Wenzhou-Kean University

Employee Tax Considerations

Chinese Tax Issues

China (PRC) has an individual income tax system and assesses income tax on non-residents and residents of China, regardless of nationality and payroll location.

Chinese residents are individuals who are domiciled in China or foreign individuals who have resided in China for one full calendar year, whether or not they made trips outside of China during that year. Chinese domiciled individuals are taxable on worldwide income in China.

Non-China domiciled individuals who have resided in China for one full year but less than five years are subject to tax in China on income earned for services rendered in China and on income earned from services rendered outside of China but paid by the individual's China employer. Non-China domiciled individuals who have resided in China for more than five consecutive full years are subject to Chinese taxes on worldwide income. If you are approaching five years in China, you should consult with a Chinese tax advisor on your situation.

Foreign individuals residing in China for less than one year are taxed only on income derived from work performed in China (referred to as "China-source income.")

Chinese Tax Exemption under International Tax Treaties

Chinese income tax is due unless there is an applicable income tax treaty with an Educator (Teachers, Professors, and Researchers) Article with your country of residence. Please note that this Educator provision is likely the only treaty exemption that will be applicable for you as an employee of WKU.

If you do not qualify to obtain the Chinese tax exemption, you will have to pay Chinese tax. WKU will withhold the Chinese tax from your salary and remit it to the Chinese government on the monthly IIT (Individual Income Tax) filing. The Chinese income tax rates reach 25% to 45% relatively quickly so it is usually beneficial to obtain the Chinese tax exemption if it applies to you.

While living and working in China for WKU, you may not be subject to Chinese taxation if an exemption from Chinese income tax can be obtained in your specific situation under the relevant income tax treaty between China and your country of residence. The Wenzhou tax partner will provide you specific information on how to obtain the PRC tax exemption in your situation.

However, Chinese tax may be withheld until you receive approval given the time required to receive the Chinese tax exemption in order for WKU to comply with the Chinese tax regulations. A refund of Chinese taxes will be applied for if you receive the exemption. If the refund of Chinese tax is not obtained, then you can claim a foreign tax credit on your home country tax return to minimize double taxation.

The following is a list of countries that have an income tax treaty with China that contains an Educator Treaty Article and the maximum aggregate time period for exemption.

Country	Time Limit per Treaty Article	Country	Time Limit per Treaty Article
Albania	2 years	Malta	2 years
Armenia	3 years	Mauritius	2 years
Australia	2 years	Mexico	3 years
Austria	3 years	Moldova	2 years
Bangladesh	3 years	Mongolia	3 years
Barbados	2 years	Morocco	2 years
Belarus	2 years	New Zealand	2 years
Brazil	2 years	Norway	3 years
Brunei	2 years	Pakistan	2 years
Bulgaria	5 years	Papua New Guinea	2 years
Croatia	2 years	Philippines	2 years
Cuba	2 years	Poland	5 years
Cyprus	2 years	Portugal	3 years
Egypt	3 years	Qatar	3 years
Estonia	2 years	Romania	2 years
Ethiopia	3 years	Saudi Arabia	3 years
France	3 years	Seychelles	3 years
Georgia	2 years	Slovenia	2 years
Germany	2 years	South Africa	2 years
Hungary	3 years	Spain	3 years
Iceland	3 years	Sri lanka	3 years
India	3 years	Sudan	3 years
Iran	2 years	Sweden	3 years
Ireland	2 years	Syria	1 year
Israel	2 years	Tajikistan	3 years
Italy	3 years	Thailand	3 years
Jamaica	3 years	Trinidad/Tobago	2 years
Japan	3 years	Turkey	2 years
Kazakhstan	3 years	Turkmenistan	3 years

Korea	3 years	Uganda	2 years
Kuwait	5 years	Ukraine	3 years
Laos	3 years	United Arab Emirates	5 years
Latvia	2 years	United States	3 years
Lithuania	2 years	Venezuela	2 years
Luxembourg	3 years	Vietnam	2 years
Macedonia	2 years	Yugoslavia (Serbia and Montenegro)	2 years
Malaysia	3 years		

If your home country is included in the above list, you should consult with the Wenzhou tax partner in order to determine your eligibility for the Chinese tax exemption. If your country of residency is not included above, it is likely that you are required to pay Chinese tax on your WKU income.

You can view the tax treaties between China and other countries on the website of the Chinese State Administration of Taxation:
http://www.chinatax.gov.cn/n810341/n810770/index.html

Each treaty article must be read as they can have different terms. For example, Article 19 of the United States/Chinese income tax treaty that provides exemption from Chinese taxes for U.S. residents is as follows:

> An individual who is, or immediately before visiting a Contracting State was, a resident of the other Contracting State and is temporarily present in the first-mentioned Contracting State for the primary purpose of teaching, giving lectures or conducting research at a university, college, school or other accredited educational institution or scientific research institution in the first mentioned Contracting State shall be exempt from tax in the first mentioned Contracting State for a period not exceeding three years in the aggregate in respect of remuneration for such teaching, lectures or research.

It is important to note that the individual must be considered a resident of the United States. A second important consideration is that the exemption is only available for 3 years. Thus, if you have worked in China previously and obtained the exemption, you may not claim it for more than 3 years in total.

United States Tax Issues

Federal Taxes & Residency

In order to claim exemption from the Chinese income tax, you must be a tax resident of the United States. Tax residents of the United States include citizens, green card holders, and resident aliens who plan to return to the United States. There is an annual worldwide reporting obligation for all income earned on the United States tax returns.

If you are living in the United States, but are not a U.S. citizen or greencard holder, and accept the assignment to WKU, you may still be considered a U.S. tax resident under the Substantial Presence Test and "no-lapse rule." The "no-lapse rule" states that an individual who was a U.S. resident during any part of succeeding tax years and who otherwise would be considered to have terminated residency during the first year and restarted it at some time during the second year will be treated as a resident during the intervening period.

Tax Residency Certification

In order to claim the Chinese tax exemption, you must be a resident of the United States and have the IRS certify that you are a U.S. tax resident. To obtain the Residency Certification, you need to complete and file Form 8802, Application for United States Residency Certification, with the Internal Revenue Service. You can obtain the application on the IRS website (http://www.irs.gov/pub/irs-pdf/f8802.pdf). There is currently an application fee of $85 that you will need to pay.

If you are exempt from Chinese income tax, you are subject to U.S. taxes with no exemption. You cannot claim the foreign earned income exclusion on the U.S. federal tax return if you are also claiming an exemption from Chinese income tax.

Foreign Tax Credit & Foreign Earned Income Exclusion

If you are not exempt from Chinese income tax and pay Chinese taxes, you can reduce the potential double taxation by claiming either a foreign tax credit claim or a foreign earned income and housing exclusion.

The Foreign Tax Credit is claimed by filing Form 1116 with your Federal tax return. On the Form 1116 you must determine your "foreign source income," which is income earned for workdays physically spent outside the United States, and the foreign taxes paid on that foreign source income. The credit is limited to the lesser of the foreign tax paid or the U.S. tax calculated on the foreign source income. Any excess foreign tax credit is available for carryover for 10 years against future foreign source income.

The Foreign Earned Income & Housing Exclusion provided under Internal Revenue Code §911provides for reduction of double taxation for U.S. residents living overseas and subject to foreign tax. **It is important to reiterate that you cannot claim the Foreign Earned Income & Housing Exclusion if you obtain exemption from Chinese income tax as claiming the Foreign Earned Income Exclusion indicates you have a tax home in China and would invalidate the tax treaty claim.**

To qualify for the foreign earned income exclusion, you have to meet one of two qualifying tests outlined as follows.

1) Bona Fide Residence Test (BFR):
    a. Must be a true, bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire tax year
    b. May not have made a statement of non-residence to the host country's government
    c. Generally must be subject to any income tax imposed by the host country.

2) Physical Presence Test (PPT):
    a. To qualify under PPT, a U.S. citizen or resident must be physically present in a foreign country or countries for at least 330 full days during any period of 12 consecutive months.
    b. The 330 days need not be consecutive days, and the 365 day period can span two calendar years.

Once an individual has qualified as a bona fide resident for a full tax year, any part year of continuous bona fide residence will qualify under the test. An individual may move from one foreign country to another foreign country or make temporary visits to the United States without interfering with his/her status, so long as the period is not interrupted with a period of U.S. residence. The use of one test in a given year does not prohibit the use of the other test in a following year.

If a person qualifies, he or she can exclude up to $104,100 annually (tax year 2018) of foreign earned income from U.S. federal taxation. The exclusion is prorated for the number of days that you qualify during the tax year and applies retroactively once the qualifying period is met. The exclusion applies on a per taxpayer basis, thus both you and your spouse may qualify to exclude up to $104,100 on a joint tax return if you both work overseas.

A foreign housing exclusion is also available to the extent that you pay more in foreign housing costs than the U.S. floor. There are maximum exclusions based on the foreign city. More information can be found in the instructions to Form 2555.

It is possible to owe United States taxes if your earnings are over the foreign earned income exclusion and you pay a lower rate of foreign tax.

You may need to file a special extension of time to file the U.S. tax return, Form 2350, in order to qualify for the Foreign Earned Income Exclusion.

<u>State Issues</u>
States have different tax regulations, definitions of residency, and credits/exclusions. Typically, for an overseas assignment of 10 months with an intention to return to one's home state, an individual will still be considered a state resident and taxable on all income while living overseas. Even if the individual renews the employment contract and remains outside of the state for more than one year, the individual may still be

considered a resident and required to pay state tax on worldwide income. It is becoming increasingly difficult to 'break' state residency unless you have the clear intent not to return to your state and you actively relinquish all ties to your state. It is essential that you investigate the state rules in your particular situation since state rules vary widely and certain states do allow for breaking state residency if specific time and circumstance conditions are met. The burden of proof with electing to break state tax residency is on the individual.

Individuals who are on a temporary assignment that only lasts one semester should expect to continue to pay state taxes for the work performed while in China. This short-term absence from the state is not long enough to justify breaking state tax residency.

Kean University will only withhold state income taxes if you are a resident of New Jersey or Pennsylvania. If you are a resident of another state that has a state income tax, you will need to plan to accrue for the state taxes that will be due upon filing of your tax return. You should make quarterly estimated tax payments to the state to avoid any underpayment of estimated tax penalties. You can find more information on how to calculate and make quarterly estimated tax payments on each state's website.

Please refer to Attachment A for the list of states with their top income tax rate and whether they allow a foreign tax credit and/or the foreign earned income exclusion.

<u>Social Security & Medicare Tax</u>

If you are a U.S. resident while being an employee of WKU, you will be subject to U.S. social security and Medicare tax. The social taxes will be withheld from your paycheck by payroll.

<u>Foreign Bank Account Reporting</u>

The Treasury requires that U.S. persons report transactions with foreign financial institutions. FinCEN Form 114 (more commonly referred to as the " FBAR" for Foreign Bank Account Report) is used to disclose this financial account information. The FBAR form is not a tax return and therefore must be prepared by each person who holds an interest in or signature authority over a foreign financial account (Married individuals file their own FBAR).

An individual is required to file this form if at any time during the year the taxpayer had any interest in or signature authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account) that exceeded, in aggregate, $10,000.

FinCEN Form 114 must be filed electronically by April 15 following the calendar year for which the interest in a foreign account is reported. The form must be filed online at the following governmental website: http://bsaefiling.fincen.treas.gov/NoRegFBARFiler.html

For purposes of these rules, a U.S. person includes a U.S. citizen, resident, domestic partnership, domestic corporation, or domestic estate or trust.

Due Dates for Tax Return Filing

As you are likely aware, the initial due date for filing your U.S. federal and most state tax returns is normally April 15. Any tax liability that is owed should be paid by April 15 to avoid any interest charges or late payment penalties.

If you live overseas on the April 15 deadline, you have an automatic 2 month extension to file until June 15 your federal tax return. However, interest charges are assessed on any tax owed from April 15 to June 15.

You can also apply for an extension of time to file your United States tax return until October 15 by filing Form 4868 with the Internal Revenue Service. Some states accept the Federal extension form to extend the state filing deadline while other states do not. Even if you apply for an extension of time to file the tax returns, any expected tax owed should be paid by April 15 as interest and penalties accrue until the tax balance due is paid. You can pay the estimate of tax due with the extension request.

Taxation of Benefits

Compensation, or 'wages' means all remuneration for services performed by an employee for his or her employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash, unless specifically excepted.

This is the case regardless of:

1. How the wages are labeled.
2. The media and manner in which wages are paid.
3. The location from which they are paid.

Typical expatriate compensation components in addition to salary include but are not limited to:

- Housing & Utilities
- Housing subsidy
- Goods & Services allowance
- Transportation
- Relocation expense reimbursement
- Home leave (round trip airfares)
- Visa & Immunizations
- Moving Expenses

For U.S. residents, earnings are reported on Form W-2 and it is the employer's responsibility to include the above listed items as gross income to be included on your individual income tax return.

For residents of other countries, you will be responsible for reporting total taxable compensation on your income tax return.

Other Country Issues (For WKU employees whose home country is not the U.S.)

You may remain a tax resident of your country of residence and may be required to file an annual income tax return reporting the income from WKU. WKU will not report nor withhold tax for any countries other than China and the United States so it will be your personal responsibility to fulfill your tax obligations.

If you remain a tax resident of your home country and there is an income tax treaty with China that contains the Teachers, Professors, and Researchers Article, you will need to obtain a residency certification to apply for the Chinese tax exemption.

If you do not remain a tax resident of your home country, you will likely be unable to obtain the Chinese residency certification and will therefore be subject to Chinese income tax.

If you are subject to both Chinese income tax as well as tax in your country of residence, you should be able to claim a foreign tax credit or exemption on your resident country tax return to reduce potential double taxation.

Tax Cuts and Jobs Act – How the 2018 Tax Law Changes May Impact You

In December 2017, the Tax Cuts and Jobs Act was signed into law. The bill includes a number of changes to US taxation, which went into effect as of January 1, 2018.

The following are the most common changes which impact most US taxpayers:

Tax Brackets

The tax brackets have been widened, reducing the overall number of brackets. Below are the tax brackets for single and married taxpayers filing joint returns:

Single Taxpayers

Taxable income over	But not over	Is taxed at
$0	$9,525	10%
$9,525	$38,700	12%
$38,700	$82,500	22%
$82,500	$157,500	24%
$157,500	$200,000	32%
$200,000	$500,000	35%
$500,000		37%

Married taxpayers filing joint returns and surviving spouses

Taxable income over	But not over	Is taxed at
$0	$19,050	10%
$19,050	$77,400	12%
$77,400	$165,000	22%
$165,000	$315,000	24%
$315,000	$400,000	32%
$400,000	$600,000	35%
$600,000		37%

Standard Deduction and Personal Exemptions
The bill has increased the standard deduction to $12,000 (Single Filer) or $24,000 (Married Filing Jointly.) However, the personal exemption has been suspended. Under pre-Act law, for 2018, a married couple with two children would have been able to claim a total of $29,600 as deductions ($13,000 for standard deduction and $16,600 for exemptions). Under the new tax law, the same couple will have a standard deduction of $24,000.

Child Tax Credit
Beginning with calendar 2018, the child tax credit increases from $1,000 to $2,000 per child. In addition, the credit will be reduced for income over $400,000 for married taxpayers filing jointly. An additional $500 credit may be provided for other qualifying dependents. In order to claim the child tax credit on an income tax return, the child must have a Social Security Number issued prior to the due date of the income tax return.

For a detailed overview of the Tax Cuts and Job Act impacts that the various changes may have on you, please visit: https://www.gtn.com/2017-tax-cuts-and-jobs-act-overview.php

Tax Preparation

The University does not provide nor reimburse for individual tax preparation or advice. You are responsible for filing your applicable home and host income tax returns as required. Should you need tax advice, you will need to engage and pay for services on your own. You may wish to reach out to GTN who is familiar with WKU and Kean and issues impacting individuals living and working outside their home country. They will discuss terms of service and issue you an engagement letter. Typical fees for the preparation of a US Federal and State tax return range from a basic fee of $750 up to $1500, depending on the complexity of your situation.

If you are a non-U.S. tax resident, GTN can connect you with their global affiliates.

GTN Contact information in the United States is as follows:

Marsha Thomson
Manager
GTN Atlantic
+1.646.915.3300
mthomson@gtn.com

ATTACHMENT A

State	Top Tax Rate on Wages	Allows Foreign Tax Credit	Allows Foreign Earned Income Exclusion
Alabama	5.00%	No	No
Alaska	0.00	N/A	N/A
Arizona	4.54	Yes	Yes
Arkansas	7.0	Yes	Yes
California	13.3	No	No
Colorado	4.63	No	Yes
Connecticut	6.99	No	Yes
Delaware	6.6	No	Yes
District of Columbia	8.95	No	Yes
Florida	0.00	N/A	N/A
Georgia	6.0	No	Yes
Hawaii	11.0	Yes	No
Idaho	7.4	No	Yes
Illinois	5.0	No	Yes
Indiana	3.23	Yes	Yes
Iowa	8.98	Yes	No
Kansas	5.7	Yes	Yes
Kentucky	6.0	No	Yes
Louisiana	6.0	Yes	Yes
Maine	7.15	Limited	Yes
Maryland	5.75	No	No
Massachusetts	5.1	Limited	No
Michigan	4.25	Limited	Yes
Minnesota	9.85	Limited	Yes
Mississippi	5.0	No	Yes
Missouri	5.9	No	Yes
Montana	6.9	Yes	Yes
Nebraska	6.84	No	Yes
Nevada	0.00	N/A	N/A
New Hampshire	0.00	N/A	N/A
New Jersey	8.97	No	No
New Mexico	4.9	No	Yes
New York	8.82	Limited	Yes
North Carolina	5.499	Yes	Yes
North Dakota	2.9	No	Yes
Ohio	4.997	No	Yes
Oklahoma	5.0	No	Yes
Oregon	9.9	No	Yes
Pennsylvania	3.07	No	No
Rhode Island	5.99	No	Yes
South Carolina	7.0	Limited	Yes
South Dakota	0.00	N/A	N/A

Tennessee	0.00	N/A	N/A
Texas	0.00	N/A	N/A
Utah	5.0	No	Yes
Vermont	8.95	Limited	Yes
Virginia	5.75	Limited	Yes
Washington State	0.00	N/A	N/A
West Virginia	6.5	No	Yes
Wisconsin	7.65	No	Yes
Wyoming	0.0	N/A	N/A

ATTACHMENT B

Summary of Useful Resources & Forms for U.S. Residents

- www.irs.gov
- United States/China income tax treaty: http://www.irs.gov/pub/irs-trty/china.pdf
- IRS Forms
    - W-4 – Employee's Withholding Allowance Certificate
    - 8802 – Application for U.S. Residency Certification
    - 6166 – Certification of U.S. Tax Residency
    - 1116 – Foreign Tax Credit
    - 2555 – Foreign Earned Income Exclusion
    - 673 – Statement of Claiming Exemption from Withholding on Foreign Earned Income as eligible for the Exclusions Provided by Section 911
    - 2350 – Application for Extension of Time to File U.S. Income Tax Return (additional time needed to meet the bona fide residence test or the physical presence test to qualify for the foreign earned income exclusion)
    - W-2 – Wage and tax statement
    - 1040 – Federal individual income tax return
    - 4868 – Application for Automatic Extension of Time to File U.S. Individual Income Tax Return

- Report of Foreign Financial Accounts: http://bsaefiling.fincen.treas.gov/NoRegFBARFiler.html