

### 7.3. Withholding Taxes for Income from China without physical presence (RC)

#### Introduction

If a foreign company is not physically located in China but still earns income from local companies, e.g. by providing services, royalties or collecting dividends, the international payments to the company are prone to Withholding Taxes.

It is the obligation of the Chinese client to deduct the tax from the total payment and just to transfer the remainder.

The general withholding tax rate is 10% but this might vary depending on the type of income and the location of the company providing that service. While this chapter describes the mechanism of Withholding taxes in general and gives some insight into the double taxation agreement between China and Germany, please refer directly to your relevant double taxation agreement or contact a tax professional to support you.

#### Tax calculation

For the total tax basis

	WHT	VAT
Interests	10%	6%
Royalties	10%	6%
Rentals	10%	0%
Property transfer	10%	0%
Services	10%	0%
Dividends	10%	0%

Figure 16: Withholding Tax Rates

If your payment is prone to VAT, additional VAT Surcharges might also apply, e.g. Education Tax, Local Education Tax and Urban Construction and Maintenance tax. See chapter 7.2 VAT, Surcharges and other

taxes (RC)" on page 72.

The calculation base for Withholding Tax is:

Amount before tax  
 - VAT  
 - Surcharges  
 = Calculation Base  
 multiplied with Tax Rate  
 = Withholding Tax

The amount that can be transferred for transactions prone to withholding tax is therefore:

Invoice Amount  
 - VAT and Surcharges  
 - Withholding Tax  
 = Transferable Amount

#### Payment procedure

Service and similar contracts have to be written in Chinese language and have to be signed and registered with the local tax-bureau within 30 days after signing. If the service contract is being changed, the local tax bureau must also get the update.

The payment should be done within 7 days after the stated payment date.

The local entity should document the calculation and their payments of withholding taxes very well for the case of inquiries by the tax authorities.

Payments above a value of 50.000 USD have to be registered again with local tax authorities – the fact that the service contract itself has been registered already has no influence on this. Splitting an amount of 50.000 USD of a by nature inseparable service to deliberately get below the threshold is forbidden.

Please also note that additional registration might be required depending on your contract, e.g. regarding Royalties for technology licenses which have to be registered with the local commercial bureau.

### Common pitfalls and tips

- Since every change of a service contract that is registered with the local tax bureau has to be re-registered after every change, it might be beneficial to sign a framework contract and specify pricing and services in Appendices.
- There seems to be a grey area regarding the splitting of payments above 50.000 USD to smaller payments. If you e.g. receive monthly service invoices with the value of 20.000 USD per month, it might be beneficial to pay the service also monthly instead of quarterly to stay below the 50.000 USD and to reduce bureaucratic overhead.

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