



Doing Business In Taiwan

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I. GENERAL DATA ON Taiwan

Population	:	Approximately 23 million
GDP	:	US\$430 billion
GDP Per Capita	:	US\$21,592 (2011)
Currency	:	New Taiwan Dollar (approximately US \$1=NT \$30)
Land Area	:	Approximately 36,000 sq. km
Industrial Outline	:	<ol style="list-style-type: none">1. Electronics technology2. Communications technology3. Optoelectronics technology4. Information technology5. Machinery technology6. Transportation technology7. Automation technology8. Biopharmaceutical technology
Emerging Industries	:	<ol style="list-style-type: none">1. Biotechnology2. Medicine and health care3. Culture and creation4. Tourism5. Green energy6. High-end agriculture
Government	:	Taiwan is a constitutional democratic country ruled by the laws. The Constitution guarantees various rights and freedoms to all citizens. Government is divided into central, provincial and municipal, as well as county and city levels. The central government consists of the Office of the President and five branches (called “Yuan”)—the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Examination Yuan, and the Control Yuan.



II. LEGAL SYSTEM

The Judicial Yuan (Judiciary) is the highest judicial organ of the Republic. Its chief powers are to adjudicate civil, criminal, and administrative cases, cases concerning disciplinary sanctions on public functionaries, and cases concerning the dissolution of political parties violating the Constitution. The subordinate units of the Judicial Yuan are the Supreme Court, high courts, district courts, Supreme Administrative Court, high administrative courts, Commission on the Disciplinary Sanctions of Functionaries, and Judicial Personnel Study Center. The Judiciary has three levels: district courts and their branches, which hear civil and criminal cases in the first instance; high courts and their branches at the intermediate level, which hear appeals against judgments of district courts and their branches; and the Supreme Court at the highest appellate level, which reviews judgments by lower courts for compliance with pertinent laws or regulations. Specialized divisions may also be set up by district courts to deal with juvenile, family, traffic, financial, and labor cases. Generally speaking, issues of fact are decided at the first and second levels, while only issues of law are considered by the Supreme Court.

III. FOREIGN INVESTMENT

Taiwan government encourages foreign investment. Companies owned by foreigners or overseas Chinese are entitled to the same incentives as Taiwanese-owned companies. Matters relating to foreign investments and overseas Chinese investments are governed by “Statute for Investment By Foreign Nationals” and “Statute for Investment By Overseas Chinese”, respectively.

Department of Commerce of Ministry of Economic Affairs (MOEA) reviews applications for company registration of branches or representative offices of foreign companies.

Investment Commission of MOEA reviews all application required foreign investment approval status.



IV. MOST COMMON FORMS OF BUSINESS ENTITIES

1. Representative Office

- Simplest and fastest way to establish a presence in Taiwan
- Without the status of legal person.
- Perform juristic activities such as negotiating executing contracts, giving quotations, negotiating prices and doing tendering and procurement work in Taiwan for the company.
- No capital requirement

A representative office is one of the easiest ways to establish a legal business presence in Taiwan. It is a form that many foreign companies take during early development stages of investing in Taiwan. A representative office is basically a legal agent of the foreign company that is permitted to engage in price negotiations, provide quotations, participate in tenders, and sign procurement agreements. However, a representative office is not permitted to engage in income-generating business activities such as signing sales contracts, providing services, or receiving funds from clients. Only businesses recognized as legally established companies in a foreign country are allowed to establish a representative office in Taiwan.

Applications to establish a representative office of a foreign company in Taiwan must be filed with the Department of Commerce, MOEA.

2. Branch

- According to company Act of Taiwan, a branch of a foreign company has the same rights and obligations as a domestic company.
- A branch is not an independent legal entity, the head office assumes all liabilities left unsettled by the branch.
- No requirements for a branch to have shareholders, directors or supervisors.
- The branch manager is the responsible person for the branch.
- A branch office has the following tax advantages over a subsidiary.
 - No retained earnings surtax. A subsidiary is subject to 20% withholding tax for retained earnings distributed to foreign share holders.
 - No withholding tax on after tax profits, while a subsidiary is subject to 10% tax rate for retained earnings not distributed.

A "branch office" is a profit-seeking business entity established for the purpose of doing business in Taiwan, with a head office located in a foreign country. Foreign business entities registered as companies under



foreign laws shall first apply for recognition as a foreign company and its establishment of a branch office in Taiwan with the Department of Commerce under the MOEA. Starting 2009, there is no minimum working capital requirement, however, initial working capital should be sufficient to at least cover organization costs incurred when establishing the branch.

The working capital for the branch office shall be remitted from its foreign head office. The foreign company establishing a branch office shall appoint a representative for litigious and non-litigious matters in Taiwan and a branch manager for managing day-to-day business operations. If the branch manager is a foreign national, he or she shall obtain a work permit from the Council of Labor Affairs. Branch offices shall pay income tax on income generated within Taiwan but are exempt from income tax when they remit their after-tax surplus earnings back to their parent companies, because such remittances are not considered distribution of dividends.

3. Company

There are two types of company in Taiwan, a limited company and a company limited by shares. Both types of company has the following natures,

- Possess legal person status.
- Liability of each shareholder limited to capital contribution.

A foreign company or individual may set up a company for the purpose of doing business in Taiwan. A company that is a subsidiary of a foreign company differs from a branch office in that it is a Taiwan-based profit-seeking business entity with foreign investors. A Taiwan-domiciled company or subsidiary may have other branch offices in Taiwan and overseas. Aside from business areas designated in the Negative List for Foreign Investment, companies formed by foreign companies or foreign individuals in Taiwan and approved by the Investment Commission under the Ministry of Economic Affairs are not subject to foreign ownership restrictions. Aside from the specifically designated minimum capital requirement for certain industrial sectors, starting 2009, there is no minimum capital requirement, however, initial capital should be sufficient to at least cover organization costs incurred when establishing the company.



V. TAXATION

Taiwan's tax regulations provide different tax designations that accommodate to the rapid changes in industry and the rapid development of industry and commerce; there are clear regulations governing, for example, income taxes, business taxes, and customs tariffs.

1. Tax Regulations

(I) Classification by taxpayer-

Income tax is classified into consolidated income tax for individual taxpayers and profit-seeking-enterprise income tax for profit-seeking enterprises.

(II) Individual tax

(1) Taxable income for individual-

For any individual having income from sources in the Taiwan, a consolidated tax shall be levied on his or her income derived from those sources. For any individual not residing in the Taiwan but having income from sources in the Taiwan which is subject to withholding tax, income tax payable by such non-resident on all such income shall be withheld and paid at the respective sources unless otherwise provided in the Income Tax Act. In case an individual not residing in the Taiwan has income that does not fall within the withholding scope, he or she shall file a tax return and make tax payment in accordance with the prescribed tax rates.



(2) Taxation of individual not residing in the Taiwan

Salaries paid to an “individual not residing in the Taiwan” (expatriate) by a nonresident employer and by the local subsidiary or branch or by any other local entity for services rendered in the Taiwan are subject to income tax. However, if the expatriate stayed in the Taiwan for not more than 90 days (cumulative) during a calendar year, salaries received from the nonresident employer are not subject to income tax. Under Paragraph 3 of Article 8 of the Income Tax Act, any individual not residing in the Taiwan but whose stay in the Taiwan exceeds ninety (90) days during a tax year is required to file a tax return and make tax payment in accordance with the law on remuneration obtained from employers outside the territory of the Taiwan for services rendered within the territory of the Taiwan. The term “individual residing in the Taiwan” as used in the Income Tax Act means a natural person domiciled and residing at all times within the territory of the Taiwan, or a natural person not domiciled within the territory of the Taiwan but residing within the territory of the Taiwan for 183 days or more within a tax year. The term “individual not residing in the Taiwan” denotes an individual other than those as provided above.

(3) Starting 2010, the tax rates for the consolidated income tax shall be 5%, 12%, 20%, 30% and 40%.



Consolidated Income Tax Rates -2011

Net Taxable income (NTD)	Tax Bate		Progressive Difference		Tax payable
0 to 500,000	5%	-	0	=	
500,001 to 1,130,000	12%	-	35,000	=	
1,130,001 to 2,260,000	20%	-	125,400	=	
2,260,001 to 4,230,000	30%	-	351,400	=	
4,230,001 to -	40%	-	774,400	=	

(III) Profit- Seeking Enterprise Income Tax-

(1) For any profit-seeking enterprise having its head office within the territory of the Taiwan, a profit-seeking-enterprise income tax shall be levied on its total profit-seeking-enterprise income derived within and without the territory of the Taiwan; provided that in case income tax has been paid on the income derived outside of the territory of the Taiwan in accordance with the tax law of the source country of that income, such tax paid may be deducted from amount of tax payable at the time of filing annual returns on the total profit-seeking-enterprise income, to the extent that such deduction shall not exceed the amount of tax which, computed at the applicable domestic tax rate, is increased in consequence of inclusion of its income derived from abroad.

For any profit-seeking-enterprise having its head office outside the territory of the Taiwan, the profit-seeking-enterprise income tax shall be levied only on income derived within the territory of the Taiwan. Compensation received by a foreign enterprise, institution, organization, or association for services rendered in the Taiwan directly from its Taiwan clients is considered Taiwan source income, subject to income tax.

(2) All income derived from securities or futures transactions within the territory of Taiwan is not taxable.



- (3) Dividends are distributed from the after-tax surplus profits. If dividends are distributed by a profit-seeking-enterprise in the Taiwan, dividends received by a profit-seeking-enterprise are not included as taxable income. The amount of deductible tax contained in the aggregate of dividends so distributed shall be included in the balance of such profit-seeking-enterprise's shareholder tax offsetting account.
- (4) Profit-seeking-enterprises may apply to the tax authority to adopt a non-calendar year as their fiscal year, while the taxable year of individuals shall be on the basis of a calendar year.
- (5) Various income received by the same taxable entity shall be combined for filing a tax return.
- (6) Tax rate for Profit-Seeking-Enterprise Income Tax was 25% in 2009. Starting 2010, tax rate shall be decreased to 17%

Tax Rates for Profit-Seeking-Enterprise Income Tax - 2010

Taxable Income (TI) Bracket (NTD)	Rate	Formula
Less than NTD 120,000	0	
Over 120,000 and less than NTD 200,000		$T = (TI - 120,000) * 1/2$
Over NTD 200,000	17%	$T = TI * 17\%$

(7) Imputation Income Tax

Effective January 1, 1998, individual resident shareholders receiving dividends from an Taiwan company are entitled to imputed credit for the income tax paid by the company. For corporate shareholders, the dividends received are not considered taxable income; however, the tax credits shall be included in the balance of its shareholder-imputed credit account (ICA) and will be imputed to the shareholders for future dividend distributions. Imputed tax credit does not apply to non-resident shareholders.

Starting from the year 1998, profits that are earned in a year but not distributed by December 31 of the following year are subject to 10% advance retained earnings tax, which can be claimed as a credit against the final tax liability of both resident and non-resident shareholders.



When making earning distribution for the year 1998 or each ensuing year thereafter, a profit-seeking enterprise shall use the formula listed below to compute the tax credit distributable to its shareholders along with the dividends distributed:

Imputed Tax Credit Ratio = balance of the imputed credit account /
aggregate balance of the retained earnings

Amount of shareholder tax credits = amount of the net
dividends*imputed tax credit ratio

There is an upper limit allowed for the imputed tax credit ratio. If the ratio calculated is higher than the upper limit, the upper limit shall be used in determining the amount of shareholder tax credits. The applicable upper limits of the imputed tax credit ratio are fixed as follows:

- (a) For an aggregate amount of undistributed surplus earnings not having been assessed with 10% profit-seeking-enterprise income tax: 33.33% if distributed retained earnings are accumulated before 2009, and 20.48% if the distributed surplus earnings are accumulated after 2010;
- (b) For an aggregate amount of undistributed surplus earnings having been assessed with a 10% profit-seeking-enterprise income tax: 48.15% if the distributed surplus earnings are accumulated before 2009, and 33.87% if the distributed surplus earnings are accumulated after 2010.;
- (c) For an aggregate amount of undistributed surplus earnings partially accumulated before 2009 and partially accumulated after 2010, partially assessed and partially not assessed with a 10% profit-seeking-enterprise income tax: the sum of the amounts of deductible tax to be calculated respectively based on the applicable tax deduction ratios specified in the preceding two Items in respect of the different proportions of the aforesaid two parts of undistributed surplus earnings to the aggregate amount of the undistributed surplus earnings.



(8) Transfer Pricing Issue

The Rules Governing the Assessment of Income Tax for Profit-Seeking Enterprise on Non-Arm's Length Transfer Pricing Issues ("Transfer Pricing Guidelines" or "the Guidelines") officially took effect on December 28, 2004.

(9) Income Basic Tax (Alternative Minimum Tax, AMT)

Starting from 2006, Income Basic Tax Act is imposed. The income basic tax imposes a minimum tax on individuals and enterprises to all Taiwan resident enterprises and foreign entities with a fixed place of business or business agent in Taiwan if they earn certain income that is tax exempt or enjoy tax incentives.

(i) AMT for profit-seeking enterprises

Income subject to AMT for an enterprise = Taxable income of a Profit-seeking-Enterprise + AMT add-back items

$AMT = (\text{Income subject to AMT for an enterprise} - \text{NT 2 million}) * 10\%$.

(ii) AMT for individuals

Resident taxpayers are subject to AMT, including foreign nationals who stay in Taiwan for over 183 days in one calendar year.

Income subject to AMT for an individual = Taxable income of an individual + AMT add-back items.

$AMT = (\text{Income subject to AMT for an individual} - \text{NT 6 million}) * 20\%$.

AMT add-back items include foreign-sourced income totaling NT 1 million or above and certain income exempted from regular income tax.

AMT represents floor of tax payable, if regular income tax is higher than AMT, no additional payment is required. If regular income tax is lower than AMT, then the taxpayer needs to pay additional tax for the difference between AMT and regular tax.



(10) New thin capitalization rules

In 2011, Taiwan introduced new thin capitalization rules.

Deductible interest expenses on inter-company loans are capped at debt-to-equity ratio at 3.

Value-Added and Non-Valued-Added Tax

(11) Taiwan began implementing a value-added business tax system on the 1st of April 1986. This system is generally similar to the system used by many European countries. Except for those specially exempted according to the law, a business tax is levied at each stage of the sale of goods or services. The business tax on imported goods shall be calculated at the prescribed tax rate based on the total amount of duty-paying value plus customs duty, commodity tax, or tobacco and alcohol tax, if applicable.

(12) Except for those to whom the zero rate applies, the business tax rate shall not be less than 5%, but no more than 10%. The applicable rate shall be determined by the Executive Yuan. Currently, the rate is 5%.

(13) Zero rating applies to all exported goods and services. The amount of business tax overpaid by a business entity at the time of purchase may be refunded upon request.

(14) For business entities engaged solely in the business of tax-exempt goods or services, the input tax shall not be refunded.

(15) A business entity, regardless of whether or not it has sales, shall file with the collection authority-in-charge a bimonthly tax return, and an entity to whom the zero rating applies may file a tax return on a monthly basis, for its sales amount and tax payable or tax overpaid during that period together with relevant documents within fifteen (15) days after the commencement of the subsequent period.

(16) The amount of business tax payable on imported goods shall be levied by Customs.



(IV) Customs Duty

Customs duty is imposed under the Customs Law and Customs Import Tariff promulgated by the MOF.

Custom duty is imposed on imported goods, mainly on price basis, and also no quantity basis.

(V) Stamp Tax

The stamp tax is levied on receipts of monetary payments, deeds for sale of movable property, contractual agreements, and deeds for real estate transactions.

Table 6: Documents Subject to Stamp Tax

Taxable Documents	Rate/NT\$
Receipts of monetary payments	0.4%
Deeds for the sale of movable property	NT\$12
Contractors' Agreements	0.1%
Deeds of contracts for sale, gratuitous transfers, partitions or exchanges of real estate or Dien agreement on real estate.	0.1%

The taxpayer is the person who signs or issues the taxable documents. If both contracting parties keep original taxable documents, each original would be subject to stamp tax. Thus, each party would be the stamp taxpayer for the original documents kept.

(VI) Commodity Tax

The commodity tax is a single-stage excise tax levied on specific commodities whether manufactured domestically or imported from abroad.



(VII) Securities Transaction Tax

Except for government bonds and other tax-exempted securities, all securities transactions are subject to securities transaction tax.

Table 7: Tax Rates of Securities Transaction Tax

Type	Tax Rate(Based on trading price)
Shares and shares certificates stating the rights of the shares issued by companies	0.3 % of transaction amount
Futures transactions	0.0000125%– 0.6%

(VIII) Land Tax

Land taxes include the Land Value Tax and Agricultural Land Tax. The taxpayers are: (1) the land title owner;(2) for land with an established Dien right, the Dien right assignee;(3) for publicly or commonly owned land, the administrator ;and (4)for jointly owned land, the joint owners would be responsible for their respective parts.

(IX) Building Tax

Building and other construction, which increases the value of the buildings ,are subject to building tax based on their assessed value. The taxpayers are:(1) the owner of the building;(2) for building with an established Dien right, the Dien right assignee; and (3)for jointly owned building, the joint owners would be responsible for their respective parts.

(X) Land Increment Tax

Land value increment tax is applied to the unearned increase in the value of land, payable by the seller at the time of ownership transfer. The unearned increment is the difference between the official assessed value of the land at the time of sales and its official value of the land at the time of purchase. The taxpayers are:(1) the original holder of the land, for land transferred with compensation;(2) the acquiring holder of the land, for land transferred without compensation; and (3) the Dien right assignee, for land with an established Dien right.

(XI) The Specially Selected Goods and Services Tax Act

Starting June 1, 2011 Taiwan imposed the luxury tax on selected goods and services include building and lands which are sold and possessed within two years, as well as high-consumptive passenger sedans, yachts, airplanes, helicopters and ultra-light vehicles, turtle shells, hawksbill sea



turtles, coral, ivory, fur and its manufactured products, furniture, membership. Tax rate for the specifically selected goods and services tax is 10%. However, if the holding period for building or lands is less than 1 year, then the tax rate shall be 15%.



VI. LABOR RELATED REGULATIONS

Taiwan has a comprehensive and extensive labor protection system which is similar to those found in many developed countries.

Labor Standards Act is the center of the labor protection system. Taiwan government set up a committee to foster cooperation between capital and labor to elevate work efficiency.

1. Working Hours

- a. Normal working hours may not exceed 8 hours per day, and may not exceed 84 hours for every two weeks.

Standard working hours should be approved by a labor union. If no labor union exists, standard working hours should be agreed upon by labor-management committee. Employers may redistribute working hours within a two-week period to other working days; however, working hours redistributed to other working days may not exceed two hours per day. Total standard working hours may not exceed 48 hours per week.

- b. For employers require employees to work in addition to normal working hours, working hours may be extended upon approval from the labor union. If no labor union exists, working hours may be extended upon the agreement of labor-management conference participants.

Total working hours may not exceed 12 hours per day. Extended working hours may not exceed 46 hours per month.

2. Leave:

(I) Public holidays- An employee shall be granted time off on holidays, Labor Day, and other days as prescribed by the central competent authority.

(II) Annual leave – An employee who continues to work for the same employer or business entity for a certain period of time shall be granted special leave on an annual basis according to the following table,

Years of service	Annual paid vacation (days)
1 ~ 3 years	7
3 ~ 5 years	10
5 ~ 10 years	14
More than 10 years	1 additional day for each year of service over 10 years up to maximum 30 days.



- Unused annual leave not taken due to business reasons will be paid for at year-end; however, it will be forfeited if not taken due to personal reasons
- (III) Sick leave – Employees shall be granted 30 days of sick leave at half of regular pay. No salary paid for sick leave exceeding 30 days. Non-hospitalized sick leave shall not exceed 30 days in 1 year.
 - (IV) Maternity leave - female employees shall be granted 56 calendar days at full pay as maternity leave; Those with less than 6 months of service shall be paid at half of her regular salary.
 - (V) Bereavement leave- 3-8 days, depending on relationship to the deceased.
 - (VI) Marriage leave- 8 days.

3. Retirement:

An employee may receive benefits from older pension scheme under Labor Standard Act (LSA) or newer pension scheme under Labor Pension Act (LPA) depending on the retirement plan the employee has selected. New pension scheme under LPA which was launched in July 2005 is applicable to all employment started after July 1, 2005. Employees hired before July 1, 2005 may elect to adopt pension under LSA or LPA. Pension scheme under LPA is a defined contribution plan which employers make at least 6% contribution of the employee's monthly wages to the employee's individual pension account monthly. Employees may make voluntary contributions up to 6% of their insured salary which may be deductible from their taxable income.

In addition, an employee is entitled to claim old age benefits upon retirement from Labor Insurance (LI) old age benefits which are managed independently from LSA or LPA retirement plans.

4. National Health Insurance (NHI)

- (I) The NHI system is a mandatory national insurance system which covers all employed people, including foreigners with an Alien Resident Certificate.
- (II) Starting April 1, 2010, the national health insurance premium rate is 5.17% of the employee's insured salary which is measured by breaking wages into 53 levels where the lowest and highest are NT\$ 18,780 and NT \$182,000. Wages over upper limit of insured salary are not subject to NHI premiums.



The premium is split between employer (60%), employee (30%) and government (10%). The employee shall pay for the same rate for any additional dependent enroller under his/her name up to 3 dependents.

The employer is required to pay a percentage of premiums of employees' dependents based on average number of dependents for insured people in Taiwan. As of the time of writing this guide, the average is 0.7.

The following table summarizes allocation of NHI premiums.

Employee contribution	Insurance policy x 5.17% x 30% x (1+ no. of dependants (or 3,if more than 3 dependants))
Employer	Insurance policy x 5.17% x 60% x (1+0.7)
Government	Insurance policy x 5.17% x 10% x (1+0.7)

5. Labor insurance

Any establishment employing five or more workers shall enter into labor insurance contracts with the Labor Insurance Bureau for every employee in the 15-60 age group.

The labor insurance provides maternity benefits for female workers, benefit payments for injuries plus additional benefits in case of disability, death benefits for both the insured and their families (including parents), and retirement payments.

The Statute for Labor Insurance covers two types of risks: ordinary risk and occupational risk. Premium for ordinary risk insurance is between 7.5% and 13% of insured salary which is measured by breaking wages into various levels. The range of monthly insured salary is from NT\$ 18,780 to NT\$ 43,900. The premium is split between employer (70%), employee (20%) and government (10%).

Premium for occupational risk insurance ranging from 0.06% to 3% of insured salary is paid entirely by the employer.



VII. ACCOUNTING AND AUDIT REQUIREMENTS

1. Accounting standards

Financial Supervisory Commission (FSC) has announced to adopt IFRS. Listed companies and financial institutions supervised by FSC, except for credit cooperatives, credit card companies and insurance intermediaries are required to prepare financial statements in accordance with IFRS starting from January 1, 2013. Unlisted public companies, credit cooperatives and credit card companies are required to prepare financial statements in accordance with IFRS starting from January 1, 2015, early adoption is allowed starting from January 1, 2013.

For business other than public companies in the above paragraph are required to prepare their financial statements based on generally accepted accounting principles developed by Accounting Research and Development Foundation (ARDF) which is responsible for developing accounting principles and auditing standards of Taiwan. IFRS have served as a primary reference of ARDF during the course of developing those standards.

2. Audit requirements of financial statements

Financial statements of public companies including SEC or OTC listed companies, financial institutions, insurance companies, trust entities and certain industries required by FSC are required to be audited by a Certified Public Accountant (CPA) of Taiwan CPA firm. Financial statements of companies with paid in capital over NT 30 million are also required to be audited by an independent CPA.

3. Audit requirements of tax returns

Tax returns of the following companies should be certified by an independent CPA,

((I) Banks, credit cooperative institutions, investment and trust companies

((II) Public companies

((III) Companies enjoy tax holiday and report total revenues (including non-operating income) over NT 50 million.

((IV) Filing consolidated revenues

((V) Companies not in any of the above categories but have total revenues over NT 100 million.



In addition, if a company incurs loss, the loss may be carried forward 10 years, if the company's tax return in the years the losses were incurred and in the years the losses were deducted from income were certified by an independent certified public accountant.



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