

# Taiwan Tax Update

April 2024

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## Value Added Tax

Executive Yuan passed draft amendments to BTA which requires e-GUIs to be uploaded to e-GUI Platform for retention and verification purposes within prescribed time limit

The Executive Yuan passed draft amendments to the Business Tax Act (“BTA”), which will be sent to the Legislative Yuan for review and approval. Salient points of the draft amendments to the BTA are summarized as follows:

1. Business entities shall upload electronic government uniform invoices (“e-GUIs”) issued, along with relevant necessary information, to the Ministry of Finance (“MOF”) e-GUI Integrated Service Platform (“e-GUI platform”) for retention and verification purposes within the prescribed time limit. The MOF will be authorized to formulate regulations stipulating the time limit for uploading e-GUIs to the e-GUI platform, scope of e-GUIs issued and relevant necessary information to be uploaded, etc.
2. Business entities failing to comply with the prescribed time limit or failing to upload e-GUIs and relevant necessary information for retention and verification purposes will be subject to penalty ranging from NT\$1,500 to NT\$15,000. Failure to rectify such non-compliance within the deadline set by the tax authorities properly will result in aforesaid penalty being continuously imposed for each act of violation.

### PwC Analysis:

The existing requirement for time limit associated with uploading e-GUIs are stipulated under Regulations Governing the Use of Uniform Invoices, with details summarized as follows: ① For B2B transactions, e-GUIs shall be uploaded within 7 days of issuance;

② For B2C transactions, e-GUIs shall be uploaded within 48 hours of issuance. Currently, Regulations Governing the Use of Uniform Invoices does not contain penalty clause for failure to upload e-GUIs within the prescribed time limit, or failure to upload e-GUIs entirely.

The draft amendment to the BTA elevates the requirement for uploading e-GUIs to e-GUI platform from administrative regulation level to statutory law level, and introduces penalties to ensure underlying buyers accurately claim input VAT credits.

**MOF released tax ruling clarifying penalty applicable to business entities failing to issue GUIs or issuing GUIs with understated sales amount, where non-compliance is detected before statutory filing deadline of corresponding VAT return**

Where a business entity fails to issue GUIs or issues GUIs with understated sales amount, and such non-compliance is discovered by the tax authorities before the statutory filing deadline of corresponding VAT return, said business entity is in breach of Article 52 of the BTA and Article 44 of the Tax Collection Act simultaneously. As different penalty clauses create an overlap of legal provisions, and the BTA is considered a special law (vs Tax Collection Act being general law), the penalty clause stipulated under Article 52 of the BTA shall prevail.

### **PwC Analysis:**

In accordance with Article 52 of the BTA, business entities that fail to issue GUIs or issue GUIs with understated sales amount should make up the tax shortfall and be subject to a penalty of less than 5 times the amount of tax evaded. Whereas, pursuant to Article 44 of the Tax Collection Act, business entities that fail to provide GUIs to others are subject to a penalty of less than 5% of the total amount for which GUIs should have been issued (penalty capped at NT\$1 million for both scenario).

Where a business entity commits the aforesaid violation, i.e. failing to fulfil its obligation to issue GUIs and deliver the same to buyers, such act is in breach of two administrative laws simultaneously. Due to overlap of legal provisions, based on the doctrine of “special law shall prevail over general law”, the penalty clause stipulated

under Article 52 of the BTA shall take precedence. The “no duplicate penalty for a single act” principle under Article 24 of the Administrative Penalty Act (i.e. in case of multiple violations of administrative laws by a single act, the one which yields the heavier penalty will be imposed) does not apply in this case<sup>1</sup>.

## **Income Tax**

MOF announced that profit-seeking enterprises, institutions, and organizations may access income query service for tax year 2023 from April 26, 2024 to May 31, 2024 using digital certificates

Salient points of tax year 2023 income query service 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. Income query website: <https://www.etax.nat.gov.tw/etwmain/tax-info/112-year-income-data-area>
3. Profit-seeking enterprises/institutions/organizations adopting non-calendar year end should also download and retain income query results using above website within the stipulated period.

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<sup>1</sup> Tax Ruling 781148237 released by the MOF on July 24, 1989, adopting the aforesaid principle of imposing whichever penalty clause yields the heavier penalty, is hereby abolished.

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