

# Corporate Commercial Client Alert

## China Trade & Investment

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### Greater Bay Area introduces new Individual Income Tax incentives to attract foreign talent

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In an effort to attract more foreign talent to work in the Guangdong-Hong Kong-Macau Greater Bay Area (**GBA**), the Ministry of Finance and State Administration of Taxation jointly issued a Notice on 14 March 2019, granting Individual Income Tax (**IIT**) subsidy to overseas (including Hong Kong, Macau and Taiwan) high-end talent and talent in short supply working in the GBA (**Circular 31**). Based on the spirit of Circular 31, the Department of Finance of Guangdong Province and the Guangdong Provincial Tax Service under the State Administration of Taxation issued a Notice on Implementing the IIT Preferential Policies in the GBA on 22 June 2019. The IIT preferential policies have already been implemented in Hengqin, the New District of Zhuhai and the Qianhai District of Shenzhen since 2013. Now, the scope of implementation is further extended to nine cities in the GBA, including Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing.

Shenzhen Municipal Human Resources and Social Security Bureau recently issued a Notice detailing the implementation of the IIT subsidy for high-end talent and talent in short supply working in Shenzhen. By now, the nine cities in the GBA have introduced and implemented their own criteria for determining the eligible persons entitled to the financial subsidy and the related implementation methods. Eligible persons and their employers can start to apply for the subsidies before the application deadline.

The introduction of this significant tax incentive policy will assist enterprises in GBA to attract more overseas talent, and will also affect their human resources policies when allocating foreign employees.

#### **IIT benefits**

Eligible persons working in the GBA can obtain financial subsidies from the local governments in the form of IIT rebate. The rebate is calculated as the difference between the actual IIT paid by the applicant and 15 percent of his/her taxable income and it will not be treated as taxable income in the hands of the taxpayers. The tax rate for an ordinary taxpayer is 45%, while the part above the 15% tax rate for the eligible person can be subsidised by the government. In other words, qualified persons can receive IIT subsidies of RMB 300,000 each year.

#### **Scope of subsidy**

The amount of IIT included in the scope of IIT preferential subsidies shall include those paid in accordance with the IIT Tax Law of the People's Republic of China:

- (1) Salaries and wages;
- (2) Remuneration for labour services;
- (3) Author's remuneration;
- (4) Income from royalties;
- (5) Income from business operations; and
- (6) Subsidies income obtained from selected government talent projects or programmes.

#### **Calculation methods**

The tax rate of 15 percent is the standard rate applicable to Hong Kong salaries tax (similar in nature to the IIT in mainland China). Hong Kong salaries tax payable is levied at progressive rates based on annual chargeable income, and ranges from 2 percent to 17 percent. The tax rate for IIT in mainland China ranges from 3 percent to 45 percent.

The IIT preferential policies implemented in the nine cities in the GBA actually even out the tax rate between Hong Kong salaries tax and IIT by granting taxpayers subsidy. Shenzhen Municipality clearly states that the subsidised tax amount for the year of assessment 2019 shall be calculated based on the standard tax rate method. After the first year, one can choose the standard tax rate method or progressive tax rate method for calculation. Other cities will use the standard tax rate method to estimate the amount of subsidy for 2019.

Computation Method	Amount of Tax Payable
Standard tax rate method	Tax payable = Taxable income of taxpayer x 15%
Progressive tax rate method	Tax payable is calculated using the taxpayer's chargeable income (excluding the tax exemption conditions, the non-cash benefits and expense reimbursement under Hong Kong law) according to the methods set by Hong Kong tax law.

### Eligibility for application

The eligible person applying for the IIT preferential subsidies shall be overseas (including Hong Kong, Macau and Taiwan) "high-end talent" or "talent in short supply" working in the GBA, who meets the basic conditions and additional conditions set out by the municipal governments.

#### (I) Basic conditions

The applicant must meet all basic conditions:

- (1) Hong Kong or Macau permanent residents, Hong Kong residents under the Hong Kong Immigration Admission Schemes for Talent, Professionals and Entrepreneurs, Taiwan residents, foreigners, or Chinese students or overseas Chinese who obtained long-term residence abroad;
- (2) Working and paying taxes in the nine cities within the Pearl River Delta (i.e. Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing); and
- (3) Compliance with laws and regulations, ethics and integrity relating to scientific research.

Shenzhen Municipality has explained and specified the requirements for applicants who are "Hong Kong or Macau permanent residents" and "Chinese students or overseas Chinese who obtained long-term residence abroad".

Status qualification	Cases	Qualified or not
Hong Kong or Macau permanent residents	Mainland residents who have cancelled their PRC household registration and settled in Hong Kong or Macau	Qualified
Chinese students who have obtained long-term residence abroad	Chinese students who <ul style="list-style-type: none"> <li>- study, academically visit or conduct post-doctoral research in recognised education institutions or research institutions outside China for at least 12 months;</li> <li>- obtain the right of long-term residence abroad;</li> <li>- have not voluntarily joined or acquired foreign nationality.</li> </ul>	Qualified
	Chinese students who study in foreign language schools, language training programs held by universities, various preparatory courses and other language courses, persons who visit his or her family during studying abroad, and those who study and work in foreign companies and business departments.	Not qualified
Overseas Chinese who obtained long-term residence abroad	Overseas Chinese who <ul style="list-style-type: none"> <li>- have obtained the right of permanent residence in the country of residence;</li> <li>- have resided in the country of residence for two consecutive years, with a cumulative stay not less than 18 months.</li> </ul>	Qualified
	Chinese citizens who <ul style="list-style-type: none"> <li>- have not obtained the right of permanent or long-term residence in the country of residence, but have obtained</li> </ul>	Qualified

Status qualification	Cases	Qualified or not
	<p>the legitimate right of abode for not less than five consecutive years (including five years) in the country of residence;</p> <ul style="list-style-type: none"> <li>- have stayed in the country of residence for at least 30 months within a 5-year period</li> </ul>	
	Chinese citizens studying abroad (including government-sponsored and self-funded) or working abroad for business (including dispatched labour)	Not qualified

(II) Definition of talent

The applicant should meet the criteria for foreign “high-end talent” or “talent in short supply” in his/her city. The criteria are set out by each of the municipal governments according to their local conditions. The applicant should check the relevant criteria of the city in order to get the financial subsidies. The definitions of talent in Guangzhou and Shenzhen are listed below for reference.

	Guangzhou	Shenzhen
High-End Talent	<ol style="list-style-type: none"> <li>(1) Persons selected by key national talent programme;</li> <li>(2) Persons in possession of Type A Foreigner’s Work Permit, or Confirmation Letter of High-level Foreign Talent status;</li> <li>(3) Persons for key talent programme (or the selected core members of the team) approved or put on record by the Provincial Talent Office;</li> <li>(4) Persons for key talent programme (or the selected core members of the team) approved or put on record by the Guangzhou Talent Office.</li> </ol>	<ol style="list-style-type: none"> <li>(1) Persons selected by key national, provincial, or municipal talent programme;</li> <li>(2) High-level foreign talent recognised at the national, provincial, or municipal level;</li> <li>(3) Persons in possession of “Superior Talent Card” issued by Guangdong provincial authority;</li> <li>(4) Persons who have obtained permanent residence in China, and in possession of Type A or Type B Foreigner’s Work Permit, or Confirmation Letter of High-level Foreign Talent status;</li> <li>(5) Managerial talent at or above the middle level of a company or a member of a scientific research team engaging in national, provincial or municipal-level major innovation platforms;</li> <li>(6) Members of scientific and technical research teams in higher learning institutions, research institutes or hospitals, or members of research teams that carry out key research tasks above municipal level;</li> </ol>
Talent in short supply	<p>The current directory is divided into 16 categories of urgently-needed talent, mainly focusing on the new generation of information technology, artificial intelligence, biomedicine, new energy and new materials, electronic information, equipment manufacturing and robots, e-commerce (modern logistics), finance, automobiles, air shipping, cultural creativity, engineering construction, education, medical and health care, professional services and management, etc.</p>	<ol style="list-style-type: none"> <li>(7) Middle-level and above managers, members of scientific research teams, key technical personnel, core technical or skilled personnel and outstanding young talent of headquarters companies, Fortune 500 companies and their branches, high-tech enterprises, large key enterprises, listed companies and warehousing cultivation enterprises, and high-growth technologically innovative SMEs;</li> <li>(8) Middle-level and above managers, members of scientific research teams, key technical personnel, core technical or skilled personnel and outstanding young talent employed or establishing businesses in key industries or sectors in Shenzhen, and there is no unqualified acceptance or overdue acceptance of projects supported by special funds for the development of strategic emerging industries in Shenzhen that the talent are responsible for or participate in within the recent 3 years.</li> </ol>

As the policy clearly stipulates that Hong Kong residents who have been approved under the Hong Kong Entry Scheme (talent, professionals and entrepreneurs) and Mainland residents who have settled in Hong Kong and Macau and have had their household registration cancelled can enjoy the IIT preferential subsidy, the introduction of this policy may attract mainland talent who have already obtained Hong Kong resident status to return to work in the GBA. It will also stimulate some mainland residents to re-establish their identity and apply for Hong Kong resident status in order to obtain tax benefits.

(III) Income condition

Guangzhou and Shenzhen have stipulated more detailed requirements on the amount of taxable income for some of the eligible persons. In Guangzhou, applicants who apply for subsidies as urgently-needed talent from abroad must have an annual taxable income of more than RMB 300,000. In Shenzhen, if the applicant is a foreign national, the annual taxable income must be RMB 500,000 or above.

(IV) Contract condition

An applicant who holds an office or is employed by an enterprise applying for subsidies in a city due to his/her work relationship shall, when applying for IIT preferential subsidy, provide the labour contract signed with the IIT withholding agent. The work place stipulated in the labour contract must be in the city where the subsidy is applied. If the applicant is assigned to work in the GBA by an employer outside of China, the applicant must provide an assignment contract signed between the assigning company and the receiving company. At the same time, a letter of commitment must also be provided guaranteeing the applicant's annual working days in that city to have reached 90 cumulative days.

If the applicant provides independent personal services in the city where the subsidy is applied for, he/she shall provide the labour contract signed by the applicant and the enterprise established in that city. At the same time, a letter of commitment must be provided for the applicant's annual working days in that city to reach a cumulative 90 days.

**Application procedure**

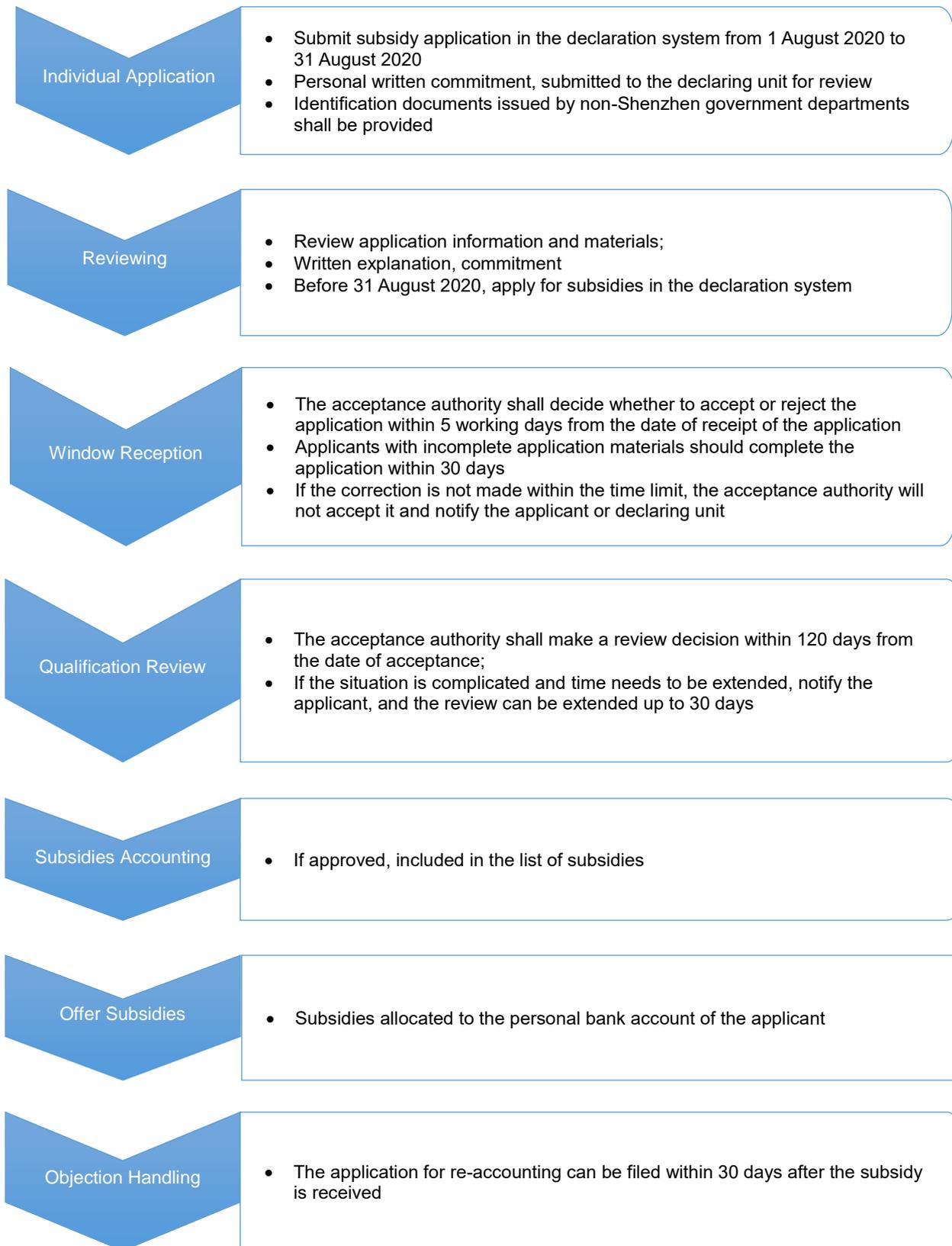
(I) Application time

The time to apply for the 2019 IIT preferential subsidy is scheduled between July and August of this year. Eligible applicants and declaring units should deal with the application as soon as possible to avoid missing the deadline.

Cities	Application Time
Guangzhou	1 July 2020 to 15 August 2020
Shenzhen	1 August 2020 to 31 August 2020
Zhuhai	1 July 2020 to 15 August 2020
Foshan	1 August 2020 to 20 August 2020
Huizhou	1 July 2020 to 15 August 2020
Dongguan	1 July 2020 to 31 August 2020
Zhongshan	1 June 2020 to 31 July 2020
Jiangmen	1 July 2020 to 15 August 2020
Zhaoqing	1 July 2020 to 15 August 2020

(II) Application process

The annual application guidelines of Shenzhen Municipality are issued by the Municipal Human Resources & Social Security Bureau, the Municipal Science, Technology & Innovation Commission (Municipal Bureau of Foreign Affairs) and the Municipal Finance Bureau. Each district is responsible for the acceptance and review of application and distribution of subsidies. The following represents the specific process of applying for IIT preferential subsidy.



## The impact of the new preferential IIT policy on companies and individuals

According to the specific requirements of the nine cities in the GBA, employer should actively cooperate with eligible employees to declare, and strictly examine and verify the declaration materials, so as to prevent punishment or more severe legal punishment caused by the falsification of the declaration materials.

As the application deadline is approaching, employees need to prepare in advance the relevant materials required for approval to identify personal status qualifications. Employers should ensure that the labour contracts with employees conform to the examination and approval requirements, and may at the same time also consider formulating relevant internal human resources policies and practical guidelines to ensure that employees can receive IIT subsidies in a timely manner.

In addition, the introduction of the preferential IIT subsidy policy will also have a profound impact on cross-border enterprises' adjustment of human resources policies in China. Enterprises can plan to set up corporate organisations in the preferential tax cities within the GBA, and sign relevant labour contracts with employees to reduce employees' tax burden, thereby attracting more talent from abroad. More internal human resources policies and practical treatment can be further improved after the policies are implemented.

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