

Taiwan Tax Update

January 2025

Income Tax

Ministry of Finance (“MOF”) released tax ruling providing guidance on circumstances not requiring document authentication for recognizing loss from investment in foreign investee company

According to Article 99 of the Assessment Rules Governing Income Tax Return of Profit-seeking Enterprise, where a foreign investee company undergoes capital reduction to make up accumulated deficit, or undergoes merger, bankruptcy, or liquidation, in order for the domestic holding company to recognize tax deductible foreign investment loss, documents evidencing such capital reduction, merger, or completion of bankruptcy or liquidation procedures (“evidential documents”) must be retained and authenticated by a Taiwan consulate, commerce representative, or trade organization.

On January 7, 2025, the MOF released a Tax Ruling stating that the aforementioned evidential documents, except for those issued by Mainland China, can be exempt from authentication requirements if they qualify as one of the following documents:

1. Evidential documents issued by the competent authority of the jurisdiction where the foreign investee company is domiciled; or
2. Income tax filing documents issued by the tax authority of the jurisdiction where the foreign investee company is domiciled; or
3. Audited financial statements of the foreign investee company issued by certified public accountants in the jurisdiction where the foreign investee company is domiciled, or by Taiwan certified public accountants.

PwC Analysis:

Evidential documents should already possess a sufficient degree of validity for

recognizing tax deductible foreign investment loss, provided that they are substantively examined and issued by the competent authority of the jurisdiction where the foreign investee company is domiciled. The authentication process conducted by Taiwan consulate only verifies the existence of the document undergoing authentication, without conducting any substantive examination of its content. Therefore, to simplify tax administration and reduce tax compliance costs, the MOF has released a Tax Ruling to exempt qualified evidential documents from undergoing Taiwan consulate authentication requirements.

However, it is important to note that this exemption rule does not apply to investee companies located in Mainland China. In order for a domestic holding company to recognize investment loss derived from an investee company located in Mainland China, relevant evidential documents should still be authenticated by competent authorities, such as the Straits Exchange Foundation or the Association for Relations Across the Taiwan Straits.

MOF announced draft amendment to Article 34 of Regulations Governing Application of Agreements for the Avoidance of Double Taxation with Respect to Taxes on Income (“DTA Applicability Assessment Rules”), with an advance notice period of 60 days

On January 13, 2025, the MOF announced draft amendment to Article 34 of the DTA Applicability Assessment Rules, whereby the deadline for residents of a foreign treaty state to apply for refund of excess taxes paid under a tax treaty will be extended from 5 years to 10 years.

PwC Analysis:

According to the DTA Applicability Assessment Rules currently in force, residents of a foreign country that has an effective tax treaty with Taiwan may apply a reduced tax rate or nil tax treatment, as stipulated by the tax treaty, on taxable income sourced from Taiwan. If residents of foreign countries having effective tax treaties with Taiwan did not apply for treaty benefits upon receipt of Taiwan-sourced income, a tax refund application, along with required documentation, can be submitted by said foreign residents to Taiwan tax authorities within 5 years from the tax payment date to claim

back excess taxes paid.

The MOF announced draft amendment to extend aforementioned tax refund application deadline from 5 years to 10 years, to align with the 10-year statute of limitation granted to citizens for right to claim under public law, as stipulated in the Administrative Procedure Act, the Tax Collection Act, and other relevant laws. The draft amendment also includes transitional provisions stating that for cases which have not yet exceeded the 5-year tax refund application deadline when the draft amendment comes into force, the extended 10-year tax refund application deadline may be applied instead.

PwC Reminder:

1. Application for refund of excess taxes paid under a tax treaty can be submitted by the income recipient, the tax withholder, or any domestic individual or enterprise appointed thereby. Commonly seen income categories applicants use to apply for tax refund under a tax treaty includes business profits, dividends, interest, royalties, or technical services fees, which are eligible for either tax exemption treatment or reduced withholding tax rates.
2. Certain tax treaties set out special provisions regarding deadline for refund of excess taxes paid. For instance, Article 26 of the tax treaty between Taiwan and Germany stipulates that “Refund applications must be submitted by the end of the fourth year following the calendar year in which the withholding tax was applied to the dividends, interest, royalties or other items of income”. In such case, the 4-year tax refund application deadline shall prevail.

Tax Incentive

Ministry of Economic Affairs ("MOEA") announced 2024 and 2025 salary standards for entry-level employees as defined under the Act for Development of Small and Medium Enterprises

On December 31, 2024, the MOEA announced salary standards for entry-level employees to determine eligibility for increased salary expense deduction for "Increased Hiring" and "Increased Salaries" categories under the Act for Development of Small and Medium Enterprises, as follows:

1. Monthly average regular wage of NT\$63,000 or less;
2. Daily wage of NT\$3,152 or less (monthly wage not exceeding NT\$63,000);
3. Hourly wage of NT\$394 or less (monthly wage not exceeding NT\$63,000).

PwC Reminder:

In addition to requirement that salary expenses of entry-level employees eligible for increased salary expense deduction for "Increased Hiring" or "Increased Salaries" categories (additional 100% or 75% deduction respectively) should fall within aforementioned salary standards, additional prerequisites that need to be satisfied by small and medium enterprises ("SMEs") to qualify for increased salary expense deduction include: additional entry-level employees are limited to those aged 24 and below or aged 65 and above; non-fixed term employment contracts are signed; entry-level employees are increased by 2 or more headcount compared to the previous year; average salary level or total salaries paid are higher than the previous year, etc.

Since tax incentives offered by Act for Development of Small and Medium Enterprises can be applied retroactively from January 1, 2024, SMEs may evaluate eligibility for said tax incentives when filing 2024 CIT return. Please note that the MOF has officially announced on January 6, 2025 that any additional expense claimed under the increased salary expense deduction shall count towards the SMEs' basic income for calculation of alternative minimum tax starting from January 1, 2024.

Value Added Tax

MOF announced draft amendment to increase “annual B2C sales” tax registration threshold of foreign ESS providers from NT\$480,000 to NT\$600,000 on December 24, 2024, with an advance notice period of 60 days

Under current regulations, foreign enterprises, institutions, or organizations having no fixed place of business in Taiwan and selling electronic services via the internet or other digital means to domestic individuals ("foreign ESS providers") are required to apply for tax registration with the competent authorities if their annual B2C sales exceed NT\$480,000.

Foreign ESS providers whose annual B2C sales already exceed NT\$480,000 tax registration threshold before the amendment officially takes effect should proceed with tax registration immediately based on existing provisions.

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