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TAIWAN TAX UPDATE **Taxation of Offshore Income**

On 21 September 2009, the Taiwan Ministry of Finance (MOF) issued their long awaited guidelines for the taxation of offshore income (including capital gains) with effect from 1 January 2010.

Taiwan individual tax residents are currently taxed only on their Taiwan sourced income whereby:

- A. individuals do not include their offshore income and certain other exempted income when calculating their tax liability for their regular income tax returns.
- B. Under the Alternative Minimum Taxation (“AMT”) regime, an individual is to combine their taxable income with certain tax-exempted income and deduct TWD6million from this amount. The AMT flat rate of 20% is then applied to the resulting figure.

The tax payer will then be required to pay the higher of these two amounts.

However with effect from 1 January, 2010, should an individual’s offshore income exceed TWD1 million, the offshore income will be included when calculating an individual’s tax liability under the AMT regime.

By definition, “offshore” income refers to income earned outside Taiwan and Mainland China. Income from Hong Kong and Macau would be regarded as offshore income.

It is important to note when calculating offshore income, that related costs and expenses can be claimed and deducted with supporting documents to evidence the same. Where individuals cannot provide the supporting documents, the MOF has guidelines prescribing the deemed indicated profits for various types of income. In certain circumstances tax on the offshore income paid in a source country can also be credited against the AMT.

With limited tax treaties with other countries and the absence of CFC (Controlled Foreign Company) legislation, people might be skeptical of the Taiwan Government’s abilities to enforce the new taxation. Whatever implementation issues there may be, it is certain that the new taxation regime will have an impact on the offshore investments of Taiwanese individuals.

Please note that the information contained herein is not intended to be exhaustive with respect all issues or matters arising directly or indirectly out of the amendments to the tax system of Taiwan or its law relating to Estate Duty, Gift Tax and Individual Income Tax in Taiwan. It is provided as a general guide or reference point and is in no way intended and should not be relied upon as legal advice.