

Taiwan Tax Updates

pwc

資誠



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Eligibility for overpaid VAT to be refunded before verification by the competent tax authority (Tax Ruling Tai-Tsai-Shuei No. 10204579480)

A business entity which has de-registered due to merger, business transfer, dissolution or cessation of business may apply for refund of the overpaid VAT before verification by the competent tax authority if a certification report has been issued by a Certified Public Accountant, which states that the overpaid VAT position is adequate. In other words, the report should either state that no adjustment is required or relevant adjustments have been made and the business entity has voluntarily made up the tax shortfall and completed amended VAT filings, if required.

However, a business entity cannot apply “refund first, verification to follow scheme” on overpaid VAT if it has any one of the following circumstances: 1) the business entity failed to file its dissolution and liquidation income tax returns; 2) the business entity is still undergoing tax audit by the competent tax authority; 3) the business entity is liable for unsettled penalties imposed on VAT related violations; or 4) the business entity has been identified as having abnormal overpaid VAT position based on the analysis performed by the competent tax authority on the VAT returns filed and relevant information obtained.

PwC Observation:

A business entity with significant overpaid VAT which has undergone merger, business transfer, dissolution or cessation of business should 1) review its relevant documents and analyze the reason for triggering overpaid VAT; and 2) check whether it is eligible to apply “refund first, verification to follow scheme” on overpaid VAT to ensure an early tax refund and favorable cash flow position.

PwC Contacts:

Name	Phone Number	E-mail Address
Corporate Income Tax / Other Tax		
Tony Lin	886-2-2729- 5980	Tony.Lin@tw.pwc.com
Jason C Hsu	886-2-2729- 5212	Jason.C.Hsu@tw.pwc.com
Rosamund Fan	886-2-2729-6077	Rosamund.Fan@tw.pwc.com
Indirect Tax		
Lily Hsu	886-2-2729-6207	Lily.Hsu@tw.pwc.com
International Tax Services		
Wendy Chiu	886-2-2729-6019	Wendy.Chiu@tw.pwc.com
Elaine Hsieh	886-2-2729-5809	Elaine.Hsieh@tw.pwc.com
Patrick Tuan	886-2-2729-5995	Patrick.Tuan@tw.pwc.com
Albert Chou	886-2-2729-6626	Albert.Chou@tw.pwc.com
Transfer Pricing		
Lily Hsu	886-2-2729-6207	Lily.Hsu@tw.pwc.com
Howard Kuo	886-2-2729-5226	Howard.Kuo@tw.pwc.com
Ming-Chu Yang	886-2-2729-5217	Ming-Chu.Yang@tw.pwc.com
Elliot Liao	886-2-2729-6217	Elliot.Liao@tw.pwc.com
Pei-Hsuan Lee	886-2-2729-5207	Pei-Hsuan.Lee@tw.pwc.com
Jack Hwang	886-2-2729-6061	Jack.Hwang@tw.pwc.com
Financial Services		
Richard Watanabe	886-2-2729-6704	Richard.Watanabe@tw.pwc.com
M&A Tax		
Elaine Hsieh	886-2-2729-5809	Elaine.Hsieh@tw.pwc.com
International Assignment Services		
Rosamund Fan	886-2-2729-6077	Rosamund.Fan@tw.pwc.com
General Accounting and Relevant Out-Sourcing Services		
Lucy Ho	886-2-2729-5218	Lucy.Ho@tw.pwc.com
www.pwc.com/tw		

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Appendix

日期文號： 中華民國 102 年 7 月 11 日台財稅字第 10204579480 號

摘 要： 營業人申請註銷登記申報退還溢付營業稅額案件，經會計師查核簽證者，得申請先退後審。

主 旨：

一、營業人因合併、轉讓、解散或廢止申請註銷登記，依加值型及非加值型營業稅法第 39 條第 1 項第 3 款規定申報退還溢付稅額案件，經會計師查核簽證無調整事項或已依調整金額自動補報補繳稅額者，得向主管稽徵機關申請列為先退後審案件。但有下列情形之一，應由主管稽徵機關查明後退還：

(一) 簽證會計師最近 3 年內曾受會計師懲戒委員會懲戒者。

(二) 營業人未辦理營利事業所得稅決、清算申報者。

(三) 營業人有派查案件未結或營業稅違章未結者。

(四) 簽證會計師未依應查核項目查核簽證者。

(五) 其他經稽徵機關依其申報及相關資料分析，顯有異常情形者。

二、附會計師查核簽證營業人因註銷登記申報退還溢付營業稅案件應查核項目及查核簽證報告書（範例）。

會計師查核簽證營業人因註銷登記申報退還溢付營業稅案件應查核項目

一、申請人資格：申請人為營業人之負責人或清算人。

二、查核簽證期間：

(一) 應辦理清算申報者，為自產生留抵稅額之日起至清算期間屆滿日止；無須辦理清算申報者，為自產生留抵稅額之日起至營業登記申請註銷日止。

(二) 產生留抵稅額之日起至清算期間屆滿日（或營業登記申請註銷日）之期間逾會計憑證、帳簿保存年限者，為未逾會計憑證、帳簿保存年限之期間。

三、查核簽證程序及方法：

(一) 會計師辦理營業人因註銷登記申報退還溢付營業稅案件查核簽證工作，應對委任人會計制度、內部會計控制狀況及會計

作業真確性進行瞭解與評估，憑以決定合宜之方法及程序，加以審查或抽查。

(二) 經查核發現委任人未依規定設帳記載；或原始憑證、記帳憑證、帳簿報表、相關文件、營業稅申報書表之內容不相符合、或與有關法令之規定不符、不當或不實者，應作適當之更正、調整或說明。

(三) 前二項實施之查核方法、查核程序、抽查範圍、查核結果及所作處理，應具體詳實作成紀錄，連同所獲得之查核證據資料，彙整編訂成工作底稿，並據以提出查核簽證報告書。

四、銷項資料之查核：

(一) 核對營業稅申報書之銷售額、銷項稅額與統一發票明細表、統一發票存根聯等相關帳簿憑證，查明有無未依加值型及非加值型營業稅法（下稱營業稅法）第 3 條第 3 項、第 4 項規定視為銷售開立統一發票報繳營業稅情事，及查明申報之銷售額及銷項稅額有無適用法令錯誤、計算錯誤或不實情事。

(二) 核對貨物或勞務之產製及銷售流程，並抽查合約書、訂購單、運送紀錄、收款憑證或其他足資證明有交易事實等相關資料，查明有無短（漏）報銷售額情事。

(三) 申報適用營業稅法第 7 條規定之零稅率銷售額，惟銷售當期未按同法第 39 條第 1 項第 1 款規定申報退還溢付稅額者，應核對相關證明文件，查明有無虛報零稅率銷售額或短（漏）報應稅銷售額情事。

五、進項資料之查核：

(一) 核對營業稅申報書之進項金額、進項稅額與申報扣抵之進項憑證，查明有無申報屬營業稅法第 19 條規定不得扣抵情事。

(二) 核對貨物或勞務之進、銷、存貨各有關帳簿憑證，並抽查合約書、訂購單、簽收驗收紀錄、付款憑證或其他足資證明有交易事實等相關資料，查明有無虛報進項稅額情事。

(三) 核對帳列固定資產之進項憑證、資產負債表、財產目錄及付款資金等相關資料，查明有無適用法令錯誤、計算錯誤或不實情事。

六、應退溢付稅額之複核

(一) 核對營業稅申報書之稅額計算與相關帳簿憑證資料，查明申報應退溢付稅額是否依規定正確計算。

(二) 會計師查核後認為有應行調整稅額者，應依規定重新計算應退溢付稅額並應詳予說明計算過程。

七、營業人因註銷登記申報退還溢付營業稅案件申請列為先退後審案件時，應檢附查核簽證報告書及相關申報書表。

八、主管稽徵機關對會計師提供之查核簽證報告書，如有疑問或認為尚有應行查核事項，得向會計師查詢、通知限期補具說明文件或通知會計師向申報人調閱帳簿文據備詢。