

# INSTRUCTIONS IN REGARD TO THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX RETURN OF THE R.O.C.

## A. WHO HAS THE OBLIGATION OF FILING THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX RETURN?

- (i) From January 1, 2016, an individual, who has income or loss derived from transactions of house, land, or the house utilization right (hereafter referred to as the “house and land”) listed below, regardless of the tax amount, shall file an individual house and land transactions income tax return in accordance with the Income Tax Act, unless he/she falls into any case of conditions prescribed in A.(ii):
  - (1) Transactions of any house, the share of land associated with the house, or any land for which a construction permit may lawfully be issued, falling into any case of the following conditions:
    - a. The transferred house and land are acquired on or after January 1, 2016.
    - b. The transferred house and land are acquired on or after January 2, 2014, with the holding period of no more than 2 year.The definition of the house here shall exclude the farmhouses and agricultural facilities built in accordance with the Agriculture Development Act.
  - (2) Transaction of the house utilization right acquired on or after January 1, 2016 by creation of superficies.
- (ii) Under any of the following circumstances, the transactions of house and land will be exempt from the Individual House and Land Transactions Income Tax:
  - (1) Land complied with the provisions of Article 37 and Article 38-1 of the Agriculture Development Act allowing for non-taxable status of Land Value Increment Tax.
  - (2) Land or land improvements expropriated by the government or had been acquired in a negotiable price before the expropriation.
  - (3) Transfer of land that has been designated as reserved land for public facilities under Urban Planning Law before expropriation.

## B. WHAT IS THE FILING UNIT OF THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX RETURN?

The filing unit of the individual house and land transactions income tax return is based on each house and land owner. Any individual who has income or losses derived from transactions of house and land, regardless of the taxable amount, shall file every transaction separately, and not consolidate that income with the gross consolidated income for filing his/her individual income tax return. If the house and land were acquired on a piecemeal basis, please fill in different application forms in accordance with the acquisition dates and submit as a single application case.

## C. WHEN TO FILE THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX RETURN?

The taxpayer shall on his/her own initiative file the tax return and attach relevant documents (see Instruction E) to the tax collection authority within 30 days from the following day of the day on which the house and land transaction is completed(see Instruction F).

## D. WHERE SHOULD THE TAXPAYERS FILE THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX-RETURN?

- (i) In the case that a taxpayer is a resident of the R.O.C.: The taxpayer should file the individual house and land transactions income tax return with the competent tax collection authority over the location of the household registration or the place of residence given on his/her ARC. (An alien who stays in Taipei or Kaohsiung City should file his/her tax return at the Foreign Taxpayers Section, National Taxation Bureau of Taipei/Kaohsiung, Ministry of Finance.)
- (ii) In the case that a taxpayer is a non-resident of the R.O.C.: The taxpayer should file the individual house and land transactions income tax return with the tax authority over the location where the house and land transactions occurred. (An alien who purchases or sells house and land located in Taipei or Kaohsiung City should file his/her tax return at the Foreign Taxpayers Section, National Taxation Bureau of Taipei/Kaohsiung, Ministry of Finance.)

**Note: Non-resident denotes an individual who has no Household Registration and resides within the territory of the Republic of China less than 183 days during a taxable year.**

## E. WHAT KIND OF DOCUMENTS SHOULD BE SUBMITTED WHEN FILING THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX RETURN?

- (i) The Application Form of the Individual House and Land Transactions Income Tax Return with the taxpayer's signature should be attached. If an agent is appointed by the taxpayer, the agent shall sign his/her signature on the form, and a photocopy of the ID card or ARC of the agent should be attached. If the taxpayer is a minor or is under guardianship, the legal representative or guardian should sign the form and attach photocopies of their ID card and other supporting documents. If any tax is payable, the payment receipt shall be attached as well.
- (ii) The photocopies of both the properties or house utilization right procurement and sales contracts.
- (iii) Documents which can provide evidence of the transaction costs and expenses necessary for acquisition of the house and land, and other relevant supplementary documents.

## F. HOW TO IDENTIFY THE “TRANSACTION (REGISTRATION) DATE”?

- (i) House and land: The transaction date is the day on which the house and land ownership transfer registration is completed. (e.g. If John Doe completed the house and land transfer registration on August 1, 2016, then he shall file his individual house and land transactions income tax return with the tax collection authority before August 31, 2016.) However, should any of the following circumstances apply, the transaction (registration) date shall be deemed to be:
  - (1) In the case that the bidder has received the real estate registration certificate before the compulsory ownership transfer registration is implemented under court auction. The transaction date shall be the day on which the bidder received the real estate registration certificate issued by the competent authority.
  - (2) In the case that the ownership registration of the building cannot be conducted(i.e. building without a permit), the transaction date shall be the day on which the sales contract was signed.
- (ii) The house utilization right: the transaction date is the day on which the utilization right is transferred.

## G. HOW TO IDENTIFY THE “ACQUISITION DATE”?

The acquisition date of the house and land is the day on which the house and land ownership transfer registration is completed; the acquisition date of the house utilization right is the day on which the right is transferred. The acquisition date of the house and land acquired due to the bestowal from spouse shall be the original acquisition date of the spouse (the giver) before the first bestowal to the giver's spouse (the recipient).

## H. HOW IS THE HOLDING PERIOD TO BE CALCULATED?

Generally the holding period of the house and land is the period between the acquisition date prescribed in Instruction G and the transaction (registration) date prescribed in Instruction F. However, should any of the following circumstances apply, the “holding periods” will be calculated as follows:

- (i) House and land acquired through inheritance: The holding periods = The holding period of the taxpayer + the holding period of the decedent.
- (ii) House and land acquired as a gift causa mortis: The holding periods = The holding period of the taxpayer + the holding period of the legator.

## I. HOW ARE THE AMOUNT OF THE HOUSE AND LAND TRANSACTIONS INCOME OR LOSSES AND TAXABLE INCOME TO BE CALCULATED?

- (i) The house and land transaction income or losses amount = The transaction price – deductible costs and expenses.
- (ii) Taxable income = The house and land transaction income – The amount of losses derived from house and land transactions within 3 years from the day of the transaction – The total amount of land value increment calculated in accordance with the Land Tax Act
- (iii) Deductible costs and expenses:
  - (1) Deductible costs and improvement expenses:
    - a. The deductible costs for house and land acquired at a price with proper documents of evidence shall be the original costs; whereas, the deductible costs for house and land acquired through inheritance or bestowal shall be the current value of the house and the assessed present value of land at time of inheritance or bestowal, which have been duly adjusted with the price index announced by the government. [Please refer to the R.O.C. National Statistics website for the latest price index adjustment (<https://www.stat.gov.tw>) / Price Index / Statistical Tables / Consumer Price Indices for Each Year and Month – For Tax Purposes] The deductible costs for house and land acquired through bestowal from spouse shall be measured by the spouse(giver)'s original acquisition costs, respectively, based on the three categories (purchase from third party, inheritance, or bestowal) mentioned above.
    - b. Other expenditures with proper documents of evidence: All expenses necessary for the house and land to attain a feasible status (e.g. deed tax, stamp tax, scrivener fee, surcharge, notarization fee, and brokerage fee. etc.), the mortgage interest paid on loans from financial institutions before the house and land transfer registration is completed, and any expense paid for the addition, improvements or maintenance of the house, which can either add to the value or function of the house and will not impair within 2 years.
    - c. The land improvement expenses authorized by local tax collection authorities in accordance with Article 51 of The Enforcement Rules of the Land Tax Act refer to the “land improvement expenses” listed on the tax bill or the tax exemption certificate of the Land Value Increment Tax.
  - (2) Deductible expenses occurred from transfer:

All expenses necessary for ownership transfer of the house and land, such as the brokerage fee, advertising expense, cleaning fee, and cartage can be deducted from the transaction income, if proper documents of evidence have been submitted. Whereas, if no document of evidence is provided, or the total amount listed on the documents of evidence is not more than 5% of the transaction price, the deductible expenses may be assessed as 5% of the transaction price. However, the Land Value Increment Tax paid in accordance with the Land Tax Act, House Tax, Land Value Tax, management fee, cleaning fee, and the mortgage interest paid on loans from financial institutions after acquiring the house and land shall all be excluded from the deductible expenses scope.

## J. HOW TO DECLARE THE AMOUNT OF HOUSE AND LAND TRANSACTION LOSS?

From January 1, 2016, any losses derived from house and land transaction complied with the new regulations, which has been assessed by the National Taxation Bureau, may be used to offset the income derived from other house and land transactions complied with the same regulation within 3 years. Please submit the Notice of Individual House and Land Transactions Income Tax Assessment while filing the tax return.

## K. WHAT ARE THE APPLICABLE CONDITIONS OF THE “SELF-USE RESIDENTIAL HOUSE AND LAND TAX PREFERENCE”? HOW IS THE “SELF-USE RESIDENTIAL HOUSE AND LAND EXEMPTION” TO BE CALCULATED?

- (i) The house and land transaction, which comply with the following conditions may be eligible for the “self-use residential house and land tax preference”
  - (1) The individual, his/her spouse, or their minor children have resided, maintained their household registration at the self-use residential house (one photocopy of the household registration certificate should be attached), and have owned and resided in the house for 6 consecutive years before its sale.

# INSTRUCTIONS IN REGARD TO THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX RETURN OF THE R.O.C.

- (2) The house and land have never been used for lease, business operation, or professional practice in the last 6 years before its sale.
- (3) The individual, his/her spouse, or their minor children have never applied for the self-use residential house and land tax preference in the last 6 years before its sale.
- (ii) Self-use residential house and land exemptions: For taxable income no more than NT\$4,000,000, the taxable income can be fully exempted, and no tax shall be paid; whereas, for taxable income higher than NT\$4,000,000, the exemption is limited to NT\$4,000,000, and the amount exceeding NT\$4,000,000 shall be taxed at a preferential tax rate of 10%.

## **L. WHAT DOES THE SELF-USE RESIDENTIAL HOUSE AND LAND REACQUISITION TAX CREDITS MEAN? WHAT KIND OF DOCUMENTS SHOULD BE SUBMITTED?**

- (i) An individual, who acquired new self-use residential house and land and sold the old ones, no matter which transaction occurred first, may be qualified to apply for the self-use residential house and land tax credit or tax refund, if the two transactions occurred within 2 years(it is based on the day the house and land transfer registration was completed or the day the house utilization right transaction occurred), and the transactions comply with the following two conditions: the individual, his/her spouse, or their minor children have completed the household registration at both places, and the old place has never been used for lease, business operation, or professional practice for 1 year before its sale.
- (1) If an individual purchased the new self-use residential house and land before selling the old property, he/she shall calculate the tax deduction based on the ratio of the reacquisition price to the selling price when he/she files his/her individual house and land transaction tax return, and the tax credit shall be limited to the tax payable (please fill in Appendix 4 and enter the result of your calculation on line ZD).
- (2) If an individual sold the old self-use residential house and land before purchasing the new one, then he/she may be qualified for obtaining the tax refund, which shall be calculated based on the ratio of the reacquisition price to the selling price, of the Individual House and land Transactions Income Tax paid for selling the old residential place within 5 years from the following day of the day the reacquired self-use residential house and land transfer registration was completed (Please fill out an application form and submit it to the competent authority).
- (ii) This provision can also be applied, if an individual sold the self-use residential house and land, while his/her spouse reacquired the new property.
- (iii) Documents to be submitted: The photocopies of the household registration certificates in both the old and new places, the photocopies of the sales contracts for both the reacquisition and sales, the photocopies of the evidence of paying and receiving the money, and the photocopies of the title deed in both places.
- (iv) If the house and land owner changes the original purpose for acquiring the property or transfers the reacquired house and land within 5 years from the day the transfer registration is completed, the owner shall pay back the amount of deducted or refunded tax.

## **M. WHAT ARE THE CIRCUMSTANCES THAT CAN BE CATEGORIZED AS “TRANSACTIONS DUE TO JOB TRANSFER, INVOLUNTARY SEPARATION FROM EMPLOYMENT, OR ANY OTHER INVOLUNTARY CAUSES ANNOUNCED BY MINISTRY OF FINANCE WITH THE HOLDING PERIOD OF NO MORE THAN 2 YEARS”?**

- (i) In the case of an individual or his/her spouse has originally purchased a house and land near his/her workplace, resided and completed the household registration, and has never used this property for lease, business operation, or professional practice. Afterwards, if the individual has had to leave his/her workplace and sold the property because of job transfer, involuntary separation from employment that complies with the provisions of Paragraph 3, Article 11 of the Employment Insurance Act or the termination of labor contract that complies with the provisions of Article 24 of the Act for Protecting Worker of Occupational Accidents.
- (ii) An individual, under the provision of the Paragraph 2, Article 796 of Civil Code, sold the trespassed land to the adjacent building owner, who constructed a building onto the trespassed land before the land was acquired by the individual.
- (iii) An individual's ownership of house and land has been transferred by compulsory execution because he/she is unable to pay off debts (including tax arrears).
- (iv) An individual is forced to sell the house and land to pay off the medical bills for him/herself, spouse, parents/parents-in-law, or children either under 20 years of age or incapable of making a living due to their suffering from serious diseases or accidents.
- (v) An individual has obtained the ordinary protection orders based on the Domestic Violence Prevention Act and sold his/her self-residential house and land to avoid the opposite party.
- (vi) An individual is forced to sell the house or land on their respective shares because other co-owners sell the house or land without his/her agreement in accordance with Article 34-1 of the Land Act. Not applicable to those who are found by the tax collection authority to avoid or reduce the tax burden by abusing legal forms.

## **N. HOW TO PAY THE TAX DUE?**

- (i) Taxpayers can use the following ways to pay tax:
  - (1) Cash:
    - a. Paying tax at local agent financial institutions (excluding post offices): Taxpayers can log on to the e-Tax portal of Ministry of Finance (<https://www.etax.nat.gov.tw>) to print out the tax bill with a bar code, or fill out the self-payment bill (25G) obtaining at the National Taxation Bureau and then go to any of the local agent financial institutions in Taiwan to pay the tax due in cash. The payment receipt should be submitted as an attachment of the application form, when filing the tax return.
    - b. Paying tax at convenience stores: If the tax due is NT\$20,000 or under, taxpayer can log on to the e-Tax portal of Ministry of Finance (<https://www.etax.nat.gov.tw>) to print out the tax bill with a bar code, and go to any of the chain convenience stores such as 7-Eleven, Family Mart, Hi-Life, or OK Mart to pay the tax due in cash. The payment receipt should be submitted as an attachment of the application form, when filing the tax return.
  - (2) Checks (please go to the relevant financial institution first to settle down the process of bills exchange): Taxpayers can log on to the e-Tax portal of the Ministry of Finance (<https://www.etax.nat.gov.tw>) to print out the tax bill with a bar code, or fill out the self-payment bill (25G) obtaining at the National Taxation Bureau and then go to any of the local financial institutions in Taiwan to pay the tax due with the check. (Please note “for paying tax only” on the recipient column of the check, and the check date shall be no later than the application deadline. Besides, if the check drawer is not the taxpayer, the taxpayer shall endorse the check on the back.) The payment receipt should be submitted as an attachment of the application form, when filing the tax return.
  - (3) Paying tax by using financial chip card: Taxpayers can use their own or others' financial chip cards via a card reader (the same as the citizen digital certificate card reader) to pay their taxes online either by using the individual house and land transaction income tax e-filing system or log on to the online tax-paying service website ( <https://paytax.nat.gov.tw> ) to pay the tax by using the immediate transfer function. Please log on to the website mentioned above to get more information about the list of financial institutions providing the said services.
- (ii) After investigation, if any tax refund is assessed, the National Taxation Bureau will directly send the tax refund check or tax refund notification to the taxpayer.

## **O. NOTE:**

In accordance with first section of Paragraph 3 and Paragraph 8 of Article 7 of the Taxpayer Rights Protection Act, if a taxpayer conceals, makes false and misleading presentation, or provides incorrect information to material items when declaring or being investigated, which resulted in the tax collection authorities making an inaccurate decision, the tax collection authority may impose a penalty on tax evasion.

Aliens who have any questions regarding the filing of Individual House and Land Transactions Income Tax return, please log on to the web-page of the Individual House and Land Transactions Income Tax section on the official website of the Taxation Administration, Ministry of Finance, R.O.C.(<https://www.dot.gov.tw/>), or dial the toll-free service number:0800-000321 to get further information.

**Note: Should the English translation of these instructions differ from the Chinese text of the relevant laws, the Chinese text shall prevail.**