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International Tax
Taiwan Highlights 2017

Investment basics:

Currency – Taiwan Dollar (NTD)

Foreign exchange control – Taiwan has liberalized its foreign exchange controls, and all foreign exchange transactions are administered by the central bank. A limit of USD 50 million is imposed on inward and outward remittances converted into or out of NTD for any single corporate entity, and the limit is USD 5 million for resident individuals. Additional amounts of inbound and outbound remittances must be preapproved by the central bank.

Corporations and individuals are required to report certain foreign exchange transactions to the central bank through the bank that handles the remittance.

Companies and individuals may hold foreign currency accounts without prior authorization; foreign currency accounts with offshore banking units also are allowed. There are no restrictions on foreign currency held locally by nonresidents, except for the overall remittance rules.

Accounting principles/financial statements – Taiwan GAAP accounting standards apply. Listed companies and many financial institutions regulated by the Taiwan Financial Supervisory Commission (FSC) were required to adopt IFRS in 2013 when completing their financial statements; unlisted public companies had to adopt IFRS by the end of 2015. As from 2016, private companies were required to adopt the Business Entity Accounting Act, which has been revised based on IFRS.

A Taiwan company with paid-in capital equal to or exceeding NTD 30 million must have audited financial statements. Taiwan's auditing standards follow the standards issued by the International Auditing and Assurance Standards Board.

Principal business entities – These are the unlimited company, hybrid unlimited company, limited company, company limited by shares, branch of a foreign corporation and representative office.

Corporate taxation:

Residence – A profit-seeking enterprise is resident in Taiwan if its head office is in Taiwan.

Basis – Taiwan companies (including Taiwan subsidiaries of foreign companies) are subject to income tax on their worldwide income. A profit-seeking enterprise with its head office outside Taiwan (such as a branch of a foreign company) is considered nonresident for tax purposes. Such an enterprise is subject to profit-seeking enterprise income tax on only its Taiwan-source income, at the same rate as applies to domestic companies.

Taxable income – Taxable income of a profit-seeking enterprise is net income, which is defined as gross annual income after the deduction of costs and expenses, losses and taxes.

Taxation of dividends – Taiwan operates an imputation system to prevent the double taxation of dividends. Under the system, when a Taiwan company distributes its after-tax profits as dividends to individual resident shareholders, the distributing company also allocates the profit-seeking enterprise income tax paid on the dividends to the shareholders as an imputed tax credit. The individual shareholders then can use the imputed credit to offset their individual income tax liability. Consequently, the profit-seeking enterprise income tax paid by a Taiwan company becomes an advance tax payment for its shareholders.

Under the partial imputed tax credit system that has replaced the full imputed tax credit system, only 50% of the imputed tax credit can be used to offset a resident shareholder's individual income tax liability. For Taiwan corporate shareholders, the dividends received are not considered taxable income, but the imputed tax credits are included in the balance of the recipient company's shareholder-imputed credit account and will be imputed to the shareholders for future dividend distributions. Nonresident shareholders are not entitled to the imputed tax credit.

Capital gains – Capital gains are treated as ordinary income and taxed at the standard profit-seeking enterprise rate. Gains derived by a profit-seeking enterprise from the sale of land acquired on or before 1 January 2016 and the sale of shares of a domestic company are exempt from income tax but are subject to land value incremental tax (LVIT) and alternative minimum tax (AMT), respectively (see below under "Alternative minimum tax" and "Real property tax").

Under the tax regime that applies to the sale of real estate (including land and houses) acquired after 1 January 2016, resident companies are subject to corporate income tax (17%) on capital gains from the sale of real estate. Nonresidents (including companies and individuals) will be subject to a 45% income tax on capital gains from the sale of real estate that has been held for less than one year, or 35% if the property has been held for more than one year. The incremental net value of the real estate sold still will be subject to LVIT, but the incremental net value of the land can be deducted from the taxable capital gains when calculating the income tax.

Losses – Assessed tax losses of business entities (including corporations and branches of a foreign company) may be carried forward for 10 years, provided the entity keeps accounting books, files a "blue return" or files an annual corporate tax return that has been examined and certified by a local CPA within the prescribed period in the year the losses were incurred and the year the losses are utilized. The carryback of losses is not permitted.

Rate – 17%

Surtax – To neutralize a company's dividend distribution decision, a 10% surtax is imposed on undistributed profits. Nonresident shareholders (including corporations and individuals) may use the 10% surtax as an offset against dividend withholding tax. As a result of the partial imputed tax credit system, if a Taiwanese company distributes earnings to nonresident shareholders, only 50% of the paid 10% surtax credit can be used to offset the dividend withholding tax.

Alternative minimum tax – A profit-seeking enterprise with a fixed place of business or business agent in Taiwan is subject to a separate alternative minimum tax (AMT) calculation if it earns certain income that is tax exempt or enjoys certain tax incentives under the Income Tax Act or other laws, and the enterprise's basic income exceeds NTD 0.5 million. The AMT rate is 12%.

Foreign tax credit – A foreign tax credit is available for income tax paid in other countries on income derived outside Taiwan. The credit may be used to offset the enterprise's Taiwan income tax liability, but it may not exceed the incremental tax liability that would result if the foreign-source income was added to Taiwan taxable income and taxed at the applicable domestic rate.

Participation exemption – Taiwan companies are not taxed on dividends received from investments in other Taiwan companies, but foreign dividends are subject to income tax at a rate of 17%.

Holding company regime – No

Incentives – The Statute for Investment by Foreign Nationals provides for a number of tax and nontax incentives for qualifying direct investors, such as the right of foreign investors to hold up to 100% of Taiwanese companies; the ability to remit all net profits and interest without being subject to the foreign exchange control rules; the right to repatriate up to 100% of investment capital and profits at any time after incorporation or upon dissolution of the company; and the same access to incentives and privileges enjoyed by domestic investors

The Statute for Industrial Innovation provides an income tax credit for innovation-related R&D expenses incurred by Taiwan-based enterprises at their Taiwan facilities. The enterprise must obtain approval from the tax authorities of its R&D projects for each year to benefit from the tax credit and, if approved, the company can take a credit against its tax payable up to 15% of its total R&D expenditure for the current year. The tax credit is capped at 30% of the taxpayer's corporate income tax payable for the current year and may not be carried forward.

Profit-seeking enterprises that qualify as small and medium-sized enterprises (SMEs) may enjoy the following tax incentives: (1) the 15% credit described above, which cannot be carried forward, or (2) a credit of up to 10% of R&D expenditure that can be utilized in the year incurred and carried forward for the next two years. In either case, the credit is capped at 30% of the taxpayer's corporate income tax payable. If certain requirements are met, a SME may deduct salary expenses of up to 130% of the salaries paid to employees newly hired during the current year.

Withholding tax:

Dividends – No withholding tax is imposed on dividends paid to a resident shareholder. A 20% withholding tax is imposed on dividends paid to a nonresident (regardless of whether the investment has been approved by the Investment Commission), unless the rate is reduced under a tax treaty.

Interest – The withholding tax on interest paid to a resident is 10%. A 15% withholding tax applies to interest paid to a nonresident on short-term bills; interest on securitized certificates; interest on corporate bonds, government bonds or financial debentures; and interest derived from repurchase transactions for these bonds or certificates. The rate in all other cases is 20%, unless the rate is reduced under a tax treaty.

Royalties – The withholding tax on royalty payments made to a resident is 10%. The rate is 20% on royalties paid to a nonresident, unless the rate is reduced under a tax treaty. However, royalties paid in respect of qualified intellectual property licensing approved by the relevant authorities may be exempt from income tax.

Technical service fees – Payments made to an offshore company for technical services provided to a Taiwan entity are subject to a 20% withholding tax if the payments are considered Taiwan-source income. It may be possible to obtain "apportionment treatment," with only the part of the income deemed to be from a Taiwan source subject to the 20% withholding tax. Alternatively, if the costs associated with the provision of the services are difficult to calculate, the service provider can request a hypothetical taxable income of 15% of total business turnover for services provided (10% for certain transport industries), which will be taxed at the 20% rate, resulting in an effective tax rate of 3% or 2%, respectively. Approval of the National Taxation Bureau is required in both cases.

Branch remittance tax – No

Other taxes on corporations:

Capital duty – There is no capital duty, but a one-time fee is charged on registered capital at a rate of 1/4000 or NTD 1,000, whichever is higher.

Payroll tax – No

Real property tax – The land value tax (LVT) is imposed on a taxpayer's total urban and rural land that has been assigned a land value in each municipality directly administered by the central government or county. LVT is levied at regular progressive rates (from 1% to 5.5%), or special rates.

Land that has been assigned a value is subject to the LVIT, based on the total amount of the land value increment at the time title to the land is transferred. LVIT is levied at regular progressive rates ranging from 20% to 40%, or special privileged rates.

Social security – There is no social security tax in Taiwan, but factories, mines and all companies with 50 or more employees must establish funds for employee welfare. When an enterprise is founded, 5% of its registered capital, or amounts equal to 0.05% to 0.15% of monthly revenue, or 20% to 40% of the proceeds from the sale of scrap or waste materials at the time of each sale, must be set aside and added to the employee welfare fund.

There are two social security programs in Taiwan: Labor Insurance and National Health Insurance. Premiums for both programs are determined by the government based on an employee's monthly salary. The premiums are borne by the employer, the employee and the government.

A 2% supplemental premium is imposed on all other income (at different thresholds) received by the insured, including high bonuses, income from a professional practice, dividends, interest income, rental income and part-time income.

Stamp duty – Stamp tax applies to various types of documents at the following rates: 0.4% of all cash receipts paid by the recipient (0.1% for money deposited by bidders for the deposit of bid bonds); NTD 12 per deed of sale of movable property; and 0.1% of the contract amount for job contracting agreements and contracts for the sale, exchange, donation or division of real estate, paid separately by the contracting parties.

Transfer tax – Deed tax is levied on the transfer of title to real estate through a sale, an exchange, an acceptance of a dien right, a donation, a subdivision or an occupancy, except where the LVIT applies. The tax is based on the deed price of the property as prescribed by the local government, with the rate ranging from 2% to 6%.

Other – Companies are subject to a securities transaction tax and a futures transaction tax. Securities transaction tax is levied on the transfer of securities (except for government bonds). The tax rate is 0.3% of the shares and share certifications and 0.0000125%-0.6% for futures transactions.

The special commodity and service tax ("luxury tax") is imposed on the sale, manufacture and import of the following: passenger vehicles, yachts, aircraft, helicopters and light vehicles that cost more than NTD 3 million; furniture; and nonrefundable memberships that cost more than NTD 0.5 million. The tax rate generally is 10% of the total price (including necessary charges, commodity tax, VAT and customs duty) of the special commodity or services.

The luxury tax on the sale of real estate has been abolished.

Anti-avoidance rules:

Transfer pricing – Taiwan has transfer pricing rules requiring transactions between related parties to be conducted on arm's length terms. The rules provide a specific definition of related parties, which includes direct and indirect control, as well as control over a board of directors. The following transfer pricing methods are accepted: comparable uncontrolled price, comparable uncontrolled transaction, resale price, cost plus, comparable profits, profit split or other methods provided by the Ministry of Finance. Taxpayers are required to prepare contemporaneous documentation of related party transactions. The tax authorities can adjust the income of taxpayers in appropriate cases. Penalties may be imposed for failure to comply with the arm's length principle and the documentation requirements. Advance pricing agreements are possible.

The transfer pricing rules have been extended to apply to business reorganizations, so that the profit allocation under a business restructuring must be in compliance with the arm's length principle. A Taiwan entity of a multinational enterprise that carries out a business restructuring is required to document in its transfer pricing report information demonstrating the arm's length nature of the restructuring by analyzing certain factors.

Thin capitalization – A profit-seeking enterprise, such as a subsidiary or a Taiwan branch of a foreign company, is subject to thin capitalization rules. Interest expense from related party debt exceeding a 3:1 debt-to-equity ratio is not deductible for tax purposes. Companies in the financial industry, such as banks, financial holding companies, insurance companies, securities firms, etc., are not subject to the thin capitalization rules.

Controlled foreign companies – The Income Tax Act was amended in July 2016 to introduce CFC rules, but the implementation rules have not yet been announced. According to officials, the rules are expected to be implemented in 2018 at the earliest.

Disclosure requirements – See above under "Transfer pricing."

Compliance for corporations:

Tax year – The tax year for profit-seeking enterprises is the calendar year; approval must be obtained to use a different fiscal year.

Consolidated returns – Consolidated returns may be filed by qualifying financial holding companies that hold at least 90% of the outstanding issued shares of domestic subsidiaries for 12 consecutive months during a tax year, as defined by the Financial Holding Law. Under the Mergers and Acquisitions Law, after a qualified merger, acquisition or spinoff transaction, if a company owns 90% or more of the total issued shares of another company for 12 consecutive months during a tax year, the company can file a consolidated return.

Filing requirements – A calendar-year company must pay provisional income tax, in an amount equal to 50% of the preceding year's tax liability, between 1 September and 30 September. However, if the company's income tax return is examined and certified by a CPA, or if a blue return is filed, the company can opt to pay the provisional tax at an amount calculated on the basis of its operating income for the first six months of the current tax year.

The final return must be filed before 31 May and must include the payment of any tax liability. Enterprises with a fiscal year other than the calendar year must file the return on or before the last day of the fifth month after the close of the fiscal year.

The enterprise must attach to the annual return a report detailing its imputed tax account for the preceding year, as well as a report of changes in its retained earnings.

Penalties – Penalties are imposed for late filing and failure to file a return. A late filing penalty is calculated at 10% of the tax payable and capped at NTD 30,000, but may be increased to 20% of the tax payable, capped at NTD 90,000, if the taxpayer fails to file an income tax return after receiving a reminder from the tax office. A late payment penalty of 1% of the unpaid amount calculated every two days, up to a maximum of 15% of the unpaid amount, will apply, and late payment interest will begin to accrue 30 days after the payment due date. For underreported income, a maximum penalty of two times the underpaid tax amount applies and may be increased to three times the unpaid tax amount if an income tax return is not filed.

Rulings – A taxpayer can apply to the tax authorities for a ruling to confirm its tax position or clarify a tax issue. The Ministry of Finance publishes a list of all public tax rulings.

Personal taxation:

Basis – Individual income tax is levied on the Taiwan-source income of both resident and nonresident individuals.

Residence – An individual is considered resident in Taiwan for tax purposes if he/she has a household registration in Taiwan and is present in Taiwan more than 31 days in a calendar year, or has a household registration in Taiwan and his/her center of vital interests is in Taiwan. A foreign national who resides in Taiwan for at least 183 days in a calendar year also is considered resident in Taiwan.

Filing status – The income of the taxpayer, the taxpayer's spouse and dependents must be consolidated and reported on a single tax return.

Taxable income – Taxable income includes salaries or wages (and any allowances, bonuses or similar compensation); severance pay; professional fees; income from self-undertakings in farming, fishing, animal husbandry, forestry and mining; rental income from property in Taiwan; and dividends, interest and royalties derived from sources in Taiwan. Any income of the taxpayer's spouse or dependents living at home is included in assessing total tax liability. Under the imputation system, dividends received by an individual shareholder are taxed only once, as part of personal income.

Capital gains – Capital gains generally are subject to individual income tax, but gains from the sale of land are subject to real property tax rather than individual income tax.

Deductions and allowances – The taxpayer may elect to take the standard deduction or itemize deductions. If the total deductions on an itemized basis exceed the standard deduction amount, a taxpayer may choose to itemize deductions rather than take the standard deduction. Deductions are available for insurance premiums, mortgage interest, rental expenses up to a specified amount, charitable donations, etc. A nonresident taxpayer is not entitled to personal exemptions and deductions.

Rates – The tax rates for resident individuals are progressive up to 45%. Nonresidents are subject to withholding tax at a rate of 18% on wages and salaries and 20% on commissions, bank interest, royalties, fees for professional services, rental income and prizes. A 15% withholding tax is levied on interest on short-term bills; interest on securitized certificates; interest on corporate bonds, government bonds or financial debentures; interest derived from repurchase transactions involving these bonds or certificates; and gains derived from structured products. The rate is 20% in all other cases.

Residents with AMT taxable income exceeding NTD 6 million may be subject to a 20% AMT. The AMT payable will be the balance of AMT after deduction for income tax payable and any foreign income tax credits.

Under the tax regime that applies to the sale of real estate (including land and houses) acquired after 1 January 2016, a resident individual is subject to income tax at progressive rates from 15% to 45% on capital gains from the sale of real estate. If the resident individual meets certain requirements, he/she will be granted an exemption on taxable income under NTD 4 million; income exceeding NTD 4 million will be taxed at 10%.

Income tax on gains derived from the sale of shares has been abolished.

Other taxes on individuals:

Capital duty – No

Stamp duty – See "Stamp duty" under "Other taxes on corporations," above.

Capital acquisitions tax – No

Real property tax – See "Real property tax" under "Other taxes on corporations," above.

Inheritance/estate tax – Estate and gift tax is levied on the worldwide assets of Taiwanese-domiciled individuals. If a Taiwanese national does not have a Taiwan domicile, but has a residence in Taiwan, worldwide assets are subject to Taiwan estate and gift tax, provided the total length of stay in Taiwan within two years before the gift transfer date or date of death exceeds 365 days.

Net wealth/net worth tax – No

Social security – See "Social security" under "Other taxes on corporations," above.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – A resident (or nonresident that is in Taiwan for more than 90 days) individual must file an income tax return and pay any tax due between 1 May and 31 May of the year following the tax year.

Penalties – A late payment penalty of 1% of the unpaid amount calculated every two days, up to a maximum of 15% of the unpaid amount, will apply, and late payment interest will begin to accrue 30 days after the payment due date. For underreported income, a maximum penalty of two times the underpaid tax amount applies, which may be increased to three times the unpaid tax amount if an income tax return is not filed.

Value added tax:

Taxable transactions – Business tax (BT) is imposed under two systems: the VAT system and the non-VAT (special BT) system.

BT applies to the sale of goods, the provision of services and imports. The VAT applies much like a European-style VAT, with an input tax credit or a refund available where BT paid on purchases exceeds the BT received. Financial institutions, small companies and certain restaurants fall within the scope of the special BT system. Their sales, based on gross business receipts, are subject to special BT. BT paid under the special BT system is not recoverable and, therefore, is an additional cost to the buyer.

Rates – The basic rate of the BT is 5%. The following items are zero-rated: exports, export-related services, items sold by duty-free shops, goods sold to export-oriented entities within a tax-free export zone or science-based industrial parks and goods sold to a bonded factory or warehouse. Exempt status applies to healthcare services, land sales and approved textbooks and academic writings, etc.

Financial institutions, certain restaurants and small companies are subject to BT on the basis of their gross business receipts, at rates ranging from 0.1% to 25%. However, certain services of financial institutions are taxed at a 5% rate where the services are not the "core business" of the financial institution (core business services are taxed at 2%). Banking and insurance enterprises are taxed at a special BT rate of 5%, regardless of whether they are core businesses or noncore businesses. For reinsurance premiums of insurance enterprises, the tax rate is 1%.

Registration – Under the Company Act, a business entity must register with the Ministry of Economic Affairs and other competent authorities before conducting business in Taiwan. The tax laws also require a business entity to register for each of its operations having a fixed business location in Taiwan. However, if a foreign company provides supervision, installation, testing and other technical cooperation services in Taiwan, it may apply to the tax office for an exemption from the tax registration requirement.

Filing and payment – A BT return must be filed every two months and payment must be made at the time the return is filed. Penalties apply for evasion.

Source of tax law: Income Tax Law, Industrial Innovation Act, Business Tax Law, Specifically Selected Goods and Services Tax Act, Deed Tax Act, Stamp Tax Act, Land Tax Act, Statute for Investment by Foreign Nationals, Measures for the R&D Investment Credit and Measures for an Additional Tax Deduction for Salary of New Hired Employees

Tax treaties: Taiwan has concluded 31 income tax agreements.

Tax authorities: Ministry of Finance, National Taxation Bureau

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