

Significant tax reform in Macau: Tax Code will take full effect in 2026

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In brief

On 16 December 2024, the Legislative Assembly of the Macau Special Administrative Region (Macau SAR) passed the bill for approval of the Tax Code (new legislation). This new legislation not only clarifies and strengthens the tax legal system in the Macau SAR, but also establishes a modern tax system in line with international tax standards. The Chief Executive of the Macau SAR signed and ordered the publication of the new legislation on 28 December 2024, which was then officially published in the Macau SAR Gazette on 30 December 2024. To allow sufficient preparation time for relevant sectors, the majority of the provisions of the new legislation will take effect on 1 January 2026. However, the definition of tax resident and certain amendments to the stamp duty regulations have already come into effect as of 1 January 2025 and 31 December 2024 respectively.

The new legislation clearly states that Macau taxation system adheres to the territorial principle, introduces transfer pricing regulations, consolidates the provisions of the existing tax legislations, and formally incorporates international tax concepts such as permanent establishment (PE), tax agent, and tax resident into Macau tax regulations. This modernisation aims to align the Macau taxation system more closely with the latest international tax standards and norms.

The new legislation draws on relevant regulations and guidelines from the Organisation for Economic Co-operation and Development (OECD) but has made some localised adjustments to accommodate the current economic development of the Macau SAR. Consequently, there are still many uncertainties and discrepancies around the textual interpretation and practical application of the new legislation. Taxpayers should continue to closely follow the explanatory sessions to be hosted by the Macau Finance Bureau (MFB) regarding the new legislation and the implementation details to be issued, and carefully assess the impact of the new legislation on taxpayers.

In detail

The Government of the Macau SAR (the Macau government) first introduced the 'Approval of the Tax Code' bill to the Legislative Assembly in November 2021. After several years of study and discussion, the bill underwent detailed deliberation and was approved on 16 December 2024.

The key highlights of the new legislation include:

1. **Territorial Principle:** It clearly states that the Macau taxation system will adhere to the territorial principle.
2. **Transfer Pricing Regulations:** It introduces provisions on transfer pricing, specifying that commercial or financial transactions between taxpayers in the Macau SAR and its related parties in other tax jurisdictions should be conducted according to the arm's length principle.
3. **Consolidation of Existing Tax Laws:** The new legislation consolidates existing tax legislations, clearly defining the rights and obligations within tax-related legal relationships. It establishes principles and procedures for tax processes, litigation, and enforcement, safeguarding tax revenue for the Macau SAR while protecting the legitimate rights of taxpayers.
4. **Alignment with International Standards:** To modernise the Macau tax system in line with the latest international tax standards, the new legislation introduces a series of international tax-related concepts such as PE, tax agent and tax resident.

Territorial Principle

Article 14 of the Tax Code, titled ‘Spatial Applicability’, states: *‘Tax regulations apply to taxable events occurring in the Macau SAR, without prejudice to the provisions of international or interregional tax treaties in force in the Macau SAR, nor the applicability of laws otherwise stipulated.’* According to the Macau government’s elaboration, the Macau tax system will follow the territorial principle, generally taxing only income, property, or consumption that originates from within the Macau SAR, while not taxing events that occur outside of the Macau SAR.

However, for Macau tax residents who are Constituent Entities¹ of multinational enterprise (MNE) groups, income including dividends, interest, royalties, and gains from the disposal of property derived from outside of the Macau SAR will still fall within the scope of the Complementary Tax. This exception primarily aims at complying with international requirements and supporting efforts to combat cross-border tax avoidance and prevent double non-taxation. Notably, this provision applies only to Macau tax residents who are Constituent Entities of MNE groups. In other words, Macau tax residents who are not Constituent Entities, as well as non-Macau tax residents, are not required to pay tax on such foreign-sourced income.

If the aforementioned taxpayers have already paid taxes of the same nature as that of Complementary Tax in other tax jurisdictions on their foreign-sourced income, the amount paid can be used as a credit against the Complementary Tax payable for the corresponding year. This credit is capped at the Complementary Tax payable calculated under the Macau Tax Laws. For foreign-sourced dividends, if a Macau tax resident holds at least 10% of the shares in the foreign entity distributing the dividends, the actual income tax paid on the underlying profits used to distribute the dividends can also be creditable in proportion to the shareholding, effectively alleviating the issue of double taxation.

The territorial principle reduces the tax cost of establishing holding companies in the Macau SAR, enhancing the investment and business attractiveness of the Macau SAR. However, under the territorial taxation principle, it is crucial to clearly define what constitutes taxable events occurring in the Macau SAR. Currently, the Tax Code only contains a general provision in Article 14 without further explanation, which may lead to different interpretations adopted by the MFB and taxpayers in practical application, potentially resulting in disputes and litigation. We will monitor whether the MFB will issue tax regulation interpretations and implementation guidelines similar to those in the Hong Kong Special Administrative Region to clarify the determination of the location of taxable events.

Moreover, the current Complementary Tax return form does not include sections for reporting non-taxable foreign-sourced profits, or taxable foreign-sourced profits and associated taxes already paid abroad. The practical process for taxpayers to exclude or credit these amounts, as well as what supporting documents are required to be submitted, remain unclear pending the introduction of new tax return forms and filing guidelines from the MFB.

Permanent Establishment

Article 4 of the Tax Code introduces the concept of a PE, meaning that foreign entities with a PE in the Macau SAR will be regarded as local taxpayers, and will be required to pay Complementary Tax on income attributable to that PE in the Macau SAR. The definition of PE includes a fixed place PE and an agency PE, but excludes facilities for carrying out activities or combinations of activities that are preparatory or auxiliary in nature. Notably, the Tax Laws prior to the amendment do not include a concept similar to an agency PE, so taxpayers should review whether they have engaged any agents in the Macau SAR that might constitute an agency PE before the Tax Code takes effect. Furthermore, the definition and content regarding PE in the Tax Code are similar to those in Article 5 of the OECD’s Model Tax Convention on Income and on Capital. However, to align with the current economic development in the Macau SAR, the Tax Code explicitly states that facilities established by foreign entities for holding exhibitions, conferences, seminars, and trade fairs in the Macau SAR will be considered as PEs.

Besides, the general definition of PE in comprehensive double taxation agreements typically includes a service PE, stipulating that a service PE is established when employees of a foreign entity render services in a jurisdiction for a period exceeding 183 days or six months within any 12-month period. However, this provision is absent from the Tax Code’s definition of PE. Therefore, foreign entities need to pay special attention in this regard when analysing their PE risks in Macau.

The Tax Code does not specify the exact administrative procedures that foreign entities must follow for a PE established in the Macau SAR. Currently, according to Article 9 of the Macau Industrial Tax Regulation, foreign entities providing designated services to Macau entities must register for Industrial Tax and file annual tax returns for income earned in the Macau SAR. Otherwise, the Macau taxpayers engaging these foreign service providers will lose the right to claim the related tax deduction. Taxpayers should pay attention to the implementation details concerning the tax procedures for PE under the Tax Code, how the definition of PE interacts with Article 9 of the Macau Industrial Tax Regulation, and its implications for practical operations.

Tax Agent

Article 22 of the Tax Code introduces the concept of tax agent, who act on behalf of taxpayers before the MFB, ensuring compliance with tax obligations and the exercise of taxpayer rights, including the right to lodge administrative appeals.

Individual Taxpayers

The Tax Code stipulates that taxpayers must have tax residence addresses. If the taxpayer is an individual residing outside the Macau SAR or has not stayed in the Macau SAR for more than 183 days in the same calendar year, he or she must appoint a tax agent with a permanent residence in the Macau SAR. However, if the taxpayer voluntarily chooses to receive notifications electronically, the declared electronic address can be considered as the tax residence address, exempting the taxpayer from the requirement to designate a tax agent.

Corporate Taxpayers

Corporations that have ceased operations, or those with no domicile, actual management, or PE in the Macau SAR but still generating income in the Macau SAR, are required to appoint a tax agent with a permanent residence in the Macau SAR.

Taxpayers should be aware of the relevant transitional provisions. Within one year from 1 January 2026, taxpayers must notify or update the MFB of their tax residence addresses. For taxpayers without a domicile in the Macau SAR, they should promptly designate tax agents to ensure they can receive notifications from the MFB so as not to miss statutory deadlines for objections, appeals, etc.

Tax Resident

Article 24 of the Tax Code introduces the concept of tax resident. According to the Tax Code, a taxpayer can be considered as a Macau tax resident and can apply to the MFB for the issuance of a Macau tax resident certificate if the following criterion, as applicable, is met:

- **A natural person** who has been physically present in the Macau SAR continuously or intermittently for 183 days or more in the relevant tax year, or a natural person who has been in the Macau SAR for less than 183 days but maintained a residence in the Macau SAR on 31 December of that year, with conditions that imply his or her intention to retain and occupy that domicile as the permanent residence.
- **A legal person or equivalent legal entity** with a residence or actual management office in the Macau SAR.

The definition of tax resident has come into effect in advance as of 1 January 2025. Under the new legislation, eligible taxpayers can apply for the issuance of Macau tax resident certificates from the MFB, even if they are not covered by any applicable comprehensive double taxation agreements.

Transfer Pricing

The new legislation approves the additional chapter on the introduction of transfer pricing into the Complementary Tax Regulations. Our observations and insights have been shared in an earlier International Tax News Flash².

The takeaway

We believe that one of the highlights of the Tax Code is the clear indication that the Macau taxation system will follow a territorial principle, which will enhance the investment and business attractiveness of the Macau SAR. Additionally, the new legislation introduces transfer pricing regulations, specifying that commercial or financial transactions between taxpayers in the Macau SAR and their related parties in other tax jurisdictions should be conducted according to the arm's length principle; otherwise, the MFB has the authority to make tax adjustments. Furthermore, the Tax Code consolidates the current tax system governed by various existing tax legislations, aiming to clarify and establish tax norms that align with the Macau SAR's future development direction and attract more investors to invest in the Macau SAR. Given that the current general tax rate of Macau's Complementary Tax is 12%, which is generally lower than that of neighbouring jurisdictions, and with no turnover tax and a simple tax system, the tax reform will further promote the establishment of cross-border holding structures, making the Macau SAR an ideal investment platform. With the Macau SAR closely connected to Hengqin and other cities in the Greater Bay Area, enterprises may increasingly consider using Macau companies for investments in the region.

To modernise the Macau taxation system and better align it with the latest international tax standards, the new legislation formally incorporates international tax-related concepts such as PE, tax agent, and tax resident into Macau tax regulations. Although these international tax-related concepts are largely based on international standards, there are some differences to suit the current economic development of the Macau SAR. MNE groups should carefully interpret the details of the new legislation to understand how the new international tax-related concepts will impact their subsidiaries and branches in the Macau SAR.

In conclusion, there are still many uncertainties regarding the interpretation and practical application of the new legislation, and the above insights are for general reference only. We expect the MFB to hold explanatory sessions and issue implementation guidelines in due course. Therefore, it is recommended that MNE groups get prepared for the entry into force of the Tax Code by: (1) carefully studying the provisions of the new legislation, especially as the Tax Code includes over three hundred articles, many details of which may affect taxpayers' existing arrangements and require adjustments; (2) closely monitoring the issuance of supplementary administrative regulations on transfer pricing; and (3) assessing the impact of the new legislation on their own enterprises and reconsidering the relevant structure of the MNE group.

Endnotes

1. 'Constituent Entity' refers to any of the following:
 - (i) A separate business unit of an MNE group, that is included in the Consolidated Financial Statements of the MNE group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
 - (ii) A separate business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds;
 - (iii) A PE of any separate business unit of the MNE Group included in (i) or (ii) above provided the business unit prepares a separate set of financial statements for such PE for financial reporting, regulatory, tax reporting, or internal management control purposes.
2. Our International Tax News Flash can be found at the following link:
<https://www.pwccn.com/en/tax/publications/intl-tax-macau-dec2024.pdf>

Let's talk

For a deeper discussion of how this impacts your business, please contact:

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