

Taiwan Tax Update

June 2015

Introduction of new Real Property Tax regime in Taiwan

On June 5, 2015, the Legislative Yuan passed amendments to the *Income Tax Act* (“ITA”) and *Article 6-1 of The Specifically Selected Goods and Services Tax Act* (the “Luxury Tax Act”). These amendments constitute a new “Real Property Tax” regime in Taiwan.

Once the aforementioned amendments are officially promulgated by the president, the amendments will take effect starting from January 1, 2016. As a result of the implementation of the new Real Property Tax regime, Luxury Tax will no longer be levied on sales of land or building starting from January 1, 2016.

A summary of the new Real Property Tax regime for profit-seeking enterprises is as follows:

Item	Description
Taxation Scope	<ul style="list-style-type: none"> ● Sales of any of the following after January 1, 2016 will be subject to the new Real Property Tax regime, except where various criteria are met (please refer to “Exclusions” section below): <ul style="list-style-type: none"> ➢ Building ➢ Building and land where the building is situated thereon ➢ Land eligible for being granted a construction permit. ● Exclusions: If the building or land is sold after January 1, 2016, and meets any of the following criteria, the sale will be subject to the current taxation regime* instead: <ul style="list-style-type: none"> ➢ Building or land was acquired prior to January 2, 2014 ➢ Building or land was acquired on or after January 2, 2014, but before January 1, 2016, and has been held for over 2 years <p>*Note: Under the current taxation regime, income tax is only levied on the sale of building, with land being exempt from income tax, and subject to land value incremental tax instead.</p>

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(cont.)**

Item	Descriptions
Tax Base	Proceed from sale of building and land minus: <ul style="list-style-type: none"> ➤ Costs ➤ Expenses ➤ Total amount of land value increment calculated based on the Land Tax Act, i.e. tax base of land value incremental tax
Tax Rate	<ul style="list-style-type: none"> ● Taiwanese profit-seeking enterprises: 17% (same as current taxation regime) ● Profit-seeking enterprises with foreign head-offices located outside of Taiwan, i.e. Taiwan branch: <ul style="list-style-type: none"> 1) Building/land held for less than 1 year: 45% 2) Building/land held for over 1 year: 35%
Taxation Method	<ul style="list-style-type: none"> ● Taiwanese profit-seeking enterprises: Combined with annual corporate income tax return filings (same as current taxation regime) ● Foreign head-offices of Taiwan branches: Tax of the foreign head-office should be calculated separately by the Taiwan branch according to the prescribed tax rate, and reported within the Taiwan branch's annual corporate income tax return

PwC Observation:

1. Under the new Real Property Tax regime, the tax rate on gain from sales of land and building will be much higher for foreign head-offices of Taiwan branches than for Taiwanese profit-seeking enterprises structured as company limited by shares or limited companies. Therefore foreign head-offices of Taiwan branches may take this factor into consideration when planning future reorganizations.
2. These amendments do not specify how the holding period of land and building is determined. As such, it is unclear whether the disposal date is determined based on the contract signing date prescribed in the Luxury Tax Act, or based on the title transfer date prescribed in the Income Tax Act.

Article 24-2 of *Assessment Rules for Income Tax Returns of Profit-Seeking Enterprises* (“Assessment Rules”) states that gain on sales of immovable property should be recognized in the year the title of the real property is

transferred. Therefore, one can reasonably assume that the disposal date should be the title transfer date. Nevertheless, enterprises should monitor if future regulations provide further guidance on this matter.

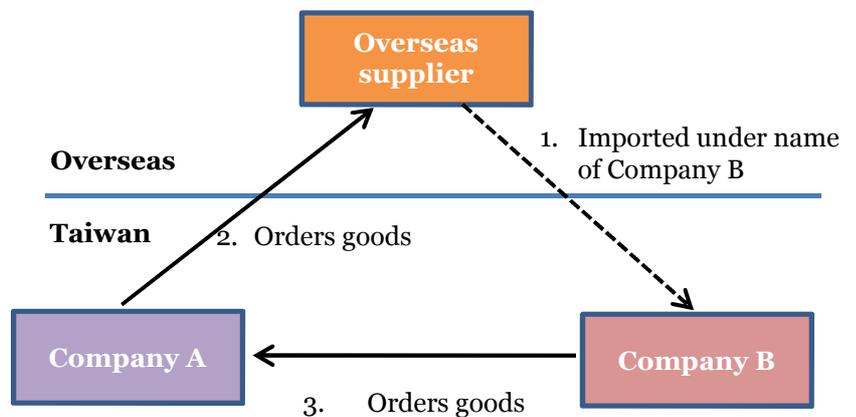
3. These amendments do not specify whether loss on sales of land and building by foreign head-offices of Taiwan branches may be used to offset future profit as loss carry forwards. Enterprises should monitor if future regulations provide further guidance on this matter.

Triangular trade can utilize 0% VAT if certain conditions are met

Tax Ruling No. 09704550620 issued on October 29, 2008 stipulates that if Company A (a domestic company) accepts an order for goods from Company B (a domestic company), with Company A ordering the goods from an overseas supplier, and the goods imported into Taiwan using Company B as the importer of record, then Company A shall issue a duplicate Government Uniform Invoice (“GUI”) to report the price difference as commission income (please refer to below diagram for an illustration of the transaction). The GUI should be issued to the overseas supplier with 5% VAT.

The aforementioned tax ruling does not further elaborate whether 0% VAT is applicable to the GUI issued by Company A for commission income if Company B is an entity situated in a bonded area. Consequently, the Ministry of Finance issued Tax Ruling No. 10404516320 on May 13, 2015 to stipulate that if the below criteria are met, Company A can issue GUIs for commission income using 0% VAT:

1. Company B is an entity situated in a bonded area in Taiwan.
2. The purchased goods are used by Company B within a bonded area for approved business operations.
3. A copy of Company B’s customs declaration form is obtained. The copy of the declaration form needs to be stamped with Company B’s GUI stamp bearing the statement “These imported goods are for business operation purposes as stipulated in Item 4 of Article 7 of the Business Tax Act and Paragraph 2 of Article 7-1 of the Enforcement Rules of the Business Tax Act”.



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Appendix

日期文號： 中華民國104年5月13日台財稅字第10404516320號令

摘要： 國內營業人甲接受保稅區營業人乙訂貨，轉向國外廠商丙訂貨並乙營業人名義進口之營業稅課徵事宜

主旨： 補充核釋本部97年10月29日台財稅字第09704550620號令如下：國內營業人（甲）接受國內買受人（乙）訂貨，轉向國外廠商（丙）訂貨，並直接以買受人（乙）名義報關進口之交易型態，如買受人（乙）係保稅區營業人，且該貨物之使用符合加值型及非加值型營業稅法第7條第4款及同法施行細則第7條之1第2項規定者，營業人（甲）得按其收取轉付差額或取得之收入，開立零稅率二聯式統一發票，並持憑經買受人（乙）簽署「進口該貨物確係符合加值型及非加值型營業稅法第7條第4款及同法施行細則第7條之1第2項規定供營運之貨物無訛」字樣及加蓋其統一發票專用章之海關核發進口報單副本，申報適用零稅率。