place of his tax statement, which thereafter must remain fixed. In the case of an absent employer,





the declaration must be made through the local tax bureau of the permanent residence or where the residents permit was issued (hukou for Chinese individuals)

The tax statement can be carried out by:

- Internet
- postal mail
- directly with the local tax bureau

In the case where an additional tax is due, the tax payer must go to the competent local tax bureau.

☞ Fines and penalties

Where the tax statement is not filled out within the legal time limits, the tax bureau may impose a fine upon the tax payer of an amount less than 2000 Yuan, or in serious case an amount between 2000 and 10 000 Yuan.

In the event of tax fraud (incomplete statement, false or non-conformity to the truth, etc.), the tax bureau can require payment of the due tax, corresponding late payment penalties and a fine of an amount between 50% and five times the amount of tax due.

☞ Summary of the tax payers concerned by annual tax statement

Tax payer	Obligation to fill out a tax statement if :
Individuals whose residence is in China (including Chinese individuals and Foreign individuals living in China for more than five consecutive years)	- annual taxable income superior to 120 000 Yuan (including foreign sourced taxable income)
Foreign individuals : living in China during the total fiscal year	- China sourced annual taxable income superior to 120 000 Yuan
Foreign individuals : living in China less than 12 month during a fiscal year	- no obligation to fill out a tax statement

☞ Presentation of tax statement system used in Beijing

- Internet statement

The tax payer connects through the web site « gs.tax861.gov.cn », and clicks on option <individual tax statement>. The taxpayer registers his basic information (name, passport number, employer name, etc.) and thus obtains a password. The taxpayer then clicks option <annual tax statement>, fills in the necessary information in the form and sends the form to the tax office electronically. Finally, the tax payer must print and save for his own record a copy of the tax statement.

- Postal statement

The taxpayer must obtain the tax statement form (either by Internet, or directly from the tax bureau), complete and send it duly completed by registered mail to the tax bureau. On the envelope it must be clearly indicated <individual income tax statement>.

- Statement directly filed with the tax office

The tax payer completes the form on site and hands it in directly to the local tax office counter.

Finally, in Beijing, other than the statement form, no other document is currently required.

☞ Presentation of tax statement system used in Shanghai

The system is generally quite similar to the one in Beijing.

- Internet statement

First of all the tax payer must obtain a password from the tax office by presenting his ID papers (original and copy) and filling out a form.

After having obtained a password, the tax payer can connect to the Shanghai local tax bureau web site (www.csj.sh.gov.cn), complete the tax statement form online and send it electronically. The system will automatically send the tax payer a tax statement receipt.

- Postal statement

In the case of a postal statement, the tax payer must first buy some <special tax statement envelopes> from the tax bureau or post office. He must then send by registered mail to the tax office two special envelopes, one addressed to the tax bureau containing two copies of the tax statement form and a copy of his ID, and the other must be self addressed envelope which will be used by the tax office to return one of the two forms duly stamped by the tax office.

- Statement at the local tax office

This process is identical to the one used in Beijing, but the presentation of the original and copy of the ID is required.

For further information on the above or any other laws, regulations and investment issues, please contact

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