

Taiwan Tax Updates

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資誠



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Enterprise manipulating investment loss for tax evasion purpose was requested to make up tax shortfall

Pursuant to the newsletter issued by the Ministry of Finance (“MOF”) on December 10, 2012, an enterprise was caught by the tax office for manipulating investment loss to avoid 10% surtax on undistributed retained earnings. The background is as follows: Company A disposed of its shares in Company B, which resulted in significant investment gain, and subsequently purchased Company C using an unreasonably high price to create investment loss to offset the said investment gain. The tax office thoroughly investigated the adequacy of the aforementioned transactions and cash flow; as a result, investment loss of more than NTD 100 million was disallowed and additional surtax of more than NTD 10 million was subsequently levied.

Government subsidy received for purchasing fixed asset may be recognized as “other income” over estimated useful life of fixed asset

Pursuant to the newsletter issued by the MOF on December 22, 2012, in general, government subsidy endowed to the enterprise should be recognized in full as “other income” and taxable in the period it was received. However, if the purpose of the government subsidy endowed was to purchase or construct depreciable fixed asset, or for the addition or expansion of existing equipment, such government subsidy can be recognized as “other income” using straight-line method over the estimated useful life of the said asset, and taxed accordingly. This treatment conforms to the matching principle where costs and revenues are recognized concurrently in the same period.

Newly established department stores or shopping malls can also apply for counter sales treatment to obtain purchase related government uniform invoices after sales have been concluded (Tax Ruling Tai-Tsai-Shuei No. 10100217580)

In the past, shopping malls or department stores which met the following conditions could apply for approval to obtain purchase related government uniform invoices (“GUIs”) after sales have been concluded (also known as “counter sales treatment”).

The conditions are:

1. Its most recent corporate income tax return has been certified by a CPA, or a blue return was filed;
2. No VAT shortfalls or penalties remain unpaid.

The MOF further promulgated tax ruling no. 10100217580 on December 26, 2012 specifying that newly established shopping malls or department stores can also apply for the counter sales treatment if (1) it has appointed a CPA to provide income tax certification service, and (2) it has a sound accounting and internal control/audit system which is monitored regularly. Even if the first certified corporate income tax return has not yet been filed, the counter sales treatment can still be adopted if the relevant approvals are obtained from the tax collection authority.

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The materials contained in this publication were assembled in January 2013 and were based on the law enforceable and information available as of December 31, 2012. In the event of any discrepancy between the English information contained in this newsletter and the original Chinese version of the laws or rulings announced by the government or any difference in the interpretation of the two versions, the Chinese version announced by the government shall prevail.

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Appendix

- 日期文號：財政部 101.12.26 台財稅字第 10100217580 號

摘 要：專櫃營業人申請依照與供應商約定按次取具進貨統一發票列帳，其委託會計師查核簽證申報營所稅之適用規定。

主 旨：一、採專櫃銷售貨物之營業人對於專櫃貨物供應商提供陳列銷售之貨物，依本部 98 年 3 月 19 日台財稅字第 09804521880 號令第 1 點規定申請依照與該供應商約定每次結帳（算）之次日取具進貨統一發票列帳之案件，其適用「委託會計師查核簽證申報營利事業所得稅」之條件，係指符合下列情形之一：

- (一) 最近一年度之營利事業所得稅業經會計師查核簽證，並如期申報者。
- (二) 會計制度健全，內部稽核與內部控制訂有管理或管制措施規範，且其當年度營利事業所得稅雖未屆結算申報期間，但已委託會計師辦理查核簽證申報者。

二、經依前點（二）核准之營業人，稽徵機關應予列管；如當年度之營利事業所得稅結算申報未經會計師查核簽證申報者，應廢止其適用前開本部 98 年令釋規定之資格。