

# Taiwan Tax Updates

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資誠



*October 2014*

## **Amendments to the Enforcement Rules of the Income Tax Act**

Amendments to the Enforcement Rules of the Income Tax Act were announced by the Ministry of Finance on September 30, 2014. Among the various amendments made, one amendment was made to reflect the changes in the Income Tax Act, where the 10% surtax creditable against dividend withholding tax for non-resident corporate and individual shareholders will be reduced by one-half starting from January 1, 2015 onwards.

## **Transfer pricing audit has commenced from October 1, 2014**

The National Taxation Bureau of the Northern Area has been conducting 2013 transfer pricing audits since October 1, 2014. Companies who have any one of the circumstances set forth in Tax Ruling No. 09404540920 promulgated on August 2, 2005 are the priority targets selected for audit, such as gross profit rate, net profit rate or ROS being lower than that filed by other companies in the same industry.

## **Penalties will be levied for failure to issue GUIs when conducting barter transactions**

In accordance with a newsletter issued by the tax authority on October 6, 2014, the Kaohsiung High Administrative Court recently ruled that in all barter transactions where exchange of goods and services involve non-monetary consideration, two transactions are completed, i.e. goods or services exchanged-out consists of a sales transaction, while goods or services exchanged-in consists of a purchase transaction. Therefore, valid Government Uniform Invoices (“GUI”) must be issued by both parties involved, in order to substantiate both the sales and purchase transaction.

Failure to issue/obtain GUIs will result in penalties imposed for tax evasion or non-compliance under either Article 51 of the Business Tax Act or Article 44 of the Tax Collection Act, whichever is higher.



An example is provided as follows:

| Scenario  | Penalty   |
|---|---|
| <p>Company B subcontracted road construction work to Company A. Both parties further agreed to credit the scrapped paving material with a value of NT\$4.6 million against the contract price receivable by Company A.</p> <p>However, Company A did not issue a GUI based on the total contract price, leading to a shortfall in the sales amount of NT\$4.6 million. Meanwhile, Company A failed to obtain a GUI with the amount of NT\$4.6 million issued by Company B for the purchase of scrapped paving material.</p> | <ol style="list-style-type: none"><li data-bbox="858 450 1423 517">1. VAT shortfall of NT\$230,000 should be made up.</li><li data-bbox="858 539 1423 685">2. <b>Under Article 51 of the Business Tax Act:</b> penalty is 0.5 times the amount of VAT shortfall (NT\$230,000 * 0.5 = NT\$115,000).</li></ol> <p data-bbox="900 707 1423 846"><b>Under Article 44 of the Tax Collection Act:</b> penalty is 5% of the sales/purchase amount under-reported (NT\$ 4.6 million * 5% = NT\$230,000).</p> <p data-bbox="900 875 1423 976">As whichever clause results in a higher penalty should prevail, the penalty for non-compliance is NT\$230,000.</p> |

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## Appendix

日期文號： 中華民國103年9月30日台財稅字第10304618420號令

摘 要： 修正「所得稅法施行細則」部分條文

主 旨：

第六十一條之一 本法第七十三條之二規定之抵繳稅額，營利事業自中華民國九十九年一月一日分配盈餘起，應依下列公式計算：

抵繳稅額＝股利或盈餘分配日營利事業已實際繳納之各年度未分配盈餘加徵百分之十營利事業所得稅之餘額×（分配屬已加徵百分之十營利事業所得稅之股利淨額或盈餘淨額／股利或盈餘分配日已加徵百分之十營利事業所得稅之累積未分配盈餘）×分配日本法第七十三條之二所定股東之持股比例抵繳稅額上限＝本法第七十三條之二所定股東獲配屬已加徵百分之十營利事業所得稅之股利淨額或盈餘淨額×百分之十自中華民國一百零四年一月一日起，本法第七十三條之二規定之抵繳稅額為依前項公式計算金額之半數。

第一項所稱已實際繳納之各年度未分配盈餘加徵百分之十營利事業所得稅之餘額，指截至分配日前，營利事業已實際繳納之各年度未分配盈餘加徵百分之十營利事業所得稅累積稅額，減除各年度經稽徵機關調查核定減少之未分配盈餘加徵稅額及各年度已分配予全體股東之未分配盈餘加徵稅額後之餘額。

前項所定已分配予全體股東之未分配盈餘加徵稅額，以依第一項計算之抵繳稅額，除以分配日本法第七十三條之二所定股東之持股比例計算之；如分配日本法第七十三條之二所定股東之持股比例為零者，以一為準，按第一項抵繳稅額公式計算已分配予全體股東之未分配盈餘加徵稅額。

營利事業辦理九十八年度營利事業所得稅結算申報時，應依規定格式填報截至中華民國九十八年十二月三十一日止已實際繳納之各年度未分配盈餘加徵百分之十營利事業所得稅之餘額；未依規定填報者，稽徵機關得依查得資料核定之。



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第一項所定股利或盈餘分配日營利事業已實際繳納之各年度未分配盈餘加徵百分之十營利事業所得稅之餘額，大於同日股東可扣抵稅額帳戶餘額者，應以該帳戶餘額為限。

第一項所定股利淨額或盈餘淨額，以營利事業自八十七年度或以後年度盈餘所分配部分為限；所定累積未分配盈餘，以營利事業自八十七年度或以後年度之盈餘累積未分配部分為限。