

J. Y. Interpretation No.116 (September 30, 1966) *

ISSUE: Shall the interests included in the installment payments made to foreign business or manufacturers be subject to income tax withholding?

RELEVANT LAWS:

Article 88 of the Income Tax Act (所得稅法第八十八條) .

KEYWORDS:

Installment plan (分期付款) , interest (利息) , person charged with withholding duty (扣繳義務人) . **

HOLDING: If an installment plan to pay a foreign business or manufacturer contains interest, the interest payment is subject to tax withholding by the domestic person charged with withholding duty when making payments.

解釋文：支付國外廠商分期付款，訂有利息者，其利息所得，仍應由扣繳義務人於給付時扣繳應納稅款。

REASONING: Article 86, Paragraph 3, of the Income Tax Act, operative January 1, 1956, provided that a person receiving interest income shall be the taxpayer liable for that income. This tax li-

解釋理由書：中華民國四十五年一月一日施行之所得稅法第八十六條第三款明定所得稅款之納稅義務人，為取得利息人，並不限於自然人，營利事業取得利息，亦不例外。依同法第八十

* Translated by Robert Huai-Ching Tsai.

** Contents within frame, not part of the original text, are added for reference purpose only.

ability is not limited to an individual. A business entity receiving interest income is taxable, too. As Article 85, Paragraph 1, of the same Act prescribed, a person charged with withholding duty is not exempted solely because the interest-receiving party is not an individual. Therefore, if an installment plan to pay a foreign business or manufacturer contains interest, the interest payment is subject to tax withholding by the domestic person charged with withholding duty when making payments.

Justice Chang-Hua Wang filed dissenting opinion.

五條第一項之規定，扣繳義務人仍應扣繳稅款，不因取得利息人非自然人，而免除其扣繳之義務，因而支付國外廠商分期付款，訂有利息者，其利息所得，仍應由扣繳義務人於給付時扣繳之。

本號解釋王大法官昌華提出不同意見書。