



# Taiwan

Prepared by Lex Mundi member firm,  
Tsar & Tsai Law Firm

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# GUIDE TO DOING BUSINESS IN TAIWAN

*Prepared by*

**TSAR & TSAI LAW FIRM**

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*Lynn Lin, Partner*

*Email: [lynnlin@tsartsai.com.tw](mailto:lynnlin@tsartsai.com.tw)*

*TEL: +886 2 2781 4111*

*FAX: +886 2 2721 3834*

*WEB: [www.TsarTsai.com.tw](http://www.TsarTsai.com.tw)*

*Albert Liao, Senior Associate*

*Email: [albertliao@tsartsai.com.tw](mailto:albertliao@tsartsai.com.tw)*

*TEL: +886 2 2781 4111*

*FAX: +886 2 2721 3834*

*WEB: [www.TsarTsai.com.tw](http://www.TsarTsai.com.tw)*

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## THE COUNTRY AT A GLANCE

### 1.1 Languages

Mandarin is the official language in Taiwan. It is almost universally used and understood, while great majority of the population also speaks Taiwanese and Hakka dialects.

### 1.2 Exchange rates for the U.S. dollar and the Euro

The exchange rate between the US Dollar and the New Taiwan Dollar is approximately US\$1:NT\$31 as of the end of September, 2018. The exchange rate between the Euro and the NT Dollars is approximately Euro1:NT\$36.5<sup>1</sup>.

Prior to February 1979, management of foreign exchange in Taiwan was characterized by a central clearing and settlement system. Following the establishment of the Taipei Foreign Exchange Market in February 1979, a flexible exchange rate system was formally implemented. Since then, the NT dollar exchange rate has been determined by the market. However, like many countries in the world, when the market is disrupted by seasonal or irregular factors, the Central Bank of the Republic of China (Taiwan) may intervene.

### 1.3 Geography and climate

Strategically situated in the middle of a chain of Pacific islands, stretching from Japan in the north to the Philippines in the south, and only 160 kilometers off the southeastern coast of mainland China, Taiwan is at the heart of the Asia-Pacific region and a natural gateway to East Asia. The average flying time from Taiwan to the major cities in Western Pacific, including Tokyo, Seoul, Shanghai, Hong Kong, Manila and Singapore, is approximately 3 hours. The average sailing time from Taiwan's largest international harbor, Kaohsiung harbor; to the 5 major Asia-Pacific harbors (Hong Kong, Manila, Shanghai, Tokyo and Singapore) is approximately 53 hours.

The territory of Taiwan includes the main island of Taiwan, the archipelagoes of Penghu, Kimmen, Matsu, and numerous other islets – altogether covering an area of around 36,193 square kilometers.

The length of Taiwan Island is 394 kilometers. It is characterized by the contrast between the eastern two-thirds, consisting mostly of rugged mountains running in five ranges from the

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<sup>1</sup> The daily NT\$/US\$ interbank spot market closing rates are published and updated on-line at the website of the Central Bank ([www.cbc.gov.tw/mp2.html](http://www.cbc.gov.tw/mp2.html)). All commercial banks in Taiwan operating foreign exchange business also provide the daily foreign exchange rates available for customers.

northern to the southern tip of the island, and the flat to gently rolling plains in the western side that are homes to most of Taiwan's population.

As of 2018, Taiwan's population stood at 23.5 million. With 651 persons per square kilometer, Taiwan is one of the most densely populated areas in the world.

Taiwan is located in the subtropical climate zone in the western Pacific and the average temperature is around 30°C in summer and 18°C in winter.

#### **1.4 Cultural influences**

The cultures of Taiwan are a hybrid blend of various sources, incorporating elements of traditional Chinese culture, attributable to the historical and ancestry origin of the majority of its current residents, Japanese culture, traditional Confucianism beliefs, and increasingly Western values. Generally speaking, people in Taiwan are friendly and open-minded where cultural is often not an issue in doing business.

#### **1.5 Religious influences**

The people of Taiwan enjoy complete freedom of religion, a right guaranteed by Articles 7 and 13 of the Constitution of the Republic of China (Taiwan) and a fact confirmed by numerous outside observers, including the U.S. Department of State in its Annual Report on International Religious Freedom. Taiwan prides itself as one of the most religiously harmonious societies in the world.

Taiwan embraces a wide diversity of religious faiths. Generally speaking, people in Taiwan tend to be secular where religion is often not an issue in doing business.

#### **1.6 Infrastructure**

The infrastructure in Taiwan is well-developed.

##### **1.6.1 Airports**

Currently, Taiwan has four international airports: Taiwan Taoyuan International Airport (international airport code: TPE), the Taipei International Airport in the north, the Taichung International Airport in the middle and Kaohsiung International Airport in the south. TPE has two passenger terminals, with a total annual handling capacity of 25 million passengers. Taipei International Airport, Taichung International Airport, and Kaohsiung International Airport also have two passenger terminals that serve about 5.9, 2.4 and 5.1 million international and domestic passengers respectively per year.

Taiwan has 13 domestic airports. Six of them, Taichung, Chiayi, Tainan, Hengchun, Hualien and Taitung, are located on the main island, and the other seven are located on nearby islets.

### 1.6.2 Railroad Systems

Taiwan has a complete railway network. The high speed railways started operations in 2007, which has tremendously reduced the travel time between Taipei and Kaohsiung from over 4 hours to just 96 minutes.

The metropolitan areas are being developed with MRT systems, including the Taipei MRT and the Kaohsiung MRT systems, which make the metropolitan living more convenient.

### 1.6.3 Ports

Taiwan has seven international harbors, and among them, the four main ports – Keelung, Taichung, Kaohsiung and Taipei – handle container shipping. The smaller facility at Anping Port is auxiliary to Kaohsiung, while Su'au Port is auxiliary to Keelung. Hualien Port handles bulk cargo.

Taiwan has complete international transportation facilities and logistic capability. For traffic information, the Institute of Transportation (IOT) of the Ministry of Transportations and Communications operates a Chinese-English bilingual website (<http://e-iot.iot.gov.tw>) that displays current traffic conditions around Taiwan and information on fares, timetables and routes of long distance coaches, railroad trains, high-speed trains, flights and ferry boats, etc.<sup>2</sup>

## 1.7 *Communication system*

Since 1996, Taiwan gradually opened up mobile, satellite and fixed-line communication services with a series of deregulation measures.

In early 2002, the penetration rate of Taiwan's mobile phone market reached 100 percent and climbed further to 122 percent in 2011. And Taiwan is one of the countries with the highest smartphone penetration rate. Since 2014, 4G has become available in Taiwan and the number of 4G mobile phone subscribers currently exceeds 10 million. The major service providers are Chunghwa Telecom, Taiwan Mobile and Far EastOne Telecommunications. The limited size of the market has led to fierce competition among network operators.

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<sup>2</sup> Source: The Republic of China Yearbook 2011, Government Information Office  
[www.gio.gov.tw/taiwan-website/5-gp/yearbook/](http://www.gio.gov.tw/taiwan-website/5-gp/yearbook/)

Taiwan is one of the most well-connected nations in the Asia-Pacific region as the public and private sectors have been quick to embrace new internet technologies. According to the World Economic Forum's Networked Readiness Index 2018, Taiwan ranks 19<sup>th</sup> among the 142 economics featured in the report.

### **1.8 Public services**

Taiwan provides quality and inexpensive utilities services operated by corporations owned by the government.

## **2. GENERAL CONSIDERATIONS**

### **2.1 Investment policies**

#### 2.1.1 Overview

Taiwan welcomes and encourages foreign investments. The InvestTaiwan Service Center operated under the Ministry of Economic Affairs (**MOEA**) aims to support the Executive Yuan's global investment promotion strategy by providing customized, one-stop solutions for both domestic and foreign investors to ensure a smooth implementation of investment plans or to resolve investment obstacles if any.

Additionally, the Department of Investment Services (**DOIS**) is a standing agency of the MOEA under the Executive Yuan responsible for the promotion of foreign investment in Taiwan, the encouragement of Taiwanese business to return from overseas and invest in Taiwan, the guidance of domestic enterprises in investing overseas and the recruitment of foreign talent.

#### 2.1.2 Rate of inflation

The consumer price index (**CPI**) of Taiwan recorded average annual rises of 1.72% as of September 2018.<sup>3</sup> Except for during the two international oil crises (1973-74 and 1979-80), Taiwan's price fluctuations have been kept at a moderate level since the 1960s.<sup>4</sup>

#### 2.1.3 Any sector exceptions, incentives or restrictions on foreign investment

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<sup>3</sup> Source: The Directorate-General of Budget, Accounting and Statistics, Executive Yuan, ROC (Taiwan) ([www.dgbas.gov.tw](http://www.dgbas.gov.tw))

<sup>4</sup> Source: "Economic Development ROC (Taiwan) 2017" by Council for Economic Planning and Development, Executive Yuan, ROC (Taiwan).

Foreign investments (excluding PRC investments, which are subject to a separate set of investment regulations) are generally subject to the “Statute for Investments by Foreign Nationals”. A Foreign Investment Approval (**FIA**) issued by the Investment Commission (“**IC**”) of MOEA is a prerequisite for foreign investment.

Foreign investors may invest in most business sectors except for those on the Negative List. The List specifies certain “Prohibited Industries”, where no foreign investment is permitted, and “Restricted Industries”, where special permits/licenses from competent authorities are required.

For PRC investments, the Regulations Governing Investments by PRC Persons (the “**PRC Investment Regulations**”) shall apply. According to the PRC Investment Regulations, a PRC Person may invest in certain industries identified on the “List of Permitted Industries” as promulgated by the MOEA from time to time. Article 3 of the PRC Investment Regulations defines the term “PRC Person” as (a) PRC citizen, (b) PRC entity or (c) a corporate entity incorporated in third jurisdiction (“**Non-PRC Jurisdiction**”) and controlled by a PRC citizen or a PRC entity.

It is advisable that you consult a legal counsel in the earliest possible stage if you plan to invest in Taiwan.

To view the full Negative List applicable for general foreign investors and the List of Permitted Industries applicable for PRC investments, please visit <http://run.moeaic.gov.tw/MOEaic-WEB-SRC/OfimDownloadC.aspx>.

#### 2.1.4 Sizes of the markets

In the course of its development over the past half century, Taiwan has successfully transformed itself from an agricultural society to a key player in the global IC industry. In 2017, the production value of integrated circuit (IC) industry in Taiwan was NT\$2.45 trillion. Taiwan was also the number one supplier of semiconductor foundry services and IC packaging & testing, with global output shares of 67.85% and 48.5% respectively.<sup>5</sup>

The rising living standards have also spurred the booming development of service sector, which accounted for 63.1% of GDP in 2017.<sup>6</sup>

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<sup>5</sup> Source: “Economic Development ROC (Taiwan) 2017” by Council for Economic Planning and Development, Executive Yuan, ROC (Taiwan).

<sup>6</sup> Source: “Economic Development ROC (Taiwan) 2017” by Council for Economic Planning and Development, Executive Yuan, ROC (Taiwan).

### 2.1.5 What types of businesses are conducted in the country?

Taiwan owns competitive advantages in the IT industry. It is one of the largest IT hardware manufacturing countries in the world.

Taiwan also has a very competitive and mature financial services industry, which has attracted both domestic and international players.

To provide a new engine for economic growth, the government has prioritized five industries that combine strong domestic demand with local characteristics: Internet of Things (IoT) in an Asian Silicon Valley, smart machinery, biotechnology and pharmaceuticals, green energy technology and national defense.

In addition, with the vision to make Taiwan a “Nuclear-Free Homeland” in 2025, the Taiwan government designs its new energy policy around green energy, aiming to increase the ratio of renewable energy to 25% of all energies produced in 2025. In particular, Taiwan’s unique landscape and geographic condition have been recognized to be favorable for the development of offshore wind power. With the short-term goal of 520MW capacity by 2020 and the long-term goal of 3GW capacity by 2025, offshore wind power has become a focus of the new energy policy.

## **2.2 Diplomatic Relations**

### 2.2.1 Established diplomatic relations

Due to the political pressure from PRC, only 17 nations have formal diplomatic relationship with Taiwan as of September 2018, They are: Republic of Palau, Tuvalu, Republic of the Marshall Islands, Solomon Islands, Republic of Kiribati, Republic of Nauru, Republic of Guatemala, Republic of Paraguay, St. Vincent and the Grenadines, Belize, Republic of El Salvador, Republic of Haiti, Republic of Nicaragua, Dominican Republic, Republic of Honduras, Saint Kitts and Nevis, Saint Lucia, Burkina Faso, Kingdom of Swaziland, The Holy See.

Despite the political difficulties, Taiwan maintains strong economic relationships with all major industrial countries and economic bodies in the world. Currently, Taiwan has full membership in 37 intergovernmental organizations (**IGO**) and their subsidiary bodies, including the Asian Development Bank, the World Trade Organization (**WTO**), where Taiwan has joint under the name of “Separate Customs Territory of Taiwan, Penghu, Kinmenn and Matsu”, and the Asia-Pacific Economic Cooperation (**APEC**) forum, where Taiwan has participated as “Chinese Taipei”.

In addition, Taiwan has either an observer status or an associate membership in 21 other IGOs or their subsidiary bodies.

In early-2018, Taiwan has a total of 113 embassies and/or missions in the capitals and major cities of 80 countries, including the nation's missions to WTO and EU. Meanwhile, there are a total of 76 foreign embassies, missions and/or representative institutions in Taiwan.<sup>7</sup>

#### 2.2.2 Addresses, and contact information for the embassies or consulates in the country

Contact information for all embassies and consulates in Taiwan is available on the website of the Ministry of Foreign Affairs: <https://www.mofa.gov.tw/en/default.html>.

#### 2.2.3 Travel restrictions to or within the country

Visitor visas are most commonly issued to foreign nationals who hold ordinary passports or other legal travel documents with the intention to visit Taiwan for tourism or business. Visitor visa holders may be permitted to stay in Taiwan for 14/30/60/90 days. For those who are permitted to stay 60 or 90 day and whose visas bearing no such remark as “no extension will be granted” are eligible for a maximum extension up to 180 days.

Visa-exempt entry and landing visas are available for passport holders of certain designated countries.

Useful information for foreign nationals is available at <http://iff.immigration.gov.tw>.

### **2.3 Government**

#### 2.3.1 Election system

Taiwan has nine election categories. The two elections at the central government level are the President/Vice President Election and the Legislators Election. The remaining seven are local elections, including Municipal Mayors, Municipal Councilmen, County Magistrates (City Mayors), County Councilmen, Township Chiefs, Township Councilmen and Village Heads.

An elected official usually serve a four-year term.

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<sup>7</sup> Source: Ministry of Foreign Affairs, ROC (Taiwan) ([www.mofa.gov.tw](http://www.mofa.gov.tw))

### 2.3.2 Political history in the last decade

The present government of Taiwan is politically stable.

Taiwan is a democratic country. According to Freedom House report of 2018, Taiwan was rated #1 on political rights and #1 on civil liberties (with a scale of #1 to #7, with #1 representing the highest and #7 as the lowest level of freedom.<sup>8</sup>)

Taiwan's transition to democracy began in 1987 when the government ended 38 years of martial law. The media were liberalized and opposition political parties are legalized in 1991-1992, which eventually led to the first direct presidential election in 1996.

In 2000, Chen Shui-bian, the presidential candidate of the Democratic Progressive Party (**DPP**) won the presidential election, ending the country's one-party ruling history under the Kuomintang (**KMT**) since 1949 when the government ruled by KMT relocated to Taiwan as a result of civil war in mainland China. DPP's winning of the presidential election in 2000 marked the first-ever transfer of governing power between political parties in Taiwan. Chen was re-elected in 2004.

In 2008, the inauguration of the KMT's Ma Ying-Jeou as the 20<sup>th</sup> term President marked the nation's second democratic transfer of power between political parties. Ma was re-elected in 2012.

Taiwan's relation with the PRC has also been evolving over the past decades from estrangement and military confrontation to one characterized by extensive people-to-people contacts and economic exchanges and semi-official consultations. In June 2010, Taiwan and mainland China signed the Cross-Straits Economic Cooperation Framework Agreement (**ECFA**), which was ratified by the Legislative Yuan on August 17, 2010 and came into force on September 12, 2010. The primary aim of ECFA is to facilitate institutionalization and liberalization of trade and other economic relations across the Taiwan Strait. It calls for the progressive elimination or reduction of tariffs on most goods as well as opening of various service sectors to investment and competition. In 2014, there was a movement protesting the passing of the Cross-Strait Service Trade Agreement (CSSTA) by the ruling party KMT, followed by the rotation of the ruling party in 2016. In 2016 DPP's Tsai Ing-wen was elected as President.

### 2.3.3 Judicial system

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<sup>8</sup> "Freedom in the World – Taiwan (2018)", Freedom House (<https://freedomhouse.org/report/freedom-world/2018/taiwan>).

(a) Overview

Taiwan is a civil law country where civil procedures are similar to other civil law countries such as Germany, Japan, and South Korea.

The Judicial Yuan is the central government's branch overseeing the operations of the nation's court systems.

The judicial system in Taiwan is generally perceived to be impartial. The judiciary is independent and the trials are generally fair.

Except for matters that are subject to "exclusive jurisdiction" as prescribed by law, such as real properties, investors may choose to be subject to Taiwanese jurisdiction or elsewhere as venue for commercial dispute resolution.

(b) Court system

The court system hears criminal, civil and administrative cases. Criminal and civil court system is composed of three tiers of courts: the District Court—the court of original decision; the High Court – the court of intermediate appellate court; and the Supreme Court. Issues of fact are adjudged by district courts and high courts, while the Supreme Court considers only issues of law.

Operating since July 1, 2008, Intellectual Property Court aims to review the IP-related civil cases of the first and second instance, IP-related criminal cases of the first instance and IP-related regulatory decisions made by the MOEA.

The administrative court system, consisting of regional high administrative courts and a Supreme Administration Court, adjudicates cases in which a person seeks remedies to allegedly illegal administrative dispositions or violations of law committed by government agencies.

In general, one instance may take about 12 to 18 months in average. The actual timeline may vary on case-by-case basis.

(c) The Grand Justices

At the apex of the nation's judicial system are the Grand Justices, who are nominated and appointed by the President upon the ratification of the Legislative Yuan. The Grand Justices, consisting of 15 members, including the President and Vice-President

of the Judicial Yuan, take charge of the interpretations of Constitution and the unification of inconsistent interpretations of laws and orders. The Constitutional Court comprising of the Grand Justices adjudicates matters relating to impeachment of the nation's President or Vice-President and the dissolution of any unconstitutional political parties.

(d) Alternative Dispute Resolution

Arbitration and mediation are the alternative methods of dispute resolution.

2.3.4 Legislative system

The Constitution stipulates that the Legislative Yuan shall be the supreme national legislature with its members elected by the people, and it shall exercise the legislative power on behalf of the people. In terms of its power and function, the Legislative Yuan is equivalent to a parliament in other democracies.

The Legislative Yuan has power to decide by resolution upon statutory or budgetary (final accounts) bills, or bills concerning martial law, amnesties, declarations of war or peace, treaties, and other important affairs of the state. Any law, statute, special act, or general principle has to be passed by the Legislative Yuan and promulgated by the President before it comes into force.

2.3.5 Environmental Considerations

(a) Overview

The establishment of the Cabinet-level Environmental Protection Administration (**EPA**) in 1987 to oversee environment-related matters nationwide demonstrates by the Taiwanese government's determination to improve the living environment, and to raise environmental awareness. The ministry will be responsible for affairs involving environmental education, environmental impact assessment, air quality, noise control, non-ionizing radiation, water, soil & groundwater, solid waste, environmental sanitation, toxic & chemical substances, resource recycling, control & evaluation, green mark, environmental monitoring, environmental inspection, science & technology development, sustainable development, international cooperation. Ordinary citizens in Taiwan have made some of the greatest contributions to environmental protection. Across the nation, environmental volunteers are among the most active social workers, conducting activities from patrolling rivers and recycling trash to restoring wetlands and planting trees.

(b) Environmental regulations.

- Although Taiwan is not a signatory to the Kyoto Protocol, the government has committed to reduce GHG emissions. Based on the principle of “common but differentiated responsibilities” adopted in the U.N. Framework Convention on Climate Change, Taiwan adopted the Framework of Taiwan’s Sustainable Energy Policy in June 2008, outlining a reduction of GHG emissions to the 2005 levels by 2020, and to the 2000 levels by 2025.
- In June 2009, the Renewable Energy Development Act was promulgated. The law reaffirms the government’s determination to promote sustainable energy.
- The Air Pollution Control Act empowers various levels of government to set air quality standards and establish monitoring stations. The EPA levies Air Pollution Control (APC) fees on both stationary sources of pollution, such as factories and construction sites, as well as mobile sources, such as motor vehicles.
- The Marine Pollution Control Act and the Marine Oil Pollution Emergency Response Plan provide important framework for government to deal with and prevent marine pollution.
- The Noise Control Act authorizes local governments to maintain tranquility by designating noise-control areas where certain activities are prohibited at specific time.
- The Waste Disposal Act requires manufacturers to assume responsibility for their waste or face fines.
- Soil and Groundwater Pollution Remediation Act provides the framework for government to deal with and prevent soil and groundwater pollution. The Act also imposes joint and several liabilities on the polluters and the interested parties of the polluted land.
- Environmental Impact Assessment Act requires that environmental impact assessments be conducted for all development activities with concerns of adverse impact on environment.
- The Environmental Agents Control Act and the Toxic Chemical Substances Control Act prohibit the use of POPs, and restrict the production, sales, use, import and export of 259 toxic chemicals.

- The Wildlife Conservation Act provides the protection of species diversity.
- Following the footsteps of the United States, Japan, South Korea and Brazil, Taiwanese Legislature passed the Environmental Education Act in May 2010, writing environmental education into law. Under this statute, those who work in the public sector, as well as faculty and students at primary and secondary schools, must receive at least four hours of environmental education every year.
- The Greenhouse Gas Reduction and Management Act was promulgated in 2015 to require the government to establish strategies to reduce and manage greenhouse gas emissions, strengthen environmental justice, and improve the shared responsibility of environmental protection and national development.

#### 2.3.6 Intellectual Property

The legal protection of intellectual property in Taiwan is based on statutory laws, including Trademark Act, Copyright Act, Patent Act, Trade Secrets Act, and Integrated Circuit Layout Protection Act.

- **Trademark**

Pursuant to the Trademark Act, a trademark shall refer to any sign with distinctiveness, which may consist of, but not limit to, words (letters, characters), figures, symbols, colors, three-dimensional shapes, motions, holograms, sounds, and a combination thereof.

- **Copyright**

The Copyright Act protects the expression of a “work,” defined as a creation that falls within literary, scientific, artistic, or other intellectual domains, including oral and literary works, musical works, dramatic and choreographic works, photographic works, graphical works, audiovisual works, sound recordings, architectural works, and computer programs. Derivative works, compilation works, and performances made by a performer of a pre-existing work or folklore are also protected as independent works. In order to qualify for protection under the Copyright Act, the work must involve creativity that reflects the personality and independent character of the author. Only expression of a work may be protected by the Copyright Act, The protection does not extend to the work’s underlying ideas, procedures, production processes, system, methods of operation, concepts, principles, or discoveries.

■ **Patent**

The Patent Act offers patent protection for inventions, the creation of technical concepts, and designs. For purpose of the Patent Act, an invention may concern an object, process, or use and may cover all fields of technology, including electronic engineering, mechanical engineering, chemical engineering, medical and pesticide engineering, computer programs, biotechnology and nanotechnology.

■ **Trade Secrets Act**

Pursuant to the Trade Secrets Act, a method, technique, process, formula, program, design, or other information that may be used in the course of production, sales, or operations shall be considered a trade secret protected under the Act if it meets the following requirements: (a) it is not known to persons generally involved with information of this type; (b) it has actual or potential economic value due to its secret nature; and (c) its owner has taken reasonable measures to maintain its secrecy.

Taiwan is a member of the World Trade Organization (**WTO**) and is bound by the Agreement on Trade-Related Aspects of Intellectual Property Rights (**TRIPS**).

### **3. INVESTMENT INCENTIVES**

#### **3.1 Overview**

Foreign trade has been the engine of Taiwan's rapid growth during the past 40 years. Given its geographic location and the lack of natural resources, Taiwanese government launched a series of policies to attract foreign investments and to encourage international trade. Those policies contributed to the significant economic development since the 1960s. Today, Taiwan's economy remains export-oriented, and the government has set a series of economic transformation programs that aim to upgrade the industrial technology and innovation to maintain the nation's economic competitiveness.

Generally speaking, there are "tax related incentives" and "non-tax related incentives" available for foreign investors. In the past, most of the tax related incentives were provided under the "Statute for Upgrading Industries" (**SUI**), which was initially introduced in 1991 and replaced by "Statute for Industrial Innovation" (**SII**) after December 31, 2009. Under the SII, the only tax

incentive offered is R&D credit, noting that Taiwan's corporate income tax has recently been raised from 17% to 20%. More tax related incentives can be found in the specific areas, including Biotechnology and New Pharmaceutical Industry, Private Participation in Infrastructure Projects, Free Trade Zones, Science Parks, Export Processing Zones, Bonded Factories and Bonded Warehouses, etc.

For non-tax incentives, the government has provided "Industrial Technology Development Programs", "Land Lease Incentives in Industrial Parks", "Government Participation in Investment" and "Low-Interest Loans", etc. to reduce the business operating cost.

More information can be obtained from InvesTaiwan Service Center established under the Executive Yuan (<https://investtaiwan.nat.gov.tw/homePage?lang=eng>).

### **3.2 "Statute for Industrial Innovation" (SII)**

The SII serves as the principal guidelines on the measures and approaches that the government shall take in improving the industrial environment in many aspects, such as developing innovative technology, utilizing intangible assets (i.e. intellectual property), promoting brand, manpower training and establishing industrial complex.

According to SII, a company incorporated under the Taiwan Company Act may be entitled to a tax credit of up to 15% of the R&D expenditure against its income tax liability. The credit is limited to 30% of the income tax payable for the current year. This incentive is available from January 1, 2010 to December 31, 2019.

### **3.3 Biotechnology and New Pharmaceutical Industry**

The Biotechnology and New Pharmaceutical Development Act was enacted on July 6, 2007 to promote the development of knowledge-intensive industries such as new drugs and high-risk medical devices.

The Act provides a number of tax incentives:

- R&D and personnel training – The deduction is limited to 35% of the total amount invested in R&D and personnel training and may be credited against the profit-seeking-enterprise income tax within five years from the year the tax liability is incurred;
- Investment tax credit for corporate shareholders – Corporate investors holding the shares for more than three years are entitled to a deduction from the profit-seeking-enterprise

income tax payable for a period of five years starting from the year the tax liability is incurred, up to 20% of the acquisition cost of the shares;

- Tax deferral – Investors are permitted to pay tax based on the actual trading price when the ownership of the shares is transferred, rather than paying tax at the time the shares are acquired;
- Stock options – Companies may issue stock options to high-ranking professionals and technology investors allowing them to subscribe to the shares at a price lower than their face value.

### **3.4 Private Participation in Infrastructure Projects**

The Statute for Private Participation in Infrastructure Projects provides tax incentives and government support for a private company investing in government-approved infrastructure projects. The tax incentives include a five-year tax exemption, investment tax credit, customs duty incentive or payment in installments, etc.

### **3.5 Free Trade Zones, Science Parks, Export Processing Zones, Bonded Factories and Bonded Warehouses**

A company may claim certain indirect tax incentives if it is incorporated in a Science Park or an Export Processing Zone, an Agricultural Technology Park, Free Trade Zone, or Bonded Factory or Bonded Warehouse according to the applicable regulations. The main indirect tax incentives include duty-free, VAT-free and commodity tax free for imports and 0% VAT for exports, etc.

### **3.6 Tax Export Incentives or Guarantees For Exports**

To encourage export, the Customs Act sets an “Export Tax Rebate System” (**ETRS**), which allows the exporters to apply for the offsetting and/or refund of (1) import duties, (2) commodity tax, and (3) business tax on the imported raw material processed in Taiwan for exported products. Except for certain restricted raw materials publicized by the government, in general the exporters may apply for offsetting or refund of the duties and taxes in the three types mentioned above on the imported raw materials.<sup>9</sup>

In Taiwan, export financing is available from both private and government sources. Many Taiwanese commercial banks provide the exporters with export financing in various forms, each of which offers financing on terms and conditions applicable to the specific purpose that such

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<sup>9</sup> There is a public platform established and maintained by the government that the exporters may search for the restricted raw materials (<http://portal.sw.nat.gov.tw/APGQ/GC411>).

financing is requested. The Export-Import Bank of Republic of China (**EIB**), which was established by the government in 1979 for the purpose of facilitating the export and import business and providing export financing such as credit services<sup>10</sup>, guarantee services<sup>11</sup> and the relending services with exporters. The EIB also offers a range of special insurances which will enable the exporters to mitigate risks from importer's failure or delay of payments, credit risks, annulment of contracts, or other potential risks such as war, civil war, or restriction of trade by the importing countries.

## 4. FINANCIAL FACILITIES

### 4.1 *Banking/Financial Facilities*

There are a variety of financial institutions in Taiwan, including domestic banks, local branches of foreign banks, credit cooperation associations, credit departments of farmers' association, credit departments of fishermen's association, bills finance companies, securities finance companies, domestic life insurance companies, domestic property and casualty insurance companies, marine insurance cooperative society, domestic reinsurance corporation, local branches of foreign life insurance companies, local branches of foreign property and casualty insurance companies, local branches of foreign reinsurance companies, and deposit insurance company.

### 4.2 *Requirements for opening a bank account*

When opening a New Taiwan dollar bank account, foreigners should present an alien resident certificate (**ARC**) and a document with the function to identify such as IC card, passport, driving license and student card. Those without an ARC should first apply for an "Identity (**ID**) number basic information certificate" at the Immigration Agency. Investors should inquire their bankers for detailed requirements and other Know Your Customer (**KYC**) procedures.

### 4.3 *Financial supervision system*

The financial industry is supervised and regulated by the Financial Supervisory Commission (**FSC**) and the Central Bank. In the past, the financial industry was not treated as a single industry. It was fragmented into banking, insurance and securities businesses and was supervised separately by three different Ministry of Finance (**MOF**) departments. In order to

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<sup>10</sup> Including medium and long-term export credit, technology export credit, short-term export credit, general export credit, etc.

<sup>11</sup> Including overseas construction guarantee and shipbuilding guarantee.

resolve the problem of overlapping authority due to multiple supervisory systems, the FSC was established on July 1, 2004, as the single financial regulator that consolidates the functions of monitoring and rule-setting over the banking, securities, futures and insurance industries. FSC also carries out cross-sector financial examinations.

#### **4.4 Banking system**

According to the Bank Act, the term, "Bank", includes: 1) Commercial Banks; 2) Banks for a Special Business Purpose; and 3) Investment and Trust Companies.

Businesses which may be conducted by a Bank include to accept Checking Deposits; to accept various kinds of other Deposits; to manage Trust Funds under mandate; to issue Bank Debentures; to extend loans; to discount bills and notes; to invest in securities; to invest in productive enterprises; to invest in residential construction and construction for business purposes; to handle domestic and foreign remittances; to accept commercial drafts; to issue Letters of Credit; to guarantee domestic and foreign transactions; to act as collecting and paying agent; to underwrite and trade in securities for its own account or for customers; to manage issuance of bonds and debentures and to provide advisory services with respect thereto; to act as attester for the issuance of stocks, bonds and debentures; to manage various kinds of property under mandate; to conduct businesses related to investment and trusts regarding securities; to buy and sell gold bars/coins and/or silver bars/coins and foreign currencies; to conduct warehousing, custody and agency businesses in relation to the businesses itemized above; and to conduct other relevant businesses which may be authorized by the regulator.

#### **4.5 Stock market**

Taiwan Stock Exchange Corporation is the stock market where listed stocks can be publicly traded. Taiwan also has an OTC market known as GreTai Securities Market.

## **5. EXCHANGE CONTROLS**

Since July 1987, the Central Bank of the Republic of China (Taiwan) (**CBC**) has actively deregulated the foreign exchange controls on capital movements. Major foreign exchange regulations include the followings:

- Inward and outward remittances related to foreign trades in goods and services do not require prior approval from the CBC as long as supporting documents are filed along with the declaration form.

- Direct investment (with FIA) and portfolio investments, such as Foreign Institutional Investors (**FINIs**) and Foreign Individual Investors (**FIDIs**) do not require a separate CBC approval.
- Foreign exchange for purposes other than those mentioned above can be up to US\$5 million per annum in aggregated by a Taiwan natural person; or US\$50 million per annum in aggregated by a Taiwan business entity.
- Maximum single remittance by a non-resident is US\$100,000.

## 6. IMPORT/EXPORT REGULATIONS

### 6.1 Customs Regulations

#### 6.1.1 Overview

The collection of customs duty and the clearance of goods shall be governed by the Customs Act. Unless otherwise provided in the Act, customs duty shall be collected in accordance with the Customs Import Tariff. The Customs Import Tariff may implement tariff quotas and provide separate tariff rates for different quantities on certain imported goods.

The average nominal and effective tariff rates for customs duty purposes have been reduced gradually on an annual basis since Taiwan joined the World Trade Organization (**WTO**). Taiwan also follows the WTO's guidelines for customs duty collection to conform to the international standards.

Please visit <http://web.customs.gov.tw/rate/rate/search.asp> for more information on Customs Import Tariff and Interpreted Customs Import Tariff.

#### 6.1.2 International organization/regional free trade agreement

In January 2002, Taiwan as an independent economy became a member of the World Trade Organization (**WTO**) under Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, also known as "Chinese Taipei". Taiwan is also a Participant at the Organization for Economic Cooperation and Development (**OECD**).

On June 29, 2010, Taiwan signed the historical Economic Cooperation Framework Agreement (**ECFA**) with mainland China, taking effect on September 12 of the same

year. ECFA is a preferential trade agreement between Taiwan and China aiming to reduce tariffs and commercial barriers between the two politically opposite governments. The "early harvest" list of tariff concessions agreed by the two sides in ECFA covers 539 Taiwanese products and 267 mainland Chinese goods. In services area, China agrees to open markets in 11 service sectors such as banking, securities, insurance, hospitals and accounting, while Taiwan offers wider access in 8 areas, including banking and movies. Taiwan also signed the CSSTA with China, but it was tabled after rotation of the ruling party.

Taiwan currently has FTAs with Panama, Guatemala, Nicaragua, EL Salvador and Honduras, ASTEP with Singapore and ANZTEC with New Zealand.

### 6.1.3 Valuation

In general, customs value of imported goods subject to ad valorem duties shall be determined and calculated on the basis of the transaction value. The "transaction value" refers to the price actually paid or payable for the imported goods sold from the exporting country to Taiwan. If the customs value of the imported goods cannot be determined based on the transaction value, the customs value shall be determined on the basis of a set of valuation methods set forth in the Customs Act.

Since September 2010, the Taiwan Customs has established the Advance Ruling System on Customs Valuation according to the Article 36-1 of the Customs Act. The duty-payer or its agent may apply in advance to the Custom Administration, Ministry of Finance, for an advance valuation decision. Such a decision takes into account whether the additions shall be made to the price actually paid or payable for the goods being valued before importing based on the Article 8 of the WTO Valuation Agreement. It can provide the duty-payer with a more transparent and predictable environment for trade.

### 6.1.4 Customs clearance

Companies usually use custom brokers and freight forwarders to assist in the customs process. Online process is more and more popular recently. Please visit the website for further information regarding the online goods declaration: <http://www.tradelink-ebiz.com/english/331n08or3m9a51l/index.html>

## 6.2 Exports

### 6.2.1 Overview

Export of goods has been liberalized subject only to restrictions that may be imposed by reason of requirements under international treaty, trade agreement, national defense, social security, culture, hygiene, or environmental/ecological protection or policy.

#### 6.2.2 Export licenses

According to the Foreign Trade Act, last amended and promulgated on December 11, 2013, exports of the following commodities are restricted and export licenses are required before exportation thereof:

- Commodities to be exported to countries that are subject to ban or control of trading activities as designated by the trade authority due to national security;
- Commodities to be exported to countries that are under temporary suspension order due to:
  - any natural disaster, incident, or war;
  - national security or public safety;
  - a serious shortage of a specific material or the fluctuation of price in domestic or international market;
  - serious imbalance in international payments;
  - any international treaty, agreement, United Nations resolution or need of international cooperation; or
  - any measure taken by a foreign country to impede import/export of Taiwan in violation of international agreements or principles of fairness and reciprocity.
- Commodities to be exported to countries that are under restriction order due to international treaty, trade agreement, national defense, social security, culture, hygiene, and environmental/ecological protection, or policy.
- Strategic high-tech goods
- Endangered species of wild fauna and flora, and products thereof
- Commodities subject to export quota

### 6.2.3 Trade Promotion Service Fees

Exported commodities may be subject to a trade promotion service fee at a rate not more than 0.0425% of the FOB price to be collected through customs.

## **6.3 Imports**

### 6.3.1 Import licenses

According to the Foreign Trade Act, last amended and promulgated on December 11, 2013, imports of the following commodities are restricted and import licenses are required before exportation:

- Commodities to be imported from countries that are subject to ban or control of trading activities as designated by the trade authority due to national security
- Commodities to be imported from countries that are under temporary suspension order due to:
  - any natural disaster, incident, or war;
  - national security or public safety;
  - a serious shortage of a specific material or the fluctuation of price in domestic or international market;
  - serious imbalance in international payments;
  - any international treaty, agreement, United Nations resolution or need of international cooperation; or
  - any measure taken by a foreign country to impede import/export of Taiwan in violation of international agreements or principles of fairness and reciprocity.
- Commodities to be imported from countries that are under restriction order due to international treaty, trade agreement, national defense, social security, culture, hygiene, and environmental/ecological protection, or policy
- Endangered species of wild fauna and flora, and products thereof
- Commodities subject to export quota

- Commodities under restriction due to import relief

#### 6.3.2 Trade Promotion Service Fees

Imported commodities may be subject to a trade promotion service fee at a rate not more than 0.0425% of the customs value to be collected through customs.

#### 6.3.3 Import quotas

According to the Foreign Trade Act, last amended and promulgated on December 11, 2013, for the purposes of facilitating trade negotiations or fulfilling pacts and/or agreements, the government may prescribe quotas either free or with a premium for the quantity of export/import goods or other related measures.

The measures for quotas shall be prescribed pursuant to the requirements, pacts, agreements of international trade/economic organizations, the commitments derived from trade negotiations, or as provided for by laws and regulations, whichever are applicable. Otherwise, the quotas shall be for public auction.

### **6.4 Product Labeling**

#### 6.4.1 Trademark

According to the Regulations Governing Export of Commodities, for commodities bearing trademarks, the exporters shall verify the ownership of such trademarks to avoid any counterfeiting violations. In the event that the customs finds that the trademark marked on the exported commodities is not in conformity with the information entered in the export declaration form, the customs may request the exporter to provide appropriate authorization documents for examination.

#### 6.4.2 Country of Origin

According to the Regulations Governing Export of Commodities, any commodity for export shall be marked itself or its internal and external package marked with the country of origin in a conspicuous and durable manner. In case such a marking cannot be made in accordance with these regulations owing to the special characteristics of the commodity or the special situation of packaging, the exporter shall apply to the Bureau of Foreign Trade (**BOFT**) for an approval.

#### 6.4.3 Commodity Labeling Act

According to the Commodity Labeling Act, where a commodity is introduced for sale on the market, the following particulars shall be labeled for the commodity by the producer, manufacturer or importer of such commodity: 1) Name of the commodity; 2) Name, telephone number and address of the producer or manufacturer, the place of origin of the commodity, and the name, telephone number and address of the importer in the case of imported commodity; 3) Contents or composition of the commodity: a) Major components/ingredients or materials; b) Net weight, volume or quantity, or measurements which shall be labeled in statutory measuring units (other measurements may be added when it is deemed necessary); 4) Date of manufacture in Chinese calendar or Gregorian calendar; and the expiration date or the term of validity, if the commodity has a limited duration of storage; and 5) Other particulars as required by the Central Government Competent authority.

Producers, manufacturers, or importers who violate the above regulations may be fined between NT\$20,000 and NT\$200,000.

## **7. STRUCTURES FOR DOING BUSINESS**

### **7.1 Overview**

To set up a presence in Taiwan, foreign investors may choose to have a subsidiary, a branch office or a representative office depending on the needs of the business. The legal characters and how each of such entities may be established are explained in this chapter.

### **7.2 Types of Business Entity**

#### **7.2.1 Company**

Under the Company Act, there are four types of companies, i.e. limited company, company limited by shares, unlimited company and unlimited company with limited liability shareholders. Among them, the forms of limited company and company limited by shares are the most popular.

In summary, a “limited company” is a company organized by at least one shareholder, with each shareholder liable for the company up to the amount of capital contributed by him/her. “A company limited by shares” is a company organized by at least two individuals or at least one corporate shareholder, with total capital divided into shares and each shareholder liable for the company only to the amount of shares subscribed by

him/her.

Except for business in certain restricted sectors, a foreign company can be the sole corporate shareholder of either a limited company or a company limited by shares.

#### 7.2.2 Branch Office

A foreign company may have a business presence in Taiwan by setting up a branch office. According to the Company Act, a foreign company must apply for registration of the branch office before it can engage business in Taiwan.

#### 7.2.3 Representative Office

A foreign company may set up a Representative Office in Taiwan for liaison purpose. According to the Company Act, a Representative Office can not engage in any revenue generating business activities.

### 7.3 **Foreign Investment Approval (FIA)**

Foreign investments (excluding PRC investments, which are subject to a separate set of investment regulations) are generally subject to the “Statute for Investments by Foreign Nationals” and a FIA issued by IC of the MOEA is required.

Foreign investors may invest into most of the business sectors except for those on the Negative List. The List is divided into “Prohibited Industries” where no foreign investment is permitted and “Restricted Industries” where special permits/licenses from competent authorities are required.

For PRC investments, the Regulations Governing Investments by PRC Persons (the “**PRC Investment Regulations**”) shall apply. Pursuant to the PRC Investment Regulations, a PRC Person may invest in certain industries identified in the “List of Permitted Industries” as promulgated by the MOEA from time to time. Article 3 of the PRC Investment Regulations defines the term “PRC Person” as (a) PRC citizen, (b) PRC entity or (c) a corporate entity incorporated in third jurisdiction (“Non-PRC Jurisdiction”) and controlled by a PRC citizen or a PRC entity.

It is advisable to consult a legal counsel in the early stage if you plan to invest in Taiwan.

To view the full Negative List applicable for general foreign investors and the List of Permitted Industries applicable for PRC investments, please visit <http://www.moeaic.gov.tw>.

### 7.4 **Type of Capital Contribution**

According to the Statute for Investments by Foreign Nationals, capital may consist of the following:

- Cash;
- Machinery and equipment or raw materials for own use;
- Patent rights, trademark rights, copyrights, technical know-how or other IP rights;
- Other assets recognized by the competent authority.

## **7.5 Application procedures**

### 7.5.1 Registration formalities

In general, to set up a subsidiary in Taiwan, a foreign investor should file an application with the IC for FIA. Once the FIA is received, the foreign investor may remit the investment capital and apply to the IC again for verification of the investment fund and then apply to the applicable company registration authority for company registration to complete the incorporation procedure.

For setting up a branch office, an application shall be made to the MOEA for registration of the branch office.

### 7.5.2 Minimum capital requirement

Except for regulated business where the laws require a minimum initial paid-in capital, there is no minimum share capital requirement for most of businesses. However, the initial capital should be sufficient to cover the set-up expenses of the company and shall be certified by a local certified public accountant.

### 7.5.3 Registration cost

According to the Regulations Governing Collection of Company Registration Fees promulgated by the MOEA, a registration fee is collected at a rate of NT\$1 for every NT\$4,000 in its authorized capital stock (or the working capital of a branch office), provided that where the sum of the registration fee payable is less than NT\$1,000, the registration fee shall be NT\$1,000.

### 7.5.4 Timeline

Generally speaking, the timeline for setting up a company in Taiwan is 4 to 8 weeks, provided no special permits are required due to the nature of the business.

### **7.6 Management structure**

For a company limited by shares, the board of directors is responsible for the management of the company. The Board shall be composed of at least 3 directors, who shall elect one among themselves to be the Chairperson to represent the company. The Board may appoint one or several managerial officers to conduct the day-to-day business. Starting from November 1, 2018, a company limited by shares with a sole corporate shareholder is permissible to have only 1 or 2 directors.

For a limited company, one to three directors are to be elected from the shareholders. If there are more than one directors, one shall be specified in the Articles of Incorporation as the Chairperson to represent the company.

### **7.7 Reporting requirements**

All companies, including the Taiwanese branches of the foreign company, must file reports to MOEA for any amendment to the particulars of the registration. A public company must comply with detailed reporting or disclosure requirements set forth in the Securities Exchange Act.

### **7.8 Tax consideration**

Profit-seeking companies in Taiwan are subject to a 20% income tax. Dividends payable to foreign investors are further subject to 21% withholding tax unless otherwise provided in the applicable double taxation agreements.

There is no dividend withholding tax in the case of a branch office.

An annual income tax return shall be filed between May 1 and May 30 covering the income of the preceding tax year. A company who does not use the calendar year as its fiscal year shall file the return on or before the last day of the fifth month after the close of the fiscal year.

Business tax is imposed under the VAT and non-VAT system as applicable.

## **8. LABOR AND EMPLOYMENT**

### **8.1 Labor Market Overview**

Despite the global financial crisis in late 2008 and the recent world economic downturn, the unemployment rate in Taiwan remains comparatively stable at 3.92% in 2016, 3.76% in 2017, and 3.87% in 2018 up to August.<sup>12</sup>

Full time employment is still the main type of labor contract in Taiwan. However, there is a trend in the market where companies hire independent contractors or temporary workers, or use manpower dispatches and outsourcing arrangements to reduce labor cost.

The Gender Equality in Employment Law (**GEEL**), enacted since March 2002, sets forth the anti-sexual discrimination regulations and other working conditions that employers must meet to create a beneficial environment for workers and the society. The Labor Standards Act (**LSA**), enacted in 1984, sets forth the minimum standards for employment relationship. More details are explained in the following paragraphs.

The Ministry of Labor (**MOL**) is the main regulatory body responsible for the labor policy and the interpretation of the labor regulations.

## **8.2 Labor Standards Act (LSA)**

The LSA, enacted in 1984, sets out the minimum standards for employment relationship, including labor contract, wages, working hours, rest, leaves, child labor and female labor protection, retirement, occupational hazard compensation, etc. Unless an individual employment contract offers more favorable treatments to the employee, the LSA shall govern. In addition, penalties are defined for violations of the LSA. Depending on the severity of violation, employers failing to comply with the law may be subject to imprisonment, detention, forfeit, fines, etc.

The LSA applies to employment relationship of most businesses in Taiwan, including manufacturing and most services industries, regardless of the employees being domestic or foreign workers, with only a few exceptions, e.g. doctors, private school teachers and professional athletes.

## **8.3 Statutory Benefits**

### **8.3.1 Labor Pension**

Previously, the employer's obligation to provide retirement benefits was set out in the LSA which provides a non-portable defined benefit plan. According to the LSA, an employee is entitled to a lump sum pension upon retirement, i.e. (1) having worked for

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<sup>12</sup> Source: The Directorate-General of Budget, Accounting and Statistics, Executive Yuan, ROC (Taiwan) ([www.dgbas.gov.tw](http://www.dgbas.gov.tw))

15 years or more and reached the age of 55; (2) having worked for 25 years or more; or (3) having worked for 10 years or more and has reached the age of 60. The lump sum retirement benefit equals to 2-month salary for each year of service up to 15 years and 1-month salary for each year of service from the 16<sup>th</sup> year, up to a maximum of 45 months. To fund the LSA pension benefits, employers are required to make monthly contributions of at least 2% of payroll to a designated pension account at the Bank of Taiwan.

Labor Pension Act (**LPA**), which came into effect on July 1, 2005, provides a portable defined contribution plan. The new pension plan under LPA is a “defined contribution” pension program which applies to:

- domestic employees hired after July 1, 2005 and those previously hired employees who elected to convert from the LSA pension plan to the new plan;
- foreigners who married ROC nationals having a registered household in the R.O.C, and who have residency status and are permitted to work in Taiwan area; and
- foreigners set forth above who have divorced their spouses or whose spouses have passed away, and are permitted in accordance with relevant laws and regulations to continue to reside and work in Taiwan area.

According to the LPA, an employer is required to contribute to the personal pension account of each employee at a rate of no less than 6% of the employee’s monthly wage.

### 8.3.2 Labor Insurance (**LI**)

LI provides the statutory basis for compulsory coverage of social security for a large part of the workforce in Taiwan, covering both domestic and foreign workers who are legally employed in Taiwan. LI is mandatory for employers with 5 or more workers.

The LI premium is calculated based on a percentage of the member’s insured salary up to a current monthly maximum of NT\$45,800, as last published on January 1, 2018, and split among the employer, employee and the government.

### 8.3.3 Employment Insurance (**EI**)

The Employment Insurance Act, enacted in January 2003, provides (involuntary) unemployment allowance, advance employment subsidy, vocational training living allowance and National Health Insurance premium subsidy for

unemployed workers, subject to terms and conditions promulgated by the authority. EI is mandatory for all domestic workers and foreign nationals married to an ROC citizen and having acquired legal residency in ROC with age between 15 and 65.

The EI premium is 1% of the insured salary, split among the employer, employee and the government.

#### 8.3.4 National Health Insurance (**NHI**)

The NHI program in Taiwan went into effect on March 1, 1995. The NHI is a comprehensive health program covering all residents. Foreign nationals who are legally employed in Taiwan shall join the program upon employment.

### **8.4 Employment of Foreign Professionals**

Employment of foreign nationals is mainly governed by the Employment Service Act (**ESA**), the “Regulations Governing the Permission and Administration of the Employment of Foreign Workers” and the “Qualification and Criteria Requirements for Foreigners Undertaking Jobs Specified in the Employment Service Act”.

In 2017, the Act for the Recruitment and Employment of Foreign Professionals (**AREFP**) was enacted to help recruit and attract foreign professionals to come to engage in professional work and live in Taiwan. For foreign professionals, the prerequisites for a work permit primarily depend on the applicant’s education level and the working experience. For example, a foreigner with a colleague or university diploma must have at least 2 years of prior working experience in order to apply for a work permit in Taiwan, but for a foreigner with a Ph.D. or Master degree, no prior working experience is required. The duration of a work permit may not exceed 3 years and may be renewable by an application, but pursuant to Article 7 of the AREFP, the employment permit of a foreign special professional hired to engage in professional work shall be for a term of up to 5 years.

An application for work permit shall be filed with the MOL. It may take approximately two weeks to be determined if all documents required are submitted and both the employer and the foreign employee have met the qualification requirements.

According to the AREFP, there are now provisions concerning “Employment Gold Card” aimed at the convenience for foreigners to transfer work or seek jobs, permanent residence for spouses, minor children, or disabled adult children of foreign professionals, tax incentives for foreign professionals. For further information, please see:

<https://foreigntalentact.ndc.gov.tw/en/Default.aspx>

## 9. TAX ON CORPORATIONS

### 9.1 Introduction

In Taiwan, each tax is legislated under a specific tax law. Currently, the applicable rate of profit-seeking enterprise income tax is 20%. Most business entities are also subject to the Value-Added Tax (VAT) except for financial institutions, which are subject to the gross business receipts tax.

### 9.2 Profit-seeking enterprise income tax (*Corporate Income Tax*)

A profit-seeking enterprise, whether in form of a sole proprietorship, partnership, company or other form of organization operates for profit-seeking purposes at a fixed place of business in Taiwan, regardless of being owned by the government, private sector or jointly by the government and private sector, shall be subject to the profit-seeking enterprise income tax in accordance with the Income Tax Act.

#### 9.2.1 Tax basis

A profit-seeking enterprise having its head office in Taiwan (such as a wholly-owned subsidiary of foreign company or a joint venture company incorporated in Taiwan) is subject to profit-seeking enterprise income tax on its worldwide income.

A profit-seeking enterprise with its head office outside Taiwan (such as a branch of a foreign company) is considered non-resident for tax purposes, and is subject to profit-seeking-enterprise income tax only on its Taiwan-source income.

#### 9.2.2 Exempt income

Categories of income exempted from profit-seeking-enterprise income tax are primarily as follows:

1. Income on gains derived from securities and futures transactions;
2. Income derived from international transportation operated in Taiwan by a foreign enterprise, provided that reciprocal treatment is available;
3. Remuneration paid to a foreign enterprise for technical services rendered for the construction of a production facility for an important manufacturing enterprise as

determined and approved by the competent authority;

4. Net dividends or net surplus earnings received by a Taiwanese company from investment in another domestic profit-seeking enterprise;

#### 9.2.3 Deductible expenses and costs

Costs and expenses incurred by an enterprise for its operations may be deducted with sufficient supporting documentation. For example, salaries of workers, pension reservations, fixed asset depreciation, bad debts, voluntary donations to political parties, and direct expenses of social entertainment incurred in the course of business are recognized as deductible expenses or losses subject to limits prescribed by tax laws.

#### 9.2.4 Tax loss carryover

Tax losses of a company may be carried over for ten years if (1) the losses are duly certified by a certified public accountant and declared within the prescribed period, or (2) the company keeps a complete set of accounting books and files a "Blue Return". (a tax form printed on blue paper and designed for encouraging profit-seeking enterprises to make honest reporting of their income) in the years the losses were incurred and in the years the losses were declared.

#### 9.2.5 Tax rate

The minimum taxable income, tax brackets and tax rates for profit-seeking-enterprise income tax are as follows:

Taxable Income Bracket (NT\$)	Tax Rate
Up to 120,000	None
Over 120,000	20% of total taxable income, but income tax liability may not exceed 50% of the portion of taxable income over \$120,000

Taxable income of a profit-seeking enterprise is the net income (i.e. gross annual revenue and gains subtracting all costs, expenses, losses and taxes) reduced by tax exemptions and loss carry-forwards used in current year, and increased by non-deductible expenses.

#### 9.2.6 Alternative Minimum Tax (**AMT**)

Commencing on January 1, 2006, a profit-seeking enterprise with a fixed place of business or business agent in Taiwan is subject to a separate AMT. Initially, AMT was calculated at the rate of 10% on certain income of a profit-seeking enterprise that is tax exempt or that enjoys certain tax incentives under the tax laws or when the company's basic taxable income exceeds NT\$2,000,000. Pursuant to the most recent amendments to the AMT Act, AMT for profit-seeking enterprises has been increased from 12% to 15% and the exemption threshold has been lowered from NT\$2,000,000 to NT\$500,000. The calculation will be as follows:

AMT = [Basic income– NT\$500,000] x 12%. The "basic income" is the sum of regular taxable income under the Income Tax Act and add-back items provided under the Basic Income Tax Act (which, among others, include tax-exempt capital gains from securities transactions).

The company shall pay the difference if the AMT as calculated exceeds the profit-seeking enterprise income tax after deducting investment tax credits.

#### 9.2.7 Fiscal year and Return Filing

Under Income Tax Act, a fiscal year normally commences on January 1 and ends on December 31 of each calendar year. For a profit-seeking enterprise adopting the calendar year as its fiscal year, the annual income tax return must be filed and the tax liability paid between May 1 and May 31 in the next year.

A profit-seeking enterprise may elect to adopt a special fiscal year with the competent authority's approval. In that case, the enterprise must file the return and pay the tax liability on or before the last day of the fifth month after the close of each fiscal year.

A profit-seeking enterprise shall also file a declaration for the provisional payment of tax on a prescribed form along with the provisional payment in the ninth month of each fiscal year. Unless otherwise prescribed in tax laws, the provisional tax is generally equivalent to one-half of the tax payable as shown in the previous year's annual tax return. For companies that adopt special fiscal years, the provisional tax return may be filed in the eighth months after the first month of the special fiscal year.

### **9.3 Business Tax**

BT is imposed under a dual system: the VAT and Non-VAT System.

While VAT system applies to most sale and import of goods and provision of services in Taiwan, financial institutions, insurance companies, pawnshops, certain restaurants and small businesses are subject to Non-VAT system.

All sales of goods and provision of services in Taiwan as well as all imports of goods into Taiwan are subject to BT.

### 9.3.1 VAT

VAT is levied on the value added to goods or services in the production and distribution chain. The VAT rate is 5%, except for sales that are zero-rated or those qualified for exemption.

The Government Uniform Invoice (**GUI**) is a standard VAT invoice. In Taiwan, a VAT system business entity selling goods or services must issue a GUI to the purchasers at the time of sale, delivery or receipt of payment, as appropriate. If the purchaser is a business entity, the BT computed should be stated separately from the sale amount on the GUI. If the purchaser is not a business entity, the BT does not need to be itemized on the GUI.

Input VAT, i.e. VAT paid by the business entity for purchase of goods or services, may be credited against output VAT, i.e. VAT to be collected for selling goods or services. A business entity will have VAT credit if its input VAT exceeds the output VAT. VAT credit can be used by the business entity to offset its output VAT in the future.

VAT returns shall be filed bimonthly before the 15<sup>th</sup> day of the following period and the tax is due at the time of filing.

### 9.3.2 Non-VAT

The Non-VAT rate varies from 0.1% to 25%, depending on the category of taxpayer. For instance, night clubs providing entertainments are imposed the highest rate, 25%, while wholesalers and small-scale businesses of farm products the lowest, 0.1%.

The non-VAT returns are also filed bimonthly by the 15th day from the beginning of the following two-month period.

## 9.4 ***Enactment of “luxury tax act”***

With an eye to tackle the high rising real estate prices, Taiwan enacted “The Specially Selected Goods and Services Tax Act” in May 2011, taking effect on June 1 of the same year. The act, which is commonly known as “luxury tax act”, imposes an additional 10% tax over the value of goods/services, including:

1. Car, yacht, airplane, helicopter and ultra-light vehicles with value of NT\$ 3 million or more;
2. Turtle shell, hawksbill, coral, ivory, furs that are protected under the Wildlife Conservation Act with value of NT\$500,000 or more;
3. Furniture and membership right with value of selling price of NT\$500,000 or more;

Luxury tax on imported products shall be levied by Customs upon clearance.

#### **9.5 Tax Treaties**

As of March 23, 2018, Taiwan has concluded 32 comprehensive income tax treaties and 13 international transportation income tax treaties.

Taiwan’s tax treaties typically reduce the withholding tax on interest, dividends and royalties from the normal 15% or 20% to 15% or 10%.

## **10. TAX ON INDIVIDUALS**

### **10.1 Tax Base**

Any individual having income from sources in Taiwan is subject to a personal consolidated income tax levied in accordance with the Income Tax Act. Consolidated income tax is levied on a taxpayer’s net consolidated income, which is the gross income minus the amount of tax-exempt income and deductions.

### **10.2 Alternative Minimum Tax (AMT)**

A resident taxpayer whose basic income exceeds NT \$6.7 million shall be subject to a separate AMT and pay the income tax on the higher of the tax amounts calculated under the Income Tax Act or the Income Basic Tax Act.

The basic income is the aggregate of the net consolidated income calculated under the Income Tax Act and list of incomes prescribed in Article 12 of the Income Basic Tax Act, including offshore income over NT \$1million per household, life insurance and annuity payment to beneficiaries who are not the policyholders (excluding death benefit up to NT \$30

million per household), capital gains of non-listed or non-OTC securities, etc.

The tax rate under the Income Basic Tax Act for individual tax payer is currently at 20%.

### **10.3 Tax on Resident**

For income tax purpose, the term “resident” refers to”

- A person having domicile and residing within Taiwan;
- A person residing within Taiwan for 183 days or more during a taxable year.

A resident taxpayer of Consolidate Income Tax must file the tax return between May 1 and May 31 of the following year and pay any tax due. If the individual leaves Taiwan in the middle of the year, he/she has to file the tax return before leaving.

#### **10.3.1 Personal Exemptions**

The allowable personal exemptions are prescribed by the government on annual basis. For year 2017, the personal income exemption is NT\$88,000 or NT\$128,000, which is 50% increase for taxpayer, his/her spouse or dependents who are 70 years of age or older.

#### **10.3.2 Deductions**

The taxpayer may claim the higher of itemized deductions or the standard deduction. The standard deduction for year 2018 is NT\$120,000 per taxpayer or NT\$240,000 for a married couple.

Allowable itemized deductions include:

- Donations made to educational organizations, charities, etc., up to 20% of the gross consolidated income;
- Insurance premiums up to NT\$24,000 per person;
- Medical and childbirth expenses;
- Loss from disaster;
- Interest on home mortgage up to NT \$300,000 per tax return or rent for housing up to NT \$120,000 per tax return;

### 10.3.3 Special Deductions

- Loss from property transactions
- Special deductions for salary income is NT\$200,000 for 2018;
- Special deductions for savings and investment is up to NT\$270,000;
- Special deduction for the disabled is NT\$ 128,000 for 2018;
- Special deduction for university/ college tuition is NT\$ 25,000;

### 10.3.4 Tax Rate

The progressive tax rates of individual's net taxable income for year 2018 are as follows:

Net Taxable Income (NT\$)	Tax Rate	Progressive Difference (NT\$)
0 - 540,000	5%	0
540,001 - 1,210,000	12%	37,000
1,210,001 - 2,420,000	20%	134,600
2,420,001 - 4,530,000	30%	376,600
4,530,001 and above	40%	829,600

## 10.4 Tax on Non-Residents

A foreign national residing within Taiwan for less than 183 days during a taxable year is considered as a non-resident.

In general, a non-resident is subject to withholding tax computed on gross income and the tax rate is generally 20% depending on the type of income.

### 10.4.1 Stay up to 90 days

If a foreign national stays in Taiwan for no more than 90 days within a tax year, compensation received from a foreign employer shall not be subject to the Taiwan income tax. Only compensation received from a local employer for service provided in Taiwan is subject to an 18% final withholding tax. No annual tax return is required unless he/she has other Taiwan-source income not subject to withholding tax.

10.4.2 Stay over 90 days but less than 183 days

If a foreign national stays in Taiwan over 90 days but less than 183 days within a tax year, he/she shall be taxed as a non-resident and compensation received from a foreign employer for services provided in Taiwan as well as compensation received from a local employer are Taiwan-sourced income subject to a 18% final withholding tax. No annual tax return is required unless he/she has other Taiwan-source income not subject to withholding tax.

**10.5 Estate and Gift Tax**

The mere fact of individuals' presence in Taiwan is not sufficient to make him/her liable to estate or gift tax. The taxes are levied on the worldwide assets of Taiwan nationals who regularly reside in Taiwan. On the other hand, Taiwan nationals who regularly reside outside the territory of Taiwan, and non Taiwan nationals are only subject to estate and gift tax to the extent that the inherited or donated assets are within the territory of Taiwan.

For the purpose of estate and gift tax, major taxable assets include: movables, real property and attachments, deposits received by financial institutions, treasury bonds, corporate bonds, stocks or equity investments, rights of claim, patents, trademarks, copyrights and publishing rights, trust interests, mining right and fish right.

The progressive tax rates for year 2018 are as follows:

Net Inheritance Value	Tax Rate	Progressive Difference (NT\$)
0 – 50,000,000	10%	0
50,000,001 – 100,000,000	12%	2.5 Million
100,000,001 and above	20%	7.5 Million

An exemption of NT\$12,000,000 per estate tax return for each taxpayer is allowed. Deductions such as property donated to government agencies or public interest organizations or daily necessities of the decedent not exceeding NT\$ 890,000 are also available. In addition, if a decedent investing in Taiwan qualifies for the Statue for Investment by Overseas Chinese, only 50% of the investment value is taxed.

An exemption of NT\$2,200,000 per taxpayer annually is allowed. In addition, some gifts are exempt from the tax, such as gifts between spouse, donations to the government, public schools, non-profit organizations, religious groups and charitable organizations. Gifts to dependents or children may be exempted in some conditions.

Taxpayers of the estate tax are heir(s), legatee or inheritance managers. The taxpayer is required to file tax return within six months from the date of death, and if necessary, may apply for an extension of three months before the deadline.

The donor is generally the payer of the gift tax. Gift tax is calculated based on the fair market value of the taxable assets on the date of transfer, less exemptions and deductions.

A taxpayer of estate tax or gift tax has to pay the tax due within two months from the date of receiving the tax notice, and if necessary, may apply to the competent tax authority for an extension of two months before the deadline. If tax payable amounts to NT \$300,000 or more, and the taxpayer has difficulty paying the full amount in cash, the taxpayer may apply for payment by installments.

## **11. EXPATRIATE EMPLOYEES**

### ***11.1 Work permits for Foreign Professionals***

Article 43 of the Employment Service Act provides that no foreign national may work in Taiwan without a work permit.

In order to apply for a work permit in Taiwan, the current employment regulations require that a foreign employee applying for professional or technical jobs shall meet one of the following qualifications:

- (1) holding relevant certificates or qualifications in accordance with the Examinations of

Profession and Technician Act of Taiwan;

- (2) holding a master degree or above, or bachelor degree and with two years or more working experiences (the education background and working experience all must be relevant to the job to be applied;
- (3) having been employed by a multi-national company for one year or more who is assigned to Taiwan; or
- (4) having received professional training or via self-study with five years or more working experiences in related fields with evidence of outstanding performance.

Employers who wish to hire foreign professionals must apply to the MOL for work permits. Work permits are valid for a maximum of 3 years with the exception that special professionals may enjoy the maximum of 5 years pursuant to the AREFP.

Working in Taiwan without a valid work permit can result in the illegal foreign worker being expelled from the country and be prevented from any future employment in Taiwan. The employer and its representative who have hired illegal foreign worker can be fined between NT\$150,000 and NT\$750,000 for the first offence. In the event of any repeated offence within 5 years, the employer and its responsible person can be subject to imprisonment up to three years and/or a fine up to NT\$1,200,000.

### **11.2 Resident Visa and Alien Resident Certificate (ARC)**

Foreign professionals who have received permission to work in Taiwan must apply for resident visas before entering Taiwan. Those who have already entered Taiwan on ordinary visas may apply to the office of Bureau of Consular Affairs (**BOCA**), Ministry of Foreign Affairs for changing the visitor visa to resident visas<sup>13</sup>.

Foreign professionals who have received work permits and intend to reside in Taiwan must apply to the National Immigration Agency (**NIA**) within 15 days after entering Taiwan for an Alien Resident Certificate (**ARC**).<sup>14</sup>

### **11.3 Salary Income and Tax Payment**

Legal foreign workers who work and stay in Taiwan for 183 days or more within a tax year are deemed residents for tax purposes. Withholding tax on their salary is assessed at the rates set

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<sup>13</sup> BOCA: <http://www.boca.gov.tw>

<sup>14</sup> NIA: <http://www.immigration.gov.tw>

forth in the relevant regulations or 5%. Tax residents shall file their tax returns before May 31 of the following year.

#### 11.4 Healthcare

The National Health Insurance (**NHI**) system is a compulsory social insurance in Taiwan. Under the National Health Insurance Act, foreign expatriates must participate in the NHI program on the first day of employment. Pursuant to the AREFP, the dependents of foreign expatriates who are also foreign nationals shall participate in the NHI program without the limitation imposed by Article 9, Subparagraph 1 of the National Health Insurance Act..

For more information, please consult with the Bureau of National Health Insurance.

#### 11.5 General Information

##### 11.5.1 Cost of living

Generally speaking, the cost of living in Taipei is moderate, comparing to the major cities in the world.

##### 11.5.2 Drivers' Licenses

International driver license is valid within 30 days from holder's entry. If the holder stays over 30 days, the holder shall apply to the motor vehicle authority for International Driving Permit. The Permit is valid with the maximum period of one year. After one year, the foreign national needs to replace the original foreign driver license with a Taiwan license in order to drive legally.

Foreign nationals may apply for a car driver's license replacement based on the principles of equality and reciprocity. Qualifications of applicants are (1) at the age of 18 and more; and (2) having alien residential certificate for over 6 months. Education

There are several educational institutions available for foreign expatriates in Taiwan. Below is a list of those educational institutions for reference.

School Name	Address	Telephone
Taipei American School	No.800, Sec.6, Jungshan N.Road, Shirlin Dist., Taipei, Taiwan 111, ROC.	+886- 2-2873-9900
Taipei Korean School	No.1, Lane 68, Chingnian Rd., Wanghua Dist., Taiwan 108,	+886- 2-2303-9126

	ROC.	
Dominican International School	No.76, Daj Street, Jungshan Dist., Taipei, Taiwan 104, ROC.	+886- 2-2533-8451
Taipei Bethany School	No.97, Ting Chou Road, Section 3, Taipei,100, Taiwan, ROC.	+886- 2-2365-9691
Taipei Japanese School	No.785, Sec. 6, Jungshan North Rd., Shirlin Dist., Taipei 111, Taiwan, ROC.	+886- 2-2872-3801
Taipei European School	99 FuGuo Road, ShiLin District, Taipei 11158, Taiwan, ROC. No.31, Jianye Rd., Shrlin Dist., Taipei 111, Taiwan, ROC.	+886- 2-2832-5058 +886- 2-8145-9007
Taipei Adventist American School	No.64, Lane 80, Juangding Rd., Shirlin Dist., Taipei, Taiwan 111, ROC.	+886- 2-2861-6400
Grace Christian Academy	No.67, Dongxin Street, Nangang Dist., Taipei 115, Taiwan, ROC.	+886- 2-2785-7233
HsinChu International School	No.290, Niupu E. Rd., Xiangshan Dist., Hsinchu City 300, Taiwan, ROC.	+886- 3-538-8113
HsinChu American School	No.6, Yih-Shuh Road, East District, Hsinchu, Taiwan 300-67	+886- 3-520-3211
Pacific American School	No. 307, Sec 1, Xing Long Road, Zhubei City, Hsinchu County	+886- 3-5586688
Taichung Japanese School	No.33, Pinghe S. Rd., Daya Dist., Taichung City 428, Taiwan, ROC.	+886- 4-2567-2079
American School in Taichung	No.21-1,Chu Yuan Lane,Pei-Tun Dist.,Taichung,406,Taiwan,ROC.	+886- 4-2239-7532
Morrison Academy	216 Si Ping Road, Taichung, Taiwan 40679	+886- 4- 2292-1171
Morrison Academy-Kaohsiung	No.42, Chiacheng Rd., Dashe Dist., Kaohsiung, Taiwan 815,ROC.	+886- 7-356-1190
Kaohsiung American School	No. 889 Cueihua Road, Zuoying District, Kaohsiung City 81354	+886- 7- 586- 3300

Member



Kaohsiung Japanese School	No.100, Furen Rd., Lingya Dist., Kaohsiung City 80288, Taiwan	+886- 7- 722-1037
Kaohsiung Korean School	No.43-2,81 Nong, 37 Xiang, Gushan 2 Road, Kaohsiung, Taiwan 804, ROC.	+886- 7-551-3918
Dominican International School Kaohsiung	No.107, Chung Hua 1rd Road, Kaohsiung, Taiwan, ROC	+886- 7-552-3989

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**Lynn Lin, Partner**

Email: [lynnlin@tsartsai.com.tw](mailto:lynnlin@tsartsai.com.tw)

**Albert Liao, Senior Associate**

Email: [albertliao@tsartsai.com.tw](mailto:albertliao@tsartsai.com.tw)