

税务快讯

关于废止澳门离岸法的最新动态

最新情况

继澳门特别行政区行政会于 2018 年 9 月 21 日提出废止现行的离岸业务法律制度（简称“离岸法”）后，澳门特别行政区立法会安排于 2018 年 10 月 16 日对该法案进行一般性讨论及表决。

提交至立法会的法案

就我们于 2018 年 9 月 27 日之[税务快讯](#)所提及，提出废止离岸法是为配合经济合作与发展组织（简称“经合组织”）有关消除税基侵蚀与利润转移的行动。为履行承诺，澳门特别行政区政府计划在 2018 年内完成相关的立法工作，旨在终止现有的离岸法及撤销与离岸业务相关的税务优惠。

法案提出：

1. 在废止现行离岸法的法律（简称“废止法律”）生效后，现行的离岸法及其补充法规（除了下列第 2 点至第 6 点的特别规定），将继续适用于已获许可的离岸机构，直至 2020 年 12 月 31 日；
2. 离岸机构在废止法律生效后所取得的动产和不动产，将不再享有现行离岸法所规定的印花税豁免；
3. 在废止法律生效后获许可在澳门特别行政区定居的领导人员及专门技术人员，不再享有现行离岸法中的职业税税务优惠；
4. 离岸机构不再获豁免提交所得补充税收益申报表；

5. 离岸机构于 2017 年 10 月 16 日及其后取得的知识产权自 2018 年 7 月 1 日起所产生的收益，须课征所得补充税；
6. 在废止法律生效后，当离岸机构在 5 年内取得的动产和不动产不再用于离岸业务，不须补缴根据现行离岸法所豁免的印花税；
7. 离岸机构的许可自 2021 年 1 月 1 日起失效。

德勤观察

在 2018 年 10 月 4 日，我所代表曾与澳门贸易投资促进局（“贸促局”）的官员会面，商讨法案潜在的过渡安排和优惠措施，以期帮助现有的离岸机构转型及保留在澳门的投资和营运。

由于离岸机构将不再豁免提交所得补充税收益申报书，我们自贸促局了解到，澳门特别行政区政府财政局（“财政局”）很可能会要求离岸机构自 2018 年度开始提交所得补充税收益申报书，即于 2019 年提交相关的申报书。鉴于此项提议，我们注意到：

- 过往，我们并不常见财政局对离岸机构所分派之股息征收所得补充税。然而，根据现行的离岸法和所得补充税章程，严格来说，离岸机构获豁免的所得补充税优惠并未延伸至派发给其股东的股息。目前尚未确定的是，在离岸机构提交 2018 年度所得补充税收益申报书并披露派发股息予其股东后，财政局会否严格执行所得补充税章程的规定而对上述股息征收所得补充税。假若财政局对离岸机构所分派之股息征收所得补充税，则税率为 12%。
- 根据现行的所得补充税章程，所得补充税收益申报书的结算年度为历年（即截至 12 月 31 日）。然而，离岸机构目前可以采用经贸促局批准的财政年度，如 3 月 31 日、6 月 30 日等，来编制并向贸促局提交审计报告。目前尚不清楚的是，现行的所得补充税合规要求会否严格地适用于离岸机构，及会否提供任何特别的安排来协助离岸机构履行税务合规要求。

鉴于上述情况，我们鼓励企业咨询税务专业人员，以评估潜在的税务影响和可行的措施，特别是当离岸机构打算在 2018 或以后年度分派股息，藉以减轻潜在的税务风险。

在会议中，贸促局向我们明确表示，当局希望保留现有的离岸机构在澳门的投资和营运，我们亦期待澳门特别行政区政府推出税务和商务的优惠措施，以助离岸机构转型为澳门居民公司。与此同时，尽管过渡性安排的细节尚未公布，我们鼓励企业评估目前离岸机构的营运模式，以审视能否在过渡期后实现更好的税收效益。

我们将在获得更多详细信息后提供进一步的更新。

本文由德勤中国为本行中国大陆及香港之客户及员工编制，内容只供一般参考之用。我们建议读者就有关资料作出行动前咨询税务顾问的专业意见。

作者：

邓伟文
合伙人
税务及商务咨询服务
德勤中国
+852 2852 6661
raytang@deloitte.com.hk

黄宝琪
高级经理
税务及商务咨询服务
德勤中国
+852 2852 6594
ewong@deloitte.com.hk



Deloitte (“德勤”) 泛指一家或多家德勤有限公司 (即根据英国法律组成的私人担保有限公司, 以下称“德勤有限公司”), 以及其成员所网络和它们的关联机构。德勤有限公司与其每一家成员所均为具有独立法律地位的法律实体。德勤有限公司 (又称“德勤全球”) 并不向客户提供服务。请参阅关于德勤中有关德勤有限公司及其成员所更为详细的描述。

隐私

感谢您对德勤中国服务的关注。德勤中国希望可以继续使用您的个人资料 (特别是姓名及联系信息), 以向您发送市场和政策最新动态, 以及由德勤中国举办、赞助或宣传之研讨会及其他活动的邀请函。如您日后不希望收到由德勤中国发出的信息, 请回复电邮并在邮件主题栏中填上“Unsubscribe”。

如欲更新您的个人资料, 请点击此处。

德勤中国泛指德勤·关黄陈方会计师事务所 (香港)、德勤·关黄陈方会计师事务所 (澳门)、德勤华永会计师事务所 (特殊普通合伙) (中国大陆) 以及其于香港、澳门及中国大陆从事业务之关联机构。

本通信中所含内容乃一般性信息, 任何德勤有限公司、其成员所或它们的关联机构 (统称为“德勤网络”) 并不因此构成提供任何专业建议或服务。在作出任何可能影响您的财务或业务的决策或采取任何相关行动前, 您应咨询合资格的专业顾问。任何德勤网络内的机构均不对任何方因使用本通信而导致的任何损失承担责任。

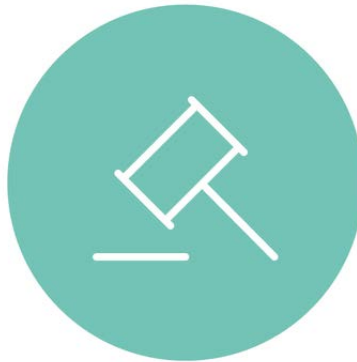
© 2018 德勤·关黄陈方会计师事务所 (香港)、德勤·关黄陈方会计师事务所 (澳门)、德勤华永会计师事务所 (特殊普通合伙) (中国大陆) 版权所有 保留一切权利。

如您日后不希望收到关于该话题的信息, 请回复电邮并在邮件主题栏中填上“取消订阅”。

Deloitte.

China | Tax & Business Advisory | 23 October 2018

[中文](#)



Tax Newsflash

Updates on the Proposed Abolishment of the Macao Offshore Law

Current Status

Further to the announcement of the proposed abolishment of the Macao Offshore Law (MOL) by the Executive Council of the Macao SAR Government on 21 September 2018, the Legislative Assembly of Macao SAR had discussed the draft legislation on 16 October 2018.

The Draft Legislation Submitted to the Legislative Assembly

As mentioned in our [Tax Newsflash](#) published on 27 September 2018, the proposed abolishment of MOL intends to respond to the requirement from the Organisation for Economic Co-operation and Development (OECD) under Base Erosion and Profit Shifting (BEPS) initiative. As a commitment to the above, the Macao SAR Government is targeting to enact the legislation by the end of year 2018, aiming to abolish the existing MOL and the relevant regulations, and to withdraw the tax benefits related to offshore businesses.

The proposed measures are as follows:

1. After the effective date of the legislation, the existing Offshore Law and relevant regulations, except for those modified and listed as follows (points 2 to 6), will still be applicable to the approved Macao offshore companies (MOC) until 31 December 2020;
2. Movable and immovable properties acquired by MOC after the effective date of the legislation will no longer be exempted from Stamp Duty;
3. The non-local managers and specialised technicians with temporary residency granted after the effective date of the legislation will no longer enjoy the Professional Tax benefits as specified in the existing MOL;
4. MOC will no longer be exempted from the filing of Macao Complementary Tax (MCT) return;
5. Income derived from intellectual properties acquired after 16 October 2017 will be subject to MCT since 1 July 2018;
6. After the effective date of the legislation, MOC will be relieved from repaying the exempted Stamp Duty if the subject movable and immovable properties acquired within 5 years are no longer be used for offshore business; and
7. The operating permits to carry on offshore business will be terminated on 1 January 2021.

Our Observations

On 4 October 2018, our firm's representatives had a meeting with the senior officials of the Macao Trade and Investment Promotion Institute (IPIM) to discuss the proposed

abolishment proposal, potential transitional arrangements and incentives which may help the MOC transform and retain the investments and operations in Macao.

In considering MOC will no longer be exempted from the filing of MCT return, we understand from IPIM that MOC will likely be required to submit the MCT return to the Macao Tax Authority (MTA) starting from year 2018, i.e. tax return will be required to be submitted to the MTA in year 2019. In view of this proposal, it comes to our attention that:

- We seldom see the MTA imposing MCT on the dividend declared by MOC in the past. However, under the existing MOL and MCT regulation, technically speaking, the MCT exemption to MOC is not extended to the dividend received by the shareholder(s). It is uncertain that, after MOC submits MCT return for the year 2018 in which dividend distribution to its shareholder(s) is disclosed, whether the MTA would enforce the MCT regulation and impose MCT on these dividends. In case the MTA imposes tax on the dividend declared, the tax rate would be 12%.
- Under the MCT regulation, only the calendar year, i.e. year ended on 31 December, is acceptable for MCT filing purposes. Currently, an MOC may adopt a non-calendar year end date approved by the IPIM such as 31 March, 30 June, etc. in preparing and submitting the audited financial statements to the IPIM. It is unclear if the existing MCT compliance requirements would apply to MOC, and whether there would be any special arrangement to assist MOC in fulfilling the tax compliance requirements.

In view of the above, companies are encouraged to consult tax professionals to evaluate the potential tax implications and possible measures to mitigate such potential tax exposures, in particular, if MOC would like to declare the dividend in 2018 onwards.

IPIM has indicated clearly to us in the meeting that they would like to retain the existing MOC investments and operation in Macao and we look forward to any tax and business incentives to facilitate the transition of the MOC to a Macau resident company. Meanwhile, despite the details of the transition arrangements have yet been announced, it is encouraged to evaluate the current MOC operating models to see if there are ways to achieve better tax efficiency after the transition period.

We will provide further update once further details are available.

Tax Newsflash is published for the clients and professionals of Deloitte Touche Tohmatsu. The contents are of a general nature only. Readers are advised to consult their tax advisors before acting on any information contained in this newsletter.

Authors:

Raymond Tang

Evy Wong

Tax Partner

+852 2852 6661

raytang@deloitte.com.hk

Tax Senior Manager

+852 2852 6594

ewong@deloitte.com.hk



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see [About Deloitte](#) for a more detailed description of DTTL and its member firms.

Privacy

Thank you for your interest in Deloitte China services. Deloitte China would like to continue to use your personal information (in particular name and contact details) for the purpose of sending you marketing and regulatory updates, invitations to seminars and other events organized, sponsored or promoted by Deloitte China. If you do not wish to receive further communications from Deloitte China, please send a return email to the sender with the word “Unsubscribe” in the subject line.

If you would like to update your personal information, please click [here](#).

Deloitte China refers to Deloitte Touche Tohmatsu in Hong Kong, Deloitte Touche Tohmatsu in Macau, Deloitte Touche Tohmatsu Certified Public Accountants LLP in the Chinese Mainland and their respective affiliates practising in Hong Kong, Macau and the Chinese Mainland.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively the “Deloitte Network”) is by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2018 Deloitte Touche Tohmatsu in Hong Kong, Deloitte Touche Tohmatsu in Macau, and Deloitte Touche Tohmatsu Certified Public Accountants LLP in the Chinese Mainland. All rights reserved.

To no longer receive emails about this topic please send a return email to the sender with the word “Unsubscribe” in the subject line.