

Taiwan Tax Updates

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資誠



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Incorrect elimination of accumulated deficit against retained earnings will result in incorrect calculation of imputation credit ratio

Pursuant to Tax Ruling Tai-Tsai-Shuei No. 0900450665 dated March 9, 2011, when computing the imputation credit ratio¹, the FIFO method should be adopted when deducting the accumulated deficit from the balance of the undistributed earnings. In addition, the imputation credit ratio is capped at a prescribed threshold. Thus, when computing the threshold for imputation credit ratio², the balance of undistributed earnings to date should be allocated between three distinctive periods, including “earnings derived before end of 1997”, “earnings derived from 1998 to 2009”, and “earnings derived from 2010 onwards”, to account for the incipency of the imputation credit system in 1998, and the reduction of the corporate income tax rate from 25% to 17% from 2010 onwards.

The allocations of undistributed earnings between the three distinctive periods are calculated as follows based on the scenarios below:

¹ Imputation credit ratio = (Balance of imputation credit account as of dividend distribution date) / (Balance of undistributed earnings derived from 1998 onwards as of the dividend distribution date)

² Threshold of imputation credit ratio=

[(Earnings derived from 1998 to 2009 where 10 % profit retention tax has not yet been imposed) / (Balance of undistributed earnings derived from 1998 onwards as of dividend distribution date) x 33.33 %] +

[(Earnings derived from 1998 to 2009 where 10 % profit retention tax has been imposed) / (Balance of undistributed earnings derived from 1998 onwards as of dividend distribution date) x 48.15%] +

[(Earnings derived from 2010 onwards where 10 % profit retention tax has not yet been imposed) / (Balance of undistributed earnings derived from 1998 onwards as of dividend distribution date) x 20.48 %] +

[(Earnings derived from 2010 onwards where 10 % profit retention tax has been imposed) / (Balance of undistributed earnings derived from 1998 onwards as of dividend distribution date) x 33.87 %]

Distinctive Period	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Balance of earnings derived before end of 1997	150	50	(100)	(100)
Balance of earnings derived from 1998 to 2009	130	100	(20)	(60)
Balance of earnings derived from 2010 onwards	(160)	(180)	200	80
Balance of earnings to date	120	(30)	80	(80)
				
The correct way to allocate undistributed earnings to the three distinctive periods				
Distinctive Period	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Balance of earnings derived before end of 1997	0	0	0	(20)
Balance of earnings derived from 1998 to 2009	120	0	0	(60)
Balance of earnings derived from 2010 onwards	0	(30)	80	0
Balance of earnings to date	120	(30)	80	(80)

Debit notes are not sufficient original documents for recognizing expenses and losses

The tax authority recently reinstated that pursuant to Tax Ruling Tai-Tsai-Shuei No. 32218 dated April 6, 1983, debit notes issued by foreign entities are only notification of expenses to be paid. They are not sufficient original documents for recognizing expenses or losses. In accordance with prevailing international practice, foreign expenses should be evidenced by commercial invoices.

Offsetting the capital loss from securities and futures transaction in the incorrect sequence will result in incorrect calculation of the income basic tax ("IBT") payable

Pursuant to the newly released Tax Ruling Tai-Tsai Shuei No. 10100119890 dated August 29, 2012, capital loss from securities and futures transaction and losses derived from international offshore banking unit ("OBU") can be carried forward for 5 years starting from the next year the capital losses occurred in calculating the income basic tax payable. The offsetting of capital loss against capital gain of the same nature in subsequent years should be in sequence; and cannot be deducted randomly by selecting whichever years the company wishes. Capital losses cannot be carried forward unless there is no capital gain of the same

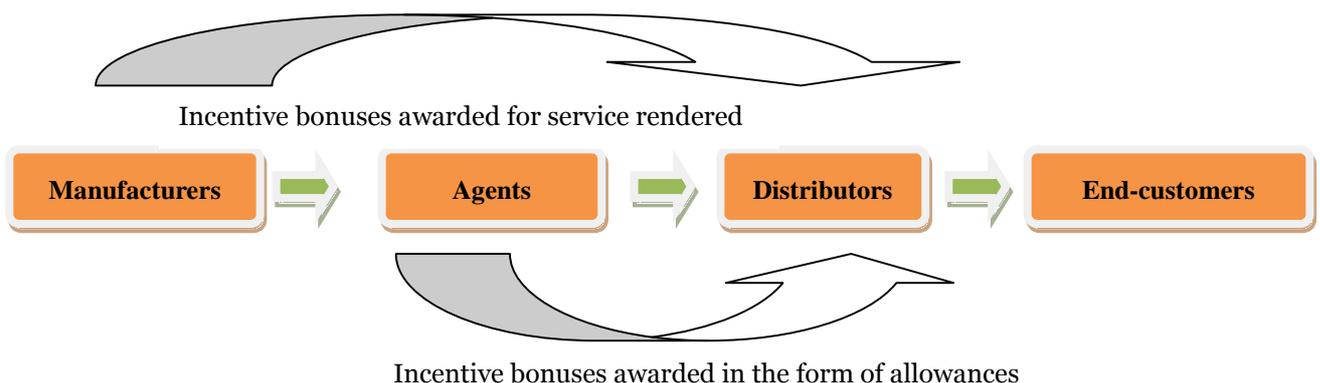
nature in the current year, or there is remaining capital loss after offsetting the current year capital gain.

Examples of incorrect calculation commonly seen before the issuance of the new ruling and the correct calculation method specified in the new ruling are set forth as follows:

Items	Example - incorrect calculation before issuance of new ruling		Example - correct calculation after issuance of new ruling	
	2010	2011	2010	2011
Taxable income	(5,000)	2,000	(5,000)	2,000
Addition:				
Capital gains from securities and futures transactions	4,000	5,000	4,000	5,000
Capital loss from securities and futures transaction of previous years				
2008 (3,000 capital loss carried forward)	-	(3,000)	(3,000)	-
2009 (3,500 capital loss carried forward)	-	(2,000)	(1,000)	(2,500)
Basic income	(1,000)	2,000	(5,000)	4,500
Notes	The capital loss of 6,500 carried forward should be offset with the capital gain of 2010 first.		The capital loss of 6,500 carried forward should be first offset with the capital gain of 4,000 in 2010, before it is further carried forward and offset against the capital gain in 2011.	

Guideline for recognizing incentive bonuses awarded for sales or purchases reaching a certain threshold according to the terms of distributor agreements

The transaction model of incentive bonuses awarded for sales or purchases reaching a certain threshold and underlying tax regulations can be summarized as follows:





Nature of Transaction	Transacting Parties	Treatment pursuant to Business Tax Act	Treatment pursuant to Income Tax Act
Incentive bonuses awarded in the form of allowances	Agents	Obtain purchase discount certificate	Recognize sales allowance
	Distributors	Issue purchase discount certificate (note)	Recognize purchase allowance
Incentive bonuses awarded for service rendered	Manufacturers	Obtain government uniform invoices ("GUIs")	Recognize service fee
	Distributors	Issue GUIs	Recognize service revenue

Note: If the incentive bonuses are computed by aggregated sales or purchases reaching a certain threshold for a certain period (monthly, quarterly, or annually) in accordance with the distributor agreement, the enterprise receiving the incentive bonuses may issue "sales/purchase discount certificate" aggregately for that period. The sales/purchase discount certificate shall indicate the number of the first GUI received in that period as one of the GUIs for which sales/purchases discount is obtained under the column of "GUIs issued", without filling out all the GUIs received in that period subject to sales/purchases discount; and state "aggregately issued", as well as the starting date and ending date of GUIs subject to sales/purchases discount in that period in the sub-column of "description" under the column of "content of returns or allowances".

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