

Taiwan Tax Updates

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資誠



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Penalties assessed for under-reporting of interest income may affect 10% surtax on undistributed retained earnings calculation

Reminder from recent tax audit cases: if taxable income of a company has been under reported, the said company will not only face penalties stipulated under Article 110 of the Income Tax Act (“ITA”), but may also face penalties on tax shortfall resulting from adjustment of 10% surtax on undistributed retained earnings.

PwC Observation

The abovementioned surtax adjustment considers timing difference tax adjustments for calculating 10% surtax on undistributed retained earnings, i.e. interest income which should be accrued in 2014 was booked in 2015 instead, resulting in under-reporting of interest income for 2014. Where the tax office assessed corporate tax shortfall for 2014, corresponding shortfall for 10% surtax may also be assessed.

Although such approach is in line with Tax Ruling No. 09600364650 issued by the Ministry of Finance on October 2, 2007, it conflicts Article 66-9 of the ITA, which adopts financial after tax income calculated according to the Commercial Accounting Act as the starting point for calculating 10% surtax. Additionally, where the current year financial statement of the company was duly audited and certified by a licensed certified public accountant (“CPA”), undistributed retained earnings shall be based on the after-tax amount audited by such licensed CPA.

Despite the controversy that tax adjustments should not affect financial after-tax income calculated according to the Commercial Accounting Act or CPA audited financial statements, we are aware that this is the practice currently adopted by the tax authority.

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