Taiwan Tax Updates

資誠

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Additional tax payable resulting from reduction in assessed loss carryfowards shall not be deemed as tax evasion

In accordance with a newsletter issued by the tax authority on July 13, 2014, Article 39 of the Income Tax Act ("ITA") provides for profit-seeking entities organized as corporations (including branches) to carry forward their assessed tax losses for ten consecutive years if the following criteria are met:

- Maintenance of sound accounting books and records;
- Timely filing of annual tax returns;
- Use "blue" tax return or have its ordinary corporate tax return certified by a CPA during the years losses are incurred, and the years loss carryfowards are used to offset taxable income.

However, if a corporation's reported tax losses are reduced after assessment by the tax authority, in accordance with Tax Ruling No. 800689244 promulgated on May 15, 1991, the additional tax payable due to reduction in assessed loss carryfowards of the corporation shall not be deemed as under-reporting of income. As such, any additional tax payable shall be paid by the corporation together with applicable interest due in accordance with Article 100-2 of the ITA; whereas, tax penalties due to under-reporting income in accordance with Article 110 of the ITA will not be levied.

Penalties will be levied for incorrect issuance of duplicate GUIs instead of triplicate GUIs

Based on newsletters issued by the tax authority, there have been several recent cases of incorrect issuances of Government Uniform Invoices ("GUI").

VAT registered corporate entities should issue GUIs for sales of goods or services in accordance with relevant regulations. Whether a triplicate GUI or a duplicate GUI is to be issued will depend on whether the purchaser is a VAT registered entity. If the type of GUI is issued incorrectly, in accordance with Tax Ruling No. 781142042 promulgated on March 16, 1989, penalties may be levied based on Article 48 of the Business Tax Act.

An example is provided as follows:

Scenario	Penalty
Company A sells goods to a "small-scale business entity"*. A duplicate GUI is issued by Company A instead of a triplicate GUI. **Note: "Small-scale business entities" are also subject to business tax assessment, where business tax is levied on 1% of total sales (i.e. full VAT credit system is not used, where only 10% of total input VAT can be deducted therefrom)*	Penalties are levied based on Article 48 of the Business Tax Act: If required information is not shown on the GUI, or information shown is incorrect, a penalty of up to 1% of the sales amount shown on the GUI shall be levied. The penalty amount shall not be less than NT$1,500 or higher than NT$15,000.

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PwC Contacts:

Name	Phone Number	E-mail Address
Corporate Income Tax / Other Tax		
Tony Lin	886-2-2729- 5980	Tony.Lin@tw.pwc.com
Jason C Hsu	886-2-2729- 5212	Jason.C.Hsu@tw.pwc.com
Pei-Hsuan Lee	886-2-2729-5207	Pei-hsuan.Lee@tw.pwc.com
Rosamund Fan	886-2-2729-6077	Rosamund.Fan@tw.pwc.com
Sam Hung	886-2-2729-5008	Sam.Hung@tw.pwc.com
Indirect Tax		
Lily Hsu	886-2-2729-6207	Lily.Hsu@tw.pwc.com
International Tax Services		
Wendy Chiu	886-2-2729-6019	Wendy.Chiu@tw.pwc.com
Elaine Hsieh	886-2-2729-5809	Elaine.Hsieh@tw.pwc.com
Patrick Tuan	886-2-2729-5995	Patrick.Tuan@tw.pwc.com
Albert Chou	886-2-2729-6626	Albert.Chou@tw.pwc.com
Transfer Pricing		
Lily Hsu	886-2-2729-6207	Lily.Hsu@tw.pwc.com
Elliot Liao	886-2-2729-6217	Elliot.Liao@tw.pwc.com
Wendy Chiu	886-2-2729-6019	Wendy.Chiu@tw.pwc.com
Jack Hwang	886-2-2729-6061	Jack.Hwang@tw.pwc.com
Financial Services		
Richard Watanabe	886-2-2729-6704	Richard.Watanabe@tw.pwc.com
Jason C Hsu	886-2-2729- 5212	Jason.C.Hsu@tw.pwc.com
M&A Tax		
Wilson Wang	886-2-2729-6666 ext 35101	Wilson.Wang@tw.pwc.com
Elaine Hsieh	886-2-2729-5809	Elaine.Hsieh@tw.pwc.com
International Assignment Services		
Rosamund Fan	886-2-2729-6077	Rosamund.Fan@tw.pwc.com
General Accounting and Relevant Out-Sourcing Services		
Lucy Ho	886-2-2729-5218	Lucy.Ho@tw.pwc.com
		www.pwc.com/tw