

발 간 등 록 번 호

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2008

TAIWAN

대만 진출기업을 위한
세무안내

NTS



국세청

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머 리 말

국세청은 해외에 진출한 우리기업이 현지국가의 조세제도와 행정에 대한 정보가 부족하여 어려움이 발생하지 않도록 「해외진출기업을 위한 세무안내책자」를 매년 발간하여 왔습니다.

올해에는 그 동안 세정간담회 등에서 우리 해외진출기업이 제기한 내용을 반영하여 「세정애로사항별 대처방안」을 상세히 정리하였습니다.

특히 최근 우리 기업의 진출이 증가하여 현지 세무 정보의 수요가 증가하고 있는 아시아·아프리카 등 10개 국가에 대한 세무안내책자를 새로 발간하게 되었습니다.

아무쪼록 이 책자가 해외에 진출한 우리기업의 세무애로사항을 해결해 줄 수 있는 유용한 길잡이가 되기를 기대합니다.

2008년 10월

국제조세관리관 강 성 태

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제 1 장 국가 개황

- I. 국가개요
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제1장 국가 개황

I. 국가 개요

일반	국 명	: 중화민국(The Republic of China / TAIWAN)
	위 치	: 중국 동남부 해상
	면 적	: 36,188 km ² (한반도의 1/6), 70%가 산간지대
	기 후	: 아열대성(북부), 열대성(남부)
	인 구	: 23백만명(2007년)
	수 도	: 타이베이(臺北, Taipei), 260만명
	민 족	: 한족 98%(대만계 84%, 대륙본토계 14%), 고산족 2%
정치	언 어	: 중국어(공용어), 민남어·원주민어·객가어(상용어)
	종 교	: 불교, 도교, 기독교, 천주교, 회교
	독 립 일	: 1911. 10. 10(중화민국 건국)
	정 치 체 제	: 입헌민주공화제
	국 가 원 수	: 마잉주(馬英九) 총통
	의 회	: 단원제(입법원 225석)
	주 요 정 당	: 국민당(KMT), 민주진보당(DPP)
경제	국제기구가입	: ADB, APEC, ICC
	화 폐 단 위	: 대만원(New Taiwan Dollar, NT\$로 표기)
	회 계 연 도	: 7. 1 ~ 6. 30
	산 업 구 조	: 제조업 21.4%, 금융·부동산업 18.9%, 상업 18.7%(2007년)
	주 요 수 출 품	: 전자제품, 금속, 전자통신제품, 섬유(2007년)
	주 요 수 입 품	: 중간재, 자본재, 소비재(2007년)
	주요부존자원	: 천연가스, 금, 대리석
경 제 적 강 점	: 효율적 경제 운용, 중소기업 위주의 경제구조	
경 제 적 약 점	: 부존자원 빈약	

II. 경제현황

1. 개 황

구 분	경제지표	단위	2004	2005	2006	2007
국내경제	G D P	억달러	3,310	3,560	3,655	3,833
	1인당 GDP	달러	14,691	15,780	16,130	16,913
	경제성장률	%	6.2	4.2	4.9	5.7
	소비자물가상승률	%	1.6	2.3	0.6	1.8
대외거래	환율(달러당, 연중)	NT\$	33.43	32.18	32.53	32.84
	경 상 수 지	백만달러	18,478	16,019	24,661	32,881
	자 본 수 지	백만달러	6,677	1,483	-	-
외채현황	외 환 보 유 액	백만달러	241,738	253,290	266,148	270,311
	총 외 채 잔 액	백만달러	79,751	87,451	91,429	97,852
	총외채잔액/GDP	%	24.1	24.6	25.0	25.5

2. 최근 경제동향

- 대만경제는 과거 50년간 수출주도를 통해 연 평균 5%이상의 고속성장을 계속하였으나, 천수이벤 집권이후 세계적인 경기침체, 911테러사태 등의 영향으로 1인당 국민소득 등이 한국 등 경쟁국가들에 뒤처지고, 1) 2001년에는 사상 최초의 마이너스 성장(-2.2%)을 기록하는 등 어려움을 겪었으며, 최근 들어 경제가 회복되는 추세로 2004년에는 민간투자 급증에 힘입어 6.2%에 경제성장률을 달성한 이후 2007년까지 5% 정도의 경제성장률을 기록하고 있다.

1) 2007년 대만의 1인당 국민소득은 15,000달러 수준으로 20,000달러를 돌파한 한국에 뒤처져 있으며, 경제성장률 역시 싱가포르, 한국, 홍콩 등 경쟁국에 비해 낮은 수준

3. 특 징

가. 건설한 자유시장 경제 체제

- 정부 주도하에 1960년대부터 시작된 수출 주도형 성장 전략을 통해 안정적인 경제 발전을 추진
- 1인당 GDP 16,913달러, 2,700억달러를 상회하는 외환보유고를 가진 아·태 지역의 경제 부국

나. 중소기업²⁾ 중심의 건설한 경제발전

- 100만 여개의 기업 중 90%이상이 중소기업으로서 전체 고용인력의 80%를 차지, 2006년 기준으로 볼 때 전체기업(127만개) 중 중소기업(124만개)이 97.8%³⁾에 달하고, 전체기업 매출액(NT\$ 34,326억) 중 중소기업 매출액(NT\$ 10,241억)이 29.8%를 차지하고 있다.
- 중소기업에 우호적인 경영환경이 발전의 원동력이 되었으며, 가족 경영체제, 화교상권 네트워크가 큰 도움이 되었다.
- IT 산업 등으로의 빠른 업종전환에 유리한 점도 있으나 조선, 자동차 등 거대 장치산업과 반도체 등 첨단산업에는 불리하다.

다. IT산업의 강자

- 컴퓨터, 정보통신 등 중소기업을 바탕으로 한 OEM 수출을 통해 세계 IT 분야에서 높은 시장 점유율을 유지하고 있다.
- 新竹, 台南 등에 과학기술단지(Science-based Industrial Park)를 설치하여 산·학·연 협조체제를 구축하고, 정보, 통신, 하이테크 산업을 유치함으로써 산업 경쟁력 제고에 노력 중이다.

2) 중소기업은 ‘중소기업인정표준(中小企業認定標準)’ 제2조에 의거, 합법적으로 회사등록수속을 이행하고 일정기준을 충족하는 사업체이다. 자금규모면에서 건설, 제조업의 경우 NT\$ 8천만, 기타 업종의 경우 사업 첫째 영업액이 NT\$ 1억, 고용규모면에서 건설, 제조업의 경우 정식 고용원이 200명 미만, 기타 업종의 경우 정식 고용원이 50명 미만인 경우를 말한다.

3) 07년 臺灣 中小企業白皮書

라. 중국에 대한 경제의존도 심화

- 2002년부터 중국(홍콩 포함)이 미국을 제치고 대만의 제1무역대상국으로 부상하였고 대만기업들의 대중 투자확대 및 생산 기지 이전 등으로 대만 내 산업 공동화가 우려된다.
- 2005년 양안간 교역규모(홍콩 포함)는 934억달러(수출 716억달러, 수입 218억달러)에 달하였고, 대중국 투자누계금액은 500억달러로 공식 집계 되었으나 실제로는 3,000억달러를 초과할 것으로 추정

4. 문제점

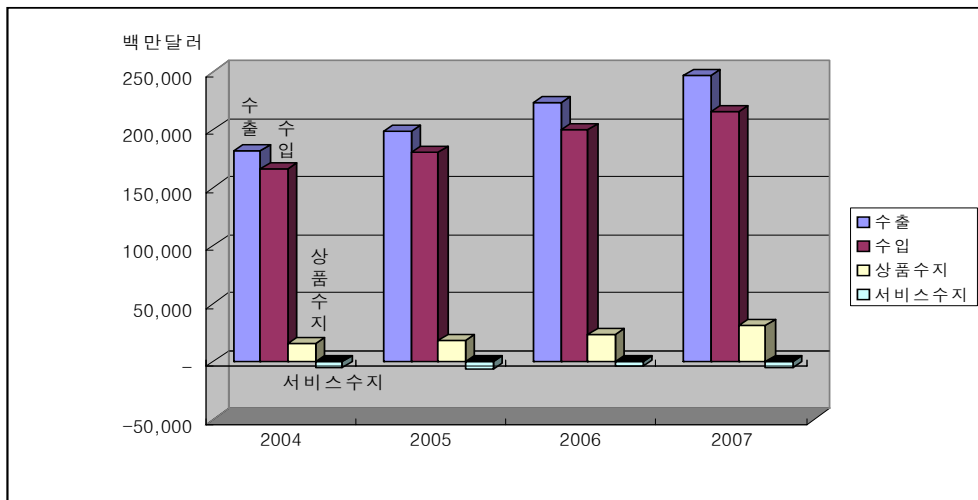
- 대륙투자 누계액이 3,000억달러 이상으로 추정되는 등 중국 대륙으로 지속적인 투자유출되고 있다.
- 약성대출금(NPL) 비율이 높고(6.8%), 영세 금융기관이 산재(450개 이상)하여 금융구조 개편 추진 중
 - 3대 은행 전체 시장점유율이 26%로서 싱가포르(80%), 홍콩(78%), 캐나다(60%), 미국(50%)에 비해 매우 낮은 편이다.
- 전통산업에서 첨단 제조산업으로의 산업구조 개편 및 중국대륙으로의 투자유출에 따른 국내투자 부진으로 인해 실업률이 증가하고 있다.
- 대만경제는 무역의존도(65%)가 높고 전체 수출품목 중 IT 상품비중(45%)이 높아 세계 IT산업 경기침체의 영향을 직접 받는 취약성이 있다.

5. 우리나라와의 교역관계

- 우리나라는 대만과 1992. 8월 단교 후 현재 대만에 대표부를 두고 있으며, 교역규모는 공식 외교관계의 단절에도 불구하고 계속 증가하는 추세로 우리나라와 대만은 각각 서로에게 5대 교역대상국에 해당한다.
 - 우리나라는 대만에 전자부품(집적회로, 액정 디바이스, 음극선관) 및 석유화학제품을 주로 수출하고, 대만으로부터 전자부품(집적회로, 컴

퓨터 보조부품), 사무용 기기 및 산업용 전자제품을 주로 수입하고 있으며,

- 상품수지⁴⁾는 지속적인 흑자기조를 유지하고 있으나 서비스수지는 매년 적자를 기록하고 있다.



- 대만 경제부 투자심의위원회가 발표한 자료에 의하면, 우리나라는 1952년부터 2006년 현재까지 대만에 총 380건 약 7억달러를 투자하여 전체 외국인 투자액의 0.9%를 차지하고 있다.
- 08년 현재 삼성전자, LG상사, CJ, 쌍용, 아니아나항공, 한국인삼공사, 두산중공업, 교차로 등 182개 기업이 대만에 진출해 있으며 주로 제조업과 판매영업을 하고 있다.⁵⁾

4) 2007년 130억 달러 수출, 99억 달러 수입, 2006년 130억 달러 수출, 93억 달러 수입, 2005년 109억 달러 수출, 80억 달러 수입

5) 한국수출입은행 자료에 의하면 2007년 현재 제조업체 74개, 도소매업체 60개가 대만에 투자하고 있으며, 년도별 투자금액은 2003년 12백만달러, 2004년 21백만달러, 2005년 57백만달러, 2006년 32백만달러, 2007년 61백만달러 이다.

6. 정권교체에 따른 향후 경제전망

가. 대만선거의 결과

- 2008.3.22. 실시된 대만 총통선거에서 국민당의 마잉주(馬英九) 후보는 중국과의 관계(兩岸관계) 개선을 핵심으로 한 '633공약'(6%성장, 국민소득 3만달러 달성, 3% 이하의 실업률)을 내세우며 여당인 민진당 세창팅 후보에 17% 차이로 승리하면서 8년만에 정권교체에 성공하였다.
- 1990년대 아시아에서 가장 빠른 성장세를 보이던 대만경제가 민진당의 천수이벤 집권 이후 경기침체로 연평균 성장률, 1인당 국민소득 등이 한국 등 경제 국가들에 뒤처지고, 물가 및 실업률도 높은 수준을 유지하게 되자 경제회복을 바라는 국민들의 열망이 이번 선거에 반영되었다고 볼 수 있다.
- 마잉주 총통이 이번 선거에서 三通(직항, 교역, 서신왕래) 실현에 주력하고, 대만기업의 중국투자 한도 증액, 금융업의 중국투자 진출 허용, 중·대만 직항로 개설, 중국 관광객 대만방문 개방, 중국 자본의 대만 부동산 및 제조업, 주식투자 허용, 대만 내 위안화 환전 허용 등이라는 중국과 관련한 경제공약을 하였다.

나. 양안관계 개선이 미치는 영향

(1) 대만경제에의 영향

- 무역·투자분야에서 대만은 이미 전세계에서 중국과 가장 밀접한 관계를 맺고 있는 국가로 수출입에서 중국(홍콩포함)이 차지하는 비중은 각각 2006년 기준 39.8%, 13.2%로 중국은 대만의 제1수출국이며, 제2수입국이며, 투자부문에서 대만은 이미 세계 제1의 대중 직접투자 실시국이다.
- 규제가 일부 완화되어도⁶⁾ 반도체 등 첨단산업의 경우 핵심기술 유출

6) 대만기업의 직접투자 한도는 현재 개별기업 순자산의 40% 이내로 제한되어 있으나, 향후 그룹 전체 순자산의 40% 이내로 확대

등의 우려로 해외이전을 제한할 가능성이 높으며, 최근 중국의 임금 상승, 규제강화 등으로 무단철수가 증가하는 등 투자환경이 악화되고 있기 때문에 규제완화 등에 따른 급격한 무역 및 투자 증가가 이루어질 가능성은 높지 않다.

- 단기적으로는 중국인 관광객 증가로 인해 대만 내수에 활력을 불어넣을 전망이다⁷⁾이다. 또한 위안화의 환전허용, 중국자본의 부동산, 제조업 투자허용 등으로 향후 중국자본의 유입이 본격화 될 경우 대만 내수 시장의 성장 동력이 될 전망이다. 2006년 대만에 투자된 중국 자본은 약 3,500백만달러로 전체 유입 자본의 4.7%에 불과하다.

(2) 주변 국가로의 영향

- 2006년 홍콩을 통해서 재수출된 대만 화물은 홍콩 재수출 총 물량의 7.2%, 총 수출의 6.8% 수준으로⁸⁾, 이 중 50% 정도가 홍콩을 거쳐 중국으로 유입되는 것으로 추정된다.
 - 양안간 직접교역이 허용되면, 홍콩을 경유하여 중국에 수출되던 물량이 직수출 됨으로써 홍콩 물류업에 타격을 가져올 가능성이 있다. 또한 대만과 중국 사이에 직항이 개설될 경우 홍콩을 경유할 필요가 없어 환승수요 및 관광객 감소가 예상된다.
- 한국·대만간에는 매주 100여 편에 이르는 항공기가 운항되고 있는데, 이를 이용하는 상당수가 중국인과 대만인들의 환승 수요인 것으로 알려져 있다. 대만과 중국 간의 직항이 개설될 경우 환승 수요가 없어져 관광업에 악영향을 미칠 가능성이 있다.

다. 향후 전망

- 중국 관련 정책에 대해 중국 정부가 호의적인 반응을 보이고 있으나, 대만의 희망대로 중국이 반응할 지에 대해서는 불확실한 상황이다.

7) 현재, 대만 국민이 중국에 가지 위해서는 홍콩 또는 한국 등 제3국을 경유해야한다. 대만의 중국인 입국 제한 등으로 대만을 찾는 중국 관광객은 2007년 27만명에 불과했으나, 규제가 완화될 경우 2008년 60만명, 2010년 170만명까지 증가할 것으로 예상

8) 중국 통계연감 2007년 자료 참조

또한, 최근 티베트 유혈사태로 대만 내 중국관련 여론 악화, 중국에 대한 뿌리 깊은 불신감 등 양안관계의 부정적 변수가 존재한다.

- 한편, 중국과의 경제협력 강화 시 저임금의 중국 노동력 유입으로 인한 실업률 증가 등 향후 발생할 수 있는 사항에 대해 부정적인 여론이 상존하는 등 해결해야할 문제가 많아 정책의 시행에는 상당한 시간이 소요될 전망이다.

Ⅲ. 행정체계

- 대만의 행정체계는 명목상 본토를 포함하는 중화민국이 중앙정부가 되는 統一中國의 체계이다.
- 국가 원수는 총통(President)이며 행정원, 입법원, 사법원, 고시원, 감찰원으로 구성되는 5권분립체계로 되어 있으며, 중앙정부하에 臺灣省과 행정원직할시가 있고 대만성 아래는 縣(현)과 省直轄市가 있다.
- 각급 정부는 고유권한을 가지고 서로 대등한 위치에 있기 때문에 간섭을 받지 않으며, 각자의 고유권한 범위 내에서 立法權을 가지고 있다. 그러나 省·縣이 自治法을 제정할 수 있다고 하지만 중앙은 省·縣의 자치권을 제한할 수 있고, 또한 전국 稅源의 分配는 중앙에서 정한 법률에 따라야 한다는 점에서 볼 때 中央集權的 國家라 할 수 있다.
- 행정원내 재정부(Ministry of Finance, 이하 ‘MOF’)는 세제 입안(draft), 해석·고시(interpretation and rulings), 세제 관련 일반사무 집행 및 감독업무를 수행하며, 일상적인 세금 신고, 징수 및 세무조사 업무는 각 세무국(tax bureau)이 수행하며 지방정부는 세입과 관련하여 그 지역 범위 내에서 세법 입법 및 집행한다.



제2장 대만의 조세제도

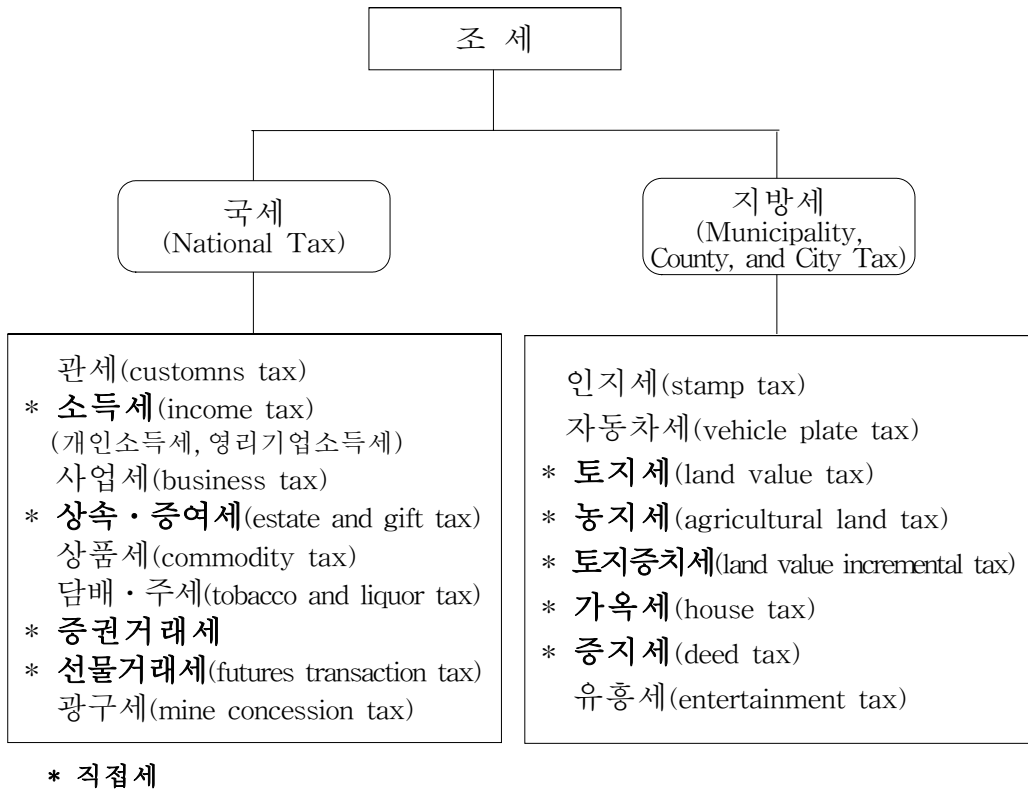
- I. 조세일반
- II. 개인소득세
- III. 영리기업소득세
- IV. 상속·증여세
- V. 국제조세
- VI. 간접세 및 기타세

제2장 대만의 조세제도

I. 조세일반

1. 조세체계

- 대만의 정치체계는 중앙정부와 지방정부로 분리되어 있고, 조세체계도 이에 바탕을 두고 있다. 재정 세입 및 세출의 배분에 관한 법률⁹⁾에 따르면 조세는 국세, 지방세(municipality tax, county tax, city tax)로 구분 된다.
- 조세분류(1999년 수정·공포)

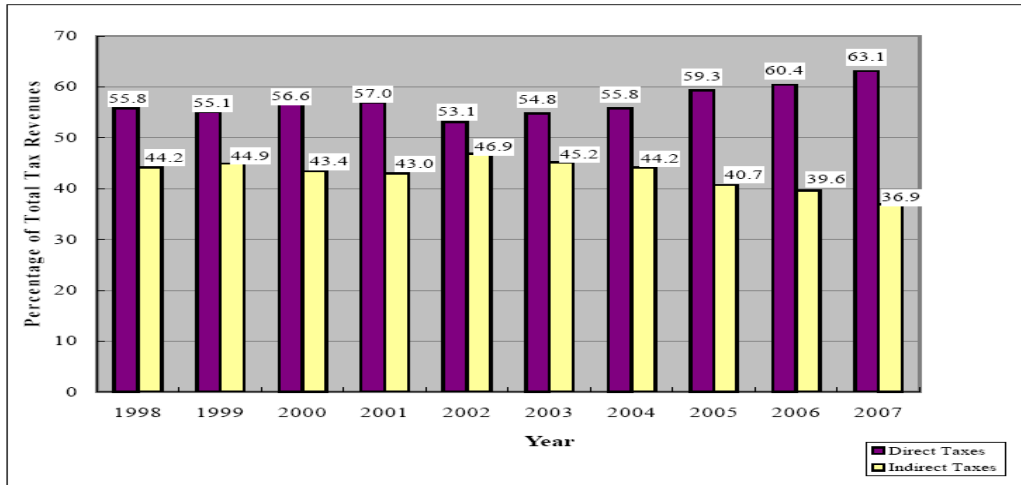


9) 財政收支劃分法, Act Governing the Allocation of the Government Revenues and Expenditures

- 조세관련 기본법은 없고 다만 각각의 조세에 대해 소득세법, 관세법, 토지세법 등 항목별로 세법이 마련되어 있으며 이중 가장 근간이 되는 법은 소득세법이라 할 수 있다.
- 세원의 배분은 주로 중앙에서 입법·결정하며, ‘재정수지획분법(財政收支劃分法)’에 의하여 이루어 진다. 현재 國稅·省稅·顯稅는 모두 중앙의 입법사항이며, 성·현에는 조세입법권이 없다.
 - 재정수지획분법에 따르면 각기 다른 수준에 있는 정부단위는 그들의 독립적인 세원을 관리하며, 지방자치단체의 재정지원을 위해 세수를 공동으로 일정한 비율로 나누어 배분하든가 또는 국가 종합계획에 따라 세수를 배분하고 있다.
 - 중앙정부는 소득세 및 상품세 세입의 10%, 사업세 세입의 40% 등을 특정 지방자치단체에게 배분한다. 특정 省 또는 縣에서 징수한 증여세의 경우는 50%~80% 정도를 배분하는 경우도 있다.
 - 전매수입의 경우 2002.1월부터 담배·주세로 변경되어 국세에 편입되었는데 당해 세입의 18%를 대만성 내 市에 배분한다.

2. 조세구조

- 직접세와 간접세가 차지하는 비중은 흔히 어떤 나라의 조세구조와 직결되어 있으며 이론적으로 직접세가 담세능력을 잘 반영하여 조세부담을 지우고 있다고 판단된다.
 - 재정부(Ministry of Finance, 이하 ‘MOF’)가 매년 발간하는 통계자료에 따르면 지난 10년간 정부는 소득세 징수시스템을 강화시키고 조세구조를 개선하기 위해 노력하고, 이러한 직접세에 대한 중요성을 인식한 결과 조세수입의 궁극적인 증가를 가져왔다.
 - 1988년에는 총 세입 중 직접세의 비중이 55.8%에서 2007년 현재 63.1%로 10년 동안 약 7.3%가 증가하고, 간접세는 44.2%에서 36.9%로 감소하였다.



3. 조세수입

- 경제·사회발전, 인구증가, 정부에 의한 서비스 수요확대, 정부기능의 팽창 및 중요성 증대 등으로 정부지출은 계속 증가하는 추세이다.
 - 최근 10년 동안 순 정부지출은 국가수입의 약 23.4%에 달하고 있다. 1997년에서 2006년 기간 동안 정부의 세입 중 조세세입은 평균 67.6%이며 2005년 72.3%로 가장 높았고 2001년 63.3%로 가장 낮았다.
 - 2006년 조세수입은 NT\$ 1,600.8 billion으로 1997년 NT\$ 1,271.5 billion에 비해 25.9%가 증가하였다. 이는 사회적 환경 변화와 ‘재정수지획분법(財政收支劃分法)’에 따른 것이다.

[대만 연도별 조세수입]

(NT\$ billion)

항목	2003		2004		2005		2006		2007	
	금액	비율	금액	비율	금액	비율	금액	비율	금액	비율
총 계	1,253	100.0	1,387	100.0	1,567	100.0	1,601	100.0	1,734	100.0
조세	1,220	97.4	1,353	97.6	1,531	97.7	1,557	97.2	1,686	97.2
관세	83	6.6	79	5.7	82	5.3	79	5.0	82	4.7
소득세	411	32.8	456	32.9	626	39.9	646	40.4	730	42.1
영리기업소득세	214	17.1	241	17.4	329	21.0	312	19.5	383	22.1
개인소득세	197	15.8	215	15.5	296	18.9	334	20.9	347	20.0
상품세	146	11.7	160	11.5	168	10.7	159	9.9	149	8.6
담배·주세	50	4.0	48	3.5	50	3.2	51	3.2	50	2.9
사업세	197	15.8	233	16.8	237	15.2	237	14.8	246	14.2
토지세	51	4.1	53	3.8	54	3.4	55	3.4	59	3.4
토지증치세	61	4.9	81	5.9	82	5.2	76	4.8	75	4.3
기타세목	221	17.7	243	17.5	231	14.8	252	15.8	294	17.0
금융기업사업세	22	1.8	24	1.7	26	1.6	27	1.7	28	1.6
건강복지세	10	0.8	10	0.7	10	0.7	17	1.1	20	1.1

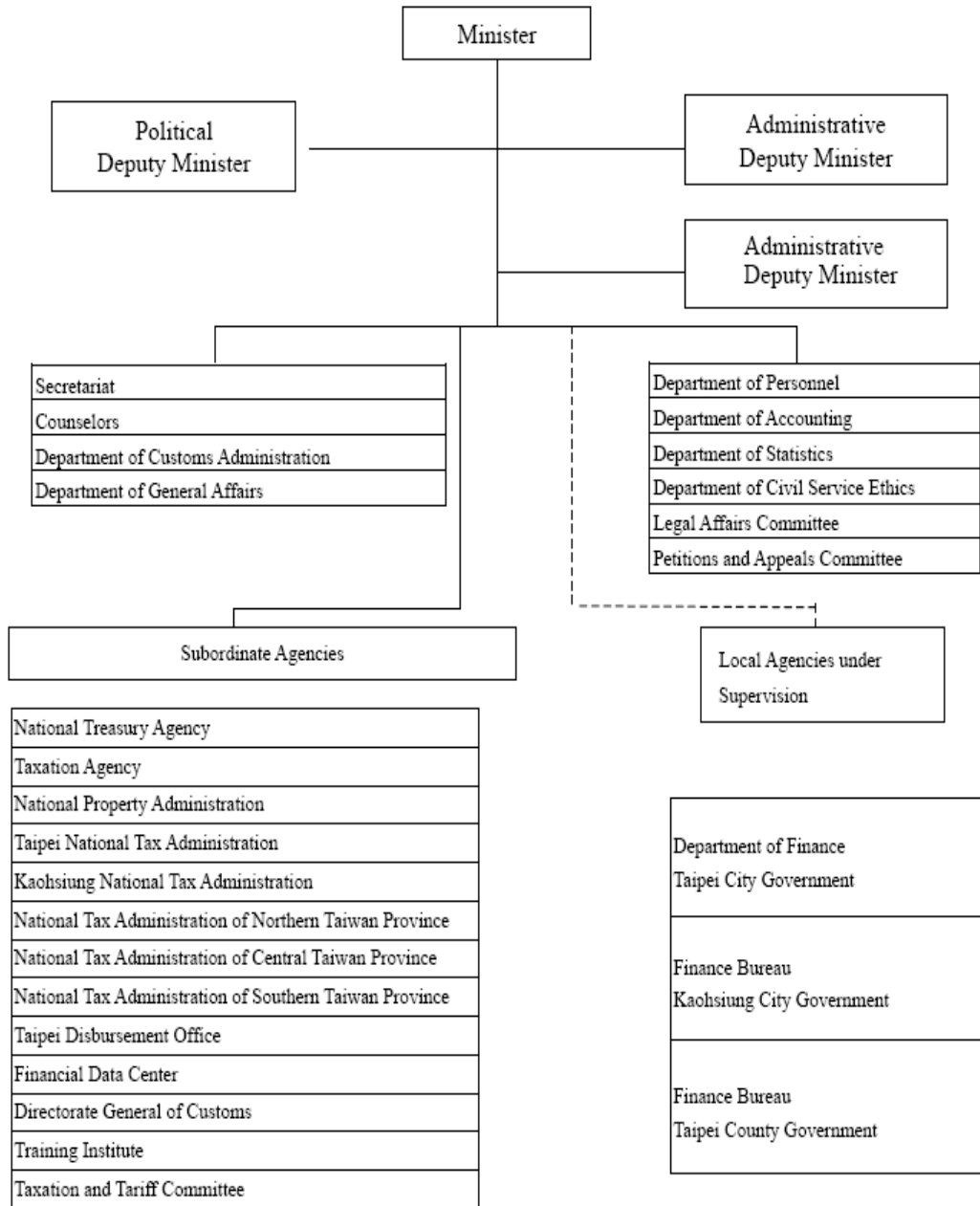
4. 조세부담

- 조세부담수준은 재정당국이 조세정책을 위하여 참고하는 가장 기초적인 원천일 뿐만 아니라, 각각 국가들 간의 조세부담 수준을 비교하는 국제적인 지표가 되기도 한다.
- 이러한 조세부담은 처분가능 한 소득뿐만 아니라 간접적인 소비수준 및 국민들의 표준 생활수준에도 직접적으로 영향을 미친다.

- 따라서 공공의 복지수준을 증대시키기 위하여 국가재정의 기초원천으로서 조세를 채택하고 있는 나라들은 모두 조세정책의 궁극적인 목표로 가벼운 조세부담 정책을 취하고 있다.
- 조세부담 수준은 각 나라의 경제적 복지수준을 평가할 수 있는 지표 중 하나가 되는 것이다.
- 국민들의 조세부담 수준은 국내총생산(GDP)에 대한 전체 조세수입의 비율로 측정할 수 있다.
 - 1997년부터 2006년까지 10년 동안 국내총생산 대비 전체조세수입의 비율은 평균 13.5%로 감소추세에 있다. 그 비율은 1997년에는 15.4%이었던 반면 2006년에는 13.5%이었으며, 가장 낮은 수준이었던 2002년과 2003년에는 각각 11.9%이었다. 그러나 전반적인 조세부담수준은 전세계의 각 국가들 중에서도 상대적으로 낮은 수준인 것으로 나타나고 있다.
 - 만약 주요한 공업화 국가들인 미국이나 일본의 조세부담과 비교한다면, 2004년도 국내총생산 대비 총조세수입의 비율은 미국 18.4%, 일본 16.5%로 같은연도의 대만의 조세부담 수준인 12.5% 보다 더 높게 나타나고 있다.
- 대만의 경제발전과 국가의 현재 소득수준을 감안하여 보면, 현재의 조세부담 수준은 합리적이라고 할 수 있으며, 추후 잠재적인 추가 조세수입의 여력이 있음을 보여준다.

5. 세무행정조직

- 최고 조세행정기관은 재정부이고 재정부 산하에 징세업무를 총괄하는 부세서와 관세정책을 다루는 관정사가 있고, 다시 부세서 산하에는 각 지방국세국이 국세를 징수하고 재정국이 지방세를 담당하고 있으며, 관세는 관세총국이 총괄하고 각 지방별로 세관에서 실질 관세 징수업무를 관장한다.



Ⅱ. 개인소득세(Individual Income Tax)

1. 개요(General Description)

- 대만의 소득세제는 1914년에 공포된 ‘소득세조례’로부터 시작된다. 그러나 여러 가지 어려움으로 시행되지 못하다가 1937년부터 과세하기 시작하였다.
 - 1943년 임대소득이 과세소득에 포함되어 분리과세 방식으로 과세되었으며, 1955년 소득세법을 수정해서 종합과세방식을 채택하고, 동시에 영리목적의 영리기업소득세와 분리되어 현행 종합소득세제의 모습을 갖추었다.
- 현행 종합소득세는 실질적으로 납세의무자 개인을 과세단위로 하는 것이 아니라 하나의 가족을 종합소득의 과세단위로 하고 있다고 볼 수 있으므로 소득의 총액·면세액 또는 공제액이란 부양가족의 소득액, 면세액 및 공제액을 말한다고 하겠다.

2. 과세대상(Tax Scope)

- 속지주의를 채택하고 있으므로 대만 내 원천소득이 과세대상이다. 대만 원천소득에는 대만지구에 원천을 두는 소득과 중국 본토에 원천을 두는 소득이 포함된다. 그러나 중국 본토 원천소득에 대해서는 세액공제 제도를 통해서 이중과세되는 문제를 해결하고 있다.
- 원천소득의 범위(소득세법 제8조)
 - 사업소득
 - 산업(operation of industry)· 상업· 농업· 어업 등으로 획득한 이익
 - 근로소득
 - 대만 내에서 노무를 제공하여 지불된 보수. 단, 비거주 개인으로 1과세연도 거주일수가 90일을 넘지 않는 경우에 국외의 고용주로부터 취득한 근로보수는 예외이다.

- 배당소득
 - 등기설립된 회사, 정부의 허가를 얻어 대만 내에서 영업하는 외국회사로부터 수취한 배당금, 협동조합 등으로부터의 배당금
- 변호사, 공인회계사 등의 인적용적소득
- 이자소득
 - 대만 정부, 대만 내의 법인 및 대만에 거주하는 개인으로부터 취득한 이자
- 임대 및 사용료소득(rentals and royalties)
 - 대만 내에 있는 재산의 임차에 의한 취득한 임대료
- 자산거래소득(income on property transaction)
 - 대만 국내에 있는 재산의 거래로 인한 이익
- 상금(awards or prizes)
 - 대만 국내에서 각종 경기, 시합, 복권에 의해 얻은 상금 또는 급여
- 퇴직소득
- 기타소득

3. 납세의무자(Taxpayers)

- 현행 종합소득세제는 속지주의를 채택하고 있어서 소득의 원천이 대만 내에 있는 개인은 납세의무가 면제되는 경우를 제외하고 그 원천 소득에 대해 초과누진세율로 과세되며, 신고납부방식을 채택하고 있다. 또한 외국납부세액 공제제도도 없다
- 속지주의의 채택은 세계 각지에 분포하고 있는 화교들 중 상당수가 대만국적을 가지고 있다는 점을 고려해서 내려진 조치이다.
- 비거주자인 개인은 국내에 원천이 있는 소득에 대하여 초과누진세율로 과세되며, 원천징수방식이 적용된다.

○ 거주자와 비거주자 구분

- 거주자란 ① 국내에 주소가 있으면서 항상 국내에 거주하는 자, ② 국내에 주소가 없으나 1과세연도 내에 국내에서 합계 183일 이상 거주하는 자를 말하며
- 비거주자란 거주자 이외의 기타 개인을 말한다.

4. 비과세 및 공제(Exemption and Deductions)

가. 비과세소득(Exempt Income)

○ 비과세소득 종류

- 생명보험 지급액
- 토지양도소득
- 특정유가증권 및 파생상품 양도소득

나. 공제(Deductions)(소득세법 제17조)

○ 납세의무자는 규정에 따라 본인·배우자 및 규정된 부양가족 공제액을 차감한다. 종합소득세의 공제액은 일반공제와 특별공제로 구분된다.

- 납세의무자는 일반공제를 함에 있어 항목별공제 또는 표준공제를 선택할 수 있다.

○ 표준공제

- 2006년의 경우 표준공제액은 총소득금액의 크기에 관계없이 NT\$ 46,000 이다.

· 부부의 공동신고(joint return)에 대한 표준공제는 NT\$ 92,000 (2배)

○ 항목별 공제

- 납세의무자는 표준공제를 선택하지 않고 항목별 공제를 받을 수 있다.
- 무신고의 경우 항목별 공제를 받을 수 없고 표준공제 적용이 강제된다.

- 항목별 공제의 종류

- 교육, 문화, 공공복리 또는 자선단체에 대한 기부금 : 총소득의 20%까지 공제
- 정치기부금법(Political Contribution Act)에 따라 정당에 대한 기부금은 NT\$ 200,000를 한도로 총소득의 20%까지 공제
- 근로자, 배우자 또는 직계 친척이 가입한 생명보험료 : 인당 최대 NT\$ 24,000까지 공제
- 국민건강보험료 : 전액 공제
- 납세의무자, 배우자 및 납세의무자와 생계를 같이 하는 부양가족에 대한 의료비 중 국립병원, 노동보험국(Labor Insurance Bureau) 인가 병원 또는 재정부 인정병원에 지급한 금액은 공제 가능
- 과세관청으로부터 인정받은 재해손실은 공제 가능
- 금융기관에 납부하는 주택구입 모기지 이자는 최대 NT\$ 300,000 공제
- 주택임차료는 최대 NT\$ 120,000 공제

○ 특별공제¹⁰⁾

- 납세의무자는 일반공제 또는 항목별 공제에 관계없이 아래 특별공제를 할 수 있다.
 - 자산양도손실 : 납세의무자의 자산양도에 의한 손실액을 다른 자산의 양도소득과 상계가능
 - 급여소득특별공제 : 2006년, 납세의무자 및 동일한 신고대상 개인은 근로소득에 대하여 각자 NT\$ 78,000 공제
 - 저축투자특별공제 : 금융기관, 채권 및 저축신탁펀드(savings trust funds)에서 벌어들인 최초 NT\$ 270,000은 총소득에서 공제 가능

10) 2008.8월 2009년 말로 예정되어 있는 산업고도화 촉진조례의 만료와 이에 따른 세제 개혁안을 발표하였는데 동 개혁안에 따르면 근로자에 대한 특별공제 인상(78,000 NT\$ → 100,000 NT\$), 장애인에 대한 특별공제 인상(77,000 NT\$ → 100,000 NT\$), 교육공제 인상(1가구당 25,000 NT\$ → 1인당 25,000 NT\$)된다.

- 장애인특별공제 : 정신 및 신체 장애 납세의무자 또는 부양가족에 대하여 NT\$ 77,000 공제
- 교육비특별공제 : 대학 재학 부양가족에 대하여 신고서당 NT\$ 25,000 교육비 공제

다. 인적공제(Personal Allowances)

[인적공제 대상 및 금액]

유 형	공제 금액(NT\$)
납세의무자 본인	77,000
배우자	77,000
20세 미만 부양가족 (20세 이상 학생 또는 장애인 공제 가능)	77,000
경로우대 (70세 이상의 납세의무자 본인 또는 부양가족)	115,500

5. 세율(Tax Rates)

- 신고납부방식에 의해서 종합소득세를 납부하는 국내 거주 개인에게는 5단계 초과누진세율이 적용되며, 소비자물가지수가 지난 조정연도의 지수보다 3% 이상 상승한 경우에는 과세소득금액을 조정한다.

소득금액(NT\$)	세율(%)
410,000이하	6
410,001~1,090,000	13
1,090,001~2,180,000	21
2,180,001~4,090,000	30
4,090,001이상	40

6. 신고 및 납부(Tax Returns and Payments)

○ 신고 및 납부기한

- 납세의무자는 소득세법 제71조 규정에 의해 직전연도 1월1일부터 12월31일까지 귀속 종합소득(consolidated income)에 대해 5월1일부터 5월31일까지 신고·납부하여야 한다.
- 급여소득자인 납세의무자라도 원칙적으로 확정신고를 하여야 한다.

○ 종합신고(Consolidated Returns)

- 부부는 공동으로 세금을 신고하여야 하나 근로소득에 대하여는 각자의 납부세액을 계산할 수 있다.

○ 비거주자의 신고 및 납부

- 신고기한 전에 출국하려는 비거주자는 신고기한 전이라도 신고·납부할 수 있다.

○ 신고서의 종류(단순신고서와 일반신고서로 구분)

- 단순 신고서 : 표준공제를 받으며 세액공제를 받지 않는 근로, 배당, 이자소득이 있는 자가 받을 수 있음
- 일반 신고서 : 단순신고서 작성 대상자가 아닌 자

7. 원천징수(Withholding)

○ 개요

- 대만 내에 고정사업장 또는 대리인을 가지고 있지 않은 비거주자 및 외국법인의 대만 원천 소득은 원천징수 대상이다.
- 대만 내에 고정사업장 또는 대리인을 가지고 있지 않은 외국법인은 대만 원천 소득(대만 소재 자산처분 소득 제외)에 대하여 소득지급시에 원천징수되었다면 별도로 소득세를 신고할 필요는 없다.

- 원천징수의무자는 익월 10일까지 지난달에 원천징수한 세금을 국고에 납부하여야 한다.
- 대만 내에 소재하는 자산처분 소득에 대하여는 25% 세율로 원천징수되며 소득세 신고 대상이다.
- 원천징수의무자
 - 원천징수 대상소득을 지급하는 자
- 원천징수세율

소득종류	비고	세율(%)
배당소득	원칙	30
	외국인투자법에 따라 승인받은 투자의 경우	20
근로소득		20
수수료소득		20
이자소득		20
	금융자산증권법등에 따라 일반소득과는 별도로 분리과세되는 이자소득	6
자산임대소득		20
사용료소득		20
상금	비과세되는 NT\$ 2,000 미만, 정부복권상금은 제외	20
인적용역소득		20
자산임대소득		20
기타 대만내 원천소득		20

8. 기타 제규정(Other Provisions)

가. 가산세

- 신고불성실 가산세
 - 무신고소득 세액의 최고 300% 부과
 - 과소신고소득 세액의 최고 200% 부과

○ 납부불성실 가산세

- 미납부세액에 대하여는 최대 30일 기간동안 격일 1% 납부불성실가산세가 부과된다.
- 납세의무자가 위 30일내에 납부하지 않을 경우 세무서는 법원에 강제집행 청구하여 징수가 가능하다.

나. 외국인근로자 근로소득

○ 개요

- 외국인 근로자(expatriate)에게 제공되는 아래 부가급부(fringe benefit)에 대해서는 법정 요건을 충족하면 과세대상 소득에서 제외한다.

휴가비용 (Home Leave)	인보이스 또는 근로계약서 등에 의하여 외국인 근로자에게 지급되는 휴가비용은 과세대상소득에서 제외되나 외국인근로자의 가족에게 지급되는 금액은 과세대상소득에 포함
사택	사용자가 직접 임차하여 외국인근로자에게 제공하는 사택의 임차료는 외국인근로자의 과세대상 소득에 포함하지 않음
차량	사용자 소유의 차량을 외국인근로자에게 제공하는 경우 차량 감가상각비, 유류비 등은 외국인근로자의 과세소득에 포함하지 않음
의료비	외국인근로자를 위해 사용자가 지급하는 의료비는 외국인근로자의 과세소득에 포함
소득세 보전액 (Tax Reimbursement)	사용자가 납부한 외국인근로자 소득세는 사용자가 비용으로 공제받지 않는 경우 사용자의 과세대상 소득에서 제외
교육비	사용자가 지급하는 외국인근로자 자녀 교육비는 외국인근로자 과세대상 소득에 포함
스톡옵션	외국법인의 대만 자회사, 지점 등의 근로자에게 부여되는 스톡옵션은 스톡옵션 행사시 과세

다. 소득기본세(Basic Income Tax Amount : 이하 'BITA')의 신고

- 최저한세의 일종으로 2005.12.28부터 법률이 시행되었으나, 2007년에 2006년 소득분에 대해 처음으로 신고가 이루어졌다.

라. 납세편의성 제고

- 대만 정부는 납세편의성 제고 방안의 일환으로 편의점에서 세금납부가 가능하게 허용하여 연중 시간에 관계없이 세금납부가 가능하다.

Ⅲ. 영리기업소득세(Profit-seeking Enterprise Income Tax)

1. 개요(General Description)

- 1955년 소득세법을 수정하면서 분류소득세제 중 영리사업소득세를 개인 소득세와 분리 독립하고, 1990년 '영리기업소득세 조사준칙'이 제정·공포되어 영리기업소득세의 조사기준이 규정되었고, 회계담당자는 이 준칙에 따라 회계정리를 하고, 특히 손금으로 인정받기 위하여는 필요한 증빙서류를 이 규정에 따라 준비해 두어야 한다.
- 우리나라를 포함한 대부분의 나라의 법인세제도와는 달리, 대만은 영리기업에 대하여 영리기업소득세(the Profit-Seeking Enterprise Income Tax)를 과세한다.
 - 영리기업은 개인기업(자영업, sole proprietorship)¹¹⁾, 파트너쉽, 회사, 기타 다른 형태로 조직된다.
- 회사가 개인주주에게 배당하는 경우 및 개인기업과 파트너쉽이 개인기업주와 파트너에게 이익을 배당하는 경우 개인소득세가 과세된다.

11) 개인이 운영하는 기업을 의미하는 것이 아니라 개인들이 모여서 만든 조합과 같은 형태를 의미한다. An individual as a sole proprietor aiming at making profit and having a business title or place of business shall be regarded as a profit-seeking enterprise.

- 과세최저한(소득세법 제5조)
 - 기업의 연간 과세소득이 NT\$ 50,000 이하이면 과세하지 않는다.
- 영리기업 소득에 대한 이중과세 부담을 경감하기 위해 98.1.1자로 배당세액공제제도(dividend imputation system) 도입되었다.

2. 과세대상(Tax Scope)

- 영리기업소득세의 과세대상은 모든 영리사업의 각 사업연도 소득금액이며, 속인주의를 채택하고 있음에 따라 전세계소득에 대해 과세하고 있지만 외국세액공제방식에 의해 국제적 이중과세를 조정하고 있으므로 속지주의적인 성격도 가지고 있다고 하겠다.
 - 고정사업장 또는 사업대리인을 가지고 있는 외국영리법인은 대만내 원천소득에 대하여 신고·납부의무 있다.
 - 고정사업장 없는 외국영리기업은 대만 내 원천소득에 대하여 각 소득별로 세율을 적용하여 원천징수 된다.
- 영리사업이란 공영(公營), 사영(私營) 또는 공사합동(公私合同)으로 영리를 목적으로 영업명칭 또는 장소를 가진 독립자본, 공동자본, 회사 및 기타 조직방법에 의한 공업, 상업, 농업, 임업, 어업 등에 관한 영리사업을 말한다.
- 특정소득에 대한 특별 취급
 - 대만 내에서 국제운수, 건설, 기술용역제공 또는 기계 및 장비 임대업을 영위하는 외국기업은 간주이익기준에 따라 과세소득 결정을 신청할 수 있으며, 국제운수사업에 대하여는 10%의 간주이익률이 적용되고 기타 사업에 대하여는 15%의 간주이익률이 적용된다.

3. 납세의무자(Taxpayers)

- 회사, 개인기업, 파트너쉽, 기타 다른 형태의 조직은 영리기업소득세

신고·납부의무가 있다.

- 영리기업은 대만내 본점 유무에 따라 내국영리기업과 외국영리기업으로 분류되고, 외국영리기업은 다음 3종류로 분류
 - 대만내 고정사업장이 있는 외국영리기업
 - 대만내 대리인을 둔 외국영리기업
 - 고정사업장과 대리인 어느 하나도 두지 않는 외국영리법인

4. 면세 및 비과세 및 공제(Exemption and Deductions)

가. 면제소득 및 비과세소득

- 면제소득의 예를 들면 다음과 같음
 - 토지 및 특정 증권의 양도로부터 발생하는 소득
 - 상호주의가 적용되는 국제운수업을 영위하는 회사의 소득
 - 개인(individual)의 증여로 취득하는 재산
 - 외국금융기관의 대만내 지점 또는 기타 금융기관에 대한 대부(loan)로부터 발생하는 이자
 - 외국기업이 대만정부 승인을 받은 대만 중요 생산 기업으로부터 지급받는 특정 사용료소득
 - 산업촉진법(The Statute for Upgrading Industries, 'SUI')이 규정하는 면제소득
- 비과세소득
 - 소득세 목적상 내국법인으로부터 지급받는 소득
 - 특정 단기금융상품과 자산유동화증권(ABS)에서 발생하는 이자소득

5. 손금산입

○ 일반원칙

- 수익 창출 목적을 위해 일반적인 사업활동 과정에서 발생되어야 한다.
- 충분한 증빙서류에 의해 입증 가능하여야 한다.
- 수익창출에 관련되고 비용금액이 합리적인 수준이어야 한다.

○ 비용 불인정 항목

- 위 일반원칙을 충족하더라도 아래 항목들은 비용 불인정
 - 벌금
 - 가사 관련 경비
 - 증빙에 의하여 입증이 안되는 원재료비 과다 계상액
 - Interest on capital distributed as dividends
 - 한도 초과 비용(접대비, 복리후생비, 비금융기관이 기간연장한 대출금에 대한 이자, 차량취득원가 및 기부금)
 - 내용연수가 2년 넘게 연장되는 자본적지출액과 NT\$ 60,000 초과 지출금액은 자본화하여 감가상각을 통하여 비용화하여야 한다.

○ 비용인식 기준

- 과세관청에 의하여 현금기준이 승인된 경우를 제외하고 발생기준에 의하여 비용을 인식한다.
- 일반적으로 미실현비용은 세무목적상 공제되지 않지만 아래항목은 재정부의 승인을 받고 대차대조표에 계상한 경우 일정한도 내에서는 비용으로 인정된다.
 - 퇴직기금
 - 재고자산 시장가격이 취득원가보다 낮을 경우 재고자산 조정액
 - 대손충당금(Allowances for doubtful accounts)
 - 정부 승인 해외투자에서 발생한 손실액

- 기타 법이 특별히 허용하는 항목
- 본점경비 배분
 - 대만내 외국법인 지점은 요구조건을 충족하는 경우 본점의 일반경비 배분액을 비용으로 공제할 수 있다.
 - 배분기준은 외국법인 전체 수입금액에서 지점 수입금액이 차지하는 비율에 의하나 사전에 과세관청에 다른 방법 사용을 승인받으면 그 방법을 적용할 수 있다.
 - 비용 공제 신청시 감사인의 감사를 받은 본점 재무제표를 소득세 신고서에 첨부하여야 하며 감사인 감사의견서와 재무제표는 공증 또는 본점 소재 대만 대사관 또는 영사관의 공증을 받은 것이어야 한다.
- 대손충당금 설정 관련
 - 대손충당금 설정액은 채권금액의 1%를 초과할 수 없다.
 - 실제 대손발생액이 1%를 초과하는 경우, 직전 3년간 평균 실제 대손률을 반영하기 위하여 대손충당금을 조정할 수 있다.
 - 아래의 경우는 대손으로 인정 가능한 경우 이다.
 - 2년 이상 미지급상태이며 회수노력을 통하여도 이자 및 원금을 회수하지 못한 경우
 - 채권금액의 일부 또는 전부가 채무자의 파산, 부도 등의 사유로 회수 불가능한 경우
 - 대손처리 하였으나 회수한 금액은 회수 사업연도의 소득에 포함되어야 함
- 접대비
 - 증빙요건을 충족한 법정 한도내 금액만 비용 인정

기업 또는 사업활동 유형	연간 거래금액 (백만 NT\$)	한도	
		일반 신고	공인회계사의 감사를 받고 신고한 경우
① 아래③과④를 제외한 기업의 매입액	0-30	0.15%	0.20%
	30-150	0.10%	0.15%
	150-600	0.05%	0.10%
	600 초과	0.025%	0.05%
② 아래③과④를 제외한 기업의 매출액	0-30	0.45%	0.60%
	30-150	0.30%	0.40%
	150-600	0.20%	0.30%
	600 초과	0.10%	0.15%
③ 운수업	0-30	0.60%	0.70%
	30-150	0.50%	0.60%
	150 초과	0.40%	0.50%
④ 용역 및 신용제공업	0-9	1.00%	1.20%
	9-45	0.60%	0.80%
	45 초과	0.40%	0.60%

- 수출 및 외화획득사업을 영위하는 기업은 최대 총 수출액의 2%까지 추가 공제가 허용된다.

○ 퇴직기금(Labor Retirement Fund)

- 정부로부터 사전승인을 받은 경우, 연금 비용(pension expense)으로 지급한 금액의 4%를 한도로 공제 가능
- 종업원퇴직기금¹²⁾을 설정한 경우, 연금 비용으로 지급한 금액의 8% 까지 공제 가능
- '05.1.1.부터 근로연금법에 따라 기업이 불입한 연금도 공제 가능

○ 수선 및 관리비

- 일반적인 수선 및 유지비는 비용처리하나 기초 자산의 가치를 증가시

12) 종업원퇴직기금은 당해 기업과 분리되어 재정부 규칙에 따라 운용되는 기금을 말함

키거나 그 지출효과가 2년을 초과하는 경우 비용으로 처리하지 말고 자본화하여야 한다.

○ 2년 및 NT\$ 60,000 규칙

- 고정자산의 취득, 수선 및 유지비가 2년 미만의 사용기간을 제공하거나 사용기간이 2년 초과하나 총비용이 NT\$ 60,000 이하인 경우 당해 과세기간의 비용으로 처리한다.
- 대량구매하고 단가가 NT\$ 60,000 이상인 경우에는 자본화하여야 한다.

○ 기부금

- 국방, 공익, 자선, 문화 또는 교육 사업을 지원하기 위하여 지출하는 기부금은 공제가능
 - 국방 및 정부에 대한 기부금은 전액 공제
 - 기타 기부금은 당해 과세연도 과세소득의 10%까지 공제
- 지출증빙 필요
- 정치기부법에 따라 정당에 대한 기부금은 과세소득의 10%와 NT\$ 500,000 중 적은 금액까지 공제

6. 세율(Tax Rates)

- 과세소득에 적용하는 영리기업소득세율은 아래와 같이 15%, 25% 이다.¹³⁾

13) 2008.8월 2009년 말로 예정되어 있는 산업고도화 촉진조례의 만료와 이에 따른 세제 개혁안을 발표하였는데 동 개혁안에 따르면 영리기업소득세율이 25%에서 20%로 인하된다.

과 세 소 득(NT\$)	세 율(%)
50,000이하	0
50,001 ~ 100,000 <세액산출 공식> * 71,428이하 세액 = (과세소득-50,000) × 50% * 71,428초과 세액 = (과세소득) × 15%	15
100,001이상	25

7. 소득금액 계산구조(Income Computation)

- 과세소득 계산
 - 회계상 소득에서 면제소득(tax-exemp income), 비과세소득(excluded income), 공제제외 비용(non-deductible expenses)과 이월결손금을 차감하여 계산한다.
- 결손금
 - 법인이 장부 및 증빙을 갖추고 정부로부터 결손금 발생 과세연도와 공제연도에 대한 블루세금신고 승인을 받거나 외부감사인의 인증을 받아 신고기한까지 신고한 경우 결손금은 발생일로부터 5 과세연도 이내 이월 공제가 가능하다.

8. 신고 및 납부(Tax Returns and Payments)

- 중간신고납부제도(Provisional Payments)
 - 영리기업은 9월1일부터 9월30일까지 직전연도 영리기업소득세의 1/2을 재정부에 납부하고 중간신고서 및 영수증을 세무당국에 제출하여야 한다.
 - 대만 내 고정사업장이 없고 원천징수대상 소득만 있는 외국영리기업은 중간신고납부의무 면제된다.

- 확정신고(Settlement of the Final Return)
 - 신고기한 : 직전연도 귀속 영리기업소득세를 5월1일부터 5월31일까지 신고하여야 한다.
 - 신고서의 종류 : 일반신고서, 블루신고서, 단순신고서 등

9. 세무조사(Investigation and Assesment)

- 세무조사대상자
 - 무신고자, 신고서만 제출하고 계정별 증빙서류를 제출하지 않은 자를 대상으로 관련 정보와 업종별 평균이익률을 고려하여 조사대상자로 선정한다.
- 세무조사 분류
 - 서면조사(Paper Review)와 실지조사(On-the-spot auditing)로 분류
- 서면조사 대상자
 - 산업평균소득을 이상 신고한 기업, 외부감사기업, 블루신고서제출자 및 소규모의 자영업자 및 파트너쉽, 랜덤(random)서면조사대상
- 실지조사 대상자
 - 전산샘플링에 의해 조사대상자로 선정된 기업
 - 과세당국이 수동으로 조사대상자로 선정한 기업
 - 외부감사대상이나 외부감사인의 감사를 받지 않은 기업
 - 예비점검(preliminary checking)결과 서면조사기준을 충족하지 않는 기업
 - 랜덤서면 검토 결과 실지조사대상자로 선정된 기업

10. 기타 제규정(Other Provisions)

가. 가산세

- 기장의무불성실 가산세
 - 규정(regulation)에 따라 장부를 비치하지 않거나 작성하지 않는 기업은 최소 NT\$ 3,000에서 최대 NT\$ 7,500까지 가산세 부과
 - 장부 비치 및 작성 명령을 받은 기업이 1월 이내에 명령을 이행하지 않을 경우 다시 최소 NT\$ 7,000에서 최대 NT\$ 15,000까지의 가산세를 부과하고 1월내에 비치 및 작성 명령을 내린다.
 - 위 기간 내에도 장부를 비치 및 작성하지 않는 기업에 대하여는 1월의 영업정지에 처하고 장부 비치·작성시까지 영업정지를 명할 수 있다.
- 증빙불비가산세 : 증빙불비금액의 5%
- 신고시 회계서류 및 증빙미제출 가산세 : NT\$ 7,500이하
- 기한 후 신고가산세 : 세액의 10% (NT\$ 1,500이상 30,000이하)
- 과소신고가산세 : 최대 세액의 200%
- 무신고가산세 : 최대 세액의 300%

나. 자본이득세

- 별도의 자본이득세는 없으며 일반소득으로 보아 일반세율이 적용되어 과세된다.

다. 그룹화 / 연결신고

- 대상법인
 - 합병 결과 다른 법인 지분의 90% 이상을 가진 법인, 금융지주회사와 자회사 지분의 90% 이상 지분을 보유한 법인은 연결소득세 신고대상 법인으로 선택할 수 있다.

- 연결소득세 신고서에는 모든 신고대상 내국법인이 포함되어야 하며 불가피한 사유가 있고 과세관청으로부터 승인을 받은 경우 과세기간 종료 2월 이내 철회할 수 있음. 철회 후 5년 동안 연결소득세 신고를 선택할 수 없다.
- 자회사에 대한 지분율이 90% 미만인 경우, 자회사는 독립된 신고를 하여야하며 연결소득세에 포함될 수 없다.

IV. 상속증여세(Estate and Gift Tax)

1. 개요(General Description)

- 현행 상속·증여세법은 1995년 개정된 세법이 적용중이다.
- 대만에서 상속·증여세는 전체 세수의 약 1.9%를 차지하고 있다.

2. 상속세법(Estate Tax)

가. 과세소득 범위

- 상속세의 과세대상은 상속, 즉 자연인이 사망하면서 남긴 재산이다.
 - 대만 국민인 거주자가 국내외에 소유하는 재산을 사망으로 인해서 이전할 경우에는 상속세가 부과된다.
 - 대만 국민이지만 비거주하는 자와 대만 국민이 아닌 자가 사망으로 이전하는 경우 국내에 있는 재산에는 상속세가 부과된다.
 - 피상속인이 사망전 3년 내에 다음 개인에게 증여하는 재산은 기본면세액 NT\$ 450,000 내에서 피상속인의 사망시에 피상속인의 상속으로 간주해서 상속총액에 산입시킨다.
 - 피상속인의 배우자

- 민법 규정에 의한 각 순서의 상속인
- 국민과 비국민, 거주자와 비거주자의 구별은 사망한 자의 신분으로 판단한다. 재산은 동산·부동산 및 기타 가치가 있는 모든 권리를 말한다.
- 재산의 평가
 - 피상속인의 사망 당시의 시가로 평가한다. 그러나 기간을 넘긴 신고·신고누락·축소신고 또는 은닉하고 무신고하는 경우에는 기간을 넘기고 신고한 날 또는 조사일 현재의 시가 중 더 높은 것을 기준으로 한다.

나. 납세의무자

- 납세의무자는 다음 순서에 따라 결정된다.
 1. 유언집행자
 2. 유언집행자가 지정되지 않은 경우 상속인 또는 수유자
 3. 위에 해당되는 자가 없는 경우 법에 의해 선임된 관리자 (Administrator)

다. 비과세, 공제 및 면제(Exclusions, Deductions and Exemptions)

- 주요 비과세 항목
 - 유언자, 수유자 또는 상속인의 정부 또는 교육·문화·자선·종교 단체 등에 대한 기부
 - 유언자, 수유자 또는 상속인의 국영기업에 대한 기부
 - 저작권, 특허권 등
- 주요 공제항목
 - 배우자에 대하여 NT\$ 4,450,000 공제
 - 직계존속에 대하여 인당 NT\$ 450,000을 공제하며 또한 직계비속이

20세가 될 때까지 매년 NT\$ 450,000을 공제

- 상속인이 부모인 경우에는 각 인당 NT\$ 1,110,000을 공제
- 상속인이 장애인 또는 정신지체장애인인 경우 NT\$ 5,570,000을 공제

○ 면제

- NT\$ 7,790,000까지는 상속세가 면제된다. 피상속인이 대만시민이고 대만내에서 계속적으로 거주하고 군인, 경찰, 공무원, 교사로서 직무 수행중에 사망한 경우에는 NT\$ 15,580,000까지 상속세가 면제된다.

라. 세율

상속재산	세율(%)
670,000이하	2
670,001 ~ 1,670,000	4
1,670,001 ~ 3,340,000	7
3,340,001 ~ 5,010,000	11
5,010,001 ~ 6,680,000	15
6,680,001 ~ 11,130,000	20
11,130,001 ~ 16,700,000	26
16,700,001 ~ 44,530,000	33
44,530,001 ~ 111,320,000	41
111,320,001이상	50

마. 신고 및 납부

○ 신고기한

- 피상속인 사망일로부터 6월 이내에 피상속인 주소지 관할 세무서에 상속세 납부세액 유무에 불구하고 신고하여야 한다.

- 피상속인이 대만시민이 아니거나 대만시민이나 대만에서 거주하지 않은 자인 경우 상속세 신고는 중앙정부 소재 세무서에 하여야 한다.

○ 납부

- 납세의무자는 세무서로부터 고지서를 수령한 날로부터 2월 이내에 상속세를 납부하여야 한다.
- 상속세 납부세액이 NT\$ 300,000 이상이고 납세의무자가 전액 현금으로 납부하기가 곤란한 경우, 납세의무자가 지정된 기한이내에 분납신청서를 제출하는 경우 12개월 분할하여 납부할 수 있다.

3. 증여세법(Gift Tax)

가. 과세소득 범위

○ 과세대상

- 대만 국민인 거주자가 국내외에 소유하는 재산을 증여로 인해서 이전할 경우에는 증여세가 부과된다.
- 대만 국민이지만 비거주하는 자와 대만 국민이 아닌 자가 증여로 이전하는 경우 국내에 있는 재산에는 증여세가 부과된다.
- 의제증여 : 재산 이전시 다음 사항에 해당되면 증여로 간주한다.
 - 청구권 시효기간 내에 채무를 무상으로 면제하거나 부담하는 경우, 면제 또는 부담하는 채무
 - 편저하게 낮은 가액으로 재산을 양도하거나 채무 면제 또는 부담하는 경우, 그 차액부분
 - 현저하게 낮은 가액으로 타인을 위해서 재산을 구입하는데 출자하는 경우, 그 출자와 대가의 차액부분
 - 한정치산자 또는 금치산자가 구입하는 재산은 법정대리인 또는 감호인의 재산으로 간주한다.

- 배우자간 및 3촌 이내의 친족간의 매매. 단, 지불한 가액에 대한 확실한 증명을 제출하는 경우는 제외한다.

○ 재산의 평가

- 증여자의 증여일 현재 시가로 평가한다. 그러나 기간을 넘긴 신고·신고누락·축소신고 또는 은닉하고 무신고하는 경우에는 기간을 넘기고 신고한 날 또는 조사일 현재의 시가 중 더 높은 것을 기준으로 한다.

나. 납세의무자

- 증여세 납세의무자는 증여자가 원칙이나 다음의 경우 수증자가 납세의무자가 된다.

1. 증여자가 행방불명인 경우
2. 증여자가 증여세를 납부기한까지 납부하지 않았고 증여자의 재산에 대하여 강제집행 하여도 충당할 수 없는 경우

다. 비과세, 공제 및 면제(Exclusions, Deductions and Exemptions)

○ 비과세

- 정부 또는 교육·문화·자선·종교 단체 등에 대한 증여
- 국영기업에 대한 증여
- 상속인에 대한 농지 증여
- 배우자간의 증여
- NT\$ 1,000,000 이내의 자녀의 결혼 관련 증여

○ 면제

- 증여인별로 연간 NT\$ 1,110,000까지는 증여세가 면제된다.

라. 세 율

순 증여재산	세 율(%)
670,000이하	4
670,001 ~ 1,890,000	6
1,890,001 ~ 3,120,000	9
3,120,001 ~ 4,340,000	12
4,340,001 ~ 5,570,000	16
5,570,001 ~ 8,020,000	21
8,020,001 ~ 15,580,000	27
15,580,001 ~ 32,280,000	34
32,280,001 ~ 50,090,000	42
50,090,001이상	50

마. 신고 및 납부

○ 신고기한

- 증여자는 증여재산가액이 증여세 면제액 기준인 NT\$ 1,110,000 초과하는 날로부터 30일내에 주소지 관할 세무서에 증여세 신고를 하여야 한다.
- 증여자가 대만시민이 아니거나 대만시민이나 대만에서 거주하지 않은자인 경우 증여세 신고는 중앙정부 소재 세무서에 하여야 한다.

○ 납부

- 납세의무자가 세무서로부터 고지서 수령일로부터 2월 이내 납부하여야 한다.
- 증여세 납부세액이 NT\$ 300,000 이상이고 납세의무자가 전액 현금으로 납부하기가 곤란한 경우, 납세의무자가 지정된 기한내에 분납신청서를 제출하는 경우 12개월 분할하여 납부할 수 있다.

4. 기타 제규정(Other Provisions)

가. 가산세

- 무신고가산세
 - 신고기한까지 신고하지 않은 자에 대하여 상속세액 또는 증여세액의 100%에서 200%까지 무신고가산세 부과한다. 납부해야할 세액이 없으면 NT\$900의 벌금을 부과한다.
- 과소신고가산세
 - 과소신고분의 상속세액 또는 증여세액의 100%에서 200%까지 과소신고가산세 부과한다.
- 납부불성실가산세
 - 사기, 기타 부정한 방법으로 상속세 또는 증여세를 납부하지 않은 자에 대하여는 100%에서 300%까지의 납부불성실가산세를 부과한다.
- 상속세 또는 증여세를 납부하지 않고 유산을 분할하거나 유언을 집행하거나 이전등기를 하면 1년 이하의 유기징역에 처한다.
- 기간을 넘기고 납부하면 2일 마다 1%의 체납금이 가산되며, 30일이 지나서도 미납시에는 법원으로 이관해서 강제집행 한다.

V. 국제조세 (International Tax)

1. 이중과세방지

- 대만 내에 본점을 가지고 있는 영리법인은 전세계 소득에 대하여 과세되나 국외원천소득에 대하여 납부한 외국납부세액은 외국납부세액 공제가 가능하다.

- 외국납부세액공제는 국외원천소득에 대한 대만 납부세액을 한도로 한다
- 대만 법인의 외국자회사가 납부한 법인세는 세액공제대상이 아니다.

2. 원천세(Withholding Taxes)

- 개요
 - 대만 내에 고정사업장 또는 대리인을 가지고 있지 않은 비거주자 및 외국법인의 대만 원천 소득은 원천징수 대상이며
 - 대만 내에 고정사업장 또는 대리인을 가지고 있지 않은 외국법인은 대만 원천 소득(대만 소재 자산처분 소득 제외)에 대하여 원천소득 지급시에 원천징수되었다면 별도로 소득세를 신고할 필요가 없다.
 - 대만 소재 자산처분 소득에 대하여는 25% 세율로 원천징수되고 소득세 신고 대상이다.
- 원천징수세율

소득종류	비고	세율(%)
배당소득	고정사업장 등 없는 개인	30
	고정사업장 등 없는 법인	25
	고정사업장 있는 개인 및 법인	20
근로소득, 수수료소득		20
이자소득, 자산임대소득		20
사용료소득		20
상금	비과세되는 2,000 TWD 미만 정부복권상금은 제외	20
인적용역소득		20
영화필름임대소득		10
기타 대만내 원천소득		20
국제운송용역소득	재정부승인시만 가능	2.5
기술용역제공, 장비임대 등 건설사업 소득	재정부승인시만 가능	3.75

3. 조세조약

- 대만은 2007년말 현재 16개 나라와 조세조약¹⁴⁾을 체결하고 있으며, 14개 국과 국제운송용역에 대한 협약¹⁵⁾을 체결하고 있다.
- 우리나라와의 관계
 - 우리나라와 대만은 조세조약이 체결되지 아니하였으나 국제운송용역 소득에 대하여는 조세협약을 체결하였다.

4. 조세회피방지 규정 (Anti-avoidance Rules)

가. 개요

- 일반 이전가격규정과 배당소득 및 imputation 세액공제 관련 조세회피계약을 다루고 있는 66.8조로 구성

나. 이전가격(Transfer Pricing)

- 1971년 특수관계가 있는 영리기업 간에 발생하는 이전가격 문제에 대한 공정한 과세를 목적으로 소득세법 제43의 1에 이전가격이 있을 경우 과세할 수 있는 근거 규정을 제정하였으며 기타 법령에서 정상가격에 의하지 않을 경우 과세할 수 있는 규정을 제정하였다.
- 2004.12.30. 재정부는 이전가격에 대한 과세를 명확히 하기 위해 이전가격과세규정¹⁶⁾을 제정·공포하였으며, 동 규정은 5개의 장, 80개 조문으로 구성되어 있으며 'ITLA'라고 칭한다.¹⁷⁾

14) Australia, Belgium, Denmark, Gambia, Indonesia, Macedonia, Malaysia, The Netherlands, New Zealand, Senegal, Singapore, South Africa, Swaziland, Sweden, Vietnam, and the UK.

15) Canada, the European Union, Germany, Israel, Japan, Korea, Luxembourg, Macau, The Netherlands (Shipping, Air Transport), Norway, Sweden, Thailand, and the United States.

16) Regulations Governing of Assessment Rules for Non-arm's-length Transfer Pricing of Profit-Seeking Enterprises Income Tax on Non-Arm's-Length Transfer Pricing

17) Article 1 These Regulations Assessment Rules are enacted pursuant to the provisions set out in Paragraph 5, Article 80 of the Income Tax Law Act (hereinafter referred to

- 특수관계자 판정기준
 - 20% 지분율
 - 실질적인 관리 및 통제(substantive management and control)
 - 중대한 영향력(material influence)
- 정상가격산출방법
 - 비교가능제3자가격법
 - 재판매가격법
 - 원가가산법
 - 비교이익법
 - 이익분할법
 - 재정부가 인정하는 기타 방법들(4분위법 적용 가능)
- 자료제출요건(Disclosure Requirements)
 - 일정 요건 충족하는 법인은 소득세 신고시 특수관계자간 거래내역가 정상가격임을 확인할 수 있도록 법적 구조도(legal structure), 특수관계자에 대한 상세정보, 거래유형, 금액 및 채권·채무액, 적용된 정상가격산출방법, 정상가격산출방법 사전승인(Advance Pricing Agreement) 여부 및 관련 정보 등을 제출하여야 한다.
- 이전가격 관련 서류(Contemporaneous Documentations)
 - 법인은 특수관계거래의 적정성을 입증할 서류 및 이전가격보고서를 유지·관리하여야 한다.
- 과세당국의 자료제출 요구
 - 법인은 과세관청의 요구시 1개월 이내에 관련서류를 제출하여야 하며 부득이한 경우 1개월을 한도로 연장할 수 있다.

- 서류는 중국어 제출이 원칙이며 과세관청 승인을 받은 경우 영어 제출도 가능하다.
- 이전가격 조정에 따른 가산세(Penalties)
 - 이전가격조사 결과 소득조정액 발생시 최대 과소납부세액(underpaid tax amount)의 200%를 가산세로 부과한다.
 - 보고된 특수관계자간 거래가격이 과세관청이 산출한 정상가격보다 200% 이상이거나 50% 이하인 경우
 - 소득조정액이 법인의 경정소득금액의 10%이고 경정 순 매출액의 3% 이상인 경우
 - 법인이 이전가격보고서를 제출하지 않고 기타 서류로도 이전가격결과가 정상가격범위 내라는 것을 입증하지 못하는 경우
 - 과세관청이 소득금액을 과소신고 하였다고 입증하고 그 금액이 중요한 경우
- 정상가격산출방법 사전승인제도(Advance Pricing Agreement, APA)
 - 일정 요건 충족하는 법인은 재정부에 APA를 신청할 수 있다.
 - 신청서는 APA 신청과세기간 최초 과세연도 종료일까지 제출하여야 한다.
 - APA 대상 과세기간은 일반적으로 3년에서 5년까지이나 소급적용은 가능하지 않다.

5. 고정사업장(Permanent Establishment)

- 국내세법상 고정사업장
 - 대만세법상 고정사업장은 ‘고정된 사업장소’ 또는 ‘사업대리인 (business agent)’로 구성
 - 관리사무소, 지점, 공장, 창고, 건설현장 등 사업 수행을 위한 고정된

장소는 고정사업장을 구성

- 사업대리인에는 계약체결대리인, 주문대리인 등으로 종속대리인을 의미

○ 고정사업장의 중요성

- 대만 내 고정사업장 없는 외국법인은 대만원천소득에 대하여 20% 원천징수 되나 대만 내 고정사업장 있는 외국법인은 과세소득에 대하여 25% 세율로 과세되며 신고의무가 있다.

6. 기타 국제조세 관련

○ 과소자본세제(Thin Capitalization)

- 대만은 과소자본세제가 없다.

○ 조세피난처과세제도(Controlled Foreign Company)

- 대만은 조세피난처과세제도가 없다.

Ⅵ. 간접세 및 기타제세(Indirect and other taxes)

1. 사업세(Value-Added and Non-Value-Added Business Tax, 'VANVABT')

가. 개 요

- 사업세는 1928. 7월에 처음으로 다단계 총사업세(multiple-stage gross business receipt tax, 'GBRT')로 도입된 이후 1985년까지 13번의 수정이 있어 왔으나 다단계 총사업세로 부과되는 기본원칙은 그대로 유지되어 왔다. 이론적으로 총사업세는 이중과세 문제 및 폭포효과(cascade effect)라는 문제를 야기하며 아래와 같은 부작용이 발생하게 되었다.

- 사업구조의 교란, 경제적 효율성의 감소
 - 투자원가의 증가 및 투자인센티브의 상쇄
 - 수출단가의 증대 및 수출경쟁력의 약화
 - 공평성의 저해
- 따라서 1969년에 총사업세를 대체하기 위하여 부가가치세를 제안하였으며, 비록 이러한 세제개편에 대한 준비가 제대로 되어 있지는 않았지만 부가가치세 시스템에 대한 연구를 하여 1985.11.15에 새로운 사업세법(실질적으로 부가가치세법)이 시행되게 되었다.
- 2007.12.12 중요한 개정사항으로 개인, 정부단체, 총사업금액을 기준으로 사업세를 계산하는 사업체 등 매출세액에서 공제할 수 있는 영업세 금액을 구체화할 수 없는 판매자로부터 차량을 매입하는 사업체의 이중과세를 폐지하기 위하여 간주매입세액 공제제도를 확립하였다. 이러한 제도에 따르면 매입금액에 105분의 5를 곱한 금액이 매출세액에서 공제되며, 초과분은 공제되지 아니한다.

나. 과세범위

- 재화를 수입하거나 재화 및 용역을 대만 내에서 공급하는 경우 사업세(Business Tax)가 부과된다.

다. 납세의무자

- 다음 납세의무자는 사업세 납세의무가 있음
- 재화 또는 용역 공급하는 사업체
 - 수입 재화 수탁자 또는 보관자(holder)
 - 대만 내 고정사업장 없는 외국법인이 공급하는 용역의 구매자

라. 세율

- 아래 업종을 제외한 사업체 : 5%~10% (현재 적용세율은 5%)

- 금융기관 : 은행, 보험, 투자신탁, 증권, 선물, 기업어음 등의 업무기관
 - 주된 사업 수입금액에 대하여 2% 총사업세 적용
 - 금융기관이 주된 사업이 아닌 수입금액에 대하여 부가가치세 적용을 신청하는 경우 5%의 총사업세 또는 부가가치세 부과
- 특수 음료 및 음식서비스업에 종사하는 기업
 - 나이트클럽, 유흥제공업소 : 15%
 - 여성 접대부를 고용한 료싸롱, 커피샵, 바 등 : 25%
- 도매농업시장 중개인, 농산물을 취급하는 소매상 : 0.1%
- 재정부에 의해 거래신고가 제외되는 소상공인 : 1%

마. 영세율

- 적용 대상 거래
 - 수출 재화
 - 수출과 관련하여 제공되는 용역 또는 대만내에서 공급되었으나 외국에서 이용되는 용역
 - 승객이 면세점에서 구입한 재화
 - 수출지역(Export-processing Zone) 소재 수출기업 또는 과학산업지대(Science-based Industrial Park) 등 소재 기업에 판매하는 기계 및 장비, 원자재, 원료 및 중간재
 - 국제운수
 - 국제운수에 사용되는 선박 및 항공기와 원양어업용 선박
 - 위 국제운수 선박 및 항공기와 원양어업용 선박에 공급하는 재화 및 유지관리용역

바. 면 세

- 적용 대상 거래
 - 토지 양도
 - 의료용역, 약품, 병·의원 제공하는 입원 및 음식물
 - 교육 용역
 - 신문, 잡지, 텔레비전 및 방송 프로그램(신문 및 텔레비전의 광고는 제외)
 - 총사업세 과세대상인 고정자산 판매액
 - 증권거래세 과세대상인 정부 및 증권회사 발행 채권
 - 금융파생상품, 회사채, 대만달러 은행간콜론 등의 판매금액(위 상품들에 대한 취급 수수료 및 용역대가는 제외)

사. 신고, 납부 및 환급

- 사업자는 이전 2개월간의 총판매액 및 납부(환급)세액을 다음달 15일 까지 관할 세무서에 신고하여야 한다.
 - 과세기간 중 실적이 없는 경우에도 신고의무가 있다.
 - 납부세액이 발생한 경우 먼저 국고(national treasury)로 납부한 후 납부영수증을 신고시 제출하여야 함
 - 영세율 대상 사업자는 월별 신고를 신청할 수 있음
- 매입세액이 매출세액을 초과하는 경우 일반적으로는 환급을 하지 않고 다음기간에 도래하는 과세기간의 납부세액 계산시 이월하여 공제하는 것이 원칙이나, 초과사유가 영세율, 고정자산 매입, 합병 등의 사유로 인한 폐업인 경우에는 환급이 가능하다.

아. 가산세 규정

- 등록관련 가산세
 - 사업자등록의무 불성실 : NT\$3,000이상 NT\$30,000이하의 가산세
 - 사업자등록 정정, 폐업, 휴업, 사업재개 등의 사유에 대한 의무 불성실 : NT\$1,500이상 NT\$15,000이하의 가산세

- 세금계산서(Uniform invoice) 관련 가산세
 - 다음의 경우 NT\$3,000이상 NT\$30,000이하의 가산세
 - 정식 세금계산서를 사용하지 아니한 경우
 - 세금계산서가 타인이 사용한 경우
 - 영업세의 지급증빙의 수취를 거절한 경우 등
- 신고 및 납부 관련 가산세
 - 법정신고기한내에 매출금액, 세금계산서 상세리스트 등의 제출을 불성실하게 한 경우 등 : 기한을 2일 넘길 때마다 납부세액의 1%씩 가산 (30일 이내 신고한 경우, NT\$1,200이상 NT\$12,000 이하), 30일을 초과하는 신고한 경우 납부할세액의 30% 가산(NT\$3,000 이상 NT\$30,000이하)
 - 지역은행의 1년만기 예금이자 상당율로 미납부 가산세 가산
- 조세포탈 관련 가산세
 - 다음의 경우 포탈세액의 1배에서 10배의 가산세 부담
 - 사업등록을 하지 않고 사업을 행한 경우
 - 법정신고기한을 30일 이상 경과한 경우, 등록되지 아니한 세금계산서를 사용한 경우, 영업세를 납부하지 아니한 경우
 - 매출금액을 누락하거나 과소신고한 경우
 - 폐업신고나 과세당국에 의한 직원폐업 이후에 사업을 행한 경우
 - 매입세액을 허위신고한 경우
 - 기타 어떠한 방법으로 세금을 포탈한 경우 등

2. 소비세(Excise Duty)

가. 물품세(Commodity Tax)

- 대상품목 : 물품세법에서 규정하고 있는 자동차, 타이어, 시멘트, 비알

콜성 음료, 냉장고 등의 품목

- 납세의무자 : 물품세 대상 품목 제조자, 위탁제조자 및 대상 품목을 수입하는 경우 선하증권 소지자

나. 담배·주세(Tobacco and Liquor tax)

- 대상품목 : 국내 제조 또는 수입에 관계없이 모든 담배 및 주류
- 납세의무자 : 제조자, 위탁제조자, 수입하는 경우 수탁자·선하증권 소지자 및 상품 보유자, 경매시는 낙찰자 등

3. 주요 기타제세

가. 인지세(Stamp Duty)

- 문서 및 계약서 작성시 대상금액의 0.1%에서 0.4%의 인지세 부과

나. 재산세(Property Tax)

- 토지세(land value tax), 농지세(agricultural land tax), 토지가치이득세(land value incremental tax)로 구성
 - 토지세 : 토지평가가격을 기준으로 부과
 - 토지가치이득세 : 토지 이전시 이전 시점의 정부고시가격과 최종 고시가격을 비교하여 가치증가분에 대하여 부과

다. 가옥세(House Tax)

- 토지에 부착된 가옥 및 건축물에 대하여 부과

라. 증지세(Deed Tax)

- 판매, 담보, 교환, 기부, 부동산 법률적 소유 등에 대하여 부과하나 일반적으로 토지에 대하여는 과세되지 않음



제 3 장 외국인 투자환경

- I. 투자여건
- II. 투자유치제도
- III. 투자인센티브
- IV. 현지법인 · 연락사무소 설립절차
- V. 대만의 경제관련 제도

제3장 외국인 투자환경

I. 투자여건

1. 투자환경

가. 탁월한 지정학적·문화적 요건

- 세계 최대 생산기지인 중국과 최대 소비시장인 북미를 연결하는 길목이자 동북아시아와 유럽의 해상운송로를 잇는 지역으로서 북미, 유럽, 중국, 동북아시아 등 세계 4대 경제축이 교차하는 지역이다.
- 전통 중화 문화를 계승한 자유민주주의 시장경제 국가로서 선진국 수준의 효율적이고 국제화된 비즈니스 환경이 구축되어 있다.
- 중국과 민족, 언어, 문화적 배경을 공유하는 중국시장 진출의 교두보로서 중국시장의 테스트마켓이자 대중 투자 합작파트너 발굴 유망 지역이다.

나. 공인된 안정되고 우수한 투자환경

- BERI, IMD, EIU 등 주요 국제평가기관에서 투자환경 우수국가로 평가

기 관	평 가
BERI ¹⁸⁾	2006년 투자환경리스크 보고서에서 투자 리스크가 낮은 국가로서 전세계 국가 중 6위, 아시아 국가 중 3위에 랭크
IMD ¹⁹⁾	2006년 국가경쟁력 전세계 국가 중 18위, 아시아 국가 중 4위
EIU ²⁰⁾	비즈니스환경 전세계 국가 중 19위, 아시아 국가 중 3위
Fitch Ratings	대만 국가신용도 A+

다. 세계적인 IT산업 R&D 및 생산 기지

- GDP중 R&D 관련 비용이 2.5%에 이르며, 대만기업의 연간 미국 특허 취득건수는 7,000건을 상회하여 미국, 일본, 독일에 이어 세계 4위에 해당한다.
- 반도체 파운드리, PC 주기관, 노트북 PC, TFT LCD 패널 등 주요 IT 제품의 세계적인 생산기지이다.

2. 주요국별 對 대만 투자동향

[對 대만 국별 외국인투자]

(백만 달러)

구분	누계(1952~2006)			2006		
	건수	투자금액	점유율	건수	투자금액	점유율
미국	3,311	15,028.64	19.10%	275	883.44	6.32%
일본	5,186	14,373.38	18.27%	313	1,591.09	11.39%
카리브해 영국령국가	2,626	12,967.75	16.48%	387	1,785.87	12.78%
네덜란드	313	8,888.24	11.30%	42	5,417.19	38.78%
싱가폴	1,029	5,466.01	6.95%	72	951.50	6.81%
홍콩	2,679	4,222.02	5.37%	164	118.82	0.85%
영국	426	4,086.73	5.19%	62	1,505.99	10.78%
버뮤다	91	1,743.55	2.22%	5	365.51	2.62%
독일	363	1,694.21	2.15%	32	434.16	3.11%
필리핀	241	1,143.67	1.45%	7	6.76	0.05%
한국	380	696.20	0.88%	59	52.03	0.37%
기타	3,398	8,381.33	11.00%	428.00	856.88	0.06
총액	20,043	78,691.73	100.00%	1,846	13,969.25	100.00%

[자료원: 대만 경제부 투자심의위원회(2007.5.25일)]

18) 스위스 상업환경위험정보 즉, Business Environment Risk Intelligence로 한나라의 투자환경 위험도를 평가하는 기관이다.

19) 스위스 경영대학원으로 국가 경쟁력을 평가하는 기관이다.

20) 이코노미스트 계열사, 국가별 경제분석, 기업 환경지수 등 제공.

- 누계기준으로 미국은 금액기준 1위, 건수기준 2위 투자국(2위 일본, 3위 카리브해 영국령국가)이다.
- 한국은 1952년 이후 현재까지 총 380건 약 7억 달러를 투자하여 전체 외국인 투자액의 0.9%를 차지한다.
- 초기 외국인의 對 대만 투자는 전기 및 전자산업을 중심으로 하는 제조업에 집중되었으나, 최근에는 금융보험업과 운수 및 창고업 등 서비스업에 대한 투자가 큰 폭으로 증가하고 있음
- 현재 대만 행정원이 심의하고 있는 “화교 및 외국인 투자제한 및 금지항목의 전면 해제”가 실시되면 향후 임대업, 통신업, 금융업에 대한 외국인투자가 더욱 확대될 것으로 전망

II. 투자유치 제도

1. 외국인투자조례(外國人投資條例)

- 1997. 11. 19일 수정 공포된 외국인투자조례(Statute For Investment By Foreign Nationals)는 외국인의 對 대만 투자, 보장, 제한 및 처리에 관한 사항²¹⁾을 담고 있으며, 동법의 주무부처는 행정원 경제부²²⁾이다.
- 동 법률에 의한 투자를 위해서는 주무부처인 행정원 경제부에 투자와 관련한 사항을 신고하여야 한다.

21) 20개 조항으로 구성되어 있다. Article 1. Matters relating to domestic investment by foreign nationals, and the protection, restrictions, and administration of such investments shall be governed by this Statute.

22) Ministry of Economic Affairs

2. 외국인 투자 금지 및 제한(僑外投資負面表列)

- 동법은 외국인(화교 포함)투자에 대한 제한 및 금지 업종별 세부항목을 명시하고 있다.
- 업종별 금지 및 제한대상은 유동성화학물 제조업, 무기관련 화학약품 제조업, 독성화학물제작, 카드뮴제련공업, 화기·무기제작 및 수리, 탄약·사격통제 기계설비 제조업, 시내버스·고속버스·관광버스 운송업, 소형트럭 렌탈서비스업, 무선라디오·TV방송업 등이다.

3. 투자 제한 분야

- 동법은 외국인(화교 포함)투자에 대해 일정 분야에 대한 투자를 제한하고 있다.
- 투자제한 분야는 곡류농사업, 알코올류 제조업, 담배제조업, 화학원료 제조업, 농약제조업, 칼 제조업, 군용 항공기 제작수리업, 상아가공, 가스공급관 제조업, 상수도사업, 선박운송 및 임대, 금융 및 기타서비스업, 보험업, 법률 및 회계업, 학원업, 유선라디오·TV방송시스템 경영, 위성방송사업 등이다.

[표. 외국인 투자금지 및 제한 업종]

업종	세부업종	항목	주관 부서	비고
임업, 벌목업			農委會	화교가능
화학원료 제조업	기본화학공업	유독성화학물 제조업	國防部	
		수은법Chlor-alkali	經濟部	내국민우대
		UN이 금지한 화학무기공약상에 명시되어있는 “화학물질 1”에 속하는 화학품	經濟部 國防部	내국민우대
		CFC, Halons, methylchloroform, carbon tetrachloride	經濟部	내국민우대
화학제품 제조업	기타화학제품 제조업	독성화학물제작 (「독성화학물질관리법」규정에 의거)	環保署	내국민우대
		도화선을 비롯한 인화제품	國防部	
금속기본 공업	기타금속 기본공업	카드뮴제련공업	經濟部	내국민우대
기계설비제조 수리·조립업	미분류 기계 제작·수리· 조립업	화기·무기제작 및 수리, 탄약·사격통제(군용 항공무기 포함하지 않음)	內政部 國防部	
육상운수업	버스운송업	시내버스, 고속버스 운송업 포함	交通部	화교가능
	택시운송업			
	일반운송업	관광버스운송업		
우편·택배업	우편업		交通部	
금융 및 기타 금융업	우편 및 송금서비스		交通部 財政部	
렌탈	자동차렌탈 서비스업	소형트럭 렌탈서비스업	交通部	화교가능
라디오·TV 방송업	라디오방송업	무선라디오방송업	新聞局	
	TV방송업	무선TV방송업		
레저서비스업	특수오락업		經濟部	

[표. 외국인 투자금지 및 제한 업종]

업종	세부업종	항목	주관부서	비고
농·목업	쌀농사		農委會	
	잡곡농사			
	특용작물농사			
	채소농사			
	과일농사			
	버섯농사			
	사탕수수농사			
	화초농사			
	기타농업 및 원예업			
	소 사육			
	돼지 사육			
	닭 사육			
	오리 사육			
기타 동물 사육				
어업			農委會	
식품 및 음료제조업	알코올류 제조업		財政部	내국인우대
	맥주제조업			
담배제조업			財政部	내국인우대
화학원료 제조업	기본화학공업	유독성 화학물 제조업	內政部 經濟部 國防部	
화학제품 제조업	기타화학제품 제조업	독성화학물질제조(「독성화학물질관리법」규정에 의거)	環保署	내국인우대
	양약제조업		衛生署	내국인우대
	한약제조업			
	농약 및 환경위생용 약품제조업	농약제조업	農委會	
금속제품 제조업	금속 수공기계 제조업	칼 제조업	內政部	제작업자 관리
운수용기구 제작수리업	항공기 제작수리	군용항공기 제작수리	國防部 經濟部	
	항공기 부품제조업			

[표. 외국인 투자금지 및 제한 업종 계속]

업종	세부업종	항목	주관 부서	비고
정밀·의료기재· 시계 제작업		군용측정기기설비	國防部	
기타공업제품 제조업	미분류 기타 공업제품제조업	상아가공	農委會	내국인우대
전력공급업			經濟部	
가스공급업	가스공급	가스공급관	經濟部	
용수공급업	용수공급	상수도사업	經濟部	
수상운송업	해양수운업	선박운송 및 임대	交通部	화교가능
	내부하천 및 호수 수운업			
항공운송업	민간항공운송업		交通部	화교가능
	일반항공업			
운송보조업	항공화물운송서비스	활주로, 공항, 항공운송, 에어 카고 등 서비스	交通部	1. 화교가능 2. 조약이나 협정 등의 규정에 의해 허가된 자만 가능
	항공운송보조업			
	기타운송보조업			
	항구업 기타수상운송보조업	항구 및 기타 관련 서비스	交通部	내국인우대
전신업	전신업	제1군에 속하는 전신사업	交通部	화교가능
금융 및 기타 서비스업	본국·외국은행업		財政部	내국인우대
	외국은행업			
	신용합작사			
	신용투자업			
	증권금융업			
	신용카드업			
보험업	생명보험		財政部	내국인우대
	재산보험			
	재보험			
	보험보조서비스			
법률 및 회계업	법률사무소		法務部	내국인우대
	대서사무소서비스			
	기타법률사무소서비스			
	회계서비스		財政部	
건축,공사기술 서비스업			內政部	내국인우대
교육서비스업	기타교육서비스	학원	教育部	
라디오TV 방송업	라디오방송	유선라디오·TV방 송시스템경영, 위성방송사업	新聞局	
	TV방송			

[자료원: 대만 경제부 투자심의위원회]

4. 외국인투자기업의 형태

가. 외국인투자기업의 형태는 법인, 지사, 연락사무소의 3종류로 분류

- 대만 회사법(公司法)에 따른 법인의 종류는 무한공사(無限公司), 양합공사(兩合公司), 유한공사(有限公司), 고분유한공사(股份有限公司)의 네 가지 형태가 있는데
- 이중에서 외국인투자자가 가장 많이 설립하고 있는 회사의 형태는 우리나라의 주식회사에 해당하는 고분유한공사와 유한공사이다

나. 지사(외국기업의 分公司)의 권리와 의무

- 지사의 권리와 의무는 대만기업과 같으며, 외국기업은 행정원 경제부의 허가를 받기 전에는 대만 내에서 영업활동을 할 수 없다.

[표 . 외국인 투자기업 형태별 구분]

구 분	법인 (고분유한공사/유한공사)	지사	연락사무소
허가된 활동	일반무역, 판매 및 제조	일반 무역 및 국내 판매	법률행위· 연락업무
영리기업소득세 (소득액 기준)	NT\$ 100,000 이하: 15% NT\$ 100,000 초과: 25%	법인과 같음	적용되지 않음
산업고도화 촉진조례 규정에 따른 조세장려혜택	적용	적용되지 않음	적용되지 않음
주주의 책임한도	출자한 자금의 한도액에 따른 책임	외국 본사가 지사의 채무에 대해 연대책임	적용되지 않음
주주의 조건	1인 이상의 법인주주 혹은 자 연인 2인 이상 (유한공사의 경 우 자연인 혹은 법인 주주 1 인) 대만 국외에 거주하는 외 국인투자자여야 함	주주 없음	주주 없음
최저자본(법인) /최저영업자금(지사)	고분유한공사: 100만 NT\$ 유한공사: 50만 NT\$	본사가 고분유한공사 : NT\$ 100만 본사가 유한공사 : NT\$ 50만	영업자본금 등록 불요
허가증취득소요시간	4~6주	4~5주	3주
연간소득세결산신고	필수	필수	불요
임금 등 비용의 세금공제	필수	필수	필수
장부의 보전	필수	필수	필수
대표인의 명의로 부동산 및 차량 구매	가능	가능	불가

* 외국인 투자비중이 45% 이상인 외국인 투자기업은 주주, 이사 등의 국적(거주지) 제한을 받지 않음

Ⅲ. 투자인센티브

1. 개 관

- 대만은 1950년대의 낮은 경제성장 패턴을 개선할 목적으로 외국인 투자를 유치하기에 좋은 환경을 만들고자 1955년 소득세제를 개편하였으며, 1960년에는 경제환경 변화 수요로 투자촉진법(The Statute for the Encouragement of Investment)을 제정하여 1990년까지 놀랄만한 경제 성장 및 경제기적(economic miracle)을 이룩하였다.
- 1990년대에 국민총생산이 점차 감소되고 인플레이션 현상이 심화되어 투자촉진법이 더 이상 그 역할을 하지 못하였기 때문에 1991.1.1. 산업촉진법(The Statute for Upgrading Industry)을 제정하여 조세지원 등을 통한 경제구조 전환, 국제적인 경쟁력 촉진 등을 위해 동 법률을 199.12.31까지 적용하기로 하였다가 다시 2009년까지로 그 적용기한을 연장하였다.
- 산업촉진법 주요내용
 - 조세 우대 규정
 - 특수개발펀드(Special development funds) 설립 및 운영
 - 기술이전 지원금 설치
 - 산업구역(industrial zones) 설립 규정
 - 중소기업 지원을 위한 벤처캐피탈 투자 특례
 - 대만내 설립된 운영 본부(operational headquarters) 특례

2. 조세 감면

가. 연구개발

- 연구개발에 사용된 투자액이 30% 이상인 경우, 당해 연도부터 5년간

영리기업소득세(법인세)가 면제된다.

- 연구개발비용은 신상품 개발, 생산기술 개선 등에 사용되어야 한다.
- 영리기업소득세 면제 신청 시 연구개발 계획, 연구과정을 기록한 문건, 연구개발보고서 등 관련 자료를 제출해야 한다.
- 1년 감면 총액이 당해 연도에 납부해야 하는 영리기업소득세의 50%를 초과할 수 없으나 마지막 연도에는 이러한 제한이 없다.

나. 인력 개발

- 인력개발에 사용된 투자액이 30% 이상인 경우, 당해 연도부터 5년간 영리기업소득세가 면제된다.
 - 인재양성계획서 혹은 양성인재리스트 등 관련 자료를 첨부해 한다.
 - 1년 감면 총액이 해당 연도에 납부해야 하는 영리기업소득세의 50%를 초과할 수 없으나 마지막 연도에는 이러한 제한이 없다.

다. 신설비 또는 신기술

- 하기 항목에 대하여는 지출한 금액의 5~20% 한도 내에서 5년간 영리기업소득세가 면제된다. 1년 감면 총액이 해당 연도에 납부해야 하는 영리기업소득세의 50%를 초과할 수 없으나 마지막 연도에는 이러한 제한이 없다.
 - 자동화설비 및 기술에 대한 투자
 - 자원회수, 오염방지설비 및 기술에 대한 투자
 - 이산화탄소 방출억제, 에너지 효율강화 관련 기술 및 설비에 대한 투자
 - 기업의 정보효율을 제고하는 하드웨어, 소프트웨어 및 기술에 대한 투자
- 조세감면비용

[표 . 자동화, 온실배기가스감축 및 기업의 디지털정보 효율화분야]

구 분	신설비	신기술	최저투자액(NT\$)
제조·기술서비스업	11%	10%	600,000
건설업	8%	5%	2,000,000
교통업, 영화제작업, 농업, 폐기물회수처리업, 도소매 및 기술서비스업	8%	5%	600,000

라. 신흥 주요전략산업²³⁾

- 신흥 주요전략산업에 해당하는 산업에 투자할 경우 주주의 투자소득세 감면 혹은 영리기업소득세 감면 등 조세 우대 혜택을 받을 수 있다.
 - 신흥 주요전략 산업에 대한 투자회사는 주주들이 자본금을 납입하는 날로부터 2년 내에 주주총회를 개최하여 “주주들의 투자소득세 감면” 또는 “영리기업소득세의 감면” 중에서 한 가지를 선택할 수 있으며, 세금 감면 방식은 한번 선택한 이후에 변경이 불가능하다.

(1) 주주의 투자소득세 감면

- 신흥 주요전략산업에 투자하는 회사의 주식을 3년 이상 보유하고 있는 개인 또는 법인 주주는 5년간 영리기업소득세 또는 종합소득세 감면
 - 법인주주는 당해 연도 영리기업소득세에서 투자 주식가치의 20%까지 공제

23) 신흥 주요전략산업(新興重要策略性産業)

- ① 제조업: 3C공업(통신공업, 소비성전자공업, 정보하드웨어공업), 정밀전자공업, 정밀기계설비공업, 항공공업, 생의학 및 특화공업(의료보건공업, 제약공업, 특용화학품, 건강식품), 녹색기술공업, 고급재료공업 등의 7항목
- ② 기술서비스업: 인터넷기능의 소프트웨어 혹은 콘텐츠, 인터넷서비스, 고급집적회로 설계, 자동화 및 전자화 공정서비스, 전력시스템공정서비스, 상품공정서비스, 환경보호공정기술서비스, 생물기술 및 제약업기술서비스, 제조업의 온실가스배출감소공정기술서비스, 에너지원절약 등의 공정기술서비스, 지적재산기술서비스, 연구개발서비스 등의 12항목

- 개인 투자자는 매년 공제금액이 납부해야 할 종합소득세의 50%를 초과하지 않는 범위 내에서 당해 연도 종합소득세에서 투자 주식가치의 7%까지 공제받을 수 있음. 단, 마지막 연도에는 이러한 제한이 없음

(2) 영리기업소득세 감면

- 신흥 주요전략산업을 영위하는 신규 법인은 자사 상품 판매, 또는 서비스 제공 개시일로부터 연속 5년간 영리기업소득세를 공제받을 수 있음
- 증자로 회사가 확대된 경우, 새로 확대한 설비 또는 사업부문의 서비스 개시일로부터 신규 설비 및 사업부문에서 창출된 소득에 대한 영리기업소득세를 공제받을 수 있음
- 위와 같이 소득세 공제 대상이 되는 업체는 상품판매 또는 서비스 제공 개시일로부터 2년 안에 세금공제 개시일을 연기할 수 있음. 연기 기간은 4년을 초과할 수 없으며, 연기가 시작되는 날은 당해 회계연도의 1일이어야 한다.

[표 . 신흥 중요전략산업 설립 비준기관]

구 분	가공수출구	과학공업단지	직할시 ²⁴ 내	직할시외
비준기관	經濟部 加工出口區管理處	科學工業園區 管理局	台北市 또는 高雄市 政府建設局	經濟部

마. 민간참여 공공건설

- 주주의 투자소득세 감면
- 중요한 공공건설에 참여하는 민간기업이 발행한 주식을 4년 이상 보유한 경우, 주식가치의 20% 한도 내에서 당해 연도의 영리기업소득세를 면제

24) 대만은 타이베이(台北)와 까오슝(高雄) 2개의 직할시가 있다.

- 매년 공제금액은 납부해야 할 영리기업소득세의 50%를 초과할 수 없다. 단, 마지막 연도에는 이러한 제한이 없다.

○ 영리기업소득세 감면

- 민간기업이 중요 공공건설에 참여한 경우, 운영 개시 후 5년간 영리기업소득세가 면제된다.

바. 낙후지역 투자

○ 해당 지역에서 일정 범위 이상의 투자액 혹은 일정 수 이상의 인력을 고용 시, 투자금액의 20% 범위 내에서 5년간 영리기업소득세를 감면한다.

사. 물류센터 설립

○ 외국기업이나 지사, 또는 업무 위임을 받은 대만기업이 대만 국내 판매용 상품을 보관하거나 단순가공 할 목적으로 대만에 물류유통센터를 설립했을 경우, 이로부터 파생되는 수입의 세금은 영리기업소득세에서 면제된다.

아. 지역운영본부 설립

○ 중요한 경제적 파급효과를 일으키는 일정 규모 이상의 영업 본부를 대만 내 설립한 경우, 설립 회사의 경영 서비스 혹은 R&D 부분에서 창출되는 수입 및 로열티 수입, 투자이익, 자산처분에서 생기는 이익은 영리기업소득세를 면제하며, 해당 회사는 공공소유의 토지를 우대가에 구입할 수 있다.

[표 . 과학단지/가공수출지역/보세공장 혹은 보세창고의 조세우대혜택]

구 분	가공수출지역	과학단지	보세공장/창고
수입된 원료, 연료, 반제품	관세 및 영업세면제	관세 및 영업세면제	관세 및 영업세면제
수입된 기계설비	관세 및 영업세면제	관세 및 영업세면제	5%영업세 환급신청가능
화물 및 노동력의 해외 수출	영업세율 0%	영업세율 0%	영업세율 0%
과세지역에서 구입한 원료, 연료, 반제품, 기계설비	영업세율 0%	영업세율 0%	영업세율 0%

자. 회사합병인수법(BMAA)상 조세혜택

- 대만 회사법에 의하여 설립된 주식회사간의 합병 및 인수로 회사합병
인수법의 요건 충족시 다음의 조세혜택 적용 가능
 - 소득세, 부가가치세, 인지세, 증지세 및 증권거래세 면제
 - 토지가치이득세 유예
 - 영업권에 대한 15년간의 상각
 - 발생비용에 대한 10년간의 상각
 - 존속회사 또는 신설회사의 합병전 세금손실(pre-merger tax losses)
에 대한 5년간 이월공제
 - 미사용 또는 미소멸 조세혜택의 승계

차. 과세감면기간(Tax Holiday)

- 법인은 주주의 주식취득시로부터 2년내에 주주총회승인을 받으면 주
주에 대한 세액공제 대신 5년간 법인세 감면을 선택할 수 있다.
 - 5년간의 조세감면은 새로운 투자의 경우 신상품이나 용역 판매시에,
사업확장의 경우 새로운 장비가 가공하는 때 개시된다. 개시일은 최
대 4년 동안 유예할 수 있으나 신제품이나 용역 판매 개시일로부터 2
년 내에 선택하여야 한다.

3. 비조세 지원

가. 연구개발 보조금

- R&D능력을 갖춘 기업의 신상품 개발을 장려하기 위해 대만정부는 ‘주도성 신제품개발보조법(主導性新產品開發輔導辦法)’에 의거하여 개발경비의 50% 한도 내에서 보조
- 동 법령에 따라 지원할 수 있는 기업은 회사법에 근거하여 설립된 회사(제조업과 관련 기술 서비스 회사 포함)로 재정적으로 건전해야 하며 대만 내에 R&D 시설과 충분한 전문 인력을 보유해야 하는 등의 조건을 구비해야 한다.
- 지원 가능한 산업 분야로는 ①신흥 주요전략산업(新興重要策略性產業) ②현재 대만 내의 산업 기술수준을 뛰어넘는 혁신적인 기술응용 상품 ③시장창출효과나 관련 산업 파급효과가 뛰어난 상품 ④국제수준을 뛰어넘는 수준의 디지털 콘텐츠 상품 등이다.

나. 저리 대출

- 아래와 같은 프로젝트에 의해 저리대출을 받을 수 있음
 - 산업구조개선(促進產業升級) 대출 프로젝트
 - 환경보호 및 에너지원 정책 추진을 위한 대출 프로젝트
 - 연구개발을 강화하고 경제건설 프로젝트를 지원하는 대출 프로젝트
 - 국가경제 및 사회발전 정책에 부합하는 민간기업 투자자에게 제공하는 민간기업 중장기 자금대출
 - 민간의 공공건설참여정책 촉진에 보조를 맞추는 장기대출
 - 전체 경제발전에 보조를 맞추기 위한 중소기업 협조대출
 - 산업연구개발 촉진을 위한 대출 프로젝트

○ 관련기관

- 行政院開跋基金管理委員會(www.df.gov.tw)
- 行政院經濟建設委員會(www.cepd.gov.tw)
- 經濟部中小企業處(www.moeasmea.gov.tw)
- 經濟部工業局(www.moeaiad.gov.tw)

다. 정부 투자금 지원

- ‘산업고도화촉진조례(促進產業升級條例)’ 21조에 의거하여, 정부가 투자하는 사업에 참여하는 경우 정부 투자금을 지원받을 수 있다. 단, 정부투자금은 전체 투자총액의 49%를 초과하지 못한다.
- 주요 투자산업이 과거에는 석유화학 및 반도체산업에 한정되어 있었으나, 최근에는 IT, 통신, 디지털, 바이오테크 등으로 확대되고 있다.

라. 가공수출지역(加工出口區) 및 과학공업단지(科學工業園區) 입주기업 우대

- 가공수출지역(加工出口區) 및 과학공업단지(科學工業園區)는 간소한 행정수속, 신속한 통관, 조세우대, 편리한 교통망, 정보통신 인프라 완비, 양호한 치안상태 및 환경 등 강점을 부각시켜 대만 국내 및 외국 기업들의 투자를 유치하고 있음

[표 . 가공수출지역(加工出口區) 및 과학공업단지(科學工業園區)의 우대 내역]

지역	설립 가능한 사업	혜택
가공수출지역 (加工出口區)	1. 하이테크, 고부가가치 전자, 항공, 바이오 테크 등의 선진산업 2. 저오염 제조업 3. 물류, 운수 등의 관련성 산업 4. 기타 가공수출 허가 설립구 내 사업종류에 해당하는 사업	1. 조세 우대 2. 투자자의 권익보호 3. 단일창구를 통한 편리한 서비스 제공 4. 낮은 용지 사용료 5. 상호 지원을 통한 산업다원화 추구 6. ‘신흥중요책략산업’일 경우 5년간 소득세 등 면제
과학공업단지 (科學工業園區)	1. 집적회로, 2. 컴퓨터 및 주변 설비 3. 통신, 4. 광전, 5. 정밀기계 6. 바이오테크 등	1. 조세 우대 2. 신흥중요전략성산업조세 혜택 3. 정부참여투자 신청가능

Ⅳ. 현지법인 및 연락사무소 설립 절차

1. 법인 설립

가. 법인 설립과정 및 필요 서류

No.	설립 과정	필요자료 및 서류
1	經濟部 投資業務處의 투자서비스	
2	경제부상업사(經濟部商業司)에서 신청할 회사의 이름을 사전 검색	<ul style="list-style-type: none"> · 회사 증문명 및 형태 · 사업 분야 · 신청인의 성명, 여권번호, 거주주소
3	경제부 투자심의위원회, 과학공업원구 관리국 혹은 가공수출구관리처 등에 외국인투자허가신청(투자회사의 소재지위치에 따라 결정)	<ul style="list-style-type: none"> · 외국인투자금액 · 회사 전체 주식투자의 구성
4	籌備處 ²⁵⁾ 의 명의로 은행에서 계좌개설	
5	개설된 계좌에 자금 납입	
6	경제부투자심의위원회에서 외국인투자금액 심사	<ul style="list-style-type: none"> · 송금된 자금 통지서 · 은행 통장 사본
7	정부기관의 규정에 부합한 법인설립 장소 선별	<ul style="list-style-type: none"> · 회사 소재지의 건물사용허가증사본 · 회사 소재지의 토지사용구분증명서
8	주주회의 소집으로 회사장정 및 이사와 감사 결정	
9	주주회의 소집으로 이사장 및 위임경영인결정	
10	주관기관에 회사설립등록 신청	<ul style="list-style-type: none"> · 회사 정관, · 발기인회의 의사록 · 이사회 의사록 및 이사출석기록 · 籌備處로 개설한 은행통장 사본 · 외국법인 발기인의 회사설립증명서 사본 · 외국법인 발기인 대표자의 과견 증명서 · 발기인의 여권사본 · 이사 및 감사의 여권사본 및 이사 감사인의 위임동의서 · 이사장의 증문성명 인감도장 · 회사의 증문명의 인감도장 · 회사 소재지의 건물사용허가증사본 · 등록비용: 회사의 등록 자본 총액의 1/4,000
11	회사가 소재한 지방정부에 영리사업등기증 신청	<ul style="list-style-type: none"> · 회사 소재지의 건물세 영수증 사본 · 統一發票²⁶⁾전용 도장 · 영업세 납부 시 필요한 전용도장 · 등록비용: 1,000 대만원
12	경제부 국제무역국에 설립한 회사의 영문명 검색 및 취득 확인 신청	<ul style="list-style-type: none"> · 회사 영문명 · 이사장 증문성명 인감도장
13	경제부 국제무역국에 설립한 회사를 수출입업체로 신청	<ul style="list-style-type: none"> · 회사 영리사업 등기증 사본

나. 투자심사에 소요되는 시간

구 분	소 요 일
투자액 또는 증자액이 5억 대만원을 초과하지 않으며 외국인 및 투자제한금지항목에 포함되지 않은 경우	2~4일
투자액 또는 증자액이 5억 대만원 이상 15억 대만원 미만이며 외국인 및 투자제한금지항목에 포함되지 않은 경우	3~5일
투자액 또는 증자액이 15억 대만원 미만이나, 합병 또는 대출 투자로서 외국인 및 투자제한금지항목에 포함되지 않은 경우	10~20일
국외 기업과의 합병안	20~30일

다. 투자 우대 지역별 설립조건

지역	설립자본한도액	투자적합업종
과학공업 단지	대만 회사법(公司法)에 의거한 고분유 한공사의 최저자본금은 100만 대만원	1. 집적회로, 2. 컴퓨터 및 주변설비 3. 통신, 4. 광전, 5. 정밀기계 6. 바이오테크 등
가공수출 지역	1. 제조업 공장 임대 혹은 구매 : 1,000만 대만원 2. 제조업 공장 건축: 2,000만 대만원 3. 창고업: 8,000만 대만원 4. 운송업: 5,000만 대만원 5. 기타: 100만 대만원	1. 하이테크산업 및 고부가가치의 전자, 바이오테크 등 선진산업 2. 저오염제조업 3. 창고, 물류, 운송 산업

2. 연락사무소 설립

가. 연락사무소 설립 신청처

○경제부 상업사(商業司)에 관련 서류를 첨부하여 대표사무소 설립 허가 신청

25) 籌備處는 대만 경제부 상업사에 회사신청 후 정식 회사허가가 나오기 전의 서류
26) 영수증

나. 연락사무소 설립 구비서류

- 회사설립등기증명서, 상업등기증, 대만 경내 소송 및 비소송 대리인의 위탁서, 회사 소송 및 비소송 대리인(대만 주민일 경우)의 신분증 사본, 회사 소송 및 비소송 대리인(외국인일 경우)의 여권 사본, 홍콩 영구 거류증 사본(대리인이 홍콩 주민일 경우), 소송 및 비소송 대리인의 중문 인감도장

V. 대만의 경제관련 제도

1. 금융제도

가. 금융체계

(1) 공적금융체계

- 대만의 금융체계는 일반 개발도상국에서 보편적으로 존재하는 형태인 공적금융체계와 민간 사금융체계로 구분되는 금융이원성(financial dualism)을 갖고 있다.
- 중앙은행(the Central Bank of China)
 - 1935년 '대만중앙은행법'에 의해 설립되었으며 1949년 국민당정부와 함께 대만으로 이전하였으나 중앙은행으로서의 정식업무는 1961년9월 '중앙은행의 업무재개에관한 법률' 제정으로 이루어졌으며, 그 전까지는 성급은행인 대만은행이 담당하였다. 현재까지도 발권업무는 대만은행이 하고 있다.
 - 주요업무로는 금융기관사정(감독업무는 재정부에 있음), 통화발행 조절, 외환관리, 이자율조정, 국고수지 등의 역할을 수행하고 있으며, 행정원 소속기관이나 재정부로부터는 독립되어 있어 우리나라에 비해 상대적으로 독립성이 보장되어 있다고 볼 수 있다.

○ 화폐성 금융기관은 상업은행, 저축은행, 특수은행, 지역은행 및 중앙신탁국으로 세분화 되어 금융업무가 분업화되어 있다. 대만 금융기관의 분업체제는 1960년대부터 진행되어 왔는데 1965년에는 은행법의 개정으로 은행의 종류와업무영역을 완전히 구분함으로써 분업화된 금융제도를 법제화하였다.

- 그러나 은행법에 따르면 각금 용기관마다 저축부와 신탁부 등을 설치, 개별적으로 업무를 운용하고 있기 때문에 결국은 수출입은행 등 일부 특수기관을 제외하고는 금융기관의 겸업화가 보편적인 현상으로 받아들여지고 있다.

○ 상업은행

- 주로 단기금융업무를 취급하고 있으나, 기업과 공공부문의 장기성 자금수요가 많은 점을 감안해 주무기관의 승인 하에 저축성예금취급과 장기대출 등 투자신탁업무도 가능하다. 외국은행도 국내은행과 마찬가지로 상업업무를 취급한다.
- 이들은 행정구역별로 어음교환소를 갖고 있는데 대북지구어음교환소는 대만중앙은행이, 여타지역어음교환소는 대만은행이 관리한다. 비화폐성 금융기관으로는 우편저축업무국(우체국), 투자신탁회사 및 보험회사가 있다.
- 우편저축업무국 : 우편저축을 통해 민간자금을 흡수, 이를 다시 민간에 대출하지 않고 특수은행 및 중앙은행(80%)에 일정비율로 예치, 이들로 하여금 대출자금으로 활용하도록 하는 간접적인 금융 중개업무를 담당한다.
- 투자신탁공사 : 중장기자금의 용자를 주업무로 한다.
- 보험공사 : 일반적인 보험업무를 취급하며 기타화폐금융기관으로는 중앙신탁국과 합작금고가 있다.
- 중앙신탁국 : 정부물자의 수입, 신탁업무, 공무원 대출업무를 주로 담당한다.

- 합작금고 : 재정부 관할하에 소속조합원에게만 서비스를 제공하는 신용합작사와 농·어업협동조합으로 구성되어 있다.

(2) 사금융체계

- 대만에서는 사금융시장이 제도금융시장의 제한적인 자금배분 기능을 보완하여 왔으며, 특히 공적금융기관의 관료적 경영체제로 인해 대기업, 공공기업에 자금공여가 치중됨에 따라 이들로부터 자금지원이 어려운 중소기업들은 주로 사금융시장에서 높은 금리로 자금대출을 받음으로써 사금융시장이 크게 번창하였다.
- 특히 경상수지흑자가 누증되면서 풍부해진 유동자금은 보다 높은 고수익을 찾아 사금융시장으로 몰렸으며, 이 과정에서 80년대 후반 대형 금융사고가 발생하기도 하였다.
- 이에 따라 정부는 1989. 7월 신은행법을 제정하여 광범위한 금융개혁 조치를 실시함으로써 사금융의 제도금융시장으로의 흡수를 추구하였다. 이러한 노력에 따라 민간기업의 사금융시장 차입비중은 1986년 45%에서 1991년에는 30%로 크게 낮아졌으며 한편 사금융시장 금리와 은행간 시장금리 격차도 1970~80년대 14~16%대에서 1994년에는 13.3%로 점차 축소되고 있는 추세이다.

나. 금융개혁

- 대만은 경제개발 추진과정에서 금리규제, 엄격한 업무영역의 차별화, 금융기관설립 억제 등 금융제도 전반에 걸친 규제를 실시해 왔다. 이에 따라 은행은 금융중개 기능이 크게 위축되어 1980년대 이후 경상수지흑자 확대에 따라 해외부문에서 생성된 과잉유동성이 적절한 흡수과정을 거치지 못한채 사금융시장으로 유입되었으며 이와 관련된 금융사고가 빈번히 발생하였다.
- 이에 대한 대책으로 정부는 1989. 7월 신은행법을 제정함으로써 본격적인 금융개혁 조치가 단행되었다. 이외에도 금융기관의 자율화 및 효율성 강화를 위해 97년까지 중국농민은행, 교통은행, 대만중소기업

은행, 대만생명보험공사, 대만손해보험공사 등 금융기관의 민영화를 추진하였다.

2. 외환제도

가. 외환정책

- 대만의 외환관리는 1970. 12월 공포된 ‘외환관리조례’에 의거 ① 대외 거래허가제 ②외환지정은행제도 ③외화집중제도 ④관리변동환율제도를 특징으로 한 매우 엄격한 관리 메카니즘을 유지해왔다. 그러나 무역흑자의 지속과 이에 따른 외환보유고의 급격한 증가에 적절히 대응하기 위해 1987. 7월 기존의 외환관리체제를 대폭 완화하였는바, 그 주요내용은 다음과 같다.
 - 무역 및 무역외 거래의 완전자유화
 - 선물환시장 및 증권시장 등의 대외간접투자자유화, 단 1인당 1회 1백만달러, 연간 500만 달러 이상의 경우 중앙은행의 허가필요
 - 중앙은행의 허가사항이었던 로얄티, 배당금, 이자소득, 급여 등에 대한 본국 송금의 완전 허용(다만, 1백만 달러 이상의 경우 본국송금에 적어도 10일 이상 소요)
 - 외환집중제도폐지
 - 핫머니유입 억제를 위해 무역 및 무역외 거래를 제외한 해외로부터의 외화송금은 1인당 연간 5만달러로 규제
 - 외국인은 NT\$의 계좌개설이 불가능하나, 단 회사설립에 따른 자본금 예치를 위한 계좌개설은 허용(95.7월 개인에게 허용 발표)
- 이외에도 1989년 외화거래센터의 폐지, 금융업의 예·대금리 자유화, 자유변동환율제시행, 달러 콜시장 개설 등으로 금융국제화를 위해 노력중이며, 보유외환의 사용은 수출증대를 위한 원자재 및 기계자재의 수입자금에 최대한 배정을 해오고 있다. 수출입 외환결제를 포함하여

각종 외환업무를 정부로부터 위임받은 은행은 모두 중앙은행의 관리 감독을 받는다.

- 외환업무는 내국은행에 한해서만 취급하고 있다. 다만 외환업무를 위임받은 내국은행이라고 하더라도 현재 외환업무 전종목을 취급하는 은행은 국제상업은행뿐이고 여타은행들은 각기 일부종목에 한해 외환업무를 행하고 있다. 최근에 이르러 금융자유화정책의 추구 및 국내 보험, 금융시장의 개방 확대가 추진되면서 외국은행들에 대한 영업규제가 점진적으로 완화되고 있다.
- 외국인에 대한 투자법령에 근거하여 실행된 투자의 경우 배당금의 100%와 순익은 외환으로 환전되어 송금이 가능하다.
- 최근 대만정부는 외환제도를 총괄하는 새로운 외국환법령을 준비중이며 동 법령에 따르면, 국내외송금에 대한 제한을 철폐하는 등 각종 규제를 제거할 예정이다.

나. 환율제도

- 대만은 1978년까지 미달러화를 기준으로 한 고정환율제도를 시행하였으나 급격한 환율변동 및 무역수지 흑자폭의 확대 등으로 1978.7월 관리변동환율제의 일종인 중심환율제를 시행하였다.
- 중심환율제에 의한 중앙은행의 지나친 환율개입으로 미국으로부터 환율 조작국이라고 비난받는 한편 환율 절상시 차익을 노린 핫머니 자금의 유입급증 등의 부작용이 계속됨에 따라 1989. 4월 자유변동환율제로 바꾸어 현재에 이르고 있다
- 환율변동 추이를 보면 고정환율제시기인 1978년까지는 1US\$ = 38 ~ 40 NT\$ 였고, 1979년에는 1US\$ = 36 NT\$로 절상하기도 하였으나, 이후 달러 강세화로 1984년에는 이전의 고정환율제수준인 1US\$ = 40 NT\$까지 절하되었다.
- 그러나 1985년 프라자합의에서 미달러화에 대해 주요 선진국통화를 일제히 평가절상 시킴에 따라 NT\$ 역시 동반 강세현상을 보였고 이

후 대만의 누적적인 경상수지 흑자는 통화량증발과 환율인상을 가져와 1US\$ = 29 NT\$까지 떨어졌으며, 1989년 자유변동환율제가 도입되면서 현재에는 32 ~ 33 NT\$ 수준에서 안정적으로 유지되고 있다.

- 2004년 33.43 NT\$, 05년 32.18 NT\$, 06년 32.53 NT\$, 07년 32.84 NT\$
- 환율은 매일 아침 5개의 정부계은행과 9개의 외국환은행 회의에서 결정되며, 동 환율은 3만달러까지의 거래에만 적용되고 그이상은 거래은행이 독자적으로 결정한다.

3. 무역제도

- 대만은 2003년말 기준 세계 15위 수출국이며, 수입은 세계 16위를 기록했다. 주요 수출대상국은 홍콩, 미국, 중국이며, 수입대상국은 일본, 미국, 중국 등이고, 주요 수출품목은 기계류, 전자제품, 통신기기 등이며, 주요 수입품목은 기계류, 광물, 원유 등이다.
- 수출입관리기관은 경제부가 주무기관인데, 실질적인 업무처리는 1969. 1월설치된 경제부산하 국제무역국(Bureau of Foreign Trade)에서 관장한다.
- 수입자유화가 점차적으로 시행되고 있기는하나 아직 모든 수입상품의 경우, ①수입허가품목(Permissible List) ②수입통제품목(Controlled List) ③ 수입금지품목(Prohibited List)의 세가지로 분류되어 수입규제가 이루어지고 있다.
- 수입허가품목은 총 6,028개 종목으로 허가증 없이 자유롭게 수입할 수 있으나, 국내산업의 안정 등을 고려해 비교적 엄격한 비관세장벽이 존재한다.
- 수입통제품목은 총 2,967개 품목이 있으며, 이중 767개 품목은 국제무역국으로부터, 그리고 나머지 2,200개 품목은 은행 및 기타수출입관련 기관으로부터 수입허가를 받아야 한다. 주요 품목으로는 군수품, 의약품, 위험성생물, 화폐제조용 제지 그리고 몇몇의 농수산물이 있다.

- 수입금지품목
 - WTO에서 금지하고 있는 품목 : 마약, 독극물, 폭약 등
 - 농업보호를 위해 금지하고 있는 품목 : 동물내장, 오징어, 오리 등
 - 산업보호를 위해 금지하고 있는 품목 : 소금, 석탄, 오토바이 등
- 한편 대만은 자국기업의 수출과당경쟁 지양, 수출경쟁력 강화, 국내수급사정상 등의 이유로 일부 품목에 대해서는 수입과 마찬가지로 수출규제 및수출금지조치를 취하고 있다.

4. 관세제도

- 대만은 1989. 1월부터 '국제상품통일분류제(Harmonized Commodity Description and Coding System: HS)'를 시행해왔으며, 세목은 종량세와 종가세가 있으나 대부분의 상품은 종가세(ad valorem tax)로 과세되고 있고, 과세기준은 C.I.F 가격이다.
- 1980년대 이후 무역흑자 규모가 계속 늘어나고 미국, EC 등 주요 수출국으로부터 통상압력이 강화되자 대만은 무역자유화의 일환으로 매년 수입관세율을 축소하여 왔는데 그 결과 평균 명목관세율은 1985년 27.2%에서 1995. 7월 758개품목(공산품514개, 농산품244개)에 대한 관세추가인하조치로 8.6%로 낮아졌다. 특히 2002년 WTO 가입 이후에는 평균관세율이 계속 하락하고 있다.

[표. 대만의 평균 명목관세율 추이] (%)

년도	전체	농산품	공산품
1985	27.2	36.9	25.4
1990	8.9	21.6	6.4
1995	8.6	20.8	6.4
2002	5.8		
2003	5.1		
2004	4.1		

- 수입관세율은 0~50%까지 다양하나 통상적으로는 공산품은 평균 5.1%, 농산품은 평균 2.2%의 관세를 부과하고 있다.
 - 광물제품(0-20%), 화학제품(0-20%), 합성고무제품(0-10%), 가죽 및 가죽관련제품(0-10%), 나무 및 나무제품(0-20%), 신발류 및 악세서리(0-20%), 콘크리트 및 유리(0-30%), 귀금속(0-20%), 기계류(0-30%), 항공부품(0-50%), 영화 및 기타오락물(0-20%), 무기류 및 다이아몬드(0-10%), 자동차(상용차포함)(10-25%)
- '산업고도화촉진조례'에 의거 첨단산업및철강, 알루미늄, 구리 등 주요 원자재에 대해서는 무관세이다.
- 기계 및 부품류를 자사사용목적으로 수입할 경우 관세를 30개월로 분할하여 납입할 수 있다.
- 수출관세는 없으나 항만건설수수료(Harbour Construction Fee)로써 모든수출품목에 대해 F.O.B 가격에 0.2%를 부과하였으나, WTO 가입 이후 폐지된다. 단, 무역촉진을 위한다는 명목으로 0.0425%의 수수료를 받고 있다.
- 2006년 대만 정부는 시멘트 제품에 대한 반덤핑 상계관세 부과
 - 반덤핑 관세율 : 110.9%~126.8%

부록 1. 대만 이전가격세제 안내 (08년 국내청 발간)

INTERNATIONAL TAXATION

I. Tax Treaties

A. Tax Treaty Policy

The general policy of the ROC toward tax treaties is to avoid double taxation, prevent fiscal evasion, and strengthen substantive relations. The tax treaties that the ROC has entered into follow the OECD model and take into consideration matters relating to the political and fiscal status, economic situation, and trade between the mutual parties.

B. List of Tax Treaties

As of 31st December, 2007, there were 16 comprehensive income tax treaties and 14 international transportation income tax agreements which had been signed and brought into force. All tax treaties are listed below:

1. Comprehensive income tax treaties which cover all income flows:

Australia, Belgium, Denmark, Gambia, Indonesia, Macedonia, Malaysia, The Netherlands, New Zealand, Senegal, Singapore, South Africa, Swaziland, Sweden, Vietnam, and the UK.

2. International transportation income tax agreements:

Canada, the European Union, Germany, Israel, Japan, Korea, Luxembourg, Macau, The Netherlands (Shipping, Air Transport), Norway, Sweden, Thailand, and the United States.

C. Dividends, Interest, and Royalties

The ROC's withholding tax rate on dividends, interest, and royalties payable to a non-resident is 20%, but the dividend withholding rate is 30% for non-resident individuals and 25% for non-resident enterprises for investments not approved under the Statute for Investment by Overseas Chinese or the Statute for Investment by Foreign Nationals.

However, with respect to dividends, interest, and royalties, reduced withholding tax rates ranging from 5%-15% are provided for by tax agreements.

List of Rates of Withholding Tax of Dividends, Interest and Royalties under the Respective Tax Treaties

Income Items Countries	Dividends (%)	Interest (%)	Royalties (%)
Non-Treaty Countries	20,25,30	20	20
Australia	10, 15	10	12.5
Belgium	10	10	10
Denmark	10	10	10
Gambia	10	10	10
Indonesia	10	10	10
Macedonia	10	10	10
Malaysia	12.5	10	10
New Zealand	15	10	10
Senegal	10	15	12.5
Singapore	40*	Nil	15
South Africa	5, 15	10	10
Swaziland	10	10	10
Sweden	10	10	10
The Netherlands	10	10	10
The UK	10	10	10
Vietnam	15	10	15

*The tax shall not exceed an amount that together with the corporate income tax payable on the profits of the company paying the dividends constitutes 40% of the part of the taxable income out of which the dividends are declared.

D. Guidelines for the Application of Double Taxation Agreements

To improve the effectiveness of tax administration with regard to the double taxation agreements, the MOF issued the Guidelines No. 0900450628 on 22nd February, 2001. The Guidelines include detailed guidance for the determination of residency status, the issuance of a Resident Certificate and Income Tax Statement, the exclusion of a joint-filing requirement, the application of limited tax rates and tax exemptions, the refund of overpaid taxes, the reporting of foreign tax credits, and the procedures for mutual agreement and exchange of information.

II. Transfer Pricing

A. Article 43-1 of the Income Tax Act

In order to deal with the problem of transfer pricing and to realize fair and legitimate taxation in the field of controlled transactions made between a profit-seeking enterprise and its related parties, a provision relating to transfer pricing was enacted into Article 43-1 of the Income Tax Act (ITA) in 1971. In addition, similar transfer pricing provisions

were included in Article 50 of the Financial Holding Company Act and Article 42 of the Enterprise Merger and Acquisition Act in 2001 and 2002, respectively.

Article 43-1 of the ITA addresses the adjustment of income necessary for enterprises with non-arm's length transactions. This article authorizes the collection authority-in-charge to adjust the calculation of the income of an enterprise in order to accurately determine its taxable income and tax liability. However, this adjustment can only be done with the prior approval of the Ministry of Finance (MOF) and in pursuance of the arm's length principle. The application of Article 43-1 is invoked when a profit-seeking enterprise, with other enterprises within or outside the territory, has an affiliated relationship with, or is directly or indirectly owned or controlled by another enterprise, allocates revenue, cost, expenses, and profits and losses among its related businesses which are incompatible with the arm's length principle, and with the intention to avoid or reduce its income tax liabilities in the ROC.

Article 43-1 of the ITA governs transfer pricing activities both within domestic enterprises as well as multinational enterprises. Therefore, when the collection authority-in-charge perceives profit-seeking enterprises as having transactions with their related enterprises, (i.e., controlled transactions), which are incompatible with the arm's length principle, the authority may start the process of investigation and adjustment as long as the requirements prescribed in Article 43-1 of the ITA have been met. As for Article 50 of the Financial Holding Company Act and Article 42 of the Enterprise Merger and Acquisition Act, the investigation and adjustment undertaken by the collection authority-in-charge in accordance with the arm's length principle shall apply to the transactions conducted by any company subject to those acts with its related enterprises, individuals, or non-profit organizations, (i.e., controlled transactions), and shall also apply to the transactions with its unrelated parties which are considered as non-arm's length.

B. Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's Length Transfer Pricing

For determining arm's length pricing or the profit of controlled transactions in a fair and reasonable way, the MOF promulgated "The Regulations Governing Assessment of Profit-Seeking Enterprise Income Tax on Non-Arm's Length Transfer Pricing" on 28th December, 2004. These Regulations provide the following information:

1. The types of transactions governed by these Regulations, include the following:
 - a. Transfer of tangible assets;
 - b. Use of tangible assets;
 - c. Transfer of intangible assets;
 - d. Use of intangible assets;
 - e. Rendering of services;
 - f. Use of funds; and
 - g. Other types of transactions prescribed by the MOF.

2. Arm's length principles to be followed by taxpayers and tax authorities

When profit-seeking enterprises and collection authority-in-charge evaluate whether the result of a controlled transaction is at arm's length, or determine the arm's length result of a controlled transaction, the following principles shall be followed:

- a. The comparability principle;
- b. Adoption of the most applicable transfer pricing method;
- c. Evaluation of separate transactions;
- d. Use of current year data;
- e. Adoption of an arm's length range;
- f. Analysis of reasons for losses;
- g. Separate evaluation of revenues and expenditures; and
- h. Other arm's length principles prescribed by the MOF.

3. Transfer pricing methods

Presently the following transfer pricing methods can be used to evaluate whether the result of controlled transactions is at arm's length, or to determine their arm's length result:

- a. Traditional transaction methods, including the comparable uncontrolled price method, the uncontrolled transaction method, the resale price method, and the cost-plus method;
- b. Profit methods, including the comparable profit method and the profit split method.

These regulations also define the applicable methods depending on the types of transaction. The profit-seeking enterprises undertaking controlled transactions are not required to check each transfer pricing method to determine the one which is most appropriate, instead, they may select one or more of a choice of transfer pricing methods to ascertain the most appropriate one for their circumstances based on the comparability or similarity between the controlled transactions and their comparables, and the reliability of the adjustments made to eliminate the differences.

4. Requirements for disclosing information

When filing income tax returns, profit-seeking enterprises, except for those which enjoy different tax treatments from their related parties and have a turnover amount and controlled transaction amount under the disclosure threshold established by the MOF, shall disclose information regarding their related parties, and the controlled transactions between the enterprises and their related parties. The enterprises which are required to disclose information shall fill out the relevant form including an organization chart, a brief description of the related parties, a simple summary of the controlled transactions, and other related information.

5. Requirements for preparing transfer pricing documentation

- a. When filing income tax returns, profit-seeking enterprises shall prepare a “Transfer Pricing Report” in regard to their controlled transactions and other related documents, such as a complete organization structure, summaries of controlled transactions, etc., commencing with and including the taxable year 2005. However, in order to alleviate the taxpayers’ burden and compliance costs, the MOF established a safe harbor rule on 30th December, 2005. The profit-seeking enterprises of which controlled transactions meet the requirements regulated under the safe harbor rule may replace their Transfer Pricing Report with other evidentiary documents which are able to sufficiently prove that the results of such transactions are at arm’s length.
- b. The term “Transfer Pricing Report” is a report to record all the procedures regarding a transfer pricing analysis under the regulations. Such report shall at least contain:
 - (1) An industry and economic analysis;
 - (2) A functional and risk analysis of all the participants of the controlled transaction;
 - (3) A description of the nature of the compliance with the arm’s length principle;
 - (4) A description of the search for comparables;
 - (5) A description of the selection of the most appropriate transfer pricing method and the related comparability analysis;
 - (6) The transfer pricing methods adopted by the other related participants; and
 - (7) A description of the application of the most appropriate transfer pricing method to evaluate whether the result of the controlled transactions is at arm’s length and also its conclusion, including selected comparables, difference adjustments and their assumptions, arm’s length range, the conclusion of the evaluation, and the transfer pricing adjustment in the case that the controlled transactions are not at arm’s length.

6. Applications for advance pricing arrangements

- a. Requirements for application for an advance pricing arrangement (APA):

Profit-seeking enterprises undertaking a controlled transaction, which meets certain requirements, may apply for the possibility of an APA. The main requirements are as follows:

 - (1) The total amount of the transactions being applied for under advance pricing arrangements shall be no less than NT\$1 billion; or, the annual amount of such transactions no less than NT\$500 million;
 - (2) No significant tax evasions were committed in the past three years; and
 - (3) Documentation required for an APA application, such as a business overview, relevant information of the related parties and controlled transactions, transfer pricing reports, etc., shall be provided within the time limit.

b. Procedure for filing applications and review

Taxpayers deemed as qualified to apply for an APA should file an application before the end of the first fiscal year covered by the APA. The collection authority-in-charge shall review and reach a conclusion within one year. Under special circumstances, the review period may be extended for a further period of six months. If necessary, another 6-month extension may be allowed. When reaching a decision after reviewing the APA application, the collection authority-in-charge will discuss such decision with the applicant. At the time of an agreement being reached between the two sides, an APA shall be signed between the collection authority-in-charge and the applicant with an obligation on the part of both sides to follow the terms of the agreement.

c. Applicable period of an APA

Once signed, the APA will be effective for a period of from three to five years. In the case of there being no substantial change in the conditions described in the APA, an applicant who has fully complied with all the terms of the APA may apply for an extension for another five years.

d. Examinations of compliance with the APA

During the applicable period of the APA, the applicant shall submit an annual report on the execution of the APA to the collection authority-in-charge with the income tax return.

e. Advantages of the use of an APA, including the following:

- (1) Simplified documentation requirement, i.e., no need to prepare an annual Transfer Pricing Report, and
- (2) Certainty for tax liabilities. The collection authority-in-charge will reduce the probability of auditing and shall assess the taxable income in accordance with the APA.

7. Investigation, assessment and corresponding adjustments

a. Investigation

When perceiving profit-seeking enterprises as having non-arm's length transactions with their related parties, the collection authority-in-charge may start the process of investigation. The authority may conduct different procedures based on whether the enterprises being audited provide the transfer pricing documentation as required. In the first instance, in the case that an enterprise provides adequate transfer pricing documentation, the authority may assess its taxable income based on such documentation. In the second instance, if an enterprise fails to provide such documentation, the authority may assess the taxable income based on information gathered from internal and external data sources.

b. Assessment

For both of the above instances, the taxable income of the taxpayer is assessed in accordance with these regulations. However, subject to the second instance, in the case that there is a failure to collect information regarding comparables (e.g., on royalty payments), the authority-in-charge may assess such taxable income based on the standard profit margins regulated by the MOF.

c. Corresponding adjustments

If a collection authority-in-charge has conducted a transfer pricing investigation of a profit-seeking enterprise undertaking controlled transactions pursuant to these regulations, and the arm's length adjustments made by the authority have been approved by the MOF, the authority shall make corresponding adjustments to the taxable income of the counterpart of the enterprise which in the first case has been deemed to be itself subject to adjustments in taxable income if both parties are liable to the income tax obligation of the ROC. Furthermore, in the case that the arm's length adjustment is resultant from an income tax assessment of the foreign tax jurisdictions under the tax treaty framework, the collection authority-in-charge in the ROC shall also make a corresponding adjustment to the taxable income of the counterpart which is liable to the income tax obligation of the ROC in the case where such adjustment is perceived as reasonable by the collection authority-in-charge in the ROC.

8. Penalties

Where the profit-seeking enterprise fails to comply with these regulations thereby resulting in a reduction of tax liability, and the collection authority-in-charge has made adjustments and assessed the taxable income of the enterprise in accordance with the ITA and these regulations, Article 110 of the ITA shall apply to the following situations of specific tax omission or under-reporting commencing with and including the taxable year 2005:

- a. The reported price of the controlled transaction is two times or more than the arm's length price as assessed by the tax administration; or 50% or lower than the arm's length price.
- b. The increase in taxable income of the controlled transactions as adjusted and assessed by the collection authority-in-charge is 10% or more of the annual taxable income of the enterprise; and 3% or more of the annual net business revenue.
- c. A profit-seeking enterprise cannot provide a transfer pricing report or other documents evidencing that the result of transactions is at arm's length.
- d. Other *de facto* tax shortfall discovered by the collection authority-in-charge.

부록 2. 대만 소득세법 (Income Tax Act)

Article 1

Income tax is classified into consolidated income tax and profit-seeking enterprise income tax.

Article 2

For any individual having income from sources in the Republic of China, consolidated income tax shall be levied in accordance with this Act on his income derived from sources in the Republic of China.

Unless otherwise provided in this Act, in the case of an individual who is a nonresident in the Republic of China but who has derived income from sources in the Republic of China, income tax payable by him on all such income shall be withheld and paid at the respective sources.

Article 3

For any profit-seeking enterprise operating within the territory of the Republic of China, profit-seeking enterprise income tax shall be levied in accordance with this Act.

For any profit-seeking enterprise having its head office within the territory of the Republic of China, profit-seeking enterprise income tax shall be levied on its total profit-seeking enterprise income derived within or without the territory of the Republic of China; provided, that in case income tax has been paid on the income derived outside of the territory of the Republic of China in accordance with the tax act of the source country of that income, such tax paid may, upon presentation by the taxpayer of evidence of tax payment issued by the tax office of said source country for the same business year and attested by a Chinese embassy or consulate or other organizations recognized by the Government of the Republic of China in the said local, be deducted from the amount of tax payable by the taxpayer at the time of filing final returns on the total profit-seeking enterprise income, to the extent that such deduction shall not exceed the amount of tax which, computed at the applicable domestic tax rate, is increased in consequence of inclusion of its income derived from abroad.

For any profit-seeking enterprise having its head office without the territory of the Republic of China but having income derived from sources in the Republic of China, profit-seeking enterprise income tax shall be levied on its profit-seeking enterprise income derived within the territory of the Republic of China.

Article 3-1

For payment of profit-seeking income tax for the year of 1998 and the years thereafter, a profit-seeking enterprise may, when making surplus earning

distribution, cause its shareholders, association/society members, partners of capital owners to deduct from the gross amount of tax payable as declared in their respective annual consolidated income tax return for the current year the amount of income tax payable by them on the dividend or the surplus earning distributed to them by the said profit-seeking enterprise.

Article 3-2

Where the settlor of a trust deed is a profit-seeking enterprise and the beneficiary of the whole or any part of the trust benefit designated therein is not the settlor himself/herself/itself, then the said beneficiary shall include the value of his/her/its entitlement to such trust benefit in the aggregate amount of his/her/its annual income in the year the trust deed takes effect for assessment of income tax under the act.

In the case of a trust deed referred to in the preceding Paragraph wherein the settlor is named as the beneficiary of the whole or any part of the trust benefit, if the beneficiary is replaced by a person other than the settlor during the term of such trust relationship, then the said new beneficiary shall include the value of his/her/its entitlement to such trust benefit in the aggregate amount of his/her/its annual income in the year such beneficiary change takes effect for assessment of income tax under the act.

In the case of a trust deed wherein the settlor is a profit-seeking enterprise, if any person other than a settlor is added thereto as a beneficiary to the trust benefit as a result of an increase of the property in trust during the term of existence of the trust relationship, then the said new beneficiary shall include the increased portion of the value of his/her/its entitlement to such trust benefit in the aggregate amount of his/her/its annual income in the year the trust property increase takes effect for assessment of income tax under the act.

Where the beneficiary or beneficiaries of a trust deed set forth in any of the preceding three Paragraphs are to be decided or not in existence yet, the settlor shall be considered as the tax-payer for that trust deed who shall include the value of his/her/its or their entitlement to such trust benefit as calculated in accordance with the applicable withholding tax rate and received by him/her/it or them under the trust deed in his/her/their annual income tax return to be filed within the tax declaration period fixed in Article 71 of this Act. The income tax withholding rates referred to hereinabove shall be formulated by the Ministry of Finance and submitted to the Executive Yuan for its approval and promulgation.

Article 3-3

Where the trust property is transferred or otherwise disposed of based on transfer of trust relationship between the interested parties under any of the following circumstances, such transfer or disposition of trust property shall be exempt from assessment of income tax:

1. Between the settlor and a trustee, due to creation of the trust deed;

2. Between the original trustee and a new trustee, upon change of the trustee during the term of persistence of the trust relationship;
3. Between a trustee and a beneficiary, upon delivery of the trust property by the trustee pursuant to the intent of trust during the term of persistence of the trust relationship;
4. Between the settlor and the trustee or between the trustee and the beneficiary upon extinguishment of the trust relationship; or
5. Between the settlor and the trustee due to unsuccessful creation of, or invalidation, cancellation or nullification of the trust deed.

The income arising from management or disposition of the trust property by the trustee prior to transfer or disposition of the trust property to be effected under the preceding Paragraph shall be subject to assessment of income tax in accordance with the provisions of Article 3-4 of this Act.

Article 3-4

With regard to the revenue, if any, derived from trust property, the trustee shall, in the year of derivation of such revenue and after deducting therefrom the costs, necessary expenses and loss occurred, calculate the amount of each category of income as classified in this Act to be payable to each trust beneficiary; and each beneficiary shall include such portion of trust benefit distributed to him/her/it in his/her/its annual income tax return to be filed in the then current year for assessment of income tax under this Act.

Where there are two or more beneficiaries entitled to the trust benefit set forth in the preceding Paragraph, the trustee shall calculate the amounts of such revenue distributable to all beneficiaries in accordance with the benefit distribution proportions explicitly provided in the trust deed or the deductive proportions. However, if the distribution proportions are unknown or can not be deduced, then the revenue of various categories of such revenue derived from the trust property and distributable to trust beneficiaries shall be calculated on an average basis.

In the absence of specific or any beneficiary/beneficiaries, the tax payer for the amount of revenue derived from the trust property as calculated in the year of occurrence of such revenue under the preceding two Paragraphs shall be the trustee of the trust property, and a withholding tax shall be paid at the applicable withholding rates and declared in the annual income tax return to be filed within the filing period fixed in Article 71 of this Act. As for the withholding tax already declared and paid in accordance with the provisions of Paragraph Two, Article 89-1 of this Act, the amount of such withholding tax may be deducted from the amount of income tax payable by the tax-payer. The withholding tax rates shall be formulated and reported to the Ministry of Finance for its approval and promulgation.

In case a trustee fails to comply with the provisions set out in the preceding Paragraphs One through Three, the competent tax collection authority shall assess the amount of income of the trust beneficiary concerned based on the relevant

information available and levy the income tax accordingly.

With regard to the public trust conforming to the requirements set out in Article 4-3 of this Act, the trust benefit actually distributed to trust beneficiaries shall be included in their respective annual income for the year of distribution of such benefit for assessment of income under this Act.

With regard to the mutual trust funds, securities investment trust funds and/or other trust funds approved by the competent authorities under the acts, the trust benefits actually distributed to trust beneficiaries shall be included in their respective annual income for the year of distribution of such benefits for assessment of income tax under this Act.

Article 4

Income tax on the following categories of income shall be exempted:

1. Salaries of military personnel in active service;
2. Salaries of teachers and employees of nurseries, kindergartens, public primary and junior high schools, and private primary and junior high schools;
3. Compensation for death or injury and that obtained in pursuance of the National Compensation Act;
4. Pension or compensation for death received in accordance with applicable acts or regulations by the bereaved family of a person who died in performing official duties. Pension or compensation for death in one lump sum or by installments received in accordance with applicable acts or regulations by the bereaved family of a person died not in performing official duties with the lump sum or the total amount paid in all installments in one year calculated together with the amount of the Separation Income provided in Paragraph 1, Article 14 hereof; however, the total amount received shall not be more than the deductible amount provided in Category 9, Paragraph 1, Article 14 hereof;
5. Payment for special disbursement, allowance in kind or cash in lieu thereof and housing allowances received from the government by public servants, teachers, military personnel, policemen and laborers; and that portion included in the uniform-scale salary received by employees of state-run organizations representing allowance in kind and housing allowance;
6. Interest on savings of a compulsory nature made in accordance with act or ordinance;
7. Compensation payment made under life insurance, labor insurance and insurance for public servants, military personnel and teachers;
8. Scholarships and subsidies granted by governments of the Republic of China or foreign governments, international institutions, educational, cultural, and scientific research organizations or associations, and other public or private organizations for encouragement of advanced studies, research or participation in scientific and professional training, except for the scholarships or subsidies received as the remuneration for services rendered to the grantors;
9. Income, derived by virtue of office, of foreign diplomatic officials, consular

officials and other persons entitled to treatment accordable to diplomatic officials in the service of foreign embassies, legations and consulates in the Republic of China;

10. Income, derived by virtue of office, of employees, other than diplomatic officials, consular officials and persons entitled to diplomatic treatment, who, being nationals of a foreign country, are employed by the embassy, legation or consulate of their country or by subsidiary agencies thereof in the Republic of China; provided, that reciprocal treatment is accorded by the foreign country concerned to employees of Chinese nationality employed by the embassy, legation or consulate of the Republic of China or by subsidiary agencies thereof, in the foreign country concerned.

11. Salaries paid by foreign governmental agencies, organizations or educational and cultural institutions to foreign technicians and professors of universities and colleges for services rendered within the territory of the Republic of China under technical cooperation or cultural and educational exchange agreements made by and between such foreign governmental agencies, organizations or educational and cultural institutions and those of the Republic of China;

12. (Deleted)

13. Income derived by organizations or societies, which are established for educational, cultural, public welfare or charitable purposes and are in conformity with the criteria prescribed by the Executive Yuan, from the operations of their own and their subsidiaries;

14. Surplus profit of consumer cooperatives operated in accordance with act, doing no business with outsiders;

15. (Deleted)

16. Income earned by an individual or by a profit-seeking enterprise from the sale of land, or by an individual from the sales of apparel or furniture for household use, or income earned by a profit-seeking enterprise from the transactions of sale of property for the purpose of stockpiling war materials in accordance with the regulations established by the government. The portion of stock or bond transactions income, earned by an individual or a profit-seeking enterprise through sale of stock or corporate bonds of companies limited by shares, attributable to changes in the valuation of said securities from date of acquisition to December 31, 1973.

17. Properties received by way of inheritance, bequest or gift, except properties obtained as a gift from a profit-seeking enterprise;

18. All kinds of income derived by governments of various levels;

19. Income of public utility enterprises owned by governments of various levels;

20. Business income obtained from the operation inside the territory of the Republic of China by a foreign enterprise engaged in international transportation; provided that reciprocal treatment is accorded by the foreign country concerned to an international transport enterprise of the Republic of China operating in its territory;

21. Royalty paid to a foreign enterprise for the use of its patent rights, trademarks, and/or various kinds of special licensed rights in order to introduce new production technology or products, improve product quality, or reduce production cost under the approval of the competent authority as a special case, as well as remuneration paid to a foreign enterprise for its technical services rendered in construction of a factory for an important productive enterprise determined and approved as such by the competent authority;

22. Interest derived from loans offered to the government of the Republic of China or legal entities within the territory of the Republic of China by foreign government or international financial institutions for economic development, and interest derived from the financing facilities offered to their branch offices and other financial institutions within the territory of the Republic of China by foreign financial institutions. Interest derived from loans extended to legal entities within the territory of the Republic of China by foreign financial institutions for financing important economic construction projects under the approval of the Ministry of Finance. Interest derived from favorable-interest export loans offered to or guaranteed for the legal entities within the territory of the Republic of China by foreign governmental institutions and foreign financial institutions which are specialized in offering export loans or guarantees;

23. Individual income derived from written articles, copyright books, musical compositions, musical productions, dramas, cartoons, or as remuneration for speeches and lectures on an hourly basis. However, the total amount of such income for the whole year shall not exceed NT\$ 180,000;

24. Various payments paid to personnel engaged in handling various kinds of examinations held by governmental agencies or academic organizations as commissioned by such agencies and in entrance examinations held by public and private schools of various levels.

Criteria of "performing official duties" as referred to in Item 4 of the preceding Paragraph shall be stipulated by the Executive Yuan.

Article 4-1

Income tax on gains derived from the securities transactions ceased to be imposed with effect from January 1, 1990, at the same time, losses on securities transactions shall no longer be deductible from the amount of income derived from such transactions.

Article 4-2

Assessment of income tax on income from transactions of futures under Statute for Futures Transaction Tax shall be suspended for the time being and loss in such transactions shall not be deductible from the amount of income.

Article 4-3

Where a profit-seeking enterprise provides property for the purpose of formation

of, or contribution to, or participation in any of the following public trusts, the value of the beneficiaries' entitlement to the benefits distributable to them under the said public trust shall be exempt from assessment of income tax and from application of the provisions of Article 3-2 and the proviso set out in Item 17, Paragraph One, Article 4 of this Act:

1. A public trust, the trustee thereof is a trust business operator as defined in the Trust Business Act;
2. A public trust which will not pay special benefit in any manner to any specific person or any person who may be designated as a specific person, except for payment of the expenses which must be made to an enterprise incorporated in realizing the creation objective of the said public trust; or
3. A public trust which, according to the provisions of the trust deed thereof, will be transferred to a government authority at a specific level, or a public juristic person or public trust having a similar objective upon the cancellation, termination or extinguishment of such trust deed.

Article 5

The personal exemption for consolidated income tax shall be limited to NT\$ 60,000 each person per year. If the total increase of the consumer price index is more than 3%, as compared to the index of the year of previous adjustment, the exemption shall be adjusted accordingly. The adjusted amount shall be calculated in units of thousands of NT Dollars; amounts less than a thousand NT Dollars shall be calculated in hundreds of NT Dollars and then rounded off to the nearest thousand using the traditional method.

The tax brackets and rates of consolidated income tax are as follows:

1. If the annual total net consolidated income is less than NT\$ 300,000, the tax rate shall be 6%.
2. If the annual total net consolidated income is above NT\$ 300,000 to NT\$ 800,000, the income tax payable shall be NT\$ 18,000 plus 13% for the portion of income more than NT\$ 300,000.
3. If the annual total net consolidated income is above NT\$ 800,000 to NT\$ 1,600,000, the income tax payable shall be NT\$ 83,000 plus 21% for the portion of income more than NT\$ 800,000.
4. If the annual total net consolidated income is above NT\$ 1,600,000 to NT\$ 3,000,000, the income tax payable shall be NT\$ 251,000 plus 30% for the portion of income more than NT\$ 1,600,000.
5. If the annual total net consolidated income is above NT\$ 3,000,000, the income tax payable shall be NT\$ 671,000 plus 40% for the portion of income more than NT\$ 3,000,000.

If the total increase of the consumer price index is more than 10% as compared to the index of the year of previous adjustment, the tax brackets as described in the preceding paragraph shall be adjusted accordingly. The adjusted amount shall be calculated in units of ten thousands of NT Dollars; amounts less than ten

thousand NT Dollars shall be calculated in thousands of NT Dollars and then rounded off to the nearest ten thousands using the traditional method.

The exemption and tax brackets for consolidated income tax shall be publicly announced by the Ministry of Finance in accordance with preceding paragraphs 1 & 3 before the beginning of each year. The consumer price index as indicated above shall be publicly released by the Director General of Budget, Accounting and Statistics of the Executive Yuan based on the average consumer price index for 12 months up to the end of October of the previous year.

The minimum taxable amount, tax brackets and rates for profit seeking enterprises income tax are as follows:

1. If the total taxable income of a profit seeking enterprise is less than NT\$ 50,000, the profit-seeking enterprise is exempt from tax.
2. If the total taxable income of a profit seeking enterprise is less than NT\$ 100,000, the income tax rate will be 15%. However, the income tax payable shall not exceed one half of the portion of taxable income more than NT\$ 50,000.
3. If the total taxable income of a profit seeking enterprise is more than NT\$100,000, the income tax rate shall be 25% on the portion of taxable income more than NT\$ 100,000.

Article 5-1

The standard deduction, special deduction of income from salaries/wages and special deduction for the disabled or handicapped shall be handled in accordance with Article 17, and their respective calculations for adjustments shall apply mutates to paragraph 1 and paragraph 4 of Article 5.

The deductions of paragraph 1 and the exemption of Article 5 shall be assessed every three years in accordance with the standard of income and changes in basic living standards.

Article 6

All amounts of money as provided in this Act shall be into New Taiwan Dollars.

Article 6-1

With regard to the property provided by any individual or profit-seeking enterprise for creating, or contributing to, or participating in a public trust conforming to the applicable requirements set out in Article 4-3, the provisions of Article 17 and Article 36 of this Act shall govern.

Article 6-2

Separate accounting books and records shall be established and maintained for individual trust deeds by the respective trustees of such trust deeds for use in keeping the details of the receiving and disbursing transactions effected under each individual trust deed. Every disbursement transaction must be supported by appropriate certificate or receipt.

Section 2 Definitions

Article 7

The term "person" as used in this Act refers to a natural person or juristic person. The term "individual" used in this Act means a natural person.

1. A person who has domicile within the territory of the Republic of China and resides at all times within the territory of the Republic of China;
2. A person who has no domicile within the territory of the Republic of China but resides within the territory of the Republic of China for a period of more than 183 days during a taxable year.

The term "individual not residing in the Republic of China" denotes an individual other than those as provided in the preceding paragraph.

The term "taxpayer" as used in this Act means a person who is required under this Act to report or pay income tax.

The term "tax withholder" as used in this Act means a person who is required under this Act to withhold income tax from his payment to be made to a taxpayer.

Article 8

The term "income from sources in the Republic of China" used in this Act refers to income of the following categories:

1. Dividends distributed by companies incorporated and registered in accordance with the Company Act of the Republic of China and by foreign companies authorized by the government of the Republic of China to operate within the territory of the Republic of China;
2. Profits distributed by profit-seeking enterprises organized in the form of a cooperative or a partnership within the territory of the Republic of China;
3. Remuneration for services rendered within the territory of the Republic of China, provided that this shall not apply to remuneration obtained from an employer without the territory of the Republic of China by an individual not residing in the Republic of China but staying in the Republic of China for a period of not more than ninety days during a taxable year;
4. Interest obtained from governments of various levels of the Republic of China, from juristic persons within the territory of the Republic of China and from individuals residing in the Republic of China;
5. Rental obtained from lease of property situated within the territory of the Republic of China;
6. Royalty obtained from patents, trademarks, copyrights, secret formulas and franchises by virtue of their being made available for use by other persons within the territory of the Republic of China;
7. Profits from the transaction of properties within the territory of the Republic of China;
8. Remuneration for services performed by personnel sent abroad by the

government of the Republic of China on overseas missions and for services rendered abroad by employees in general;

9. Profits from operation of industry, commerce, agriculture, forestry, fishery, animal husbandry, mining, and metallurgy enterprises within the territory of the Republic of China;

10. Awards or grants obtained from participating in various skill contests, games, or lotteries, etc. within the territory of the Republic of China; and

11. Any other income obtained within the territory of the Republic of China.

Article 9

The terms "income from the transaction of property" and "losses from the transaction of property" as used in this Act refer to profits and losses resulting from sale, purchase, or exchange of property by a taxpayer, who comes to possess the property other than engaging in regular sales and purchases of such properties for profit-seeking purposes.

Article 10

The term "fixed place of business" as used in this Act refers to fixed places for operation of business, including administrative offices, branch or sub-branch offices, business offices, factories, workshops, warehouses, mining fields, and construction sites, however, this shall exclude warehouse or storage sites used exclusively for purchase of goods and maintenance shops not used for processing or manufacturing products.

The term "business agent" as used in this Act means an agent fulfilling any of the following requirements:

1. Where the agent, in addition to representing its principal in the purchase of goods, is authorized to regularly represent the principal in making business arrangements and in signing contracts;
2. Where the agent regularly keeps in store goods of its principal and delivers the same, for its principal, to others; and
3. Where the agent regularly accepts, for its principal, order for goods.

Article 11

The term "practitioner of profession" as used in this Act refers to a lawyer, certified public accountant, architect, technician, physician, pharmacist, obstetrician, author, broker, scrivener, artisan, performer, and any other person who makes a living with craftsmanship or art.

The term "profit-seeking enterprise" as used in this Act refers to industrial, commercial, agricultural, forestry, fishing, animal husbandry, mining or metallurgical enterprises operated by public, private, or joint public and private interests and having a business name or place and organized in the form of sole proprietorship, partnership, company or in any other form of organization.

The term "public-owned enterprise" as used in this Act refers to an organization

established by a government of any level for the purpose of attaining certain objectives of a specific enterprise without computation of profit or loss and distribution of dividend.

The term "educational, cultural, public welfare and charitable organizations or institutions" as used in this Act denotes organizations or institutions that are organized in accordance with the provisions of the Book of General Principles of the Civil Code relating to public welfare organization and foundations or in accordance with the provisions of other relevant acts and ordinances and are duly registered with the authority-in-charge.

The term "cooperative" as used in this Act refers to cooperatives which are organized in accordance with the Cooperative Act, duly registered with the authority-in-charge at the place of their business, and conduct their operations in accordance with act, provided that an organization which, although engaged in business of a cooperative nature, fails to meet the requirements set forth herein, shall not be considered as a cooperative.

The term "taxable year" as used in this Act where the individual consolidated income tax is involved shall commence on the first day of January and end on the thirty-first day of December of each year.

Article 12

(Deleted)

Chapter II Consolidated Income Tax

Article 13

Consolidated income tax of an individual shall be levied on the amount of his net consolidated income which shall be the gross consolidated income minus the amount of tax-exempt income, and various deductions.

Article 14

The gross amount of consolidated income of an individual shall be the aggregate of the following categories of income for the whole year:

Category 1:

Income from profit-seeking: the gross dividend received by each shareholder of a company, the gross surplus profit received by each member of a cooperative, and the gross surplus profit payable each year to each partner of a profit-seeking partnership, the gross surplus profit derived in each year by a sole proprietor from the operation of an enterprise invested soled by him, and the surplus profit derived by an individual from incidental trading activities shall all come under this Category of income.

The gross amount of dividend received by a shareholder or the gross amount of surplus profit received by a member of a cooperative shall by the some of the net dividend as indicated in the dividend voucher or the total amount of distributable

surplus profit plus the amount of deductible income tax, as the case may be. Gross surplus profit payable to a partner or the surplus profit derived by a sole proprietor from operation of an enterprise invested solely by him shall be included in the approved amount of such profit-seeking enterprise income.

Category 2:

Income from professional practice: any income of an individual from professional practice or performances after deduction of the rental for or depreciation of the place of business, depreciation of and repairing expenses for the facilities and equipment required for business, or the cost of medications, supplies, etc. sold to clients, salaries and wages for employees required for business, travelling expenses for practicing the profession and other direct and necessary expenditures, shall be the actual amount of income in this Category.

Any individual engaged in professional practice shall at least keep a journal as his accounting book to provide detailed entries of all the operating revenues and expenses. For all business expenditures, documents of positive evidence shall be secured. The documents of evidence and account book shall be kept for a period of at least five years. Measures regarding the setting up, acquisition, and maintenance of the documents of evidence and account books and other related matters shall be prescribed by the Ministry of Finance.

Depreciation of buildings, facilities, and equipment used in professional practice shall be calculated in accordance with the Table of Service Life of Fixed Assets. The relevant provisions with respect to profit-seeking enterprise income tax of this Act shall be applicable, mutatis mutandis. Measures regarding the inspection of the documents of evidence, recognition of the revenues and expenses from professional practice and their account books and other related matters shall be prescribed by the Ministry of Finance.

Category 3:

Income from salaries and wages: any income from salaries and wages of public functionaries, teachers, military personnel, policemen, staff employees and workers of public and private enterprises and any income earned by persons rendering services:

1. Income from salaries and wages shall be all salaries and wages earned for performing duties or doing works;
2. Salaries and wages as provided in the preceding subparagraph shall include salaries, stipends, wages, allowances, annuities, cash awards, bonuses and all kinds of subsidies, whereas, the money received for performing duties for the employer as traveling expenditures, daily allowance and overtime pay not in excess of the prescribed amounts and the incomes which are exempt from income tax as prescribed under Article 4 of this Act shall be excluded.

Category 4:

Income from interest: any income from interest on public debts, corporate bonds, financial, various kinds of short-term commercial papers, deposits and other loans:

1. Public debts shall include bonds, treasury notes, securities, and other notes

issued by governments of all levels;

2. Prize money from raffle-savings in excess of the amount of savings shall be deemed as income from interest on deposits:

3. Short-term commercial papers shall include one-year or less treasury bonds, transferable time deposit certificates issued by banks, bill of exchange accepted by banks, commercial promissory notes, and other short-term certificates of indebtedness approved by the authority in charge of the specific end enterprise.

The portion of the pecuniary amount realized by the short-term commercial papers at their maturity in excess of the selling price at their initial issuance shall be deemed as income from interest such income shall not be added to the gross consolidated income, but withheld in accordance with the provision of Article 88.

Category 5:

Income from lease and from royalties: any income from lease of property, from utilization of money obtained as the price of a lien on property, or from royalties on patents, registered trademarks, copyrights, secret formulas, and all kinds of franchise made available for use by others:

1. Amount of income from lease of property and from royalties shall be the whole year's income after deduction of necessary losses and expenditures;

2. Any income derived from long-lasting tenant right and superficies created for fixed terms shall be deemed as income from lease;

3. For money received in the form of rental deposit or in other similar forms for lease of property, and for money received as the price of a lien created on property, to calculate the income from lease the prevailing bank interest rate for one-year-term deposit shall be used as a basis;

4. Income tax on revenue from lease calculated in accordance with the local prevailing rental standard shall be paid for properties lent to others for use, unless it can be verified that no payment is made and the properties involved are not being used for business or for carrying out professional services;

5. The revenue from lease will be upward adjusted by the collection authority according to the local prevailing rental standard if the contracted rental of the lent properties was obviously too low in comparison with the local prevailing standards.

Category 6:

Income from self-undertaking in farming, fishing, animal husbandry, forestry and mining-amount of income shall be the whole year's income after deduction of necessary expenses.

Category 7:

Income from property transactions: any income derived from transactions of property and right:

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 succession or

donation, amount of the income shall be the transaction price after deduction of value prevailing at time of succession or donation and all expenses necessary for acquisition, improvement and ownership transfer of that property or right;

3. One-half of the amount of income of an individual derived from transactions in registered stocks or registered corporate bonds issued by a company limited by shares, or public bonds issued by governments of all levels, or development bonds issued by banks under the approval of government, if the individual has held such stocks or bonds for a period of one year or longer, shall be considered as a part of his income in the taxable year, while the other one-half shall be exempted from income tax.

Category 8:

Income from contests and games and from prizes and awards won by chance: any income derived from prizes or awards in contests or lotteries shall be included in the category:

1. All expenses necessary for participating in contests or games are permitted to be deducted;
2. All costs necessary for participating in lotteries are permitted to be deducted;
3. Prize money from lottery tickets under the auspices of the government, except that tax payable shall be withheld in accordance with the provision of Article 88, shall not be included in the gross consolidated income.

Category 9:

Separation income: The retirement pay, severance pay, separation pay, resignation pay, life-time pension and the old-age pension not covered by insurance benefits received by a person, except receipt of the savings made by said person from his/her salaries every year and interest accrued thereon.

1. If received in one lump sum, the income amount is calculated as follows:
 - (1) If the total amount received in one lump sum is less than NT\$150,000 multiplied by the number of service years at the time of separation, the income amount shall be considered zero;
 - (2) If the total amount received in one lump sum is more than NT\$ 150,000 multiplied by the number of service years at the time of separation, half of the portion of the amount over NT\$ 150,000 but less than NT\$ 300,000 multiplied by the number of service years at the time of separation shall be the income amount;
 - (3) The portion of the amount over NT\$ 300,000 multiplied by the number of service years shall totally be considered the income amount.

The last digit of the number of service years, if less than 6 months, shall be calculated as half a year and, if over 6 months, as one year.

2. If received by installments, the income amount shall be the balance of the total amount of all installments received in one year with the deduction of NT\$650,000;
3. If portion of the separation income is received in one lump sum and portion by installments, the deductible amount mentioned in Item 2 above shall be calculated in proportion to the amounts received in one lump sum and by installments respectively.

Category 10:

Other income: amount of any income other than the aforesaid after deduction of necessary expenses and costs. However, the reward for information or accusation shall not be added to the gross consolidated income, but withheld in accordance with the provisions of Article 88.

Where any of the aforesaid categories of income is earned in kind, in the form of valuable securities or in foreign currencies, the amount of income shall be computed at the prevailing price or exchange rate prescribed or recognized by the government or in the absence thereof, at the respective actual local value at time of receipt.

Any variable income such as that derived from self-undertaking in forestry, or from old age pensions or retirement pensions or alimony paid in lump sum, or remuneration in lump sum distributed after each trip to the employed for fishing in the high seas or compensation received for returning the leased farm land in accordance with the provision of Article 77 of the Statute for Equalization of Urban Land Rights, among an individual's gross consolidated income may be subject to taxation at a half of the amount thereof in the taxable year of income.

If the increase of consumer price index accumulates to 3% or more over the figure last adjusted, the amounts stipulated in Category 9 of Paragraph 1 above shall be adjusted accordingly and the adjustment shall be made at the rate of NT\$1,000 as a basic unit with the hundreds rounded off if the adjusted amount is less than NT\$1,000. As to the method of publication and the consumer price index mentioned above, the provisions in Paragraph 4, Article 5 hereof shall apply.

Article 15

Where the spouse of a taxpayer and/or a dependent whose support deduction may be made in accordance with Article 17 of this Act has any incomes as provided in the preceding Article, the taxpayer shall include such income in his income return for taxation. After the taxpayer has been identified, a change may be made within six months from the time limit prescribed for filling income tax returns for the taxable year.

The amount of tax leviable on the salary income of a taxpayer or his(her) spouse may be computed separately and then declared and paid consolidatedly by the taxpayer. In computing the amount of such tax, only the tax exempt amount and the special deduction of income from salary and wage as specified in Article 17 may be made from the salary/wage income computed separately; whereas all other exemption and deductions applicable to the person whose salary income is computed separately shall be declared in the tax return of the taxpayer. The taxpayer may not make a duplicate claim for exemption or special deduction for the salary/wage income of the person whose salary income is computed separately when computing the amount of income tax payable by himself (herself).

Article 16

In the computation of an individual's gross consolidated income in accordance with the preceding two Articles, if a taxpayer and his spouse operate two or more profit-seeking enterprises, any loss determined by the tax office may be deducted from his income from profit-seeking as determined by the tax office and the amount of income shall be the balance after such a deduction.

The deduction as provided in the preceding paragraph may be made only where the "blue return" as provided in Article 77 of this Act issued by all the profit-seeking enterprises operated; however this shall not apply where the consolidated income report is not filed by the taxpayer within the prescribed time limit.

Article 17

The net consolidated income of an individual shall be the gross consolidated income as computed in accordance with the preceding three Articles less the following exemption and deductions:

1. Exemption: Taxpayers may deduct a prescribed amount of exemption for themselves, their spouses, and dependents that meet any of the conditions below. Furthermore, the exemption amount for taxpayers and spouses that are at least seventy years old shall be increased by 50%. In accordance with Paragraph 2, Article 15, however, the taxpayer shall not be permitted to make a duplicate claim for exemption for a person whose amount of salary/wages income tax payable has been computed separately:

(1) Lineal ascendant(s) of the taxpayer and his (her) spouse having attained sixty years of age, or being incapable of earning a livelihood and being supported by the taxpayer. If a lineal ascendant being supported by the taxpayer has attained seventy years of age, the exemption amount for said lineal ascendant shall be increased by 50%.

(2) Children of the taxpayer who are under twenty years of age, or who, although having attained twenty years of age, are being supported by the taxpayer by reason of their studying in school, or having physical or mental disability, or being incapable of earning a livelihood.

(3) Brothers and sisters of the taxpayer and his (her) spouse who are under twenty years of age, or who, although having attained twenty years of age, are being supported by the taxpayer by reason of their studying in school, or having physical or mental disability, or being incapable of earning a livelihood.

(4) Other relatives or family members of the taxpayer within the meaning of sub-paragraph 4, Article 1114, or paragraph 3, Article 1123, of the Civil Code who are under twenty years of age or over sixty years of age and are incapable of earning a livelihood and are supported by the taxpayer. However, such dependents shall not be entitled to income tax exemption if their respective father or mother is eligible for tax exemption under sub-paragraphs 1 and 2, Article 4, of this Act.

2. Deductions: A taxpayer may select either the "Standard Deduction" or "Itemized

Deductions" and may, in addition thereto, declare special deductions:

(1) **Standard Deduction: NT\$ 38,000 for a single taxpayer** with a deduction to double that of the amount for a single taxpayer for a taxpayer and his or her spouse.

(2) Itemized Deductions:

i. Contributions and donations: Contributions and donations made to educational, cultural, public welfare or charitable organizations or associations in a total amount not in excess of 20% of the total amount of the gross consolidated income is deductible. However, there is no limit to the amount of donations or contributions made for the support of national defense or troop-cheering or contributions to the government.

ii. Insurance premiums: Premiums paid by or for the taxpayer, his (her) spouse and lineal dependents on life insurance, labor insurance and insurance for military personnel, public servants or teachers, with the deductible amount not exceed NT\$ 24,000 for each person per year. However, there is no limit to the amount of the premium paid for national health insurance.

iii. Medical and childbirth expenses: Medical and childbirth expenses incurred by the taxpayer, his (her) spouse, or dependents provided that payments so made are limited to that paid to public hospitals, private hospitals or clinics appointed under insurance for public servants and/or labor insurance, or those hospitals having complete and accurate accounting records as recognized by the Ministry of Finance. However, no deduction shall be made for the portion (of such expense) covered by an insurance payment.

iv. Losses from disaster: The portion of loss incurred by the taxpayer, his(her) spouse and dependents from a disaster caused by force majeure. However, no deduction shall be made for the portion of loss for which insurance benefit or relief has been received.

v. Interest on a house mortgage: The interest payable on a loan from a financial institution by a taxpayer for the purpose of a house for his own use may be deducted from his (her) consolidated income, with the deductible amount not to exceed NT\$ 300,000 per year per tax return. However, if a special deduction for savings and investment has been made in the same tax return, the amount of such special deduction shall be subtracted from the aforesaid interest of the house mortgage; the deduction for interest on the house mortgage in accordance with the above mentioned provisions is limited to one house only.

vi. Rent for Housing: Rent for housing in the R.O.C. paid by taxpayers, their spouses, and lineal dependents and used as their own residence rather than for business or performing professional services, may be deducted from their consolidated income to the extent of NT\$ 120,000 per year per tax return. However, no deduction shall be made for taxpayers who have filed "Interest on a House Mortgage" on the same tax return.

(3) Special Deductions:

i. Loss from property transactions: The amount of loss from property transactions

incurred by a taxpayer, his (her) spouse and dependents which is deductible in one year shall not exceed the declared amount of income derived from property transactions in the same year. However, if no income or no sufficient income derived from property transactions in the same year is available for deduction, the loss may be carried forward in the next three years. The provisions relating to computation of income derived from property transactions set forth in category 7, Paragraph 1, Article 14 of the Act shall apply mutatis mutandis to the computation of loss from property transactions.

ii. Special deduction of income from salaries/wages: For a taxpayer and the individual(s) whose taxable income are combined with that of the said taxpayer for tax return purposes having income from salaries/wages, a deduction of NT\$ 75,000 per year may be taken for each person. However, if the declared amount of salaries/wages of any person is less than NT\$ 75,000, then the total declared amount of his salaries/wages may be deducted in full. Where the spouse of the taxpayer elects to have the tax on his (her) salaries/wages computed separately in accordance with Paragraph 2, Article 15 of the Act, a deduction of NT\$ 75,000 per year may be made by the spouse individually. However, if the amount of salaries/wages declared by him (her) is less than NT\$ 75,000, the amount of his (her) salaries/wages declared may be deducted in full.

iii. Special deduction for savings and investment: Interest derived from deposits in financial institutions, government bonds, corporate bonds, and financial bonds, income from trust funds in the nature of savings, and dividends accrued on registered share certificates publicly issued and listed on the market by a company earned by a taxpayer, and his (her) spouse and dependents whose income are combined in the same consolidated income tax return filed by the taxpayer may be exempt from income tax in full, if the total amount of such income for the whole year does not exceed NT\$ 270,000. If the amount exceeds NT\$ 270,000, the deduction shall be limited to NT\$ 270,000. However, this limit of deduction does not apply to the interest accrued and exempt from income tax on postal pass-book savings under the provisions of the Post Savings Act and the interest accrued on short-term commercial papers subject to separate taxation as stipulated in this Act.

iv. Special deduction for the disabled or handicapped: If the taxpayer or his (her) spouse having taxable income combined with that of the taxpayer for tax return purposes and/or any of the taxpayer's dependents is a disabled or handicapped person within the meaning as defined in Article 3 of The Physically and Mentally Handicapped Protection Act or a patient as defined in Paragraph 2, Article 5 of The Mental Health Act, a deduction of NT\$ 63,000 per year may be made for each person.

v. Special deduction for educational tuition: If any of the children of a taxpayer is studying in a college or university, a deduction of NT\$ 25,000 per year may be made for his (her) educational tuition. However, the tuition of the Open University, vocational colleges, the first three years of five-year vocational colleges and

students who have accepted government subsidies or students who have obtained scholarship are excluded.

Where the taxpayer or his (her) spouse elects to have the tax on his (her) salary/wages computed separately in accordance with Paragraph 2, Article 15, the exemption and special deductions on income from the salary/wages computed separately shall be deducted by the receiver of the salary/wages computed separately, while other exemptions or deductions conforming to the provisions of the preceding Paragraph may not be deducted from the salary/wages computed separately, but shall instead be declared for deduction by the taxpayer.

The provisions of the deductions set forth in Item 2, Sub-Paragraph 2 of Paragraph 1 of this Article shall not apply to a taxpayer who is subject to filing a final income tax return in accordance with Article 71 of this Act but fails to do so and is assessed by the tax collection authority as to his (her) tax liabilities.

Article 17-1

Where an individual subject to the filing of consolidated income tax return under Article 71-1 is deceased or departed from the Republic of China during a taxable year, the deductible amounts of tax exemption and standard deductions for him (her) shall be computed respectively in proportion to the ratio between the number of days before his (her) death or the number of days of his residing in the territory of the Republic of China in that year and the total number of days of the said taxable year.

Article 17-2

The amount of consolidated income tax paid by a taxpayer on the income realized from sales of building of the self-use residence, if he repurchases another building as his self-use residence within two years from the date on which the registration of transfer of ownership of the old building was completed, and the cost of the new building exceeds the original sales price, may be deducted or refunded from the consolidated income tax payable or paid for the year in which the registration of transfer of ownership of repurchased building as self-use residence was completed. However, if the income realized from the property transaction had already been offset against the loss incurred from property transaction concluded previously in accordance with the stipulations of this Act, then the provisions hereof shall not apply.

The provisions of the preceding paragraph shall also be applicable to the taxpayer who buys first and sells later.

Article 17-3

The provisions regarding special deduction for savings and investment as provided for in Subparagraph 2-(3)-(iii), Paragraph One of Article 17 of the Income Tax Act shall not apply to the dividends on the registered stock publicly offered and listed by any company and acquired from January 1, 1999 and thereafter by a tax-payer

and his/her spouse and any dependent supported by him/her as covered in a combined annual income tax return.

Chapter III Profit-Seeking Enterprise Income Tax
Section 1 Registration

Article 18

(deleted)

Article 19

(deleted)

Article 20

The responsible person of any trade association of profit-seeking enterprises shall, within the first month of each year, report to the local collection authority-in-charge a list of all its members for the preceding year and their respective responsible persons and business addresses.

Section 2 Account Books, Vouchers and Accounting

Article 21

A profit-seeking enterprise shall keep sufficient and accurate account books, vouchers and accounting records to calculate its total amount of business income. All procedures governing the aforesaid keeping, acquisition, use, maintenance, accounting, handing and other matters concerned shall be prescribed by the Ministry of Finance.

Article 22

The accounting system of a company shall be on the accrual basis. But a profit-seeking enterprise not organized as a company may, if there is an established custom of the business or if the volume of business is small report to the local collect authority-in-charge for adoption of accounting system on the cash basis.

A profit-seeking enterprise not organized as a company may change its adopted accounting system but shall report the change to the local collection authority-in-charge threemonths prior to commencement of the next fiscal year.

Article 23

The fiscal year shall commence on the first day of January and end on the thirty-first day of December of each calendar year, provided that a profit-seeking enterprise may, on account of anexisting usage of the business or of special circumstances arising from the seasonal nature of the business and upon the approval of the local collection authority-in-charge, change the commencing and expiring dates of its fiscal year.

Section 3 Profit-seeking enterprise Income Amount

Article 24

The amount of income of a profit-seeking enterprise shall be the net income, i.e., the gross yearly income after deduction of all costs, expenses, losses and taxes. When calculating the amount of income in which there are taxable and exempt incomes involved, the costs, expenses or losses, except that those which are attributable to such respective income in a direct, reasonable and definite way, which may be attributed to thereby and recognized as its deductions respectively, shall be reasonably allocated to the respective income. Measures regarding such allocation shall be prescribed by the Ministry of Finance.

Income derived from interest of short-term commercial papers by a profit-seeking enterprise in accordance with Category 4, of paragraph 1 of Article 14 shall not be added to the amount of income of the profit-seeking enterprise, but withheld in accordance with the provisions of Article 88.

Net dividends or net surplus earnings received by a profit-seeking enterprise having its head office outside the territory of the Republic of China shall not be added to the amount of income of the profit-seeking enterprise, but withheld in accordance with the provisions of Article 88.

Article 25

Any profit-seeking enterprise having its head office outside the territory of the Republic of China, and which is engaged in international transport, construction contracting, providing technical services, or machinery and equipment leasing, etc., in the territory of the Republic of China, and the cost and expenses of which are difficult to calculate may apply for approval from the Ministry of Finance, or the Ministry of Finance may make the decision to consider ten per cent of its total business revenue for an enterprise engaged in international transport business, or fifteen per cent of its total business revenue for one engaged in any other businesses as its income derived within the territory of the Republic of China regardless whether or not it has a branch office or business agent in the territory of the Republic of China. In such cases, however, the regulation in Article 39 regarding the deduction of losses cannot be applied.

Business revenue derived by an international transport enterprise within the Republic of China as provided in the preceding paragraph shall be as follows:

1. Marine transport enterprises: Referring to all ticket fares or transportation charges for outbound passengers and cargo accepted for carriage inside the territory of the Republic of China;
2. Air transport enterprises:
 - (1) Passenger transport: refers to ticket fares from the stations of embarkation inside the territory of the Republic of China to first-leg stations outside the territory of the Republic of China,
 - (2) Cargo transport: refers to freight charges for the entire trip for the cargo

accepted for carriage. However, whereas an international air transport enterprise has transshipped its outbound cargo enroute to an aircraft of another international air transport enterprise due to the route restrictions or other reasons, its freight charges shall be calculated according to the distance of the trip actually made. First-leg stations outside the territory of the Republic of China as provided in item 2 of the preceding paragraph shall be prescribed by decree of the Ministry of Finance.

Article 26

In the case of a motion picture enterprise outside of the territory of the Republic of China which has no branch office inside the territory of the Republic of China, fifty per cent of the revenue from the lease of motion pictures through agents shall be deemed as income within the territory of the Republic of China. Where a branch office has been established inside the territory of the Republic of China, costs may be computed at forty-five per cent of the revenue from the lease of motion pictures.

Article 27

Where documents of evidence with respect to purchases are not obtained or kept by a profit-seeking enterprise or are found to be incorrect upon verification, the collection authority-in-charge may determine the purchase costs on the basis of the lowest prices prevailing in the year at the locality concerned.

Where documents of evidence with respect to sales are not issued to others or the counterfoils thereof are not kept by a profit-seeking enterprise, the collection authority-in-charge may determine the selling prices on the basis of the highest prevailing in the year at the locality concerned.

Article 28

The portion of an item of raw material used by a manufacturer in excess of the general raw material consumption standard of the trade shall be disallowed unless justifiable reason is submitted to and found true upon verification by the collection authority-in-charge.

Article 29

Interest on capital is paid out from the distribution of profit and, as such, shall not be listed as expense or loss.

Article 30

Interest payable on loans within a business year is deductible as expense or loss of that year.

Where the interest rate on loans as provided in the loan contracts exceeds the statutory rate, computations shall nevertheless be made according to the maximum interest rate chargeable by local commercial banks; provided that in case the

collection authority-in-charge has determined the maximum interest rate with respect to a loan acquired from a source other than a bank by reference to the market rate, the maximum interest rate as determined by the collection authority-in-charge may apply.

Article 31

(Deleted)

Article 31-1

(Deleted)

Article 32

Salaries of the staff employees and workers of profit-seeking enterprise in conformity with any of the following provisions may be considered as expenses or losses:

1. Salaries of the staff employees and workers paid by corporations or cooperative societies, or salaries of the shareholders, board directors and supervisors who conduct business under a prior agreement paid by corporations or cooperative societies duly prescribed in the provisions of incorporation or under a previous resolution of shareholders' meeting or members' meeting as payable irrespective of whether the enterprises or societies operate at a profit or loss.
2. Salaries of the staff employees and workers of a partnership or sole-proprietorship and salaries of the partners who conduct the business or owner, paid irrespective of whether the partnership or sole-proprietorship operates at a profit or loss, if the amount of the salaries paid does not exceed the standard generally adhered to by other firms of the same trade.

Article 33

Where a profit-seeking enterprise has established rules for retirement of staff employees and workers which have been reported to and approved by local collection authority-in-charge, it may each year set aside a reserve for retirement pensions of no more than four per cent of the total salaries and wages paid in that year. However, where a profit-seeking enterprise has set aside a retirement fund for staff employees and works independently with no connection with the profit-seeking enterprise under a separate means of custody, operation, distribution, ect. in conformity with the regulations prescribed by the Ministry of Finance with the approval obtained from the local collection authority-in-charge, it may each year appropriate such retirement reserve within the limit of no more than eight per cent of the total salaries and wages paid in that year and may further consider it as expenses of the year.

All those profit-seeking enterprises which are subject to the application of the Labor Standards Act, with due approval from the local tax collection authority-in-charge, may each year set aside an amount within the limit of no

more than fifteen per cent of the total salaries and wages paid in that year as retirement reserve and the appropriation thus made may be considered as expenses of the year.

Where a reserve for retirement pensions for staff employees, or a retirement fund for workers has been set up pursuant to the provisions of the above two paragraphs, payment of retirement pensions or severance pay in accordance with the regulations shall be paid first from such reserve or fund when staff employees and workers retire henceforward, and only when the reserve or the fund is insufficient to meet the requirement, then such payment may be considered as expenses of the year of payment.

In computing income during liquidation proceeding upon dissolution, closure, merger or ownership transfer of a profit-seeking enterprise in accordance with the provision of Article 75, the accumulative balance of reserve for retirement pensions should change over to the current year's profit and handled accordingly.

Article 34

Expenditures incurred in the expansion, replacement, improvement or repair or buildings, vessels, machinery, tools, apparatus, appliances and other equipment for use in business, where such expenditure result in an increase of the value or efficiency thereof that cannot be exhausted within two years, are an increment of the capital and, as such, shall not be considered as expenses or losses.

Article 35

For damages due to force majeure, the portion of loss that has been indemnified by insurance shall not be considered as expenses or losses.

Article 36

Voluntary contributions and donations made by a profit-seeking enterprise shall be considered as expenses or losses of the year of payment in accordance with the following provisions:

1. Those that have been made for assisting national defense construction, troop cheering, contribution to government of any level and donation for a designated purpose approved by the Ministry of Finance as a special case. No restriction on the amount of money is placed;
2. In addition to the contributions and donations as provided in the preceding item, those that have been made by organizations and institutions which conform to the provisions of the fourth paragraph of Article 11 to a maximum extent of ten per cent of the amount of income.

Article 37

Direct expenses incurred in the course of business for social entertainment for which positive evidence of payment has been received may be listed as expenses or losses to the extent as provided hereunder:

1. If the value of yearly purchases of an enterprise is less than NT\$ 30,000,000, direct expenses for social entertainment incurred at the time and for the purpose of purchase, shall not exceed 0.15% of the value of purchases for the whole year and, in case of an enterprise approved to use Blue Returns, such expenses shall not exceed 0.2% of the value of purchase for the whole year. If the value of yearly purchases is between NT\$ 30,000,000 and NT\$ 150,000,000, the expenses for social entertainment shall not exceed 0.1% of the portion between NT\$ 30,000,000 and NT\$ 150,000,000 and, in the case of an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.15%. If the value of yearly purchases is between NT\$ 150,000,000 and NT\$ 600,000,000, the expenses for social entertainment shall not exceed 0.05% of the portion between NT\$ 150,000,000 to NT\$ 600,000,000 and, in the case of an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.1%. If the value of yearly purchase exceed NT\$ 600,000,000, the expenses for social entertainment shall not exceed 0.025% of the portion in excess of NT\$ 600,000,000 and, in the case of an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.05%:

2. If the value of yearly sales of an enterprise is less than NT\$ 30,000,000, direct expenses for social entertainment incurred at the time and for the purpose of sales shall not exceed 0.45% of the value of sales for the whole year and, for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.6% of the value of sales for the whole year. If the value of yearly sales is between NT\$ 30,000,000 and NT\$ 150,000,000, the expenses for social entertainment shall not exceed 0.3% for the portion of the value of sales in excess of NT\$ 30,000,000 to NT\$ 150,000,000 and, for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.4%. If the value of yearly sales is between NT\$ 150,000,000 and NT\$ 600,000,000, the expenses for social entertainment shall not exceed 0.2% for the portion of the value of sales between NT\$ 150,000,000 and NT\$ 600,000,000 and for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.3%. If the value of yearly sales is exceeds NT\$ 600,000,000, the expenses for social entertainment shall not exceed 0.1% for the portion of the value of sales in excess of NT\$ 600,000,000, and for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.15%.

3. If the amount of yearly freight charges of an enterprise is less than NT\$ 30,000,000, direct expenses for social entertainment incurred at the time and for the purpose of transportation of goods, shall not exceed 0.6% of the freight charge for the whole year and, for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.7% of the freight charges for the whole year. If the amount of yearly freight charges is between NT\$ 30,000,000 and NT\$ 150,000,000, the expenses for social entertainment shall not exceed 0.5% for the portion of the freight charges between NT\$ 30,000,000 to NT\$ 150,000,000 and, for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.6%. If the yearly freight charges in excess of NT\$ 150,000,000, the

expenses for social entertainment shall not exceed 0.4% for the portion of the value of the freight charges for the whole year and, for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.5%.

4. If the yearly business income of those businesses engaged in providing services or credit is less than NT\$9,000,000, direct expenses for social entertainment incurred at the time and for the purpose of consummating business transaction for the supply of services or credit shall not exceed 1% of the business income for the whole year and, for an enterprise approved to use the Blue Returns, such expenses shall not exceed 1.2% of the business income for the whole year. If the yearly business income is between NT\$ 9,000,000 and NT\$ 45,000,000, the expenses for social entertainment shall not exceed 0.6% for the portion of business income is between NT\$ 9,000,000 and NT\$ 45,000,000 and, for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.8%. If the yearly business income exceeds NT\$ 45,000,000, the expenses for social entertainment shall not exceed 0.4% for the portion of business income in excess NT\$ 45,000,000 and, for an enterprise approved to use the Blue Returns, such expenses shall not exceed 0.6%.

The limit of various entertainment expenses allowed for disbursement by state-owned enterprises shall be determined by the authority-in-charge and included in their budgets. For a profit-seeking enterprise which engages in export trade and earns foreign exchange receipts, besides listing as expenses the payment of social entertainment expenses as prescribed in the provisions of the sup-paragraphs of the preceding Paragraphs a special social entertainment expense may also be listed as expenses, not exceeding 2% of its total foreign exchange receipt settlement of the current year.

Article 38

Losses incurred not in the course of operation of business or subsidiary business, family expenses, and such fines and surcharges for delinquent reporting, non-reporting, and delinquent payment of tax as provided in various tax acts shall not be included as expenses or losses.

Article 39

Losses incurred in the operation of business in previous shall not be included in the computation for the current year provided, however, that in the case of a profit-seeking enterprise organized as a company that keeps a complete set of account books, uses the Blue Returns as provided in Article 77 in the years such losses occurred and in the year of declaring such losses, or such losses have been duly certified by a certified public accountant and declared within the prescribed period, taxation may be made on its net income after deduction of losses incurred in the preceding five years as verified and determined by the local collection authority-in-charge.

Article 40

Where the period of business operation is under one year, the amount of income derived for such period shall first be converted into corresponding annual income according to the proportion of the length of the period to the year, and the amount of income tax shall then be determined by the tax rate applicable to such annual income but paid basing on the original proportion for the period in which business is actually operated.

Where the period of business operation is under one month it shall be taken as one month.

Article 41

If a profit-seeking enterprise whose head office is outside the territory of the Republic of China has a fixed place of business or business agent is located inside the territory of the Republic of China, the fixed place of business or business agent shall keep separate accounting books and its profit-seeking enterprise income tax shall be assessed accordingly.

Article 42

The net dividend or net surplus earning received by a profit-seeking enterprise organized as a company from its investment in another domestic profit-seeking enterprise shall not be included in its taxable income, and the amount of tax deductible from such income shall be included in the balance in its shareholder deductible tax account in accordance with the provisions of Article 66-3 hereof.

Where an education, culture, public welfare, or charity institution or organization has received any net dividend or net surplus earning as described in the preceding Paragraph, such income shall not be included in its taxable income, and the amount of tax deductible from such income shall not be used to offset the income tax payable by it, nor may it apply for refund thereof.

Article 43

(Deleted)

Article 43-1

A profit-seeking enterprise which has an affiliated relationship with, or is directly or indirectly owned or controlled by another enterprise within or without the territory of the Republic of China, whereof, if it is found that arrangement of their mutual income, cost, expense, profit or loss distribution does not conform with the regular business practice, hence, results in a tax evasion or reduction, the collection authority-in-charge for the purpose of computing the accurate income of the enterprise may report it to the Ministry of Finance for approval in effecting an adjustment in accordance with the regular business practice.

Section 4 Evaluation of Assets

Article 44

Inventories of merchandise, raw materials, supplies, goods-in-process, finished goods and by-products shall be evaluated on the basis of cost. Where the cost is higher than the market value, the taxpayer may take the market value as the basis of evaluation. In case the cost or the market value is not ascertainable, the local collection authority-in-charge shall determine it on the basis of expert opinion or by appraisal.

Cost as provided in the preceding paragraph may either be the actual cost or the cost arrived at by the first-in first-out, last-in first-out, weighted average, moving average or simple average method or other methods as prescribed by the competent authority-in-charge in accordance with the class or nature of an asset; provided that where the last-in first-out method is adopted, evaluation on the basis of cost or market value, whichever is the lower, as provided in the preceding paragraph, shall not apply.

The adoption of any of the methods of cost computation as provided in the preceding paragraph and any subsequent change thereof for justifiable reasons shall be reported to and approved by the local collection authority-in-charge prior to annual estimate of yearly income. Where no application has been made for the adoption of method for cost computation, it shall be taken that the weighted average method has been adopted. Where no application has been made for change of method for cost computation, it shall be taken that the original method has been continuously employed.

Article 45

Actual cost means the price paid for acquisition of an asset where such is paid, and includes not only the purchase price paid at time of acquisition but also all necessary expenses incidental to acquisition or incurred in making it fit for use in the operation of business. Where an asset is manufactured or constructed instead of purchased, the cost includes materials, labor and all expenses incurred in designing, manufacture, construction and installation necessary to make it fit for use in the operation of business. In the case of an asset brought forward at the beginning of a period, the cost means the original inventory price.

Expense incurred in the expansion, replacement, improvement or repair of any asset as a result of which its value or efficiency is increased may, to the extent of such increase, be added to the balance of the actual cost for computation.

Article 46

Market value means the current price prevailing at the locality concerned on the day of making final report of the account.

Article 47

The cost of goods-in-transit is the cost standing at time of commencement of

transit, and the market value thereof is the market value prevailing at the place of destination.

Evaluation of a by-product shall be in accordance with the provisions of Article 44 of this Act where cost thereof is verifiable; and on the basis of the market value after deduction of selling expenses where cost thereof is not available.

Article 48

The provisions of Article 44 of this Act shall apply mutatis mutandis in the evaluation of short-terms investments in valuable securities. Where the market value of such securities at the close of a financial period has been subject to violent fluctuations, the average price during the immediately preceding month may be taken as their market value on the day of making final report of the account.

Article 49

Accounts receivable and notes receivable shall be evaluated at their respective amounts less deductions for estimated allowance for bad debts.

Allowance for bad debts as set forth in the preceding Paragraph, shall be estimated and set aside in an amount not exceeding 1% of the amount of outstanding balance of the accounts receivable and the notes receivable, or of the amount of outstanding balance of credits in the case of a financial institution.

Where the percentage of bad debt losses actually incurred and declarable by a profit-seeking enterprise under the act exceeds the percentages specified in the preceding Paragraph, the allowance for such bad debts may be estimated and set aside in an amount not exceeding the average of the percentages of actual bad debts declarable by the said profit-seeking enterprise under the act in the preceding three years.

For a profit-seeking enterprise if it is found in the following year that the amount of all ascertained loss in bad debts differs from that of the estimated losses, adjustment shall be made in the estimation of loss in bad debts for the current year to conform to the allowable percentage.

Under any of the following circumstances, an account receivable or note receivable or any other item of uncollected credit may be deemed as an ascertained bad debts loss:

1. Where the outstanding amount is wholly or partially uncollectible by reason of insolvency, dodging of the debtor, compromise or adjudication of bankruptcy, or any other cause;
2. Where the outstanding amount has been past due for a period over two years during which neither the principal nor the interest accrued thereon has been paid despite demands made therefor.

If the outstanding amount as set forth in the preceding Paragraph is collected after being written off as loss, the amount actually collected shall be deemed as a profit for the year in which it is collected.

Article 50

Buildings, fixtures, appurtenant equipment, vessels, machinery, tools apparatus appliances and other fixed assets shall be evaluated at cost less prescribed depreciation.

Article 51

In the depreciation of fixed assets, either the straight-line method or the fixed percentage on diminishing book value method or working-hour method may be adopted. The provision of Paragraph 3 of Article 44 of this Act shall apply mutatis mutandis in the adoption or change of the aforementioned methods. Where no application has been made, the straight-line method shall be deemed to have been adopted.

The service life of various kinds of fixed assets shall be such as is prescribed in the Table of Service Life of Fixed Assets; however, the service life of equipment installed to the prevention of water pollution or air pollution may be accelerated to two years.

In the computation of depreciation of each kind of fixed assets, the service life of such fixed assets shall not be shorter than the minimum years of service life specified in the said table unless special permission has been granted by the Government to adopt the shortening as a measure of encouragement.

Article 51-1

When a passenger sedan newly purchased by a profit-seeking enterprise is depreciated in accordance with the provision of paragraph 1 of the preceding Article, its actual cost shall not exceed the criteria prescribed by the Ministry of Finance.

If the aforementioned sedan, after having been used, is sold, destroyed or scrapped, its income or loss shall be also be computed on the basis of underpreciated value which is calculated in accordance with the formal method of depreciation prescribed by this act.

Article 52

Where the actual cost of the fixed assets is increased or decreased after a number of years of use, the depreciation of such assets shall be computed on the basis of the cost after such increase or decrease at the prescribed rate of depreciation with the remaining portion of the service life taken as their service life.

Article 53

Where the fixed assets have at the time of acquisition been used for a number of years, the depreciation thereof shall be computed at the prescribed rate of depreciation with the remaining portion of the service life taken as their service life.

Where it is foreseeable at the time of acquisition of the fixed assets that they will not have the normal length of service on account of certain special circumstances, the actual useful years may, upon presentation of documentary evidence, be taken as their service life for computing depreciation at the prescribed rate.

Article 54

Where the straight-line method is adopted in the computation of fixed assets, the residual value, if any, which is anticipatable, shall first be deducted from the cost, and the depreciation shall then be computed on the basis of the balance.

Where the straight-line method is adopted and the residual value, if any, has been previously deducted, the undepreciated value in the last year shall be equal to the residual value. In the absence of residual value, the assets shall be so depreciated that the total depreciation up to the last year is equal to the full amount of the original cost of the asset. Where the fixed percentage on diminishing-book-value method is adopted, the undepreciated value in the last year shall be equal to 10 per cent of the cost.

Article 55

Where the fixed assets have reached the full period of their prescribed useful years but the accumulation of depreciation thereof has not amounted to the cost thereof, depreciation at the original rate may be made until full depreciation has been made.

Article 56

(Deleted)

Article 57

If the fixed assets which have been completely depreciated are destroyed or become obsolete at the expiration of their useful years, the difference, if any, of the residual value previously estimated over the proceeds from sale of scraps may be charged to loss for the current year. In case the proceeds from sale of scraps exceed the residual value previously estimated, the difference shall be charged to income of the current year.

Where the fixed assets are destroyed or become obsolete on account of specific reasons, at any time before the end of their prescribed service years, their undepreciated value may, upon submission of reliable documentary evidence, be charged to loss for the proper fiscal year, provided, that proceeds from the sale of scraps, if any, shall be considered as income.

Article 58

Where the service life of the fixed assets is less than two years, the cost thereof may be listed as loss for the fiscal year in which such assets are acquired, manufactured or constructed, and annual depreciation thereof is not required.

Article 59

Depletion assets shall be valued on the basis of the value left over after deducting from the cost of such assets the depletion charge for each period. Computation of the depletion charge may be made according to one of the following formulas; provided that whichever is used shall not be changed afterwards:

1. To compute at the close of the business year the depletion charge deductible for the current year on the basis of the quantity actually exploited within the current year multiplied by the estimated unit depletion charge, which is worked out by dividing the cost of the depletion assets against the quantity exploitable;
2. To set aside annually from the gross amount of proceeds realized from the exploitation or sale of products the depletion charge according to the Table of Depletion Assets; provided that the depletion charge set aside annually shall not exceed fifty per cent of the amount of gain derived in the current year from the assets before deducting therefrom the depletion charge; and that the aggregation of such depletion charge shall in no case exceed the cost of the assets. In the case of depletion assets producing petroleum or natural gas a depletion in the amount of 27.5 per cent of the gross amount of proceeds realized from sale of the production in the current year may be set aside therefrom annually till the assets are completely exhausted; provided that the depletion charge set aside annually shall not exceed fifty per cent of the amount of gain derived in the current year from the assets before deducting therefrom the depletion charge.

In the case of a drastic appreciation of prices of the depletion assets, a reserve for compensation of assets appreciation may be computed and set aside on the basis of the depletion charge by application of the provision of Article 56 pertaining to the setting aside of reserve for compensation of assets appreciation for fixed assets.

Article 60

Business rights, trademarks, copyrights, patents and other franchises are assets only if they are acquired by purchase.

Such intangible assets as referred to in the preceding paragraph shall be valued at cost less the amount amortized for each period.

The cost of intangible assets shall be amortized in equal annual installments in accordance with the following prescribed number of years of amortization; provided that Where an intangible asset after acquisition cannot be amortized according to the prescribed number of years of amortization on account of specific reasons, an application stating the reasons therefore may be submitted to the collection authority-in-charge for permission to amortize in a different manner:

1. Amortization of business rights shall be based on a period of ten years;
2. Amortization of copyrights shall be based on a period of fifteen years;
3. Amortization of trademarks, patents and all other franchises may be based on the number of years of enjoyment of such rights after acquisition.

Article 61

In the case of a 25 per cent rise in prices, the fixed assets depletion assets and intangible assets as referred to in this Act may be revalued. Rules governing the conduction of assets revaluation and formulas of revaluation shall be separately prescribed by the Executive Yuan.

Article 62

Deposits, loans, or bonds for long-term investment shall be valued at the current value computed based on the period for amortization. Computation of the current value shall be based on the interest at the contracted rate if the debt is interest-bearing, or at the average interest rate prevailing among local banks on deposit at fixed term of one year if the debt is not interest-bearing.

When the debt as referred to in the preceding paragraph is recovered at maturity, the portion of interest accruing from the value in excess of the current value shall be listed as profit for the year in which the debt is recovered.

Article 63

Where a long-term investment is made to hold all the shares or more than one-half of the shares of a subsidiary enterprise, it shall be valued on the basis of the total net worth of the assets of such an enterprise or a part thereof proportionate to the amount of shares held. Where the amount of long-term investment in any other enterprise is less than a majority of its total amount of capital, the valuation of the investment shall be based on the cost.

Article 64

Evaluation of the prepaid expenses and inventory of supplies shall be based on the portion of amount covering the unexpired period or the unused supplies. Organization expenditures and other deferred expenses shall be valued at the amount of actual disbursements less the amount amortized for each period.

The amount of amortization of the organization expenditures as referred to in the preceding paragraph shall not exceed 20 per cent of the original amount per annum; provided that the expenses defrayed for the issue of corporate bonds and the difference resulting from the discounted issuance of corporate bonds against their face value shall, where a definite period of amortization is provided for, be amortized in installments according to such a period.

Where a profit-seeking enterprise is established for a definite number of business years or is established exclusively for the exploration of a certain kind of resources and will be discontinued upon depletion of such resources, its organization expenditures shall be amortized according the predetermined number of business years or the estimated number of years for depletion of such resources.

Article 65

In the case of dissolution, discontinuance, merger or consolidation, or transfer of ownership of a profit-seeking enterprise, evaluation of its assets shall be based on the current value or the actual price at which the transaction is made.

Article 66

A taxpayer shall keep an inventory stating therein the quantity, unit, unit price, total price and location of all his assets as well as that whether the price indicated is the cost, or the current value or the appraised value.

Where a taxpayer fails to produce reliable documentary evidence in support of the valuation of his assets, the collection authority-in-charge may directly determine the value of such assets by way of appraisalment.

Section 5 Shareholder Deductible Tax Account**Article 66-1**

Beginning from 1998, any profit-seeking enterprise subject to assessment of profit-seeking tax under this Act shall set up a shareholder tax offsetting account separate from its regular accounting books for recording the amount of income tax leviable on the dividends and surplus earnings distributable to its shareholders, and shall keep and make available for inspection by tax collection authorities any and all receipts, vouchers and records which are sufficient for making accurate calculation of the amount recorded in the said account. Any profit-seeking enterprise newly incorporated after 1998 shall set up such account and keep such records from the date of its incorporation.

Any of the following profit-seeking enterprises, institutions or organizations may be exempted from establishing the shareholder tax offsetting account, if:

1. Its head office is located outside the territory of the Republic of China;
2. Is a wholly owned entity or a partnership;
3. Is an education, culture, public welfare, or charity institution or organization in accordance with the provisions of Paragraph Four, Article 11; or
4. Is an entity of organization which is not permitted to make distribution of surplus profits or earnings under the provisions of other acts and regulations or its Articles of Incorporation.

Article 66-2

The accounting period for a profit-seeking enterprise to enter the records into its shareholder tax offsetting account shall commence from January 1 and end on December 31 of each year provided, however, that if the from and to dates of the fiscal year of a profit-seeking enterprise is changed and approved in accordance with the provisions of Article 23 hereof, the profit-seeking enterprise shall apply to the competent tax collection authority for an approval of its use of the from and to dates of its fiscal year for the accounting purpose set forth in this Paragraph.

For the shareholder tax offsetting account which is set up in the year 1998 by an existing profit-seeking enterprise and/or a newly incorporated profit-seeking enterprise, the beginning balance of the said account for that current year shall be zero. The beginning balance thereof for each ensuing year thereafter shall be equal to the closing balance for the immediately preceding year.

Article 66-3

A profit-seeking enterprise shall include the following amounts in the then current year balance of its shareholder tax offsetting account:

1. The amount for payment of additional income tax and/or the amount of tax on the undistributed earnings or profits as assessed by the tax collection authority after its examination and investigation of the amount of tax payable as declared in the annual income tax return filed by the profit-seeking-enterprise for the year 1998 or each ensuing year thereafter;
2. The amount of deductible tax contained in the aggregate of dividends or surplus earnings distributed to the said profit-seeking-enterprise in the year 1998 or each ensuing year thereafter for its investment in other profit-seeking-enterprise(s) located within the territory of the Republic of China;
3. The amount of tax withheld from the interest income on short term bills as calculated based on the period of possession of such bills by the said profit-seeking-enterprise in the year 1998 or any ensuing year thereafter;
4. The amount of deductible tax which has been deducted in accordance with the provisions of Item 3, Paragraph One, Article 66-4 thereof from the capitalized legal reserve or special reserve;
5. The amount of the balance in the shareholder deductible tax account of the extinguished company succeeded by the said profit-seeking-enterprise after a consolidation or merger arrangement provided, however, that it shall not exceed the amount of tax as calculated in accordance with the upper limit of the tax deduction ratio applicable to the aggregate amount of undistributed surplus earnings as originally booked by the extinguished company; and
6. Other accounting items and amount thereof as determined by the Ministry of Finance.

Under the circumstances set out in the preceding Paragraph, the reference dates for a profit-seeking-enterprise to enter the deductible tax in its shareholder deductible tax account for each current year are fixed as follows:

1. In the case as described in Item 1 of the preceding Paragraph: the payment date of the tax, if the tax is paid in cash; or the settlement date of annual accounts, if the income tax payable as declared in the annual income tax return is paid with temporary tax payment or by offsetting against the income tax withheld;
2. In the case as described in Item 2 of the preceding Paragraph: the date of receipt of the distributed dividends or surplus earnings;
3. In the case as described in Item 3 of the preceding Paragraph: the date of transfer of the short term bills or the date of receipt of the interest;

4. In the case as described in Item 4 of the preceding Paragraph: the date of capitalization of the legal reserve or the special reserve;
5. In the case as described in Item 5 of the preceding Paragraph: the effective date of the consolidation or merger;
6. In the case as described in Item 6 of the preceding Paragraph: the date to be decided by the Ministry of Finance.

None of the following amounts may be included in the balance of the shareholder deductible tax account maintained by a profit-seeking-enterprise for any current year:

1. The amount of profit-seeking-enterprise income tax withheld under Article 98-1 hereof;
2. The amount of profit-seeking-enterprise income tax paid by it, and the amount of deductible tax on the distributed dividend or surplus earnings received by it in the capacity as a trustee for the operation of trust business;
3. The amount of profit-seeking-enterprise income tax paid up before setting up the shareholder deductible tax account pursuant to this amendment;
4. The amount of profit-seeking-enterprise income tax paid for the year 1997 or any previous year; and
5. The amount of the paid-up surcharge for delayed tax declaration, surcharge for delinquency in filing tax return, surcharge or fine for delayed payment of tax, and the interest accrued upon the delinquent tax payment.

Article 66-4

The following amounts shall be deducted from the balance in the shareholder deductible tax account of a profit-seeking-enterprise being kept for any current accounting year:

1. The amount of deductible tax included in the aggregate of dividends or surplus earnings distributed for the year 1998 or each ensuing year thereafter;
2. The amount of deductible income tax as approved by the tax collection authority after its examination and verification of the amount of profit-seeking-enterprise income tax payable in the Republic of China as declared in the annual income return filed for the year 1998 or any ensuing year thereafter;
3. The amount of the profit-seeking-enterprise income tax which was included in the legal earned surplus reserve, legal reserve, public interest reserve or special surplus reserve set aside in accordance with the Company Act or other relevant acts and regulations and has been paid up for the then current year;
4. The amount of profit-seeking-enterprise income tax which was included in the bonus distributed to directors, supervisors and employees in accordance with the Company Act and has been paid up for the then current year; and
5. Other items and the amount thereof as determined by the Ministry of Finance.

Under the circumstances set out in the preceding Paragraph, the reference dates for a profit-seeking enterprise to make tax deduction from its shareholder deductible tax account for each current year are fixed as follows:

1. In the case as described in Item 1 of the preceding Paragraph: the distribution date;
2. In the case as described in Item 2 of the preceding Paragraph: the date of service of the tax refund notice;
3. In the case as described in Item 3 of the preceding Paragraph: the date on which such reserve funds are set aside;
4. In the case as described in Item 4 of the preceding Paragraph: the date of distribution of the bonus; and
5. In the case as described in Item 5 of the preceding Paragraph: the date to be decided by the Ministry of Finance.

Article 66-5

The amount of deductible tax distributable by a profit-seeking-enterprise to its shareholders or members in accordance with the provisions of Article 3 hereof shall be limited to an amount not exceeding the amount of the balance being kept in its shareholder deductible tax account on the date of distribution of the dividends or surplus earnings, as the case may be.

Upon dissolution, a profit-seeking-enterprise shall cancel the amount of the balance in the shareholder deductible tax account after completion of liquidation and distribution of its residual assets.

Upon consolidation or merger of profit-seeking-enterprises, the balance being kept in the shareholder deductible tax account of the company to be extinguished after the consolidation or merger shall be canceled on the effective date of the consolidation or merger.

Article 66-6

When making surplus earning distribution for the year 1998 or each ensuing year thereafter, a profit-seeking-enterprise shall use the ratio of the amount of balance in its shareholder deductible tax account to the booked amount of balance in its undistributed surplus earning account as the tax deduction ratio in calculating the amount of deductible tax based on the net amount of dividend or surplus earnings distributable to each shareholder or member, and shall have the amount of deductible tax so calculated plus the amount of distributable dividend or surplus earnings distributed to each shareholder or member accordingly. The following formula shall be used for the purpose of this Article:

Tax deduction ratio = amount of balance in the shareholder deductible tax account/ the aggregate amount of balance in the undistributed surplus earnings

Amount of shareholder (member) deductible tax = amount of the net dividend (or surplus earnings) × tax deduction ratio

In case the tax deduction ratio as calculated using the formula given in the preceding Paragraph is higher than the upper limit of the tax deduction ratio, the said upper limit of tax deduction ratio shall prevail in calculating the amount of shareholder (or member) deductible tax. The applicable upper limits of the tax deduction ratio are fixed as follows:

1. For an aggregate amount of undistributed surplus earnings not having been assessed with a 10% profit-seeking-enterprise income tax: 33.33%.
2. For an aggregate amount of undistributed surplus earnings having been assessed with a 10% profit-seeking-enterprise income tax: 48.15%.
3. For an aggregate amount of undistributed surplus earnings partially assessed and partially not assessed with a 10% profit-seeking-enterprise income tax: the sum of the amounts of deductible tax to be calculated respectively based on the applicable tax deduction ratios specified in the preceding two Items in respect of the different proportions of the aforesaid two parts of undistributed surplus earnings to the aggregate amount of the undistributed surplus earnings.

The term "booked aggregate amount of undistributed surplus earnings of a profit-seeking-enterprise" shall refer to the amount of the aggregate undistributed surplus earnings as calculated by a profit-seeking-enterprise in accordance with the commercial accounting rules for the year 1998 or each ensuing year thereafter.

The amount of deductible tax to be calculated based on the tax deduction ratios specified in Paragraph One of this Article shall be rounded off to the nearest ten thousandth; and if the last figure of the amount of deductible tax for each shareholder or member is less than one dollar, such figure shall be rounded off.

Article 66-7

Any profit-seeking-enterprise which is exempted from setting up a shareholder deductible tax account under Paragraph Two, Article 66-1 hereof shall not allocate any amount of deductible tax to its shareholders or members for offsetting the tax payable by them respectively, except for the profit-seeking-enterprises organized in the form of a wholly-owned enterprise or a partnership which shall be subject to the provisions otherwise provided for in this Act.

Article 66-8

In case any individual person of profit-seeking-enterprise is discovered to have improperly evaded or reduced the tax burden for himself or for other person(s) by means of transfer of shareholder's equity or any other false arrangement, the tax collection authority may, with the approval of the Ministry of Finance and based on the information acquired during investigation, make necessary adjustment in accordance with the amount of dividend, surplus earnings or deductible tax distributable to or receivable by such individual person or profit-seeking-enterprise.

Section 6 Taxation on Undistributed Surplus Earnings

Article 66-9

Beginning from the year 1998, if there is any surplus earnings of the then current year not distributed by a profit-seeking enterprise, an additional profit-seeking income tax shall be levied at the rate of ten percent on such undistributed surplus

earnings.

The term "undistributed surplus earnings" as referred to in the preceding Paragraph, beginning from the year 2005, shall denote the amount of income after tax as calculated by a profit-seeking enterprise in accordance with the Commercial Accounting Act, less the following sums:

1. (deleted);
2. Make-up of the losses in previous years and the next-year-loss which has been duly audited and certified by a certificated public accountant;
3. Net dividends or net earnings which have been distributed from the earnings gained in the current year;
4. Legal earned surplus reserve having been set aside from the surplus earnings of the current year in accordance with the Company Act or other acts, the legal reserve and the public interest reserve having been set aside in accordance with the Cooperative Act;
5. Sinking fund reserve or restricted distributable surplus earnings which were required to be set aside or restricted from distribution under any treaty signed by the nation with another country, or under any agreement signed in accordance with the economic assistance or loan agreement signed by the nation with any international organization;
6. Bonus or remuneration paid to directors, governors and employees from the surplus earnings in accordance with the provisions of the Articles of Incorporation of the company or cooperative;
7. Special reserve or restricted distributable surplus earnings which were required to be set aside or restricted from distribution of the surplus earnings of the current year pursuant to the order given by the competent authority in accordance with the provisions of other laws;
8. Capital reserve which was required to be transformed from income after tax pursuant to the provisions of other laws;
- 9.(deleted); and
10. Other accounts as approved by the Ministry of Finance.

The amount of the accounts specifies in Items 3 through 8 of the preceding Paragraph shall be limited to those actually occurred prior to the end of the fiscal year following the year in which the respective incomes are taxable.

The term "income after tax" referred in Paragraph 2 of this Article, in the case where the financial statements in the current year of a profit-seeking enterprise were duly audited and certified by a certified public accountant, shall be based on the amount which was assessed by such certified public accountant. However, if thereafter the authority in charge conducts an assessment of such financial statements and makes an adjustment to the amount of income after tax, the original amount shall be replaced by the amount after such adjustment of which the authority in charge has informed the enterprise.

If the reasons why distributable surplus earnings were restricted from distribution pursuant to the provisions of Items 5 and 7 of Paragraph 2 of this Article are no

longer pertaining, the part of which the distributable surplus earnings therefrom have been undistributed prior to the end of the fiscal year following the year when the reasons no longer pertain shall be added to the surplus earnings of the year when the reasons no longer pertain and be subject to the levy of an additional profit-seeking income tax at the rate of ten percent.

Chapter IV Assessment & Collection Procedure

Section 1 Provisional Payment

Article 67

A profit-seeking enterprise, except those that conform to the provisions of Article 69, shall within one month from September 1 to September 30 of each year, take one-half of the amount of tax payable as declared in its profit-seeking enterprise income tax return filed in the preceding year as the amount of provisional payment of tax and pay to the public treasury and file with the local collection authority-in-charge a declaration for provisional payment of tax on a prescribed form along with the receipt of the provisional payment. Notwithstanding the provisions of paragraph 1, a profit-seeking enterprise organized as a company which keeps a complete set of account books and evidential documents, uses the Blue Return as provided in Article 77 or entrusts a certified public accountant to examine and certify its provisional tax return, and files the return within the said period, may alternatively compute the amount of provisional tax payment, which is based on the operating income incurred for the first six months of the current year under the relevant provisions of the Income Tax Act and applied with the tax rates.

Article 68

In the case where a profit-seeking enterprise fails to make the provisional tax payment within the period as specified in Paragraph 1 of the preceding Article but has since filed the return and paid the amount of provisional tax payment, which is computed in accordance with the said provision, of his own accord to the collection authority before 31 October, an interest accruable thereon as calculated on a daily basis at the banking rate for deposits as specified in Article 123 from 1 October until the date of the payment shall be collected together with the aforesaid amount of provisional tax payment.

In the case where a profit-seeking enterprise fails to make the provisional payment in accordance with Paragraph 1 of the preceding Article, before October 31, the collection authority shall compute the amount of provisional tax payable by it in accordance with the provisions of the preceding paragraph and issue to the said profit-seeking enterprise a tax demand notice covering the provisional payment plus one month's interest to be calculated at the banking interest rate for deposits as specified in Article 123, requiring the said profit-seeking enterprise to make the payment to the public treasury in fifteen days.

Article 69

The provisions of the preceding two Article shall not apply to the following cases:

1. (Deleted);
2. A profit-seeking enterprise without permanent establishment in the territory of the Republic of China, having its profit-seeking enterprise income tax withheld by business agent or the payer in accordance with the provisions of Article 98-1;
3. Approved small-scale profit-seeking enterprise;
4. Any profit-seeking enterprise not subject to profit-seeking enterprise income tax in accordance with this Act or other relevant acts;
5. (Deleted).

Article 70

(Deleted)

Section 2 Annual Income Tax Return

Article 71

A taxpayer shall, within the period from May 1 to May 31 of each year, fill out and file to the local tax collection authority and annual income return declaring therein the items and amounts that make up his gross consolidated income (for an individual person) or the gross profit-seeking income (for a profit-seeking enterprise) for the preceding year together with the tax deductions/exemptions, and/or offsets associated therewith, if any. The taxpayer shall further calculate the amount of income tax actually payable by him/it by deducting from the amount of income tax payable for the whole year the provisional income tax payment, the unpaid withholding and the amount of credit tax, and shall make payment voluntarily of the same before filing the annual income tax return. However, the withholding tax from the income of interest accrued on short-term papers, and the credit tax included in the total amount of dividends or earnings paid to a profit-seeking enterprise shall not be deductible.

Filing of an annual income tax return shall be exempt for an individual residing in the territory of the Republic of China whose annual gross consolidated income does not exceed the sum of the amount of exemption plus the standard deduction for the current year provided, however, that if an application has been filed for refund of the tax withheld and the tax credit, the said taxpayer shall still be required to file the annual income tax return.

The term "amount of credit tax" set forth in the preceding two Paragraphs shall refer to the amount of tax paid as indicated in the dividend distribution voucher, and the amount of profit-seeking enterprise income tax paid up by an enterprise operated either by a sole proprietor or by the partners of a partnership.

Article 71-1

In case an individual residing in the territory of the Republic of China dies in the taxable year, his taxable income occurred in the year of his death and in the previous year, except those who are exempt from filing an annual income tax return as provided in Article 71, shall be subject to the annual income tax return which shall be filed by the will executors, heirs or estate administrators within three months from the date of death of the decedent. In such a case, the will executors, heirs or estate administrators shall, within the total value of the estate, be responsible for all the obligations concerning the tax return. However in case the deceased is survived by his spouse who is an individual residing in the territory of the Republic of China, the spouse shall file the annual income tax return and make tax payment thereof in accordance with the provision of Article 71.

Any individual residing in the territory of the Republic of China, who abolishes his domicile or residence in the territory of the Republic of China and is going to leave the territory of the Republic of China, shall file his annual income tax return in the taxable year before his departure. However, in case the spouse in an individual residing in the territory of the Republic of China, and continues to live in the territory of the Republic of China, he/she shall file the annual income tax return and make tax payment in accordance with the provisions of Article 71.

In conformity with the provisions of Paragraph 13 Article 4, an organization or institution established for educational, cultural, public welfare or charitable purposes or its operating subsidiary shall file its income tax return in accordance with the provisions of Article 71, and still shall pay income tax, if it is not qualified to be exempt from income tax.

Article 72

The period for filing annual income tax return as provided in Paragraph 1 of Article 71-1 may, before the time limit and under special circumstances, through the application of the will executors, or heirs, or estate administrator and upon the approval of the collection authority, be extended to a date not later than the time limit prescribed for filing estate tax.

Any taxpayer as provided in Paragraph 2 of Article 71-1 and Article 73 may, under special circumstances, not being able to file his tax return within the time limit personally and upon the approval of the collection authority, appoint an individual residing in the territory of the Republic of China to file tax return and make tax payment on his behalf. In the case of delinquent payment or failure to entrust a legally registered accountant or any other lawful agent to file the tax return and make tax payment on his behalf, the collection authority-in-charge may notify the exit/entry control office to deny exit clearance to such a taxpayer.

Article 73

In the case of an individual not residing in the territory of the Republic of China or a profit-seeking enterprise having no permanent establishment or business agent

within the territory of the Republic of China, in the event of having income within the territory of the Republic of China as provided in Article 88, the income reporting provisions under Article 71 shall not apply and the tax withholder shall withhold the income tax payable in accordance with prescribed withholding rates. In case the taxpayer has income which does not fall within the withholding scope as provided in Article 88, and is going to leave the territory of the Republic of China prior to the time limit prescribed for filing income tax return in the taxable year, he shall file a tax return with the local collection authority-in-charge prior to his departure and make tax payment according to the prescribed tax rates, and in case he does not leave within the time limit prescribed for filing income tax return in the taxable year, he shall file a tax return and make tax payment in accordance with the regulations concerned.

In the case of a profit-seeking enterprise with no permanent establishment but having a business agent in the territory of the Republic of China, except where computation of income is made in accordance with Article 25 and 26 where income tax is withheld and paid in accordance with the provisions concerned, the business agent concerned shall be responsible for filing of income return with the local collection authority-in-charge and for payment of income tax in accordance with the provisions of this Act.

Article 73-1

Except for those which are tax-exempt according to the Act, all interests derived from loans extended to individuals, legal entities, government agencies or financial institutions within the territory of the Republic of China, by branches of international banking business institutions (Off-shore Banking Branches) shall be reported for tax assessment based on the total amount of interest received against the prescribed tax withholding rates within the time limit as stipulated in the provision of Article 71 of this Act.

Article 73-2

The provisions of Article 3-1 hereof does not apply to the amount of taxes included in the total amount of dividends or the total amount of surplus earnings distributed to an individual person not residing in the territory of the Republic of China, and any profit-seeking enterprise which is subject to pay profit-seeking enterprise income tax in accordance with the provisions of Article 73. However, in case that the total amount of dividends or the total amount of surplus earnings received by such individual person or profit-seeking enterprise contains any income subject to a 10% surcharge of profit-seeking income tax under the provisions of Article 66-9 hereof, then the surcharged amount of profit-seeking income tax may offset the amount of income tax which should be withheld from the payment of the net amount of such dividends or surplus earnings.

The amount of offsetting tax set forth in the preceding Paragraph shall be at the rate of 10% of the net dividends or the net surplus earnings received, and shall be

calculated using the percentage of the amount of surplus earnings, which has been surcharged with a 10% profit-seeking income tax, in the accumulated amount of undistributed surplus earnings.

Article 74

Where a profit-seeking enterprise changes its fiscal year with the approval of the local collection authority-in-charge, it shall. Within one month from the date of change, file with the local collection authority-in-charge on a prescribed form the amount of income accrued prior to the change, compute the income tax payable in accordance with the provisions of Article 49 and effect payment thereof voluntarily prior to filing its income tax return.

Article 75

A profit-seeking enterprise shall make its current final report up to the date of dissolution, closure, amalgamation or ownership transfer, and then its total business income and taxable amount on a prescribed form to the local collection authority-in-charge within forty-five days, and further make tax payment by itself before filing its income tax return.

Any income earned from liquidation during the period of liquidation shall be reported on a prescribed form to the local collection authority-in-charge within thirty days from the date of completion of liquidation, and the taxpayer shall, before filing his tax return, make tax payment by himself at the prescribed rates applicable to the profit-seeking enterprise in the taxable year. But this is not applicable to those enterprises which are exempt from the liquidation process in accordance with other acts.

The term "period of liquidation" as referred to in the preceding paragraph shall be the time limit as provided in the Company Act, if the profit-seeking enterprise is organized in the form of corporation; and shall be three months from the date of dissolution, closure, amalgamation or ownership transfer, if it is not organized in the form of corporation.

In the case of failure in submitting a current final report on total business income and income earned from liquidation within the time limit as provided in this Article, the collection authority shall assess and determine the amount of business income and tax payable according to the finding made by itself.

In the event of bankruptcy, a profit-seeking enterprise shall, within ten days prior to the time limit prescribed for credit registration announced by the court, file its current business income tax return with the local collection authority-in-charge. In the case of failure in filing tax return within the time limit, the collection authority shall assess and determine its amount of business income and taxable amount immediately according to the findings made by itself. The court shall, at the same time of announcement of credit registration, notify the local collection authority of the bankruptcy declared on that profit-seeking enterprise.

Article 76

A taxpayer shall attach to his annual income tax return, receipts for taxes paid voluntarily, and other related documents of evidences and, in the case of a profit-seeking enterprise, also the balance sheet, inventory of properties and profit and loss statement.

At the time of filing an income tax return by a company or cooperative, its responsible person shall submit a statement listing the names and residences of shareholders or members and the amount of dividends or profits paid. In the case of partnership, its responsible person shall submit a statement listing the names and residences of partners and their respective percentages of investment and profit or loss allocation.

Article 76-1

(Deleted)

Article 77

Profit-seeking income tax return forms shall be used in accordance with the following provisions:

1. Ordinary return – to be used by profit-seeking enterprises other than those authorized to use the Blue return or simplified return;
2. Blue return – to be used by profit-seeking enterprises duly authorized by tax collection authority. The Blue return refers to the tax form which is printed according to the prescribed form on blue paper and designed for encouraging profit – seeking enterprises to make honest reporting of their income. Rules governing the use of blue and simplified income return forms shall be prescribed by the Ministry of Finance;
3. Simplified return – to be used by small size profit-seeking enterprise.

There are two kinds of consolidated income return forms namely the general return and the simplified return. The forms and the usages thereof shall be prescribed by the Ministry of Finance.

Article 78

The local collection authority-in-charge shall at all times assist and urge taxpayers to file annual income tax returns within the prescribed period and shall, fifteen days prior to expiration thereof, send a reminder pointing out the responsibility associated with belated reporting.

Reminder as provided in the preceding paragraph may be sent in the form of a public notice.

Article 79

Where a taxpayer fails to file an annual income tax return within the prescribed period the collection authority shall serve on him a delinquent notice, requesting him to complete his annual income tax return within fifteen days from the date of

his receipt of the notice. In the event of failure in filing the annual income tax return after expiration of the prescribed period, the collection authority shall make provisional assessment of the amount of income and tax payable on the basis of available taxation data or the profit standard of the same trade and serve on the taxpayer the assessment notices along with a tax demand notice. In case other taxation information is afterwards found out by the collection authority, the case shall be handled in accordance with the relevant provisions of the Tax Collection Act.

The provisions of the preceding paragraph shall not apply to a taxpayer subject to consolidated income tax or a small-size profit-seeking enterprise using simplified profit-seeking income tax return. In the event of failure on the part of such a taxpayer in filing annual income tax return after expiration of the prescribed period, the collection authority shall forthwith determine the amount of income and tax payable based on the available taxation data or the profit standard of the same trade and notify the taxpayer of making tax payment within the time limit. In case any additional taxation data one afterwards discovered upon investigation by the collection authority, the case shall be still dealt with in accordance with the relevant provisions of the Tax Collection Act.

Section 3 Investigation

Article 80

The collection authority shall, after receipt of an annual income tax return, appoint a person to make investigation thereof and determine the amount of income and tax payable.

Where there is great number of taxpayers in a locality, the collection authority-in-charge may, in lieu of individual investigation as provided in the preceding paragraph, conduct random checks by trade and determine the income standard of each trade.

Where the amount of income reported by a taxpayer is above such standard, the reported income shall be taken as the basis for taxation. Income reported as lower than the standard shall be determined after an individual check.

Opinions of trade associations may be sought in determining income standards of taxpayers in the various trades.

The measure governing how the collection authority-in-charge conducts an assessment of an income tax return by paper reviewing, auditing or any other method of investigation, as well as the criteria governing how the aforesaid authority audits the items affecting the amounts of income, tax payable and tax credits of an income tax return, shall be prescribed by the Ministry of Finance.

Article 81

The collection authority-in-charge shall, on the basis of its findings, work out and serve upon the taxpayer a notice showing the amount of tax leviable as

determined as well as the tabulation of amounts of various items which make up the tax.

Where the notice carries any erroneous entries or miscalculations, the taxpayer may, within 10 days after receipt of the said notice, check with the collection authority-in-charge or request for corrections.

Article 82

(Deleted)

Article 82-1

(Deleted)

Article 83

A taxpayer shall, in the course of an investigation or reinvestigation conducted by the collection authority, produce account books and related documents of evidence that will prove the amount of his income. Where such account books and documents of evidence are not produced, the collection authority may determine the amount of his income based on the available taxation data or the profit standard of the same trade concerned.

The taxpayer shall present the account books and documents of evidence as referred to in the preceding paragraph to the collection authority for investigation within the prescribed time limit. Under special circumstances, if it is requested by the taxpayer or deemed necessary by the collection authority, investigation at the taxpayer's place of business may be made by a designated official.

Where a taxpayer has already filed the income tax return in accordance with the established regulation but failed to produce the account books and documents of evidence to prove the amount of his income within a prescribed time limit when notified by the local collection authority conducting an investigation, the local collection authority may determine the amount of his income based on the available taxation data or the profit standard of the same trade concerned. If more taxation data are subsequently discovered upon investigation, the case it shall be still dealt with according to act.

Article 83-1

If the collection authority or a tax investigators designated by the Ministry of Finance discovers a taxpayer is suspected of tax evasion or omission in substantial amounts, the authority or investigator may, as the case merits, report to the Ministry of Finance for approval, to institute a further investigation on the taxpayer's net assets, fund flowing, and other business data which are not conformable to the regular business practice.

If the result of further investigation, as prescribed in the preceding paragraph, conducted by the collection authority or tax investigator proves that the taxpayer has evaded and/or omitted taxes payment the taxpayer shall be responsible for the

submission of evidence favorable to himself.

Article 84

The collection authority may, when making investigation or reinvestigation, call for the presence of the taxpayer or his agent at the office of the collection authority to answer question.

The taxpayer, if unable to present himself to answer questions at the indicated time for justifiable reasons, shall submit a statement to the collection authority within seven days from the date of receipt of the notice.

Article 85

The household registration agency shall, when effecting household movement registration in accordance with act, make out and send duplicate copies of such registration to the collection authority concerned.

Article 86

The local collection authority-in-charge shall issue receipts for any account books or documents of evidence submitted by the taxpayer or concerned parties and shall return the same within seven days from the date of completion of submission of all account books and documents of evidence called for. Under special circumstances and subject to the approval of the head of the local collection authority-in-charge, the time of retention may be extended for a period of seven days.

Article 87

(Deleted)

Section 4 Withholding of Tax

Article 88

For a taxpayer having any income of the following categories, the tax withholder involved shall withhold tax payable at the time of payment as per the prescribed tax rates and withholding procedures, and pay the tax withheld in accordance with the provisions of Article 92 of this Act:

1. Net dividends distributed by a company to an individual not residing in the territory of the Republic of China or a profit-seeking enterprise having its head office outside the territory of the Republic of China; or the net surplus profits distributed by a cooperative, partnership or a wholly-owned organization to its member, partner, or sole investor not residing in the territory of the Republic of China;
2. Salary, interest, rental, commission, royalty, cash award or prize given in a contest or game competition, prizes of a chance winning, retirement pay, severance pay, separation pay, resignation pay, life-time pension, old-age pension

not covered by insurance benefits, reward for information or accusation, and fees for professional practices paid by any organization, institution, school, enterprise, bankruptcy estate, or practitioner of profession, and the income paid to a foreign profit-seeking enterprise having no fixed place of business or business agent within the territory of the Republic of China;

3. Profit-seeking enterprise income derived from operations by a profit-seeking enterprise as provided in Article 25 having its income tax withheld by a business agent or the payer in accordance with the provision of Article 98-1; or

4. Profit-seeking enterprise income derived from business in the Republic of China by a foreign motion picture enterprise which has no branch office in the territory of the Republic of China as provided in Article 26 of this Act.

The withholding rates and withholding procedures applicable to the various kinds of income as prescribed in this Article shall be drafted and established by the Ministry of Finance and submitted to the Executive Yuan for approval.

Article 89

For tax to be levied on different categories of income as set forth in the preceding Article, the tax withholders and taxpayers are designated as follows:

1. For the net dividends distributed by a company to an individual person not residing in the territory of the Republic of China and a profit-seeking enterprise having its head office outside the territory of the Republic of China; or the net surplus profits distributed by a cooperative, partnership, or a wholly-owned organization to its members, partners or sole investor, the tax withholder shall be the said company, cooperative, partnership or wholly-owned organization; while the tax payer(s) shall be the said individual shareholder not residing in the territory of the Republic of China, or the profit-seeking enterprise shareholder having its head office outside the territory of the Republic of China, or the member, partner, or the sole investor not residing in the territory of the Republic of China;

2. For the income from salary, interest, rental, commission, royalty, fee for professional practices, cash award or prize given in any contest or game competition prizes from chance winning, retirement pay, severance pay, separation pay, resignation pay, life-time pension, old-age pension not covered by insurance benefits, reward for information or accusation, and the income payable to a foreign profit-seeking enterprise having no fixed place of business or business agent within the territory of the Republic of China the tax withholders shall be the head of the unit responsible for tax withholding in charge of the relevant organizations or institutions, schools, the responsible persons of enterprises, the trustees of bankrupt estates and the practitioners of professions, as the case may be, while, the taxpayers shall be the recipients of such income;

3. Withholder of profit-seeking enterprise income tax on income as provided in Item 3 of Paragraph 1 of the preceding Article shall be the business agent or the payer of such income, while the taxpayer shall be the profit-seeking enterprise having its head office outside the territory of the Republic of China;

4. Withholder of profit-seeking enterprise income tax or income receivable by a foreign motion picture enterprise shall be the business agent thereof or the payer of such income, while, the taxpayer shall be the foreign motion picture enterprise. Where a withholder fails to fulfill his obligation of making tax withholding, and where demanding has become impossible by reason that the whereabouts of the withholder is unknown or for other causes, the collection authority may collect the tax directly from the tax payers concerned.

For a payment made in each year by an organization, institution, school, enterprise, bankrupt estate, or professional practitioner of any income which is subject to tax withholding under the provisions of the preceding Article, and a payment of any other income as prescribed under Category 10, paragraph 1 of Article 14 of this Act, if the tax is not withheld because the amount paid does not reach the minimum amount of income subject to tax withholding, or any payment which does not come under the categories subject to tax withholding stipulated in this Act, a list containing detailed information of the name, address, and uniform serial numbers of identification card of the recipients of such payments, as well as the total amount paid during the year shall be prepared in accordance with the prescribed form and submitted to the tax collection authority-in-charge before the end of January of each year. In addition, a withholding exemption certificate shall be prepared and issued to taxpayers concerned before February 10 of each year.

Article 89-1

With regard to the revenue arising from the trust property referred to in Article 3-4 hereof, the tax withholder concerned shall, at the time of payment thereof, name the trustee of the said trust deed as the tax payer for that payment and shall complete the tax withholding process in accordance with the provisions of the preceding two Articles. However, for the trust benefits, except for the interest on short-term bills and securities and/or the monetary prizes payable to the prize-winners of lottery tickets sponsored by the government, payable by the tax withholder in respect of a public trust set forth in Paragraph Five, Article 3-4 hereof, such payments shall be exempt from the assessment of withholding tax which is otherwise payable under the provisions of Article 88 hereof.

When issuing a withholding certificate in accordance with the provisions of Article 92-1 hereof, the trustee of a trust deed shall take the amount of tax withheld from each category of the trust benefits paid to a trust beneficiary as the amount of income tax withheld for the said trust beneficiary provided, however, that if there are two or more trust beneficiaries, the trustee shall calculate the withholding tax paid by each trust beneficiary in accordance with the proportion to be determined under Paragraph Two, Article 3-4 hereof.

Where the trust beneficiary is an individual who is not residing in the territory of the Republic of China or a profit-seeking enterprise which does not have a fixed business place in the territory of the Republic of China, the trustee of the said trust deed shall be regarded as the tax withholder, and shall, in accordance with

the provisions of Article 88 hereof, withhold the income tax from various income payments payable to said trust beneficiary as calculated under the provisions of Paragraphs One and Two, Article 3-4 hereof provided, however, that the withholding tax already paid up by the trust beneficiary/beneficiaries as set forth in the preceding Paragraph may be deductible from the withholding tax payable by such trust beneficiary/beneficiaries under this Paragraph.

When making distribution of trust benefits in respect of a public trust or a trust fund as set forth in Paragraphs Five and Six, Article 3-4 hereof, the trustee thereof shall be considered as the tax withholder who shall complete the withholding process in accordance with the provisions of the preceding two Articles.

Article 90

For purchases or sales of goods on behalf of a client, a profit-seeking enterprise shall record in detail the name and address of the client, the description and classification of the goods, quantity, price, date and amount of commission, and preserve all relevant documents of evidence.

Article 91

All warehouses or godowns accepting goods for storage shall report on a prescribed form the name and address of client, the description, kind, quantity and assessed value of the goods stored, amount of storage charge and the dates of receipt and delivery of the goods, to the local collection authority-in-charge within three days from the date of receipt of goods.

The collection authority may dispatch personnel for regular inspection of warehouses and godowns, accounting books and records.

Article 92

The tax withholders of various kinds of income as provided in Article 88 shall, within the first ten days of each month, effect payment to the national treasury of all the taxes withheld in the previous month, and shall, before the end of January of each year, make out withholding certificates and submit them to the local collection authority-in-charge for verifying the amounts of tax withholdings from the taxpayers in the preceding year, and shall issue a receipt of the withholding certificate to each of the taxpayers before February 10 of each year. However, in the case of dissolution, closure, merger or transfer of ownership of a profit-seeking enterprise, or deactivation or change of an agency or organization, the tax withholder concerned shall immediately make out withholding certificates for the amount withheld and submit them to the local collection authority-in-charge within ten days thereafter.

In the case of a non-resident individual or a profit-seeking enterprise without permanent establishment in the Republic of China but having income as

enumerated under Article 88, the tax withholder, shall within ten days from the date of withholding, effect payment to the national treasury of all the taxes withheld, make out withholding certificates and submit them to the local collection authority-in-charge for verification.

Article 92-1

The trustee of trust deed(s) shall, prior to the end of January of each year, prepare, in prescribed format, the inventory of property, the revenue and expenditure statements, the statement of trust benefits accrued and payable to trust beneficiaries under Paragraphs One, Two and Paragraphs Five and Six, Article 3-4 hereof, and the statement of withholding tax and other relevant documents as required under Article 89-1 of this Act and shall submit the same to the competent tax collection authority, and shall prepare and issue, prior to the 10th day of February, the withholding certificates or withholding free certificates and relevant certificates and receipts to tax payers concerned.

Article 93

The collection authority shall, immediately upon receipt of withholding report from a tax withholder, review the amount of income and tax withheld. It may further appoint a person to make an investigation thereof.

Article 94

Any tax withholder shall notify the taxpayers of withholding at time thereof and shall make out and issue to the taxpayers tax withholding certificates in accordance with Article 92 of this Act. In case the amount withheld differs from that determined by the collection authority for assessment, the tax withholder shall return to the taxpayer the amount over-withheld or shall make additional payment of the deficit, which the tax withholder may claim from the taxpayer.

With respect to any tax withheld from an individual not residing in the territory of the Republic of China or from a profit-seeking enterprise without a fixed place of business in the territory of the Republic of China, the tax withholder shall make out a tax withholding certificate and issue it to the taxpayer after verification thereof by the collection authority.

Article 95

The local collection authority-in-charge shall at various times check on tax withholders to see whether their withholding reports are accurate and shall urge them to withhold tax and make tax payment according to the provisions of this Act.

Article 96

(Deleted)

Article 97

The provisions of the Article 83 through Article 86 shall apply mutatis mutandis to withholding of tax.

Section 5 Payment of Tax

Article 98

Voluntary payment of tax by a taxpayer and payment of tax withheld by a tax withholder as provided in this Act shall each be made with a paying-in-slip completed by the payer.

Payment of tax against demand notice issued by the collection authority as provided in this Act shall be made by the taxpayer within ten days from the date of receipt of the demand notice.

Article 98-1

A profit-seeking enterprise having its head office outside the territory of the Republic of China which has been approved as in compliance with the provision of Article 25 or by application of the provision of that Article by the Ministry of Finance to compute its profit-seeking enterprise income tax in accordance with the following provisions:

1. For an enterprise having a branch office in the territory of the Republic of China, the branch office shall make the provisional tax payment and file a declaration on such provisional payment in accordance with the provision of Article 67 and at the close of the year, shall further compute the tax for annual settlement, make payment of the same and file annual income tax return in accordance with the provision of Article 71;
2. For an enterprise without a branch office but maintaining a business agent in the territory of the Republic of China, the business agent shall be responsible for withholding the tax. In the event that the business agent does not collect the price of goods pursuant to contractual agreement, it shall be responsible for reporting and paying the tax in accordance with the relevant withholding provisions or the payer shall withhold the tax at the time of payment under the approval of the competent collection authority;
3. For an enterprise having neither branch office nor business agent in the territory of the Republic of China, the payer shall withhold the tax at the time of payment.

Article 99

A taxpayer may, at time of making provisional tax payment, offset there from tax withheld evidenced by withholding certificates and pay the balance in cash. Where the tax withheld exceeds the provisional payment, the portion in excess thereof may be offset from the tax payable for annual settlement for the same year.

Article 100

The tax collection authority shall, after having determined the annual income of a taxpayer, make out and serve on him a tax demand notice giving the balance of the tax payable for the full taxing year after deducting the provisional payment, the tax withheld yet to be offset, the amount of deductible income tax, and the voluntary payment of tax made provided however, that the amount of tax withholding on the interest from short term bills, the amount of deductible tax on the total amount of the distributed dividends or on the total amount of distributed surplus profits received by a profit-seeking enterprise shall not be deductible.

In case the tax as determined payable for annual settlement falls short of the total amount of tax paid, the collection authority shall make out and issue to the taxpayer a refund notice or an exchequer's check for refunding the overpaid amount of income tax.

If, thereafter any tax is decided upon as additionally payable or refundable pursuant to reinvestigation result, or a decision made on an administrative appeal or an administrative proceeding, the tax collection authority shall make out and serve to the taxpayer a tax demand notice, or a revenue refund notice, or an exchequer's check for refunding underpaid tax and for demanding the full payment of the tax payable. The taxpayer shall, within 10 days after service of the foregoing tax demand notice, make the full payment of the income tax payable by him/it.

In the case of refund as provided in the preceding two Paragraphs, the tax collection authority shall, promptly and no later than ten days from the date of verification, fill out and serve to the taxpayer an over-paid tax refund notice or an exchequer's check. The period for refund of overpaid tax shall be three months commencing from the date of service of the over-paid tax refund notice to the taxpayer. Upon expiration of the said refunding period, no refund will be made.

Where the amount of retained surplus profits declared by a taxpayer under the provisions of Article 102-2 hereof is verified as being under-declared or overdeclared, the supplemental payment of the shortfall tax or the refund of the overpaid tax shall be governed by the provisions set out in Paragraphs One through Four of this Article.

Article 100-1

When refunding, in accordance with the provisions of Paragraph Three of Article 100 hereof, the income tax overpaid by a profit-seeking enterprise for the year of 1998 or any ensuing year thereafter, the tax collection authority shall make the refund out of the balance in the deductible tax account credited to the shareholders of the said profit-seeking enterprise as of the date of refunding; whereas if there is any additional balance left over in the said account, such balance may be retained by the profit-seeking enterprise for offsetting the profit-seeking enterprise income tax which shall become payable by it in any ensuing year afterwards.

Where the amount of tax which should be made good by a taxpayer or should be refunded by the tax collection authority is trifling to the extent less than a specific amount, the Ministry of Finance may, depending upon the actual situation and after obtaining the approval of the Executive Yuan, decide not to demand supplemental payment from or to refund to the taxpayer of such a trifling amount of income tax.

Article 100-2

In the case where the items or the amounts of tax exemptions and various kinds of deductions declared in the annual income tax return filed by a taxpayer subject to consolidated income tax, or the deductions of various kinds of costs, expenses, or losses declared in the annual income tax return filed by a taxpayer subject to profit-seeking enterprise income tax exceed the limitations prescribed by this Act and other subordinate acts and thus the voluntary payment of tax falls short, the amount of tax as determined by the collection authority as additionally payable shall be levied and together with the interest to be calculated on a daily basis at the banking interest rate as specified in Article 123 hereof deposit from the date immediately following the expiry date prescribed for filing annual income tax return until the date of payment. However, the interest to be charged shall be limited to the amount accruable for a period of one year.

In the case where the amount of interest to be charged under the preceding paragraph does not exceed NT\$1,500, such charge shall be exempted.

Article 101

The provisions of all Sections and Articles of this Chapter relating to the computation of various time limits shall apply *mutatis mutandis* where the fiscal year comes under the provision of Article 23.

Article 102

A taxpayer may appoint a legally registered accountant or any other lawful agent to act on his behalf in such matters relating to income estimation and filing of statement, income return, application for reinvestigation, administrative appeal or administrative proceedings as provided in this chapter. The measures governing such appointment shall be prescribed by the Ministry of Finance.

The annual income tax return of a profit-seeking enterprise within a certain scope shall be examined and signed by a legally registered accountant or any other lawful agent appointed by the profit-seeking enterprise. The regulations governing such appointments shall be prescribed by the Ministry of Finance.

In the case of business income tax return filed and signed by a legally registered accountant or any other lawful agent, the profit-seeking enterprise may enjoy the various benefits conferred by using the Blue Return in accordance with this Act.

Section 6 Declaration of Surplus Earnings

Article 102-1

Where a profit-seeking enterprise is required, by the provisions of Article 66-1 hereof, to set up a shareholder tax offsetting account, it shall, prior to the end of January in each year, consolidate the data of dividends distributable to its shareholders or the surplus earnings distributable to its members for the whole year of the preceding year and submit the same to the local tax collection authority for verification; and shall further fill out the dividend distribution vouchers for issuance to all shareholders not later than February 10 of each year. However, if the profit-seeking enterprise enters into the process of dissolution or merger, it shall forthwith fill out the dividend vouchers in respect of the dividends or surplus earnings which have been distributed, and shall declare such information to the local tax collection authority within 10 days.

The profit-seeking enterprise referred to in the preceding Paragraph shall, when filing its tax return, prepare, in an established format, a statement of changes occurred in the preceding year in the shareholder tax offsetting account and file the said statement along with the filled out tax return form with the local tax collection authority for its auditing and verification. However, it shall file the tax return upon the completion date of the liquidation process, if it enters into the process of dissolution; or on the effective date of merger, if it enters into the process of merger, except in the case as described in Item 5, Paragraph One, article hereof.

The statement of changes in the shareholder tax offsetting accounts referred to in the preceding Paragraph shall mean the amount of beginning balance, the amount of increases and decreases in the then current year, and the current balance in the said account.

Article 102-2

A profit-seeking enterprise shall, during the period from May 1 to May 31 in the year following the year for which an income tax return shall be filed, fill out and file to the local tax collection authority a tax return indicating therein the retained earnings as calculated in accordance with the provisions of Paragraph 2, Article 66-9 hereof and the amount of additional income tax leviable thereon which shall be paid before the filing of the tax return. This tax return shall still be filed even if the amount of the retained earnings so calculated turns out to zero or a negative figure.

In the case where a profit-seeking enterprise is dissolved or merged with another profit-seeking enterprise prior to its filing of the income tax return under the provisions of the preceding paragraph, it shall, within 45 days from the date of dissolution or merger, file to the local tax collection authority a tax return in respect of its retained earnings which have not been surcharged with an additional 10% profit-seeking income tax up to the date of its dissolution or merger, and

shall calculate and make the payment of such surcharged tax before filing the tax return. Upon failure of a profit-seeking enterprise to declare such portion of retained earnings within the aforementioned filing period, the tax collection authority shall forthwith investigate the case, assess the amount of the surcharge income tax on such retained earnings, and advise, by a notice, the said profit-seeking enterprise to pay the surcharge tax accordingly.

Where a profit-seeking enterprise has obtained from the local tax collection authority an approval to the change of its fiscal year, it shall include its retained earnings which have not been surcharged with a 10% additional profit-seeking income tax prior to such change of its fiscal year into the amount of its retained earnings in the fiscal year after the change of fiscal year, and shall take appropriate action in accordance with the provisions of Paragraph 1 of this Article. When filing its tax return in accordance with the provisions of Paragraphs 1 and 2 of this Article, the profit-seeking enterprise shall submit along with the tax return the receipt of its voluntary tax payment and other relevant evidential documents.

Article 102-3

A competent tax collection authority shall assist profit-seeking enterprises to file the declaration of their respective retained surplus earnings prior to the cut-off date of the filing period, and shall issue a remainder notice at least 15 days prior to the expiration date of the filing period stating therein the responsibility of taxpayer for the delay in filing the tax return. The remainder notice may be issued by means of a public notice.

Where a profit-seeking enterprise fails to file the income tax return for its retained surplus earnings within the prescribed filing period, the competent tax collection authority shall forthwith serve to it a late declaration notice requiring the profit-seeking enterprise to file the tax return in rarer within 15 days from the date of its receipt of the said late declaration notice. If the profit-seeking enterprise further fails to file the tax return after expiry of the given time limit, the competent tax collection authority shall, based on the investigation results, assess the amount of undeclared retained surplus earnings and amount of additional profit-seeking enterprise income tax leviable on thereon, and shall issue to the said profit-seeking enterprise a tax assessment notice together with a tax payment slip for its payment of the tax due within a given time limit. In case any other information is found afterwards by the tax collection authority, the case shall be handled in accordance with the relevant provisions of the Taxation Act.

Article 102-4

After receiving a tax return filed by a profit-seeking enterprise for its retained earnings, the tax collection authority shall appoint personnel to conduct an investigation and to verify the amount of its retained earnings and the amount of income tax leviable thereon. For implementation of the investigation and verification, the provisions of Articles 80 through 86 of this Act shall govern.

Chapter V Reward and Penalty

Article 103

When receiving information or accusation to the effect that a taxpayer or tax withholder is evading tax payment through concealment, under-reporting, fraud or other improper means, the collection authority, upon verification of the information or accusation, shall grant the informant or accuser a reward of twenty per cent of the fine and keep his name in strict confidence.

The collection authority shall notify the informant or accuser of the reward as provided in the preceding paragraph when the judgment for fine is confirmed by the court and within three days from receipt of the fine and set a time limit for his collection of the reward.

An informant or accuser who has participated in the tax evasion shall not be entitled to the reward.

Where the informant or accuser is a public functionary, the provisions of this Article relating to grant of reward shall not apply.

Article 104

(Deleted)

Article 105

(Deleted)

Article 106

Under any of the following circumstances, the local collection authority-in-charge shall, in addition to requiring submission of report or amendment of report entries within a specified time period, impose upon the violator a fine of not exceeding NT\$300:

1. (Deleted)
2. Where the responsible person of a profit-seeking enterprise organized as a company or of a cooperative fails, in violation of the provisions of Article 76, to report within the prescribed time period the dividends or profits payable or paid to shareholders or members;
3. Where the responsible person of a partnership fails, in violation of the provisions of Article 76, to report the names and residences of partners, the amount of their respective investments and the percentage of allocation of profit or loss in a detailed list;
4. Where the responsible person of a profit-seeking enterprise fails to record the necessary information in the account books required by the provisions of Article 90;
5. Where the responsible person of a warehouse or godown fails to report the necessary information as required by the provisions of the Paragraph one of Article

91;

6. Where the responsible person of a trade association fails to submit a roster of its members as required by the provisions of Article 20.

Article 107

Where a taxpayer fails in violation of the provisions of Article 83, to produce account books and documentary evidences within the specified time period, the collection authority shall impose upon him a fine of not exceeding NT\$1,500.

Where a taxpayer refused to accept a tax demand notice without furnishing justifiable reasons, the local collection authority-in-charge shall, in addition to accomplishing the service of such notice in accordance with the provisions of Article 18 of the Tax Collection Act, impose upon him a fine of not exceeding NT\$500.

Article 107-1

(Deleted)

Article 108

Where a taxpayer failed to file his annual income return within the period as specified in the provisions of Article 71 but has subsequently filed it in accordance with the provisions of Paragraph 1 of Article 79, the collection authority shall, after determining the amount of its income and the amount of tax payable through investigation, collect a delinquent reporting surcharge in an amount equal to ten per cent of the tax determined as payable. The amount of delinquent reporting surcharge shall not be less than NT\$1,500.

Where a taxpayer still fails to file his annual income tax return within the prescribed period as provided in Article 79, and amount of his income and the amount tax payable have been determined by the collection authority based on the available data or the profit standard of the same trade, the collection authority shall collect a delinquent reporting surcharge in an amount equal to twenty per cent of the tax determined as payable. The delinquent reporting surcharge shall not be less than NT\$4,500.

The provisions of Paragraphs 1 and 2 shall not apply to taxpayers subject to consolidated income tax, small size business using simplified income tax return and those who are exempt from filing annual income tax returns according to Article 71 of this Act.

Article 108-1

Where a profit-seeking enterprise had failed to file the income tax return for its retained surplus earnings before the filing deadline required by the provisions of Article 102-2, but subsequently completed the tax filing procedure in accordance with the provisions of Paragraph Two, Article 102-3 hereof, the tax collection authority shall, after having verified the actual amount of such retained surplus

earnings and assessed the amount of additional income tax payable, surcharge a delinquent fee at the rate equal to 10% of the amount of additional income tax payable so assessed. In no case shall the amount of delinquent fee be less than NT\$1,500.

Where a profit-seeking enterprise further fails to file the tax return within the time limit fixed in accordance with the provisions of Paragraph Two, Article 102-3 hereof, the tax collection authority shall, after having verified the actual amount of the retained surplus earnings and assessed the amount of additional income tax payable and assessed, surcharge a late filing fee at the rate equal to 20% of the assessed amount of additional income tax payable. In no case shall the amount of late filing fee be less than NT\$ 4,500.

Article 109

(Deleted)

Article 110

In the case of a taxpayer who has filed annual income tax return in accordance with the provisions of this Act, any omission or under-reporting of income taxable hereunder shall be subject to a fine of no more than twice the amount of the tax evaded.

In the case of a taxpayer who fails to file annual income tax return in accordance with the provisions of this Act and who is found by the collection authority to have income taxable hereunder, the collection authority shall, in addition to determining the tax payable in accordance with act, impose a fine of no more than three times the amount of tax determined as payable.

Where a profit-seeking enterprise, due to tax exemption provided under the incentive statute or because of business deficit, shall not have a taxable income even though the amount of income omitted or under-reported is added to it, a fine shall be imposed separately at prescribed times according to the preceding two paragraphs on the taxable omission and under-reporting of income calculated at the profit-seeking enterprise income tax rate applicable in the current year.

Article 110-1

In case a taxpayer has, after an additional tax payment notice has been served, for his tax evasion or omission, been found out by the collection authority indications of suspected concealment of his properties or making ownership transfer in order to avoid enforced execution, the collection authority may, with a statement of detailed facts, apply to the court for an attachment on the taxpayer's properties and may be exempt from furnishing guaranty against attachment. But if the taxpayer has furnished appropriate guarantee in property or a surety from a reliable businessman, the collection authority may file an application to the court for a withdrawal of the case or lifting the attachment.

Article 110-2

Where a profit-seeking enterprise has filed the income tax return in accordance with the provisions of Article 102-2 hereof, but did not declare or under-declared its retained surplus earnings in such tax return, it shall be imposed with a fine for such failure in an amount not more than twice as much as the amount of short-declared or under-declared profit-seeking enterprise income tax.

Where a profit-seeking enterprise failed to make voluntary filing of income tax return in accordance with the provisions of Article 102-2 hereof, and was discovered by the tax collection authority to have failed to declare a retained surplus earnings which should be declared under the act, the tax collection authority shall, in addition to assess the amount of additional income tax leviable, also impose on the said profit-seeking enterprise a fine in an amount of not more than twice as much as the amount of additional tax leviable.

Article 111

Where the head of the unit responsible for the tax withholding personnel of a government agency, public school or enterprise, in violation of the provisions of Paragraph 3 for Article 89 of this Act, fails to submit a prescribed report in time or to submit a truthful report or to issue withholding exemption certificate in time; a notice shall be served upon the competent authority concerned to take disciplinary action. The head of the unit responsible for the tax withholding personnel of a private institution or school; the responsible person of an enterprise; the trustee of a bankrupt estate, or the practitioner of a profession who fails to prepare and submit a report within the prescribed time limit or fail to make a truthful report or to issue withholding exemption certificate as required by the provisions of Paragraph 3 of Article 89 of this Act shall be subject to a fine of NT\$1,500, and a notice shall be served demanding supplemental report within a prescribed time limit. In case of failure to do so in time, the institution or enterprise shall be subject to a fine at the rate of five per cent of the amount of payment made by the said enterprise or institution. However, the maximum amount of the fine shall not be more than NT\$90,000, and the minimum amount shall not be less than NT\$3,000.

Article 111-1

Where the trustee of a trust deed is found to have under-declared or omitted the declaration of any revenue accrued on the trust property, or made false declaration of any relevant costs, necessary expenses and/or losses, and thus has caused under-calculation of the amount of trust beneficiaries' income as required in Paragraphs One and Two and Paragraphs Five and Six, Article 3-4; or has failed to make accurate sort the categories of the beneficiaries' income, and thus has caused reduction of trust beneficiaries' tax-paying obligation, the trustee shall be imposed a fine in an amount equal to 5% of the amount of under-declared or evaded income of trust beneficiaries or the amount of incorrectly sorted income of

such beneficiaries, but not less than a minimum amount of New Taiwan Dollar Fifteen Thousand (NTD 15,000).

Where the trustee of a trust deed fails to calculate the amount of trust beneficiaries' income from different categories of income in accordance with the proportions set out in Paragraph Two, Article 3-4 of this Act, the said trustee shall be imposed a fine in an amount equal to 5% of the deficit between the amount of income calculated by the trustee and the amount of income to be calculated in accordance with the applicable proportions; but not be less than a minimum amount of New Taiwan Dollar Fifteen Thousand (NTD 15,000).

Where the trustee of a trust deed fails to file or to file accurate tax withholding return, or to prepare and issue the relevant documents or withholding certificates or withholding free certificates or other relevant certificates or receipts as required in Article 92-1 hereof, the said trustee shall be impose a fine in the amount of New Taiwan Dollar Seventy Five Hundred (NTD 7,500), and in addition thereto, shall be required to make supplemental filing or issuing within a given time limit. Failure to make such supplemental filing or issuing beyond the given deadline shall subject the trustee to a fine in an amount equal to 5% of the amount of revenue accrued on the trust property in the then current year; but in no case shall the amount of such fine be less than New Taiwan Dollar Fifteen Thousand (NTD 15,000).

Article 112

A taxpayer who fails to pay within the prescribed time limit any amount of income tax, or surcharge for delinquent reporting or non-reporting shall be subject to a surcharge for delinquent payment at the rate of one per cent of the amount of the payment due for every two days of delay. If the payment is still not made within thirty days after the time limit, the collection authority may, in addition to referring the case to the court for compulsory execution, in the case of a profit-seeking enterprise, order a suspension of business until the date of payment.

Any amount of income tax or surcharge for delinquent reporting, non-reporting, or delinquent payment is not paid within the time limit as provided in the preceding Paragraph, an interest accruable thereon as calculated on a daily basis at the interest rate for deposits as specified in Article 123 hereof for the period from the date immediately following the date of expiration of the time limit till the date of payment shall be collectable together with the amount of aforesaid income tax or surcharge due.

Business suspension as provided in this Act shall be enforced by the collection authority with the assistance of the police.

Article 113

To an agent or business agent as provided in Article 73 of this Act who violates the provisions hereof, the respective penalty provisions applicable to taxpayers shall apply.

Article 114

Under any of the following circumstances, the tax withholder shall be subject to the applicable punishment as set forth respectively herein below:

1. A tax withholder who fails to withhold tax in accordance with the provision of Article 88 shall, in addition to being instructed to pay the tax amount which should be withheld but was not withheld or has short withheld and to submit supplemental tax-withholding certificates within a given time limit, be subject to a fine in an amount equal to the tax amount that should be withheld but was not withheld or was short withheld. If the withholder still does not comply with the instruction to pay the tax amount or to submit supplemental tax-withholding certificates truthfully within the given time limit, he shall be subject to a fine in an amount equal to three times the amount which should be withheld but was not withheld or was short withheld;
2. A tax withholder who has withheld taxes in accordance with this Act but fails to fill out the tax-withholding certificates truthfully within the time limit prescribed in Article 92, shall be instructed to make a supplemental report and be subject to a fine at the rate of twenty per cent of the tax amount withheld. The amount of the fine, however, shall not exceed NT\$ 22,500 or be less than NT\$ 1,500. If the report is filed after the deadline as a result of the tax withholder's own initiative, the fine shall be reduced by fifty per cent. The tax withholder, who is instructed to make a supplemental report on the tax withholding certificates within a time limit prescribed by the tax authority but fails to do so, shall be subject to a fine in an amount equal to three times the amount of the tax withheld. It is not, however, to exceed NT\$ 45,000 or be less than NT\$ 3,000;
3. A tax withholder who fails to pay the tax withheld within the time limit prescribed in Article 92 shall be subject to a surcharge for delinquent payment at the rate of one per cent of the amount of the payment due for every two days delay.

Article 114-1

Where a profit-seeking enterprise fails to set up a shareholder tax offsetting account which should be set up under this Act, or fails to update the records in such account as required, it shall be imposed with a fine in the amount of not less than NT\$ 3,000 but not more than NT\$ 7,500 and shall be ordered, by a notice, to set up that account or to update the records in that account within one month accordingly. If the profit-seeking enterprise again fails to set up or to update the shareholder tax offsetting account after expiry of the one month time limit, it shall be imposed with a fine in the amount not less than NT\$ 7,500 but not more than NT\$ 15,000 and shall be ordered, by a notice, to set up or to update such an account accordingly. Any further failure of the profit-seeking enterprise to set up or to update the shareholder tax offsetting account shall be subject the same punishment successively on a monthly basis until the said account has been set up and is regularly updated in accordance with the act.

Article 114-2

Under any of the following circumstances, the act violating profit-seeking enterprise shall be ordered to pay up the income tax which shall otherwise be offset in respect of the amount of over-distributed surplus earnings, and shall imposed with a fine in an amount twice as much as the said amount of over-distributed surplus earnings:

1. The profit-seeking enterprise has violated the provisions of Paragraph Two, Article 66-2, or Article 66-3, or Article 66-4 of this Act by falsely increasing the amount in the shareholder tax offsetting account, or short-declaring the amount of balance in the account of booked cumulating of retained surplus earnings set forth in Article 66-6 hereof, to the extent that the amount of deductible income tax actually allocated to shareholders or members has exceeded the amount of deductible income tax which may be allocated to shareholders.

2. The profit-seeking enterprise has violated the provisions of Paragraph One, Article 66-5 hereof because the amount of deductible income tax allocated by it to its shareholders or members has exceeded the amount of balance in its shareholder tax offsetting account as booked as of the date of distribution of dividends or other surplus earnings.

3. The profit-seeking enterprise has violated the provisions of Article 66-6 hereof when distributing the net dividend by using a tax deduction ratio which is higher than the designated ratio for such purpose, whereby the amount of deductible income tax actually allocated to its shareholders has exceeded the amount of deductible income tax to be calculated in accordance with the act.

Where a profit-seeking enterprise has violated the provisions of Article 66-7 hereof by allocating amount of deductible tax to its shareholders or members for them to offset the income tax payable by them, the said profit-seeking enterprise shall be ordered to pay, within a given time limit, the amount of deductible tax so allocated by it, and shall be imposed with a fine in an amount twice as much as the amount allocated.

In case the profit-seeking enterprise set forth in the preceding two Paragraphs has wound up, closed down or moved to an unknown place, the competent tax collection authority shall collect from the shareholders or members of the said enterprise the amount of deductible tax which was over-allocated or unlawfully allocated by the said enterprise to its shareholders or members.

Article 114-3

A Profit-seeking enterprise which has failed to enter correct data in or to issue the dividend voucher (warrant) by the deadline as fixed in Paragraph One, Article 102-1 hereof shall be ordered to correct the entries of or to issue the dividend warrant, and shall further be imposed with a fine in an amount equal to 20% of the total amount of deductible tax indicated in the dividend voucher (warrant) provided that the amount of the fine shall not exceed NT\$ 30,000, nor may it be

less than NT\$ 1,500, but may be reduced by one half if the said enterprise takes initiative to declare the dividend or to issue the dividend voucher (warrant) after expiry of the foregoing deadline. In case the profit-seeking enterprise further fails to declare correct dividend or to issue the dividend voucher (warrant) within a given time limit after having been ordered to do so, it shall be subject to a fine in an amount equal to three times the total amount of deductible tax provided that the amount of such fine shall not exceed NT\$ 60,000 or be less than NT\$ 3,000. A profit-seeking enterprise which has violated the provisions of Paragraph Two, Article 102-1 hereof by failing to file timely or accurate statement of changes in shareholder tax offsetting account shall be imposed with a fine of NT\$ 7,500 and shall be ordered, by a notice, to file such statement within a given time limit. If the said profit-seeking enterprise further fails to do so after expiry of the deadline, the fine shall be imposed on a monthly basis until the time of its filing of the statement required.

Article 115

(Deleted)

Article 116

Any surcharge for reporting or non-reporting and under estimation as provided in this Chapter shall be made known to the party at default by the collection authority by serving a surcharge assessment notice in which the facts and the basis of imposition thereof shall be given. Where the notice carries a wrong entry or computation error, the party at default may, within ten days from receipt thereof, apply to the collection authority for recheck or correction.

Upon expiration of the time limit as provided in the preceding Paragraph, the collection authority shall issue a surcharge demand notice requiring payment by the party at default within ten days.

Article 117

(Deleted)

Article 118

Where a legally registered accountant or any other lawful agent, when acting on behalf of a taxpayer in matters relating to income estimation, filing of returns, application for reinvestigation, administrative appeal or administrative proceedings, certification of contents of account books or other affairs connected with taxation, commits a breach of any of the provisions of this Act, the local collection authority-in-charge may report the matter through channels to the Ministry of Finance.

Article 119

All personnel of the collection authority shall keep in strict confidence, except to

concerned parties and agencies, the amounts of income and income tax of any taxpayer, documentary evidences, and statements or documents made or produced by other parties. Any person found guilty thereof by the authority-in-charge or upon information of the injured party shall be subject to severe disciplinary action. Where such a person is also guilty of violating the Criminal Code, Code, he shall further be referred to the court to be dealt with in accordance with act.

Concerned parties and agencies as provided in the preceding paragraph refer to the taxpayer himself, his agent, attorneys, partners, successors, tax withholders, taxation agencies, control agencies, agencies receiving administrative appeal or handing administrative proceedings related to taxation, and such other agencies and personnel thereof as determined by the Ministry of Finance.

The furnishing of information by a collection authority to other government agencies for statistical purposes involving no disclosure of name of taxpayers is not subject to the confidence keeping restriction.

Personnel of government agencies disclosing such information furnished by tax agencies as provided in the first paragraph of this Article shall be subject to punishment comparable to that imposable on personnel of tax agencies.

Article 120

Tax assessors and collectors violating the provisional of Article 68, 78 or 103 of this Act shall be punished.

Chapter VI Supplementary Provisions

Article 121

The enforcement rules of this Act, the tabulation of minimum estimated service life in years of fixed assets, and the tabulation of depletion rates of assets subject to depletion shall be prescribed by the Ministry of Finance.

Article 122

Except as otherwise provided by act, all forms of applications, registrations, books and certificates herein specified shall be prescribed by the Ministry of Finance.

Article 123

The term "the prevailing deposit interest rate (Or bid rate) adopted by local banking industries" shall refer to the fixed interest rate of postal savings for a one-year time deposit.

Article 124

Where there are special provisions in income tax agreement signed by the Republic of China with a foreign country, such special provisions shall prevail.

Article 125

(Deleted)

Article 125-1

A worker who was employed by an employer to do work, received wages and paid tax on the pension, retirement pay, severance pay, and old-age pension not covered by insurance benefits received by him/her after Aug 1, 1984 and before amendment and implementation of this Act, may apply for refund of over paid tax within five (5) years after amendment and implementation of this Act and shall not apply for such refund again if he/she failed to apply for it within the time limit. The refundable amount of tax approved by concerned taxation authority shall be refunded together with interest accrued thereon calculated on daily basis for the period from the date of payment thereof by the taxpayer to the date of issuance of a national treasury check for the refunded amount at the fixed interest rate of postal savings for a one-year time deposit on the day when the refundable amount was paid.

Refund based on provisions in the preceding Paragraph of tax paid within five (5) years before amendment and implementation of this Act shall be applied for by the taxpayer concerned; however, if said five-year period is exceeded, the taxpayer shall submit concrete supporting evidence when filing an application.

Article 126

This Act shall come into force from the date of its original promulgation provided with the condition, however that the amended text of Article 17 shall come into force on January 1, 2005.

The effective date of the amendments made on May 29, 2001 shall be decided by the Executive Yuan.

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