

## Taiwan Tax Update

April 2016

### **Building sales price may be adjusted by the tax authority for business entities selling buildings at a loss**

Under the old property tax regime, land and buildings are taxed separately, where sales of land is exempt from value-added tax (“VAT”) and corporate income tax (“CIT”), but subject to land value incremental tax based on the increase in government announced value. On the other hand, sale of building is both subject to VAT and CIT assessment. This results in an incentive for business entities subject to the old property tax regime to allocate a higher sales price to land (capital gain is tax exempt) and a lower sales price to building (resulting in minimal taxable capital gain or even a loss), where the building sales price is usually lower than fair market value.

According to Article 17 of the Value-Added and Non-Value-Added Business Tax Act and Article 25 of the Enforcement Rules of the Value-Added and Non-Value-Added Business Tax Act, in the event a business entity sells goods or services at a price unreasonably lower than the market price, the competent tax authority may determine the sales price based on the market price and adjust VAT accordingly.

If after investigation, the tax authority finds out that the building sales price is lower than the market price, or the allocation between the land sales price and building sales price is abnormal, and the business entity is unable to provide sufficient reason and supporting documentation for such pricing strategy, the competent tax authority will adjust the building sales price to reflect the higher market price, and additional VAT and CIT will be due as a result of the adjustment.

#### **PwC Observation:**

Although the new property tax regime has been implemented effective 1 January 2016, the VAT treatment for land and building is still different. Additionally, since taxpayers may still adopt the old property tax regime when specified criteria are met, there may still be a need to split the sales price between land and building components. The below example illustrates the tax liability due on different allocation between sales price of land and building where it is sold for a lump sum price of TWD 20,000,000, which is inclusive of VAT:

TWD (in thousands)

Asset Sold	Tax filing reported by taxpayer				Sales price assessed by tax authority (Note)			
	Sales Price	Cost	VAT	CIT	Sales Price	Cost	VAT	CIT
Building	2,000	3,000	95	-	4,000	3,000	190	170
Land	18,000	5,000	-	-	16,000	5,000	-	-
Total	20,000	8,000	95		20,000	8,000	190	170

**Note: The tax authority may reference building valuation performed by banks when extending a loan to the taxpayer, net book value of underlying building on the fixed asset register disclosed in the taxpayer's corporate income tax return, or market value of building obtained from newspapers and magazines, etc., when determining the market price of building.**

In the illustration above, even if the underlying contract separately indicates the sales price of land and building, where the building is sold at a loss, the tax authority may still adjust the building sales price to the market price, and request the taxpayer to pay an additional TWD 95,000 and TWD 170,000 in VAT and CIT respectively. Therefore, business entities should maintain sufficient supporting document when differentiating between the sales price of land and building.

---

## Newsletter - Taiwan Tax Update

---

### PwC Contacts:

#### Corporate Income Tax / Other Tax

---

Howard Kuo  
886-2-2729-5226  
Howard.Kuo@tw.pwc.com

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

Sam Hung  
886-2-2729-5008  
Sam.Hung@tw.pwc.com

Li-Li Chou  
886-2-2729-6566  
Li-Li.Chou@tw.pwc.com

Jack Hwang  
886-2-2729-6061  
Jack.Hwang@tw.pwc.com

#### International Tax Services

---

Elaine Hsieh  
886-2-2729-5809  
Elaine.Hsieh@tw.pwc.com

Wendy Chiu  
886-2-2729-6019  
Wendy.Chiu@tw.pwc.com

Patrick Tuan  
886-2-2729-5995  
Patrick.Tuan@tw.pwc.com

#### Transfer Pricing

---

Lily Hsu  
886-2-2729-6207  
Lily.Hsu@tw.pwc.com

Elliot Liao  
886-2-2729-6217  
Elliot.Liao@tw.pwc.com

#### Financial Services

---

Richard Watanabe  
886-2-2729-6704  
Richard.Watanabe@tw.pwc.com

Jason C Hsu  
886-2-2729-5212  
Jason.C.Hsu@tw.pwc.com

#### M&A Tax

---

Wilson Wang  
886-2-2729-6666 ext 35101  
Wilson.Wang@tw.pwc.com

Elaine Hsieh  
886-2-2729-5809  
Elaine.Hsieh@tw.pwc.com

#### General Accounting and Relevant Out-Sourcing Services

---

Lucy Ho  
886-2-2729-5218  
Lucy.Ho@tw.pwc.com

The information contained in this publication is of a general nature only. It is not meant to be comprehensive and does not constitute legal or tax advice. PricewaterhouseCoopers ("PwC") has no obligation to update the information as law and practice change. The application and impact of laws can vary widely based on the specific facts involved. Before taking any action, please ensure that you obtain advice specific to your circumstances from your usual PwC client service team or your other tax advisers.

The materials contained in this publication were assembled in April 2016 and were based on the law enforceable and information available as of March 31, 2016. 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.

©2016 PricewaterhouseCoopers Taiwan. All rights reserved. PwC refers to the Taiwan member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see [www.pwc.tw](http://www.pwc.tw) for further details. This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.