

# S 25 Advance Ruling Application

## Section 25 -

Section 25 (S25) of Taiwan's Personal Income Tax Law states:

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.

With S25 advance ruling approval, deemed profit ratios can be summarized as follows:

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

The tax rate applicable on deemed profits will depend on whether the foreign company has a permanent establishment in Taiwan.

	Tax Rate
Permanent establishment	17%
No permanent establishment	20%

For example:

If a foreign company has a permanent establishment in Taiwan and receives S25 advance ruling approval on a technical service contract, deemed profits on a NTD 1 million contract will be NTD 150,000. Net tax payable on the contract revenue will be NTD 25,500 (NTD 150,000\*17%).

If the foreign company has no permanent establishment in Taiwan, then net tax payable on the S25 approved contract will be NTD 30,000 (NTD 150,000\*20%).

Without S25 approval, applicable withholding tax on the same contract would amount to NTD 200,000 (NTD 1 million\*20%).

## Method of Paying Tax

If the foreign company does not have a permanent establishment in Taiwan, the Taiwan customer should, in accordance with Article 88 of the Income Tax Act, deduct 3% withholding tax and remit the net amount to the foreign company.

If the foreign Company has a permanent establishment in Taiwan, the Taiwan permanent establishment should issue a VAT invoice to the Taiwan customer and book the contract revenue in its accounting record. Tax is paid at the time the corporate income tax return is submitted. The due date is five months after the end of the fiscal year.

## Application and Approval Timeline

S25 is an advance ruling application. The tax officer may reject the application if no work has started and no billing has been raised under the contract. Therefore it would be prudent to send out the application only after the commencement date of the contract. It takes approximately four weeks to obtain approval.

## List of Required Documents for Lodging Application

The following documents are needed for submitting an advance ruling application:

1. A brief description of the parties that signed the contract. The registered business addresses of all parties must be disclosed on the application.
2. A Power of Attorney (must be signed and printed on company letterhead).
3. The contract, written in Chinese. If the signed contract is in a language other than Chinese, then the contract must be

translated into Chinese. There is no need to sign the Chinese translation.

4. Any other supporting documents that tax officer may request upon reviewing the application.

### **Our Approach**

We have extensive experience helping clients complete S25 applications. We help clients evaluate whether an advance ruling application is appropriate for their circumstances, and assist clients to formulate effective tax planning solutions.

If you have any comments or require further information please contact:

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