TAIWAN

*Prepared as of _________, 199_*

The information on the taxing regime of the above country is intended to be accurate and current. Before relying on the information, however, please contact the above firm, which prepared and is responsible for revising the information to verify its accuracy.

LEX MUNDI DESKBOOK - TAIWAN

INTRODUCTION

1.The Republic of China on Taiwan (the "ROC" or "Taiwan") has a comprehensive tax structure which includes fourteen direct and indirect taxes. However, the ROC does not have a comprehensive tax code, and its tax laws are found in separate statutes. Direct taxes include the income tax, land related taxes and estate and gift taxes, etc. Indirect taxes include value added tax, stamp tax, customs duty, commodity taxes, securities transaction tax, vehicle license tax and amusement tax, etc. The taxing authority is centralized in the Ministry of Finance ("MOF") and administered by divisions of the MOF, including the National Tax Administration ("NTA") (income and business tax) and the Customs Authorities. The Provincial Government and the Municipal Governments of Taiwan and the Municipal Governments of Taipei and Kaohsiung and the prefecture governments each has specific tax authority.

2.The MOF administers customs duty, income tax, mining lot tx, estate and gift tax, commodity tax and the securities transaction tax; the Provincial Government administers the business tax, stamp, tax vehicle license tax, harbour dues; and the Municipal Governments and prefecture governments administer the land tax, house tax, amusement tax and deed tax.

INCOME TAXES

I.Profit Seeking Enterprises

The ROC levies an income tax on all profit seeking enterprises. The term "profit seeking enterprise" is defined as a sole proprietorship, a partnership, a corporation or any other form of business, government-owned, privately owned, or government and privately owned, organized to engage in industry,commerce, agriculture, forestry, fishing, animal husbandry or mining activities for profit, with a business license or location. This levy is in addition to the individual income tax which may be levied on the individual shareholder, partner or sole proprietor of the business. Every profit seeking enterprise is required to file an annual Income Tax Return for Profit Seeking Enterprises.

1.Tax Returns

A.Final return is due by March 31 of the succeeding year for companies on a calendar year basis. Extension may be granted until May 15 or May 31, depending upon circumstances. Non-calendar year taxpayers have the deadline adjusted accordingly.

B.Returns are filed with the NTA at the appropriate local office.

C.One estimated payment is made for each year, during the month of July, equal to half of the enterprise's income tax payable for the previous year.

2.Calculation of Income Tax

A.Taxable Base

(1)A profit seeking enterprise, with its head office in the ROC, is taxable on its world wide income. Profit seeking enterprises with head offices outside the ROC are taxable on that part of their business operation within the ROC. Profit seeking enterprises which have no permanent establishment in the ROC are generally subject to a withholding rate of 20% on income generated within the ROC.

The following types of income are not included as income: gains from land sales, gains from sale of securities, and appreciation upon reappraisal of assets.

(2)Generally all costs of doing business, expenses, depreciation allowances and losses are deducible from income in computing profits. Organizational expenditures and goodwill expenditures made in the purchase of a business may be amortized to the extent of 20% per year.

(3)Direct expenses incurred in the course of business for entertainment is limited based upon the type of business, and yearly sales, purchases or business income.

(4)A profit seeking enterprise is taxable on its world wide income; however, foreign tax credits are allowed.

B.Tax Rates

Taxable Income	Rate
NT$0-50,000	Exempt
NT$50,000-10,000	15% of total taxable income but not to exceed 50% of the excess of taxable income over NT $50,000
over NT	

$100,000 over NT$10,000	25% of excess

C.Operating income and losses and capital gains and losses are aggregated

D.Transfer Pricing Rules

Article 43-1 of the Income Tx Law allows the ROC tax authorities to re-allocate income, cost, expense, profit or loss between related profit-seeking enterprises to prevent tax avoidance or evasion arising from irregular business practices. So far the tax authorities and the Administration Court have not formed a clear set of rules for determining the definition of related enterprises, and suspect cases have been determined on a case-by-case basis, oftentimes leaving taxpayers in doubt when faced with a possible related party transaction.

Despite the statutory limitation on the type of taxpayers subject to the governance of Article 43-1, in the Income Tax Audit Standards for Profit-Seeking Enterprises promulgated by the MOF as an administrative directors, and supervisors of a company and the company itself as related parties when the company lends money to such individuals. If interest is not charged or the interest charged is too low, the tx collection agencies may assess imputed interest on the basis of the prime lending rate quoted by the Bank of Taiwan as of the first day of the tax year.

E.Consolidated returns for affiliated corporations are not allowed.

3. Territorial Rules

A.A corporation's residence is generally based upon the place of its head office.

B.A profit seeking enterprise, with its head office in the ROC, is taxable on all world wide income. profit seeking enterprises with head offices outside the ROC are taxable on that part of their business operation within the ROC. Profit seeking enterprises which have no permanent establishment in the ROC are generally subject to a withholding rate of 20% on income generated within the ROC.

C.Income of foreign branches of an ROC company is included in its world wide income for purposes of determining ROC income tax liability.

D.Income of a controlled foreign corporation are not taxed under ROC law except to the extent dividends are paid to an ROC entity.

E.Tax Credits - Generally, an ROC profit seeking enterprise may take foreign tax credits on income taxes paid in a foreign jurisdiction.

4. Withholding Taxes

Type of Income	Withholding Rate: Foreign corporation with PE in ROC	Withholding Rate: Foreign corporation with No PE in ROC
Dividend	15%	20%; 35%
Commissions	10%	20%
Interest	10%	20%
Royalty	15%	20%
Rent	10%	20%

II. Partnerships and Limited Liability Companies

1.Partnerships are taxed the same as other profit seeking enterprises,except for professionals partnerships which are taxed, on a conduit theory, by the partners' filing of individual tax returns. Limited Liability Companies are taxed the same as other profit seeking enterprises.

2.Income of partnerships and limited liability companies is generally calculated the same way as other profit seeking enterprises.

III.Joint Venture, Associations and Foundations

Such entities are subject to the same tax rules as other profit seeking enterprises, except to the extent that the entity has been determined to be a cultural, educational, public welfare, or charitable organization and meets certain other rules relating to its income, expenses and activities.

IV.Individuals

1.Tax Returns

A.Individual income tax returns must be filed by March 31 each year for the preceding tax year. A one-month extension is available.

B.Tax returns are filed at the local tax office of the NTA. The appropriate tax office is based on the official residence address of the taxpayer.

C.Business entities are required to withhold income taxes from certain types of payments made to individuals. The rates of withholding vary with regard to the types of income and the resident status of the individual. There are no provisions for estimated or installment payments by the individual.

2. Calculation

A. Taxable Base

(1) Income. Unless otherwise exempt, all income received by the taxpayer from sources in the ROC is included in the taxpayer's taxable income. Payments related to certain government insurance programs is exempt, as are salaries of military personnel and certain government employees and teachers of grades below high school, etc.

(2) Personal Exemptions. NT$63,000 per person (taxpayer, spouse and qualified dependents).

(3) Deductions. A standard deduction of NT$38,000 (single) or NT$57,000 (married) is available or the taxpayer may itemize deductions. Itemized deductible expenses include: donations to the extent permitted, insurance premiums (limited to NT$24,000 per person), medical expenses, disaster losses, and home mortgage interest (limited to NT$100,000).

(4) Special Deductions:

- a standard exemption for wage income up to NT$52,000;
- dividends from registered shares of listed companies and interest paid by financial institutions, to the extent of NT$270,000 per year (joint return);
- disability deduction: NT$63,000 per person (taxpayer, spouse and qualified dependents);
- college/university education deduction: NT$20,000 per child.

Tax Rates:

For ROC nationals and residents, tax rates for individual income start at 6% for income up to NT$300,000 to 40% for amounts of NT$3,000,001 or more. For non-residents, a flat withholding rate of 20% is applied, in general, to most income.

B. Tax on income is only levied at the national level, with no special rate for capital gains.

C.Generally, losses which cannot be taken in the year of the loss can be carried forward for three years.

3. Territorial Rules

Individuals are subject to tax on ROC-source income only. Expatriates, depending on their period of stay in ROC, are taxed as ROC residents or non-residents.

4.Withholding taxes

Salary income received by an individual in the ROC is subject to withholding. The withholding rates for residents is based upon the Salary Withholding Table. For non-residents, a flat withholding rate of 20% is applied to all salary income and income related to interest.

OTHER TAXES

VAT (business tax):	5%
Commodity Tax:	up to 60%
Stamp Tax:	0.1%-0.4% in general
Land Value Increment Tax:	40%-60%
Securities Transaction Tax:	0.3% for equity securities and 0.1% for debt securities

INHERITANCE AND GIFT TAX

I.Gift Tax

1.In general, a gratuitous transfer of property by an individual triggers gift tax. A transfer will be considered a constructive gift under ROC tax law if, for example, it involves forgiveness of a claim or assumption of an obligation or a transfer with substantially inadequate consideration. An annual gift exemption of NT$450,000 per donor is permitted.

2.A Gift Return relating to the gift must be filed by the donor within 30 days following the date of the transfer. The return is filed at the NTA office having jurisdiction over the place of the donor's household registration. The donee may be liable for the gift tax if the donor has disappeared or has failed to make timely payment of the tax due and has no assets in ROC available for execution.

3.Gift tax payment is due within two months after receipt of a gift tax statement from NTA.

4.The gift tax rate for gifts is progressive, starting at 4% for taxable gifts up to NT $300,000 and raising to 60% for the incremental amount of NT$150,000,001 or more.

5.The Taxable amount is based upon the value of the gifts, and permits deductions from the gross gift any amount of transferred liabilities relating to the asset.

II.Estate Tax

1.Estate tax is levied on properties owned by the decedent at the time of death.

2.An Estate Tax Return is required to be filed within 6 months after the date of death. The return is filed at the NTA office having jurisdiction over the place of the decedent's household registration.

3.Estate tax payment is due within 2 months after receipt of an estate tax statement from NTA.

4.The estate tax rate is progressive, starting at 2% for taxable estates up to NT $300,000 and rising to 60% for the incremental amount of NT$160,000,000 or more.

OTHER MATTERS

I. Tax Incentives

1.The Statute for Upgrading Industries, effective January 1, 1991, provides for accelerated depreciation relating to instruments and equipment for exclusive use in research and development, experiment or quality inspection, or machinery and equipment used for energy saving projects. The statute also provides for tax credits relating to investment in automation equipment or technology, investment relating to research, development, professional training, and creation of international brands of products. Other incentives are provided for investments in"important high-tech enterprises", "important investment enterprises" and "venture capital enterprises".

2.The Statute for Investment by Foreign Nationals, among other things, provides for dividends paid to non-residents (companies or individuals) to be subject to a preferential withholding rate of 20%. It also provides for exemption from foreign exchange controls relating to repatriation of capital and profit.

II.Exchange Controls

1.All non-trade related inward and outward remittances of foreign exchange are subject to exchange controls. ROC nationals and residents are entitled to a yearly inward and outward remittance of up to US$10 million each.

2.ROC nationals and residents are permitted to hold foreign currency accounts.

III.Anti-deferral Regimes

ROC residents are not taxed on the current income of foreign entities owned by them.

IV.Tax Treaties

Taiwan (Republic of China) has entered into tax agreements with Singapore, South Africa, Netherlands, Thailand, Luxembourg, U.S.A., Germany, Japan, Sweden, Norway, the Republic of Korea, and the European Union. Among these agreements, only the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (1981) between Taiwan and Singapore and the one recently concluded between Taiwan and the Republic of South Africa are comprehensive income tax treaties; the remaining ones merely govern income exemptions relating to shipping and air transport income.

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