



European Chamber  
中国欧盟商会

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### Tax exemption for non-cash benefits for foreign nationals set to expire by end of 2023

Since 1997, *Guoshuifa [1997] No. 54* has allowed employers of foreign nationals to grant non-cash benefits, like housing rental, school tuition fees, home flights and relocation costs, among others, to their foreign employees free of individual income tax (IIT), provided valid invoices are provided.

As per *Caishui [2018] No. 164* and the *Announcement of the Ministry of Finance and the State Taxation Administration [2021] No. 43*, this tax exemption treatment is set to expire on 31<sup>st</sup> December 2023, i.e., by the end of this year.

This will result in a significant cost increase for all employers of foreign nationals with regard to the above-mentioned non-cash benefits.

The simplified calculation below illustrates the potential impact for an assumed case of a foreign employee with three children (with tuition fees of CNY 250k per child), annual housing rental of CNY 300k, a personal tax rate of 45 per cent and an agreement that the employer will bear the cost.

|  | Current treatment<br>until 2023:<br>Non-cash benefits as non-taxable<br>benefit | New treatment<br>starting from 2024:<br>Non-cash benefits as taxable benefit, tax<br>liability to be borne by employer |
|--|---|--|
| Annual school fee for family with<br>three children borne by employer                  | CNY 750,000   | CNY 750,000  |
| Annual housing rental fee for a family<br>with five people borne by employer           | CNY 300,000   | CNY 300,000  |
| Total non-cash benefits borne by<br>employer   | CNY 1,050,000   | CNY 1,050,000  |
| Additional individual income tax<br>burden<br>borne by employer                        | -   | CNY 859,091<br>(= taxable benefit CNY 1,909,091 x 45%)   |
| Total taxable benefit (including non-<br>cash benefits and taxes borne by<br>employer) | -   | CNY 1,909,091 <sup>(1)</sup><br>(= gross up CNY 1,050,000 / [1-45%])   |
| <b>Total cost burden for employer per<br/>year</b>                                     | <b>CNY 1,050,000</b>  | <b>CNY 1,909,091</b>   |

<sup>(1)</sup> Note that the IIT borne by the employer is also considered taxable income for IIT purposes. Therefore, the taxable income has to be grossed up.

The European Chamber is advocating, in writing and through discussions with the relevant authorities, that the existing regime of non-taxation of non-cash benefits be retained for foreign nationals. If you have not yet done so, you may want to review to what extent your company will potentially be affected and initiate communication on this matter.