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Overview of Property Taxation in Taiwan

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OVERVIEW OF PROPERTY TAXATION IN TAIWAN

A. LAND

1. Land Owned by Individuals

(1) Transfer of land

a) Land value increment tax

1) Tax liability:

Where land transfer is non-gratuitous, the seller is liable to pay taxes; where land transfer is gratuitous, the recipient is liable to pay taxes. However, note that the increment value of land which is passed on by way of inheritance is completely exempted from taxation.

2) Taxable base:

The taxable base is the total increment value of the land, to be calculated as follows:

Total increment value of the land =

the value of the land at the time of transfer – the value of the land at the penultimate transfer x (Consumer price index ÷ 100) – expenditures on land improvement

The "value of the land at the time of transfer" generally refers to the value of the land as declared by the government; however, if the value reported by the taxpayer is higher than the government-declared value, then it refers to the value reported by the taxpayer.

3) Tax rates:

The rate of the land value increment tax is an "excess progressive tax rate", to be calculated following the below formula:

The value of the land at the time of the penultimate transfer x (Consumer price index ÷ 100) = **X**

Total increment value below **X** → Tax rate: 20%

Total increment value between **X** and 2**X** → Tax rate: 30%

Total increment value above 2**X** → Tax rate: 40%

∗ Note: Residential land for self-use → Tax rate: 10%

4) Declaration period

Within 30 days of conclusion of the contract.

5) Deadline for payment

Within 30 days of the taxpayer's receipt of the notice of tax assessment. The delinquency charge is 1% of the outstanding amount per every 2 days.

b) Income tax

According to Article 4 (16) of the Income Tax Act, income earned by an individual from the sale of land shall be exempted from income tax. Accordingly, no transaction loss shall be deducted.

Furthermore, Article 4 (17) of the Income Tax Act stipulates that properties received by way of inheritance, bequest or gift shall be exempted from income tax, except properties obtained as a gift from a profit- seeking enterprise. Thus, land transferred by inheritance is exempted not only from land value increment tax but also from income tax.

(2) Lease of land

1) Tax liability

Rental obtained from lease of property shall be included in the consolidated income of an individual and subject to income tax. The owner who rents out land is liable to pay taxes.

2) Taxable base

With regard to the taxable base, i.e. the amount of income, Article 14 (5) of the Income Tax Act provides *“Amount of income from lease of property shall be the whole year’s income after deduction of necessary losses and expenditures”*.

The so-called “necessary losses and expenditures” refer to “the depreciation of fixed assets, depletion of depreciated assets, repair charges, insurance premiums and reasonable and necessary fees paid to have property leased to receive profits”.

For deductions for necessary losses and expenses for which the taxpayer can provide substantive proof, the deduction of the declared amount shall be allowed; where the taxpayer fails to provide substantive proof or provides fraudulent proof, the tax authority may make adjustment in accordance with the deduction standards approved by the Ministry of Finance.

3) Tax rates

The progressive income tax rates vary from 6% to 40%. The Ministry of Finance has announced the brackets for the year 2009:

Net consolidated income below TWD 410,000 → Tax rate: 6 %

Net consolidated income TWD 410,001~1,090,000 → Tax rate: 13%

Net consolidated income TWD 1,090,001~ 2,180,000 → Tax rate: 21%

Net consolidated income TWD 2,180,000~ 4,090,000 → Tax rate: 30%

Net consolidated income above TWD 4,090,001 → Tax rate: 40%

2. <u>Company-owned land</u>

(1) Transfer of land

a) Land value increment tax

The basic system is the same as the system of land owned by individuals (Please see above). In addition, an important tax incentive is regulated in Article 34 of the Business Mergers and Acquisitions Law, which provides:

In the acquisition of assets or shares by a company pursuant to Articles 27 through 29 of this Law with the shares entitled with voting rights as the consideration to pay the company so merged/ consolidated and acquired and such shares is at a value not less than sixty-five percent of the total consideration, or a company is carrying on merger/consolidation and/or division, the following shall apply:
5. Any land owned by the company when confirmed with its current value after the transfer declared shall be immediately completed with the transfer registration of the titleship. The land value increment tax duly born by the existing land title holder may be registered under the name of the company acquiring the land after the merger/consolidation and acquisition; and in case of any further transfer of that land, the land value increment tax registered shall be paid on a priority basis over any and all liabilities and mortgage from the proceedings of the disposition of such land.

According to the regulation above, a company, therefore, may be temporarily exempted from having to pay land value increment tax.

b) Income tax

According to Article 4 (16) of the Income Tax Act, income earned by a profit-seeking enterprise from the sale of land shall be exempted from income tax.

(2) Lease of land

Rental obtained from lease of property is considered a non-operating income of a company and subject to income tax. The net income amount of a company is calculated as below:

Operating income + Non-operating income – non-operating loss= Net income

The corporate tax rate is 25%.

B. Buildings

1. <u>Buildings owned by Individuals</u>

(1) Transfer of buildings

Profit from the transaction of properties within the territory of ROC shall be subject to income tax. The income tax rates are progressive and vary from 6% to 40%.

In respect of the tax base, i.e. the amount of the profit, Article 14 (7) provides:

1. Where the property or right was originally acquired at a price, amount of the income shall be the transaction price after deduction of original cost and all expenses necessary for acquisition, improvement and ownership transfer of that asset;
2. Where the property or right was originally acquired through inheritance or donation, amount of the income shall be the transaction price after deduction of value prevailing at time of inheritance or donation and all expenses necessary for acquisition, improvement and ownership transfer of that property or right.

Moreover, pursuant to Article 17-2 of the Enforcement Rule of the Income Tax Act, where the individual fails to declare or provide certification documents, the tax authority may determine the income in accordance with the approval standards set by the Ministry of Finance. For instance, the latest MOF ruling regarding this issue provides, in Taipei City, the income gained by selling a house is 29% of the current assessed value of the house; in Kaohsiung City, income is 19% of the current assessed value of the house. The so-called "assessed value" is decided by the "House Unit Price Standard", "Depreciation Rate Standard", "Rank of House Location Section" and "Adjustment of Rank of House Location Section" which are issued by local governments every year.

∗Note: If a taxpayer sells his self-use residence building and purchases another residence building for his own use within 2 years of the date on which the registration of transfer of ownership of the old building was completed, and if the cost of the new building exceeds the original sales price, then the amount of income tax paid by the taxpayer on the income realized from selling the building may be deducted or refunded from the income tax payable or paid for the year in which the registration of transfer of ownership of the repurchased building was completed.
This tax refund shall also be applicable to the taxpayer who buys first and sells later.

(2) Lease of buildings

Rental obtained from lease of property shall be included in the consolidated income of an individual and subject to income tax. For details, please see above **A.** 1. (2).

2. <u>Company-owned buildings</u>

(1) Transfer buildings

Profit from the transaction of properties within the territory of ROC is considered a non-operating income of a company and subject to income tax. The corporate tax rate is 25%.

(2) Lease of buildings

Rental obtained from lease of property is considered a non-operating income of a company and subject to income tax. The corporate tax rate is 25%.

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