

Taiwan Tax Updates

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Ministry of Finance responds to diversion in definition of Taiwan sourced income

The Supreme Administrative Court's judgment in May 2010 diverts from Point 10 of the Guideline for Determination of Taiwan Sourced Income (the "Guideline") in its definition of what constitutes Taiwan sourced income for services rendered. The Guideline states that fees paid for services rendered offshore without any assistance and participation from Taiwan individuals or enterprises is non-Taiwan sourced income. However, the Supreme Administrative Court is of the view that service fees should be treated as Taiwan sourced income if the service needs to be ultimately consumed in Taiwan in order to complete its entire business operation, even though the service is rendered offshore.

Based on an internal notice issued by the Ministry of Finance ("MOF") on May 16, 2013, the criteria for determination of Taiwan-sourced income have already been clearly defined in the "Guideline". The tax authority may respect and take into account the resolution made by the Supreme Administrative Court independently within its jurisdiction. However, when reviewing individual cases, the tax authority should determine whether service fees paid constitute Taiwan sourced income based on the case facts and the "Guideline".

Ministry of Finance proposes various tax incentives for promoting Free Economic Pilot Zone

Pursuant to a newsletter issued by the MOF in December 2013, the establishment of the Free Economic Pilot Zone ("FEPZ") is currently an important policy of the government aimed at enhancing economic development. Therefore, in order to facilitate increased free flow of goods, personnel, and capital within the FEPZ, and to promote the FEPZ, the following tax incentives are proposed for the near term:

1. Sales of goods to onshore customers constituting less than 10% of total sales to offshore and onshore customers by overseas owner of goods are exempt from income tax, where only storage and simple processing activities are carried out in the FEPZ.



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2. Offshore income of foreign professionals does not need to be included in the Alternative Minimum Tax calculations. In addition, only 50% of their onshore salaries are subject to Taiwan income tax in the first 3 years.
3. Dividends or earnings repatriated by overseas affiliates of Taiwan based companies for actual investment in the FEPZ are exempt from income tax.

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