

Chapter 4

COMPLEMENTARY TAX

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INTRODUCTION

¶4-050 Background and objectives

Complementary tax in Macao is governed by Law No 21/78/M (Complementary Tax Regulations) introduced in September 1978 which has been modified or amended a number of times over the years since promulgation. This tax, more commonly known as “profits tax” in other jurisdictions, is levied on the commercial and industrial activities of individuals and corporations. According to Article 2 of the legislation, all individuals and corporations, irrespective of the domicile or location of their head office, that derive profits from commercial or industrial activities in Macao, are subject to complementary tax.

Taxpayers who are subject to complementary tax are divided into two groups, namely Group A and Group B. Group A taxpayers are separate legal entities whose liabilities are limited by shares, or other companies with registered capital of not less than MOP 1,000,000 or with average annual profits for the past three years of over MOP 1,000,000. All Group A taxpayers are required to maintain appropriate accounting books and records. Group B taxpayers, covering all others who do not meet the above criteria, can apply to be reclassified as Group A taxpayers if they maintain proper books and records and would like to be assessed based on their actual profits as opposed to the estimation rules. According to Decree Law 25/2005 issued in December 2005, enterprises in Macao are required to comply with accounting standards prescribed by the government.

With effect from 1 January 2007, all Group A taxpayers, in order to comply with the requirement to keep appropriate accounting books and records, must prepare their financial statements according to the new prescribed accounting standards. The prescribed accounting standards set out the requirements and guidelines for recording and reporting of transactions and events. They also provide a description of fundamental policies. These policies and standards are to be adopted for tax filing purposes. Taxable profits for Group A taxpayers will be assessed based on their financial statements prepared in accordance with the Macao accounting standards, except when such standards contradict with the tax regulations.

It is important to note that the Regulations do not distinguish between capital gains and revenue gains, residents and non-residents, or individuals and corporations.

Complementary tax, levied separately from industrial tax, covers all business income that is not specifically covered by other legislation such as:

- property tax, which covers rental income from properties, and

- professional tax, which covers employment or professional income of individuals.

¶4-100 Tax rates

According to the Complementary Tax Law, taxable income over MOP32,000 is to be taxed according to the progressive tax rates from 3% to 12% set out in the table below:

Table 4.1 — Tax rates

Taxable Profits (MOP)	Tax Rate
Up to 32,000	—
From 32,001 to 65,000	3%
From 65,001 to 100,000	5%
From 100,001 to 200,000	7%
From 200,001 to 300,000	9%
Over 300,000	12%

Since tax year 2007, the Macao Government has granted an incentive to increase the tax exemption allowance of annual corporate income. According to Law No. 22/2019, the tax exemption allowance is increased to MOP600,000 for tax year 2019. Taxable income over MOP600,000 is to be taxed at a rate of 12%. In addition, under Law No. 22/2019, tax relief of Macao Complementary Tax liability in the maximum amount of MOP300,000 is granted for tax year 2019.

Example 4.1

An individual has a net business profit in Macao of MOP 120,000 in 2018.

Since the taxable profit is within the exemption allowance threshold of MOP 600,000, it is not liable for Macao complementary tax for the tax year 2018.

Example 4.2

A corporate taxpayer reporting a taxable profit of MOP 700,000 in the year 2018 will be liable to complementary tax of MOP 12,000 calculated as follows:

Taxable Profits	Year 2018		
	MOP	Tax Rate	Tax Payable MOP
First	600,000	—	—
Balance	<u>100,000</u>	12%	<u>12,000</u>
Total	<u>700,000</u>		<u>12,000</u>

¶4-150 Exemptions from complementary tax

As stipulated in Article 9 of the Complementary Tax Regulations, certain organisations are exempt from complementary tax such as government departments and their associated organisations, incorporated religious organisations, etc.

Under certain tax incentive schemes introduced by the government, some industrial organisations may apply for special relief from complementary tax. Also, offshore institutions are granted full exemption under Macao offshore laws.

The following are specifically exempt under the Complementary Tax Regulations:

- income generated from the capital of cooperative bodies
- income of recognised religious organisations
- income of individuals or entities who are by law or related contract taxed under other special taxation regulations and have, thereby, been expressly exempted from complementary tax
- rental income from properties owned by commercial or industrial enterprises which are subject to property tax
- primary and subsidiary air transportation income derived in Macao by international air transportation businesses of foreign enterprises with residence or management offices outside Macao, in accordance with official mutual exemption recognition agreements with the respective contracting states, and
- individual income derived solely from employment or services that is subject to Professional Tax.

In addition to the income mentioned above, relief is available if there is a double taxation arrangement in place.

¶4-200 Tax incentives

Subject to pre-approval by the government, the following incentives are available under the Complementary Tax Regulations:

- Certain industrial businesses which expand, restructure or transform their operations and meet specific prerequisites to enhance their industry sector or benefit the economy of Macao, may apply for a reduction in complementary tax of up to 50%.
- Offshore institutions or companies are exempt from complementary tax for operations in Macao. Applications must be made before establishment of business and approvals will only be given after all steps and procedures are completed.
- In special cases, the government may grant certain businesses exemption from complementary tax for a number of years. Such specific exemptions will be published in the Government Gazette or other official notification to the taxpayer.
- With the aim to improve the social security system of the society, according to Law No. 7/2017, subject to certain conditions, employers' contributions to the Non-mandatory Provident Fund are regarded as operating expenses and are eligible for an extra 2 times tax deduction for tax years 2018 to 2020.
- Interest or gain from Mainland China government bonds and state-owned enterprises bonds issued in Macao are exempted from Macao Complementary Tax.
- Pursuant to Law No. 22/2019, income derived from Portuguese-speaking countries for tax year 2020 is exempted from complementary tax, provided that it is taxed in those countries.
- The government has granted annual tax incentives for many years, which is approved on a year by year basis. According to Law No. 22/2019, for tax year 2019, assessable profit of first MOP 600,000 will be exempted from complementary tax and assessable profits over MOP 600,000 will be taxed at 12%. Furthermore, subject to satisfaction of certain conditions, for costs incurred for innovation and technology development purposes by Group A taxpayers, the first MOP 3 million are eligible for a three times tax deduction, and the remaining expenses for the same purpose are entitled to a two times tax deduction, up to a maximum total tax deduction of MOP 15 million.

TAXABLE INCOME AND DEDUCTIONS

¶4-250 Taxable income

In accordance with the tax regulations, all individuals and/or corporations are required to apply for a tax registration status with the Industrial Tax Department prior to the commencement of business in Macao. Businesses are to be registered in accordance with the industry classifications listed in the tables of the Industrial Tax Regulations. As a general rule, all income derived in Macao from business activities undertaken by individuals and corporations, irrespective of their residence or head office location and except as otherwise exempted by law, is subject to complementary tax.

According to the Complementary Tax Regulations, “taxable income” means all receipts or rewards from carrying out commercial or industrial activities such as product sales, services rendered, financial income and so on. The tax net is very broad as taxable income covers all income irrespective of whether it is recurrent or of an occasional nature, or from a repeatable practice or incidental. Income derived from other sources such as fees and commissions for services rendered, dividends, interests, royalties, exchange gains, profits on disposals of properties or other fixed assets, and other non-operational income is also taxable. In other words, all income generated in the Macao SAR appearing in the operating results, unless specifically exempted by law, will be subject to complementary tax.

Under Article 20 of the Complementary Tax Regulation, taxable income includes operating income and other income, such as:

- Fees or commissions for services rendered
- Dividends
- Interest
- Royalties and income of similar nature
- Exchange gains
- Profits on disposals of properties and other fixed assets, and
- Rewards for appointment of officers in other enterprises.

¶4-300 Operating expenses and/or losses

According to Article 21 of the Complementary Tax Regulations, the following items are all considered to be deductible operating expenses or losses for tax purposes:

- Primary, secondary or complementary operating expenses that relate to the production or acquisition of goods or provision of services, such as raw materials or supplementary materials, labour, energy costs or,

generally, all expenses relating to the manufacturing, maintenance or repair processes

- Expenses incurred in distributing or selling goods, such as transportation, advertising and promotional expenses
- Expenses of a financial nature, which include interest on capital from third parties engaged in lending operations, discounts, realised exchange losses or, generally, all expenses related to credit facilities obtained and the collection of debts
- Administrative expenses, including all related employee costs such as salaries, allowances, severance payments, accommodation/rent, transportation, travelling, insurance, but excluding expenses for optional life insurance coverage
- Expenses related to research, analyses, improvements, investigations and consultancies
- Amortisation and depreciation of fixed assets (subject to the allowed tax depreciation rate as stipulated in the Regulation of Depreciation and Amortisation of Fixed Assets)
- Indemnities caused by uninsurable accidents or risks, and
- Provisions for allowable costs or expenses (subject to the allowable provision percentage as stipulated in Article 25 of the Complementary Tax Regulation).

In the case of construction or similar industries, where a company constructs or installs assets or produces investment assets for use in the business itself, according to Article 20 – Item 2, such profit or gain derived from the transactions will be deemed as taxable income if such costs are claimed as the company's operating expenses.

Deductibility of Costs

¶4-350 Deductibility of costs

As a general rule, costs and expenses allowable as deductions for tax purposes are expenditure or outgoings incurred by an entity for the production of taxable income or profits.

Deductibility of costs for tax purposes can be quite different from that for accounting purposes. In other words, even if an expenditure or outgoing is justifiably considered as an operating expense of an entity for accounting/reporting purposes, it may not be accepted by the Financial Services Bureau as being deductible in arriving at taxable income.

The prescribed accounting standards required to be adopted in the preparation of accounting records and financial statements provide

information about the financial position and performance of an entity which generally meet the common needs of most users. Whenever treatment of items in financial statements differs from the tax regulations, such items will need to be adjusted, ie either added back to or deducted from the assessable profit for reconciliation purposes.

Example 4.3

A corporate taxpayer had incurred the following expense items, among others, during an assessment year:

- (a) Depreciation expenses on fixed assets
- (b) Complementary tax paid
- (c) Provision for bad debts
- (d) Losses due to uninsured risks
- (e) Contributions to employees' retirement scheme.

The above items may not be fully deductible for complementary tax purposes for the following reasons:

- (a) Depreciation expenses are deductible only when they are calculated according to the prescribed depreciation rates set out in the Regulations of Depreciation and Amortisation of Fixed Assets. Excess depreciation is not deductible and is to be added back to the assessable profit.
- (b) Complementary tax paid is not allowed as a deductible item for Macao Complementary Tax purposes.
- (c) According to the Complementary Tax Regulations, there is a maximum percentage of 2% on all trade receivables which is allowed for the provision of bad debts. Any excess provision will have to be added back in calculating the assessable profit.
- (d) According to the Regulations, accidental losses are deductible when the risk involved is uninsurable. Losses incurred for incidents which have been covered by insurance would also be deductible to the extent that the amount compensated by insurance is treated as taxable for taxation purposes.
- (e) Only contributions on behalf of employees to pension funds approved by the Monetary Authority of Macao are deductible as personnel expenses. There is also a maximum deduction limit of 15% of the relevant employee's total remuneration.

¶4-351 Supply of goods/materials and services

According to the guidelines for filing complementary tax returns, Group A taxpayers are required to provide information on suppliers when purchases reach a certain level specified, generally identified as being over MOP 10,000,000.

Besides, the Financial Services Bureau specifically requires detailed information on suppliers to be provided (including names, addresses, telephone numbers, tax registration numbers, amounts involved, etc) for the expense items set out in Table 4.2.

Table 4.2 Required information on suppliers

General Categories	Recipient's Requirements	
<ul style="list-style-type: none"> • Expenses for processing and subcontracting, purchase costs, freight charges, administrative expenses, etc 	<ul style="list-style-type: none"> - Names, addresses, and amounts paid - For recipients that are companies, the taxpayer numbers and tax file numbers for industrial tax purposes, where applicable - For recipients that are individuals, the ID card numbers and tax file numbers for professional tax purposes 	
<ul style="list-style-type: none"> • Commissions, technology assistance charges, court fees, notarial fees, counsel fees, consultant fees and other professional charges, etc 	<ul style="list-style-type: none"> - Names, addresses, and amounts paid - For recipients that are companies, the taxpayer numbers and tax file numbers for industrial tax purposes, where applicable - For recipients that are individuals, the ID card numbers and tax file numbers for professional tax purposes 	

General Categories	Recipient's Requirements	
<ul style="list-style-type: none"> • Patents including permission, licences, trademarks, copyrights, manufacturing rights, etc 	<ul style="list-style-type: none"> - Nature of expenses - Names, addresses, and amounts paid - For recipients that are companies, the taxpayer numbers and tax file numbers for industrial tax purposes, where applicable - For recipients that are individuals, the ID card numbers and tax file numbers for professional tax purposes - Photocopies of any agreements/contracts (for an initial claim) 	
<ul style="list-style-type: none"> • Repairs and maintenance 	<ul style="list-style-type: none"> - Nature of the repair and maintenance costs - Names, addresses, and amounts paid - For recipients that are companies, the taxpayer numbers and tax file numbers for industrial tax purposes - In respect of repairs and maintenance work on properties, the relevant addresses of the properties should be provided 	
<ul style="list-style-type: none"> • Legal and professional fees 	<ul style="list-style-type: none"> - Details of recipients and nature of the services 	

Payments made to overseas suppliers for the purchase of imported goods may be accepted as deductible. However, the Financial Services Bureau reserves the right to request that the taxpayer provide the necessary documents such as invoices, receipts and payment evidence together with the appropriate import documents declaring the types, quantities and values of the items acquired.

Example 4.4 illustrates the guidelines for complementary tax on a manufacturing company.