



**DEZAN SHIRA & ASSOCIATES**

Your Partner for Growth in Asia

# China Individual Income Tax Social Insurance Labor Contracts Management

March 18, 2021

**Riccardo Benussi** – Head of European Business Development

Webinar in partnership with



EXECUTIVE SEARCH





**DEZAN SHIRA & ASSOCIATES**

Your Partner for Growth in Asia

# China HR Trends Executive Recruitment China Individual Income Tax Social Insurance Labor Contracts Management

March 18, 2021

**Christian Tagethoff** – Managing Director - CT Executive Search

**Riccardo Benussi** – Europe Business Development Director

Webinar in partnership with



EXECUTIVE SEARCH



# Our Firm In Numbers

1992

Dezan Shira's establishment

300+

Our team of legal, tax, accounting and audit professionals

40%

Almost half of our clients are EU-based

11

Asian countries covered

25

Offices only 5 of which are not in Asia



DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



# DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



## Global Offices

### CHINA

Beijing beijing@dezshira.com	Hangzhou hangzhou@dezshira.com	Shenzhen shenzhen@dezshira.com
Dalian dalian@dezshira.com	Ningbo ningbo@dezshira.com	Suzhou suzhou@dezshira.com
Dongguan dongguan@dezshira.com	Qingdao qingdao@dezshira.com	Tianjin tianjin@dezshira.com
Guangzhou guangzhou@dezshira.com	Shanghai shanghai@dezshira.com	Zhongshan zhongshan@dezshira.com

### INDONESIA

Jakarta  
indonesia@dezshira.com

Batam  
batam@dezshira.com

### HONG KONG

hongkong@dezshira.com

### INDIA

Delhi  
delhi@dezshira.com

Mumbai  
mumbai@dezshira.com

### SINGAPORE

singapore@dezshira.com

### VIETNAM

Hanoi  
hanoi@dezshira.com

Ho Chi Minh City  
hcmc@dezshira.com

Da Nang  
danang@dezshira.com

### DEZAN SHIRA ASIAN ALLIANCE MEMBERS

Malaysia  
malaysia@dezshira.com

The Philippines  
philippines@dezshira.com

Thailand  
thailand@dezshira.com

Bangladesh  
bangladesh@dezshira.com

### DEZAN SHIRA LIAISON OFFICES

Germany  
germandesk@dezshira.com

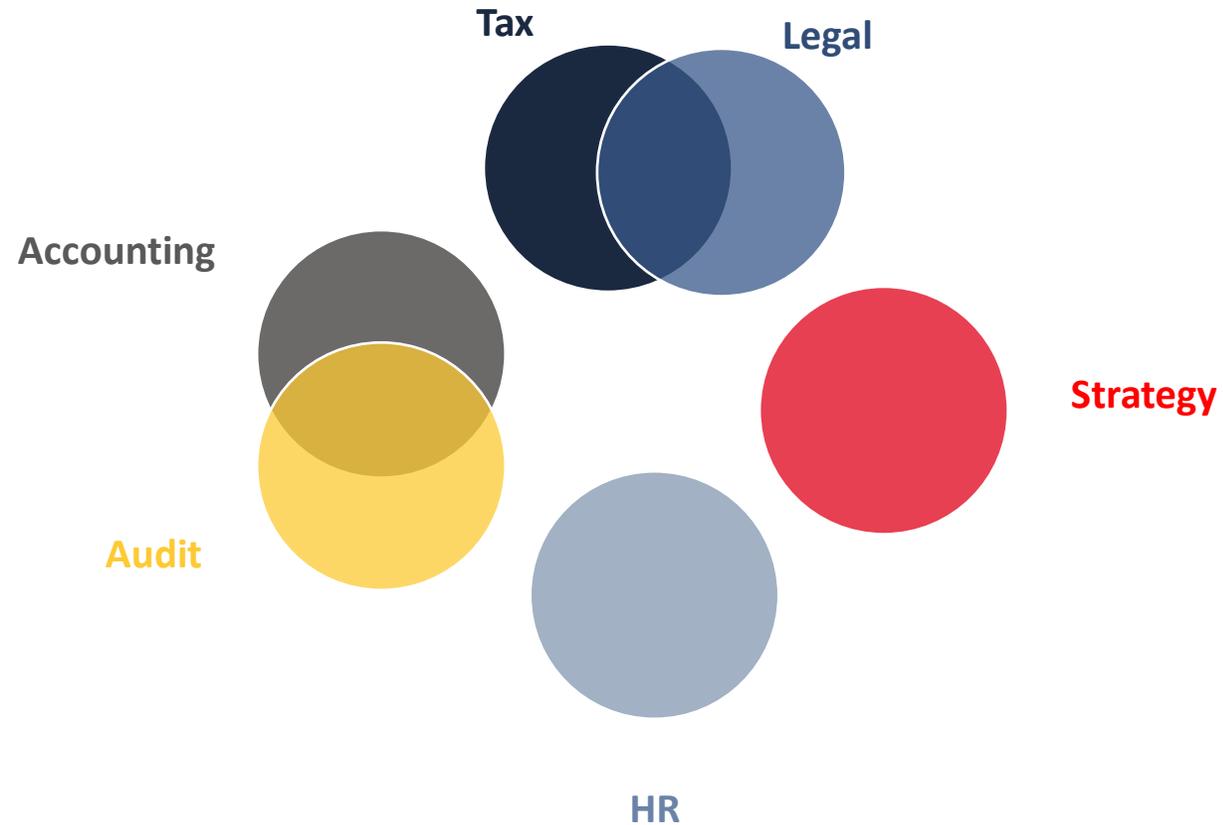
Italy  
italiandesk@dezshira.com

U.S.A.  
usa@dezshira.com

Please email [asia@dezshira.com](mailto:asia@dezshira.com) or visit [www.dezshira.com](http://www.dezshira.com)



# Multi Provider Approach



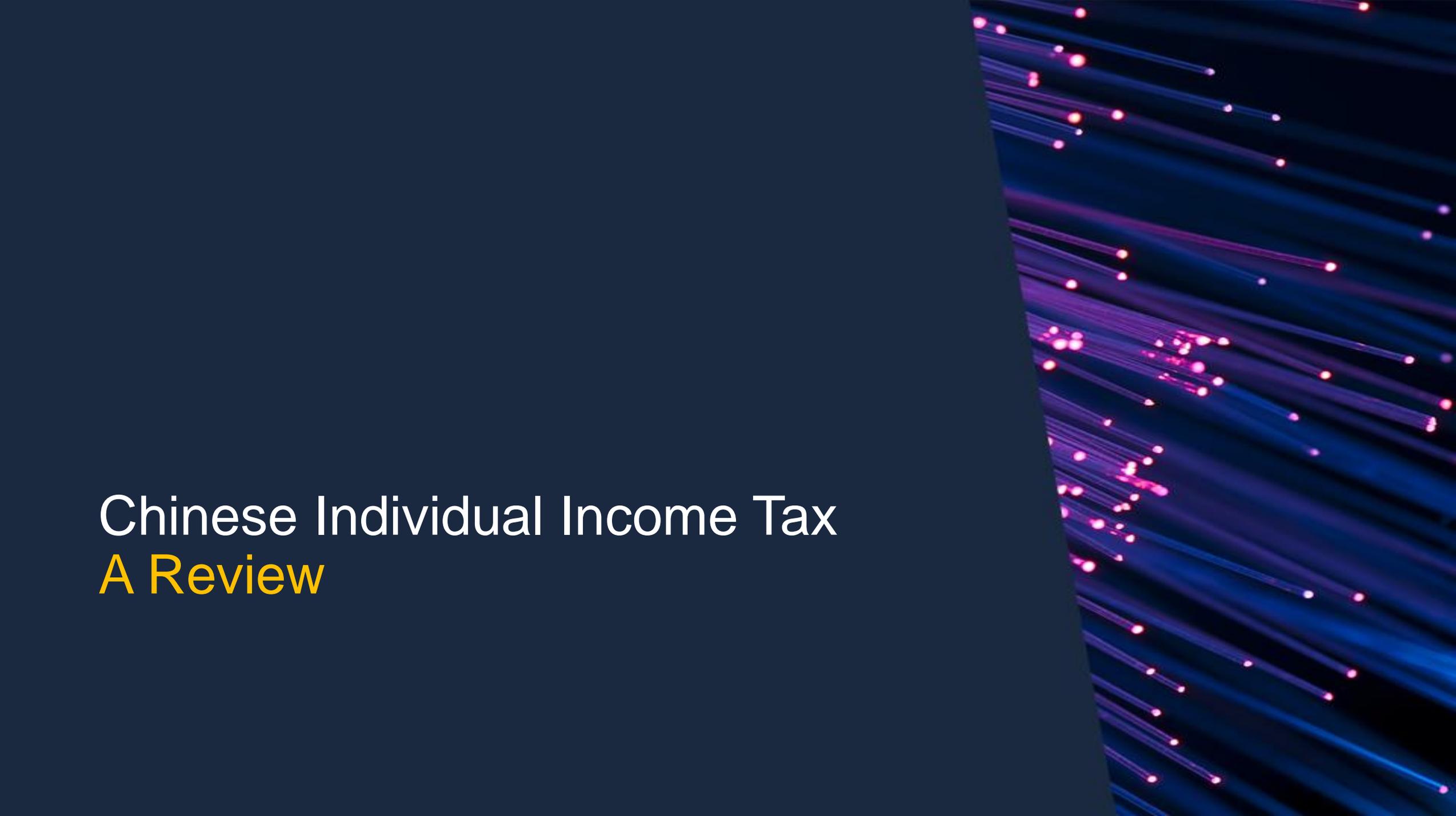
# Full-Service Method

Dezan Shira & Associates



## Discussed Today

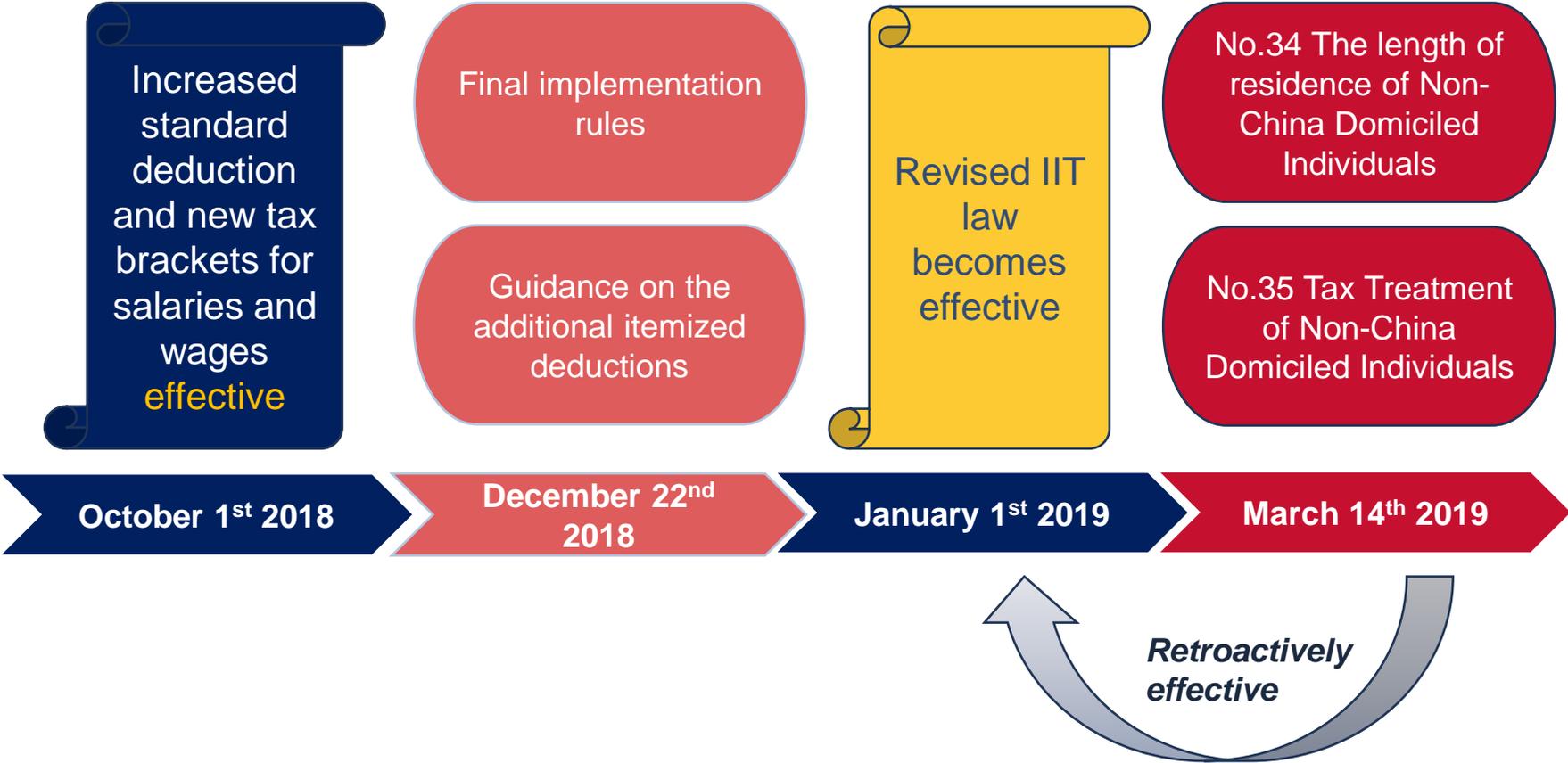
1. Tax Residency Rules
2. Individual Income Tax
3. Deductions
4. Social Insurance
5. Labor Contracts Management



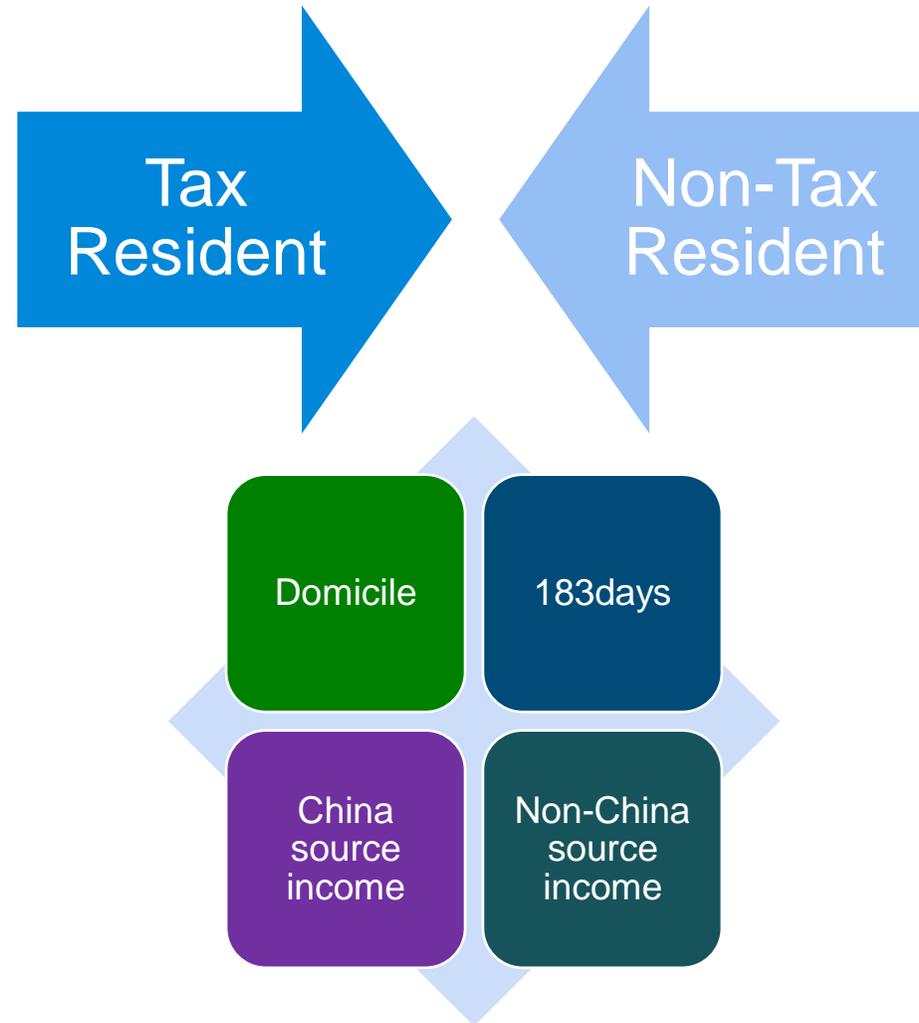
# Chinese Individual Income Tax

## *A Review*

# China's IIT's Regulation Timeline



# Individual Income Tax Review



# A Tax Resident vs A Non-Tax Resident

	Definition	Tax Scope
Resident	<ul style="list-style-type: none"><li>• China-domiciled individuals</li><li>• Non-China-domiciled who stay in China for 183 days or more in a calendar year</li></ul>	Worldwide Income
Non-Resident	<ul style="list-style-type: none"><li>• <u>Non-China-domiciled</u> individuals who stay in China for less than 183 days in a calendar year</li></ul>	China-Sourced Income Only

The concept of domicile under People's Republic of China:

*“A domiciled individual is defined as one who, by reason of the individual’s permanent registered address (e.g. Hujj), family, and/or economic interests, habitually resides in China. A PRC national with a Chinese passport or a domicile registration is likely to be deemed as domiciled in China—whether resident in China or not—and therefore attract liability for individual income tax on worldwide income.” – Wikipedia*

# Individual Income Tax Review

INCOME:

**1) Wages & Salary**

**2) Personal services**

**3) Author's remuneration**

**4) Royalties**

5) Business operation

6) Interest, dividends and bonuses

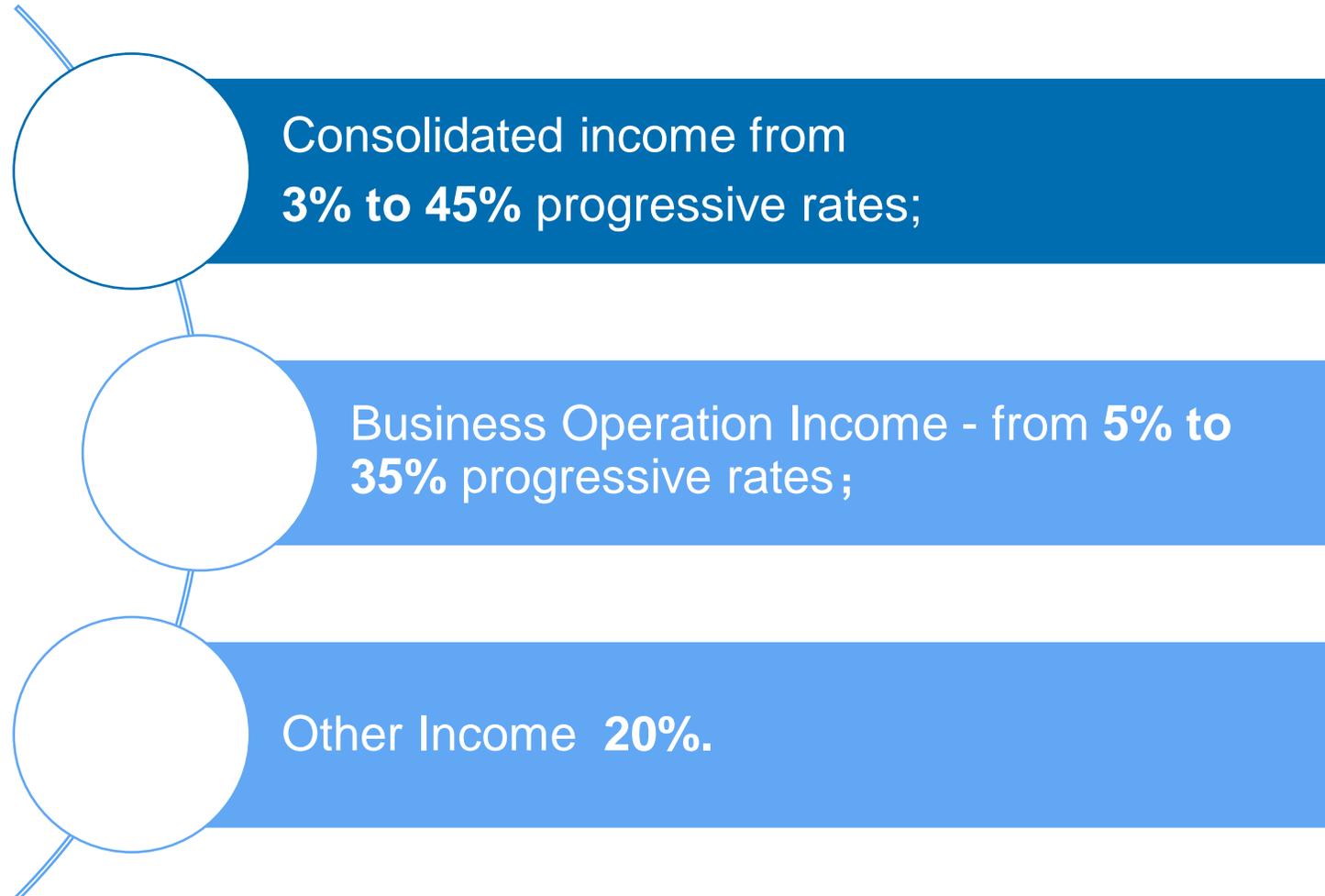
7) Lease of property

8) Transfer of property

9) Contingent income

# Individual Income Tax Review

## TAX RATES



# Tax Brackets Comparison

The Old IIT Law			The New IIT Law		
Monthly Taxable Income (MTI) (RMB)	Tax rate	Quick Deduction	Monthly Taxable Income (MTI) (RMB)	Tax rate	Quick Deduction
1,500	3%	0	Not exceeding 3,000	3%	0
1,501 – 4,500	10%	105	3,001 – 12,000	10%	210
4,501 – 9,000	20%	555	12,001 – 25,000	20%	1,410
9,001 – 35,000	25%	1,005	25,001 – 35,000	<b>25%</b>	2,660
35,001 – 55,000	30%	2,755	35,001 – 55,000	30%	4,410
55,001 – 80,000	35%	5,505	55,001 – 80,000	35%	7,160
Exceeding 80,000	45%	13,505	Exceeding 80,000	45%	15,160

Note:

- The tax brackets have been widened; 3%, 10% and 20%.
- The tax bracket for 25% has been narrowed.
- The 30%, 35%, and 45% tax brackets have been maintained/kept the same.

# Categories of Taxable Income

Categories	Scope	Taxable Income	Applicable Tax Rate
<b>Comprehensive Income</b> <i>(Consolidated)</i>	Wages and Salaries	Full amount	3% - 45% progressive rates
	Remuneration for personal Services	Full amount minus 20% expense	
	Royalties	Full amount minus 20% expense	
	Author's remuneration	(Full amount minus 20% expense)*70%	
<b>Income from Operations</b>		Full amount	5% - 45% progressive rates (the min. threshold applicable to 35% tax rate increased to RMB 500,000)
<b>Interest, Dividends</b>		Full amount	20%
<b>Lease of Assets</b>		Full amount	20%
<b>Transfer of Assets</b>		Full amount	20%
<b>Contingent income</b>		Full amount	20%



# Individual Income Tax Review

**Tax free allowance  
allowed if:**

**Foreigner**

**Tax resident**

**Reasonable**

**Non-cash reimbursement**

**Transition period**

**For only 2019-2021**

**Housing**

**Food & Laundry**

**Relocation fee (one-off)**

**Trips home**

**Children education**

**Language education**

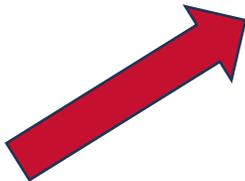
# Definition of Senior Executives

**Directors**

**Supervisors**

**Senior  
management**

- General manager
- deputy general manager
- department heads
- chief officers, and
- other similar company management positions



# Actions To Be Taken in 2021

## ***Non- senior Management level***

### **IIT tax liability of individuals without domicile**

Period in China	China Sourced Income		Non-China Sourced Income	
	Paid or absorbed by Chinese Employer	Paid or absorbed by overseas Employer	Paid or absorbed by Chinese Employer	Paid or absorbed by overseas Employer
<=90 days	Yes			
>90 days , <183 days	Yes	Yes		
>183 days ,< 6 years	Yes	Yes	Yes	
Over 6 years	Yes	Yes	Yes	Yes

# Actions To Be Taken in 2021

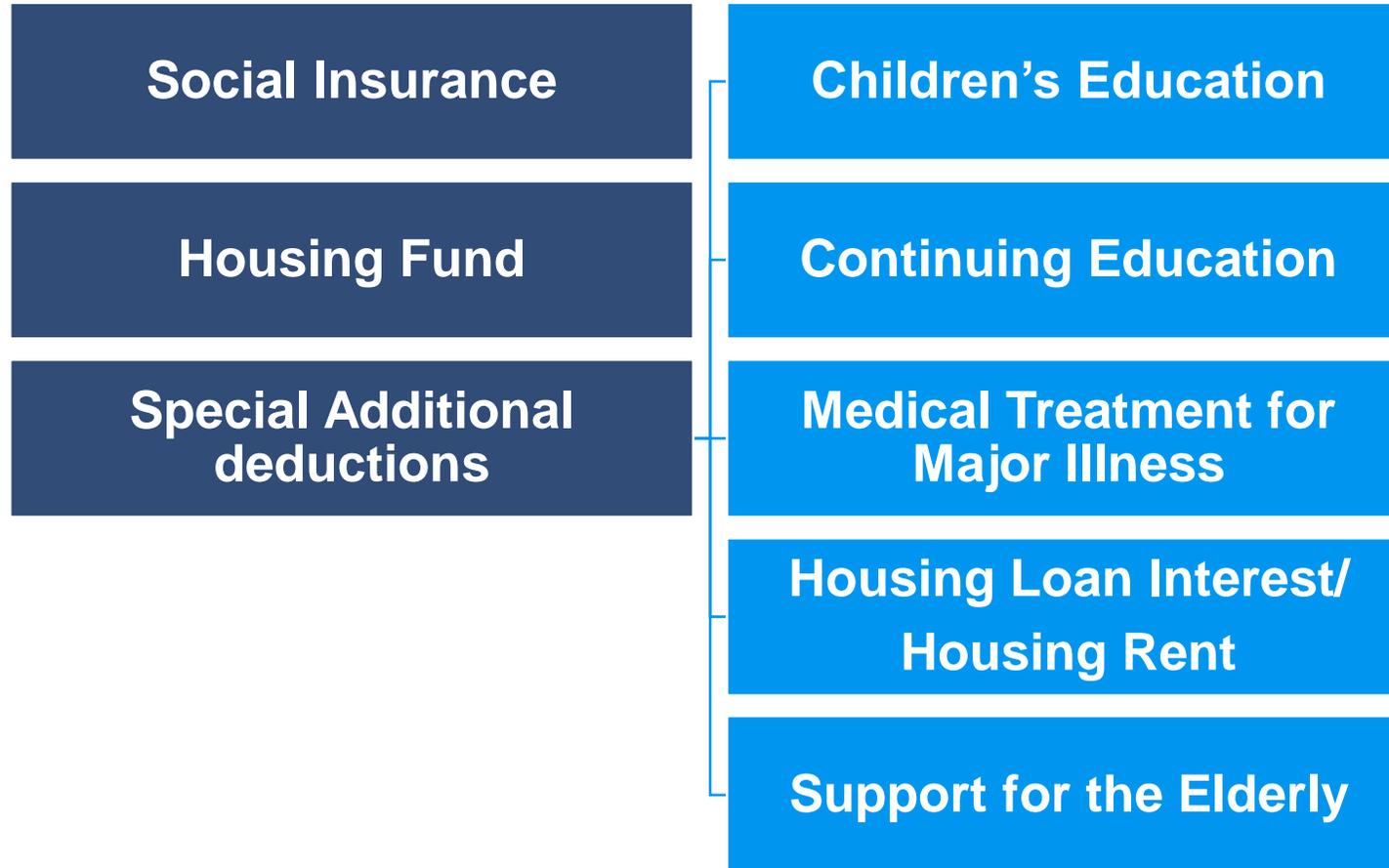
## **Senior Management level**

### **IIT tax liability of individuals without domicile**

Period in China	China Sourced Income		Non-China Sourced Income	
	Paid or absorbed by Chinese Employer	Paid or absorbed by overseas Employer	Paid or absorbed by Chinese Employer	Paid or absorbed by overseas Employer
<=90 days	Yes		Yes	
>90 days ,<183 days	Yes	Yes	Yes	
>183 days , < 6 years	Yes	Yes	Yes	
Over 6 years	Yes	Yes	Yes	Yes

# Individual Income Tax Review

## Special Additional Deductions:



## Additional Itemized Deductions (专项附加扣除) (Circular 41)

Item	Applicable scope/requirement	Standard fixed amount for deduction (RMB)	Deduction Method
<b>Children's education</b>	<ul style="list-style-type: none"> <li>pre-school (&gt;3 yo)</li> <li>diploma education</li> </ul>	1,000/child per month In/outside China	<ul style="list-style-type: none"> <li>50% &amp; 50% split</li> <li>100% by one parent</li> </ul>
<b>Further education</b>	Diploma education	400 per month (4,800 per year)	<ul style="list-style-type: none"> <li>Standard deduction</li> <li>A maximum deduction period of 48 months for the same degree.</li> </ul>
	Professional qualification	3,600 in a calendar year	<ul style="list-style-type: none"> <li>The year which the certificate is obtained.</li> </ul>
<b>Healthcare costs for serious illness</b>	Expenses recorded in social medical insurance management system	Over 15,000 and below <b>80,000</b> per year	<ul style="list-style-type: none"> <li>On actual expense basis;</li> <li>Family basis (couple and minor child/children);</li> <li>The deduction quota is based on individual basis.</li> </ul>
<b>Housing Mortgage interest</b>	<ul style="list-style-type: none"> <li>First housing loan under taxpayer or spouse's name</li> <li>Located in China</li> </ul>	1,000 per month (12,000 per year)	<ul style="list-style-type: none"> <li>Could be 100% deducted by one of the couple;</li> <li>50% &amp; 50% split;</li> <li>Up to a period of 240 months.</li> </ul>
<b>Housing rent</b>	Taxpayer and spouse does not have house in the city where they work; Three applicable deduction amounts based on working locations	<b>1,500 (18,000 annual)</b> <b>1,100 (13,200 annual)</b> 800 (9,600 annual)	<ul style="list-style-type: none"> <li>Shall be 100% deducted by one of the couple if they work in the same city;</li> <li>Can't split deduction</li> <li>This expense if their main work location are different and they do not have house in the two cities.</li> </ul>
<b>Expense for supporting the elderly</b>	<ul style="list-style-type: none"> <li>Parent/grandparents over 60 years old;</li> <li>Other legal dependent</li> </ul>	2,000 per month (24,000 per year)	<ul style="list-style-type: none"> <li>Shall be divided among siblings and each child cannot claim more than 12,000/year (1,000/month)</li> </ul>

# Tax-exempt Benefits for Foreign Individuals

*(2019 January to 2021 December)*

Choose to claim (*mutual exclusively, not both*)

## The Additional Itemized Deductions

- Six deductions

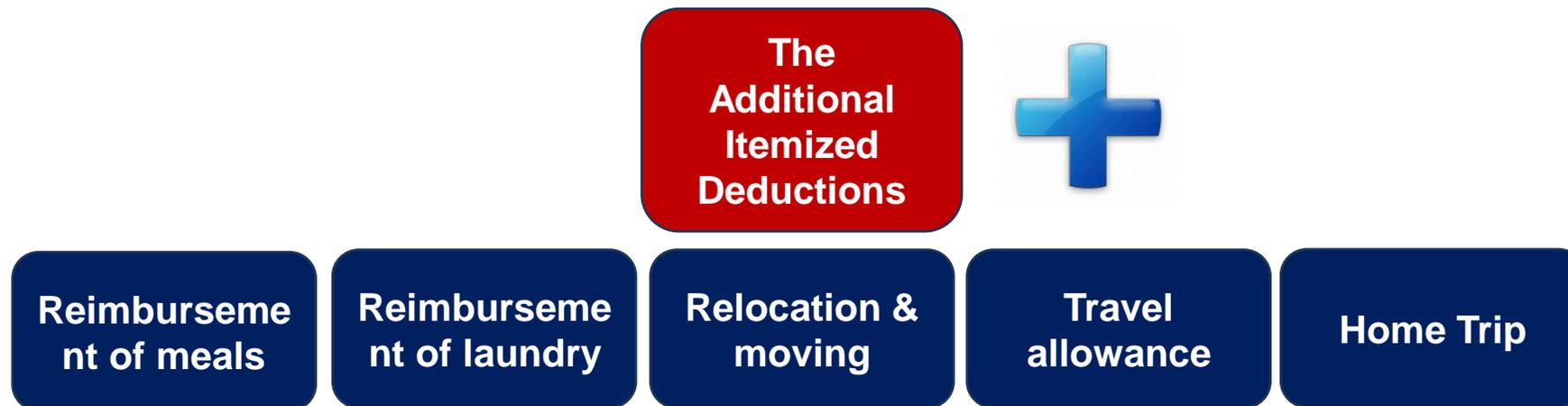
## The Current non-taxable fringe benefits

- Eight items

# Tax Benefits for Foreign Individuals (*After 2022 January*)



*After the Three-Year Transition Period, replaced by:*



Note:

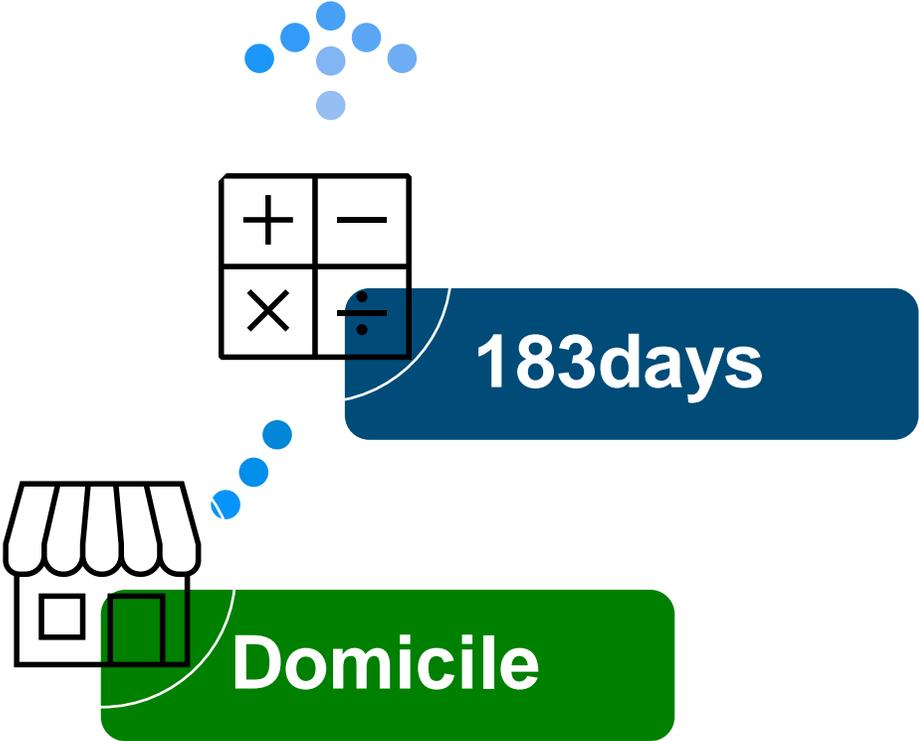
- *The housing allowance, Children's education and Language training will be eliminated and **replaced** by the additional itemized deductions;*
- *The rest non-taxable benefits items will still be kept.*



HR Managers:  
Actions To Take In 2021

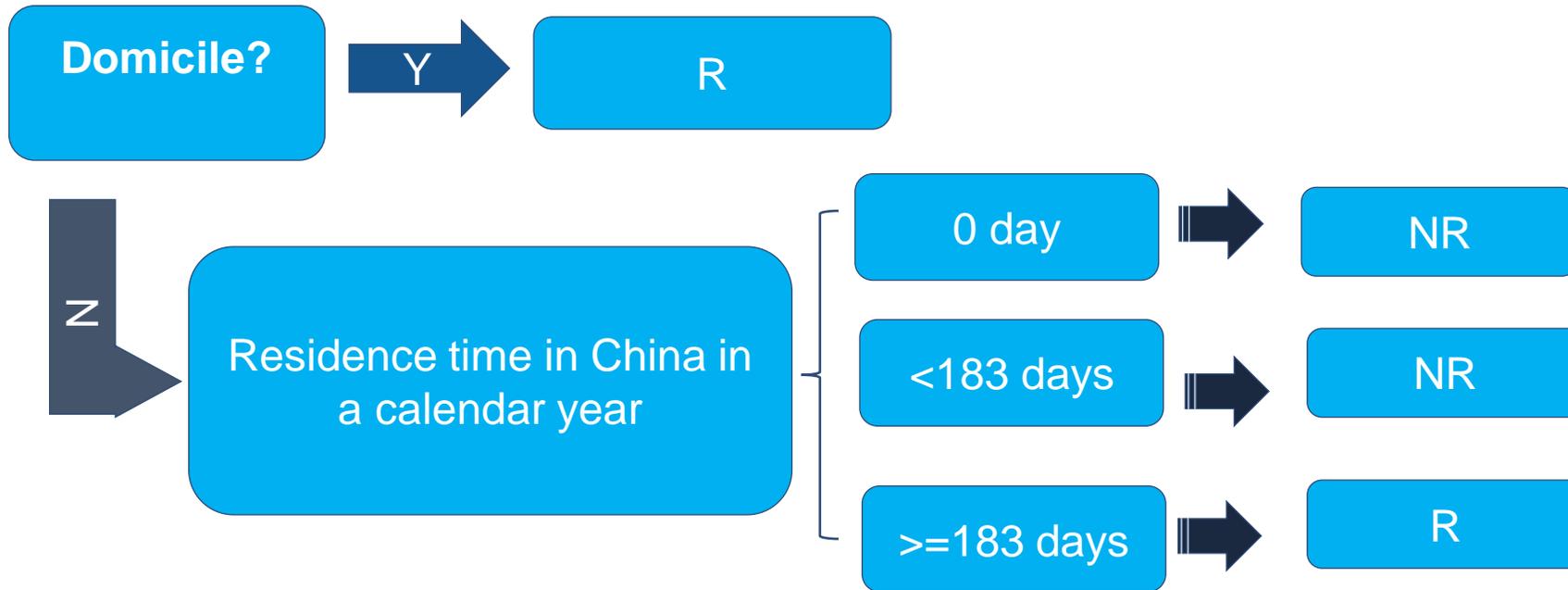
# Actions To Be Taken in 2021

**Tax Status Update**



# Actions To Be Taken in 2021

## Identification of Taxpayer



Note: R – resident, NR – non-resident

# Some Latest News

*From the start of 2019 to the end of 2023, eligible overseas talents working in nine cities of Guangdong province are able to apply for individual income tax (IIT) subsidies, because of a [talent policy](#) for the [Guangdong-Hong Kong-Macao Greater Bay Area \(GBA\)](#).*

*During the period from July 1 to August 31, 2020, all nine cities have successively started and closed their first round of IIT subsidy [applications](#).*

*Successful applicants will get the subsidies, equaling to the portion of the IIT paid in the GBA city that exceeds 15 percent of the taxpayer's taxable income of 2019.*



# Social Insurance Exemptions For Foreigners

# China's Social Security System

---

**Pension**

---

**Medical**

---

**Unemployment**

---

**Work-related injury**

---

**Maternity**

---



# China's Social Security System

---

**Pension**

---

**Medical**

---

**Unemployment**

---

**Work-related injury**

---

**Maternity**

---

# Social Insurance Exemptions For Foreigners

## International Social Security Agreements

11 are implemented

Germany
S. Korea
Denmark
Canada
Finland
Switzerland
The Netherlands
Spain
Luxemburg
Japan
Serbia
France

# Social Insurance Exemptions For Foreigners

## Categories and Reciprocity

# Social Insurance Exemptions For Foreigners

**Regional / Provincial / Municipal Inconsistencies?**



# Some Conclusions

- **Every Agreement Differs**
- **Claiming benefits requires**
  - Special applications
  - Verification period
- **Time-based**
- **Difficult to claim**
- **The Maternity Issue in Shanghai**



# Employment Contracts Management

# Employment Contracts Management



## 1. Contract template

- Template review
- Sampling review

## 2. Policy and procedure

- Contract tracking
- Length of contract
- Contract renewal etc.

### *Typical Issues:*

- (9) mandatory clauses
- Employee personal information;

# Employment Contracts Management

## Three Types of Employment Contracts

- 1) Fixed term
- 2) Non-fixed term
- 3) Project

## Timing of Employment Contract Signing

- Must be signed within one month of commencement of labor relationship
- Penalties
  - Double salary
  - Open term contract after 12<sup>th</sup> month

## Language

- Employment Contract should be in Chinese or bilingual

## **Mandatory Clauses**

- 1) Name and address of the employer and the legal representative or key person-in-charge of the employer;
- 2) Name, address and identity card number or other valid identity document number of the worker;
- 3) Term of labor contract;
- 4) Job duties and work premises;
- 5) Working hours and rest periods and off days;
- 6) Labor remuneration;
- 7) Social security;
- 8) Labor protection, working conditions and occupational hazard prevention and protection;
- 9) Any other matters to be included in a labor contract as stipulated by the laws and regulations.

## **Additional Optional Clauses**

- 1) Probation period
- 2) Training
- 3) Confidentiality
- 4) Supplementary insurance
- 5) Welfare and incentives
- 6) Others

# Labor Contract Amendments

- **Salary Increase**
- **Salary Decrease**
- **Job Transfer**
- **Renewal of Employment Contract**



# DEZAN SHIRA & ASSOCIATES

Your Partner for Growth in Asia



## Scan this QR code

Visit our mobile page and  
get the latest updates investors  
news and resources with us