



# Investment in Taiwan

KPMG in Taiwan

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# To be the Clear Choice

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KPMG in Taiwan was founded in 1952 by Mr. Andrew A. H. Chang. The firm entered into an association with Peat Marwick Mitchell & Co. in 1971, making it one of the oldest internationally affiliated accounting firms in Taiwan. In 1987, with the worldwide merger of Peat Marwick International (PMI) and Klynveld Main Goerdeler (KMG). In 1987, the firm merged with KMG's practice in Taiwan and became a member firm of KPMG. Effective January 1, 1999, the firm merged with the Taiwan member firm of Coopers & Lybrand. KPMG in Taiwan operates in 6 cities across Taiwan, with over 120 partners and 2400 staffs in Taipei, Hsinchu, Taichung, Tainan, Kaohsiung and Pingtung. With a single management structure across all these offices, KPMG in Taiwan can deploy experienced professionals efficiently, wherever our client is located.



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# Chapter 1

## A Brief Survey of Taiwan



# Geography and Demographics

## Superior Geographic Location, the Heart of Asia-Pacific

Taiwan is located in the heart of the Asia-Pacific region, which puts it in an advantageous position to make use of global production resources and the global marketplace. To Taiwan's north is the world's third largest economy, Japan, and to its south are the 10 countries of the Association of Southeast Asian Nations and India. To Taiwan's east is the world's largest economy, the US, and to its west is mainland China, the world's second largest economy and the center of the world's economic growth. The average flying time from Taipei to the seven major cities in the Western Pacific (Hong Kong, Shanghai, Manila, Seoul, Tokyo, Singapore and Sydney) is merely 2 hours and 55 minutes. And the average sailing time from the Kaohsiung harbor in Southern Taiwan to the 5 major Asia-Pacific harbors is merely 53 hours. Indeed, Taiwan is the hub of Asian transportation and the logistics center in the East-Asian region.

## Global Innovation Center and Global Operations Headquarters

Taiwan is very active in R&D and product innovation, providing quality products and services, which enables the development of international brands. Taiwan also has easy access to mainland China's production resources, which makes rapid achievement of mass production possible and establishes Taiwan as a superior innovation and R&D base. Taiwan's wealth of production experience, capability to commercialize innovative products rapidly, and global deployment are factors that help Taiwan create a value-added global production chain. Taiwan has become a production base for quality products. Furthermore, the scale and maturity of Taiwan's capital market can assist Taiwan businesses in mainland China in listing on Taiwan's stock exchanges and encourage international capital funds to participate in Taiwan businesses' overseas deployment. Taiwan is in a position to be the capital funding center for international manufacturing industry and the base for strategic alliances between multi-national companies. These advantages help attract overseas technology professionals to come to Taiwan to start their business, and attract foreign companies to come to Taiwan to participate in cross strait technology projects. Taiwan has products which are designed for global ethnic Chinese markets and is also a testing platform for ethnic Chinese markets, another advantage for attracting foreign investment in Taiwan.





## Outstanding Rankings in International Rating Surveys and Superior Development Potential

According to the world competitiveness reports released in recent years, Taiwan is highly competitive and has development potential. The high competitiveness and innovation ability stem from the excellent technological infrastructure and talented human resources. The International Monetary Fund's recent economic report forecast Taiwan's GDP growth to reach 1.7% in 2017 and future expected growth to reach 2.5% by 2022. According to the 2017 Global Competitiveness Report by the World Economic Forum (WEF), Taiwan was ranked 15th globally out of 137 countries; Taiwan was also ranked 3rd in Asia, following closely after Japan and Singapore. Taiwan is ranked 10th globally with regards to company R&D expenditure investment levels. In 2018, Business Environment Risk Intelligence (BERI) ranked Taiwan fourth in overall investment environment among 50 countries, behind only Singapore, Switzerland, and Germany. Taiwan was rated the 14th most competitive economy among 63 economies in the World Competitiveness, as well as the 3rd most competitive in the Asia-Pacific region Yearbook issued by the Lausanne-based International Institute for Management Development (IMD) in 2017. Furthermore, Taiwan was rated the world's 15th-easiest place to do business among 190 economies according to the World Bank 2013 annual report released October 31, 2017.

## Technological Products throughout the World

Taiwan has competitive advantages in the IT manufacturing industry; it is the second-largest IT hardware manufacturing country in the world. Taiwan's semiconductor, optoelectronic, information, and communication products account for more than 70% of global production. The production value of silicon wafer OEM is 71.1% of the world total. These sectors and the assembly and testing sector are all ranked number one in the world. The production value of Taiwan's IC design accounts for about 20% of the world total, and its PC production value is third in the world.

In conclusion, international ranking reports show that Taiwan's business environment will remain as excellent as it is now. According to the "Country Forecast" released by EIU, Taiwan's business environment from 2013 to 2017 ranked number 5 in Asia and 18th in the world among the 60 countries measured.



# Politics

## Stable Politics, Emphasis on Democracy, Laws, and Freedom

Taiwan is a democratic country ruled by law. It has received high scores on political rights and civil liberties in the survey conducted by Freedom House. Taiwan is not only a politically free country, but also a stable one.

Taiwan ranked 15th among 190 economies in the *Doing Business 2018 report* \* released Oct. 31 by Washington-based World Bank.

While its score improved by 0.41 points to 80.07 out of 100, Taiwan slipped four places from the previous edition. New Zealand topped the global rankings, followed by Singapore and Denmark in that order.

Among the 10 categories used to assess an economy's business environment, Taiwan fared best in getting electricity, ranking third in the world with a score of 99.45. It also finished fourth in dealing with construction permits.

Taiwan, which placed fourth in Asia behind Singapore, South Korea and Hong Kong in that order, recorded impressive improvements in other categories. It jumped from 14th to 10th in enforcing contracts, 68th to 55th in trading across borders and 19th to 16th in starting a business.

## Active Participation in International Society

Taiwan has experienced political and economic changes and democratization over the past 20 years, which has triggered the development of non-governmental organizations (NGOs) as one of the major facets of the transition process. Taiwan's NGOs have become channels for the public to participate in societal activities. On October 2, 2000, the government established the "Non-Governmental Organization Committee" (NGO Committee) to coordinate governmental and private resources and build a partner relationship between the government and private sectors to make Taiwan's NGOs more influential in the international community. Along with this globalization, Taiwan's NGOs have become members of the international community and gradually assumed important roles through regional alliances, organizational exchanges, and humanitarian support. Taiwan has demonstrated to the international community its socio-economic development achievements and its ability to contribute to bringing peace to the world. In recent years, Taiwan's NGOs have played roles of greater importance in formulating domestic public policy, such as in human rights, political, environmental, educational, medical, public health, and humanitarian support issues and provided suggestions to the government. Meanwhile, many NGOs also are dedicated to giving Taiwan's love to the international community.

"Love from Taiwan" is often seen at the reconstruction sites of catastrophes around the world.



\* Source : <http://www.doingbusiness.org/reports/global-reports/doing-business-2018>



# Economy

## High Economic Freedom

As a member of international organizations such as the WTO and APEC, Taiwan is very free in economic activities. It follows international practices and has a healthy system to protect property rights. According to the "2018 Index of Economic Freedom" published by the Heritage Foundation (a United States think tank) and the Wall Street Journal, Taiwan is ranked 13th among the 180 countries. It is also the tenth year in a row that Taiwan's overall score has increased. Taiwan is ranked 5th out of 43 economies in the Asia-Pacific region, behind only Hong Kong, Singapore, Australia, and New Zealand, and is in 3rd place in Asia, ahead of Japan (30th), South Korea (27th), and Mainland China (110th). Taiwan's overall score on economic freedom has advanced to 76.6 points this year from 72.7 points in 2013. Of the 10 items that comprise the index, Taiwan's scores have significantly increased in "Fiscal Health" (83.7 to 90.8), "Judicial Effectiveness" (67.7 to 69.2), "Government Integrity" (70.5 to 70.9), and "Tax Burden," (75.3 to 76.1). As such, Taiwan is receiving recognition in the world by devoting itself to structural reform, openness to global commerce, and the purging of corruption. Taiwan is ranked 21st out of 159 countries in the 2017 Economic Freedom of the World report released by the U.S.-based Cato Institute. The annual Economic Freedom of the World report measures five different areas: (1) size of government, (2) legal system and property rights, (3) access to sound money, (4) freedom to trade internationally, and (5) regulation of credit, labor, and business. It uses 42 distinct variables to create an index ranking countries around the world based on policies that encourage economic freedom. According to the report, Taiwan has scored 10 out of 10 in the following three variables: (1) freedom to own foreign currency bank accounts, (2) black-market exchange rates, (3) inflation in the most recent year.

According to these two reports, the main reason why Taiwan's score on economic freedom increased is that the government has made an effort to enhance administrative efficiency, promote deregulation, and provide a more business-friendly environment.

Moreover, a well-developed legal framework and a private sector that benefits from a well-developed commercial code and open-market policies facilitating the free flow of capital and goods are firmly institutionalized.

## Low Taxation Investment Environment

Taiwan provides an investment environment of low taxation. The ratio of government tax revenue to GDP is lower than 14%, which is lower than in Japan, South Korea, and most of the developed countries in Europe and the Americas. In recent years, Taiwan has launched taxation reforms to lower the tax rate and simplify the taxation system. Beginning from 2018, the tax rate for profit-seeking enterprise income has been raised from 17% to 20% and Taiwan has provided proper tax incentives resulting in an effective tax rate of profit-seeking enterprise income tax of approximately 13%-14%. Taiwan has signed agreements for avoidance of double taxation with many countries. As of December 31, 2017, Taiwan had signed tax treaties with 32 countries, along with 13 treaties on air and sea transportation income tax exemption.

## Healthy Economy

The global financial crisis has hit the world severely. Taiwan's healthy economy makes it a more attractive long-term investment destination than other emerging countries. The banking system has abundant liquid capital and the country has huge foreign exchange reserves, a current account surplus, low foreign debt, and low average debt, which make the fundamental value of Taiwan's economy stand out and make the country resistant to the financial crisis. According to the International Monetary Fund, Taiwan has more than USD 4 trillion of foreign exchange reserves, 6th in the world. The ratio of foreign debt to GDP is nearly 40% for South Korea and the Philippines, while that for Taiwan is less than 32%. This indicates that Taiwan has a securer economy. Taiwan has large current account surpluses, which make the country resistant to the impact of capital outflows and help reduce the risk of a crisis of confidence. During the global economic recession, Taiwan can still work on preparing for the next wave of economic growth. Taiwan's economy is healthier than that of other emerging countries. With improved cross-strait relations, Taiwan is expected to have new growth momentum after recovery from the recession.



## Advantages of Being the Asia-Pacific Capital Funding Center

Given Taiwan's stable economic environment and the following factors, Taiwan has become the Asia-Pacific Capital Funding Center.

### — Highly Internationalized Capital

Market: First, as of September 2017, the stock market capitalization to GDP ratio was 182.5%, which indicates the Taiwan Stock Market (TWSE) is highly sophisticated and worth investing in. Secondly, the Taiwan Stock Market is attractive because of the turnover rate of 55.89 and the P/E ratio of 15.97. Lastly, the foreign holding of Taiwan's listed companies accounted for nearly one third of the total market value, which shows the liberalization and internationalization of Taiwan's capital market.

### — Active Stock Exchange Market

The TWSE has focused on developing new products to enhance the diversification of securities and provide investors with hedging tools. Listed securities on the TWSE currently include stocks, entitlement certificates of convertible bonds, convertible bonds, government bonds, beneficiary certificates, call warrants, put warrants, ETFs, and Taiwan Depository Receipts (TDRs). Meanwhile, Taiwan's exchange rate is stable and capital funding costs and interest rates are lower than in other Asian countries. Moreover, it takes approximately TWD10 million to list on the Taiwan Stock Exchange, which is lower than in Hong Kong and Singapore. This advantage is helpful in attracting foreign investment in the capital market.

### — Healthy Investment Environment

In general, with the exception of funds or capital sourced from mainland China or investments in prohibited industries due to national security concerns, there are no restrictions on the industries for foreign investment. Applicable acts and regulations may, in a few instances, limit the percentage of equity holdings by foreign nationals in companies in certain industries (such as postal services, telecommunications, and shipping) to meet policy needs related to national interests in the economic, social, or cultural spheres. Most developed countries have similar policies and the practice in Taiwan is in line with the FTSE criteria for developed markets.





# Chapter 2

# Investment

# Considerations





# Investment Considerations

## Government Controls

### Business scope

Details of the business scope of a profit-seeking enterprise in Taiwan must be registered with the authorities and pre-approvals/licenses must be obtained prior to commencement of operations.

Some business activities cannot be carried out in the form of a corporation. These include professional accounting, legal and medical services, and other specified businesses.

### Foreign investment

The Taiwan government encourages direct foreign investment. Applications for such investment are examined in light of the Negative List for Investment by Overseas Chinese and Foreign Nationals, which details certain investments that overseas Chinese and foreign nationals are not allowed to invest in. In recent years, the range of acceptable foreign investments for which Foreign Investment Approved (FIA) status will be granted has been significantly extended from manufacturing to service industries. (FIA status is described in Chapter 3.)

## Foreign Exchange

Currently, the Central Bank of the Republic of China (Taiwan) imposes a foreign exchange limitation of USD 50,000,000 and USD 5,000,000 per year for business entities and resident individuals, respectively, with respect to any foreign exchange, both inward and outward, other than trading or service revenue. Any foreign exchange transactions of under TWD 500,000 would not be counted toward the limitation nor be necessary to declare. No restrictions are imposed on foreign exchange related to tangible and intangible trade.

## Status of Foreign Investment in Taiwan

The encouragement of foreign investment has always been a major policy of the government and the promulgation of the Statute for Investment by Foreign Nationals in 1954 proclaimed the government's determination to bring in capital from abroad.

Investment in Taiwan by foreign companies from 1952 through January 2017 amounted to 47,145 cases with a total value of USD 151.3 billion. Most of the investments went into services, electronic and electrical products, chemical products, and metal products.

## Visa Requirements

There are two principal types of visa: resident and visitor. A resident visa can be granted to those who intend to stay in Taiwan for more than six months for one of the following purposes:

- legitimate personal or social activities;
- business;
- technical assistance; or
- education.

A resident visa holder is required to apply for an Alien Resident Certificate (ARC) within 15 days of arrival.

Visitor visas will be granted to those who plan to visit Taiwan for various reasons for a short period. Depending upon the nature of the visit, the length of stay ranges from two weeks to two months. A visitor visa may be extended twice in Taiwan, for two months per extension and a maximum total stay of six months (depending on the visitor's nationality).

To simplify the procedures for exit and re-entry, an ARC holder can freely exit and re-enter Taiwan without having to obtain an exit or entry permit or provide an "individual income tax certificate" to the authorities prior to leaving Taiwan.

## Industrial Land

To encourage land development for industrial purposes, the government has designated sites throughout Taiwan as industrial districts, including export processing zones and science-based industrial parks. These industrial districts feature roads, water works, drainage, sewage systems and power substations. Entrance into different industrial parks requires various qualifications relating to capital, products, technological sophistication, and pollution control standards.

## Labor Conditions

Labor conditions in all areas of Taiwan are good and provide an efficient and reliable labor force. More than 99% of young workers have at least nine years of education, with many having received vocational education. Thus, an ever-increasing number of highly skilled technicians are entering the work force. The supply of technical and engineering personnel is quite adequate.

However, with the fast pace of economic growth, wage levels can no longer be considered low (although they are still lower than those in Europe, the USA and Japan). Labor laws and regulations are well-formed, and labor awareness has risen.

## Trademarks, Patents and Copyrights

Taiwan has trademark, patent and copyright laws providing reasonable protection for various international and domestic intellectual property rights. The Taiwan government has been reinforcing these laws over the past few years.

To be protected under Taiwanese laws, foreign nationals and companies must register their patents and trademarks with the Intellectual of the Ministry of Economic Affairs Property office.

The number of years of protection prescribed in the relevant laws is as follows:

- Patents for inventions: 20 years starting from the date on which the application is approved.
- Patents for utility models: 10 years starting from the date on which the application is approved.
- Patents for designs: 12 years starting from the date on which the application is approved.
- Trademarks: 10 years from the application approval date (may be extended every 10 years).
- Copyrights: the writer's lifetime plus 50 years.





## Utilities and Transportation

The supply of electrical power throughout Taiwan is sufficient, with an increasing amount being provided by solar and wind power. The water supply in industrial areas and cities is also adequate. To ensure uninterrupted operation, all industrial parks have their own power substations and water sources.

Transportation facilities are excellent. The whole island is readily accessible by highway. Two railway trunk lines provide convenient transportation along the west and east coasts of the island. Port facilities are modern and easily accessible from all industrial areas and cities.

Efficient air passenger and cargo services are provided by many international airlines operating from three international airports that have modern terminals and freight handling facilities.





# Chapter 3

## Forms of Business Organization





# Legal Representative Procurement Liaison Office

A foreign corporation that is not intending to set up a branch or a subsidiary to conduct business within Taiwan may designate a legal representative and establish a representative office to handle litigious and non-litigious matters or conduct local purchasing activities for its head office\*.

Registering a representative office requires only a representative, who can be either a domiciled Taiwanese national or a foreign national. There is no capital contribution requirement.



## Branch Office

A branch office of a foreign company is a simpler form of business than a corporation, as it is merely an extension of the foreign head office. Therefore, a branch office need not comply with many of the requirements pertaining to Taiwan corporations, such as the requirements for shareholders, directors, and supervisors. A branch needs only a representative for litigious and non-litigious matters within the Republic of China and a branch manager (may be the same person), who was working capital enough to cover at least the branch's incorporation cost.

The litigious and non-litigious representative and the branch manager can be either a domiciled Taiwan national or a foreign national. When applying for permission to establish a branch office within Taiwan, the head office must provide certain information for examination by the Taiwanese authorities.

This information includes, but is not limited to, the paid-in capital of the head office, the list of directors, the shareholding structure, the business scope of the head office, and the head office's location. The working capital appropriated for the exclusive use of the branch must be remitted into Taiwan by the foreign head office. In addition, the head office's liability is not limited to the branch's working capital, but also covers all of the branch's outstanding liabilities.



\* It may not, however, conduct profit-seeking commercial activities or act as a principal in any domestic business transactions in Taiwan.

# Corporation

## General Characteristics

A corporation is a legal entity used to carry out profit-seeking business. It is recognized by law to be an entity separate and distinct from its shareholders, directors, and officers.

In recent years, with the rise of social enterprises, profitability is no longer the ultimate goal of the company. Part of the surplus has been given back to social charities, the responsibility of corporate citizens has been fulfilled, and the concept of social and environmental development towards sustainability and good development has gradually blossomed in Taiwan. A corporation has several notable characteristics, including the power to enter into contracts and to hold property in its own name, the ability to sue and be sued in its own name, and perpetuity. Additionally, the liability of shareholders for the acts of the corporation is limited to their investment in the corporation.

## Capital and Shareholder Requirements

Except for some specific industries, there is no minimum capital requirement for a limited company or a company limited by shares. However, the capital shall cover at least the company's incorporation cost. In addition, shares of a company limited by shares held by promoters shall not be transferred until one year following incorporation.

## Forms of Corporations

A corporation may be formed as an unlimited company, an unlimited company with limited liability shareholders, a limited company, or a company limited by shares. A limited company and a company limited by shares are the most common in Taiwan. The details of these two types of corporations are listed below.

## Business Scope

All corporate business organizations and branches must be registered with the authorities. The nature of the business to be engaged in must be stated in the articles of incorporation and on the company's registration card. Where a special business permit is required, such as a pharmaceutical license or freight forwarding license, separate registration with the appropriate authorities is also necessary.

## Administration and Annual Meetings

A company limited by shares shall have at least three directors and one supervisor.

The board of directors implements the resolution of shareholders' meeting and bears the responsibility to report proposals and operating results at the shareholders' meetings.

The supervisor's responsibility is to examine the directors' annual reports and act as an observer to ensure that the board of directors' company operations are in accordance with the articles of incorporation and statutory requirements.

Shareholders' meetings should be called by the board of directors, and an annual shareholders' meeting must be held at least once a year within six months after the fiscal year-end. Shareholders must be notified in advance of the time and place of the meeting. During the shareholders' meeting, shareholders may approve or reject the directors' proposals pertaining to the company's future business plan and budget, and distribution of profits.

## Books of Account

Books of account should be maintained in accordance with the Commercial Accounting Law and the Regulations for Administration by Tax Authorities of Accounting Records and Evidence. The board of directors is responsible for submitting the following statements and reports to the supervisor every year:

- Report of operations;
- Financial reports;
- Proposal for dividend distributions or loss offsets.



These documents must be submitted to the supervisor for his/her examination and then forwarded to the annual shareholders' meeting. The financial statements are required to comply with the Company Act, the Commercial Accounting Law, and generally accepted accounting principles, in order to present fairly the company's financial position and results of operations. The report of operations shall set out a true and fair view of the development of the business of the company and its financial position. Particulars should be given of any major events, and future business plans should also be included in the report.

Any dividend distribution or offset of losses shall be proposed by the directors, in accordance with the Company Act and the company's articles of incorporation. A legal reserve, in the amount of one-tenth of annual earnings, must be first set aside and may not be distributed to shareholders until the accumulated legal reserve reaches the total amount of paid-in capital.

### **Audit and Filing Requirements**

Non-public companies with paid-in capital exceeding TWD 30 million are required by the Ministry of Economic Affairs (MOEA) to prepare an annual financial report. The annual financial report, which includes the financial statements, must be audited by an independent auditor. An audit report along with the financial statements must be acknowledged by the shareholders. The MOEA will request to review such materials on a random basis.

Timely disclosure of financial reports is required of all public and listed companies. The annual and semi-annual financial reports for both public and listed companies need to be audited and certified by independent auditors. Listed companies are further required to prepare quarterly financial reports reviewed by independent auditors. Such audited or reviewed financial statements shall be announced to the public and registered with the Financial Supervisory Commission, Executive Yuan.

### **New Business Forms**

Taiwan Company Act law was amended in June 2015 to introduce a new category called closely-held company limited by shares ("closely-held company"). The biggest difference from a general company limited by shares is that the shares in a closely-held company are not eligible to freely transfer at any time to any one, the terms and conditions for such restrictions from share transfer must be clearly stated in the company's articles of association. The closely-held company aims to provide startup companies and small and

media sized businesses with more flexibility for dealing with equity arrangements, fundraising, and dividend distribution. Furthermore, the closely-held company may also be changed to a general company limited by shares as approved by a special resolution of the shareholders' meeting.

Additionally, the new Limited Partnership Act ("LLP Act") became effective on November 30, 2015, the LLP Act allows the establishment of a limited partnership in Taiwan. A Taiwan limited partnership must have at least one general partner and one limited partner. The general partner(s) is jointly and severally responsible for the debts and obligations of the limited partnership if and when such partnership becomes insolvent; a limited partner is generally not personally liable for the debts of the partnership unless it takes part in conducting the partnership's business.

The main basis of LLP operations is the partnership contract, which includes the partner's investment pattern, operating period, etc., hence, the LLP can attract more diversified investment from overseas especially for the project-type business such as movie production and other cultural and creative industries.

### **Proposed Amendments to the Company Act**

On December 21, 2017, the Executive Yuan approved draft amendments to the Company Act formulated by the MOEA. Once passed by the Legislature, the revisions will enable Taiwan to adapt to the rising trends towards new models of economic growth, as well as meet the challenges of economic transformation and the rapid development of startups.

Nearly 150 articles out of the act's 449 total are slated for amendment. The scope of this change is the largest in 10 years and is expected to achieve such goals as creating a friendly environment for startups and entrepreneurs, improving corporate governance, enhancing the rights and interests of shareholders, increasing compliance with international anti-money laundering norms, and boosting enterprises' operational flexibility, management efficiency, and digitalization efforts.

Up to June of 2018, the draft amendments to the Company Act is still under Legislative Yuan's deliberating.

# Foreign Investment Requirements

## FIA Investments

Foreign Investment Approved (FIA) investments require approval from the Investment Commission pursuant to the Statute for Investment by Foreign Nationals or the Statute for Investment by Overseas Chinese. FIA status brings the following privileges:

- The requirement that at least one supervisor shall have a domicile within Taiwan does not apply in FIA companies;
- Protection is guaranteed for 20 years against government divestiture if the foreign investment in an enterprise is 45% or more of the total paid-in capital;
- If the foreign investment in an enterprise generates 45% or more of the total paid-in capital, the enterprise may be exempt from the requirement that 10-15% of capital shares be retained for the subscription of its employees when the enterprise is going to raise additional funds to issue new shares.

## FIA Qualifications

### Eligibility

Industries listed on the Negative List for Investment by Overseas Chinese and Foreign Nationals that are ineligible for FIA status are:

Prohibited industries:

- Manufacturing of nitroglycerin for military use;
- Manufacture of other general-purpose machinery (firearms, weapons manufacturing, arms repair, ammunition and fire control (for military use, exclusive of military aircraft);
- Motor bus/taxi transportation (not prohibited for Overseas Chinese);
- Postal activities (national treatment); and
- Others.

Restricted industries (\*restrictions on the percentage of foreign ownership or special approval required for conducting these business activities):

- Type-I telecommunications enterprise;
- Cable television services and satellite television broadcasting;
- Airport ground services and air catering services (1. not restricted for Overseas Chinese. 2. except as otherwise provided in relevant treaties or agreements);
- Air transportation (not restricted for Overseas Chinese);
- Transport by ship and ship leasing service (not restricted for Overseas Chinese);
- Manufacture, repair, and assembly of military aircraft;
- Manufacture of tobacco products (national treatment); and
- Others.

## Forms of FIA Capital Investment

FIA capital contributions may be made in the following forms:

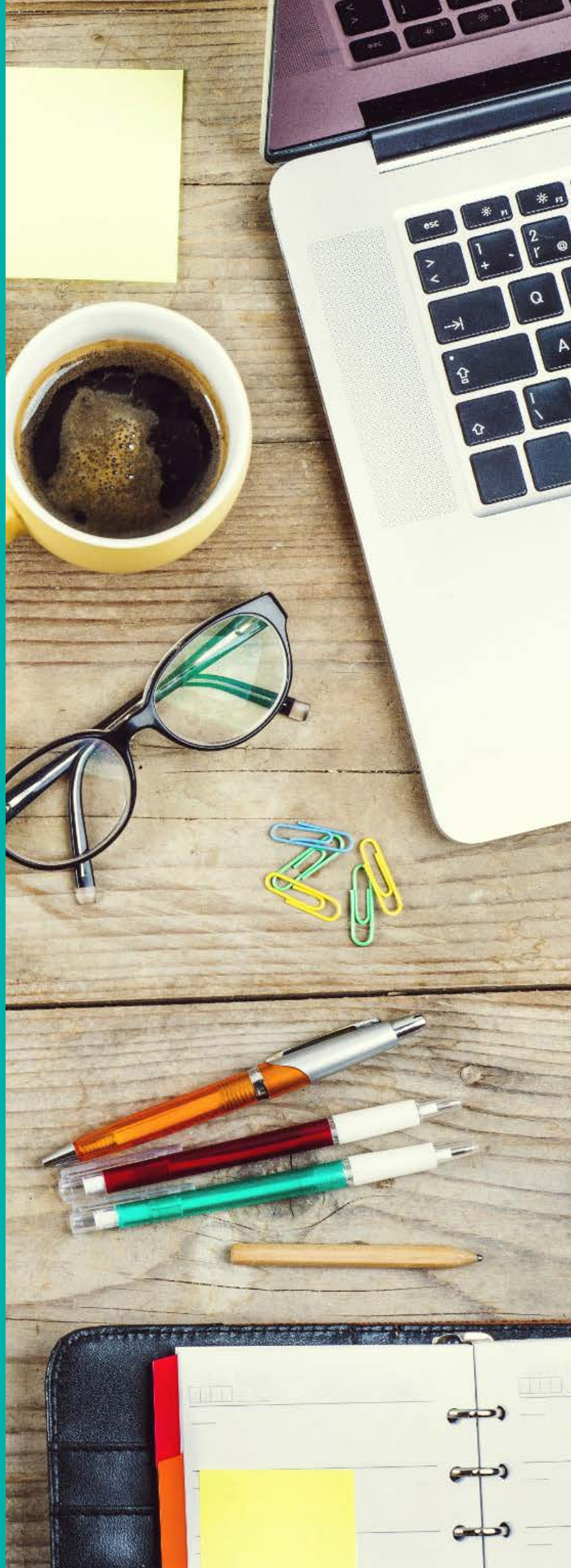
- Cash;
- Machinery and equipment or raw materials for own use;
- Patent right, trademark right, copyright, technical know-how or other intellectual property right; and
- Other property which an investor may invest under the Competent Authority's approval, e.g. the capital contribution due to merger, acquisition or spin-off.







# Chapter 4 Taxation





# Corporate Income Tax

## General Information

### Corporate Income Tax Rate

The corporate income tax rate is 20 percent for fiscal years starting on or after January 1, 2018, and the threshold for subjecting a company to corporate income tax is TWD 120,000. Where the total taxable income is more than TWD 120,000 but not more than TWD 500,000, the income tax rate is 18% in 2018, 19% in 2019, and 20% in 2020.

However, the income tax payable shall not exceed one half of the portion of taxable income more than TWD 120,000.

A resident company's earnings generated in a year and remaining undistributed by the end of the following year are subject to 5 percent surtax for the first fiscal year starting on or after January 1, 2018. In addition, resident and non-resident companies with a fixed place of business or a business agent in Taiwan are subject to alternative minimum tax (AMT) with a rate of 12 percent.

### Residence

The residence of a company for Taiwan tax purposes is determined in accordance with its place of incorporation or location of company seat (i.e. head office). A company incorporated in accordance with the Company Law in Taiwan or situated its seat in Taiwan is considered a resident for Taiwan tax purposes. A Taiwan resident company is taxed on its worldwide income.

The tax authority had introduced a new rule regarding the tax residence of companies. This rule stipulates that companies registered outside Taiwan, but with effective management located in Taiwan will be deemed to be headquartered in Taiwan, and consequently constitute a Taiwan resident (i.e., the PEM rule). However, the actual effective date is yet to be determined by the Executive Yuan.

### Interest deductibility restrictions

Interests on loans that are used for business purposes are deductible in the year incurred. However, for a loan from a non-financial institution, the interest rate shall not exceed the rate as announced by the Ministry of Finance. For fiscal year 2018, the current interest rate limitation is 15.6% per annum. As for interest on inter-company loans, the deductible amount is subject to the thin capitalization rule and transfer pricing regulations.

### Thin Capitalization

In principle, a deduction for excess interest expense by a taxpayer will be denied if the taxpayer's debts are held with related parties and the debt-to-equity ratio exceeds 3:1.

Companies in the financial industry, such as banks, financial holding companies, insurance companies, securities firms, etc., are not subject to the thin capitalization rules.

### Tax Losses

Tax losses may be carried forward for 10 consecutive years if the taxpayer meets all of the following criteria:

- Maintains sound accounting books and supporting documents
- Files its blue tax return or has its tax return certified by a certified public accountant
- Files its annual tax return within the statutory time limit

Tax losses cannot be carried back.

## CFC Rules

For any Taiwan resident enterprise and its related parties directly or indirectly holding 50% or more of shares or capital of a foreign affiliated enterprise registered in a low-tax burden country or jurisdiction (with the rate of less than 14%), or those with a significant influence on such a foreign affiliated enterprise, the surplus earnings of the foreign affiliated enterprise shall be recognized as the Taiwan resident enterprise's investment income calculated according to the ratio and holding period of the shares or capital. Such investment income will be included in taxable income of the current year except in accordance with one of the following provisions:

- The foreign affiliated enterprise has substantial operating activities in its country or jurisdiction.
- The current year surplus earnings of the foreign affiliated enterprise are below TWD 700 million.

However, the CFC rules have yet to take effect. The actual effective date is to be determined by the Executive Yuan.

## General Anti-Avoidance

Taiwan's main anti-avoidance rules include substance-over-form rules.

## Anti-Treaty Shopping

No anti-treaty shopping provisions exist in Taiwan tax law. In practice, there is more emphasis on the substantive business purpose behind transactions.

## Rulings

Taxpayers may apply for advance tax rulings to obtain certainty regarding proposed cross-border transactions

## Hybrid Instruments / Entities

There is no hybrid instruments or hybrid entities regime in Taiwan.

# Tax Compliance

## Compliance Requirements

Taiwan has an "official assessment system" for income tax return filing, which involves the tax authority reviewing income tax returns before issuing an official assessment.

Tax returns are due on the following dates:

Annual income tax returns:

- Due during the period May 1 to 31 for a company with an income tax year aligning with the calendar year
- Due five months after the year-end for companies with income tax years that do not align with the calendar year

Provisional income tax returns:

- Due during the period September 1 to 30 for a company with an income tax year aligning with the calendar year
- Due in the ninth month of the income tax year for companies with income tax years that do not align with the calendar year

Provisional income tax return filing is not required by taxpayers meeting certain conditions.

Further, resident company who did not distribute the preceding year's earnings within the prescribed time should report its undistributed surplus earnings together with its annual income tax return in the current year.

## Statute of limitation

The Statute of limitations in Taiwan is five years from the tax return filing date if the return is filed on time. When a taxpayer fails to file an annual tax return within the statutory deadline or evades tax by fraud or any other unrighteous means, the statute of limitations is extended to seven years.



## Incentives

### Intellectual Property Incentives

When companies derive income from the transfer or license of their self-developed intellectual property (IP), the companies can generally deduct qualifying R&D expenses of up to 200% (capped at corresponding income received) within the current year.

### R&D Tax Credit Incentives

Taiwan's R&D tax credit incentive regime allows the qualifying R&D expenditure incurred by a company in a specific tax year to be claimed at 15% of qualified R&D expenditures by the company as a tax credit in the current year or 10% of qualified R&D expenditures against its corporate income tax payable over three years. The amount of the tax credit is limited to 30 percent of the income tax payable for the current year. There are other R&D tax incentives applicable to specific industries.

### Other Incentives

To promote economic development in certain industries and facilitate operational efficiency (by means of corporate restructuring), the Government offers a series of tax incentives. These incentives relate to various industries and circumstances, and include:

- Tax holidays
- Deferred tax on investment using self-developed IP
- Investment tax credits
- Accelerated depreciation
- Business mergers and acquisitions privileges

### Special Tax Regimes for Specific Industries or Sectors

The Statute for Industrial Innovation is enacted for the furtherance of industrial innovation, improvement of the industrial environment, and enhancement of industrial competitiveness. The term "industries" refers to agricultural, industrial, and service businesses.

There are also special regimes for specific industries or sectors, such as:

- The biotechnology and new pharmaceuticals industry
- Private participation in Infrastructure Project
- Foreign profit-seeking enterprises conducting goods storage and/or simple processing operations in the Taiwan Free Trade Zone.
- Small and medium enterprises (SMEs)

## International Taxation

### Double taxation relief

Taiwan uses the credit method to avoid double taxation of income. Foreign taxes paid on foreign-sourced income may be credited against a company's total Taiwan income tax liability. However, the credit is limited to the incremental taxes derived from the foreign-sourced income.

### International Withholding Tax Rate

Dividends paid to non-residents are subject to withholding tax of 21 percent from January 1, 2018. Royalties paid to non-residents are subject to withholding tax of 20 percent. Interest payments to non-residents are subject to withholding tax of 15 percent or 20 percent. The aforementioned withholding tax rates may be reduced by a tax treaty.

Other Taiwan-sourced income paid to non-residents is generally subject to withholding tax of 20 percent.

### Income tax treaties network

Below is a list of countries in which Taiwan has an income tax treaty with and is currently enforced:

Australia	Israel	Senegal
Austria	Italy	Singapore
Belgium	Japan	Slovakia
Canada	Kiribati	South Africa
Denmark	Luxembourg	Eswatini
France	Macedonia	(previously Swaziland)
Gambia	Malaysia	Sweden
Germany	Netherlands	Switzerland
Hungary	New Zealand	Thailand
India	Paraguay	United Kingdom
Indonesia	Poland	Vietnam

## Transfer Pricing

### Requirements

Taiwan's transfer pricing regime adheres to the 'arm's length principle' and is basically based on OECD transfer pricing and US Internal Revenue guidelines.

Taiwan's Advance Pricing Agreement (APA) regime allows enterprises meeting certain criteria to negotiate with the tax authority for an APA. An APA application should be made in the prescribed form before year-end of the first accounting period of the controlled transactions which are to be covered in the APA.

Generally, an APA is valid for three to five years. When an enterprise's business nature has not materially changed, a one-time, maximum five-year extension can be requested. However, there is no rollback provision in the APA program.

### Country-by-Country Reporting

The reporting entity should be an entity in Taiwan that is an Ultimate Parent Entity (UPE) or a Surrogate Parent Entity (SPE) of MNE group, or if the Taiwan entity is of a foreign group where the Taiwan tax authority cannot obtain CBCR from other tax jurisdiction.

An enterprise in Taiwan meeting any of the following conditions will be required to file CBCR:

- UPE of a MNE Group is a Taiwan entity and with annual consolidated group revenue in the immediately preceding fiscal year of more than TWD 27 billion.
- A Taiwanese subsidiary/branch with UPE outside of Taiwan, and meets one of the followings:
  1. The jurisdiction of tax residence of UPE have statutory provisions to file the CBCR, and does not meet the exemption requirements to file CBCR.
  2. The jurisdiction of tax residence of UPE do not have the statutory provisions to file CBCR, MNE appoints one of the members to act as SPE to file the CBCR, which does not meet the exemption requirements to file CBCR.
  3. The jurisdiction of tax residence of UPE do not have the statutory provisions to file CBCR, nor do they appoint any other members as SPE, and do not meet the exemption requirements to file CBCR in Taiwan.



The CBCR is required to be filed within 12 months after the last day of the reporting fiscal year. The first year for preparing the CBCR is covering fiscal year 2017.

If Taiwan tax authority is not able to obtain CBCR of MNE groups from other tax jurisdictions which have CBCR exchange agreement with Taiwan, Taiwanese entity should file CBCR to tax authority within one month after receiving tax authority's request.

The language of the CBCR has not been prescribed, however, according to the International trends, it is expected to be in English or Chinese.

### Master Files Reporting

A Taiwanese entity meeting the following conditions will be required to file the Master File:

- The Taiwanese entity's total annual turnover (include operating and non-operating) exceeded TWD 3 billion; and
- The Taiwanese entity's total annual cross-border controlled transaction amount has exceeded TWD 1.5 billion.

The Master File should be prepared when the company files its income tax return, and is required to be filed within 12 months after the last day of the reporting fiscal year. The first year for preparing the Master File is covering fiscal year 2017.

The report should be in Chinese. If it is reported in foreign language, a Chinese translation shall also be attached.

### Local Files Reporting

A Taiwan entity meeting any one of the following conditions will be required to file the Local File:

- The Taiwanese entity's total annual revenue (include operating and non-operating revenue) exceeded TWD 500 million; or
- The Taiwanese entity's total annual revenue (including operating and non-operating revenue) exceeds TWD 300 million but does not exceed TWD 500 million: and
  - the entity utilized tax credits of more than TWD 2 million in a particular year or there has been loss carried forward of more than TWD 8 million for the preceding 10 tax years to reduce the income tax ;or
  - an enterprise has transactions with overseas related parties
- The Taiwanese entity's total annual controlled transactions amount is more than TWD 200 million.

The Local File should be prepared when the company files its income tax return. The Local File is not required to be filed, however, the company will be required to provide it within one month from the date of tax authorities' request and the report should be in Chinese. If it is reported in foreign language, a Chinese translation shall also be attached.

For those entities not meeting the requirement to prepare Local Files, it should prepare other transfer pricing substitute report to support that its related party transactions are on an arm's length basis.

# Indirect Tax (e.g. VAT/GST)

## Indirect Taxes

Business Tax is imposed on the sale of goods and services within Taiwan, as well as the importation of goods into Taiwan. There are two systems under Business Tax:

- Gross Business Receipts Tax (GBRT) – used by financial institutions, special vendors of food and beverages, and small businesses
- Value Added Tax (VAT) – used by the remaining taxpayers

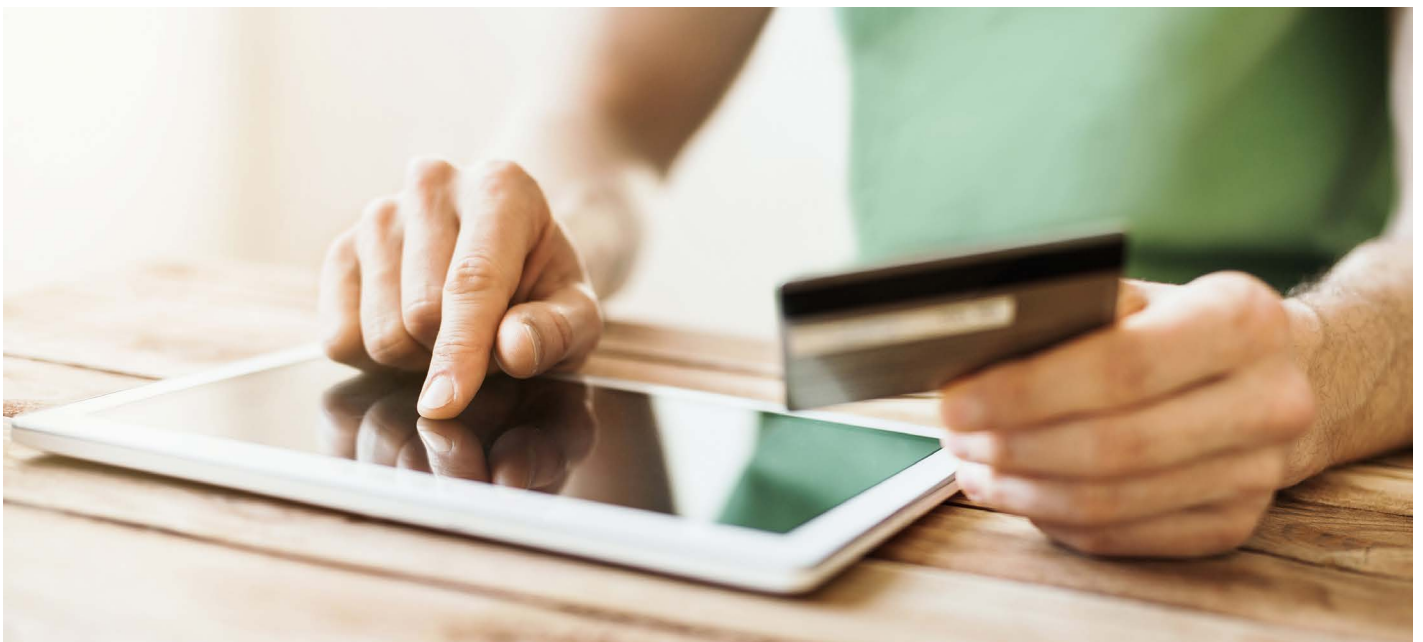
## Standard Rate

The standard rate of VAT is 5 percent. For the sale of goods or services provided in connection with exports, VAT is generally reduced to zero percent.

The GBRT rate for special vendors of food and beverages is 15 percent or 25 percent, and for small businesses is 0.1 percent or 1 percent, depending on the nature of the particular business.

The GBRT rate for a financial institution's core business sales revenue from banking and insurance is 5 percent (the sales amounts from reinsurance premiums shall be taxed at 1%). For other core business sales revenue streams of financial institutions, the GBRT rate is 2 percent. Non-core business sales revenue is subject to 5 percent GBRT or VAT (if the financial institution applies for a VAT system for its non-core business).

Certain goods and services are exempt from GBRT and VAT.





# Personal Taxation

## Personal Income Tax Rate

The progressive tax rate of personal income tax in Taiwan is from 5 percent to 40 percent.

Personal income tax is levied on a territorial basis, that is, only Taiwan sourced income of both resident and non-resident individuals is subject to Taiwan income tax.

The income of resident individuals derived from sources outside Taiwan is subject to alternative minimum tax. Generally, capital gains on the sale of qualified securities is tax exempted.

## Social Security

Labour Insurance, Health Insurance, and Labour Pensions are payable in part by both employees and employers.



# Other Taxes

## Stamp Duty

Stamp duty is levied on the following documents and contracts executed within Taiwan, as follows:

- 0.4 percent of the receipt amount for cash receipts (excluding checks)
- 0.1 percent of the contract value for a contractual agreement executed to perform a specific job or task
- 0.1 percent of the contract value for contracts for lien, sale, exchange, donation, or division of real property which are submitted to the government for registration of title
- TWD 12 per contract in respect of contracts for the sale of movable properties.

## Estate and Gift Tax

Estate tax is based on all property transferred at death. The scope of estate tax covers the following:

- Property left by the deceased who was a Taiwanese citizen and regularly resided in Taiwan, irrespective of whether the location of the property is within or outside Taiwan,
- Property left by the deceased who was a Taiwanese citizen but resided outside Taiwan regularly, or who was not a Taiwanese citizen, only if the property is located within Taiwan.

The total estate is valued according to the prescribed property value prevailing at the time of death and is subject to estate tax as follows:

Net taxable estate amount (TWD)	Tax rate
0~50,000,000	10%
50,000,001~100,000,000	15%
100,000,001+	20%

Gift tax is based on all property transferred annually and includes:

- Gift made by a donor who is a Taiwanese citizen and regularly resides in Taiwan, irrespective of whether the property gifted is located within or outside Taiwan
- Gift made by a donor who is a Taiwanese citizen but resides outside Taiwan regularly, or who is not a Taiwanese citizen, only if the property given away is located within Taiwan.

Generally, the taxpayer is the donor; however, in certain circumstances, the recipient is liable.

The total gift is valued according to the prescribed property value prevailing at the time of transfer and is subject to gift tax as follows:

Net taxable gift amount (TWD)	Tax rate
0~25,000,000	10%
25,000,001~50,000,000	15%
50,000,001+	20%

There are exemption thresholds and prescribed deductions for Estate and Gift tax.



## Property Taxes

The prevailing land tax system includes:

- Land value tax – generally imposed at 1 percent to 5.5 percent of the assessed and publicly announced land value.
- Agricultural land tax – currently suspended
- Land value incremental tax – levied on the current assessed land value increment from the transfer of land at rates of 20 percent to 40 percent. Tax reduction for long-term possession may be granted additionally.

In addition, Taiwan imposes 'vehicle license tax', "house tax" and "deed tax" on property.

## Futures Transaction Tax

Futures transaction tax is imposed on trading of futures on the Taiwan Futures Exchange.

## Securities Transaction Tax (STT)

STT tax is imposed on the sale of certain types of securities (i.e. qualified securities). The applicable rates and securities are as follows:

- Share certificates issued by companies and certificates or receipts showing rights in share certificates – 0.3 percent of the transaction price
- Corporate bonds and other securities offered to the public which have been duly approved by the government – 0.1 percent of the transaction price.

However, in order to stimulate the bond market, corporate bonds and financial debentures are exempt from STT until December 31, 2026.

When a buy order and a sell order for a listed or OTC-listed stock is of the same kind and the equal quantity, and is executed on the spot market through the same brokerage account on the same day, STT shall be levied at the rate of 0.15 percent based on the transaction amount for each sell order until December 31, 2021.

## Other Taxes

Other taxes also include amusement tax.

# Trade & Customs

## Customs

### Customs Duty

Customs duty is payable by the consignee or the holder of the bill of lading for imported goods. The duty payable is based on the dutiable value or the volume of goods imported. The dutiable value is generally calculated on the basis of the true transaction price.

Customs duty rates fall into three categories, as follows:

- Special rate applied to goods imported from WTO member countries or from countries and territories that offer reciprocal treatment to Taiwan.
- Special rate applied to goods imported from countries and territories that are from specified Least Developed Countries or developing countries or areas, or from those countries or areas which have signed Free Trade Agreement or Economic Cooperation Agreement with Taiwan
- Ordinary rates

Nowadays, almost all major trading partners of Taiwan can apply the special rate.

### Excise Duty

Excise duties in Taiwan comprise commodity taxes, tobacco and alcohol tax, and specifically selected goods and services tax.

Commodity tax is a single-stage sales tax, levied on taxable commodities at the time when such goods are dispatched from a factory or are imported. Different rates of commodity tax apply to different types of commodities and are based on the value or volume.

Tobacco and alcohol products, whether manufactured domestically or imported from abroad, are subject to tobacco and alcohol tax.

A specifically selected goods and services tax shall be imposed on the sale, manufacture, and import of specifically selected goods or the sale of specifically selected services within the territory of Taiwan.

## Free Trade Agreements (FTA)

Below is a list of countries in which Taiwan has a FTA (or similar agreement thereof) with and is currently in force:

- Panama
- Republic of Guatemala
- Republic of Nicaragua
- Republic of El Salvador
- Republic of Honduras
- Singapore
- New Zealand
- ECA with the Republic of Paraguay
- ECA with the Kingdom of Eswatini





# Tax Authority

## Tax Authority

The tax authority in Taiwan is the Taxation Administration, Ministry of Finance.

## Tax Audit Activity

The tax authority annually sets out specific criteria indicating the group of taxpayers that may be subject to a tax audit for that year. The selection of taxpayers for audit is based on the specific criteria chosen.

Criteria for selecting a particular taxpayers for tax audit can include matters such as:

- Those found to have avoided tax with significant evasion matters
- Per desktop review of tax returns and found there to be abnormal and significant breach of tax law
- Obtain of falsified tax vouchers to apply for input tax credits under VAT return
- Under desktop review of tax returns for consecutively 4 years without any tax enquiries or audits
- Annual income that exceeds TWD 100 million and does not have CPA certification report.

## Appeals

If a taxpayer is not satisfied with the tax office's assessment, it may lodge a petition by going through one or more stages of the "administrative remedy procedures", as set out in consecutive order below:

- Recheck
- Administrative appeal
- Administrative lawsuit

## Current topics for focus by tax authorities

Key focus areas for the tax authority in tax audits conducted in recent years have included:

- Transfer pricing, including management fees paid to related parties
- Related party loans
- Related expenses for expats sent overseas
- Recognition of investment losses
- Intangible assets amortization
- Commission expenses
- Deduction of tax losses
- Bad debt write-offs
- Obsolete inventory
- Expenses and interest in relation to tax exempted income
- Tax incentives

# Chapter 5 Banking and Finance







## The Supervisory Authority of Financial Institutions: the Financial Supervisory Commission, Executive Yuan (FSC)

Taiwan's financial administration is under the jurisdiction of the Financial Supervisory Commission. The Financial Supervisory Commission (FSC) is an independent agency that directly reports to the Executive Yuan. Its responsibilities include supervision, examination, and investigation of the banking, securities, futures, and insurance industries as well as financial holding companies.

The FSC includes four bureaus and eight supporting units. The Banking Bureau, the Securities and Futures Bureau, and the Insurance Bureau are responsible for the supervision of financial institutions. The Examination Bureau is in charge of the examinations of all financial institutions. The FSC also has eight different supporting units to coordinate overall affairs in the FSC by each function.



## Major Categories of Financial Institutions

### Financial Holding Companies

To increase the synergy of financial institutions and promote the sound development of financial markets, the Legislative Yuan passed the "Financial Holding Company Act" in June 2001. Under the act, a financial holding company could invest in banking, insurance, securities, trust, and other financial institutions. The company and its subsidiaries are allowed to integrate their financial services and provide "one-stop" services. In addition, foreign financial holding companies are now allowed to acquire a domestic bank without setting up a holding company in Taiwan.

There are fifteen financial holding companies since February 2009. The financial institutions consolidated assets and liabilities are NTD 75,423,282 million as of April 2018. Table I is a list of representative financial holding companies.

### Monetary Institutions

In Taiwan, financial institutions are classified into monetary institutions and other financial institutions. Table II shows the number of these financial institutions at the end of December 2017.

Monetary Institutions include the Central Bank of the Republic of China (Taiwan), domestic banks, medium business banks, local branches of foreign banks, credit cooperatives, and credit departments of farmers' and fishermen's associations.

Following the "Banking Act," banks may engage in a wide variety of standard banking activities including accepting deposits, making loans, providing guarantees and acceptances, serving as payment and collection agents, handling foreign exchange, and other related operations.

Table I : Financial Holding Companies (As of April 2018)

Name	Date Founded
Hua Nan Financial Holding Company, Ltd.	2001/12/19
Fubon Financial Holding Company, Ltd.	2001/12/19
China Development Financial Holding Company, Ltd.	2001/12/28
Cathay Financial Holding Company, Ltd.	2001/12/31
E. Sun Financial Holding Company, Ltd.	2002/1/28
Yuanta Financial Holding Company, Ltd.	2002/2/4
Mega Financial Holding Company, Ltd.	2002/2/4
Jih Sun Financial Holding Company, Ltd.	2002/2/5
Taishin Financial Holding Company, Ltd.	2002/2/18
Shin Kong Financial Holding Company, Ltd.	2002/2/19
Waterland Financial Holding Company, Ltd.	2002/3/26
SinoPac Financial Holding Company, Ltd.	2002/5/9
Chinatrust Financial Holding Company, Ltd.	2002/5/17
First Financial Holding Company, Ltd.	2003/1/2
Taiwan Financial Holding Company, Ltd.	2008/1/2

Source : Central Bank of the Republic of China (Taiwan).

Table II : List of Financial Institutions (As of April 2018)

Type	Head Offices	Branches
Central Bank of the Republic of China (Taiwan)	1	-
Domestic Banks	38	3,410
Local Branches of Foreign Banks	29	38
Credit Cooperatives	23	272
Credit Departments of Farmers' Associations	283	820
Credit Departments of Fishermen's Associations	28	44
Chunghwa Post Company	1	1,299
Life Insurance Companies	23	123

Source : Central Bank of the Republic of China (Taiwan).



### Other Financial Institutions

Other financial institutions include the postal and savings system (named Taiwan Post Co., Ltd.) investment and trust companies, bills finance companies, securities finance companies, and insurance companies.

### Bills Finance Companies

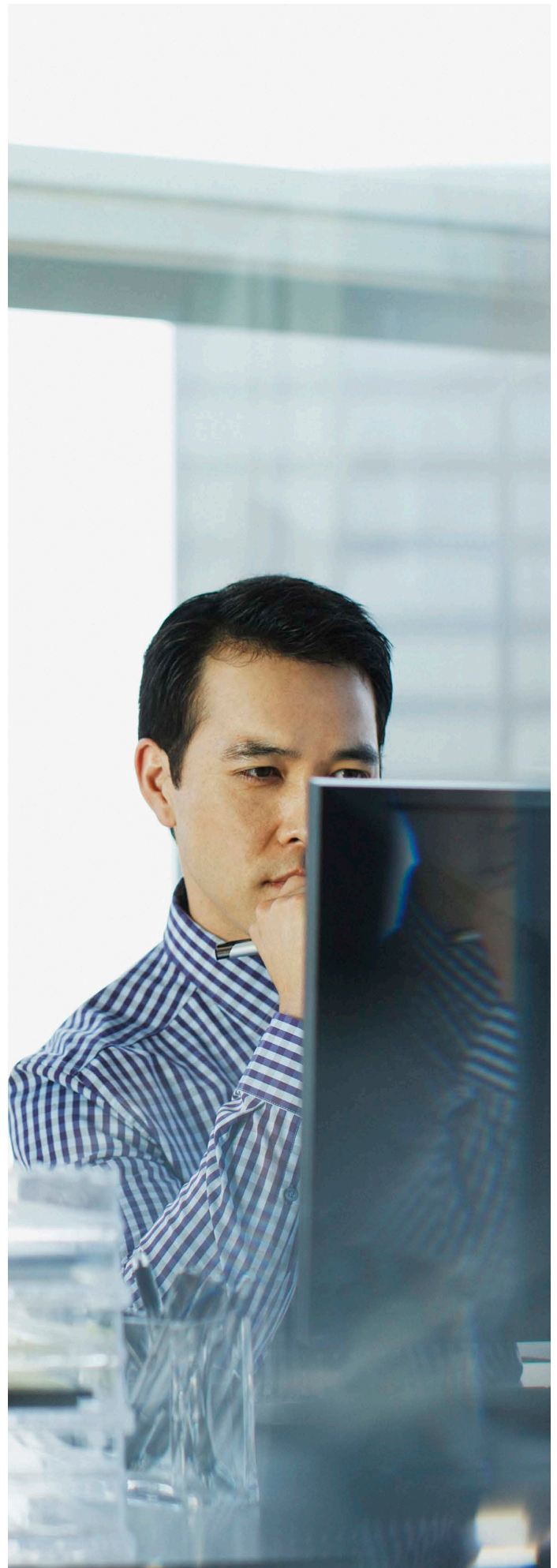
The market for bill financing was established in accordance with the "Regulations Governing Financial Bill Dealers." There are eight bills finance companies in Taiwan. The main function of these companies is to provide a mechanism for coordinating the supply and demand of short-term funds.

### Securities Finance Companies

As of November 2005, there were only two securities finance companies, which were licensed to provide margin loans for the purchase of securities. In 1991, the SFC, now called the Securities and Futures Bureau (SFB), allowed securities firms to engage in pecuniary and securities financing.

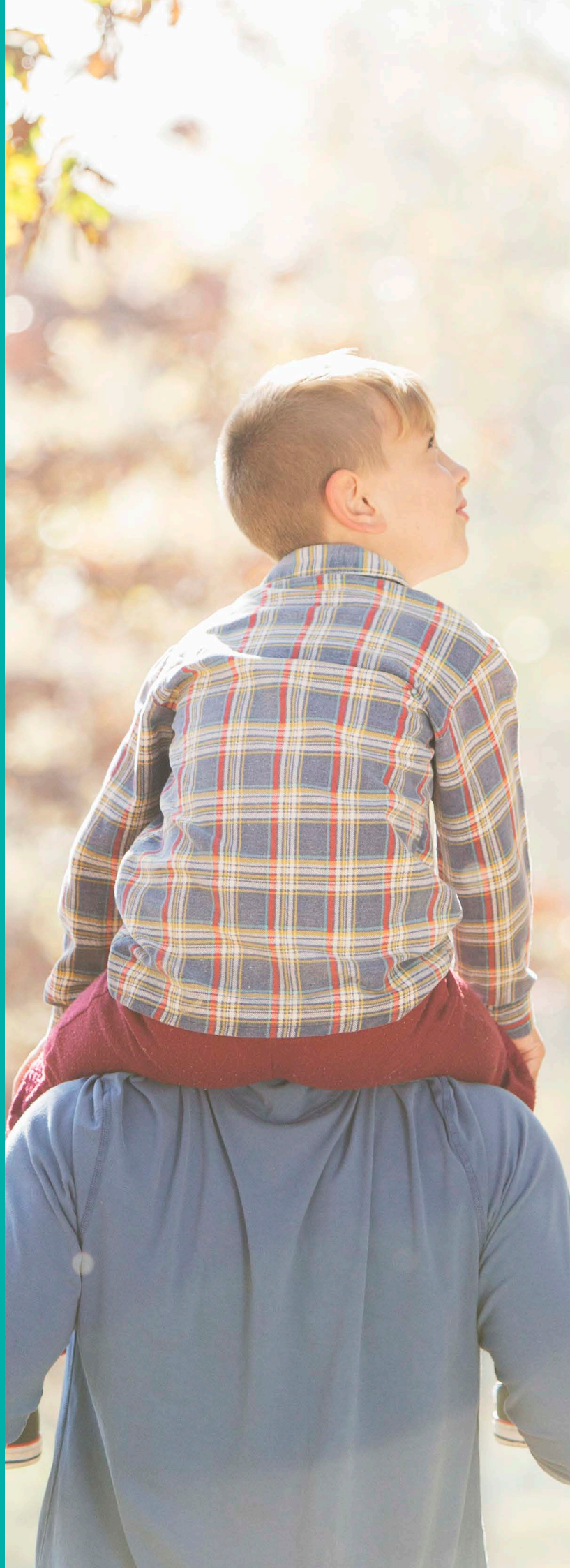
### Insurance Companies

The insurance industry is governed by the "Insurance Law" and administered by the Insurance Bureau of the Financial Supervisory Commission. As a result of continued economic growth, Taiwan is considered an attractive market for insurance. There are 23 life insurance companies and 14 property and casualty insurance companies in Taiwan.



# Chapter 6

# Retirement





The Labor Pension Act (hereafter called the "LPA"), which will eventually replace the Labor Standards Act (hereafter called "TLSA"), came into effect on July 1, 2005.

The new pension scheme under LPA provides a defined contribution plan instead of the defined benefit plan under TLSA. Employers are required to make a monthly contribution of no less than 6% of workers' contributable salary to their individual pension fund account for workers who opt to join the LPA scheme; their seniority before July 1, 2005, will continue to be governed by the TLSA. For those employees who choose to stay in the TLSA, their retirement benefit will remain unchanged.

## Retirement Eligibility

The Labor Standards Act (TLSA)

A worker may voluntarily apply for retirement if:

- They have worked for 15 years and reached the age of 55; or
- They have worked for 25 years; or
- They have worked for 10 years and reached the age of 60.

An employer cannot force a worker into retirement unless:

- The worker has reached the age of 65; or
- The worker's state of mind or physical condition has degenerated, rendering the worker incapable of work assignment.

The Labor Pension Act (LPA)

The worker has reached the age of 60.

## Retirement Payment

The Labor Standards Act (TLSA)

Retirement payments shall be made on the following scale:

- Up to and including 15 years' completed service, a payment of two units for each year of service completed in employment shall be made. However, only one unit per year will be given after completion of 15 years of service. The total units given shall not exceed 45. Each unit shall be computed as the monthly average wage at the time of approved retirement.
- Retirement payments are increased by 20% if an employee is forced to retire because of occupational injury.

The Labor Pension Act (LPA)

- Seniority under LPA scheme: Accumulation of final balance in retiree's individual pension fund account.
- Seniority prior to LPA scheme: Governed by TLSA. However, it is payable only to employees who choose to be subject to the LPA scheme and remain in service with the same company until retirement.

## Retirement Funds

### The Labor Standards Act (TLSA)

Effective since November 1, 1986, business entities subject to the TLSA are required to establish employer-contributed pension funds for their employees, and such funds must be deposited in an account established with Bank of Taiwan (BOT).

The monthly contribution rate may be set, subject to the local competent authority's approval, at between 2% and 15% of monthly salaries. The rate determined can be changed subsequently if suitable reasons are provided. However, revising the rate also requires the local competent authority's prior approval. Business entities that fail to make monthly contributions to such retirement funds will be subject to fines of between TWD 20,000 and TWD 450,000, and will also be required to deposit funds retroactively.

In addition, before the end of each year, employers are required to ensure the balance of the retirement fund is sufficient to pay pensions for workers eligible for retirement in the next year. A lump-sum contribution shall be made for any gap by the end of March of the next year. Business entities that fail to make such contribution will be subject to fines ranged from TWD 90,000 to TWD 450,000.

### The Labor Pension Act (LPA)

Employers are required to contribute on a monthly basis into the individual pension fund accounts at the Bureau of Labor Insurance for those employees who are subject to the LPA scheme, and the monthly contribution rate shall not be less than 6% of monthly salaries. In addition, an employee may voluntarily contribute each month up to 6% of monthly salary into his/her pension fund account, and the total amount may be deducted from the employee's taxable income in the year concerned.

Should an employer fail to contribute within the time limit or fully contribute the required amount of pension fund, a maximum penalty equivalent to the delinquent contribution shall be imposed.



## Severance Payments

The Labor Standards Act (TLSA)

Employees who are laid off are entitled to severance payments equal to one month's average monthly wage for each year of continuous employment with that enterprise.

The Labor Pension Act (LPA)

- Seniority under LPA scheme: Employees who are laid off are entitled to severance payment equal to half of the months' average monthly wage for each year of service, with a total maximum of six months' average wages. A fractional year shall be calculated proportionately.
- Seniority prior to LPA scheme: Governed by TLSA. However, it is payable only to employees who choose to be subject to the LPA scheme and remain in service with the same company until retirement.



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