

01. 什么是非居民个人？

What is the non-resident?

根据《中华人民共和国个人所得税法》第一条相关内容，非居民个人是指在中国境内无住所又不居住，或者无住所而一个纳税年度内在中国境内居住累计不满一百八十三天的个人。

According to the Article 1 of Individual Income Tax Law of the People's Republic of China, non-resident refers to any individual who has no domicile in China and does not stay within the territory of China or who has no domicile in China but has stayed within the territory of China for totally less than 183 days in a single tax year.

02. 居民个人和非居民个人在纳税义务上有什么区别？

What's the difference of tax liability between the resident and the non-resident?

根据《中华人民共和国个人所得税法》相关内容，居民和非居民个人要承担不同的纳税义务。居民个人从境内和境外取得的所得，均应缴纳个人所得税。非居民个人从中国境内取得的所得，缴纳个人所得税。

The residents defined in the Individual Income Tax Law of the People's Republic of China need to pay individual income tax on the incomes derived from inside and outside China mainland which means they need to pay individual income tax on their global incomes.

Non-residents should pay their individual income tax on the incomes derived from China mainland. That is they only need to pay individual income tax in China on domestic income and they do not need to pay individual income tax in China on overseas income.

03.判断所得来源地的标准有哪些？

What are criteria for determining the source place of income?

非居民个人应就其从境内取得的所得缴纳个人所得税。因此，判定所得来源地是确定非居民个人纳税义务的前提。

Non-residents only pay taxes on domestic-derived income, therefore, determining the source place of income is the premise of determining the tax liability of non-residents.

根据《中华人民共和国个人所得税法实施条例》第三条、《财政部 税务总局关于非居民个人和无住所居民个人有关个人所得税政策的公告（财政部 税务总局公告 2019 年第 35 号）》第一条相关规定，可以归结为以下四种标准：

Four categories of criteria are summarized which are basically mentioned in Article 3 of the Individual Income Tax Law Implementation Regulation of the People's Republic of China and Article 1 of Ministry of Finance and State Taxation Administration Announcement on the Individual Income Tax Policies of Non-residents and Non-China-mainland-domiciled Residents

(Announcement No. 35 of the Ministry of Finance and the State Taxation Administration in 2019).

一是按照劳务发生地来判定，适用于因任职受雇履约在中国境内提供劳务取得的所得，劳务发生地即为所得来源地；

The first category is determined by the arising place of service. This category is mainly applicable to the income from the services in China mainland due to holding a position employment and performance. For this kind of income, the source place of income is generally determined by its arising place of service.

二是按照使用地判定，适用于将财产出租给承租人在境内使用而取得的所得和许可各种特许权在境内使用而取得的所得，使用地在境内即为来源于境内的所得；

The second category is determined by the place of use. This category is mainly applicable to the income from leasing the property to the lessee for domestic use and the income from licensing the domestic use of various chartered rights. For this kind of income, the source place of income is the place of use.

三是按照不动产所在地、转让行为所在地判定，转让中国境内的不动产等财产或者在中国境内转让其他财产取得的所得，不论支付地点是否在中国境内，均为来源于中国境内的所得；

The third category is determined by the location of immovable property or the place of transferring behaviors. The income from the

transfer of immovable property and other properties located in China mainland or from the transfer which is domestically conducted of other properties, whether the place of payment is in China or not, belongs to the income derived from China.

四是按照支付机构所在地判定，从中国境内企业、事业单位、其他组织以及居民个人取得的利息、股息、红利所得以及由境内企业、事业单位、其他组织支付或者负担的稿酬所得，为来源于境内的所得。

The fourth category is determined by the payment place. Income from interests, dividends and bonuses obtained from enterprises, institutions, other organizations and residents in China is the domestic-sourced income. Authors' remuneration paid or borne by domestic enterprises, institutions and other organizations is derived from China.

此外，担任境内居民企业的董事、监事及高层管理职务的个人(简称为“高管人员”)，无论是否在境内履行职务，取得由境内居民企业支付或者负担的董事费、监事费、工资薪金或者其他类似报酬，属于来源于境内的所得。

Except for these criteria, the directors' fees, supervisors' fees, salaries and wages or other similar remuneration paid or borne by the domestic resident enterprise, obtained by an individual who holds the post of director, supervisor and senior management (the "senior-occupation holder") of a domestic resident enterprise,

whether or not performing the individual's duties in China mainland, belong to the domestic-sourced income.

04.非居民个人的免税规定是什么？

What is tax exemption for non-residents?

根据《中华人民共和国个人所得税法实施条例》第五条相关内容，在一个纳税年度内在中国境内居住累计不超过 90 天的非居民个人，其来源于中国境内的所得，由境外雇主支付并且不由该雇主在中国境内的机构、场所负担的部分，免于缴纳个人所得税。

According to Individual Income Tax Law Implementation Regulation of the People's Republic of China, for non-resident who has domestically resided for no more than 90 days in a tax year, the part of the individual's domestic-sourced income paid by an overseas employer and not borne by the employer's institutions or premises in China mainland shall be exempted from individual income tax.

05.非居民个人取得综合所得如何纳税？

How do non-residents pay tax on comprehensive incomes?

2018 年修正的《中华人民共和国个人所得税法》建立了综合与分类相结合的税收制度。工资薪金所得、劳务报酬所得、稿酬所得和特许权使用费所得属于综合所得。非居民个人取得这四项所得，按月或者按次分项计算个人所得税，由扣缴义务人代扣代缴，无需办理年度汇算。

A combination of comprehensive and classified tax system was established under the Individual Income Tax Law of the People's Republic of China revised in 2018. Comprehensive incomes include salaries and wages, independent personal services income, authors' remuneration and royalties. For comprehensive incomes received by a non-resident, the withholding agent shall withhold and pay the tax on a monthly or time basis for the non-resident, and such individual does not have to apply for the final settlement of the year.

06. 非居民个人取得分类所得如何纳税？

How do non-residents pay tax on classified incomes?

分类所得包括经营所得、利息股息红利所得、财产租赁所得、财产转让所得和偶然所得，居民个人与非居民个人取得分类所得的纳税方式是一样的。

Classified incomes include incomes from business operation, interest, dividend and bonus, incomes from lease of property, incomes from transfer of property and contingent incomes. The tax calculation methods are the same for resident and non-resident.

非居民个人取得经营所得，按年计算个人所得税，由纳税人在月度或者季度终了后十五日内向税务机关报送纳税申报表，并预缴税款；在取得所得的次年三月三十一日前办理年度汇算。

The income from business operation is calculated and tax is paid on an annual basis. The non-resident shall submit Tax Returns to the tax authority and pay tax within fifteen days after the end of the month or quarter, then apply for the final settlement of income tax of the year within three months after the end of the year and settle the payable and refundable tax.

非居民个人取得利息、股息、红利所得，财产租赁所得，财产转让所得和偶然所得，按月或者按次计算个人所得税，有扣缴义务人的，由扣缴义务人按月或者按次代扣代缴税款。

For the income from interest, dividend and bonus, lease of property, transfer of property and incidental incomes received by a non-resident, the withholding agent shall withhold and pay the tax on a monthly or time basis for the non-resident.

07. 税收协定是什么？

What is a tax treaty?

税收协定是具有税收管辖权的国家或地区之间为了避免对跨国纳税人的重复征税并防止其偷漏税而缔结的条约，反映了不同税收管辖权之间的协调。

Tax treaty is the agreement concluded between countries or regions with tax jurisdiction to avoid double taxation and prevent tax

evasion of transnational taxpayers. It reflects coordination between different tax jurisdictions.

08.非居民个人可以享受哪些税收协定优惠待遇？

What tax treaty benefits can non-residents enjoy?

非居民个人取得来源于我国境内的所得，只要符合税收协定规定的条件，就可以享受相应的优惠待遇从而降低税收负担。常见的类型主要有以下三种：

Non-resident obtains income from China, as long as it meets the conditions stipulated in tax treaties, it can enjoy corresponding preferential treatment to reduce the tax burden. There are three common types:

第一类是设定限制税率，对股息、利息、特许权使用费这类所得，通过设定限制税率的方式来限制来源国的征税权。税收协定对股息、利息、特许权使用费规定的税率一般会低于国内法的税率，此时应当按不高于协定约定的税率征税。

The first is to set a restrictive rate. The tax rate of dividends, interest, and royalties stipulated in the tax treaty is generally lower than that in domestic law. In this case, the country of income derived should levy tax at a rate no higher than that stipulated in tax treaty.

第二类是规定免税待遇，约定来源国对该所得没有征税权。协定的国际运输条款、财产收益条款、政府服务条款和学生条款一般都会有这样的规定。

The second is to provide tax-free benefit. According to articles of international transportation, capital gains, government service and

students, the income of qualified non-residents which meets the requirements of these articles is exempt from tax.

第三类是提高征税门槛。在没有税收协定的情况下，非居民个人取得来源于中国境内的所得需要在中国缴纳个人所得税。但根据税收协定相关条款，只有满足一定条件才需要在收入来源国缴税。营业利润、独立个人劳务、受雇所得条款属于这种类型。

The third is to raise the threshold of taxation, such as the articles of business profits, independent personal services and income from employment. The income will be taxed in the state of source only if the non-resident meets certain conditions.

09. 谁能够享受税收协定待遇？

Who can enjoy the tax treaty benefit?

按照我国政府签订的避免双重征税协定和内地与香港、澳门签订的避免双重征税安排（简称税收协定）的居民条款规定为缔约对方税收居民的个人,可以按照税收协定及财政部、税务总局有关规定享受税收协定待遇。

According to the resident article of the Double Taxation Avoidance Treaty signed by the Chinese government and the Double Taxation Avoidance Arrangement signed between the mainland, Hong Kong SAR and Macao SAR (hereinafter referred to as the "tax treaty"), an individual who is a tax resident of the other contracting party, can enjoy the tax treaty benefit in accordance with the tax treaty and the

relevant provisions of the Ministry of Finance and the State Taxation Administration.

10. 非居民个人如何享受税收协定待遇？

How dose non-resident enjoy the tax treaty benefits?

根据国家税务总局 2019 年第 35 号公告的相关规定，非居民个人享受协定待遇应填写《非居民纳税人享受协定待遇信息报告表》，并主动提交给扣缴义务人，自行留存相关资料备查。相关资料主要包括：对方税务主管当局开具的税收居民身份证明，相关合同、协议等权属证明。

According to The Announcement No. 35 of the State Taxation Administration in 2019, if non-residents intend to enjoy the tax treaty benefits, firstly they shall fill in the "Information Reporting Form for Non-resident Taxpayers Claiming Treaty Benefits" and submit it to the withholding agent; secondly, they shall keep relevant materials for their own for reference, mainly including Certificate of Fiscal Resident issued by the tax authority in the State of residence, relevant contracts, agreements and other ownership proof.