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Alternative Minimum Tax (AMT)

Background

Based on Income Tax Regulations that have existed for some years in Taiwan, hi-tech Companies and some high net worth individuals often make use of various tax planning tools to reduce or eliminate income tax liability. These Companies and individuals while representing a significant portion of Taiwan economy, yet only contribute limited amount of tax to society as a whole. As an effort to address this imbalance, Taiwan Tax Authority officially introduces Alternative Minimum Tax System effective from 1 January 2006. There are two AMTs, one for individuals and the other for corporations.
The information detailed below should not be taken as a substitute for specific advice.

In addition to the normal tax calculations, the AMT system uses a different set of rules for determining taxable income. If the regular income-tax amount is greater than the AMT, no special action is required. If AMT is greater than the tax calculated using the regular rules, the difference between the AMT and the regular tax is added to the regular tax amount, so the taxpayer pays the full amount of the AMT.

Scope limitation

In the case of legal entities, AMT is not applicable for

- Sole trader and partnership
- Not for profit organization
- Government owned enterprises
- Business with no fixed trading place and agent in Taiwan.
- Business in liquidation or declared insolvent.

In the case of individuals, AMT is not applicable for

- non-residents

Computing income subject to AMT

- For Legal Entities

Income subject to AMT is computed as follows for legal entities.

Taxable Income + approved exempted income under tax incentives scheme+ tax exempted capital gain from security and futures trading[1] + Banking Institution's Offshore Branch Profits = Income subject to AMT.

- For Individuals

Income subject to AMT is computed as follows for Individuals.

Taxable Income + foreign source income (effective from 2010 year) + insurance payout portion in excess of TWD 30 million. + Capital gain earned from selling shares/ beneficiary certificates not listed in stock market + Tax deduction claimed for non-cash based donation made + Excess of market value over par value of the stock dividend granted to employee = Income subject to AMT.

Please note that as per Article 12 of Income Basic Tax Act, if combined foreign source income is less than TWD 1 million per annum then there is no need to add foreign source income to the formula listed above.

AMT Formula and applicable rates

Alternative Minimum tax is computed based on the following formula
(Income subject to AMT-deduction)*AMT tax rate = Alternative Minimum Tax

AMT tax rates and applicable deductions are as per below:

[1] From fiscal year 2013, if holding period of security sold is greater than 3 years, only 50% of the net capital gain from trading in the long held security is subject to AMT.

	AMT Tax Rate Effective 1 Jan 2013	Deduction
Legal entities	12%	TWD 500,000
Individuals	20%	TWD 6 million

Example A

Say trading results of business entity A for the year ended is as follows:

Book profit	10,000,000
Tax Loss from prior year	1,000,000
Exempted income	3,500,000
Taxable income	5,500,000

Corporate Income tax payable=
5,500,000*17%=935,000

AMT is computed as being
(5,500,000+3,500,000-500,000)*12%
=1,020,000

Given that AMT is higher than corporate income tax payable, A should pay AMT.

Example B

Say trading results of business entity B for the year ended is as follows:

Book profit	10,000,000
Tax Loss from prior year	2,000,000
Exempted income	6,000,000
Capital gain from trading in securities	2,000,000
Taxable income	-

The securities were held for less than 3 years.

Corporate Income tax payable=
0*17% =0

AMT is computed as being
(0+6,000,000+2,000,000-500,000)*12%
=900,000

Given that AMT is higher than corporate income tax computed, B should pay AMT instead of corporate income tax.

Example C

Mr. A is married and has 2 children. He computes his household income for the year ended as follows:

Personal Income	2,000,000
Tax exemption	308,000
Tax Deductions	556,000
Taxable income	1,136,000

Personal Income tax payable = 133,460

Assume Mr. A sold shares in a company that is not listed in the stock market and made capital gain amounting to TWD 10 million for the year. This amount is tax exempted and therefore is not included in the computation above. However this amount will affect AMT computation.

AMT is computed as being
(1,136,0000+10,000,000-6,000,000)*20%
=1,027,200

Given that AMT is bigger than personal income tax, taxpayer should pay AMT instead of personal income tax.

Utilization of past period losses

In the case of individual who incurred capital loss from trading in shares/ beneficiary certificates not listed in stock market after January 2006, such capital loss can be reserved for a period of 3 years.

In the case of legal entities, if income subject to AMT has been assessed as negative, such loss can be reserved for a period of 5 years.

With introduction of AMT and also cap on use of tax incentives (capped at 1/3 of tax payable), it is no longer feasible for hi-tech companies to generate profits and yet do not pay any tax. With this change, branch may become a more attractive option under certain circumstances.

This can be illustrated as follows:

	Branch	Subsidiary
Profits before Tax	TWD 10m	TWD 10m
Tax	TWD 1.7m	TWD 1.7m
Investment tax credit[2]	Nil	(TWD 0.57m)
AMT	NA	TWD 1.14m[3]
After tax Income	TWD 8.3m	TWD 8.87m
W/tax on dividend	Nil	TWD 1.77m[4]
Net dividend	TWD 8.3m	TWD 7.13m

In addition to legal structure issue, there is also a tax payment issue. For business entities that have not paid any tax in the past due to use of tax relief under tax incentives, this scenario will now change due to introduction of AMT. It may be wise to compute year-end tax liability in advance and reserve sufficient fund available prior to tax payment deadline.

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[2] Investment tax credit capped at 1/3 of corporate income tax payable.
[3] This amount is lower than corporate income tax payable and therefore has no impact on tax payable amount.
[4] Withholding tax on dividend for approved investment is 20%.