Content

Title：	The Management, Utilization, and Taxation of Repatriated Offshore Funds Act Ch
Date：	2019.07.24
Legislative：	Promulgated by Presidential Decree Hua-Tzung-Yi-Ching-Tze No. 10800075631 on 24 July 2019; the implementation date is 15 August 2019 per the Order of Yuan-Tai-Tsai-Tze No. 1080025482 issued by the Executive Yuan on 6 August 2019.
Content：	Article 1 This Act is made for the purposes of channeling individuals to repatriate offshore funds and profit-seeking enterprises to repatriate investment income derived from an offshore invested enterprise, as a means of boosting our economic development under international standards. Article 2 The competent authority of this Act is the Ministry of Finance. Article 3 The definitions of the terms used in this Act are as follows: 1. “Individual” shall mean a natural person. 2. “Profit-seeking Enterprise” shall mean enterprises operated by public, private, or joint public and private interests and having a business name or place and organized in the form of company or in any other form of juristic person organization. 3. “Offshore Funds” shall mean the funds from countries or jurisdictions outside Taiwan, Penghu, Kinmen, and Matsu. 4. “Investment Income Derived from an Offshore Invested Enterprise” shall mean the investment income distributed by an invested enterprise over which a profit-seeking enterprise has the controlling power or a significant influence and which is in countries or jurisdictions outside Taiwan, Penghu, Kinmen, and Matsu. 5. “Account-Handling Bank” shall mean a bank that signs a contract with an individual or a profit-seeking enterprise to accept the opening of a segregated foreign exchange deposit account for offshore funds. 6. “Segregated Foreign Exchange Deposit Account for Offshore Funds”(hereinafter referred to as "segregated foreign exchange deposit account") shall mean a foreign exchange deposit account opened by an individual or a profit-seeking enterprise with the bank mentioned in the preceding subparagraph, which is used solely for the purpose of depositing the funds repatriated in accordance with this Act. 7. “Segregated Trust Account” shall mean an account opened by an individual or a profit-seeking enterprise that signs a trust contract with the same account-handling bank which accepts the opening of the segregated foreign exchange deposit account or with a securities dealer that opens a segregated trust property deposit account with the aforementioned same bank, and to which the repatriated funds are entrusted. 8. “Segregated Securities Discretionary Account” shall mean a segregated investment account opened by the full fiduciary custodian institution for the funds delivered by a mandate or transferred under a trust according to the discretionary investment services contract that an individual or a profit-seeking enterprise signs with a financial institution approved by the Financial Supervisory Commission (hereinafter referred to as “FSC”) whereby such financial institution operates discretionary investment business. The aforementioned full fiduciary custodian institution shall be the same account-handling bank that accepts

the opening of the segregated foreign exchange deposit account.

Criteria whereby a profit-seeking enterprise has the controlling power or a significant influence as referred to in Subparagraph 4 of the preceding paragraph and other related matters shall be prescribed by the competent authority.

Article 4

An individual who repatriates offshore funds and a profit-seeking enterprise which repatriates investment income derived from an offshore invested enterprise may opt to assess tax under this Act instead of assessing income basic tax and income tax under the Income Basic Tax Act, the Act Governing Relations between the People of the Taiwan Area and the Mainland Area, and the Income Tax Act. Once an option is made, it cannot be changed.

The computing, filing, paying tax payable, and penalty of the offshore funds repatriated by an individual and the investment income derived from an offshore invested enterprise repatriated by a profit-seeking enterprise subject to this Act shall be in accordance with this Act. Matters not provided for in this Act shall be governed by other related laws.

The offshore funds repatriated by an individual and the investment income derived from an offshore invested enterprise repatriated by a profit-seeking enterprise subject to this Act cannot be used for purchasing real estate or beneficiary securities issued or delivered in accordance with the Clauses of the Real Estate Securitization Act, except for investing in constructing or purchasing buildings used for self-production or business purposes approved by the Ministry of Economic Affairs (hereinafter referred to as “MOEA”) according to Paragraph 1, Article 7.

The implementation of this Act must conform to the Money Laundering Control Act, Counter-Terrorism Financing Act, and other related laws or regulations.

Article 5

Where an individual makes application of this Act to the tax authority at his(her) domicile location, and the application is approved after review by the tax authority consulting with the account-handling bank in accordance with Paragraph 4 of the preceding article, the tax payable should be withheld by the account-handling bank at the following tax rates when such an individual repatriates offshore funds and deposits them into the segregated foreign exchange deposit account during the following period; the funds which are repatriated after two years from the enforcement of this Act are not applicable to this Act:

1. For the first year from the enforcement of this Act, tax rate is 8%.
2. For the second year from the date following the last day of the first year from the enforcement of this Act, tax rate is 10%.

Where a profit-seeking enterprise makes application of this Act to the tax authority where the profit-seeking enterprise is registered, and the application is approved after review by the tax authority consulting with the account-handling bank in accordance with Paragraph 4 of the preceding article, the tax payable should be withheld by the account-handling bank at the tax rates specified in the subparagraphs of the preceding paragraph when such a profit-seeking enterprise repatriates investment income derived from an offshore invested enterprise and deposits it into the segregated foreign exchange deposit account during the period specified in the preceding paragraph.

The regulations governing the procedure of an individual or a profit-seeking enterprise making application of this Act in accordance with the preceding two paragraphs and other related matters shall be prescribed by the competent authority.

Article 6

The funds deposited into the segregated foreign exchange deposit account specified in Paragraphs 1 and 2 of the preceding article shall be managed and utilized according to the following regulations:

1. The funds could be withdrawn and used in investments according to Article 7 or Article 8.
2. Up to 5% of the funds could be withdrawn and freely utilized.
3. Up to 25% of the funds could be withdrawn from the segregated foreign exchange deposit account and deposited into a segregated trust account or a segregated securities discretionary investment account and used in financial investments.

One-third of the funds managed and utilized according to Subparagraph 3 of the preceding paragraph could be withdrawn upon the elapse of five full years after the date of depositing them into the segregated foreign exchange deposit account; another one-third of the funds could be withdrawn upon the elapse of six full years; the remaining one-third of the funds could be withdrawn upon the elapse of seven full years. The funds which are not managed and utilized according to Subparagraphs 1 and 3 of the preceding paragraph should be deposited in the segregated foreign exchange deposit account for five years. After the expiry of the said period, the funds could be withdrawn over a period of three years according to the aforementioned regulations.

The funds deposited into a segregated foreign exchange deposit account and the funds managed and utilized according to Subparagraphs 1 and 3 of Paragraph 1 shall not be used for purposes other than those specified in previous regulations, nor pledged nor provided as security, nor by any other use which would reduce their value.

From the date of depositing the funds into a segregated foreign exchange deposit account, the account-handling bank shall, by the end of January of each year, report the information on the status of the management and utilization of the funds repatriated and deposited in the segregated foreign exchange deposit account, segregated trust account, and segregated securities discretionary investment account in the preceding year, to the tax authority-in-charge for recordation in the prescribed format and notify the FSC of the same.

Where the funds are used in violation of the provisions of Paragraphs 2 and 3 of this article, the tax payable shall be withheld by the account-handling bank at 20% if the funds are withdrawn, used for purposes other than those mentioned in the preceding regulations, pledged and provided as security, or reduced in value in any other way, unless the funds are used in accordance with Paragraph 3 of Article 7 or Paragraph 5 of Article 8. Where the funds as prescribed in Subparagraph 2, Paragraph 1 of this article are found being used for purchasing real estate within five years from the date of depositing them into the segregated foreign exchange deposit account, the funds shall be taxed at 20% by the tax authority. The tax already paid for the aforementioned funds in accordance with Paragraph 1 or 2 of the preceding article can be deducted from the aforementioned tax withheld.

Regulations governing the scope and manner of management and utilization of the funds in a segregated trust account and segregated securities discretionary investment account as referred to in Subparagraph 3 of Paragraph 1 and other related matters shall be prescribed by the FSC.

Article 7

An individual or a profit-seeking enterprise may submit an investment plan for investing in industries to the MOEA for approval within one year from the date of depositing the funds into the segregated foreign exchange deposit account, and withdraw the funds from the segregated foreign exchange deposit account for investment according to the schedule in the approved plan. The investment plan shall be completed

within two years from the date of approval. In the case that the investment plan cannot be completed within the said period, the deadline may be extended once by making application to the MOEA by the end of the said period. The length of such extended period shall not exceed two years.

An individual or a profit-seeking enterprise shall, by the end of January of each year during the investment period, report the progress of the investment plan in the preceding year to the MOEA for recordation. An application for certificate of completion should be submitted to the MOEA within six months from the date of completing the investment plan; within six months from the date of obtaining the certificate of completion, an application for a 50% refund of the tax paid under Paragraph 1 or 2 of Article 5 should be submitted to the tax authority-in-charge.

In the cases that the funds withdrawn under Paragraph 1 are used for purposes other than those specified in the approved investment plan, or the progress of the investment plan is not reported to the MOEA for recordation under the preceding paragraph and still fails to be reported within the specified time limit upon notification by the MOEA, the MOEA shall notify the tax authority-in-charge that such involved funds shall be taxed at 20%. The tax already paid for the aforementioned funds under Paragraph 1 or 2 of Article 5 can be deducted from the aforementioned tax.

When dealing with the matters described in the preceding three paragraphs, the MOEA may ask the central competent authorities of the respective industries referred to in Paragraph 1 to provide suggestions or assistance.

An individual or a profit-seeking enterprise who fails to submit an investment plan in accordance with Paragraph 1, or has already submitted an investment plan which is not approved by the MOEA, shall comply with Paragraph 2 of the preceding article. An individual or a profit-seeking enterprise who withdraws the funds from the segregated foreign exchange deposit account under an approved investment plan but fails to use the funds under the approved investment plan shall deposit the funds back into the segregated foreign exchange deposit account and comply with Paragraph 2 of the preceding article.

Regulations governing Paragraph 1's scope of investable industries and the investment plan's expenditure, procedure and conditions of application, using or holding period for the buildings constructed or purchased according to the investment plan, Paragraph 2's procedure of report for recordation and application for certificate of completion, and other related matters shall be prescribed by the MOEA and submitted to the Executive Yuan for approval. Regulations governing Paragraph 2's application procedures of tax refund and other related matters shall be prescribed by the competent authority.

Article 8

An individual or a profit-seeking enterprise may apply for approval from the MOEA within one year from the date of depositing funds into the segregated foreign exchange deposit account to invest in the policy-targeted industries through the domestic venture capital enterprises or the private equity fund and withdraw the funds from the segregated foreign exchange deposit account for the investment.

The period that an individual or a profit-seeking enterprise invests in domestic venture capital enterprises or the private equity fund under the preceding paragraph shall be no less than four years. The investment rate, which is the investment in the policy-targeted industries invested by the aforesaid invested domestic venture capital enterprises or the private equity fund over their total investment, shall reach a certain rate during the investment period. However, if the reason that the aforesaid invested domestic venture capital enterprises or the private equity fund is unable to meet the required investment rate during the investment period is not attributable to the individual or profit-seeking enterprise, said individual or profit-seeking enterprise may apply for a change in investment targets to other domestic venture capital enterprises or the

private equity fund to the MOEA for approval within the investment period.

An individual or a profit-seeking enterprise shall, by the end of January of each year during the investment period, report their investment progress for the preceding year and the invested venture capital enterprises' or the private equity fund's progress of investment in industries referred to in Paragraph 1 for the preceding year to the MOEA. An application for certificate of completion should be submitted to the MOEA within six months from the date of completing the investment; within six months from the date of obtaining the certificate of completion, an application for a 50% refund of tax paid under Paragraph 1 or 2 of Article 5 should be submitted to the tax authority-in-charge.

When dealing with the matters described in the preceding three paragraphs, the MOEA may ask the central competent authorities of the respective industries referred to in Paragraph 1 to provide suggestions or assistance.

In the cases that the funds withdrawn under Paragraph 1 are used for purposes other than investment in accordance with Paragraphs 1 and 2, or the investment progress is not reported to the MOEA for recordation in accordance with Paragraph 3 and still fails to be reported within the specified time limit upon notification by the MOEA, the MOEA shall notify the tax authority-in-charge that such involved funds shall be taxed at 20%. The tax already paid for the aforementioned funds under Paragraph 1 or 2 of Article 5 can be deducted from the aforementioned tax.

An individual or a profit-seeking enterprise who fails to apply for investment in accordance with Paragraph 1, or has already applied for investment which is not approved by the MOEA, shall comply with Paragraph 2, Article 6. An individual or a profit-seeking enterprise who withdraws the funds from the segregated foreign exchange deposit account under an approved investment schedule but fails to use the funds in accordance with regulations shall deposit the funds back into the segregated foreign exchange deposit account and comply with Paragraph 2, Article 6.

Regulations governing Paragraph 1's scope of the policy-targeted industries and procedure of application for investment, Paragraph 2's required investment rate and application procedure of changing investment targets, Paragraph 3's procedure of report for recordation and application for certificate of application, and other related matters shall be prescribed by the MOEA and submitted to the Executive Yuan for approval. Regulations governing Paragraph 3's application procedures of tax refund and other related matters shall be prescribed by the competent authority.

Article 9

The account-handling bank shall, within the first ten days of each month, effect payment to the National Treasury of all the taxes withheld in the preceding month under Paragraphs 1 and 2, Article 5 and Paragraph 5, Article 6, and report to the tax authority-in-charge in the format prescribed by the competent authority.

Article 10

The account-handling bank, which fails to withhold tax, effect payment of the tax withheld, and report in accordance with Paragraphs 1 and 2, Article 5; Paragraph 5, Article 6, and the preceding article, or which has withheld tax in accordance with Paragraphs 1 and 2, Article 5 and Paragraph 5, Article 6 but fails to effect payment of the tax withheld in accordance with the preceding article, or which has reported in accordance with the preceding article but failed to withhold or under-withhold in accordance with Paragraphs 1 and 2, Article 5; Paragraph 5, Article 6, and the preceding article, shall, in addition to being instructed to make up the tax that is not withheld, under-withheld, or not effected payment and to resubmit the report within a given time limit, be subject to a fine of up to the amount of such tax.

The account-handling bank, which has withheld and effected payment of tax in accordance with Paragraphs 1 and 2, Article 5; Paragraph 5, Article 6, and the preceding article but fails to report in accordance with the preceding article, shall be subject to a fine at 20% of the tax amount withheld. However, the amount of the fine shall be between NT$1,500 and NT$20,000.

Article 11

An individual or a profit-seeking enterprise, who is approved to apply for this Act under Paragraph 1 or 2 of Article 5 and subsequently found to have filed applications or submitted supporting documents containing any misrepresentation, shall be subject to a fine between NT$30,000 and NT$300,000.

Article 12

As for the funds deposited in the segregated foreign exchange deposit account, the segregated trust account, or the segregated securities discretionary investment account by an individual or a profit-seeking enterprise in accordance with this Act, income arising from the management, disposition, or utilization of the funds, and the transfer of such funds and properties thereof involved shall comply with the relevant tax laws and regulations.

Article 13

The implementation date of this Act shall be prescribed by the Executive Yuan.

Data Source：Ministry of Finance, R.O.C. Laws and Regulations Retrieving System