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## ***Taiwan Tax Update***

***November 2018***

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### ***Deadline for submission of Country-by-Country Report and Master File***

Multinational enterprises with Taiwan affiliates who are required to submit Country-by-Country Report (“CbCR”) and Master File for fiscal year 2017, as reflected in 2017 corporate income tax returns filed, are required to submit the documents within one year after fiscal year end. This is a reminder that the submission due date for companies adopting calendar year end is December 31, 2018.

### ***Draft amendments to Act for the Establishment and Management of Free Trade Zones and International Airport Park Development Act***

The Administrative Yuan submitted draft amendments to Article 29 of the Act for the Establishment and Management of Free Trade Zones and Article 35 of the International Airport Park Development Act to the Legislative Yuan for approval on October 11, 2018. The draft amendment introduces changes to eligible parties who can enjoy tax exempt treatment, eligible business scope of such parties, eligible scope of tax exempt income, and applicability of tax exempt treatment during the transitional period. The salient points of the draft amendment are highlighted below:

Item	Current Regulations	Draft Amendments
Tax Exempted Parties	Foreign enterprise or its branch in Taiwan	Enterprises (both domestic and foreign) that solely perform preparatory or ancillary activities within Taiwan (Note 1)
Tax Exempted Business Scope	Storage or simple processing	Procurement, importation, storage or delivery
Tax Exempted Income	Export sales: exempted Domestic sales less than 10% of	Exempted for both domestic and export sales

	total sales: exempted (Note 2)	
Effective Period	If the draft amendments are passed by the Legislative Yuan, previously approved tax exemption applications will remain effective up to December 31, 2021	Applicable to enterprises filing 2019 corporate income tax returns and onwards

Note 1: To determine whether the business scope of an entity is solely preparatory or ancillary in nature, one should examine the overall business activities of the entity to analyze whether it constitutes a necessary and integral portion of the overall business activities. For example, where an enterprise's core business is to manufacture goods, and the enterprise is solely engaged in storage, display or delivery of goods in Taiwan, and does not execute primary activities (such as contract signing, production or manufacturing, or research and development activities) in Taiwan, the activities carried out by the enterprise in Taiwan is considered preparatory or ancillary in nature. On the contrary, if an enterprise's core business is logistic service, and it performs storage or delivery activities in Taiwan, the activities carried out by such logistics service provider is not considered preparatory or ancillary in nature.

Note 2: Calculation of 10% tax exempt income limit = total annual domestic sales of goods / (total annual domestic sales + export sales of goods)

***Ministry of Finance announced amendments to Regulations Governing Allocation of Costs, Expenses or Losses Associated with Tax Exempt Income of Profit-seeking Enterprise ("the Regulation") on November 7, 2018***

The salient points of the amendment are summarized below:

Contents of the Amendment	Effective Period
In response to new real property consolidated taxation regime effective from January 1, 2016:  The Regulation is applicable to cases where income tax exemption continues to apply on sale of land or land improvement under the new real property consolidated	From 2018 onwards

Contents of the Amendment	Effective Period
taxation regime.	
<p>Adoption of spirit of Tax Ruling No. 09800577170 issued by the Ministry of Finance on April 13, 2010:</p> <ol style="list-style-type: none"><li>1. For enterprises who are mainly engaged in purchase and resale of real estate, securities, or future, any fund used to buy land, and interest expense directly attributable to the above activities are excluded from the allocation calculation formula</li><li>2. Where “self-owned fund” under “total usable fund” of the denominator in the interest expense allocation formula shows a negative figure, it should be counted as zero.</li><li>3. For fund associated with shareholders’ loan, apart from fund designated for land purchase purposes, regardless whether such loan is interest bearing, the borrowed fund should count towards “borrowed fund” under “total usable fund”</li></ol>	From 2018 onwards
<p>Adoption of spirit of Tax Ruling No. 10604628600 issued by the Ministry of Finance on February 7, 2018:</p> <p>For sale of marketable securities involving bond, companies may elect to calculate allocable interest expense using “absolute value of net gain/loss from tax exempt bond transaction”.</p>	Applicable to corporate income tax returns that have not yet been assessed

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The materials contained in this publication were assembled in November 2018 based on the law enforceable and information available as of November 15, 2018. In the event of any discrepancy between the English information contained in this newsletter and the original Chinese version of the laws or rulings announced by the government, or any difference in the interpretation of the two versions, the Chinese version announced by the government shall prevail.

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