

Taiwan Tax Update

April 2021

Income Tax

Legislative Yuan passed third reading of Joint Property Tax System 2.0 which is effective from July 1, 2021 onwards

The Legislative Yuan passed third reading of amendments to the Income Tax Act on April 9, 2021 covering Joint Property Tax System 2.0, which is effective from July 1, 2021 onwards, whereby building and land acquired post January 1, 2016 and sold after July 1, 2021 will be subject to tax rate stipulated under Joint Property Tax System 2.0. The salient points of the amendment are as follows:

1. Scope of taxation: Sale of post January 1, 2016 acquired land, building, pre-sold building and underlying land, or majority (over 50% shareholding) shares of directly or indirectly held foreign or domestic profit-seeking enterprises where more than 50% of value of shares or capital contribution is comprised of building and land within Taiwan, but excluding sale of listed/OTC or emerging stock.
2. Tax rate:

Applicable Parties	Holding period		Joint Property Tax System 1.0	Joint Property Tax System 2.0
	Tax rate			
Domestic Individual	45%	Within 1 year	Within 1 year	Within 2 years
	35%	1 ~ 2 years	1 ~ 2 years	2 ~ 5 years
	20%	2 ~ 10 years	2 ~ 10 years	5 ~ 10 years
	15%	Over 10 years	Over 10 years	Over 10 years
Foreign Individual	45%	Within 1 year	Within 1 year	Within 2 years
	35%	Over 1 year	Over 1 year	Over 2 years
Domestic Profit-Seeking Enterprise	45%	XXX	XXX	Within 2 years
	35%			2 ~ 5 years
	20%	Regardless of holding period	Regardless of holding period	Over 5 years
Foreign Profit-Seeking Enterprise	45%	Within 1 year	Within 1 year	Within 2 years
	35%	Over 1 year	Over 1 year	Over 2 years

3. Method of taxation:

	Individual		Profit-Seeking Enterprise		
	Domestic	Foreign (Non-tax resident)	Domestic	Foreign (has fixed place of business in Taiwan)	Foreign (without fixed place of business in Taiwan)
Method of taxation	Separate Taxation (tax declaration within 30 days following next day after title transfer)		Separate tax calculation but consolidated filing		Separate Taxation (appoint tax agent to perform tax declaration)
Offset gain and loss	Loss from property transaction can be carried forward for 3 years following transaction date to offset gain from property transaction (under joint property tax system)		Loss from property transaction (under joint property tax system) can not be offset against taxable income of profit seeking enterprise and shall be separately calculated. <ol style="list-style-type: none"> 1. Loss from property transaction shall be used to offset gain from property transaction subject to the same tax rate in the current year. 2. Remaining loss from property transaction after deduction of item 1 can be used to offset gain from property transaction subject to different tax rates in the current year. 3. Residual amount can be carried forward for 10 years from the year following the year of transaction to offset gain from property transaction (under joint property tax system). 		

4. Parties exempt from heavy taxation during short holding period (subject to 20% tax rate):

- (i) Gain from first-time transfer of building and land after construction by developers shall be calculated using Joint Property Tax System 2.0 and included as taxable income of profit-seeking enterprise.
- (ii) Individual and profit-seeking enterprise who sell building and land held for less than 5 years due to involuntary factors.
- (iii) Individual and profit-seeking enterprise who use self-owned land for joint construction with developer and sell reallocated building and land obtained after construction which is held for less than 5 years.
- (iv) Individual and profit-seeking enterprise who provide land, legitimate building, other rights or funding to participate in urban renewal and reconstruction of unsafe and old buildings, and which involves first-time transfer of reacquired building and land held for less than 5 years.

5. Amendment to limit for tax deductible expense

- (i) Necessary expenses are generally tax deductible on actual incurred basis with proper supporting documents. Where profit-seeking enterprise is unable to provide accounting books and evidential documents associated with building and land transaction gain or loss, the tax collection agent shall assess income based on available information; if there is no information available, expenses will be calculated as 3% of transaction price, and limited to NTD 300,000.
- (ii) Tax deductible land value increment is limited to the difference between assessed present value of land in the year of transaction less assessed present value of land in the previous transfer, i.e. any amount in excess is not tax deductible. However, land value incremental tax levied on excess land value increment can be recognized as an expense.

Ministry of Finance announced income query service for tax year 2020 shall start from April 28, 2021 to May 31, 2021

The salient points of tax year 2020 income query service for domestic profit-seeking enterprise and professional practitioner firm are as follows:

1. Scope of income query service: all types of withholding and non-withholding statements filed for income earned (including government subsidies, but excluding tax refund from customs and insurance claims)
2. Website eligible for query: <https://www.etax.nat.gov.tw>
3. Profit-seeking enterprises/institutions adopting non-calendar year end shall also download and retain income query information using above website within the stipulated deadline.

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