Content

Title：	Regulations Governing the Exchange of Tax Information Concerning Agreements on Tax Matters Ch
Date：	2017.12.07
Legislative：	Promulgated by Decree No. 10624519000 issued by the Ministry of Finance on December 7, 2017.
Content：	Chapter 1 General Provisions Article 1 These Regulations are enacted pursuant to the provisions set out in paragraph 6 of Article 5-1 of the Tax Collection Act (hereinafter referred to as the Act). Article 2 The Republic of China (hereinafter referred to as the ROC) shall, based on the principle of reciprocity, exchange tax information with the other Contracting Party in accordance with the provisions of an applicable agreement on tax matters and paper documents agreed upon thereunder. Any such matter not provided for shall be governed by the provisions of the Act, the Income Tax Act, these Regulations, the Regulations Governing Application of Agreements for the Avoidance of Double Taxation with Respect to Taxes on Income, and other relevant laws and regulations. The competent authority of the ROC, while exercising exchange of tax information, shall receive or provide relevant tax information in the form of a specific request, spontaneous exchange, automatic exchange, or other methods of exchange as agreed upon by the competent authorities. Article 3 For the purposes of these Regulations: 1. The term “agreement on tax matters” means a treaty, agreement, or arrangement on income tax or exchange of information on tax matters, including its full text, exchange of letter, annex, protocol, and any other similar international paper document signed by the ROC with the other Contracting Party and brought into force in accordance with Article 5 or Article 5-1 of the Act. 2. The term “a specific request” means the competent authority of any Contracting Party, in accordance with the provisions of an agreement on tax matters, requests the competent authority of the other Contracting Party for its assistance in gathering tax information needed for a specific case on tax matters. 3. The term “spontaneous exchange” means the competent authority of any Contracting Party spontaneously provides its tax information to the competent authority of the other Contracting Party in accordance with the provisions of an agreement on tax matters. 4. The term “automatic exchange” means the competent authority of any Contracting Party periodically provides its tax information in bulk to the competent authority of the other Contracting Party in accordance with the provisions of an agreement on tax matters and paper documents agreed upon

thereunder.
5. The term “the other Contracting Party” means a country, jurisdiction, or international organization with which the ROC has signed an agreement on tax matters.
6. The term “both Contracting Parties” means the ROC and the other Contracting Party.
7. The term “competent authority” means, with respect to the ROC, the Ministry of Finance or other authorized agency or person who is designed to handle the exchange of tax information in accordance with an agreement on tax matters in association with the term competent authorities; with respect to the other Contracting Party, the authorized agency or person who is designed to handle the exchange of tax information in accordance with an agreement on tax matters in association with the term competent authorities.
Article 4
When the ROC exercises the exchange of tax information with the other Contracting Party, the following provisions shall be accorded; the ROC shall not process an exchange of information case if the case does not meet one of the following provisions:
1. Persons covered: the exchange of information shall be restricted to persons who are residents of the ROC, the other Contracting Party, or both Contracting Parties. Notwithstanding the foregoing, where provisions of the applicable agreement on tax matters provide that such exchange shall not be restricted to persons who are residents as the aforementioned, such provisions shall prevail.
2. Taxes covered: the exchange of information shall be restricted to taxes on income imposed by the ROC or the other Contracting Party. Notwithstanding the foregoing, where provisions of the applicable agreement on tax matters provide that such exchange shall not be restricted to taxes on income, such provisions shall prevail.
3. Period covered: the exchange of information shall be restricted to tax information belonging to the period commencing from the date of entering the agreement on tax matters into effect specified in the entry into force provision of such agreement and ending before the date of ceasing the agreement on tax matters to have effect specified in the termination provision of such agreement. Notwithstanding the foregoing, where provisions of the applicable agreement on tax matters provide otherwise, such provisions shall prevail. In the case that a specific request is raised by the other Contracting Party, the tax information which the ROC may provide for shall be limited to that which falls within the periods for assessment as specified in paragraph 1 of Article 21 of the Act.
Article 5
In no case shall the exchange of tax information exercised by the ROC or the other Contracting Party in accordance with the provision of the preceding article be construed so as to impose on a Contracting Party the obligation:
1. To carry out administrative measures at variance with the laws and administrative practice of the ROC or of the other Contracting Party.
2. To supply information which is not obtainable under the laws or in the normal course of the administration of the ROC or of the other Contracting

Party.
3. To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information.
4. To supply information which would be contrary to public policy or public order.
5. To comply with other obligations which the ROC or the other Contracting Party is not specified to have in the provisions of the applicable agreement on tax matters.
Article 6
Where the exchange of tax information exercised between the ROC and the other Contracting Party is in accordance with the provision of Article 4, the ROC shall not proceed with such exchange once one of the situations in association with the other Contracting Party listed below is discovered:
1. It is not able to equally provide the same kind of information to the ROC.
2. It is obviously difficult to keep the information received confidential.
3. The information provided as a response to a specific request is used for purposes other than taxation.
4. Providing the information as a response to a specific request would be detrimental to the public interest of the ROC.
5. Raising a specific request without exhausting means available under its investigation procedures.
Article 7
Tax information received by a Contracting Party which is provided by the competent authority of the other Contracting Party under an agreement on tax matters shall be treated as secret in the same manner as information obtained under the domestic laws of the first-mentioned Contracting Party and shall be disclosed only to persons or authorities specified under the provisions of the applicable agreement on tax matters. Such persons or authorities shall use the information only for the purposes of the exchange of information. Notwithstanding the foregoing, where provisions of the applicable agreement on tax matters provide otherwise, such provisions shall prevail.
When processing the exchange of tax information for the other Contracting Party, the ROC shall maintain the case in confidentiality during the course of examining, gathering, and providing information. Where the ROC receives information provided by the competent authority of the other Contracting Party, such information shall be treated as secret in accordance with the provisions of the Act, Personal Information Protection Act, and relevant confidentiality laws and regulations.
Chapter 2 A Specific Request
Section 1 Raising A Specific Request
Article 8
When the tax collection authority or the Taxation Administration of the Ministry of Finance, having exhausted means available under the domestic investigation procedures, is not able to obtain the tax information as is foreseeably relevant for carrying out audit in association with taxes as specified in subparagraph 2 of Article 4 and resulting in the need to raise a request for information to the other Contracting Party, the tax

collection authority or the Taxation Administration of the Ministry of Finance shall complete the prescribed format of Table of the Content of a Request for the Exchange of Information, draft a request letter in English, and then submit these together with the relevant data to the competent authority of the ROC. Before drafting the above-mentioned documents, the tax collection authority or the Taxation Administration of the Ministry of Finance shall verify that such request for information meets the requirements prescribed in Article 4 and does not fall under one of the situations prescribed in Article 5.

The format of Table of the Content of a Request for the Exchange of Information mentioned in the preceding paragraph shall, in addition, be issued by the Ministry of Finance.

The following shall be stated in the request letter in English specified in paragraph 1:

1. The legal basis upon which the request is raised.
2. The ROC's taxpayer to whom the investigation is being launched. The name and relevant information of the other Contracting Party's agency, institution, organization, enterprise, or individual who is relevant to the information requested for.
3. The tax and the assessment year with which the investigation is associated.
4. The origin, reason, and purpose of the request; situations in respect of suspected tax evasion or avoidance; the necessary tax information is not able to be obtained after exhausting means available under domestic investigation procedures and believing in the requested information may be held by the other Contracting Party.
5. The requested information would be obtainable under the laws or in the normal course of administration of the ROC if it were possessed by the ROC.
6. The content of and period associated with the requested information.
7. Reasons where the other Contracting Party should avoid notifying the agency, institution, organization, enterprise, or individual under investigation.
8. Other information which may be helpful for the competent authority of the other Contracting Party to gather the requested information.

Article 9

The competent authority of the ROC, having received the data under the preceding article and verified that such data meet the following requirements, shall raise a specific request to the competent authority of the other Contracting Party by drafting the competent authority letter in English and then providing it together with the relevant data; if the following requirements are not satisfied, the competent authority of the ROC shall return the data to the requesting authority for further investigation or supplementary explanation.

1. The request meets the requirements prescribed in Article 4 and does not fall under one of the situations prescribed in Article 5.
2. The Table of the Content of a Request for the Exchange of Information is completed in the prescribed format, the request letter in English is drafted in accordance with the provision of paragraph 3 of the preceding article, and the relevant data are submitted.

Article 10

In the case that the competent authority of the ROC raises a request for information to the other Contracting Party in order to carry out the provisions of an agreement on tax matters, the procedures prescribed in Article 8 concerning requirement of verification and production of documents shall be accorded mutatis mutandis. In such a case, the competent authority of the ROC shall raise a specific request to the competent authority of the other Contracting Party by drafting the competent authority letter in English and then providing it together with the relevant data.

Article 11

The competent authority of the ROC shall forward to the requesting authority the reply received from the competent authority of the other Contracting Party as a response to the specific request which was raised in accordance with the provision of Article 9.

Where the requesting authority mentioned in the preceding paragraph provides supplementary explanations as a response to the reply received from the other Contracting Party, the procedures prescribed in Article 8 shall be accorded mutatis mutandis.

Section 2 Receiving A Specific Request

Article 12

The competent authority of the ROC, having received a specific request raised by the competent authority of the other Contracting Party, shall assist in gathering and providing information, provided that the origin, reason, purpose of the request, and situations in respect of suspected tax evasion or avoidance indicated in the request are verified as is foreseeably relevant for carrying out audit in association with taxes specified in subparagraph 2 of Article 4 by the other Contracting Party. Before providing the aforementioned assistance, the competent authority of the ROC shall also verify that such request meets the requirements prescribed in Article 4 and does not fall under one of the situations prescribed in Articles 5 and 6.

The competent authority of the ROC shall notify the competent authority of the other Contracting Party about the receipt of the specific request within 30 days from the date of such receipt. The competent authority of the ROC shall reply to the competent authority of the other Contracting Party within 60 days from the date of receipt of the specific request, if such request is verified not to comply with the provision of the preceding paragraph.

Where the competent authority of the ROC receives from the competent authority of the other Contracting Party a supplementary explanation with respect to a specific request raised previously, the procedures prescribed in the preceding two paragraphs shall be accorded mutatis mutandis.

Article 13

Where the competent authority of the ROC assists in gathering and providing information in accordance with the provision of paragraph 1 of the preceding article, the competent authority of the ROC may, depending on the case, request the relevant agency to provide the information, or request the tax collection authority or other agency authorized by the Ministry of Finance to gather the information in accordance with the following, notwithstanding the confidentiality provisions provided in paragraph 1 of

Article 33 of the Act, or the financial and tax laws specified in paragraph 5 of Article 5-1 of the Act.

1. The requested information is able to be obtained without performing extra investigations, the tax collection authority or other agency authorized by the Ministry of Finance shall gather it in accordance with the competent authority of the other Contracting Party's specific request.

2. The requested information is only obtainable by performing extra investigations, the tax collection authority or other agency authorized by the Ministry of Finance may conduct a necessary investigation into the relevant agency, institution, organization, enterprise, or individual, or request the presence of the subject of the investigation at the office of the tax collection authority or other agency authorized by the Ministry of Finance for enquiry and to provide relevant information.

When the tax collection authority or other agency authorized by the Ministry of Finance carries out an investigation in accordance with subparagraph 2 of the preceding paragraph, the relevant agency, institution, organization, enterprise, or individual shall provide relevant information within the period specified in the notice of investigation or notice of enquiry. The aforementioned period shall not exceed 30 days from the date on which the notice of investigation or notice of enquiry is served. Where, due to special circumstances, information is not possible to provide within the specified period, the relevant agency, institution, organization, enterprise, or individual shall apply for an extension prior to the end of such period, and such period for extension shall not exceed 60 days in total.

The relevant agency, institution, organization, enterprise, or individual shall provide a Chinese translation, in the case that the relevant information provided in accordance with the preceding paragraph is in a foreign language. Notwithstanding the foregoing, a summary of the Chinese translation or the foreign language document may, instead, be provided as otherwise permitted by the tax collection authority or other agency authorized by the Ministry of Finance.

The tax collection authority or other agency authorized by the Ministry of Finance, having gathered the information in accordance with paragraph 1, shall draft a reply letter in English, stating the situations concerning gathering of the information as well as issues to which the other Contracting Party should pay attention, and then submit those together with the gathered information to the competent authority of the ROC. Before drafting the above-mentioned letter, the tax collection authority or other agency authorized by the Ministry of Finance shall also verify that the information gathered in accordance with paragraph 1 meets the requirements prescribed in Article 4 and does not fall under one of the situations prescribed in Articles 5 or 6.

When the tax collection authority or other agency authorized by the Ministry of Finance is unable to gather the information under paragraph 1 or the information gathered under paragraph 1 is verified not to comply with the requirements in accordance with the provision of the preceding paragraph, the tax collection authority or other agency authorized by the Ministry of Finance shall draft a reply letter in English stating the reasons, and then submit it together with relevant data to the competent

authority of the ROC.

Article 14

The competent authority of the ROC, having received the data under paragraph 1 or 4 of the preceding article, shall draft a competent authority letter in English, aggregate relevant information and then provide them to the competent authority of the other Contracting Party. Before drafting the above-mentioned letter, the competent authority of the ROC shall also verify that the data received meet the content of the other Contracting Party's specific request, the provisions of the agreement on tax matters, and relevant laws and regulations.

When the competent authority of the ROC receives the data under paragraph 5 of the preceding article, or is not able to verify that the data comply with the content of the specific request raised by the competent authority of the other Contracting Party, the provisions of the agreement on tax matters, and relevant laws and regulations under the provision of the preceding paragraph, the competent authority of the ROC shall draft a competent authority letter in English to request a supplementary explanation from the competent authority of the other Contracting Party, or to reply that the requested information is not able to be provided.

Where the competent authority of the ROC receives from the competent authority of the other Contracting Party a supplementary explanation as a response to the request under paragraph 2, the procedures prescribed in paragraphs 1 and 2 of Article 12 concerning requirement of verification shall be accorded mutatis mutandis.

When the competent authority of the ROC proceeds to assist the competent authority of the other Contracting Party in gathering and providing tax information under paragraph 1 of Article 12, the competent authority of the ROC shall complete the procedures prescribed in paragraphs 1 and 2 within 90 days from the receipt of the specific request or supplementary explanation of the competent authority of the other Contracting Party. In the case that there are special circumstances resulting in the need of an extension, the competent authority of the ROC shall, prior to the end of the aforementioned period, notify the competent authority of the other Contracting Party with statements of difficulties encountered or reasons for which information was not able to be provided on a timely basis.

Chapter 3 Spontaneous Exchange

Section 1 Raising Spontaneous Exchange

Article 15

When the tax collection authority or the Taxation Administration of the Ministry of Finance considers that the information acquired under laws as is foreseeably relevant for carrying out audit in association with taxes specified in subparagraph 2 of Article 4 by the other Contracting Party, the tax collection authority or the Taxation Administration of the Ministry of Finance may draft a letter for the provision of information in English and then submit it together with the relevant data to the competent authority of the ROC. Before drafting the above-mentioned letter, the tax collection authority or the Taxation Administration of the Ministry of Finance shall also verify that such provision of information meets the requirements prescribed in Article 4 and does not fall under one of the situations prescribed in Article 5 or subparagraph 1 or 2 of Article 6.

Information is considered as being foreseeably relevant for carrying out audit by the other Contracting Party referred to in the preceding paragraph if:
1. There may be a significant loss of tax in the other Contracting Party.
2. A person liable to tax obtains a reduction in or an exemption from tax in the ROC which could give rise to an increase tax or to liability to tax in the other Contracting Party.
3. Business dealings between a person liable to tax in the ROC and a person liable to tax in the other Contracting Party may result in loss of tax in either or both Contracting Parties.
4. A saving of tax may result from artificial transfers of profits within groups of enterprises.
5. Information, which is obtained due to the information provided by the other Contracting Party, may be relevant in assessing liability to tax in the other Contracting Party.
6. Other situations suggest that information as being foreseeably relevant for carrying out audit in association with taxes specified in subparagraph 2 of Article 4 by the other Contracting Party.
The following shall be stated in the letter for the provision of information in English specified in paragraph 1:
1. The legal basis upon which the provision of information is based.
2. Situations and their reasons concerning the information specified in the preceding paragraph as being foreseeably relevant for carrying out audit by the other Contracting Party.
3. The content of the information provided. If necessary, identify and provide relevant information with respect to the agency, institution, enterprise, organization, or individual from which the information was obtained.
4. Reasons where the other Contracting Party should avoid notifying the agency, institution, enterprise, organization, or individual to whom the provided information is related.
5. Other relevant information which may be helpful for carrying out tax audit by the other Contracting Party.
Article 16
The competent authority of the ROC, having received the data under the provision of the preceding article and verified that such data meet the following requirements, shall draft a competent authority letter in English and then provide it together with the relevant data to the competent authority of the other Contracting Party; if the following requirements are not satisfied, the competent authority of the ROC shall return it to the sending authority for further investigation or supplementary explanation.
1. The information to be provided meets the requirements prescribed in Article 4 and does not fall under one of the situations prescribed in Article 5 or subparagraphs 1 and 2 of Article 6.
2. The letter for the provision of information in English is drafted in accordance with paragraph 3 of the preceding article, and relevant data are submitted.
Article 17
When the competent authority of the ROC provides information to the

competent authority of the other Contracting Party under a spontaneous exchange, the procedures prescribed in Article 15 concerning requirement of verification and production of documents shall be accorded mutatis mutandis. In such a case, the competent authority of the ROC shall draft the competent authority letter in English and then provide it together with the relevant data to the competent authority of the other Contracting Party.

Section 2 Receiving Spontaneous Exchange

Article 18

The competent authority of the ROC shall forward the information provided by the competent authority of the other Contracting Party under a spontaneous exchange to the tax collection authority or the Taxation Administration of the Ministry of Finance to use such information.

Chapter 4 Automatic Exchange

Section 1 Basis for Implementation

Article 19

The ROC shall exercise the automatic exchange of tax information with the other Contracting Party in accordance with the agreement, arrangement, exchange of letter, memorandum, or other similar document agreed upon between the competent authorities under an agreement on tax matters.

The documents referred to in the preceding paragraph shall meet the requirements prescribed in Article 4 and not fall under one of the situations prescribed in Article 5 or subparagraph 1 or 2 of Article 6.

Where the competent authority of the ROC, the Fiscal Information Agency of the Ministry of Finance, or other agency authorized by the Ministry of Finance carries out the automatic exchange of tax information in accordance with the above-mentioned documents, such action shall not be required to be verified case by case basis.

Section 2 Raising Automatic Exchange

Article 20

The Fiscal Information Agency of the Ministry of Finance shall periodically select the information to be automatically provided to the other Contracting Party, and then submit it to the competent authority of the ROC in the form of an encrypted file produced under prescribed format and programing language in accordance with the documents referred to in paragraph 1 of the preceding article.

Article 21

The competent authority of the ROC, having received the information under the preceding article, shall provide such information to the competent authority of the other Contracting Party within the period and by the transmission method specified in the documents referred to in paragraph 1 of Article 19.

Section 3 Receiving Automatic Exchange

Article 22

The competent authority of the ROC shall forward the information provided by the competent authority of the other Contracting Party in accordance with the provisions of the documents referred to in paragraph 1 of Article 19 to the Fiscal Information Agency of the Ministry of Finance. The Fiscal Information Agency of the Ministry of Finance shall decrypt, identify, and match the received information for the tax collection authority or the

Taxation Administration of the Ministry of Finance to use such information.

Chapter 5 Feedback

Section 1 Providing Feedback

Article 23

When the tax collection authority or the Taxation Administration of the Ministry of Finance provides feedback in response to the other Contracting Party's request, or considers that there is a need to provide feedback with respect to the usage and effectiveness of the information provided by the other Contracting Party, the tax collection authority or the Taxation Administration of the Ministry of Finance shall draft and submit to the competent authority of the ROC a feedback letter in English describing in detail the usage and effectiveness of the information.

Where the Fiscal Information Agency of the Ministry of Finance, after carrying out decryption, verification, and matching in accordance with the provision of the preceding article, provides feedback in response to the other Contracting Party's request, or considers that there is a need to provide feedback to the other Contracting Party once discovering the incorrectness or incompleteness of information provided by the other Contracting Party, the Fiscal Information Agency of the Ministry of Finance shall draft and submit a feedback letter in English describing in detail the matters to the competent authority of the ROC.

The feedback referred to in the preceding two paragraphs shall be verified by the sending authority to meet the requirements prescribed in Article 4 and not fall under one of the situations prescribed in Article 5 or subparagraph 1 or 2 of Article 6.

Where the competent authority of the ROC receives the data under paragraphs 1 and 2, the procedures prescribed in subparagraph 1 of Article 16 concerning requirement of verification shall be accorded mutatis mutandis. After verification, the competent authority of the ROC shall provide it to the competent authority of the other Contracting Party.

Article 24

Where the competent authority of the ROC provides feedback in response to the other Contracting Party's request, or considers that there is a need to provide feedback with respect to the usage and effectiveness of the information provided by the other Contracting Party, the procedures prescribed in paragraphs 1 and 3 of the preceding article concerning requirement of verification and production of documents shall be accorded mutatis mutandis. In such a case, the competent authority of the ROC shall draft a competent authority letter in English and then provide them all together to the competent authority of the other Contracting Party.

Section 2 Receiving Feedback

Article 25

The competent authority of the ROC shall forward the feedback received from the competent authority of the other Contracting Party to the relevant authority originally submitting the information.

Chapter 6 Supplemental Provisions

Article 26

Where doubts arise regarding the exchange of tax information, the competent authority of the ROC may consult with the competent authority of the other Contracting Party to undergo mutual agreement procedure or similar conflict

	resolution procedure in accordance with an agreement on tax matters, the Regulations Governing Application of Agreements for the Avoidance of Double Taxation with Respect to Taxes on Income, or relevant laws and regulations governing the mutual agreement procedure. Article 27 When a relevant agency, institution, organization, enterprise, or individual violates the provision of paragraphs 1 through 3 of Article 13 by avoiding, hindering, or refusing the investigation or enquiry conducted by the Ministry of Finance or agency authorized by the Ministry of Finance, or by not providing relevant information as served or requested, the Ministry of Finance or agency authorized by the Ministry of Finance shall handle the case according to the provisions of paragraph 1 of Article 46-1 of the Act. Article 28 These Regulations shall come into effect from the date of promulgation.
Attachments：	(英)租稅協定稅務用途資訊交換作業辦法.pdf

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