



Procedure on income taxation for sold and transferred land titles

GRATA International Mongolia

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In accordance with Law of Mongolia on Corporate income taxation and Law of Mongolia on Personal income taxation, income from sold and transferred land titles including possession and use right by individual and legal entity is taxable. Under such legislations of Mongolia, methodology for assessing land possession and use rights and determining tax rates and the procedure on income taxation for sold and transferred land titles has approved by Resolution No 303 by the Minister of Finance dated 31 December 2019.

Assessment of land possession and use right

1. Amount of income taxation for sold and transferred land possession and use right *shall not be less than from initial auction price calculated* in accordance with methodology for determining the initial auction price of land possession and use certificate (hereinafter "Methodology for determining the initial price").
2. In case of the sold and transferred land rights for which land right has been exchanged by other types of the assets and activities or not granted by auction, the assessment of the land title is determined by higher price of the initial auction price or price defined by the taxpayer for land sale and transfer.
3. Income taxation for land rights which are received free of charge from others shall be determined in accordance with the "Methodology for determining the initial price".
4. Notwithstanding specified in paragraphs 2 and 3 parts of it, the assessment of the land right shall be determined by higher price of the price selected at the auction or land right stated in the sale and purchase agreement declared by the taxpayer.

In case of the initial auction price of land right is cannot be determined according to relevant methodology, the Governor of the respective territory shall determine in accordance with Law on Land.

Exemption from income taxation

- Income earned among family members on transfer of land possession and use right without payment (Law on Personal income taxation);
- If the ultimate beneficial owner is a taxpayer residing in Mongolia, only the highest amount income of such ultimate beneficial owner's shares, interest, sold and transferred voting right or transferred income shall be imposed relevant taxation. "The ultimate beneficial owner" means a legal entity with a license for mineral, oil or radioactive

minerals, 30 or more percent of shares, interest or voting rights of a person holding the right to possess or use land or holds voting rights by own or by one or more continuous connection legal entities or exercise a voting right with representation or right to receive dividend. Lower income shall be exempted from taxation (Law on Corporate income taxation). (In accordance with Appendix of Resolution No 303 on Methodology for assessing land possession and use rights and determining tax rates by Minister of Finance dated 31 December 2019, citizen "G" is the ultimate beneficial owner due to he/she possesses 50 percent of the share of "X" LLC, land holder through "A" LLC. To calculate according to Article 30.7 of the Law of Mongolia on Corporate taxation, earned income is MNT 300 million from sold shares and earned income is MNT 200 million from sold land title. Therefore, income from the sold lower amount of right shall be exempted from tax and income of MNT 300 million which earned from sold shares shall be taxed).

- If the shares of the title holder, ultimate beneficial owner and legal entity belonging to the continuous connection from title holder to ultimate beneficial owner are traded on foreign and domestic stock exchanges publicly, the income amount from the rights sold and transferred concerning shares and interest was publicly traded by the right holder and its ultimate beneficial owner or equal amount with 20 percent of voting right for a period of consecutive 12 months shall be exempted from taxation (Law on Corporate income taxation).

Deductible expense in calculating taxable income

Taxable income shall be determined deducting the expense evidenced by the documents specified in the Law on Corporate income taxation from the assessment of land possession and use rights. Hereto:

1. In the event the authorized from State organization, payment and charge evidenced by documents paid to government agencies in connection with the obtain rights;
2. In the event the sold and transferred from others, payment for sold and transferred according to agreement evidenced by the transferred document.

Tax rate and report period

Taxable income shall be finally determined calculating proportion from the basis of taxable income, sold and transferred shares, interest and voting right of the ultimate beneficial owner and such right assessment in the amount referred to the shareholder's shares. 10 percent of tax rate shall be imposed.

Such taxation shall be imposed by the right holder and transferred to the budget within 30 days.

Conclusion

1. In the case of the non-ultimate beneficial owner or person, holding the less than 30 percent of the total shares, sold its private share, the taxation shall not be levied.
2. In the case of legal entities belonging to the continuous connection is transferred the shares to each other, the right shall not be considered as sold or shall not be imposed the taxation.
3. The legal entities belonging to the continuous connection that publicly trade its shares on foreign and domestic stock exchanges shall be exempted from tax the amount of income from the sold and transferred rights concerning publicly traded shares, interest or equal amount with 20 percent of voting right for period of consecutive 12 months or tax shall be not imposed due to the non-ultimate beneficial owner has transferred the title.