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| Title： | An Explanatory Decree regarding “the Application of Beneficial Owner under Agreements for the Avoidance of Double Taxation with Respect to Taxes on Income” Ch |
| Date： | 2019.06.24 |
| Legislative： | Issuance of Explanatory Decree No. 10800577770 by the Ministry of Finance on June 24, 2019 |
| Content： | ※Should discrepancy due to translation occur, the Chinese version shall prevail.<br><br>1. When a resident of the other Contracting State deriving income which is subject to tax in accordance with the relevant income tax laws of the Republic of China (hereinafter referred to as “the income in question”) applies for reduction in or exemption from tax in accordance with an Agreement for the Avoidance of Double Taxation with Respect to Taxes on Income (hereinafter referred to as “Income Tax Agreement”) as well as relevant regulations which require the submission of supporting documents identifying the said resident of the other Contracting State as the beneficial owner of the income in question, unless otherwise provided in that Income Tax Agreement, the said resident of the other Contracting State may submit a declaration identifying himself/herself/itself as the beneficial owner of the income in question in order to fulfill the aforementioned requirement.<br>2. When, in accordance with the stipulations of the Regulations Governing Investment in Securities by Overseas Compatriots and Foreign Nationals, a foreign institutional investor of the other Contracting State investing in domestic securities with the status of a fund or not with the status of a fund but by means of holding a trust relationship with residents of the other Contracting State derives dividends or interest from sources in the Republic of China, and the aforementioned fund or trust is a resident of the other Contracting State pursuant to the provisions of the underlying Income Tax Agreement, a declaration identifying the fund or trust as the beneficial owner of the income in question may be submitted in accordance with the preceding paragraph. The requirements stipulated under each Subparagraph of Paragraph 6 of Article 15 of the Regulations Governing Application of Agreements for the Avoidance of Double Taxation with Respect to Taxes on Income, which such foreign institutional investor would otherwise be obligated to fulfill, will not apply to the case.<br>3. Where a tax authority, undertaking the aforementioned application, may reasonably conclude that the resident of the other Contracting State acts in one of the following capacities, that resident of the other Contracting State is |

not the beneficial owner of the income in question:
a. An agent, who derives the income in question in the name of the principal.
b. A nominee, who derives the income in question in his own name but for the benefit of another person, and who has no right to use or enjoy that income, e.g.,
a person who allows the property which is economically owned by others to be registered under his/her/its own name without the discretionary power over that property; in a trust relationship, a trustee to whom the discretionary power over the income in question
is not granted.
c. A conduit financing entity, that is a legal person or a legal arrangement which has no right to use or enjoy the income in question, and which serves to obtain
a tax exemption, reduction, deferral, or refund regarding that income. An entity will not be regarded as a conduit financing entity where: that entity is liable to tax for the receipt of the income in question in accordance with the tax laws of the other
Contracting State, the subsequent distribution of income by that entity is sourced in the other Contracting State, and that entity is not obliged by any contractual or legal obligation which is dependent on the receipt of the income in question to pass on
that income to another person.
d. A person, other than those stipulated in the preceding three paragraphs, whose right to use or enjoy the income in question is constrained by a contractual
or legal obligation which is dependent on the receipt of the income in question to pass on that income to another person.
4. Decrees Nos. 870362587 (dated June 18, 1998), 09804505010 (dated January 17, 2009), and 10104553490 (dated June 4, 2012) issued by the Ministry of Finance are now abolished.

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