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## ***Taiwan Tax Update***

*May 2017*

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### ***Taxation of overtime wages as a result of implementation of five-day workweek***

In accordance with the Labor Standards Act (“LSA”) and relevant income tax regulations, when employees work on flexible rest days, fixed rest days, and annual leave days (including national holidays), overtime wages paid can be exempt from income tax assessment if certain criteria are met. Overtime wages are further categorized as follows:

1. If overtime incurred is not included in monthly overtime threshold calculation, such overtime is exempt from income tax assessment.
2. If overtime is included in monthly overtime threshold calculation, and total overtime does not exceed 46 hours per month, such overtime is exempt from income tax assessment. However, wages related to overtime exceeding the 46 hours per month threshold is taxable.

Article 36 of the LSA has been amended to include “flexible rest days”, requiring employers that have employees work on flexible rest days, irrespective of whether the time exceeds 8 hours, to include total overtime incurred in monthly overtime threshold calculation. However, if work is needed due to natural disasters or accidents, overtime incurred does not need to be included in monthly overtime threshold calculation.

According to the press release from National Taxation Bureau of Taipei, Ministry of Finance (“NTA”), after implementation of the five-day workweek, the employer shall differentiate between overtime worked on weekdays, flexible rest days, fixed rest days, annual leave days, national holidays, natural disasters or accidents, etc. and whether total number of hours worked exceed 8 hours to determine if overtime incurred should be included in monthly overtime threshold calculation.

Overtime that should be included in monthly overtime threshold calculation (Notes 1 & 3)					
Category	National holidays and annual leave days (Articles 37 & 38)	Fixed rest days (Article 36)		Flexible rest days (Article 36)	
		Natural disasters or accidents	Others (excluding natural disasters or accidents)	Natural disasters or accidents	Others (excluding natural disasters or accidents)
8 hours or less	Not included (Tax exempt)	Not included (Tax exempt)	Not included (Tax exempt)	Not included (Tax exempt)	Included (Note 2) (C)
Portion over 8 hours	Included (A)	Not included (Tax exempt)	Included (B)	Not included (Tax exempt)	Included (Note 2) (D)

**Note 1:** Payment of overtime should be in accordance with the LSA in order for the overtime to be tax exempt.

**Note 2:** Overtime of 4 hours or less is treated as 4 hours; overtime of 4 to 8 hours is treated as 8 hours; overtime of 8 to 12 hours is treated as 12 hours.

**Note 3:**  $[A+B+C+D + \text{overtime incurred during weekdays}] - 46 = E$ , if  $E > 0$ , then E is taxable income, with remaining portion exempt from tax.

**Example:**

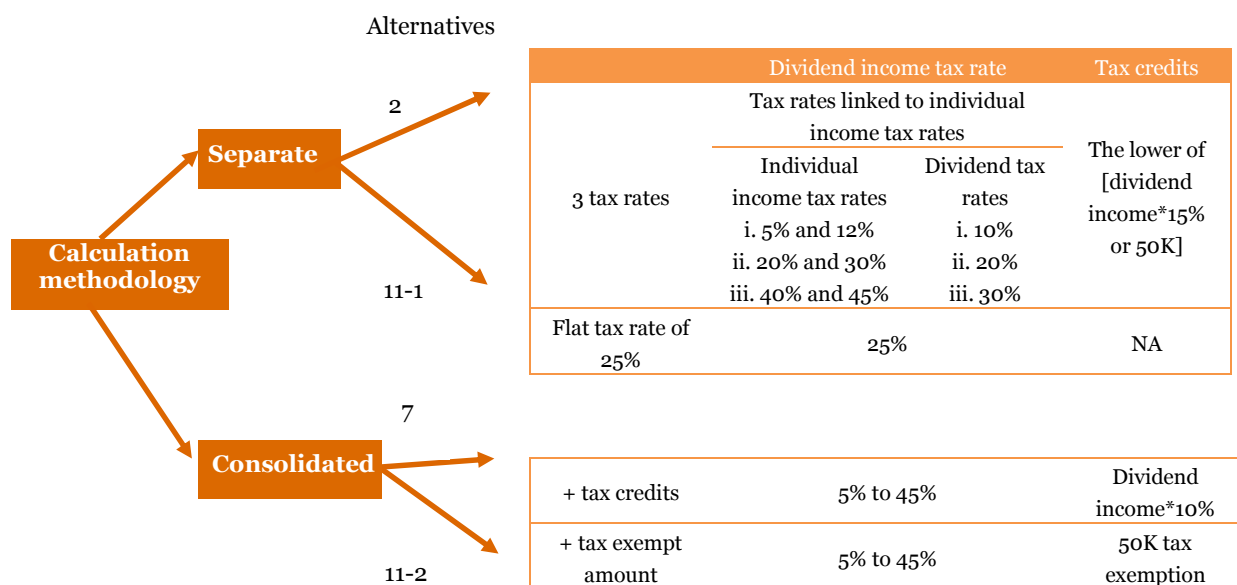
Total overtime worked during weekdays by Employee A was 20 hours in March 2017, and he further worked 12 hours on a flexible rest day and fixed rest day respectively. Employee A incurred overtime of 36 hours (i.e. 20 + fixed rest day (12-8) + flexible rest day 12) in March, which should be included in monthly overtime threshold calculation. As the total overtime incurred does not exceed the monthly threshold of 46 hours, the 36 hours of overtime are totally exempt from income tax assessment. The original 8 hours incurred on fixed rest day is also tax exempt.

**Potential tax reform for dividend income**

In order to establish a new taxation system for dividend income, the Ministry of Finance (“MOF”) engaged Chunghua Association of Public Finance (“CAPF”) to review the adequacy of the current dividend income taxation system and imputation tax system, and provide suggested amendments. The final CAPF report was released on

the MOF website on May 2. Currently, the MOF is requesting for comments from the general public. A draft proposal is expected to be issued by the MOF in the near future. According to the press release from the MOF, the report suggested to abolish the imputation tax system.

The MOF is soliciting opinions and comments from the Finance Committee of the Legislative Yuan, specifically on three alternatives regarding taxation of dividend income on resident individuals (Alternatives 2, 7, and 11).



The tax reform may also include the following:

1. Tax credits under the imputation tax system is no longer available (i.e. ICA accounts will no longer be maintained and used).
2. Surtax on undistributed current year profits will continue to be levied.
3. Corporate income tax rate to increase by 1% to 2%.
4. Individual income tax rates to be reduced.
5. Standard deduction and salary deduction amount to be increased, in order for middle to low income earners to also benefit from this tax reform.

**PwC Observation:**

The impact of each alternative dividend income taxation scheme will differ. Examples are as follows:

Assuming A has dividend income of NTD 1.8 million and non-dividend income of NTD 3 million, with taxable income of NTD 4.8 million being taxed at progressive tax rate of 40%:

- If alternative 7 is adopted, where dividend and non-dividend income are calculated together, NTD 4.8 million will be taxed at 40% tax rate and NTD 180K can be credited (i.e.  $\text{NTD } 1.8 \text{ million} \times 10\% = \text{NTD } 180\text{K}$ );
- If Alternative 11-1 is adopted, where dividend and non-dividend income are calculated separately, NTD 3 million of non-dividend income will be taxed at 30% tax rate, while dividend income of NTD 1.8 million will be taxed at flat rate of 25%. Total income will be filed together.

The various alternatives are still being discussed internally within the MOF, and details of other related reform have not yet been released. Therefore, both individual and corporate taxpayers should pay close attention to relevant developments.

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