Doing Business Guide in Asia-Pacific

This latest edition combines our very popular corporate services guides by jurisdiction with our newly released Payroll and Immigration Doing Business Guides, providing a valuable reference when starting or extending your business in Asia-Pacific.

There are many areas to be considered when doing business in each of our jurisdictions, such as:

- Choice of legal entity
- Compliance and reporting requirements
- Level of governance required
- Basic income tax obligations
- Payroll thresholds, minimum wage thresholds and employer compliance requirements
- Immigration obligations for employers

Making an informed decision at the outset can save valuable time and resources later, and our EY Global Compliance and Reporting team is here to help you.

In this report, you’ll find a detailed section for each jurisdiction. Of course, as in any guide of this nature, the information provided is generic, but our local teams are available to assist you as you chart your course across Asia-Pacific. We recommend that you contact them for professional advice tailored to your specific situation.

I trust you will find this a useful reference and wish you every success in your business endeavors across Asia-Pacific.

Regards,

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Doing business in Australia
Registration requirements

When establishing a business in Australia, the first consideration is whether the intended operations will be registered with the appropriate Australian authorities. The key registration requirements in Australia are:

1. **Direct and indirect tax registration with the Australian Taxation Office (ATO)**

A business has a taxable presence in Australia if it:

- Derives Australian-sourced income or conducts business in Australia
- Is from a country which has a tax treaty with Australia and its activities constitute a permanent establishment

**Registration requirements and process:** If you are to carry on a part of your enterprise in Australia, it is necessary to apply to the ATO for an Australian Business Number. The application will usually take a few weeks. Other registrations can be done at this stage, such as tax file numbers, goods and services tax (GST), fringe benefits tax and others. You will need your Australian Company Number (ACN) or branch office number (ARBN) as well as information in respect of proposed operations.

2. **Legal registration with the Australian Securities and Investment Commission (ASIC)**

An enterprise will have a legal presence in Australia if its intended activities are classified as “carrying on business.” Determining factors include place of business, nature of business and operational activities, and intended duration and frequency of these activities.

A business must register with the ASIC if its Australian operations require legal registration.

Choice of vehicle

When establishing a business in Australia, it is important to choose the most appropriate registration vehicle. The two most common types of corporate registration vehicles are:

1. **Australian incorporated subsidiary company**

   If it is determined that the preferred option is to establish a company, we generally recommend the registration of a private limited company, as they provide the greatest flexibility. This is usually the most appropriate vehicle, provided that the company has less than 50 shareholders, does not intend to make an offer to shareholders, does not intend to make an offer of shares to the public and does not have charitable or not-for-profit objectives.

   **Legal status:** A subsidiary company is a separate legal entity with limited liability and has its own identity for tax and legal purposes.

   **Registration process:** This can be completed on a same-day basis, provided all corporate information with respect to directors and shareholders is given.

2. **Registered foreign company (branch office)**

   A branch office may be an appropriate alternative in some cases, for example, where the activities in Australia are limited or the branch structure is in line with the group’s strategy.

   **Legal status:** A branch office does not have limited liability and is not recognized as having a separate legal identity.

   **Registration process:** This can take up to 28 days from the date of lodgment. It is more complex and time-consuming than the subsidiary company, as the foreign company is required to disclose both corporate information and supporting documents to the ASIC.

Compliance and reporting

1. **Corporate secretarial**

1.1. **Subsidiary company**

**Governance:** Directors of an Australian subsidiary company have a range of fiduciary and statutory duties, and can be subject to civil or criminal penalties. All subsidiaries must have at least one Australian-resident director.
Annual meeting: An annual meeting of the directors should be convened in order to consider and approve the financial statements of the company, or resolve that the company is exempt from the requirements to prepare and lodge audited financial statements in accordance with the appropriate financial reporting relief class orders.

Annual review: An annual review process must be completed with the directors passing a solvency resolution (where appropriate) and the payment of the annual review fee to the ASIC.

1.2 Branch office

Governance: As a branch office does not have its own directors, there is no requirement to have an Australian resident director. However, the branch office must appoint a local agent who will be responsible for maintaining compliance with the ASIC.

Annual compliance: A branch office must lodge a return every year with ASIC and provide full details of the corporate information with respect to the parent company. The branch office must report any changes to the parent company corporate information within 28 days and also pay an annual lodgment fee to the ASIC.

2. Accounting and reporting

2.1 Subsidiary company

All foreign-owned Australian subsidiaries are required to lodge audited financial statements with the ASIC, unless they fulfill certain exemptions. If the company is exempt from lodging audited financial statements, they are still required to maintain accurate accounting records.

2.2 New reporting requirements

On 3 December 2015, the senate passed amendments to the Tax Laws Amendment Bill 2015, requiring corporate tax entities that are significant global entities to give the commissioner a general-purpose financial statement if they do not lodge one with the ASIC. Significant Global Entities (SGE) are entities with an annual global income (revenue) of AU$1m or more. It is common for multinational entities to prepare Special Purpose Financial Reports (SPFRs) for the purposes of complying with the law and lodgment purposes with the regulator (ASIC). An SPFR complies with all the measurements of accounting standards and the disclosure requirement of those standards listed in the Corporations Act as being necessary for every financial report. There are only five standards that an SPFR needs to comply with for disclosure purposes. Therefore, this new requirement will result in a significant change in the reporting requirements of those multinational companies that currently prepare SPFRs or that have exemptions as highlighted in section 2.1 if they meet the SGE definition, as they move into a reporting framework that requires extensive disclosure of financial information.

2.3 Branch office

A branch office is not generally required to lodge audited financial statements, but they will generally have to lodge a copy of the audited financial statements of the parent company every calendar year. This must include a balance sheet, cash flow and income statement.

3. Tax

3.1 Income tax

Companies and branch offices, which derive assessable income or carry forward tax losses, are required to lodge an annual income tax return with the ATO. The current company income tax rate is 30%. From 1 July 2015, a reduced company tax rate of 28.5% applies to small businesses with aggregated annual turnover of less than AU$2m.

Assessable income:

- For a subsidiary company – all worldwide income and taxable capital gains from disposal of all taxable capital assets
- For a branch office – all Australian source income attributable to the branch and taxable capital gains from disposals of taxable Australian assets

Repatriation of profits: Profits from an Australian subsidiary remitted to its offshore holding company as dividends will be subject to withholding tax to the extent to which the dividends are unfranked. No withholding tax is payable on after-tax profits from a branch office.

Tax consolidation regime: Allows for wholly owned Australian group companies to consolidate for tax purposes. Entry into tax consolidation is not compulsory, but there is very limited group relief available if entities choose to remain outside of the tax consolidation regime. Entities that are part of a consolidated group are treated as one entity for income tax purposes and will lodge one income tax return that covers all members of the group.

Tax incentives and government grants: Two components of the R&D tax incentive program are:

1. A 43.5% refundable tax offset for eligible companies with an aggregated turnover of less than AU$20m per annum
2. A nonrefundable 38.5% tax offset for other eligible companies

3.2 Capital gains tax

Australian residents are generally liable for the tax on gains on the disposal of assets wherever situated, subject to relief from double taxation if the gain is derived and taxed in another country. One important exception is where an Australian company sells shares in an active foreign company.
3.3 Indirect tax

Goods and services tax (GST): Australia currently has a 10% GST, payable on the tax exclusive price of most goods and services supplied within Australia as well as on importation of goods. A business is required to register for GST if its annual GST turnover is AU$75,000 or more and a registered business must lodge GST returns either monthly or quarterly via a business activities statement (BAS).

3.4 Customs

Customs duty is imposed by the Australian Customs Service on the importation of goods, payable at the time the goods enter Australia. With the exception of excisable products, such as alcohol and tobacco, customs duty is levied on an ad valorem basis at rates of 0%, 5% or 10%, depending on the tariff classification of the goods.

Funding operations

As part of establishing business operations in Australia, it is crucial to consider how the business will be funded – by way of debt, equity or combination of both.

Debt vs. equity rules: Returns paid on debt interests are tax deductible (provided the amount qualifies for deductibility and returns paid on equity interests are not tax deductible).

Thin capitalization rules: Broadly, Australia’s thin capitalization provisions limit the amount of tax-deductible debt used to finance an entity’s Australian operations. A business (and this applies equally to a subsidiary company or branch office) should be able to fund approximately 60% of its investment in an Australian project by way of debt. The thin capitalization provisions do not apply to interest deductions under AU$2m.

Foreign investment considerations

Under the Foreign Acquisition and Takeovers Act 1975, foreign individuals or foreign-owned companies must seek approval from the Foreign Investment Review Board (FIRB) before purchasing significant interests in residential and commercial real estate, certain shares of Australian privately owned companies or shares in foreign companies that own Australian assets.

4. Multinational tax integrity

Australia has recently legislated against perceived “permanent establishment” avoidance in the form of Multinational Anti-Avoidance Legislation (MAAL) and has recently released a draft Diverted Profits Tax (DPT) legislation targeting multinational corporations which seek to “artificially” divert profits from Australia through related-party arrangements that are not adequately dealt with under the usual transfer pricing mechanisms. The MAAL represents an expansion of Australia’s pre-existing domestic law general anti-avoidance rules. Global groups with global turnover in excess of AU$1b will need to consider the applicability of the MAAL to their Australian operations.

5. Employer obligations

Once an entity has hired employees in Australia, it is subject to a range of additional legislative and regulatory provisions as well as additional tax requirements. These provisions apply equally to both a branch office and a subsidiary company.
People – payroll and immigration requirements

1. Government requirements

Registration requirements

Registration for Pay As You Go (PAYG)

When an entity enters Australia and employs people to carry out a business, the entity must register with the ATO for PAYG withholding within seven days. If the entity has already obtained an ABN, the business can register for PAYG withholding by completing an “Add a new business account” form. If the entity does not have an ABN but has been assessed that an ABN is required, applications for ABN and PAYG withholding can be carried out at the same time. Businesses that do not have an ABN and do not require one still need to register for PAYG withholding if they are paying workers. Businesses in this situation are required to complete the “Add a PAYG withholding account” form. The requirement is governed by Income Tax Assessment Act 1997.

Registration for payroll tax

Payroll tax is a tax paid by employers on wages paid or payable to employees. In some cases, payments to contractors may also be regarded as wages for payroll tax purposes. The law in each state and territory broadly provides for payroll tax to be levied on wages, in cash or in kind, provided by employers to their employees. An employer’s liability will vary between states and territories because of various payroll tax rates, definition of the term wages on which the tax is levied and the tax exempt wages level threshold.

If an employing entity has wages that exceed the payroll tax thresholds, the business will need to register for payroll tax within seven days after the end of the month in which they commence to pay wages. For an employing entity, which employs people in more than one jurisdiction and the Australia-wide wages exceed the threshold in any of the states, the business will need to register for payroll tax in each state. Each of the states and territories has their own Payroll Tax Act that governs the payroll tax levied on wages paid to the employees.

Workers’ compensation insurance

Workers’ compensation insurance is an insurance policy that ensures that the employing entity is covered for the cost that might follow a workplace-related injury or disease. These costs can include weekly and lump sum payments, medical, hospital and rehabilitation expenses, and return-to-work costs. Entities with employees must acquire a worker’s compensation insurance policy. The regulations concerning worker’s compensation vary in each jurisdiction of Australia. Queensland, New South Wales, Victoria and South Australia have a single authority structure whereas the Australia Capital Territory (ACT), Western Australia, Tasmania and Northern Territory leave the insurance arrangements to approved insurers or internal company insurance.

Ongoing compliance requirements

Remittance of PAYG withholding

The time frame in which an amount withheld must be remitted to the ATO depends on the total amount of PAYG withheld by an entity on an annual basis. Businesses are categorized as either a large, medium or small:

- **Large withholders:** An entity is considered a large withholder for a particular month, if its total PAYG withholdings for the financial year exceeds AU$1m. A large withholder must pay the withheld amount to the ATO within seven or eight days of making the payment. The amount must be paid electronically.

- **Medium withholders:** A entity is considered a medium withholder for a particular month if its total PAYG withholdings for the financial year exceeds AU$25,000. A medium withholder must pay the withheld amount to the ATO on a monthly basis by the 21st of the following month. The withholdings must be remitted electronically.

- **Small withholders:** A entity is considered a small withholder for a particular month if it has an annual withholding of up to AU$25,000 and it withheld at least once a month. A small withholder must remit the withholdings at least quarterly, by the 28th of the following month after the quarter end. ATO imposes penalties and interest for late lodgment, late payment and non-payment of PAYG with holdings.

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Payroll tax lodgment and payments

Each state requires applicable employers to lodge a monthly payroll tax return, including payment, by the seventh of the following month. An annual reconciliation for all states and territories is due by 21 July each year. The payroll tax rates and tax-free thresholds vary in each jurisdiction. In addition, the type of payments subject to payroll tax may vary. The wages subject to payroll tax also include fringe benefit tax (FBT) grossed up amount by type 2 factor and the payments made to contractors deemed as employees.

Some states may allow small employers to lodge and make payment once or twice a year. The Office of State Revenue in each jurisdiction will outline the lodgment requirements and wage components applicable for payroll tax to

Annual reporting of PAYG and payment summaries

If an employing entity has tax withheld amounts from wages, salaries, employment termination payments (ETPs) or other similar payments, the employing entity is required to submit a PAYG withholding payment summary annual report, detailing all payments made and amounts withheld for the financial year. This annual report must be sent to the ATO by 14 August, following the end of financial year. These amounts can be reported to the ATO online or in paper format. The payment summary will record employee’s payment details for the previous financial year. Payment summaries can be issued to the employee in either hard copy or electronic form.

2. Pension requirements

Registration requirements

Employers are not required to register with a superannuation fund. The responsibility lies with the employee to nominate a superannuation fund in which the employer will remit funds periodically. The employee is required to complete a “choice of fund form” to submit to their employer for payment.

Ongoing compliance requirements

Superannuation guarantee contribution

Superannuation Guarantee (Administration) Act 1992 governs the mandatory superannuation to all employees. All employers in Australia are required to contribute a minimum amount toward superannuation for their workers. The superannuation contribution made by the employers on behalf of employees are generally tax deductible except any penalties imposed because of employers not providing required minimum level of superannuation contribution. The superannuation rate for FY 17-18 is 9.5% on ordinary time earnings. Superannuation must be calculated and remitted to a complying superannuation fund either elected by the employee or employer’s default superannuation fund, in case the employee doesn’t elect fund of their own. Superannuation must be remitted at least quarterly to the employees’ superannuation fund. Superannuation payments must be made electronically, through electronic fund transfer (EFT) or BPAY. Superannuation lodgments and associated data must also be submitted electronically in a standard format compliant with the SuperStream requirement.

Non-compliance or non-payment in accordance with the Superannuation Guarantee (Administration) Act 1992 and SuperStream compliance will result in penalties and fines imposed on the employer.

3. Employment obligations

Employment law and minimum employment requirements

National Employment Standards under Fair Work Australia sets minimum wages and conditions for each employee in Australia.

Minimum wages change each year; employers must oblige with the minimum wages and conditions set by Fair Work Australia. There may be severe legal consequences if the minimum employment conditions are not met. The minimum wage for FY 16-17 is AUS$17.70 per hour.

In addition to the minimum wages, the employers must provide the minimum leave entitlement set out under the National Employment Standards. The minimum requirements are 20 days of paid annual leaves per year and 10 days of paid sick leaves each year for full-time and part-time employees.

Furthermore, the Long Services Act in each state and territory governs the long-service leave entitlement, which may vary by state. Employees who complete 10 years of continuous service (seven years in ACT) will be eligible for long service leave. If an employee leaves before completing 10 years of service (seven years in ACT), the employee may be entitled to a pro rata long-service leave balance to be paid out upon departure. The eligibility of pro rata long-service leave varies by each state and territory.

4. Payroll requirements

Payroll payments and payslips

Fair Work Australia governs the National Employment Standards, including pay requirements.

Employees must be paid at least monthly. Depending on the industry in which the employing entity operates within, an award, enterprise agreement or other registered agreement will set out the minimum requirements in which to pay the employee.

All employees must be provided payslips within one working day of the payday. Payslips can be provided either in the electronic form or as a hard copy. The electronic form must have the same information as the hard copy. All salary and wage income is income taxable in the financial year in which it is actually received, regardless of when it was earned. Tax should be withheld at the time the payment is made to the employee.

5. Banking requirements related to payroll

Banking of salary and wages

Payroll payments can be paid by one or a combination of the following:

- Cash
- Cheque, money order or postal order, payable to the employee
- EFT or bank transfer

If paying wages by cash, the employer and employee should sign a record to confirm the amount of money that has been paid each pay period.

6. Immigration requirements

A number of visas allow business travel and short-term highly specialized work in Australia. To engage foreign nationals to work longer term, a business must first be approved as a sponsor by the Australian Department of Immigration and Border Protection. Sponsors must comply with a number of obligations, including paying visa holders at market salary rates. Positions must be formally nominated and must meet minimum salary and skill thresholds. Sponsored foreign nationals apply for a subclass 457 visa, which allows stays of up to four years and can be renewed. Visa applicants must meet English language, health and character requirements. Family members may be included in subclass 457 visa applications, and spouses have work rights in Australia.
Doing business in Mainland China
Corporate – Global Compliance and Reporting requirements

Approval and registration requirements

When establishing a business in Mainland China, it is crucial to obtain the necessary approval and complete all required registration processes with various Chinese authorities.

Subsidiary companies in China are oftentimes referred to as foreign invested enterprises (FIEs). The key approval and registrations for FIEs in China include:

1. Record filling with the Ministry of Commerce (MOC) or local Commission of Commerce (COC) for the issuance of official receipt for record filling form

For FIEs engaging in certain industries (e.g., education and financial institutions), additional approval from the industry approval authorities may be required. It is advisable for foreign investors to conduct sufficient research and consult advisors so as to make sure they do not overlook the additional approval requirements.

2. Registration with the State Administration for Industry and Commerce (SAIC) or the local Administrations for Industry and Commerce (AICs) for the issuance of business license

According to the administrative regulations of China, FIEs shall register with the SAIC or the local AICs to obtain business license to legally start operation in China.

3. Undergo tax assessment with the in-charge state and local tax bureaus TBs upon obtaining business license

Effective from 1 October 2015, newly established FIEs are no longer required to process tax registration with state and local TBs. Upon the issuance of business license, FIEs shall submit supplementary information to the state and local TBs. Thereafter, FIEs shall undergo tax assessment with the in-charge TBs in order to decide the applicable types of taxes.

Choice of vehicle

China is not a new market to most of the multinational corporations (MNCs). Foreign investors have been setting up their establishments in China for years. The two major forms of vehicles foreign investors use are FIEs and representative offices (RO). With the market opening up to foreign investors and the limited allowable activities of ROs in China, FIE is a much more popular choice these days. We shall focus our discussion below on FIEs.

An FIE demonstrates great flexibility in commercial operation, administration management, tax and accounting treatment. An FIE should have no more than 50 shareholders and could set up branches which are not separate legal entities to extend its footprint in China and expand its established brands or business.

Legal status: An FIE is a separate legal entity with limited liability. The investors’ liability is limited to their respective investment contributions. The company itself is liable for its obligations only to the extent of its total assets.

Employment status: An FIE can hire local personnel directly or indirectly through qualified labor dispatch agencies.

Registration process: An FIE shall register with various government authorities in respect of the establishment, alteration or termination, according to China Company Law and administrative regulations. It generally takes 15 to 25 working days to complete the registration for the company setup.

Legal forms: The forms of an FIE may fall into:

1. Sino-foreign equity joint ventures (EJVs): EJVs are limited liability companies with joint China and foreign ownership. The share of results is proportional to the equity contribution of each party.

2. Sino-foreign cooperative joint ventures (CJVs): CJVs are based on contracts between venture partners. CJVs are typically formed to develop projects that have a limited duration and a specific objective, such as the development of a building, hotel or service project. CJVs offer greater flexibility in structuring capital contributions, profit and loss sharing, and investment recovery.
3. Wholly foreign-owned enterprises (WFOEs): WFOEs are legal entities in China and are wholly owned by one or more foreign investors. The foreign investor has full autonomy over the management and operation of the company. A WFOE is the preferred vehicle for foreign investors if there is no compelling business reason for having a Chinese partner.

Compliance and reporting

1. Corporate secretarial

**Governance:** It is important to recognize that the directors and supervisors of an FIE have a range of fiduciary and statutory duties, and position requirements to comply with. Any actions violating China laws and regulations taken by the directors, supervisors and senior management may fall into civil or criminal penalties. All subsidiaries must have at least three directors and three supervisors in the board of directors and board of supervisors respectively. Exception is given to companies with comparatively few shareholders and are comparatively small in scale. They may appoint one executive director and one executive supervisor instead of setting up boards of directors and supervisors.

**Annual meeting:** Boards of directors and supervisors of an FIE must hold at least one meeting a year respectively. Directors and supervisors may propose holding interim meetings if necessary.

**Annual corporate announcement:** An FIE is required to complete the annual corporate announcement and file the company administrative and financial information with various China Government authorities on an annual basis. It may affect the renewal of various registration certificates if the annual corporate announcement is not properly completed.

2. Annual corporate announcement

China’s fiscal year follows calendar year, i.e., starts on 1 January and ends on 31 December of the Gregorian calendar.

All FIEs in China are required to prepare annual financial statements, including balance sheets and income statements, and all are subject to statutory annual audit by a CPA firm registered in China. Chinese Yuan (CNY) is the recording and reporting currency. Furthermore, all accounting records have to be maintained in the Chinese language. However, FIEs are allowed to use a foreign language accompanied with the official Chinese language in preparing their books and records.
Companies in China should adopt the accrual basis of accounting in accordance with the China Accounting and Reporting Standards. All books and records have to be retained for 5 to 15 years, and some key records are required to be kept permanently within the mainland of China under Chinese law.

By law, any business transaction carried out in Mainland China shall be supported by an official tax invoice or “fapiao” for China bookkeeping, accounting and tax compliance purposes. For some cities, for example, Shanghai, the accounting software used by the company for bookkeeping and accounting purposes should be registered with the local finance bureau before adoption.

### Profit repatriation

Before an FIE is allowed to distribute and repatriate profits outside China to its overseas parent company, the FIE must complete the following three key annual compliance requirements: audit, annual tax filings reporting and annual corporate announcement. Only after the annual audit and completion of tax reporting can an FIE remit net profit to overseas shareholders as dividend or retain for reinvestment.

However, not all profit can be repatriated or reinvested. A portion of the profit (e.g., at least 10% for WFOEs) must be set aside in a reserve fund account for the purpose of remediying potential future operation loss, or funding for capital increase, etc. This is treated as a part of owner’s equity on the balance sheet.

This account is capped when the amount of reserve funds equals 50% of the registered capital of the company. After the appropriation of reserve fund, the management, at its own discretion, is allowed to allocate a portion of the net profit as staff bonus welfare fund or an expansion fund, although these are not mandatory for WFOEs. Companies that have reported a net loss after tax are not required to allocate for such funds.

The remaining net profit after the above allocations is then available for redistribution. A resolution of the board of directors and an application form for the repatriation of funds can then be submitted for overseas remittance as dividends.

### 3. Tax

The taxing regimes in China are complex and the tax practice varies from location to location. The major China tax issues to be considered are highlighted below. The information provided is general in nature and should not be relied upon as professional advice.

#### 3.1 Income tax

Enterprises incorporated in China and foreign enterprises with effective management located in China are treated as tax resident enterprises (TREs). The statutory CIT rate is 25%. The withholding tax rate on passive income (such as dividends, interest, royalties and capital gains) of non-TREs is generally taxed at 10%, with relief depending on the double taxation agreement.

Foreign tax credit is allowable for income taxes paid in other countries, with a cap at the China income tax payable on the same income. Tax losses sustained by TREs can be carried forward and utilized against the succeeding five years’ taxable income. Tax loss carryback is not allowed.

#### 3.2 Indirect tax

In China, value-added tax (VAT) and consumption tax are collectively called turnover tax. VAT applies to supply of goods or taxable services for consideration in China and importation of goods into China. The taxable services include processing services, repair and replacement services, and certain services, which fall into the VAT pilot scope. The nationwide VAT pilot reform took effect from 1 May 2016; VAT has replaced business tax for all taxable sectors thereafter.

VAT payers are classified into general VAT payers and small-scale VAT payers. For a general VAT taxpayer, input VAT paid can generally be recovered by crediting against output VAT. The standard VAT rate is 17%, with certain necessities being taxed at 13%.

Consumption tax applies to 14 categories of consumable goods, including tobacco, alcohol, cosmetics, motorcycles and automobiles. The tax is imposed on the basis of sales volume and sales price. The tax rate ranges from 1% to 56%.

#### Customs

Customs duties are imposed on certain goods imported, and most exported goods are exempted from customs duties.

#### Other taxes

Other taxes in China include individual income tax, resource tax, land appreciation tax, real estate tax, stamp duty, deed tax, vehicle and vessel tax, land usage tax, motor vehicle acquisition tax, and city construction tax.
People – payroll and immigration requirements

1. Government requirements

Registration requirements

Company-level local tax registration and individual tax registration
When a business enters in Mainland China, it is required to register with both in-charge state tax bureau and local tax bureau according to the regulation in China on the administration and collection of tax. Individual income tax (IIT) is collected by the local tax bureau. In some cities, it is required to perform the individual registration for foreign national employees before the employer can withhold the IIT for them. The requirement is governed by local tax authorities and the practice varies in different cities.

Registration for social insurance
According to social insurance regulations in China, the employer should register a company’s social insurance account at the Social Security Bureau in the city where the legal entity is located within 30 days after obtaining business license.

The social insurance in China includes six insurance types: which are pension, medical, occupational, injury, maternity and unemployment. The maximum and minimum contribution base and the contribution rates for each insurance types are different from city to city.

Registration for housing fund
The employer should register a company’s housing fund account at the Housing Fund Administration Center in the city where the legal entity is located, at the soonest after obtaining business license.

There are employer and employee contributions for housing fund in China. The maximum and minimum contribution base and the contribution rate are different from city to city.

Ongoing compliance requirements

Monthly IIT withholding obligation
The employer is obliged to withhold the IIT from the employee’s payroll on a monthly basis and settle the IIT on behalf of the employee. The employer should file the employee’s IIT return to local tax bureau and settle the IIT payable before the 15th of the following month in general.

The salaries and wages received by the employee are subject to IIT at seven-grade progressive tax rates ranging from 3% to 45%. The requirements are governed by the China Individual Income Tax Law and the Implementation Regulation of China Individual Income Tax Law.

Social insurance and housing fund monthly contribution

Governing law: Laws governing social insurance and housing fund include the Social Insurance Law of China for social insurance and administrative regulations on the Housing Fund for housing fund contribution.

The employer has an obligation to enroll its employee in the social insurance system. Each month, the employer shall file the social insurance and housing fund contribution for employer and employee with the respective authorities for its active employees and arrange payment on time.

The rates of each social insurance type and housing fund are different from city to city. It is suggested that the company check with the local authority for the details of social insurance requirements.

Annual CNY120,000 tax filing
Chinese individuals and foreign nationals who receive China-sourced income should perform the self-declaration of annual individual income tax (AIIT) filing if their annual income exceeds CNY120,000. Foreign nationals are exempt from China annual tax filing obligation if they do not qualify for full-year China tax residents. The annual tax filing requirement is governed by GuoshuiFa[2006] No. 162.

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There may be other requirements in each location. For example, in some cities, there is a disabled persons’ fund, which requires the employer to either hire disabled persons at a rate of total employee headcount or pay the disabled person fund. Some cities have blood donation quota. It is suggested that the company check with local authorities for the detailed requirements.

2. Pension requirements

Registration requirements
Pension is included in social insurance as mentioned above.

Ongoing compliance requirements
Pension normally includes employer contribution and employee contribution. The rates for each party are different from city to city. Normally, employer contribution rate is around 20%; employee contribution rate is around 8% with upper and lower limits.

3. Employment obligations

Labor law
The employer should follow the labor law for all employment issues, such as:
- Working hours rest and vacations
- Salary frequency and minimum wage
- Occupational safety and health
- Special protection for female staff and workers, and juvenile workers
- Vocational training
- Labor dispute

Such issues are normally governed by local Labor and Social Security Bureau or local Human Resources and Social Security Bureau. However, each city may have its own practice when implementing the law.

Labor Contract Law
The employer should follow the Labor Contract Law to:
- Sign labor contract with employees in time
- Renew labor contract with employees in time
- Terminate labor contract with employees with severance pay or without severance pay after meeting certain criteria

4. Payroll requirements

Payroll payments
The employer should follow the interim provisions on the salary payment to make payroll arrangements.

The salary shall be paid on the dates agreed between employers and laborers. In case of holidays or nonbusiness days, the salary shall be paid on the last working day in advance. The remuneration shall be paid at least once a month; in case of the salary systems of a week, a day or an hour, the remuneration may be paid every week, day or hour respectively.

5. Banking requirements related to payroll

Banking of salary and wages
Payroll payments can be paid by one or a combination of:
- Cash
- Cheque, money order or postal order, payable to the employee
- EFT or bank transfer

If paying wages by cash, the employer and employee should sign a record to confirm the amount of money that has been paid for each payment period.

Foreign exchange control
There is a foreign exchange control in China. If the employer or employee needs to remit foreign currencies exchanged outside of China, they may require special approval from the bank.

6. Immigration requirements

All foreign nationals (with the exception of citizens from Hong Kong and Macao traveling for less than three months in one calendar year) visiting Mainland China will require a visa appropriate to their purpose of entry in order to travel to China. Visas must be obtained prior to travel. Foreign nationals taking up employment in China require a work permit. A work permit must be sponsored by a Chinese entity for a nominated occupation, and skill, work experience and health criteria apply. Work permit applicants and their dependents will also require the appropriate entry visa permission for entry into China and an associated foreigner’s residence permit for the duration of stay. Work permits and foreigner residence permits are typically issued for periods of one year, and are renewable, subject to certain conditions including age, assignment period and nature of the sponsoring company. Application requirements and processes for work permits, and foreigner residence permits can vary significantly from region to region in China.
Doing business in Hong Kong
Registration requirements

The related authorities which are responsible for registration of a business established in Hong Kong are:

1. **Companies Registry (CR)**
   - The CR is responsible for registration of all documents submitted for incorporation of companies in Hong Kong. A certificate of incorporation with a company number will be provided after successful application. The CR is also responsible for registration of non-Hong Kong companies which have established a place of business in Hong Kong. A Certificate of Registration with a registration number will be provided after successful application.

2. **Business Registration Office (BRO)**
   - The BRO of the Inland Revenue Department (IRD) is responsible for registering a business carried on in Hong Kong. A Business Registration Certificate (BRC) with the business name, business nature and business address will be issued after successful application. The BRC has to be displayed at a conspicuous place at an address where the business is carried on.
   - Certain businesses or activities (such as banks, insurance companies, regulated activities under the Securities and Futures Ordinance, travel agencies and restaurants) would require separate licenses from the relevant authorities in order to operate in Hong Kong.

Choice of vehicle

Below are the popular corporate registration vehicles for foreign companies to invest in Hong Kong:

1. **Private company limited by shares (subsidiary company)**
   - The subsidiary company is the most common type of vehicle for setting up a business in Hong Kong. It provides the simplest and fastest way for company formation. The minimum number of director and member is one. There is no limitation on the nationality of directors and members. Both corporations and individuals can act as members of a Hong Kong company.
   
   Under the Companies Ordinance, which has been effective since 3 March 2014, at least one natural person must be appointed as a director of a private limited company. A public company, a private company within a listed group and a company limited by guarantee must not have corporate directors.

   A Hong Kong-registered office address and a Hong Kong company secretary are required on incorporation. For a private limited company, the number of its members is limited to 50. The minimum number of issued share is one. There are restrictions for a private company to transfer its shares and issue shares to the public.

   The “par value” regime of shares has been abolished since 3 March 2014. A company can decide the value of each share and the currency of its shares.

   **Legal status:** A subsidiary company is regarded as a separate legal entity with limited liability and has its own identity for tax and legal purposes.

   **Registration process:** The incorporation of a new company can normally be completed in one to four working days, depending on the mode of application.

2. **Registered non-Hong Kong company (branch office)**
   - A foreign company can choose to register its company in Hong Kong as a non-Hong Kong company under Part 16 of the Companies Ordinance.

   **Legal status**: A branch office does not have limited liability and is not recognized as having a separate legal identity from its foreign head office.

   **Registration process**: The registration process for a non-Hong Kong company is more complex and sometimes time-consuming, as the foreign company’s supporting documents are required to be submitted to the CR for registration. The documents have to be in English or Chinese, or translated into English or Chinese for registration. The registration process normally requires 14 working days.
Compliance and reporting

1. Corporate secretarial

1.1 Subsidiary company

Governance: There are statutory and fiduciary responsibilities that a director needs to take care of. Failing to comply with the director’s duties may make them liable to civil or criminal proceedings and may disqualify them from being the director.

Annual compliance: Filing of annual return and renewing of BRC with government fees annually.

Annual general meeting (AGM): A company must hold an AGM in respect of each financial year of the company, unless it has fulfilled certain conditions to dispense with such requirement.

1.2 Branch office

Governance: The Companies Ordinance requires a non-Hong Kong company to appoint an authorized representative to act on behalf of the company. The authorized representative must be a permanent resident of Hong Kong.

Annual compliance: A registered non-Hong Kong company has to file an annual return with the CR and renew the BRC with government fees every year.

2. Accounting and reporting

2.1 Subsidiary company

- A Hong Kong company is statutorily required under the Companies Ordinance to prepare audited financial statements, which must comply with the accounting standards stipulated by the Hong Kong Institute of Certified Public Accountants.
- The audited financial statements must be prepared annually, except those companies which have made the statutory declaration for dormancy within the terms of the Companies Ordinance.
- The audited financial statements are normally required to be submitted to the IRD for annual tax filing purposes together with the profits tax returns.

2.2 Branch office

Depending on the laws of the places of incorporation, a non-Hong Kong company, which is registered in Hong Kong, may be required to deliver to the CR annually a certified copy of its accounts.
3. Tax

Hong Kong’s simple tax system and low tax rates are welcomed by many foreign investors. The major Hong Kong tax issues to be considered in establishing an entity in Hong Kong are highlighted below. The information provided is general in nature and should not be relied upon as professional advice.

3.1 Profits tax

- Hong Kong adopts a territorial concept of taxation.
- Companies (including Hong Kong companies and non-Hong Kong companies) carrying on a trade, profession or business in Hong Kong are subject to profits tax on profits derived from Hong Kong. The current corporate profits tax rate is 16.5%.
- Tax losses incurred in a year can generally be carried forward indefinitely and set off against the profits of the company in subsequent years.
- Consolidated filing is not permitted. Hong Kong does not provide group relief for tax losses.
- Certain royalties received by a foreign entity that do not carry on a trade, profession or business in Hong Kong from a Hong Kong payer are liable to withholding tax in Hong Kong.

- Hong Kong does not impose withholding tax on dividends and interest received by a foreign entity from a Hong Kong payer.
- Capital gains are not taxable, and capital losses are not deductible for profits tax purposes.

3.2 Indirect tax

There are no goods and services tax or VAT in Hong Kong.

3.3 Customs or excise duties

Hong Kong is a free port and does not levy any customs tariff on imports and exports. Excise duties are levied only on liquor with an alcoholic strength of more than 30% by volume, tobacco, hydrocarbon oil and methyl alcohol.

Funding operations

There is no debt-to-equity ratio requirement or thin capitalization rule in Hong Kong. Companies can generally be funded by debt, equity or both. Hong Kong imposes no foreign exchange controls. Companies can freely fund its business by domestic or foreign debts.
1. Government requirements

Registration requirements

**Employees’ compensation insurance (ECI)**

It is compulsory for the employer to take up employees’ compensation insurance to cover the liabilities under the Employees’ Compensation Ordinance and also under the common law for the work injuries and occupational diseases that may be suffered by the employees under contract of service.

**Employer’s tax file number**

The new employer will be issued with an employer’s tax file number from the IRD. You may request this by writing to the IRD with your company’s certificate of incorporation, if not automatically issued by the IRD.

**New employees**

The employer will be required to file a Commencement Notification form IR56E to the IRD within three months of the employee’s start of employment.

Ongoing compliance requirements

**Employees’ compensation insurance (ECI)**

The employer should report to the commissioner for labor for any accident or occupational disease in the specified period on the basis of the level of injury and occupational disease.

**Employer’s filing obligation – annual reporting**

The employer is required to report the remuneration paid to the employees by submitting annual Employer’s Return (BIR56A and IR56B) within one month after the tax year-end to the IRD, and the following forms for their employees:

- Notification of Cessation of Employment form IR56F (on termination of service or death), no later than one month before cessation
- Departure notification form IR56G (on leaving Hong Kong for good or for a substantial period of time), no later than one month before departure and withhold money for tax clearance

2. Pension requirements

Registration requirements

The employer should enrol all employees in a Mandatory Provident Fund Scheme (MPF) no later than 60 days upon their first day of employment according to the Mandatory Provident Fund Scheme Ordinance (Cap 485). For new joiners, employee is eligible to 30-day contribution holiday and they should make their contribution together with the employer in the month when 60 days of employment is reached.

Ongoing compliance requirements

The employer and employee should make monthly MPF payments calculated at 5% of the employees’ relevant income subject to minimum and maximum capping on or before the contribution in each month (i.e., 10th day of the following month). With effect from 1 November 2013, the minimum relevant income level is HKD7,100 (applicable to the employee only) and the maximum relevant income level is HKD30,000.
3. Employment obligations

**Employment Ordinance**

According to Employment Ordinance, employer and employee should have signed an employment agreement listing out the conditions of the employment, including but not limited to wages (rate of wages, frequency, etc.), wage period, notice period for termination of employment and the details of end of year payment if eligible. Employer should always keep all wage and employment history of each employee in a period preceding 12 months during their employment. The related information should also be kept for 12 months after the employees’ last working day.

**Minimum wage**

Under Employment Ordinance, employees’ average wages in a wage period must not be less than statutory minimum wages, i.e., HK$32.5 per hour as of September 2016, regardless of whether or not employees are employed under continuous contract.

**Leave entitlement**

In addition to the minimum wages, the employers must provide at least the leave entitlement set out under the Employment Ordinance. All employees employed under continuous contract shall enjoy not less than one rest day for every seven working days and statutory holiday. The employees who have been employed for more than three months shall also enjoy the statutory holiday paid. The minimum requirements for annual leave are seven days paid annual leave per year. The annual leave shall increase one day per additional service year until the annual leave capping of 14 days is reached in the ninth service year.

Employees employed under continuous contract also have the right to accumulate two paid sickness days per month during the first 12 months of employment and four days per month thereafter to reach a maximum of 120 days of paid sick leave.

Pregnant employees, who are employed under continuous contract, shall enjoy 10 weeks maternity leave. The maternity leave shall also be paid if she has been employed under continuous contract for not less than 40 weeks before the commencement of maternity leave.

Male employees shall enjoy minimum of three days paid paternity leave if they have been employed under continuous contract for not less than 40 weeks before the first day of paternity leave.

4. Payroll requirements

**Payroll payments**

The employer should strictly follow the timing of payment set out in Employment Ordinance. The employer is required to make salary payment to the employee on the last day of each pay period or not later than seven days after the end of wage period. Wage period can be defined by employer and employee but is usually set as one month. For termination case, employer should settle all final payment (except severance payment) within seven days after the employee’s termination date.

**Statutory entitlement under Employment (Amendment) Ordinance 2007**

As set out in Employment (Amendment) Ordinance 2007, holiday pay, annual leave pay, sickness allowance, maternity leave pay, paternity leave pay, end of year payment and wages in lieu of notice should be calculated on the basis of the 12-month average wages preceding the day or the first day of the leave period of an employee.

5. Banking requirements related to payroll

**Banking**

No specific requirement on the mode of payment. Some MPF trustees may not accept overseas bank transfer and will require local Hong Kong bank transfer.

6. Immigration requirements

In general, eligible nationals may obtain a visa on arrival to Hong Kong (a special administration region of China) for limited periods if they are not engaging in their daily job duties or work activity in Hong Kong. Foreign nationals who are to perform services or work in Hong Kong must obtain an employment visa prior to commencing work in Hong Kong. An employment visa must be sponsored by a local Hong Kong entity and evidence that the position cannot be filled locally, and that remuneration is at market rate is required. Applicants must evidence relevant qualifications and experience for the nominated position. Employment visas may be issued for periods of up to two years and may be renewed subject to all criteria being met. Family members can also accompany the applicants via dependent visas. Specific categories also exist for citizens of Mainland China.
Doing business in Indonesia
Corporate — Global Compliance and Reporting requirements

Registration requirements

Foreign investments into Indonesia must register their investment plans, e.g., name of the proposed company, shareholders and their respective percentage ownership, share capital, estimated sales turnover with the Investment Coordinating Board or Badan Koordinasi Penanaman Modal (BKPM). The necessary supporting documents of foreign investors, such as articles of incorporation are part of the application submission.

Choice of vehicle

Limited liability companies are known as Perseroan Terbatas (PT). They are legal entities capitalized with a defined number of shares.

Foreign investment may be in the form of JVs with Indonesian partners or as wholly foreign-owned companies. Companies containing foreign investors are known as foreign investment (PMA) companies.

Compliance and reporting

1. Corporate secretarial

A PT PMA must file an investment realization report, either quarterly prior to commercial operation or by semester after commercial operation.

The company's board of directors shall submit an annual report to the General Shareholders' Meeting (GSM) at the latest, six months after the financial year-ends.

The GSM consists of annual GSM and other GSM, which is conducted at any time on the basis of need for the company's interests.

2. Accounting and reporting

The law on companies and the tax law both require that records be kept for 10 years. Financial records should be maintained in Bahasa Indonesia and the rupiah currency. For tax purposes, approval from the Ministry of Finance (MoF) can be requested for the use of English language and US dollar currency for record-keeping purposes of certain qualifying entities prescribed in the tax regulation.

Financial statements of certain entities, including foreign investment companies, are subjected to statutory annual audit by a certified public accountant in Indonesia.

The Generally Accepted Accounting Principles (GAAP) in Indonesia are referred to as Pernyataan Standar Akuntansi Keuangan (PSAK). The PSAKs are promulgated and issued by the regulatory body of accountants in Indonesia, i.e., the Indonesian Institute of Accountants, known as Ikatan Akuntan Indonesia (IAI). The Financial Service Authority in Indonesia or Otoritas Jasa Keuangan (OJK) promulgates and issues regulations and rules on the accounting treatment for certain accounts and transactions of public companies. In addition, OJK also issues industry-specific guidelines of financial statement disclosures for publicly listed companies, and the mutual fund, broker-dealer and securities industries.

The Indonesian GAAP has been primarily based on the adoption of International Accounting Standards together with some specific US Statements of Financial Accounting Standards. Currently, the IAI has adapted the existing PSAK to conform on a gradual basis to the International Financial Reporting Standards (IFRS). Under Indonesian law, both public and private companies must comply with these accounting standards (PSAK).

The standards-setting body in Indonesia, i.e., the Financial Accounting Standards Board of the IAI, is a full member of the International Federation of Accountants (IFAC).
3. Tax

3.1 Income tax

Indonesian taxpayers, including foreign investment companies, are subject to income tax on worldwide income. The foreign tax may be claimed as a tax credit subject to a limitation rule. Branches of foreign companies (permanent establishments) are taxed only on profits derived from activities carried on in Indonesia. However, the income accruing from Indonesia to a foreign company having a permanent establishment in Indonesia is taxed as the income of the permanent establishment if the business generating the income is of a similar nature to the business of the permanent establishment. This follows the “force of attraction” principle.

Corporations are generally taxed at a flat rate of 25%. This rate applies to Indonesian companies and permanent establishments. The tax rate is reduced by 5% for listed companies that have at least 40% of their paid-up capital traded on the stock exchange. Small- and medium-scale domestic companies (that is, companies having gross turnover of up to IDR50b) are entitled to a 50% reduction of the tax rate. The reduced rate applies to taxable income corresponding to gross turnover of up to IDR4.8b.

Certain taxpayers and income may be subject to different tax regimes, including, inter alia, small and medium enterprises (those having turnover less than IDR4.8b) and enterprises engaged in construction-related services, income lease of real properties and income from sale of real properties.

Corporate income tax (CIT) incentives are available for qualifying investments. The tax incentives include tax allowance and tax holiday. Tax allowance incentive covers investment allowance in the form of reduction of net income by 30% of the amount invested in land, buildings, plant and equipment; accelerated tax depreciation and amortization; and reduced cross-border dividend withholding tax rate. Tax holiday incentive offers corporate tax exemption for certain years. Both incentives require prior approvals from the minister of finance. Administration for these tax incentives are carried out together with other relevant government investment agencies (i.e., BKPM and the Ministry of Trade).

Profit repatriation of permanent establishments is subject to branch profit tax of 20% (subject to the applicable tax treaty relief).

3.2 Indirect tax

All businesses engaged in supplies of goods or services subject to VAT are required to register for VAT as “taxable entrepreneurs,” unless they qualify as “small entrepreneurs.” This requirement also applies to any Indonesian permanent establishment of a non-tax resident. In this term, small entrepreneurs cover those having gross annual turnover (from supplies of goods or services) of less than IDR4.8b.

The current VAT rates are 10% and 0%. The standard rate of 10% applies to all domestic supplies of taxable goods and services. Zero-rated (0%) VAT applies to export of taxable goods (tangible or intangible) and qualifying taxable services. A taxable person may recover input tax, which is VAT charged on taxable goods and taxable services supplied to it for business purposes, to the extent that costs corresponding to the input tax are for deliveries that are subject to VAT. A taxable person generally recovers input tax by deducting it from output tax, which is VAT charged on supplies made. If the input VAT exceeds output VAT due, this excess tax can be claimed as a refund.

Certain goods and services are non-taxable (not subject to VAT). These include mining or drilling products extracted from source; basic commodities for public necessities; food and beverages served in hotels, restaurants, food courts and such other places; and money, gold bars and valuable documents. Non-taxable services include, inter alia, medical health services, social services, mail services with stamps (postal services), financial services, insurance services, public transport on land or water and hotels. The VAT exemption may apply on deliveries of certain taxable goods or services, as well as on deliveries or importation of goods that fall under the category of “strategic
goods.” Certain enterprises having bonded zone licenses are entitled for non-collection of VAT on local or import of purchases of goods to be processed for production of taxable goods for exports.

The Indonesian Free Trade Zone (FTZ) regimes provide VAT exemption for deliveries of goods or services within the FTZ and the non-collection of VAT for the delivery of taxable goods or services to the FTZ. The areas that have been confirmed as FTZs are Batam Island, Sabang Island, Bintan Island and Karimun Island.

In addition to the VAT, sales tax on luxury goods (STLG) is imposed on certain goods qualifying as luxury goods under the regulation, upon import or upon delivery by manufacturers. The rates of STLG range from 10% to 125%.

3.3 Customs

Importation of goods into Indonesia must be cleared through customs. Importers are required to pay customs duty with tariff mostly ranging from 0% to 40% (some goods may have higher tariff), VAT of 10% and advance payment of income tax of 2.5%, 7.5% or 10%. STLG may apply as applicable. The import administration process takes place in the Customs Office at the port of discharge for declaration of goods being imported, supported with relevant import documents, such as invoice, packing list, bill of lading and the name of the importer of record.

Indonesia has several free trade agreements with other countries, such as ASEAN Trade in Goods Agreement (ATIGA), ASEAN-China Free Trade Area (FTA), ASEAN-Korea FTA, ASEAN-India FTA, ASEAN-Australia-New Zealand FTA, Indonesia-Japan Economic Partnership Agreement and Indonesia-Pakistan Preferential Trade Agreement. Customs duty rates under the agreements are only valid for imported goods bearing relevant certificate of origin.

3.4 Withholding tax

Indonesian taxpayers and permanent establishments are required to deduct withholding tax on certain payments of dividend, interest, royalties and services to individuals and corporations, for either Indonesian tax residents or non-tax residents. The list of items subject to domestic withholding tax and the rates are exhaustive, with the rates ranging from 2% to 20%, depending on the income. Income earned by non-tax residents are subject to deduction of withholding tax at a statutory rate of 20%, subject to the applicable tax treaty relief.

Funding operations

At least 25% of the authorized capital must come from equity. The balance can be funded by loan, which must be realized when the company commences commercial operations.

There is no exchange controls on remittance outside Indonesia. Remittance of funds of US$10,000 or more must be notified by the remitting bank to the Bank Indonesia. Foreign loans must be reported to the Bank Indonesia to enhance the monitoring of the country’s foreign exchange reserves.

Foreign investment considerations

The BKPM has set a minimum capital investment requirement, as below:

1. Investment value must be above than IDR10b (or its US dollar equivalent).
2. The issued and paid up must be at least IDR2.5b (or its US dollar equivalent).
3. Equity shares must be at least IDR10m (or its US dollar equivalent).
People — payroll and immigration requirements

1. Government requirements

Registration requirements

Tax registration and payroll tax withholding: Companies with employees will have payroll tax withholding obligation on the taxable remuneration provided to the employee. For the remittance and the reporting of the tax withheld, the company would need to have a Tax Identification Number (TIN) number. Obtaining this TIN is one of the requirements for setting up a company. There is no specific tax ID number for payroll tax withholding purposes only.

Company registration for social security: Companies that employ people are required to enroll the employee in Indonesia’s social security program called BPJS. To be able to enroll the employee, the company must register first with the BPJS. There are two BPJSs, i.e., BPJS Kesehatan (BPJS-health care) and BPJS Ketenagakerjaan (BPJS-worker). The company must register with these two BPJS offices. There is a form to be completed and signed by the company’s officer. The following documents need to be attached to the registration form: company’s notarial deed, company’s tax ID card and statement of company’s domicile.

Ongoing compliance requirements

Monthly payroll tax (Income Tax Article 21 withholding): A company, as employer, has payroll tax obligation on a monthly basis. The company is required by law to calculate the tax payable on taxable remuneration provided to its employee and other taxable individuals, withhold the tax payable, remit the tax withheld to the State Treasury, and then report the tax withheld on the monthly payroll tax return to the tax office. The form for filing tax return is Form 1721. The remittance is due by the 10th of the following month and the filing is due by the 20th. The tax rates for tax residents are at the progressive rates of 5%-30% and for nonresidents, it is a flat rate of 20%. There is no different tax treatment for local national and expatriate employees. The key is whether the individual is considered as resident or nonresident. There is no annual payroll tax reporting. The December monthly reporting served as annual calculation as the reporting would include the total income during the respective calendar year.

Social security (BPJS obligation): After the company has registered and enrolled its employees in the BPJS program, the company would need to remit and report the total contribution (of employer and employee contributions) to the nominated bank for BPJS contribution payment purposes. The payment of BPJS health care is due by the 10th of the month; the payment of BPJS-Worker is due by the 15th of the following month.

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2. Pension requirements

Registration requirements

There is no separate pension registration required. The BPJS-Worker program has covered the pension program. Nonetheless, there are companies which also set up other pension programs for their employees in addition to the mandatory BPJS-Worker program.

Ongoing compliance requirements

Indonesia social security

There is a social security program which is called BPJS in Indonesia. On the basis of the current regulation, it is mandatory for expatriate employees to participate in this program if they work in Indonesia for more than six months.

There are two types: health care or BPJS Kesehatan and Worker social security or BPJS Ketenagakerjaan.

The regulation states that BPJS contributions are made and calculated on the basis of certain percentage of the employee’s wages. Currently, “the employee's wages” is interpreted as regular income, i.e., salary payments and other fixed monthly allowances so that irregular income, such as bonus or stock option income, are not commonly included as the basis for BPJS contribution.

The following table illustrates the percentage of contribution amount.

<table>
<thead>
<tr>
<th>Program</th>
<th>Contribution amount (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social worker benefits (BPJS Ketenagakerjaan)</td>
<td></td>
</tr>
<tr>
<td>Occupational accident benefit (JKK)</td>
<td>0.24 to 1.74</td>
</tr>
<tr>
<td>Death benefits (JKM)</td>
<td>0.3</td>
</tr>
<tr>
<td>Old-age pension (JHT)</td>
<td>3.7</td>
</tr>
<tr>
<td>Pension contribution (JP) (Expatriates not mandatory for this program)</td>
<td>2.0</td>
</tr>
<tr>
<td>From April 2016 onward</td>
<td>4.0</td>
</tr>
</tbody>
</table>

Health care benefits (BPJS Kesehatan)

<table>
<thead>
<tr>
<th>Program</th>
<th>Contribution amount (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>From April 2016 onward</td>
<td></td>
</tr>
</tbody>
</table>

Minimum wages: There is a minimum wage requirement, which varies on the basis of the local government regulations.

Differential treatment for permanent staff or contracted staff: Contract employment is only allowed for certain type of work for a maximum period of three years. There is no probation period for contract employees. If the contract is terminated before the contract period ends, the employer must pay the salary for the full-agreed contract period. With regard to leave and benefits entitlement for contract employee, it would depend on the contract. It could be the same as permanent employees.

4. Payroll requirements

Payroll requirement: There is no specific regulation related to the payment frequency. It would depend on the company policy or as per employment contract.

Payslip: There is no requirement for the company to issue payslip to each employee. However, it is a general and good practice that the company issues a payslip or makes it available whenever the employee requests for such slip.

Payment from parent company: Payment remaining with the parent company is possible, but it should be properly arranged and certain document should be in place to avoid unnecessary tax exposure.

5. Banking requirements related to payroll

Payment in Indonesian rupiah (IDR): The salary payment made by the company to its employee, including to expatriate employee, must be in Indonesian rupiah.

Foreign currency: The foreign exchange from Indonesian rupiah to US dollar is a maximum of US$25,000 per month per customer if there are no underlying transactions. However, if there are underlying transactions, such as repayment of loan, paying school or medical fee outside Indonesia, such limitation does not apply.

6. Immigration requirements

In general, foreign nationals traveling to Indonesia to conduct non-working business activities must obtain a visit visa (Index 211 or 212). Depending on nationality, a foreign national may be eligible to obtain a Visit Visa through an Indonesian embassy, consulate or upon arrival in Indonesia (Visit Visa on Arrival – Index 213). Work activities regardless of duration, require a work permit for which the Indonesian employing entity is required to obtain a raft of permits. These include the submission of a Foreign Manpower Utilization Plan and payment of the Foreign Manpower Utilization Compensation Fund Levy (in the amount of US$100 per month for each foreign person employed and further applying for a Limited Stay Visa (Index 312). Once authorized to sponsor work permits for approved nominated positions, work permit applicants must meet skill, work experience and health threshold criteria. Work permit applicants and their dependents will also require the appropriate entry visa permission for entry into Indonesia, and obtain the long stay visa for the duration of stay. Additional exit and re-entry permit permissions, local registration, police clearances, and travel permissions also apply and vary dependent on the region of Indonesia. Work permit and long stay visas are issued for 12-month validity, and are renewable up to a five-year duration subject to meeting all requirements.
Doing business in Japan
Doing business in Japan

Corporate – Global Compliance and Reporting requirements

Registration requirements
A foreign company which engages in any commercial transactions in Japan needs to register its businesses with the Legal Affairs Bureau. The type of registration varies depending on the type of vehicle to be established in Japan.

Choice of vehicle

1. Company
There are two major types of limited liability companies in Japan. The first is a joint stock company (known as kabushiki kaisha (KK) in Japanese) and the other is a limited liability company (known as godo kaisha (GK) in Japanese). A KK is the most widely used form of business in Japan. It may have a large number of shareholders whose liabilities are limited to the extent of the capital invested. A GK is a new type of corporate entity, which was introduced under the Companies Act effective on 1 May 2006. Although a GK has many attributes similar to those of a KK, the incorporation procedures and requirements for operation of the entity are much simpler. As of 16 March 2015, a KK or GK is no longer required to have at least one representative director who is a Japanese resident. It normally takes one month to establish a KK or GK in Japan.

2. Branch
A branch is considered as a part of a foreign company. Accordingly, if the branch conducts business activities in Japan, the branch representative and the foreign company will be jointly responsible for the transactions. Unlike a KK or GK, at least one branch representative must be a Japanese resident. It normally takes one month to establish a branch in Japan.

Compliance and reporting

1. Corporate secretarial

1.1 KK
A KK needs to hold an annual general meeting of shareholders. If a KK has a board of directors, a board meeting must be held in every three months.

A KK must give public notice of its balance sheet (or, as the case may be, its balance sheet and profit and loss statement) or a summary thereof without delay after conclusion of the annual shareholders meeting.

1.2 GK
Unlike a KK, a GK does not need to hold an annual meeting or board meeting, or give public notice of its balance sheet.

1.3 Branch
A branch must give public notice of its balance sheet or a summary thereof without delay after conclusion of the annual shareholders meeting or the like of the foreign company.

2. Accounting and reporting

2.1 KK
• Large companies (KK), i.e., companies whose paid-in capital is JPY500m or more, or whose total liabilities are JPY20b or more, are statutorily required under the Companies Act to prepare independently audited financial statements, which must comply with the accounting standards on the basis of Japanese GAAP.
• The financial statements of Japanese companies (KK) other than large companies are required to be audited by a corporate auditor only and compliance with the accounting standards on the basis of Japanese GAAP is suggested.

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2.2 GK
A GK is not required to lodge audited financial statements, but must submit its financial statements annually with its corporate income tax (CIT) returns.

2.3 Branch
A branch is not required to lodge audited financial statements, but must submit its financial statements annually with its CIT returns.

3. Tax
3.1 Income taxes
Japanese domestic companies are subject to CIT on their worldwide income, but nonresident companies are subject to CIT only on Japan-source income. Japan does not use the “central management and control” criteria for determining the residence of a company.

The standard CIT rate for tax years starting on or after 1 April 2016 is 23.4%. For companies whose paid-in capital is JPY100m or less, the CIT rate of 19% applies to the first JPY8m of taxable income. The CIT rate of 19% is reduced to 15% for tax years beginning on or before 31 March 2019. In addition to CIT, local income taxes, which are comprised of local inhabitants tax and enterprise tax, are imposed on corporate income. The resulting effective CIT (inclusive of local income taxes) rate for companies subject to the 23.4% rate is approximately 34%.

Under business scale taxation for companies whose paid-in capital is more than JPY100m, the effective CIT rate is reduced to approximately 30%. For tax years starting on or after 1 April 2018, the CIT rate will be reduced to 23.2%.

In general, for Japanese corporate tax purposes, capital gains are not taxed separately. Such gains are treated as ordinary income to which standard tax rates apply. Transferor companies in qualified reorganizations may defer the recognition of capital gains and losses arising in such transactions. Mergers, corporate spin-offs, share exchanges and contributions in kind are considered qualified reorganizations if they satisfy certain conditions.

A Japanese company may be entitled to claim a foreign tax credit against both Japanese CIT and local inhabitants tax.

Net operating losses (NOL) of certain companies may be carried forward for nine years. The deductible amount for tax years starting on or after 1 April 2016 is limited to 60% of taxable income. The carry forward period is extended from 9 years to 10 years for tax years starting on or after 1 April 2017. The maximum deductible amount will be lowered in stages: for tax years starting on or after 1 April 2017, deduction is limited to 55% of taxable income and for tax years starting on or after 1 April 2018, the deduction is limited to 50%.

3.2 Indirect taxes
Japan currently has a consumption tax of 8% imposed on goods and services supplied in Japan by a taxable person and cross-border digital services provided by overseas businesses to the Japanese market on or after 1 October 2015 as well as on import of goods into Japan. A “taxable person” is any business entity or individual that makes taxable sales of goods or services in the course of doing business in Japan.

Under the small business exemption, enterprises with the taxable sales not exceeding JPY10m in both the base period, which is two years prior to the current business year, and in the specified period, which is the first six months of the preceding business year, are exempt from consumption tax for the business year. For the specified period, the total amount of domestic salaries paid can be used in determining whether or not the enterprise is taxable, instead of the amount of taxable sales.

With respect to the provision of B-to-B digital services, a reverse charge mechanism will be implemented, shifting the obligation of paying consumption tax to the business receiving the B-to-B digital service if they satisfy certain conditions. Input tax credits will not be available for businesses receiving B-to-C digital services as a general rule.
However, input tax credits may be available for businesses receiving B-to-C digital services which are provided by a registered overseas business. Overseas businesses that perform B-to-C digital services and fulfill certain requirements can become registered overseas businesses.

The consumption tax rate will increase from 8% to 10% on 1 October 2019.

3.3 Customs

A customs duty and import consumption tax of 8% is imposed on the importation of goods to Japan. The duty rates remain relatively high on certain agricultural, leather, textile and chemical goods, while most industrial goods (e.g., vehicles, machinery and electronics) are duty free. For qualifying imports, preferential duty rates may be available through the use of Generalized System of Preferences (GSP) and Economic Partnership Agreements (EPAs) (15 EPAs are currently in force). A duty suspension or drawback may also be available for certain temporary imports and goods imported for specified uses.

The correct customs value must be declared in the import declaration, even for duty-free goods. Generally, the customs value is the transaction value of the imported goods plus any statutory additions (e.g., royalty or materials provided for free), to the extent that such additions are not already included in the value of the goods. It should be highlighted that Japan Customs often scrutinizes the value declared in related-party transactions, so it is advisable that the importer has documentation to demonstrate the appropriateness of the value being declared. It should also be noted that certain goods, such as pharmaceutical, chemical and cosmetic goods may require licensing prior to importation.

Funding operations

Thin capitalization rules limit the deduction for interest expense for companies with foreign related-party debt if the debt-to-equity ratio exceeds 3:1.

Foreign investment consideration

Company

A parent company must file a report of share acquisition to the Bank of Japan no later than the 15th day of the month, following the month in which the KK or GK is established. In limited cases, prior notification is required.

Branch

Except for limited cases where prior notification is required, no report to the Bank of Japan is required.
1. Government requirements

Registration requirements

Tax notifications required when establishing a company

When establishing a company, the following notifications related to payroll calculations must be filed with the tax authorities.

1. Tax office
   - An application for Approval of Special Timing of Withholding Tax Payment needs to be submitted by the last day of the month before the company intends to implement the special withholding timing. By filing this application, a company may pay withholding tax semiannually rather than on a monthly basis. This can only be applied if there are always less than 10 people receiving salaries (Income Tax Act 216, 217, 218).

2. Municipalities in which employees are resident
   - A notification of Transfer of Salaried Workers for Special Collection must be submitted promptly to the municipality where employees reside.

Social security notifications required when establishing a company

All offices of a company which continuously employ workers must subscribe to social security. The following notifications must be submitted when an employee joins the company:

1. Labor Standards Inspection Office
   - A report stating that the employer established a business to which the Labor Standards Law applies must be promptly submitted (Labor Standards Act 104-2 and Labor Standards Act Enforcement Ordinance 57).
   - Employers who employ 10 or more employees must prepare and submit rules of employment to the Labor Standard Inspection Office (Labor Standards Act 89).
   - The Notification of Establishment of Labor Insurance Relation must be submitted within 10 days from the first date a worker joins the company.
   - A Labor Insurance Estimated Premiums Declaration must be submitted within 50 days from the first date the worker joins the company (continued business).

2. Public Employment Security Office
   - A Notification of Establishment of a Covered Enterprise must be submitted within 10 days of the first eligible worker joining the company. A Notification of Insured Persons for Employment Insurance must also be submitted.

3. Pension office and Japan Health Insurance Association (health insurance society)
   - A Notification of New Application of employees’ health Insurance and Employee Pension Insurance must be submitted within five days of establishment. A notification of Insurance Persons for Employee Health Insurance and Employee Pension Insurance must also be submitted.

Ongoing compliance requirements

Withholding income tax

Income tax is assessed on the income earned by an individual in a calendar year (from 1 January to 31 December). Certain types of income are subject to withholding tax. A company that remits a salary to a resident employee must withhold and pay withheld amounts to the tax authorities by the 10th of the month following payment (Income Tax Act 183). In December, a year-end adjustment is made to adjust for any excess or deficit in payment.

Inhabitants tax

Inhabitants tax for individuals is assessed on income earned between January and December of the previous year. The municipality calculates the tax payment amount, which is payable in installments. In May, the municipality sends a payment notification to the company. In accordance with the payment notification, the company deducts the inhabitants tax every
month from salaries and pays it to the municipality where the employee resides by the 10th of the following month (Local Tax Act 321-3, 4, 5).

**Salary or severance allowance payment statement**

When paying salaries or severance allowances to employees in Japan, the company must prepare two copies of the annual income and withholding tax forms for each employee, and submit one copy to the tax office by the 31 January of the following year; the employee retains the other copy (Income Tax Act 226).

**Issuing a certificate of annual income and withholding taxes**

1. When paying salaries to employees in Japan, the company must prepare two copies of the annual income and withholding tax forms for each employee, and submit one copy to the tax office by the 31st of the following month (Local Tax Act 321). The company pays the insurance premiums received from employees and inhabitants tax in the same way as monetary benefits (Income Tax Act 9).

2. When making a severance payment in Japan to employees, the company must prepare two withholding tax slips for each employee and submit one to the tax office within one month of the employee leaving the company and one to the employee (Income Tax Act 226).

**Declaration of exemption for dependents**

If a salaried employee intends to apply the lower tax rate (Ko-ran) and take a deduction, such as a spousal, dependent or disability deduction, the employee must submit a declaration of intent to the company with the required items indicated before the day of receiving the first salary of the year. The company must keep this and submit it when requested by the tax office or municipalities (Income Tax Act 194).

**Implementing the year-end adjustment**

The company must make a year-end adjustment on the last salary payment of the year for employees who submitted a dependents deduction declaration and whose salary for the year is JPY20m or less. If there is any excess or deficit of withholding tax, it is adjusted (Income Tax Act 190).

**Submission of declaration for year-end adjustment special deductions**

Employees who take a spousal, dependents or housing loan deduction must submit a declaration of intent (Income Tax Act 195-2, 196; Special Taxation Measures Act 41, etc.).

**Other**

1. Certain allowances paid to employees are not subject to tax, such as travel, commuter and education expenses (Income Tax Act 9).

2. Economic benefits provided to employees are subject to income tax and inhabitants tax in the same way as monetary benefits (Income Tax Act 36).

3. The salary paid irregularly is treated as a bonus and the withholding tax is calculated at a different rate to salaries.

**2. Pension requirements**

**Registration requirements**

**Subscribing to social security**

1. **Health insurance, nursing care insurance and employee pension**

   Employees who fulfill certain requirements must subscribe to employee health insurance, nursing care insurance (employees over 40 years old) and the employee pension plan.

   Example of requirements: The full-time employees are required to enroll in employer-provided health, nursing care and employee pension plans (together, Care Plans). The part-time employees are required to join employer Care Plans where, in principle, the part-time employee’s working hours per week and working days per month are at least 75% of those of full-time employees (Health Insurance Law Long-Term Care Insurance Law, and Employees’ Pension Law).

2. **Employment insurance**

   Employees who fulfill certain requirements must enroll in employment insurance.

   Examples of requirements: Workers are expected to be employed continuously for at least 31 days or work more than 20 hours of work per week (Employment Insurance Act).

3. **Workers’ compensation insurance**

   Workers employed by a labor insurance-covered office must generally be insured for workers’ compensation (Industrial Accident Compensation Insurance Act).

**Documents for submission when a new employee joins a company**

When an employee joins a company, the following documents must be submitted for the calculation of salaries.

1. **Public Employment Security Office**

   - A notification of Insured Person for Employment Insurance must be submitted within 10 days of the employee joining the company.

2. **Pension Office and Japan Health Insurance Association (health insurance society)**

   - A notification of Insured Person for Employee Health Insurance and Employee Pension Plan with certain attachments must be submitted within five days of the employee joining.

**Ongoing compliance requirements**

**Employee pension and health insurance standard compensation**

When an employee joins a company, the company must conduct procedures for them to subscribe to the employee pension plan and health insurance. The standard monthly compensation amount which forms the basis of social security premiums is determined according to compensation on joining the company, provided there is no significant change subsequently. Social security premiums are deducted from the monthly salary for one year on the basis of the same standard monthly compensation amount.

**Employee pension and health insurance changes**

If there is a significant change in fixed wages, companies must report the compensation for the three months from the change and change the standard monthly compensation amount.

**Employee pension and health insurance regular revisions**

It is necessary to submit a calculation-basis notification for insured persons by 10 July each year. In the calculation-basis notification, the standard monthly compensation amount is calculated on the basis of the average compensation amount from April to June; a new standard monthly compensation amount is applied from September’s insurance premiums.

**Payment of employee pension and health insurance**

The company pays the insurance premiums received from employees plus the company's own portion to the pension office by the end of each month.

**Employment insurance**

When paying compensation each month, the company deducts employment insurance calculated at a certain rate to be paid on behalf of the employee. The year for calculation of employment insurance is from 1 April to 31 March of the following year. Between 1 June and 10 July each year, the insurance premium amount is calculated on the basis of the total wages in the previous insurance year. The company declares and pays the insurance premiums received from employees together with the insurance premiums payable by the company.
Workers’ compensation insurance premiums

Employees do not pay premiums for accident insurance. The workers’ compensation calculation period is from 1 April to 31 March of the following year. Between 1 June and 10 July each year, the insurance premium amount is calculated on the basis of the total wages in the previous insurance year. The company declares and pays the insurance premiums payable by the company.

Social security premiums on bonuses

Social security premiums on bonuses are calculated separately from the insurance premiums on salaries. The company must submit a bonus payment notification to the pension office and the health insurance association.

3. Employment obligations

Employment law

There are many laws governing employment relationship. Among them, the Employment Contract Act (LCA) and the Labor Standards Act (LSA) are fundamental regulations. A serious violation of the LSA may result in criminal sanctions.

Governing authority

The Ministry of Health, Labor and Welfare is the main governing authority of employment laws. Within the ministry, the Prefectural Labor Bureaus fulfills the duties of regionally based general labor administration agencies. Also, the Labor Standards Inspection Offices provide supervisory oversight to ensure that companies fully comply with LSA working condition regulations and standards.

Minimum wages

Wages to be paid for normal working hours must meet or exceed the minimum wage requirements provided under the Minimum Wages Act.

Minimum wages mean either one of the following:
1. The minimum wages stipulated by each region
2. The minimum wages stipulated by each industry

Working hours and rest time

In principle, under the LSA, working hours shall not exceed eight hours per day and 40 hours per week, excluding rest time. An employer shall provide workers with at least 45 minutes of rest time during working hours when working hours exceed six hours, and at least one hour of rest time when working hours exceed eight hours. In order for an employer to have workers work overtime, the employer is required to do the following:

1. Enter into a labor management agreement with the workers’ representative and file the same with the relevant Labor Standards Inspection Office
2. Pay statutory increased wages for overtime work

Days off

An employer must provide workers with at least one day off per week. Alternatively, an employer may provide workers with four days off or more during a four-week period. In order for an employer to have workers work on such days off, the employer is required to enter into a labor-management agreement with the workers’ representative and file the same with the relevant Labor Standards Inspection Office, and pay statutory increased wages for work on days off.

Annual paid leave

The LSA provides minimum standards for workers’ annual paid leave. Under the LSA, annual paid leave accrues automatically if a worker has been employed continuously for at least six months and has reported to work on at least 80% of the total working days. The number of days of annual paid leave gradually increases according to the worker’s years of employment (from 10 days upon six months completion to 20 days upon completion of six years and six months). For part-time workers, pro rata number of days of annual paid leave must be granted.

Dismissal

Generally, there is no concept of “at will” employment in Japan where an employer may terminate the employment contracts of regular workers at any time without cause. Rather, it is generally very difficult for any employer in Japan to unilaterally terminate an employment contract. The default position is that a dismissal by an employer is deemed by law to be an abuse of the employer’s authority. It is therefore considered null and void if the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms.
Differential treatment for fixed-term or part-time workers

Under the LCA, if the working conditions of a fixed-term employment contract worker is different from those of a non-fixed-term contract, such a difference must not be unreasonable. Factors considered include the duties of the workers and the extent of responsibility accompanying the said duties, the extent of changes in the duties and work locations, and other circumstances. Similarly, the Act on Improvement of Employment Management for Part-Time Workers prohibits discriminatory treatment against part-time workers who undertake the same work as ordinary workers (typically full-time workers).

4. Payroll requirements

Basic rules for paying wages

1. Currency payment rule
   • No payment in kind: Wages must be paid in currency. Payment in kind is forbidden. However, if there are separate rules in law or labor agreements, payment other than currency may be permitted.
   • Remittance of wages to a savings account: With the employee’s consent, wages may be remitted by bank transfer and paid into savings or deposit account at a bank or other financial institution, or into a securities account under the employee’s name.

2. Full amount payment rule
   Wages must be paid in full without deductions. However, in the following cases, deductions may be made from wages:
   • Where there are separate stipulations in the law, such as withholding tax, social security and other deductions.
   • Where a labor-management agreement has been concluded for payments, such as expenses for company accommodation, payment for purchased items and others. In such a case, it is necessary to conclude an agreement with the employee representative.
   • When labor was not provided due to absence, late arrival or early departure, or when wages had been paid in advance

3. Once-a-month rule
   Wages must be paid at least once a month (twice a month or once a week is also possible).

4. Fixed payment date rule
   A wage payment date must be fixed and specified.

5. Direct payment rule
   • Wages must be paid directly to the employee.
   • Wages must not be paid via another person or to a representative of the employee.
   • Even for minors, a guardian cannot receive wages on behalf of the employee.

5. Banking requirements related to payroll

There is no particular law, but payment of taxes and social security premiums must be made via a Japanese financial institution (Bank of Japan revenue agency).

6. Immigration requirements

Eligible nationals (nationals of countries which have a reciprocal visa exemption agreement with Japan) may obtain a visa on arrival to Japan for limited periods if they do not receive any remuneration for the activities in Japan from either a host or home company. Foreign nationals who intend to engage in work or any activity for remuneration in Japan are required to obtain a working visa before entry. In order to obtain a work authorization in Japan, a Certificate of Eligibility must first be obtained from the Immigration Bureau under the appropriate category. The Certificate of Eligibility must be sponsored by an eligible Japanese entity and meet the threshold criteria associated with the applicable category. Once issued, the Certificate of Eligibility certifies that the visa applicant has met the criteria established for a certain status of residence in Japan and an application for the requisite work visa can be made at the Japanese Consulate or Embassy prior to travel to Japan.
Doing business in Korea
Registration requirements

A taxpayer who starts a business shall register the required particulars of each business place within 20 days from the business commencement date. The particulars may be registered before the business commencement date, if desired. The tax office having jurisdiction over the business place of the taxpayer shall issue a business registration certificate to the taxpayer.

Foreign investors wishing to establish a business in Korea should select a particular legal structure that will best suit their business from the following legal forms: subsidiary, branch and liaison office.

The key registration procedures vary slightly depending on the type of legal forms and can be summarized as follows:

1. **Subsidiary**
   - Procedures: Register with the commercial court and tax office, and designate a foreign exchange bank.
   - Average processing time: two months.

2. **Branch**
   - Procedures: Register with the commercial court and tax office, and designate a foreign exchange bank.
   - Average processing time: two months.

3. **Liaison office**
   - Procedures: Register with a tax office.
   - Average processing time: one week.

Choice of vehicle

When establishing a business in Korea, it is important to choose the most appropriate registration vehicle. The three most common types of corporate registration vehicles are:

1. **Korean incorporated subsidiary (subsidiary)**
   Established as a local company, a subsidiary has a closer relationship with the local business community and is eligible for incentives depending on the type of business under the Special Tax Treatment Law. The minimum capital requirement at establishment to be allowed as a foreign invested company is KRW100m.

2. **Registered foreign company (branch)**
   A branch is treated as a separate taxable entity and is able to operate as a revenue-generating entity. Sales and manufacturing activities are allowed. There is no minimum capital requirement at establishment. It may include operating funds from its head office. The tax incentives are not available for branches.

3. **Representative company (liaison office)**
   A liaison office, which is not a legal entity and is deemed a non-income generating entity, can only conduct preliminary or auxiliary activities, such as marketing and supporting for its head office. There is no minimum capital requirement at the establishment.

Compliance and reporting

1. **Corporate secretarial**
   
   **Subsidiary company:** Every year a subsidiary is required to hold an annual meeting of the directors in order to approve the financial statements. Also, a subsidiary is required to hold a general meeting of shareholders annually.

   **Branch office:** A branch, which does not have its own board of directors, must appoint a representative who will be responsible for maintaining compliance with relevant legislation.
Liaison office: A liaison office, which does not have its own board of directors, must appoint a local agent who will be responsible for maintaining compliance with relevant legislation.

2. Accounting and reporting

Subsidiary company: A subsidiary is generally required to have its financial statements externally audited and report the statutory accounts annually along with a corporate income tax (CIT) return to the Korean tax authority (National Tax Service (NTS)).

A stock company (chusik hoesa) with total assets equal to or greater than KRW12b as of the end of the preceding fiscal year is required to have an external auditor audit the financial statements.

Branch office: A branch office is not required to have its financial statements externally audited, but it has to submit the financial statements annually together with the CIT returns to NTS.

Liaison office: A liaison office is required neither to file a CIT return nor to submit a financial statement to NTS.

3. Tax

We have highlighted some of the key Korean tax issues in this guidance note. The information provided is general in nature and should not be relied upon as professional advice.

3.1 Income tax

Tax rates: The basic Korean CIT rates are 10% on the first KRW200m of taxable income, 20% on the portion exceeding KRW200m and up to KRW20b, and 22% on the portion exceeding KRW20b. A local income tax (formerly referred to as resident surtax) is also assessed at the rate of 10% of the corporate tax payable before offsetting tax credits and exemptions.

Repatriation of profits: Profits from a Korean subsidiary remitted to its offshore holding company as dividends will be subject to the withholding tax. There is no withholding tax liability on the after-tax profits remitted from a branch office, but a branch office tax would be assessed if the foreign corporation is a resident in a country that has entered into a tax treaty with Korea which requires the imposition of a branch profits tax.

Tax losses: A net operating loss (NOL) for tax purposes arising in fiscal years commencing after 31 December 2008 can be carried forward for 10 years (NOLs arising in prior fiscal years were subject to a five-year carry-forward period).

3.2 Indirect tax

VAT: Korea currently has a 10% VAT standard rate applied to the supply price of most goods and services provided within Korea, as well as to that of imported goods.

Preliminary returns: A business is required to file preliminary returns for the first and third quarters of the year, which ends in March and September, respectively. These preliminary returns must indicate the tax base and the tax amount payable or refundable. The preliminary return must be filed within 25 days following the last day of each preliminary return period. A trader must pay the tax amount payable for the preliminary return period when the return is filed.

Final returns: A business must file a final return for the quarters which end in June and December for the second and fourth quarters of the year, respectively. The final return must be filed within 25 days following the end of the tax period. A trader must pay the tax amount payable for the final return period at the time of filing the return.

Zero-rate VAT: Generally the following goods and services are subject to the zero-rate VAT:

- Goods for exportation
- Services rendered outside the Republic of Korea
- Supply of goods or services prescribed in Korean tax law to acquire foreign currencies
3.4 Payroll withholding tax

**Payroll**: A monthly withholding tax return on salary income must be filed with the district tax office by the 10th day of the following month and the taxes withheld must be paid to either the district tax office or a bank designated as a national treasury agent.

**Year-end payroll settlement**: Income taxes withheld during the year will be adjusted through the year-end payroll withholding tax return which should be filed to the district tax office by 10 March of the following year.

**Social security insurance**: There are four types of social security programs in which enrollment is required:
- National Pension
- National Health Insurance
- Unemployment Insurance
- Worker’s Accident Insurance

**For foreigners**: Special treatment or exemption may be offered in income tax and social security insurance obligations. As required, certain documentation should be submitted to the related government organizations.

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**Funding operations**

As part of establishing business operations in Korea, it is crucial to consider how the business will be funded: by way of either debt or equity, or a combination of both.

**Debt vs. equity rules**: Appropriate classification of debt and equity instruments is important as returns paid on debt interest are tax deductible, while returns paid on equity interests are nondeductible.

**Thin capitalization rules**: In general, if a business borrows from its overseas controlling shareholders over twice the total equity amount, an interest expense paid on the portion of debt exceeding the 2:1 safe harbor debt-to-equity ratio is not viewed as a deductible expense for tax purposes and may be reclassified as a dividend (applicable to reduced withholding tax rate under tax treaty with Republic of Korea, if available).

**Foreign investment consideration**

**Government policy**: Tax incentives are available for qualified foreign investments in free trade zones, foreign investment zones and free economic zones.

**Business tax incentive**: The Tax Incentive Limitation Law (TILL) prescribes exemption or reduction in CIT returns.
People – payroll and immigration requirements

1. Government requirements

Registration requirements

Registration with tax office: As long as the entity is registered with the tax office for its establishment, no further registration for payroll is specifically required.

Registration with social security agencies: At the time of first hire, an employer is required to register with the social security agency for four kinds of social securities program, which are as follows:

- **National Pension Plan**
  
  Under the National Pension Law, a company with at least one employee will be required to join the National Pension Plan. The contribution of 9% of payroll will be shared equally (4.5% by the employer and 4.5% by the employee). The cap on the monthly salary income, which becomes the basis for the insurance premium, is KRW4,340,000.

- **National Medical Insurance Plan**
  
  1. **National Medical Insurance**:
     
     The contribution rate for National Medical Insurance is 6.12% (3.06% per employee and employer) and the insurance premiums are determined on the basis of the employee's taxable salary income. The cap on the monthly taxable salary income, which becomes the basis for the insurance premium, is KRW78.1m.
   
   2. **Medical Care Expense Insurance**:
     
     The contributing amount for Medical Care Expense Insurance is 6.55% of the National Medical Insurance and is shared equally by an employee and an employer.

- **Worker's Accident Compensation Plan**
  
  Under the Worker’s Accident Compensation Law, a company with at least one employee, including foreigners if their salaries are paid or borne by the Korean entity, is required to join the Worker’s Accident Compensation Plan and pay the premium on an annual basis. The premium is entirely borne by the employer and is deductible for corporate tax purposes. The premium rate ranges from 0.7% to 34% of an employee's salary depending on the type of industry.

- **Unemployment Insurance Plan**
  
  A company with at least one employee is required to make contributions to the Unemployment Insurance Plan. The following three types of premiums must be paid on an annual basis:

  - Unemployment insurance premium of 1.3% of an employee's salary, which is shared equally between the employer and the employee
  - Employment security and development premiums of 0.25% to 0.85% of an employee’s salary, which is borne entirely by the employer

Ongoing compliance requirements

A monthly withholding tax return (withholding of personal income taxes on the company’s payroll – payroll income from a local employer) must be filed with the district tax office by the 10th day of the following month and the taxes withheld must be paid to either the district tax office or a bank designated as a national treasury agent. In addition, a year-end payroll withholding tax return needs to be prepared to make necessary adjustments to the withholding taxes that were reported during the year.

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2. Pension requirements

Registration requirements

A national pension is filed or proceeded together with other social security requirements as part of four kinds of social security compliance (refer to section 1: Government requirements).

Ongoing compliance requirements

A national pension is filed or proceeded together with other social security requirements as part of four kinds of social security compliance (refer to section 1: Government requirements).

3. Employment obligations

An employer is required to comply with the Korean Labor Standards Act, which stipulates various requirements in hiring and maintaining its employees.

Details of obligations includes and are not limited to:

- A minimum of 15 days of leave per year
- A mandatory severance payment when exceeding one year of employment
- A minimum of one-month notice

4. Payroll requirements

Payroll requirements are also controlled by the Korean Labor Standards Act. No specific guidance for payslips or payment frequency, however, in general practice, payslips are released to employees and payment frequency is once per month.

5. Banking requirements related to payroll

There is no specific control process for payment; in overall practice, the payment would be proceeded as per the individual agreement through employment contract.

6. Immigration requirements

The eligible nationals (nationals of countries which have reciprocal visa exemption agreement with South Korea) may obtain a visa on arrival to South Korea for limited periods if they are not engaging in their daily job duties or work activity in South Korea. The foreign nationals who intend to engage in work or any activity for remuneration in South Korea are required to obtain the applicable working visa before entry. The most common long-term work visa includes D-7 Intra Company Transfer Visa, D-8 Corporate Investment Visa and E-7 Local Employment Visa. In order to obtain a work visa to South Korea, a Certificate of Confirmation of Visa Issuance must first be obtained from the Immigration Bureau under the appropriate category.

The Certificate of Confirmation of Visa Issuance must be sponsored by an eligible South Korean entity and meet the threshold criteria associated with the applicable category. Once issued, the Certificate of Confirmation of Visa Issuance certifies that the visa applicant has met the criteria established for a certain status of residence in South Korea and an application for the requisite work visa can be made at the South Korean Consulate or Embassy prior to travel to South Korea. Alien registration requirements also apply.
Doing business in Malaysia
In Malaysia, a business may be conducted:

- By an individual operating as a sole proprietor
- By one or not more than 50 persons in a private limited company (Sendirian Berhad)
- By two or more persons in a public limited company (Berhad)
- By two or more (but not more than 20) persons in partnership
- By two or more in a limited liability partnership (LLP)
- By a foreign company registered as a foreign company under the provisions of the Companies Act 2016

Sendirian Berhad and Berhad are the most common company status in Malaysia.

**Registration for incorporation requirements**

The Companies Act 2016 (CA 2016) stipulates that a person who desires to form a company shall apply for incorporation with the Companies Commission of Malaysia (CCM).

There are three types of companies allowed to be incorporated:

- Company limited by shares
- Company limited by guarantee
- Unlimited company

The status of companies can be classified as either a private company (not more than 50 shareholders) or a public company.

A company shall have a minimum number of directors as follows:

- In the case of a private company, one director
- In the case of a public company, two directors

**Registered office and statutory records**

A company shall have a registered office at all times in Malaysia to which all communications and notices may be addressed. The company shall keep all its registers, books, records and documents at the registered office, and shall be open for inspection to persons who are entitled to inspect them. A company shall have at least one qualified secretary who must ordinarily reside in Malaysia by having a principal place of residence in Malaysia. The secretary must be a member of a prescribed body or must be licensed by CCM. A company must also appoint an auditor (approved by the minister charged with responsibility for finance in Malaysia) for each financial year of the company. The CCM may exempt certain category of private companies from appointing an auditor according to the conditions as determined by the CA 2016.

**Foreign company registered under the provision of the CA 2016**

A foreign company cannot carry on a business in Malaysia unless the foreign company is registered with the CCM. Where a foreign company has share capital and has any member who is resident in Malaysia, the foreign company shall keep a branch register as required by the CA 2016.

**Compliance and reporting**

1. **Corporate secretarial**

A director is required at all times to exercise his or her powers in accordance with the CA 2016 for a proper purpose and in good faith in the best interest of the company. It is the responsibility of the director to exercise reasonable care, skill and diligence, and makes a business judgment as required by the CA 2016. Additionally, for the case of a public-listed company, the board of director is required to ensure that good corporate governance practice is in place as per the Malaysian Code on Corporate Governance 2016 and the company is compliant with the Main Market Listing Requirements of Bursa Malaysia Securities Berhad and other relevant regulations.
As required by the CA 2016, generally a company is required to lodge the audited financial statements (AFS) and the annual return (AR) to CCM. The AFS shall be prepared within 18 months from the date of its incorporation and subsequently within 6 months of its financial year-end.

AFS are required to be lodged with CCM as follows:
- In the case of a private company, within 30 days after the AFS have been circulated to members
- In the case of a public company, within 30 days after the AFS have been tabled at the AGM

The circulation of the AFS for a private company shall be within six months of its financial year-end while for a public company it shall be at least 21 days before the date of its AGM. It is mandatory for every public company to hold AGM within six months of the company’s financial year-end and not more than 15 months after the last preceding AGM (for a newly incorporation public company, to hold its first AGM within 18 months of its incorporation).

The AR is required to be lodged with CCM within 30 days of the anniversary of a company’s incorporation date.

In terms of compliance, any changes in the company’s statutory information shall be duly completed in the relevant prescribed forms and lodged with the CCM, within the required period of time.

2. Statutory financial statements, accounting records and reports

The directors and managers are responsible for the accounting and other records of the company. In addition, it is also the directors’ responsibility to sufficiently explain the transactions, financial position and performance of the company in a manner that is conveniently and properly to be audited. All appropriate entries are to be made in the accounting and other records within 60 days of the completion of the transaction as required by the CA 2016. The company shall retain the records for seven years.

The financial statements must be prepared in accordance with the Malaysian Accounting Standards Board (MASB) approved accounting standards and the provisions of the CA 2016, and duly audited by an approved auditor. All amounts shown in the financial statements and reports lodged with the CCM shall be quoted in Malaysian currency, and in national language or English language.

The MASB-approved accounting standards comprise the following framework:
- Malaysian Financial Reporting Standards (MFRS)
- Malaysian Private Entities Reporting Standard (MPERS)

Some company are permitted in the alternative to apply the Financial Reporting Standards (FRS) framework. Given that FRS is a temporary framework which will be withdrawn by 31 December 2017, companies are encouraged to adopt MFRS.

MPERS is only applicable for private companies that meet the definition of the CA 2016 and Interest Schemes Act 2016.

In the case of a public listed company (PLC), there are additional rules and regulations to comply with, such as the listing requirements of Bursa Malaysia Securities Berhad (Bursa), Securities Commission Malaysia Act 1993 and others. The PLC must be announced to Bursa through an interim financial report that is prepared on a quarterly basis (quarterly report) as soon as the figures have been approved by the board of director of the PLC not later than two months after the end of each quarter of a financial year. Apart from that, the PLC must issue its annual report that includes annual AFS together with the auditors and directors report of the PLC, to Bursa and shareholders within four months from the close of financial year of the PLC. Guidelines for disseminating material information on PLC are set out in the rules administered by Bursa.

There are other reports that may be required to be prepared by a PLC, such as sustainability report, audit committee report, statement on risk management and internal control, and others.

3. Tax

The resident and nonresident companies are taxed on income accruing in and derived from Malaysia. The resident companies engaged in banking, insurance, shipping or air transport are taxable on their worldwide income. A company is resident in Malaysia if its management and control are exercised in Malaysia. This is usually determined by having at least one board of director meeting held in Malaysia concerning the management and control of the company at any point throughout the basis year of a year of assessment (YA).

3.1 Corporate income tax (CIT)

CIT rate

With effect from YA 2016, resident and nonresident companies are subject to income tax at a rate of 24% (YA 2015 : 25%). Effective from YA 2017 and YA 2018, there will a reduction in the CIT rate of between 1% and 4% for resident companies, based on the incremental chargeable income from business source (as compared to the immediate preceding YA). Details of the legislation are available on an exemption order.
Notwithstanding the above, resident companies incorporated in Malaysia with ordinary paid-up share capital of MYR2,500,000 and below at the beginning of the basis period (SMEs) are taxed at a rate of 19% (YA 2015: 20%) on the first MYR500,000 of chargeable income. Effective from YA 2017, the corporate tax rate is reduced from 19% to 18% with the remaining at 24% (YA 2015: 25%). Similar to non-SMEs, effective from YA 2017 and YA 2018, there will be a reduction in the CIT rate of 24% (between 1% and 4%) for resident companies, based on the incremental chargeable income from business source (as compared to the immediate preceding YA). This concessionary tax rate does not apply if the company controls or is controlled directly or indirectly by another company that has paid-up ordinary capital of more than MYR2,500,000.

Estimation of tax payable (ETP)

For a new company, which commences operations in a YA and the basis period for that YA is not less than six months, an ETP has to be submitted to the Inland Revenue Board of Malaysia (MIRB) within three months from the date of commencement of operations, via the prescribed electronic Form CP204. There is no minimum amount of ETP to be submitted to the IRB for the YA in which a company first commences operation. The instalment payments, if any, will commence in the sixth month of the basis period for that YA.

Withholding tax (WHT)

Generally, payments to nonresidents for fees in respect of certain specialized services are subject to WHT in Malaysia at the domestic WHT rate of 10%. Apart from service fees, the following categories of fees or charges by nonresidents may be subject to WHT in Malaysia (domestic WHT rates are indicated below, before taking into consideration any preferential WHT rates provided in the respective Double Taxation Agreements):

1. Rent or other payments for the use of any moveable property (10%)
2. Interest expenses (15%)
3. Royalty fees (10%)
4. Other gains or profits (10%)

Tax incentives

Malaysia offers a wide range of tax incentives which are granted to promote investments in selected industry sectors and promoted areas. Some of the more prominent tax incentives in Malaysia are the Pioneer Status, Investment Tax Allowance and Reinvestment Allowance. There are also numerous forms of other tax incentives, such as: exemption of income; extra allowances on qualifying capital expenditure; double, special or further deduction of expenses; and preferential tax treatments for promoted sectors.

3.2 Indirect tax

The GST was introduced on 1 April 2015 at the rate of 6%. The sales tax and service tax at the rate of 10% and 6% respectively have been abolished with the implementation of GST. GST is currently under the jurisdiction of the Royal Malaysian Customs Department.

GST is imposed on:

- Supply of goods and services in Malaysia by a taxable person in the course of business
- Importation of goods into Malaysia (except covered by specific orders or GST suspension schemes) - GST is charged at import entry
- Importation of services into Malaysia via “reverse charge” mechanism

There are four types of supplies under the GST regime:

- Standard rated – 6% (apply to most goods and services)
- Zero-rated – 0% (apply to exports and sale of essential goods)
- Exempt – no GST (certain medical and educational services)
- Out of scope – no GST

GST registration is required if a person is making taxable supplies of goods and services in Malaysia, and total taxable turnover is more than MYR500,000 per annum. Voluntary registration is also allowed for businesses that are making a taxable supply or intend to make a taxable supply.

The category of a taxable period will depend on the amount of annual sales:

<table>
<thead>
<tr>
<th>Annual sales</th>
<th>Taxable period</th>
</tr>
</thead>
<tbody>
<tr>
<td>MYR5m and above</td>
<td>One month</td>
</tr>
<tr>
<td>Less than MYR5m</td>
<td>Three months</td>
</tr>
</tbody>
</table>

Generally, a GST-registered person (taxable person) is entitled to claim GST incurred on goods and services used in making taxable supplies.
People – payroll and immigration requirements

1. Government requirements

Registration requirements

Registration with statutory bodies

1. Employees Provident Fund (EPF)

The EPF is a social security institution formed under the Employees Provident Fund Act 1991. EPF provides retirement benefits for members through management of their savings in an efficient and reliable manner. An employer must register an EPF account with the EPF Board within seven days from the date the employer becomes liable to contribute (i.e., as soon as the first individual is employed). The employer is required to complete the Form KWSP 1 and submit it together with supporting documents, such as the Certification of Incorporation issued by the CCM or a Business Registration Certificate.

Employees are also required to register upon commencement of employment, for their employers to make the necessary EPF contributions in respect of the employees.

2. Social Security Organisation (SOCSO)

SOCSO was formed under the Employees’ Social Security Act 1969 and is entrusted with the administration of social security schemes to provide protection to employees against contingencies, such as invalidity and employment injury. Employers and their employees must be registered with SOCSO not later than 30 days from when the Employees’ Social Security Act becomes applicable to the employer and its employees. The registration of the employer and employee is done via the Form 1 and 2 respectively, together with supporting registration documents in accordance with the business entity type.

3. IRBM

All employers are required to register with and obtain an employer tax reference number from the MIRB. The employer is required to complete and submit the Form 600E together with supporting documents, such as the Certificate of Incorporation issued by the CCM or a Business Registration Certificate.

Employers are also required to notify the MIRB of the commencement of new employees within one month from the relevant employee’s commencement of employment. This is done by completing and submitting the Form CP22.

Ongoing compliance requirements

1. Contributions to EPF

Under the Employees’ Provident Fund Act 1991, all employees who are Malaysian citizens or permanent residents are required to make monthly contributions to the EPF and employers are required to make EPF contributions in respect of such employees. The statutory contribution rate for an employer is 12% if the employee’s monthly wages are above MYR5,000 per month or 13% if the employee’s monthly wages are below MYR5,000 per month. The statutory contribution rate for an employee is 11% of his or her monthly wages. Starting from March 2016 until December 2017, the employees’ contribution has reduced to 8%. However, an employee may opt to continue contributing at 11%.

The deadline for payment of EPF contributions in respect of each month is the 15th day of the following calendar month.

2. Contributions to SOCSO

Employer and employee contributions to SOCSO are compulsory for Malaysian citizens. Contributions are capped at the wages ceiling of MYR4,000 (wages above MYR4,000 attracts no further contributions). Various rates are specified for SOCSO contributions.

The deadline for payment of SOCSO contributions in respect of each month is the 15th day of the following calendar month.
3. Employee's monthly tax deductions to the MIRB

Every employer is responsible to deduct monthly tax deductions (MTD) from their employee’s remuneration each month, in accordance with the Schedule of Monthly Tax Deductions or Computerised Calculation Method. Deductions must be made from all remuneration, (i.e., wages, overtime payments, commissions, tips, allowances, bonuses, benefits-in-kind and living accommodation.

The deadline for payment of MTD to the MIRB in respect of each month is the 15th day of the following calendar month.

4. Employment obligations

The Employment Act 1955 provides for the minimum terms and conditions of employment in Malaysia. It covers the contracting arrangements between employers and employees, and specific terms and benefits, such as wages, notice periods, maternity benefits, rest days, hours of work and holidays. It should be noted that while the scope of the Employment Act is limited to employees earning MYR2,000 and below, in practice, most employers refer to the minimum terms and conditions required under the Employment Act when determining the minimum terms and conditions to be offered to all employees (regardless of wage levels).

Minimum wages

Minimum wages were introduced in Malaysia from 2013. Effective from 1 July 2016, the minimum wage for employees in the private sector (other than domestic helpers) is set at MYR1,000 per month for Peninsular Malaysia and MYR920 per month for Sabah, Sarawak and Labuan.

5. Human Resources Development Fund (HRDF)

The HRDF was established in 1993 with the aim of developing quality human capital and a world-class workforce through training and skills upgrading, to meet the nation's future needs. Eligible employers in the manufacturing and services sectors must register with the HRDF for the payment of the Human Resources Development levy. This levy is a mandatory levy imposed on specified groups of employers to fund this training initiative. The HRD levy is payable for each working employee at the rate of 1% of monthly wages.

6. Payroll requirements

Payroll payment and payslips

Employers shall make available to each employee particulars relating to their wages, contributions and deductions. These “payslips” can be provided either in electronic form or hard copy.

The employer is required to pay its employees in respect of each month, not later than the seventh day of the following month.

7. Banking requirements related to payroll

Banking of salary and wages

Employees’ wages can be paid by any one or a combination of the following:

• Cash
• Cheque, money order or postal order, payable to the employee
• EFT or bank transfer

8. Immigration requirements

Every expatriate who wishes to engage in any kind of employment in Malaysia must obtain a work permit from the Malaysian Immigration Department (MID). All applications for work permits in Malaysia must have a local sponsor, such as a private limited company, limited company, representative office, regional office or branch of a foreign company. Generally, there are two types of expatriate work permits in Malaysia: the Employment Pass (which allows the holder to work in Malaysia for a period of up to 60 months) and the Professional Visit Pass (which is generally for expatriates on short-term assignments to Malaysia for periods of up to 12 months). Employment Pass holders, who earn a monthly salary of more than MYR5,000, are allowed to bring their dependents into Malaysia. The Dependent Pass or Long Term Social Visit Pass granted to dependents do not have working rights attached to them, so a separate work permit needs to be obtained for the dependents if they have the intention to work in Malaysia.

It should be noted that approvals for work permits can take a significant amount of time depending on the industry and geographical location of the approving authorities involved.
Doing business in New Zealand
Corporate – Global Compliance and Reporting requirements

Registration requirements
An investor planning to establish a presence in New Zealand needs to consider if the intended activities create a requirement to register with the New Zealand authorities. The registration with the New Zealand Companies Office is required where a New Zealand incorporated entity is established or activities of an overseas company meet the requirements of “carrying on business” in New Zealand.

Choice of vehicle
When establishing a business in New Zealand, factors to consider include, ease of registration and exit, duration of the investment, activities of the business, risk profile, and compliance requirements. A number of structures are available; however, the most common registration vehicles are:

1. New Zealand incorporated company
The most common incorporation is for a limited liability company (company). A company is a separate legal entity for legal requirements and generally, a separate legal entity for income tax purposes.

Recent amendments (effective 1 May 2015) require a company to have as a minimum one or more shares, one or more shareholders, and one or more directors. At least one director must be either a resident of New Zealand or be a resident in an enforcement country, and be a director of a company registered in that enforcement country. The list of enforcement countries currently includes Australia only. All directors must be natural persons. If all information and signatories are available, the registration can be completed within one to two working days.

2. Overseas company registration (branch)
A branch is not recognized as a separate legal entity from the overseas company (head office) and must be registered in New Zealand within five business days of the head office commencing carrying on business in New Zealand. Branch registrations can require additional time for registration, generally completed between two and seven working days, depending on the head office’s country of registration. Incorporation documents of the head office are required to be presented and translated into English, and the branch’s registration name must be that of the head office.

Other investment vehicles include partnerships, limited partnerships and trusts which may have separate registration processes and requirements. Registrations with Inland Revenue may be obtained within 5 to 10 working days.

3. Local bank account details
Entities established in New Zealand with 25% or greater overseas ownership must establish a New Zealand bank account prior to registration with the Inland Revenue. This process can take four to six weeks.

Compliance and reporting

1. Corporate secretarial

1.1 New Zealand incorporated company

**Governance:** A director of a company has fiduciary and statutory duties, and can be subject to civil or criminal penalties for non-compliance. From 1 May 2015, companies must have at least one director who is a resident in New Zealand or is a resident in an enforcement country where they is a director of a company registered in that enforcement country. The company must maintain a registered office in New Zealand.

**Annual compliance:** The company must file an annual return confirming that the information held with the New Zealand Companies Office is complete and correct. Non-compliance with filing may result in the company being removed from the Companies Register.
Annual general meeting (AGM): The company must hold an AGM in each calendar year, within 6 months of balance date and within 15 months of the previous AGM. Certain exemptions exist for the first year of incorporation.

1.2 Overseas company registration (branch)

Governance: The branch must provide a New Zealand address where the company carries on business and details of a person authorized to accept service of any documents (this does not automatically constitute an agent relationship).

The registration on the overseas companies register is for active businesses only. The branch must also maintain key information on the New Zealand Companies Office website on a timely basis.

Annual compliance: The branch must file an annual return confirming information held on the New Zealand Companies Office is complete.

2. Accounting and reporting

Company and branch: All companies and branches must maintain proper and accurate accounting records which meet minimum reporting requirements as prescribed by the Inland Revenue Department (IRD).

The Companies Act 1993 requires audited financial statements to be prepared under New Zealand generally accepted accounting practice, where the company is deemed to be large or the company has 10 or more shareholders. Exemptions may apply where the financial statements are not required to be filed with the New Zealand Companies Office and 95% of shareholders approve.

A company or branch is deemed to be large where for the two preceding years:

- The revenue is greater than or equal to NZD10m for branches/subsidiaries of overseas companies (NZD30m for New Zealand-owned companies).
- The total assets are greater than or equal to NZD20m for branches/subsidiaries of overseas companies (NZD60m for New Zealand-owned companies).

Companies: Companies are required to prepare audited financial statements where 25% or greater ownership is held overseas. They are required to file these with the New Zealand Companies Office within five months of balance date.

Branches: Overseas companies registered on the New Zealand overseas companies register are required to file audited financial statements within five months of balance date for the head office (and branch where these are large).

3. Tax

As tax, obligations are dependent on the nature and activities of the investment entity advice should be taken before establishing an investment vehicle.

3.1 Income tax

Corporate tax: Companies and branches are required to lodge an annual income tax return with the Inland Revenue. The current company tax rate is 28% and the standard tax income year-ends 31 March, unless prior approval is received from the Inland Revenue.

A New Zealand resident company is subject to tax on their worldwide income. A New Zealand branch of an overseas company is subject to tax on their New Zealand sourced income only. Relief may be available under applicable double tax treaty agreements. Companies that are 100% commonly owned have the option to consolidate for tax purposes.

Special rules apply to life insurance, nonresident insurers, ship owning, petroleum and mining, and forestry companies, as well as group investment funds, overseas investments in controlled foreign companies and foreign investment funds.
3.2 Indirect tax

New Zealand currently has a 15% rate of GST. It applies to the supply of goods or services made in New Zealand by a registered person as well as on importation of goods. A business is required to register for GST if its annual taxable supplies is NZD60,000 or more.

The scope of what constitutes a supply of services in New Zealand has recently been expanded to include supplies of remote services by non-residents.

3.3 Customs

If importing goods over NZD1,000, it is a requirement to register with customs and obtain a client code. The importer is required to pay duty and import GST at the time of importation. The importer is able to claim back the import GST from Inland Revenue provided it is registered for GST purposes and the imported goods are used by the importer in making taxable supplies in New Zealand.

Funding operations

Exchange controls: New Zealand does not have any exchange controls; however, consideration should be given to withholding tax requirements for any overseas funding received.

Thin capitalisation rules: New Zealand’s thin capitalization provisions operate to limit the amount of tax-deductible debt used to finance an entity’s New Zealand operations. The current threshold for inbound investment into New Zealand is 60%.

Foreign investment consideration

Transfer pricing: New Zealand legislation ensures that New Zealand businesses deal with international related parties under arm’s-length terms and conditions. Given transfer pricing is a critical issue for Inland Revenue it is important contemporaneous advice/documentation be undertaken prior to finalizing transactions.

Employee considerations

Entering into employment relationships in New Zealand or visits to New Zealand by employees of the investor may place obligations on the New Zealand entity and the investor.

New Zealand employment obligations include PAYE, FBT, superannuation (Kiwisaver), accident compensation levies, workplace health and safety, and other obligations under employment law.

These obligations may also require consideration for expatriate employees providing services in New Zealand. This can be a complex area, dependent on factual circumstances.
People – payroll and immigration requirements

1. Government requirements

Registration requirements

Registration for PAYE
When a business enters in New Zealand and employs people, the business must register with the IRD for PAYE. If the business has already obtained an IRD number, it can register for PAYE by completing an employer registration form. If the business does not have an IRD number and requires one, application for IRD number and PAYE can be carried out at the same time.

Registration for payroll tax
The payroll tax is a tax paid by employers on wages paid or payable to employees. Payments to contractors are subject to the withholding tax and it is calculated as part of payroll.

Workers’ compensation insurance
The workers’ compensation insurance is an insurance cover that ensures that the business is covered for the cost that might follow a workplace-related injury or disease. These costs can include weekly and lump sum payments, medical, hospital and rehabilitation expenses, and return-to-work costs.

Businesses must take workers’ compensation insurance policy, if they employ people. Premiums are calculated as part of PAYE and leviable on gross salaries and wages only.

Ongoing compliance requirements

Remittance of PAYE withholding
The time frame within which an amount withheld must be remitted to the IRD depends on the total amount of PAYE withheld by a business on an annual basis. Businesses are categorized as either large or small.

Large withholders: If the company’s gross annual PAYE (including employer superannuation contribution tax (ESCT)) is NZD500,000 or more in the previous year-ended 31 March, it will be required to pay PAYE:
• From wages paid between the 1st and 15th of the month by the 20th of the same month
• From wages paid between the 16th and the end of the month by the 5th of the following month, except for the second period of December, which is due on 15 January

The amount must be paid electronically.

Small withholders: If your gross annual PAYE (including ESCT) is less than NZD500,000, you must pay PAYE monthly.

PAYE is due by the 20th of the following month.

IRD imposes penalties and interest for late lodgment, late payment and non-payment of PAYE withholdings.

Payroll tax lodgment and payments
IRD requires employers to lodge a monthly Employer Deductions form (IR345) and Employer Monthly Schedule (IR348), including payment, by the 20th of the following month. For large withholders, the Employer Deduction form is filed fortnightly and the Employer Monthly Schedule is filed monthly.

Annual reporting of PAYE and payment summaries
No annual reporting is required.
2. Pension requirements

Ongoing compliance requirements

KiwiSaver is a voluntary work-based savings initiative to help New Zealanders with their long-term savings for retirement.

KiwiSaver is open to all New Zealand citizens and people entitled to live here permanently who are under the age of eligibility for New Zealand Superannuation (age 65).

To join KiwiSaver, a person must be:

- Living (or normally living) in New Zealand
- A New Zealand citizen or entitled, under the Immigration Act 2009, to be in New Zealand indefinitely

Employers are required to contribute to the employee's KiwiSaver account or complying fund at 3% of their gross salary or wage. A complying superannuation fund is a section within a registered superannuation scheme that has been approved by the Financial Markets Authority as having met certain criteria similar to KiwiSaver, e.g., KiwiSaver lock-in rules and portability.

The KiwiSaver employer contributions need to be paid with the PAYE while contributions the employer make to their employees’ complying funds still need to be paid directly to the applicable scheme.

3. Employment obligations

Employment law and minimum employment requirements

Minimum wage rates apply to all employees aged 16 and over, who are full-time, part-time, fixed-term, casual and working from home employees, and paid by wages, salary, commission or piece rates (some exceptions). The minimum wages for FY 2016–17 is NZD15.25 per hour.

All employees: part-time, full-time, fixed term and casual (but not including the armed forces) employees get at least:

- Four weeks of paid annual holidays (annual leave) each year for rest and recreation (some fixed-term and casual employees may get annual holidays on a “paid as you earn” basis)
- Eleven public holidays each year (if there are days they would otherwise work), where these are days of national, religious or cultural significance, and employees should be able to take them as leave, where possible
- Access to five days sick leave and three days bereavement leave
- After six months of continuous employment with the same employer

Or

- After working for the employer for six months for an average of 10 hours per week and at least 1 hour in every week or 40 hours in every month

If an employee has to work on a public holiday, that work must be paid at no less than one and a half times.

The payment for annual holidays is calculated differently from the payment for public holidays, bereavement leave and sick leave.

4. Payroll requirements

Payroll payments and payslips

According to the Department of Labour, it is not a legal requirement for employers to provide payslips to their staff unless it is stipulated in their contracts. All employees do, however, have the right to view and copy the personal payroll data held by their employer regarding them. Employees frequently request payslips even from employers who do not supply them on a regular basis as they are needed as proof on income when applying for a loan, arranging child care payments and many other scenarios. While it may not be a legal requirement, it is good business practice to provide payslips to employees and not doing so looks very unprofessional.

All salary and wage income is income taxable in the financial year in which it is actually received, regardless of when it was earned. The tax should be withheld at the time when the payment is made to the employee.

Keep records on paper or electronically (as long as the information can be accessed easily and converted into written form).

Keep wages and time records, and holiday and leave records for six years (even if the employee has left).

Keep a signed copy of the employment agreement, current signed terms and conditions or intended employment agreement (and employees must be given their copy if they ask for it).

5. Banking requirements related to payroll

Banking of salary and wages

Payroll payments can be paid by one or a combination of:

- Cash
- Cheque, money order or postal order, payable to the employee
- EFT or bank transfer

If paying wages by cash, the employer and employee should sign a record to confirm the amount of money that has been paid for each pay period.

6. Immigration requirements

In general, all visitors to New Zealand must apply for a visa to enter the country. Visitors and business visitors who hold passports from a visa waiver country can obtain a visa on entry at the New Zealand border for short periods of time to undertake limited activities. However, if an individual intends to work in New Zealand, they must obtain a work visa. All work visa applicants must meet the generic temporary entry instructions. This includes health and character requirements. An employer must provide evidence that no suitably qualified New Zealanders can perform the job offered to the applicant. Exceptions exist for employers who are accredited with Immigration New Zealand and for some work visa categories, such as specific purpose or event. Family members can obtain visas on the basis of their relationship to the principal applicant. If the principal applicant is granted a work visa for six months or more, the spouse is eligible for work rights in New Zealand. Dependent school age children are eligible for student visas to allow them to attend New Zealand primary and secondary schools as domestic students.

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Corporate — Global Compliance and Reporting requirements

Registration requirements
The key registration requirements in the Philippines are:

1. Registration with the Securities and Exchange Commission (SEC)
2. Post-incorporation registrations with the Local Government Unit (LGU) and the Bureau of Internal Revenue (BIR), and employer registrations with various government entities
3. For qualified business activities, registration with the concerned Investment Promotion Agencies (IPAs), e.g., Philippine Economic Zone Authority (PEZA) or Board of Investments (BOI) to avail of fiscal and non-fiscal incentives

Choice of vehicle

1. **Subsidiary**: A Philippine company which is a separate legal entity from its parent. It has its own juridical personality for tax and legal purposes.
2. **Branch office**: A mere extension of its foreign parent corporation. Its liabilities are considered as liabilities of the head office.
3. **Representative office**: It undertakes activities such as information dissemination and promotion of the company’s products as well as quality control of products. It does not derive income and is fully subsidized by its head office.
4. **Regional or Area Headquarter (RHQ) and Regional Operating Headquarter (ROHQ) of multinational companies**: These are established in the Philippines by multinational companies to perform specific activities. ROHQs, unlike RHQs, are allowed to derive income from the Philippines by providing qualifying services to their affiliates in the region. ROHQs enjoy incentives, including 10% preferential tax on taxable income and VAT zero-rating on certain sales to foreign affiliates.

Compliance and reporting

1. **Corporate secretarial**
   
   **1.1 Subsidiary**
   
   **Governance**: At least 5 but not more than 15 directors (all of whom must be natural persons) majority of whom must be residents of the Philippines.
   
   **Compliance**: Submission to the SEC of financial statements (FS) within 120 calendar days after the end of every fiscal year and General Information Sheet (GIS) within 30 days from the date of the annual stockholders’ meeting.
   
   **1.2 Branch office, representative office, multinational companies’ RHQ and ROHQ governance compliance**
   
   Only one natural person needs to be appointed as the resident agent on whom summons and other legal processes for the company may be served, and is responsible for maintaining compliance with the SEC requirements.

   **Compliance**
   
   • Submission to the SEC of FS within 120 calendar days after the end of every fiscal year and GIS within 30 days from the anniversary date of the issuance of the SEC license (annual)
   
   • For branch office only, initial deposit of marketable securities worth at least PHP100,000 must be posted within 60 days after the issuance of the SEC license (additional securities, if necessary, must be posted within six months after the end of the fiscal year)
   
   • For RHQ and ROHQ, GIS must be submitted to the SEC within 30 days after the issuance of the SEC license

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2. Accounting and reporting

2.1 Corporate books and records

Every corporation is required to have a record of all its business transactions, minutes of all stockholders’ or members’ meetings, and a stock and transfer book duly registered with the SEC. These should be kept at the principal place of business and must be available for inspection by a director, trustee, stockholder or member during regular business hours. Moreover, corporations should maintain a general ledger, general journal, purchase journal, sales journal and cash receipts or disbursements journal.

2.2 Financial statements

The financial statements are prepared in accordance with Philippine Financial Reporting Standards (PFRS) or other basis of accounting which may be prescribed by regulations. The accounting period of the company is contained in its bylaws. Changes to the accounting period need prior approval by the SEC and the BIR. Companies are required to submit their audited financial statements to the SEC.

Moreover, companies are required to file their corporate income tax returns with the BIR, together with their financial statements annually. Certain companies (e.g., banks and insurance companies) are also required to submit interim reports to agencies, such as the central bank (e.g., Bangko Sentral ng Pilipinas), the Insurance Commission and the Philippine Stock Exchange (PSE).

3. Tax

3.1 Income tax

For income tax purposes, corporations are classified as domestic or foreign, depending on the place of incorporation or organization.

A domestic corporation is organized under Philippine laws and is taxed on the basis of net taxable income from all sources. On the other hand, a foreign corporation is organized under the laws of another country and is further classified as resident (i.e., engaged in trade or business in the Philippines) or nonresident (i.e., not engaged in trade or business in the Philippines). A resident foreign corporation is taxed on net taxable income from sources within the Philippines.

Income tax rates for domestic and resident foreign corporations

- In general, domestic and resident foreign corporations are subject to the 30% regular corporate income tax (RCIT) based on the net taxable income or to the 2% minimum corporate income tax (MCIT) based on the gross taxable income, whichever is higher. The MCIT shall begin on the fourth taxable year, immediately following the year in which such corporations commenced their business operations.
  - Net operating losses may be carried forward for a period of three years to offset future income in those years.
  - Special income tax rates are available for certain domestic and resident foreign corporations.

Income tax rate for nonresident foreign corporations

- Unless qualified for preferential tax treatment under a tax treaty, subject to certain reporting requirements, nonresident foreign corporations are taxed at 30% of the gross amount of income from sources within the Philippines, such as dividends, rents, royalties, compensation and remuneration for technical services. This tax is withheld at source.
  - The Philippines has effective tax treaties with 39 countries.
  - Special income tax rates are available for certain nonresident foreign corporations.

Branch profit remittance tax (BPRT)

Remittances by branches of foreign corporations in the Philippines to their head offices are subject to 15% BPRT based on the total profits applied or earmarked for remittance without any deduction for the tax component thereof. A lower preferential tax rate may be used if there is a tax treaty between the Philippines and the country of the head office.

Improperly accumulated earnings tax (IAET)

A 10% tax is imposed on the improperly accumulated earnings of closely-held domestic corporations, except in the case of: publicly held corporations, banks and other non-bank financial intermediaries, insurance companies, taxable partnerships, general professional partnerships (GPP), non-taxable JVs, enterprises duly registered with the Philippine Economic Zone Authority (PEZA), enterprises registered pursuant to the Bases Conversion and Development Act (BCDA), as well as other enterprises duly registered under special economic zones declared by law which enjoy payment of special tax rate on their registered operations or activities in lieu of other taxes, national or local. When a corporation allows its earnings or profits to accumulate beyond its reasonable needs, it shall be assumed that the purpose is to avoid tax on stockholders, unless proven to the contrary.
Withholding taxes

- **Creditable withholding tax:** Certain income payments made by a resident to another resident are subject to specified withholding tax rates ranging from 1% to 20%. The tax withheld is creditable against the income tax liability of the recipient.

- **Withholding tax on wages (WTW):** Individuals receiving compensation income are subject to graduated income tax rates ranging from 5% to 32%. Employers are required to withhold the tax due on salaries and wages paid to their employees.

- **Final withholding tax (FWT):** Under the FWT system, the amount of income tax withheld by the withholding agent is constituted as a full and final payment of the income tax due from the payee on the said income. Different rates apply on certain income payments made to domestic, resident and nonresident foreign corporations.

- **Fringe benefits tax (FBT):** Fringe benefits granted to supervisory and managerial employees are subject to a 32% tax on the grossed-up monetary value of the fringe benefit. Fringe benefits given by offshore banking units (OBUs), RHQs, ROHQs of multinational companies, and petroleum contractors and subcontractors to qualified employees are taxed at 15% of the grossed-up monetary value of the fringe benefit. In cases of income payments to nonresident foreign corporations, a lower preferential tax rate or exemption may be availed if there is a tax treaty between the Philippines and the country of the nonresident.

3.2 Indirect tax

- **VAT:** VAT is imposed on gross sales or receipts from sale of goods and services, lease of properties in the course of trade or business, and importation of goods whether in the course of trade or business or not. It may be reduced by the corresponding VAT on purchases of goods and services, including importation (i.e., input VAT). Such sale or purchase of goods and services may be subject to VAT at the rate of 12% or 0%, and in some cases, may be treated as exempt.

- **Excise tax:** Excise tax is imposed on certain goods (such as cigarettes, liquor, petroleum products, mineral products and motor vehicles) manufactured or produced in the Philippines for domestic sale or consumption, or for any other disposition. It is also imposed on certain imported goods, in addition to the VAT and customs duties.

- **Documentary stamp tax (DST):** DST is an excise tax on documents, instruments, loan agreements, lease agreements, shares of stocks, bonds, mortgage, insurance policies and papers, and on acceptances, assignments, sales and transfers of the obligation, right or property incident thereto. This tax is imposed on the maker, signor, issuer, acceptor or transferor of the document.

3.3 Customs

Goods imported into the Philippines are generally subject to customs duty (aside from 12% VAT and excise tax on certain goods). For customs purposes, the value of imported goods is based on their transaction value, (i.e., the price paid or payable for the goods when sold for export to the Philippines, with certain specified adjustments). The applicable duty rate (or the most-favored nation (MFN) rate) will depend on the appropriate classification of the goods under the Tariff and Customs Code of the Philippines (TCCP), which generally ranges from 0% to 30%.

Certain importations are exempt from the imposition of customs duty, such as conditionally free importations, items entered into a customs-bonded warehouse and importations under special laws.

3.4 Local tax

Under the Local Government Code, LGUs are given the authority to impose tax on certain activities and businesses conducted within their jurisdiction unless otherwise expressly exempt by law. LGUs are also authorized to levy an annual ad valorem tax on real property, such as land, building, machinery and other improvements, as well as transfer tax on the sale, donation, barter or on any other mode of transfer of real property.

Funding operations

There are no thin capitalization rules. Operations may be funded through debt or equity on the basis of the company’s discretion unless applying for incentives with the BOI for certain activities.

Foreign investment consideration

Fiscal incentives, such as income tax holiday and preferential tax rate of 5% on gross income earned, as well as non-fiscal incentives may be availed of for certain business activities. However, there are current tax reform proposals in the Philippines to rationalize tax incentives of enterprises duly registered under special economic zones. Particularly, the income tax-based incentives and VAT, and duty-based incentives of the said enterprises are under review.
1. Government requirements

Registration with the BIR
The National Internal Revenue Code of the Philippines (Republic Act (RA) No. 8424, as amended) requires that every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with the rules and regulations. The withholding tax on compensation income is a method of collecting the income tax at source upon receipt of the income to all employed individuals, whether citizens or aliens, deriving income from compensation for services rendered in the Philippines. Accordingly, every employer is required to register its employees and secure their tax identification number (TIN) or update their employee information for purposes of filing and remitting the proper WTW to the BIR. The relevant forms for submission are the Application for Registration (BIR Form No. 1902) for new employees without TIN, and the Certificate of Update of Exemption and of Employer’s and Employee’s Information (BIR Form No. 2305) for employee information update.

Registration with other government agencies
Both employer and employees are also required to register with the following government agencies:
1. Social Security System (SSS) – RA No. 8282
2. Philippine Health Insurance Corporation (PhilHealth) – RA No. 7875
3. Home Development Mutual Fund (HDMF) – RA No. 9679

SSS provides social insurance program, health and retirement benefits to employees. PhilHealth covers health insurance coverage for health medications of the employees and their dependents. On the other hand, HDMF offers affordable shelter financing, short-term loans and access to housing programs.

Ongoing compliance requirements

Monthly payroll tax
The employer, as a withholding tax agent, is required to file the monthly WTW return using the Monthly Remittance Return of Income Taxes Withheld on Compensation (BIR Form 1601-C). The deadline for filing of tax return and payment of related tax liability depends on the classification of the taxpayer, as follows:

1. Manual taxpayers: The WTW return and related tax liability shall be filed and paid, respectively, on or before the 10th day of the month following the month when the withholding was made, except for taxes withheld in December, which shall be filed or paid on or before 15 January of the succeeding year.

2. Taxpayers enrolled in the Electronic Filing and Payment System (EFPS):
   • The filing of tax return shall be made on a staggered basis, depending on the industry classification of the taxpayer (i.e., 11th to 15th day following month-end).
   • The payment of tax liability shall be made on or before the 15th day of the month following the month when the withholding was made, except for taxes withheld in December, which shall be paid on or before 20 January of the succeeding year.

Monthly statutory contributions
Every employer is required to deduct from the employee’s compensation statutory contributions (i.e., SSS, PhilHealth and Pag-ibig). The employer shall remit its and the employee’s share in the statutory contributions to the concerned government agencies. The deadline for remittance, which shall be in the following month when the deduction was made, is as follows:

1. SSS – depends on the 10th digit of the employer’s SSS number (i.e., 10th, 15th, 20th, 25th or last day of the month)
1. Retirements benefits received under RA No. 7641

The following retirement benefits are exempt from income tax:

- Fraction of at least six months being considered as one whole year.
- Pay equivalent to at least half month salary for every year of service, if the employee has served at least five years, may retire and shall be entitled to retirement.
- Retirement benefits of employees, an employee upon reaching the age of 60 years or the compulsory retirement age of 65 years and who has retired.

In the absence of a retirement plan or agreement providing for the retirement age established in the collective bargaining agreement (CBA) and other agreements shall not be less than those provided in RA No. 7641. The employer must file a written application and submit the documents required by the BIR. The documents to be submitted depend on whether the retirement plan is a trusted plan, non-trusted or insured plan, or multi-employer plan.

2. Pension requirements

Registration requirements

Registration of retirement plan

In cases where the employer provides retirement benefits to the employees through a formal retirement plan, the employer shall register the retirement plan with the BIR and secure certification from it to qualify for income tax exemption. In securing the certification, the employer must file a written application and submit the documents required by the BIR. The documents to be submitted depend on whether the retirement plan is a trusted plan, non-trusted or insured plan, or multi-employer plan.

Ongoing compliance requirements

Retirement benefits

RA No. 7641 mandates that all employees may retire upon reaching the retirement age established in the collective bargaining agreement (CBA) or other applicable employment contract. The employee shall be entitled to receive the retirement benefits earned under existing law, the CBA and other agreements. The retirement benefits under the CBA and other agreements shall not be less than those provided in RA No. 7641. In the absence of a retirement plan or agreement providing for retirement benefits of employees, an employee upon reaching the age of 60 years or the compulsory retirement age of 65 years and who has served at least five years, may retire and shall be entitled to retirement pay equivalent to at least half month salary for every year of service, a fraction of at least six months being considered as one whole year.

The following retirement benefits are exempt from income tax:

1. Retirements benefits received under RA No. 7641

2. Those received by employees in accordance with reasonable private benefit plan maintained by the employer, provided that the following conditions are met:
   1. The retiring employee has been in the service of the same employer for at least 10 years.
   2. The employee is not less than 50 years of age at the time of retirement.
   3. The retirement benefits shall be availed by an employee only once.

3. Employment obligations

Minimum wage

The Wage Rationalization Act (RA No. 6727) mandates the fixing of the minimum wages applicable to different industry sectors. These are: non-agriculture, agriculture plantation, agriculture non-plantation, cottage or handicraft and retail or service.

The Regional Tripartite Wages and Productivity Boards (RTWPB) determines the daily minimum wage rates in each region. The Regional Wage Orders issued by RTWPB prescribe the daily minimum wage rates per industry per locality within the region and in some instances, depending on the number of workers and the capitalization of enterprises.

Compensation income of minimum wage earner (MWE), who is being paid with statutory minimum wage, shall be exempt from income tax. Holiday pay, overtime pay, night shift differential pay and hazard pay earned by the MWE shall likewise be covered by income tax exemption. However, if the employee receives additional compensation (e.g., commissions, honoraria, fringe benefits, benefits in excess of the allowable statutory amount of P82,000, taxable allowances and other taxable income), the said employee shall not enjoy the privilege of being an MWE. Hence, the entire income of the employee shall be subject to income tax and withholding tax.

Leave entitlement

Every employee who has rendered at least one year of service shall be entitled to a yearly service incentive leave (SIL) of five days with pay.

In addition, the following leave entitlement shall be granted to certain employees with full pay:

1. Maternity leave (RA No. 1161, as amended by RA No. 8282) – 60 days in case of normal delivery or miscarriage or 78 days in case of caesarean section delivery
2. Paternity leave (RA No. 8187) – seven days
3. Solo parent leave (RA No. 8972) – seven days
4. Others:
   - Gynaecology leave (RA No. 9710) – two months
   - Leave for women and their children who are victims of violence (RA No. 9262) – 10 days

Rest hours

Normal hours of work of any employee shall not exceed eight hours a day. In addition, it shall also be the duty of every employer to give his or her employees not less than 60 minutes time-off for their regular meals. However, in the following cases, the employer may give a meal period of not less than 20 minutes provided that said shorter meal period is credited as compensable hours worked of the employee:

1. The work is non-manual work in nature or does not involve strenuous physical exertion.
2. The establishment regularly operates not less than 16 hours a day.
3. There is urgent work to be performed on machineries, equipment or installations to avoid serious loss which the employer would otherwise suffer.
4. The work is necessary to prevent serious loss of perishable goods.

Rest periods or coffee breaks running from 5 to 20 minutes shall be considered as compensable working time except in certain cases when a meal period of not less than 20 minutes may be given by the employer.

Any work performed beyond eight hours a day shall be considered an overtime work which shall entitle the said employee to an additional compensation equivalent to their regular wage plus at least 25% thereof. On the other hand, for the work performed beyond eight hours on a holiday or rest day. The employee shall be paid an additional compensation equivalent to the rate of the first eight hours on a holiday or rest day plus at least 30% thereof. It shall also be the duty of every employer, whether operating for profit or not, to provide each of his or her employees a rest period of not less than 24 consecutive hours after every six consecutive normal work days.

**Statutory contributions**

Both the employer and employee are required to remit monthly contribution on the basis of each employee’s gross or basic monthly pay to the following government agencies:

1. Social Security System (SSS)
2. Philippine Health Insurance Corporation (PhilHealth)
3. Home Development Mutual Fund (HDMF)

### 4. Payroll requirements

**Timing of wage payment**

Wages shall be paid at least once every two weeks or twice a month at intervals not exceeding 16 days. In case the wages cannot be paid because of circumstances beyond the employer’s control, the employer shall pay the wages immediately after such circumstances have ceased. However, no employer shall make the payment with a frequency less than once a month. In case of payment of wages by results involving work which cannot be finished in two weeks, the payment shall be made at intervals not exceeding 16 days in proportion to the amount of work completed. The final settlement shall be made immediately upon completion of the work.

**Payslips**

Every employer shall pay his or her employees by means of a payroll, wherein the following information and data must be individually shown:

1. Length of time to be paid
2. The rate of pay per month, week, day, hours, or piece
3. The amount due for regular work
4. The amount due for overtime work
5. Deductions made from the wages of the employees
6. Actual amount paid

Employers are encouraged to provide payslips to all employees one working day before the pay day. Payslips can be provided either in the electronic form or as hard copy.
5. Banking requirements related to payroll

Payment of salaries and wages

Wages shall be paid in legal tender. The use of tokens, promissory notes, vouchers, coupons or any other form alleged to represent legal tender is absolutely prohibited even when expressly requested by the employee.

The payment of wages by bank checks, postal checks or money orders is allowed where:

- Such manner of wage payment is customary.
- It is stipulated in a collective agreement.

Or

- Where all of the following conditions are met:
  1. There is a bank or other facility for encashment within a radius of 1km from the workplace.
  2. The employer, or any of his or her agents or representatives do not receive any pecuniary benefit directly or indirectly from the arrangement.
  3. The employees are given reasonable time during banking hours to withdraw their wages from the bank, and which time shall be considered as compensable hours worked if done during working hours.
  4. The payment by check is with the written consent of the employees concerned if there is no collective agreement authorizing the payment of wages by bank checks.

Upon written petition of a majority of the workers and employees, all private establishments, companies, business and other entities with at least 20 workers and located within 1km radius to a commercial, savings or rural bank, shall pay the wages and other benefits of their workers through any of said banks, within the period and in the manner and form prescribed under the Labor Code. In addition, upon request of the concerned worker or union, the bank through which wages and other benefits are paid shall issue a certification of the record of payment of said wages and benefits of a particular worker or workers for a particular payroll period.

6. Immigration requirements

Eligible nationals may obtain a visa on arrival to the Philippines for limited periods if they are not engaging in work activity in the Philippines. Special work permits valid for up to three months and renewable once can be obtained for short-term work activity up to a total of six months. For work activity in excess of six months, a variety of work visa categories exist depending on the type of employer in Philippines sponsoring the visa and the nature of work performed.
Doing business in Singapore
Registration requirements

An investor planning to establish a business presence in Singapore will have to determine whether the proposed operations create a requirement to register with the appropriate Singaporean authorities. Whether the intended operations create a legal presence will be determined by reference to the specific activities and whether these activities can be interpreted as “carrying on business” in Singapore.

A person who is carrying on business in Singapore will have to register his or her business with the Accounting and Corporate Regulatory Authority of Singapore (ACRA).

Choice of vehicle

It is important to choose the most appropriate registration vehicle to be used for the business operations in Singapore. The two most common types of corporate registration vehicle are:

1. **Company**
   - A private limited company is a company limited by shares. This is the most common vehicle.
   - A company is a separate legal entity with limited liability and has its own identity for tax and legal requirements purposes.
   - **Registration process:** The process can be completed within one to two days provided all requisite information and documents are furnished.

2. **Branch**
   - A branch is not recognized as a separate legal entity from the foreign company (head office) but merely an extension of the head office. Its business activities are limited to the activities of the head office. The head office bears the ultimate responsibility for any liabilities arising from the business operations of the Singapore branch office.
   - **Registration process:** The registration process may take approximately one to two days provided the head office furnishes all the various supporting documents and required information to register the branch. The name of the Singapore branch must correspond to the name of the head office.
   - There are other choices of vehicles available as follows:

   **Representative office (RO)**
   - Foreign entities that are keen on exploring the viability of doing business in Singapore or are interested in using Singapore as a launchpad into the Asia-Pacific, may set up an RO in Singapore. An RO allows a foreign entity to assess the business environment in Singapore before deciding to set up a permanent presence. An RO is not allowed to undertake revenue generation activities on behalf of parent entity. All ROs should be registered with the International Enterprise Singapore.

   **Sole proprietorship**
   - A sole proprietorship is a business owned by one person.

   **Partnership**
   - An association of two or more persons carrying on business in common with a view to profit. Other forms of partnerships are limited partnership (LP) and limited liability partnership (LLP). All LPs and LLPs must be registered with the ACRA.

Compliance and reporting

1. **Corporate secretarial**
   1.1 **Company**
   - **Governance:** A director of a company has fiduciary and statutory duties, and can be subject to civil or criminal penalties. All companies must have at least one resident director in Singapore at all times.
Annual meeting: It is mandatory for a company to hold its AGM of shareholders where the financial statements will be presented to the shareholders. A newly incorporated company will need to hold its first AGM within 18 months from the date of incorporation.

Subsequent AGMs must be held every year with each taking place not more than 15 months from the previous AGM. A company is also required to complete and lodge an annual return with ACRA within 30 days after the date of AGM.

A Companies (Amendment) Bill was passed in parliament on 10 March 2017, among others, to align the time lines for holding of AGMs and filing of annual returns of companies to their financial year-end. In addition, subject to safeguards, the new law will exempt all private companies from holding AGMs if they send their financial statements to their members within five months after the financial year-end. Given the statutory importance of financial year-end in the new regime, safeguards will be instituted in respect of the financial year-end of companies. These legislative changes are targeted for implementation in early 2018.

1.2 Branch Governance: A branch office does not have its own directors. However, the branch must have at least one resident authorized representative in Singapore who will be responsible for maintaining compliance with ACRA.

2. Accounting and reporting

All Singapore companies and branches are required to maintain proper and accurate accounting records, and prepare financial statements in accordance with the Singapore Accounting Standards.

2.1 Company

The Companies Act requires the annual financial statements of every company to be audited unless it qualifies for audit exemptions. Notwithstanding the audit exemptions, every company is still required to prepare financial statements unless it qualifies as a dormant “relevant company” under the act.

Every company (unless exempted) is required to file its financial statements in eXtensible Business Reporting Language (XBRL) format, together with the company’s annual return with ACRA within 30 days after the date of AGM on an annual basis.

A company is exempted from audit requirements if:

1. It has been dormant from the time of its formation or since the end of the previous financial year.

2. It is a small company.

A company qualifies as a small company if:

• It is a private company in the financial year (FY) in question.
• It meets at least two of the following three criteria for each of the two FYs immediately preceding the FY in question:
  • Total revenue for each FY is not more than SGD10m
  • Value of total assets at the end of each FY is not more than SGD10m
  • Does not have more than 50 employees at the end of each FY

A company in a group may only be exempted from audit requirements if it qualifies as a “small company” and the group satisfies the “small company” criteria on a consolidated basis.

A newly incorporated company can qualify as a “small company” if it satisfies the criteria in its first or second FY after incorporation.

2.2 Branch

A branch will have to prepare its financial statements in accordance with the Singapore Accounting Standards and have it audited. The head office financial statements (in such accounting standards acceptable by the Registrar), together with the branch audited financial statements, must be lodged with the ACRA within 60 days from the date the AGM is held for head office, or within seven months after the end of the previous financial year-end if the head office is not required by law to table financial statements at an AGM.

3. Tax

3.1 Corporate tax

Singapore companies and branches are subject to Singapore corporate income tax on all income derived from sources in Singapore, and on income from sources outside Singapore if received in Singapore. Specified foreign-sourced income received by a Singapore tax resident is tax exempt in Singapore if relevant conditions are met. Capital gains are not taxable in Singapore.

A foreign tax credit is claimable only by a Singapore tax resident, and is limited to the lower of the foreign tax paid and the Singapore tax payable on that income. Foreign tax credit claims are governed by tax treaties and the unilateral tax credit provisions. A corporate taxpayer is generally considered a tax resident of Singapore if the control and management of its business is exercised in Singapore.

The standard corporate income tax rate is 17%, subject to partial exemption on the first SGD300,000 of normal chargeable income. A corporate income tax rebate of 50% of the corporate income tax payable capped at SGD25,000 is granted for tax year 2017.
For tax year 2018, the corporate income tax rebate is reduced to 20%, capped at SGD10,000.

There are various tax incentives, exemptions and tax reductions available, depending on the investment level and activities performed in Singapore.

**Tax filing due date:** The corporate income tax return together with the audited accounts are generally due for submission by 30 November of each tax year.

**Repatriation of profits:** There is no withholding tax on payment of dividends by Singapore companies or repatriation of profits by Singapore branches of foreign companies. Dividends paid by a Singapore tax-resident company are exempt from income tax in the hands of shareholders, regardless of whether the dividends are paid out of taxed income or tax-free gains.

**Tax losses:** Unused trading losses may be carried forward indefinitely, subject to the shareholding test (see below). Excess capital allowances (i.e., tax depreciation) arising from a trade or business can also be offset against other chargeable income of the same year and carried forward indefinitely subject to the shareholding test and the requirement that the trade giving rise to the capital allowances continues to be carried on (same trade test).

A one-year carryback of tax losses and capital allowances up to an aggregate of SGD100,000 is subject to meeting the same conditions as explained above.

In order to meet the shareholding test, the shareholders of the loss company must remain substantially (50% or more) the same at the relevant comparison dates. If the shareholder of the loss company is itself another company, the shareholding test will apply to the shareholders of the ultimate holding company.

3.2 **Goods and services tax (GST)**

Singapore currently has a 7% GST imposed on nearly all goods and services supplied in Singapore, as well as on the importation of goods into Singapore. A business is required to register for GST if it makes taxable supplies in Singapore in excess of SGD1m over a 12-month period. A GST registered business is required to file GST returns electronically, usually on a quarterly basis.

**Funding and repatriation**

**Exchange controls:** Singapore does not have exchange controls.

**Thin capitalization rules:** Broadly, Singapore does not have thin capitalization provisions to limit the amount of tax deductible interest. Interest payments to nonresidents are subject to withholding tax of 15% unless reduced by tax treaty or tax incentive.
People — payroll and immigration requirements

1. Government requirements

Registration requirements

**Registration of e-Services Authorization System (EASY)**

EASY is an online system managed by the Inland Revenue Authority of Singapore (IRAS) that allows organizations to authorize their employees or a third party to access e-Services on their behalf.

In addition to the EASY registration, the authorized staff must have a SingPass account to access the government e-Services.

**Auto Inclusion Scheme (AIS) for employment income**

Under the AIS, the employer needs to submit all Form IR8E and appendices to IRAS directly. The submitted information will then be automatically included in the employee's income tax assessment and hence the employee does not have to report the income earned in the company when filing their own tax return. Participation in AIS is compulsory for employers with 10 or more employees or who have received the “Notice to File Employment Income of Employees Electronically” gazetted under S68 (2) of the Income Tax Act. Employers with less than 10 employees can also join the AIS by completing the registration form and submitting it to IRAS.

Ongoing compliance requirements

**Tax clearance for foreign and Singapore permanent employees**

For foreign employee and Singapore permanent resident (PR) employee terminating their employment with the company, the employer will need to withhold all the monies due to the individual upon receiving notification of the cessation. Thereafter, the employer will lodge Form IR21 (Notification of a Non-Citizen Employee’s Cessation of Employment or Departure from Singapore) and appendices (if any) to the IRAS, and report the employee’s total remuneration earned for the year. Form IR21 must be submitted to the IRAS at least one month before the cessation date. Employers who fail to comply with this notice requirement may be liable to a fine up to SGD1,000, unless the comptroller accepts a shorter notice. Once the employee's taxes have been finalized, the IRAS will issue a directive to the company to remit over an amount to cover the employee's taxes and release the balance amount withheld (if any) to the employees.

Singapore PR employee, with no intention to leave Singapore permanently, may provide a Letter of Undertaking (LOU) stating that he or she will not leave Singapore permanently. With this LOU, employer does not need to perform the tax clearance for the said employee.

**Reporting employees’ earnings**

The tax system in Singapore is territorial in nature, where income is subject to tax in Singapore if it accrues in or is derived from Singapore. For employment income, it is generally regarded to be Singapore-sourced if it arises from the exercise of employment in Singapore irrespective of where the contract is made or where the remuneration is paid or charged. As such, all payment (whether in the form of cash or in kind, including the employer’s contributions toward an overseas pension or provident fund and gains from equity awards) made by an employer to an employee in respect of their employment in Singapore are taxable in the hands of the employee. All employers are required by law (S68 (2) of the Income Tax Act) to prepare Form IR8A/E and Appendix 8A/E, Appendix 8B or Form IR8S (where applicable) for all the employees who are employed in Singapore by 1 March of each following year.

**Skills Development Levy (SDL)**

As required by law under the SDL Act, all employers are required to pay a monthly SDL for each of their employees working in Singapore (regardless of nationality) rendering services either wholly or partly in Singapore. This includes employees on part-time or casual employment and business travelers from overseas office. The levy amount will depend on the gross monthly remuneration of an employee. For an incomplete month of service in Singapore, the employer...
can pay the levy amount on the basis of the prorated remuneration. The levy is 0.25% of the remuneration in any month. The minimum amount is SGD2 per month per employee and maximum amount is SGD11.25 per employee per month.

The SDL payment is usually made together with the Central Provident Fund (CPF) contributions.

However, for companies with only foreign employees, submission and payment have to be made directly to the Workforce Development Authority (WDA) in the absence of a CPF account.

**Self-Help Group Fund (SHG)**

The SHGs include Chinese Development Assistance Council (CDAC) Fund, Mosque Building and Mendaki Fund (MBMF), Singapore Indian Development Association (SINDA) Fund and Eurasian Community Fund (ECF). The SHGs are set up to uplift the less privileged and low-income households in the Chinese, Muslim, Indian and Eurasian communities, respectively. Depending on the race or religion of the employee, the employer will need to deduct a prescribed amount from the relevant employee’s monthly remuneration. The contribution amount will depend on the specific agency’s contribution rate and the employee’s monthly remuneration. The CPF board is the authorized collection agency for all agencies. Payment for these funds should be made by the 14th of the following month.

2. Pension requirements

Registration requirements

**Registration for CPF**

The CPF is a comprehensive social security savings plan that has provided many working Singaporeans with a sense of security and confidence for their retirement years. It is mandatory for employers to make CPF contributions for all Singapore citizen employees and Singapore PR employees. This requirement is governed by the CPF Act (Chapter 36). All employers are required to apply for a CPF Submission Number (CSN) to make CPF payments as soon as they intend to hire any Singapore citizen or Singapore PR employees.

Ongoing compliance requirements

**CPF contributions**

The CPF contribution amount will depend on the type of citizenship, age and the wages of an employee. The employer can deduct the employee’s contribution from the employee’s monthly wages. The employer will need to make monthly contributions to the board. The CPF payment should be made by the 14th of the following month. Interest on late payment is calculated daily at the rate of 1.5% per month, starting from the first day of the following month after the contributions are due (e.g., interest for August CPF contributions will be calculated from 1 September). The minimum interest payable is SGD5 per month.

CPF contributions are not mandatory for Singapore citizens or Singapore PR working overseas, although they are legally employed by a Singapore entity. Having said so, employers who wish to continue making CPF contributions for Singaporean or Singapore PR employees posted overseas can still make voluntary CPF contributions. A separate CPF submission number will need to be applied for these voluntary contributions.
3. Employment obligations

**Key Employment Terms (KETs)**

From 1 April 2016, employees who enter into a contract of service must be issued KETs in writing within 14 days from the start of employment. This is to extend better protection for the employees and prevent any employment disputes that may arise. The items to include are the full names of the employer and employee; job titles; main duties and responsibilities; start date of employment; duration of employment if on fixed-term contract; working duration, such as daily working hours, number of working days per week and rest day; salary period; basic salary; fixed allowances and deductions; overtime payment period and rate of pay; bonus and incentives; types of leave and entitlement; and probation and notice period. The KETs can be in soft or hard copy.

**Employment records**

From 1 April 2016, all employers must maintain detailed employment records of employees covered under the Singapore Employment Act. The two categories of records are employee records and salary records. The records can be kept in soft or hard copy, including handwritten record. The latest two years records must be kept for current employees and last two years records for employees who have left employment. Employee records include address, identification numbers, date of birth, gender, date of starting and leaving employment, working hours, and dates of leaves taken.

**Paid leave**

Under the Singapore Employment Act, employees who are covered under Part IV of the Employment Act and have completed at least three months of services with the employer will be entitled to paid annual leave. At the minimum, employees are entitled to paid annual leave of at least seven days for the first year of service and additional one day per increase year of services. For hospitalization leaves, the entitlement for all employees with at least six months of services is 60 days per annum and this includes the 14 days outpatient sick leave entitlement. Other paid leaves include maternity leave, paternity leave, shared parental leave and childcare leave. These leaves will be subjected to the eligibility of the employees.

**Hours of work, overtime and rest**

Under Part IV of the Singapore Employment Act, the contractual working hours per week should not be more than 44 hours. Employees are also not required to work more than six consecutive hours without a break. However, if the nature of the work requires continuous work
up to eight hours, breaks of at least 45 minutes must be provided for meals. Employees can claim overtime if they are a non-workman earning up to SGD2,500 or a workman earning up to SGD4,500. The overtime rate payable for non-workmen is capped at the salary level of SGD2,250, or an hourly rate of SGD11.80. For overtime work, the employee must be paid at least 1.5 times the hourly basic rate of pay and the payment must be made within 14 days after the last day of the salary period. An employee is not allowed to work more than 12 hours a day, except for special circumstances. The employee can only work up to 72 overtime hours in a month.

4. Payroll requirements

Itemized payslips
From 1 April 2016, itemized payslips must be issued to employees who are covered under the Employment Act. A soft or hard copy of the payslips must be given to the employees within three working days from the salary payment. The latest two years’ itemized payslips must be kept for current employees and last two years’ itemized payslips for employees who have left employment. Salary records include the full name of the employer or employee, date of payment, start and end date of salary period, basic salary, allowances and deductions, overtime hours worked, pay and start and end date of overtime payment period, and net salary paid in total.

Salary payment
The salary must be paid at least once a month to employees who are covered under the Employment Act. The salary must be paid within seven days after the end of the salary period.

• For overtime work, the salary must be paid within 14 days after the end of the salary period.
• For employees who resign and serve the required notice period, the final salary should be paid on the last day of employment.
• For employees who resign without notice and don’t serve the notice period, the final salary should be paid within seven days of the last day of employment.
• For employees who are dismissed or terminated, the final salary should be paid on the last day of employment. If this is not possible, then the final salary should be paid within three working days from the date of termination.
Doing business in Sri Lanka
Corporate – Global Compliance and Reporting requirements

Choice of vehicle

Below are the popular corporate registration vehicles for foreign companies to invest in Sri Lanka:

- Limited liability company
- Overseas company

1. Corporate secretarial

1.1 Limited liability company

This vehicle enables an investor to invest in a business without risking its other assets. An investment by a nonresident is subject to Exchange Control restrictions and to be brought through a Securities Investment Account (SIA).

How to register a limited company:

1. First, obtain a name approval.
2. After obtaining the name approval, Form No. 1, 18, and 19 together with two copies of Articles of Association should be prepared (Section 475) and submitted to the Registrar of Companies (ROC).
3. A company shall within 30 working days of its incorporation under this act (Section 9), give public notice of its incorporation, specifying the name, registered number of the company and registered office address.

1.2 Overseas company

An overseas company is any company or body corporate incorporated outside Sri Lanka, whose business has been granted permission for the purposes of the Exchange Control Act, subject to the exclusions, limitations and conditions published in the Government Gazette.

Branch

A branch is not recognized as a separate legal entity from the foreign company (head office) but merely as an extension of the head office. Its business activities are limited to the activities of the head office, subject to the exclusions, limitations and conditions published in the Government Gazette.

Registration process: The registration process may take approximately two to three weeks provided that the head office furnishes all the various supporting documents and required information to register the branch. The name of the Sri Lanka branch must correspond to the name of the head office.

The branch office cannot do the following as per schedule:

- Money lending
- Pawn broking
- Retail trade with a capital of less than US$2m
- Coastal fishing
- Growing and primary processing of tea, rubber, coconut and rice
- Mining and primary processing of non-renewable national resources
- Freight forwarding
- Shipping agency business
- Mechanized mining of gems
- Lotteries
- Security services including security management, assessment and consulting to individuals or private organizations

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Further, an overseas company should:

- Invest a minimum of US$200,000 or an equivalent amount in other designated foreign currencies, out of remittances received from abroad and channeled through a special rupee account designated as “Securities Investment Account”
- Open an SIA in a commercial bank in Sri Lanka in accordance with directions given by the Controller of Exchange in that regard to commercial banks

Sole proprietorship

A sole proprietorship is an association of one person carrying on business with a view to profit.

Partnership

A partnership is an association of two or more persons carrying on business in common with a view to profit.

2. Accounting and reporting

2.1 Accounting records

Every company is required to have a record of all its business transactions, minutes of all shareholders’ or members’ meetings and a share register.

These should be kept at the principal place of business and must be available for inspection by a director, trustee, shareholder or member during regular business hours.

Furthermore, companies should maintain general ledger, general journal, purchase journal, sales journal and cash receipts or disbursements journal.

2.2 Financial statements

The financial statements are prepared in accordance with the International Financial Reporting Standard (IFRS) or other basis of accounting which may be prescribed by the regulations. The accounting period of the company is contained in its bylaws.

3. Tax

3.1 Income tax

Resident individuals are taxed on worldwide income. Nonresidents are taxed on income derived from Sri Lanka only. Individuals are considered residents for tax purposes if they are present in Sri Lanka for more than 183 days in a tax year. A resident guest and a dual citizen are subject to tax only on income derived in Sri Lanka.
Companies resident in Sri Lanka are subject to income tax on their worldwide income. Nonresident companies are subject to tax on their profits and income derived from Sri Lankan sources. A company is considered to be a resident company if its registered or principal office is in Sri Lanka, or if the control and management of its business are exercised in Sri Lanka.

3.2 Indirect tax
Indirect taxes are chargeable in Sri Lanka primarily on goods and services rendered in Sri Lanka through business carried out in Sri Lanka.

3.3 Customs or excise duties
Goods imported into Sri Lanka are generally subject to customs duty. The applicable duty rate will depend on the appropriate classification of goods under the Tariff and Customs Code.

Funding operations
The commercial banks in Sri Lanka are authorized to grant loans and advances to companies incorporated in Sri Lanka with a majority of nonresident shareholders.

Foreign investment consideration
Fiscal incentives, such as income tax holiday and preferential tax rates on gross income earned as well as non-fiscal incentives may be availed for business activities.

Entity dissolution or liquidation
We can assist with the application for dormant status or liquidation of an entity in accordance with the statutory process prescribed by the Companies Act No 07 of 2007, Sri Lanka. We can also assist in an initial balance sheet review to determine the appropriate dissolution method.

Registering a company
The ROC is the regulatory body that overlooks the registrations of companies. A certificate of incorporation with a registration number will be issued after successful application.
Doing business in Sri Lanka

People – payroll and immigration requirements

1. Government requirements

Registration requirements

Pay As You Earn (PAYE)

In terms of Section 114 of the Inland Revenue Act, No. 10 of 2006, employers are required to deduct income tax on employment income of employees at the time of payment of remuneration.

For this purpose, the commissioner general of Inland Revenue specifies tax tables which are to be used in making such tax deductions. Since the tax is paid at the time of earning the remuneration, this system is called PAYE system.

The following documents can be submitted to the PAYE branch of the Department of Inland Revenue:

- Taxpayer Identification Number (TIN) Certificate
- Letter from the company requesting to open a PAYE file

Ongoing compliance requirements

- Remit to the commissioner general every tax deduction made under PAYE scheme during a month, not later than the 15th day of the month immediately following, as per Section 120 (a)
- Issue to all employees details of the tax deductions made during the year in the Certificate of Tax Deduction (T 10 form) before 30 April in the following year, as per Section 120 (b)
- Furnish Annual Declaration to the Commissioner General not later than 30 April every year, as per Section 120 (d)
- Keep in safe custody the documents relating to every payment made to employees, such that whenever officers authorized by the Commissioner General call for inspection, such documents should be made available to them, as per Section 119

2. Pension requirements

Registration requirements

Registration for Employees' Provident Fund (EPF) and Employees' Trust Fund (ETF)

Companies must register with the Department of Labor to obtain the registration number. The fund is government-owned and maintained by the Central Bank. No separate registration is required to register. ETF uses the same EPF number for monthly contributions. Complete Form D in duplicate with the business registration certificate and certify within 14 days of recruitment of the first employee. Companies must also pay gratuities to employees who have been employed for more than five years. The gratuity provisions do not apply to companies that have fewer than 15 employees. There is no pension scheme for private sector employees.

Ongoing compliance requirements

Employees' Provident Fund (EPF)

The calculation of the contributions are as follows:

Employee's contribution: 8% of the total monthly earnings (to be deducted from the employee's salary or wage)

Employer's contribution: 12% of the total monthly income of the employee (to be paid totally by the employer)

EY contacts

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Total contribution per employee will be 20% of the employee's total monthly earnings. Payments should be made before the last working day of the month, immediately following the month for which the salary should be made.

Payment of contributions
- Obtain three copies of Form C (issued free) from the nearest labor office or download from the EPF website and complete in triplicate.

The original and a copy should be submitted to the collection counter of the EPF at the ground floor of the Lloydz Building in Fort with a cheque written in favor of the “The Superintendent, EPF.” A receipt should be obtained and should be kept for future reference.

EPF e-Return System
According to the EPF (amendment) Act, No. 2 of 2012 and regulations gazetted in May 2013, all employers who have more than 50 employees are required to submit their employees’ EPF contributions and member details on a monthly basis in an electronic return system.

EPF has introduced the EPF e-Return system, a totally paperless solution for employers to send the EPF returns. Under this scheme, employers are requested to submit two simple text files monthly, according to the specified format. No forms are required to be submitted for EPF returns once the employer joins this scheme.

Every employer having access to computer facilities can create their EPF returns using a computer according to a specified format. Employers are free to use any computer system or any tool to create these files. EPF provides only the guidelines.

ETF
- Employer’s contribution: 3% of the total monthly earnings (not to be deducted from the employee’s monthly salary or wages)

Employers divided into two categories
- Larger category – employers who are having 15 or more employees
- Smaller category – employers who are having less than 15 employees

Employers who have more than 15 employees must use the R1 Remittance Form and employers who have less than 15 employees may use the R4 Remittance Form when they make monthly contributions. Monthly contributions should reach ETF Board on or before the last working day of the following month. Employers who are liable to contribute to the ETF under remittance Form R1 are required to furnish half-yearly return incorporating details of contributions made on behalf of its employees in respect of each month in the following manner.

First half-yearly return (January to June) should be on or before 31 August of the same year.
Second half-yearly return (July to December) should be on or before 28 February of the following year.

3. Employment obligations

Minimum wage
The national minimum monthly wage for all workers in any industry or service shall be LKR10,000 and the national minimum daily wage of a worker shall be LKR400.

Annual leave
An employee is entitled to take annual leave when the next calendar year starts. The duration of that first annual leave period is determined according to the date or month in which the employment commenced. From the second year onward, an employee is entitled to 14 days of paid annual leave, after completion of 12 months of continuous service.

Weekly rest days
Workers are entitled to at least one and a half days of rest per week at the worker’s full rate of remuneration. However, the entitlement of full remuneration is not applicable to workers who have worked for less than 28 hours, exclusive of overtime work.

Weekly rest day is not specified in the act. The rest day can be postponed and taken in five weekly blocks, provided that the commissioner is satisfied that such postponement is necessary by reason of the nature of the business or for unforeseen circumstances.

4. Payroll requirements

Payroll payments and payslips
- Employees must be paid at least monthly.
- All employees must be provided payslips. Payslips can be provided either in the electronic form or a hard copy. The electronic form must have the same information as hard copy.
- The salary and wage income is income taxable in the financial year in which it is actually received, regardless of when it was earned.
- The tax should be withheld at the time when the payment is made to the employee.

5. Banking requirements related to payroll

Banking of salary and wages
Payroll payments can be paid by one or a combination of:
- Cash
- Cheque, money order or postal order, payable to the employee
- EFT

The employee should sign a record to confirm the amount of money that has been paid for each pay period.

6. Immigration requirements

Foreign nationals taking up employment in Sri Lanka require a work permit. A work permit must be sponsored by a Sri Lankan entity for a nominated occupation. The work permit applicants and their dependents will also require the appropriate entry visa, which must be pre-approved by the relevant line ministries and the Department of Immigration and Emigration. Work permits are obtained through the Sri Lankan Consulate prior to travel and the associated residence permits post arrival from the Department of Immigration and Emigration for the duration of stay.
Doing business in Taiwan
Approval and registration requirements

For foreign investors to set up a company in Taiwan, the relevant authorities responsible for approval and registration in Taiwan are:

1. **Investment Commission of the Ministry of Economic Affairs (ICMOEA)**
   For foreigners investing in Taiwan, it is required to obtain the foreign investment approval with the ICMOEA. For foreign-invested companies engaging in special industries (e.g., financial institution, telecom and transportation), additional approval from the authorities in charge may be required.

2. **Corporation registration authority**
   After obtaining the foreign investment approval, the foreign investors can then remit the paid-in capital into Taiwan and submit the required documents for the incorporation of a company in Taiwan with the competent corporation registration authority.

3. **Local National Tax Administration Office (NTA)**
   The company shall register with the local NTA for the business or tax registration to start business and issue government uniform invoice (GUI) in Taiwan.

For foreign corporations setting up branch offices in Taiwan, the competent authorities responsible for relevant approval and registration in Taiwan are:

1. **Ministry of Economic Affairs (MOEA)**
   For foreign corporations setting up branch offices in Taiwan, it is required to obtain the recognition and branch registration with the MOEA. For branch offices engaging in special industries (e.g., financial, telecom and transportation), additional approval from the authorities in charge may be required.

2. **Local National Tax Administration Office (NTA)**
   The branch office shall register with the local NTA for the business or tax registration to start business and issue government uniform invoice (GUI) in Taiwan.

Choice of vehicle

Set out below are the popular corporate registration vehicles for foreign companies to invest in Taiwan:

1. **Foreign Investment Approved (FIA) company (subsidiaries)**
   **Legal forms:** The most common forms of subsidiaries are:
   - **Company limited by shares:** It can be formed by two individual shareholders or one corporate shareholder. The company shall have at least three directors and one supervisor.
   - **Limited company:** It can be formed by one shareholder. The company shall have at least one director.
   **Legal status:** An FIA company is an independent entity with limited liability. The investors’ liability is limited to their respective investment contributions.
   **Registration process:** An FIA company shall register with various government authorities in respect of the establishment, alteration or dissolution according to the Taiwan Company Act. It generally takes six to eight weeks to complete the registration for the FIA company to set up.

2. **Branch office**
   **Legal forms:** A foreign company can appoint a litigious and non-litigious representative, and a branch manager to establish a branch office in Taiwan.
   **Legal status:** A branch office is not an independent entity. All branch offices’ liabilities shall be borne by the head office.
   **Registration process:** A branch office shall register with various government authorities in respect of the establishment, alteration or dissolution according to the Taiwan Company Act. It generally takes six to eight weeks to complete the registration for the branch office to set up.
Compliance and reporting

1. Corporate secretarial

Governance: The directors of the subsidiary or the litigious and non-litigious representative and branch manager of the branch office shall have the loyalty and shall exercise the due care of a good administration in conducting business operations of the company. If they have acted contrary or violated any of the applicable laws and regulations, they shall be liable for the damages sustained by the company and other persons.

Annual meeting: A subsidiary shall hold an annual meeting after closing of the financial year of the company.

Annual compliance: There is no annual filing requirement for a subsidiary or branch office in Taiwan.

2. Accounting and reporting

Taiwan’s accounting period starts on 1 January of each year and ends on 31 December of the same year. However, in the event of special needs resulting from operations, changing the accounting period should be approved in advance.

All businesses must use domestic currency as a bookkeeping base. If a foreign currency is used for bookkeeping due to business needs, it is still required to convert the foreign currency into domestic currency in the closing report. Furthermore, all recording of business transactions must be in the domestic language. If it is necessary to include remarks using any foreign language or local language, the domestic language must be predominant.

Accrual accounting must be used as an accounting basis in Taiwan; if cash basis is generally used, adjustments must be made using the accrual basis at final accounting. All businesses are required to maintain a set of books and prepare the annual financial statements, including the balance sheet, profit and loss accounts, cash flow, and statement of equity. All the accounting documents, except those which should be permanently kept or which are related to unsettled accounting events, must be kept for at least five years after the completion of annual closing procedures. All the accounting books and financial statements must be kept for at least 10 years after the completion of annual closing procedures, provided that there aren’t any unsettled accounting events listed within.

3. Tax

Taiwan tax system is quite simple and the tax rates are low. The major Taiwan tax issues to be considered are highlighted below.

The information provided is general in nature and should not be relied upon as professional advice.
3.1 Income tax

A domestic profit-seeking enterprise is subject to corporate income tax on all of its income regardless of source. All profit-seeking enterprises, including subsidiaries of foreign companies that are incorporated under the Company Act of Taiwan, are considered domestic profit-seeking enterprises. A foreign profit-seeking enterprise is subject to tax only on income sourced in Taiwan.

The tax threshold for taxable income is TWD120,000, and the total net income exceeding TWD120,000 is subject to corporate income tax at a rate of 17%. However, the income tax payable may not exceed one half of the taxable income minus the TWD120,000 threshold amount.

The alternative minimum tax (AMT) applies to domestic profit-seeking enterprises and foreign profit-seeking enterprises that have a fixed place of business or business agent in Taiwan, if the enterprise's basic income exceeds TWD500,000. The AMT tax rate is 12%. If the regular income tax equals or exceeds the AMT, only the regular income tax is payable. The regular income tax is payable in addition to the AMT. The additional tax payment cannot be offset by tax credits.

Under an imputation system which took effect on 1 January 1998, a 10% surtax is imposed on the undistributed profits of companies in the second year following the year in which the profits are earned. This tax is in addition to the normal corporate income tax imposed on the profits.

The tax losses can be carried forward within 10 fiscal years to offset its taxable income for the subsequent fiscal years, if certain requirements are met. Losses carrying back are not applicable.

3.2 Indirect tax

Taiwan imposes business tax, which consists of VAT and gross business receipt tax (GBRT).

Business tax applies to sales of goods and services in Taiwan, as well as to imports of goods into Taiwan.

In general, both VAT and GBRT liabilities are based on the sales amount, which includes all of the consideration received from sales of goods and services, and expense reimbursements.

The VAT rates are 5% (the standard rate) and 0%. The GBRT rates vary from 0.1% to 25%.

Business tax returns must be filed for two-month periods by the 15th day following the end of the period. It is possible to apply for monthly VAT filings if a business entity is eligible for zero-rated VAT.

3.3 Customs

The Taiwan customs mechanism, including the valuation and classification, follows the World Trade Organization (WTO) rules. The customs duty is mainly imposed on an ad valorem basis and is sometimes imposed on specific duty or compound duty. The duty-paying value is assessed on the basis of the transaction price actually paid or payable by the buyer when goods are imported into Taiwan. The transaction price refers to the price actually paid or payable by the buyer when goods are imported into Taiwan.

3.4 The specially selected goods and services tax (GST)

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

Those taxable goods and services, including passenger cars valued not less than TWD3m and any membership rights with a selling price of not less than TWD500,000, etc., are subject to the specifically selected GST at a statutory tax rate of 10% based on either all considerations collected at the time of sale or the sum of the customs value and import duty.

Funding operations

Under Taiwan foreign exchange controls, a subsidiary or a branch office may remit in or out unlimited funds for the import or export of goods and services.

Except for the above-mentioned circumstances, a subsidiary or a branch office is allowed to remit inward or outward with accumulated amount not exceeding US$50m in a calendar year.

Taiwan has a thin capitalization rule for a debt-to-equity ratio of 3:1. The interest on the excess portion of loans is not deductible for corporate income tax.

Foreign investment considerations

Except for some special industries which foreign investors are prohibited or restricted from investing in, there is no other restriction on foreign individuals or foreign corporations to invest in Taiwan.
1. Government requirements

Registration requirements

Registration for social insurances

The social insurances in Taiwan covers labor insurance and national health insurance. The labor insurance is a compulsory social insurance covering workers who make money by working and is implemented as a comprehensive insurance. The national health insurance (NHI) is a type of social insurance system in which each participant is required to pay a monthly insurance premium in return for medical treatment for childbirth, illness or injury. The insuring party, according to the Labor Insurance Act and the National Health Insurance Act, is the institution or employer that employs the insured, or the organization to which the insured belongs. In addition to the above, the supplementary Second Generation NHI was also announced in 2013 to improve the current national health insurance program. A new business that enters Taiwan shall apply the labor insurance and NHI numbers to the insurance bureaus after completing the legal entity setup procedure. These numbers can be used to enroll the hired employees into the social insurance program.

Ongoing compliance requirements

Payroll withholding tax payment

The term “tax withholder” as used in the Income Tax Act means a person or business who is required under this act to withhold income tax from the payment to be made to a taxpayer. The withholding tax should be withheld at the time when the payment is made and the withholding tax should be paid by the following time line:

- Tax residents (persons who stay in Taiwan over 183 days): The withholding tax shall be paid before 10th of the following month when the payment is made.
- Non-tax residents (persons who stay in Taiwan under 183 days): The withholding tax shall be paid within 10 days when the payment is made.

The tax payment method

The withholding tax can be paid by cash or check at the bank counter. Currently, there is no option for transferring the tax payments electronically to the tax authorities.

Withholding tax return filing

Besides the withholding tax payment, the business is also required to file the withholding tax return for the taxpayers by the following time line:

- Tax residents: annual filing of the withholding tax return by 31 January of the following year
- Non-tax residents: the withholding tax return filed within 10 days every time the payment is made

Annual supplementary second generation NHI reporting

Under the National Insurance Act, the business is also required to file the annual reporting of monthly Second Generation NHI premium paid by the employees. The filing time line is 31 January of the following year.

2. Pension requirements

Registration requirements

The pension is governed by the Labor Standards Act (hereinafter referred to as the “old scheme”) and the Labor Pension Act (hereinafter referred to as the “new scheme”) after 1 July 2005. All employers in Taiwan are required to contribute a certain minimum amount toward superannuation support for their workers. A new business entering Taiwan shall apply the pension number (new scheme) to the Labor Insurance Bureau after it completes the legal entity setup procedure. This number can be used to enroll the hired employees into the pension program.

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Doing business in Taiwan

Ongoing compliance requirements

The rate of contribution by an employer to the labor pension fund per month shall not be less than 6% of the employee’s monthly wages. An employee may voluntarily contribute per month up to 6% of their monthly wages to their pension fund account. The full amount of the voluntary pension contribution made by an employee may be deducted from the employee’s taxable income in the year concerned. The local employees hired after 1 July 2005 and onward are applicable under the new scheme only, while foreign workers remain under the old scheme. The local employees who stayed in the same company before 1 July 2005 and who are planning to continue working in the same company can choose to remain under the old scheme. The employer must set aside pension reserves under the old scheme for foreign workers or those who are applicable under the old scheme to the account in Bank of Taiwan with a rate from 2% to 15%.

3. Employment obligations

Employment law and minimum employment requirements

Taiwan’s comprehensive labor rights protection system is primarily based on the Labor Standards Act, the provisions of which stipulate the basic wage, working hours, weekends and holidays, and other basic working conditions. For persons paid by the month, the minimum monthly wage required by law is TWD20,008 (as of 23 September 2013); for persons paid by the hour, the minimum hourly wage is TWD120 (as of 23 September 2013). In addition to the minimum wage, the employer must provide overtime pay in accordance with regulations. Provisions related to national holidays and leaves are specified in the Labor Standards Act, the Regulations of Leave-taking of Workers and the Act of Gender Equality in Employment. Also, workers who have worked continuously for the same employer or unit for certain completed spans of time are entitled to annual leave.

The Act of Gender Equality in Employment, which seeks to eliminate gender discrimination and prevent sexual harassment, along with other regulations that provide for equality in employment, such as the right to apply for no-pay parental leave, guarantee the basic rights of workers.

4. Payroll requirements

Payroll payments

According to Labor Standard Act, except otherwise agreed by the parties to a labor contract, or where wages are paid in advance on a monthly basis, wages shall be paid on a regular basis at least twice a month. This shall also apply to wages computed on a piecework basis.

An employer shall keep a worker payroll roster in order to record entries, such as wages payable, the items of wage computation and the total sum of wage payment. This payroll roster shall be kept on file for at least five years.

Banking requirements related to payroll

Banking of salary and wages

Payroll payments can be paid by one or a combination of:

- Cash
- Cheque, money order or postal order, payable to the employee
- EFT or bank transfer

If paying wages by cash, the employer and employee should sign a record to confirm the amount of money that has been paid for each pay period.

For employee receiving foreign currency payment, the withholding tax is calculated on the basis of the foreign exchange rate of the payment date.

Under Taiwan foreign exchange controls, a subsidiary or a branch office may remit in or out unlimited funds for the import or export of goods and services.

Except for the above-mentioned circumstances, a subsidiary or a branch office is allowed to remit inward or outward with accumulated amount not exceeding US$50m in a calendar year.

6. Immigration requirements

Foreign passport holders must have valid visas to enter Taiwan or foreign nationals eligible for visa-exempt entry must have a passport that is valid for more than six months. The work activity will require a work permit and associated long stay visa. Alien registration requirements also apply.
Doing business in Thailand
Approval and registration requirements

1. Company
   - A minimum of three promoters are required to register a limited company and a minimum of 15 promoters are required to register a public limited company with the Department of Business Development (DBD) at the Ministry of Commerce (MOC). Upon registration, the promoters become shareholders.
   - There are no minimum capital requirements; however, the capital should be sufficient for the purpose of the company.
   - The company’s directors are required to call for payment of at least 25% of the par value of their shares.
   - The registration fee is 0.55% of the registered capital, with a THB5,500 minimum and THB255,000 maximum (for a limited company).

2. Branch
   - Foreign corporations wishing to do business through a branch, representative office or regional office must submit the related documents to the DBD.
   - All documents must be notarized by a notary public or certified by the local Thai embassy.
   - It is required to obtain a foreign business license prior to starting operations in Thailand.
   - The registration fee is 0.5% of the registered capital, with a THB5,000 minimum and THB250,000 maximum.

Choice of vehicle

1. Companies
   A limited liability company is the most common vehicle for foreign investors. The liability of the shareholders is limited to the amount invested plus the amount unpaid on the shares they hold.
   The two types of limited liability companies are the private limited company and the public limited company. Under the Limited Public Company Act B.E. 2535 (1992), any company that intends to raise capital from the public must be incorporated as (or, in the case of existing private limited companies, be transformed into) a public limited company.

2. Partnerships
   This form of business organization is common among Thais, but unusual for overseas investors. In addition, it does not have a favorable public image in Thailand.

3. JVs
   A JV is an agreement between two or more entities to carry on a specific undertaking for a limited period. JVs are not recognized as legal entities under the Civil and Commercial Code, but may be regarded under tax laws as tax entities for tax declaration purposes.

4. Branches of foreign corporations
   In general, a branch office is not recommended as a vehicle for foreign investment because the branch’s liabilities may be extended to the home office, and a branch does not provide any tax advantages when compared with a locally incorporated company. Branches are normally used when foreign corporations secure short-term assignments for two to five years and receive government permission to carry on the specific assignments.

5. Representative offices
   Representative offices are treated as branches of foreign corporations for tax purposes. A representative or liaison office is used only for non-trading activities, such as maintaining quality control on goods exported from Thailand or gathering information for the head office. These offices may not conduct activities to secure sales orders in Thailand.
1. Corporate secretarial

The deadline for lodging the financial statements with the MOC is within five months after the fiscal year-end date. Please note the following:

• The Annual General Meeting of shareholders shall be called by the board of directors.
• The deadline for holding the Annual General Meeting depends on the company’s articles of association, but not more than four months after the fiscal year-end date.
• The purpose of the Annual General Meeting is to approve the FS, consider and elect the company’s directors by rotation, and appoint an auditor.
• Failure to do so, the company shall be subjected to a fine of not more than THB20,000.

2. Accounting and reporting

Filing requirements

Companies shall convene the annual general meeting of shareholders to approve its financial statements within four months after the fiscal year-end date. Companies are required to file the audited financial statements with the Ministry of Commerce within five months after the fiscal year-end date, and the annual income tax return shall be submitted within 150 days after the fiscal year-end date.

Audit requirements

All companies, registered partnerships and branches of foreign corporations doing business in Thailand are required to prepare financial statements in Thai and are audited by licensed auditors.

Licensed bookkeeper

Under Accounting Act B.E. 2543 (2000), companies must provide the bookkeepers possessing required qualifications of an accountant.

3. Tax

The Thai Revenue Code governs corporate and personal income taxes, branch profit remittance tax, VAT, specific business tax and stamp duty. The Customs Act regulates customs duties and the Excise Act governs excise taxes.

3.1 Income tax

The corporate income tax rate has been permanently reduced to 20%, effective from 1 January 2016. Thai corporate entities are subject to corporate income tax on their worldwide income.

In addition, local branches of foreign corporations are liable for 10% profit remittance tax on profits remitted or booked to the foreign head office.

Tax and other incentives are also available in Thailand, such as investment incentives under the Investment Promotion Act 1977, tax package for International Headquarters (IHQ) or International Trading Center (ITC), and reduction of corporate income tax rates for small and medium enterprises (SMEs).

The tax period follows the accounting period and may not exceed 12 months. The operating losses may be carried forward for five years. Loss carrybacks are not allowed.

Half-year tax returns shall be filed with the Revenue Department within two months after the end of a company’s first half-year.

Annual income tax returns and audited financial statements shall be filed with the Revenue Department within 150 days after the end of accounting year. The interim tax paid is creditable against the annual tax payable at the end of the year. Any balance of corporate income tax due is paid when the return is filed.
Withholding tax: Companies must withhold taxes on certain payments they make to third party. The tax rate varies from 0.755–15% depending on types of income and taxes withheld must be remitted together with withholding tax return submission to the Revenue Department within seven days from last day of the month in which the taxable income was paid.

Personal income tax returns: The personal income tax is calculated by progressive tax rates ranging from 0%–35% on the net assessable income. The personal income tax returns must be filed with the Revenue Department by the end of March of the following tax year.

3.2 Indirect tax

VAT: The VAT is levied on the value added at each stage of production and distribution, including servicing, currently at the reduced VAT rate of 7% until 30 September 2017. If there is no further reduction, the original standard rate of 10% will be applicable as from 1 October 2017 onward. A 0% rate applies to export sales, exported services and sales of goods or rendering of services to the United Nations (UN), and certain types of income are also exempt from VAT.

Specific business tax (SBT): SBT is a form of sales tax levied on the revenue of certain businesses (primarily financial service businesses, such as banks, finance companies and life insurance companies). The tax is based on gross revenue, including interest income. The rates of specific business tax range from 0.011% to 3.30%.

Stamp duty: The stamp duty must be paid on certain instruments prescribed in the Revenue Code. These instruments include service agreements, loan agreements, share transfer deeds and lease agreements for immovable property. The rate of stamp duty depends on the type of document.

Excise tax: The excise tax is levied on luxury items, such as small passenger vehicles, oil and petroleum products, and soft drinks. The excise tax is calculated on an ad valorem basis or at a specific rate, whichever is higher.

Household tax: The annual household tax is levied at 12.5% on the annual assessed rentable value of leased immovable property.

3.3 Customs

Customs duties are levied on numerous imported items and, to a minimal extent, on exported items. Import duties range from 0% to 80% and are levied on an ad valorem basis or at a specific rate, whichever is higher. For ad valorem duty, the customs value of goods is generally determined by suppliers’ or manufacturers’ invoices. The authorities, however, have the right to reassess the value of goods found to be valued significantly lower than the market or where they believe the relationship between the buyer and seller influenced the price. The exemption or reduction of duties can be granted on certain conditions.

Funding operations

Thin capitalization

There is no thin capitalization rule to limit the amount of tax deductible interest expenses.

Foreign investment considerations

Foreign exchange controls

The vast majority of foreign exchange transactions require only sanction by a commercial bank upon presentation of relevant supporting documents. In certain cases, however, central bank approval is still required.
People – payroll and immigration requirements

1. Government requirements

Registration requirements

Payroll withholding tax

The employer has an obligation to calculate and deduct withholding tax under progressive rates as well as social security tax on the basis of rates as stipulated by the social security office.

Social security fund and workmen compensation fund

Social security fund is the fund that guarantees the insured with benefits in case of illness, injury, disability or death (not resulting from work), including maternity, invalidity, old age and unemployment. The insured employees should be above 15 years of age and not more than 60 years of age, and should have worked in establishments with employees who hire more than one employee.

Employers with one or more employees must register within 30 days. In case of new employees, the employer has to register with the social security fund by submitting the registered employer form together with the relevant employer and corporate documents.

Workmen compensation fund

A fund to pay compensation of the employer to the employee for sickness, injury or death due to work, prevention or treatment of a disease or sickness benefits. This happens according to the nature or conditions of work or disease, as a result of working for the employer.

For employers with more than one employee, it is obliged to register the workmen compensation fund together with the social security fund within 30 days.

Ongoing compliance requirements

Payroll withholding tax

The employer needs to remit the tax deduction by filing the monthly payroll withholding tax return with the Revenue Department within seven days of the following month either via hard copy or e-filing (an approval for e-filing is required).

The employer is required to file a summary of payroll withholding tax return on an annual basis with the Revenue Department within the end of February of the following year.

Social security contributions

The employer is required to deduct social security contributions from its employees’ wages and contribute its share in an amount equal to the employees’ contribution and submit the social security tax return within 15 days of the following month either in hard copy or e-filing (an approval for e-filing is required). The basis for calculation of contributions is calculated from the minimum monthly wage from THB1,650 per month up to THB15,000 per month.

The employer is also required to inform the change in the facts of the employer and insurers by submitting the notice form as required by the social security office within 15 days of the following month.

Workmen compensation contributions

Employers pay contributions on a yearly basis. Contribution is based on the calculation of the wages to be paid to the employee for each year and up to THB240,000 per year. The contribution rate is set based on the risk profile of the employer’s business.

The employer is required to pay contributions by submitting the contribution forms in January and March of the following year.

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2. Pension requirements

Registration requirements
Provident fund is a fund set up voluntarily between the employer and employees. The contribution to be made by the employer shall always equal the rate of the employee's savings or higher. Therefore, setting up of a provident fund can be regarded as a kind of benefit so as to motivate employees to work for the employer.

Ongoing compliance requirements
The employer is required to make the provident fund contributions with the fund manager within three working days after pay day.

3. Employment obligations

Labour Protection Act
The minimum wage rate is THB300 per day as determined by the Wages Committee under this act.

The standard working hour shall not exceed eight hours per day and total working time per week shall not exceed 48 hours. Employees are entitled for overtime if working beyond or excess of normal working time or exceeding the working hours agreed between the employer and the employee.

On working days, an employer shall arrange a rest period during work for its employees of not less than one hour per day after the employee has been working for not more than five consecutive hours.

Sick leave is provided as long as the employee is actually sick. For sick leave of three days or more, the employer may require the employee to produce a certificate from a first-class physician or an official medical establishment.

An employer shall announce not less than 13 traditional holidays per year in advance for employees, including National Labour Day as specified by the minister.

An employee who has worked for an uninterrupted period of one year, is entitled to annual holidays of not less than six working days in one year.

An employer needs to pay severance pay to an employee upon termination of employment with certain conditions under this act.
Doing business in Vietnam
Registration requirements

**Incorporation process:** The foreign investors investing in Vietnam for the first time by setting up a Foreign Invested Enterprise (FIE) must apply for an Investment Registration Certificate (IRC) and Enterprise Registration Certificate (ERC). Industrial sub-licenses will be applicable to certain business sectors.

The FIE has the legal capacity since the issuance date of ERC. Depending on whether the FIE's head office is located outside or inside an industrial park (IP), export processing zone (EPZ) and high-tech park, the IRC procedures will either be monitored by the provincial or municipal Department of Planning and Investment (DPI) or the management authorities of the IP, EPZ or high-tech park, respectively.

The foreign investors who invest in the form of capital or share purchases in an existing local company might be subject to the written pre-approval from the Government authorities.

**Choice of vehicle**

The different vehicles under which the foreign investors may undertake their activities in Vietnam include:

- Limited liability company
- Joint stock company
- Partnership
- Representative office
- Branch (in limited cases)
- Business cooperation contract (BCC)
- Public and private partnership contracts (PPP)

**Compliance and reporting**

1. **Corporate secretarial**

   **Governance:** Depending on the form of enterprise, the management structure of an enterprise may include the member's council, the general meeting of shareholders, a board of management, a chairman of the member's council, a director or a general director.

2. **Accounting and reporting**

   **2.1 Accounting principles and practices**

   An enterprise is required to have a chief accountant, who has to meet certain conditions to qualify as chief accountant.

   All enterprises established and operating in Vietnam, including FIEs are required to apply the Vietnamese Accounting Standards and Vietnamese Enterprise Accounting System and the statutory requirements (VAS) as statutory financial reporting framework. Provided the VAS is applied without modifications, the registration for the use of VAS with the Ministry of Finance (MoF) is not required.

   The VAS prescribes in detail the method by which transactions are to be accounted for, including the use of specific accounting codes and account names. The VAS also prescribes a standard chart of accounts, the format of internal accounting documentation, the bookkeeping journals for all types of transactions to be used, and a financial statement and disclosure template. All accounting records are required to be maintained in the Vietnamese language or in both Vietnamese and a foreign language. The required accounting currency is the Vietnamese dong.

   **2.2 Reporting and filing requirements**

   Financial statements must be prepared annually, audited and filed with the following:

   - The city or provisional tax office
   - The MoF or the provincial Department of Finance

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3. Tax

The business and tax landscapes have changed dramatically and the pace and complexity of change continues to increase. The Vietnamese taxation system has the following major forms of taxes: corporate income tax, foreign contractor tax, personal income tax, VAT, special sales tax, import and export tax, and natural resources tax.

3.1 Income tax

3.1.1. Corporate income tax (CIT)

The CIT Law applies to all domestic and foreign entities that invest in Vietnam. The CIT Law expands the taxpayer pool to include all foreign enterprises having income from Vietnam regardless of whether they have a permanent establishment in Vietnam or not.

**Tax rates**: The standard CIT rate is 20% unless tax incentives apply.

The rate of CIT applicable to activities of exploration and exploitation of oil and gas and other precious natural resources ranges from 32% to 50%. The rate varies according to the specific project and business establishment.

**Tax incentives**: Tax holidays and preferential tax rates may be available to eligible investment projects in industries or locations that are encouraged by the government.

**Capital gains**: Gains derived from sales of shares or assignments of capital in enterprises are subject to tax at standard rate.

**Foreign tax relief**: Vietnam has signed tax treaties with more than 70 countries and territories that provide relief from double taxation.

**General**: The taxable income of an enterprise is the income shown in the financial statements subject to certain adjustments. Taxable income includes income derived from main business activities and other activities.

An enterprise may deduct expenses if the following conditions are satisfied:

- The expenses are actually incurred and related to the production and business activities of the enterprise.
- The expenses are accompanied by complete invoices and source vouchers as required by law.
- Expenses from VND20m must be supported with cashless payment vouchers.
- The expenses do not fall into specific list of nondeductible expense.

**Relief for losses**: Enterprises that incur losses may carry forward the losses to the following five years and claim such losses as deductions from taxable income. Losses must be wholly carried forward to consecutive years (including the year of a tax holiday). The loss carried backward is not allowed.

**Groups of companies**: The offsetting of losses and profits between parents and subsidiaries is not allowed.

3.1.2. Personal income tax (PIT)

**Who is liable**: Under the PIT Law, which took effect on 1 July 2013, taxpayers are resident and nonresident individuals who have income that is subject to tax.

**Tax year**: The Vietnamese tax year is the calendar year. However, if an individual stays in Vietnam for fewer than 183 days in the calendar year of first arrival, the first tax year is the 12-month period from the date of arrival. Subsequently, the tax year is the calendar year.

**Income subject to tax**: Residents are taxed on their worldwide income, while nonresidents are taxed on their Vietnam-source income. Under the PIT Law, 10 types of income are subject to tax, such as: income from business, income from employment and income from capital investment.

**Tax rates**: For tax resident, a progressive taxing system, where the marginal rate range from 5% to 35%, is applied on the worldwide income. For non-tax resident, a flat rate of 20% is applied on the income derived from Vietnam.

3.1.3. Foreign contractor tax (FCT)

Foreign organizations and individuals carrying on permitted businesses in Vietnam without a legal entity may be subject to FCT. The various rates depends on the type of business activity (1%-10%)

The foreign investors transferring securities (e.g., listed shares or shares of public companies) are subject to a presumptive tax of 0.1% on total sale proceeds, regardless of whether the transfer is profitable or not.

**Dividends**: Dividends and branch remittances are not subject to withholding tax. Withholding taxes on interest and royalties. A 5% withholding tax is imposed on interest. A withholding tax at a rate of 10% is imposed on royalties paid to foreign legal entities with respect to technology transfers and licensing.

3.2 Indirect tax

**VAT** is applied on all goods and services consumed in and imported into Vietnam, including goods and services subject to special consumption tax, except for non-taxable items.

- **General rate**: 10%
- **Exports of goods and services**: 0%
- **Certain goods and services, such as water supply, agricultural goods, medical goods and teaching aids**: 5%
Special consumption tax (SCT) is imposed on imported or domestically produced cigarettes, beer, spirits, motor vehicles, fuel and air conditioners, and various services including casinos, betting, golf courses and various places of entertainment. Export products are exempted from SCT.

3.3 Customs

Export or Import duties: The tariff is subject to frequent changes.

Export duty: Export is encouraged in Vietnam; therefore only a few items, such as natural resources are taxed (i.e., 4%-40%). Import duty is imposed based on harmonized system (HS) code of goods imported into Vietnam. The import duties are classified into three categories: ordinary rates, preferential rates and special preferential rates applicable depending on the origin of goods.

3.4 Other taxes and miscellaneous matters

Land rent (land-use tax): Imposed annually for the use of land; tax base is calculated by multiplying the amount of square meters of the land by land price rates, which vary by location; the higher land price rates apply to land in Hanoi Ho Chi Minh City and other urban locations.

Non-agricultural land use tax: Effective from 1 January 2012, taxable objects include residential land in all areas and land use for business purposes, except for certain cases: residential land (0.03-0.15), non-agricultural land used for business purposes (0.03), land used not in accordance with granted purposes (0.15).

Environmental tax: Taxable objects comprise petrol, oil, lubricants, black coal, HCFC solution, taxable plastic bags, herbicide termite insecticide and forest.

Natural resources tax (NRT) is payable by industries exploiting Vietnam's natural resources. The taxable objects include metallic minerals, nonmetallic, minerals, products of natural forests, natural marine products and natural mineral water, other natural resources, and petroleum.

Transfer pricing: The Vietnamese tax authorities may recalculate the purchase or sales price to reflect the domestic or foreign market price. The methods permissible under the regulation closely resemble the methods provided for by the Organization for Economic Cooperation and Development guidelines. The permissible methods may include comparable uncontrolled price method, resale price method and cost-plus method.

Tax audit: The tax audit is performed on annual basis or ad hoc basis. Any tax under declaration identified by tax auditor shall be penalized at 20% (or 100%-300% if considered as tax evasion) and subject to late payment interest.

Funding operations

Foreign exchange controls: Enterprises with foreign-owned capital must open accounts at a bank located in Vietnam and approved by the State Bank of Vietnam (SBV). All foreign exchange transactions, such as payments or overseas remittances, must be in accordance with policies set by the SBV.

Enterprises with foreign-owned capital may purchase foreign currency from a commercial bank to meet the requirements of current transactions or other permitted transactions, subject to the bank having available foreign currency.

Thin capitalization rules: The foreign investors are not subject to minimum investment capital restrictions as Vietnam does not have thin capitalization rules, except certain sectors where a fixed amount of legal capital (equity) is regulated.

Foreign investment considerations

Vietnam has emerged as one of the most popular investment destinations in Asia offering advantages, such as:

- A fast-growing economy in the past years in Asia
- A well-educated population, which offers potential as both a workforce and a consumer market
- Under-exploited mineral resources
- A central location from which to reach other markets in Southern Asia
- Continued support by foreign aid
- A commitment by the Government for economic pragmatism
- Significant investment incentives for selected types of business
People – payroll and immigration requirements

1. Government requirements

Registration requirements

1. Registration with the tax department

Tax code registration is compulsory for income paying bodies and individuals having income subject to PIT. Income-paying entities are required to register for a tax code within 10 working days upon obtaining their business registration certificate. This tax code will be used to declare and pay all kinds of taxes that the company is subject to, such as, CIT, VAT and PIT. The due date for tax code registration is the 10th working day from the date a withholding tax obligation arises. The place for submission of the tax code registration forms is the tax department where the income-paying entity is located. The income-paying entity also needs to register for an individual tax code for their employees (both expatriates and local employees) who do not yet have a tax code, within 10 days from the first date of arrival (for expatriates) and of the commencement of the labor contract (for locals).

2. Registration with the Social Insurance Department

There are three types of mandatory social security in Vietnam: social insurance (SI), health insurance (HI) and unemployment insurance (UI). Together, they are referred to as “SHUI.” These compulsory insurances are organized by the state. When the employees contribute to compulsory insurances, they are covered under the insurance regime, such as sickness, maternity, labor accident and occupational diseases, retirement, survivorship allowance, and others. The income-paying entities are required to register with their local social insurance agent for the social insurance code for the company. When a new employee is hired, the company needs to perform the following tasks:

- Obtain a health insurance card
- Register the new employee with the social insurance agency
- Obtain a new social insurance book (if required)

When an employee terminates their employment contract with the company, the company is required to perform the following tasks:

- Return the health insurance card to the social insurance agency
- De-register the terminated employee with the social insurance agency
- Close the social insurance book

Ongoing compliance requirements

1. Employer’s tax filing and payment

PIT is required to be filed and paid on a monthly or quarterly basis. The employer is required to withhold tax from the employee's income, declare and pay tax to the state budget. Monthly or quarterly PIT payments must be reconciled at the end of each calendar year. The deadline for the monthly filing and payment is by the 20th day of the following month and for the quarterly filing and payment by the 30th day of the first month of the following quarter.

2. Employer’s annual reporting and finalization

The income paying body is responsible to declare and settle the outstanding amount of PIT payable on behalf of the authorizing employees. The due date of annual tax filing and payment is within 90 days from the last day of the calendar year.

For individuals who are not entitled to authorize the company to finalize the tax on their behalf, the income paying entity will report the total taxable income and the actual tax withheld during the year in the company’s final return. In addition, the company will issue the Income Confirmation Letter and the PIT withholding certificate for their employees so that the employees can submit and pay PIT finalization under the individual’s tax code.
3. Monthly filing and payment of SHUI

When there is a change of SHUI contributions (increase or decrease), SHUI filing is required with the social insurance agency on a monthly basis by the 20th day of the current month and the SHUI payment shall be made by the 30th of the current month at the latest.

The income-paying entity must also lodge documents relating to the social insurance benefit claims on behalf of their employees whenever required.

2. Pension requirements

In Vietnam, the pension scheme is the social insurance scheme.

3. Employment obligations

In Vietnam, there are two types of common wages: the minimum common wage and the minimum regional wage. The minimum common wage is used as the basis for calculation of the SI and HI contributions, and the minimum regional wage is the basis for calculation of UI contribution.

The minimum wages are publicized by the National Assembly. The minimum common salary is subject to change every year and the current common salary is VND1,210,000 per month. The minimum common salary is subject to change every year and the current common salary is VND1,210,000 per month. The minimum common salary shall increase to VND1,300,000 per month with effect from 1 July 2017. Meanwhile, the regional common salary ranges from VND2,580,000 to VND3,750,000.

The normal working hours must not exceed eight hours per day or 48 hours per week. In addition, the income-paying entity needs to ensure that the number of overtime working hours of its employees does not exceed 50% of the normal working hours per day. The total normal working hours and the overtime hours should not exceed 12 hours in a day and less than 30 hours in a month respectively. The numbers of overtime hours are permitted up to 200 hours per annum; however, a limit of 300 hours is applicable to certain industries.

With respect to the rest time and leave, there are several kinds of rest time, including break during working hours, break between shift and weekly break. An employee who has been working for an employer for a full 12 months is entitled a fully paid annual leave as stated in their labor contract. The annual leave of an employee should increase one day for every five years working for an employer. Besides, an employee may take fully paid leave for personal reasons in the following cases:
- Marriage: three days
- Marriage of child: one day
- Death of a blood parent or a parent of their spouse, their spouse or child: three days

4. Payroll requirements

An employee must be paid with a full wage in a direct and timely manner. The salary payment should be settled in the current working month. In some special cases in which an employer cannot pay wages on time to an employee, the employer is not allowed to postpone the payment for more than one month and shall pay the employee with an additional amount at least equal to the deposit interest rate announced by the State Bank of Vietnam at the time of wage payment.

5. Banking requirements related to payroll

Wages may be paid in cash or via the employee's personal bank account. Where the wage is paid via a bank account, the employer shall negotiate with the employee on any fees related to the opening and maintenance of the bank account. If paying wages in cash, the employer and employee should sign a record to confirm the amount of money that has been paid each pay period.

6. Immigration requirements

Depending on the nationality and purpose of travel, foreign nationals may obtain a visa for entry to Vietnam prior to travel or on arrival at the border. Citizens of certain nationalities require an entry visa prior to arrival. These are issued for visiting purposes only, but not for employment. The work activity in Vietnam requires a work permit, or in the instance of short-term-approved activity, a work permit exemption. A work permit must be sponsored by a Vietnamese operating entity for a nominated position.

Skill, professional experience, health and character threshold criteria apply. Work permits are typically issued for periods of one year and are renewable subject to criteria being met. Work permit applicants and their dependents also require the appropriate entry visa permission for entry to Vietnam and associated temporary residence card for the duration of their stay.
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