

# INSTRUCTIONS IN REGARD TO THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX RETURN (For Transactions on or After July 1, 2021)

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

- (i) From July 1, 2021, an individual, who has income or loss derived from transactions of house, land, the house utilization right, presale house and shares or capital that meet certain conditions 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) House, the share of land associated with the house, or any land for which a construction permit may lawfully be issued acquired on or after January 1, 2016. The definition of the house here shall exclude the farmhouses and agricultural facilities built in accordance with the Agriculture Development Act.
  - (2) The house utilization right by creation of superficies or presale house with its building location acquired on or after January 1, 2016. Presale house transactions include transactions in which an individual signs a presale house contract with a construction company or a landlord, transfers the presale house contract to a third party before obtaining ownership of the real estate, and transfers the written agreement (ie, the preorder house form or the red deposit form) stipulated in Paragraph 5, Article 47-3 of the Equalization of Land Rights Act to a third party before signing a presale house contract.
  - (3) An individual directly or indirectly holding more than half of the total number of shares or the total amount of capital of an enterprise (not those of the stocks in Exchange-listed, OTC-listed, or emerging stock companies) within or outside the Republic of China, where at least 50% of the value of such shares or capital is constituted by house and land within the territory of the Republic of China.
    - a. The fact that an individual directly or indirectly holds more than half of the total number of shares or the total amount of capital of an enterprise within or outside the Republic of China is determined by his/her ownership of over half the shares or capital of the enterprise on any day within a year before the date of transaction. (Explanatory Decree No. 11000633641 by the MOF on 25 January 2022 provides the determination standard.) When the last day of the one-year period falls before June 30, 2021, the last day of the period is set as July 1, 2021.
    - b. The condition that at least 50% of the value of the shares or capital of a profit-seeking enterprise is constituted by house and land within the territory of the Republic of China is determined by the fact that, at the time of transaction of the shares or capital, the value of house, land, house utilization right, presale house with its building location within the territory of the Republic of China owned by the profit-seeking enterprise or its affiliated enterprises accounts for at least 50% of the value of the total shares or capital of the profit-seeking enterprise.
- (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. WHO IS THE TAXPAYER OF THE INDIVIDUAL HOUSE AND LAND TRANSACTIONS INCOME TAX?

- (i) The taxpayer is the individual owner who has income or losses derived from transactions of house, land, the house utilization right, presale house and shares or capital that meet certain conditions. The individual house and land income tax return shall be based on each transaction. The above-mentioned income shall not be included in the gross consolidated income when he/she files his/her individual consolidated income tax return.
- (ii) The sole proprietor or partner of a profit-seeking enterprise organized as a sole proprietorship or a partnership that has any income derived from transactions of house, land, the house utilization right, presale house and shares or capital that meet certain conditions shall file the individual house and land transactions income tax return as taxpayers. The income shall not be included in the amount of income of the profit-seeking enterprise.
- (iii) If the house, land, the house utilization right, presale house and shares or contributed capital that meet certain conditions were acquired on a piecemeal basis, please fill in different return forms in accordance with the acquisition dates and submit as a whole 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, land, the house utilization right, presale house and shares or capital that meet certain conditions transaction is completed(see Instruction F).

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

The taxpayer shall file the individual house and land transaction income tax return with the competent tax collection authority in the following order:

- (i) The National Taxation Bureau where the registered household is located at the time of declaration.
- (ii) The National Taxation Bureau where the residence address given on the ARC is located at the time of declaration. (An alien who resides 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.)
- (iii) The National Taxation Bureau where the house, land, house utilization right, presale house with its building location is located, provided that the taxpayer has no household registration or registered place of residence. (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.)
- (iv) The National Taxation Bureau where the R.O.C. central government is located (that is, National Taxation Bureau of Taipei, Ministry of Finance).

## 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) Photocopies of transaction contracts (including purchase and sale) of house, land, the house utilization right, presale house. Documents which can provide evidence of the transaction costs and expenses necessary, and other relevant supplementary documents.
- (iii) For transactions of shares or capital that meet certain conditions, the following documents shall be submitted (if the documents were written in a foreign language, a Chinese translation should be attached):
  - (1) Transaction contracts (including purchase and sale) of shares or capital, supporting documents related to costs and necessary expenses, etc.
  - (2) The registration information of the shares or capital amount, the list of changes in equity, and the organization charts of the affiliated enterprises (including the equity) of the invested domestic and foreign profit-seeking enterprise after the transaction and within one year before the date of the transaction.
  - (3) The latest financial report of the invested domestic and foreign profit-seeking enterprise in the transaction, which have been audited by a CPA (the financial statements should be attached if there is no such certified financial report), and the latest financial statements of the enterprises, under the control of the said profit-seeking enterprise, that possess the houses, land, house utilization right, or presale house with building location.
  - (4) Relevant documents for identifying the current prices of domestic houses, land, house utilization rights, presale house with its building location.

## 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, 2021, then he shall file his individual house and land transactions income tax return with the tax collection authority before August 31,2021.) 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.
- (iii) Presale house: the transaction date is the day on which the sales contract of the presale house was signed.
- (iv) Shares or capital that meet certain conditions:
  - (1) Securities referred to in the Securities Transaction Tax Act: the transaction date is the settlement day of securities transaction.
  - (2) Shares or capital not referred to in the Securities Transaction Tax Act: the transaction date is the day on which the sales contract was signed.

## 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 utilization right is transferred. The acquisition date of presale house is the day on which the purchase contract was signed. The acquisition date of shares or capital that meet certain conditions is the settlement day of securities transaction or on which the purchase contract was signed. 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). The acquisition date of the land received due to expropriation revocation is the date on which expropriation revocation is approved.

## H. HOW IS THE HOLDING PERIOD CALCULATED?

Generally, the holding periods of the house, land, the house utilization right, presale house, and shares or capital that meet certain conditions 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) The object transacted was acquired through inheritance: The holding periods = The holding period of the taxpayer + the holding period of the decedent. (Please also provide the acquisition date of the decedent in the column of "Acquisition Date" of the application form.)
- (ii) The object transacted was acquired through legacy: The holding periods = The holding period of the taxpayer + the holding period of the legator. (Please also provide the acquisition date of the legator in the column of "Acquisition Date" of the application form.)
- (iii) The object transacted was acquired through consecutive inheritance or legacy: The holding periods = The holding period of the taxpayer + the holding periods of the decedents or the legators. (Please also provide the acquisition date of the first decedent or the first legator in the column of "Acquisition Date" of the application form.)
- (iv) Land received due to expropriation revocation: The holding periods = The holding period from the date on which expropriation revocation is approved to the transaction date + The holding period from the original acquisition date prior to expropriation to the date of expropriation. (Please also provide the original acquisition date prior to expropriation and the date of expropriation in the column of "Acquisition Date" of the application form.)
- (v) The holding period of shares or capital that meet certain conditions is the period between the acquisition date and the transaction date, following the first-in first-out method.

## 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 assessed present value provided in Paragraph 1, Article 30 of 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

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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. Please submit the List of Cost and Expenses for Individual House and Land Transactions with relevant supporting documents when filing the tax return.
  - 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.
  - d. The calculation of the transaction cost of shares or capital that meet certain conditions can be done by specific identification methods provided that the original acquisition costs can be presented or can be calculated with the weighted average of the shares or capital owned by the invested domestic and foreign profit-seeking enterprise at the time of the transaction.
- (2) Deductible expenses occurred from transfer:
- a. 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. Please submit the List of Cost and Expenses for Individual House and Land Transactions with relevant supporting documents when filing the tax return. Otherwise, if no document of evidence is provided, or the total amount listed on the documents of evidence is not more than 3% of the transaction price, the deductible expenses may be assessed as 3% of the transaction price, and such expense shall not exceed NT\$300,000. 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. The land increment tax due to the excess amount of declared transfer value of land from assessed present value of land can be listed as deductible expenses. The deductible amount is calculated as follows: [(The declared transfer value of land at the time of transaction - the assessed present value of land at the time of transaction) ÷ the total amount of land value increment based on the declared transfer value of land at the time of transaction] × the land value increment tax paid.
  - b. The necessary expenses for transactions of shares or capital that meet certain conditions include securities transaction tax, handling fees and other relevant necessary expenses.

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

Any losses derived from house, land and house utilization right transactions on and after January 1, 2016, or presale house and shares or capital that meet certain conditions transactions on and after July 1, 2021 that 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.
  - (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 (One house with its site is used as the calculation unit):
  - (1) 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%.
  - (2) If the self-use residential house and land are partially transacted by the taxpayer, the exemption shall be calculated based on the portion of the transaction.
  - (3) If the transaction of the self-use residential house and land which were acquired on a piecemeal basis is partially subject to a previous tax regime (income from property transactions) and partially subject to a new tax regime (house and land transactions income tax), the exemption shall be calculated based on the ratio subject to the new tax regime with the portion of the transaction in compliance with the new tax regime.

## 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 5 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 and the documents with sufficient evidence for proving self-use residence 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, the photocopies of the title deed in both places, etc.
- (iv) If the house and land owner changes the original purpose (e.g., no household registration or residence, or used for lease, business operation, or for professional practice, etc.) 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 5 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.
  - (vii) An individual cannot afford to repay the principal and interest of the unpaid debts which are incurred as the individual acquired the house and land through inheritance along with the debts of the decedent, who used the house and land as a collateral for mortgage loans with financial institutions, and has to sell the house and land.
- 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) Paying tax by cash or checks:
    - 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 (excluding post offices) in Taiwan to pay the tax due in cash or check. 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\$30,000 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) Paying tax by financial chip card: Taxpayers can use 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.
  - (3) Paying tax by credit card: Taxpayers can use their own credit cards, issued by domestic financial institutions which have signed up for paying tax service by credit card only, to pay their taxes online by using the individual house and land transaction income tax e-filing system to receive authorization. (Each filing unit can use only one credit card, and the authorization can not be cancelled.)
  - (4) Paying tax by savings account: Paying tax by savings account requires taxpayers to log in to the individual house and land transaction income tax e-filing system by Citizen Digital Certificate(local citizens only) or registered National Health Insurance Card, or financial CA, and use his/her own savings account to pay the tax with the immediate transfer function.
  - (5) Please log on to the online tax-paying service website mentioned above to find more information about the list of financial institutions providing services of tax payment by financial chip card, savings account, and credit card.
- (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.**