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Global Tax Alert

Taiwan releases final regulations on undistributed earnings tax exemption for substantive investments

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The Ministry of Finance published, on 9 January 2020, the final *Regulations on Deduction of Undistributed Earnings and Application for Tax Refund for Substantive Investment Made by a Profit-seeking Enterprise or a Limited Partnership*[1] (the final Regulations).[2] Documentation requirements for the undistributed earnings tax exemption[3] were amended in the final Regulations.[4]

Documentation requirements

Documentation required to support eligible investment expenditure includes copies of construction or purchase agreements, accounting records of assets acquired, Government Uniform Invoices, import declarations, proof of delivery and acceptance, and proof of payment. For the construction of buildings or self-developed hardware or software, an itemization of construction costs, license for usage and other relevant supporting documents are required.

The draft regulations proposed that a board or shareholders' earnings reinvestment resolution was required to support the exemption, however the final Regulations eliminate this requirement to ease the compliance burden on taxpayers.

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Exemption application timing

If the qualified investment is completed before the filing of the undistributed earnings tax return, the eligible investment amount can be deducted from the undistributed earnings tax base.

An amended filing and refund application is required to be submitted within one year after the completion of the investment if the investment is completed after the undistributed earnings tax returns has been filed and paid.

Endnotes

1. A Taiwan limited partnership is not a pass-through entity for income tax purposes unless it is a qualified venture capital limited partnership approved by the Taiwan Taxation Administration.
2. Pursuant to article 23-3 of the *Statute for Industrial Innovation*.
3. Under current rules, current year earnings that are not distributed by taxpayers in the subsequent fiscal year are subject to an undistributed earnings tax of 5%. Article 23-3 of the *Statute for Industrial Innovation* provides an incentive that if the taxpayers make substantial qualified investments using current year after-tax earnings, the amount of the substantial qualified investments would be excluded from the base of the undistributed earnings tax.
4. Details of the undistributed earnings tax exemption are provided in EY Global Tax Alert, *Taiwan releases draft regulations on undistributed earnings tax exemption for substantive investments*, dated 5 December 2019.

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