

Tax guide for foreign e-commerce operators

Understanding Taiwan's tax regulations

In order to close tax collection gaps, the Taiwanese Ministry of Finance has revised VAT and Income Tax regulations for foreign e-commerce companies with no permanent establishment in Taiwan.

Background

Taiwan has undergone rapid development in the e-commerce market over recent years, and foreign e-commerce operators constantly knock on Taiwan's door wanting to trade with Taiwanese residents via the Internet. Most of these e-commerce operators have no permanent establishment in Taiwan. In the past, foreign companies having no permanent establishment in Taiwan did not need to register for Taiwan VAT and pay Taiwan corporate income tax. In order to close this tax collection gap, the Taiwanese Ministry of Finance has revised VAT and Income Tax regulations. Hotel booking sites, ridesharing apps, online game wallet sites, online bidding sites, and other social media websites are all affected by the change. Below is a quick summary for ease of reference.

VAT registration – B2C business

Foreign e-commerce operators having no fixed place of business in Taiwan but who provide services to individuals (B2C) in Taiwan via the Internet must register for VAT if their annual Taiwan sales exceed TWD 600,000 (approximately USD 18,500). Affected e-commerce operators should register for VAT either by themselves or through a tax agent. To register for VAT, foreign

e-commerce operators need to provide the following information:

- Name of the foreign e-commerce operator
- Responsible person's name
- Description of the business
- Contact information
- Tax agent information
- Banking details
- Company registration papers from the country of origin
- Power of attorney for appointing a tax agent

This change is in line with international trends and is expected to fix a loophole in which some foreign e-commerce operators doing business in Taiwan were not paying taxes. Taiwanese lawmakers believe this change will help increase the government's revenue and help to create more jobs for Taiwanese locals.

In accordance with Article 45 of Taiwan's VAT Regulations, the penalty for not completing VAT registration can range from TWD 3,000 ~ TWD 30,000. If a foreign enterprise fails to comply

after being notified of an offense, they can be subject to consecutive penalties.

Issuance of local invoices (also known as GUI's) after VAT registration is completed

Foreign e-commerce operators having no fixed place of business need to issue cloud-based electronic GUI's to customers from 1 January 2019. In order to comply with this requirement, one can choose to do one of the following:

- 1) Design a system to connect directly with the Taiwan Tax Office's server.
- 2) Transfer data to the Taiwan Tax Office's server via an authorized data processing provider in Taiwan.
- 3) Transfer data to an accounting firm. Thereafter the accounting firm can pass on data to an authorized data processing provider in Taiwan.

If you are in doubt as to which option to choose, please feel free to discuss it with a member of our tax team.

Filing of VAT returns after VAT registration is completed

Registered foreign e-commerce operators must file VAT returns bi-monthly, within 15 days after the end of each filing period. VAT filing periods are normally two months long. VAT can be paid via online transfer to the tax office's bank account.

VAT registration – B2B business

No Taiwan VAT registration is required for B2B e-commerce businesses if the foreign e-commerce operator does not have a permanent establishment in Taiwan.

Income Tax Implication – B2C business

The Ministry of Finance has announced that registered foreign registered e-commerce

operators should also be liable for Taiwan corporate income tax. The tax office will allow foreign e-commerce operators to file tax returns using a deemed profit formula. This deemed profit formula is shown below as follows:

$$\text{Sales} \times \text{Deemed profit percentage} \times \text{Contribution ratio} \times \text{corporate income tax rate (20\%)} = \text{Tax payable.}$$

Contribution ratios vary depending on the following:

- The contribution ratio shall be 100% if all services/process flows are provided and utilized in Taiwan.
- If sufficient supporting documents can be provided to clearly split out the Taiwan contribution portion, then the contribution ratio can be assessed based on actual business performance. Required supporting documents include audited financial statements, transfer pricing study reports, work plans, and other related documents.
- If neither of the above applies, then the contribution ratio shall be deemed at 50%.

The profit percentage varies depending on the following:

- If sufficient supporting documents can be provided to clearly split out the Taiwan profit portion, then the Taiwan portion of the profits can be assessed based on actual business performance. Required supporting documents include accounting records with related supporting vouchers.
- If no actual data can be provided, then the tax office may use a deemed profit ratio based on published industry norms. The deemed profit ratio for platform service providers is 30%.

- If neither of the above applies, then the profit ratio shall be deemed at 30%.

Income Tax Implication – B2B business

For e-commerce operators that do not have a permanent establishment in Taiwan, it is possible to apply for an advance ruling to the Taiwan tax office to agree on a deemed profit percentage and contribution ratio. The Taiwan tax office issued an advance ruling for Facebook in May 2018 to set deemed profit to be 30% and a contribution ratio to be 100%. Based on the advance ruling, companies in Taiwan only need to deduct $30\% \times 20\% = 6\%$ withholding tax from payments made to Facebook.

This tax amendment is significant. Grant Thornton Taiwan's tax team can help companies stay compliant with related regulations as well as capitalize on planning opportunities to reduce tax burdens. If you have any questions regarding this amendment or need help, please feel free to contact us.

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