
Taiwan Tax Update

May 2018

New Regulation Governing Income Tax Assessment of Foreign Profit-Seeking Enterprises Engaging in Importation, Storage, Processing, Sales, and Delivery of Goods within Taiwan

To create a tax environment which encourages the utilization of Taiwan port or airport facilities, and logistics or processing services in Taiwan by foreign enterprises, the Ministry of Finance released Tax Ruling 10600664060 on April 17, 2018, to offer a simplified formula for calculation of Taiwan-sourced income. The application of the ruling is not limited to specific industries or special economic zones, with salient points as follows:

I. Calculation of Taiwan-sourced income

Foreign profit-seeking enterprise		
Onshore Activities	Calculation of Taiwan-sourced income	
<ul style="list-style-type: none">• Importation• Storage• Processing• Sales• Delivery	Actual profit basis	Actual income × Actual onshore profit contribution ratio
	Deemed profit basis	Actual revenues × Industry standard profit rate × Actual onshore profit contribution ratio
		Actual revenues × Industry standard profit rate × Deemed onshore profit contribution ratio 【3% (or 3%+X%)】

II. Onshore activities performed by foreign-profit seeking enterprises in Taiwan and corresponding onshore profit contribution ratio

Activity type			Onshore activities performed by foreign-profit seeking enterprises in Taiwan					Onshore profit contribution ratio
	Self-manufactured offshore	Procured offshore	Importation	Storage	Processing	Sales	Delivery	
1	V		V	V		Completion of sales while goods are in Taiwan (Regardless where sales function are performed)	Onshore and offshore customers	3% (Logistics)
3		V	V	V		Execution and completion of sales offshore		
2	V		V	V	V	Completion of sales while goods are in Taiwan (Regardless where sales function are performed)	Onshore and offshore customers	3%+X% (Logistics + Processing, capped at 100%)
4		V	V	V	V	Execution and completion of sales offshore		

III. Calculation of onshore processing profit contribution ratio

Onshore processing profit contribution ratio (X%) =

Related onshore processing costs and expenses (A)

Related onshore costs and expenses (B) + Related offshore costs and expenses (C)

Formula		Function	Nature of costs and expenses
Numerator	A	Procurement	Salary of procurement personnel and SG&A incurred in relation to procurement, excluding cost of raw material or semi-finished goods.
		Processing	Onshore processing expense.
		Sales	Salary of sales personnel and SG&A incurred in relation to sales of goods.

Formula		Function	Nature of costs and expenses
Denominator	B	Related onshore costs and expenses	<ul style="list-style-type: none"> • Cost and expenses related to importation, storage, and processing. • Cost of raw materials and semi-finished goods purchased onshore. • Cost and expenses related to delivery of goods.
	C	Related offshore costs and expenses	<ul style="list-style-type: none"> • Duty paid value of imported goods which are self-manufactured or procured offshore. • Duty paid value of imported raw materials and semi-finished goods used in onshore processing.

PwC observation

- I. The ruling offers an explicit and simplified method to calculate Taiwan-sourced income of foreign profit-seeking enterprises engaging in importation, storage, processing, sales, and delivery of goods to onshore and offshore customers within Taiwan.

In comparison to previous tax rulings, this ruling reduces the tax burden of foreign enterprises whose onshore activities contribute insignificantly to total profits. The salient differences between this ruling and previous tax rulings are summarized as follows:

1. Reduce onshore profit contribution ratio from 12% to 3% for foreign profit-seeking enterprises engaging in Type 1 and 3 activities (with only logistics function) in Taiwan.
 2. Remove cost of raw material or semi-finished goods procured onshore from the numerator when calculating onshore profit contribution ratio of logistics plus processing functions.
- II. Where goods are not self-manufactured but are instead procured offshore and subsequently imported into Taiwan, and where sales function are executed and completed onshore, the simplified formula does not apply, since onshore activities contribute significantly to total profits.
 - III. For past income tax returns where foreign profit-seeking enterprises have applied 12% onshore profit contribution ratio (based on previous rulings), and where taxes have not yet been assessed, such enterprises may evaluate the feasibility of revising the onshore profit contribution ratio to 3% using Article 1-1 of the Tax Collection Act, recalculate a lower taxable income, and apply for a tax refund.

IV. Please note that if sales are completed while goods are in Taiwan, regardless whether goods are sold to onshore or offshore customers, the foreign profit-seeking enterprise would be deemed to have Taiwan-sourced income, and shall be subject to corporate income tax assessment. However, foreign profit seeking enterprises can still pursue the following income tax exemption alternatives:

- Provide supporting documents which prove sales have been completed before goods are imported into Taiwan, and imported goods are only parked in Taiwan for transshipment.
- Apply for preferential tax treatment provided under Article 29 of the Act for the Establishment and Management of Free Trade Zones and Article 35 of the International Airport Park Development Act.
- Apply for business profit tax exemption using applicable tax treaties.

Employee share based compensation distributed between November 24, 2017 to December 31, 2017 post amendment to Statute for Industrial Innovation on November 22, 2017 shall be reported to competent authority before May 15, 2018

1. Employee share based compensation eligible for tax deferral which is distributed prior to amendment of Statute for Industrial Innovation on November 22, 2017 shall be reported to the competent authority and tax authority before January 31 of the following year after such compensation is distributed.

For employee share based compensation eligible for tax deferral which is distributed between November 24, 2017 to December 31, 2017 (post amendment to Statute for Industrial Innovation), the reporting deadline is May 15, 2018, as prescribed by the Enforcement Rules of the Statute for Industrial Innovation.

However, if employee share based compensation is given during the aforesaid period, but consists of stock option which has not been exercised, or equity compensation which has not yet vested, the reporting deadline can be deferred until January 31 of the following year after such option is exercised, or after the restricted shares vest.

2. In addition, for contribution of intellectual property rights in exchange for shares which are eligible for tax deferral under the Statute for Industrial Innovation amended on November 22, 2017, an application shall be filed with the competent authority within 2 months of share delivery date or before May 15, 2018.

3. The Regulations Governing Income Tax Deferral of Share Based Compensation under the Statute for Industrial Innovation was issued on April 27, 2018, and the Industrial Development Bureau, Ministry of Economic Affairs has updated relevant application forms for income tax deferral mentioned in paragraphs 1 and 2 above. Kindly be reminded to report and file within the prescribed deadline.

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