



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





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

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Christian Tagethoff – Managing Director - CT Executive Search

Riccardo Benussi – Europe Business Development Director

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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



- Dezan Shira & Associates Offices
- Dezan Shira Asian Alliance Members

Global Offices

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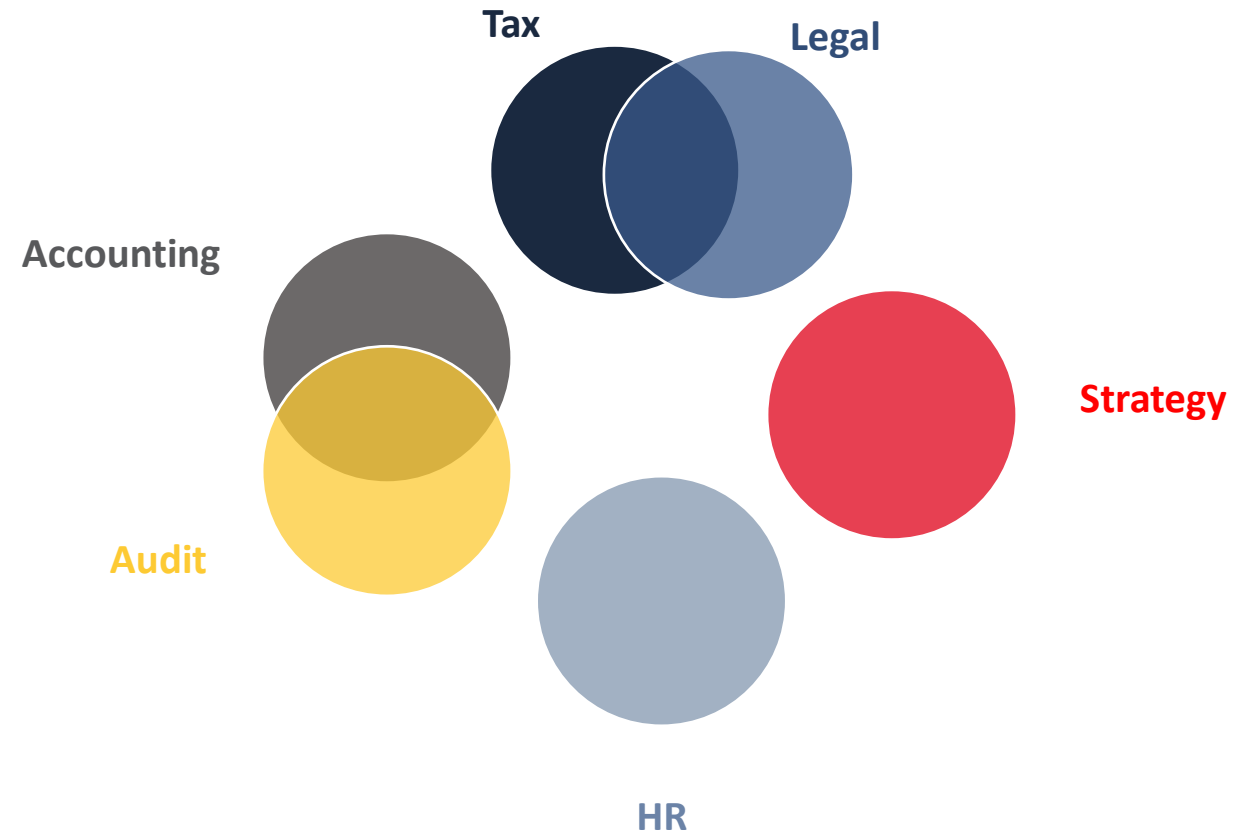
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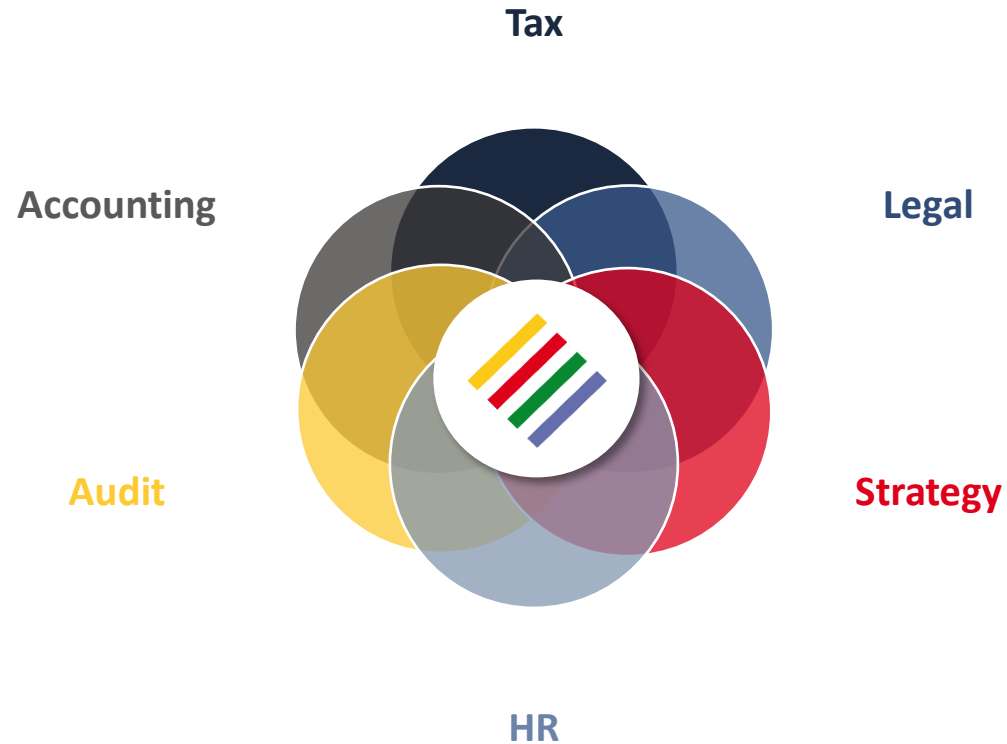


Multi Provider Approach



Full-Service Method

Dezan Shira & Associates



Discussed Today

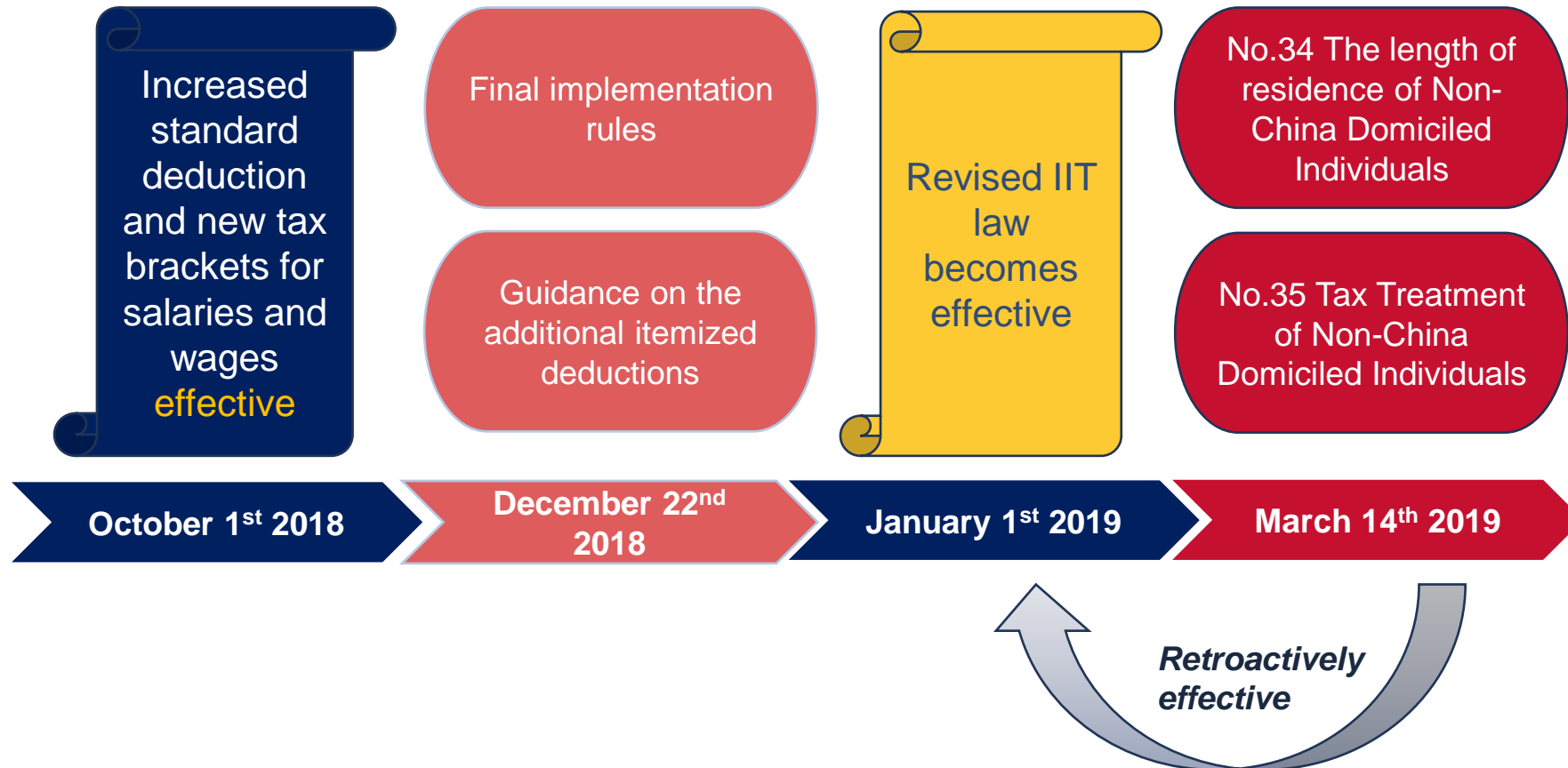
1. Tax Residency Rules
2. Individual Income Tax
3. Deductions
4. Social Insurance
5. Labor Contracts Management

Chinese Individual Income Tax

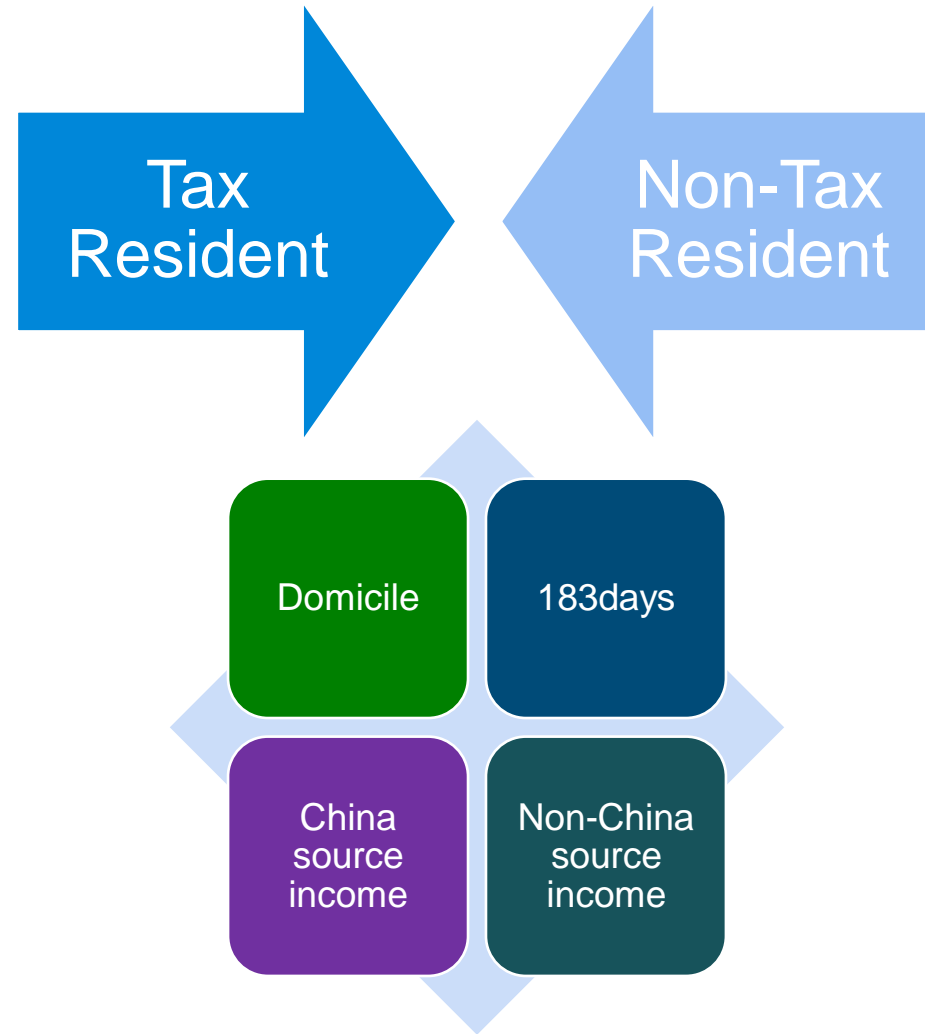
A Review



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">• China-domiciled individuals• Non-China-domiciled who stay in China for 183 days or more in a calendar year	Worldwide Income
Non-Resident	<ul style="list-style-type: none">• <u>Non-China-domiciled</u> individuals who stay in China for less than 183 days in a calendar year	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. Huji), 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

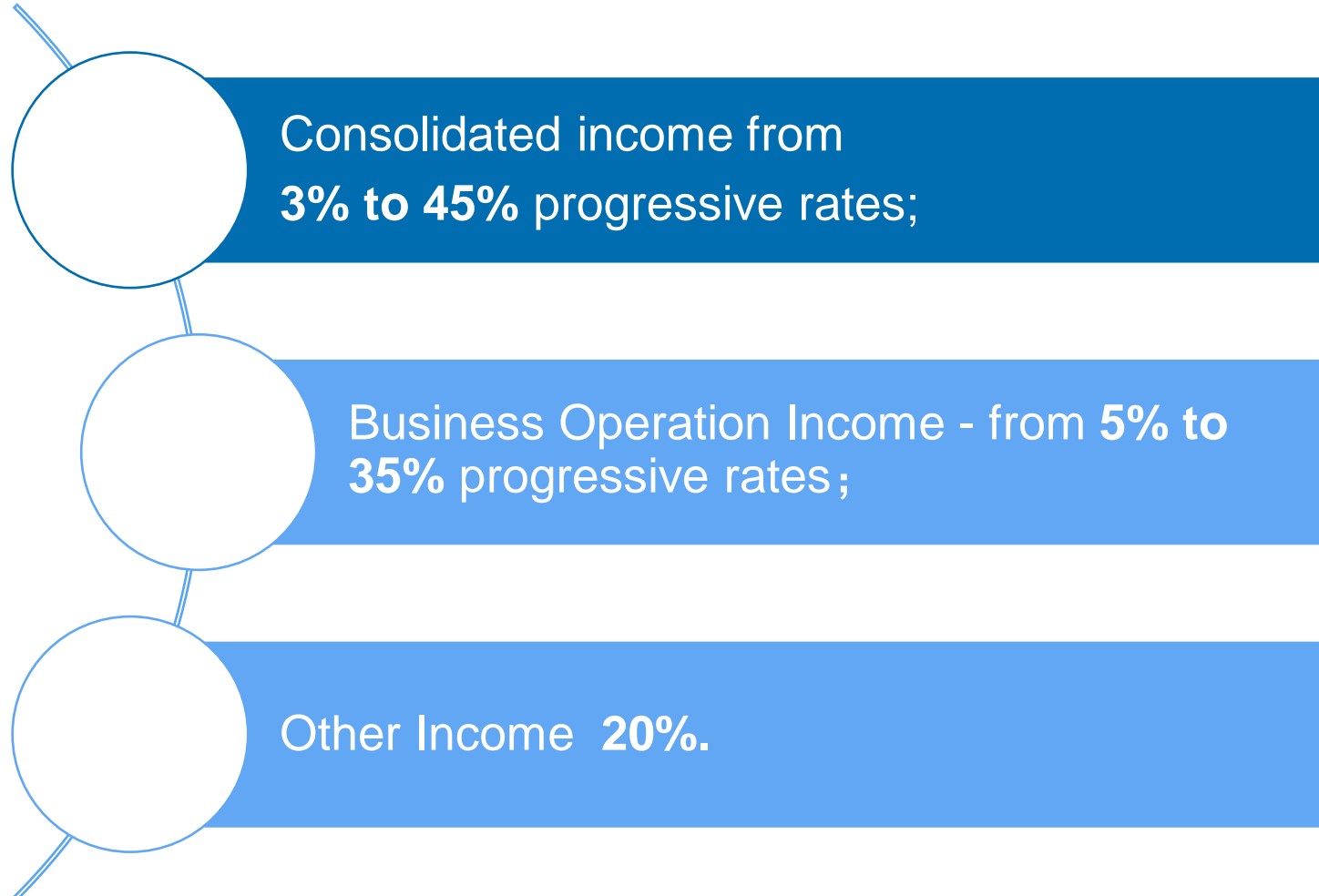
7) Lease of property

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	25%	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
Comprehensive Income (Consolidated)	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%	
Income from Operations		Full amount	5% - 45% progressive rates (the min. threshold applicable to 35% tax rate increased to RMB 500,000)
Interest, Dividends		Full amount	20%
Lease of Assets		Full amount	20%
Transfer of Assets		Full amount	20%
Contingent income		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

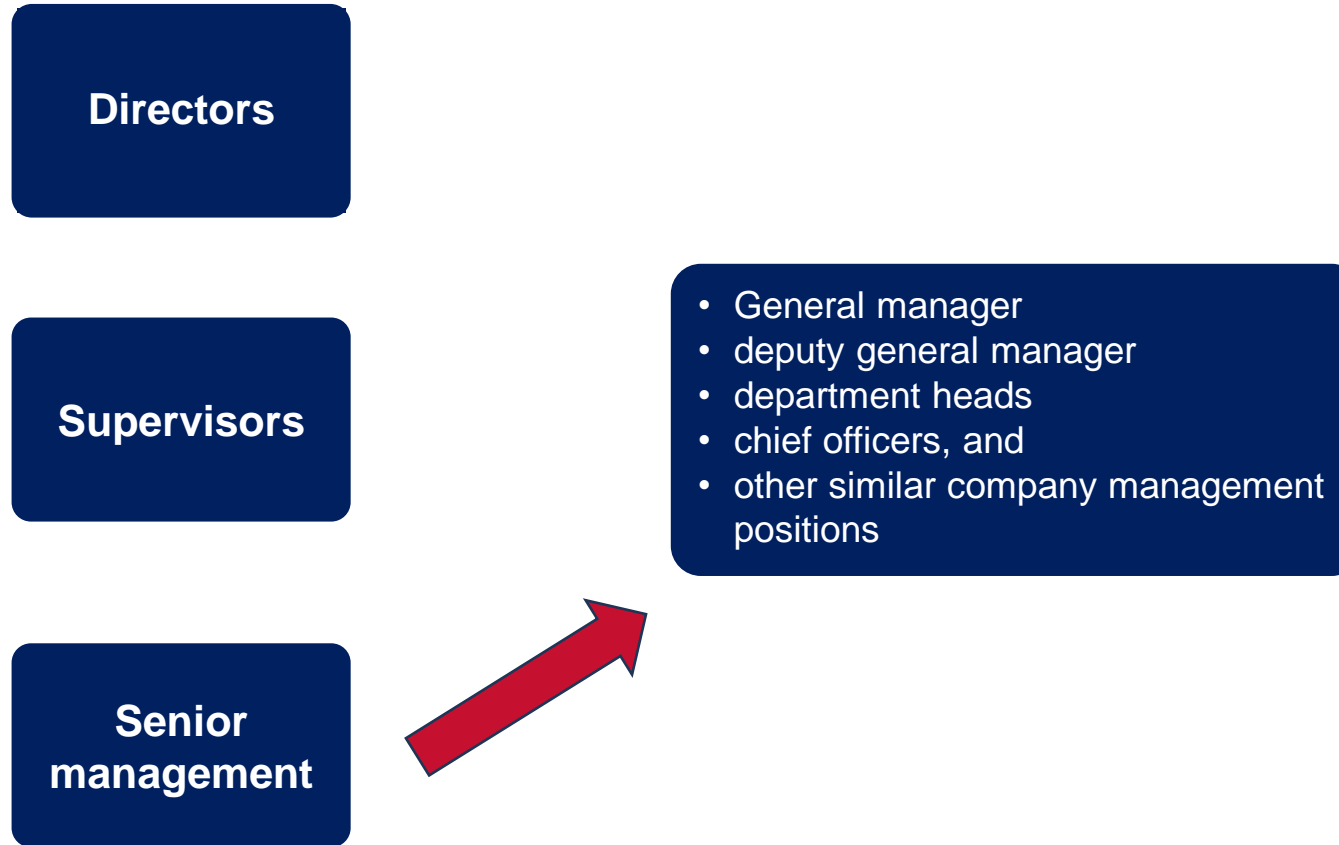
Relocation fee (one-off)

Trips home

Children education

Language education

Definition of Senior Executives



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

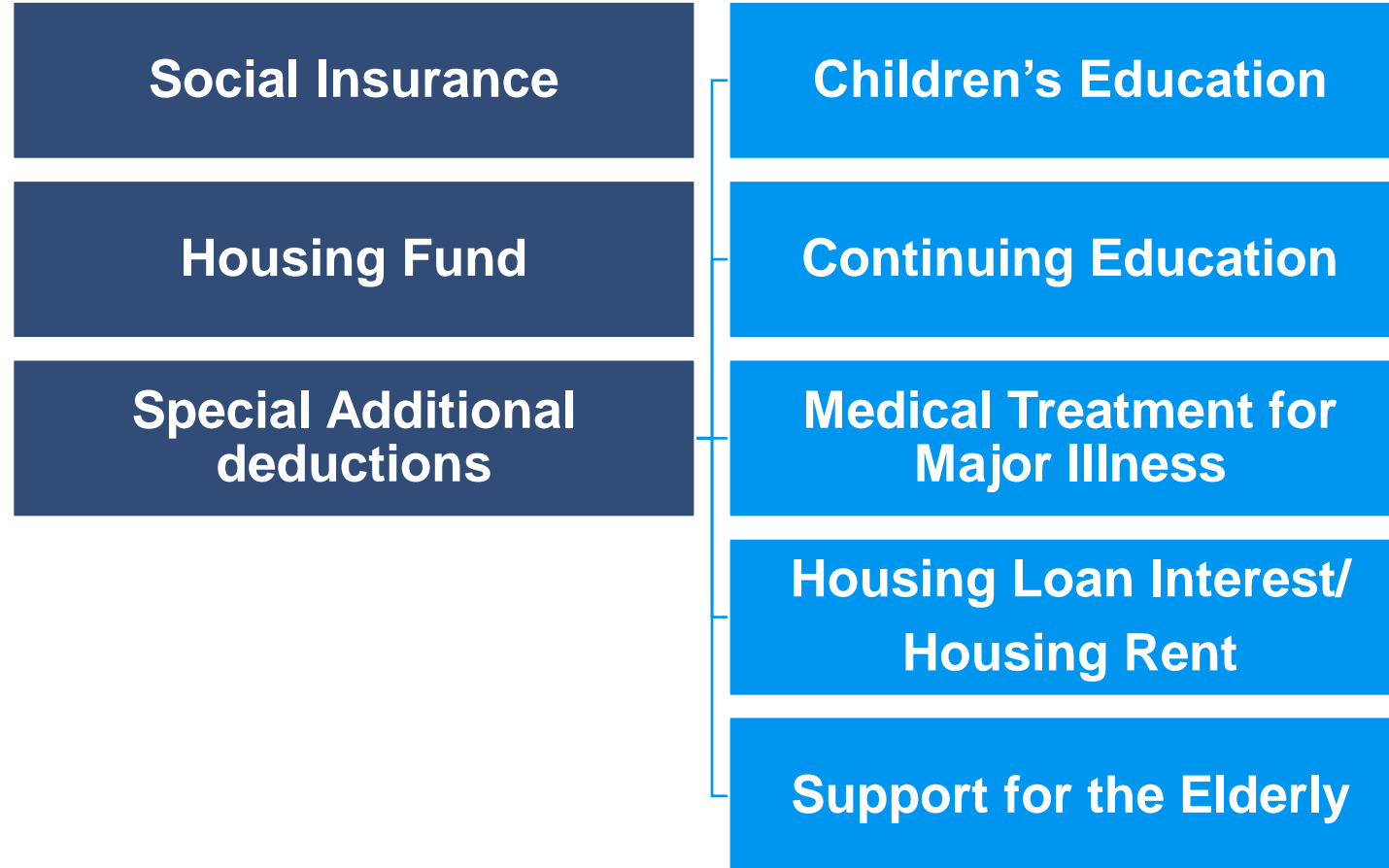
Senior Management level

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



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*)

Housing
allowance

Children's
education

Language
training

After the Three-Year Transition Period, replaced by:

The
Additional
Itemized
Deductions



Reimburseme
nt of meals

Reimburseme
nt of laundry

Relocation &
moving

Travel
allowance

Home Trip

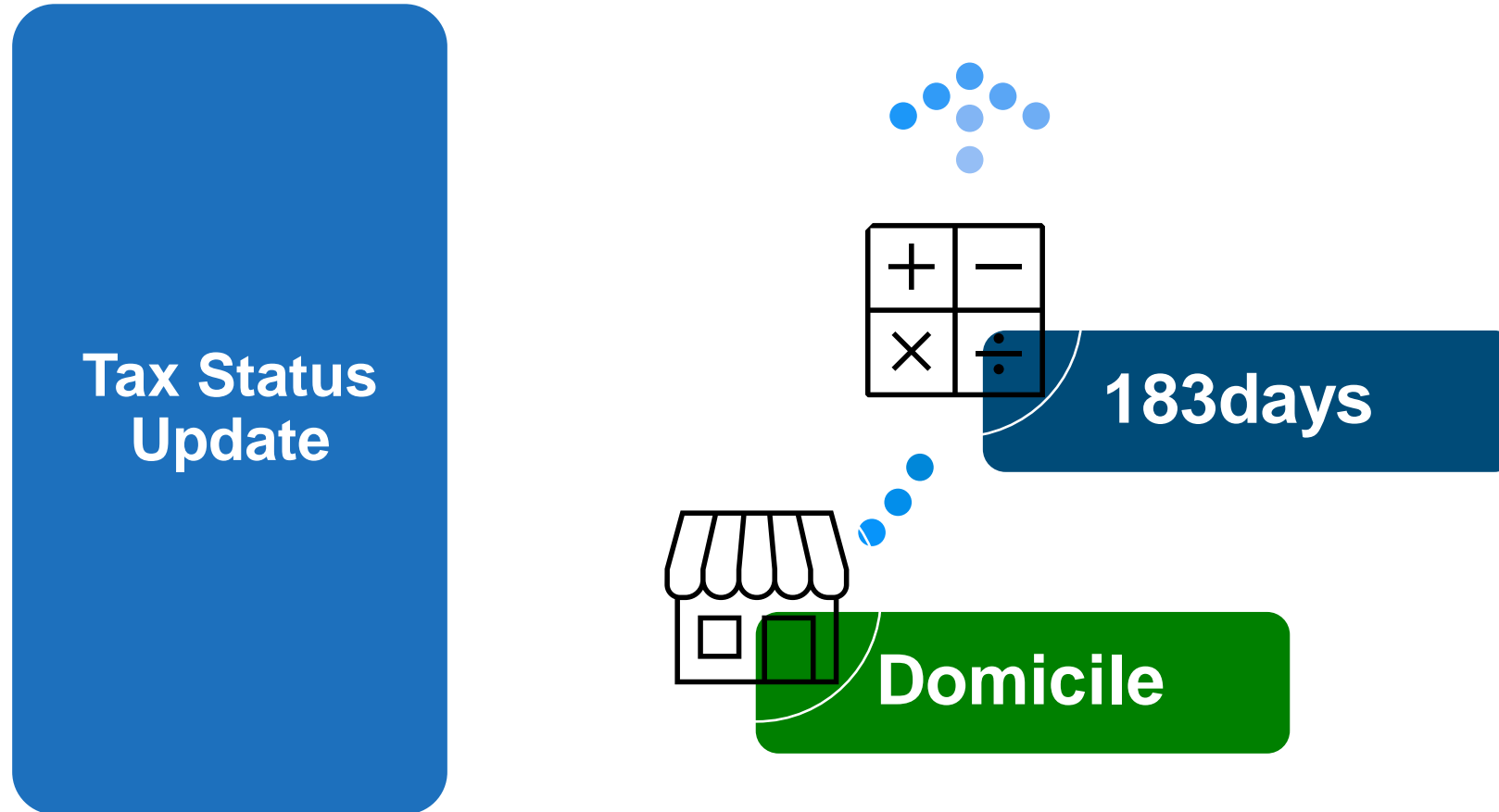
Note:

- *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

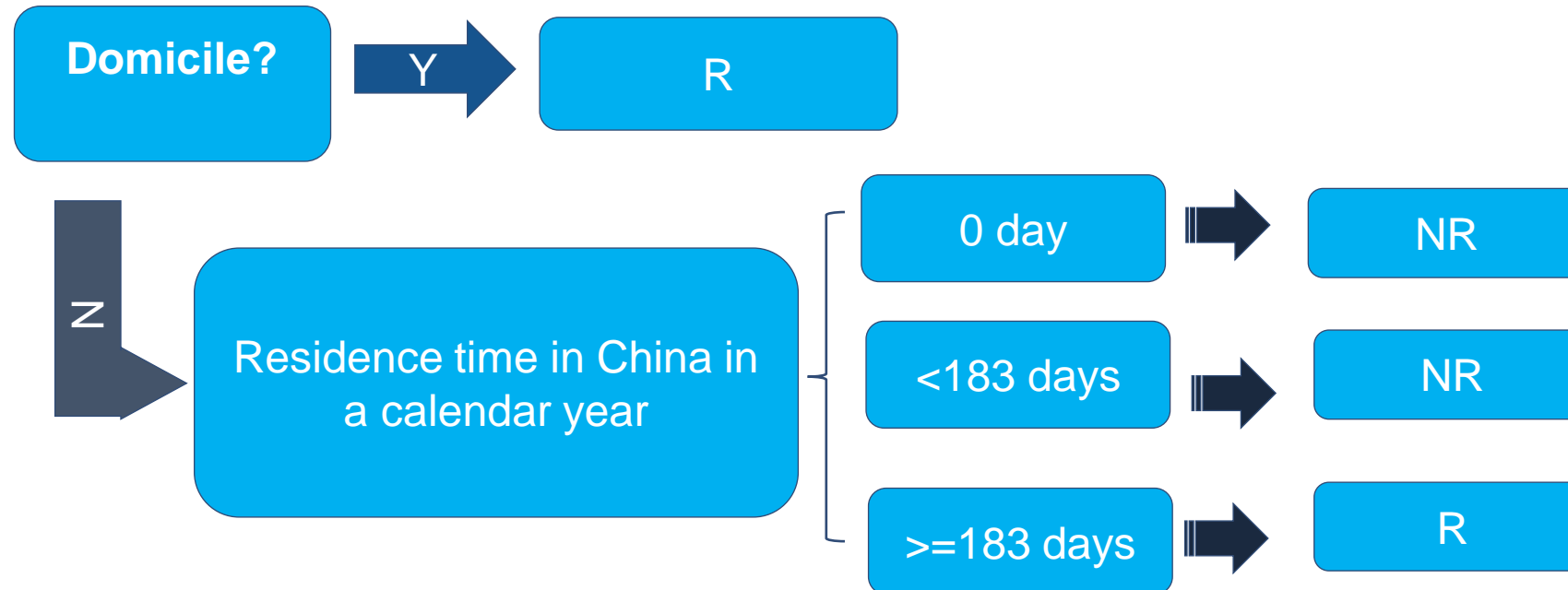


Actions To Be Taken in 2021



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 12th 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**



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