Taiwan Tax Update

December 2022

Income Tax

Ministry of Finance ("MOF") announced updated Reference List of CFC Low-Tax Countries or Jurisdictions

The MOF announced updated Reference List of CFC Low-Tax Countries or Jurisdictions ("Reference List") on 13 December 2022. Salient points are summarized as follows:

1. There are 29 countries or jurisdictions whose statutory corporate income tax ("CIT") rate for profit-seeking enterprises does not exceed 14%, which includes commonly seen countries or jurisdictions such as BVI, Cayman Islands, Bermuda, and Macau, etc., that are still on the Reference List.

2. There are 50 countries or jurisdictions which adopt territorial basis of taxation, i.e. does not tax offshore income, or only tax offshore income when it is remitted back, including the newly added France. Other commonly seen countries or jurisdictions, including Hong Kong, Malaysia, Singapore and Panama, are still on the Reference List.

3. Samoa, Ireland, and Mauritius are countries which provide special tax rates or tax regimes to specific jurisdictions or types of businesses. Whether these countries or jurisdictions are defined as a low-tax country or jurisdiction shall be determined on a case-by-case basis taking underlying facts into consideration.

PwC Analysis:

1. The Reference List announced by the MOF should be used as reference only. Whether countries or jurisdictions not shown on the Reference List are deemed CFCs shall be assessed based on actual facts of each case. Where a Taiwan profit-seeking enterprise invests in other countries, and the particular jurisdiction or the particular type of business is eligible for special tax rates or tax regimes, e.g. the statutory CIT rate is 20% (exceeds

the 14% threshold) in Country A, but a special tax rate of 10% is granted to enterprises located in special economic zones, then Country A is considered to provide special tax rates or tax regimes to specific jurisdictions or types of businesses. As such, whether CFC regime applies to affiliates of Taiwan enterprise located in Country A shall be determined on a case-by-case basis taking underlying facts into consideration.

2. In principle, the French income tax regime adopts territorial basis of taxation, i.e. only onshore income is taxable, and thus France has been included in the Reference List. However, whether relevant investment income should be reported as CFC income should still depend on whether the safe harbor threshold is met and the underlying investment structure used. If a Taiwan enterprise indirectly invests in an investee company located in a low-tax country or jurisdiction through a CFC, the earnings of the investee company shall still be reported as current-year investment income of the CFC, and can not be exempted from CFC income calculation, even if the investee company carries out substantial operating activities, i.e. relevant investment income shall be taxed in advance.

pwc 資誠

Tax Incentives

Executive Yuan passed draft amendments to Article 10-2 of Statute for Industrial Innovation

To solidify critical position in the global supply chain, strengthen resilience of industry value chain, and enhance competitive advantage of Taiwan industry as a whole, the Executive Yuan has passed draft amendments to Article 10-2 of Statute for Industrial Innovation on 17 November 2022, which has been sent to the Legislative Yuan for review and approval. Salient points of the draft amendment are summarized as follows:

Applicable entities	Taiwan registered companies that undergo technological innovation onshore and assume critical position in global supply chain.		
Criteria	**R&D expenditure reaches a certain threshold.** **R&D density (i.e. ratio of R&D expenditure to net revenues) reaches a certain threshold.** Relevant sub-regulations will be separately announced.	**Effective tax rate ("ETR") reaches a certain threshold** ● not less than 12% for 2023; ● in principle, not less than 15% for 2024, but can obtain approval from Executive Yuan to adjust threshold as 12%; and ● not less than 15% from 2025 to 2029.	Has not committed serious violation of environmental protection, labor, or food safety and sanitation laws in the past three years.

Incentives	**Investment tax credit ("ITC") for forward-looking innovative R&D expenditure** ● Meet aforesaid criteria; ● Credit up to 25% of forward-looking innovative R&D expenditure against CIT payable of current year; ● ITC capped at 30% of CIT payable.	**ITC for purchase of equipment used in advanced manufacturing process** ● Meet aforesaid criteria and equipment purchase amount reaches a certain threshold; ● Credit up to 5% of equipment expenditure (no ceiling imposed) against CIT payable of current year; ● ITC capped at 30% of CIT payable.
	Unless otherwise provided by law, usage of the aforesaid two ITCs, combined with ITCs obtained from other sources (e.g. R&D ITCs), shall not exceed 50% of CIT payable.	
Period	Effective from 1 January 2023 to 31 December 2029	

PwC Analysis:

1. The draft amendment is applicable to Taiwan registered companies that undergo technological innovation onshore and assume critical position in global supply chain, which is not limited to any specific industry. It is anticipated that in addition to IC semiconductor companies, those engaged in electric vehicle, 5G, and low earth orbit satellite, etc. may also utilize ITCs prescribed under the draft amendment. Companies eligible for aforesaid ITCs are not limited to Taiwan-owned companies. Taiwan subsidiaries of foreign companies engaged in innovative R&D and advanced manufacturing process in Taiwan are also eligible for aforesaid ITCs.

2. The ETR is calculated as actual CIT paid by a Taiwan company in a given year as a percentage of annual taxable income for the same year. That is, foreign tax credit, China tax credit and ITCs shall be deducted from Taiwan CIT payable.

3. To avoid excessive usage of tax incentives, where a company has claimed aforesaid innovative R&D ITCs in the current year, all R&D expenditures are no longer eligible for other tax incentives, e.g. R&D ITCs under Article 10 of Statute for Industrial Innovation, or double deduction of R&D expenditure under Article 12-1 of Statute for Industrial Innovation, etc. In addition, expenditure associated with equipment purchase can either claim ITCs under Article 10-2 of Statute for Industrial Innovation, or ITCs for smart machinery under Article 10-1 of Statute for Industrial Innovation.

4. Aforesaid two ITCs are both capped at 30% of CIT payable for the current year, which can not be carried forward to subsequent years. In addition, the aforesaid two ITCs added together, or combined with ITCs obtained from other sources (e.g. R&D ITCs) shall not exceed 50% of CIT payable in the current year, with the exception of companies utilizing last-year ITCs that do not have a ceiling as provided by law.

Ministry of Defense and Ministry of Finance enacted Regulation Granting Additional Tax Deduction for Paid Leave Given to Employees Recalled as Reservists ("Regulation")

Ministry of Defense ("MOD") enacted Act Governing Preferential Treatment for Recalled Reservists ("Act") which took effect in May 2022. For example, where a profit-seeking enterprise grants paid leave to employees recalled as reservists, 150% of aforesaid salary expense can be deducted from current year taxable income (applicable for annual income tax return and dissolution/ liquidation income tax return).

The MOF and MOD further announced the Regulation, which defines period of official leave taken, employee, scope of paid salary, scope of taxable income and deduction method, application deadline, application procedures, required supporting documents and other relevant matters.

The Act is effective from 1 January 2022 onwards, where tax incentive for additional salary expense deduction is valid till 31 December 2029. Within six months from 31 December 2029, the Executive Yuan may extend the tax incentive period based on actual circumstances for a maximum of 8 years.

PwC Reminder:

Aforesaid 150% deduction for salary expense can be retroactively applied from 1 January 2022, where a profit-seeking enterprise has given paid leave to its employees recalled as reservists before the Regulation was announced. Relevant supporting documents can be prepared to claim said deduction when filing FY2022 CIT return. However, where said salary expense has been used to apply for tax incentives granted by other regulations (e.g. R&D ITCs), duplicate usage of said salary expense to avail of 150% deduction under this Regulation is prohibited.

pwc 資誠

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
elliot.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