

Tax Update

Withholding Tax Update for Expatriates Working in Taiwan

Taiwan Ministry of Finance released tax ruling Tai Tsai Sui 9704542390 towards end of 2008, which has significant tax impact for expatriates working in Taiwan.

Tax Ruling Tai Tsai Sui 9704542390 requires employer to apply non-resident withholding tax rate to salaries of expatriates who stay for less than 183 days in Taiwan in a fiscal year. The fact that the expatriate employee may have stayed in Taiwan for more than 183 days in prior year is not relevant (Non-resident salary withholding tax rate is 20%. Resident salary withholding tax rate is 6%).

Tax Office also released comments to state that employer has obligation to exercise due care to ensure that correct amount of withholding tax is deducted. This means that employer should take the followings into consideration before applying resident withholding tax rate for expatriates working in Taiwan.

- Actual period of stay in Taiwan in a given year.
- Expiry date of Work Permit/ Alien Residency Certificate and Proof of household registration in Taiwan.

Penalty for Applying Incorrect Withholding Tax Percentage

As per Article 114-1 of Income Tax Regulations, penalty for under-withhold the correct amount of withholding tax shall be one time the amount of tax under withheld.

Penalty for not Filing Withholding Tax Statement within 10 days from Date of Payment

As per Article 114-2 of Income Tax Regulations, penalty for not filing withholding tax statement within the time limit shall be 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 non-resident withholding tax statement is not filed within 10 days from date of payment but completed prior to end of January of the subsequent year, penalty can be reduced to 5% of the amount of tax withheld.

Recommended Action

It would be wise for the employer to deduct 20% withholding tax on all salaries for expatriates. Employer may switch withholding tax rate back to 6% after employer has received one of the following proofs:

- Actual period of stay in Taiwan in a given year has exceeded 183 days.
- Expatriate employee has a Work Permit/ Alien Residency Certificate still valid for more than 6 months and he or she has registered a residential address with District Municipal Office.

Even if an expatriate employee were to have permanent residency permit, he or she could still be deemed to be non-resident, if he or she could not fulfilled one of the conditions listed above.

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