

CHAPTER XVII

TAX ADMINISTRATION

I. Tax Collection

In the ROC, different taxes are legislated separately. Every tax code consists of both substantive laws and procedural laws; there is no single consolidated code on taxation. Each tax was established against a background of different times and different social and economic environments, leading to a varying degree of complexity of content. Taxes were amended using different legislative techniques. Thus, the provisions governing the procedures of tax collection vary. Consequently, the MOF enacted the Tax Collection Act in 1976. The original plan was to build a complete unified code of taxation (tax collection and administrative remedies dealt with in this chapter do not cover Customs Duty and Mining Tax; matters concerning the collection of Customs Duty are specially dealt with in other chapters). However, too much was involved in the making of the new law and certain concepts were not at that time universally accepted by the public. Therefore, the provisions on tax collection are regrettably not comprehensive enough, though they now have the character of general rules on tax collection due to subsequent additions and amendments made in different years.

Furthermore, in 2004, the Certified Public Bookkeepers Act was promulgated in order to establish a system so as to place the regulation of bookkeepers in a more regular train, and to assist taxpayers in bookkeeping and fulfilling their obligations to pay taxes. The following are some important provisions in the Tax Collection Act.

A. The Protection of Taxpayer's Rights and the Prevention of Tax Avoidance

1. In order to safeguard the taxpayers' rights and to enhance the trust of taxpayers in national taxation policy, the augmentation of Chapter 1-1 "The Protection of Taxpayer's Rights" of the Tax Collection Act was promulgated on 6th January, 2010. The main purpose of the augmentation to Chapter 1-1 is intended to carry out the legalism of taxation. A policy-oriented tax incentive statute shall provide a definite implementation period as well as conform with the principle of proportionality and of due process in taxation investigation. A confession unduly obtained by a tax collection agency shall not be presented as evidence. Channels of communications shall be provided for both taxpayer and tax collection agency.
2. Articles 12-1 of the Tax Collection Act, promulgated on 29th May, 2013, were amended to add the following:
 - a. The definition of tax avoidance: in the case where a taxpayer, with the aim of gaining tax benefits, abuses legal forms to avoid the constituent elements of

taxation and attain the economic benefits equivalent to normal transactions, such actions shall be termed tax avoidance.

- b. The tax collection authority shall bear the burden of proof in ascertaining the tax avoidance.
- c. Where the tax avoidance is identified, the tax collection authority, in accordance with the tax laws, shall make adjustment of the calculation.
- d. Where a taxpayer, before engaging in a specific transaction, provides relevant documents to the tax collection authority for consultation, the tax collection authority shall reply within six months.

B. Priority of Claims

In general, the collection of any tax shall be prior to other ordinary claims with the exception that the collection of land value increment tax, land value tax, house tax, and business tax levied on goods by the auction of a court or Administrative Enforcement Agency shall have priority over all other claims and mortgages.

C. Obligation to Pay Tax

In addition to provisions made separately in individual tax laws in view of the special nature of the tax in question, the following general rules are laid down in the Tax Collection Act with regard to taxpayers:

1. In the case of joint property, the manager shall have the obligation to pay the tax. Where there is no manager, the co-owners shall share the obligation to the extent of each person's ownership in the property. If the property is held in joint ownership, all joint owners are the taxpayers.
2. When a juristic person, partnership, or non-corporate body is dissolved and liquidated, the liquidator should, before distributing the assets, pay off taxes according to the order of priority as provided by law. In the case of any violation of the above, the liquidator shall have the obligation to pay any unsettled tax.
3. When a taxpayer dies, leaving an estate, the executor(s) of the will, heir(s), legatee(s), or estate administrator(s) shall pay off any tax that the taxpayer by law should have paid, according to the order of priority for the settlement of taxes as provided by law, before they may divide up the estate and make any disbursements. In the case of any violation of the above, the executor(s), heir(s), legatee(s), or estate administrator(s) shall have the obligation to pay the unsettled tax.
4. Where a profit-seeking enterprise ceases to exist through a merger, the profit-seeking enterprise that continues to exist after the merger or the profit-seeking enterprise that has been established in place of it shall have the obligation to pay any tax that should have been paid by the defunct enterprise before the merger.

D. The Substantive Principle in Taxation

In relation to laws involving taxation, such laws should be construed in accordance with the principle of taxation by law and the respective purposes of the relevant laws, balancing therewith the economic purposes and the principle of equality in substantive taxation. The tax collection authority acknowledges that the constituent elements and facts of the tax assessment shall be based on the existence of actual economic relationships and their related interests. Therefore, the tax collection authority shall bear the burden of proof in ascertaining the constituent elements and facts of the tax assessment, but the obligation of taxpayers to assist the reporting of the required information according to this Act and any relevant tax acts is not exempted.

E. Tax Notification and Its Delivery

We have in principle adopted, with respect to taxation, except for property tax, a system under which taxpayers are to report their taxes voluntarily by filing a tax return, making payment to the public treasury, and then submitting the return to the collection authority-in-charge within a period of time as prescribed by law. In the case of property tax and any other tax assessed by the collection authority-in-charge it is provided that a notification of collection shall be issued and delivered to every taxpayer by the collection authority-in-charge with a demand for payment within a specified period of time. The notification shall give the name, address, type of tax, tax amount, tax rate, and deadline for payment. Should the taxpayer find in the notification any repetition or error either in data or in computation, he or she may ask the collection authority-in-charge for correction.

The following are the provisions relevant to the notification and its delivery:

1. The collection authority-in-charge shall have the tax assessment notification delivered prior to the starting date as stated in the document.
2. Documents issued by the collection authority may be sent to the addressee's agent, representative, or manager for delivery. In the case that the addressee is on active service, delivery can be made to his or her spouse or parents. If the addressee has no spouse or parent, delivery can be made through the military unit in which he or she serves.
3. In the case of documents issued for the collection of land tax or house tax, the user can be regarded as the addressee. When the addressee is one of the joint owners, the delivery shall be judged complete with respect to the total group.
4. If all joint owners as a whole are collectively regarded as the taxpayer, the service of the document can be made to one of the joint owners. The tax collection authorities shall also issue the tax assessment notification to all joint owners. If the joint owners are unascertainable, the service of the tax assessment notification can be made by public announcement, and it shall become effective as of the date following the date of posting on the notice board.

Before 21st March, 2007, the Tax Collection Act contained rules regarding delivery for situations where notifications were rejected or the addressee's whereabouts were unknown. However, because the rules were slightly different from the provisions under the Administrative Procedure Act, in order to prevent confusion, the related provisions were deleted so as to bring the rules into line with general laws.

F. Tax Returns and Payments

The periods of time for filing a return and paying the tax are prescribed in the various tax codes. The periods can be 10 days (for amusement tax), 15 days (for business tax), 30 days (for house tax, deed tax, land value increment tax, gift tax, etc.), one month (for income tax), or six months (for estate tax), etc. Securities transactions tax levied by proxy is an exceptional case, wherein the period of time in question is the day following the levy. Except in the case of voluntary reporting when the payment period coincides with the reporting period, the payment period as stated in the notification issued by the collection authority-in-charge can be 10 days for income tax and business tax; one month for house tax and vehicle license tax, etc.; 30 days for land value tax, agricultural land tax, and land value increment tax, etc. The longest period is for estate and gift tax, in which the payment period is two months extendable for another two months, subject to the approval of the tax authority concerned.

The collection authority-in-charge may, considering the actual circumstances, declare, of its own accord, an extension of the payment period if, owing to an emergency due to a natural calamity, payment is delayed beyond the statutory period of payment.

Taxpayers who are unable to make full payment within the statutory time limit because of natural calamity, emergency, or serious property loss may apply within the period of payment as provided by law for an extension of installment payments for a period of not longer than three years. In the case of estate and gift tax, when the amount exceeds NT\$300,000, a taxpayer who has real difficulty in making one full payment may apply to pay in 12 installments, with an interval of less than two months between each payment, or make one full payment in kind. A taxpayer who, after having been either granted an extension or allowed to make payment by installment, fails to make payment on time, will be deprived of the right to further extension and the right to make payment by installment. The collection authority shall issue a notice to the taxpayer announcing that the outstanding balance is to be settled in one full payment within 10 days.

Taxes to be leviable but which have not been paid within 30 days after the expiry of the above payment periods are enforceable by district offices of the administrative enforcement agency. However, the collection authority-in-charge may suspend the referral to the offices, under any of the following circumstances: (i) if the taxpayer requests a recheck in accordance with the law; or (ii) the taxpayer, after recheck, has paid half of the amount of tax as stated in the determination of the recheck; or (iii) he or she has offered adequate guarantee with the approval of the collection authority-in-charge; or (iv) he or she has difficulties in paying half the amount of tax as stated in the determination of the

recheck or to offer adequate guarantee, and the tax collection authority has notified the government authorities concerned to prohibit the said taxpayer from transferring or creating other rights over the property of the taxpayer at a value equivalent to the amount of tax payable determined in a decision upon the recheck of the outstanding tax payable. Should the collection authority-in-charge find it improper to refer the case to the district offices of the Administrative Enforcement Agency, it may ask the offices to have the case revoked. In the case that enforcement is already under way, application should be made for its suspension. In the event that a taxpayer has made overpayment of any tax as a result of mis-application of tax law or mis-calculation by him or herself, an application for refund of such overpaid tax supported by substantial documentation may be filed within five years from the date of payment thereof. Application for refund of such overpaid tax shall be denied if it is filed after the said five-year period. In the event that a taxpayer has made overpayment of any tax as a result of mis-application of tax law or mis-calculation by the tax collection authorities or other mistakes that can be attributed to relevant government agencies, the tax collection authorities shall refund the overpaid tax within two years from the date the mistake was found out, and the period of refundable overpayment of tax is not restricted to within five years from such date. However, any outstanding tax payable by the taxpayer in question under other tax items shall be deducted from the refund before the balance, if any, is refunded.

G. Tax Assessment Period

The creditor's right to taxation must be preceded by an act of determination on the part of the tax collection authority as to the amount of tax payable by a taxpayer. Upon the exercise of the power to levy by the collection authority-in-charge, there arises an obligation of the people to pay the tax. However, the power to levy the tax must be subject to prescription; otherwise, people will be left in a state of uncertainty as to whether any tax is due for a certain period of time and how much it amounts to, a state of affairs which is not only contrary to legal principle but also prejudicial to social stability. Consequently, there is a time limit set for the determination and imposition of taxes in every country. Any tax found to be leviable during the period of assessment may be collected retroactively and any tax not found to be leviable during the period cannot be levied subsequently. In the provisions relating to the period of tax assessment in our Tax Collection Act, a distinction is drawn as to whether it is incumbent on the taxpayer to file a return or whether the tax evasion is deliberate. The period of assessment varies with different circumstances as follows:

1. The period is five years for any tax for which a taxpayer, by law, should file a return and has done so within the prescribed period without any deliberate evasion by fraudulent or other illegitimate means.
2. The period is five years for stamp tax which, by law, should be paid by actually affixing a stamp or stamps and also for those taxes that by law are determined by the tax collection authority to be levied based on the files of the tax register or information otherwise obtained.

3. The period is seven years for taxes for which no return has been filed within the prescribed period and which have been deliberately evaded by fraudulent and other illegitimate means.

As to the date when the period of assessment should begin, the Tax Collection Act has laid down the following guidelines for determining the beginning of the period:

1. For any tax for which the taxpayer should, by law, file a return and has done so within the prescribed period, the period of assessment should begin from the date of the filing.
2. For any tax for which the taxpayer should, by law, file a return and make payment but has failed to do so within the prescribed period, the period of assessment should begin from the day after the expiry of the prescribed period for filing.
3. For stamp tax, the period of assessment should begin from the day the stamp tax is paid by affixing stamp(s) according to law.
4. For taxes that the collection authority has determined to levy based on tax register files and information otherwise obtained, the period of assessment should begin from the day after the expiry of the collection period for the type of tax in question.

H. Tax Collection Period

It is sometimes unavoidable that a tax which has been determined by the collection authority-in-charge to be leviable by law may become overdue because the taxpayer's whereabouts are unknown or because of special reasons such as the taxpayer not having the means to pay. In exercising its power to levy, the collection authority-in-charge must press for payment of taxes owed by the people. The power to levy is the right to claim a tax debt, which, in accordance with the principles of civil law and in the interest of social order, should have a time limit to its effectiveness. The collection period applies to any tax that has been determined, and whatever tax is not levied after the lapse of a certain period of time will become no longer levied. According to the Tax Collection Act, any leviable tax that is not levied within five years from the date after the expiry of the period of payment shall no longer be levied. However, this does not apply to pending cases that have been referred to district offices of the Administrative Enforcement Agency, for enforcement prior to the expiry of the five-year period, or where the tax collection authority has already taken part in the distribution of the properties of the taxpayer, according to the Compulsory Execution Act, or has already claimed the debts according to the Bankruptcy Act.

In the case that any extension or installment payment of a levied tax is granted, or a leviable tax has started to be collected prior to the legal collection period by the collection authority-in-charge in accordance with the law, the collection period shall commence from the day after the expiry of the readjusted period.

The period of execution for any uncollected tax which has been forwarded to the Administrative Enforcement Agency for compulsory execution shall be effective for five years commencing from the date following the expiration date of the period for tax

collection. The period of execution, starting on the aforesaid date for a period of five years, may remain effective for a period of five more years after the end of the original five-year period. In the case that at the end of the said ten years (five plus five) that the compulsory execution has not yet been concluded, such order will no longer be effective. Where a case has been forwarded to the Administrative Enforcement Agency for compulsory execution before the amendment on 5th March, 2007, but has not yet been concluded, it cannot remain open for more than five years commencing from the date of this amendment on. A case cannot remain open for more than ten years commencing from the date of this amendment on 5th March, 2007 if it falls under any of the following circumstances:

1. Where a taxpayer fails to make a payment on a tax due over the amount of NT\$500,000 by the end of 4th March, 2012.
2. Where a taxpayer has been issued a confirmed verdict of arrest detention by the court through the petition of the Administrative Enforcement Agency before 4th March, 2012 in accordance with Article 17 of Administrative Enforcement Act.
3. Where a prohibition order has been issued to a taxpayer by the Administrative Enforcement Agency in accordance with Subparagraph 1 of Article 17-1 of the Administrative Enforcement Act before 4th March, 2012.

I. Taxation Safeguards

In levying taxes, it takes considerable time for the collection authority-in-charge to gather information, to investigate and check, to issue notifications and collect. These are all ways to determine a taxpayer's tax obligation and such obligation is referred to the district offices of the Administrative Enforcement Agency for enforcement when and only payment is not made on time. During this long interval, if a taxpayer should transfer or conceal his or her property, establish other claim(s) on property, or evade the enforcement of taxation by leaving the country, it will become impossible to collect any tax from him or her. Therefore, in order to ensure tax collection against unlawful infringement, the following provisions have been made as measures for the safeguarding of taxation:

1. Where a taxpayer is in default of any levied tax, the collection authority-in-charge shall inform the relevant authorities to prevent the transfer of the taxpayer's property or the establishment of other claim(s) on the taxpayer's property to the extent that is equivalent in value to the amount of the tax due. In the case of a profit-seeking enterprise, notice may also be given to competent authorities to impose restrictions on its registration for capital reduction or annulment.
2. When there are signs indicating a taxpayer owing levied tax is concealing or transferring his or her property or evading the enforcement of taxation, the collection authority-in-charge may request the court to place his or her property under provisional seizure without furnishing any collateral security. However, this does not apply to cases where the taxpayer concerned has already furnished adequate property for guarantee.

3. When an individual residing in, or a profit-seeking enterprise operating within the territory of the ROC is in arrears with any tax or fine already determined to be a total amount exceeding NT\$1,000,000 in the case of an individual or NT\$2,000,000 in the case of a profit-seeking enterprise, the collection authority-in-charge shall report to the MOF requesting it to write to the National Immigration Agency of the Ministry of the Interior to restrict the said individual or the responsible person of the said profit-seeking enterprise from leaving the country. In addition, when the amount of tax owed before the conclusion of the process of administrative remedy exceeds NT\$1,500,000 in the case of an individual or NT\$3,000,000 in the case of a profit-seeking enterprise, the collection authority-in-charge may report to the MOF requesting it to write to the National Immigration Agency of the Ministry of the Interior to restrict the said individual or the responsible person of the said profit-seeking enterprise from leaving the country. When the MOF requests the National Immigration Agency of the Ministry of Interior to restrict the said taxpayer from exiting the ROC, it shall also simultaneously notify the said taxpayer in writing of the reasons with remarks for the procedures for administrative remedies, and deliver the notice as prescribed by law.

The collection authority-in-charge shall, in accordance with the procedures for the lifting of an exit restriction, report to the MOF requesting it to write to the National Immigration Agency to lift the exit restriction on the individual who has, by law, been subject to such restriction if the individual meets any of the following conditions:

- a. The period of the restriction from exiting the ROC has already passed five years from the date of enforcement.
 - b. He or she has paid off the entire amount of taxes and fines due.
 - c. He or she has offered the collection authority adequate guarantee for any taxes or fines due.
 - d. The total amount of taxes due plus fines as determined by the conclusion of the process of administrative remedy and penalty does not exceed a prescribed standard sum.
 - e. At the time of exit restriction, the legal period of tax collection has expired with respect to the taxes owed plus fines.
 - f. The company owing the tax has been liquidated with no assets left to cover any outstanding taxes or fines.
 - g. The individual owing the tax has made distribution with respect to the tax he or she owed in accordance with the conciliation or bankruptcy procedure as provided in the Bankruptcy Act.
4. The tax collection authority may collect any tax levied by law prior to the due date in any of the following circumstances; however, such condition shall not apply where the taxpayer in question has offered adequate guarantee.

- a. When there are indications that the taxpayer in question is apparently concealing or transferring his or her property and evading the enforcement of taxation;
- b. The taxpayer in question is applying for exit prior to the expiry of the payment period;
- c. Upon the taxpayer’s request for any other special reason.

J. Exemption Amount Limit for Tax Levy or Non-Compulsory Execution.

In accordance with this Act or any relevant tax law, where the amount of tax which shall be paid additionally or transferred for compulsory execution by the tax collection authority is less than a specific amount, the Ministry of Finance may, depending upon the actual situation and after obtaining the approval of the Executive Yuan, waive the payment or compulsory execution.

II. Administrative Remedy

Every citizen has the duty to pay tax in accordance with the law, but he or she also has the right to appeal for remedy in case any administrative act on the part of the collection authority-in-charge in a tax matter is found to be either improper or contrary to law, and if his or her right(s) have been violated. There have been three levels of administrative remedy for tax matters since 1st July, 2000: recheck, appeal, and administrative lawsuit. For recheck, an application should be made to the tax collection authority that originally handled the case; for appeal, the matter should be referred to a competent superior authority. For an administrative lawsuit, the case should be referred to the Administrative Court under the Judicial Yuan. However, no appeal can be made unless a recheck has first been sought and no administrative lawsuit can be filed without an appeal having first been filed. In spite of the general procedures for collection and administrative remedies, appeals for remedy concerning domestic taxes on imported goods which are levied by Customs are governed by the Customs Act and the Customs Anti-Smuggling Act, while other current cases of administrative remedy for taxation come under other different jurisdictions depending on the nature of the competent superior authority of the collection agency-in-charge concerned, as shown in the following table:

National or Local Cases	Administrative Remedy		
	Recheck	Appeal	Administrative Lawsuit
National Tax Cases	National Taxation Bureau	MOF	Administrative Court
Local Tax Cases	Local Taxation Bureau	Municipal or County (City) Government	Administrative Court

A. Recheck

A taxpayer may, if he or she should find the determination unacceptable, request a recheck in accordance with the following provisions by filing a petition with the tax collection authority that originally handled the case in a prescribed form stating the reasons and accompanied by documentary evidence:

1. In cases where the amount of tax levied or payable retroactively is stated in a tax assessment notification, and has been delivered to the taxpayer, the petition for recheck should be made within 30 days after the expiry of the payment period.
2. In cases where no amount of tax levied or payable retroactively is stated in the tax assessment notification, a petition for recheck can be made within 30 days after the delivery of the tax assessment notification.
3. In cases where the tax collection authorities issued the tax assessment notification to joint owners or by public announcement, a petition for recheck can be made within 30 days after the expiry of the payment period.

Any taxpayer or his or her agent who fails to make petition for a recheck within the above-mentioned time limit because of natural calamity, emergency, or other irresistible event, may, within a one-month period after the cause of the delay has ceased, make a request for rehabilitation supported by evidence. However, if the taxpayer has already failed to make petition for a recheck for over a year after the expiry of the abovementioned time limit, then he or she is not allowed to request the rehabilitation. At the time he or she is making a request for rehabilitation, he or she must complete all the necessary procedures required for a recheck.

The collection authority-in-charge shall complete the recheck and issue a written determination to the taxpayer concerned within two months after receipt of the petition for a recheck. If all joint owners as a whole are collectively regarded as the taxpayer, the tax collection authorities shall make a decision which combines all of the applications on the recheck within two months; the commencement date shall be the date next following the date on which the latest period for application of recheck expires. In the case that the collection authority-in-charge fails to make a determination after the expiry of the two-month period, the taxpayer may proceed to file an appeal.

B. Appeal

A taxpayer who is unconvinced of the determination of the recheck by the collection authority-in-charge may appeal the determination in accordance with the provisions of the Appeal Act within 30 days from the day after receipt of the determination. No appeal can be filed with respect to items not having been rechecked or not having been objected to in the original petition for a recheck. However, any case for which the taxpayer has filed for administrative remedy can be forthwith appealed without having to go through the recheck process, provided that it has been adjudged in the process of administrative remedy by an appellate authority by the Administrative Court that “The original judgment be annulled

and reviewed,” and provided that the case has been rechecked by the collection authority-in-charge but the taxpayer concerned remains unconvinced of the new decision.

C. Administrative Lawsuits

When a taxpayer remains unconvinced of an appeal decision, after having filed an appeal in accordance with the law against an administrative act of taxation by a tax agency of the central government or a local government because he or she regards the said administrative act to be prejudicial to his or her rights or when three months have passed since an appeal was filed and no decision has yet been made, or when two months have passed since the period for decision on appeal has been extended and no decision has yet been made, he or she may then file an administrative lawsuit with the Administrative Court within two months from the day after the delivery of the appeal decision upon the expiry of the period during which the appellate authority, by law, should make a decision. The decision of the Administrative Court is binding on all relevant organizations as far as the particular case is concerned. The decision of the Administrative Court cannot be appealed or challenged. However, in any of the following cases, either the tax collector or the taxpayer may file a suit for retrial with regard to the decision of the Administrative Court within two months from the day the decision was made:

1. Where it is apparent that laws and regulations have been improperly applied;
2. Where the grounds of a judgment are manifestly in contradiction with the main text thereof;
3. Where the administrative court which renders the judgment is unlawfully constituted;
4. Where a judge who should have been excused from the administrative proceeding pursuant either to law or a judicial ruling, nonetheless took part in the court decision with respect to such administrative proceeding;
5. Where a party to the administrative proceeding has not been duly represented by its statutory agent or representative in the course of the litigation;
6. In the event that a party who initiated an administrative proceeding against another party, while having the knowledge of the domicile or place of residence of such other party, alleged that such other party's domicile or place of residence was unascertainable, unless such other party has conceded to such proceeding;
7. Where a judge who took part in the court decision has violated his or her official duties in respect of the proceeding, and has committed a criminal offense with respect thereto;
8. Where any one of the agent, representative, or administrator of the party who initiated the administrative proceeding, or the other party, or such other party's agent, representative, or administrator, committed an act which is punishable under the criminal law, in respect of the administrative proceeding, and where such act could influence the judgment thereof;

9. Where an item produced in the course of the proceeding as evidence, and which served as the basis of the judgment thereof, is discovered to have been forged or fraudulently altered;
10. Where a witness, an expert-witness, or an interpreter made perjured testimony, opinion, or interpretation, and the judgment was based on such perjured testimony, opinion, or interpretation;
11. Where a civil or criminal judgment or any other decision or administrative act on which the judgment was based has been altered by a subsequent irrevocable decision or administrative act;
12. Where a party discovers the existence of an irrevocable judgment or settlement previously rendered or entered into with respect to the subject matter of the current administrative proceeding; or if such judgment or settlement may be relied upon by such party with respect to the current administrative proceeding;
13. Where a party discovers an evidentiary item which was not considered by the court in its deliberation, or an item which could have served as evidence, provided that a more favorable judgment could have been rendered had such item been considered by the court in its deliberation;
14. When in rendering the original judgment, the court did not consider a decisive item of evidence in its deliberation.

III. Penalty Provisions

In order to ensure the collection of taxes, the government, in exercising its power to govern, shall impose sanctions according to the gravity of each case against any violation of obligations under the tax law. Unless otherwise provided in relevant tax laws, the Tax Collection Act contains the following important provisions regarding penalties:

- A. A taxpayer who has, by fraudulent or other illegitimate means, evaded taxation is liable to no more than five years in prison, penal servitude, and/or up to NT\$60,000 in fines.
- B. A tax collecting or withholding agent who has, by fraudulent or other illegitimate measures, failed to report, under-reported, under-collected, or failed to collect or withhold any tax, is liable to no more than five years in prison, penal servitude, and/or up to NT\$60,000 in fines. A collecting or withholding agent who has misappropriated any tax collected or withheld is liable to similar penalties.
- C. Whoever aids and abets in committing the crimes under Items A and B above shall face up to three years in prison, penal servitude, and/or up to NT\$60,000 in fines. Any collection authority personnel, lawyers, accountants or other legal agents committing such a crime in conducting their business shall face punishment aggravated by up to 50% of the penalty for punishment.
- D. Where a profit-seeking enterprise fails to provide or obtain certificates to or from others or to keep certificates as required by the Act, a fine in an amount equivalent to five percent

(5%) of the total amount of the relevant certificates as verified and determined shall be imposed on such enterprise. If the profit-seeking enterprise obtained the certificates from a non-actually traded party, but it was found that it had indeed bought the goods and that the certificate was issued by the profit-seeking enterprise and the profit-seeking enterprise was fined by law, the penalty may be lifted. Article 44 of the Tax Collection Act was amended on 6th January, 2010 to provide a penalty ceiling of NT\$1 million for business enterprises which violate the duty of certification.

- E. Failure to set up an account where, by law, there should be one, or failure to make entries therein in accordance with the law, is liable for a fine of not less than NT\$3,000 and not more than NT\$7,500, and also to an injunction that the account be set up and records be kept in accordance with the law within one month. Failure to do so before the expiry of the one-month period shall find the party liable for a fine of not less than NT\$7,500 and not more than NT\$15,000, and also to an injunction that the account be set up and records be kept within the next month. Failure to do so is punishable by suspension of business until the account in question is set up and records are duly kept. In the case that a taxpayer fails to send the account to the collection authority-in-charge for identification and seal in accordance with the law, he or she shall be liable for a fine of not less than NT\$1,500 and not more than NT\$15,000 and also to an injunction that the account be sent to the collection authority-in-charge within the period of time assigned. Failure to do so before the expiry of that period of time shall be subject to another fine continually until the account in question is sent to the collection authority-in-charge. If a taxpayer fails to conserve the account or to keep the account in the place of business without any justifiable cause, he or she shall be liable to a fine of not less than NT\$15,000 and not more than NT\$60,000.
- F. A taxpayer who refuses to be subject to investigation by, or to supply relevant information to the collection authority-in-charge or an investigator appointed by the Taxation Administration of the MOF is liable to a fine of not less than NT\$3,000 and not more than NT\$30,000. A taxpayer or a legal authorized agent who, without any justifiable cause, refuses to appear to be questioned before an investigator appointed by the collection authority-in-charge or the Taxation Administration of the MOF after having been notified by the said investigator to do so, is liable to a fine of up to NT\$3,000.
- G. Serious cases of tax evasion shall be dealt with in accordance with the provisions of relevant tax laws and the MOF may further suspend treatment to encourage the taxpayer in question. The above penalty rules do not cover the whole body of sanctions against default of tax obligations, particularly violations of behavioral obligations which are dealt with in separate tax laws. The administrative fines are executed by the collection authorities-in-charge. A taxpayer who, because of negligence or ignorance of tax laws, has underpaid or failed to pay any tax but has since reported and paid the tax retroactively of his or her own accord to the collection authority-in-charge before he or she is prosecuted or subjected to investigation by an investigator appointed by the collection authority-in-charge or the Taxation Administration of the MOF, shall be exempt from all

punishment as provided in the various tax laws with regard to tax evasion and under-reporting. But any tax paid retroactively shall be paid with interest compounded daily at the postal savings rate of a one-year time deposit for the entire period from the original deadline for the tax return to the date that payment is made retroactively.

- H. Normally, a taxpayer who violates the obligations of the tax laws is subject to penalty according to the current provisions of relevant tax law. However, if the penalty according to the current provisions of relevant tax laws is greater than a previous penalty applicable at the time of tax evasion, then the taxpayer is subject to the lesser penalty.