

# Taiwan Tax Update

February 2023

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## Income Tax Act

Donations made by individuals or profit-seeking enterprises for Turkey earthquake are allowed as itemized deduction for individual tax purpose, or deductible expense for corporate tax purpose

To provide international aid to those suffering from Turkey earthquake, the Ministry of Health and Welfare (“MOHW”) has set up a dedicated “Turkey earthquake” account on February 7, 2023 to collect donations from the general public. Such donations are treated as donations to the government, where taxpayers can claim itemized deduction for individual tax purpose, or deductible expense for corporate tax purpose in full, without considering any tax limit.

## PwC Reminder

If donations intended to provide international aid to those suffering from Turkey earthquake are made through other domestic institutions or charitable organizations, the amount of donation that can be claimed as itemized deduction or deductible expense in FY2023 is limited to 20% of gross consolidated income for individual persons, or 10% of taxable income for profit-seeking enterprises, respectively. The donation receipt issued by the domestic institution or charitable organization collecting the donation should be retained as supporting document for claiming itemized deduction or deductible expense.

CFC set up in low-tax country or jurisdiction to obtain transportation operating license, which holds vessels and hires foreign crew to carry out international transportation business, is not considered to have “substantive operation”

The Ministry of Finance supplemented Q&A on the CFC regime by addressing whether CFC set up to obtain transportation operating license and which holds vessels qualify as having “substantive operation”:

1. A CFC is considered to have “substantive operation” if it has a fixed place of business in its place of incorporation, hires employees to carry out business locally, **and** its passive income is less than 10% of its total annual net revenues and non-operating income. Pursuant to the Income Tax Act, a fixed place of business is defined as a fixed place for operation of business, including administrative offices, branch or sub-branch offices, business offices, factories, workshops, warehouses, mining fields, and construction sites. Therefore, a vessel is not a fixed place of business based on definition provided in the Income Tax Act.
2. CFCs hiring employees to carry out business aboard the vessels do not qualify as having “substantive operation”, as such business is carried out outside its place of incorporation, and therefore the aforementioned CFC should not be exempt from the CFC regime.

### **PwC Reminder**

In addition to carrying out business aboard vessels which does not qualify as “substantive operation”, if a CFC sets up an overseas branch office with substantive operation, the CFC still would not qualify for exemption from the CFC regime, since the “substantive operation” criteria as mandated by the Ministry of Finance requires the CFC to have a fixed place of business in its place of incorporation. Individuals or companies undergoing restructuring should take the aforementioned regulations into consideration when determining the tax impact of associated restructuring.

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