

“Regulations Governing Reduction and Exemption of Income Tax of Foreign Special Professionals”

【General Principles】

Q1: What is the legal basis of enacting tax incentives for foreign special professionals? When were they put into practice? And what do they include?

- A1: 1. The tax incentives regulated in the “Act for the Recruitment and Employment of Foreign Professionals” (hereinafter referred to as “the Act”) came into force on February 8, 2018. A qualified foreign special professional can apply for this tax relief from 2018. In order to strengthen the incentives for recruiting foreign special professionals, full text of the Act was amended and promulgated on July 7, 2021, and the Act was executed on October 25, 2021 by the Executive Yuan. Among the amendments include the extension of the applicable period of tax incentives from 3 years to 5 years as specified in Article 20 (formerly Article 9).
2. From 2018, if a foreigner engages in professional work and meets certain requirements, then within 5 years starting from the tax year in which the foreign special professional for the first time meets the conditions of residing in the R.O.C. for 183 days or more, and having a salary income of more than NT\$3,000,000, only the NT\$3,000,000 salary income and half of the amount above the NT\$3,000,000 in each such tax year shall be included in the gross income for the assessment of individual income tax liability. If the foreigner obtains overseas income set forth in the provisions of Subparagraph 1, Paragraph 1, Article 12 of the Income Basic Tax Act in such tax year, such income shall be excluded from the basic income.
3. A foreign special professional who applied for the tax incentives of the Act before July 7, 2021 may apply for the tax benefits for a period of 5 years. For example, if he/she applied for the tax incentives from 2018 to 2020 and meets the regulations in the years of 2021 and 2022, he/she can also apply for the tax incentives.

【Applicable Subjects and Requirements】

Q2: What is the definition of “foreign special professionals?”

A2: The term "foreign special professional" shall refer to a foreign professional who engages in professional work in the R.O.C. and has special expertise needed by the R.O.C. in science & technology, economy, education, culture & the arts, sports, finance, law, architectural design, national defense, or other fields as announced by the central competent authority, or who has been recognized by the National Development Council in consultation with the central competent authority as possessing special expertise.

Q3: Referring to Q2, what is the definition of “professional work?”

A3: “Professional work” means the following work:

1. Work as specified in Subparagraphs 1 to 3, 5, and 6, Paragraph 1, Article 46 of the Employment Service Act.
2. Work as specified in Subparagraphs 1 and 3, Paragraph 1, Article 48 of the Employment Service Act.
3. A full-time foreign language teacher in a short-term tutorial school registered in accordance with the Supplementary Education Act (hereafter referred to as “a short-term tutorial school”), or possessing specialized knowledge or skills, and approved as a short-term tutorial school teacher by the central competent authority of the industry concerned in consultation with the Ministry of Education.
4. A teacher of a subject other than a foreign language in a special class approved by the Ministry of Education for the children of foreign professionals, foreign special professionals, and foreign senior professionals.
5. Work in teaching academic subjects or foreign language courses, teacher training, curriculum development, and activity promotion, as specified in the Enforcement Act for School-based Experimental Education, the Act Governing the Commissioning of the Operation of Public Schools at Senior High School Level or Below to the Private Sector for Experimental Education, and the Enforcement Act for Non-school-based Experimental Education at Senior High School Level or Below.

Q4: Who is eligible to apply for the tax incentives for foreign special professionals?

A4: A foreign special professional, who has been recognized to have the special expertise announced by the central competent authority, has obtained the foreign special professional employment (work) permit document issued by the Ministry of Labor or by the Ministry of Education (if he/she has met the

requirements of Article 7 of the Act and is exempted from applying for a work permit, the work permit can be replaced by the certificate of special expertise issued by the central competent authority), or has obtained the Employment Gold Card issued by the National Immigration Agency, Ministry of the Interior, and has met all of the following requirements is eligible to apply for the tax incentives:

1. He/she has been approved for the first time to reside in the R.O.C. for the purpose of work.
2. He/she has engaged in professional work related to the recognized special expertise in the R.O.C.
3. During the last 5 years prior to the day of his/her employment engaged in the professional work or the day of obtaining his/her Employment Gold Card, he/she did not have household registration in the R.O.C. and was not an resident individual of the R.O.C. in accordance with the Income Tax Act.

Q5: Referring to Q4, if a foreigner has been previously approved to reside in the R.O.C. before his/her employment engaged in the professional work, does he/she still meet the requirement of “the first time been approved to reside in the R.O.C. for the purpose of work”?

A5: If a foreigner has been previously approved to reside in the R.O.C. before his/her employment engaged in professional work in the R.O.C., but such approval is not given because of his/her engagement in professional work (such as residence for study or as dependents), the foreigner is exempt from the first-time approval limitation.

Q6: Referring to Q4, what are the specific dates of “the day of employment engaged in the professional work” and “the day of obtaining the Employment Gold Card,” respectively?

A6: “The day of his/her employment engaged in the professional work” is the first day of the employment period of the foreign special professional employment (work) permit document issued by the Ministry of Labor or by the Ministry of Education, while “the day of obtaining his/her Employment Gold Card” is the “date of issue” shown on the Employment Gold Card.

Q7: Referring to Q4, how do we define “an individual who does not have household registration in the R.O.C. and is not a resident of the R.O.C. in accordance with the Income Tax Act”?

A7: This refers to an individual who has no household registration in the R.O.C. and stays less than 183 days within each year (1/1~12/31).

Q8: What are the regulations for a foreign special professional who need not apply for a permit according to Article 7 of the Act?

A8: A foreign special professional who meets one of the following conditions need not apply for a permit to engage in professional work in the R.O.C.:

1. Employed as a consultant or researcher at any level of government or its subordinate academic research institute.
2. Employed by a public or registered private college/university for lecturing or academic research as approved by the Ministry of Education.
3. A foreign special professional obtained permanent residency.

【Explanation of the Computation of Income Tax Relief】

Q9: Example:

David, a foreign special professional meeting the requirements mentioned in Q4, has a salary of NT\$8,200,000 related to his special professional work and overseas income of NT\$2,000,000 in the applicable year. How does he calculate his income tax relief?

A9: 1. The amount of income from salaries shall include all salaries after deducting the special deduction of income from salaries or necessary expenses. Assuming a special deduction of income from salaries NT\$200,000 in this case, then a salary income of NT\$8,000,000 (= NT\$8,200,000 – NT\$200,000).

2. Amount of non-taxable salary income = (NT\$8,000,000 – NT\$3,000,000) *50% =NT\$2,500,000

Amount of taxable salary income =
NT\$8,000,000-NT\$2,500,000=NT\$5,500,000

3. Overseas income NT\$2,000,000 is excluded from basic income.

Q10: What is the applicable scope of “salary income” mentioned in the Act ?

A10: 1. The term "salary income" in the Act shall refer to the amount of aggregate salaries which may be calculated in the gross amount of income paid by domestic and offshore employers for the foreign special professional's engagement of professional work. However, other salary unrelated to the foreign special professional's special expertise shall not be applicable to the tax incentives.

2. The above-mentioned salary income shall be applied to the tax incentives in the taxable year. For instance, according to Article 19-1 of

the Statute for Industrial Innovation, where an individual who acquires stocks as an employee's bonus, he/she may opt to include the salary income in the gross income and declare their income tax in the year of transfer or book-entry transfer. Therefore, if a foreign special professional receive the salary income of stocks acquired as stock-based employee compensation according to Article 19-1 of the Statute for Industrial Innovation and opts to declare their income tax in the year of transfer, such income shall be calculated in salary income and applied to the tax incentives in the year of transfer.

【Explanation of the Applicable Period of the Tax Incentives】

Q11: How do we define the specific point of time for counting the “first 5 years” when a foreign special professional's salary income exceeds NT\$3,000,000 and is eligible for the tax incentives?

A11: The term "first 5 years" in the tax incentives shall start from the year when the foreign special professional has resided in the R.O.C. for 183 days or more for the first time, and has an annual salary income over NT\$3,000,000. The taxpayer can not choose the starting year and applicable years as he/she wishes.

Q12: Example of engaging in professional work in the R.O.C. for the first time in 2021:

David, obtaining the foreign special professional employment permit in 2021 and meeting the requirements mentioned in Q4, stays in the R.O.C. for 183 days or more and has an annual salary income over NT\$3,000,000 derived from his special professional work during the years 2021 ~ 2025. What is the applicable period of his tax incentives?

A12: Year 2021 is the first applicable year and David can apply for the tax incentives from 2021 to 2025.

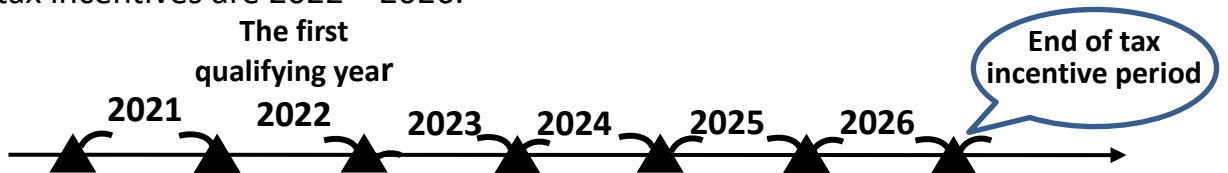


Q13: Example of engaging in professional work in the R.O.C. for the first time in 2021, but the foreign special professional meets the requirements with tax incentives in the following years:

David, obtaining the foreign special professional employment permit in 2021 and meeting each requirement mentioned in Q4 at the same time,

stays in the R.O.C. for 183 days or more and has an annual salary income over NT\$3,000,000 derived from his special professional work during the years 2022 ~ 2026. What is the starting time and the applicable period of his tax incentives?

A13: Since David's salary income is less than NT\$3,000,000 or the total days of stay in the R.O.C. is less than 183 days in 2021, the year 2022 is the first year in which he qualifies for the tax incentives, and the tax incentives last for 5 years (from 2022 to 2026). Therefore, the applicable years for David's tax incentives are 2022 ~ 2026.



Q14: Example of engaging in professional work in the R.O.C. for the first time in 2021, but the foreign special professional does not meet the requirements for tax incentives every year:

David, obtaining the foreign special professional employment permit in 2021 and meeting the requirements mentioned in Q4, stays in the R.O.C. for 183 days or more and has an annual salary income over NT\$3,000,000 derived from his special professional work in 2022, 2024, and 2026 (his salary income is less than NT\$3,000,000 or the total days of his stay in the R.O.C. are less than 183 days in 2021, 2023, and 2025). What is the starting time and the applicable period of his tax incentives?

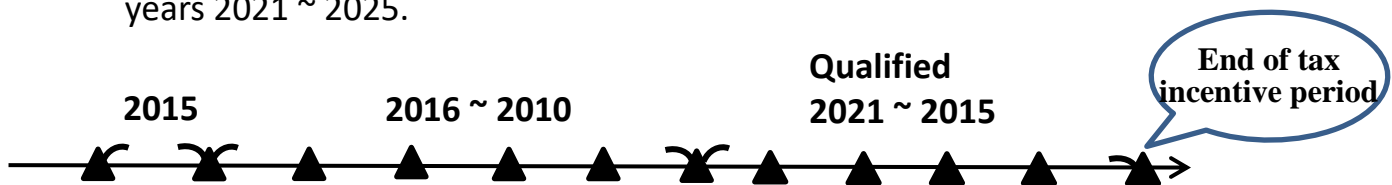
A14: Since David's salary income is less than NT\$3,000,000 or the total days of his stay in the R.O.C. are less than 183 days in 2021, the year 2022 shall be the first year in which he meets each requirement of the tax incentives at the same time; therefore, the year 2022 is the first applicable year, and the tax incentives last for 5 years (from 2022 to 2026). In addition, since David also has salary income less than NT\$3,000,000 or the total number of days of his stay in the R.O.C. is less than 183 days in both 2023 and 2025. Therefore, the applicable years for David's tax incentives are 2022, 2024, and 2026.



Q15: Example of engaging in professional work in the R.O.C. for the first time in 2021, but the foreign special professional had resided in the R.O.C. in the previous year:

David had resided in the R.O.C. for the purpose of study in 2015 and returned to his country of origin in 2016. He obtained the foreign special professional employment permit in 2021 and met the requirements mentioned in Q4, staying in the R.O.C. for 183 days or more with an annual salary income over NT\$3,000,000 derived from his special professional work during the years 2021 ~ 2025. What is the applicable period of his tax incentives?

A15: Because David's residence in the R.O.C. in 2015 can't be attributed to engaging in professional work, and he did not have household registration in the R.O.C. nor resided in the R.O.C. for a period of 183 days by the time he came to the R.O.C. in the previous 5 years before 2021, the year 2021 is the first applicable year in which he meets each requirement of the tax incentives at the same time (he stays in the R.O.C. for 183 days or more and has an annual salary income over NT\$3,000,000 derived from his special professional work) and David can apply for the tax incentives during the years 2021 ~ 2025.



Q16: Example of engaging in professional work in the R.O.C. for the first time in 2018:

David obtained the foreign special professional employment permit in 2018 and met the requirements mentioned in Q4, staying in the R.O.C. for 183 days or more with an annual salary income over NT\$3,000,000 derived from his special professional work during the years 2018 ~ 2022. What is the applicable period of his tax incentives?

A16: The year 2018 is the first applicable year. Applying the extension of the applicable period of tax benefits from 3 years to 5 years, David can apply for the tax incentives during the years 2018 ~ 2022.



【 The Application Procedure of the Tax Incentives 】

Q17: If a foreign special professional would like to apply for the tax incentives, when shall he/she apply? What kinds of supplementary documents are required?

A17: A foreign special professional meeting the requirements of tax incentives shall apply for the tax incentives to the competent tax authority when filing his/her annual income tax return in May every year or the departure income tax return before leaving the R.O.C.

1. For those obtaining the foreign special professional employment (work) permit, the required documents are as follows:

- (1) Application for Exemption from Income Tax for Foreign Special Professionals.
- (2) The supporting document of the first-time approval to reside in the R.O.C. for the purpose of work (i.e.: a photocopy of the ARC with the reason for work); in the case of a foreign special professional having been previously approved to reside in the R.O.C., the supporting document showing the previous approval not related to the engagement of the professional work is also required (i.e.: a photocopy of the ARC for study or as a dependent).
- (3) A photocopy of the foreign special professional employment (work) permit document issued by the Ministry of Labor or by the Ministry of Education.
- (4) An employment contract and other supporting documents showing the employment engaged in professional work is related to the recognized special expertise.

2. For those obtaining the Employment Gold Card, the required documents are as follows:

- (1) Application for Exemption from Income Tax for Foreign Special Professionals.
- (2) A photocopy of the Employment Gold Card with the first-time approval to reside in the R.O.C. for the purpose of work; in the case a foreign special professional having been previously approved to reside in the R.O.C., the supporting document showing the previous approval not related to the engagement of the professional work is also required (i.e.: a photocopy of the ARC for study or as a dependent).
- (3) An employment contract and other supporting documents showing the employment engaged in professional work is related to the recognized special expertise.

3. For those who are exempted from applying for the work permits in accordance with Article 7 of the Act, the required documents are as follows:
- (1) Application for Exemption from Income Tax for Foreign Special Professionals.
 - (2) The supporting document of the first-time approval to reside in the R.O.C. for the purpose of work (i.e.: a photocopy of the ARC with the reason for work); in the case of a foreign special professional having been previously approved to reside in the R.O.C., the supporting document showing the previous approval not related to the engagement of the professional work is also required (i.e.: a photocopy of the ARC for study or as a dependent).
 - (3) A photocopy of the relevant certificate of having special expertise issued by the central competent authority.
 - (4) An employment contract and other supporting documents showing the employment engaged in professional work is related to the recognized special expertise.

【Other】

Q18: May the “tax incentives for foreign special professionals” in accordance with the Act and the “tax preferences provided to foreign professionals” regulated in “The Scope of Application for Tax Preferences Provided to Foreign Professionals” be applicable at the same time?

- A18: 1. According to “The Scope of Application for Tax Preferences Provided to Foreign Professionals” (promulgated by Decree No. 09804119810 and issued by the Ministry of Finance on March 12, 2010), if an employer hires a foreign professional qualified for the tax preferences, the payment made in accordance with the content of an employment contract may be declared as operation expenses by the employer, such as the round trip air fare of the foreign professionals and his/her family, home leave vacation pay according to the contract, home moving expenses, utility bills, cleaning bills, telephone bills, house rentals, repair costs for place of residence, and educational scholarships for children and other such items may be excluded from the taxable income of the foreign professionals.
2. The “tax preferences provided to foreign professionals” can be applied during the entire employment period. However, the “tax incentives for foreign special professionals” are restricted to the applicable year and with the threshold of salary income. Although the content of “tax incentives for foreign special professionals” and “tax preferences

provided to foreign professionals” are different, as long as a foreign special professional meets the requirements of these two tax benefits, he/she can apply for both tax benefits simultaneously. In other words, if a qualified foreign special professional also meets the requirements of “tax preferences provided to foreign professionals,” his/her taxable salary income can be calculated in accordance with the “The Scope of Application for Tax Preferences Provided to Foreign Professionals,” and his/her taxable salary may be also calculated based on the Act.

Q19: Are residents in Hong Kong or Macau areas eligible to apply for the tax incentives for foreign special professionals?

A19: In accordance with Article 24 of the Act, the provisions apply mutatis mutandis to residents of Hong Kong and Macau areas. In other words, Hong Kong or Macau residents are also eligible to apply for the tax incentives for foreign special professionals as regulated by Article 20 of the Act.

Q20: Are dual nationalities eligible to apply for the tax incentives for foreign special professionals?

A20: In accordance with Article 25 of the Act, an ROC national who concurrently holds foreign nationality and has not established household registration in the R.O.C., and who has resided in the R.O.C. as holder of a foreign passport to engage in professional work or to seek employment, shall be treated in accordance with the requirements of the Act. In other words, those with dual nationalities are also eligible to apply for the tax incentives for foreign special professionals as regulated by Article 20 of the Act, and he/she should fill the application for Exemption from Income Tax for Foreign Special Professionals and certify that the nationality information is true and correct to the best of his/her knowledge and belief.

Q21: Does a foreign special professional meeting the requirements of the tax incentives for foreign special professionals need to file his/her income basic tax return?

A21: If a foreign special professional meeting requirements mentioned in Q4 obtains the income set forth in Subparagraph 1, Paragraph 1, Article 12 of the Income Basic Tax Act in such applicable tax year, such income may be excluded from the income basic tax. However, if he/she obtains other kinds of basic income other than overseas income (such as income derived from securities transactions), and the sum of such income and the net taxable income exceeds the threshold (NT\$6,700,000 from the tax year 2021), he/she shall still file the income basic tax return.

Q22: What will happen if a foreign special professional has applied for the tax incentives pursuant to the regulations, but is found to be not in compliance with the regulations by the tax authority afterwards?

A22: If a foreign special professional has applied for the reduction or exemption of the consolidated income tax and income basic tax pursuant to the regulations, but was found not to be in compliance with the conditions stipulated in relevant regulations by the tax authority afterwards, his/her case shall be subject to supplementary tax payable in accordance with the relevant regulations. If he/she submits false statements or provides improper information, tax evasion will be subject to penalty.