

# Global Tax Alert

News from Transfer Pricing

## Taiwan issues tax ruling on one-time transfer pricing adjustments

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Taiwan's Ministry of Finance issued<sup>1</sup> a tax ruling (the Ruling) clarifying the requirements that need to be satisfied for taxpayers to make a one-time transfer pricing (TP) adjustment to related-party transactions.

The Ruling is applicable to related-party transactions occurring in taxable years commencing on or after 1 January 2020.<sup>2</sup>

### Requirements

Taxpayers must meet the following requirements to make a one-time TP adjustment prior to the accounting year end:

- ▶ Prior to undertaking related-party transactions, the parties have an agreement in place specifying all transaction terms and all factors that could affect pricing.
- ▶ The one-time TP adjustment is reflected in the taxpayer's accounting records.
- ▶ The counter-party to the transaction has made a corresponding one-time TP adjustment.

After the one-time TP adjustment has been made, taxpayers are required to pay or claim a refund of taxes,<sup>3</sup> if any, based on the adjusted price.

The Ruling also outlines the compliance requirements for the one-time TP adjustment connected with the cross-border transfer of tangible goods<sup>4</sup> and other types of related party transactions.<sup>5</sup> Taxpayers should disclose the adjustment with supporting documents upon the filing of the income tax return. The supporting documents include the related-party transaction agreement, reasons for the TP adjustment, proof of corresponding adjustment made by counter parties and the actual result following the TP adjustment.

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## Endnotes

1. Ruling No. 10804629000 was issued on 15 November 2019.
2. The taxable year is generally the calendar year, 1 January to 31 December. However, a taxpayer may elect to adopt a different taxable year.
3. Customs, business tax (i.e., value-added and non-value-added business tax), commodity tax and withholding tax.
4. Compliance requirements for the cross-border transfer of tangible goods:
  - ▶ The import declaration should include a reference to “one-time TP adjustment for FYXX” with the estimated commercial invoice and the goods valuation form attached and apply to Taiwan Customs for payment of the deposit before inspection and release.
  - ▶ Within one month after the accounting year end, the taxpayer must apply to the Taiwan Customs for approval and pay or seek a refund of import taxes.
  - ▶ If the taxpayer does not apply to the Taiwan Customs within one month following the accounting year end, the Taiwan Customs will directly assess the customs value.
5. Compliance requirements for other types of related-party transactions:
  - ▶ Business tax:
    - i. A one-time TP adjustment statement, sales amount for the last business tax period of the accounting year and the amount of business tax payable or receivable should be reported to the local National Tax Bureau office in the last business tax return for the accounting year.
    - ii. For transactions other than the purchase of foreign services or the export of goods or services by the Taiwan entity, any additional amount from an increase in the transaction price should be issued on a Government Uniform Invoice (GUI). A reduction in the transaction price requires a credit note to be issued. A statement providing a description of the one-time TP adjustment on the GUI or the credit note should be included.
  - ▶ Commodity Tax: A one-time TP adjustment statement and documents proving the commodity tax in the last month of the accounting year should be reported to the local National Tax Bureau office.
  - ▶ Corporate Income Tax: For adjustments other than the transfer or sale of tangible goods, if the income is within the scope of withholding tax, the refund or additional tax payable should be refunded or withheld in accordance with the relevant regulations of the *Income Tax Act*.

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