

# **Alternative Minimum Tax in Taiwan**

## **BCCT Luncheon**

### **February 26, 2010**

The logo for Eiger Law Firm, featuring the word "eiger" in a lowercase, serif font with a small dot above the 'i'. The logo is white and set against a solid orange background.

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# Agenda

1. Background of the AMT system
2. AMT for individuals
3. Offshore income of AMT
4. Examples
5. Suggestions

# 1. Background of the AMT system

- Why AMT is employed?
- AMT in Taiwan is called “Basic Income Tax”.
- The Basic Income Tax Act (BITA) is effective from January 1, 2006; however, the clause regarding individuals' offshore income is effective from January 1, 2010.

## 2. AMT for Individuals - Overview

- Who: ROC residents
- What: onshore and offshore income
- When:

onshore income: from January 1, 2006

offshore income: from January 1, 2010

- How:

$(\text{Basic income} - \text{NT6m}) * 20\% = \text{Basic income tax amount}$

## 2. AMT for Individuals – Definition of a Resident

- **What is the definition of a resident of the ROC?**
  - A person who has domicile within the territory of the ROC and resides within the territory of the ROC
    - Registered residence + resides 1 day
  - A person who has no domicile within the territory of the ROC but resides within the territory of the ROC for a period of more than or equal to **183 days** during a taxable year

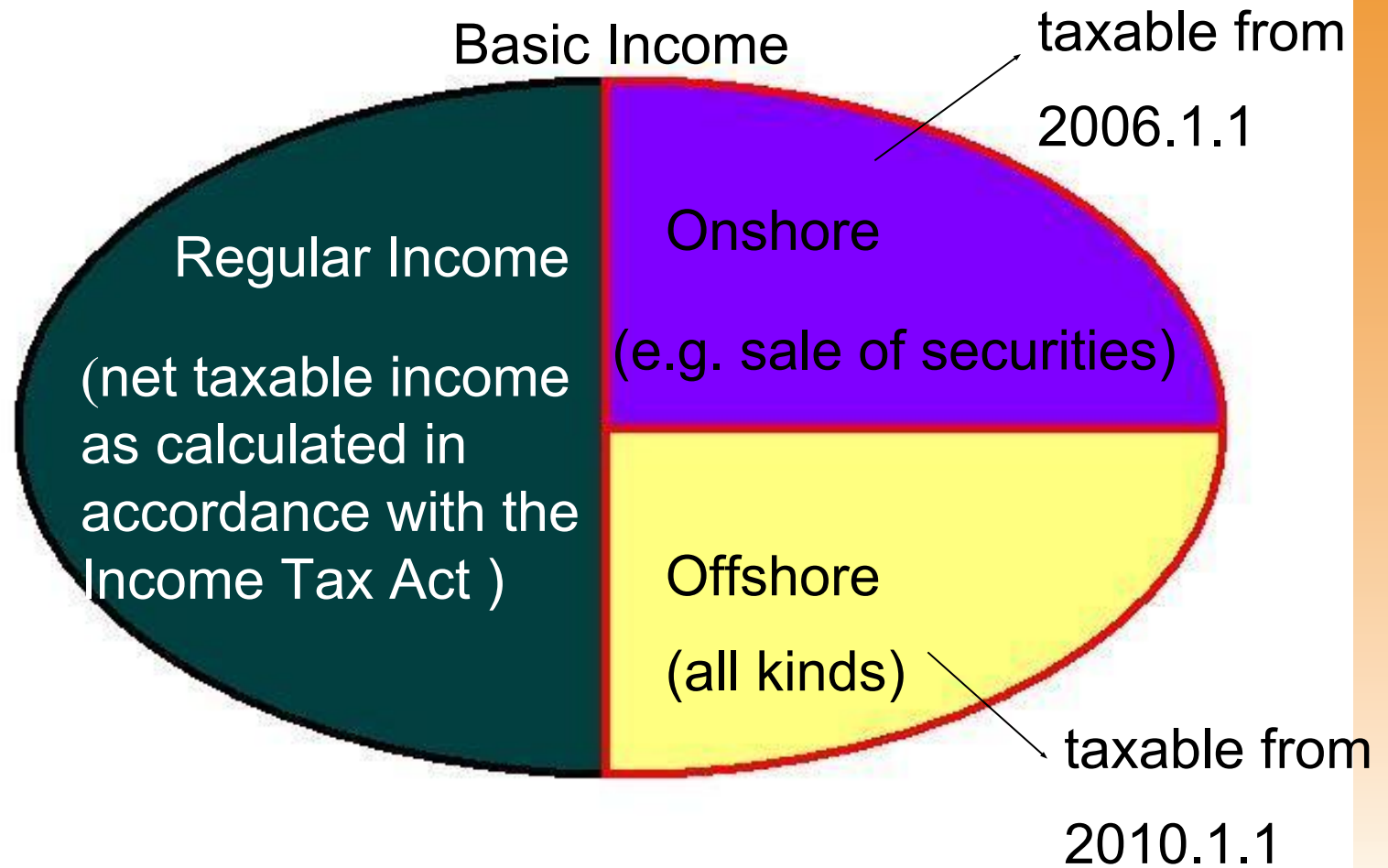
## 2. AMT for Individuals – Items

- Art. 12 of BITA

The amount of basic income of an individual shall be the sum of the **net taxable income** as calculated in accordance with the Income Tax Act and the amount which is under the provisions of the following subparagraphs:

2. Offshore income
3. Insurance payment
4. Sale of securities
5. Non-cash donations or contributions
6. Newly issued registered share certificates acquired by employees

# Basic Income Components



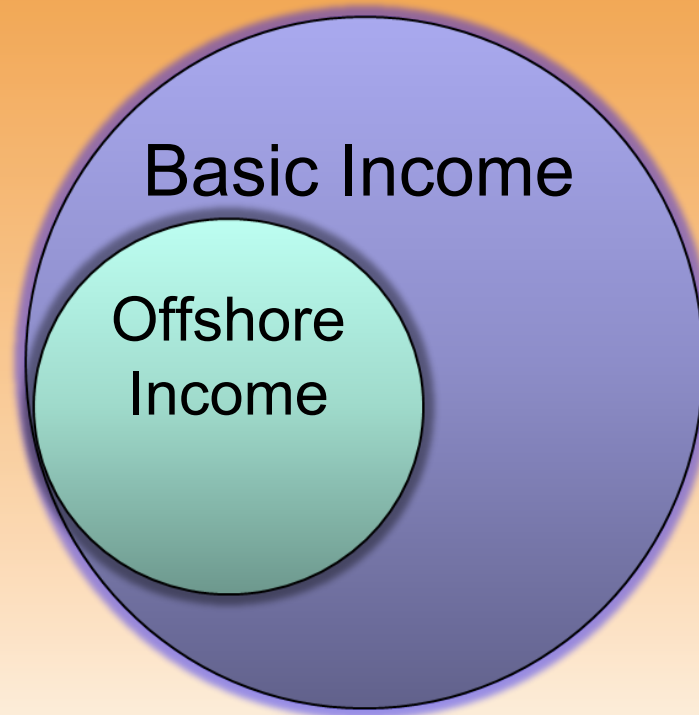
## 2. AMT for Individuals – Calculation

- Art. 13 of BITA
  - Regular Income Tax = (Taxable Income - Exemptions - Deductions) \* Progressive income tax rate
  - Basic Income Tax = (Basic Income – NTD 6m) \* 20%
  - Foreign Tax Credit = (Basic income tax - Regular income tax) \* offshore income / (Basic income - Regular income)



# 3. Offshore Income

Offshore income vs. Basic income



# 3. Offshore Income

- Who
- Where
- What
- When

# 3. Offshore Income

- Who

(1) offshore income > NT\$ 1 million

(2) basic income > NT\$ 6 million

(3) basic income tax > regular income tax

(4) Filing unit: "Family"

# 3. Offshore Income

- Where

Any income derived from area other than Taiwan?

UK? US? Canada? Europe?

PRC? HK? Macao?

# 3. Offshore Income- Categories

- What

Categories :

## (1) **One-shot business income**

- Art dealer vs. Art collector

## (2) **Professional service income**

- Definition: Service from specific groups of professionals, such as doctors, CPAs, lawyers, celebrities, performers...
- Example: A doctor traveling around the world to provide medical care; a performer traveling around to deliver performances.

# 3. Offshore Income- Categories

Categories :

## **(3) Salary income**

- Definition: Salary paid by an offshore entity
- Example: Expatriates with income derived from two or more countries
- The new offshore income tax ruling may cause companies' previous payment structures no longer effective for tax saving

# 3. Offshore Income- Categories

Categories :

## **(4) Transaction Income**

- Definition:  
Income after the deduction of original cost and necessary expenses.
- Example: investment, disposal of assets or rights
- How to define the cost of acquisition in a transaction:
  - Purchase
  - Inheritance / Gift
  - Special rules for securities or fund certificates

# 3. Offshore Income- Categories

Categories :

## (4) Transaction Income

- It is necessary to provide the supporting documents for deduction of the original acquisition cost and necessary expenses
- Failure to provide the necessary documents or certificates for deduction will result in the application of “Constructive Income”



# 3. Offshore Income- Categories

Categories :

## **(4) Transaction Income**

- Real Estate:
  - 12% of the selling price
- Securities and fund:
  - 20% of the selling price
- Properties in other forms
  - 20% of the selling price

# 3. Offshore Income- Categories

Categories :

(5) Rental income

(6) Interest income

(7) Self-production in farming, fishing,  
mining...income

(8) Royalties income

(9) Competition

(10) Lottery

(11) Pension

(12) Other

## 4. Examples

1. Peter is a British consultant hired by a UK company to perform services in Taiwan. He stays in Taiwan for 90 days to assist a TW customer and is paid the equivalent of NTD 200,000 from the British employer. How much tax shall Peter pay to the TW tax authority?

A: 0

Offshore remuneration for work in TW →90 days

→exempted

## 4. Examples

(2) Mike is a foreign professional working in the TW branch of his company for 182 days. The TW branch pays Mike NTD 1 million. Besides, Mike buys and sells shares issued by a TW company that is not listed in a stock exchange, and gains NTD 5 million. How much is the tax payable ?

A: 1 million \* 18% = 180,000

Onshore remuneration → less than 183 days

→WHT

## 4. Examples

(3) John is a foreign professional working in the TW branch of his company for more than 183 days. The TW branch pays John NTD 2,262,000. Besides, John buys and sells shares issued by a TW company that is not listed in a stock exchange, and gains NTD 5 million. How much is the tax payable ?

A: **Regular income tax:**

Net taxable income =

$$2,262,000 - \text{exemptions} - \text{deductions} = 2,000,000$$

Regular income tax amount =

$$(2,000,000 - 1,090,000) * 20\% + 95,800 = 277,800$$

**Basic income tax:**

Basic income =

$$2,000,000 + 5,000,000 = 7,000,000$$

Basic income tax =

$$(7,000,000 - 6,000,000) * 20\% = 200,000$$

**Regular tax > Basic tax**

## 4. Examples

(4) Stefan is a foreign professional who has worked in the Taiwan branch of his company for more than 183 days. The TW branch pays him NTD 2,262,000. Besides, he buys and sells shares issued by a TW unlisted company, and gains NTD 8 million. How much is the tax payable ?

A: **Regular income tax:**

Net taxable income =

$$2,262,000 - \text{exemptions} - \text{deductions} = 2,000,000$$

Regular income tax amount =

$$(2,000,000 - 1,090,000) * 20\% + 95,800 = 277,800$$

**Basic income tax:**

Basic income =

$$2,000,000 + 8,000,000 = 10,000,000$$

Basic income tax amount =

$$(10,000,000 - 6,000,000) * 20\% = 800,000$$

**Regular tax < Basic tax**



## 4. Examples

(5) William is an expatriate sent to work at a Taiwan subsidiary of a US parent company. His annual remuneration amounts to US\$1,000,000. 20% of his payment is from the Taiwan subsidiary while the remaining 80% is from the US parent company.

A:

### Regular Income:

US\$ 200,000 (onshore income included + offshore income excluded)

### Basic Income:

US\$ 1,000,000 (offshore and onshore income)

Basic Income Tax: (US\$1,000,000- NTD 6,000,000)

\*20%

## 4. Examples

(6) William Minor is an expatriate sent to work at a Taiwan subsidiary of a US parent company. His annual remuneration amounts to NTD 1,500,000. 20% of his payment is from the Taiwan subsidiary while the remaining 80% is from the US parent company. He has no other income from Taiwan and overseas.

A:

## Regular Income:

NTD 300,000 (offshore income excluded)

## Basic Income:

NTD 300,000 (onshore income)+NTD

1,200,000 (offshore income) = NTD 1,500,000 <

**NTD 6,000,000 !!**

**DO NOT NEED TO FILE BASIC INCOME TAX!**

**DO NOT NEED TO FILE OFFSHORE INCOME!**

**NO ALTERNATIVE MINIMUM TAX!**

## 4. Examples

(7) William Tertius is an expatriate sent to work at a Taiwan subsidiary of a US parent company. His annual remuneration amounts to NTD 7,000,000. 90% of his payment is from the Taiwan subsidiary while the remaining 10% is from the US parent company. He has no other income from Taiwan and overseas.

A:

**Regular income:** NTD 6,300,000 (90% of salary)

**Offshore income:** NTD 700,000 (10% of salary)

**Basic Income:** NTD 6,300,000 + NTD 700,000 ?

**Do I need to file my offshore income since the basic income is greater than NTD 6,000,000?**

**NO! Because the offshore income is less than NTD1,000,000!**

# 5. Suggestions for Big Offshore Earners

- Try to stay less than 183 days in a calendar year
- Allocate offshore income in different years and avoid accumulation in one calendar year
- Keep records for purchase and sale to avoid application of constructive income
- Keep tax payment certificates for tax credit deduction

# 5. Suggestions - Foreign Tax Credit

- Offshore income taxed at source income country is deductible against tax payable in Taiwan
- Tax payment certificate issued by the source income country and attested by the embassy or consulate of R.O.C.
- The deduction shall be capped under the incremental income tax due to inclusion of offshore income in calculating basic income tax



# 5. Suggestions

- Noncompliance is Actionable if Caught
  - Penalty
    - Incorrect filing: 2 times of understatement
    - Failure to file: 3 times of taxable income

# Tax Treaties with Taiwan

- Singapore
- Indonesia
- South Africa
- Australia
- New Zealand
- Vietnam
- Gambia
- Swaziland
- Malaysia
- Macedonia
- The Netherlands
- UK
- Senegal
- Sweden
- Belgium
- Denmark
- Israel

# Updated Tax Brackets

Taxable Income (after D/E )	Tax to be paid
< \$500,000	5%
\$500,000 - \$1,090,000	$\$25,000 + 12\% * (\text{Amount} - \$500,000)$
\$1,090,000 - \$2,180,000	$\$95,800 + 20\% * (\text{Amount} - \$1,090,000)$
\$2,180,000 - \$4,090,000	$\$313,800 + 30\% * (\text{Amount} - \$2,180,000)$
> \$4,090,000	$\$886,800 + 40\% * (\text{Amount} - \$4,090,000)$

Q&A

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# Thanks for your attention!

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