

Taiwan Tax Update

August 2022

Income Tax

Ministry of Finance announced draft amendments to Income Tax Act

The draft amendments to the Income Tax Act will be approved by the Executive Yuan, and then sent to the Legislative Yuan for review and approval. Thereafter, it is expected to come into force from January 1, 2023 onwards. Salient points of the draft amendments are summarized as follows:

Item	Description
Changes to tax withholder	<p>The existing withholding tax (“WHT”) system identifies responsible persons of profit-seeking enterprises and section heads of institutions or organizations (i.e. natural persons) as WHT agents, who are responsible for applying WHT from payments subject to WHT, paying taxes withheld to the national treasury, and issuing and filing WHT statements within the prescribed deadline. WHT agents will be subject to penalties if he or she fails to comply with relevant regulations.</p> <p>The draft amendment shifts WHT obligations from natural persons to legal persons, i.e. profit-seeking enterprises, institutions, and organizations, etc.</p>
Deadline for payment of WHT and filing of WHT statements on cross-border payments are deferred in the event of a 3-day consecutive holiday	For payments to non-resident individuals or profit-seeking enterprises without a fixed place of business in Taiwan that are subject to WHT, the tax withholder should make payments to the national treasury for taxes withheld within 10 days from the date of withholding, and issue and file WHT statements within the same 10-day deadline.

	<p>The draft amendment states that if the 10-day period coincides with a public holiday of three or more consecutive days, the original 10-day deadline can be extended for 5 days.</p>
<p>Spouses may be designated as taxpayers</p>	<p>The existing individual income tax system allows married couples to file as a household unit, and to designate either one as the taxpayer. In practice, there are cases where the taxpayer appointed is the relatively indigent person, or the person who hides or transfers assets or property to his/her spouse to avoid tax enforcement.</p> <p>The draft amendment stipulates that if the whereabouts of a taxpayer is unknown, or a taxpayer has not paid taxes in full as they come due, and does not have assets or property eligible for tax enforcement, or relevant assets or property are insufficient to settle taxes due, the tax authority may designate his/her spouse as the taxpayer. However, the above shall not apply if the spouse is found to be an indigent person.</p>
<p>Dividends payable in arrears for 6 months are deemed as paid</p>	<p>Existing regulation is already laid out in Article 82 of the Enforcement Rules of the Income Tax Act; whereas, the draft amendment to the Income Tax Act seeks to elevate its legal hierarchy to conform to the legal principles of taxation.</p>

Profit-seeking enterprises impacted by COVID-19 can be exempt from 2022 provisional income tax filing

On August 10, 2022, the Ministry of Finance announced that profit-seeking enterprises impacted by COVID-19 meeting the below criteria can be exempt from 2022 provisional income tax filing during the period Special Act for COVID-19 remains effective (up till June 30, 2023):

1. Profit-seeking enterprises that are required to submit an application letter along with supporting documents within the deadline for provisional income tax filing to obtain non-filing status:
 - 1) Have received relief from competent authorities under the Special Act for COVID-19; or
 - 2) Have experienced significant decrease in revenues within a short period of time as a result of COVID-19 (e.g. beginning January 2020, if the monthly average revenues of any two consecutive months or revenues of any month is at least 15% less than the average revenues of “corresponding period of any year after 2018” or “from July 2019 to December 2019”, or other conditions indicating significant decrease in revenues).
2. Profit-seeking enterprises exempt from submitting application laid out in item 1 above:
 - 1) Already exempt from 2020 and 2021 provisional income tax filing due to COVID-19; or
 - 2) Obtained approval from the tax authority to i) defer or pay taxes due in installments (for CIT, VAT, Commodity Tax, Tobacco and Alcohol Tax, Specifically Selected Goods and Services Tax); or ii) obtain refund from excessive VAT paid, due to COVID-19.

PwC Analysis:

Profit-seeking enterprises that demonstrate a decrease in revenues, but which do not meet the criteria for being impacted by COVID-19, and thus are ineligible for exemption from 2022 provisional income tax filing, may consider calculating provisional income

tax based on taxable income for the first 6 months of the current tax year. Where CPA certification of income tax return is required for calculating provisional income tax based on taxable income for the first 6 months of the current tax year, relevant non-audit assurance procedures, e.g. physical inventory count, should be conducted as soon as possible. Additionally, exemption from 2022 provisional income tax filing is also applicable for profit-seeking enterprises who do not adopt a calendar year end, if the deadline for 2022 provisional income tax filing is before June 30, 2023.

PwC Taiwan Contacts

Corporate Income Tax and Indirect Tax Services

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

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

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

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

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

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

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

Yen-Tan Tsai
+886-2-2729-6997
yen-tan.tsai@pwc.com

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

Luke Huang
+886-2-2729-5955
luke.huang@pwc.com

Audrey Chen
+886-2-2729-5696
audrey.chen@pwc.com

International Tax Services

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

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

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

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

Shing-Ping Liu (ASEAN Tax)
+886-2-2729-6661
shing-ping.liu@pwc.com

CY Hsu (China Tax)
+886-2-2729-5968
cy.hsu@pwc.com

Tim Pao (India Tax)
+886-2-2729-3928
tim.pao@pwc.com

Transfer Pricing & BEPS Services

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

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

Hsiang-Chin Fan
+886-2-2729-6669
hsiang-chin.fan@pwc.com

Financial Services

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

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

Mergers & Acquisitions Tax

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

Shing-Ping Liu
+886-2-2729-6661
shing-ping.liu@pwc.com

Family Business & Private Wealth Services

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

Alvin Cheng
+886-2-2729-5098
alvin.cheng@pwc.com

Tax Litigation Services

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

Corporate Secretarial Services

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

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