DIACRON

China

Tax highlights

New York | London | Lugano | Milan | Sofia | Plovdiv | Dubai | Hong Kong | Shanghai

China

Tax highlights

New York | London | Lugano | Milan | Sofia | Plovdiv | Dubai | Hong Kong | Shanghai

Table of Contents

Introduction

China is a People's Republic in which power is exercised by the Chinese Communist Party alone. The government is based in the capital Beijing, and exercises its jurisdiction over 22 provinces, 5 autonomous regions, 4 directly controlled municipalities (Beijing, Tianjin, Shanghai and Chongqing) and two special administrative regions (Hong Kong and Macao) partially autonomous.

1. The tax system: general aspects

The Chinese tax system is characterized by the presence of the following types of taxes:

Direct taxes

- Taxation of legal persons - corporate income taxes
- Taxation of natural persons - taxes on income from employment

Indirect taxes

- Value added tax (VAT)

Other taxes

- *City Maintenance & Construction Tax*
- *National Education Fees*
- Registration tax(*Stamp Duty*)
- Customs duties

2. Direct taxes

2.1. Taxation of legal persons

Corporate income taxes

All income-generating organizations within China are subject to *Corporate Income Tax* (CIT).

The new regulation on CIT, which came into force on 1 January 2008, provides for a distinction and different rules between Tax Resident Enterprises and Non Tax Resident Enterprises.

a. Tax Resident Enterprises
(*Tax Resident Enterprises*)

This category includes:

- Enterprises under Chinese law
- Enterprises under foreign law whose management is located in China

Enterprises that fall into this category are subject to a tax rate of **25%** on both income generated in China and from abroad.

b. Non-Tax Resident Enterprises
(*Non-Tax Resident Enterprises*)

This category includes:

- Enterprises under foreign law whose management is located outside the Chinese territory but have an organization in China.

- These enterprises are subject to taxation of **25%** on income from the Chinese organization and on income which, even from sources outside China, is effectively linked to the Chinese organization.

- Enterprises under foreign law that do not have organizations in China, or have organizations in China, but the income is not actually connected to the Chinese organization.
    - These enterprises are subject to a withholding tax of **10%**. This withholding tax is applied to dividends, interest income, rental income, gains from asset transfer in China.

Calculation

CIT = tax base × rate (25%)

The CIT should be paid quarterly on the basis of the accounting profit and the adjustment must be made annually as a result of tax filings.

Certain non-deductible costs and costs for which deductibility is limited are subject to tax recovery. Previous losses can be carried forward for the next five financial years.

Tax advantages

Preferential treatments with regard to the CIT will be granted to activities and projects specifically encouraged by the State such as, for example, enterprises operating in the field of new technologies, agricultural enterprises, etc.

Withholdings at the source

Dividends, interest and royalties distributed by a Chinese company to a non-resident company are subject to a withholding tax.

The Italy-China double taxation agreement signed in Beijing on 31 October 1986, in force since 13 December 1990, (is not applicable to Macao and Hong Kong) ensures the deductibility of what was already held by the Chinese tax system through recognition of a tax credit. The withholding tax applicable by China may not exceed the limits set by the Treaty.

The following table shows the applicable rate brackets:

Subject	**Dividends (%)**	**Interest (%)**	Royalties **(%)**
Legal persons	**10**	**10**	**5 / 10**
Natural persons	**5 / 20**	**7 / 20**	**7 / 20**

2.2. Taxation of natural persons

Employee income tax

The Chinese tax system provides that persons who are not habitually resident in China but who are present for work reasons are subject to the following treatment:

- Persons residing in China for more than 5 consecutive years: subject to income tax produced in China and abroad;
- Persons residing in China for more than a year but for less than 5 years: subject to income tax derived in China or income

generated by a temporary absence from China and paid by a Chinese tax resident;

- Persons residing in China for more than 183 days but less than 1 year: subject to tax only for the part of income produced in China;
- Persons residing in China for less than 183 days: are not subject to income tax in China in the event that the remuneration is not directly or indirectly paid (i.e. through subsequent re-debiting) by a Chinese tax resident.

Calculation

The taxable salary is calculated by subtracting the following flat-rate deductions from the gross monthly salary:

- 3,500 CNY for Chinese staff;
- 4,800 CNY for expatriate staff.

The following rates and deductions are applied to the taxable income:

Level	Income in CNY	Rate (%)	Deduction
1	< 1,500	**3%**	**0**
2	1,501 – 4.500	**10%**	**105**
3	4,501 – 9,000	**20%**	**555**
4	9,001 – 35,000	**25%**	**1005**
5	35,001 – 55,000	**30%**	**2,755**
6	55,001 – 80,000	**35%**	**5,505**
7	> 80,001	**45%**	**13,505**

The Chinese tax system provides that the benefits guaranteed to income earners not subject to income tax, as long as they are supported by valid tax justifications and are provided in the form of reimbursement; on the other hand, those benefits guaranteed in a lump sum are not exempt from tax.

3. Indirect taxes

Value added tax (VAT)

Tax law provides for two different VAT regimes based on the total amount of turnover cumulated in the financial year: *VAT Small-Scale Taxpayer* and *VAT General Taxpayer*.

- ***VAT Small-Scale Taxpayer***

  A person is considered to be *VAT Small-Scale Taxpayer* if sales revenues in a financial year are less than CNY 0.5 million (0.8 million for trading companies). The company can still apply for the status of *VAT General Taxpayer* if it has an appropriate accounting system.

  According to this status the sales rate will be **3%**.

  VAT is calculated as net sales × **3%**, while VAT credit is not deductible.

- ***VAT General Taxpayer***

  When the annual turnover exceeds the threshold of 0.5 million CNY (0.8 million for the trading companies), the company must apply for the status of *VAT General Taxpayer*.

VAT on exports and VAT refund

Exports are VAT exempt. For a *VAT General Taxpayer* that exports its products, the VAT credit on purchases can be offset against VAT for domestic sales.

The VAT refund on exports is guaranteed to taxpayers who export goods from China, so that the total tax burden for exported goods is limited.

The applicable reimbursement rate based on the categories is **0%**, **5%** , **9%**, **11%**, **13%**, **15%** and **17%** and determine the value of the final refund.

Repeal of the BT (*Business Tax*) in favour of VAT

Effective 1 May 2016, in application of the *Cai Shui* [2016] No. 36 and of the *Internal Circular Shuizongfa* [2016] No. 32 issued jointly on 18 March, 2016 by the *Ministry of Finance* (MoF) and by the *State Administration of Taxation* (SAT), the *Business Tax* was finally repealed. in full application of the VAT rules.

Business Tax, is a non-deductible tax in force since 1994, was effectively abolished to respond to a need for uniformity in the Chinese tax scheme.

If the transition phase, initiated through the pilot project launched in Shanghai on 1 January 2012, which in fact saw application of the VAT system to specific sectors (transport, postal services, research and development, information, cultural activities, logistics, certification, consulting, IT services, design services, services related to intellectual property and advertising services) to date the rule is extended to the whole of China as well as to the previously excluded sectors (construction, real estate, financial services/insurance) and services of *consumer / lifestyle services*), with consequent variations in the rate as shown in the table:

Sector	BT Rate	VAT Rate
Construction	**3%**	**11%**
Property	**5%**	**11%**
Financial and insurance	**5%**	**6%**
Consumer and Lifestyle Services	**5%**	**6%**
Entertainment	**20%**	**6%**

In conclusion, the aforementioned service providers, previously subject to the payment of the *Business Tax*, now become VAT taxable persons, consequently acquiring the advantages related to the deductibility of the VAT credit (in case they opt for the scheme of *VAT General Taxpayers*).

VAT on services

As for VAT on trade in goods, *VAT General Taxpayer* and *VAT Small-Scale Taxpayer* are also distinguished for the provision of services

In this case the threshold is 5 million CNY. If, in fact, for the former, the rates shown in the table are valid and the deductibility of VAT is granted, for the *VAT Small-Scale Taxpayer* the rate is set at **3%** and VAT credit is not deductible.

Service	**Rate**
Leasing of movable property	**17%**
Transport services, postal services, basic telecommunication services, construction, property leases, sale of properties (purchased after 30/04/2016), transfer of land use rights.	**11%**
Transitional Policy: Real estate sales (purchased no later than 30/04/2016); construction projects (whose contract / building permit was stipulated / issued no later than 30/04/2016)	**5%**
Research and development (R & D) services and technical services	**6%**
IT services	**6%**
Services of cultural and artistic nature	**6%**
Logistic and auxiliary services	**6%**
Certification and consulting services	**6%**

3.1. Other indirect taxes

City Maintenance & Construction Tax and *National Education Fees*

With the Circular (Guofa [2010] No.35) issued by the *State Administration of Taxation* (SAT) and the Ministry of Finance (MoF), the number of taxpayers subject to *City Construction Tax and Education Fees*.

As from 1 December 2010, the application of these taxes, which previously weighed only on domestic enterprises, have been extended to enterprises with foreign participation, representative offices and expatriates who conduct commercial activities in China.

They are proportional taxes calculated on the sum of the amount of the other indirect taxes paid monthly and their payment is at the same time as the payment of the latter.

City Maintenance & Construction Tax **= total indirect taxes × applicable rate** (**1% - 7%**). The applicable rate depends on the province or municipality.

National Education Fee **= total indirect taxes × 3%**

Register Tax (Stamp Duty)

All contracts having legal value are subject to registration tax.

Registration tax = amount in contract × applicable rate (0.005% - 0.1%)

Customs duties

Customs duties are established according to the HS code of the goods and the Country of import or export.

Customs duties on imports = CIF (Cost, Insurance & Freight) × customs duty rate.

VAT on imports = (CIF + customs duties for imports + *Import Consumption Tax*, if applicable) × 17% or 13% based on imported goods.

4. International bilateral agreements

China has signed bilateral treaties against double taxation, with various countries to prevent a taxable person from being taxed in two countries for the same source of income in the same period.

Albania
Algeria
Armenia
Australia
Austria
Azerbaijan
Bahrain
Bangladesh
Barbados
Belarus
Belgium
Bosnia and Herzegovina
Botswana
Brazil
Brunei
Bulgaria
Cambodia
Canada
Chile
Croatia
Cuba
Cyprus
Czech Republic
Czechoslovakia
Denmark
Ecuador
Egypt
Estonia
Ethiopia
Finland
France
Georgia
Germany
Greece
Hungary
Iceland
India
Indonesia
Iran
Ireland
Israel
Italy
Jamaica
Japan
Kazakhstan
Kirghizstan
Korea
Kuwait
Laos
Latvia
Lithuania
Luxembourg
Macedonia
Malaysia
Malta
Mauritius
Mexico
Moldova
Mongolia
Montenegro
Morocco
Nepal
Netherlands
New Zealand
Nigeria
Norway
Oman
Pakistan
Papua New Guinea
Philippines
Poland
Portugal
Qatar
Romania
Russia
Saudi Arabia
Serbia
Seychelles
Singapore
Slovenia
South Africa
Spain
Sri Lanka
Sudan
Sweden
Switzerland
Syria
Tajikistan
Thailand
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Uganda
Ukraine
United Arab Emirates
United Kingdom
United States
Uzbekistan
Venezuela
Vietnam
Zambia
Zimbabwe

5. Our services

Accounting services

Using an approach based on business processes, the environment in which the enterprise operates and the main risk areas and through periodic visits to the company, Diacron verifies the correctness of the work of the accounting department of the company from a civil law, tax, currency and administration point of view. In addition, Diacron offers its customers the management of accounting, administrative and corporate tax areas.

Tax Services

Diacron offers consultancy services in the field of national and international taxation, assisting its customers who have to deal with different jurisdictions, guiding them in identifying the most appropriate routes and choices.

Corporate services

Diacron assists its customers right from the initial stages of the internalization and corporate reorganization projects. Through the use of well-established law firms, it assists the customer in the process of setting up the company and with regard to the related obligations required.

6. Strengths

Global presence, local focus

7	Partner
8	Countries
9	Offices
40+	Books published
45	Conferences (since 2011)
90	Employees
200+	Press quotes
800+	Worldwide clients

Why Diacron?

- Team of professionals with in-depth knowledge of tax systems and international corporate regulations
- International tax systems integration
- Staff who speak English and local language in all locations
- Consolidated collaboration with local partners
- Strategic and global presence

Our offices

Bulgaria
Diacron Consultants EOOD
Fl. 4 – Office 11
165A Tzar Boris III Blvd
1618 Sofia
+359 (0) 2 955 5510

Bulgaria
Diacron Consultants EOOD
Fl. 3 – Offices 39, 40
Str. Knyaz Alexander No 42
4000 Plovdiv
+359 (0) 32 660 289

China
Diacron Business Consulting Co., Ltd
Unit 2010 – 2011
360 Chang Shou Road
200060 Shanghai
+86 (0) 21-62885871 / 72 / 73

Hong Kong
Diacron Hong Kong Limited
Unit 05, 20th Floor, CRE Centre
889 Cheng Sha Wan Road
Lai Chi Kok, Kowloon
+852 3156 1696

Italy
Diacron
Viale Bianca Maria 19
20122 Milano
+39 02 87199518

Switzerland
Diacron Suisse SA
Via Serafino Balestra 27
6900 Lugano
+41 (0) 91 210 58 32

United Arab Emirates
Diacron Consultants DMCC
Office 201 & 203
Swiss Tower, Cluster Y
Jumeirah Lakes Towers
PO Box 7042, Dubai
+971 (0) 4 450 4295

United Kingdom
Diacron Limited
Whitehall House, 41 Whitehall
SW1A 2BY London
+44 (0) 20 7839 4711

United States of America
Diacron USA LLC
50 Broad Street, Suite 1904
10004 New York
+1 (212) 825-1003

Desk

Germany
+49 (0) 152 52084141
+39 344 0456001

Contacts

Alessandro Fammilume

General Manager

a.fammilume@diacrongroup.com

www.diacrongroup.com