Guide to ROC Taxes

2016

MINISTRY OF FINANCE

REPUBLIC OF CHINA

INTRODUCTION

Taxation is one of the most important tasks of a government as it is a major instrument for the government to raise financial resources. The design of the taxation system and of its administration affects the financial resources available for the implementation of government policy, the tax burden of the people, the efficiency in the allocation of resources, the equitable distribution of income, and the national economic development.

Facing the current uncertain global economic situation, the Ministry of Finance (MOF) is engaged in building a more fair taxation system and sound taxation environment. In the future, the MOF will continue endeavoring to respond to the requirements of economic and social development, meet the people's expectations and achieve the government's goal of "Service to the people". This is based on the principles of innovation, job creation, and equitable distribution.

In order to attain housing justice and improve reasonable distribution of social resources, two amendments to the Income Tax Act and the Specifically Selected Goods and Services Tax Act were promulgated on 24th June, 2015 and took effect on 1st January, 2016, which marked a milestone in our tax reform. Income derived from house and land transaction shall both be taxed. The resultant income tax revenues will be used for expenditures on housing policies and long-term social care services.

Furthermore, so as to increase the contribution of people with a high income to society, achieve the principle of ability to pay, and relieve the tax burden on salary earners and disabled people, amendments to the Income Tax Act were promulgated on 4th June, 2014. One tax bracket was added to the Individual Income Tax, with a tax rate of 45% on the portion of net income over NT$10 million. Further, the taxation on dividends received by individual resident shareholders was adjusted from full imputation to partial imputation. In addition, the amount of the personal standard deduction, the special deduction for wage income, and the special deduction for the disabled will all be increased. The above measures took effect in 2015.

Also, to reduce the quantity of old vehicles, to promote the development of the vehicle industry, and to fulfil carbon reduction policies, the amendment to the Statute for Commodity Tax was promulgated on 6th January, 2016. The commodity tax of such new vehicles and motorcycles meeting with certain conditions shall be reduced.

We sincerely hope this Guide to ROC Taxes 2016 will give the readers a complete picture of our taxation system and be a helpful reference.

Sheu, Yu-Jer

Sheu, Yu-Jer
Minister
Ministry of Finance

CONTENTS

CHAPTER I

A GENERAL DESCRIPTION OF TAXATION

I. Tax System

Following the teachings of the late Dr. Sun Yat-Sen, the political system of our country is based on a separation of power between central government and local government, and this therefore is the concept underlying our tax system. Thus, in the Act Governing the Allocation of Government Revenues and Expenditures, taxes are either classified as national or local, such as municipal, county, or city taxes. National taxes are allocated to the central government, while municipal taxes, as well as county and city taxes, are allocated to the local governments of special municipalities, counties, and cities. With independent sources of revenue, each of the various levels of governments under this definition can, at the same time, adjust their local finances by helping one another in either sharing their resources or allocating them in accordance with an overall plan.

According to the Act Governing the Allocation of Government Revenues and Expenditures as amended in 1999 and the Specifically Selected Goods and Services Tax Act as promulgated in 2011, current taxes are classified as follows:

A. National taxes consist of income tax (individual income tax and profit-seeking enterprise income tax), estate tax, gift tax, customs duties, business tax (value-added tax and non-value-added tax), commodity tax, tobacco and alcohol tax, securities transactions tax, futures transactions tax, and specifically selected goods and services tax. Ten percent of total revenue from income tax and commodity tax and 40% of total revenue from business tax, after subtracting the prizes awarded to uniform invoice lottery winners, shall be allocated by the central government according to an overall plan of the special municipality and county (or city).

   In the case of a special municipality, 50% of total revenue from the estate and gift tax it collects shall be allocated to the special municipality.

   In the case of a county (city), 80% of total revenue from the estate and gift tax it collects shall be allocated to the county (city) government.

B. Special municipal and county (city) taxes consist of land taxes (land value tax, agricultural land tax, and land value increment tax), house tax, vehicle license tax, deed tax, stamp tax, and amusement tax. Of these, land value increment tax shall have 20% of its total revenue redistributed by the central government among counties according to an overall plan. (Note: The levying of agriculture land tax has been suspended since 1987.)

In the case of a special municipality, special municipal taxes take the place of the county and city taxes mentioned above; the total revenue of these taxes goes to the special municipal governments.

Instead of being collected as monopoly revenues, tobacco and alcohol taxes have, since 1st January, 2002, been levied separately and classified as a national tax according to the Act Governing the Allocation of Government Revenue and Expenditures.

Eighteen percent of total revenue from the tobacco and alcohol tax is allocated to the special municipalities and counties of Taiwan Province in proportion to their populations, and 2% of it is distributed to Kinmen and Lienchiang Counties of Fukien Province, in proportion to their populations.

II. Tax Structure

The proportions of direct and indirect taxes in a nation's total revenue are often taken as criteria in judging its tax structure; in taxation administration, direct tax is regarded as a taxation levied on investment earnings or commercial or occupational gains, in which the taxation levy is generally assessed according to the taxpayers' declaration. Indirect tax pertains to taxes levied on individual consumption and gains from the transfer of property that occur in the presence of a specific behavior. Thus, under the taxation statistics, direct tax includes income tax, estate tax, gift tax, securities transactions tax, futures transactions tax, land tax (consisting of agricultural land tax, land value tax, and land value increment tax), house tax, deed tax, education surtax, with the remainder regarded as indirect tax.

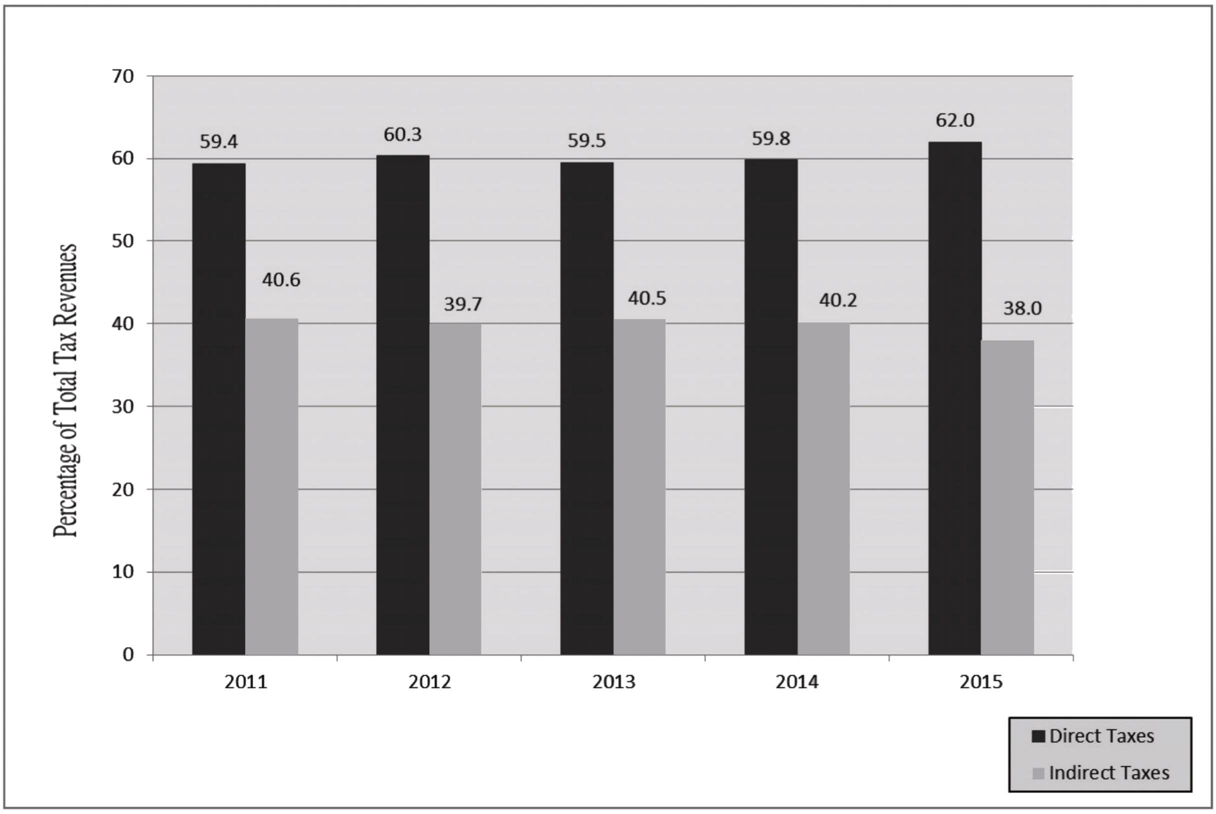
Due to government efforts to improve the tax structure and strengthen the income tax collection system, the relative importance of direct taxes as a percentage of total tax revenue has shown higher than indirect taxes steadily between 2011 and 2015. (see chart B)

Chart A: The Tax System

- Tax System
  - Taxes and Duties
    - National Taxes
      - Customs Duties
      - * Profit-Seeking Enterprise Income Tax
      - * Individual Income Tax
      - * Estate Tax
      - * Gift Tax
      - Commodity Tax
      - * Securities Transactions Tax
      - * Futures Transactions Tax
      - Value-Added and Non-Value-Added Business Tax
      - Tobacco and Alcohol Tax
      - Specifically Selected Goods and Services Tax
    - Municipal, County, and City Taxes
      - Stamp Tax
      - * Vehicle License Tax
      - *Agricultural Land Tax
      - * Land Value Tax
      - * Land Value Increment Tax
      - * House Tax
      - Amusement Tax
      - *Deed Tax

* Direct Taxes

Chart B: The Annual Percentage of Direct and Indirect Taxes of Total Tax Revenues for 2011 to 2015



III. Tax Revenues

Owing to economic development, social progress, and population growth, there has been an increasing demand for services to be provided by the government, and with the expansion of government functions, the magnitude of government expenditure has continued to grow. According to data presented in the Yearbook of Financial Statistics, the percentage ratio of tax revenues to general government net revenues for the period between 2011 and 2015 was on average 74.4%, the highest being 76.4% for the fiscal year 2014, and the lowest 72.0% for the year 2013. There has been remarkable growth in the absolute value of tax revenues (excluding the business tax levied on financial industries, and the health and welfare surcharge on tobacco), which came to a total of NT$2,076.6 billion in 2015 as compared with NT$1,704.0billion in 2011, an increase of 21.9%. (For details, please refer to Chart C below.)

In terms of the contribution ratios of tax revenues among governments at all levels, of the total tax revenues for the fiscal year 2011, the central government was apportioned 83.5% and the municipal and county (or city) governments was apportioned 16.5%, and for the fiscal year of 2015, the central government was apportioned 83.5%, and the municipal and county (or city) governments 16.5%.

Chart C: Total Tax Revenue for 2011 to 2015

Unit: NT$ million

Item	2011		2012		2013		2014		2015	
	Amount	Ratio %	Amount	Ratio %	Amount	Ratio %	Amount	Ratio %	Amount	Ratio %
Total	1,764,611	100.0	1,796,697	100.0	1,834,124	100.0	1,976,107	100.0	2,134,857	100.0
Taxes	1,703,988	96.6	1,733,350	96.5	1,768,817	96.4	1,917,609	97.0	2,076,623	97.3
Customs Duties	96,323	5.5	94,918	5.3	97,009	5.3	107,142	5.4	110,978	5.2
Income Tax	710,191	40.2	760,810	42.3	743,290	40.5	813,484	41.2	936,731	43.9
Profit-Seeking Enterprise Income Tax	367,186	20.8	367,744	20.5	351,115	19.1	402,632	20.4	462,784	21.7
Individual Income Tax	343,005	19.4	393,065	21.9	392,174	21.4	410,852	20.8	473,946	22.2
Commodity Tax	164,877	9.3	160,897	9.0	162,504	8.9	172,897	8.7	183,131	8.6
Tobacco and Alcohol Tax	44,660	2.5	44,939	2.5	44,769	2.4	43,810	2.2	44,160	2.1
Business Tax	283,884	16.1	281,817	15.7	303,039	16.5	335,088	17.0	335,761	15.7
Land Value Tax	63,374	3.6	62,712	3.5	70,826	3.9	71,516	3.6	71,141	3.3
Land Value Increment Tax	78,608	4.5	81,137	4.5	103,255	5.6	101,659	5.1	113,457	5.3
Others	262,071	14.9	246,120	13.7	244,125	13.3	272,013	13.8	281,263	13.2
Financial Enterprises Business Tax	23,806	1.3	24,720	1.4	24,932	1.4	25,609	1.3	25,137	1.2
Health and Welfare Surcharge on Tobacco	34,609	2.0	34,352	1.9	35,057	1.9	32,889	1.7	33,097	1.6
Specifically Selected Goods and Services Tax	2,206	0.1	4,275	0.2	5,318	0.3	*		*	

Note: *The revenue from Specifically Selected Goods and Services Tax has been included in tax revenues since 2014.

IV. Tax Burden

The magnitude of the tax burden on the public has been not only a principal basis in reference to which financial authorities determine their taxation policies, but also an indicator by which international comparisons are made between tax burdens in different countries. This burden directly affects the disposable income and indirectly the consumption level and the standard of living of the people. Thus, in order to enhance public welfare, countries with taxes as their principal source of revenue all take light taxation as the goal of their taxation policies. The magnitude of the tax burden of the people has thus become one of the set of indicators by which the economic well-being of a nation is assessed.

The tax burden of the people can be measured by the proportions of total tax revenues to the gross domestic product (GDP). For the period between 2011 and 2015, the proportion of total tax revenues to GDP averaged 12.3%. The ratio was 12.3% in 2011, while in 2015 it was 12.8%, with the lowest point being 12.0% in 2013. The overall tax burden, however, still remains relatively low among the nations of the world.

If we compare the tax burden of our people with that of people in noted countries, for example in the USA and Singapore, the proportions of total revenues to GDP according to data for 2014 were 19.8% in the USA and 13.8% in Singapore, both higher than our 12.3% for the same year.

Considering the present levels of our economic development and national income, the current level of the tax burden can be called reasonable and there is a potential capacity for additional taxation in the future.

V. Tax Organization

A. Central Government

The MOF, as the highest administrative organ of taxation, lays down taxation policies, enacts tax laws and oversees the levy and collection of taxes. Under the MOF, there are the Taxation Administration, Customs Administration, Fiscal Information Agency, and Training Institute. The Taxation Administration is in charge of drafting, enacting, and interpreting inland tax codes (for taxes other than customs duties), as well as overseeing the levy and collection of inland taxes. The Customs Administration is in charge of drafting, enacting, and interpreting tariff codes, as well as overseeing the collection of customs duties. The Fiscal Information Agency is in charge of filing, checking, and examining the inland tax data of the whole country. The Training Institute is in charge of the pre-job and on-the-job training of public finance personnel. All the above organs are directly subordinated to the MOF, while serving at the same time as staff units for the MOF.

National taxes of the central government are levied in two broad categories: customs duties and inland taxes. Customs duties are the responsibility of the Customs Administration, under which are the customs offices of Keelung, Taipei, Taichung, and Kaohsiung, with branches and sub-branches, and which may, as determined by local conditions and the volume of business, set up collection offices as local level customs units. Inland tax collection comes directly under central government control. Five national taxation bureaus are in charge of the collection of national taxes in different locations, including the National Taxation Bureau of Taipei, the National Taxation Bureau of the Northern Area, the National Taxation Bureau of the Central Area, the National Taxation Bureau of the Southern Area and the National Taxation Bureau of Kaohsiung. In the past, the collection of business tax was entrusted to the special municipality and county (or city) governments. However, the collection of the aforesaid tax was assumed by the national taxation bureaus as of January, 2003 in order to promote efficiency in collection and improve the cross-auditing of tax information related to the business tax and the profit-seeking enterprise income tax.

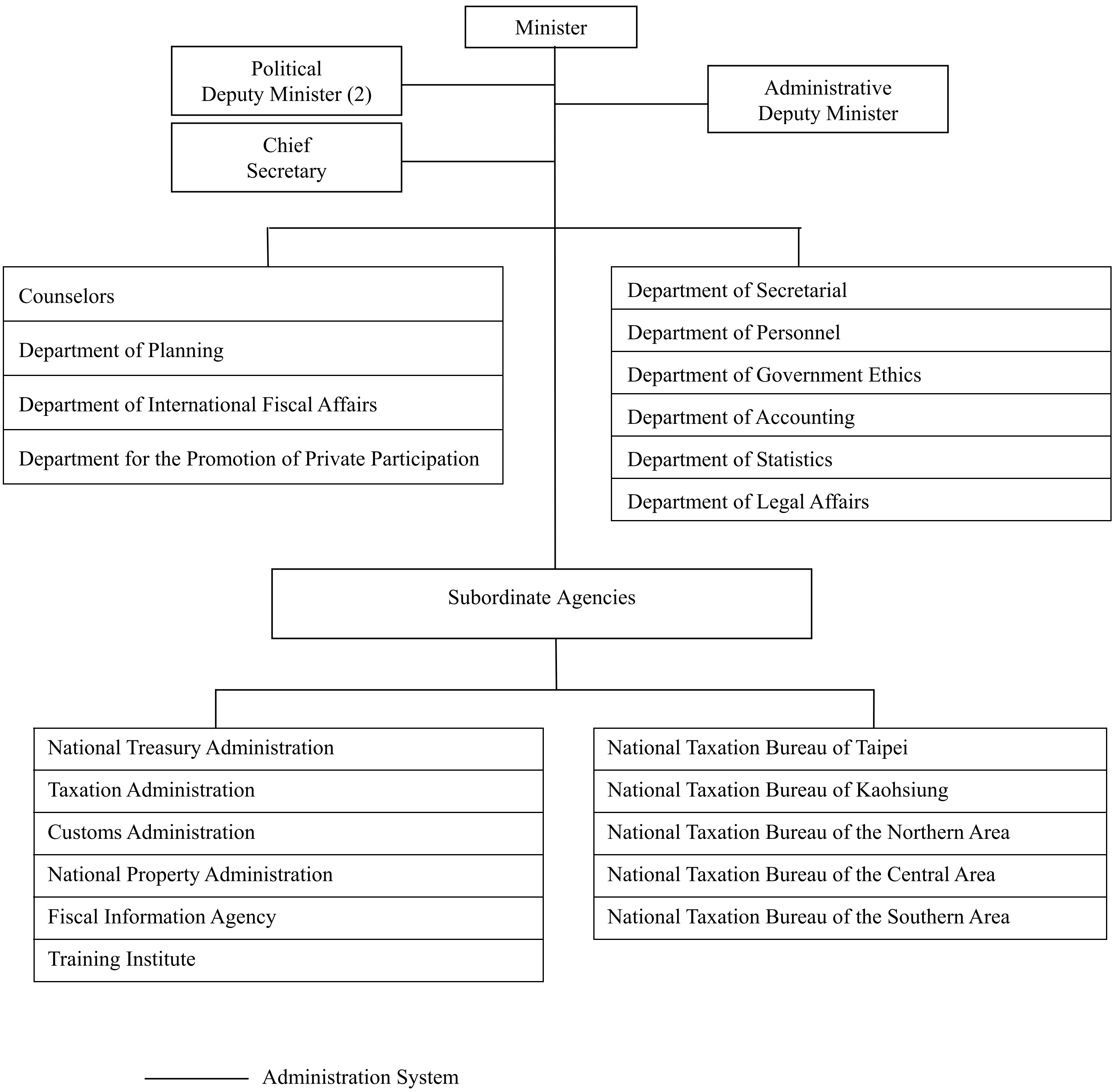
B. Special Municipal Governments

Special municipal tax bureaus are the branches in charge of the levying of special municipal taxes. Under the special municipal tax bureaus are the special municipal tax offices in charge of the collection of special municipal taxes. The tax offices may, in view of the administrative divisions and economic development of an area, set up branch offices as local level tax collection units.

C. County (or City) Governments

County (or city) governments all have their own tax offices in charge of the collection of county and city taxes, respectively. These tax offices may, in view of the administrative divisions and business conditions of the area, set up branches as local level collection units. County and city tax offices are subordinate organs of the county and city governments concerned, performing tax collection tasks on orders from the magistrate of the county or the mayor of the city, and are directed and supervised by the county and city government concerned, as well as the finance bureau.

Chart D: The Organization of the MOF



CHAPTER II

INDIVIDUAL INCOME TAX

I. General Description

Income taxation in the Republic of China (ROC) began with the Income Tax Statute of 1914, which was however, impossible to implement at the time due to widespread hardship. This statute and its Implementation Rules of 1915 were not revised or published until the first National Finance Assembly of 1928. Again, there was no implementation. In 1936, the ROC Income Tax was first adopted as a national tax levied only on business profits, wages, and interest income. An income tax agency was established under the MOF to manage collection and enforcement. There were branches in each province and in important cities. By then, income taxation had been established as a direct tax.

In 1943, rentals and sporadic income were included in the tax base and taxed at a separate rate until 1946, when they were consolidated into a hybrid system. In conformity with the trend of income taxation, the individual income tax became consolidated in 1956 and handled independently from profit-seeking enterprise income tax.

In order to achieve the goals of fiscal sustainability and fairness in taxation, the amendments to the Income Tax Act were promulgated on 4th June, 2014. The main points are briefly introduced below.

The number of tax brackets were revised from five to six, with the addition of a bracket with a tax rate of 45% on the portion of net income over NT$10 million so as to increase the contribution of people with a high income to society, achieve the principle of ability to pay, and narrow the gap between rich and poor.

As a package of the aforesaid tax reform, the personal standard deduction were raised from NT$79,000 to NT$90,000 (NT$180,000 for a taxpayer filing with his or her spouse), special deduction for wage income, and the special deduction for the disabled were raised from NT$108,000 to NT$128,000, respectively, to relieve the tax burden on salary earners and disabled people. The above measures took effect from 2015.

II. Tax Scope

Taxable income is classified into the following ten categories:

A. Business income

1. Cash or stock dividends declared and distributed to shareholders by corporations.
2. Profits distributed to their members by co-operatives.

3. The gross surplus profit payable to partners by partnerships.
4. Profits earned by sole proprietors.
5. Profits from incidental trading activities, i.e., gains earned through the sale or exchange of merchandise by individuals who do not register themselves as a business enterprise.
6. Retail earnings from an individual distributor of a multi-level direct sales business whose total annual purchases exceed NT$77,000.

B. Income from professional practice

1. Professional practitioners include lawyers, certified public accountants, architects, engineers, doctors, pharmacists, midwives, writers, brokers, scriveners, artisans, performers, and persons who make a living by their own profession.
2. The income from professional practice is taxable to the extent of the remuneration from work performed after deduction of office rentals, salaries, necessary transportation fees, and other direct and necessary expenses.
3. Individual income derived from written articles, copyright books, musical compositions, musical productions, dramas, cartoons, or as remuneration for speeches and lectures on an hourly basis is considered as income from professional service.

C. Salaries and wages

1. Any compensation received for services rendered by civil or private employees.
2. Any payments paid for a task or work.
3. The payments mentioned in the preceding items include, but are not limited to, salaries, wages, allowances, bonuses, annuities, awards, and/or any other similar subsidies or compensations, but exclude the voluntary pension contribution and the voluntary annual insurance premiums according to the Labor Pension Act of up to 6% of an employee's monthly wage or salary.

D. Interest

1. Any interest received from government bonds, corporate bonds, financial bonds, any short-term commercial papers, deposits, and other loans. The government bonds thus mentioned include notes, bonds, securities, and certificates issued by the government at all levels.
2. From 1st January, 2007, interest received by an individual from government bonds, corporate bonds, and financial bonds shall not be included in the gross consolidated income, but withheld at the rate of 10% separately.
3. From 1st January, 2010, the following income received by an individual shall not be added to the gross consolidated income, but withheld at the rate of 10% separately:
   a. The portion of the pecuniary amount realized by short-term commercial papers at their maturity in excess of the selling price at their initial issuance.

b. The interest distributed from beneficiary securities or asset-backed securities issued in accordance with the Financial Asset Securitization Act and the Real Estate Securitization Act.

c. The interest derived from repo (RP/RS) trade whereby an individual purchases and sells the aforesaid bonds, securities, or short-term commercial papers; that is the net amount of the sale price at their maturity in excess of the original purchase price.

E. Rentals and royalties

1. Income from leases and royalties: Any income from the lease of property, from utilization of money obtained as the price of a lien on property, or from royalties on patents, registered trademarks, copyrights, secret formulas, and all kinds of franchise made available for use by others.

2. Any income derived from long-lasting tenant right and superficies created for fixed terms shall be deemed as income from lease.

3. For money received in the form of a rental deposit or in other similar forms for lease of a property, and for money received as the price of a lien created on property, the deposit multiplied by the one-year-term deposit interest rate is deemed as a rental.

4. A rental income is computed on property lent to others for use in line with the local prevailing rental standard, unless it can be verified that no payment has been made and the property in issue is not being used for business or for the carrying out of professional services.

5. In the event that the rental reported by the lessor is obviously lower than the local prevailing rental standard, the collection authority-in-charge may make adjustment in accordance with the local prevailing rental standard.

F. Income received from self-undertaking in farming, fishing, animal husbandry, forestry, or mining by individuals or families which are not in the form of a business enterprise, shall be taxed as the whole year's income after the deduction of necessary expenses.

G. Income from property transactions

1. Gains received from the sporadic sale, exchange or other disposition of property or right by a taxpayer who possesses properties other than through engagement in regular trade of such properties for profit-seeking purposes.

2. Gains received through the sale or exchange of stocks or other securities. From 1st January, 2013 to 31st December, 2015, gains received by an individual from the sale of stocks as stipulated in the provision to Article 4-1 of the Income Tax Act are taxed as follows:

a. Gains from alienation of shares listed on the TAIEX or traded on the OTC market or emerging markets shall be deemed zero.

b. Gains from transactions of the following four categories are taxed under the "filing and paying tax on real income" system at a flat tax rate of 15%:

(1) Anyone who sells shares neither listed on the TAIEX nor traded on the OTC market or emerging markets;

(2) Anyone who sells 100,000 shares or more on emerging markets in one year;

(3) Anyone who sells shares acquired before such shares were listed on the TAIEX or traded on the OTC market and sold after such shares were listed on the TAIEX or traded on the OTC market (hereinafter referred to IPO shares) exclusive of those newly listed or traded before or on 31^{st} December, 2012, or those purchased from underwriters when the stock are newly issued for 10,000 shares or less of each company; and

(4) Non-resident individuals who sell any shares.

H. Prizes or awards obtained from contests, games, or lotteries shall be taxed on the amount received less the necessary expenses. Prizes from lottery tickets under the auspices of the government, except that tax payable shall be withheld at the rate of 20%, shall not be included in the gross consolidated income.

I. The retirement pay, severance pay, separation pay, resignation pay, life-time pension, the pension not covered by insurance benefits and the insurance payment made under annual insurance according to the Labor Pension Act, but not including that part of the receipt from the savings or the voluntary annual insurance premiums according to the Labor Pension Act made by the said person from taxable income of his or her salary every year, and/or the interest accrued from such savings and premiums.

J. Other income

Income not listed in the above-mentioned categories is taxable on the gross income less the necessary costs and expenses incurred in the production of such income. However, the reward for information or accusation and income from transactions in structured products between individuals and securities firms or banks shall not be added to the gross consolidated income, but withheld separately. Examples of such income can be illustrated as follows:

1. Income received by individuals through the operation of language, automobile driving, and other technical training programs.
2. Bonuses received by employees from an employees' welfare committee in the event of marriage, childbirth, hospitalization, festivals, and the like.
3. Bonuses or subsidies received by an individual distributor of a multi-level marketing business from the business concerned due to his or her purchases being made up to a fixed standard.

III. Taxpayers

Individual income tax shall be levied on the individual income derived from ROC sources unless exempt under the provisions of the law. Individual taxpayers are divided into two categories: residents and non-residents.

A. Residents

1. One who maintains a domicile in the ROC and is ordinarily residing in the ROC.
2. One who resides in the ROC for 183 days or more in a taxable year, even if he or she does not maintain a domicile in the ROC.

B. Non-residents: Individuals who do not qualify as residents.

Aliens and overseas Chinese are characterized either as residents or non-residents for tax purposes. The ROC source income received by aliens or overseas Chinese is taxed depending upon the status of the recipient, namely, resident or non-resident.

1. Non-resident aliens or overseas Chinese
   a. For aliens or overseas Chinese who reside in the ROC for 90 days or less in a taxable year, the income received from ROC sources is subject to withholding tax at a rate fixed by regulations. However, for the remuneration paid by their foreign employer, the exclusion applies.
   b. For aliens or overseas Chinese who reside in the ROC more than 90 days but less than 183 days in a taxable year, the income received from ROC sources is subject to withholding tax at a rate fixed by regulations. With regard to the remuneration paid by their foreign employers, taxpayers shall file a tax return and make tax payment calculated at a rate of 18%.
2. Resident aliens or overseas Chinese

   For aliens or overseas Chinese who reside in the ROC 183 days or more in a taxable year (“residents”), the income received in the ROC together with the remuneration paid by their foreign employers for services rendered in the ROC shall be reported and taxed after deduction of personal exemptions and other deductions.

IV. Exemptions and Deductions

Exemptions and deductions are prescribed under the Income Tax Act for various reasons, e.g., incentives conferred on certain occupations or status, for economic development, for the promotion of social policy, for the promotion of education and culture, for international reciprocity or demonstrable courtesy, under the requirement of equity, or as a consequence of tax convenience. The exemptions and deductions allowed for each particular category of income are elaborated as follows:

A. Exemption for Professional Service Income

The income received through the provision of professional services, such as lectures, writing songs, drawing cartoons, etc., (see II. B.3.) shall be exempt to the extent of NT$180,000 annually.

B. Exemption for Wages

1. Full Exemption

   a. Salaries received by persons currently in military service, teachers and personnel of nurseries, kindergartens and private or public primary or junior high schools. (This exemption was terminated on 31st December, 2011 due to the amendments of Articles 4 and 126 of the Income Tax Act.)

   b. Scholarships and subsidies granted by the ROC government or foreign governments, international institutes, educational, cultural or scientific research organizations, associations, or other private or public associations for the encouragement of advanced studies, research or participation in scientific or professional training, provided, however, that such exemption does not include the remuneration received in the form of scholarship subsidies for services rendered.

   c. Income received by foreign diplomats, consuls, and other officials entitled to diplomatic treatment.

   d. Income received by alien employees, other than diplomats, consuls, or other officials entitled to diplomatic treatment, of a foreign embassy or its subsidiary agencies located in the ROC, provided, however, that reciprocal treatment is accorded to ROC employees serving at the embassy or consulate of the ROC or its subsidiary agencies located in the foreign country concerned.

   e. Salaries defrayed by foreign government agencies, associations, educational or cultural institutes to foreign technicians or professors of foreign colleges or universities for services rendered within the ROC under technical co-operation or cultural or educational exchange programs between such foreign government agencies, associations, or educational or cultural institutes and ROC government agencies, associations, or educational or cultural institutes.

   f. Various payments paid to personnel engaged in handling various kinds of examinations held by government agencies or institutes commissioned by the government, and entrance examinations held by public or private schools at various levels.

2. 50% Exemption

   Exemption is granted in respect to half of the income received by the employee for ocean fishing at the end of each voyage.

3. Fixed or Limited Deductions

   a. Special deduction for wage income

      (1) A special deduction NT$128,000 against wage income is available for each taxpayer for 2016.

      (2) The taxpayer or his or her spouse who has the amount of tax payable on his or her wage income computed separately, is entitled to claim a personal exemption and special deduction for wage income.

b. The travel expenses or daily allowance received by the employee for performance of his or her work employed for the benefit of the employer shall be exempt to the extent prescribed by regulation.

c. The daily allowance for disbursement of food, lodging and other living expenditures received by alien technicians hired by ROC government agencies or private enterprises to render service in the ROC shall be regarded as incurred in the performance of his or her work and shall be exempt to the extent of NT$2,000 daily. However, such persons should work in the ROC for less than 90 days, and the daily payment should be set in the hiring contract.

d. Overtime Pay

(1) The overtime pay received by employees of government agencies or private enterprises shall be exempt to the extent not exceeding the standard prescribed by regulation.

(2) The overtime pay received by employees of public or private enterprises subject to the application of the Labor Standards Law shall be exempt to the extent that the pay does not exceed the ceiling of overtime pay and the aggregate overtime does not exceed the hours allowable each month to each employee under the law.

(3) The overtime pay received by employees of public or private enterprises for performance of work on national holidays, weekends or vacation/leave shall be exempt to the extent not exceeding the standard prescribed by regulation.

e. Meal Allowance

A monthly meal allowance received by an employee in the form of cash or food provided by the employer shall not be included in the wage of the employee to the extent of NT$2,400. The excess, however, is taxed as the employee's wage income.

4. Other Excluded Wage Income

a. In the case where the employer provides a dormitory at his, her, or its own expense, such benefit is not regarded as the wage of the employee.

b. Premiums paid by the employer for the benefit of employees insured under labor insurance, national health insurance, or civil servants' insurance programs are not regarded as the wage of the employee.

c. The premium paid by the employer in a group insurance program under which the insured employee is entitled to death benefit, disability payment, or maternity payment is not regarded as the wage of the employee as long as it is not more than NT$2,000 per month.

d. The expenditure incurred by the employer in a year-end celebration party is not considered the wage of the employee.

C. Exemption for Interest Income

1. Interest paid for mandatory deposits set aside under the requirement of law.
2. Interest received by individuals derived from deposits operated under Article 20 of the Postal Savings and Remittances Act.
3. Interest received from financial institutions, profits generated from trust funds having the nature of savings received by taxpayers and their spouses and dependents who file income tax returns jointly shall be exempt to the extent of an amount of NT$270,000 annually. However, interest from postal passbook savings, government bonds, corporate bonds, financial debentures, short-term commercial papers, and beneficiary securities or asset-based securities issued according to the Financial Asset Securitization Act and the Real Estate Securitization Act is not included.

D. Exemption for Royalties

Royalties received from the license of patents or copyrights on computer software to corporations for use in the ROC and invented or developed by nationals provided the license has been approved by the government agency in charge of the said corporation. (The tax incentives provided under the Statue for Upgrading Industries were terminated on 31st December, 2009.)

E. Exemption for Income from Self-Undertaking in Farming, Fishery, Animal Husbandry, Forestry, or Mining

1. Half of the income from self-undertaking in forestry.
2. The exemption referred to in the preceding item does not include forestry income derived from the practice in which logs are harvested yearly or by rotation.

F. Exemption for Gains from Property Transactions

1. Gains derived from the sale of land and family necessities such as garments, furniture, etc.
2. From 1st January, 2016, income tax on gains derived from securities transactions ceased to be imposed; and, at the same time, losses on securities transactions could no longer be deductible from the amount of income derived from such transactions.
3. Gains derived from futures transactions; at the same time, losses on futures transactions shall not be deductible from the amount of income derived from such transactions.
4. Gains derived from the sale of registered stocks, registered corporate bonds issued by various levels of government, and development bonds issued by government-designated banks shall be exempt to the extent of half of the gains realized on condition that the sellers hold such stocks for at least one year.
5. Losses realized from the sale of property are only deductible against the gains originating from the sale of property. In the case where none of the gains derived from the sale of property are available for deduction, such losses may be carried forward to

the first three years immediately following the year in which the original loss was incurred and are only deductible against the gains derived from the sale of property.

6. Income tax levied on the gains derived through the sale of an owner-occupied residence is refundable or allowable as credit against income tax payable in the year in which the taxpayer/seller purchased and registered another owner-occupied residence within two years where the purchase price is in excess of the previous sale price, provided, however, that such tax refunds or credits are not allowable when the gains derived through the sale of the owner-occupied residence have been offset by losses incurred from the sale of other properties. The above tax refunds or credits are allowable in the event that the taxpayer purchases another residence for him or herself prior to selling his or her original owner-occupied residence.
7. Gains derived from the sale of patents to corporations for use in the ROC and invented or developed by nationals with the approval of the government agency in charge of the enterprise shall be exempt from income tax. (The tax incentives provided under the Statue for Upgrading Industries were terminated on 31st December, 2009.)

G. Exemption for Prizes or Awards Won from Contests, Pageants, or Lotteries

1. Any prize under the amount of NT$2,000 won from a lottery sponsored by the government shall be exempt from income tax. Prizes amounting to over NT$2,000 shall be subject to a withholding rate of 20% and need not be reported in the recipient's annual income tax return.
2. The necessary expense incurred in attending the competition or contest is deductible.
3. The cost incurred in participation in lottery games is deductible.

H. Exemption for Retirement Pay or Severance Pay

1. If received in one lump sum, the income amount is calculated as follows:
   a. If the total amount received in one lump sum is less than NT$175,000 for 2016 multiplied by the number of service years at the time of separation, the income amount shall be considered zero;
   b. If the total amount received in one lump sum is more than NT$175,000 for 2016 multiplied by the number of service years at the time of separation, half of the portion over NT$175,000, but less than NT$351,000 for 2016, multiplied by the number of service years at the time of separation shall be the income amount;
   c. The portion over NT$351,000 multiplied by the number of service years shall in total be considered the income amount.
2. If received in installments, the income amount shall be the balance of the total amount of all the installments received in one year with a deduction of NT$758,000 for 2016.
3. If one portion of the separation income is received through apportionment of the lump sum and the other portion in installments, the deductible amount aforementioned shall

be calculated proportionally with both the amount received in one lump sum and in installments, respectively.

I. Exemption for Other Income

1. Compensation for death or injury, or compensation received under the National Compensation Act shall be exempt from income tax.
2. Payments received under life insurance, labor insurance, or the insurance covering military personnel, civil servants, or teachers shall be exempt from income tax.

J. Exemptions and Deductions

Income earned by the spouse of the taxpayer and dependents claimed in the taxpayer's income tax return shall be consolidated and reported together with the income received by the taxpayer. The following exemptions and deductions may generally be deducted from the above consolidated income in order to calculate the net consolidated income:

1. Exemption: For 2016, the amount of exemption for each taxpayer, spouse, and his or her dependents is NT$85,000. In addition, in the case of the taxpayer, spouse, or his or her father, mother or any lineal ascendant being aged 70 or over, the exemption is 150% of the above amount.
2. Deductions: Taxpayers are allowed to choose either one of two methods for the calculation of deductions, i.e., the standard deduction or itemized deduction, provided, however, that the standard deduction becomes mandatory in the event that the taxpayer is not required to file an annual income tax return or he or she fails to file an annual income tax return.

   a. Itemized deductions

      (1) Donations: A deduction for donations to officially registered educational, cultural, charitable, and public welfare organizations or associations is allowable to the extent of 20% of the above gross consolidated income before deduction of the said donation. A deduction for donations made to the government or to boost military morale or for the purpose of national defense, however, is not subject to the above 20% limitation (as for non-cash donations, the amount of the deduction should be based on the cost of acquiring the donated items, unless otherwise prescribed by laws and regulations). In the case of political contributions, for contributions to political parties, political associations, and persons planning to participate in campaigning, the deduction should not exceed NT$200,000 and 20% of the gross consolidated income per filing unit. The contribution to the same persons planning to participate in campaigning should not exceed NT$100,000 in a taxable year. The deduction for donations to private schools through the foundation referred to in the Private School Law shall not be more than 50% of the taxpayer's gross consolidated income, however, the deduction for a donation that is not designated to any specific private school is not subject to the above 50% limitation.

(2) Insurance premiums: Premiums paid by the taxpayer, his or her spouse or lineal dependent(s) on life insurance, labor insurance, national pension insurance, and insurance for military personnel, public servants, or teachers shall be deductible to the extent of NT$24,000 per person. However, there is no limitation for premiums paid for national health insurance.

(3) Medical and childbirth expenses: Medical or childbirth expenses incurred and paid for by the taxpayer, his or her spouse or dependent(s) to public hospitals, the hospitals or clinics appointed under national health insurance, or hospitals which have complete and accurate accounting records as recognized by the MOF are deductible. However, no deduction shall be made for the portion covered by the insurance payment.

(4) Disaster losses: Losses incurred by the taxpayer, his or her spouse and dependent(s) due to force majeure are deductible when not compensated by insurance payment or not covered by other benefits.

(5) Mortgage interest: Interest incurred and paid by taxpayers to financial institutions on loans acquired for the purchase of an owner-occupied residence shall be deductible up to NT$300,000 per filing unit.

(6) Campaign expenses: Candidates officially registered to run for political office may deduct expenses which are not paid by donators and the government and are within the amount prescribed by the government.

(7) Rental expenses: Rental expenses incurred and paid by the taxpayer, his or her spouse and lineal dependent(s) shall be deductible up to NT$120,000 per filing unit.

b. Standard deduction: If the taxpayer does not choose itemized deductions as stipulated in documents, alternatively he or she is entitled to a standard deduction of NT$90,000 for 2016. If the taxpayer files a tax return with his or her spouse, the amount of the standard deduction is NT$180,000 for 2016.

c. Special deductions: The taxpayer is entitled to the following special deductions irrespective of whether he or she selects the itemized or standard deduction.

(1) Loss from property transactions: The losses realized from the sale of property incurred by the taxpayer, his or her spouse and dependents are only deductible against the gains originating from the sale of property. (See IV. F.7.)

(2) Special deduction for wage income. (See IV. B.3a.)

(3) Special deduction for savings and investment. (See IV. C.3.)

(4) Special deduction for the disabled: There is a NT$128,000 deduction for 2016 for each taxpayer, spouse, and dependent who is a physically or mentally disabled citizen.

(5) Special deduction for tuition: For the children of a taxpayer who are supported

by reason of college or university attendance, the amount of deduction for educational expenses is NT$25,000 per child per year, except when the educational expenses are for the Open University or junior college, the first three years in a five-year junior college, or when a subsidy or scholarship has been received from the government.

(6) Special deduction for pre-school children: Starting from 2012, for a taxpayer who has children under or equal to five years of age and his or her circumstances do not fall under any of following two conditions, the amount of deduction for pre-school children is NT$25,000 per child per year:

i. The taxpayer's annual total net consolidated income after the amount of the aforesaid deduction has been deducted is declared greater than or equal to the 20% individual income tax rate, or his or her individual income tax is declared in accordance with Paragraph 2 of Article 15 of the Income Tax Act such that the declared individual income tax rate is greater than or equal to 20%.

ii. The amount of basic income of the taxpayer calculated in accordance with Article 12 of the Income Basic Tax Act is greater than the amount of deduction described in Article 13 of the Income Basic Tax Act.

3. Should the taxpayer die or depart from the ROC, the income tax return shall be filed on his or her behalf or by him or herself. The above-mentioned exemptions and standard deductions shall be deducted in proportion to the days the taxpayer lived or stayed in the ROC in the tax year concerned.

K. Tax Preferences for Foreign Professionals

1. To encourage foreign professionals to work within the territory of the ROC and accelerate the internationalization of the economy of the ROC, the scope of application for tax preferences for foreign professionals is issued by the MOF and came into force on 1st January, 2008.

2. The tax preferences specified in the above scope denote that payment made, in accordance with the content of an employment contract, by any organization, institution, school or enterprise which hires foreign professionals who meet certain requirements, may be claimed as expenses by the employer, such as the round trip air fare of the foreign professional and his or her family, home leave vacation pay according to contract, home-moving expenses, utility bills, cleaning bills, telephone bills, house rentals, repair costs for place of residence, and educational scholarships for children. These items are excluded in the taxable income of the foreign professionals.

V. Tax Rates

A progressive tax rate system has been adopted for individual income tax. The tax rate system for the taxable year 2016 is structured as follows:

Brackets (Unit: NT$)			Rate (%)
0	-	520,000	5%
520,001	-	1,170,000	12%
1,170,001	-	2,350,000	20%
2,350,001	-	4,400,000	30%
4,400,001	-	10,000,000	40%
10,000,001 and over			45%

VI. Indexation

The amounts for brackets, exemption, standard deduction, special deduction for wage income, special deduction for the disabled or handicapped, and for limited amounts as stipulated in retirement pay or severance pay (see IV. H.) shall be adjusted according to the consumer price index if the total increase of the index has reached a figure of 3% or higher compared to the index of the year of previous adjustment. In addition, the criteria for these deductions and the exemption are evaluated every three years according to income levels and the changes in basic living expenditures.

VII. Tax Returns and Payments

A. Deadline and Procedures

The taxpayer shall, within the period from 1st May to 31st May of each year, file an annual income tax return declaring therein the items and amounts that make up his or her gross consolidated income for the preceding year together with the tax deductions/exemptions, and/or offsets associated therewith, if any. The taxpayer shall further calculate the amount of income tax actually payable by him or her by deducting from the amount of income tax payable for the withholding tax, the amount of credit tax, and shall make payment voluntarily of the same before filing the annual income tax return.

B. Cases Exempt from Filing Return

In the event that the consolidated income received by a resident does not exceed the aggregate amount of the exemption and standard deduction, he or she may be exempt from filing an annual income tax return; however, a resident who wishes to apply for a tax refund is required to file an income tax return.

C. Consolidated Returns

Income earned by taxpayers, their spouses, and qualified dependents claimed in income tax returns shall be consolidated. However, the taxpayer can elect to calculate the tax payable either on his or her wage income or his or her spouse's wage income separately. (See IV. B. 3. a. (2).)

In order to comply with the Judicial Yuan Interpretation No. 696, to eliminate the additional taxation due to consolidated filing of a married couple's non-wage income, the amendment to Article 15 of the Income Tax Act was promulgated on 21st January, 2015. From tax year 2014 onwards, besides the calculation methods mentioned above, the taxpayer can also elect to calculate the tax payable either on his or her categorized income or his or her spouse's categorized income separately.

D. Returns Filed Before the Taxpayer's Departure or After the Death of the Taxpayer

In the event that the resident taxpayer dies during a tax year, unless otherwise provided, the executors, heirs or administrators of the taxpayer shall, within three months after the death of the taxpayer, file an income tax return for the income received prior to death and pay the income tax thereupon. However, the spouse of the deceased taxpayer shall file a joint income tax return including the income of the taxpayer in the period prescribed for the annual return, provided that the surviving spouse is a resident in the ROC. The executors, heirs, or administrators may, in an exceptional situation, apply for an extension of the above period but in no event can the period be extended beyond the period for filing the estate tax return.

In the event that the resident taxpayer waives his or her residence in the ROC and departs, an income tax return shall be filed by him or her before departure, provided, however, that the spouse of the taxpayer continuing to be a resident in the ROC shall file a joint income tax return including the income of the taxpayer in the period prescribed for the annual tax return.

E. Tax Returns and Payments by Non-Residents

If a non-resident has income not subject to tax, and intends to leave the territory of the ROC prior to the time limit prescribed for filing a tax return in the taxable year, he or she shall file a tax return prior to his or her departure and pay tax according to the prescribed tax rate. In the case that he or she does not leave within the time limit prescribed for filing an income tax return in the taxable year, he or she shall file a tax return and make payment in accordance with the regulations concerned.

F. Forms of Annual Report

Forms for the individual income tax return can be classified as follows:

1. Simplified Form: To be used by those who choose a standard deduction, no tax credit, and receive only wages, dividends, interest, and income from published articles limited to NT$180,000.
2. General Form: To be used by those who are not qualified to use the simplified form.

G. Service of the Pre-Calculation of Consolidated Income Tax Returns

In order to provide further high-quality tax service, the pre-calculation service was put into practice in 2011 for the first time. Individual taxpayers who meet certain requirements will receive pre-calculation income tax notices and tax bills before 1st May of each year. If a taxpayer confirms the calculation or pay tax as stated on the tax bills, he or she is deemed to have finished his or her income tax return filing. However, if a taxpayer has any other income or applies for extra exemptions, deductions or tax credits which are not provided on the income tax notice, he or she still needs to file his or her income tax return as legally required.

VIII. Withholding

A. Withholding Agent

A withholding agent is a person who pays income to taxpayers and withholds tax from the said income. The withholding agents for various incomes are as follows:

1. For dividends distributed to non-resident shareholders by corporations, profits distributed to non-resident members by co-operative organizations, profits distributed to non-resident partners by partnerships, profits earned by non-resident proprietors, the withholding agent shall be the person in charge of those corporations, co-operative organizations, partnerships, and sole proprietorships, respectively.
2. For wages, interest, rentals, commission, royalties, income from professional practice, prizes or awards obtained from competition, contests, or lotteries, income from payments for retirement or severance (see II. I.), old-age pension not covered by insurance benefits, reward for information or accusation, and income paid to foreign enterprises having no fixed place of business or business agent in the ROC, the withholding agent shall be the person in charge of tax withholding of the organization, school, association, etc., or the person in charge of the organization, the trustees of bankrupt estates, or professional practitioners.

B. Income Subject to Withholding

1. Dividends distributed to non-resident shareholders by corporations, profits distributed to non-resident members by co-operative organizations, profits distributed to non-resident partners by partnerships, and profits earned by non-resident proprietors.
2. Wages, interest, rentals, commission, royalties, income from professional practice, prizes or awards obtained from competition, contests, or lotteries, income from payments for retirement or severance (see II. I.), old-age pension not covered by insurance benefits, reward for information or accusation, and income paid to foreign enterprises having no fixed place of business or business agent in the ROC.

C. Time of Withholding

The withholding agent shall withhold taxes in accordance with the various withholding rates prescribed by the regulations upon payment of income to the taxpayer.

D. Withholding Rates

Type of Income	Withholding Rates	
	Resident	Non-Resident
Dividends Distributed by Companies and Profits Distributed by Co-Operatives	—	20%
Profits Paid to Partners or to the Owner of a Sole Proprietorship	—	20%
Wages and Salaries	(1) To be withheld in accordance with “The Regulations Governing the Withholding of Tax on Wages, ” or (2) 5%	(1) 5%, in the case of the portion of the total monthly payment exceeding NT$30,000 for civil servants employed by the government to work abroad; (2) For individuals described other than in (1): (a) 6%, in the case of salaries not exceeding 1.5 times the monthly basic salary as assessed by the Executive Yuan (b) 18%, in the case of salaries exceeding 1.5 times the monthly basic salary as Assessed by the Executive Yuan
Commission	10%	20%
Interest	10%	(1) 20%; (2) 15%, to be taxed on interest from the portion of the pecuniary amount realized by short-term commercial papers at their maturity in excess of the selling price at their initial issuance; (3) 15%, to be taxed on interest from securities issued under the Financial Asset Securitization Act or the Real Estate Securitization Act; (4) 15%, to be taxed on interest from government bonds, corporate bonds or financial bonds; (5) 15%, to be taxed on interest from repo (RP/RS) trade of the aforesaid bonds, securities or short-term commercial papers which shall be the net amount of the sale price at their maturity in excess of the original purchase price.

Type of Income	Withholding Rates	
	Resident	Non-Resident
Rental	10%	20%
Royalties	10%	20%
Income from Professional Practice	10%	20%
Reward for Information or Accusation	20%, to be taxed separately from ordinary income	20%, to be taxed separately from ordinary income
Awards or Prizes from Participating in Contests, Games, or Lotteries, Etc.	(1) 10%; (2) 20%, to be taxed separately for a prize received from lotteries sponsored by the government in the case that the prize exceeds NT$2,000 per ticket	(1) 20%; (2) 0%, in the case that the prize received is from lotteries sponsored by the government and is no more than NT$2,000 per ticket
Income from Payments for Retirement, Severance, Etc.	6%, to be taxed on the excess amounts as prescribed by the Income Tax Act	18%, to be taxed on the excess amounts as prescribed by the Income Tax Act

E. Returns and Payments of Tax Withheld

The withholding agent shall, prior to the tenth day of each month, pay to the Treasury the taxes withheld the previous month and file a withholding report and receipts with the collection authority-in-charge not later than the January of the following tax year, specifying the payment made and the tax withheld in the previous year. In the case that three national holidays occur in immediate succession in January, the period for the submission of the certificates shall be extended to 5th February. For income paid to non-residents or foreign businesses having no fixed place of business in the ROC, the withholding agent shall pay to the Treasury the taxes withheld and file a withholding report and receipts with the collection authority-in-charge within ten days after withholding.

F. Penalty Provisions

1. In the event that a withholding agent fails to withhold taxes, withholds less tax due, the collection authority-in-charge shall notify the agent to pay the deficiency and file a correct report within a specified period, and he or she shall be subject to a penalty of no more than the amount which has not been withheld. If the withholding agent fails to follow this requirement, he or she shall be subject to a penalty of no more than three times the amount of tax which has not been withheld.
2. In the event that the withholding agent has withheld taxes and paid such to the Treasury, but fails to submit or file a withholding report and receipts to the collection authority-in-charge, the collection authority-in-charge shall notify the agent to file a

correct report within a specific period, and a penalty of 20% of the taxes withheld, being not less than NT$1,500 and not more than NT$20,000, shall be levied upon the withholding agent. However, the said penalty shall be reduced to half of the amount in the event that the withholding agent submits or files a withholding report and receipts before receiving the notice from the collection authority-in-charge. In the event that the withholding agent fails to submit an accurate withholding report and receipts within the period prescribed in the said notice, the penalty shall be increased to three times the tax withheld, being not less than NT$3,000 and not more than NT$45,000.

3. In the event that persons in charge of accounting for a government agency, enterprise, organization, or school fail to submit a withholding report and receipts within the period prescribed by law, or fail to submit an accurate withholding report and receipts, they shall be subject to punishment at the request of the collection authority-in-charge. In the event that a private enterprise or business fails to submit a withholding report and receipts or fails to submit an accurate withholding report and receipts within the period prescribed by law, it shall be subject to a penalty of NT$1,500 and a further penalty of 5% of the payment, being not less than NT$3,000 and not more than NT$90,000, whichever is higher, if it fails to submit or to file a withholding report and receipts within the period prescribed in the notice from the collection authority-in-charge.
4. In the event that a withholding agent appropriates the tax withheld; fails to pay or underpays the tax withheld; or fails to withhold any tax through fraudulent or other undue action, he or she shall be subject to a punishment of imprisonment for up to five years, or detention and/or fines up to NT$60,000.

IX. Other Provisions

A. Penalties for Failure to Report or Omissions

In the event that a taxpayer has submitted an annual income tax return and failed to disclose or omitted all or certain part of the income, the taxpayer shall be subject to a penalty of up to two times the tax levied upon the unreported income. In the event that the taxpayer fails to submit an annual income tax return and the collection authority-in-charge discovers that he or she has received taxable income, the taxpayer shall, in addition to payment of the tax levied upon the said income, be subject to a penalty of up to three times of the said tax.

B. Surcharges Levied Upon Late Payments

In the event that a taxpayer delays the payment of any deficient tax or penalty for failure to report, the taxpayer shall be subject to a late surcharge to be calculated at 1% of the tax unpaid for every two days of default up to thirty days of default. The collection authority-in-charge shall refer the case to the court for enforcement if the taxpayer fails to pay the deficiency within the thirty-day period.

X. Income Tax on House and Land Transactions

The amendment to the Income Tax Act which introduces the tax system of Income Tax on the Consolidated Income from House and Land Transactions became effective from 1st January, 2016 to construct a fair and sound real estate tax system.

The regulations of Income Tax on the consolidated Income from House and Land Transactions to the individual taxpayer are as follows:

A. Tax Scope and Tax Base

From 1st January, 2016, sales on house or land,

1. Acquired on or after 1st January, 2016.
2. Acquired on or after the following day of 1st January, 2014, and held less than two years.
3. For an individual who acquires the right to use a house by creation of superficies after 1st January, 2016, the transactions of the right shall be regarded as the transactions of the house.

Tax Base = the Revenue from the Sale of House or Land (the Transaction Price) − Original Costs − Necessary Expenses − the Total Amount of Land Value Increment calculated in accordance with the Land Tax Act

B. Tax Rates

The applicable tax rates are adopted according to the residency status of the taxpayer and the holding period of the transferred house and land.

1. Residents
   a. Held no more than a year: 45%；
   b. Held more than a year, but no more than 2 years: 35%；
   c. Held more than two years, but no more than 10 years: 20%；
   d. Held more than 10 years: 15%；
   e. House and land that have been held for a period of no more than 2 years are transferred because of a job transfer, involuntary separation from employment, or any other involuntary cause announced by the MOF: 20%；
   f. An individual who sells house and land where the house is built in partnership with a business entity, and the share of land associated with the unit has been held for a period of no more than 2 years, shall be taxed at 20%；
   g. The portion of taxable income amount on Self-use Residence exceeds NT$ 4 million: 10%.
2. Non- Residents
   a. Held less than a year: 45%；
   b. Held more than a year: 35%.

C. The Tax Preferences

1. Self-use Residence

a. The individual, his or her spouse or their minor children have lived in, maintained their household registration at the self-use house, and have owned the house for 6 consecutive years, and the house and land have never been used for lease, business operation, or professional practice in the last 6 years before its sale.

b. Tax exemption on taxable income shall not exceed NT$ 4 million.

c. No more than one self-use residence exemption may be claimed by any member of a household in six years.

2. Self-use Residence Repurchase

A taxpayer who sells self-use house and land and repurchases another self-use one within two years, can apply for a refund proportional to the repurchase price over the sales price times the tax amount as calculated under Article 14-5 of the Income Tax Act. However, if the taxpayer changes the usage or transfers a self-use house or a piece of land within 5 years after claiming the above tax preference, the amount of deducted/refunded tax should be paid back.

D. Tax Returns and Payments

An individual who has income or losses derived from transactions of house and land, regardless of the taxable amount, shall fill out the tax return and file it with the collection authority-in-charge the tax return within 30 days from the day following the day on which the ownership transfer registration of house and land was completed, or the transaction day of the right to use a house by creation of superficies. A photocopy of the contract, other relevant documents, and the payment receipt of the tax payable, if any, should be attached to the tax return.

E. Other Provisions

1. Penalties for Failure to Report or Omissions

In the event that a taxpayer fails to file the house and land income tax return within the statutory period, the taxpayer shall be imposed with a fine in the amount of not less than NT$ 3,000 but not more than NT$ 30,000.

In the event that a taxpayer has filed the house and land income tax return, any omission or under-reporting of income taxable shall be subject to a fine of no more than twice the amount of the tax evaded. In the event that a taxpayer fails to file the house and land income tax return, shall be subject to a fine of no more than three times the amount of tax determined as payable.

2. The resultant income tax revenues will be distributed to expenditures on housing policy and long-term social care services.

3. The regulations related to real estate in the Specifically Selected Goods and Services Tax Act were suspended from 1st January, 2016.

CHAPTER III

PROFIT-SEEKING ENTERPRISE INCOME TAX

I. General Description

Unlike the company or the corporate tax systems adopted by other countries, the profit-seeking enterprise income tax is imposed on companies and other forms of business organizations such as sole proprietorship, partnership as well as other organizations.

In order to create a better tax environment to encourage investment, the MOF took the initiative in implementing the integrated income tax system to eliminate double taxation. The so-called integrated income tax reform bill, which integrates profit-seeking enterprise income tax and individual income tax, took effect from 1st January, 1998.

By adopting the imputation credit prototype to fully integrate the income tax system, shareholders of a company are allowed a tax credit for the profit-seeking enterprise income tax paid on profits against their individual income tax liability. However, due to the difference between the rate of the profit-seeking enterprise income tax and individual income tax, enterprises may be induced to retain earnings therefrom. Therefore, a provision was added whereby undistributed earnings, consisting of after-tax income retained by a company, rather than being distributed as dividends to shareholders in the then current year, are subject to an additional 10% profit-seeking enterprise income tax. As for sole proprietorship and partnership, the profit-seeking enterprise income tax is still required to be filed without payment because the individual consolidated income tax will be imposed on the taxable income, which includes the net income arising from the business of the sole proprietors and partners.

Generally speaking, the aforesaid tax arrangement takes into consideration both the necessity for fairness in taxation and the need for efficiency in the overall system. With respect to the fairness of the taxation, the integrated income tax system eliminates double taxation and reduces the tax burden of taxpayers by deducting their profit-seeking enterprise income tax from their individual income tax and reducing the highest effective tax rate on investment income from 55% to 40%.

The MOF, following the trend in international tax reform, further adjusted the taxation on dividends from full imputation to partial imputation, so that, in the case that when the profit-seeking enterprise makes a distribution, the dividend tax credit of the individual resident shareholders shall be half of the amount of the profit-seeking enterprise income tax (including the 10% surtax) paid by the profit-seeking enterprise.

As a part of the aforesaid tax reform, a profit-seeking enterprise (excluding small-scale) organized as a sole proprietorship or a partnership shall calculate and pay half of the amount of income tax payable. The after-tax profit shall be included in the partners' or the sole proprietors' individual consolidate income. The above measures will take effect from 2015.

II. Tax Scope

Any profit-seeking enterprise operating within the territory of the ROC shall pay profit-seeking enterprise income tax, except where exemptions are provided.

The tax scope of the profit-seeking enterprise income tax can be explained as follows:

A. Where a profit-seeking enterprise has its head office located within the territory of the ROC, the worldwide income of the entire enterprise both within and outside the country shall be subject to profit-seeking enterprise income tax. However, if the enterprise has already paid any income tax on its foreign source income abroad in accordance with the tax laws of the source country, such foreign income tax will be credited against its total profit-seeking enterprise income tax as determined to be payable upon submission by the taxpayer of evidence of tax payment for the same year issued by the tax authority of the source country.

B. Where a profit-seeking enterprise has its head office located outside the territory of the ROC, but with all or part of its branches or any of its business agents within the territory of the ROC, profit-seeking enterprise income tax shall be levied on that part of the business profits derived from operating within the territory of the ROC, unless otherwise provided for by the income tax laws.

C. Where a profit-seeking enterprise has a fixed place of business or business agent within the territory of the ROC, and has income derived from sources in the ROC, the tax payable shall be withheld at the respective source at a rate prescribed by the relevant regulations, there being no need to file a final return for settlement.

III. Taxpayers

"Those obligated to pay profit-seeking enterprise income tax" refers to those who by law must either file a tax return or pay profit-seeking enterprise income tax. In addition to sole proprietorships, partnerships, companies, and co-operative organizations, all educational, cultural, public welfare, and charitable organizations and institutions must file a tax return and pay tax under the tax law unless they are eligible for exemption.

A. Profit-Seeking Enterprises

The term "profit-seeking enterprise" as used in the Income Tax Act refers to industrial, commercial, agricultural, forestry, fishing, animal husbandry, mining, or metallurgical profit-seeking enterprises operated by public, private or joint public and private interests having a business title or place of business with profit-making as its purpose and organized in the form of a sole proprietorship, partnership, company, limited partnership or any other form of organization. Of these, the principal taxpayers are profit-seeking enterprises organized as companies.

Where the head office of a profit-seeking enterprise is located within the territory of the ROC, the income of its branches shall be combined with that of the head office when filing a return for the profit-seeking enterprise income tax. Hence, the head office shall be the one having the obligation to pay the tax. Where a profit-seeking enterprise has its head office located outside the territory of the ROC, but has a fixed place of business or a business agent within the territory of the ROC, the fixed place of business or the business agent shall have the obligation to pay the tax and shall be held responsible for filing a tax return and paying income tax.

B. Sole Proprietorships

An individual as a sole proprietor aiming at making profit and having a business title or place of business shall be regarded as a profit-seeking enterprise. The sole proprietors shall calculate and pay half of the amount of income tax payable. The after-tax income of a profit-seeking enterprise will be combined with other taxable income of the sole proprietors, and the consolidated income tax will be levied. However, a sole proprietorship recognized as a small-scale profit-seeking enterprise shall not file an annual income tax return; the amount of the profit-seeking enterprise income shall be combined with other taxable income of the sole proprietors, and the consolidated income tax will be levied.

C. Partnerships

Similar to the sole proprietorships, a partnership of two or more persons is also a profit-seeking enterprise, which shall calculate and pay half of the amount of income tax payable. The after-tax income of a profit-seeking enterprise will be combined with other taxable income of the partnerships, and the consolidated income tax will be levied. However, a partnership recognized as a small-scale profit-seeking enterprise shall not file an annual income tax return; the amount of the profit-seeking enterprise income shall be combined with other taxable income of the partnerships, and the consolidated income tax will be levied.

D. Co-Operative Organizations

Except for consumers' co-operatives, whose operations are governed by the relevant law and which do not engage in business with non-members, a co-operative organization shall by law file a tax return and pay profit-seeking enterprise income tax.

E. Other Organizations

What are referred to as "educational, cultural, public welfare, charitable organizations and institutions" are confined to such organizations or institutions as are organized in accordance with the General Principles of the Civil Code relating to public welfare organizations and consortiums or in accordance with the provisions of other relevant laws and ordinances and are duly registered with the competent authority-in-charge. Where the criteria for tax exemption as set by the Executive Yuan are met, no income tax shall be levied, but a return shall still be filed as required. Where the criteria for tax exemption are not met, profit-seeking enterprise income tax shall be levied.

IV. Tax Rates

A. The Tax Rate Structure

The minimum taxable amount and the flat tax rate of the current profit-seeking enterprise income tax are as follows:

1. Payment of profit-seeking enterprise income tax is exempted for those enterprises with an annual taxable income of no more than NT$120,000.
2. A 17% tax is levied on the total taxable income of a profit-seeking enterprise with an annual taxable income of more than NT$120,000, but the amount of tax payable shall not exceed half of the amount of the taxable income in excess of NT$120,000.

B. Withholding Rates for Various Incomes

In addition to filing a final tax return, certain items of income derived by a profit-seeking enterprise are subject to a withholding tax as shown on the following page. For profit-seeking enterprises with no fixed place of business and business agent in the ROC, the withholding tax is final.

Withholding Rates for Various Incomes

Type of Income	Withholding Rates	
	Profit-Seeking Enterprise with a Fixed Place of Business	Profit-Seeking Enterprise with No Fixed Place of Business
Dividends Distributed by Companies and Profits Distributed by Co-Operatives	—	20%
Commission	10%	20%
Interest	(1) 10%; (2) 10%, to be withheld from ordinary income on interest from short-term commercial papers; (3) 10%, to be withheld from ordinary income on interest from securities issued under the Financial Asset Securitization Act and the Real Estate Securitization Act;	(1) 20%; (2) 15%, to be taxed on interest from the portion of the pecuniary amount realized by short-term commercial papers at their maturity in excess of the selling price at their initial issuance; (3) 15%, to be taxed on interest from securities issued under the Financial Asset Securitization Act or the Real Estate Securitization Act;

Type of Income	Withholding Rates	
	Profit-Seeking Enterprise with a Fixed Place of Business	Profit-Seeking Enterprise with No Fixed Place of Business
	(4) 10%, to be withheld on interest from government bonds, corporate bonds and financial bonds.	(4) 15%, to be taxed on interest from government bonds, corporate bonds or financial bonds; (5) 15%, to be taxed on interest from repo (RP/RS) trade of the aforesaid bonds, securities or short-term commercial papers which shall be the net amount of the sale price at their maturity in excess of the original purchase price.
Rental	10%	20%
Royalties	10%	20%
Awards or Prizes Obtained from Participating in Contests, Games, or Lotteries, etc.	(1) 10%; (2) 20%, to be taxed on a prize received from lotteries sponsored by the government in the case that the prize exceeds NT$2,000 per ticket	(1) 20%; (2) 0%, in the case that the prize received is from lotteries sponsored by the government and is no more than NT$2,000 per ticket
Reward for Information or Accusation	20%	20%
Income Derived from Property Transactions	—	20% of the reported amount
Income Derived from International Transportation, Construction Projects, Furnishing of Technical Services, and Leasing of Equipment by a Foreign Profit-Seeking Enterprise Which Has Been Approved by the MOF to Fix a Rate Deemed as Profit According to Article 25 of the Income Tax Act	—	20% of the deemed profits as calculated by multiplying the ROC-sourced revenue by a fixed rate as stated below: (1) 10%, for international transportation (2) 15%, for other contracted projects

Type of Income	Withholding Rates	
	Profit-Seeking Enterprise with a Fixed Place of Business	Profit-Seeking Enterprise with No Fixed Place of Business
Income Derived by a Foreign Motion Picture Enterprise Which Has Been Approved to Fix a Rate Deemed as Profit According to Article 26 of the Income Tax Act	—	20% of the deemed profits
Income Derived from the Transaction of a House and Land According to Article 4-4(1) & 24-5(1) of the Income Tax Act	—	(1) Held no more than a year: 45%； (2) Held more than a year: 35%.
Income Derived from the Transaction of Such Offshore Company Shares According to Article 4-4(1) & 24-5(4) of the Income Tax Act	—	(1) Held no more than a year: 45%； (2) Held more than a year: 35%.
Other Income	—	20%

V. Exemptions

A. Tax-Exempt Organizations and Institutions

The following organizations are exempted from income tax:

1. Educational, cultural, public welfare, charitable organizations and institutions such as private schools, hospitals, nursing homes, asylums, etc., and also their subsidiaries that meet the criteria set by the Executive Yuan.

   Institutions and their operational organizations that meet the requirements for tax exemption shall file a final tax return in accordance with the regulations and those that do not meet the requirements shall be taxed in accordance with the law.

2. Consumers' co-operatives which, by law, do not engage in business with non-members, such as consumers' co-operatives for the staff and students of a school.

3. Governments at all levels and publicly-owned enterprises such as water departments, city and county bus services, port authorities, and railway administrations.

4. Foreign enterprises engaged in international transportation; provided that reciprocal treatment is accorded by the foreign country concerned to an international transport enterprise of the ROC operating in its territory.

B. Items Not Included in Taxable Income

1. Proceeds from land sales.

2. Income from securities transactions.
3. Income from transactions of futures on which the futures transactions tax has imposed under the Futures Transactions Tax Act.
4. Property acquired from donations by an individual.

   To prevent double taxation on donations, property donated by an individual is exempted. However, to prevent possible non-arm's length transactions, property donated by other profit-seeking enterprises shall be included in its income.
5. Income from a transaction involving property disposed of for the purpose of war stockpiling in accordance with government regulations.
6. Royalty paid to a foreign enterprise for the use of its patent rights, trademarks, and/or various kinds of special licensed rights in order to introduce new production technology or products, improve product quality, or reduce production costs under the approval of the competent authority, as well as remuneration paid to a foreign enterprise for its technical services rendered in the construction of a factory for an important productive enterprise approved as such by the competent authority.
7. Income, except for interest from loans to individuals, juristic persons or financial organizations within the territory of the ROC, or the ROC government, derived by offshore banking branches; interest derived by foreign governments or international financial organizations for economic development from a loan made to the ROC government or a juristic person within the territory of the ROC and interest derived by foreign organizations from the financing of a financial organization within the territory of the ROC.
8. Inter-company dividends

   When a domestic company invests in another domestic profit-seeking enterprise, net income from dividends or earnings received by the company may be excluded from its taxable income.

VI. Income Computation

A. Principles

In principle, the taxable income of a profit-seeking enterprise is computed by subtracting the costs, expenses, losses, and taxes from the current year's total revenues to arrive at the amount of net profit. There are some slight differences in the manner of computation depending on the nature of the profit-seeking enterprise in question. The following are the income computation formulas for trading, manufacturing, service, and credit enterprises.

1. Trading

   Net Sales = Sales – (Sales Returns + Sales Allowance)

Cost of Goods Sold = Beginning Inventory + [(Purchases – (Purchase Returns + Purchase Allowance)) + Purchasing Expenses] – Ending Inventory

Gross Profit = Net Sales – Cost of Goods Sold

Net Business Profit = Gross Profit – (Selling Expenses + Administrative Expenses)

Net Income = Net Business Profit + Non-Business Gains – Non-Business Losses

2. Manufacturing

   Manufacturing Cost = (Beginning Inventory + Purchases – Ending Inventory) + Direct Labor Cost + Manufacturing Overhead

   Cost of Finished Products = Beginning Inventory-Goods-in-Process + Manufacturing Cost – Ending Inventory-Goods-in-Process

   Cost of Goods Sold = Beginning Inventory-Finished Goods + Cost of Finished Goods – Ending Inventory-Finished Goods

   Net Sales = Sales – (Sales Returns + Sales Allowance)

   Gross Profit = Net Sales – Cost of Goods Sold

   Net Business Profit = Gross Profit – (Selling Expenses + Administrative Expenses)

   Net Income = Net Business Profit + Non-Business Gains – Non-Business Losses

3. Other businesses supplying services or credit

   Gross Business Profit = Business Yield – Business Cost

   Net Business Profit = Gross Business Profit – Administrative and Incidental Expenses

   Net Income = Net Business Profit + Non-Business Gains – Non-Business Losses

B. Special Cases

1. Special rules of computation are provided by the Income Tax Act for any profit-seeking enterprise which has its head office outside the territory of the ROC, and is engaged in international transport, construction contracting, providing technical services, or machinery and equipment leasing, etc., within the territory of the ROC. Such enterprise may apply for approval from the MOF to consider 10% or 15% of its total business revenue for an enterprise engaged in international transport business or for one engaged in any other businesses, respectively, as its income derived within the territory of the ROC in accordance with the Income Tax Act.

2. Furthermore, any foreign motion picture industry enterprise with no branches in the ROC which leases motion pictures via its business agent may calculate its income based on 50% of its rental revenue derived from the ROC. If such industry enterprise has branches in the ROC, it may claim the costs for leasing motion pictures based on 45% of its rental revenue and deduct the related expenses while calculating its income.

3. Interest revenues received by a profit-seeking enterprise from government bonds, corporate bonds, and financial bonds shall be calculated in accordance with face value and rate. From 1st January, 2010, interest distributed from beneficiary securities or asset-backed securities issued in accordance with the Financial Asset Securitization Act or the Real Estate Securitization Act by a profit-seeking enterprise shall be added to the amount of income of the profit-seeking enterprise. In addition, the gains or losses derived from the securities transaction whereby a profit-seeking enterprise purchases the aforementioned bonds between interest payment days and then sells them before the next interest payment day, shall be the net income, i.e., the sale price after purchase price and interest revenues.
4. The profits or losses incurred by a warrant issuer from the purchase or sale of securities or derivatives for hedging purposes shall be added to the premium in calculating the gain or loss from the issuance of the warrant, to the extent of the amount of the premium less the costs and expenses incurred from the issuance. The amount of profits or losses resulting from financial derivatives transactions shall be added in when calculating the profit-seeking enterprise income in the year settlement was completed. Article 4-1 and Article 4-2 of the Income Tax Act shall not apply in the aforementioned circumstances.
5. Tonnage Tax Regime
   a. Beginning from the 2011 fiscal year, a profit-seeking enterprise which has its head office within the territory of the ROC and is engaged in marine transportation may apply to be taxed under the tonnage tax regime. Shipping companies that meet certain criteria will be able to choose to calculate the income derived from marine transportation on the basis of the amount of the net tonnage or on the basis of the amount of the actual ordinary income; once the choice is made, however, it will be binding for a period of 10 years.
   b. Deemed profit is used in calculating income from marine shipping under the tonnage tax regime, with the deemed profit being divided into four brackets based on the net tonnage as follows:

Net tonnage of ship (Unit: net tons)			Fixed profit per 100 net tons per day (Unit: NT$)
0	-	1,000	67
1,001	-	10,000	49
10,001	-	25,000	32
25,001 and over	-		14

   c. Further, shipping companies that choose to enter the tonnage tax regime will not be eligible to apply under Article 39 of the Income Tax Act regarding loss carry-forward and other tax incentives regulated under other laws.

d. In line with the implementation of the tonnage tax regime, the MOF promulgated "The Regulations Governing Application for the Computation of Profit-Seeking Enterprise Income in Accordance with Article 24-4 of the Income Tax Act" on 4th August, 2011. The regulations include detailed guidance for the qualification of shipping companies, qualifying ships, scope of shipping business revenues, application procedures, assessment procedures, and principles for the handling of disqualification cases.

VII. Tax Payments and Returns

A. Provisional Payments

1. The current Income Tax Act provides that a profit-seeking enterprise that should pay profit-seeking enterprise income tax shall make a provisional payment to the Treasury, file a provisional tax return on a prescribed form and send it with a tax receipt to the collection authority-in-charge within the month commencing 1st September and ending 30th September. The amount of this provisional payment shall be equivalent to half of the profit-seeking enterprise income tax payable which the profit-seeking enterprise reported on the final tax return for the previous year.
2. A profit-seeking enterprise which fulfills the provisional payment without investment tax credit, refundable tax from administrative remedy and having claimed withholding tax is exempted from filing a provisional return after making a provisional payment to the Treasury.
3. If a company, which keeps sound accounting records, files blue returns or entrusts a certified public accountant to certify and duly file a provisional tax return within the time limit, it may base its tax return on the current tax rate, in accordance with the Income Tax Act, calculating its income amount with business revenue for the first half of the current year.
4. The following enterprises are exempted from filing a return and making a provisional payment of tax:

    a. Any profit-seeking enterprise which has no fixed place of business in the ROC and whose profit-seeking enterprise income tax is withheld by its business agent or payer in accordance with the Income Tax Act.

    b. A sole proprietorship or a partnership and any approved small-scale profit-seeking enterprise.

    c. Any enterprise that has tax exempt income during the period in which it has been granted exemption from the profit-seeking enterprise income tax by law. However, in the case that it has any taxable income, a provisional payment shall be made on a pro-rata basis.

d. Educational, cultural, public welfare, charitable organizations and institutions and their operational subsidiaries, consumers' co-operatives, and publicly-owned enterprises.

5. In the case where a profit-seeking enterprise fails to make its provisional payment within the time limit imposed, but has filed the return and paid the amount of provisional tax payment to the collection authority before 31st October, the collection authority-in-charge will charge additional interest from 1st October to the date the payment is made, calculated on a daily basis at the prevailing interest rate of local banks for a one-year deposit. Furthermore, if a profit-seeking enterprise fails to make its provisional payment before the end of October, the relevant collection authority-in-charge will send a provisional tax payment notice to the said enterprise and it will be charged an additional month of interest calculated at the prevailing interest rate of local banks for a one-year deposit.

   The profit-seeking enterprise shall pay this amount within fifteen days following receipt of the said tax payment notice.

B. Settlement of the Final Tax Return

1. Deadline for tax return filing

   A profit-seeking enterprise shall, within the period from 1st May to 31st May of each year, file a tax return with an annual income return providing the items and amounts that make up its business revenue for the preceding year along with details relating to any exemptions and deductions. The amendment that a profit-seeking enterprise organized as a sole proprietorship or a partnership shall file the annual income tax return without payment became effective starting from 2009. To simplify the administrative procedure, where the amount of the aforesaid income of a profit-seeking enterprise shall be combined with other income of the sole proprietor of such sole proprietorship or of the partners of such profit-seeking partnership, the individual consolidated income tax shall be levied in accordance with the Income Tax Act on such consolidated income. Since 2015, with the amendment of the Imputation Income Tax System, the taxation of sole proprietorships and partnerships shall refer to Sub-Sections B and C of Section Ⅲ.

2. Types of final settlement returns

   a. Ordinary Returns: To be used by profit-seeking enterprises in general.

   b. Blue Returns: Provided especially for encouraging honest reporting by profit-seeking enterprises and used only with the approval of the collection authority-in-charge.

   c. Report of the final accounts of a non-profit organization to be used by educational, cultural, public welfare, charitable organizations and institutions as well as their operational organizations.

3. Computation of income and tax payable on the final return.

   The amount of taxable income shall computed by deducting from total revenues all costs, expenses, losses, and taxes and further by making all necessary adjustments where there are inconsistencies with the provisions of the tax laws. The formulas below are then followed to compute the supplementary tax payment or tax refund.

   a. Where the business has been in operation for one year, the formula is:

      (1) Amount of Taxable Income = Income for the Whole Year – Deductions of Any Losses in the Last Ten Years – Various Tax-Exempt Income

      (2) Tax Payable = Amount of Taxable Income × Tax Rate

      (3) Income Tax Owed/To Be Refunded = Tax Payable – Provisional Payment – Unused Credit or Withholding Tax

   b. Where the business has been in operation for less than one year, the amount of income for the actual period of operation shall be converted proportionately on an annual basis to a yearly income. Where the period of actual operation is less than one month, it shall be deemed as one month and the formula of computation is as follows:

      (1) Taxable Income = Income for the Whole Year – All Tax-Exempt Income

      (2) Converted Annual Tax Payable = Taxable Income ×

      $$\frac{12}{\text{Actual Period of Operation}} \times \text{Tax Rate}$$

      (3) Tax Payable = Converted Annual Tax Payable ×

      $$\frac{\text{Actual Period of Operation}}{12}$$

      (4) Income Tax Owed/To Be Refunded = Tax Payable – Unused Credit or Withholding Tax

4. Correction of errors in the final tax return

   A profit-seeking enterprise may request correction of its tax return in the case that it has found on its own any error, omission, or under-reporting after it has filed its final tax return but prior to the day that the investigator designated by the collection authority-in-charge to handle the case has signed for acceptance. If a supplementary levy is called for after correction, interest calculated on a daily basis at the prevailing interest rate of local banks for a one-year deposit will be added to the tax for the period from the day after the deadline for filing the final return till the day of payment; however, a penalty in accordance with Article 110 of the Income Tax Act shall be waived.

5. Settlement of imputation credit account and allocation of credit imputed to shareholders upon distribution

   Corporations shall set up an imputation credit account, and record the amount of profit-seeking enterprise income tax paid in the ROC. When the earnings are distributed, the company shall calculate the imputation credit available to its shareholders.

   The withholding tax on dividends is not required on dividends paid to resident shareholders. The credit available to shareholders is calculated by multiplying the net dividend received by a creditable ratio, which is the maximum credit available for companies to allocate to shareholders. The creditable ratio and imputation tax credit shall be calculated as follows:

$$\text{Creditable Ratio} = \frac{\text{Balance of Imputation Credit Account}}{\text{Accumulated Retained Earnings since 1998}}$$

$$\text{Imputation Credit} = \text{Net Dividend} \times \text{Creditable Ratio}$$

   However, in the case of the amount of the deductible tax of an individual shareholder residing in the territory of the ROC, the imputation tax credit = amount of the net dividend (or earning) × creditable ratio × 50%.

   The balance of the imputation credit account in turn is determined by the amount of domestic profit-seeking enterprise income tax paid by the company, plus the amount of credit passed on from dividends received from domestic investments, and other designated items. However, such a ratio should not exceed:

   a. 33.33% if the accumulated retained earnings before 2009 have been not subject to 10% surtax. And 20.48% if the accumulated retained earnings after 2010 have been not subject to 10% surtax.

   b. 48.15% if all the accumulated retained earnings before 2009 have been subject to 10% surtax. And 33.87% if all the accumulated retained earnings after 2010 have been subject to 10% surtax.

   c. For an aggregate amount of undistributed earnings that have been partially subject to 10% surtax and have been partially not subject to 10% surtax: the sum of the creditable ratio to be calculated respectively based on the applicable tax creditable ratios specified in the preceding two items in respect of the different proportions of the aforesaid two parts of undistributed earnings to the aggregate amount of the undistributed earnings.

   In this way, the ratio may vary from company to company according to a company's tax liability.

   Corporations shall issue dividend vouchers to their shareholders stating the amount of the net dividend paid and the credit imputed thereon before the end of January following the year the distribution is made. In the case that three national holidays occur in immediate succession in January, the period for the submission of the dividend vouchers shall be extended to 5th February.

C. Settlement of the Surtax on Undistributed Earnings

A profit-seeking enterprise shall, within the period from 1st May to 31st May of the year, file a report regarding its undistributed earnings for the year before the last year. The term "undistributed earnings" beginning from the year 2005, shall denote the amount of income after tax as calculated by a profit-seeking enterprise in accordance with the Commercial Accounting Act. After such calculation adjustments should then be made, which include consideration of certain deductible items such as make-up of the losses in previous years and the next-year-loss which have been duly audited and certified by a certificated public accountant; net dividends or net earnings which have been distributed from the earnings gained in the current year; other reserve funds or payment funds set aside according to the relevant laws; bonus or remuneration paid to directors, governors and employees from the surplus earnings in accordance with the provisions of the Articles of Incorporation of the company or co-operative; and other items permitted by the MOF.

In the case where the financial statements in the current year of a profit-seeking enterprise were duly audited and certified by a certified public accountant, the term "income after tax" shall be based on the amount which was assessed by such certified public accountant. However, if thereafter the collection authority-in-charge conducts an assessment of such financial statements and makes an adjustment to the amount of income after tax, the original amount shall be replaced by the amount after such adjustment of which the collection authority-in-charge has informed the enterprise.

If the reasons why distributable earnings were restricted from distribution pursuant to the provisions of Items 5 and 7 of Paragraph 2 of Article 66-9 of the Income Tax Act are no longer pertaining, the part of which the distributable earnings therefrom have been undistributed prior to the end of the fiscal year following the year when the reasons no longer pertain shall be added to the undistributed earnings of the year when the reasons no longer pertain and be subject to the levy of an additional profit-seeking income tax at the rate of 10%.

After the surtax is paid, the retained earnings can be accumulated without any limitation. The restrictions on retained earnings shall no longer apply to profits generated beginning from 1998.

D. Filing a Return for Final Settlement of Accounts for the Current Period

1. In the case of dissolution, closure, amalgamation, or transfer of ownership, a profit-seeking enterprise shall file an income tax return within forty-five days beginning from the day of dissolution, closure, amalgamation, or transfer of ownership. The starting date of the period shall be the next day after the day on which the dissolution is approved by the collection authority-in-charge. The procedure and the computation of income for filing the return are the same as those for filing the annual final return for settlement.

2. When a profit-seeking enterprise is declared bankrupt, it shall file an income tax return with the collection authority-in-charge within ten days prior to the time limit prescribed for credit registration announced by the court.

E. Reporting Liquidation

In the case of dissolution or closure, liquidation income during the liquidation period shall be reported within thirty days after the completion of liquidation.

F. Deduction of Losses During the Preceding Ten Years

No losses incurred during the preceding years may be deducted from the profits for the current year. However, in the case where a company which keeps sound accounting records, files blue returns, or entrusts a certified public accountant to certify and file a return on its behalf in both of the loss and reporting years and duly files a tax return within the time limit, the collection authority-in-charge may, before making assessment on its tax payable, deduct the losses incurred during the preceding ten years from the net profits for the current year.

G. Deferment of Payment

When a taxpayer is unable to make full tax payment within the statutory time limit owing to natural calamity, emergency, or major loss of property, he or she may petition the collection authority-in-charge within the prescribed period of payment for deferment or for payment by installment. However, the period of deferment or payment by installment shall not exceed three years.

H. Tax Refund

A taxpayer may file an application for refund along with concrete evidence within five years from the date of his or her overpayment, if such overpayment resulted from misapplication of the law or miscalculation. No application can be made beyond that period.

I. Levy or Refund Excused

In the case that the sum of tax that a taxpayer is required to pay is in the form of a supplementary payment, or the collection authority-in-charge is required to provide a refund below a certain figure, the MOF may, in consideration of the actual situation, set such figure and report to the Executive Yuan for approval to be excused from levy or refund. The abovementioned figures are NT$300 for a supplementary payment and NT$200 for a refund since 24th September, 2010.

J. Addition of Interest

1. When a profit-seeking enterprise has underpaid its tax as a result of having exceeded the limits set in the present law and its subordinate regulations in deducting costs, expenses, and losses in its final return for settlement and has been found by the collection authority-in-charge to be liable for a supplementary payment, it shall be liable at the same time for an additional payment of interest, calculated on a daily basis

at the prevailing interest rate of local banks for a one-year deposit for the period from the day immediately following the deadline for tax return filing to the day of actual supplementary payment. The period of additional interest shall not exceed one year.

2. Interest as computed according to the above-mentioned provisions may be exempted from collection if the amount is below NT$1,500.

K. Deferment of Taxable Year

Income derived from technology appraised as capital stock of a qualified shareholder may be deferred from income taxation for a five-year period. Furthermore, a newly emerging industry may issue and grant stock options to the provider of technology whose taxable year of income taxation shall be deferred to the exercise year. (The tax incentives provided under the Statute for Upgrading Industries were terminated on 31st December, 2009.)

VIII. Investigation and Assessment

After a profit-seeking enterprise has filed its tax return in accordance with the law, the collection authority-in-charge shall proceed to investigate to determine its income and tax payable on the basis of the return, related account books, and documentary evidence. However, owing to limitations in the amount of man-power available for collection and in order to encourage honest reporting, cases which fulfill certain conditions will be assessed by means of a paper review. Where the final tax return has not been filed within the prescribed time period or the final tax return has been filed within the prescribed time period, but no account evidence has been submitted within the prescribed period, such cases will be assessed in light of the information available and the average profit of the trade concerned.

A. Paper Review and Assessment

1. Requirements of paper review in general

   a. Any profit-seeking enterprise with an income exceeding the standard income of the industry concerned. The standard is set by the collection authority-in-charge by a sampled investigation of the industry.

   b. Cases that are entrusted to a certified public accountant for check, certification, and report.

   c. Blue return cases with no irregularities.

2. Requirements of expanded paper review

   a. A paper review will be accorded to those cases which satisfy the following three criteria:

      (1) The total amount of business and non-business revenue is less than NT$30,000,000.

      (2) The final tax return is accompanied by all the necessary documents.

      (3) The net income ratio of the said profit-seeking enterprise has reached a

prescribed standard and the taxpayer has made full tax payment.

However, provisions regarding paper review are not applicable to some cases, e.g., the tax returns of real estate, which must be subject to auditing for assessment.

b. A small-scale profit-seeking enterprise organized in the form of sole proprietorship, or partnership doing sporadic business with a monthly average sales amount of less than NT$200,000, having been granted permission by the collection authority-in-charge not to use uniform invoices, may have its total amount of earnings calculated by the collection authority-in-charge, attributed to individual total income and assessed for the individual income tax of the sole proprietor or partners.

3. Random checks

Each year the collection authority-in-charge shall select an appropriate sample of the paper review cases for on-the-spot auditing on the basis of all relevant information. Such selection of an appropriate sample shall be determined in accordance with the manpower available for auditing and the total number of paper review cases by the chief of the collection authority-in-charge. However, any qualifying cases certified by a certified public accountant shall be sampled at a reduced rate or be exempted.

B. Assessment through Auditing

1. Cases to be audited

a. Cases selected for examination by computerized sampling.

b. Cases selected for examination by the collection authority-in-charge through manual labor in light of the revenue, budgetary, or manpower collection situation.

c. Cases that should be but have not been entrusted to a tax agent to check, certify, and report.

d. Cases that have been found on preliminary checking as failing to meet the requirements for paper review.

e. Cases that have been found by paper review to have certain abnormalities.

f. Cases that have been listed as targets for auditing according to the provisions for the random checking of paper review cases.

2. Types of auditing

a. Where all related account books and documentary evidence relating to certain income have been presented as required and the records are complete, the amount of income will be determined in light of the evidence.

b. When in the process of investigation, there has arisen suspicion of serious tax evasion, and if the situation so warrants, investigation may be instituted after reporting to the MOF for approval on the taxpayer's net value of assets, cash flow, and other business data as being found not to be in conformity with regular business practice.

C. Assessment According to Available Data or the Profit Standard of the Same Trade Concerned

1. Assessment entirely in accordance with the law

In any of the following cases, the collection authority-in-charge may assess the taxpayer's business income in light of the profit standard of the same trade concerned. If any non-business income exists, it should be added to the business income for tax purposes. If any non-business expenditures exist for which concrete facts have been ascertained and which are in conformity with the provisions of the tax law, they may be deductible. The term "profit standard of the same trade concerned" includes the gross profit ratio and the net profit ratio.

a. Cases in which, upon notification, account books and documentary evidence have not been presented or have not been presented for inspection within the set time limit.

b. Failure to set up or keep account books in accordance with the provisions of "The Measures to Supervise the Account Books and Documentary Evidence of Profit-Seeking Enterprises by the Collection Authority-in-Charge."

c. The account books and documentary evidence of a profit-seeking enterprise have been lost or destroyed because such information has been removed from the place of business without lawful reason.

d. Failure to file the final tax return within the time limit and continuation of such failure after being notified to file the said final tax return.

2. Assessment partly in accordance with the Income Tax Act

When a taxpayer is unable to present the account books and documentary evidence relating to a part of his or her income or to all the taxable income for a certain period, the collection authority-in-charge may assess the amount of the said part of the income in light of the available data and the profit standard of the same trade concerned. Where the account books and documentary evidence are available, assessment may still be made through auditing. However, the amount assessed shall not exceed the total annual net business receipts as assessed in accordance with the profit standard of the same trade concerned.

IX. Penalty Provisions

There are two kinds of penalty for profit-seeking enterprise income tax: penalty for violation of the obligation to act and penalty for tax evasion. Here are some of the important penalty rules:

A. Failure to set up and keep account books in accordance with the regulations is subject to a fine of not less than NT$3,000 and not more than NT$7,500. Furthermore, the profit-seeking enterprise is required to set up and keep account books in accordance with the regulations within one month. Failure to do so on the expiry of the one-month period is subject to a fine of not less than NT$7,500 and not more than NT$15,000, and the enterprise is once more required to set up and keep account books in accordance with the regulations within one month. If account books are still not set up during this period, the enterprise shall be subject to a suspension of one month of business, and the suspension may continue until the account books are set up in accordance with regulations.

B. Failure to follow regulations to obtain documentary evidence from others, to give documentary evidence to others, or to keep documentary evidence is liable to a fine of 5% of the acknowledged amount. If a profit-seeking enterprise obtains certificates from a non-actually traded party, but it is found that it indeed had bought the goods and that the certificate was given by the actually traded profit-seeking enterprise and the actually traded profit-seeking enterprise was already fined by law, the penalty may be lifted. The amount of the fines shall not exceed NT$1,000,000.

C. Failure to present the various account books or documentary evidence relating to income within the prescribed time period is liable to a fine of not more than NT$1,500.

D. Failure to file a tax return, including the undistributed earnings return within the prescribed time period, but filing a tax return after being notified is liable to a surcharge for late reporting at 10% of the assessed tax payable; however, the amount of the delinquent reporting surcharge shall not be more than NT$30,000 but shall not be less than NT$1,500. Failure to follow the notification to file the tax return, including the undistributed earnings return is liable to a further surcharge of 20% of the assessed tax payable, which is determined by the collection authority-in-charge according to available data or the profit standard of the same trade concerned. However, the amount of the delinquent reporting surcharge shall not be more than NT$90,000 and not less than NT$4,500.

E. When a final tax return has been filed in accordance with the law, and there is an under-reporting of taxable income, a fine of not more than twice the amount of tax evaded shall be imposed; for under-reporting of the undistributed earnings, a fine of not more than the amount of tax evaded shall be imposed. If a profit-seeking enterprise fails to file a final tax return and has some taxable income still outstanding, it is liable for a fine of not more than three times the amount of tax evaded in addition to the assessed supplementary tax payable.

X. Income Tax on House and Land Transactions

The amendment to the Income Tax Act which introduces the tax system of Income Tax on the Consolidated Income from House and Land Transactions became effective from 1st January, 2016 to construct a fair and sound real estate tax system.

The regulations of Income Tax on the consolidated Income from House and Land Transactions to profit-seeking enterprises are as follows:

A. Tax Scope and Tax Base

From 1st January, 2016, sales on house or land,

1. Acquired on or after 1st January, 2016.
2. Acquired on or after the following day of 1st January, 2014, and held less than two years.

Tax Base = the Revenue from the Sale of House or Land (the Transaction Price) − Original Costs − Necessary Expenses − the Total Amount of Land Value Increment calculated in accordance with the Land Tax Act

B. Tax Rates

1. A profit-seeking enterprise with its head office located within the territory of the ROC
   a. The balance of income derived from transaction of house and land of a profit-seeking enterprise for the current year after deducting the total amount of land value increment calculated in accordance with the Land Tax Act shall be added to the amount of income of the profit-seeking enterprise. If the balance is a negative figure, the transaction income shall be counted as zero. The losses derived from transaction of house and land may be deducted from the income of the profit-seeking enterprise. However, the total amount of land value increment prescribed above shall not be permitted as a deduction.
   b. The income derived from transaction of house and land referred to in the preceding Paragraph indicates the amount that the total revenue deducts the costs, expenses, and losses, while the land value increment tax paid in accordance with the Land Tax Act shall not be deducted as expenses or losses.
2. A profit-seeking enterprise with its head office located outside the territory of the ROC
   a. For any profit-seeking enterprise having its head office outside the territory of the ROC, its income derived from transaction of house and land within the territory of the ROC shall be calculated as tax payable in accordance with the following tax rates. If the enterprise has a fixed establishment within the territory of the ROC, the tax payable shall be calculated separately from other income derived from sources in the territory of the ROC, and such tax payable shall be included in the enterprise's income tax return filed by the establishment. If the enterprise has no fixed establishment within the territory of the ROC, its business agent or an entrusted agent shall be responsible for the filing of income tax return and paying the income tax:
      (1) The tax rate shall be 45% for the income derived from the transferred house and land held for a period of no more than 1 year.
      (2) The tax rate shall be 35% for the income derived from the transferred house and land held for a period of more than 1 year.

b. The income derived from transaction of house and land referred to in the preceding Paragraph indicates the amount of the total revenue after deductions for costs, expenses, and losses; however, the land value increment tax paid in accordance with the Land Tax Act shall not be deducted as expenses or losses.

C. Other Provisions

1. For any profit-seeking enterprise having its head office located outside the territory of the ROC who directly or indirectly owned more than half of an offshore company's shares of which at least half of the value of such company is constituted by house and land within the territory of the ROC, its income derived from transaction of such offshore company shares shall be calculated and the resultant income tax paid in accordance with the relevant regulation.
2. The resultant income tax revenues will be distributed to expenditures on housing policy and long-term social care services.
3. The regulations related to real estate in the Specifically Selected Goods and Services Tax Act were suspended from 1st January, 2016.

CHAPTER IV

INCOME BASIC TAX ACT

I. General Description

In order to modify the tax revenue loss and unfairness resulting from the use of tax incentives which benefited only a small minority of enterprises and individuals, the MOF advocated the adoption of a minimum income tax system by referring to the experiences of the USA, Canada, and Korea so as to maintain equality in the bearing of the fiscal burden and to promote social justice. The Income Basic Tax Act (hereinafter referred to as the IBTA) imposes a basic tax similar to an alternative minimum tax and the implementation of this Act will enforce payment of a certain amount of basic taxes on high-income individuals and enterprises that have previously paid disproportionately low taxes or even none. The Act was passed by the legislature on 9th December, 2005 and announced by the President on 28th December, 2005. The new law took effect on 1st January, 2006.

In order to correspond to the enactment of the IBTA, the MOF issued “The Enforcement Rules of the Income Basic Tax Act” and “The Regulations for the Calculation of the Amount of Basic Income of an Individual Derived from Transactions of Securities” on 5th June, 2006. Furthermore, the MOF also issued “The Directions for the Filing and Investigation of Income Derived from Sources Outside the ROC and from Sources in Hong Kong and Macau to Be Included in the Amount of Individual Basic Income” on 22nd September, 2009.

The reason behind the introduction of the IBTA is to uphold tax equity, to ensure tax revenue for the country, and to establish the basic requirements of individuals in regard to their obligation to fulfill their income tax burden as a contribution to public finance.

II. Tax Scope

If the amount of regular income tax for a profit-seeking enterprise or an individual is greater than or equal to the amount of basic tax, the income tax of the current year for the said enterprise or individual shall be calculated in accordance with the Income Tax Act and other relevant laws. Whereas the amount of regular income tax is less than the amount of basic tax, the amount of income tax payable shall also include the balance of the amount of basic tax and regular income tax, in addition to the amount as calculated in accordance with the Income Tax Act and other relevant laws.

A. The Calculation of the Basic Tax of Profit-Seeking Enterprises

The amount of basic income of a profit-seeking enterprise shall be the sum of the taxable income as calculated in accordance with the Income Tax Act and such income as may fall under the provisions of the following subparagraphs:

1. The amount of income exempted due to suspension of income tax in accordance with Articles 4-1 and 4-2 of the Income Tax Act.
2. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 9, Article 9-2, Article 10, Article 15, and Article 70-1 of the abolished Statute for Upgrading Industries.
3. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 8-1 of the abolished Statute for Upgrading Industries before the revision of 31st December, 1999.
4. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 28 of the Statute for the Encouragement of Private Participation in Transportation Infrastructure Projects.
5. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 36 of the Act for Promotion of Private Participation in Infrastructure Projects.
6. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 18 of the Act for the Establishment and Administration of Science Parks.
7. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 15 of the Act for the Establishment and Administration of Science Parks before the revision of 20th January, 2001.
8. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 37 of the Business Mergers and Acquisitions Act.
9. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 13 of the Offshore Banking Act. However, the amount of income under this exemption does not include the total revenue derived from a credit extension that shall be taxed at the prescribed withholding rate in accordance with Article 73-1 of the Income Tax Act.
10. The amount of income that is entitled to reduction or exemption from profit-seeking enterprise income tax or that is excluded from the income tax base as may be provided for in such laws as may be promulgated after the implementation of the IBTA and thereafter announced by the MOF.

The amount of income which is added back in accordance with Subparagraph 1 and Subparagraph 9 of the preceding paragraph shall be income arising after the coming of the IBTA into force. In the case that a loss has incurred instead, and it has been assessed by the collection authority-in-charge, such loss may be carried forward in the next following five years.

Where any profit-seeking enterprise sells, starting from the fiscal year 2013, the stocks which have been held for a period of three years or more, only one-half of the balance shall be added into the current year's income derived from securities transactions.

The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 22-7 of the Offshore Banking Act shall be counted towards the amount of basic income of a profit-seeking enterprise starting from the fiscal year 2013.

The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 22-16 of the Offshore Banking Act shall be counted towards the amount of basic income of a profit-seeking enterprise starting from the fiscal year 2015.

The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 36-2 of the Act for Development of Small and Medium Enterprises and Article 12-1 of the Statute for Industrial Innovation shall be counted towards the amount of basic income of a profit-seeking enterprise starting from the fiscal year 2016.

B. The Calculation of the Basic Tax of Individuals

The amount of basic income for individuals is the sum of the net taxable income as calculated in accordance with the Income Tax Act and the amounts of the next following categories:

1. Overseas income, including income the source of which is not from the ROC and is excluded from gross consolidated income, as well as the income exempt from gross consolidated income according to Paragraph 1, Article 28 of the Act Governing Relations with Hong Kong and Macau, shall be included. If the total amount is not over NT$1,000,000 per filing unit, the amount shall be excluded. Overseas income shall not be included until 1st January, 2010. In the case where income tax has been paid on the overseas income, such tax paid may be credited against the basic tax, to the extent that such tax credit shall not exceed the amount of basic tax as may be increased in consequence of the inclusion of such income.

2. Insurance payments of life insurance or annuity received by beneficiaries who are not the proposers are included. Such payments as are received in the event of death and are to an amount equal to or less than NT$33,300,000 per filing unit may be excluded.

3. Income derived from transactions of privately-placed securities investment funds is included. The loss incurred may be deducted from income derived from securities transactions performed in the same year. However, if no income or sufficient income is deducted, the loss maybe carried forward to the next three years following the year of loss. For the purpose of auditing income derived from securities transactions, regulations governing the recognition of the price, costs, and expenses of securities transactions, as well as the assessment of such in the case of failing to file or present the actual transaction price or the original cost shall be issued by the MOF.

4. The amount of non-cash donations or contributions deductible from the gross consolidated income according to the Income Tax Act and other related laws.

III. Taxpayers

A. Profit-Seeking Enterprises

A profit-seeking enterprise shall pay income tax in accordance with this Act, with the exception of cases coming under the following conditions:

1. A profit-seeking enterprise organized in the form of sole proprietorship or partnership.
2. An organization or society which is established for educational, cultural, public welfare, or charitable purposes in accordance with the Income Tax Act.
3. A consumer cooperative established in accordance with the Income Tax Act.
4. A public-utility enterprise owned by governments of various levels in accordance with the Income Tax Act.
5. A profit-seeking enterprise having no fixed place of business or business agent within the territory of the ROC in accordance with the Income Tax Act.
6. A profit-seeking enterprise filing its income tax return due to liquidation or bankruptcy in accordance with the Income Tax Act.
7. A profit-seeking enterprise that does not apply for any investment tax credit in accordance with the laws and does not have any income within the scope of the provisions of any of the subparagraphs of Paragraph 1 of Article 7 of the IBTA (see II.A.) in its annual income tax return or current income tax return.
8. A profit-seeking enterprise whose basic income as calculated in accordance with the IBTA is less than NT$500,000.

B. Individuals

Income basic tax shall be levied on the consolidated income with the addition of the prescribed items after deducting NT$6,700,000 with the exception of cases under the following conditions:

1. An individual has not applied for any investment tax credits for which application may be made in accordance with the laws and for any income within the scope of the provisions of any of the subparagraphs of Paragraph 1 of Article 12 of the IBTA (see II. B.) in his or her annual income tax return.
2. The sum of the consolidated income with the prescribed items is less than NT$6,700,000.
3. An individual who is not a resident in the territory of the ROC.

In the case that a resident individual, whose annual gross consolidated income does not exceed the sum of the amount of exemption plus the standard deduction, is exempted from filing his or her annual income tax return, he or she shall still calculate, file, and pay income tax in accordance with the IBTA under the condition that his or her basic income exceeds NT$6,700,000.

IV. Tax Rates

A. The amount of the basic tax of a profit-seeking enterprise shall be the amount of basic income with a deduction of NT$500,000 and then multiplied by the tax rate prescribed by the Executive Yuan. The tax rate shall not be more than 15% or less than 12%. The rate of imposition is prescribed by the Executive Yuan in view of economic circumstances. The current applicable tax rate is 12%.

B. The amount of basic tax to be paid by an individual shall be the amount of basic income with a deduction of NT$6,700,000 and then multiplied by the tax rate of 20%.

V. Regular Income Tax and Income Basic Tax

The amount of the regular income tax shall be the balance of the tax payable in accordance with the Income Tax Act, after subtraction of investment tax credits in accordance with the provisions of other laws.

In the case where the amount of regular income tax calculated above is greater than or equal to the amount of income basic tax, the income tax shall be calculated in accordance with the Income Tax Act and other relevant laws. Whereas, in the case where the amount of regular income tax is less than the amount of basic tax, the amount of income tax payable shall also include the balance of the amount of basic tax and regular income tax, in addition to the amount as calculated in accordance with the Income Tax Act and other relevant laws.

VI. Indexation

If the total increase in the consumer price index has reached a figure of 10% or higher as compared to the index of the year of previous adjustment, the amount of the deduction shall be adjusted accordingly.

The adjusted amount shall be calculated in units of NT$100,000, and an amount less than NT$100,000 shall be calculated in units of NT$10,000 and then rounded to the nearest NT$100,000 using the traditional method.

VII. Tax Returns and Payments

A taxpayer shall calculate, file and pay income basic tax at the same time as for an annual income tax return, within the period from 1st May to 31st May of each year, with the local tax collection authority-in-charge. In the case that an individual is exempted from filing his or her annual income tax return, he or she shall still calculate, file and pay income basic tax if his or her basic income exceeds NT$6,700,000.

VIII. Penalty Provisions

In the case of a taxpayer who has calculated and filed his or her basic income in accordance with the provisions of the IBTA, any omission or evasion of the basic tax due to omission or under-reporting shall be subject to a fine of no more than twice the amount of the tax evaded.

In the case of a taxpayer who fails to calculate and file his or her basic income in accordance with the provisions of the IBTA, and who is found by the collection authority-in-charge to have taxable income hereunder, the collection authority-in-charge shall, in addition to determining the tax payable in accordance with the IBTA, impose a fine of no more than three times the amount of tax determined as payable.

CHAPTER V

INCOME TAXATION OF TRUSTS

I. General Description

The term “trust” refers to the legal relationship in which the settlor transfers or disposes of a right to property, thereby allowing the trustee to administrate or dispose of the trust property according to the stated purpose of the trust either for the benefit of a beneficiary or for a specified purpose. The Trust Act was promulgated on 26th January, 1996. The MOF also augmented stipulations to the Income Tax Act in order to address income taxation problems resulting from the trust system, so as to supply more force to the provisions of the Trust Act to create a complete and stable trust system. The stipulations were revised and published on 13th June, 2001.

II. Taxation Principles of Trust Benefits

A. Creation of a Trust

Where the settlor of a trust deed is a profit-seeking enterprise and the beneficiary of the whole or any part of the trust benefits designated is not the settlor him, her, or itself, then the said beneficiary shall include the value of his, her, or its entitlement to such trust benefits in the aggregate amount of his, her, or its annual income for income tax assessment under the Income Tax Act in the year the trust deed takes effect.

B. Change of Beneficiary

Where the settlor of a trust deed is a profit-seeking enterprise and the designated beneficiary of the whole or any part of the trust benefits is the settlor him, her, or itself, in the case that the beneficiary is replaced by a person other than the settlor during the term of such a trust relationship, the new aforesaid beneficiary shall include the value of his, her, or its entitlement to such trust benefits in the aggregate amount of his, her, or its annual income for income tax assessment under the Income Tax Act in the year such a change of beneficiary takes place.

C. Addition of Trust Property

Where the settlor of a trust deed is a profit-seeking enterprise, in the case that any person other than the settlor is added thereto as a beneficiary to the trust benefits, thereby resulting in an increase in the value of the trust property during the term of the trust relation, the new said beneficiary shall include the increased portion of the value of his, her, or its entitlement to such trust benefits in the aggregate amount of his, her, or its annual income for income tax assessment under the Income Tax Act in the year the increase in the value of the trust property takes effect.

D. A Non-Specific or Non-Existent Beneficiary

Where a beneficiary of a trust deed is non-specific or non-existent, the trustee shall be considered as the taxpayer for that trust deed and shall include the value of the entitlement to such trust benefits, as calculated in accordance with the applicable withholding tax rate (20%), in his or her annual income tax return, filed within the fixed period under the Income Tax Act in the year the trust deed, a change of the beneficiary, or the increase to the value of the trust property takes effect.

Where a beneficiary of a trust deed is non-specific or non-existent, income arising from disposition of the house, land, or the right to use a house according to Article 4-4 of the Income Tax Act by the trustee, the tax shall then be declared and paid in accordance with the following withholding rate according to the holding period of the property:

1. The withholding rate shall be 45% if the holding period is no more than 1 year.
2. The withholding rate shall be 35% if the holding period is more than 1 year but no more than 2 years.
3. The withholding rate shall be 20% if the holding period is more than 2 years but no more than 10 years.
4. The withholding rate shall be 15% if the holding period is more than 10 years.

III. Exemption for Trust Deeds

Where the trust property is transferred or otherwise disposed of based on any of the following trust relationships, such a trust property shall be exempt from income tax:

A. Between the settlor and a trustee, due to the creation of a trust deed;

B. Between the original trustee and a new trustee, upon a transfer of the trustee during the term of the trust relationship;

C. Between a trustee and a beneficiary, upon delivery of the trust property by the trustee according to the purposes of the trust stated during the term of the trust relationship;

D. Between the settlor and the trustee or between the trustee and the beneficiary, due to the termination of the trust relationship; or

E. Between the settlor and the trustee due to a failure of establishment of the trust deed, or invalidation, cancellation, or nullification of the trust deed.

IV. Taxation of Income Arising from Trust Property

The income arising from the management or disposal of the trust property by the trustee shall be subject to the following income tax assessment:

A. Separate accounting books and records shall be established and maintained by the trustees for use in keeping details of the received and disbursed transactions. Each disbursement must be supported by the appropriate documents or receipts.

B. With regard to the revenue derived from the trust property, the trustee shall calculate the amount of various categories of income accrued and to be payable to each trust beneficiary in the year of such income derivation, following deductions for costs, necessary expenses, and losses incurred. Each beneficiary shall include the portion of the trust benefits in his, her, or its annual income tax return for income tax assessment.

C. Where there are two or more beneficiaries entitled to the trust benefits, the trustee shall calculate the amount of such income to be distributed to beneficiaries in accordance with the proportions for distribution as explicitly stated in the trust deed or the deductive proportions. However, if the proportions to be distributed are either unknown or cannot be deduced, the income derived from the trust property shall be calculated on an average basis.

D. Where the beneficiary is non-specific or non-existent yet, the taxpayer for the amount of income derived from the trust property for that year shall be the trustee of the trust property, and a withholding tax shall be paid at the applicable withholding rate and declared in the annual income tax return filed within the fixed period under the Income Tax Act. With regard to the withholding tax already declared and paid, the amount of such tax withheld may be deducted from the amount of income tax payable by the taxpayer.

E. In the case where a trustee fails to comply with the provisions set out in the preceding Sub-Sections B through D, the collection authority-in-charge shall assess the amount of income of the trust beneficiary concerned based on the relevant information available, and levy the income tax accordingly.

F. With regard to a charitable trust conforming to the requirements set out in the Income Tax Act (see V. below), the benefits from the trust actually distributed to the trust beneficiaries shall be included in their respective annual incomes for income tax assessment for the year such benefits were distributed.

G. With regard to mutual trust funds, securities investment trust funds, futures trust funds, or any other trust funds approved by the Financial Supervisory Commission, Executive Yuan, the trust benefits actually distributed to the trust beneficiaries shall be included in their respective annual incomes for income tax assessment for the year such benefits were distributed.

V. Stipulations for Charitable Trusts

A. Where a profit-seeking enterprise provides property for the purpose of formation, contribution, or participation in any of the following charitable trusts, the value of the beneficiaries' entitlement to the benefits under the said charitable trust shall be exempt from income tax assessment:

1. The trustee is a trust business operator as defined by the Trust Business Act.
2. A charitable trust shall not pay special benefits in any manner to any specific person or to any person who may be designated as a specific person, except for payment of

expenses which must be made to an incorporated enterprise, in order to meet the objective of the said charitable trust.

3. Trust property which, according to the provisions of the trust deed thereof, shall be transferred to a government authority at a specific level, a public jurist or a charitable trust having a similar objective, upon cancellation or termination of such a trust deed.

B. With regard to the property provided by any individual or profit-seeking enterprise for creating, contributing to, or participating in a charitable trust conforming to the applicable requirements, the provisions for donations in the Income Tax Act shall govern.

VI. Withholding

A. With regard to revenue arising from trust property, the withholding agent shall name the trustee of the said trust deed as the taxpayer at the time of payment and complete the tax-withholding process. However, for trust benefits, except for interest from short-term commercial papers and prizes received from government-sponsored lotteries paid by the withholding agent with respect to a charitable trust, such payments shall be exempt from the withholding tax.

B. When making a withholding tax statement, the trustee of a trust deed shall take the amount of tax withheld from various categories of the trust income accrued and to be payable to a trust beneficiary as the amount of tax withheld for the said trust beneficiary; provided, however, that in the case that there are two or more trust beneficiaries, the trustee shall calculate the tax withheld by each trust beneficiary in accordance with the proportions cited in IV. C above.

C. Where the trust beneficiary is a non-resident individual or a non-resident foreign business having no fixed place of business in the ROC, the trustee of the said trust deed shall be regarded as the withholding agent, and tax shall be withheld from various income payments to the said trust beneficiary at a withholding rate of 20%; however, withheld tax already paid by the trust beneficiary may be deducted from the withholding tax payable by such trust beneficiary.

D. When distributing trust benefits to a charitable trust or a trust fund, the trustee shall be considered as the withholding agent who shall complete the withholding process.

E. The trustee of a trust deed shall, prior to the end of January of each year, prepare documents prescribing the inventory of property, revenue, and expenditure statements, statement of trust benefits accrued and payable to trust beneficiaries, statement of withholding tax, and other relevant documents and submit copies to the collection authority-in-charge. In addition, the withholding (non-withholding) tax statement and relevant vouchers shall be prepared and issued to the relevant taxpayers prior to 10th February of each year. In the case that three national holidays occur in immediate succession in January, the period for the submission of documents shall be extended to 5th February and the period of the issuance of the withholding (non-withholding) tax statement and the relevant vouchers shall be extended to 15th February.

VII. Penalty Provisions

A. Where the trustee of a trust deed is found to have under-declared or omitted a declaration of any revenue accrued on the trust property, or made a false declaration of any relevant costs, necessary expenses or losses, thus causing an under-calculation of the trust beneficiaries' income; or has failed to accurately categorize the beneficiaries' income, thus causing a reduction in the trust beneficiaries' tax-paying obligations, the trustee shall be liable to a fine in an amount equal to 5% of the amount of under-declared or evaded income of the trust beneficiaries, or the amount of incorrectly categorized income of such beneficiaries. However, the maximum amount of the fine shall not be more than NT$300,000, and the minimum amount shall not be less than NT$15,000.

B. Where the trustee of a trust deed fails to calculate the amount of trust beneficiaries' income from different categories of income in accordance with the cited proportions, the said trustee shall be liable to a fine in an amount equal to 5% of the deficit between the income amount calculated by the trustee and the income amount calculated in accordance with the applicable proportions. However, the maximum amount of the fine shall not be more than NT$300,000, and the minimum amount shall not be less than NT$15,000.

C. Where the trustee of a trust deed fails to file prior to the deadline, file an accurate withholding tax return, or prepare and issue the relevant documents or withholding (non-withholding) tax statement or any other relevant vouchers, the said trustee shall be liable to a fine in the amount of NT$7,500; in addition, the said trustee shall be required to file a tax return or to issue the relevant documents within a prescribed time limit. Failure to file or issue prior to the prescribed deadline shall result in a fine imposed on the trustee in an amount equal to 5% of the income accrued on the trust property in the then current year. However, the maximum amount of the fine shall not be more than NT$300,000, and the minimum amount shall not be less than NT$15,000.

CHAPTER VI

INTERNATIONAL TAXATION

I. Tax Treaties

A. Policy

The general policy of the ROC toward tax treaties is to avoid double taxation, prevent fiscal evasion, and strengthen substantive relations. The tax treaties that the ROC has entered into follow the OECD and UN models and take into consideration matters relating to the political and fiscal status, economic situation, and trade between the mutual parties.

B. List of Tax Treaties

As of 30th June, 2016, 30 comprehensive income tax agreements and 13 international transportation income tax agreements had been signed and brought into force. All tax agreements are listed below:

1. Comprehensive income tax agreements which cover all income flows:

   Australia, Austria, Belgium, Denmark, France, Gambia, Germany, Hungary, India, Indonesia, Israel, Italy, Japan, Kiribati, Luxembourg, Macedonia, Malaysia, the Netherlands, New Zealand, Senegal, Singapore, South Africa, Paraguay, Slovakia, Swaziland, Sweden, Switzerland, Thailand, Vietnam, and the UK.

2. International transportation income tax agreements:

   Canada, the European Union, Germany, Israel (no longer in effect), Japan, Korea, Luxembourg, Macau, the Netherlands (Shipping, Air Transport), Norway, Sweden, Thailand, and the USA.

C. Withholding Tax Rates for Non-Residents

The withholding tax rates for non-residents are as follows:

Type of Income	Withholding Rates	
	Profit-Seeking Enterprise with No Fixed Place of Business	Non-Resident Individual
Dividends Distributed by Companies and Profits Distributed by Co-Operatives	20%	20%
Commission	20%	20%

Interest	(1) 20%; (2) 15%, to be taxed on interest from the portion of the pecuniary amount realized by short-term commercial papers at their maturity in excess of the selling price at their initial issuance; (3) 15%, to be taxed on interest from securities issued under the Financial Asset Securitization Act or the Real Estate Securitization Act; (4) 15%, to be taxed on interest from government bonds, corporate bonds, or financial bonds; (5) 15%, to be taxed on interest from repo (RP/RS) trade of the aforesaid bonds, securities or short-term commercial papers which shall be the net amount of the sale price at their maturity in excess of the original purchase price.	(1) 20%; (2) 15%, to be taxed on interest from the portion of the pecuniary amount realized by short-term commercial papers at their maturity in excess of the selling price at their initial issuance; (3) 15%, to be taxed on interest from securities issued under the Financial Asset Securitization Act or the Real Estate Securitization Act; (4) 15%, to be taxed on interest from government bonds, corporate bonds, or financial bonds; (5) 15%, to be taxed on interest from repo (RP/RS) trade of the aforesaid bonds, securities or short-term commercial papers which shall be the net amount of the sale price at their maturity in excess of the original purchase price.
Rental	20%	20%
Royalties	20%	20%
Wages and Salaries		(1) 5%, in the case of the portion of the total monthly payment exceeding NT$30,000 for civil servants employed by the government to work abroad; (2) For individuals described other than in (1): (a) 6%, in the case of salaries not exceeding 1.5 times the monthly basic salary as assessed by the Executive Yuan (b)18%, in the case of salaries exceeding 1.5 times the monthly basic salary as assessed by the Executive Yuan

Awards or Prizes Obtained from Participating in Contests, Games, or Lotteries, Etc.	(1) 20%; (2) 0%, in the case that the prize received is from lotteries sponsored by the government and is no more than NT$2,000 per ticket	(1) 20%; (2) 0%, in the case that the prize received is from lotteries sponsored by the government and is no more than NT$2,000 per ticket
Reward for Information or Accusation	20%	20%
Income Derived from Property Transactions	20% of the reported amount	20% of the reported amount
Income Derived from International Transportation, Construction Projects, Furnishing of Technical Services, and Leasing of Equipment by a Foreign Profit-Seeking Enterprise Which Has Been Approved by the MOF to Fix a Rate Deemed as Profit According to Article 25 of the Income Tax Act	20% of the deemed profits as calculated by multiplying the ROC-sourced revenue by a fixed rate as stated below: (1) 10%, for international transportation (2) 15%, for other contracted projects	
Income Derived by a Foreign Motion Picture Enterprise Which Has Been Approved to Fix a Rate Deemed as Profit According to Article 26 of the Income Tax Act	20% of the deemed profits	
Other Income	20%	20%

However, with respect to dividends, interest, and royalties, reduced withholding tax rates ranging from 5%-15% are provided for by tax agreements.

List of the Withholding Tax Rates of Dividends, Interest, and Royalties Under the Respective Tax Treaties

Income Items / Country	Dividends (%)	Interest (%)	Royalties (%)
Non-Treaty Countries	20	20, 15	20
Australia	10, 15	10	12.5
Austria	10	10	10
Belgium	10	10	10
Denmark	10	10	10
France	10	10	10
Gambia	10	10	10
Germany	10	10, 15	10

Hungary	10	10	10
India	12.5	10	10
Indonesia	10	10	10
Israel	10	7, 10	10
Italy	10	10	10
Japan	10	10	10
Kiribati	10	10	10
Luxembourg	10, 15	10, 15	10
Macedonia	10	10	10
Malaysia	12.5	10	10
The Netherlands	10	10	10
New Zealand	15	10	10
Paraguay	5	10	10
Senegal	10	15	12.5
Singapore	40*	Nil	15
Slovakia	10	10	5, 10
South Africa	5, 15	10	10
Swaziland	10	10	10
Sweden	10	10	10
Switzerland	10, 15	10	10
Thailand	5, 10	10, 15	10
The UK	10	10	10
Vietnam	15	10	15

*The tax shall not exceed an amount that together with the corporate income tax payable on the profits of the company paying the dividends constitutes 40% of the part of the taxable income out of which the dividends are declared.

D. Regulations Governing Application of Agreements for the Avoidance of Double Taxation with Respect to Taxes on Income

To improve the effectiveness of tax administration with regard to double taxation agreements, the MOF issued "The Regulations Governing Application of Agreements for the Avoidance of Double Taxation with Respect to Taxes on Income" on 7th January, 2010. The Guidelines include detailed instructions for the determination of residency status, the issuance of a resident certificate, the criteria adopted for determining the existence of a permanent establishment, the method adopted for attribution of business profit to a permanent establishment, the attribution of taxable income derived from performing independent personal services and the determination of taxable income derived under an employment, the exclusion of a joint-filing requirement, the application of limited tax rates and tax exemptions, the refund of overpaid taxes, the reporting of foreign tax credits, and the procedures for mutual agreement and exchange of information.

II. Transfer Pricing

A. Article 43-1 of the Income Tax Act

In order to deal with the problem of transfer pricing and to realize fair and legitimate taxation in the field of controlled transactions made between a profit-seeking enterprise and its related parties, a provision relating to transfer pricing was enacted into Article 43-1 of the Income Tax Act in 1971. In addition, similar transfer pricing provisions were included in Article 50 of the Financial Holding Company Act and Article 42 of the Business Merger and Acquisition Act in 2001 and 2002, respectively.

Article 43-1 of the Income Tax Act addresses the adjustment of income necessary for enterprises with non-arm's length transactions. This article authorizes the collection authority-in-charge to adjust the calculation of the income of an enterprise in order to accurately determine its taxable income and tax liability. However, this adjustment can only be done with the prior approval of the MOF and in pursuance of the arm's length principle. The application of Article 43-1 is invoked when a profit-seeking enterprise, with other enterprises within or outside the territory, has an affiliated relationship with, or is directly or indirectly owned or controlled by another enterprise, and allocates revenue, costs, expenses, and profits and losses among its related businesses which are incompatible with the arm's length principle, and with the intention to avoid or reduce its income tax liabilities in the ROC.

Article 43-1 of the Income Tax Act governs transfer pricing activities both within domestic enterprises as well as multinational enterprises. Therefore, when the collection authority-in-charge perceives profit-seeking enterprises as having transactions with their related enterprises, (i.e., controlled transactions), which are incompatible with the arm's length principle, the authority may start the process of investigation and adjustment as long as the requirements prescribed in Article 43-1 of the Income Tax Act have been met. As for Article 50 of the Financial Holding Company Act and Article 42 of the Business Merger and Acquisition Act, the investigation and adjustment undertaken by the collection authority-in-charge in accordance with the arm's length principle shall apply to the transactions conducted by any company subject to those acts with its related enterprises, individuals, or non-profit organizations, (i.e., controlled transactions), and shall also apply to the transactions with its unrelated parties which are considered as non-arm's length.

B. Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's Length Transfer Pricing

For determining arm's length pricing or the profit of controlled transactions in a fair and reasonable way, the MOF promulgated "The Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's Length Transfer Pricing" on 28th December, 2004 and revised on 6th March, 2015. These regulations provide the following information:

1. The types of transactions governed by these regulations include the following:

   a. Transfer of tangible assets;

   b. Use of tangible assets;

   c. Transfer of intangible assets;

   d. Use of intangible assets;

   e. Rendering of services;

   f. Use of funds; and

   g. Other types of transactions prescribed by the MOF.

2. Arm's length principles to be followed by taxpayers and tax authorities

   When profit-seeking enterprises and the collection authority-in-charge evaluate whether the result of a controlled transaction is at arm's length, or determine the arm's length result of a controlled transaction, the following principles shall be followed:

   a. The comparability principle;

   b. Adoption of the most applicable transfer pricing method;

   c. Evaluation of separate transactions;

   d. Use of current year data;

   e. Adoption of an arm's length range;

   f. Analysis of reasons for losses;

   g. Separate evaluation of revenues and expenditures; and

   h. Other arm's length principles prescribed by the MOF.

3. Transfer pricing methods

   Presently the following transfer pricing methods can be used to evaluate whether the result of controlled transactions is at arm's length, or to determine their arm's length result:

   a. Traditional transaction methods, including the comparable uncontrolled price method, the uncontrolled transaction method, the resale price method, and the cost-plus method;

   b. Profit methods, including the comparable profit method and the profit split method.

   These regulations also define the applicable methods depending on the types of transaction. The profit-seeking enterprises undertaking controlled transactions are not required to check each transfer pricing method to determine the one which is most appropriate, instead, they may select one or more of a choice of transfer pricing methods to ascertain the most appropriate one for their circumstances based on the comparability or similarity between the controlled transactions and their comparables, and on the reliability of the adjustments made to eliminate the differences.

4. Requirements for disclosing information

   When filing income tax returns, profit-seeking enterprises, except for those which enjoy different tax treatments from their related parties and have a turnover amount and controlled transaction amount under the disclosure threshold established by the MOF, shall disclose information regarding their related parties, and the controlled transactions between the enterprises and their related parties. The enterprises which are required to disclose information shall fill out the relevant form including an organization chart, a brief description of the related parties, a simple summary of the controlled transactions, and other related information.

5. Requirements for preparing transfer pricing documentation

   a. When filing income tax returns, profit-seeking enterprises shall prepare a "transfer pricing report" in regard to their controlled transactions and other related documents, such as a complete organization structure, summaries of controlled transactions, etc., commencing with and including the taxable year 2005. However, in order to alleviate the taxpayers' burden and compliance costs, the MOF established a safe harbor rule on 30th December, 2005, revised on 6th November, 2008, and applied staring from the fiscal year of 2008. The profit-seeking enterprises of which controlled transactions meet the requirements regulated under the safe harbor rule may replace their transfer pricing report with other evidentiary documents which are able to sufficiently prove that the results of such transactions are at arm's length.

   b. The term "transfer pricing report" is a report to record all the procedures regarding a transfer pricing analysis under the regulations. Such report shall at least contain:

      (1) An industry and economic analysis;

      (2) A functional and risk analysis of all the participants of the controlled transaction;

      (3) A description of the nature of the compliance with the arm's length principle;

      (4) A description of the search for comparables;

      (5) A description of the selection of the most appropriate transfer pricing method and the related comparability analysis;

      (6) An estimation of whether the allocation of profits in the Controlled Transaction is at arm's length while business restructuring is involved;

      (7) The transfer pricing methods adopted by the other related participants; and

      (8) A description of the application of the most appropriate transfer pricing method to evaluate whether the result of the controlled transactions is at arm's length and also its conclusion, including selected comparables, difference adjustments and their assumptions, arm's length range, the conclusion of the evaluation, and the transfer pricing adjustment in the case that the controlled transactions are not at arm's length.

6. Applications for Advance Pricing Arrangements

a. Requirements for application for an Advance Pricing Arrangement (APA):

Profit-seeking enterprises undertaking a controlled transaction, which meets certain requirements, may apply for the possibility of an APA. The main requirements are as follows:

(1) The total amount of the transactions being applied for under APAs shall be no less than NT$500 million; or, the annual amount of such transactions no less than NT$200 million;

(2) No significant tax evasions were committed in the past three years; and

(3) Documentation required for an APA application, such as a business overview, relevant information of the related parties and controlled transactions, transfer pricing reports, etc., shall be provided within the time limit.

b. Procedure for filing applications and review

Taxpayers deemed as qualified to apply for an APA should file an application before the end of the first fiscal year covered by the APA. The collection authority-in-charge shall review and reach a conclusion within one year. Under special circumstances, the review period may be extended for a further period of six months. If necessary, another six-month extension may be allowed. When reaching a decision after reviewing the APA application, the collection authority-in-charge will discuss such decision with the applicant. At the time of an agreement being reached between the two sides, an APA shall be signed between the collection authority-in-charge and the applicant with an obligation on the part of both sides to follow the terms of the agreement.

c. Applicable period of an APA

Once signed, the APA will be effective for a period of from three to five years. In the case of there being no substantial change in the conditions described in the APA, an applicant who has fully complied with all the terms of the APA may apply for an extension for another five years.

d. Examinations of compliance with the APA

During the applicable period of the APA, the applicant shall submit an annual report on the execution of the APA to the collection authority-in-charge with the income tax return.

e. Advantages of the use of an APA, including the following:

(1) Simplified documentation requirement, i.e., no need to prepare an annual transfer pricing report, and

(2) Certainty for tax liabilities. The collection authority-in-charge will reduce the probability of auditing and shall assess the taxable income in accordance with the APA.

7. Investigation, assessment and corresponding adjustments

a. Investigation

When perceiving profit-seeking enterprises as having non-arm's length transactions with their related parties, the collection authority-in-charge may start the process of investigation. The authority may conduct different procedures based on whether the enterprises being audited provide the transfer pricing documentation as required. In the first instance, in the case that an enterprise provides adequate transfer pricing documentation, the authority may assess its taxable income based on such documentation. In the second instance, if an enterprise fails to provide such documentation, the authority may assess the taxable income based on information gathered from internal and external data sources.

b. Assessment

For both of the above instances, the taxable income of the taxpayer is assessed in accordance with these regulations. However, subject to the second instance, in the case that there is a failure to collect information regarding comparables, (e.g., on royalty payments), the collection authority-in-charge may assess such taxable income based on the standard profit margins regulated by the MOF.

c. Corresponding adjustments

If a collection authority-in-charge has conducted a transfer pricing investigation of a profit-seeking enterprise undertaking controlled transactions pursuant to these regulations, and the arm's length adjustments made by the authority have been approved by the MOF, the authority shall make corresponding adjustments to the taxable income of the counterpart of the enterprise which in the first case has been deemed to be itself subject to adjustments in taxable income if both parties are liable to the income tax obligation of the ROC. Furthermore, in the case that the arm's length adjustment is resultant from an income tax assessment of a foreign tax jurisdiction under the tax agreements framework, the collection authority-in-charge in the ROC shall also make a corresponding adjustment to the taxable income of the counterpart which is liable to the income tax obligation of the ROC in the case where such adjustment is perceived as reasonable by the collection authority-in-charge in the ROC.

8. Penalties

Where the profit-seeking enterprise fails to comply with these regulations thereby resulting in a reduction of tax liability, and the collection authority-in-charge has made adjustments and assessed the taxable income of the enterprise in accordance with the Income Tax Act and these regulations, Article 110 of the Income Tax Act shall apply to the following situations of specific tax omission or under-reporting commencing with and including the taxable year 2005:

a. The reported price of the controlled transaction is two times or more than the arm's length price as assessed by the tax administration; or 50% or lower than the arm's length price.

b. The increase in taxable income of the controlled transactions as adjusted and assessed by the collection authority-in-charge is 10% or more of the annual taxable income of the enterprise; and 3% or more of the annual net business revenue.

c. A profit-seeking enterprise cannot provide a transfer pricing report or other documents evidencing that the result of transactions is at arm's length.

d. Other *de facto* tax shortfall discovered by the collection authority-in-charge.

III. Thin Capitalization

A. Article 43-2 of the Income Tax Act

The amendments to the Income Tax Act which introduce provisions of thin capitalization became effective as of the fiscal year 2011.

According to the provisions in Article 43-2 of the Income Tax Act, if the proportion of related party debt to equity of a profit-seeking enterprise exceeds a specified ratio, excess interest expense will not be tax deductible. Further, a profit-seeking enterprise will be required to disclose the debt-to-equity ratio and other relevant information in its annual profit-seeking enterprise income tax return.

B. The provisions regarding Article 43-2 of the Income Tax Act will not apply to banks, credit co-operatives, financial holding companies, bills finance companies, insurance companies, or securities firms.

C. The MOF promulgated "The Regulations Governing the Assessment of Interest Expenditure on the Debts Owed by a Profit-Seeking Enterprise to a Related Party in Accordance with the Condition that the Related Payments Shall Not Be Considered as Expenses or Losses" on 22nd June, 2011. The excess interest expenditure on the debts owed directly or indirectly by a profit-seeking enterprise to a related party shall not be considered as expenses or losses if the proportion of related party debt to equity of a profit-seeking enterprise exceeds the ratio of 3:1 as stipulated by the regulations.

IV. Other Anti-Avoidance Measures

The addenda to Articles 43-3, 43-4, and 126 of the Income Tax Act were promulgated on 27th July, 2016, to stipulate the schemes of Controlled Foreign Company (CFC) and Place of Effective Management (PEM) rules in response to the international anti-avoidance trend. According to the legislative intent, the CFC and PEM rules, in principle, will be implemented under the conditions that the Cross-Strait Tax Agreement is effectuated, the OECD's Common Reporting and Due Diligence Standard (CRS) for the automatic exchange of information of financial accounts is widely implemented internationally, and the relevant sub-regulations of the CFC and PEM rules have been adequately enacted and properly advocated.

A. CFC－Article 43-3 of the Income Tax Act

1. Definition of CFC: A foreign company, incorporated in a low-tax jurisdiction, controlled by an ROC profit-seeking enterprise and its related parties legally or substantially:

a. More than 50% shares held by an ROC profit-seeking enterprise and its related parties; or

b. Substantially controlled by an ROC profit-seeking enterprise and its related parties (e.g., Personnel or Financial).

2. Exemption threshold

a. A CFC with effective operation; or

b. A CFC with current earnings less than standard that the MOF stipulated.

3. Taxable income calculation: CFC earnings deemed as an ROC profit-seeking enterprise stockholders' current taxable income based on shares and holding periods.

4. Tax loss carryforward: CFC loss, certified by a CPA, is applicable to be carryforward within 10 years as a deduction to CFC earnings.

5. Relief for double taxation

a. Earnings which have been taxed by CFC rules will be exempted whenever they are repatriated.

b. Foreign tax credit can be claimed if earnings are repatriated in 5 years since CFC rules have been applied to.

B. PEM－Article 43-4 of the Income Tax Act

1. Applicable subject: A foreign company with its PEM in the territory of the ROC will be deemed as an ROC enterprise resident.

2. Scope of application

a. The abovementioned foreign company would be subject to tax on its worldwide income according to the Income Tax Act and relevant regulations.

b. The obligation of a tax withholder, based on the regulations, would be binding on such a foreign company.

3. Definition of PEM: A foreign company meeting the following provisions

a. Either the decisive policies of the foreign company are made by tax residents, or where the decisive policies are made in a place in the territory of the ROC;

b. The financial statements, relevant financial records, and the minutes of shareholders' meetings or the minutes of the meetings of the board of directors of such a foreign company are stored in a place in the territory of the ROC; and

c. The main business activities of such a foreign company are effectively carried out in the territory of the ROC.

CHAPTER VII

ESTATE AND GIFT TAX

I. General Description

The taxation of estates was proposed in the early years of the ROC. In 1915, an act was drafted under the name of the Act for Collection of Estate Tax, and it was redrafted in 1929 as the Act of Estate Tax. Neither act was released for implementation due to civil disorder. By 1938, after war between China and Japan had been formally declared, the government was in urgent need of financial resources, and thus the Tentative Act for Estate Tax was drafted and implemented on 1st July, 1940. In 1946, following victory in the war against Japan, the aforesaid Tentative Act for Estate Tax was revised to be the Estate Tax Act, and further revised in 1950 and 1952. As the Act chose to tax the property left by the decedent at his or her death, property owners could easily circumvent the levy of estate tax by bestowing gifts while still alive. Therefore, the Act was replaced in 1973 by the Estate and Gift Tax Act to close this loophole and also to reflect the rapid growth of the domestic economy and substantial price fluctuation. In 1981, several provisions of the Act were revised in line with the enactment of the Tax Collection Act and also the price fluctuations resulting from the oil crisis at that time. Then, in 1995, in order to adjust the tax burden, implement a sound tax structure, and prevent tax evasion, the Act was further revised to rationalize and simplify tax rates and tax brackets, and to include provisions for the counter-acting of evasions by changing nationality. Following that, there were no further immediate major revisions to the Estate and Gift Tax Act, although the 2000 and 2001 revisions added the exemption of farmland and tax provisions of trusts, respectively.

Then as the economic environment evolved, numerous countries began to undertake tax reforms to cope with the trend of economic liberalization, internationalization, and innovation in financial products, and reform of the Estate and Gift Tax was an important part of this movement among others in the various tax administrations. Following this trend and as a part of a process of overall reform, the Estate and Gift Tax Act were substantially revised in 2009. The aim of the revision was, from the aspect of improving effectiveness, to reduce the inducement of tax evasion, to increase efficiency in the use of capital, and to enhance tax compliance. The major revisions included an adjustment of the structure of the estate and gift tax rates and tax exemptions and also an improvement in the current tax payment system. The tax structure was adjusted from 10 tax brackets with a highest marginal tax rate of 50% to a single flat rate of 10% with higher tax exemptions.

II. Estate Tax

A. Tax Scope

1. Objects subject to taxation

    a. Property left by the decedent who was an ROC citizen and resided in the ROC ordinarily shall be subject to the levy of estate tax, irrespective of whether the property was located within or outside the ROC.

    b. Property left by the decedent who was an ROC citizen and did not reside in the ROC ordinarily or who was a non-ROC citizen shall be subject to the levy of estate tax only to the extent that it is located within the ROC.

2. Estate and constructive estate

    a. Estate: Movables, immovables, and other properties having market value such as cash, bank savings, stocks, land, houses, rights of claim, mineral rights, and the like.

    b. Constructive estate: Property disposed of through donations in favor of the following persons by the decedent within two years prior to the date of his or her death is regarded as estate property and subject to levy of estate tax:

        (1) The surviving spouse of the decedent;

        (2) Heirs prescribed under Articles 1138 and 1140 of the Civil Code; and

        (3) The spouses of the heirs named in the preceding paragraph.

3. Evaluation of estate

    The estate is evaluated according to the value prevailing at the time of death, or the current value prevailing at the time the decedent was adjudicated to be dead by the court. The “prevailing value” shall mean the government-assessed value as published from time to time in the case of land, or, in the case of a dwelling, the price evaluated by the tax office for the purpose of the levy of house tax.

4. Definition of ordinary residence within or outside the ROC

    a. The decedent is regarded as having resided in the ROC ordinarily, provided he or she had maintained a domicile in the ROC within two years prior to his or her death or maintained a residence accompanied by the fact that he or she had stayed in the ROC up to 365 days within two years immediately prior to his or her death, except for a decedent foreigner who was performing a service contracted with the ROC government and had only stayed in the ROC for a specific period of time.

    b. The decedent shall not be regarded as having resided in the ROC ordinarily, provided he or she had not met with the requirements set forth in the preceding paragraph.

5. Source rules for estate

The location of the property left by the decedent determines whether it is within or outside the ROC, namely:

a. For movables, immovables, and attachments, the physical location will govern. However, for ships, automobiles, and aircraft, the location of the agency where the ships, automobiles, and aircraft are registered will govern;

b. For mineral rights, the physical location of the mines or mining area will govern;

c. For fishing rights, the location of the relevant administrative agency will govern;

d. For patents, trademarks, copyrights, and publishing rights, the locations of the relevant registration agencies will govern;

e. For business rights, the place of business will govern;

f. For deposits received by financial institutions, the business address of the said financial institution will govern;

g. For rights of claim, the ordinary residence or the place of business of the debtor will govern;

h. For bonds, corporate debentures, stocks and equity investments, the principal place of business of the issuing body or invested enterprise will govern;

i. For trust benefits, the place of operation of business of the trust enterprise will govern; and

j. In the event of any difficulty in determining the location of other property, the decision of the MOF will govern.

B. Taxpayers

The taxpayers of estate tax shall be determined according to the following sequence of priority:

1. Executor of the will;

2. Heir(s) or legatee(s), in case that no executor is appointed;

3. An administrator elected pursuant to the law, in the case of the non-existence of heir(s) or executor of the will; and in the event that an administrator is not elected for whatever reason within six months immediately following the death, the tax office may submit a petition to the court for appointment of an administrator pursuant to the provisions of the Non-Litigation Law.

C. Exclusions, Deductions, and Exemptions

1. Exclusions

a. Property contributed to government agencies at various levels or public, educational, cultural, social welfare, and charitable organizations by the legator, legatee(s), or heir(s);

b. Property contributed to government-owned businesses by the legator, legatee(s), or heir(s);

c. Property contributed by the legator, legatee(s), or heir(s) to private incorporated educational, cultural, social welfare, charitable, or religious organizations, or property set aside for the purpose of worshipping ancestors, which is in accordance with the regulatory criteria prescribed by the Executive Yuan;

d. Cultural, historical or artistic books, and articles duly recorded with a competent tax office, provided, however, that the estate tax on such books or articles shall be recaptured in the event of the transfer of the same;

e. Copyright, patented discovery, and artistic articles invented by the decedent;

f. Necessities of the decedent excluded to the extent of NT$890,000;

g. Apparatus for professional use by the decedent to the extent of NT$500,000;

h. Forests banned or restricted from cutting pursuant to the law, provided, however, that the release of the ban or restriction will subject the same to the recapture of estate tax thereon;

i. Payment to the appointed beneficiary matured at the time of death under life insurance, labor insurance, farmer insurance, or insurance covering soldiers, civil servants, or teachers;

j. Property inherited by the decedent within five years prior to his or her death, provided that estate tax on the inherited property was paid;

k. Property originally or specifically owned by the spouse or children of the decedent, the ownership of which can be proved with registration or otherwise;

l. Land contributed to or used by the government for public passage, provided that detail of registration should be certified by the competent authority;

m. Unrecoverable claims inherited, provided that there is appropriate documentation supporting the irrecoverability.

2. Deductions

a. A deduction of NT$4,930,000 for the surviving spouse;

b. A deduction of NT$500,000 for each lineal descendant of the decedent and a further deduction of NT$500,000 for each year counting from the current age of each lineal descendant up to the age of twenty;

c. A deduction of NT$1,230,000 for each parent;

d. A deduction of NT$6,180,000 for the handicapped or mentally-disabled heirs;

e. A deduction of NT$500,000 for each of the dependent brothers, sisters, and grandparents of the decedent and a further deduction of NT$500,000 for each of the dependent brothers and sisters for each year counting from the current age of the dependent brothers or sisters up to the age of twenty;

f. Farm products and agricultural land that is inherited by the heir(s) or legatee(s) for agricultural purposes. If the heir(s) or legatee(s) does (do) not continuously use the farmland inherited by him, her, or them for the five years from the date of inheritance, and if the heir(s) does (do) not resume farming before the deadline set by the competent agency, then the tax shall be made due retroactively. However, the tax is not applicable if the heir(s) dies (die) or if the land is requisitioned by the government or if any law provides for the land to be used for non-farming purposes;

g. 80%, 60%, 40%, or 20% of the value of the property inherited by the decedent, depending upon whether the said property was inherited six, seven, eight, or nine years immediately prior to his or her death, respectively;

h. Taxes, penalties and fines incurred before the death and owed by the decedent;

i. Debt owed by the decedent, the existence of which can be evidenced by solid proof;

j. A standard deduction for funeral expenses in the amount of NT$1,230,000 without requirement of supporting documents;

k. Any direct and necessary expense incurred by an executor or administrator.

Items a. to g. shall not be applicable in cases where the decedent, being an ROC citizen, did not reside in the ROC ordinarily, or he or she was not an ROC citizen. The deductions described in Items h. to k. shall be available only to the extent that they are incurred within the territory of the ROC. Items a. to e. shall not be applicable to (an) heir(s) who waive(s) the rights of inheritance.

3. Exemptions

An exemption of NT$12,000,000 is allowable. However, the exemption shall be doubled in the case that the decedent was an ROC citizen, had resided in the ROC ordinarily, and was a soldier, policeman, civil servant, or teacher and died in the performance of his or her duty.

D. Tax Rates

A 10% flat rate has been adopted and became effective from 23rd January, 2009.

E. Tax Returns and Payments

1. Deadline for report and jurisdiction

a. Whether there is any estate tax payable or not, an estate tax return reporting the property left by the decedent shall be submitted within six months from the date of death to the competent tax office where the household registration of the decedent was located. That six-month period shall count from the date of judgment when the decedent was adjudicated to be dead by the court, or from the date when an administrator was appointed by the court where an application for the aforesaid appointment was requested.

b. An estate tax return reporting property left in the ROC by the decedent, who was a non-ROC citizen or an ROC citizen who did not reside in the ROC ordinarily, shall be submitted to the tax office where the central government is located.

c. Written application with due cause for an extension of three months may be made before the maturity of the original six months. The tax office may, at its discretion, extend the period in the event of acts of God or other irregular events.

2. Tax payment

a. Estate tax payable shall be paid within two months from the date of receipt of a tax notice by the taxpayer(s), within which time application may be made with due cause for an extension of two months may be obtained from the tax office.

b. In cases where the estate tax payable amounts to NT$300,000 or more, and the taxpayer has difficulty paying the total in cash, payment may be made in 18 installments through an application submitted to the tax office within the time limit stated in the tax notice. Each installment interval shall not exceed two months. Payment of tax may also be satisfied by surrendering property in the ROC on which estate tax has been assessed, or other property that is easy to sell and take into custody. When using the assessed property in the ROC which is of low liquidity or difficult to take into custody, or for which the price on the date of application is lower than on the date of death, the amount of tax which may be offset by such property shall be limited to the ratio of its value to the value of the total assessed estate.

c. In cases where payment in installments has been approved, interest at the postal savings rate for a one-year certificate of deposit shall be paid together with the outstanding estate tax counting from the date following the maturity of the time limit stated in the tax notice until the date of full payment.

d. Where the property for paying estate tax in kind is jointly owned in common by the heirs under Paragraph 4 of Article 30 of the Estate and Gift Tax Act, and that property is solely owned by the decedent or with others in co-ownership, the application for estate tax payment may be submitted by the consent of half of the heirs whose holding of entitled portion is more than half of the total, or when over two-thirds of the entitled portion of the heirs declare their consent in writing. It shall not apply to the Paragraph 3 of Article 828 of the Civil Code.

III. Gift Tax

A. Tax Scope

1. Objects subject to taxation

a. Any gift made by a donor who is an ROC citizen and resides in the ROC ordinarily shall be subject to the levy of gift tax irrespective of whether the property given away is located within or outside the ROC.

b. A gift made by a donor who is an ROC citizen but resides outside the ROC ordinarily or who is a non-ROC citizen shall be subject to the levy of gift tax only to the extent that the property given away is located in the ROC.

2. Gifts and constructive gifts

a. Definition of gift: A gift is a contract whereby the donor offers to transfer his or her property gratuitously to the donee who in turn accepts the transfer.

b. Constructive gift: The following transfers are regarded as gifts for gift tax purposes:

(1) To forgive rights of claim or assume obligations without receipt of any consideration before the right of claim is due;

(2) To transfer property, or forgive rights of claim, or assume obligations with substantially inadequate consideration, in which case gift tax shall be payable to the extent of the difference between the fair market value of the property transferred or the right forgiven or the obligation assumed and consideration received;

(3) To purchase property in favor of others with the funds of the purchaser. However, such funds used for purchase of land or housing will be evaluated by means of the government-announced assessed value of land or housing;

(4) To purchase property in favor of others with the funds of the purchaser upon receipt of substantially inadequate consideration from the beneficiary nominees, in which case gift tax shall be payable to the extent of the difference between the purchase price and the consideration received from the nominees;

(5) Property purchased in the name of the person having no or restricted legal capacity shall be deemed as a gift from the attorney-in-law or guardian of the beneficiary nominee, unless evidence clearly indicates that the purchase price payment came from the funds of the nominee; and

(6) Sales between relatives within two degrees, unless evidence clearly indicates the existence of the payment of a sale price.

c. Trust deed

(1) In the case of a trust deed where the beneficiary of the whole or any part of the trust benefit is designated to any person other than the settlor himself or herself, such action will be regarded as a transfer of the beneficial interest to another person constituted as a gift and will be subject to gift tax.

(2) If the settlor was the beneficiary of the whole or any part of the trust benefit of a trust deed and subsequently the beneficiary was replaced by a person other than

the settler such action will be subject to gift tax.

(3) During the term of the trust relation, if the settlor adds property to the trust, thereby resulting in an increase in interest benefits to beneficiaries other than the settler, then the increased trust benefit will be subject to gift tax.

3. Evaluation of donated property

   Property shall be evaluated at the market value prevailing at the time of the gratuitous transfer.

4. Ordinary residence inside or outside of the ROC.

5. Source rules under gift tax.

The location of the donated property at the time of gratuitous transfer shall govern. (Please refer to the rules stated in the section on the Estate Tax.)

B. Taxpayers

1. The donor shall be liable for payment of the gift tax incurred. However, the donee shall be liable for payment under any one of the following instances:

   a. The donor disappears; or

   b. The donor fails to pay the gift tax within the time limit and none of his or her property is available for enforcement; or

   c. The gift tax has not been assessed by the time of the death of the donor.

   The donees shall be liable to pay the gift tax in proportion to the value of the property received by each of the donees.

2. The taxpayer of a trust deed which constitutes a gift is the settlor, but if the settlor conforms to the proviso set out in Paragraph 1, Article 7, the taxpayer shall be the trustee.

C. Exclusions, Deductions, and Exemptions

1. Exclusions

   a. Contributions made to government agencies of various levels or public, educational, cultural, social welfare, charitable, or religious organizations;

   b. Contributions made to government-owned businesses;

   c. Contributions made to incorporated private educational, cultural, social welfare, charitable, or religious organizations, or property set aside for the purpose of honoring ancestors, which must satisfy the criteria of such regulations as are prescribed by the Executive Yuan;

   d. Living, education, and medical expenses defrayed in favor of the dependents of the donor;

e. Agricultural land given to the heirs provided under Article 1138 of the Civil Code. If the donees do not continuously use the farm land received by them for five years from the date of transfer, and if the donees not resume farming before the deadline set by the competent agency, then the tax shall be made due retroactively. However, the tax is not applicable if the donee dies or if the land is requisitioned by the government or if any law provides for the land to be used for non-farming purposes;

f. Transfers between spouses; and

g. Marriage gifts given by parents to the extent of NT$1,000,000.

2. Deductions

a. A deduction is available to the extent of the liability transferred together with the donation, provided that the performance of the said liability is of proper value and has been fully performed or its performance is secured. The deduction shall not be allowed in cases where the liability is a payment or delivery to be made or conveyed to persons other than the donor, in which case such payment is regarded as an indirect gift; and

b. The deed tax and/or land value increment tax incurred from the donation of real estate shall be deductible.

3. Exemptions

An annual exemption of NT$2,200,000 shall be available for each donor.

D. Tax Rates

A 10% flat rate has been adopted and became effective as of 23rd January, 2009.

E. Tax Returns and Payments

1. Time limit for report and jurisdiction

a. A donor shall submit a gift tax return within 30 days following the date of a gratuitous transfer to the extent of his or her donation(s) made during each taxable year in excess of the annual exemption, i.e., NT$2,200,000.

b. A donor who is an ROC citizen and resides in the ROC ordinarily shall submit a gift tax return to the tax office where his or her household is registered. A donor who is an ROC citizen and does not reside in the ROC continuously or who is a non-ROC citizen shall submit a gift tax return to the tax office where the central government is located.

c. An extension may be obtained for the submission of a gift tax return through a written application supported with due cause filed prior to the lapse of the above-mentioned time limit.

d. The gift tax return submitted by the same donor shall also contain the information of his or her previous donations made within the same taxable year.

2. Tax payment: The same as the method applied under estate tax.

IV. Other Provisions

A. Penalty Provisions

1. A penalty of up to two times the estate or gift tax payable shall be imposed on a taxpayer who fails to submit an estate or gift tax return in a timely manner.
2. A penalty of up to two times the estate or gift tax levied on property unreported or under-reported shall be imposed on a taxpayer who submits an estate or gift tax return in a timely manner.
3. A penalty of one to three times the estate or gift tax calculated at the rates prevailing in the year of inheritance or at the time of gratuitous transfer shall be collected together with the estate or gift tax not received from a taxpayer who has avoided estate or gift tax through fraudulent or other improper methods.

B. Waiver of Penalty

The above-mentioned penalties shall be waived where a taxpayer, prior to the discovery of non-reporting, omission of report, or under-reporting by the tax office itself or through information provided to it by various channels or prior to investigations begun by the appointee of the MOF, submits a late or supplemental estate and gift tax return reporting the estate or donations omitted in the previous return, provided that interest for the late payment is collected along with the tax payable.

C. Administrative Remedy

Upon receipt of the tax notice, the taxpayer may apply to the tax office for recheck within one month after the lapse of the time limit stated in the notice. The taxpayer may further contest the recheck by submission of an appeal, or pursuit of an administrative lawsuit, with the competent agencies.

CHAPTER VIII

VALUE-ADDED AND NON-VALUE-ADDED BUSINESS TAX (VANVABT)

I. General Description

Business tax was first adopted in the ROC in July 1928 as a multiple-stage gross business receipt tax (hereinafter referred to as GBRT). From then, although the tax underwent thirteen amendments before 1985, the basic principle of levying tax on multiple-stage gross receipts remained unchanged. In theory, a GBRT causes problems of double taxation and a cascade effect and has the following adverse effects on the economy:

A. Intervention in Business Structure and Decrease in Economic Efficiency

Because a GBRT is levied on gross receipts at every transaction stage, its amount is directly proportionate to the number of turnovers. Thus, a GBRT prefers vertical business integration to horizontal professionalization. The effect on business structure acts against the principle of neutrality, distorting the allocation of resources, and decreases economic efficiency.

B. Augmentation of Investment Costs and Offsetting of Investment Incentives

As capital goods are taxable under a GBRT system, it increases the investor's costs, decreases his or her investment yield, offsets investment incentives, and eventually hinders economic development.

C. Boosting Export Prices and Undermining Export Competitiveness

The complications in the tax rebate calculation and procedures boost the prices of export goods and thus weaken export competitiveness.

D. Causing Unfairness

The difficulties in cross-checking transactions encourage tax evasion, i.e., evasion is more favored than compliance.

Therefore, in 1969 the Executive Yuan Commission on Tax Reform proposed replacing the GBRT with a value-added tax (hereinafter referred to as VAT) as was then prevalent in the EEC countries. As people felt the country was not yet ready for a replacement, the study of the VAT system continued. Finally, the new business tax act (value-added tax in nature) was enacted on 15th November, 1985. The MOF then established the New Business Tax Implementation Committee to draft relevant rules and regulations, and also proposed that the Executive Yuan put the new business tax act into effect on 1st April, 1986.

II. Tax Scope

According to Article 1 of the VANVABT Act, business tax, in the form of value-added or non-value-added tax, shall be levied upon the sale of goods and services within the territory of the ROC as well as upon imported goods. In other words, any transaction of goods or services within the territory of the ROC including importation of goods is subject to business tax.

A. Transaction of Goods or Services within the Territory of the ROC

1. Transaction of goods

Transaction of goods is defined in Article 3 of the VANVABT Act as transfer of the ownership of goods to others for a consideration. Such a consideration is not limited to goods in exchange for money. The exchange of goods for other goods is also included. Therefore, as long as the ownership of goods is transferred, business tax shall be levied, and the question of whether the consideration is paid in money or ascribed to "accounts receivable" is irrelevant. Sometimes, for the sake of fairness, and to prevent tax evasion, business tax is imposed on transfer of ownership even when no consideration is present. In pursuance of Paragraph 3 of Article 3 of the VANVABT Act, the following circumstances shall be deemed as a transaction of goods:

a. Where a business entity consumes goods produced, imported, or purchased by the business entity for sale but in fact used by itself or transferred to others for no consideration.

b. Where a business entity is dissolved or shut-down, goods are used to redeem debt, distributed to shareholders or investors, and inventory left over.

c. Where a business entity purchases goods under its own name on behalf of a third party and delivers the goods to the third party.

d. Where a business entity consigns goods to others for sale.

e. Where a business entity sells consigned goods.

However, when either of the aforesaid circumstances a. or b. apply to a non-profit-seeking enterprise, institution, organization, or association, or to a business entity that engages solely in the business of tax-exempt goods or services, such circumstance shall not be deemed as transaction of goods if it is discovered that the input tax has not been reported and deducted from the output tax.

In addition, where trust property is transferred or otherwise disposed of based on any of the following trust relationships, for such a trust property a transaction shall not be regarded as having occurred for such trust property:

a. Between the settlor and the trustee, due to the creation of a trust deed.

b. Between the original trustee and a new trustee, upon a transfer of the trustee during the term of the persistence of the trust relation.

c. Between the settlor and the trustee due to a failure of trust deed establishment, a rendering of null and void, cancellation, revocation, or the termination of the trust relationship.

2. Transaction of services

Pursuant to Paragraph 2 of Article 3 of the VANVABT Act, transaction of services is defined as rendering services to others or supplying goods for the use of others for a consideration. As the dichotomy is adopted in the VANVABT Act, all items fall into the category of either goods or services. Business tax shall be levied on all such transactions or presumed ones.

However, such transaction of services shall not include professional services rendered by professional practitioners and services performed by individual employees.

3. Place of transaction

Since business tax is only chargeable on transactions which occur in the territory of the ROC, determination of the place of transaction is particularly important. Article 4 of the VANVABT Act states that under any one of the following circumstances, there is a transaction of goods or services within the territory of the ROC:

a. Where transport is required to effectuate the transaction of goods, and the origin of such transport is within the territory of the ROC.

b. Where transport is not required to effectuate the transaction of goods, and the goods are located within the territory of the ROC.

For instance, when a business entity registered within the territory of the ROC sells a house located in Los Angeles to another business entity also registered within the territory of the ROC and concludes the transaction in Taipei, because the house is outside the territory of the ROC, the VANVABT is not applicable.

c. Where services are provided or utilized within the territory of the ROC.

For example, if a domestic corporation purchases a trademark from a company in the USA, although the service is rendered in the USA, this transaction is taxable as long as the trademark is used in the ROC. If a domestic company sells its patent to a foreign company, although the patent is used overseas, it is within the scope of the VANVABT since the patent is issued by the ROC. In this case, the supply of patents to foreign companies is treated as export of services and is zero-rated.

d. Where an international transport enterprise carries outbound passengers and cargoes from the territory of the ROC.

e. Where a foreign insurance enterprise accepts reinsurance policies from an insurance company within the territory of the ROC.

B. Import of Goods

If a domestic consumer does not have to pay business tax to purchase imported goods but has to pay tax for domestic goods, he or she will be induced to spend most of his or her money on imported goods. In such a case, domestic manufacturers would suffer from reverse protection. Therefore, based on the principle of fairness, it is necessary to levy business tax on imported goods as well.

Any of the following circumstances is an import of goods:

1. The transport of goods into the ROC, with the exception of the transport of bonded goods into a bonded zone.
2. The transport of bonded goods from a bonded zone into any other area of the ROC.

When a business entity pays a business tax on its imported goods, the business tax paid is treated as its input tax and can be credited against its output tax on the next tax return. There is no tax burden for such a business entity.

III. Taxpayers

In pursuance of Article 2 of the VANVABT Act, a business tax liability is imposed on the following taxpayers:

1. A business entity which supplies goods or services;
2. A consignee or holder of imported goods; and
3. A purchaser of services supplied by a foreign enterprise, institution, organization, or association which has no fixed place of business within the territory of the ROC. However, if an international transport enterprise, having no fixed place of business within the territory of the ROC, appoints a local agent, that agent shall hold the status of a taxpayer.
4. The transferring party or the party that changes the purpose of use if the agricultural or fishery fuel oil referred to in Subparagraph 27 or 28 of Paragraph 1 of Article 8 of the VANVABT Act loses tax-exempt status due to a transfer or to a change in the purpose of use. However, in the event that the transferring party or the party that changes the purpose of use is unknown, the taxpayer is the holder of the goods.

The aforesaid taxpayer categories from 1. to 3. are further explained as follows:

A. A Business Entity Which Supplies Goods or Services

A business entity is defined in Article 6 of the VANVABT Act to include any profit-seeking enterprise, non-profit-seeking enterprise, institution, organization, or association which supplies goods or services, and the fixed place of business of foreign enterprises, institutions, organizations, or associations within the territory of the ROC.

Two classes of business entities are distinguished in the VANVABT Act according to how the business entity computes its tax liability. The first class (hereinafter referred to as a

VAT business entity) computes its tax liability in accordance with Section 1, Chapter 4 of the VANVABT Act by offsetting its output tax by its input tax. The other class (hereinafter referred to as a GBRT or NVAT business entity) computes its business tax according to Section 2, Chapter 4 of the VANVABT Act by gross receipts.

B. A Consignee or Holder of Imported Goods

Since importation of goods is within the scope of the business tax, it is necessary to define the taxpayer of imported goods. Because the supplier of imported goods is outside the tax jurisdiction of the ROC, he or she shall not be considered a taxpayer; but, however, because the business tax in essence is the responsibility of the consumer, the consignee or holder of the imported goods shall be regarded as a taxpayer. Consignees or holders of imported goods shall include profit-seeking enterprises, non-profit enterprises, institutions, organizations or association, and individuals. An individual may be considered a taxpayer if he or she is in possession of imported goods during the customs clearance process. Thus, the taxpayer of imported goods is not limited to the business entity.

C. A Purchaser of Services Sold by a Foreign Enterprise, Institution, Organization, or Association Which Has No Fixed Place of Business in the ROC

Because services such as trademarks, patents, and computer programs may be intangible and the time of their import may be difficult to trace, Article 1 of the VANVABT Act does not explicitly specify imported services as taxable items. Nevertheless, if a foreign company has a fixed place of business in the ROC, in accordance with Paragraph 3 of Article 6 of the VANVABT Act, any service supplied by such foreign company is treated the same as the supply of services within the jurisdiction of the ROC, and the fixed place of business becomes the taxpayer. When there is no fixed place of business within the ROC, and since the real business tax burden is on the consumer, the purchaser shall bear the tax liability for imported services.

If any agent is appointed to handle the business of foreign international transport enterprises without a permanent business establishment in the ROC, the agent shall be the taxpayer.

Pursuant to Paragraph 1 of Article 36 of the VANVABT Act, if a service is purchased by a VAT business entity solely to supply taxable goods or services from a foreign company without a fixed place of business in the ROC, the VAT business entity shall be immune from business tax at the time of importation.

IV. Zero-Rating and Exemptions

With respect to exemptions, the ROC shares a common feature with other countries adopting value-added tax, namely that there are two basic forms of exemptions, zero-rating and exemption.

A. Zero-Rating

Applying zero rating to exportation is a basic feature of countries adopting VAT. The rationale for this regulation is based on the "destination principle," which means that since value-added tax is a consumption tax in nature, it is only due when the taxable goods or services are consumed. Since the exported goods or services will not be consumed within the territory of the exporting country, the exporting country shall not levy value-added tax on such exportation.

1. The definition of zero-rating

   Zero-rating is defined as an exemption with credit for input tax previously paid. Where the transaction is subject to VANVABT at a nil rate, the business entity is entitled to credit its input tax previously paid on purchases. For instance, if the sale price of a zero-rated good is NT$1,000 and its input cost is NT$800, the output tax is zero (NT$1,000 × 0%) and the amount of creditable input tax is NT$40 (NT$800 × 5%). Because the overpaid tax may be fully refunded, there is virtually no tax burden on that product.

2. Qualification for zero-rating

   The ROC allows only a rather limited range of goods and services for zero-rating treatment. It is applied only to transactions closely related to export sales. According to Article 7 of the VANVABT Act, the following goods or services shall be given a zero rating:

   a. Export goods;
   b. Services relating to export or services provided in the ROC but used in a foreign country;
   c. Goods sold to outbound or transit passengers by duty-free shops established under applicable law;
   d. Goods or services sold to a bonded zone business entity for its operational use;
   e. International transportation. However, foreign transport enterprises engaging in international transportation within the territory of the ROC may qualify for zero-rated tax, only if provided that reciprocal treatment, such as exemption from similar taxes, is given to international transport enterprises of the ROC by the foreign country in which the foreign enterprise is incorporated;
   f. Vessels and aircraft used in international transportation and deep sea fishing boats;
   g. Sales of goods and maintenance services to vessels and aircraft used for international transportation and deep-sea fishing boats;
   h. Goods sold by a bonded zone business entity to a taxable zone business entity and exported directly without being transported to the taxable zone;

i. Goods sold by a bonded zone business entity to a taxable zone business entity for export and placed in a bonded warehouse or logistics center administered by an enterprise inside a free trade zone or by Customs.

3. Exhibitors' VAT Refund System

In order to help local firms to extend the international market and lighten operational costs, the MOF augmented Article 7-1 of the VANVABT Act to establish the exhibitors' VAT refund system. Since 1st July, 2010, foreign enterprises, institutions, organizations, or associations without fixed places of business within the territory of the ROC, which purchase the goods or services on which VAT is levied to a total of NT$5,000 or more (NT$2,500 or more within the period of 1st July to 31st December, 2010) for the purpose of engaging in exhibitions, business trips, investigation of market conditions, performance of market research, generation of business, holding of marketing seminars, and other such temporary business activities within the period of one year, may apply to the competent tax authority for a VAT refund based on the principal of reciprocity.

B. Exemptions

1. The definition of exemption

The term "exemption" is defined as an exemption without credit for business tax previously paid. Since input tax on purchases is not creditable by an exempt business entity, exemption is not as advantageous as a zero-rating.

2. The range of exemptions

a. Supply of goods or services:

Under Paragraph 1 of Article 8 of the VANVABT Act, the following 31 categories of goods or services are exempt from business tax

(1) The sale of land.

(2) Water supplied to farmland for irrigation.

(3) Medical services, medicines, ward lodging and meals provided by hospitals, clinics, and sanitariums.

(4) Social welfare services provided by social welfare organizations or institutions or labor organizations, duly established with the permission of the competent authority, and social welfare services consigned by the government.

(5) Education services offered by schools, kindergartens, and other educational and cultural institutions including cultural services offered under government consignment.

(6) Textbooks issued by the publishing industry and authorized by education authorities for use at various levels of schools and important specialized academic writings as designated by the government according to the law.

(7) Goods or services sold by student-run shops of vocational schools which do not serve outsiders.

(8) Newspapers, magazines, newsletters, advertisements, television and broadcasting programs produced and sold by legally-registered newspaper and magazine publishers, news agencies, and television and broadcasting stations, excluding the advertisements sold by newspaper publishers and advertisements broadcasted by television stations.

(9) Goods or services sold to their members by co-operatives managed in accordance with the law; and business consigned by the government to the said co-operatives.

(10) Goods or services sold to their members by farmers', fishermen's, workers', commercial, and industrial associations in accordance with the law, business consigned by the government to the said associations, and the management fee charged in accordance with Article 27 of the Agricultural Products Market Transaction Act for the use of an agricultural products wholesale market and in which the share ownership of farmers' associations, fishermen's associations, co-operatives, and government institutions accounts for more than 70%.

(11) The proceeds from goods sold in tenders, charity sales, and charity shows held by charity and relief institutions organized according to the law, provided that the total proceeds are solely used by the said institutions after deducting the necessary expenditures for the tenders, charity sales, and charity shows.

(12) Goods or services sold by employee welfare organizations of government bodies, state enterprises, and social organizations which are organized and operated under relevant laws and are not open to the public.

(13) Goods or services sold by prison workshops and their finished goods stores.

(14) Services rendered by post and telecommunication offices in accordance with the law; and business consigned under government mandate.

(15) Monopoly goods sold at statutory prices by state-owned monopoly industries and by business entities which are authorized to sell the monopoly goods.

(16) The service of consigned sale of stamp tax tickets and postage stamps.

(17) Goods or services sold by peddlers or hawkers.

(18) Feed and unprocessed raw agricultural, forestry, fishing, and livestock products, and their by-products; and the agricultural, forestry, fishing and livestock products, and their by-products of farmers' and fishermen's harvests sold by farmers and fishermen.

(19) The fish caught and sold by fishermen.

(20) Sales of rice and wheat flour and the service of husking rice.

(21) The sale of fixed assets which are not regularly traded by business entities which compute their business tax according to Section 2 of Chapter 4 of the VANVABT Act.

(22) Insurance policies accepted by insurance enterprises for insurance promoted by the government covering military, government, and education entities and their dependents; laborers; students; farmers; fishermen; exports; compulsory automobile third-party liability insurance; reinsurance premiums paid out by insurance enterprises from premiums received by the same; life insurance policy reserves, annuity insurance policy reserves and health insurance policy reserves; however, this item does not include income, other benefits and return of policy reserves received on termination of life insurance, annuity insurance, or health insurance.

(23) Bonds issued by all levels of government and securities upon which a securities transactions tax has been imposed in accordance with the law.

(24) Residual or obsolete goods sold at tender by all levels of government.

(25) The sale of weapons, warships, aircraft, tanks, and reconnaissance communication equipment for military use to defense agencies.

(26) Fertilizer, pesticides, veterinary drugs, agricultural machinery, transportation equipment for farmland, and fuel oil and electricity used by such machinery and equipment.

(27) Fishing boats for coastal or inshore fishery and machinery, equipment, nets, and fuel oil used by fishing boats.

(28) Interest on the flow of funds between the head and branch offices of banking enterprises, the revenue of trust and investment enterprises derived from trust funds in such manner designated by the trust or provided the trust bears the risk of loss and enjoys the proceeds, and unredeemed items where the proceeds arising from their sale by pawnshops does not exceed the aggregate of principal and interest receivable.

(29) Gold bars, gold bricks, gold foil, gold coins, and gold ornaments, where the processing fee is not included.

(30) Research services supplied by scientific or technological institutions which are established under the approval of the government.

(31) The sale of services for the operation of financial derivatives products, corporate bonds, financial debentures, New Taiwan dollar interbank call loans, and foreign currency call loans; however, commissions and service charges for these products are not included.

Under Paragraph 1 of Article 8-1 of the VANVABT Act, the proceeds from goods sold in auctions, charity sales, and from benefit performances held by a settlor of a charitable trust may be exempted from the business tax, provided that the proceeds, after deducting the necessary expenses of the auctions, charity sales, and benefit performances are entirely and solely for the use of by the charity.

b. Importation of goods:

Under Article 9 of the VANVABT Act, importation of the following goods shall be exempted from business tax:

(1) Ships and aircraft used in international transportation and deep sea fishing boats.

(2) Fertilizer.

(3) Gold bars, gold bricks, gold foil, gold coins, and gold ornaments.

(4) The goods specified in Article 49 of the Customs Act, provided, however, that in case of the transfer of ownership or change in the purpose of use that results in supplementary payment of customs duties under Article 55 of the Customs Act, the business tax so exempted will become due and payable.

(5) National antiques.

In addition, according to Article 9-1 of the VANVABT Act, in the case of dealing with an extraordinary economic situation, or a situation to accommodate the supply of goods, the Executive Yuan may make an adjustment in the business tax on certain categories of goods, currently including imported wheat, barley, corn, and soy beans and the restriction of Article 10 does not apply. The categories of goods subject to adjustment of business tax referred to in the preceding sentence, the range of actual adjustment, and the dates for commencing and terminating such adjustment shall be drawn up jointly by the MOF and the related authorities, and be submitted to the Executive Yuan for approval.

c. Public and private schools at any level or educational or research institutions purchasing services provided by foreign enterprises, institutions, organizations, or associations having no fixed place of business within the territory of the ROC to be used for education, research, or experiment are not required to pay business tax.

3. Waiver of exemption

Under the tax credit method, exemption without credit in the intermediate stage will generate a “catch-up effect.” When only one intermediate stage is exempt, the purchaser at the next stage has no creditable input tax and has to pay output tax. In that case then, the tax exemption at the intermediate stage is caught up in the subsequent taxable transaction. Furthermore, because the input tax of the exempt stage is not creditable and is merged into the cost, a cascade effect will then occur in the next taxable turnover.

Since an exemption from business tax under Paragraph 2 of Article 8 of the VANVABT Act may not always be advantageous to business, a waiver of exemption is allowed, subject to the approval of the MOF. However, to prevent possible tax avoidance through waiver and to mitigate the administrative costs, once the business entity receives approval from the MOF, no changes can be made within the next three years.

V. Tax Rates

In conformity with Articles 10, 11, 12, 13 and 36 of the VANVABT Act, the business tax rates which apply respectively according to business category are listed as follows:

A. Article 10：The business tax rate for business entities other than those listed below, namely VAT business entities, shall be not more than 10% and not less than 5%, subject to the prescription of the Executive Yuan. The current applicable tax rate is 5%.

B. Article 11：Starting from 1st July, 2014, the business tax rate shall be 5% for enterprises engaged in banking and insurance for banking and insurance business, and the business tax rate shall be 2% for enterprises engaged in banking, insurance, investment trusts, securities, futures, commercial paper, and pawnshops for their core business separate from banking and insurance business, but 5% for all other operations which are non-core business, and 1% for the reinsurance premiums of insurance enterprises.

C. Article 36：The business tax shall be imposed at 2% on the payment for services provided by a foreign enterprise engaging in banking, insurance, investment trust, securities, futures, commercial paper and pawnshops which have no fixed place of business within the territory of the ROC and such services are categorized as core business separate from banking and insurance business exclusive to those enterprises.

D. Article 12：The business tax rates for enterprises engaging in special beverage and food services are further classified as follows:

   1. 15% for night clubs or restaurants providing entertainment; and

   2. 25% for saloons or tearooms, coffee shops, and bars offering companionship services.

E. Article 13：The business tax rate for consignees in agricultural wholesale markets and small businesses supplying agricultural products is 0.1%. For small businesses and massage enterprises run by visually impaired persons who have duly obtained qualifications to engage in massage operations, and that are entirely staffed with visually impaired persons to provide massage services and other business entities which are excluded by the MOF from reporting their transactions, the business tax rate shall be 1%.

VI. Tax Computations

Business entities are the main taxpayers of the VANVABT. VAT business entities calculate their tax liabilities according to Section 1 of Chapter 4 of the VANVABT Act, whereas NVAT (GBRT) business entities calculate their tax liability according to Section 2 of the same chapter.

A. General Computations

The tax credit method is adopted to compute the business tax liability of VAT business entities. In other words, the business tax payable or overpaid by a business entity shall be the difference between the input tax and the output tax for that tax return period according to Article 15 of the VANVABT Act. The term “input tax” is defined as the amount of business tax paid by the business entity, in accordance with the VANVABTA Act, upon purchase of goods or services. The term “output tax” is defined as the amount of business tax that the business entity shall collect, in accordance with the VANVABTA, upon the sale of goods or services.

Pursuant to Article 14 of the VANVABT Act, the amount of output tax shall be calculated by the total sales amount of goods or services.

In this respect, the total sales amount shall include all considerations accrued from the sale of goods or services, including any extra charges, except for the output tax at the current stage. In the case that the goods are subject to commodity tax, tobacco and alcohol tax, or the health and welfare surcharge on tobacco, the sales amount shall include the amount of the commodity tax, the tobacco and alcohol tax, or the health and welfare surcharge on tobacco.

The standard for determining the sales amount of major transaction styles is as follows:

1. Exchange of goods or services

   The sales amount of the sale in the case of the exchanging of goods or services between two business entities shall be the higher current price for goods or services traded-in and traded-out.

2. Deeded sales of goods

   a. In the case that a business entity itself consumes or gratuitously transfers the ownership of self-manufactured, imported, or purchased goods to others without a consideration, the sales amount shall be the current price of goods.

   b. In the case that a business entity is dissolved or shut-down and distributes any goods left over to its shareholders, investors, or debtors, the sales amount shall be the current price of goods.

   c. In the case that a business entity purchase goods on behalf of a third party, the sales amount shall be the purchase price of the goods. In such case, the parties involved shall prepare a written contract for verification.

   d. When a business entity consigns others to sell goods or sell goods on consignment, the sales amount shall be the agreed sales price of the consigned goods. In such case, the parties involved shall prepare a written contract for verification.

3. Installment payments

   When a business entity sells goods by installment, the sales amount shall be the account receivable in each installment.

4. Sales amount of houses

   Where a business entity sells a parcel of land together with the building fixed on the land, unless the selling price for the land and that of the building are stated separately, the sales amount for the building shall be calculated in accordance with the following formula:

$$\text{Sales Amount of the Building} = \frac{\text{Assessed Standard Price of the Unit of the Building} \times (1 + \text{Applicable tax rate})}{\text{Government-Assessed Current Value of the Land} + \text{Assessed Standard Price of the Unit of the Building} \times (1 + \text{Applicable Tax Rate})} \times \text{Sales Amount of the Land and Building}$$

5. Issuance of uniform invoices in advance

   When a business entity issues a uniform invoice before it delivers of goods or before it renders services, the sales amount shall be the amount specified on the uniform invoice.

6. Bonuses

   The incentive bonus earned or paid by a business entity in accordance with a sales contract shall be treated as a purchase or sales discount, respectively.

7. Security deposits of a lease

   Where a VAT business entity leases its property and receives deposits, the sales amount shall be calculated each month by the following formula:

$$\text{Sales Amount} = \frac{\text{Security Deposit} \times \text{Fixed Interest Rate for a One-Year Postal Time Deposit as Announced on } 1^{st} \text{ January of the Lease Year} \div 12}{1 + \text{Applicable Tax Rate}}$$

To calculate the amount of total input tax, the business entity is to add up the amount of input tax specified in the qualified input documents.

The term “qualified input document” pursuant to Article 33 of the VANVABT Act refers to the following documents, each of which should bear its name, address, and business administration number.

1. A uniform invoice specifying the business tax paid on purchases of goods or services;
2. A uniform invoice specifying the amount of business tax issued by the business entity itself under circumstances deemed as sales of goods or services; and
3. Other documents specifying the amount of business tax and approved by the MOF.

The amount of business tax payable/overpaid is determined by crediting total input tax against total output tax. However, the following input tax may not be creditable:

1. Where the document is not obtained or kept in accordance with regulations;
2. The goods or services purchased are not for the use of the principal or ancillary business operations, excluding donations to the government;
3. Goods or services are used for the purpose of public relations;
4. Goods or services are used for rewarding individual employees; and
5. Passenger cars are for personal use.

According to Article 20 of the VANVABT Act, the business tax on imported goods shall be calculated at 5% based on the total amount of the value of duty payable and customs duty. If the imported goods are subject to commodity tax, tobacco and alcohol tax, or the health and welfare surcharge on tobacco, the business tax shall be calculated based on the above-mentioned amount plus the commodity tax, the tobacco and alcohol tax, or the health and welfare surcharge on tobacco.

B. Special Computations

Special computations apply to GBRT business entities, and their computations are found under Article 11 and Article 21 of the VANVABT Act as follows:

1. Financial institutions

   The term "financial institution" includes enterprises engaged in banking, insurance, investment trusts, securities, futures, commercial paper, and pawnshops.

   Article 11 of the VANVABT Act provides that the business tax rate of the aforesaid enterprises shall be 5% for their sales amounts which are not connected exclusively with their core business, and also that of banking and insurance enterprises shall be 5% for their sales amounts which are connected with banking and insurance business; however, property insurance enterprises shall deduct the amounts of compensation when computing their business tax payable, and, moreover, also types of financial institutions shall be taxed at 2% of their sales amounts which are connected exclusively with their core business separate from banking and insurance business, but the sales amounts from reinsurance premiums shall be taxed at 1%.

   Owing to the small scale of the operation of pawnshops, according to Article 21 of the VANVABT Act, the business tax of pawnshops may be based on the sales amounts which is assessed by the regional tax office concerned.

2. Special beverage and food services

   The business tax for night clubs or restaurants providing entertainment shall be 15% of their sales amount; the business tax for saloons or tearooms, coffee shops, and bars offering companionship services shall be 25% of their sales amount.

The business tax for these business entities shall be 5% of their sales amount; however, the regional tax office may also assess their sales amount according to Article 22 of the VANVABT Act.

3. The business tax of agricultural wholesale market consignees and small businesses selling agricultural products shall be 0.1% of their assessed sales amount.

4. Small businesses

   The term "small businesses" refers to business entities which have average sales of less than NT$200,000 per month and are excluded from issuing uniform invoices. Their business tax shall be 1% of the sales amount as assessed by the competent tax authority.

   If an agricultural wholesale market consignee or a small business receives documents specifying the amount of input tax and submits the aforesaid documents to the competent tax authority pursuant to regulations, it may deduct 10% of the amount of its input tax against the assessed tax due.

5. Business entities operating businesses of a special nature:

   For massage enterprises run by visually impaired persons who have duly obtained qualifications to engage in massage operations, and that are entirely staffed with visually impaired persons to provide massage services, barbershops and hair salons, bathhouses, taxi operations, and other businesses approved by the MOF, the business tax is 1% of their assessed sales amount.

C. Partial Tax Credit for Business Entities

In conformity with the VANVABT Act, VAT business entities may credit their input tax, but NVAT and exempt business entities may not. Therefore, if a business entity sells both taxable and exempt goods at the same time or engages in an integral business that computes its business tax liability partially under Section 1 and partially under Section 2 of Chapter 4, the business entity may compute its creditable input tax by either of the following two methods:

1. Proportional method

   Creditable Input Tax = (Total Input Tax – Non-Creditable Input Tax under Article 19 of the VANVABT Act) × (1 – Non-Creditable Ratio)

   The non-creditable ratio shall be the fraction of the exempt sales or sales under Section 2 of Chapter 4 in proportion to the total sales. The non-creditable ratio is subject to an adjustment at the end of a calendar year.

2. Direct credit method

   With effect from 1st September, 1992, a business entity that meets certain criteria may calculate its creditable input tax by subtracting the following items from total input tax:

   a. Non-creditable input tax under Article 19 of the VANVABT Act;

b. Input tax directly attributed to exempt supplies; and

c. Input tax attributed to both taxable and exempt supplies times the non-creditable ratio. The non-creditable ratio is also subject to an adjustment at the end of a calendar year.

D. Deemed Input Tax Deduction Mechanism for Selling Used Vehicles

If a business entity sells its used passenger car or motorcycle purchased from an individual, government institution, or other business entity calculating business tax liability according to Section 1 of Chapter 4 of the VANVABT Act, such business entity shall calculate the input tax by the following formula:

$$\text{Input tax} = \frac{\text{Purchase cost of the used passenger car or motorcycle}}{1 + \text{Applicable tax rate}} \times \text{Applicable tax rate}$$

The business entity shall report the input tax as referred to in the preceding paragraph in order to deduct the output tax of the used passenger car or motorcycle in the same period in which it reports the sale amount of such passenger car or motorcycle. However, if the input tax of the used passenger car or motorcycle is higher than the output tax of the aforesaid vehicle, the excess portion shall not be deducted.

When the business entity files the input tax as referred to in the first paragraph above, it shall provide relevant documents concerning the purchase of the aforesaid used passenger car or motorcycle.

VII. Tax Returns, Payments and Refunds

A business entity shall, prior to the 15th day of the following month, file a tax return with the collection authority-in-charge for the amount of total sales and business tax payable/overpaid for the preceding two months on a return form affixed with deductions, refunds, and other relevant documents. The return shall be filed even if no sale occurred in the preceding two months. In the event that there is a business tax payable, payment shall be made to the Treasury first, and the receipts of payment shall be filed together with this return.

A business entity selling goods or services subject to a zero-rating may apply for approval to file tax returns on a monthly basis.

In principle, where a business entity sets up a head office and other fixed place of business in different areas, separate tax returns shall be filed respectively with the local collection authority-in-charge. However, a business entity which computes its business tax liability under Section 1 of Chapter 4 may apply to the MOF for approval to file a consolidated return at the collection authority-in-charge of the head office.

The business entity, upon filing a tax return, shall attach the following documents:

A. Deduction copy of uniform invoices, stating the amount of business tax;

B. Deduction copy of the certificate of payment for business tax collected by Customs, stating the amount of business tax;

C. Photocopy of the receipt copy of the duplicate uniform invoices issued via cash registers, stating the business administration number of the business entity;

D. Documentary evidence of return of or allowance for sale or purchase, and the "Declaration of Overpaid Business Tax Returned by the Customs;"

E. Documents required to be qualified for zero-rating;

F. Documentary evidence as prescribed in Article 14 of the Enforcement Rules of VANVABT Act;

G. "Statement of Input Vouchers of a Business Entity Purchasing Used Passenger Cars or Motorcycles;"

H. Deduction copy of the receipt payable in or before December 2015 issued by a water company, electricity company, gas company, or other public utility company, stating the purchaser's name, address, and business administration number;

I. With respect to the share of input tax paid by the business entity for water, electricity, or gas utility expenses it shares with others, a photocopy of the deduction copy of the receipt in the preceding subparagraph and the documentary evidence of the apportioned expense and tax paid by the business entity. With respect to bills payable in or after January 2016, a photocopy of the uniform invoice and the documentary evidence of the apportioned expense and tax paid by the business entity; With respect to non-physical electronic invoices, the alphabetic letters and numbers of the uniform invoice, or documentary evidence of the apportioned expense and tax paid by the business entity;

J. A photocopy of the receipt or stub of the train (coach) ticket, high speed railway ticket, boat ticket, or airplane ticket purchased for an employee's business trip and issued by a transportation enterprise;

K. With respect to goods auctioned or sold off by Customs, the deduction copy of the "List of Goods Auctioned or Sold" issued by Customs;

L. Certification copies of electronic uniform invoices, stating the business administration number of the business entity and the amount of business tax;

M. Other vouchers approved by the MOF and containing the amount of business tax, or a photocopy thereof.

Generally speaking, after crediting input tax against output tax, in the case that there is tax payable, the taxpayer shall file and pay that amount to the competent tax authority; in the case that the tax is overpaid, the credit will be carried forward to offset future tax payable. Nevertheless, where any one of the following events occurs, the overpaid business tax shall be refunded after verification by the competent tax authority:

A. The overpaid amount of business tax results from sales subject to a zero-rating under Article 7 of the VANVABT Act;

B. The overpaid amount of business tax is on the acquisition of fixed assets, and for cancellation of registration by means of merger/consolidation, transfer of ownership, dissolution or cessation of business.

In other words, the principle of treating the overpaid tax is to carry the amount overpaid forward, and refunding is strictly limited to the abovementioned cases or under special circumstances approved by the MOF.

VIII. Penalty Provisions

A. Penalties Concerning Registration

1. A business entity failing to apply for a business registration may be punished with a fine of not less than NT$3,000 and not more than NT$30,000.
2. In any of the following circumstances, a business entity may be fined from between NT$1,500 to NT$15,000:
   a. The business entity fails to comply with the rules to apply for amendment to registration, de-registration, temporary suspension, or resumption of business.
   b. The business entity makes false statements in applying for business registration, amendment to registration, or de-registration.

B. Penalties Concerning Uniform Invoices

In any of the following circumstances, a taxpayer may be fined from between NT$3,000 to NT$30,000:

1. Where uniform invoices have not been used, although prescribed.
2. Where uniform invoices have been supplied for use by others.
3. Where there is refusal to accept payment notice of business tax.
4. If a business entity fails to record the necessary particulars or records false data on issuing uniform invoices, it shall be fined 1% of the sales amount on the uniform invoice. The fine shall be not less than NT$1,500 and not more than NT$15,000.
5. A business entity found to have failed to issue uniform invoices or understated sales amounts on uniform invoices before the statutory period for filing a tax return, in addition to paying the tax calculated on the basis of the understated or omitted sales amount at the prescribed tax rate, shall be fined no more than five times the amount of the tax evaded. But the amount of fines shall not exceed NT$1,000,000. Business entities found to have the aforementioned circumstance and committed such a violation three times within a one-year period shall be suspended from business operation.

C. Penalties Concerning Return and Payment

1. If a business entity fails to file the sales amount or the detailed list of uniform invoices used within the prescribed time limit, the business entity shall be liable to a surcharge for belated filing of 1% of the tax payable for every two days overdue, provided that the filing is past due for less than 30 days. The fine shall not be less than NT$1,200 and not more than NT$12,000. If the filing is past due in excess of 30 days, the business entity shall be liable to a surcharge for non-filing of 30% of the assessed tax payable. The amount of this surcharge shall not be less than NT$3,000 and not more than NT$30,000.
2. A taxpayer failing to pay any tax or surcharge for belated filing or non-filing within the specified time limit shall be subject to a 1% surcharge on late payment for every two days in arrears, starting from the day immediately following the date the time limit expires.
3. Any amount of the aforementioned tax or surcharges shall be subject to interest charges calculated on a daily basis at the prevailing rate of the local banks for a one-year term time deposit.

D. Penalty Concerning Tax Evasion

In any of the following circumstances, the taxpayer shall be pursued for payment of taxes owed and be fined no more than five times of tax evaded, and the operation of the taxpayer's business may be suspended:

1. Where the taxpayer conducts business without application for business registration as required.
2. Where 30 days have elapsed since the time limit set for reporting the sales amount or detailed list of uniform invoices used, and the business tax due and payable has not been paid.
3. Where the sales amount is under-reported or not reported at all.
4. Where the taxpayer continues to conduct business after it has applied for cancellation of registration or its business has been suspended by the collection authority-in-charge in accordance with the provisions of the VANVABT Act.
5. Where the amount of input tax is falsely reported.
6. Where 30 days have elapsed since the time limit set for the payment of business tax, and the business tax has not been paid under Paragraph 1 of Article 36 of the VANVABT Act.
7. Where tax is evaded in any other way.

   In the event that a taxpayer falls within the aforesaid Circumstance 5, if the taxpayer has obtained a voucher issued by a party that was not counterparty to a transaction, and it is found that a purchase had occurred and that the voucher had been delivered to the taxpayer by the profit-seeking enterprise that sold the goods, and that the profit-seeking enterprise that sold the goods had duly made a supplementary payment of the tax owed and been penalized, the taxpayer may be exempted from the penalty prescribed in the preceding paragraph.

CHAPTER IX

COMMODITY TAX

I. General Description

A “commodity tax” is a kind of single-stage sales tax to be levied on taxable commodities as specified in the Statute for Commodity Tax at the time such goods are dispatched from a factory or are imported. The commodity tax system in the ROC began with the assessment of a uniform tax on cigarettes in 1927.

In 1931 after the abolition of the transportation tax in an effort to systemize the tax system, the number of commodities subject to uniform taxes was gradually increased. In 1941, the separate status of various categories of commodities under the uniform tax was consolidated and a “Provisional Statute for Uniform Taxes on Commodities” was promulgated; then, in 1946, it was renamed as the current “Statute for Commodity Tax.”

Following its promulgation and enforcement, the Statute for Commodity Tax was repeatedly amended by adding or deleting taxable items to meet the requirements of changing economic and social development. However, since such amendments were solely focused on financial needs, problems in the selection of applicable categories of taxable items and in the accumulation of refundable taxes on some industrial raw materials or necessities for daily life were discovered. In order to eliminate these discrepancies, a large number of industrial raw materials and daily living necessities were deleted from the list of taxable items in May 1979, and tax rates on the items not deleted were also reduced, pending further revision. From then on, the commodity tax was no longer considered a financial source. Instead, it is primarily designed to improve the structure of taxable items and tax rates in order to facilitate economic development and to make a more reasonable and fair taxation system.

In 1990, in view of the fact that the rapid economic development of the ROC and its promotion of economic liberalization and internationalization had resulted in the upgrading of the domestic industrial structure; the MOF substantially revised the Statute for Commodity Tax in order to improve the tax system. The revision consisted of the following main points: (1) a widening of the scope of tax exemption; (2) a reduction of the tax rates in general; (3) an increase in the commodity tax rates for oil; (4) an improvement in the computation method of the taxable value of domestically-produced goods; and (5) a replacement of the in-plant tax collection system with a voluntary declaration and payment system.

II. Taxpayers

A. For taxable commodities manufactured locally, the respective manufacturers or producers shall be the taxpayers. Manufacturers that are paid for manufacturing taxable commodities shall also be liable for payment of a commodity tax.

B. The consignees or holders of the bills of lading or holders of taxable commodities imported from abroad shall also be taxpayers.

C. In the case of an auction or sale, by a court or other institution, of taxable commodities for which the tax has not been paid, the taxpayer is the winning bidder, the purchaser, or the assumer of the goods.

D. In the case of a tax-exempt commodity that loses its tax-exempt status due to a transfer or a change in purpose of use, the taxpayer is the person initiating the transfer or the person who changes the purpose of use. However, in the event that the transferring party or the party that changes the purpose of use is unknown, the taxpayer is the holder of the goods.

III. Tax Scope and Tax Rates or Tax Amount

The seven lines of commodities which are subject to commodity tax under the existing Statute for Commodity Tax are taxed on an *ad valorem* or specific basis at the following tax rates or tax amount:

A. Rubber tires: Tires for buses and trucks 10%

Various other rubber tires..15%

(Inner tubes, solid rubber tires, tires used on man-powered/animal-powered vehicles and farming vehicles are exempted from commodity tax.)

B. Cement:

1. White or colored cement ....NT$600/MT
2. Portland I cement..NT$320/MT
3. Portland blast-furnace slag cement..NT$196/MT
4. Others ....NT$440/MT

The Executive Yuan may increase or decrease the prescribed specific taxes by an amount to less than or equal to 50% thereof, depending on the actual situation.

C. Beverages:

1. Diluted natural fruit/vegetable juice 8%
2. Other machine-made cool and soft drinks 15%

(Pure natural fruit juice, fruit syrup, concentrated fruit syrup, concentrated fruit juice, and natural vegetable juice which are in compliance with national standards are exempted from commodity tax.)

D. Flat-glass: Including all kinds of flat-glass and glass bars 10%

(Conductive glass and reinforced glass used for mold-making are exempted from commodity tax.)

E. Oil/gas:

1. Gasoline .... NT$6,830/KL
2. Diesel oil .... NT$3,990/KL
3. Kerosene .... NT$4,250/KL
4. Fuel oil for aircraft .... NT$ 610/KL
5. Fuel oils .... NT$ 110/KL
6. Dissolving oils .... NT$720/KL
7. Liquefied petroleum gas .... NT$690/MT

The Executive Yuan may increase or decrease the prescribed specific taxes by an amount to less than or equal to 50% thereof, depending on the actual situation.

F. Electric appliances:

1. Refrigerators 13%
2. Color television sets 13%
3. Air conditioners. 20%
   Central station air-conditioning systems 15%
4. Dehumidifiers 15%
   (Dehumidifiers for factory use are exempted from commodity tax.)
5. Video recorders: Including videotape players 13%
6. Record players: Including all kinds of record and tape players 10%
   (Portable sets having a diameter of less than 32 centimeters are exempted from commodity tax.)
7. Audio recorders 10%
8. Stereophonic systems: Including record players, tuners, receivers, tape recorders, amplifiers, speakers, and their assemblies 10%
9. Electric ovens: Including microwave ovens 15%

G. Vehicles:

1. Automobiles:
   Including all kinds of movable automobiles and their chassis, bodies, tractors, and trailers:
   a. Sedans

Which, including the driver's seat, have no more than 9 seats:

Sedans with a cylinder volume of 2,000 c.c. or below including completely electric-operated sedans with a maximum horsepower below 208.7 British system or 211.8 metric system 25%

Sedans with a cylinder volume of 2,001 c.c. or above including completely electric-operated sedans with a maximum horsepower below 208.8 British system or 211.9 metric system 30%

b. Trucks, buses, other vehicles and their chassis, bodies, tractors, and trailers 15%

c. Vehicles imported for use in technical research and development, special purpose vehicles equipped with devices for exclusive use in public security control and/or sanitation activities, mail transportation vehicles, tractors equipped with farming equipment, cargo trucks/cars for exclusive use on farmland, and engineering vehicles not running on public roads are exempted from commodity tax.

2. Motorcycles 17%

3. Electric-powered automobiles and motorcycles and hybrid electric vehicles are taxed at one-half (1/2) of the statutory tax rates. The hybrid electric vehicles shall be in conformity with the standard announced by the MOF.

4. Low chassis buses, gas buses, hybrid oil and electric buses, electric buses, and rehabilitation buses for the disabled which were purchased and for which registration is completed within 5 years from 5th June, 2014 shall be exempted from commodity tax.

5. Completely electric-operated automobiles and motorcycles which were purchased and for which registration is completed within 6 years from 28th January, 2011 shall be exempted from commodity tax.

6. The commodity tax for liquefied petroleum gas passenger vehicles which were purchased and for which registration is completed within 5 years from 30th December, 2011 was reduced by NT$25,000 for each vehicle.

7. Wheelchair-accessible vehicles which conform to the Vehicle Safety Test Standard and were purchased within 5 years from 22nd January, 2015 shall be exempted from the commodity tax. However, owners of the aforementioned tax-exempt vehicles must pay the original commodity tax if the vehicle was changed and teared down the equipment for carrying wheelchair within 5 years from the date of registration.

8. Within 5 years from 8th January, 2016 a person who scraps or exports his/her passenger sedan, truck, or dual-purpose vehicle which had left the factory for at least 6 years and holds a license for the above vehicle for more than one year, within 6 months before or after the scrapping or export date, for the person purchasing a new vehicle of the above type and completing its registration, the commodity tax of such a new vehicle shall be reduced by NT$50,000. A person who scraps or exports his/her motorcycle below a

150cc cylinder volume which had left the factory for at least 4 years and holds a license for such a motorcycle more than one year, within 6 months before or after the scrapping or export date, for the person purchasing a new motorcycle and completing its registration, the commodity tax of such a new motorcycle shall be reduced by NT$4,000.

IV. Exemptions and Deductions

A. Under any of the following circumstances, an application may be filed for exempting taxable commodities from the commodity tax:

1. Where commodities are used as raw materials for the manufacture of another kind of taxable commodity; or
2. Commodities are exported for sale abroad;
3. Commodities are put on exhibition and are not for sale;
4. Commodities are donated for military morale purposes; and
5. Commodities are directly supplied for military use, with the approval of the Ministry of National Defense.

B. Under any of the following circumstances, an application may be filed for a refund or for the offsetting of commodity tax on tax-paid commodities or bonded commodities:

1. Where commodities are exported for sale abroad; or
2. Commodities are used as raw materials for the manufacture of export goods;
3. Unsaleable commodities are returned to the factory for refurbishment or refinement into taxable commodities of the same kind;
4. Commodities become unsaleable as a result of deterioration or damage; and
5. Commodities are physically destroyed due to fire, sinking in water and/or any other irresistible force occurring during transportation or storage.

V. Computation of Taxable Value

A. Domestically-Produced Commodities

The commodity tax on domestically-produced goods is imposed on the manufacturer when the product is released from the factory. The taxable value is the manufacturer's selling price less the commodity tax included in the price.

Computation method for taxable value:

$$\text{Taxable Value} = \frac{\text{Selling Price}}{1 + \text{Tax Rate}}$$

The selling price pertains to the selling price of the month in which the commodities are sold to wholesalers; if there are no such wholesalers, the selling price is the price at which the commodities are sold to the retailers after the deduction allowed for wholesale profit.

If there is no selling price in the month in which a product is released from the factory by its manufacturer, the selling value of the preceding or the most recent month should be taken as a standard. If such a price is not available, the computation should be done on the basis of the taxable value of similar commodities.

B. Products Manufactured for Others

If a manufacturer produces taxable commodities for others with materials provided by the consignor, the selling price for the computation of the taxable value will be the latter's selling price.

C. Newly-Manufactured Commodities

For newly-manufactured commodities or in the absence of similar products, the taxable value may be temporarily computed on the basis of their manufacturing costs plus profit until they are marketed; then the taxable value will be determined in accordance with their selling prices, with adjustment to be made for tax collection.

D. Imported Commodities

The taxable value of imported commodities shall be the total amount of the value of the customs duty payable prescribed by the customs import tariff and customs duty.

E. Adjustment of the Tax Base

The competent tax collection agency shall adjust the selling price and taxable value reported by the manufacturer in the case that it discovers any failure in conformity with the regulations.

VI. Returns and Payments

A. Domestically-Manufactured Commodities

A manufacturer shall, prior to the 15^{th} day of the following month, pay the commodity tax to the Treasury on a product released from the factory and file a return prescribed by the MOF together with the tax payment receipt to the competent tax authority. Even if there is no tax payable, a manufacturer shall file a return.

B. Imported Commodities

The taxpayer shall declare taxable imported commodities and pay the taxes to the customs office.

C. Handling of Cases of Overdue Declarations

In the case that a taxpayer fails to file a return within the above-mentioned time limit, the collection authority-in-charge shall notify him or her to file a return and pay the tax within three days. Failure to do so will result in an investigation to be conducted by the tax office and the amount of the deferred tax will be determined. A further delay in making payment will cause his or her product not to be released from the factory until the tax is paid.

VII. Other Provisions

A. Administrative Remedy

1. In the case that a taxpayer is dissatisfied with the decision made by the collection authority-in-charge based on its assessment of the taxable value for the collection of the balance on an underpaid taxable commodity, or a decision made by the collection authority-in-charge to collect additional commodity tax on the amount of an omitted commodity tax which violates a law, he or she may apply to the collection authority-in-charge for re-examination in accordance with Article 35 of the Tax Collection Law. If he or she is dissatisfied with the decision made after the re-examination, he or she may initiate an appeal or administrative lawsuit.
2. If a taxpayer is dissatisfied with the amount of commodity tax assessed by Customs or the measures taken by Customs against illegal cases of imported taxable commodities, he or she may apply for remedy in accordance with the procedure for filing an objection with Customs.
3. If he or she is further dissatisfied with the revaluation or decision made by Customs, he or she may initiate an appeal or administrative lawsuit.

B. Penalty Provisions

A taxpayer, under any one of the following circumstances, in addition to being pursued for payment of taxes, shall be subject to a fine one to three times the amount of tax evaded:

1. Manufacturing of commodities subject to commodity tax without completion of registration procedures;
2. Taxable commodities are found to be without a tax exemption certificate or an authorized substitute certificate;
3. Under-pricing of taxable commodities for the purpose of tax evasion;
4. Failure to pay taxes on tax-exempt commodities while selling or using them for a purpose not originally intended;
5. Altering or re-using tax-payment certificates and receipts;
6. The quantities of raw material or finished goods in stock are different from those in account books or records, and the purpose of which has been ascertained as tax evasion;
7. Failure to report the taxable amount in full, such an act being ascertained as tax evasion;
8. Failure to report or under-reporting of the selling price or taxable values;

9. Unauthorized manufacture and release, within the time limit, of products which are forbidden to be released from the factory;
10. Failure to declare imported commodities subject to commodity tax at the time of importation for tax payment or exemption in accordance with regulations;
11. Other forms of tax evasion, or fraudulently receiving of or applying for a refund.

CHAPTER X

SPECIFICALLY SELECTED GOODS AND SERVICES TAX

I. General Description

To promote economic development, social justice, international competitiveness and a sustainable environment, the Executive Yuan set up the Tax Reform Committee to facilitate tax reform on 30th June, 2008 with a view to "enhancing efficiency, widening the tax base and streamlining tax administration." The Committee conducted the study of twenty issues, primarily in regard to reforms of the “tax system” and “tax administration,” within one-and-a-half years. The achievements of the tax reform will be used to support the sustainable economic development of our country and to assist in the realization of the administrative vision of “Support construction with public finance, raise public finance with construction.” As regards the estate and gift tax reforms, the Tax Reform Committee decided that the implementation of the estate and gift tax adjustments should be complemented by other matching measures.

To curb the excessive speculation on land as well as the rising prices of consumer products in the domestic market, it was proposed to levy a special tax on short-term transactions of real estate and on certain special goods. As such, after the estate and gift tax reforms, the Specifically Selected Goods and Services Tax Act was enacted and came into effect on 1st June, 2011, and a specifically selected goods and services tax (hereinafter referred to as SSGST) is imposed on the sale, manufacture, or import of specifically selected goods or the sale of specifically selected services within the territory of the ROC. Moreover, to further implement the purpose of the Act, it was revised in 2015 to broaden the tax scope, including that industrial land in non-urban areas shall be subject to the tax. In line with the tax system that became effective from 1st January, 2016 to calculate real estate tax based on combining income from transactions of house and land on the actual transaction price, the SSGST on real estate shall cease to be enforced effective from the same date.

II. Tax Scope

The seven categories of goods and services which are subject to the SSGST on an *ad valorem* basis for each taxable item:

A. Buildings and land: Any unit of a building and the share of land associated with the unit, or any urban land and industrial land in non-urban areas for which a construction permit may lawfully be issued, that has been held for a period of no more than two years, excluding those prescribed in Article 5 of the SSGST Act.

B. Passenger cars: Any passenger car that, including the driver's seat, has no more than nine seats and with a selling price or taxable value of not less than NT$3 million.

C. Yachts: Any yacht with a full length of not less than 30.48 meters.

D. Airplanes, helicopters, and ultra-light vehicles: With a selling price or taxable value of not less than NT$3 million.

E. Turtle shells, hawksbill, coral, ivory, furs, and their products: With a selling price or taxable value of not less than NT$500,000, excluding those that are not protected species under the Wildlife Conservation Act, or products made from them.

F. Furniture: With a selling price or taxable value of not less than NT$500,000.

G. Membership rights: with a selling price of not less than NT$500,000, except when in the nature of a refundable deposit.

III. Tax Rates

The tax rate for the SSGST is 10%, provided that the tax rate for the specifically selected goods of real estate is 15% if the holding period is no more than one year.

IV. Taxpayers

In pursuance of Article 4 of the SSGST Act, a SSGST liability is imposed on the following taxpayers:

A. The taxpayer in a sale of the specifically selected goods of real estate is the original owner.

B. In the case of the manufacture of specifically selected goods, the taxpayer is the manufacturer.

C. In the case of imported specifically selected goods, the taxpayer is the consignee or the holder of the bill of lading or of the goods.

D. In the case of an auction or sale, by a court or other institution, of specifically selected goods for which the tax has not been paid, the taxpayer is the winning bidder, the purchaser, or the assumer of the goods.

E. In the case of a tax-exempt specifically selected good that loses its tax-exempt status due to a transfer or a change in purpose of use, the taxpayer is the person initiating the transfer or the change in purpose of use or the holder of the good.

F. In the case of the sale of specifically selected services, the taxpayer is the business entity making the sale.

V. Exemptions

A. Under any of the following circumstances, the specifically selected goods of real estate shall not be levied:

1. The owner and owner's spouse and lineal relatives of minor age, having only one unit of a building and the land associated with the unit, have completed household registration, with proof of actual residence, and during the holding period neither provide it for business use nor put it out for lease.
2. The owner or the owner's spouse under the preceding subparagraph purchases a unit of a building and the land associated with the unit, as such that he or she now holds a total of two such units of buildings and land, and, within one year after the date on which transfer registration for the newly acquired building unit and land is completed, he or she sells the originally acquired building unit and land, or sells the newly acquired building unit and land because of a job transfer, involuntary separation from employment, or any other involuntary cause, and he or she remains, after the sale, in conformance with the requirements of the preceding subparagraph.
3. The commodity is sold to or by a government at any level.
4. Non-imposition of the land value increment tax has been approved according to the provisions of Paragraph 1 of Article 37 or Article 38-1 of the Agricultural Development Act or other provisions allowing for application for non-imposition of the land value increment tax under applicable laws and regulations, and furthermore, where the non-imposition has been approved or determined by the local tax authority.
5. Land designated as reserved for public facilities under the Urban Planning Act is transferred prior to expropriation.
6. A commodity obtained through inheritance or legacy is sold.
7. A unit of a building is transferred for the first time after completion of construction by the business entity.
8. The commodity is sold in a forced sale pursuant to the Compulsory Execution Act, Administrative Execution Act, or other law.
9. The commodity is the subject of a disposition pursuant to Article 76 of the Banking Act or other law, or pursuant to an order of the competent authority for the relevant industry.
10. An owner, using his or her own residence and land, demolishes and rebuilds or enters into a joint construction and allocation project with a business entity and sells his or her share.
11. A unit of a renewed building and the share of land associated with the unit which were obtained through distribution in an urban renewal project implemented through rights transformation pursuant to the Urban Renewal Act are sold.
12. Cases with proof of transactions not for short-term speculation were approved by the MOF.

B. Under any of the following circumstances, passenger cars, yachts, airplanes, helicopters, ultra-light vehicles, furniture, turtle shells, hawksbill, coral, ivory, furs and their products will be exempt from the SSGST:

1. The goods are used for the manufacture of another taxable specifically selected good.
2. The goods are for export abroad.
3. The goods are used for display in an exhibition, and after exhibition are shipped back to the factory or exported.
4. The goods are used exclusively for education, research, or experiment by a public or private school or educational or research institute at any level in accordance with the purpose of its establishment, or are used exclusively for participation in or training for international contests.

C. Passenger cars are exempt from the SSGST if they are exclusively used for research and development, public security, emergency medical care, or disaster relief.

D. Airplanes, helicopters and ultra-light vehicles are exempt from the SSGST if not for personal use.

VI. Computation of Selling Price or Taxable Value

A. Selling Price

Selling price means all considerations collected at the time of sale, including all fees collected in addition to the price and the commodity tax and business tax with the exception of the specifically selected goods and services tax provided for herein.

Selling Price = All Fees + Commodity Tax + Business Tax

B. Taxable Value

The taxable value for an imported specifically selected good shall be the sum of the customs value and import duty. If the specifically selected goods of the preceding paragraph are subject to commodity tax or business tax, the taxable value shall be the sum of the amount calculated pursuant to the preceding paragraph plus the commodity tax and business tax.

Taxable Value = Customs Value ＋ Import Duty ＋ Commodity Tax ＋ Business Tax

C. Newly Manufactured Specifically Selected Goods

For a new kind or if there is no similar good, the selling price may be temporarily set as the sum of the manufacturing cost, profit, commodity tax, and business tax. The amount of SSGST shall be adjusted and collected based on the actual selling price after sale.

VII. Tax Returns and Payments

A. Specifically Selected Goods of Real Estate

A taxpayer that sells specifically selected goods of Subparagraph 1 of Paragraph 1 of Article 2 of the SSGST Act shall calculate the tax payable on the sale within 30 days from the day following the day on which the sale contract was entered into, and shall on its own initiative fill out a payment form and pay the tax to the Treasury. The taxpayer shall declare with the collection authority-in-charge the selling price and the tax amount by filling out a declaration form and attaching the payment receipt, contract, and other relevant documents.

B. Other Specifically Selected Goods and Services

A manufacturer shall calculate the tax payable on a given month's release from the factory of the specifically selected goods by the 15th day of the following month, and fill out a payment form and pay the tax to the Treasury. The manufacturer shall also fill out a declaration form and attach the payment receipt and other relevant documents and declare the selling price and the tax amount to the collection authority-in-charge.

C. Imported Specifically Selected Goods

The taxpayer shall declare taxable imported specifically selected goods and pay the taxes to the customs office.

VIII. Other Provisions

A. Penalty Concerning Registration

If any of the following circumstances occurs with respect to a manufacturer, the collection authority-in-charge shall notify the manufacturer to achieve compliance or take corrective action within a prescribed time limit. In the case of failure to do so the manufacturer shall be subject to a fine of no less than NT$10,000 and no more than NT$30,000:

1. Failure to meet the requirements to apply for registration as a manufacturer, alter or cancel the registration.
2. Failure to establish or retain account books, accounting vouchers, or accounting records.

B. Penalty Concerning Return and Payment

1. When a taxpayer fails to pay the tax within the prescribed time limit, a 1% surcharge shall be imposed on late payment for every two days in arrears, starting from the day following the expiration of the time limit. If payment is not made more than 30 days after the time limit, the collection authority-in-charge may refer the case for compulsory execution procedures.
2. The amount of tax payable under the preceding paragraph shall be subject to interest charges for the period from the date of expiration of the time limit for late payment to the date the taxpayer makes payment or the tax is collected through compulsory execution. The interest shall be calculated per diem at the one-year time deposit rate for postal fixed savings set on January 1st of that year.

C. Penalty Concerning Tax Evasion

1. If a taxpayer fails to report, under-reports, or does not report in accordance with regulations the sale of the specifically selected goods of real estate and services, the taxpayer shall be subject to a fine of not more than three times the amount of the tax evasion in addition to collection of the tax owed.
2. If a taxpayer sells the specifically selected goods of real estate through a nominee, the taxpayer shall be subject to a fine of three times the amount of the tax evasion in addition to collection of the tax owed.
3. A taxpayer that commits any of the following acts involving evasion of the SSGST in manufacturing or importing the specifically selected goods of passenger cars, yachts, airplanes, helicopters, ultra-light vehicles, furniture, turtle shells, hawksbill, coral, ivory, furs and their products shall be subject to a fine of three times the amount of the tax evasion in addition to collection of the tax owed:
    a. Manufacturing and releasing taxable specifically selected goods from the factory without prior registration as required under Paragraph 1 of Article 13 of the SSGST Act.
    b. Selling or changing the purpose of use of tax-exempt specifically selected goods without paying the tax due.
    c. Failing to report or under-reporting the selling price, taxable value, or quantity of the goods.
    d. Failing to declare imported specifically selected goods in accordance with regulations.
    e. Other tax evasion.

CHAPTER XI

TOBACCO AND ALCOHOL TAX

I. General Description

It has been more than fifty years since the implementation of the government monopoly on tobacco and alcohol within the ROC. Due to the collection of monopoly revenues on tobacco and alcohol, customs duties, business tax, and commodity tax thereon were exempted or suspended for the time being. However, in order to respond to changes in social development, promote economic liberalization, and meet the requirements for accession to the WTO, the monopoly of tobacco and alcohol was abolished and replaced by the Tobacco and Alcohol Tax Act (TATA) on 1st January, 2002.

The TATA is an indirect tax imposed upon the consumption of tobacco products and alcoholic beverages. It is designed both to deter consumption and enhance revenue. In line with international practice, the TATA is levied on an *ad hoc* basis for each taxable item.

II. Taxpayers

The taxpayers of tobacco and alcohol tax are as follows:

A. For tobacco products and alcoholic beverages manufactured domestically: the manufacturer;

B. For tobacco products and alcoholic beverages manufactured on a consignment basis: the consigned manufacturer;

C. For tobacco products and alcoholic beverages imported from abroad: the receiver of the goods, the holder of the bill of lading, or the holder of the goods;

D. For untaxed tobacco products and alcoholic beverages auctioned off by the court or other agencies: the purchaser;

E. For exempted tobacco products and alcoholic beverages, which are either resold or used for other purposes, have lost their tax-exempt status as a result and on which tax shall be paid: the person who uses such goods for other purposes or the holder of the goods.

III. Tax Scope and Tax Rates

According to Article 1 of the TATA, the tobacco and alcohol tax shall be levied upon domestically manufactured as well as imported tobacco products and alcoholic beverages. In conjunction with international practice, the tobacco and alcohol tax is levied according to the amount, weight, or volume of the goods.

The taxable items and their respective tax amounts for tobacco products are as follows:

A. Cigarettes: NT$590 per 1000 sticks.

B. Cut tobacco: NT$590 per kilogram.

C. Cigars: NT$590 per kilogram.

D. Other tobacco products: NT$590 per kilogram.

The taxable items and their respective tax amounts for alcoholic beverages are as follows:

A. Brewed alcoholic beverages:

1. Beer: NT$26 per liter.
2. Other brewed alcoholic beverages: NT$7 per liter, per degree of alcohol content.

B. Distilled spirits: NT$2.5 per liter, per degree of alcohol content.

C. Reprocessed alcoholic beverages: Alcohol content exceeding 20% by volume at NT$185 per liter; alcohol content equal to or less than 20% by volume at NT$7 per liter per degree of alcohol content.

D. Cooking alcoholic products: NT$9 per liter.

1. General cooking alcoholic products: NT$9 per liter.
2. Cooking rice wine: NT$9 per liter.

E. Other alcoholic beverages: NT$7 per liter, per degree of alcohol content.

F. Ethyl alcohol: NT$15 per liter.

IV. Health and Welfare Surcharge

Due to the health dangers associated with smoking, a health and welfare surcharge has also been imposed on tobacco products, as follows:

A. Cigarettes: NT$1,000 per 1,000 sticks.

B. Cut tobacco: NT$1,000 per kilogram.

C. Cigars: NT$1,000 per kilogram.

D. Other tobacco products: NT$1,000 per kilogram.

V. Exemptions

Tobacco products or alcoholic beverages which meet any of the following circumstances shall be exempted from the tobacco and alcohol tax:

A. Goods used for the manufacturing of other taxable tobacco products or alcoholic beverages;

B. Goods exported abroad;

C. Goods used for exhibition purposes and, after the exhibition, either taken back in their original form to the factory or exported;

D. Goods brought in from abroad as personal effects by either travelers or crew members for personal use, the quantity of which goods does not exceed the limitation prescribed by the government.

VI. Tax Returns, Payments and Refunds

A. Domestically-manufactured tobacco products and alcoholic beverages

A tobacco or alcoholic beverage manufacturer shall, prior to commencing manufacture, apply to the collection authority-in-charge at the place where the factory is located to register his or her tobacco or alcohol factory and products.

A manufacturer shall, on or prior to the 15th day of the following month, pay the tax payable on the tobacco products or alcoholic beverages released from the factory for the current month, and file a return prescribed by the MOF, together with the tax payment receipt, with the collection authority-in-charge. Even if there is no tax payable, a manufacturer must still file a return.

B. Imported tobacco products and alcoholic beverages

The taxpayer shall declare imported tobacco products or alcoholic beverages and pay the tax to the customs office.

C. Refunds

For tax-paid tobacco products or alcoholic beverages which meet any one of the following conditions, the tax paid shall be refunded:

1. Goods exported abroad;
2. Goods used as raw materials for manufacturing exported goods;
3. Goods returned to the factory for reprocessing or refining into taxable tobacco products or alcoholic beverages;
4. Goods destroyed because of damage or because the quality fails to conform to the standard prescribed by the government;
5. Goods physically destroyed by flood, fire, or any other irresistible forces while in transit or storage.

VII. Penalty Provisions

In any of the following circumstances, the taxpayer shall be pursued for payment of taxes and be fined from one to three times the amount of tax evaded:

A. Manufacture of taxable tobacco products and alcoholic beverages and release of the goods from the factory without applying for registration;

B. Manufacture of taxable tobacco products and alcoholic beverages and release of the goods from the factory within the time limit during which goods are forbidden to be released from the factory;

C. Failure to declare imported goods subject to the tobacco and alcohol tax at the time of importation;

D. Failure to pay taxes on tax-exempt goods while selling or using them for a purpose not originally intended;

E. Where the quantities of raw materials or finished goods in stock differ from those in account books or records;

F. Failure to report or under-reporting of the taxable quantities of the goods;

G. False report of the classification of tobacco products or alcoholic beverages;

H. Other tax evasions.

CHAPTER XII

CUSTOMS DUTY

I. General Description

A. Customs Policies

In the last two decades, Customs revenues have fallen from the leading place to the second and then third place in the revenue system with the implementation by the government of various measures of economic liberalization and the reduction of tariff rates several times. Such revenues comprised 5.2% of tax revenue in 2015.

The average nominal duty rates on agricultural and industrial products in 2015 were 14.66% and 4.23 %, respectively.

Table I: Duty Rate

Year / category	Average Nominal Rates (%)													
	ITA			2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
	1998/6	1999/1	2000/1											
Agricultural Products	20.02	20.02	20.02	13.46	13.31	13.16	13.16	13.73	13.88	13.88	13.88	13.85	14.65	14.66
Industrial Products	6.34	6.08	6.03	4.16	4.1	4.1	4.09	4.18	4.18	4.23	4.23	4.23	4.23	4.23
Total Products	8.25	8.22	8.20	5.67	5.60	5.57	5.56	5.71	5.85	5.89	5.89	5.88	6.35	6.35

Year / Category	Average Effective Rates (%)										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Agricultural Products	9.64	9.48	8.67	7.97	8.16	7.94	7.25	7.44	7.82	7.15	5.41
Industrial Products	0.89	0.77	0.72	0.68	0.72	0.68	0.89	0.90	0.92	0.90	1.29
Total Products	1.24	1.2	1.14	1.07	1.2	1.13	1.16	1.19	1.23	1.20	1.51

The average effective duty rate is the ratio of tariff revenue to import value.

Year / Category	Average Trade-Weighted Rates (%)										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Agricultural Products	9.48	9.45	8.66	8.35	8.37	8.30	7.89	7.97	8.45	8.74	9.28
Industrial Products	1.36	1.21	1.16	1.14	1.21	1.29	1.33	1.31	1.33	1.40	1.64
Total Products	1.67	1.48	1.42	1.41	1.52	1.55	1.59	1.59	1.62	1.72	2.02

B. Customs Laws

Broadly speaking, Customs laws include the Customs Act, the Enforcement Rules of the Customs Act, the Customs Import Tariffs of the ROC, and the Customs Anti-Smuggling Act. The Customs Act and its Enforcement Rules have been implemented since 1967 replacing “The Temporary Charter of the Import Tariff Schedule” of 1929, and prescribe the tariff collection, clearance procedures for the import and export duty drawback systems, and special duties. The Customs Import Tariff specifies the appropriate sections and applicable tariff rates for imported goods. Investigation and punishments for smuggling are in compliance with the related provisions of the Customs Anti-Smuggling Act. Additionally, the MOF, for the purpose of effectiveness and transparency in enforcement, issues administrative regulations and makes related administrative rulings based on the practical application of the laws described above. In 2001, the government revised the Customs Act to prepare for WTO accession and to comply with the Administrative Procedures Act.

In 2004, the government also reviewed the Customs Act to comply with the revised Kyoto Convention. In 2006 and 2007, the government respectively formulated and amended “The Standards Concerning Customs Offenses of a Minor Nature as Prescribed in Article 45-1 of the Customs Anti-Smuggling Act.” The government also amended the Customs Act to accord with relevant international norms in 2008. To align with the implementation of the Customs-Port-Trade (CPT) Single Window system established by Customs, which allows the submissions of the data required by regulations governing the matters of Customs, commercial ports, trade licensing, commodity inspection, and quarantine to the competent authorities or the institutions entrusted~~,~~ by way of on-line transmission or via electronic data transmission, relevant articles of the Customs Act were amended accordingly in 2013. In 2014, the Customs Act was amended so as to clarify the rights and duties of carriers and forwarders by allowing freight forwarders to declare their manifests to Customs and operate their transit & transshipment business, provide the legal basis for the businesses to use self-prepared seals, and stipulate that self-use machinery and equipment imported by a bonded factory shall be exempt from customs duty if not exported to the tax area within five years following the date of importation.

II. Collection of Customs Duties

A. Scope of Collection

1. Dutiable objects: All imported goods except those exempted by the Customs Act and related laws are subject to customs duties.
2. Form of tariffs: In accordance with the Customs Act and the Customs Import Tariff, customs duties shall be collected on any of the following bases dependent upon the characteristics of the imported goods:
   a. Specific duty: The duties may be levied on the basis of the weight, amount, or measurement of imported goods. For instance, the tariff on special quality beef is NT$10 per kilogram.
   b. *Ad valorem* duty: The term *ad valorem* duty means the tariff is levied according to the value of the goods. *Ad valorem* duty is the most adopted term in the Customs Import Tariff. Currently, more than 98% of tariff lines are subject to *ad valorem* duties.
   c. Compound duty: Compound duty refers to a tariff which is determined by the higher of the specific rate or *ad valorem* rate within the same tariff line. For example, the tariff on mixed metal scrap is NT$750 per metric ton or 5% of its transaction value, whichever is higher.
   d. In future reviews of our tariff system, we would prefer to adopt the *ad valorem* approach throughout the tariff in order to increase the predictability and transparency of the tariff regime.
3. Valuation

   Based on the Customs Act first enacted in 1967, the Customs value of imported goods was calculated upon their market price at the port of entry. In 1974, through the amendment of the Customs Act, the Customs value was then calculated based upon the real CIF. Later on, in order to conform with the general application of the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade (1979 GATT Customs Valuation Code), the Customs Act was amended again in 1986 to the effect that the transaction value was adopted as the basis for Customs valuation.

   In 1997 and 2001, the MOF amended the Customs Act in accordance with the Uruguay Ministerial Decisions and Declaration and with the WTO Customs Valuation Agreement, respectively. The first paragraph of Article 29 of the Customs Act provides that the Customs value of imported goods liable to *ad valorem* duty shall be determined and calculated on the basis of the transaction value. The term "transaction value" means the price actually paid or payable for the goods when sold from the exporting country to the ROC. The following expenses shall be added into the calculation of the Customs value, provided that such an amount is not already included in the price actually paid or payable for the imported goods:

a. Commissions, brokerages, the cost of containers, and the cost of packing incurred by the buyer;

b. The value, apportioned as appropriate, of the following goods and services supplied by the buyer to the seller free of charge or at reduced cost for use in connection with the production or sale of the imported goods:

   (1) Materials, components, parts and similar items incorporated into the imported goods;

   (2) Tools, dies, molds, and similar items used in the production of the imported goods;

   (3) Materials consumed in the production of the imported goods; and

   (4) Engineering, development, artwork, design work, plans, and similar items undertaken elsewhere than in the ROC and necessary for the production of the imported goods;

c. Royalties and license fees that the buyer must pay as a condition of the sale of the goods being valued;

d. The amount paid or payable to the seller from the proceeds of any subsequent use or disposal of the imported goods;

e. The transport cost of the imported goods to the port or place of importation, and loading, unloading, and handling charges associated with the transport; and

f. The cost of insurance.

If the Customs value of the imported goods cannot be determined by transaction value, the Customs value shall be determined according to the following priorities:

a. The transaction value of identical goods exported to the ROC at the time of exporting or either before or after the exportation of such goods. A reasonable adjustment shall also be made to take account of the factors affecting the value, such as commercial levels, quantity levels, cost of transport, etc.

b. The transaction value of similar goods; a reasonable adjustment shall also be applied.

c. The deductive value means the Customs value to be calculated based on the unit price at which goods, identical goods, or similar goods are imported into the ROC and sold in the condition as imported, in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the sellers at the first commercial level, subject to certain deductions.

d. The computed value means the sum of the costs and expenses employed in producing the imported goods, reasonable profits and general expenses in sales, the cost of transport, loading, unloading and handling charges, and the cost of insurance associated with the transport to the port or place of importation.

e. The price determined by Customs using reasonable means on the basis of information acquired through proper investigation.

Prior to importation, the duty-payer or the duty-payer's agent may apply to the Customs Administration, MOF, for an advance ruling on Customs valuation related to matters in which expenses paid or payable for the imported goods under Paragraph 3 of Article 29 of the Customs Act or other expenses should be added into the calculation of Customs value, and Customs shall reply in writing.

The Customs value of special goods shall be determined in accordance with the following circumstances:

a. In the event of the re-importation of machinery, apparatuses, or appliances which have been sent abroad for repair or assembly, the actual cost of repair or assembly shall be adopted as the basis for calculating the Customs value.

b. For goods re-imported after processing abroad, the discrepancy between the Customs value of the goods at the time of re-import and that of goods similar to such goods in their original condition at the time of export shall be adopted as the basis for calculating the Customs value.

c. In the case of imported goods on which only a rental or royalty has been incurred without a transfer of ownership, the Customs value shall be determined on the basis of the amount of the rental or amount of royalty plus the transportation fee and insurance fee.

B. Duty Obligations

1. Duty obligations

Customs duty obligations shall include the following:

a. Declaration: Declaration of imported goods must be made to Customs by the duty-payer within fifteen days following the date of the arrival of the means of transportation on which the goods were carried. Pre-arrival declarations are also acceptable for such goods as are to be imported.

b. Payment: Customs duty shall be paid within fourteen days following the date of receipt of the duty memo. In cases where the goods imported are under duty reduction or exemption with a subsequent deviation from duty reduction or exemption conditions on account of a transfer of ownership or a change in their use, the original duty-payer or the present holder of such goods shall be required to pay duty to Customs at the port of importation, within thirty days following the date of the transfer of ownership or the change in the use of the goods imported; the import duty levied shall be according to the value and tariff rate applicable at the time when such a transfer or change occurred.

c. Examination: With regard to imported or exported goods, Customs may examine or exempt examination either by its own authority or upon request. Customs may, if necessary, take samples. The quantity of the sample(s) to be taken shall be limited to the quantity required for examination.

The method, time and location of the examination, the withdrawal of samples, and the scope of exemption referred to in the preceding paragraph shall be prescribed by the MOF.

When the goods are examined pursuant to Paragraph 1 above, it shall be the responsibility of the duty-payer or the exporter to attend to the transportation, unpacking or the opening of the cases, as well as the restoration of such packages to their original form or condition, with all expenses thus incurred being borne by him or her.

d. Investigation: For the purpose of ascertaining the correct customs value, Customs may investigate pertinent account books, vouchers, and other information. Duty-payers who refuse an investigation without just cause are subject to a fine in accordance with the law.

e. Return: When goods which are not permissible for importation arrive at a port of the ROC, Customs shall order the duty-payer to return such goods abroad within a prescribed period. If the duty-payer abandons the goods in writing or fails to return the goods abroad within the prescribed period, the goods may be disposed of by Customs. If there is a sales surplus after deducting the customs duty leviable and any necessary expenses, it shall be surrendered to the government treasury.

2. Duty-payer

The duty-payer of customs duty shall be the consignee of the imported goods, or the bearer of the bill of lading, or the holder of the imported goods, as the case may be. The responsible person of any means of transportation refers to the captain of a vessel or an airplane, the master of a train, or the controller of any other means of transportation.

When a duty-payer, who is a legal person, partnership, or a non-legal body, is to be dissolved or liquidated, the liquidator shall, prior to the allocation of the remaining assets, pay any customs duty, delinquent fees, and fines owed sequentially according to the law.

Any liquidator who violates the provisions of the preceding paragraph shall be liable for payment of the outstanding amount.

3. Collection period

The customs duty, delinquent fee or fine, levied in accordance with the provisions of the law, but not collected within five years of the date on which such collection was finally determined, shall no longer be collected. However, this stipulation shall not apply to a case which has been referred to the court for enforced payment prior to the expiration of the five-year period and whose proceedings have yet to be concluded.

Where installment or deferred payments are approved after the collection has been finally determined, the aforesaid five-year period shall commence on the day following the expiration of the installment or deferred payments period. This collection period shall apply *mutatis mutandis* to all charges leviable under the Customs Act.

C. Customs Import Tariff and Duty Rates

In August 1971, the ROC adopted the Customs Cooperation Council Nomenclature (CCCN) for the levying of customs duties on an *ad valorem* basis. In March, 1977, to simplify collection, the government changed the form of the tariff for some goods whose quality was difficult to examine or grade from that of *ad valorem* duty to specific duty. In August 1980, to assist the promotion of trade and to provide a basis to negotiate for reciprocal treatment with trade partners, the government implemented a double (two columns) tariff system. In July 1982, the ROC changed its tariffs, and some specific duties were modified to compound duties. Then, in 1989, the nomenclature was changed to the Harmonized Commodity Description and Coding System (H.S.).

In 1999, in order to help importers confirm the tariff classification of a product and to reduce disputes over the classification of imported goods, the ROC established the program of the tariff classification advance ruling system where duty-payers or their agents may apply for an advance tariff classification ruling on the goods prior to importation for which Customs shall reply in writing within a specific period of time.

In 2003, in order to implement FTA agreements and give certain trade preferences to imports from Least Developed Countries (LDCs), the government effected a change to the tariff system whereby the tariff rates of the ROC are divided into three columns as follows: the rates in the first column apply to goods imported from WTO members or countries and areas that have a reciprocal agreement with the ROC; the rates in the second column are preferential rates, levied on goods imported from countries which have negotiated a Free Trade Agreement with the ROC or from LDCs; and the rates in the third column apply to goods imported from other countries and areas.

D. Special Duties

In order to provide a fair and competitive market for domestic industries and to accommodate special economic situations occurring in our country or abroad, the MOF has enacted special duty clauses in the Customs Act, notably countervailing duty, anti-dumping duty, and temporary duty.

1. Countervailing duty

When a subsidy has been granted, either directly or indirectly for manufacture, production, or export by the country of origin or exportation, thereby causing injury to the industry of the ROC, a countervailing duty, not in excess of the amount equal to the subsidy received for the imported goods shall be levied in addition to the customs duty leviable under the Customs Import Tariff. The producer of the like product or related commercial, industrial, labor, or agricultural associations or other legal organizations that are able to identify their representative of the industry, may apply for the imposition of a countervailing duty against the imported product on behalf of the like-product industry. The imposition of the countervailing duty shall be approved and publicized following investigation and examination by the MOF.

2. Anti-dumping duty

When imported goods are found to have been dumped at a price less than the normal price of goods of the same kind, thereby causing injury to the industry of the ROC, an appropriate anti-dumping duty, not greater in amount than the margin of dumping, shall be levied on such goods in addition to the customs duty leviable under the Customs Import Tariff.

A total amount of NT$196,326,733 in anti-dumping duties was collected in 2015 on products imported from Mainland China, including towels, footwear, benzoyl peroxide (BPO) products, sodium formaldehyde sulfoxylate (SFS), Type I and Type II of Portland Cement and of its Clinker, as well as SUS 300 series flat-rolled products of stainless steel imported from Mainland China and Korea.

3. Retaliatory duty

When goods exported from the ROC or carried by any carrier of the ROC are given discriminatory treatment by an importing country thereby making the goods of the ROC inferior to those of other countries in the market of the importing country, an appropriate retaliatory duty may, in addition to the customs duty leviable in accordance with the Customs Import Tariff, be levied on the goods shipped from that country to the ROC or carried by any carrier of that country. In determining the imposition of retaliatory duty, the MOF shall consult with other relevant authorities and refer to the Executive Yuan for approval.

4. Temporary adjustment of customs duty

In order to deal with an extraordinary domestic and/or international economic situation, or a situation to accommodate the supply of goods, or to provide a reasonable operational environment for industry, the government may reduce or increase the duty rates of designated imported goods within a 50% range under the Customs Import Tariff. However, when the price of staple food fluctuates dramatically, the tariff rates of these imported goods may be reduced within a 100% range.

III. Customs Procedures

A. Imported Goods

To enable the rapid completion of clearance operations, enforce trade regulations, and prevent smuggling so as to facilitate international trade and assure security and economic order, the Customs enacted “The Rules on Regulating Storage for Import and Export,” “The Rules on Regulating Containers,” and “The Rules Governing the Establishment and

Control of Bonded Warehouses" to provide five major clearance procedures for all imported goods as follows:

1. Application for import: When applying for import of goods, the applicant is required to fill out and submit a declaration.
2. Examination: An application for examination of the imported goods shall be filed within ten days from the date of application for import. Where an application has been made, after the expiration of the prescribed period, Customs may directly conduct the examination along with the administrator of the warehouse.
3. Classification and valuation
4. Payment
5. Release: In order to accelerate the customs clearance process, Customs may, by collecting a tariff based on the heading and customs value reported by the duty-payer, examine and release the imported goods in advance. Through this practice, importers may complete their clearance procedures and have their imported goods released within a few working hours.

B. Exported Goods

The exporter shall declare export goods to Customs within the prescribed period, before the clearance or departure of the means of transportation carrying such goods. Rules governing declaration, examination, and release shall be prescribed by the MOF.

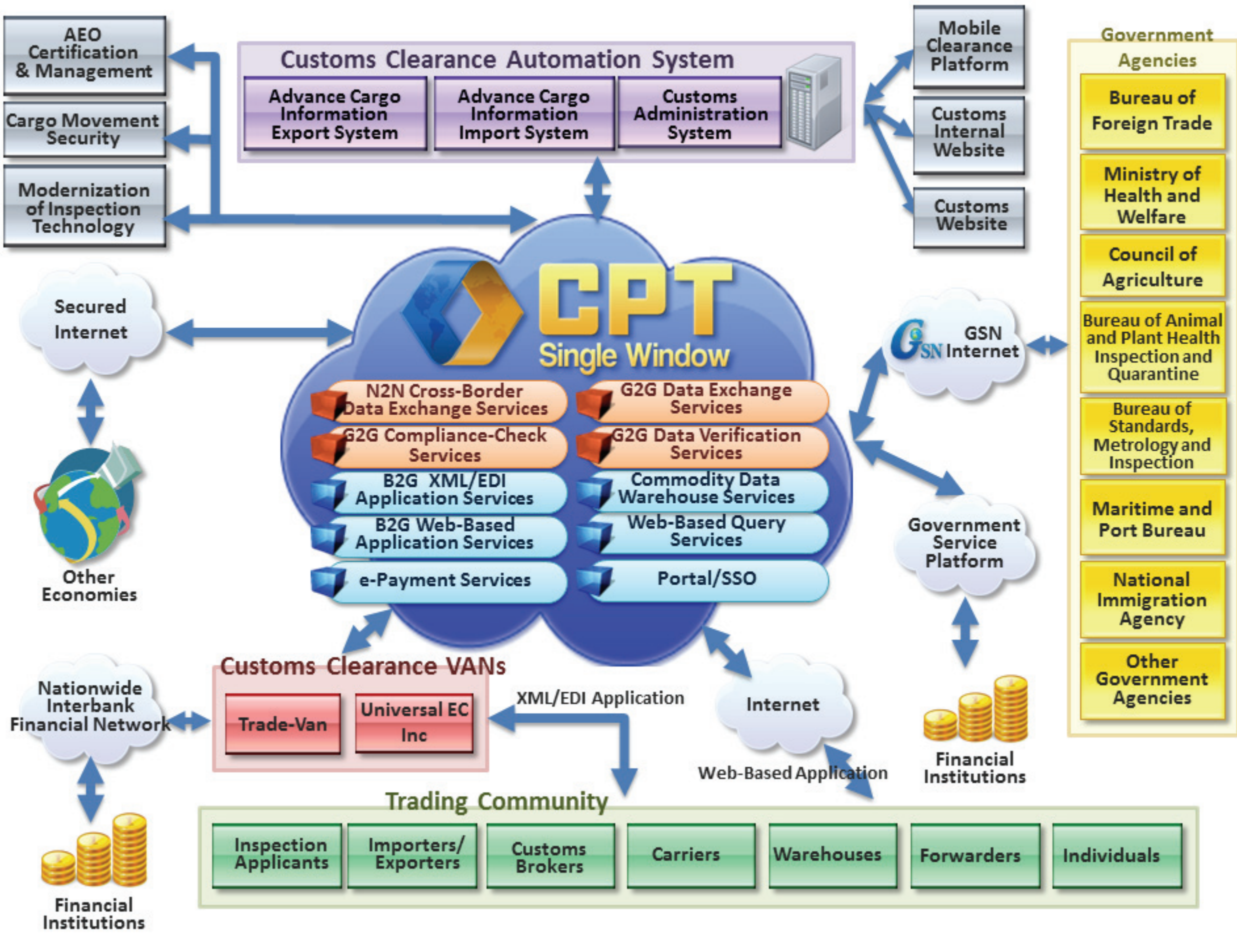
The exporter shall first file an application for export, pass examination by Customs, and submit pertinent documents so as to complete the export clearance procedures.

C. e-Customs Environment

To promote the efficiency and effectiveness of Customs clearance procedures, the ROC has been working hard on cargo clearance automation and modernization over the years. Since 1992, the Customs has adopted the UN/EDIFACT EDI message standard to establish the Customs Clearance Automated System and the Customs Clearance Value-Added Network (VAN) to provide 24/7 services for the trading community. Nowadays, 99.9% of import, export, or transshipment declarations are processed via these systems. Furthermore, since 1997, Customs has developed various internet-based services such as the G2G Customs Electronic Gateway (in 2003), the Import and Export Internet Clearance system (in 2004), the e-Payment system (in 2006), and the Mobile Clearance Platform (in 2007) to enhance Customs services.

To comply with the WCO SAFE Framework, Customs implemented the Customs-Port-Trade (CPT) Single Window in 2013, integrating the Customs Clearance Automated System, the Facile Trade Network, and the Maritime Transport Network with the aim of streamlining Customs import declarations and licensing applications to provide one-stop services for all stakeholders (Customs, other government agencies, the trading community, etc.) as well as to conduct data sharing and import, export, or transshipment business operations. Moreover, Customs also implemented the Advance Cargo Information Export System and the Advance Cargo Information Import System in 2013 and 2015, respectively, with the adoption of an advance information declaration regime and the simplification of Customs clearance procedures for traders, so as to offer facilitated and secure services to related industries. (Please see Chart E below.)

Chart E: e-Customs Environment



D. Express Cargo Clearance

For the sake of the convenience afforded by express cargo clearance, the government enacted "The Regulations Governing the Import and Export Customs Clearance of Express Consignments" in 1995 to provide the following services:

1. 24-hour/365-day customs service;
2. X-ray examination;
3. Random cargo inspection based on importer/broker qualifications;
4. Paperless EDI transmission;
5. Consolidated clearance for low value shipments;

6. On-line payment;
7. Risk management; and
8. Acceptance of informal declarations of documents and low-value consignments.

E. Paperless Release

Since 1998, the government has adopted the APEC Blueprint for Modern Customs as a guide to reform our Customs procedures. One of the most distinguished achievements is paperless release which includes:

1. C1 paperless release (all import and export cargo being selected for no paper examination/no physical inspection);
2. All import and export declarations and manifests being processed in express cargo handling units or air cargo transit centers;
3. Export cargo warehouse vouchers;
4. Import and export cargo release notices; and
5. Air cargo import and export manifests, sea cargo import and export manifests, general discharge permits, and special discharge permits.

The government will gradually expand paperless release to include:

1. C2 paperless release (all import and export cargo subject to the check of licensing paper);
2. Customs cargo inspection notices; and
3. Import cargo warehouse vouchers and import cargo taken delivery vouchers.

IV. Preferences

A. Exemption

If they satisfy the Customs Act or relevant laws, certain imported goods may be exempted from customs duties.

1. The major exemptions in the Customs Act include:
    a. Articles imported for official or personal use by diplomatic and consular officials of foreign embassies, legations and consulates stationed in the ROC, and articles imported by other organizations and personnel that are entitled to diplomatic privileges, provided that the foreign governments concerned are extending reciprocal privileges to the ROC;
    b. Goods imported solely for military use;
    c. Relief articles;
    d. Articles necessary for educational, research, or experimental purposes;

e. Decoration medals and insignia, official and private documents and the like, advertising materials and samples of no commercial value or within a limited value;

f. Personal effects of passengers and petty parcels imported by post;

g. Pharmaceutical products or medical apparatuses imported for preventing epidemics;

h. Equipment and articles imported for emergency aid; and

i. Articles for personal use brought in by sailors of the ROC.

2. In accordance with the Atomic Energy Act, any equipment imported for the use of nuclear research, development, exploration, production and protection, and pertinent nuclear power generation equipment shall be exempt from Customs duty.

3. According to the Fishery Act, any articles or equipment for use in fishery production, research, and experiments are duty-free under certain circumstances.

4. According to the Mining Act, the machinery, equipment, and materials used specially for exploring or drilling offshore petroleum and natural gas shall be exempted from Customs duty.

B. Duty Bonding

When goods arrive at a port of the ROC, the consignee may, prior to import declaration, apply to Customs for entry of the goods into a bonded warehouse. Within the time limit prescribed for the storage of goods in a bonded warehouse, the goods may be re-exported free of customs duty.

Export processing factories may be registered, with the approval of Customs, as bonded factories under Customs supervision. Some imported raw materials stored and used in such bonded factories for manufacturing or processing into products for export shall be exempt from customs duties.

Firms operating the storage, transportation and distribution business of bonded goods at the bonded location may apply to Customs for registration of their location as a logistics center. Exported goods stored in a logistics center which are re-exported in their original form, or after reconditioning or processing, shall be exempted from duty.

C. Duty Refunds

Customs duty paid on raw materials used in the manufacture of articles intended for export is refundable following exportation of the finished products according to the standards for the raw materials in the quantity required for normal production, unless the item of duty refund has been cancelled by the MOF by public notice.

Manufacturers may, within one year and six months from the date following the day on which the raw materials were released for importation, apply to Customs with the relevant export documents for duty refund or to offset the accounts for export products manufactured from imported raw materials. No application for duty refund or offsetting of the accounts shall be accepted after the expiry of such time limit.

For the purposes of improving service quality and administrative effectiveness, Customs implemented the Electronic Processing of the Offsetting or Refund of Duties and Taxes on Raw Materials for Export Products System, which was officially launched in September, 2012.

D. Zoning Preference

1. Export processing zones

   Export processing zones are established to encourage investment, foster exports, and expand the exportation of products and services. Therefore, machinery, equipment, raw materials, fuel, and semi-finished products imported for their own use by export enterprises within these zones shall be entirely exempt from customs duties.

2. The Hsinchu, Taichung, and Tainan Science-Based Industrial Parks

   The science-based industrial parks in Hsinchu, Taichung, and Tainan were founded because of the importance of attracting high-grade industries and scientific and high-tech elite in order to stimulate research and innovation to improve domestic industries and promote the development of highly sophisticated technological industries. The machinery, equipment, raw materials, fuel, and semi-finished products imported by the enterprises within these parks for their own use shall be exempt from customs duties.

3. Free trade zones

   Free trade zones are established to develop the mode of operation suitable for a global logistics and management system and thus to effect promotion of trade liberalization and internationalization, the facilitation of the smooth flow of personnel, goods, finance, and technology, the upgrading of national competitive power, and the furthering of national economic development.

   Goods for its operations, machinery, and equipment for its own use to be transported overseas into a free trade zone by a free trade zone enterprise shall be exempted from customs duty.

E. Duty-Free Goods to Penghu, Kinmen, and Matsu

The MOF issued the amendment of “The Regulations for the Implementation of the Duty Exemption on Goods Imported into Offshore Islands” and “Items Covered Under the Measures Governing the Import of Duty-Free Goods into Offshore Islands” on 22nd October, 2010 (Decree Nos. 09905908900 and 09905908901). All licensed exporters/importers are eligible to import 320 items duty free if they are registered with the local business tax authority or if taxes are paid there. The duty-free goods include beer, alcohol, cosmetics, film, electric appliances, eyeglasses, cameras, toys, and other sundries.

In order to promote tourism on the offshore islands, the MOF stipulated and promulgated “The Regulations Governing the Establishment and Management of Offshore Island Duty-Free Shops” on 19th May, 2008 in accordance with Article 10-1 of the Offshore

Development Act. People in the areas of Penghu, Kinmen, and Matsu may set up offshore duty-free shops upon receiving the permission of the local county authorities and by applying for the establishment of offshore duty-free shops at the local Customs office. The promulgation of these regulations may serve to assist in the promotion of tourism on the offshore islands, to offer benefits to shoppers, and to enhance the development of the offshore islands in an effective manner.

V. Contraband

The following contraband shall be prohibited from importation and exportation:

A. Counterfeit currency, negotiable securities, plates or dies for printing or casting counterfeit currencies;

B. Articles infringing upon the rights of patents, trademarks and copyrights;

C. Other contraband as specified in other laws.

VI. Penalty Provisions

There are two types of Customs Act violations: avoidance of duty and default of duty obligations. To penalize the former, the government may, in accordance with the Customs Anti-Smuggling Act, impose a fine or confiscate the goods. If any criminal offence is involved, Customs may bring such cases to court for criminal punishment. To punish the latter, Customs may impose a daily late fee for belated reporting, delinquent fees, etc.

VII. Customs Fees

Customs may collect fees for special services rendered to transport and import or export goods as well as for the issuance of various certificates. The rules governing the collection of such charges shall be prescribed by the MOF.

VIII. Customs Preventive Measures

Due to the late enactment of the Customs Act on 8th August, 1967, the measures taken to investigate and prevent smuggling and duty avoidance should be in conformity with the Customs Anti-Smuggling Act which was first implemented in 1934. After the implementation of the Customs Anti-Smuggling Act, in line with government policies on trade control and the development of carriers, the government, with a view to strengthening anti-smuggling measures, effectively deterring smuggling, increasing fiscal revenues, and maintaining fair competition, made seven revisions to the Act in 1973, 1978, 1983, 1995, 2001, 2005, 2007, 2010, and 2013.

The existing Customs Anti-Smuggling Act focuses its attention on cases involving the avoidance of inspection, evasion of Customs duties, escape from Customs control, and the transport of goods into or out of the territory without application to Customs. To cope with attempts at Customs evasion, Customs is equipped with boats and other necessary equipment. The legislation also delegates adequate authority, equivalent to that of the police in investigating a crime, to Customs officers carrying out their assignment to prevent smuggling. Therefore, Customs officers may examine and search places concerned and detain smuggled goods and carriers.

There are stringent penalties prescribed in the current Customs Anti-Smuggling Act on the smuggling of goods into or out of the territory and for trading in smuggled goods. Whenever an untoward situation develops, such as a carrier declining to obey an injunction order issued by Customs or failing to load or unload goods in conformity with the pertinent regulations, or a duty-payer making a false statement on his or her application to import goods or applying some other undue means to achieve duty exemption or reduction, Customs may impose a comparable fine.

IX. Administrative Remedy

The Customs Act and the Customs Anti-Smuggling Act provide special regulations for administrative remedies.

A. Customs Duty

Any duty-payer who is not satisfied with a determination of Customs regarding the tariff classification, Customs value, supplementary duty, or special duty for imported goods, may within thirty days from the day following the date of receiving the duty memo, submit a written protest in conformity with the prescribed form to Customs for a review. Pending a final decision on the review, the imported goods should be released to the duty-payer against the payment of Customs duty in full amount or adequate security conditional on the approval of Customs. Customs shall review its determination and make a decision within two months after receipt of the protest. The duty-payer, if not satisfied with the said decision made by Customs, may file an administrative appeal to the higher authorities and then file an administrative lawsuit in accordance with the laws.

B. Customs Anti-Smuggling Act

Any person who is not satisfied with a disposition made by Customs in accordance with the Customs Anti-Smuggling Act may submit a written protest to Customs for a review within thirty days from the day following the date of receipt of the disposition. After receiving the protest, Customs shall review the case. If the protest is sustained, Customs shall reverse the original disposition and make a new one; otherwise, Customs shall maintain the original disposition and send a written notice to the protestor. The protestor, if not satisfied with the result of the Customs review, may file an appeal to the MOF and then file an administrative lawsuit with the Administrative Court.

CHAPTER XIII

THE ACT GOVERNING LOCAL TAX REGULATIONS

I. General Description

In order to enhance the autonomy and democracy of local government, the Act Governing Local Tax Regulation (hereinafter referred to as the Act) came into effect on 11th December, 2002. The Act grants powers of taxation to municipal governments, county (city) governments, and township (city) offices (hereinafter referred to as local governments) and governs their exercise of such powers of taxation. Subject to the provisions of the Act, each local government shall be able to exercise its power to levy local taxes on certain groups under its jurisdiction. The local tax revenue shall be used to contribute to construction budgets for public utilities and to the improvement of the investment environment within the relevant district. This potential to take such actions at the various levels of local government will help create a beneficially competitive environment among them and aid them in the attraction of more capital investments, in the development of the local economy, and in the increase of their financial resources.

II. Scope of Taxation Powers

Local governments shall impose “local taxes” within their jurisdiction according to the provisions of the Act. The term “local taxes” refers to the following taxes:

A. Municipal and county (city) tax as well as provisional tax as referred to in the Act Governing the Allocation of Government Revenues and Expenditures;

B. Special municipal and county (city) tax, provisional tax, and surtax as referred to in the Local Government Act; and

C. Provisional township (city) provisional tax as referred to in the Local Government Act.

municipal and county (city) taxes consist mainly of the Agricultural Land Tax, Amusement Tax, Deed Tax, House Tax, Land Value Tax, Land Value Increment Tax, Stamp Tax, and Vehicle License Tax. The Act authorizes municipal and county (city) governments to increase tax rates but not by more than 30% of the premium tax levy on municipal and county (city) taxes (excluding Stamp Tax and Land Value Increment Tax).

At the same time, the Act authorizes municipal and county (city) governments to impose surtaxes on existing national taxes (excluding Customs Duties, Commodity Tax, and Value-Added Business Tax). The rates of the surtaxes imposed shall not exceed 30% of their premium tax levy.

However, the powers of taxation of a local government shall not extend to levies on the following:

A. Transactions outside its jurisdiction.

B. Natural resources or mineral products that circulate outside its jurisdiction.

C. Public utilities that operate in different areas of jurisdiction.

D. Taxation items that harm overall national interests or other local public interests.

III. Priority in Tax Collection

In order to safeguard the financial resources of lower levels of government, the priorities for collecting various delinquent taxes are as follows:

A. Local tax has precedence over national tax.

B. Township (city) tax has precedence over county (city) tax.

IV. Procedure for Imposing New Local Taxes

Local governments shall draft an Autonomous Statute for Local Tax, and publish and implement the statute after it has been approved by the local people's assembly.

Prior to promulgating the Autonomous Statute for Local Tax, the local government shall report it to its supervising agency, the MOF and the Directorate General of Budget, Accounting and Statistics, Executive Yuan for record.

CHAPTER XIV

LAND TAX

I. General Description

Tracing its origins back to the twenty-second century B.C., the land tax system of our country has a history of over four thousand years. Land tax has always been one of the major sources of our government's fiscal revenue.

Although the land tax system was established early, its implementation was not generally executed due to the huge size of our country. During the period of the Nationalist Government, taxation on land was under the direction of the following: The Act for Land Registration and Tax for the City of Canton (1926), the Chapter on land tax in the Land Act (1930), and the General Act of Land Tax Collection promulgated by the Executive Yuan (1937). Financial needs for military operations in the war following the Japanese invasion and the need to control food sources prompted the government to promulgate the Provisional Act Governing the Collection of Agricultural Land Tax in Kind, and later, in 1944, it was amended to become the Wartime Act Governing the Collection of Agricultural Land Tax in Kind.

Then, in 1954, when the Act for the Equalization of Urban Land Rights was enacted, land tax was included as a part of the Statute. However, it was not until the enactment of the Land Tax Act in July, 1977 that there was provision for a unified code on land tax, codifying all the acts and regulations concerning the collection of land tax.

The prevailing land tax system includes land value tax, agricultural land tax, and land value increment tax. For land on which the value has been assessed, land value tax is levied. Agricultural land tax is levied on farm land. Land value increment tax is levied upon gains realized from the sale of land.

II. Land Value Tax

The land value tax is described in Chapter 2 of the Land Tax Act. The land value tax is one of the most important land taxes. It has the dual function of realizing land policies and of strengthening local finances. Its major contents are as follows:

A. Tax Scope

The land value tax is imposed on land that has been assigned a value. Land that has been assigned a value, and which is also being used as farm land, shall be taxed as agricultural land and no land value tax shall be levied on it in accordance with relevant laws.

B. Taxpayers

1. Land title owner.
2. For land with an established dien right, the dien right holder.

3. For bestowed land, the bestowee.
4. For land assigned for farming, the farmer.

   (Prevailing regulations provide that land being used for farming shall be taxed in accordance with the agricultural land tax regulations.)
5. For publicly-owned land, the administration-in-charge.
6. For commonly-owned land, the administrator.
7. For generally-and jointly-owned land, the joint owners shall be responsible for their respective parts.
8. For trust land, the trustee.

   For the following situations, the tax authority may designate land users to be responsible for paying the land value tax:

   a. When the whereabouts of the legal taxpayer (in accordance with the above) is unknown.
   b. When the title right of the land is unclear.
   c. When the land is under no-one's management.
   d. When the title owner of the land petitions for the occupier to pay the tax.

C. Tax Rates

   There are two rates for land value tax: the regular progressive tax rate and the special privileged rate.

   1. Regular progressive tax rate

      A progressive tax rate shall be used to calculate the tax payable on regular land; the basic tax rate is 1% with the highest tax rate at 5.5%. The tax structure in this category is as follows:

      a. For land value not exceeding the starting cumulative value: 1%.
      b. For land value in excess of the starting cumulative value (SCV), provided the portion in excess is less than or equal to 500% of the SCV, an additional 0.5% shall be added for the excess portion.
      c. When the excess portion is above 500% of the SCV, on top of the aforesaid (a) and (b), for each successive 500% in excess, an additional 1% tax rate shall be added on for that respective portion, until the ceiling of 5.5% is reached.
      d. The SCV is determined by adopting the average land value of 700 square meters in the respective city or county. Land used for factories, mining, agriculture or that which is exempted from tax shall not be included in calculating the average land value.

Formulas for the Calculation of Land Value Tax Payable

Classes	Formulas for Calculation
First Class	Tax Payable = Taxable Land Value (Not exceeding SCV) × Rate (1%)
Second Class	Tax Payable = Taxable Land Value (Portion exceeding SCV is less than or equal to 500% of SCV) × Rate (1.5%) – Cumulative Difference (SCV × 0.005)
Third Class	Tax Payable = Taxable Land Value (Portion exceeding SCV is more than 500% but less than or equal to 1000% of SCV) × Rate (2.5%) – Cumulative Difference (SCV × 0.065)
Fourth Class	Tax Payable = Taxable Land Value (Portion exceeding SCV is more than 1000% but less than or equal to 1500% of SCV) × Rate (3.5%) – Cumulative Difference (SCV × 0.175)
Fifth Class	Tax Payable = Taxable Land Value (Portion exceeding SCV is more than 1500% but less than or equal to 2000% of SCV) × Rate (4.5%) – Cumulative Difference (SCV × 0.335)
Sixth Class	Tax Payable = Taxable Land Value (Portion exceeding SCV is more than 2000% of SCV) × Rate (5.5%) – Cumulative Difference (SCV × 0.545)

2. Privileged rate

   a. Residential land in urban areas with a total area of less than 300 square meters or in non-urban areas with a total area less than 700 square meters and used for the purpose of a self-use residence shall be taxed at 0.2%.

   b. Land used for industries, mining, private parks, zoos, stadiums, temples, churches, scenic spots and historic sites, gas stations and parking lots approved by the government shall be taxed at 1%, but land which is not used in accordance with an approved project shall be taxed at the regular progressive tax rate.

   c. Land reserved for public facilities pursuant to urban planning, which is being temporarily used for self-use residential purposes while still maintaining reserved status, shall be taxed at 0.2%, and, in the case of non-residential use, at 0.6%.

   d. Land publicly-owned but used for non-public purposes shall be taxed at 1%.

D. Calculation of Land Value and Consolidated Total of Land Value

1. Municipalities under direct supervision and counties (cities) shall each establish a Land Value Assessment Commission which shall make public announcement of their assessments of land value by section and lot, based upon data, including market value, submitted by the land administration-in- charge (“posted value”).

Land owners shall declare their land value with reference to the posted value. When a land owner does not declare the land value or the declared land value is less than 80% of the posted value, the official declared value shall be adjusted to 80% of the posted value. When the land value is declared in excess of 120% of the posted value, it shall be adjusted to 120% of the posted value as the official declared value.

The land administration shall compile reports on “land value” and “land owner” in accordance with the official declared value and transmit the same to the tax authority for the levy of the land value tax.

2. The land value tax of regular land is calculated by using the cumulative scheme. Therefore, if a taxpayer has more than one parcel of land in the same municipality or county (or city), all the parcels owned shall be consolidated to reach the consolidated total value of land which shall be the taxable land value calculated based on the aforementioned formula.

E. Special Levy of Vacant Lot Tax

In order to enhance the effective use of land and to expedite urban development, vacant lot tax shall be levied on a lot wherein work for infrastructure support systems such as roads, sewage systems, electricity and water supply systems has been completed, but lot construction has not yet been carried out. In cases where construction has been completed, but the said construction improvement is valued at less than 10% of the declared land value of the land base for the construction, and determined by the municipal or county (city) government as requiring further development or alteration of the existing construction or reconstruction, the said lot, if still vacant, shall be subject to an additional levy of vacant lot tax (VLT) to be assessed by the municipal or county (city) government. The VLT shall equal two to five times the basic land tax payable for such a lot according to the regular land value tax calculation.

F. Reductions and Exemptions

1. Public land

For publicly-owned land used for public purposes, the land value tax is fully exempted. The following categories of land shall be included:

a. Land for public use.

b. Land used for all levels of government, subsidiary agencies, and autonomous agencies, including dormitories for staff and employees thereof; however land used for business enterprises thereof is excluded from this category of tax exemption.

c. Land used for national defense, military institutes, military forces, or schools.

d. Land directly used for public hospitals, clinics, academic research institutes, social educational institutes, salvation facilities, public and private schools, and dormitories thereof, and direct production facilities of schools as used for student practical training. However, an alien school should be established or confirmed by the alien government concerned, and should be established under the Statute for the Establishment of Alien Schools, and reciprocal treatment should exist in the country concerned with the ROC or it should be approved case by case for tax exemption by the Executive Yuan; a domestic private school must be registered in accordance with the Private School Law.

e. If a plot of public land originally used for a public or private school and described in Item (d) has its title changed to a non-public owner, and the land still is used by the same school, then the provisions of Item (d), may still be applied to the land.

f. Land used for direct testing and experimental facilities by public institutes in farming, forestry, fishing, pasturage (stock farming), industry, and mining.

g. Land used for food storage by competent authorities.

h. Land directly used for the services of railway, highway, airport, air field, waterworks, garbage disposal, sewage systems, and dormitories for staff and employees thereof; however, land solely used for affiliated business units is excluded.

i. Land used for water collection, reservation, drainage, and related construction thereof.

j. Land used for housing provided without charge by the government to people in need.

k. Historical sites and other points of interest and land used for memorial halls, shrines, temples, and cemeteries.

l. Land acquired or taken under eminent domain by the tourist authority for the purpose of developing the tourist industry, and while it is awaiting sale to tourism enterprises and is not generating any revenue.

m. Land which is used for public parking lots established by the Parking Lot Law.

2. Private land

Private land in fulfillment of the following reduction schedule may have its land value tax reduced or exempted according to law.

a. Land used by a foundation (non-profit judicial person "NPJP") or for registered private schools established by such an NPJP, and land used for student practical training in farming, forestry, fishing, pasturage, industry, or mining, and dormitories thereof complying with management regulations set by educational administrative agencies-in-charge and registered as NPJP property shall have full exemption. Land used for private tutoring or correspondence schools is excluded from this exemption.

b. Land in direct use for private libraries, history or science museums, and fine art galleries that are established with approval from educational administrative agencies-in-charge pursuant to "The Regulations for the Establishment and Encouragement of Private Social Educational Institutes," and academic research institutes established in compliance with "The Regulations for the Establishment of Academic Research Institutes" is entitled to full exemption if the private library, etc., is registered as an NPJP or established/operated by an NPJP, and such land is owned by the NPJP.

c. Land used for non-profit private parks and gymnasiums, totally open to the general public and established with the approval of the competent authority, shall be entitled to a 50% reduction. If such a park or gymnasium is registered as an NPJP, the land shall be entitled to a 70% reduction.

d. Land exclusively used for private testing facilities in farming, forestry, fishing, pasturage, industry, or mining, which is duly registered with and approved by the competent authority, and has actually been used for the aforesaid testing or experimental activities for more than five years, shall be entitled to a reduction of 50% if the use is certified by the competent authority.

e. Land used for private hospitals, blood donation institutes, social charities, or other enterprises for the enhancement of the public interest which are non-profit and which do not limit their service to people of the same trade, the same locality, the same clan or schoolmates or other specific classes of people, and have been approved for establishment by the competent authorities, shall have full exemption. However for the designation as public interest enterprise as aforementioned to be applicable, such enterprise must either be approved for exemption by the competent authorities, or it must be a duly registered as an NPJP, or it must be established by a duly registered NPJP, where the land in question is owned by the said NPJP.

f. Land used for private cemeteries approved for establishment by the competent authority as an NPJP shall have full exemption, subject to the limitation, however, that in the case the land in question is zoned as public cemetery land pursuant to urban planning, or if the land is not covered by urban planning, it should be designated as land for use as a cemetery.

g. Privately-operated railroads and highways, or railroads and highways for exclusive use; if their construction has been approved by the competent authority and they are regularly open for public use including passenger and cargo transportation, the land base for such railroads and highways shall have full exemption.

h. The land used for agricultural irrigation systems by enterprises whose establishment has been approved by the competent authority, to collect, store or drain water shall have full exemption; however, land used for offices and working stations thereof shall have a 50% reduction.

i. Land used for religious organizations beneficial to social morale and education duly registered as an NPJP or as temples; churches used for public sermons and approved by the Ministry of Interior for establishment as institutes doing research in religious doctrines; land used for temples and other memorial halls or shrines, shall have full exemption.

j. Land provided without charge for the use of governmental agencies, public schools, military forces, institutes, or schools shall have full exemption for the period of the said use.

k. Land used for offices and commercial areas for all levels of agriculture and fishing associations, and warehouses duly registered as agricultural product warehouses, or refrigerated sea-food warehouses belonging to fishing associations shall have a 50% reduction.

l. Private historical sites which are assigned by the competent authority shall have full exemption.

For revenue-generating land belonging to private schools provided in Item (a) above, or the private academic research institutes provided in Item (b) above, or the private charities provided in Item (e) above, if all revenues generated are directly used for the respective enterprise, the institution concerned may apply individually for reduction of the relevant land value tax. Land used for the enterprises provided in Items (c), (d), (f), (g), (h), and (k) above must be limited to the land owned by the respective enterprises. An enterprise in Item (c) above may rent public land for its use in which case the provisions of Item (c) are still applicable to the aforesaid public land.

3. Passageways under balconies and hallways

Passageways for public passage with no construction improvements shall be exempted from land value tax; those with construction improvements are subject to the reduction schedule provided below.

a. A one-story addition may claim a 50% reduction.

b. A two-story addition, a one-third reduction.

c. A three-story addition, a one-fourth reduction.

d. A four-story or more addition, a one-fifth reduction.

4. Private land used for public passage free of charge

Private land used for public passage free of charge is exempted from land value tax or agricultural land tax during the period of said use, provided the claimed status of usage is found factual. Notwithstanding the foregoing, vacant lots reserved as required under building codes are not entitled to exemption.

III. Agricultural Land Tax

The agricultural land tax system, as well as being the oldest system in the taxation history of our country, is the oldest in the history of taxation in the world. Indeed, its history is almost as old as the development of human culture. In traditional society, its contribution to government revenue and thus to the advancement of society was indispensable.

Agricultural land tax in our country first started with a tax of agricultural land and with payment made mainly in kind. In the succeeding four thousand plus years, the content and method of taxation have varied. At times, collection in kind prevailed and at other times monetary substitution or a combination thereof was adopted; but throughout all of these changes, the system of imposing a tax upon agricultural land has never changed.

The scope of the present agricultural land tax system has been narrowed due to the economic development of the ROC and the consequent greater industrialization and urbanization, but agricultural land is still taxed as it has been for more than four thousand years.

Collection is now a combination of payment in kind and monetary substitution. Products used for payment in kind include rice and wheat, and for agricultural land which does not produce these crops, the same value of tax payable in money is collected instead, depending on the actual production of the agricultural land in question.

The agricultural land tax is based on the “taxable amount” called “fu erh.” The fu erh is the sum of the “fu yuan” (taxable units) and differs according to the category and grade of the agricultural land in question.

Due to the fact that agricultural land tax is levied on agricultural land and that both money and agricultural products are collected, the operation of the tax is both complicated and costly. Coupled with this fact is that only a comparatively small number of the population are occupied in agricultural work nowadays and that the taxable amount is thus limited. Also, the significance of the policy of the control of food sources has become obsolete due to recent changes in socio-economic development. Thus, in order to improve the life of farmers and the growth of agriculture, a policy designed to suspend the levying of agricultural land tax has been adopted since 1987. For this reason, the details of the agricultural land tax are not elaborated herein.

IV. Land Value Increment Tax

The land value increment tax was designed to impose a heavy burden on the natural incremental value of land for the purpose of curbing speculation and monopolies on land. It is based on a concept contained in the theoretical framework of the “equalization of land rights” advocated by Dr. Sun Yat-Sen, the founding father of the ROC. The said theory contends that the natural value increment of land is attributable to social development rather than the result of labor or capital investment and, therefore, it should be shared by the general public through the mechanism of the land value increment tax. From this, it is clear that the land value increment tax of our country is not an ordinary tax but a tax with the specific purpose of meeting the specific needs of a particular period. In other countries it is collected either as a capital gains tax or as regular income tax. However, in our country, it is labeled as a land value increment tax with the following particulars:

A. Tax Scope

Land value increment tax is collected on the total incremental value at the time of the transfer of the title of land which has previously been set at a certain value. For land that has a dien right established, the original land owner (or the dien right assignor) must make prepayment of land value increment tax and the said tax paid is refunded without interest when he or she redeems the land.

B. Taxpayers

The taxpayers of land value increment tax are as follows:

1. For land transferred with compensation, the original title owner.
2. For land transferred without compensation, the acquired title owner.
3. For land with a dien right established, the dien right assignor.
4. For trust land transferred with consideration or compensation, the trustee.
5. For trust land transferred to person or entity other than the settlor or in accordance with the purpose of the trust, the transferee.

In the above provisions, "transfer with compensation" means sale-purchase, exchange, government acquisition, or requisition at value.

C. The Basis for Land Value

In terms of its nature, the land value increment tax is a form of income tax and thus, in principle, costs and fees should be deducted to obtain the net taxable amount. For the convenience of the taxpayers in their declaration of the present value of the land being transferred, and for the purpose of minimizing dispute when the collection authority reviews the present declared value, the government announces a present value once a year to be used as the standard present value of transfer for declaration and review.

The calculation of the incremental value differs according to which of the following categories the land is assigned: regular land, government-acquired land, or land auctioned by the courts of law. Their respective details are as follows:

1. Regular land

   For the transfer of regular land, the government-announced present value at the time the owner-taxpayer makes the transfer declaration or the dien declaration shall be used in the calculation of the total value increment of the land in question. However, in the case that the declared actual transfer value of the land exceeds the announced present value, the declared transfer value shall be used as the basis of calculation.

2. Government-acquired purchased land

   For land acquired or purchased at a value approved by the county (or city) government, the basis of calculation shall be the lower of the price actually paid by the government or the government-announced value at the date of acquisition.

3. Court-auctioned land

For land auctioned through the courts of law, the basis of calculation shall be the lower of the actual auctioned price or the government-announced value at the date of the auction.

D. Deduction of the Increment Amount

To obtain the net increment value, the following itemized amounts shall be deducted from the respective aforementioned calculation and the balance shall be the net increment amount.

1. Where there is no transfer after the first governmental decree of specific land value, this original decreed value shall be deducted.
2. Where the land has been transferred after the first governmental decree of specific land value, the assessed present value on the payment of land value increment tax for the last transfer shall be deducted.
3. The total expense paid by the title owner for improvement of the land, including fees paid for public construction and fees paid for land consolidation, and the announced present value of donated land at donation, in the case that the land was donated without compensation due to changes in land zones which required changes in the percentage of the land to be used for public facilities, if any, shall be deducted.
4. During the period of ownership of the land in question, any supplemental payment of land value tax paid, consequential to reassessment of the land value, *pro rata* to the part of the land being transferred, shall be deducted from the land value increment tax payable, but the total deduction of this item shall be limited to 5% of the land value increment tax payable for an instant land transfer.

When calculating the net incremental value of land, in addition to the deductions in Items 1 and 2 above, any change in general consumer prices shall be taken into account and adjusted by the consumer price index announced by the government to derive the net land incremental amount. The formula for the calculation of the natural value increment of the land is as follows:

Amount of Natural Land Value Increment = Declared Present Value at Last Transfer of the Land － Original Decreed Value or Assessed Present Value

$$\text{At Last Transfer of Land} \times \frac{\text{Consumer Price Index}}{100} -$$

(Land Improvement Cost + Construction Benefit Fee Paid + Fee Paid for Land Consolidation + Announced Present Value of Donated Land)

E. Structure of the Tax Rates

The land value increment tax is levied at a progressive tax rate in multiples of the original decreed land value and can be termed “multiple cumulative.” Its tax rate structure is as follows:

1. When the total increment approaches 100% of the original decreed value or the assessed present value at the last transfer of land in the calculation of the then applicable value increment tax payable, the tax rate shall be 20% of the total increment arrived at.
2. When the total increment exceeds 100%, but approaches 200% of the original decreed value or the assessed present value at the last transfer of land in the calculation of the then applicable value increment tax payable, in addition to the tax rate made applicable under the provision of Subparagraph 1 above, the tax rate on the portion exceeding 100% shall be 30%.
3. When the total increment exceeds 200% of the original decreed value or the assessed present value at the last transfer of the land in question in the calculation of the then applicable value increment tax payable, in addition to the rates provided under Subparagraphs 1 and 2 above, the portion in excess of 200% shall be subject to a 40% tax rate.
4. The reduction for land ownership held in the long-term is as follows:
   a. For land that has been owned for a period of over 20 years, the increment tax on the portion exceeding the lowest tax rate above shall be reduced by 20%.
   b. For land that has been owned for a period of over 30 years, the increment tax on the portion exceeding the lowest tax rate above shall be reduced by 30%.
   c. For land that has been owned for a period of over 40 years, the increment tax on the portion exceeding the lowest tax rate above shall be reduced by 40%.

Formula for the Calculation of the Amount of
Land Value Increment Tax Payable

Classes	Formula for Calculation
First Class	Tax Payable = Total Amount of Land Value Increment (After adjustment is made pursuant to the consumer price index, and the increment is not in excess of 100% of the original decreed value or the assessed present value of last transfer) × Rate (20%)
Second Class	Tax Payable = Total Amount of Land Value Increment (After adjustment is made pursuant to the consumer price index, and the increment is in excess of 100%, but less than 200% of the last transfer) × [Rate (30%) – (30% – 20%) × Reduced Rate] – Cumulative Difference (Original decreed value or assessed present value of last transfer as adjusted according to the consumer price index × A) Note: For land that has been owned for a period of not over 20 years, there is no reduction; A is 0.10. For land that has been owned for a period of over 20 years, the reduced rate is 20%; A is 0.08. For land that has been owned for a period of over 30 years, the reduced rate is 30%; A is 0.07. For land that has been owned for a period of over 40 years, the reduced rate is 40%; A is 0.06.
Third Class	Tax Payable = Total Amount of Land Value Increment (After adjustment is made pursuant to the consumer price index, and the increment is in excess of 200% of the original decreed value or the assessed present value of last transfer) × [Rate (40%) – (40% – 20%) × Reduced Rate] – Cumulative Difference (Original decreed value or assessed present value of last transfer as adjusted by the consumer price index × B) Note: For land that has been owned for a period of not over 20 years, there is no reduction; B is 0.30. For land that has been owned for a period of over 20 years, the reduced rate is 20%; B is 0.24. For land that has been owned for a period of over 30 years, the reduced rate is 30%; B is 0.21. For land that has been owned for a period of over 40 years, the reduced rate is 40%; B is 0.18.

F. Privileged Rate

If the sale of self-use residential land by the title owner satisfies the following conditions, the land value increment tax thereof shall be collected at a privileged rate of 10%.

1. That part of urban land not exceeding 3 acres and non-urban land not exceeding 7 acres.
2. Either the title owner, his or her spouse, or lineal descendant or ascendant or member of the household entitled to maintenance is living on the land with household registration duly entered.
3. The parcel of land in question was not rented or used for business purposes in the last full year before transfer.
4. The title owner may apply for and enjoy this privileged rate of land value increment tax only once in his or her lifetime. The sale of self-use residential land will not qualify for the above-mentioned privileged rate if the attached building has been completed for less than one year and its value does not exceed 10% of the announced present value of the land.

   In the case that the landowner sells self-use residential land after the terms of the preceding paragraph have been exhausted, the land value increment tax imposed thereon shall not be governed by the once-in-a-lifetime restriction as provided in the preceding paragraph if the following conditions are met:

   a. That part of urban land not exceeding 1.5 acres and non-urban land not exceeding 3.5 acres;
   b. At the time of selling, the landowner, his or her spouse, and his or her minor children have no other house except the self-use residence sold;
   c. The landowner has owned the self-use residential land for a period of over six years before its sale;
   d. The landowner, his or her spouse, and his or her minor children have maintained their household registration at the location of the self-use residential land and owned the self-use residence for a period of six consecutive years before its sale;
   e. The land has never been used for business purposes or rented in the last five years before its sale.

G. Reductions and Exemptions

The provisions for reductions and exemptions for land value increment tax are as follows:

1. Public land sold by any level of government or land transferred due to succession shall be fully exempted.
2. Land bestowed by or to any level of government shall be fully exempted.
3. Land requisitioned by the government shall be fully exempted.

4. A reduction of 40% is granted to land being transferred for the very first time after any consolidation of the land in question. However, this reduction shall only apply to land re-zoned for consolidation after the first decree of land value and transferred after the implementation of the Statute for the Equalization of Urban Land Rights.
5. At the time of land consolidation, if land used for public facilities and land used for offsetting the construction fees or cost of land consolidation and interest on a loan made are therefore undertaken of and by the land owner according to the provisions of the law, then the land in question shall be fully exempted. Land not eligible for the allotment of land value difference due to its small and narrow size resulting in a consequential exclusion from distribution shall be fully exempted.
6. In the severing of commonly-owned land, the value of which has been secured by each owner after such severance, if such value is equal to the original *pro rata* value, it shall be fully exempted.
7. When agricultural land in use for agricultural purposes is transferred to a natural person the increment tax thereof may not be taxable.
8. When a productive enterprise has moved to an industrial zone, the increment tax payable for sale or transfer of its original factory land shall be subject to the rate of the lowest tax bracket.
9. Land donated for the purposes of establishing social welfare enterprises or private schools in accordance with the laws shall be fully exempted.
10. Land bestowed on a spouse may not be taxable.
11. The transfer of trust land based on a trust relationship between the interested parties shall not be taxable.
12. Land reserved for public facilities pursuant to the Urban Planning Act, which is transferred before requisition, shall be exempted.

H. Refund of Tax in Cases of Reacquisition of Land

When a land owner who has sold his or her land or has had his or her land requisitioned by the government and who reacquires the land within two years following the completion of the transfer registration or following the day the land value compensation was received, and the reacquired land satisfies one of the following provisions, if the value of the reacquired land is in excess of the balance of the original land value sold or the compensated land value less than the land value increment tax paid, the land owner may apply to the collection authority-in-charge for refund of the portion of land value increment tax paid to make up the difference to be paid for the reacquisition of the land.

1. Residential land for self-use

   After self-use residential land has been sold or requisitioned, the owner acquires a parcel of urban land not exceeding 300 square meters or non-urban land not exceeding 700 square meters, also for his or her own residential use.

2. Land used for a self-operated factory

   After self-operated factory land has been sold or requisitioned, the original owner acquires another parcel of land for factory building within any industrial district as designated by city planning or government categorization.

3. Self-tilled agricultural land

   After self-tilled agricultural land has been sold or requisitioned, the owner acquires another parcel of agricultural land and retains it for self-tilling.

4. When a land owner sells his or her land or has his or her land requisitioned by the government within two years after acquiring other land, he or she is entitled to apply for the above-mentioned refund.

Items 1 and 4 will not qualify for the above-mentioned refund if the land sold or requisitioned was rented or used for business purposes in the last full year before transfer. The original sale value means other land value used for the calculation of the land value increment tax at the time of the said transfer.

I. Limitations of Tax Refunds in Land Reacquisition

If the land value increment tax has been refunded to a land owner due to reacquisition, and the land owner transfers the reacquired land within five years from the day of completing the transfer registration for the reacquisition, in addition to the land value increment tax to be paid for the subsequent transfer, he or she must also pay back the tax refunded. A similar return of tax to be refunded will apply when the land reacquired is being used for purposes other than the original purposes.

V. Other Provisions

A. Priorities

The collection of land value increment tax and land value tax shall take priority over any other kind of debt or mortgage right.

B. Penalty Provisions

1. Anyone who is responsible for paying the tax ("the taxpayer") or who is responsible by law for paying on behalf of the taxpayer must pay the tax in full on or before the last payment date as designated on the tax payment notice; otherwise a late payment fee of 1% will be imposed for every two full days beyond the deadline, and if the payment is not completed within 30 days, the matter shall be referred to the courts for enforcement.

2. When a taxpayer attempts to evade or reduce his or her tax payment obligation by means of modifying (mutation), hiding or not reporting to the competent authority the disappearance of otherwise qualifying conditions for the application of any privileged rate or reduction or exemption, he or she shall pay the balance evaded or lessened and shall be subject to a fine of no more than three times the amount of tax evaded.

3. After a sale-purchase transaction of land, such land must be duly registered to reflect such change of title before a further transfer, otherwise, a fine of 2% of the reselling value of the later transfer shall be imposed as a penalty.

CHAPTER XV

HOUSE TAX

I. General Description

In 1943, the ROC government promulgated the House Dues Act, which prescribed that towns with 500 or more households were permitted to tax houses at a rate of no more than 5% of the value of the house, or, in the case of rental, the rent of the house. In 1950, the Act was amended to tax at different rates based on the status of the owner and the purpose for which the house was used, i.e., residential purpose by the owner, residential purpose by the tenant, business purpose by the owner, or business purpose by the tenant. In 1955, the Act was again amended to expand the scope of taxation to houses attached to land and such other buildings which enhanced the utility value of these houses. In addition, it also made a 50% reduction available for plant houses directly used for the purpose of production in order to support the policy of encouraging the development of industry.

In 1967, the House Dues Act was amended. In this amendment the name was changed to the House Tax Act. In addition, the following significant amendments were enacted:

A. The house tax was levied according to the current value of a house; however, houses were still taxed at different rates based on the purposes for which the houses were used.

B. The current value of a house used to calculate the house tax is assessed by the real estate assessment committee and publicly announced.

C. Exemption and reduction provisions were written into the Act.

D. Declaration procedures were established and a penal provision for failure to declare was also written into the Act to effect enforcement and to increase the effectiveness of the procedures.

In accordance with the Act for Governing the Allocation of Government Revenues and Expenditures, the revenue raised from the house tax goes to the local government, and is one of the most important financial resources for special municipalities and counties (cities). In order to enforce it consistently among the counties and cities of the country, the Act was enacted by the central government. However, each local government is permitted to have its own regulations, according to the various conditions in each county (city), for enforcing the Act.

II. Tax Scope

The house tax shall be levied on all houses attached to land and on such other buildings which enhance the utility value of these houses.

III. Taxpayers

A. The house tax shall be collected from the house owner.

B. Where a right of dien* exists, the house tax shall be collected from the dien-holder.

C. Where a house is jointly owned by more than one person, the house tax shall be collected from the joint owners who shall designate one of themselves to pay the tax on their behalf. In the case that no one is designated to pay the tax, the present occupant or user shall pay on behalf of the joint owners. In cases where the house tax paid by the present occupant or user exceeds the obligation he or she is to meet, he or she has the right to request the other joint owners to refund to him or her, the excess amount he or she has paid.

In the case that a house is a trust property and the trust is in force, the taxpayer of its house tax shall be the trustee.

In cases where the whereabouts of the house owner or dien-holder referred to above is unknown, or if he or she is not domiciled in the locality where the house is situated, the house tax shall be paid by the manager or present occupant of the house. In cases where the house is rented, the house tax shall be paid by the tenant and deducted from the rent payable to the owner.

IV. Tax Rates

The house tax is one of the main resources of local governments. To balance the development of each county and city, the Act set up maximum and minimum rates, and left the actual rates enforced to be decided by the local government.

A. The maximum and minimum rates

The house tax shall be levied according to the current value of the house at the following rates:

1. For a house used for residential purposes but not occupied by the owner, his or her spouse or relatives of a direct lineage of the household, the rate shall not be lower than 1.5% nor higher than 3.6% of its current value. In the case where the house is used for residential purposes by the owner him or herself, his or her spouse or relatives of a direct lineage of the household or leased for public welfare purposes, the rate shall be 1.2% of its current value.

2. For a house used for business purposes, as a private hospital or clinic, or as a professional office, the rate shall not be lower than 3% nor higher than 5% of its current value. In the case where the house is used as the premises for the operation of a non-profit civic organization, the rate shall not be lower than 1.5% nor be higher than 2.5 % of its current value.

---

*According to the ROC Civil Code, dien is a form of lease for a maximum period of 30 years. The dien-holder takes possession of a person's real estate and has the right to use it and enjoy the income therefrom.

3. For a house used for both residential and non-residential purposes, the house tax thereon shall be levied at the respective rates levied on the area of a house for residential and non-residential purposes, provided, however, that the taxable area for non-residential purposes shall not be less than one-sixth of the total area of the house.

B. The actual rates enforced: The house tax rates shall be fixed by the government of each county (city) and submitted, after being approved by the local people's assembly, through regular channels to the MOF for record. However, the provincial government considers that rates should be necessarily unified, so after being approved by the Provincial Assembly, they are sent to the MOF for the record. In the case of a special municipality under the direct jurisdiction of the Executive Yuan, the municipal government may fix the tax rates and submit them, after being approved by the municipal assembly, to the MOF for record.

C. The actual rates enforced in Taiwan Province, Taipei City, Kaohsiung City, New Taipei City, Taoyuan City, Taichung City, and Tainan City are listed in the following table.

<table>
<tr><th>Classification of Houses</th><th>Max. Rates</th><th>Min. Rates</th><th colspan="2">Actual Rates Enforced by the Majority of Counties (Cities)</th></tr>
<tr><td>A House used for Residential Purposes by the Owner, His or Her Spouse or Relatives of a Direct Lineage of the Household or Leased for Public Welfare Purposes</td><td>1.2%</td><td>1.2%</td><td>Taiwan Province
New Taipei City
Taipei City
Taoyuan City
Taichung City
Tainan City
Kaohsiung City</td><td>1.2%</td></tr>
<tr><td rowspan="2">A House used for Residential Purposes But Not Occupied by the Owner, His or Her Spouse or Relatives of Direct Lineage of the Household</td><td rowspan="2">3.6%</td><td rowspan="2">1.5%</td><td>Taiwan Province
New Taipei City
Taoyuan City
Taichung City
Tainan City
Kaohsiung City</td><td>1.5% or other percentages to be determined by local governments</td></tr>
<tr><td>Taipei City</td><td>2.4% for one to two houses;
3.6% for three houses or more</td></tr>
<tr><td>A House used for Business Purposes, a Private Hospitals, Clinic or a Professional Office</td><td>5.0%</td><td>3.0%</td><td>Taiwan Province
New Taipei City
Taipei City
Taoyuan City
Taichung City
Tainan City
Kaohsiung City</td><td>3.0%</td></tr>
<tr><td>The Premises for the Operation of Non-Profit Civic Organizations</td><td>2.5%</td><td>1.5%</td><td>Taiwan Province
New Taipei City
Taipei City
Taoyuan City
Taichung City
Tainan City
Kaohsiung City</td><td>1.5% or 2.0%
2.0%
2.0%
1.5%
2.0%
2.0%
2.0%</td></tr>
</table>

D. In cases where a house has not received building ownership registration and the house owner is unknown, the house tax shall be collected from the original constructor recorded on the use license. In cases where a house does not have a use license, the house tax shall be collected from the original constructor on the construction license. In cases where a house does not have a construction license, the house tax shall be collected from the manager or present occupant of the house.

The house tax of a trust house shall be collected from the trustee during the term of persistence of the trust relationship.

V. Exemptions and Reductions

A. Tax Exemptions for Public Buildings

No house tax shall be levied on public buildings used as:

1. Office buildings of government agencies at each level of government or local autonomous organizations, including houses provided to their employees.
2. Office buildings of military institutes and units including houses provided to their officers and other personnel.
3. Detention house(s) and office building(s) of a prison as well as houses provided to the employees of the prison.
4. School buildings, hospital buildings, and office buildings of a public school, hospital, social (educational or academic research) institute, or institute providing public relief as well as houses provided to their employees.
5. Research or laboratory houses of industrial, mining, agricultural, forestry, water conservancy, fishery, or stock-farming enterprises (or institutes).
6. Warehouses of the food administration and the salt administration, as well as the plant buildings and office buildings of government-owned monopolies and government run-waterworks.
7. Buildings for postal services, telecommunication services, railway services, highway services, aeronautics, meteorological services, or harbor services including houses provided to their employees.
8. Places preserved as scenic spots or for the housing of ancient relics, and shrines dedicated to the memory of sages and martyrs.
9. Buildings assigned by the government for housing poor people.
10. Buildings used by government-operated enterprises to train retired officers and other personnel for employment.

B. Tax Exemptions for Private Buildings

No house tax shall be levied on any of the following private buildings:

1. School buildings and the office buildings owned by a private school or an academic research institute that has been duly registered as a non-profit foundation and has achieved a creditable record, as attested to by the competent authorities.
2. Buildings owned and directly used to carry out the activities of a private charitable institution which has been duly registered as a non-profit foundation and has achieved a creditable record, as attested by the competent authorities.
3. Shrines used exclusively for ancestral worship, or churches and temples owned and used by religious groups for religious services, and where the owner has been duly registered as a non-profit foundation or temple.
4. Buildings offered without cost to government organizations for public or military use.
5. Office(s) owned by a non-profit service organization whose establishment has been duly authorized by the government and which does not limit its or their service to people of the same trade, the same locality, or the same schoolmates or clansmen, unless it is a labor union registered according to the Labor Union Law and has been approved for exemption by special municipal, county, or city government through the local tax authority.
6. Buildings for stock farming, greenhouses for cultivating agricultural products, buildings for growing rice seedlings, agriculture reproduction, water pumps, kilns for smoking tobacco, drying machines for rice and tea leaves, storing agricultural machines and dung heaps, and so on.
7. Buildings of which more than 50% of the floor area has been destroyed by a disaster(s), and which must be repaired before they are usable. However, the exemption shall be decided after due investigation by the collection authority-in-charge upon the receipt of a report made by the taxpayer concerned within 30 days of the date of occurrence of the disaster(s).
8. Buildings owned by a judicial protection institution.
9. A house which is for residential use and its current value is less than NT$100,000; according to its reassessed standard value, the amount should be adjusted when the standard value is adjusted.
10. Warehouses of farmers' associations used exclusively for storage of public rice by each food administration, as attested to by competent authorities.
11. Buildings acquired based on a trust deed by a charitable trust, which is authorized by the government, and used for non-profit business.

C. Tax Reductions

The house tax on the following private houses shall be reduced by half:

1. Dwelling houses sold by the government to people in need at reduced prices.

2. Buildings owned by a factory duly registered according to law and used directly for production.
3. Warehouses and houses used for testing purposes which are owned and used by a farmer's association.
4. Houses of which more than 30% but less than 50% of the floor area has been destroyed. However, the reduction shall be decided after due investigation by the collection authority-in-charge upon receipt of a report made by the taxpayer concerned within 30 days of the date of occurrence of the disaster(s).

VI. Tax Returns and Payments

A. Reporting on the Current Value and Use of a House

Within 30 days after the completion of construction of a house, the taxpayer shall declare its current value and report its use to the local collection authority-in-charge. In case of any new additions, re-building, change in use, transfer of ownership, or creation of a right of dien, the same procedure shall be followed.

B. Assessing the Current Value of a Taxable House

1. Real estate assessment committee and the standard value table for houses
   a. In each special municipal, county, or city there shall be organized a real estate assessment committee composed of officers in charge and experts in construction techniques. The members of the committee thus organized shall include representatives of the local people's assembly and related civil organizations, and the number of such representatives shall not be fewer than two-fifths of the total members of the committee. The regulations governing the organization of such a committee shall be proclaimed by the MOF.
   b. The standard value of a house shall be assessed by the real estate assessment committee, taking into consideration each of the following items. In the case of a special municipality, a county or a city, the standard values assessed shall be publicly announced by the municipal, the county, or the city government.
      (1) The category and the grade of each house, determined according to the nature of the materials used for its construction.
      (2) The durability of the various categories of houses and the criteria for depreciation applicable thereto.
      (3) The standard value of a house is fixed by taking into consideration the commercial and traffic conditions of the locality where the house is situated, as well as the supply and demand of houses there, and also by comparing the prevailing sales prices of the houses in different sections of the same locality, and finally by subtracting from the provisional estimates the value of the land on which the house is built.

2. The determination of the current value of a house. The local collection authority-in-charge shall, on the basis of the taxpayer's declaration and in light of the assessment made by the real estate assessment committee, calculate the current value of a house. The current value of a house so calculated shall be given to the taxpayer by the local collection authority-in-charge. In the case where the taxpayer takes exception to the current value of the house as calculated by the local collection authority-in-charge, he or she may, within 30 days from the date of notification, file a request for re-calculation by presenting along with the request any relevant documentary evidence he or she has.
3. The adjustment of the current value of a house: The standard values of a taxable house shall be reassessed every three years, and the current value of a house shall also be adjusted by taking into account its durability and depreciation.
4. Tax collection and payment
    a. The house tax shall be collected yearly. In the case where a house is newly built, rebuilt, or expanded, the house tax shall be levied thereon according to the months remaining in the year of completion. However, no house tax shall be levied for any period shorter than one month.
    b. The taxpayer shall pay the house tax to the national treasury within one month after receipt of his or her tax bill.
    c. In the case where the taxpayer takes exception to the amount of his or her tax due, he or she shall file a request for re-examination within 30 days after notification. In the case where the taxpayer again takes exception to the amount of the tax as re-calculated by the local collection authority-in-charge, he or she may petition the competent government authorities for remedy and, if necessary, file an administrative suit.

VII. Other Provisions

A. In the case where the failure of a taxpayer to declare the current value of his or her house within the set time limit leads to tax evasion, he or she shall be subject to, besides being liable to pay the tax payable, a fine which is no more than double the amount of the tax payable.

B. If a house taxpayer falls into arrears, but pays his or her tax within 30 days after the due day, he or she will be subject to a surcharge for belated payment at 1% of his or her house tax payable for every two days in arrears. Where no payment of the tax is made after the 30-day period, the case shall be referred to the court for forcible enforcement.

C. It is not permitted to effect a transfer an ownership or create a right of dien before delinquent house tax is paid.

CHAPTER XVI

OTHER TAXES

I. Stamp Tax

A. General Description

The Stamp Tax Law was amended in January, 1986. After the amendment, only four items remained taxable. The revenue generated from stamp taxation amounted to only 0.5% of total tax revenue in 2007. This trend indicates that the stamp tax will be phased out in the not too distant future.

B. Tax Scope

The items currently subject to the levy of the stamp tax are:

1. Receipts of monetary payments: e.g., the receipt, slip, release, bank book, payment record, and the like issued to identify monetary payments.
2. Deeds for sale of movables.
3. Contracting agreements: Agreements executed for the completion of a specifically ordered work or task, e.g., construction contracts, printing contracts, OEM contracts, and the like.
4. Deeds or contracts for sale, gratuitous transfer, partition or exchange of real estate or pledge of lien on real estate to be submitted to government agencies for registration.

C. Taxpayers

The taxpayers of the stamp tax vary depending upon the category of documentation. In principle, the person who executes contracts, deeds, or receipts shall be subject to the levy of the stamp tax. They are:

1. A person who executes monetary receipts shall pay stamp taxes by affixing stamps purchased at government-designated offices.
2. A person who executes contracting agreements.
3. A person who executes contracts or deeds for sale, gratuitous transfer, partition, or exchange of real estate or pledge of lien.
4. A person who executes contracts for the sale of movables.

D. Exemptions

1. Contracts or deeds executed by all levels of government agencies.
2. Monetary receipts executed by public or private schools or colleges.

3. Deeds or documents executed by government-owned or private enterprises internally and not involved in rights or obligations with third parties, e.g., the payrolls of employees, and receipts issued for internal use between the head office and branches.
4. Debit notes sent out for claim of payments or audit purposes.
5. Copies or abstracts, in which case a tax stamp is annexed to the original, with the exception that when such copy or abstract is presented in place of its original, the stamp tax becomes payable.
6. Bus tickets, boat tickets, airfare tickets, and other tickets for carriage of passengers or cargoes.
7. The receipts from sales of self-cultivated agricultural products issued by farmers or issued by wholesalers at the first wholesale level on behalf of farmers.
8. Receipts identifying payments of salaries or wages.
9. Receipts identifying payments of social benefits, alimony, or retirement pay.
10. Receipts for taxes or donations to the government issued by collecting agencies.
11. Receipts presented to the government for compensation by those who obligatorily make disbursement in lieu of the government.
12. Receipts identifying tax refunds.
13. Receipts issued for sales of tax stamps.
14. Receipts for donations issued by corporate entities organized for educational, cultural, social welfare, or benevolent purposes.
15. Receipts issued by the Agricultural Land and Water Association to its members for payment for irrigation services.
16. Contracts for construction or repair of aircraft, ships, or boats engaged in transnational navigation.
17. Documents evidencing corporate mergers.

E. Tax Rates

1. Monetary receipts: Tax stamps are affixed at 0.4% of the amount received, with the exception of 0.1% for money deposited by bidders.
2. Contracting agreements: Tax stamps are affixed at 0.1% of the contract price.
3. Contracts of deeds for sale, gratuitous transfer, exchange, or partition of or pledge of lien on real estate: Tax stamps are affixed at 0.1% of the contract price or value of the real estate.
4. Contracts for sale of movables: Tax stamps are affixed at NT$12 per piece.

F. Tax Returns and Payments

The stamp tax can be paid by one of the following three methods:

1. Affixation of tax stamps: Taxpayers may purchase tax stamps at government-designated offices and affix them on the contracts, deeds, receipts, or documents executed, and after affixation the edges of the stamps should be chopped in order to cancel them. Such chops may be replaced by personal signature.
2. Affixation of tax payment receipts: In the case that the tax payable is so large that the method provided in the preceding paragraph is impractical, a taxpayer may apply to the local tax authority for issuance of a tax payment notice and pay the stamp tax to a designated financial institution, and then affix the payment receipt to the taxable documents.
3. Collective payment method: A simplified payment procedure may be used in cases where a great number of contracts, deeds, or receipts are executed by any publicly-owned or private enterprise in its everyday business. The stamp taxes incurred thereon within every two months may, upon the approval of the competent authority, be paid by submission of a collective tax return within the first 15 days after the two-month period, in which case affixation of tax stamps is waived.

G. Other Provisions

1. Investigation

   Tax offices are obliged to monitor the payment of stamp tax from time to time. An investigation shall be made of the major taxable items or businesses, in the company of local police personnel or government officers.

2. Penalty provisions

   a. Any omission in affixing tax stamps or affixing fewer tax stamps than required, or when the stamp tax has not been collected, shall be imposed a penalty of five or up to fifteen times the tax payable.
   b. In case of payment of the stamp tax through the collective method, a late payment shall be subject to a belated surcharge of 1% for every two days up to 15%, beyond which the tax owed shall be referred to the courts for enforcement, together with a penalty to be imposed of one or up to five times the tax payable.
   c. A penalty of five or up to ten times the stamp tax shall be imposed in the event that the taxpayer fails to cancel the edges of the stamps or otherwise nullify the stamps.
   d. A penalty of 20 or up to 30 times the value of the stamp tax shall be imposed in the event that the stamps having been chopped on the edges or otherwise nullified are affixed on newly-executed taxable items.

II. Securities Transactions Tax

A. General Description

In September, 1946, the ROC promulgated the Securities Transactions Tax Act (STTA). The act provides that all securities exchange transactions are subject to a securities transactions tax.

The STTA was first revised in December, 1955, but imposition of the STT was not enforced in the ROC until January, 1956.

Subsequently, the government of the ROC, considering the underdeveloped nature of the economy at the time, suspended the imposition of the STT for the three periods below:

1. October, 1960 to June, 1965;
2. August, 1971 to December, 1972; and
3. June, 1985 to December, 1986.

The STTA was reimposed in January, 1987, but not until 1st January, 1990 was it fully imposed in accordance with the revision of the Income Tax Act and the STTA.

B. Tax Scope

The STT is imposed upon securities exchange transactions. Securities are defined as: (a) shares or share certificates issued by companies; (b) corporate bonds; (c) any securities offered to the public which have been duly approved by the government; and (d) government bonds.

C. Taxpayers

Whoever sells securities pays the STT. A securities dealer which sells its own securities shall pay STT itself; except that, to facilitate collection, the STT is withheld and paid by the tax collecting agent upon each securities exchange transaction since there are a great number of people selling securities, and such sellers are in different locations. This means that while securities sellers are the taxpayers, the STT is usually collected through tax collecting agents.

D. Tax Rates

The STT is calculated at the following rates for each securities exchange transaction price:

1. 0.3% of the shares or share certificates issued by companies.
2. 0.1% of the corporate bonds or any securities offered to the public which have been duly approved by the government. However, transactions of corporate bonds and financial debentures shall be exempted from the STT during the period from 1st January, 2010 to 31st December, 2016.

E. Exemptions

All government bonds are entitled to exemption from the STT.

The following types of securities are also entitled to exemption from the STT:

1. Any new shares issued by a new company or by a company in connection with an increase in its capital.
2. Any corporate bonds initially issued and offered to the public which have been duly approved by the competent authority.
3. Any securities acquired by succession or donation.

F. Tax Returns and Payments

As noted above, the STT is usually withheld by a tax collecting agent for and on behalf of the particular seller at 0.3% or 0.1% of the transaction price on the day on which each securities exchange transaction is concluded and then paid to the Treasury the next day. The tax collecting agent and the securities dealers who sell their own securities are also required to submit a statement to the collection authority-in-charge prior to or on the fifth day of the following month. The statement shall include the name and address of the seller; the name, quantity, unit price, and total price of the securities traded; and the aggregate amount of the STT. Upon withholding the STT, the tax collecting agent shall issue and deliver a receipt to the seller. The receipt can be in the form of a monthly account reconciliation statement when the tax collecting agent is a securities underwriter.

The following institutions shall be deemed tax collecting agents:

1. In the case where securities are sold by securities underwriters, the underwriters handling such transactions will be the collecting agents.
2. Whoever is allowed by the competent authority to do business as a securities broker and to engage in trading in securities on behalf of clients through the stock exchange.
3. A transferee of securities if a securities holder transfers his or her securities to the transferee directly. If securities are auctioned by the court, the transferee of the securities shall be the auction winner.

G. Other Provisions

1. Collecting fee

   A tax collecting agent shall be entitled to collect a fee of 0.1% of the STT collected in accordance with legal procedures and within the prescribed time limit; however the collecting fee for each agent shall not exceed NT$24 million in each year.

2. Penalty

   a. A tax collecting agent shall be required to collect the STT defaulted and pay a penalty ranging from one to ten times the STT defaulted if the agent fails to collect the STT payable or if the STT is under-collected. The collecting agent shall be fined NT$1,500 to NT$3,000 as a non-filing surcharge if he or she fails to file an exchange transaction list or files a fraudulent list. Securities dealers under Article 3, Paragraph 3 are required to act in the same way as collecting agents in the payment of tax and filing of exchange transaction lists and shall be fined as above in the case of failure to pay the tax or file.

The process of administrative remedy shall not be applied in the case of the above non-filing surcharge.

b. Any securities seller or buyer who evades the STT in a fraudulent or improper manner shall be penalized 20 times the amount evaded; any tax collecting agent who is guilty of committing the same act shall be subject to a penalty of 40 times the amount evaded.

c. If a tax collecting agent or a securities dealer fails to surrender any of the STT collected within the prescribed time limit, the agent or securities dealer shall, for every two days he or she is in default, pay a surcharge for the belated payment calculated at 1% of the amount in arrears. The case shall be referred for compulsory enforcement if the agent is in default for 30 days or longer.

III. Futures Transactions Tax

A. General Description

The Futures Transactions Tax Act was enacted and promulgated by the President on 20th June, 1998, pursuant to the Futures Transactions Act for the stable development of the futures market and to achieve a balance of the tax burden between the futures market and the stock market.

B. Tax Scope

Transactions of futures within the ROC shall be subject to futures transactions tax in accordance with the provisions of this Act.

C. Taxpayers

The definition of a taxpayer is taken to mean both parties to the futures transaction. However, the collection of futures transactions tax in the ROC is accomplished by futures brokers directly involved in futures transactions, who act as collection agents for the government.

D. Tax Rates

1. Stock index and single stock futures contracts: Transaction tax is levied per transaction at a rate of not less than 0.0000125% and not more than 0.06%, based on the value of the futures contract. The current applicable tax rate is 0.002%.

2. Interest rate futures contracts: Transaction tax is levied per transaction at a rate of not less than 0.0000125% and not more than 0.00025% based on the value of the futures contract. The current applicable tax rate of 10-year government bond futures is 0.000125%.

3. Option contracts or option contracts on futures: Transaction tax is levied per transaction at a rate of not less than 0.1% and not more than 0.6%, based on the premium paid. The current applicable tax rate is 0.1%.
4. Other futures contracts: Transaction tax is levied per transaction at a rate of not less than 0.0000125% and not more than 0.06%, based on the value of the futures contract. The current applicable tax rate of gold futures is 0.00025%, and the applicable tax rate of “USD/CNT FX Futures” and “USD/CNH FX Futures” is 0.0001%.

Table of Tax Rates and Current Applicable Tax Rates of Future Contracts

Category		Tax Rate (Allowed Range)	Current Applicable Rate as of 1st January, 2016
Stock Index and Single Stock Futures Contracts		0.0000125%~0.06%	0.002%
Interest Rate Futures Contracts	10-Year Government Bond Futures	0.0000125%~0.00025%	0.000125%
Option Contracts or Option on Futures		0.1%~0.6%	0.1%
Other Futures Contracts	Gold futures	0.0000125%~0.06%	0.00025%
	“USD/CNT FX Futures” and “USD/CNH FX Futures”		0.0001%

The applicable rates in the items of Paragraph 1 of Article 2 of the Act shall be decided respectively by the MOF subject to the approval of the Executive Yuan.

In a futures contract where the buyer and seller settle by the difference in value upon or before the expiration of the contract, the transaction tax payable by each shall be levied based on the settlement price in the market at the rates provided in the following regulations.

1. Option contracts or option contracts on futures regulated in Item 3 of Paragraph 1 of Article 2 of the Act shall be levied at the rates of Items 1, 2, or 4 of Paragraph 1 according to kind.
2. Futures contracts regulated in Items 1, 2, or 4 of Paragraph 1 of Article 2 of the Act shall be levied at the rates of that item.

E. Tax Returns and Payments

To enhance the timely collection of tax data, the futures transactions tax regulations require that futures brokers collect tax on each day's transactions according to the effective rate at that time.

The following day a form detailing the tax collected on the previous day must be filled out by the broker and sent to the Treasury.

The agent must also record daily the names and addresses of the principals dealing in futures that day, along with the type of futures transacted, quantity transacted, total value of the transaction, and total tax paid. This data should be collected and a monthly report submitted to the authority-in-charge of the futures transactions tax.

F. Other Provisions

1. Collection Fee

To promote complete service on the part of the tax collection agent, the Ministry provides a financial award for meritorious service equal to one thousandth of the total tax revenue. However, this financial award for each agent cannot exceed NT$24 million in each year.

2. Penalty

With respect to agents who fail to fulfill their obligations with respect to the required collection of taxes, the tax authorities are empowered to force the agent to pay any back taxes and may also fine the agent from between 10 to 30 times the amount of uncollected taxes. If minor reporting irregularities are found, the agent may be fined from NT$15,000 to a maximum of NT$30,000. Delays in remitting tax collections to the Treasury can result in charges which have to be paid by the agent.

IV. Vehicle License Tax

A. General Description

The collection of license plate taxes in our country began in 1936. For purposes of revenue generation, some provinces, cities, and prefectures began to collect license fees or user fees for cars and ships which are similar to a vehicle license tax. Due to differences in local procedures, the standards for collecting such fees differed widely. In February, 1947, all such collection procedures were standardized when the General Provisions for the Vehicle License Tax Collection Act were promulgated. Following several amendments, this Act was superseded by the Vehicle License Tax Act in May, 1950.

The Vehicle License Tax Act was amended nine times between 1955 and 1979. Initially, this tax was collected directly by city and prefecture governments. Gradually, via various amendments, the responsibility for levying and collecting vehicle license tax was transferred to the provincial level and was administered directly by cities. Very clear provisions now cover collection and registration procedures. Due to the rise in social standards and economic prosperity, the number of vehicles in use has greatly increased and this tax has become a major source of revenue for local governments.

B. Tax Scope

The owner of any form of transportation equipment using public roads or rivers, notwithstanding whether the use is for public, private, or military purposes, must apply to the tax authorities for an appropriate vehicle license and pay the tax due.

Public roads and rivers are those roads and rivers open for public use.

Transportation equipment is defined as vehicles and vessels. At present, vessels used for transportation purposes and non-motorized vehicles are not subject to the collection of a vehicle license tax.

C. Taxpayers

Owners or users of any form of transportation equipment subject to licensing hereunder are required to pay the vehicle license tax.

D. Tax Rates

The vehicle license tax is levied upon motor vehicles according to the following rate schedules:

Table of Rates for Small Passenger Vehicles

Cylinder Displacement (Cubic Centimeters)	Annual Fee (NT$) for Small Passenger Vehicles (Seating 9 or Fewer)	
	Private	Commercial
500 and below	1,620	900
501 - 600	2,160	1,260
601 - 1,200	4,320	2,160
1,201 - 1,800	7,120	3,060
1,801 - 2,400	11,230	6,480
2,401 - 3,000	15,210	9,900
3,001 - 4,200	28,220	16,380
4,201 - 5,400	46,170	24,300
5,401 - 6,600	69,690	33,660
6,601 - 7,800	117,000	44,460
7,801 and above	151,200	56,700

Table of Rates for Motorcycles

Cylinder Displacement (Cubic Centimeters)	Annual Fee (NT$) for Motorcycles
150 and below	0
151 - 250	800
251 - 500	1,620
501 - 600	2,160
601 - 1,200	4,320
1,201 - 1,800	7,120
1,801 and above	11,230

Table of Rates for Large Passenger Vehicles and Commercial Vehicles

Cylinder Displacement (Cubic Centimeters)	Annual Fee (NT$) for Large Passenger Vehicles (Seating 10 or More)	Trucks
500 and below	-	900
501 - 600	1,080	1,080
601 - 1,200	1,800	1,800
1,201 - 1,800	2,700	2,700
1,801 - 2,400	3,600	3,600
2,401 - 3,000	4,500	4,500
3,001 - 3,600	5,400	5,400
3,601 - 4,200	6,300	6,300
4,201 - 4,800	7,200	7,200
4,801 - 5,400	8,100	8,100
5,401 - 6,000	9,000	9,000
6,001 - 6,600	9,900	9,900
6,601 - 7,200	10,800	10,800
7,201 - 7,800	11,700	11,700
7,801 - 8,400	12,600	12,600
8,401 - 9,000	13,500	13,500
9,001 - 9,600	14,400	14,400
9,601 - 10,200	15,300	15,300
10,201 and above	16,200	16,200

Note: The tractor portion of a tractor-trailer truck is taxed at a rate 30% higher than that for a comparably-sized truck.

Table of Rates for Completely Electric-Operated Small Passenger Vehicles

Maximum Horsepower		Annual Fee (NT$) for Completely Electric-Operated Small Passenger Vehicles(Seating 9 or fewer)	
HP (British System)	PS (Metric System)	Private	Commercial
38 and below	38.6 and below	1,620	900
38.1-56	38.7-56.8	2,160	1,260
56.1-83	56.9-84.2	4,320	2,160
83.1-182	84.3-184.7	7,120	3,060
182.1-262	184.8-265.9	11,230	6,480
262.1-322	266.0-326.8	15,210	9,900
322.1-414	326.9-420.2	28,220	16,380
414.1-469	420.3-476.0	46,170	24,300
469.1-509	476.1-516.6	69,690	33,660
509.1 and above	516.7 and above	117,000	44,460

Table of Rates for Completely Electric-Operated Motorcycles

Maximum Horsepower		Annual Fee (NT$) for Completely Electric-Operated Motorcycles
HP (British System)	PS (Metric System)	
12 and below	12.2 and below	0
12.1-20	12.3-20.3	800
20.1-45	20.4-45.7	1,620

E. Exemptions

The following forms of transportation equipment are exempt from the vehicle license tax:

1. Military T/O transportation (designated contingent strength only, additional vehicles taxed).
2. Vessels on which tonnage levies have already been collected by a customs house and which are navigating within the jurisdiction of the said customs house.
3. Specially-equipped vehicles used exclusively for public safety purposes, such as police squad cars, detective and investigation unit cars, vehicles used for transporting prisoners, fire engines, specialized relief vehicles, and ocean rescue vessels.
4. Specially-equipped vehicles belonging to public hospitals or other public organizations and used exclusively for public health purposes, such as ambulances, hospital vehicles, water-spraying vehicles, sewage trucks, and refuse collection vehicles.
5. Cars owned by foreign nationals who enjoy diplomatic privileges, provided that approval has been granted by the Ministry of Foreign Affairs and special licenses have been obtained from the transportation authorities.

6. Specially-marked transportation vehicles used exclusively for transport of the mail.
7. Specially-marked or -equipped exhibition cars used exclusively for promoting education and culture.
8. For Vehicles used by a physically or mentally disabled person who carries a Physical/Mental Disability Manual or certificate issued by the authorities and has obtained a driver's license, limited to one vehicle per person; for a physically or mentally disabled person who does not have a driver's license due to physical or mental condition, and the vehicle is owned by himself/herself, his/her spouse, or a second-degree relative in the same household and which is to be used for the physically/mentally disabled person, one vehicle per disabled person. However, vehicles with a total cylinder displacement volume of over 2,400 cubic centimeters, and completely electric-operated with a maximum HP over 262 or PS over 265.9 shall be exempted from the amount of tax for 2,400 cubic centimeters, 262 HP or 265.9 PS.
9. Specially-marked vehicles owned and used by his or her social and welfare institution organization which have an identification document issued by the social and welfare authorities. Three such vehicles or under a total of three such vehicles are exempt for each social and welfare institution or organization.
10. Buses used exclusively for mass transportation and owned by enterprises of the highway bus industry or urban district bus industry, where these enterprises have been approved by the competent authority.
11. Transportation equipment driven in districts to which the Statute for Offshore Island Development applies and having a vehicle license issued by the local transportation authority. However, small passenger vehicles with total cylinder displacement volume over 2,400 cubic centimeters, completely electric-operated with a maximum HP over 262 or PS 265.9 are excluded.
12. Vehicles used in the taxi-cab industry will be exempted from vehicle license tax.

F. Collection Procedures

1. The vehicle license tax shall be collected in April each year; however, one-half of the tax on commercial vehicles may be paid during the normal collection period and the remainder paid by October of the same year.
2. The tax collection authorities shall, prior to the time when the tax is to be collected, deliver tax notifications to owners or users, and make public announcements with respect to the amount of tax due on the various types of transportation equipment and the beginning and ending dates of the collection period.
3. The owner or user of the vehicle shall report to the transportation and tax collection authorities to change or renew the license and pay the tax within the prescribed period.
4. A temporary license issued to the owner or user of a transportation vehicle or license for automobile testing issued to an automobile transportation agency, a sales agent, a

manufacturer or a repair shop shall be valid for a period not to exceed 15 days and the amount of tax payable shall be calculated on a daily basis in accordance with the type of transportation equipment in question.

5. If, after the transfer of a vehicle or as a result of change in the purpose of its use, the vehicle, which was originally tax exempt, becomes taxable, the new owner or user shall pay the vehicle license tax for the taxable period.
6. The vehicle license tax payable for a newly produced, imported, or assembled vehicle, when it first comes into use, shall be calculated by subtracting the amount of tax for the number of days that have elapsed from the amount of tax for the whole year.

G. Other Provisions

1. If the owner or user of a previously licensed vehicle fails to renew the said license and pay the corresponding tax within the prescribed period, a surcharge of 1% of the amount of the tax payable for each two days of default, up to a maximum of 30 days, shall be charged.
2. Where it is discovered that the owner or user of a vehicle, for which tax has not been paid after expiration of the period for delayed payment continues to use it on public roads and rivers, the violator shall be liable for the tax due plus a fine of no more than one time the amount of the tax payable and shall not be imposed the surcharge as described above.

   In the case where there is use of a license plate previously reported lost or canceled and its owner still uses public roads and rivers, the violator shall be liable for the tax due plus a fine of no more than twice the amount of the tax payable.
3. The following actions shall be construed as the removal of a license for use on another vehicle and violators shall be subject to a fine equivalent to twice the amount of the tax payable; however, the total fine imposed shall not exceed NT$150,000:
   a. The license plate of a vehicle is sold or removed for use on another vehicle.
   b. Use of a license plate previously reported lost or canceled;
   c. The machinery, framework, or seating of a licensed vehicle is changed or modified and the owner or user fails to make application for a change in registration to the transportation and tax authorities; and
   d. A vehicle, originally tax exempt, becomes taxable and the owner or user fails to change the registration and pay the tax due.
   e. The machinery, framework, or seating of a licensed vehicle which was originally exempted from tax or subject to a lower tax rate is changed or modified and thus becomes taxable or subject to a higher tax rate and the owner or user fails to make application for a change in registration to the transportation authority.

4. In cases where a newly purchased vehicle is without a license plate, a temporary license or an automobile testing license, and its owner fails to apply for a license but still uses public roads and rivers, the violator shall be liable for the tax due plus a fine of one time the amount of the tax payable.

V. Deed Tax

A. General Description

A deed tax was inaugurated in our country during the Eastern Chin Dynasty slightly more than 1,600 years ago, with contracts transferring land and building titles as the basis of assessment. At that time, since no modern type of taxation such as income tax, commodity tax, customs duties, or dues had been introduced to China, the deed tax, and the tax on farm land, were the most important sources of the government's fiscal revenue.

The Act on Deed Tax currently in force has been amended seven times since it was first promulgated in December, 1940, with unification of the collection of the deed tax not being attained until December, 1945, when the MOF announced "The Guidelines for the Assessment of Standard Prices" for immovable property for the whole country. In July, 1964, the deed tax was designated a local tax. In recent years, the revenue realized from the collection of the deed tax has constituted around 0.9% of total tax revenue and has become one of the major sources of fiscal revenue for local governments.

In January, 1951, the Executive Yuan promulgated "The Provisional Measures for Uniform Collection of Various Taxes and Assessments in Taiwan Province During the Period of Communist Rebellion" under which collection of the deed tax was suspended. In its place, a land registration fee was imposed in accordance with the Land Act at a rate of 1%, and as such a rate was far below the then effective average rate of 5% for the deed tax, financing for local governments was seriously affected.

As a result, collection of the deed tax was resumed and has been continued since February, 1952.

B. Tax Scope

Article 2 of the Statute on the Deed Tax provides that for transactions involving purchases and sales, acceptance of dien, exchange, bestowal or partition of immovable property, or acquisition of ownership thereof by virtue of possession, a report shall be made by using the prescribed deed forms for payment of the deed tax. However, if the land is located in an area where land increment tax is assessed, the deed tax shall be exempted.

So-called immovable property refers to both the land and the fixtures on the land. However, since now the appraisal of land value has been completed for all the land in the Taiwan area and the land value increment tax is assessed for transfer of land title or creation of dien, the deed tax is collectable in practice in the ROC only upon such immovable properties as a house or building and other fixtures on land.

C. Taxpayers

The taxpayers of the deed tax are those who acquire the title to or dien of the immovable properties, as described below in accordance with the respective deeds:

1. Deed tax on a purchase: To be reported and paid by the purchaser.
2. Deed tax on the creation of a dien: To be reported and paid by the dien-holder.
3. Deed tax on an exchange: To be reported and paid by each party to the exchange on the portion allocated to each party.
4. Deed tax on a bestowal or a donation: To be reported and paid by the donee.
5. Deed tax on a partition: To be reported and paid by the partitioner.
6. Deed tax on a possession: To be reported and paid by the person who takes possession of the immovable property and legally acquires its ownership.

D. Tax Rates

The deed tax is assessed according to respective deeds at different rates, as described below:

1. Tax rate
   a. Deed tax on a purchase and sale: 6% of the value of the deed.
   b. Deed tax on creation of a dien: 4% of the value of the deed.

      Where immovable property is first placed under a dien and then sold and the dien-holder and the purchaser are the same person, or the dien-holder acquires the ownership of the property through a dien, the deed tax at a rate of 2% of the value of the deed for the original dien shall be assessed so as to make up the difference between the deed tax on a purchase and sale and the deed tax on the creation of a dien.
   c. Deed tax on an exchange: 2% of the value of the deed.

      In the event that there is payment for the discrepancy in the exchange values, the deed tax shall be imposed upon the difference at the rate set forth for the deed tax on a purchase. If the value of each of the exchanged properties is different but there is no payment for this discrepancy, the deed tax on an exchange shall first be imposed on the basis of the exchanged property the value of which is lower, then the difference between the property of higher value and the property of lower value shall be deemed as a donation made to the party originally owning the lower value property by the party originally owning the higher value property for assessment of the deed tax on a donation.
   d. Deed tax on a bestowal or a donation: 6% of the value of the deed.
   e. Deed tax on a partition: 2% of the value of the deed.

f. Deed tax on a possession: 6% of the value of the deed.

2. Calculation of the tax

   The amount of the deed tax is calculated by multiplying the applicable tax rate by the value of the deed which is the standard price as determined by the real estate assessment committee of the local government. In the case of publicly-owned property purchased or bid from the government agency or immovable property acquired at court auction, and where the purchase price is below the standard price, the deed tax shall be imposed on the purchase price.

E. Reductions and Exemptions

In order to meet the needs of various government policies, such as the development of postal or telecommunications enterprises, encouragement of investment, export promotion, construction of public housing, etc., the measures for reductions and exemptions which have been adopted are as follows:

1. Immovable properties acquired for public use by all levels of government, local autonomous agencies, and public schools. However, this exemption shall not be applicable if such properties are used for any business purpose.
2. Immovable properties acquired for business use by government-operated postal and telecommunications enterprises.
3. Immovable properties whose ownership is acquired by exchange of publicly-owned immovable properties or by exchange of immovable properties as a result of land consolidation to meet the official needs of government bodies.
4. Where ownership of a building which has not yet been completed is transferred, and the new owner of the building does not receive the use license, such transaction is not subject to the deed tax.
5. Transactions involving building(s) in the process of construction, which are transferred from one constructor to another for the purpose of continuing construction and where the second constructor receives a use license, will not be subject to the deed tax.
6. Public housing units constructed by the government or through encouragement of investment.
7. Public housing units repurchased by public housing authorities by exercising the option to repurchase.
8. In the case of profit-seeking enterprises specifically approved by the Ministry of Economic Affairs for merger or consolidation, the deed tax and stamp tax resulting therefore shall be exempted for the purpose of promoting reasonable and sound operation and management.
9. Acquisition of a newly constructed standard factory building in an export processing zone from the Export Processing Zones Administration (EPZA) by an export enterprise,

or acquisition from the EPZA of a building construction purchased by the EPZA by requisition.

10. The transfer of a trust house based on a trust relationship between the interested parties.

F. Tax Returns and Payments

1. A taxpayer shall file a statement of deed tax, accompanied by the contract and related documents with the local tax collection office of the place in which the immovable property is located, (in a county, to be filed with the government of a township or city under the jurisdiction of the county) within 30 days from the date of the conclusion of the deed contract for purchase, acceptance of dien, exchange, bestowal or donation, partition of immovable properties, or from the date of applying for registration according to law to become the owner by virtue of possession. However, if a building has never been subject to a first-time registration of construction and then is the subject of a transaction involving purchase, exchange, bestowal or donation, or partition, both sides signing the contract shall jointly file a statement of deed tax.
2. In the case of disputes arising from the transfer of immovable properties, the starting date for reporting the deed tax shall be the date of final judgment rendered by the court.
3. For immovable property sold at court auction, the starting date for reporting the deed tax shall be the date of issue of the certificate for transfer of title to the immovable property by the court.
4. For immovable property sold by government agencies, the starting date for reporting shall be the date of issue of the certificate for transfer of title issued by such a government agency as specified therein.
5. Where a building which has not yet been completed is the subject of a transaction involving purchase, exchange, bestowal or donation, the new owner of the building becomes the original constructor of the construction license or the constructor of the said building changes to another constructor, and the new constructor receives a use license. For such a transaction, the starting date for reporting the deed tax shall commence from 30 days after the date of the issuance of a use license by the competent construction authority.
6. The tax collection office (in case of a county, township or city under the supervision of the county) shall, within 15 days of receipt of a statement of deed tax filed by a taxpayer, complete an examination, determine the amount of tax due, and issue a tax notice to the taxpayer for payment within the prescribed time limit.

G. Other Provisions

1. Surcharge for belated filing

   A taxpayer who fails to file a statement of deed tax within the prescribed period must pay a surcharge equal to 1% of the amount of the tax for each three days of delay;

however, the total fine imposed shall not exceed the amount of tax determined to be due or NT$15,000.

2. Surcharge for belated payment

   A taxpayer who fails to pay the deed tax within the prescribed period must pay a surcharge equal to 1% of the amount of the tax for each two days of delay. If the taxpayer fails to pay the tax and the surcharge for belated payment or the surcharge for belated filing for 30 days or more after the prescribed period, the matter shall be referred to the court for enforcement.

3. Administrative fine

   A taxpayer who fails to file a statement of deed tax upon transfer of immovable properties and his or her failure to do so has been discovered by the competent tax collection office at its own initiative or upon information brought by another person shall, in addition to payment of the tax due, be penalized by imposition of an administrative fine equal to one to three times the amount of tax due.

VI. Amusement Tax

A. General Description

The Feast and Amusement Tax Act was first promulgated in April, 1942 with a view to supporting the financing of local governments and to extend protection to social customs. The feast tax, however, proved too difficult to administer. Audit manpower in the competent authorities was insufficient to prevent tax evasion by consumers and restaurants for their mutual benefit. Further, few developed countries have levied a feast tax. Thus, to improve the tax system and to lessen the difficulties in tax administration, the government abolished the Feast and Amusement Tax Act in June, 1980, canceling the feast tax as such and integrating it into the business tax; the Amusement Tax Act was enacted at the same time as the legal basis for the assessment of the amusement tax.

B. Tax Scope

The amusement tax shall be levied on the prices of tickets sold or the fees collected by amusement businesses which provide any kind of on-site equipment or activities for entertainment. In the case that no tickets are sold but drinks or entertainment devices are supplied to the consumers, the tax shall be levied on the amount of the charges. The scope of the tax is as follows:

1. The cinema.
2. Professional singing, story-telling, dancing, circus, magic, acrobatics shows, and all kinds of performances in night clubs.
3. Drama, music performances, and amateur singing, dancing, etc.
4. All kinds of competitions and contests of skill.

5. Dance halls.
6. Golf clubs and the like that are provided as a form of recreation for consumers.

C. Taxpayers

Taxpayers of the amusement tax are those who pay the prices to enjoy the amusement. Providers or sponsors of sites, equipment, or activities for entertainment act as collection agents. To take the cinema as an example, those who watch movies are the taxpayers, while the theaters that collect the tax-included tickets and pay the tax to the Treasury are collection agents.

D. Tax Rates

The Amusement Tax Act specifies maximum legal rates, and the collection rates shall, within the maximum rates, be prescribed by the provincial and the city governments, respectively, approved by the local assembly of the same level, and reported to the MOF for its record. The maximum legal rates are as follows:

Classification	Maximum Legal Rates
The Cinema	
Chinese-Language Films	30%
Foreign-Language Films	60%
Professional Singing, Story-Telling, Dancing, Circus, Magic, Acrobatics Shows, and All Kinds of Performances in Night Clubs	30%
Drama, Music Performances, and Amateur Singing, Dancing, etc.	5%
All Kinds of Competitions and Contests of Skill	10%
Dance Halls	100%
Golf Clubs	20%
Other Activities That Are Provided as a Form of Recreation for Consumers	50%

E. Exemptions

Those amusement activities which meet any of the following regulations are exempt from the amusement tax:

1. All kinds of amusement provided by educational, cultural, public welfare, charitable institutions, or organizations conformable to a public welfare corporation or a foundation under the General Provisions of the Civil Act or duly registered with the competent authorities in accordance with other related laws or regulations, where the total proceeds are exclusively used by the said institutions or organizations.

2. All kinds of amusement, where the total proceeds, after deduction of necessary expenses, are used for disaster relief or military morale purposes, provided, however, that the deductible expenses shall not exceed 20% of the total proceeds.
3. Cultural and amusement activities provided temporarily and free of charge for employees by institutions, organizations, privately-owned or publicly-owned enterprises, schools, and other organizations.

F. Tax Returns and Payments

1. Collection agents of the amusement tax shall, at the time of collection, issue and deliver tickets as documentary evidence and shall have the tickets torn upon entry of the ticket holders; failure to do so shall be considered as non-collection. However, small-scale businesses, whose tax amounts are assessed according to the law by the local collection authority-in-charge, need not issue tickets.
2. All the tickets uniformly printed, serially numbered, and stamped by the competent authority shall be sold at cost to amusement businesses for their use. However, where tickets are sold for such amusement activities as may be temporarily provided, the responsible persons shall, prior to providing the amusement activities, submit the tickets with serial number and price indicated thereon to the local collection authority-in-charge for stamping, complete the tax payment guarantee procedure, and report and pay the tax collected in due time.
3. Collection agents shall, prior to the 10^{th} day of the following month, file returns and pay the tax collected each month. However, small-scale businesses or those operated in a special style, whose tax payable is assessed by the local collection authority-in-charge, shall pay the tax within 10 days of the day following the receipt of the tax-payment notice prepared by the said authority.
4. Those who temporarily provide amusement activities for a consideration shall, prior to the provision of such activities, apply for registration with the local collection authority-in-charge and ascertain whether or not it is necessary to pay the tax; where the amusement activities are provided free of charge, providers shall, prior to providing such activities, report to the local collection authority-in-charge for record by the authority.
5. Where the amusement activities are temporarily provided for a consideration, the local collection authority-in-charge shall, once every five days, calculate the tax payable and issue a tax payment notice to the taxpayers requiring them to pay the tax within 10 days of the day following the receipt of the notice.

G. Other Provisions

1. Collection agents who pay the tax collected to the Treasury within the prescribed time limit shall be given by the local collection authority-in-charge a pecuniary award equivalent to 1% of the amount of the tax paid. The aforementioned pecuniary award

shall be deducted by collection agents from the tax payable each time they make a tax payment.

2. Collection agents who fail to collect, under-collect, under-report, or do not report the amusement tax shall, in addition to being pursued for payment of the tax, be liable to a fine of five to ten times the amount of tax payable, and their business operations may also be suspended for a maximum period of not more than one month; however, if by the end of the period of suspended business operations the agents still have not discharged the required obligation, the penalty may continue to be imposed until such time as the obligation is discharged.
3. Collection agents who fail to apply for registration with the local collection authority-in-charge prior to the opening of business, removal, change to a new business, alteration, reorganization, merger, transfer of ownership, or suspension of business shall be liable to a fine of not less than NT$15,000 and not more than NT$150,000.

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-in-charge 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 collection authoritiy-in-charge 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, other event of force majeure, or being financially disadvantaged 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 18 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-in-charge 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-in-charge 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 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 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 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 MOF 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 collection authority-in-charge 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 6^{th} 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.

CHAPTER XVIII

TAX INCENTIVES

I. General Description

During the 1950s, our national savings were at a low ebb. Industrial development was just beginning to burgeon. In order to channel the savings of the citizens, attract foreign investment, and improve the investment environment, the ROC government amended the income tax laws in 1955, hoping to encourage economic growth. In 1960, the Statute for the Encouragement of Investment was enacted to meet the needs of the economic environment. The conclusion of this Statute was marked after a period of thirty years in 1990.

The remarkable achievement of economic development in the past three decades in Taiwan has been hailed world-wide as an "economic miracle." Although the contribution of hardworking people in the ROC is a significant factor in this achievement, the tax incentives provided by this Statute can not be neglected.

Given that the economy of the ROC has changed considerably due to the nature of the international and domestic environments, the growth rate of the gross national product has slowed down and the rate of inflation has been rising, the Statute for the Encouragement of Investment was no longer suited to the changing economy. For further development, the economic structure needed to be transformed and the industrial sector needed to be upgraded. Therefore, the ROC government promulgated "The Statute for Upgrading Industry" on 1st January, 1991 to replace the previous statute. This new statute was effective until 31st December, 1999. After 2000, due to the continued need for economic structural transformation and the promotion of international competitiveness, the tax incentive applications of this statute were amended and the effective period of the statute was extended from 31st December, 1999 to 31st December, 2009. Also, in accordance with the implementation of the income tax integration system, some of the tax incentives were limited to certain enterprises only.

The tax incentives provided under the Statute for Upgrading Industries were terminated on 31st December, 2009 and the Statute was abolished on 12th May, 2010. In order to encourage further industrial innovation, the ensuing "Statute for Industrial Innovation" was promulgated on 12th May, 2010 and provides a tax incentive for innovative R&D activities only. In addition, the Directions for the Termination of Chapter 2 and Article 70-1 of the Statute for Upgrading Industries were issued so as to deal with the tax issues arising in the transition period.

II. Tax Benefits of the Statute for Industrial Innovation

The Statute for Industrial Innovation offers a tax incentive whereby 15% of the amount invested in innovative R&D expenditure by a company may be credited from the profit-seeking enterprise income tax within a limit of 30% in the same year. Such tax incentive is retroactive and effective from 1st January, 2010 and is valid until 31st December, 2019.

Commencing on 30th December, 2015, three tax incentives are provided in the Statute for Industrial Innovation:

A. Tax Credit for R&D

A company has the option of choosing one of two choices in the number of years and the related tax credit rates for the claiming of the tax credit. That is to say, if an enterprise's R&D activities are qualified, the enterprise can choose to claim the tax credit within three years using a 10% tax credit rate or within the current year using a 15% tax credit rate.

B. Tax Deferral on Income in the Form of Stock from Technology Investment and Stock-based Employee Compensation

Where an individual or enterprise owns a license to use his/her/its intellectual property rights in his/her/its own R&D results and exchanges with a company in return for stock of the company which acquires these intellectual property rights, the individual or the enterprise may opt to defer assessment of the income tax on his/her/its income until the year of transfer or the fifth year after the year he/she/it subscribes for the shares.

Where a company employee acquires stock-based employee compensation, the employee may opt to defer the assessment of the income tax payable under the Income Tax Act on up to an annual total of NT$5 million worth of the acquired shares as calculated at the market price prevailing in the year of acquisition until the year of transfer or the fifth year after the year he/she acquires the shares.

Such tax incentives are retroactive and effective from 1st January, 2016 and are valid until 31st December, 2019.

C. 200 Percent Deduction of R&D Expenses

In order to promote the results of innovation or R&D, ROC individuals or companies may deduct 200 percent of the R&D expenses from the amount of revenue. A company has the option of choosing one of two choices: a Tax Credit for R&D or a 200 Percent Deduction of R&D Expenses. Such tax incentives are retroactive and effective from 1st January, 2016 and are valid until 31st December, 2019.

III. Tax Benefits for the Biotech and New Pharmaceuticals Industry

For the purpose of promoting the biotech and new pharmaceuticals industry, "The Act for the Development of Biotech and New Pharmaceuticals Industry" was enacted on 4th July, 2007, in which a biotech and new pharmaceuticals company may, for a period of five years from the time it is subject to profit-seeking enterprise income tax, enjoy a reduction in its income tax payable for up to 35% of the total funds invested in R&D and personnel training each year; provided, however, that if the R&D expenditure of a particular year exceeds the average R&D expenditure of the previous two years, or if the personnel training expenditure of a particular year exceeds the average personnel training expenditure of the previous two years, 50% of the amount in excess of the average may be used to credit against the amount of income tax payable.

The total amount of investment credited against the income tax payable in each year under the preceding paragraph shall not exceed 50% of the amount of income tax payable by a biotech and new pharmaceuticals company in a year; provided, however, that this restriction shall not apply to the amount to be offset in the last year of the aforesaid five-year period.

In order to encourage the establishment or expansion of biotech and new pharmaceuticals companies, a profit-seeking enterprise that (i) subscribes for the stock issued by a biotech and new pharmaceuticals company at the time of the latter's establishment or subsequent expansion; and (ii) has been a registered shareholder of the biotech and new pharmaceuticals company for a period of three years or more, may, for a period of five years from the time it is subject to profit-seeking enterprise income tax, enjoy a credit in its income tax payable for up to 20% of the total amount of the price paid for the subscription of shares in such biotech and new pharmaceuticals company; provided, that such biotech and new pharmaceuticals company has not applied for exemption from profit-seeking enterprise income tax or shareholder’s investment credit based on the subscription price under other applicable laws and regulations.

If the aforementioned profit-seeking enterprise is a venture capital company (“VC”), such VC’s corporate shareholders may, for a period of five years from the 4th anniversary of the date on which the VC becomes a registered shareholder of the subject biotech and new pharmaceuticals company, enjoy a credit in their profit-seeking enterprise income tax payable based on the total creditable amount enjoyed by the VC hereof and by the shareholders' respective shareholdings in the VC.

IV. Encouragement of Investment in Urban Area Renewal Projects

A corporation investing in the urban renewal business of an implemented urban renewal area designated by the competent authority may credit 20% of its total invested amount against its profit-seeking enterprise income tax payable for the then current year. If the income tax payable is not enough for the credit, it can be carried forward for four years.

However, the amount of the tax credit against the profit-seeking enterprise income tax payable in each year shall be limited to not more than 50% of the amount of the profit-seeking enterprise income tax payable in the same year with the exception that this limitation shall not apply to the creditable amount in the last year of the said four-year period.

V. Tax Benefits for the Development of International Airport Parks

The International Airport Park Development Act was implemented on 23rd January, 2009. Articles 21 and 35 of the Act stipulate that an airport company may be exempted from business tax, land tax, and house tax. The Act also regulates that foreign profit-seeking enterprises which use the logistic services in the international airport park shall be exempted from profit-seeking enterprise income tax so as to enhance competitiveness and to promote the prosperous development of the airport and its locality.

VI. Tax Benefits for Free Trade Zones

According to Articles 24, 26, 28, and 29 of the Act for the Establishment and Management of Free Trade Zones, certain goods to be transported from a tax area to a free trade zone may apply for tax reduction, exemption or return of customs duties, certain goods traded between free-trade-zone enterprises and the enterprises in a tax area or a bonded area may apply for zero business tax rate, and foreign profit-seeking enterprises which use logistics services for the purposes of storing and/or performing simple processing or sell the metals certified by the approved foreign Metal Exchange and with the same HS Code approved by the competent authority in a free trade zone may be exempted from profit-seeking enterprise income tax. The aforesaid tax incentives will help promote trade liberalization and internationalization, and enhance international competitiveness.

VII. Tax Benefits for Small-and-Medium Size Enterprises

Commencing on 20th May, 2014, 3 tax incentives are provided in the Act for Development of Small-and-Medium Size Enterprises:

A. Tax Credit for R&D

Small-and-medium size enterprises have the option of choosing one of two choices in the number of years and the related tax rates for the claiming of the tax credit. That is to say, if an enterprise's R&D activities are qualified, the enterprise can choose to claim the tax credit within three years using a 10% tax credit rate or within the current year using a 15% tax credit rate.

B. Tax Deferral on Income in the Form of Stock from transfer of Intellectual Property

In order to encourage small-and-medium size enterprises to invest in innovation, where a small-and-medium size enterprise or an individual owns the intellectual property rights and exchanges with an unlisted company in return for common stock of the company which acquires the right, the enterprise or individual will receive a tax-deferral for the transfer of the intellectual property right.

C. Encouragement of Increase of Employees

In order to enhance employment, small-and-medium size enterprises may claim 130% of the salary of newly recruited employees as deductible expenses.

In order to enhance employment, small-and-medium size enterprises may claim 150% of the salary of newly recruited employees who are 24 years old or younger as deductible expenses. Such tax incentive is retroactive and effective from 1st January, 2016 and is valid until 19th May, 2024.

D. Encouragement of Incremental Salary Payment of Employees

In order to raise the average salary paid to domestic entry-level employees, excluding statutory basic wage adjustment, small-and-medium size enterprises may claim 130% of the incremental salary as deductible expenses. Such tax incentive is retroactive and effective from 1st January, 2016 and is valid until 19th May, 2024.

VIII. Tax Benefits for Promoting Private Participation in Infrastructure Projects

The Act for Promotion of Private Participation in Infrastructure Projects was promulgated on 9th February, 2000. This Act was enacted to upgrade the level of public service, expedite social economic development, and encourage private participation in infrastructure projects.

To reduce the capital requirements and financial burdens that private investors face and thereby encourage more investment, tax incentives are provided to enhance self-liquidation of projects and reduce risks. For major public infrastructure projects, this Act includes the following tax incentives:

A. 5-Year Exemption from Profit-Seeking Enterprise Income Tax

A private institution participating in a major infrastructure project may be exempted from profit-seeking enterprise income tax for a maximum period of 5 years from the year in which taxable income is derived after the infrastructure project begins operations.

B. Profit-Seeking Enterprise Income Tax Credit on Certain Investment Expenditures

A private institution participating in a major infrastructure project may credit 5% to 20% of the certain expenditures incurred against the profit-seeking enterprise income tax payable in the then current year. In case the amount of the profit-seeking enterprise income tax payable in the then current year is less than the creditable amount, the balance thereof may be credited against the profit-seeking enterprise income tax payable in the 4 ensuing years.

The amount of the tax credit against the profit-seeking enterprise income tax payable in each year shall not exceed 50% of the amount of the profit-seeking enterprise income tax payable in the then current year for the private institution, except in the last year of the 4-year period..

C. Land Value Tax, House Tax, and Deeds Tax Reductions

The land value tax and the house tax leviable on the real estate for direct use by a private institution during the building or operations of a major infrastructure project in which the private institution participates, and the deed tax leviable at the time of acquisition of such real estate may be reduced or completely exempted at the discretion of the authorities.

D. Tax Credit for Profit-seeking Enterprise Shareholder of Private Institution

Where a profit-seeking enterprise subscribes for or underwrites the registered stock issued by a private institution participating in a major infrastructure project upon its incorporation or expansion and has held such registered stock for a period of 4 years or more, such a profit-seeking enterprise, starting from the fifth year of the date on which such a profit-seeking enterprise has held such registered stock, may credit up to 20% of the price paid for acquisition of such stock against the profit-seeking enterprise income tax payable in the then current year. In case the amount of the profit-seeking enterprise income tax payable is less than the creditable amount, the balance thereof may be credited against the profit-seeking enterprise income tax payable in the 4 ensuing years.

The amount of the tax credit against the profit-seeking enterprise income tax payable in each year shall not exceed 50% of the amount of the profit-seeking enterprise income tax payable in the then current year for the private institution, except in the last year of the 4-year period..

IX .Tax Benefits of the Abolished Statute for Upgrading Industries

A. Tax Benefits for the Encouragement of Investment

1. Acceleration of Depreciation for Upgraded Equipment

   The serviceable life of instruments and equipment purchased by a company for exclusive use for research and development (R&D) purposes, experiments, and/or inspection of quality, or machinery and equipment purchased by a company and used for energy saving purposes or employing new and clean energy, may be accelerated by two years; however, if there is any post-depreciation residual value during the accelerated serviceable life, asset depreciation may continue over one year or several years within the serviceable life of such assets as specified in the Income Tax Act, until the permissible depreciation is completed.

2. Tax Credits for Upgraded Equipment

   To meet the requirements of industrial upgrading, a company may credit 5% to 20% of the amount of funds disbursed for any of the following purposes against the amount of profit-seeking enterprise income tax payable within five years starting from the current year:

   a. Funds invested in equipment used for automation of production or production technology;

   b. Funds invested in equipment or technology used for reclamation of resources and/or pollution control;

   c. Clean energy, energy saving, or recycling of water for industrial use;

d. Funds invested in the equipment or technology used for the reduction of greenhouse gas emissions or the enhancement of energy efficiency; and

e. Funds invested in hardware or software or technology used for the internet, television functions, enterprise resource planning, communications and telecommunications products, electronics, television-video, digitized content production, etc. to enhance the efficiency of digital information.

A company may credit up to 35% of the amount of funds invested for R&D and personnel training against the amount of profit-seeking enterprise income tax payable within five years starting from the then current year. In the case that the R&D and/or personnel training expenditure of the then current year is greater than the average R&D expenditure of the previous two years, 50% of the excess amount may be credited against the amount of profit-seeking enterprise income tax.

3. Credit for the Encouragement of Geographical Balance

In order to promote the balanced development of industries in various geographical areas, in the case where a company invests a specific amount of capital or employs a specific number of employees in specific industries in a county or township area with scanty natural resources or of slow development, it may credit up to 20% of the total amount of its investment against the amount of profit-seeking enterprise income tax payable within five years starting from the then current year.

4. Encouragement of Newly Emerging, Important, and Strategic Enterprises

In order to encourage the incorporation or expansion of newly emerging, important, and strategic industries which are of high risk, worthy of support, and helpful for economic development, an investor, being a profit-seeking enterprise or an individual, who subscribes or underwrites the registered stock issued by such industries and has held such stock for a period of three years or longer, may be granted credit against the profit-seeking enterprise income tax or the consolidated income tax payable within five years starting from the then current year:

a. A profit-seeking enterprise may credit up to 20% of the price paid for acquisition of such stock against the profit-seeking enterprise income tax in the then current year.

b. An individual may credit up to 10% of the price paid for acquisition of such stock against the consolidated income tax payable in the then current year. However, the deductible amount shall be limited to not more than 50% of the consolidated income tax payable in the then current year for the individual, with the exception that this limitation shall not apply to the deductible amount in the last year of the said four-year period.

The tax credit rate of the preceding Item b. in the preceding paragraph shall be lowered by 1% every two years from 1st January, 2000.

A company which is a newly emerging, important, and strategic industry may, within two years from the beginning date for payment of the stock price by its shareholders select through the approval of its shareholders' meeting, make an application for the investment incentive in the form of exemption from profit-seeking enterprise income tax for a period of five consecutive years and for the waiver of shareholders' investment credit against payable income tax as set forth in the preceding paragraph. However, once the selection is made, no change shall be allowed.

Where a company selects the tax exemption described in the preceding paragraph, during the exemption period, the equipment shall still be subject to depreciation according to the serviceable life of fixed assets as provided for in the Income Tax Act.

5. Encouragement to Import Machinery and Equipment Not Produced by the ROC

   From 1st January, 2002, machinery and equipment imported from abroad by companies in scientific industries for their business operations shall be exempt from import tax and business tax provided that corresponding machinery and equipment has not been manufactured and produced by ROC companies and such import has been specifically approved by the Ministry of Economic Affairs.

6. Encouragement of Investment in Manufacturing and the Technical Services Industry

   To further economic development and encourage investment in the manufacturing industry and its related technical services industry, from 1st January, 2002 to 31st December, 2003, or from 1st July, 2008 to 31st December, 2009, companies which were newly incorporated or had undergone an expansion by capital increase shall be exempted from profit-seeking enterprise income tax in accordance with the following provisions:

   a. In the case of a newly incorporated company, it shall be exempted from profit-seeking enterprise income tax for a period of five consecutive years from the date on which it begins to sell its products or to render services.

   b. In the case of the expansion of an existing company by capital increase, the company shall be exempted from profit-seeking enterprise income tax levied on the increased income derived as a result of such expansion for a period of five consecutive years from the date that the newly added equipment starts to operate or the rendition of services begins.

   The company eligible for exemption from profit-seeking income tax under the aforesaid description may, within two years from the date on which it begins to sell its products or to render its services, decide to defer, at its own discretion, the commencement date of the tax exemption period; provided that the maximum period of such deferment shall not exceed four years from the date on which it begins to sell its products or to render its services, and that the commencement date of such deferred tax exemption period shall be the beginning date of a fiscal year.

The ceiling of the aforesaid exemption will be the total amount of the investment, if the investment is made between 1st July, 2008 and 31st December, 2009.

Where a company is already eligible for application of the investment incentives provided in Articles 8 or 9 of the Statute for Upgrading Industry, it shall not be entitled to the application of the investment incentive provided for in the Article 9-2 of the Statue. From 1st July, 2008 to 31st December, 2009, companies which were newly incorporated or had undergone an expansion by capital increase could apply for the exemption only once.

7. Encouragement of Enterprises to Invest Abroad

   For the outward investment made, in response to government policy, by a company with the approval of the collection authority-in-charge of the end enterprise concerned, an amount of up to 20% of the total amount of such outward investment may be set aside as the reserve for loss in outward investment so as to cover the investment loss upon its occurrence.

8. Encouragement of Investment by Non-Resident Individuals or Non-Resident Enterprises

   Where a non-resident individual or a non-resident profit-seeking enterprise, having been approved to make investment in the ROC under the Statute for Investment by Overseas Chinese or the Statute for Investment by Foreign Nationals, receives dividends distributed by a company located in the ROC or profits distributed by a partnership in the ROC, the income tax payable thereon by such individual or enterprise shall be withheld at the time of payment thereof by the withholding agent as specified in the Income Tax Act at the rate of 20% of such distribution, and the provisions provided in the Income Tax Act for filing a final income tax return shall not apply.

9. Exemption for Income Tax on Salaries of Foreign Personnel Dispatched to the ROC by a Foreign Profit-Seeking Enterprise

   Where a foreign profit-seeking enterprise, having been approved to make investment in the ROC under the Statute for Investment by Overseas Chinese or the Statute for Investment by Foreign Nationals, has dispatched its directors, managerial officers, or technical personnel to the ROC to perform temporary work, such as investment-making and plant construction, or market survey, and has had them reside in the ROC for a period or periods of less than 183 days aggregate in a taxable year, their salaries paid outside the ROC by the said profit-seeking enterprise shall not be considered as income sourced in the ROC.

10. Exemption for Profit-Seeking Enterprise Income Tax on Logistics Distribution Centers in the ROC

    Logistics distribution centers established in the ROC by foreign profit-seeking enterprises or their branch offices in the ROC, whether operated by themselves or by other domestic enterprises through commissioning arrangements, solely for storage, simple processing, and delivery of goods to their domestic customers, shall be exempted from profit-seeking enterprise income tax.

B. Tax Benefits for Promoting the Reasonable Operation of an Enterprise

1. Encouragement of Merger or Consolidation

Where a company enters into merger or consolidation for the purpose of rationalizing its operations and management, the following provisions shall govern:

a. The company shall be exempt from stamp tax, deed tax, securities transaction tax, and business tax payable as a result of such merger or consolidation.

b. Where the land previously used directly by the enterprise is transferred along with the merger or consolidation, registration shall be made for the transfer of the ownership of the land immediately after the current value of the land has been duly assessed according to law; the land value increment tax payable may be charged to the account of and paid by the enterprise surviving after the merger or consolidation at the time the land is further transferred. Upon the bankruptcy or dissolution of the surviving enterprise, the land-value increment tax previously charged to its account shall be paid in priority over all other debts.

c. Where machinery and equipment previously owned by the enterprise is sold in accordance with the approved merger or consolidation plan, the proceeds realized from such sale subsequently used for payment in whole for purchase of new machinery and equipment under the merger and consolidation plan shall be exempt from stamp tax.

d. Where land and plant buildings previously owned by the enterprise as factory sites and/or mining districts are sold in accordance with the approved merger and consolidation plan, the proceeds realized from such sales and subsequently used for payment in whole for purchase or acquisition of new land and plant buildings under the merger and consolidation plan shall be exempt from deed tax and stamp tax payable by the merged enterprise.

e. If, as a result of merger and consolidation, land previously used directly by the enterprise as a factory site is sold and other land is purchased for construction of plant buildings in the designated industrial district, or in an industrial district in another urban plan or on other designated industrial land established pursuant to the Statute for Encouragement of Investment prior to the effective date of this Statute, and the price paid for such land is in excess of the selling price of the original land less the land value increment tax paid, then for such deficit amount for the purchase of the new land, the merged enterprise may request the competent tax collection authority to refund, to the extent of such deficit, the amount of land value increment tax already paid.

f. The provisions in the preceding item shall apply, *mutatis mutandis*, to a case where the purchase of land for construction of a factory has to be effected prior to the sale of the land of the original factory in order to satisfy the needs of production operation.

g. The goodwill generated from a merger may be amortized within fifteen years.

h. The expenses incurred from a merger may be amortized within ten years.

Where companies enter into merger in accordance with the provisions of the preceding paragraph, the surviving company or the new company, which is in the realm of newly emerging, important, and strategic enterprises, and is qualified for the relevant exemption from the profit-seeking enterprise income tax, may take over the residual tax incentives enjoyed by the company which is being dissolved. However, during the exemption period, the surviving company or the new company shall continue to produce the products or provide the services as encouraged by this Statute.

If a profit-seeking enterprise organized in the form of a company, with respect to the years in which losses were sustained and deductions were therefore claimed, has maintained a complete set of relevant accounting records, books, and supporting vouchers, used the blue tax return declaration form as specified in Article 77 of the Income Tax Act or its records and books have been audited and certified by a certified public accountant, and made timely filing of income tax returns and payment of profit-seeking enterprise income tax due, then the surviving company or the newly incorporated company after the merger may, when filing its profit-seeking enterprise income tax return, have the losses sustained within five years prior to the year of the implementation of the merger by all participating companies in the merger and duly approved by the competent taxation authority, but which have not been offset against their operating earnings, deducted in proportion to the amount of the equity shares of the surviving company or the newly incorporated company held respectively by the shareholders thereof from the net operating earnings declared in each taxable year within five years from the year of the occurrence of such losses.

2. Deduction of Land Value Increment Tax Upon the Relocation of Factories

In the case where a company sells or transfers the land of its original factory site to others when moving its factory to an industrial district, or an industrial district in an urban plan or designated industrial land established pursuant to the Statute for Encouragement of Investment prior to the effective date of this Statute on account of any of the following reasons, the land value increment tax payable by the said enterprise shall be assessed at the tax rate applicable to the lowest tax bracket:

a. The use of the original factory land becomes incompatible with the zoning rules concerning the implementation of an urban plan or regional plan.

b. In order to meet the requirements of pollution control, public safety, or maintaining the natural landscape, the company has taken the initiative to apply for the relocation of its factory and such application has been approved by the competent authority.

c. The factory is relocated under assistance initiated by the government.

3. Tax Exemption on the Value of Assets Increased Upon Revaluation

The appreciated value of the assets of a profit-seeking enterprise resulting from a revaluation of assets made in accordance with the Income Tax Act shall not be considered taxable income.

C. Tax Benefits for Operational Headquarters

In order to encourage companies to manage worldwide resources for international operations, an operational headquarters that is established in the territory of the ROC, and that has reached a certain economic scale and is expected to create a significant effect on the economy, is exempt from the profit-seeking enterprise income tax on the following incomes:

1. Income received from the provision of management services or R&D activities for its foreign-associated enterprises.
2. Royalties received from its foreign-associated enterprises.
3. Dividends received from its foreign-associated enterprises and capital gains from the alienation of shares of its foreign-associated enterprises.

D. Other Tax Benefits

Where a patent right legally obtained by a national of the ROC from his or her own creation or invention is provided or sold to a company in the ROC for its use, with the approval of the authority in charge of the end enterprise concerned, 50% of the royalty paid by the company for use thereof, or the proceeds derived from selling such right to the company for its use, shall be excluded from the amount of his or her consolidated income for taxation.

APPENDIX

A GENERAL DESCRIPTION OF THE IMPUTATION SYSTEM IN THE ROC

I. Introduction

The income tax system of the ROC consists of a profit-seeking enterprise income tax and an individual income tax. Profit-seeking enterprise income tax is imposed on the profits of profit-seeking enterprises, including corporations, partnerships, proprietorships, and other organizations such as co-operatives, foundations, or societies. The individual income tax is imposed on the consolidated income, including dividends, of an individual.

Before the 1997 tax reform, business profits were first taxed at the corporate level at a rate of 25%, and the distributed after-tax profits, which were received as the dividend income of an individual, were subject to individual income tax according to the individual shareholder's tax rate, ranging from 6% to 40%. The combined tax rate on distributed profits could be as high as 55%.

As a result, enterprises would tend to retain earnings to avoid being taxed twice and prefer debt rather than equity financing to reduce their income tax burden. The distortion caused by inadequate financing could have an adverse effect on the financial soundness of a corporation and also hamper the development of the stock market.

To improve the efficiency and fairness of the income tax system, the MOF modified the relevant tax law and regulations. The revision received legislative approval and came into effect on 1st January, 1998.

Generally speaking, the modification takes into consideration both the fairness and efficiency of the taxation. It will reduce the tax burden of taxpayers on investment income, from a maximum of 55% to a maximum of 40%, which is the highest marginal individual income tax rate. It is also expected to improve the overall economic environment by providing a lower tax burden with fewer obstacles and to promote the competitive ability of the economy.

The most substantial modification contains an integration system for dividend taxation which allows shareholders a credit for profit-seeking enterprise income tax against the individual income tax liability on the dividends they receive. The system is based on the following principles:

A. The income shall be taxed once rather than being taxed twice or not being taxed at all.

B. The imputation credit is not extended to non-resident shareholders.

C. The tax incentives extended to a corporation will not be passed on to its shareholders, and which amount will only be taxed as individual income tax.

D. The amount of the imputation credit is calculated only on business income tax paid within the ROC.

In addition, a 10% profit-seeking enterprise income surtax is charged on undistributed earnings in order to curb tax deferment by the retention of earnings.

In order to achieve the goals of fiscal sustainability and fairness in taxation, starting from 2015, the MOF will follow the trend in international tax reform, further adjusting the taxation on dividends received by the individual resident shareholders from full imputation to partial imputation, so that, in the case when a profit-seeking enterprise distributes dividends, the dividend tax credit of the individual resident shareholders shall be half of the amount of the profit-seeking enterprise's income tax (including the 10% surtax) paid by the profit-seeking enterprise. As a part of the aforesaid tax reform, the amount of the 10% surtax allowed to offset the withholding tax on the dividends to non-resident shareholders is also reduced to half.

II. Major Amendments Regarding the Imputation System

An essential feature of the imputation scheme is a mechanism for ensuring that the imputation credits are granted correctly, and only for the profit-seeking enterprise income tax paid in the ROC, not including any foreign tax paid. Only resident shareholders are eligible for the imputation credit. An account-based approach is adopted as a means of limiting credits to the amount of profit-seeking enterprise income tax paid within the ROC. Under this approach, companies should keep an "imputation credit account" to keep track of the tax paid and the imputation credit that they have allocated to shareholders. The credits will be allocated in a uniformly pro-rated way so that they will not be exhausted right away.

A. For Corporations

Corporations shall set up an imputation credit account, and record the amount of profit-seeking enterprise income tax paid in the ROC. When the earnings are distributed, the company shall calculate the imputation credit available to its shareholders. The withholding tax on dividends is no longer required on the dividends paid to resident shareholders.

The credit available to shareholders is calculated by multiplying the net dividend received by a creditable ratio, which is the maximum credit available for companies to allocate to shareholders. The creditable ratio and imputation tax credit shall be calculated as follows:

$$\text{Creditable Ratio} = \frac{\text{Balance of Imputation Credit account}}{\text{Accumulated Retained Earnings since 1998}}$$

$$\text{Imputation Credit} = \text{Net Dividend} \times \text{Creditable Ratio}$$

However, in the case of the amount of the deductible tax of an individual shareholder residing in the territory of the ROC, the imputation tax credit = amount of the net dividend (or earning) × creditable ratio × 50%.

The balance of the imputation account in turn is determined by the amount of profit-seeking enterprise income tax paid by the company, plus the amount of credit passed on from dividends received from reinvestments, plus the surtax paid on undistributed earnings, minus credits which have been allocated to shareholders and other designated items. However, such ratio should be subject to the ceilings arising from the specific formula. Because of the reduction in the tax rate of the profit-seeking enterprise since 2010, the ceilings are revised as follows:

1. 33.33% if the accumulated retained earnings before 2009 have been not subject to 10% surtax. And 20.48% if the accumulated retained earnings after 2010 have been not subject to 10% surtax.
2. 48.15% if all the accumulated retained earnings before 2009 have been subject to 10% surtax. And 33.87% if all the accumulated retained earnings after 2010 have been subject to 10% surtax.
3. For an aggregate amount of undistributed earnings that have been partially subject to 10% surtax and have been partially not subject to 10% surtax: the sum of the creditable ratio to be calculated respectively based on the applicable tax creditable ratios specified in the preceding two items in respect of the different proportions of the aforesaid two parts of undistributed earnings to the aggregate amount of the undistributed earnings.

In this way, the ratio may vary from company to company according to a company’s tax liability.

Corporations shall issue a dividend voucher to their shareholders stating the amount of the net dividend paid and the credit imputed thereon before or on 10th February following the year the distribution is made. In the case that three national holidays occur in immediate succession in January, the period of the issuance of dividend vouchers shall be extended to 15th February.

B. For Shareholders

Upon receiving dividends, shareholders will be notified by the company of the imputation credit to which they are entitled. They should include in their assessable income every year the grossed-up dividend income (gross dividend), according to the dividend voucher, which consists of net dividend received and any imputed credit thereon. An individual shareholder’s income tax liability for the same year may be offset by the imputation credit received. The imputation credit received by a corporation shareholder shall not be credited against its profit-seeking enterprise income tax liability, and shall be passed on to its shareholders. A cash refund is available to individuals for any excess of the imputation credit, but not for corporation shareholders. There are no longer any withholding taxes on dividends paid to resident shareholders; dividends paid to non-residents, however, are still subject to withholding.

In addition, after the modification, dividends received after 1st January, 1999 will no longer be included in the special deduction for savings and investment, which had granted an exemption on interest and dividend income up to NT$270,000.

III. Calculation of Corporate Income Surtax on Undistributed Earnings

Due to the discrepancy between the highest marginal profit-seeking enterprise income tax rate and the highest marginal individual income tax rate, an additional 10% profit-seeking enterprise income surtax will be payable on undistributed earnings, consisting of after-tax income retained by a company rather than being distributed as dividends to shareholders in the then current year. After the surtax is paid, the amount of earnings may be accumulated without any limitation. Credit will also be given for the surtax if the after-surtax retained earnings are distributed later on.

Beginning from 1998, the after-tax earnings derived by a company shall incur a 10% surtax if not distributed in the then current year. For example, the profits earned in Year 1 shall be filed in Year 2, and the distribution shall be made in Year 2. If the profits are not distributed by the end of Year 2, the corporation shall calculate the additional tax payable, file the undistributed earnings amount in Year 3 along with the profits earned in Year 2, and make the payment before the deadline.

The undistributed earnings were calculated by adding certain items back into the assessed taxable income before 2005. However, beginning from the year 2005, undistributed earnings have been calculated on the basis of the amount of income after tax as calculated by a profit-seeking enterprise in accordance with the Commercial Accounting Act, less the sums of the following items:

A. Make-up of the losses in previous years and the next-year-loss which has been duly audited and certified by a certified public accountant;

B. Net dividends or net earnings which have been distributed from the earnings gained in the current year;

C. Legally-earned surplus reserve having been set aside from the surplus earnings of the current year in accordance with the Company Act or other acts, the legal reserve and the public interest reserve having been set aside in accordance with the Co-Operative Act;

D. Sinking fund reserve or restricted distributable surplus earnings which were required to be set aside or restricted from distribution under any treaty signed by the nation with another country, or under any agreement signed in accordance with the economic assistance or loan agreement signed by the nation with any international organization;

E. Bonus or remuneration paid to directors, governors and employees from surplus earnings in accordance with the provisions of the articles of incorporation of the company or co-operative;

F. Special reserve or restricted distributable surplus earnings which were required to be set aside or restricted from distribution of the surplus earnings of the current year pursuant to the order given by the competent authority in accordance with the provisions of other laws;

G. Capital reserve which was required to be transformed from income after tax pursuant to the provisions of other laws; and

H. Other accounts as approved by the MOF.

The amount of the accounts specified in the preceding Items 2 to 7 shall be limited to those actually occurring prior to the end of the fiscal year following the year in which the respective incomes are taxable.

In the case where the financial statements in the current year of a profit-seeking enterprise were duly audited and certified by a certified public accountant, the amount of income after tax shall be based on the amount which was assessed by such certified public accountant. However, if thereafter the collection authority-in-charge conducts an assessment of such financial statements and makes an adjustment to the amount of income after tax, the original amount shall be replaced by the amount after such adjustment of which the authority-in-charge has informed the enterprise.

If the reasons why distributable surplus earnings were restricted from distribution pursuant to the preceding Items 4 and 6 are no longer pertaining, the part of which the distributable surplus earnings therefrom have been undistributed prior to the end of the fiscal year following the year when the reasons no longer pertain shall be added to the surplus earnings of the year when the reasons no longer pertain and be subject to a levy of 10% surtax.

IV. Taxation of Non-Resident Shareholders

The introduction of the imputation system did not substantially affect the tax liability of non-resident shareholders. Dividends paid to non-resident shareholders are subject to a withholding tax at the same rates as before; the tax incentives which were enjoyed by foreign investors also remain the same as before. The imputation credit is not given to non-resident shareholders whose withholding taxes are final. However, half the amount of the 10% surtax paid at the corporate level is allowed to offset the withholding tax on the dividends distributed to non-residents. If a foreigner stays in the ROC for no less than 183 days in a taxable year, and has become a resident for income tax purposes, he or she may also be entitled to the imputation credit.

A “non-resident” is defined as a non-resident individual or a profit-seeking enterprise having not its head office within the territory of the ROC.

The creditable amount on the 10% surtax paid shall be half the amount calculated using the following formula:

Balance amount of the 10% surcharge of profit-seeking income tax which was actually paid under the provisions of undistributed earnings each year on the dividends or surplus earnings distribution date × [(Distributed amount of net dividends or net surplus earnings subject to a 10% surcharge of profit-seeking income tax) ÷ (Balance amount in the accumulative undistributed earnings of which 10% of profit-seeking enterprise income tax was already levied on the dividends or surplus earnings distribution date)] × Shareholding ratio of non-resident shareholders on the dividends or surplus earnings distribution date

Ceiling on the creditable amount = Distributed amount of net dividends or net surplus earnings subject to a 10% surcharge of profit-seeking income tax received by non-resident shareholders × 10%

V. Comparison of the Differences in Account-Keeping

After the implementation of the imputation system, the account-keeping and the tax-related documentation requirements are slightly different than before. Though additional work is required to calculate the creditable tax and the chargeable surtax, some procedures are simplified while others remain the same.

Simplified Item

Item	Explanation
Withholding Obligations of Corporations	Upon distribution, only the dividend paid to non-residents shall be withheld. There is no withholding tax on dividends paid to resident shareholders.

Identical Items

Item	Explanation
Account-Keeping Procedures of Corporations	Remains unchanged.
Filing of Dividend Vouchers	Remains unchanged.
Filing of Individual Income Tax	Filing of the dividend amount according to the dividend voucher.

Additional Work

Item	Explanation
Setting Up of an Imputation Credit Account and Keeping of Correct Records	The imputation credit account shall be kept as a memorandum, which is unrelated to a company’s financial accounting, so that the imputable tax credit can be correctly determined based on the account.
Calculation of the Credit Imputed on Dividends Distributed to Shareholders	A corporation should calculate the exact amount of the imputed credit for each of its shareholders.
Calculation and Filing of the 10% Surtax on Undistributed Earnings	For every year that earnings are not totally distributed before the due date, the company shall file a return stating the amount and the additional tax payable.

VI. Summary

The main features of the imputation scheme may be summarized as follows:

A. Taxable income derived by a profit-seeking enterprise is taxed at the profit-seeking enterprise income tax rate, and undistributed income, as calculated by a profit-seeking enterprise in accordance with the Commercial Accounting Act less the sums of the prescribed items, is subject to an additional 10% surtax.

B. Credits will be given only for profit-seeking enterprise income tax paid in the ROC and to resident individual shareholders. However, the 10% surtax paid at the corporate level is allowed to offset the withholding tax on the dividends distributed to non-residents.

C. Cash refunds for excess credits will be given to resident individual shareholders.

D. An account-based approach will be adopted as a means of limiting credits to the amount of profit-seeking enterprise income tax paid in the ROC. It is designated that companies keep an imputation credit account and calculate the imputation credits which are allocated to shareholders.

E. Credits will be pro-rated uniformly across dividends paid on all classes of shares in any year.

F. Dividends and imputed tax credits, received from a resident company, are exempt from profit-seeking enterprise tax. However, credits imputed thereon are not refundable and are to be passed on to the shareholders in the company.

G. Only resident companies will be able to pay dividends with credits.

INDEX

R

財政部出版品代銷書商通訊表

	代銷書商名稱	地址及電話
1	五楠圖書用品股份有限公司（五南文化廣場）	
	台中總店	臺中市中區中山路 6 號
		（04）2226-0330
	海洋書坊	基隆市北寧路 2 號（海洋大學內）
		（02）2463-6590
	台大店	臺北市羅斯福路 4 段 160 號
		（02）2368-3380
	高雄店	高雄市中山一路 262 號
		（07）235-1960
	屏東店	屏東縣屏東市中山路 46-2 號
		（08）732-4020
	嶺東書坊	臺中市嶺東路 1 號(嶺東科技大學內)
		（04）2385-3672
	政府出版品總經銷	臺中市軍福七路 600 號
		（04）2437-8010
2	國家書店松江門市	臺北市松江路 209 號 1 樓
		（02）2518-0207
3	稅旬文化出版事業股份有限公司	臺北市杭州南路 1 段 63 號 4 樓之 1
		（02）2321-6616
4	財團法人台灣金融研訓院	臺北市羅斯福路 3 段 62 號
		（02）3365-3563

Guide to ROC Taxes 2016

Publisher: Ministry of Finance

Website: http://www.mof.gov.tw

Editor: Department of Planning

Address: 2, Aiguo W. Road Taipei, 10066 Taiwan, R.O.C.

Tel: (02) 2322-8000

Website: http://www.mof.gov.tw

Date of Issue: July, 2016

Date of First Issue: July, 1989

Frequency: Annually

Designer and Printer: PRT Printing Co., Ltd.

Address: No. 6, Lane 38, Sec. 2, Zhongxiao Rd., Sanchong Dist., New Taipei City 24162, Taiwan, R.O.C.

Tel: (02) 2984-5807, 2989-2834

Price: NT$200