

## Taiwan Tax Update

December 2017

### Safe Harbour Rules for Country-by-Country-Report and Master File have been announced

On November 13, 2017, the Ministry of Finance announced amendments to the Rules Governing Assessment of Profit-seeking Enterprise Income Tax on Non-Arm's Length Transfer Pricing. Subsequently, on December 13, 2017, the safe harbour thresholds for the Master File and the Country-by-Country-Report ("CbCR") were also announced. A 3-tiered approach, including the existing Local File, and newly introduced Master File and CbCR, is applicable starting from fiscal year 2017 onward.

A multi-national enterprise ("MNE") in Taiwan is not required to file a Master File and/or CbCR to the Taiwan tax authority if the MNE meets the safe harbour thresholds summarised below.

	CbCR	MF	Local File
Threshold	MNE Group's consolidated group revenues and non-operating income is less than <b>TWD 27 billion</b> (approximately equal to the OECD's threshold of EUR 750 million) <b>in the preceding year.</b> (Note 1)	Each individual Taiwan local entity's total net operating revenues and non-operating income is less than <b>NTD 3 billion</b> , or over NTD 3 billion, but with total absolute value of cross border controlled transaction(s) amount less than <b>NTD 1.5 billion in the current year.</b> (Note 1)	Same as current rules
Due date	<b>December 31, 2018</b>	Should be in place when filing corporate income tax return, and submitted on <b>December 31, 2018.</b>	Should be in place when filing corporate income tax return and submitted upon request.

	<b>CbCR</b>	<b>MF</b>	<b>Local File</b>
<b>Filing entity</b>	<p><b>Ultimate Parent Entity located in Taiwan:</b> Taiwan local entity</p> <p><b>Ultimate Parent Entity located outside of Taiwan:</b> Depends on whether the reporting entity is located in a tax jurisdiction which has signed an information exchange agreement with Taiwan. If yes, then CbCR will be obtained via information exchange.</p>	Taiwan local entity (Note 2)	Taiwan local entity

Note 1: Even if a MNE in Taiwan is exempted from filing Master File and/or CbCR in accordance with prescribed laws in Taiwan, the Taiwan tax authority can still request for Master File and/or CbCR for tax assessment purpose if other Group entities located outside of Taiwan is required to submit Master File and/or CbCR.

Note 2: If there are more than two entities in Taiwan, one of the entities can be appointed for Master File filing purpose.

### ***Taiwan and Czech Republic signs comprehensive tax treaty***

The Ministry of Finance announced that Taiwan and the Czech Republic have signed a comprehensive agreement on avoidance of double taxation with respect to taxes on income (“TW-CZ DTA”). The effective date will be determined after both countries have completed necessary domestic procedures. The salient points of the TW-CZ DTA are summarized below:

<b>Scope</b>	User of treaty	Resident individuals and enterprises as defined under domestic tax laws.
	Applicable tax	Income tax
<b>Primary tax benefits</b>	Business profit	“Business profits” of an enterprise of a territory shall be taxable only in that territory unless the enterprise carries on business in the other territory through a “permanent establishment” situated therein.
	Passive income	1. Dividends: 10% reduced withholding rate 2. Interest: 10% reduced withholding rate; specific types of interest are exempt from income tax. 3. Royalties: 5% reduced withholding rate for payment received as consideration for the use of, or the right to use, any industrial, commercial, or scientific equipment; 10% reduced withholding rate for circumstances other than the above.
	Capital gain	Generally, capital gain from transfer of shares are exempt from income tax.
<b>Dispute resolution</b>	Mutual agreement	If a resident of a territory encounters any issues in applying the tax treaty, has a dispute in regards to transfer pricing corresponding adjustment mechanism, or has other double taxation issues, a bilateral advance pricing agreement application on related party transactions may be submitted to the authority in such territory within a specific time frame to mitigate audit risk and increase the certainty of taxation.

### ***Input/ Output VAT documentation for joint ventures***

In accordance with Tax Ruling 10604652310 promulgated on November 16, 2017, where a joint venture is formed by two or more parties engaged in purchase or sale of goods or services, the necessary documentation and required compliance are summarized below:

		Method 1	Method 2
<b>Tax compliance methodology</b>		<ul style="list-style-type: none"> <li>· Each business entity separately obtains documents bearing input VAT.</li> <li>· Each business entity separately issues Government Uniform Invoice (“GUI”) bearing output VAT.</li> </ul>	The primary VAT entity obtains and issues relevant documents on behalf of other business entities (requires agreement by all business entities).
<b>Method of selection/change</b>		<b>Method of selection:</b> unilateral selection (not required to obtain approval from local tax authority) <b>Method of change:</b> approval required from local tax authority	
<b>Treatment of common transaction involving all business entities in the joint venture</b>	<b>Purchase</b>	Document bearing input VAT obtained in accordance with allocation percentage	<ul style="list-style-type: none"> <li>· Document bearing input VAT should be addressed to the primary VAT entity.</li> <li>· Primary VAT entity issues GUIs to other business entities in accordance with respective allocation percentage at the end of each month.</li> </ul>
	<b>Sale</b>	GUI issued in accordance with allocation percentage	<ul style="list-style-type: none"> <li>· Primary VAT entity issues GUI to purchaser (Note).</li> <li>· Other business entities issue GUIs to primary VAT entity in accordance with respective allocation percentage at the end of each month (Note).</li> </ul>

Note: The subject matter of the joint venture and allocation percentage, etc. should be stated on the GUIs.

The aforementioned allocation percentage refers to the percentage of investment of each business entity in the joint venture. The allocation percentage for input and output VAT purpose should be consistent. Moreover, Tax Ruling 09800573920

promulgated on February 23, 2010 has been abolished.

The difference between the new Tax Ruling 10604652310 and the old Tax Ruling 09800573920 are:

- The new Tax Ruling stipulates that the joint venture only needs to obtain approval from the local tax authority if there is a change in the selected method. To adopt Method 2, where the primary VAT entity represents the entire joint venture, it merely requires agreement from all business entities. It is no longer necessary for the primary VAT entity to obtain approval from the local tax authority before selecting such method.
- The notes section of GUIs only needs to list the subject matter of the joint venture and the allocation percentage.

**PwC Contacts:**

**Corporate Income Tax and Indirect Tax Services**

Jason Hsu (Leader)  
+886-2-2729-5212  
jason.c.hsu@tw.pwc.com

Li-Li Chou  
+886-2-2729-6566  
li-li.chou@tw.pwc.com

Rosamund Fan  
+886-2-2729-6077  
rosamund.fan@tw.pwc.com

Howard Kuo  
+886-2-2729-5226  
howard.kuo@tw.pwc.com

Sam Hung  
+886-2-2729-5008  
sam.hung@tw.pwc.com

Jack Hwang  
+886-2-2729-6061  
jack.hwang@tw.pwc.com

Pei-Hsuan Lee  
+886-2-2729-5207  
pei-hsuan.lee@tw.pwc.com

Alvis Lin  
+886-2-2729-5028  
alvis.lin@tw.pwc.com

Tony Lin  
+886-2-2729-5980  
tony.lin@tw.pwc.com

Ying-Hsun Liu  
+886-2-2729-6258  
ying-hsun.liu@tw.pwc.com

Wilson Wang  
+886-2-2729-6666 ext 35101  
wilson.wang@tw.pwc.com

**International Tax Services**

Elaine Hsieh  
+886-2-2729-5809  
elaine.hsieh@tw.pwc.com

Wendy Chiu (US Tax)  
+886-2-2729-6019  
wendy.chiu@tw.pwc.com

Peter Su (ASEAN Tax)  
+886-2-2729-5369  
peter.y.su@tw.pwc.com

Paulson Tseng (EU Tax)  
+886-2-2729-5907  
paulson.tseng@tw.pwc.com

Patrick Tuan (China Tax)  
+886-2-2729-5995  
patrick.tuan@tw.pwc.com

**Transfer Pricing & BEPS Services**

Lily Hsu  
+886-2-2729-6207  
lily.hsu@tw.pwc.com

Elliot Liao  
+886-2-2729-6217  
elliott.liao@tw.pwc.com

**Financial Services Tax**

Richard Watanabe  
+886-2-2729-6704  
richard.watanabe@tw.pwc.com

Jessie Chen  
+886-2-2729-5360  
jessie.chen@tw.pwc.com

**Mergers & Acquisitions Tax**

Elaine Hsieh  
+886-2-2729-5809  
elaine.hsieh@tw.pwc.com

**International Assignment Services**

Li-Li Chou  
+886-2-2729-6566  
li-li.chou@tw.pwc.com

Alvis Lin  
+886-2-2729-5028  
alvis.lin@tw.pwc.com

**Corporate Secretarial Services**

Jack Hwang  
+886-2-2729-6061  
jack.hwang@tw.pwc.com

Tony Lin  
+886-2-2729-5980  
tony.lin@tw.pwc.com

**Outsourcing and Accounting Services**

Rosamund Fan  
+886-2-2729-6077  
rosamund.fan@tw.pwc.com

Sam Hung  
+886-2-2729-5008  
sam.hung@tw.pwc.com

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