

營利事業處分境內外基金利得之注意事項

稅務法令新訊

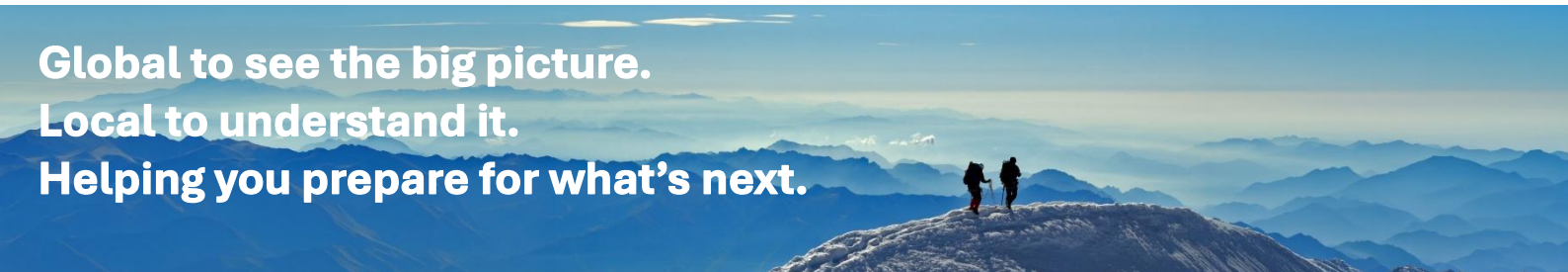
要旨：

依所得稅法第 4 條之 1 規定，營利事業處分我國境內基金之利得屬證券交易所得，目前停徵營利事業所得稅，惟應依所得基本稅額條例第 7 條第 1 項第 1 款規定計入營利事業之基本所得額。另營利事業若處分境外基金之利得，則屬境外財產交易所得，其不適用停徵規定，應依所得稅法第 3 條第 2 項規定全數併入當年度課稅所得額，課徵營利事業所得稅。

解析：

營利事業處分基金之利得，並非一律適用停徵證券交易所得稅之規定，應視基金究為境內基金或境外基金而定。境內基金係指在我國境內登記發行，或經證券主管機關核准在境內募集及銷售之基金，對其處分之利得屬證券交易所得，雖目前停徵所得稅，但仍應計入基本所得額計算基本稅額。境外基金則指發行機構及註冊地均在中華民國境外之基金，對其進行處分之利得應屬境外財產交易所得，不適用停徵規定，應全數併入當年度課稅所得額，並按20%稅率課徵營利事業所得額。如營利事業誤將處分境外基金之利得列為免稅所得，經國稅局查核後，除應補繳稅款外，將依所得稅法第 110 條規定處以罰鍰。

本所特別提醒，營利事業進行投資時，應確認基金之發行及註冊地，以正確申報處分之利得。如發現漏報，應於未經檢舉及調查前，依稅捐稽徵法第 48 條之 1 規定自動補報補繳所漏稅款，加計利息後可免予受罰。



瑪澤聯合會計師事務所 團隊聯絡資訊

Forvis Mazars Taiwan Contacts

張豐淦 Al Chang

Country Lead, Head of Tax

Al.chang@forvismazars.com

楊建華 Chienhua Yang

Tax Partner

Chienhua.yang @forvismazars.com

林國琇 Kathy Lin

Tax Director

Kathy.lin@forvismazars.com

沈　季 Demi Shen

Tax Manager

Demi.shen@forvismazars.com

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