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Summary:

According to Article 89 of the Income Tax Act and Article 40 of the Employment Service Act, employers of foreign domestic workers and private employment services agencies are not statutory withholding agents, and family employers cannot withhold income tax for foreign workers.

The content of the full text: 1. According to our Council's Letter Lao-Zhi-Wai-Zi No. 0910205963 dated 7 October 2002, "...(5) Family employers are not a withholding agent as specified in Article 89 of the Income Tax Act, as such withheld amounts cannot fall into the State Treasury. Therefore, in order to prevent employers from violating the law or employers breaking the law due to their agency's negligence, agencies must no longer ask family employers to withhold income tax for foreign workers every month.

2. According to the above, the person responsible for filing and paying income tax is the foreign person hired to work in Taiwan, not the employer or private employment services agency. Family employers of foreign workers and private employment services agencies are not their statutory withholding agents. Therefore, family employers cannot withhold income tax for foreign workers. If the foreign person agrees in writing to withholding by the employer, the foreign person must open an account with a financial institution, and the employer must deposit the withheld tax amounts on a monthly basis. The passbook must be handed over to the foreign person, not to the employment services agency for "safekeeping." In this manner, suppose Company X collects income tax of TWD 19,008 from Mr/Ms XXX. Failure to open an account with a financial institution and hand the passbook to Mr/Ms XXX by way of proof amounts to suspicion of violation of Article 40, subparagraph 5 of the Employment Service Act. If the key elements set forth above are present, but Company X returns the withheld tax to Mr/Ms XXX, it does not annul the violation of the law, as may be clear by now.