

PwC Tax Insight # 02/2024

Tax Update

Issued Date: 28 March 2024



合并新规下的税务处理

以下范围适用于：

所有客户

概要

2024年2月21日，税务局发布了税务裁定 GorKhor 0702/1112，关于《民商法典》（以下简称“CCC”）第 1238 (2) 条规定下企业合并的税务处理（“新合并”）。

税务局在裁决中指出，根据 CCC 第 1238 (2) 条的规定，只要其中一家公司继续存在，而其他家公司并入现有公司时，这不属于税法第 73 条规定的有限公司合并的定义范围。相反，这与整体资产转让具有相同的税务特征，因此适用税收法第 74(1)(c) 条。

1. 合并新规下税务影响：

该裁定包括合并新规下的税务影响，简要概述如下：

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a) 企业所得税 (CIT)

转让方公司在与全部业务转让相同的会计期间办理解散登记并进入清算时，企业所得税净利润和亏损的计算如下：

各方	企业所得税计算
转让方	为计算应缴纳企业所得税的利润，税收法第 74(1)(c) 条要求对资产负债表的资产进行估值，使其达到公司解散之日的公平市场价值。然而，在计算企业所得税时，该资产的市场价值不被视为转让公司的收入或支出。
受让公司（续存企业）	受让公司继承所转让资产的账面价值，并须遵守转让公司所使用的资产折旧规则和折旧率。此外，转让公司的净亏损不能转入受让公司。
企业股东	当股东收到存续公司的股份时，只要他们在整个业务转让的同一会计期间收到股份，他们就可以免除任何资本利得税。

b) 增值税

根据税法第 77/1(8)(f) 条，整个业务转让不被视为销售，且无需缴纳增值税。

c) 特别营业税

出售属于卖方营业地的不动产取得的收入，免征特别营业税。

d) 印花税

转让放免缴因整个业务转让而产生的印花税。

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2. 我们的视角

根据 CCC 的规定，新合并不需要进行合并公司的解散登记。然而，税收法仅在转让公司在与业务转让相同的会计期间登记解散并清算的情况下为整个业务转让提供税收优惠。因此，这就提出了合并新规是否仍有资格享受税收优惠的问题。

我们将继续密切关注这些事项，以了解税务局的任何其他裁决或进一步澄清。这很有可能会对新合并的未来实施产生重大影响。

此中文翻译仅供参考之用，如有歧义请以英文版为准。英文版本请见以下链接：

<https://www.pwc.com/th/en/pwc-tax-insights/2024/tax/eng/2024-pwc-tax-insight-02.pdf>



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