



財政部臺北國稅局新聞稿

以財政支援建設 以建設培養財政

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新聞標題：Foreign enterprise selling electronic services across borders can apply to the tax collection authority for a refund of tax overpaid

National Taxation Bureau of Taipei, Ministry of Finance (NTBT) expressed that due to the rapid development of internet and increasing the electronic commerce, if foreign enterprises with no fixed place of business or business agent within Taiwan, but deriving Taiwan source revenue from selling electronic services to domestic business buyers, the domestic business buyers within Taiwan shall withhold the taxes from each gross payment to foreign enterprises and pay the taxes to the tax authorities in accordance with Article 88 and 92 of Income Tax Act.

NTBT pointed out, starting from calendar year 2017, foreign enterprise derived Taiwan source revenue from selling electronic services to domestic business buyers, whose revenue has been withheld 20% withholding tax by gross revenue at the date of payment, the foreign enterprise also may, or engage agent to, apply approved to re-calculated income by applicable profit ratio and the onshore profit contribution ratio within five years from the withholding tax payment date to the tax collection authority where the tax withholder is located for a refund of tax overpaid. The foreign enterprise or the agent shall complete the tax refund application form and attach invoice(s), document(s) of income calculation, the withholding tax statement(s). If the application is made by an agent, the original letter of authority is needed.

NTBT gave an example, a foreign enterprise (which called company A) obtained the income of NT\$100,000 from a domestic enterprise (which called company B) for its cross-border electronic service in 2017 and had been withheld

NT\$20,000 by 20% withholding rate. Here after, in February 2018, company A applied for and approved to re-calculated income by applicable profit ratio 30% and the onshore profit contribution ratio 100% starting from January 2017, so the withholding tax became NT\$6,000 ($100,000 \times 30\% \times 100\% \times 20\%$). Therefore, Company A engaged an agent to apply for a refund of overpaid taxes of NT\$14,000 ($20,000 - 6,000$). Within 3 years from Jan. 2017, the withholder of company B can calculate the withholding tax by applicable profit ratio 30% and withholding rate 20%.

NTBT urge, as of July 31st 2018, Taiwan has signed the comprehensive double taxation agreements with 32 states. According to Article 7 of Avoidance of Double Taxation, the profits of an enterprise of a territory will be taxable only in that territory unless the enterprise carries on business in the other territory through a permanent establishment situated therein so the foreign enterprise selling cross-border electronic services may pay attention to whether the residence of the enterprise locates in a country that has signed the comprehensive double taxation agreements with Taiwan, while filing the foreign profit-seeking enterprise income tax return. If the foreign enterprise does not constitute any permanent establishment within Taiwan or does not carry on selling electronic services by the internet or other electronic devices to buyers through the permanent establishments, the enterprise may, or appoint an agent to, apply the tax relief under Article 7 of the Double Taxation Agreements between Taiwan with the resident country, and fill out “Application Form for a Foreign Profit-Seeking Enterprise to Exempt its Business Profits from Tax under an Agreement for the Avoidance of Double Taxation”, also submit the Resident Certificate issued by the tax authority of the resident country, the copy of contract, engagement letter (if the case was applied for by an agent), relevant documents providing information of the business profits, the tax relief can be applied together with filling profit-

seeking enterprise income tax return or before / after filling the tax returns. After the application is approved, the foreign enterprise or agent (the agent could be the tax withholder) may file a tax refund (with the approval letter and related doc.) to the tax authorities for the withholding taxes which are withheld during the approval period.

NTBT reminded, many tax refund filed by agents didn't provide the original letter of authority and be asked to correct. It is necessary to obtain a power of attorney in advance to avoid delays in tax refunds. The relevant tax refund process, application forms and application examples can be downloaded from the eTax Portal, Ministry of Finance.

(<https://www.etax.nat.gov.tw/etwmain/web/ETW118W/VIEW/1069>)

(<https://www.ntbt.gov.tw/etwmain/front/ETW118W/CON/1417/6844102522977893036>).

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