

# Applying for an Advance Ruling under Article 25 of the Income Tax Act

## Understanding Taiwan's Tax Regulations

Qualifying foreign enterprises may apply for an advance ruling under Article 25 of the Income Tax Act, which allows corporate income tax to be assessed based on a deemed profit percentage.

### Article 25

Article 25, Paragraph 1 of the Income Tax Act provides, in relevant part:

Any profit-seeking enterprise having its head office outside the territory of the Republic of China and engaging in international transport, construction contracting, technical services, machinery or equipment leasing, or other similar activities within the territory of the Republic of China, where the related costs and expenses are difficult to allocate and calculate, may apply for approval from the Ministry of Finance ("MOF").

Upon approval, the MOF may deem ten percent of total business revenue as Taiwan-source income for enterprises engaged in international transport, or fifteen percent of total business revenue for enterprises engaged in other applicable businesses, regardless of whether the enterprise has established a branch office or appointed a business agent in Taiwan.

In such cases, Article 39 regarding loss deductions shall not apply.

### Deemed Profit Ratios

For foreign enterprises granted an Article 25 advance ruling, the applicable deemed profit ratios are as follows:

Type of Business	Deemed Profit Ratio
International transport	10%
Construction contracting	15%
Technical services	15%
Equipment leasing	15%

The deemed profit is subject to Taiwan corporate income tax at a flat rate of 20%, regardless of whether the foreign enterprise has a permanent establishment ("PE") in Taiwan.

Status in Taiwan	Tax Rate
Permanent establishment	20%
No permanent establishment	20%

### Example

If a foreign company has a permanent establishment in Taiwan and receives Article 25 advance ruling approval for a technical service contract, the deemed profit on a contract value of NTD 1,000,000 would be NTD 150,000. The

resulting corporate income tax payable would be NTD 30,000 (NTD 150,000 × 20%).

If the foreign company does not have a permanent establishment in Taiwan, the tax payable on the same Article 25–approved contract would likewise be NTD 30,000 (NTD 150,000 × 20%).

By contrast, without Article 25 approval, the applicable withholding tax on the same contract would amount to NTD 200,000 (NTD 1,000,000 × 20%).

### Method of Paying Tax

If the foreign company does not have a permanent establishment in Taiwan, the Taiwan customer is required, pursuant to Article 88 of the Income Tax Act, to withhold tax at a rate of 3% and remit the net amount to the foreign company.

If the foreign company has a permanent establishment in Taiwan, the Taiwan permanent establishment must issue VAT invoices to Taiwan customers and record the contract revenue in its accounting books. Corporate income tax is paid upon filing the annual income tax return, which is due within five months after the end of the fiscal year.

### Validity Period of the Advance Ruling Approval

An Article 25 advance ruling generally applies to the entire contract term, subject to a maximum validity period of five years. Retrospective applications may be accepted, in principle, for periods of up to ten years, depending on the facts and the tax authority’s discretion.

### Scope of Approval

Advance ruling approval is granted on a contract-by-contract basis. If an approved contract is subsequently amended to increase the total contract value, a new approval from the tax authority is required. However, if the amendment

reduces the total contract value, re-approval is not required.

### Application and Approval Timeline

Article 25 applications are treated as advance ruling requests. Although Article 25 refers to an “advance” ruling, in practice tax officers may reject applications submitted before any services have commenced or before any billing has occurred.

Accordingly, it is generally advisable to submit the application after the contract has commenced. Once submitted, the approval process typically takes approximately four weeks, subject to case complexity and document completeness.

### Required Documents for Application

The following documents are typically required when submitting an Article 25 advance ruling application:

- 1 A brief description of the contracting parties, including the registered business addresses of all parties.
- 2 A power of attorney, signed and issued on company letterhead.
- 3 The contract in Mandarin. If the executed contract is in a language other than Mandarin, a Mandarin translation must be provided. The Mandarin translation does not need to be signed.
- 4 Any additional supporting documents requested by the tax authority during its review.

### Our Approach

We have extensive experience assisting clients with successful Article 25 advance ruling applications. Our services include assessing whether an Article 25 ruling is appropriate under the client’s specific facts, identifying potential audit or PE risks, and supporting clients in developing compliant and efficient tax planning strategies for cross-border projects in Taiwan.

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