

Taiwan Tax Update

May 2024

Income Tax

Draft amendment to the Income Tax Act which aims to optimize the withholding tax system was sent to Legislative Yuan for review

On May 2, 2024, the Executive Yuan passed draft amendment to the Income Tax Act, with salient points as follows:

Item	Explanation
Amend definition of WHT agent	The existing withholding tax (“WHT”) system defines a natural person, such as the responsible person of a profit-seeking enterprise, or the department head of an organization or institution, as the WHT agent. The draft amendment proposes to change the WHT agent from a natural person to the juristic person that makes the payment, such as a profit-seeking enterprise, organization, institution, school, etc., to ensure rights and responsibilities are aligned. Further, the definition of WHT agent is expanded to include administrative corporations (e.g., National Performing Arts Center) and trustees.
Add clause defining WHT payment, and WHT statement/return	When paying foreign individuals or profit-seeking enterprises without a fixed place of business in Taiwan, where such payment is subject to WHT, the WHT agent is required to pay WHT, and file and issue WHT statement/return, within 10 days of payment.

<p>filing and issuance deadline for payment to non-residents</p>	<p>The draft amendment allows for a 5-day extension to the WHT payment and WHT statement/return filing and issuance deadline, in the event 3 or more consecutive days of national holiday falls within the 10-day period. This is also in line with the WHT payment and WHT statement/return filing and issuance deadline for payment to tax residents.</p>
<p>Amend penalty clause for failure to file or issue WHT statements within the prescribed deadline</p>	<p>If the WHT agent has already paid WHT withheld to the tax authority within the stipulated deadline, but failed to file or issue WHT statement within the prescribed deadline, in addition to being required by the tax authority to file or issue WHT statement within a given time limit, the WHT agent will be subject to a penalty ranging from NTD 1,500 to NTD 20,000. If the WHT agent still fails to file or issue WHT statement within the given time limit provided by the tax authority, the WHT agent will be subject to a penalty ranging from NTD 3,000 to NTD 45,000. Since the above penalty is deemed a behavioral penalty for failing to comply with necessary deadlines, the severity of the violation is irrelevant to the WHT applied. Therefore, the phrase “a penalty shall be imposed based on 20% of the WHT amount” has been deleted; however, the floor and ceiling of the relevant penalty clause remains unchanged.</p>

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