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Taiwan – Capital Gains Tax on Securities Trades Passes Legislature

by KPMG, Taipei (KPMG in Taiwan (Republic of China) is a KPMG International member firm)

For prior coverage, see *Flash International Executive Alert* 2012-097, 16 May 2012.

On 25 July 2012, the Legislative Yuan of the Republic of China (Taiwan) passed in a third reading the proposed amendments of the Income Tax Act and the Basic Income Tax Act.[1] The amendments, among other things, introduce a capital gains tax on gains arising from trades of Taiwan securities. The amendments are currently awaiting promulgation by the president before they are officially enacted.

Context and Impact

Taiwan has exempted securities transactions from capital gains taxation since 1 January 1990.

The capital gains tax proposals have been controversial, undergoing many months of debate; and as the government and Parliament negotiated the details, there have been multiple versions of the draft legislation embodying the proposals. The performance of Taiwan's stock market has been detrimentally impacted in the meantime, and the Finance Minister, Christina Liu, resigned in May.

The capital gains tax on Taiwanese securities trading could raise as much as NT$11 billion (US$365.6 million) in tax revenue, according to the country's Ministry of Finance.

The new rules will mean higher taxes for those taxpayers who trade Taiwanese securities and are subject to taxation in Taiwan.

Key Features of Capital Gains Tax Regime

For Individuals

1. Individuals deriving capital gains from the sale of shares will be subject to income tax.

2. Tax regime for 2013 and 2014

(a) There are two methods to calculate the capital gains tax. One uses the "deemed basis" and the other uses the "actual basis." Except for the specific cases (see below) where the actual basis is required to be used to determine the capital gains tax, the deemed basis will be adopted in all other cases.

(b) Capital gains tax is to be calculated using the actual basis in one of the following situations:

- Sale of unlisted and non-OTC shares;
- Sale of "emerging" shares exceeding 100,000 shares within a year;

- Sale of IPO shares, but excluding:
  - ✓ IPO shares listed for the first time on a stock market or OTC market before December 31, 2012, or
  - ✓ the number of shares obtained via underwriting of IPO shares that are less than 10,000 shares;
- Non-Taiwanese residents.

(c) Capital gains tax is to be calculated using the deemed basis in the following situations:

- When the stock market index exceeds 8,500 points, the capital gains tax on the sale of listed shares, OTC shares, and emerging shares is calculated using the applicable deemed income rate (0.02 percent - 0.06 percent) and subject to withholding at source.

3**.** Tax regime after 2015

(a) Only scenarios listed in 3(b) below will be subject to capital gains tax and will be calculated using the actual basis.

(b) In addition to the scope noted in 2(b) above, the sale of listed shares, OTC shares, and emerging shares exceeding **NT$1 billion** within a given year by individuals will also be subject to capital gains tax.

4. Tax rates

- 15 percent when using the actual basis for calculating capital gains tax.

5. Special benefits for long-term holdings/positions

- Individuals that hold shares for more than one year will only need to report 50 percent of the capital gains from the sale for capital gains calculation purposes.
- Individuals that hold (i) IPO shares for more than three years after they became listed and/or (ii) OTC shares, only need to report 25 percent of the capital gains from the sale for capital gains calculation purposes.

6. Capital loss

Capital loss incurred can be offset against any capital gains derived in the same year. The capital loss cannot be carried forward.

For Corporations

- Capital gains from securities and futures trading will be subject to Alternative Minimum Tax (AMT).
- The deductible amount for the AMT calculation is reduced from NT$2 million under the current AMT regime to NT$500,000.
- The AMT rate will range between 12 percent to 15 percent.
- Companies that hold shares for three years or more only need to report 50 percent of the capital gains from the sale of such shares for the AMT calculation.

Footnote:

1 See (in Chinese) on the Ministry of Finance Web site: http://www.mof.gov.tw/ct.asp?xItem=66823&ctNode=657&mp=1 .

For a news report on this development, see W. Lim and A. Lin, “Taiwan’s Capital-Gains Tax on Trading May Raise $365.6 Million” in Bloomberg (online), 25 July 2012. Also see: “Legislature Passes Capital Gains Tax Plan” (25 July 2012) on the Web site for Focus Taiwan News Channel at: http://focustaiwan.tw/ShowNews/WebNews_Detail.aspx?Type=aALL&TNo=&ID=201207250022 .

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NT$1 = US$0.0334
NT$1 = £0.0215
NT$1 = €0.0273
NT$1 = A$0.0319

For further information or assistance, please contact your local IES professional or Stephen Hsu (tel. + 886 2 8101 6666 ext. 01815 or e-mail: stephenhsu@kpmg.com.tw) with the KPMG International member firm in Taiwan.

The information contained in this newsletter was submitted by the KPMG International member firm in the Republic of China (Taiwan). The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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