

Taiwan Tax Updates

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資誠



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Introduction of a more lenient advance tax ruling system under the Tax Collection Act

In the past, the advance tax ruling system was introduced under the Instructions Governing Ministry of Finance Approval of Advance Tax Ruling, where various criteria or prerequisites, i.e. whether it involves cross-border transactions or investments, whether the transaction amount exceeds a certain threshold, or whether it generates important economic benefits for Taiwan, needs to be met first before an application can be made. The amendment to Article 12-1 of the Tax Collection Act was announced by the Presidential Office on May 29, 2013, to introduce a more lenient and criteria-free advance tax ruling system. Taxpayers, inclusive of corporations and individuals, may file an advance tax ruling application with the tax office, together with the relevant supporting documents, to clarify their tax position before initiating the specific transaction. The tax office is obligated to issue a response within 6 months after submitting the application.

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The materials contained in this publication were assembled in June 2013 and were based on the law enforceable and information available as of May 31, 2013. In the event of any discrepancy between the English information contained in this newsletter and the original Chinese version of the laws or rulings announced by the government or any difference in the interpretation of the two versions, the Chinese version announced by the government shall prevail.

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Appendix

- 日期文號： 中華民國 102 年 5 月 29 日華總一義字第 10200101281 號
- 主 旨： 茲修正稅捐稽徵法第十二之一、二十五條之一及三十九條條文，公布之。
- 第十二條之一 涉及租稅事項之法律，其解釋應本於租稅法律主義之精神，依各該法律之立法目的，衡酌經濟上之意義及實質課稅之公平原則為之。
稅捐稽徵機關認定課徵租稅之構成要件事實時，應以實質經濟事實關係及其所生實質經濟利益之歸屬與享有為依據。
納稅義務人基於獲得租稅利益，違背稅法之立法目的，濫用法律形式，規避租稅構成要件之該當，以達成與交易常規相當之經濟效果，為租稅規避。
前項租稅規避及第二項課徵租稅構成要件事實之認定，稅捐稽徵機關就其事實有舉證之責任。
納稅義務人依本法及稅法規定所負之協力義務，不因前項規定而免除。
稅捐稽徵機關查明納稅義務人及交易之相對人或關係人有第二項或第三項之情事者，為正確計算應納稅額，得按交易常規或依查得資料依各稅法規定予以調整。
納稅義務人得在從事特定交易行為前，提供相關證明文件，向稅捐稽徵機關申請諮詢，稅捐稽徵機關應於六個月內答覆。
- 第二十五條之一 依本法或稅法規定應補或應移送強制執行之稅捐在一定金額以下者，財政部得視實際需要，報請行政院核定免徵或免予移送強制執行。
- 第 三十九條 納稅義務人應納稅捐，於繳納期間屆滿三十日後仍未繳納者，由稅捐稽徵機關移送強制執行。但納稅義務人已依第三十五條規定申請復查者，暫緩移送強制執行。
前項暫緩執行之案件，除有下列情形之一者外，稅捐稽徵機關應移送強制執行：
一、納稅義務人對復查決定之應納稅額繳納半數，並依法提起訴願者。
二、納稅義務人依前款規定繳納半數稅額確有困難，經稅捐稽徵機關核准，提供相當擔保者。
三、納稅義務人依前二款規定繳納半數稅額及提供相當擔保確有困難，經稅捐稽徵機關依第二十四條第一項規定，已就納稅義務人相當於復查決定應納稅額之財產，通知有關機關，不得為移轉或設定他項權利者。
本條中華民國一百零二年五月十四日修正施行前，經依復查決定應補繳稅款，納稅義務人未依前項第一款或第二款規定繳納或提供相當擔保，稅捐稽徵機關尚未移送強制執行者，適用修正後之規定。