

DOING BUSINESS IN ASIA PACIFIC

2017-2018



INTRODUCTION

This guide has been prepared to assist those interested in doing business in Asia Pacific. It does not cover the subjects it treats exhaustively, but it is intended to answer some of the important broad questions that may arise. When specific issues arise in practice, it will often be necessary to consider the relevant laws and regulations and to obtain appropriate professional advice.

Asia has become a global growth driver and as such both local and international companies are seeking assistance from firms offering a large range of expertise, whilst having a presence across the principal markets of the region. This is the case for Mazars, which is forever striving to strengthen its presence and services.

MAZARS IS AN INTERNATIONAL, INTEGRATED AND INDEPENDENT ORGANISATION, SPECIALISING IN AUDIT, ACCOUNTANCY, TAX, LEGAL AND ADVISORY SERVICES. THE GROUP DRAWS ON THE EXPERTISE OF OVER 18,000 PROFESSIONALS TO ASSIST MAJOR INTERNATIONAL GROUPS, SMES, PRIVATE INVESTORS AND PUBLIC BODIES IN 79 COUNTRIES THAT ARE PART OF ITS INTEGRATED PARTNERSHIP.



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MAZARS

Mazars is an international, integrated and independent organisation, specialising in audit, accountancy, advisory, tax and legal services. As of 1 January 2017, Mazars and its correspondents operate throughout 94 countries. 79 of these countries are part of Mazars' international integrated partnership and 15 are Mazars correspondents.

The Praxity Alliance offers Mazars operating capacity via professional teams in 21 additional countries. Mazars draws upon the expertise of 18,000 women and men led by 950 partners working from 270 offices worldwide. We assist clients of all sizes, from SMEs to mid-caps and global players as well as start-ups and public organisations, at every stage of their development.

Mazars in Asia Pacific: Compliance Made Easy

Mazars provides compliance and advisory services across Asia Pacific. Our clients include owner-managed businesses, international corporate organisations and blue chip companies. We provide services in the following areas: company registration, accounting, payroll, tax compliance, legal compliance, immigration and other services as requested by our clients. Our integrated structure enables Mazars to ensure quality of service and cooperation across the region. We use our local knowledge to ensure that you remain compliant, allowing you to focus on developing your business. When you choose Mazars in one or more countries, you can be assured of a cost effective, one point of contact service.



AUSTRALIA

GDP GROWTH	2.8%
INFLATION	1.3%
POPULATION	24.1M
GDP PER HEAD	USD 49,927.8
WORLD BANK EASE OF DOING BUSINESS RANK	14

AUSTRALIA

ESTABLISHING AN ENTITY

The legal structures available for foreign businesses wishing to operate in Australia are: subsidiary company or registered foreign company (where the foreign company registers to carry on business in Australia i.e. a branch registration). The concept of a representative office exists in Australia but can only involve limited business activities of the foreign company in the country such as marketing and maintenance of stock.

A company is much simpler to establish and to obtain the various registrations to trade. For this reason, it is the most popular approach to setting up in Australia. In order to establish a company, you must have at least one Australian resident Director and an Australian resident “public officer” for dealings with the Australian Taxation Office (ATO). The same person can perform both roles.

A branch (registered foreign company) is essentially treated the same as a company from an ongoing corporate tax perspective. The initial registration of the foreign company with the Australian Securities and Investments Commission (ASIC) and the ATO can be a difficult process due to proof of identity requirements for foreign parties. This can add up to 3 months to the establishment process.

FOREIGN BUSINESS RESTRICTIONS

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 urban real estate, certain shares of Australian owned private companies, or shares in foreign companies which own Australian assets. The thresholds that apply to acquisitions of interests can be found on FIRB’s [website](#).

INVESTMENT INCENTIVES

An Australian resident company can obtain income tax incentives for research and development expenditure and grants for exporting. A foreign company carrying on business through a branch in Australia can obtain these incentives if it is incorporated in a country that Australia has entered into a double tax agreement with.

Tax incentives are available for investors in early stage innovation companies. The incentives provide a tax offset for the initial cost of investment and an exemption from capital gains tax on the sale of shares held between 12 months and 10 years.

For large entities wishing to establish a presence in Australia with a large number of employees, there may be state based grants or state payroll tax allowances available. These are negotiated individually on a case by case basis.

WORK PERMITS AND VISAS

An expatriate travelling to Australia for business purposes (such as attending a meeting/conference, negotiating a contract or making enquiries) can usually obtain a 'Business Visitor' visa (depending on their nationality). Expatriates who wish to 'work' in Australia must obtain the appropriate working visa, which is generally a Subclass 457, or alternatively, a Subclass 400 visa. There are current proposals to replace the Subclass 457 visa with what will be known as the TSS visa (Temporary Skills Shortage Visa) in early 2018.

Companies operating in Australia, or those in other countries wishing to establish an entity in Australia, are able to sponsor individuals to enter with the Subclass 457 visa, which allows a stay in Australia of up to 2 or 4 years (depending on the occupation of the expatriate employee). Extensions are possible provided that an approved sponsor continues to support the visa application.

A visa holder cannot change conditions of employment without prior approval from the Department of Immigration.

TAXATION

All businesses trading in Australia must obtain an Australian Business Number (ABN) as well as a Tax File Number (TFN).

The main business taxes in Australia are company tax, GST and withholding tax. The general company tax in Australia is 30%, which applies to their taxable income; however, a lower rate of 27.5% applies for companies that carry on a business, have passive income less than 80% of their annual income and have an annual group turnover of less than the relevant annual threshold.

The threshold is AUD 25 million for 2017/2018 and will increase to AUD 50 million from 2018/2019. The income tax return is due annually, approximately 5 months after the year end of the company. After the first year of operation, the company will also pay a quarterly instalment of company tax. The four instalments are then applied to the tax liability at year end.

The standard year end in Australia is 30 June, however, a taxpayer can apply to have an alternative year end to match group reporting dates. Losses are available to be carried forward indefinitely, subject to meeting specific loss tests. All Australian entities in a wholly-owned group can choose to consolidate and therefore be treated as a single entity for income tax purposes.

In general, Goods & Services Tax (GST) registration is required for all businesses where turnover exceeds AUD 75,000. The rate of GST is 10%. A registered business must lodge GST returns either monthly or quarterly via a Business Activity Statement. The net GST (GST payable minus input tax credits) is paid to the ATO at the same time.

Withholding tax is required to be deducted from the overseas payment of interest, unfranked dividends (i.e. dividends paid from profits not previously subject to tax in Australia) and royalties. The rate of withholding tax will be determined with reference to whether Australia has a Double Tax Agreement with the relevant country.

AUDIT AND ACCOUNTING

The reporting requirements of proprietary companies and registered foreign companies depend on whether the company is defined as large or small under the Corporations Act.

A company is classified as small if it meets 2 of the following 3 criteria:

- (1). Consolidated gross operating revenue less than AUD 25 million a year
- (2). Consolidated gross assets less than AUD 12.5 million at year end
- (3). Number of employees at year end is less than 50 for that entity and all controlled entities.

The proprietary company is otherwise categorised as large.

Small foreign controlled companies are required to prepare and lodge audited financial reports with the Australian Securities and Investments Commission (ASIC) unless they satisfy the criteria for the application of one of the following exemptions:

- Where their results are included in a consolidated financial report lodged with ASIC by a registered foreign company or an Australian company.
- Where the company obtains relief from ASIC within the prescribed time period (being 3 months prior to commencement of the financial year through to 4 months following the end of the financial year).

COUNTRY QUIRKS

- Fringe benefits tax applies to benefits provided to employees such as cars, entertainment, health insurance, etc.
- Payroll tax and workers compensation insurance is payable on a State by State basis depending on which State your employees are located in.
- Superannuation (paid by the company) is compulsory for all employees at the rate of 9.5% of their remuneration.
- Thin capitalisation restrictions on debt deductions means that care should be taken when setting the level of share capital required for the business (minimum share capital is AUD 1). There are exemptions available if annual debt deductions are less than AUD 2 million.

- Capital gain tax applies to the sale of capital assets held within Australia, at the relevant corporate rate of tax. There are exemptions for certain gains made by non-residents. As such, it may be advantageous to invest into Australia through a subsidiary. There may be no tax on the sale of the shares in the subsidiary provided it does not hold significant interests in land located in Australia.

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CHINA

GDP GROWTH	6.7%
INFLATION	2.0%
POPULATION	1.37B
GDP PER HEAD	USD 8,123.2
WORLD BANK EASE OF DOING BUSINESS RANK	78

CHINA

ESTABLISHING AN ENTITY

The main legal structures available for foreign businesses wishing to operate in China include: Wholly Foreign Owned Enterprise (WFOE), joint venture, branch office and representative office.

A WFOE is a limited liability company, wholly owned by a foreign investor(s). WFOE was originally introduced to promote manufacturing activities that were either export-oriented or encouraged advanced technology. Since China's entry into the World Trade Organisation, the WFOE has also been increasingly used for consultancy and service, wholesale, retail and franchise activities.

A joint venture is an entity formed by a foreign investor(s) and a Chinese party. It could be a Limited Liability Entity (equity joint venture) or a co-operative entity (co-operative joint venture). For foreign investors new to the market, a Chinese partner offers the advantage of familiarity with the Chinese market and may help to shorten the learning curve. In some industries, the Chinese government prohibits the formation of WFOE and requires joint ventures to be formed.

The Company registration process for any structure requires a registered address, one legal representatives and one supervisor.

There is no minimum capital requirement except specific industry, however the capital must be sufficient to finance the working capital due to the foreign exchange control regulations in place in China. The Capital must be contributed as specified in the article of association.

If the investor wishes to establish a presence but does not wish to establish a separate legal entity in China, the investor may choose to establish a branch office or

a representative office. These 2 arrangements are treated as extensions of the head office overseas.

Branch offices are rarely approved and a representative office can only be used to facilitate market entry and/or act as a liaison for the group. A representative office cannot carry on business transactions or provide services to other entities.

FOREIGN BUSINESS RESTRICTIONS

Foreign businesses are regulated by the Ministry of Commerce (MOC) under the Catalogue for the Guidance of Foreign Investment. This catalogue categorises business activities into 4 groups: Encouraged, Permitted, Restricted and Prohibited.

Companies established in the Free Trade Zone in Shanghai are only subject to the Prohibited List related to this zone. An activity is allowed as long as it is not classified as “prohibited”.

Each group includes a list of the sectors and the legal structures required in each case: some of the activities require a joint venture, some limit the maximum percentage of shares held by the foreign partner, whilst others can be engaged through a 100% foreign-owned company.

INVESTMENT INCENTIVES

Foreign investment incentives are focused on some key sectors and less developed areas. Specifically, incentives are offered for high-end manufacturing, high technology, new sources of energy, energy efficiency and environmental protection industries subject to certain conditions. Entities in these key sectors may qualify for a lower enterprise income tax rate of 15%, as compared to the regular enterprise income tax rate of 25%. Research and development activities are also incentivised with 150% of the related expenses deductible for corporate income tax purposes.

In addition, foreign enterprises are encouraged to increase investments in China's central and western regions through tax incentives, policy support and other favourable

policies. Enterprises operating in these regions may enjoy a lower enterprise income tax rate of 15%.

Notably, laws relating to investment incentives are constantly changing. Professional advice should be sought when considering an investment.

WORK PERMITS AND VISAS

To obtain a work permit, in most of the situation the applicant must hold a bachelor's degree, have at least 2 years of work experiences and a local labor contract in China. The application file includes the original college degrees and no criminal records translated in Chinese, notarized and legalized at the Chinese embassy or consulate.

TAXATION

The main taxes in China are value-added tax (VAT), withholding tax, corporate income tax and individual income tax.

Starting from 1st May 2016, all taxable services provided by or provided to tax payers located in China shall be subjected to VAT and no longer to BT.

There are 2 VAT payer categories: general VAT payers and small-scale VAT payers. The VAT rates for general VAT payers are mainly: 17% for lease of movable tangible assets, 11% for transportation services and 6% for other taxable services. Small-scale VAT payers' rate is 3% and they cannot offset input VAT with output VAT. In most cases, VAT returns and related payments must be submitted by the 15th day of the following month.

Payments made from China are generally subject to withholding tax. If the payments are in relation to passive income, such as dividends, interest or royalties, they are subject to a withholding tax of 10% (to be reduced by the relevant tax treaty). In addition, VAT may be charged on items such as interest or royalties. If the payments are in relation to the provision of services, depending on whether there is protection by virtue of tax treaties, profits on such services are subject to withholding corporate

income tax at 10%. These kinds of services are subject to VAT, which are not covered by tax treaties.

Corporate income tax (sometimes called enterprise income tax) is generally applied at a rate of 25% on net profits. Two types of declarations are required: an annual declaration and a quarterly declaration.

These quarterly declarations represent a prepayment of the calculated tax payable on the forecasted net profit for the year. It is worth noting that whilst operating losses may be carried forward for up to 5 years, there is no provision for the carry back of losses or for group relief in respect of affiliates' consolidated losses. The annual declaration must be submitted before May of the following year together with the statutory audit report.

Individual Income Tax (IIT) in China is withheld on a monthly basis by the employer. It is a progressive system and the responsibility for computation and declaration is shared between employee and employer.

In practice, however, employers would be held responsible by tax authorities and would be subject to penalties for failure to report and withhold by the employers. The penalty could be as high as 3 times the amount of IIT payable. The underpaid IIT remains the responsibility of the employee. It should also be noted that an annual declaration is also required for certain individual employees e.g. those with annual income exceeding RMB 120,000 and those with income from more than 1 source.

SOCIAL CONTRIBUTIONS

Since October 2011, foreign employees in China are required to register with the National Social Security Management Centre and contribute to all 5 contribution schemes: pension, medical, work-related injury, unemployment and maternity. German and South Korean employees are exempt from this requirement due to the social contribution treaties their governments have signed with China.

Social contributions are declared and paid for on a monthly basis. The rates and basis of calculation vary depending on the location of employment.

FOREIGN CURRENCY TRANSACTIONS CONTROLS

The State Administration of Foreign Exchange (SAFE) is tasked notably with the promulgation of rules and regulations governing foreign exchange transactions, monitoring foreign exchange activities and setting the Renminbi convertibility policy.

Foreign companies in China will typically have to deal, directly or indirectly, with SAFE when receiving funds from, or paying to, overseas parties. In the case of a loan with an overseas sister/mother company for instance, the China-based borrowing company would have to register the loan with SAFE prior to receiving the funds in a dedicated bank account.

Such procedures with SAFE should not be underestimated as they can be long and complex.

AUDIT AND ACCOUNTING

All Foreign Invested Entities (FIE) in China must have their accounts prepared by a registered Chinese accountant and audited by a registered Chinese CPA firm. The financial year-end date for all entities is the 31st of December. A financial and statutory report must be issued by a CPA firm.

People's Republic of China's (PRC) generally accepted accounting principles (GAAP) is broadly aligned to IFRS, although some of the more complex standards, such as IAS39 Financial Instruments, have yet to be adopted.

COUNTRY QUIRKS

- Legal structure and capital required are sector dependent.
- Accounts must be prepared by a Chinese accountant and audited by a Chinese CPA Firm.
- All FIE in China must be audited.

- Four categories of business activities: Encouraged, Permitted, Restricted and Prohibited.
- Foreign exchange control exists on all transactions in and out of China.

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HONG KONG

SPECIAL ADMINISTRATIVE REGION (HKSAR)

GDP GROWTH	2.0%
INFLATION	2.4%
POPULATION	7.3M
GDP PER HEAD	USD 43,681.1
WORLD BANK EASE OF DOING BUSINESS RANK	5

HONG KONG

SPECIAL ADMINISTRATIVE REGION (HKSAR)

ESTABLISHING AN ENTITY

There are 3 basic ways of establishing a business in the Hong Kong Special Administrative Region (HKSAR):

- Sole proprietorship or partnership
- Limited liability companies
- Branch office or representative office of a foreign company incorporated outside of HKSAR

A. Sole Proprietorship

Other than ensuring that business registration requirements are complied with, there are no statutory restrictions on the way in which an owner runs the business (provided it is legal). However, a sole proprietorship gives rise to unlimited liability for the owner, and therefore it is not normally recommended.

B. Partnership

General and unlimited partnerships are formed under the Partnership Ordinance.

In a general partnership, all partners are jointly and individually liable without limit for the debts and obligations of the partnership. Each partner is also personally liable, without limitation, for all the debts and obligations of the partnership not satisfied by the partnership assets.

It is possible to register, with the Registrar of Companies, a limited partnership, which is governed by the Limited Partnership Ordinance, under which the liability of at least one of the partners must remain unlimited.

C. Limited Companies

Limited companies may be either private or public companies limited by shares or a guarantee company without share capital and the operation of which is mainly subject to the provisions of the Companies Ordinance. The liability of members of a company for the company's debts is limited to the issued share capital, or in the case of a company limited by guarantee, to the amount of the guarantee.

Most business operations in the HKSAR are private companies limited by shares whose articles of association: (a) restrict the right to transfer the company's shares, (b) limit the number of members to 50, and (c) prohibit any invitation to the public to subscribe for shares or debentures.

Any company whose articles of association do not contain the three restrictions specified above is a public company.

D. Branch or Representative Office

Any overseas company that establishes a place of business in the HKSAR is required to register pursuant to the Companies Ordinance. A place of business includes a share transfer or share registration office, any place used for the manufacture or warehousing of goods, and/or a place used by the company to transact any business, which creates legal obligations.

If the office in the HKSAR has a liaison function and no business is conducted in the HKSAR that creates legal obligations, then the only action that must be taken is for the company to register a representative office under the Business Registration Ordinance.

FOREIGN BUSINESS RESTRICTIONS

Essentially, there is no restriction on a foreign business setting up in Hong Kong nor is there any foreign exchange control. There is also no Hong Kong residential requirement for shareholders and directors of an entity in the HKSAR.

INVESTMENT INCENTIVES

While Hong Kong only offers few special business incentives, its low tax rates, excellent financial infrastructure and freedom of information are enough to establish itself as a leading global business centre.

There are certain tax incentives provided to specific industries such as offshore funds, reinsurance companies and captive insurance companies, corporate treasury centres and aircraft leasing.

Expenditure on plant and machinery directly related to manufacturing and computers may be written off in the year of purchase. For other plant and machinery, depreciation allowance is in the form of initial allowance and annual allowance. Deduction of initial allowance of 60% of the capital expenditure incurred is allowed in the year of purchase. Annual allowance is calculated on the remaining balance at a certain rate (usually 20%) per annum.

WORK PERMITS AND VISAS

Other than those who have the Right of Abode or Right to Land in the HKSAR, all foreigners require a visa to live and work in Hong Kong.

As a general rule, any person who wishes to study, enter into employment, invest in Hong Kong, settle in Hong Kong for permanent residence, or stay as a visitor longer than the allowed visa-free period, must obtain a proper visa before coming to the HKSAR via a Chinese Consulate or Visa Office in his/her country of residence or citizenship.

People who take up residence in Hong Kong are required to register for an identity card by law. After living in Hong Kong for 7 years, one can apply for a permanent identity card. If successful, there will be no subsequent requirement for a visa or a work permit.

FOREIGN CURRENCY CONTROL

There are no exchange controls or restrictions on capital flows in and out of Hong Kong. The local currency is the Hong Kong Dollar (HKD).

Since 1983, the HKD has been officially pegged at HKD 7.80 = USD 1.00. Accordingly, the exchange rate of HKD to other currencies and Hong Kong interest rates typically follow US fluctuations.

TAXATION

There is no value-added tax, sales tax or capital gains tax in Hong Kong.

Profits Tax

Profits tax is imposed for each tax year on Hong Kong-sourced profits derived from a trade, profession or business carried on in Hong Kong. There is no distinction between residents and non-residents. The source of profits is determined by an "operations test" (i.e. identifying the activities which directly produce the relevant profits and the place where these activities are carried out). Expenses are generally deductible to the extent that they are incurred in the production of assessable profits.

A tax year covers a period of 12 months commencing on 1st April and concluding on 31st March of the following year. Profits earned by a business during an accounting year ending within a tax year will be deemed to be its profits for that tax year.

Tax losses incurred cannot be carried back but can be carried forward indefinitely to offset against any future assessable profits. Anti-avoidance provisions restrict the use of tax losses where a change in shareholding was undertaken solely or dominantly for the purpose of utilising the losses to obtain a tax benefit.

The prevailing profits tax rate is 16.5% for corporations and 15% for unincorporated businesses. The Inland revenue (Amendment) (No.7) Bill 2017 has been gazetted on 29 December 2017. After the bill becomes law, a two-tier profits tax system of a

concessionary rate at 50% of the normal profit tax rate will be applied to the first HKD 2 million annual taxable business profits of the taxpayer with effect from the year of 2018/2019.

Salaries Tax

Salaries tax is imposed for each tax year on an individual's income arising in or derived from Hong Kong from any office, employment or any pension. For Hong Kong employment, all income derived will normally be subject to salaries tax; even if some services are performed outside of Hong Kong. Income from non-Hong Kong employment is only taxed to the extent that is derived from services rendered in Hong Kong.

In determining whether an employment is a Hong Kong employment or a non-Hong Kong employment, the practice of the Inland Revenue Department is to take into account all of the relevant facts with particular emphasis on where the employment contract was negotiated, entered into and where it is enforceable, where the employer is resident and where the employee's remuneration is paid to him/her. Income from services rendered during visits to Hong Kong by a person not exceeding 60 days in a tax year is exempted.

Salaries tax is charged at progressive rates from 2% to 17% on a taxpayer's net chargeable income (i.e. income after deduction of expenses and personal allowances) with the maximum amount of tax limited to the standard rate of 15% on the taxpayer's net assessable income (i.e. income after deduction of expenses but with no personal allowances granted).

EMPLOYMENT

Tax and Legal

The Employment Ordinance serves as the law governing employment practice and labour relations in Hong Kong.

TYPES OF EMPLOYMENT

All employees in Hong Kong (except seamen, apprentices, and family members

living in the same dwelling) are entitled to wage protection and statutory holidays. After 4 weeks of employment with at least 18 hours of work per week, an employee automatically falls under a continuous contract and can receive other benefits.

An employment contract must stipulate the wage, wage period, notice requirements, and bonus calculations if applicable. If a contract is in writing, the employee must receive a copy; and if the contract is made verbally, the employee is entitled to a copy if he/she requests one.

Additionally, the employer must keep records of the employee's name, identity card number, job title, wage, wage period, notice requirement, leave entitlement and record, as well as payments made during leave. If applicable, the employer must also keep a record of the number of hours in a wage period, bonus calculations and date of termination.

WORKING HOURS AND COMPENSATION

Wages must be paid out within 7 days after the wage period. There is no statutory provision on regular working hours and overtime hours in Hong Kong, which must be specified in the employment contract. Employees are entitled to not less than 1 rest day in every week. Employers are only required to provide 1 rest day every week. The average full-time employee in Hong Kong works 49 hours a week and over half of employees receive no remuneration for overtime.

Source: "A Concise Guide to the Employment Ordinance" published by the Labour Department of the HKSAR Government

WAGES AND BENEFITS

A. Minimum hourly wage

Since 2011, Hong Kong has enforced a statutory minimum wage. The current level of minimum wage is HKD 34.50 per hour.

B. Paid Leave

Each full time employee is entitled to 12 days of statutory holidays.

Moreover, an employee who has rendered 1 year of service is entitled to a minimum of 7 days of paid leave annually. After the third year of service, the minimum number of paid leave days increases by 1 every year, up to a cap of 14 days.

C. Mandatory Provident Fund

The Mandatory Provident Fund (MPF) is designed to provide a formal, compulsory system of retirement protection by way of a privately managed contribution scheme. Generally, all benefits derived from mandatory contributions must be preserved until the contributor reaches the prescribed retirement age of 65. Early withdrawal of benefits may be allowed when a person: (a) retires between ages 60 and 65, (b) has departed or will depart from Hong Kong permanently, (c) has become totally incapacitated or (d) has died before the age of 65. The benefits accrued from mandatory contributions to MPF schemes are withdrawn in a lump sum upon retirement rather than as an annuity.

Certain categories of employees are not required to join an MPF scheme including employees who are covered by overseas retirement schemes, and foreigners who enter Hong Kong for employment with a working visa for a validity period that does not exceed 13 months.

Under the MPF system, the employee is required to contribute 5% of his/her monthly income (capped at HKD 18,000 p.a.) and the employer has to match this amount. Each employee and employer may make voluntary contributions in addition to the mandatory contributions.

TERMINATION OF EMPLOYMENT

An employee may be eligible for severance payment or long service payment under certain conditions. An employee, who has been employed for not less than 24 months, is entitled to severance payment if the employee was laid off or dismissed by reason of redundancy. Certain employees who have been employed under a continuous contract for not less than 5 years are entitled to a long service payment. The amount payable is the lower of 2/3 of the previous month's salary or 2/3 of HKD 22,500, multiplied by the

recognizable years of service. The payment is capped at HKD 390,000.

The service of an employee can be terminated and the employer/the employee should be notified according to the employment contract. If it is not specified in the employment contract, at least 1 month notice should be given before the date of termination.

Summary dismissal is allowed only if the employee has committed serious misconduct or habitually neglects his/her duties and fails to improve after repeated warning. The employee may disagree and file a case with the Labour Tribunal.

An employee can terminate the employment without notice if he/she is reasonably threatened by violence or disease, subjected to ill-treatment by the employer, or certified permanently unfit for the work by a registered medical practitioner after 5 years of service.

AUDIT AND ACCOUNTING

All companies incorporated under the Companies Ordinance, regardless of size, must have their (annual) financial statements audited by a practising Certified Public Accountant registered with the Hong Kong Institute of Certified Public Accountants (HKICPA).

Hong Kong GAAP is commonly adopted for the preparation of financial statements though it is not mandatory by law. Hong Kong GAAP, also generally referred to as Hong Kong Financial Reporting Standards (HKFRS) issued by the HKICPA, is almost fully converged with International Financial Reporting Standards (IFRS).

Hong Kong also adopts the Hong Kong variation of IFRS for SMEs, which is known as HKFRS for Private Entities, for companies that do not have public accountability. SMEs that meet certain criteria, including a size test and shareholders' approval, can also choose to apply the Small and Medium-sized Entity Financial Reporting Framework and Financial Reporting Standards (SME-FRF & SME-FRS).

COUNTRY QUIRKS

- Legal system: originated and based on English Common Law, unlike that of Mainland China.
- There is no restriction on foreign business nor is there any foreign exchange control.
- The HKD has been pegged to the USD since 1984 at a fixed rate of HKD 7.8 = USD 1.
- Official languages: English and Chinese.

YOUR CONTACT

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INDIA

GDP GROWTH	7.1%
INFLATION	4.9%
POPULATION	1.32B
GDP PER HEAD	USD 1,709.4
WORLD BANK EASE OF DOING BUSINESS RANK	100

INDIA

ESTABLISHING AN ENTITY

Investors may establish a business or presence in India either as a Foreign Company, Foreign Limited Liability Company, or as an Indian Company.

A Foreign Company is one that has been incorporated outside of India and conducts business in India. The structures available include branch office, representative (liaison) office or project office. The latter can be set up for specific projects with the approval of the Reserve Bank of India. Each of these structures represents an extension of the parent company.

A foreign investor may incorporate a company under the Indian Companies Act of 2013. Foreign equity ownership in such Indian companies can be up to 100% depending on the business plan, prevailing government investment policies and receipt of the requisite approvals. Operations through an Indian company may be established via a joint venture or wholly-owned subsidiary.

Every Indian company having a paid-up share capital of INR 50 million or more is required to appoint a qualified person as Company Secretary.

FOREIGN BUSINESS RESTRICTIONS

Foreign investment is prohibited in a number of activities, including, but not limited to: Chit funds, Nidhi companies, agricultural or plantation activities, media, real estate (with the main exception being construction or development), construction of farm houses, trading in Transferable Development Rights (TDR), manufacturing of cigars, cigarettes or of tobacco substitutes and atomic energy and railway operations.

INVESTMENT INCENTIVES

Tax incentives are available for investment in India. India has a number of Special Economic Zones (SEZ). SEZs are considered as foreign territories in all that concerns taxes and customs. Companies in a SEZ are eligible for a full tax exemption for the first 5 years and a 50% exemption from the tax due for the next five years. Entrepreneurs who supply infrastructure resources in a SEZ are eligible for a 10-year tax exemption. Deduction in SEZ is available, if operations have been commenced on or before 1 April 2020.

100% deduction of profits and gains are available for a company or LLP which is engaged in the business involving innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property and turnover is less than INR 250 million. This deduction is available at the option of the assessee for any 3 consecutive years out of 7 years starting from the date of incorporation.

A new section has been inserted to provide for 100% deduction in respect of profits and gains of eligible housing projects of affordable residential units from Financial Year 2016–2017. The section applies to assessee engaged in developing and building housing projects approved by the competent authority after 1 June 2016 but before 1 April 2019 subject to certain conditions.

Companies whose main objective is scientific and industrial research are also eligible for a 100% exemption from tax for 10 years starting from 1 April 2007.

Industries located in North East India or in the state of Sikkim are entitled to a 10-year tax exemption for activities performed between 1 April 2007 and 1 April 2017.

TAXATION

Indirect taxes (like service tax, VAT, etc.) have been replaced with single tax known as Goods and Services Tax (GST) with effect from 1 July 2017.

There are several tax bands for GST, based on the classification of goods and services.

GST returns must be submitted on a monthly basis based on the turnover of the company and sales tax payments must be paid before the 20th day of the following month, depending on the date when the tax invoice was raised.

GST registration is required for businesses with service/turnover volumes in excess of INR 2 million.

Withholding tax is income-tax deducted at source from certain types of payments (e.g. rental, advertising, professional, technical or consultancy services, royalties and interest). Withholding tax is a mode of tax recovery. The person/company from whose payment tax is withheld depends upon the category of service provided and the tax status of the recipient. Rates range from 1% to 10% if the Permanent Account Number (PAN) of the payee is available. In case the payee's PAN is not available, tax may be withheld at 20%.

Tax withheld must be submitted within the 7th day of the following month and will be offset against the final corporation tax liability. The withholding tax returns are filed on a quarterly basis. Along with advance tax payments, this is the way in which income tax is collected. For all foreign payments, the entire tax component is withheld at source, where income is liable to tax in India.

Equalisation levy is a tax to be withheld at a rate of 6% if the payment has been made to a non-resident in respect of services in the nature of online advertisement, providing digital advertising space, any other service for the purpose of online advertisement. Tax withheld must be submitted within the 7th day of the following month and statement of services prescribed for the financial year should be submitted on or before 30th June of the immediately following financial year.

Rate of Taxes in respect of various assesses (including surcharge, education cess and secondary and higher secondary education cess) below:

	Assessee	Total Income			
		Up to 5 million	Up to 10 million	Above 10 million up to 100 million	Above 100 million
1	Individual	30.90%	33.99%	35.535%	35.535%
2	Firms and LLP	30.90%	30.90%	34.608%	34.608%
3	Domestic company set-up and registered after March 1, 2016 engaged in the business of manufacture or production and research of any article or thing and is not engaged in any other business and does not claim any benefits prescribed under Income Tax Act (i.e. deduction of additional or accelerated depreciation, investment allowance or expenditure on scientific re-search, etc.)	25.75%	25.75%	27.553%	28.84%
4	Domestic company whose turnover is less than 50 million in FY 2015-2016	25.75%	25.75%	27.553%	28.84%
5	Other Domestic companies	30.90%	30.90%	33.063%	34.608%
6	Foreign Companies	41.20%	41.20%	42.024%	43.260%

Where the tax payable is less than 18.5% of the company's booked profits, a Minimum Alternate Tax (MAT) is levied at 18.5%. The surcharge and cess is also applied. Companies must make advance payments of their corporation tax, on a quarterly basis, based on estimated annual income. Business losses and capital losses may be carried forward to 8 years. Companies are also liable to pay Dividend Distribution Tax at the effective rate of 20.92%.

With a view to simplify tax compliance for small assesses, the tax law provides that an individual or partnership firm engaged in business whose turnover does not exceed INR 20 million can opt for a presumptive regime of taxation whereby they need to compute the taxable income at 8% of turnover and for receipts received by any mode other than cash at 6% of such receipts. Similarly, professionals whose gross receipts in the financial year does not exceed INR 5 million can opt for presumptive regime of taxation, whereby, they compute their taxable income at 50% of gross receipts.

WORK PERMITS AND VISAS

All foreign residents entering India must have a visa. The main classes of visas in India are:

Tourist Visa

This visa is given to a foreigner who intends to visit India solely for purposes of tourism or other non-business related purposes; a maximum period of 6 months is granted under multiple entry regime without any authorisation for an extension.

Transit Visa

Valid for a period of 15 days for the sole purpose of enabling the holder to travel through India to reach his/her ultimate destination.

Business Visa

This visa is intended for instances in which a foreign resident visits India for business purposes, including opening a business. The visa can be granted up to a period of 5 years under the multiple entry regime with the facility of a visa extension in India. However, the period of stay in India (for each visit) under this category is limited to 6

months only.

Employment Visa

This visa is granted to a foreign resident who intends to work in India. A letter of invitation from the employer in India should be provided. It is normally granted for a period of 1 year depending upon the period of contract. An employment visa also provides multiple entries and also carries the facility of an extension in India.

The visas are usually issued by the Indian representative offices in a foreign country. Applications may be made to the Ministry of Home Affairs in India for an extension of an existing visa.

Foreign residents who wish to live in India for over 180 days must register with the Registration Office within 15 days of their entry into India. Residential permits in India are issued for a period that corresponds with the period of the employment visa, it is not necessary to obtain a work permit.

AUDIT AND ACCOUNTING

Statutory audit of all companies is mandatory in India. Furthermore, entities with turnover exceeding INR 10 million per annum (or INR 5 million in the case where a profession is conducted) require a tax audit.

Indian GAAP is broadly aligned to IFRS, although some of the more complex standards such as IAS39 Financial Instruments are yet to be adopted. Convergence with IFRS (known as Ind-AS) is being phased in from 1 April 2016; though a company may voluntarily adopt Ind-AS with effect from 1 April 2015.

COUNTRY QUIRKS

- Statutory Audit of all companies is mandatory.
- Entities with turnover exceeding INR 10 million (INR 5 million in the case where a profession is conducted) per annum require a tax audit.
- Every company with a paid-up capital of more than INR 50 million or more needs

to appoint a full-time Company Secretary who must be a member of The Institute of Company Secretaries of India.

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INDONESIA

GDP GROWTH	15%
INFLATION	3.5%
POPULATION	261.1M
GDP PER HEAD	USD 3,570.3
WORLD BANK EASE OF DOING BUSINESS RANK	72

INDONESIA

ESTABLISHING AN ENTITY

Foreign businesses may establish a Limited Liability Company (LLC) or a representative office. Due to the limitation of liability offered, the most common entity used by investors looking to earn profit/income is a LLC. In most cases, a representative office is not permitted to earn profit/income and therefore is only considered when the purpose of the entity is to provide services to an overseas head office (e.g. data collection, handling promotional activity, checking quality and/or providing after sales support). The trade representative acts as an advisory liaison between the principal and the Indonesian firm. License for representative office is given for 3 years and can be extended for 1 year, twice.

Many foreign investors entering the Indonesian market at an early stage usually choose to set up an Agency Agreement or a Representative Office. However, once the business starts to grow they will apply for Foreign Direct Investment Company (FDI) status.

The Limited Liability Company registration is a three-phase process. It requires a minimum of 2 share holders and upon registration of the company, the shareholders must pay a minimum of 25% of the Authorised Capital into the company. It is required for the company to be managed by a Board of Directors, which in turn should be supervised by a Board of Commissioners. Both Boards are appointed by the shareholders.

FOREIGN BUSINESS RESTRICTIONS

A foreign business is any business with even the smallest percentage of foreign shareholding. The type of business activity dictates the level of foreign ownership permitted.

The government of Indonesia opens foreign investment opportunities to a long list of industries, some of which may require local equity partnership or other conditions.

For some commercial activities that include tourism and mining, having an Indonesian partner is obligatory with the percentage of equity required varying across the different fields of activity.

Some activities permit 100% foreign ownership, others, less. There are some areas that are protected from foreign investment and reserved only for Indonesians, in particular small ventures that include agricultural, handcrafts and informal sectors. A more complete list of these areas can be found in the latest Negative Investment List in the Presidential Regulation of the Republic of Indonesia No. 44/2016 issued in May 2016.

Foreign capital investment is governed by the Indonesian Investment Coordinating Board (BKPM), which administers and approves foreign capital investment in the majority of economic sectors. Investments in oil and gas, mining, banking, finance and insurance industries also require approval from the related ministries. BKPM is the one-stop government agency for foreign investors regarding all approvals, licenses and permits required to establish a company. Once the Investment Approval is issued, the investor can set up an Indonesian company, which will usually take approximately 2 months to complete.

In 2015, the BKPM launched a 3-hour investment licensing service for foreign investors with a minimum investment in Indonesia of IDR 100 billion and/or a plan to employ more than 1,000 workers.

INVESTMENT INCENTIVES

The Law No. 25/2007 concerning investments stipulates the incentives that may be obtained by a foreign limited liability company. Incentives may take the form of:

- Income tax through a reduction of net income to a specified extent based on the total investments made within a defined period;
- Exemptions or relief on import duty of production capital goods, machines, or equipment not yet produced domestically;
- Exemptions or relief on import duty of production raw materials or components for a finite period and with specified requirements

WORK PERMITS AND VISAS

Visa to enter Indonesia

In 2015, Indonesia has implemented a large visa-waiver policy which has waived visa requirements for citizens of more than 150 countries. Citizens of those countries are eligible to enter and remain in Indonesia without a visa for a maximum of 30 days.

The full list of countries entitled to visa on arrival or free visit visa may be accessed by contacting your local Indonesian Embassy.

Temporary Residence Visa (KITAS)

KITAS is issued to work permit holders, students and dependents of Indonesian citizens or foreigners with a work permit. This visa, which requires a sponsor, is valid for up to 12 months. It is subject to authorization from the Immigration Office in Indonesia.

Business Visas

The government issues business visas for those visiting the country for normal business activities including attending a conference, provided their visit does not involve taking up employment or paid work. There are 2 types of business visas:

(1) Single Entry Business Visa

This visa is valid for a maximum stay of 60 days but can be extended up to 4 times on a monthly basis by the Immigration Department to give a total maximum stay of 6 months. This visa is easier and cheaper to obtain. It is also useful for buying trips, negotiations and consultations. The visa however, does not permit you to 'work' in Indonesia, the definition of which is as determined by the Immigration Office.

(2) Multiple Entry Business Visa (MEBV)

This visa is valid for 12 months and is more convenient if you have to travel to Indonesia on a frequent basis. You may enter and leave Indonesia at any point of time within the 12-month period, but you are required to leave the country every 2 months, which is the maximum stay permitted. It is issued by the Indonesian embassy in your country with the authorization of the Immigration Office in Indonesia. When applying, your business counterparts/sponsors in Indonesia

must apply locally on your behalf.

Work Permit

Organizing a work permit in Indonesia can be a complicated and lengthy process. Company sponsorship is required for any foreigner who wants to work in Indonesia. In order to protect the local job market, there are strict guidelines to determine who can be issued a work permit. National, multinational or joint venture firms must submit a manpower plan to the Department of Manpower detailing their annual foreign labour requirements. A domestic company planning to hire a foreigner must submit an Expatriate Placement Plan (Rencana Penempatan Tenaga Kerja Asing or RPTKA). Once the RPTKA is approved, a work permit (Izin Mempekerjakan Tenaga Kerja Asing or IMTA) and limited stay permit (Kartu Izin Tinggal Terbatas or KITAS) are issued. This requires payment of an annual Skill and Development Fund fee (DPKK) amounting to USD 1,200 per foreigner.

TAXATION

The main business taxes in Indonesia are value-added tax (VAT), income tax and corporate income tax.

Indonesia's VAT has also become a major source of revenue for the government. VAT applies to the import and delivery of most goods and services. Insurance and banking are not subject to VAT.

VAT is collected at a standard rate of 10% but for some services the VAT effective rate is 1%. In addition, luxury tax varies from 10% to 200%. For the exportation of goods, the VAT is zero. Taxpayers are required to file returns with details of all output and input VAT in the following month. The monthly VAT report must be filed by the end of the following month and net output VAT should be paid before filing.

Income tax is applied to resident corporations and individuals on most sources of increase in economic wealth. Income tax is collected both directly and at source through a wide range of withholding taxes. Individuals who are residents in Indonesia for more than 183 days in any 12-month period or who intend to settle in Indonesia

are taxed on their worldwide income and are generally allowed a credit for taxes paid abroad. Non-residents are taxed only on their Indonesian-sourced income.

The corporate tax rate was reduced to 25% in 2010. Starting July 2013, micro, small and medium-sized business (MSMEs/UMKM) with turnover of up to IDR 4.8 billion (USD 370,000) are subject to 1% final income tax. Companies with a turnover of less than IDR 50 billion (USD 3.8 million) are categorised as MSMEs/UMKM and may have a tax discount from the tax rate of 25% depending on their revenues. Companies that list at least 40% of their shares on the Indonesian Stock Exchange will have a tax cut of 5% from the top rate. This provides an effective tax rate of 20%.

AUDIT AND ACCOUNTING

All public listed firms, state owned companies, firms handling public money (banks, insurance companies) and companies having a turnover above IDR 50 billion (USD 3.8 million), must have their accounts audited by a registered Indonesian CPA.

Indonesia's stated policy is to maintain its national GAAP and gradually converge it with IFRS. As of 1 January 2017, Indonesia has converged to IFRS applicable as of 1 January 2016 (one year gap difference).

COUNTRY QUIRKS

- Accounts must be prepared in local language (Bahasa Indonesia) for tax purposes.

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JAPAN

GDP GROWTH	1.0%
INFLATION	-0.1%
POPULATION	127.0M
GDP PER HEAD	USD 38,894.5
WORLD BANK EASE OF DOING BUSINESS RANK	34

JAPAN

ESTABLISHING AN ENTITY

In practice, foreign companies establishing a business entity in Japan can choose from 4 basic types of entities: (1) subsidiary company being a joint stock company (Kabushiki Kaisha or KK), (2) subsidiary company being a limited liability member company (Godo Kaisha), (3) branch (of a foreign company) and (4) representative office.

A KK is generally the most trusted form of entity in Japan. The procedure for setting up a KK in Japan must be conducted in Japanese and typically takes one month to complete.

A KK and A GK can be set up with a minimum capital of JPY 1.

In Japan, a KK and a GK require at least 1 authorised representative who does not need to be a resident of Japan while Branch and Representative Officer require at least 1 authorized resident director.

FOREIGN BUSINESS RESTRICTIONS

The vast majority of industries have been liberalized and made available for foreign direct investment. Such investment is treated as “foreign direct investment in Japan” under the Foreign Exchange and Foreign Trade Law (Foreign Exchange Law) and is differentiated from financial and portfolio investment. In principle, advance authorisation is not required and the submission of ex post facto notification (subsequent report) to the Minister of Finance and the Minister(s) with authority over a particular industry is sufficient.

Prior notification is, however, required for investments in industries which (1) threaten the nation’s security, become an obstacle to the maintenance of public order, or hinder public safety or (2) are categorised as belonging to industries which Japan has not yet

liberalised.

Furthermore, investment by companies from certain countries is also subject to prior notification requirement.

INVESTMENT INCENTIVES

As a means of attracting corporate investment, local administrative bodies have enacted various regulations and programs to authorize tax incentives including reductions of and exemptions from business, fixed asset, real estate acquisition taxes, subsidies and loans to finance the acquisition of land and buildings, operating expenses and facilities investment. There are even some grants available for a very restricted range of investments.

WORK PERMITS AND VISAS

In Japan, a Certificate of Eligibility (COE) needs to be applied first, and after issuance, a foreign national files application for a visa with the COE at the Japanese Embassy/Consulate in his/her home/residential country. At the time of entry, a residential card is issued to him/her. The permitted scope of activity is limited to respective residential statuses. The standard procedural time is one month to 3 months.

The Japanese Immigration system is liberalized towards allowing the employment of foreign professionals while strengthening measures to supervise illegal/undocumented residents.

In 7 May 2012, the category of Highly-Skilled Foreign Professionals was introduced. Those who fall under this category can receive preferential treatment such as grant of the 5-year period of stay, relaxation of requirements for grant of permanent residence permission, etc.

In 1 September 2017, the category of Nursing Care was introduced. Considering the high demand of elder-care workers, the government decided to open the door for foreign care workers.

The Immigration system is not particularly simple, but the acquisition of the COE is not particularly difficult for foreign professionals.

TAXATION

Corporations engaged in economic activities in Japan are subject to taxes in Japan on the profits generated by those economic activities. Taxes include corporate tax (national tax), corporate inhabitant tax (local prefectural and municipal tax) and corporate business tax (local prefectural tax) (hereinafter collectively referred to as “corporate taxes”). The effective tax rate combining national corporate tax, corporate inhabitant tax and business tax (tax burden on corporate income) is calculated at around 30%.

Capital gains from investments are generally treated as part of the ordinary taxable income for corporate tax purposes. Where a tax loss is realised in a given tax year, it may be carried forward by the company for use in sheltering taxable profits of future tax years for 9 years (10 years from the fiscal period starting after 1 April 2018), provided the company has a “blue-form” tax return filing status. The loss carry back rule has been suspended since 1992, except in certain limited situations.

Consumption tax is categorised as a value added tax applied to almost every domestic transaction and every import transaction except for financial transactions, capital transactions, medical services, welfare services and educational services. Provision of digital services by foreign service providers to domestic businesses or domestic consumers is also included as a domestic chargeable transaction. The aggregate consumption tax rate is now 8%.

Companies classified as Small and Medium-sized Enterprises (SMEs) can get significant reduced rates across the board for corporate taxes but only for the first JPY 8 million of profit.

To qualify as an SME, companies must not have a capital exceeding JPY 100 million and a Group capital of less than JPY 500 million. These companies will have an effective rate of national and local corporate tax of 21 to 25% on the first JPY 8 million of profit

only. For SMEs there is also a provision to carry back losses for one year which is not available to larger companies.

The Japanese withholding tax rate on dividends, interest and royalties payable to a non-resident is generally 20.42% (15.315% for certain types of interest). On payments of dividends, interest and royalties made to a resident, withholding taxes are levied at rates between 10.21% to 20.42%.

Personal Taxation and Welfare Insurance is quite complex. The deduction systems and timing of deductions for national income tax, local income tax, state health pension contributions and labour insurance are all completely different and in practice are difficult for smaller companies without dedicated HR departments to operate by themselves, leading to the widespread outsourcing of payroll to professional providers. Japan taxes its residents on their global income but there are transitional concessions for foreigners taking up residence in Japan for the first time.

AUDIT AND ACCOUNTING

The Japanese Companies Act stipulates that a “large company” (a company with a stated capital of JPY 500 million or more, or total liabilities of JPY 20 billion or more, as at the end of its most recent business year) or a “company with committees” is required to have an external “accounting auditor” or *kaikeikansanin* and to have its financial statements audited by the auditor.

An accounting auditor must either be a CPA professional or a licensed audit firm. If a company is neither a large company nor a “company with committees”, it is not required to have an accounting auditor. Some other laws also stipulate a statutory audit by a CPA, including the Financial Instruments and Exchange Act, which is applicable to listed companies, certain regulated entities such as banks and insurance companies and other companies that raise capital publicly.

All KK are required to make an annual return and should provide updates on changes of directors and other key information. They are also required to disclose a summary of their balance sheet either through the official gazette, another newspaper or on

their own website.

Specific to Japan is also the corporate auditor system (Kansayaku). The corporate auditor is a company structure specified in the Companies Act, and its role is to audit the directors' execution of their overall duties, including those related to accounting. One should be aware of the fact that corporate auditors in Japan do not need to be CPA professionals or accredited accounting firms.

COUNTRY QUIRKS

- Smaller companies may have the option of choosing whether or not to register for consumption tax in the opening period of the business year. Some significant tax planning opportunities exist in this area and careful consideration needs to be taken of this issue when registering a company.
- Representative offices of foreign companies can in most cases be set up without any formal process of approval other than registering for taxation. However, a Representative Office cannot hold a bank account or take a lease of real property, thus in practice an individual such as an appointed representative will act as a proxy for the Office.
- Functional currency accounting is not allowed.

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MALAYSIA

GDP GROWTH	4.2%
INFLATION	2.1%
POPULATION	31.2M
GDP PER HEAD	USD 9,502.6
WORLD BANK EASE OF DOING BUSINESS RANK	24

MALAYSIA

ESTABLISHING AN ENTITY

The principal forms of business organisation in Malaysia are sole proprietorships, general partnerships, limited liability partnerships, limited liability companies and branches of foreign companies.

Businesses carried out under sole proprietorships and general partnerships must be registered with the Companies Commission of Malaysia. Likewise, an application for the incorporation of a company or a limited liability partnership and the registration of a branch of a foreign company must be made to the Companies Commission of Malaysia.

Generally, it takes about 1 to 2 weeks to incorporate a company or to register a branch of a foreign company in Malaysia. Shelf companies are readily available and can be bought and used within days.

A limited liability company must have at least one director who must have a principal or only place of residence in Malaysia. Such a company must have a minimum paid-up share capital of MYR 1. The company must have a registered office and keep their accounts and records in Malaysia. A branch of a foreign company in Malaysia must keep the records of its Malaysian operations in Malaysia.

A limited liability partnership must have at least 2 partners consisting of individuals or corporate bodies. The limited liability partnership must have a compliance officer, registered office and keep its accounts and records in Malaysia. Foreigners can be partners of limited liability partnerships.

FOREIGN BUSINESS RESTRICTIONS

Only a Malaysian citizen or a permanent resident of Malaysia can register a sole proprietorship business or a general partnership business in Malaysia.

Foreign investors are permitted to incorporate a 100% foreign-owned company in Malaysia.

INVESTMENT INCENTIVES

Companies in manufacturing, agriculture, hotel and tourism, or other encouraged sectors and intending to participate in a promoted activity or manufacture a promoted product, are eligible to apply for either pioneer status or investment tax allowance (ITA) incentives.

Generally, a company enjoying pioneer status is given a tax exemption of 70% of statutory income (i.e. profit after deduction of capital allowances) for 5 or 10 years, with the balance of income being subject to tax at the prevailing corporate tax rate. Unabsorbed losses and unabsorbed capital allowances can be carried forward to subsequent years until fully utilised.

Companies granted ITA are given a 60% allowance on the qualifying capital expenditure incurred within 5 years from the date the incentive takes effect. ITA is allowed to be off set against only 70% of the statutory income, whilst the remaining 30% is subject to tax at the prevailing corporate tax rate. Unabsorbed ITA can be carried forward to subsequent years until fully utilised. ITA is granted in addition to the normal tax depreciation, known as capital allowance.

Pioneer status and ITA incentives are further enhanced for certain promoted activities and promoted products.

A company resident in Malaysia which is involved in manufacturing or agricultural activities is eligible to claim reinvestment allowance (RA) of 60% if it incurs qualifying capital expenditure for the purpose of expansion, modernisation, automation or

diversification projects, and has been in operation for at least 36 months. The RA granted is allowed to be set off against only 70% of statutory income, whilst the remaining 30% of statutory income is subject to corporate tax. Unabsorbed RA can be carried forward to subsequent years until fully utilised.

Attractive and enhanced tax incentives are also available for approved service projects, approved food production projects, real estate investment trusts, biotechnology industry, tourism industry, research and development activities, integrated logistics services, principal hub activities, Islamic banking and Takaful businesses, insurance and fund management businesses, venture capital industry, multimedia super corridor status companies and companies operating in Labuan, the Iskandar Development Region as well as in Treasury Management Centres.

WORK PERMITS AND VISAS

Generally, a visa is not required for citizens of Commonwealth and ASEAN countries, except for Bangladesh, Cameroon, Ghana, Mozambique, Nigeria, Pakistan, India, Sri Lanka and Myanmar.

Foreigners can obtain a visit pass for social or business visits, but the pass cannot be used for the purpose of employment or work. A foreigner intending to work in Malaysia must be sponsored by an entity in Malaysia and he/she must apply for either a visit pass (temporary employment or professional) or an employment pass. A dependant's pass can be applied for, relating to his spouse and children.

Foreign-owned companies incorporated in Malaysia are allowed to bring in expatriates to fill in positions where there is a shortage of trained Malaysians. These positions may be given key post status.

Companies undertaking manufacturing activities, research and development activities, hotels with at least 4-star rating and tourism projects, and applying for tax incentives are eligible to apply for expatriate posts on the condition that the minimum paid-up capital requirements below are satisfied:

- 100% Malaysian-owned company: MYR 250,000 (i.e. approximately USD 60,900)
- Company jointly-owned by both Malaysian and foreigner: MYR 350,000 (i.e. approximately USD 85,300)
- 100% foreign-owned company: MYR 500,000 (i.e. approximately USD 121,800)

For the recruitment of a key expatriate post, foreign capital in the company should be at least MYR 500,000. In addition, the company is also required to comply with the minimum monthly salary of MYR 5,000 and certain prescribed minimum academic qualification and experience. The number of expatriate posts allowed will depend on the guidelines applicable at the time of application and on the merits of each case.

TAXATION

Malaysia adopts the territorial basis of taxation where income is taxed if it is accrued in or derived from Malaysia. Foreign income remitted into Malaysia is not subject to tax in Malaysia. The exception to the general rule is that income derived from banking, insurance and air or sea transport operations is taxed on a world-wide basis.

Personal Income Tax

Resident individuals are taxed at a graduated rate, ranging from 0% to 28%. They are entitled to claim personal reliefs and rebates, where applicable. Non-resident individuals are taxed at a flat rate of 28%, effective from the year of assessment in 2016 without any relief.

The tax resident status of an individual depends on the number of days the individual is physically present in Malaysia. Employees and self-employed individuals are required to prepay their taxes through a prescribed instalment scheme.

Expatriates are required to seek tax clearance from the Malaysian tax authorities before leaving Malaysia upon cessation of their employment in Malaysia.

Corporate Tax

Companies, regardless of whether they are resident or non-resident in Malaysia,

are subject to corporate tax at 24% (effective the year of assessment 2016) of their chargeable income. Small and medium-sized enterprises (SMEs) are eligible for the preferential tax rate of 19% (which will be reduced to 18% effective the year of assessment 2017) for the first MYR 500,000 of their chargeable income.

A company is a tax resident in Malaysia if the management and control of its business/affairs are exercised in Malaysia. Companies are required to provide an estimate of their tax liability and pay their tax in advance on a monthly basis based on the estimate provided. A corporate income tax return must be filed within 7 months after the end of the company's financial year end.

Unabsorbed losses and unabsorbed capital allowances can be carried forward to subsequent years until fully utilised.

Dividends distributed to shareholders are tax exempt under the single tier tax system.

Withholding Tax

Payments made to non-residents for installation or technical services performed in Malaysia; rental of moveable property; royalties, commission or guarantee fees, are subject to withholding tax at the rate of 10%, unless a lower rate is prescribed under a Double Taxation Agreement (DTA). Effective from 17 January 2017, payments made to non-residents for installation or technical services performed outside Malaysia are also subject to withholding tax.

Payment of interest on loans or borrowings obtained from non-residents will attract withholding tax at 15%, subject to any preferential rates stated under a DTA.

Payments of service fees to non-resident contractors carrying out a project in Malaysia are liable to withholding tax at the rate of 13%. This is not a final tax as the non-resident contractor is required to file a Malaysian tax return to determine his actual tax liability.

Dividends distributed to non-resident shareholders are not subject to any withholding tax.

Real Property Gains Tax (RPGT)

There is no capital gains tax in Malaysia. However, disposals of real property or shares in a real property company are subject to RPGT. Effective from 1 January 2014, the RPGT rates are as follows:

Disposal	RPGT Rate (%)		
	Citizen; Permanent Resident	Company	Non-Citizen; Non- Permanent Citizen
Within 3 years	30	30	30
In the 4th year	20	20	30
In the 5th year	15	15	30
After 5 years or thereafter	0	5	5

Indirect Taxes

Excise duty is imposed on certain goods manufactured in Malaysia or on goods imported into Malaysia, such as hard liquor, motor vehicles and tobacco. The rates of excise duty range from 5% to 105%.

Import duty is generally imposed on goods imported into Malaysia at rates ranging from 7% to 50%.

Stamp Duty

Stamp duty is chargeable on certain instruments and documents. The rate of stamp duty may be at ad valorem on the transacted value, or at a flat rate of MYR 10, depending on the type of instrument or document involved.

Goods and Services Tax (GST)

GST was implemented on 1 April 2015. GST is charged on any taxable supply of goods and services made in the course or furtherance of any business by a taxable person in Malaysia. GST is also charged and levied on the importation of goods and services into Malaysia for the purpose of a business. GST on imported services is payable by the

recipient of the services using the reverse charge mechanism.

A taxable supply is either standard-rated or zero-rated. A standard-rated supply is subject to GST at a rate of 6%. A zero-rated supply is a taxable supply which is subject to a 0% rate of GST. An exempt supply is not a taxable supply. A supplier making a taxable supply is eligible to claim GST incurred on inputs whereas an exempt supplier is not eligible to do so.

A taxable person is a person in business who makes taxable supplies in Malaysia and whose annual turnover exceeds the threshold of MYR 500,000 at any time within a 12-month period. Such a person is required to be registered under the Malaysian GST Act 2014. A person in business who is not required to be registered for GST purposes may opt to be registered for GST voluntarily.

AUDIT AND ACCOUNTING

The directors of every company should prepare financial statements and have their annual financial statements audited by an approved company auditor. Financial statements should be prepared in accordance with the approved accounting standards in Malaysia.

Private companies should prepare financial statements using Malaysian Private Entities Reporting Standard (MPERS) or Malaysian Financial Reporting Standards (MFRS). All other companies should prepare financial statements using MFRS. MPERS is word-for-word the IFRS for SME except for the requirements on income tax and property development activities. MFRS are identical to International Financial Reporting Standards (IFRS) in all respects other than the nomenclature.

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PHILIPPINES

GDP GROWTH	6.9%
INFLATION	1.8%
POPULATION	103.3M
GDP PER HEAD	USD 2,951.1
WORLD BANK EASE OF DOING BUSINESS RANK	113

PHILIPPINES

ESTABLISHING AN ENTITY

There are 5 legal structures available for foreign businesses wishing to operate in the Philippines: (a) subsidiary, which is registered under the Philippine law and treated as a Philippine domestic corporation, (b) branch office, (c) representative office, (d) Regional or Area Headquarters (RHQ) and (e) Regional Operating Headquarters (ROHQ).

A local subsidiary of a foreign corporation is a legally independent unit, governed exclusively by Philippine laws. It is treated as a separate entity from the parent foreign corporation and exists separately, in fact and in law, from its foreign parent.

A branch office and a representative office are treated as resident foreign corporations, and are seen as an extension of their head offices. They are organised and exist under foreign laws.

A branch office carries out the business activities of its head office and may derive income from the Philippines. On the other hand, a representative office may not derive income from the Philippines and may be established to deal directly with its head office's clients and may only undertake information dissemination, promotion of the company's products as well as quality control. A representative office is fully subsidized by its head office and must have an initial inward remittance of USD 30,000 to fund its operations.

A multinational company may establish an RHQ to serve principally as a supervision, communication and coordination centre for its subsidiaries, affiliates and branches in the Asia Pacific Region. It cannot derive income in the Philippines and may not participate, in any manner, in the management of any subsidiary or branch office in the Philippines. It also cannot solicit or market goods and services whether on behalf of its mother company or its branches, affiliates, subsidiaries or any other company. To fund its operations in the Philippines, its head office must initially remit into the Philippines

at least USD 50,000.

An ROHQ, unlike an RHQ, can derive income in the Philippines. An ROHQ can perform the following qualifying services to its affiliates, subsidiaries and branches in the Philippines:

- General administration and planning
- Business planning and coordination
- Sourcing/procurement of raw material components
- Corporate finance advisory services
- Marketing control and sales promotion
- Training and personnel management
- Logistic services
- Research and development services and product development
- Technical support and maintenance
- Data processing and communication
- Business development

Registration of the above foreign corporations as Philippine Branch, Representative Office, RHQ and ROHQ requires a Resident Agent.

The incorporation of a local subsidiary requires at least 5 but not more than 15 incorporators; the majority of whom must be residents of the Philippines. Each of the incorporators must own or be a subscriber to at least 1 share of the capital stock of the company. At least 25% of the authorised capital stock, as stated in the articles of incorporation, must be subscribed at the time of incorporation, with at least 25% of the total subscription paid upon subscription.

FOREIGN BUSINESS RESTRICTIONS

The 1987 Philippine Constitution and specific laws restrict the level of foreign ownership in certain business activities. RA No. 7042, also known as the Foreign Investments Act of 1991 (as amended by RA 8179), classifies investment areas/activities that have

foreign equity restrictions into 2 lists: Negative List A (foreign ownership is limited by mandate of the Constitution and specific laws) and Negative List B (foreign ownership is limited for reasons of security, defence, risk to health and morals and protection of small and medium-sized enterprises).

Negative List A includes investment in mass media, practice of all professions, advertising, ownership of private lands, and operation and management of public utilities. Negative List B includes manufacture, repair, storage and/or distribution of products and/or ingredients requiring Philippine National Police (PNP) and Department of National Defense (DND) clearances; all forms of gambling except those covered by investment agreements with the Philippine Gaming and Amusement Corporation (PAGCOR) operating within special economic zones and administered by the Philippine Economic Zone Authority (PEZA), and domestic market enterprises with paid-in equity capital of less than USD 200,000.

All areas of investments other than those provided in Negative Lists A and B and banking and financial institutions, which are governed and regulated by the Bangko Sentral ng Pilipinas (BSP) or the Philippine Central Bank, may be allowed 100% foreign equity, provided that the minimum capitalization requirement of USD 200,000 is met.

The Commonwealth Act (CA) No. 108, as amended, otherwise known as the Anti-Dummy Law, is an act which prohibits evasion of the laws on the nationalisation of certain rights, franchises or privileges enshrined in the Philippine Constitution and other laws. Penal sanctions and payment of fines may be imposed in the case of any violation of this law.

INVESTMENT INCENTIVES

Foreign investors who wish to benefit from investment incentives may register with either the PEZA or the Board of Investments (BOI). The PEZA grants incentives to businesses engaged in exports that are located within identified economic zones. The BOI, on the other hand, administers the grant of incentives to businesses engaging any of the investment priority areas provided under the Investment Priorities Plan (IPP). Incentives that are also available for businesses that wish to operate in special

economic and free port zones, such as those located in Subic and Clark, Pampanga.

Some of the incentives granted are exemptions from the payment of tariff and customs duties and other taxes and fees, Income Tax Holiday (ITH) and reduced tax rates.

WORK PERMITS AND VISAS

To promote foreign involvement in the economic development of the country, the Philippine government has liberalized the visa requirements for certain types of foreigners.

The visas that may be granted to foreigners who will work, or render services in the Philippines are as follows:

- (1). Treaty Trader's/Investor's Visa under Section 9(d) of the Philippine Immigration Act
- (2). Prearranged Employee's Visa under Section 9(g) of the Philippine Immigration Act
- (3). Special Non-immigrant Visa under Section 47(a)(2) of the Philippine Immigration Act
- (4). Special Non-immigrant Visa under Executive Order (E.O.) No. 226
- (5). Special Non-immigrant Visa under Presidential Decree (P.D.) No. 1034
- (6). Special Subic Work Visa

TAXATION

The main taxes imposed on corporations in the Philippines are Corporate Income Tax, Value-Added Tax (VAT) and Withholding Tax (WT). Other taxes include Percentage Tax (generally for activities not subject to VAT), Excise Tax, Documentary Stamp Tax, Local Business and Real Property Taxes.

Corporate Income Tax of 30% is imposed on taxable income. In the 4th year of operations, the tax imposed is either 2% of gross income or 30% of taxable income, whichever is higher. For entities covered by special laws (e.g. PEZA entities), a 5% income tax is imposed on the gross income. ROHQ, on the other hand, are entitled to an income tax rate of 10% on taxable income. Quarterly income tax returns should be

filed and the payment should be made, on or before the 60th day following the close of each of the quarters of the taxable year. The annual income tax return shall be filed and the payment made on or before the 15th day of April of each year covering taxable income for the preceding taxable year.

VAT at the rate of 12% is imposed on the sale, barter, exchange or lease of goods or properties and services in the Philippines, including the importation of goods. Being an indirect tax, the VAT can be passed on to the buyer or end user of the goods and/or services.

The VAT returns must be filed and the corresponding payment (if any) made within 20 days following the end of each month (for monthly VAT returns) and 25 days following the close of the taxable quarter (for quarterly VAT returns) unless the filer is enrolled under the Electronic Filing and Payment System (EFPS).

The withholding tax system is a means of collecting tax in advance. Withholding tax is a deduction on income payments (e.g. goods, services, rentals, interest, royalties, and dividends). Tax rates range from 1% to 30%, depending on the nature of the payment. However, income payments to foreign entities may be subject to lower preferential tax treaty rates provided that a Certificate of Residence for Tax Treaty Relief Form has been accomplished before the payment of income is made. This form applies only to income payments for dividends, interests and royalties. Except for those enrolled under the EFPS, WT returns shall be filed and payment must be made on or before the 10th day of the month following the month of withholding.

Local business taxes, fees and charges are also levied by local government units (LGUs).

AUDIT AND ACCOUNTING

All legal entities are required to prepare annual financial statements in accordance to/ with the applicable financial reporting framework that is acceptable in the Philippines [i.e. either full compliance with the Philippine Financial Reporting Standards (PFRS) or PFRS for small and medium-sized enterprises (SMEs), depending on the criteria

prescribed by the SEC]. PFRS and PFRS for SMEs are broadly aligned with International Financial Reporting Standards (IFRS) and IFRS for SMEs.

The annual financial statements are required to be audited by the local independent external auditors before submitting to the Securities and Exchange Commission (SEC) and the Bureau of Internal Revenue (BIR). The performance audit is in accordance with the Philippine Standards on Auditing (PSA) and is also aligned with International Standards on Auditing (ISA).

COUNTRY QUIRKS

- In the 4th year of operations, the corporate tax imposed is either 2% of gross income or 30% of taxable income, whichever is higher.
- Withholding tax rates range from 1% to 30%, depending on the nature of the payment.

YOUR CONTACT

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REPUBLIC OF KOREA

GDP GROWTH	2.8%
INFLATION	1.0%
POPULATION	51.2M
GDP PER HEAD	USD 27,538.8
WORLD BANK EASE OF DOING BUSINESS RANK	4

REPUBLIC OF KOREA

ESTABLISHING AN ENTITY

Most foreign entities in Korea are structured either as a type of company, branch office or representative office.

The majority of companies are chusikhoesa, or stock companies. However, yuhanhoesa, or private companies, may also be suitable for foreign investors. Domestic commercial law applies to investments made through a company.

A branch office is not considered as a foreign investment but it does create a legal presence in Korea. A branch can own assets and generate taxable profit but an external audit is not required. However, if an entity is expecting to grow large enough to necessitate the establishment of a company, it may be more cost effective to do this at the outset.

A representative office can undertake non-sales activities such as market research, research and development as well as customer liaison. Unlike branches, representative offices are not required to register as a legal entity but instead, are given a unique business code number at the District Tax Office.

FOREIGN BUSINESS RESTRICTIONS

Foreign business restrictions fall into 2 categories: prohibited activities and partially restricted activities. Prohibited activities include: public interest industries such as postal services, banking, security trading, public education, and radio & television. Within the agriculture sector, rice and barley farming is restricted. In total, 60 types of business are prohibited to foreign investors.

Most partially restricted activities also have public interest traits. Foreign share holdings in these activities are allowed up to 49.99%. Partially restricted business activities include: fishing, newspapers and magazines, beef cattle farming and distribution, internal transportation, telecommunications, electronic network business and power plants (except nuclear power).

INVESTMENT INCENTIVES

The Foreign Investment Promotion Act and Korea's domestic commercial law apply to investments of over KRW 100 million, made through a company.

"Invest Korea" is the national investment promotion agency and offers a number of incentives to support the entry and successful establishment of foreign businesses into Korea. For foreign investors that meet the set requirements, the incentives include: tax support, cash support and site location support.

Foreign investment zones are designated to attract foreign investments. Businesses that are located into these zones will be provided with incentives.

WORK PERMITS AND VISAS

A D-8 visa is issued to foreigners who are sent as specialists to work in an international business or who are going to invest in and manage their own business in South Korea. Alternatively, a company may sponsor a skilled employee, with at least 5 years or more experience in a related field to obtain an E-7 visa.

In cases where a work permit is required for a non-professional worker, those who satisfy the required conditions based on the Law of Foreign Employee's Employment are eligible for an E-9 visa.

An employer must register all foreign workers' employment permits and must typically maintain the employment ratios stipulated by the law.

TAXATION

The main business taxes in Korea are value-added tax (VAT), withholding tax, corporate income tax and personal income tax for individual business.

In general, VAT registration is required for all businesses. The nominal rate of VAT is 10%. Submission of quarterly VAT returns and related payments must be submitted by the 25th day of the month following the quarter end.

Withholding tax is a deduction made on certain types of payments (e.g. rental, advertising, royalties, dividends and interest). The amount of tax withheld depends on the category of service provided and the tax status of the recipient. Rates can range from 0% to 20% depending on the type of income such as interest paid by financial institutions to domestic companies or royalties paid to foreign corporations. Withholding tax rates vary depending on the tax treaty with each country. Tax withheld must be submitted by the 10th day of the following month and will be offset against the final corporation tax liability.

From 2018, corporation tax (including local income tax) is applied at the aggregate rates of 11% on taxable income of up to KRW 200 million, 22% on taxable income in excess of KRW 200 million and up to KRW 20 billion, 24.2% on taxable income in excess of KRW 20 billion and up to KRW 300 billion and 27.5% over KRW 300 billion.

Two corporate tax returns are required, an annual return and a half-year return. The half year return represents a prepayment calculated on the tax payable on the forecast net profit for the year. The annual tax return should be filed and paid within 3 months after the financial year end date. It is worth noting that operating losses may be carried forward for up to 10 years. In case of small and medium-sized enterprise (SME), there is no limitation for the annual deduction amounts of loss carried forward. However, the maximum deduction amounts in a year are 80% of the taxable income of the fiscal year in case of non-SME tax payers.

AUDIT AND ACCOUNTING

External audits, by a registered Korean Institute of Certified Public Accountants, are mandatory for (1) stock-listed corporations and corporations planning to be listed, (2) corporations with over KRW 12 billion of assets, (3) corporations with over KRW 7 billion of assets and over KRW 7 billion of liabilities and (4) corporations with over KRW 7 billion of assets and more than 300 employees. Private companies will also soon be subject to some external audit requirements. K-IFRSs are compulsory for listed companies and non-listed financial institutions. Unlisted companies have the choice between full K-IFRSs and Korean Accounting Standards for non-public entities.

COUNTRY QUIRKS

- All audit contracts should be finalised and reported to Financial Supervisory Service by 15 May for 31 December year-ended companies.

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SINGAPORE

GDP GROWTH	2%
INFLATION	-0.5%
POPULATION	5.6M
GDP PER HEAD	USD 52,960.7
WORLD BANK EASE OF DOING BUSINESS RANK	2

SINGAPORE

ESTABLISHING AN ENTITY

Foreign entrepreneurs are free to establish a Singapore entity.

There are several types of business structures available in Singapore. These include: Limited Liability Company (often called “private limited” company and abbreviated to “Pte. Ltd.”), Limited Liability Partnership (LLP) and Sole Proprietorship (SP), just to name a few. However, setting up a Pte. Ltd. is the preferred and most widely used incorporation vehicle used by foreign investors.

A Pte. Ltd. is the most flexible and advanced type of business entity available. It is a legal entity, separate from its owners; therefore, its liabilities do not extend to its owners. Furthermore, foreigners residing overseas can be 100% owners of a Singapore Pte. Ltd.

The required paid-up capital when registering a Singapore company is nominal and the concept of authorised capital no longer exists. The company should have a minimum of one director, one shareholder, and at least one director must be a local resident [Singapore citizen, permanent resident or Employment Pass (EP) holder]. The company must have a local registered address and a company secretary.

FOREIGN BUSINESS RESTRICTIONS

There are no strict rules on establishing and registering a company in Singapore as long as it complies with the minimum requirements mentioned in the preceding paragraphs. A company would be required to register itself with the Accounting and Corporate Regulatory Authority (ACRA) before starting to trade. It may also be relevant to ensure that appropriate licences have been applied and obtained accordingly.

INVESTMENT INCENTIVES

Foreign businesses that choose to register a Singapore company are well positioned to take advantage of the country's pro-business policies. The primary benefits of setting up a business in Singapore include ease of company formation, low taxes, a stable political climate, excellent business infrastructure and an efficient regulatory environment, amongst others.

The Economic Development Board (EDB) is keen to stimulate business investment in Singapore and offers a number of incentives and development schemes. The schemes are available in the following categories: financial incentives (which are mainly to provide funding on certain business undertakings) and tax incentives (which provide exemptions or reduced tax rates on specific transactions/activities). Incentives are typically assessed and awarded on a case by case basis.

WORK PERMITS AND VISAS

Foreigners need to apply for relevant work visas to stay and work in Singapore. The most common types are the S Passes and EPs. These passes are applied for after the incorporation of the company. The approval of a work visa is subject to review and approval by the government authorities.

The S Passes are for mid-level income skilled workers earning a minimum of SGD 2,200 per month. They operate under a quota system with the number of passes that the company is entitled to, being dependent upon the number of Singaporean and PR staff it employs.

There is no quota for the EPs but the applicant has to be earning a minimum of SGD 3,600 per month, with tertiary educational qualifications and reasonable number of years of relevant experience.

There is another type of pass targeted specifically for entrepreneurs known as EntrePass which requires the applicant to prepare a detailed business plan, invest a minimum of SGD 50,000 of which 30% must be owned by the applicant and to hire

local employees.

For those who do not plan to move to Singapore but just need to incorporate a Singapore company, they may do so and operate the company from overseas. They are free to visit Singapore on a typical visitor visa for company meetings, meetings with business partners, corporate retreats or to attend seminars and conferences as a participant.

It is important to note that a foreigner on the visitor visa cannot operate/manage the Singapore company while in Singapore. A valid work visa is required for such. Therefore, the company needs to identify a local resident director or appoint a local team for the management of the operations instead.

TAXATION

The company's taxable income for the year is subject to corporate tax in Singapore. Corporate tax rate in Singapore is a flat, low rate of 17%. Income exemptions and tax rebates are available that make the effective tax rate for taxable income of up to SGD 300,000 less than 6%.

For Year of Assessment 2017 and 2018 (basis period for financial year 2016 and 2017), there is a corporate tax rebate of 50% capped to SGD 20,000. As such, the effective tax rate for taxable income up to SGD 300,000 will reduce to 2.8%. There is no tax on capital gains (unless constructed as trading income) or qualifying dividend distributions. Any after-tax income can be distributed by the Singapore company to its shareholders anywhere in the world and is free from tax in Singapore.

It is also important to note that in order to avoid double taxation from occurring, Singapore companies can claim a tax credit in Singapore for any tax paid overseas, subject to meeting the qualifying conditions.

Goods and Services Tax (GST) in Singapore is a tax on domestic consumption. The tax is paid when money is spent on goods or services, including imports. In general, goods sold or services performed in Singapore are taxable supplies subject to GST. Some

of the exceptions are financial services or the sale or lease of residential properties, which are exempt supplies. In Singapore, GST is currently charged and accounted for at a rate of 7% on the value of supply. Actual time of filing is within one month after the end of a quarter (e.g. March, June, September, December...).

GST registration can be mandatory or voluntary. Mandatory registration is required when the company's annual turnover exceeds or is expected to exceed SGD 1 million. Companies are required to register for GST in Singapore within 30 days of the last day of the quarter of crossing the threshold or within 30 days from the day of recognising that the revenue will exceed threshold in the coming 12 months.

Transfer Pricing (TP) is the pricing of goods, services and intangibles between related parties. The Inland Revenue Authority of Singapore (IRAS) endorses the arm's length principle as the standard to guide transfer pricing. While taxpayers apply the arm's length principle when doing a transaction with their related parties, they should also prepare records as evidence that the pricing is at arm's length. Such records are known as transfer pricing documentation. In Singapore, it is a must to maintain TP documentation for transactions exceeding certain thresholds. With the adoption of the arm's length principle, taxpayers and tax authorities will have a common basis to deal with related party transactions.

Though not an Organisation for Economic Co-operation and Development (OECD) member state, Singapore government representatives have on different occasions stated that it will follow the developments and will implement the outcomes of the recently issued OECD report/Base Erosion and Profit Shifting (BEPS) action plans. Singapore has joined the inclusive framework for the global implementation of the BEPS project, namely those profits should be taxed where the real economic activities generating the profits are performed and where value is created. Being a supporter of the key principle underlying the BEPS Project, Singapore does not condone activities aimed at base erosion and profit shifting. Also, Singapore will work with other jurisdictions to help develop the implementation and monitoring phase of the BEPS project.

Under the BEPS project, there are 4 minimum standards, namely: the standards on countering harmful tax practices, preventing treaty abuse, transfer pricing documentation and enhancing dispute resolution. The country is committed to the implementation of these standards. Furthermore, Singapore intends to implement Country-by-Country Reporting (CbCR) for multinational enterprises, for financial years beginning on or after 1 January 2017.

As commented by the Deputy Prime Minister, Mr Tharman Shanmugaratnam, on the implementation of the BEPS measures, "Singapore is committed to working with the international community to counter artificial shifting of profits, and continues to welcome substantive economic activities. We will be actively involved with the OECD and G20 in ensuring the consistent implementation of the BEPS standards across all jurisdictions, so as to ensure a level playing field."

AUDIT AND ACCOUNTING

A company registered in Singapore is required to keep accounting and other records that will sufficiently explain the transactions and financial position of the company, and enable true and fair profit and loss accounts and balance sheets to be prepared. If such records are kept in a place outside Singapore, copies must be kept in Singapore.

As per the Singapore Companies Act, a company must file its audited accounts with ACRA on an annual basis unless it is a dormant company or a small company exempted from audit requirements.

A dormant company is exempted from audit requirements if no accounting transactions, other than transactions as prescribed by the Companies Act, occur during the period from the time of its formation; or since the end of the previous financial year.

A small company qualifies as being small if it is a private company in the current financial year and it should meet 2 out of 3 of the criteria below in each of the two financial years immediately preceding the current FY:

- (a) Total annual revenue is equal or less than SGD 10 million;

- (b) Total assets is equal or less than SGD 10 million; or
- (c) Number of employees is equal or less than 50.

If the Company belongs to a Group, then the Company must be a small company itself and the Group must qualify as a small group by meeting at least 2 of the 3 criteria above on a consolidated basis in each of the two immediate preceding financial years.

Singapore adopts Singapore Financial Reporting Standards (SFRS), which are made or formulated by the Accounting Standards Council of Singapore. The SFRS are closely modelled on the International Financial Reporting Standards issued by the International Accounting Standards Board. All companies incorporated or registered in Singapore to comply with the SFRS, unless approval is otherwise obtained from ACRA.

Compliance with the Code of Corporate Governance (the Code) is not mandatory but companies listed on the Singapore Exchange (SGX) are required to disclose their corporate governance practices and give explanations for any deviations from the Code in their annual reports.

Annual financial statements must be submitted to ACRA and IRAS. For clarification, small companies (with the exception of solvent exempt private companies) will need to submit the annual financial statements in the XBRL format to ACRA even though it is exempted from audit if it meets the criteria. All Singapore companies (with the exception of a representative office), must also submit annual tax returns to the IRAS.

COUNTRY QUIRKS

- A company secretary must be appointed within 6 months of the incorporation of a company, and he/she must be a resident of Singapore.
- The company must have at least one local resident director, a local resident company secretary and a registered office address which is open to the public.

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THAILAND

GDP GROWTH	3.2%
INFLATION	0.2%
POPULATION	68.9M
GDP PER HEAD	USD 5,907.9
WORLD BANK EASE OF DOING BUSINESS RANK	26

THAILAND

ESTABLISHING AN ENTITY

There are 4 legal structures available for foreign investors to conduct business in Thailand: (a) a limited company; (b) a branch office; (c) a representative office; and (d) a regional office.

Due to the limited liability offered, the most commonly used structure for investors looking to earn income is a limited company. A representative office is not permitted to earn income, and is therefore only considered when the purpose of the entity is to provide services to an overseas head office, subsidiaries, and affiliates such as collecting data, sourcing goods, checking quality, and providing clients with after-sales support. A regional office provides management or technical services to associated companies or branches in Asia.

The registration process for a limited company requires at least 3 individual promoters. Each promoter should be available during the application process, and will be required (at least in the short term) to hold a minimum of 1 company share. Upon registration of the company, the shareholders must pay a minimum of 25% of the registered capital into the company.

FOREIGN BUSINESS RESTRICTIONS

A foreign business is any business where 50% or more of shares capital is from foreign shareholding. Foreign businesses are regulated by the Foreign Business Act, which categorizes restricted business activities into 3 groups: List 1; List 2; and List 3.

Foreign businesses are not permitted to engage in List 1 activities, such as rice farming. Foreign businesses engaging in List 2 activities require Cabinet approval, and foreign businesses engaging in List 3 activities require the permission of the Director-General of the Department of Business Development and the supervision of the Committee of

Foreign Business Affairs. Foreign businesses wishing to engage in List 2 or List 3 activities need to obtain a foreign business licence or a foreign business certificate before commencing operations.

There are two alternatives to obtaining a foreign business certificate. The first is available to certain nationalities, such as Americans, regardless of whether or not the entity is a corporation or an individual, through the Thai-US Treaty of Amity. The treaty is hugely beneficial to US companies, offering virtually the same business rights as those enjoyed by a local company, except for certain businesses, such as banking and telecommunications. Other nationalities which are treated favourably are Australians, Japanese, and those from ASEAN countries through specific agreements, such as TAFTA, JTEPA, AFAS, and ACIA.

The second alternative is applying through the Board of Investment (BOI) or the Export Processing Zone under the Industrial Estate Authority of Thailand (IEAT).

Manufacturing businesses and export businesses are not restricted. Therefore, 100% foreign ownership is permitted.

Historically, a common technique that foreign companies used to enjoy the benefits associated with being classified as a local company was to make an agreement with 1 or more Thai nationals to hold shares in name only. However, such nominee shareholdings are illegal, and serious penalties apply to such

INVESTMENT INCENTIVES

For investors looking to engage in specific types of projects, there are a number of tax and non-tax incentives that may be offered by the BOI. These include 100% foreign ownership, reductions of and/or exemptions from customs duties and corporate taxes, relaxation of the rules relating to visas and work permits, and the ability to own land.

The IEAT is able to offer similar non-tax incentives for those who choose to operate businesses on an industrial estate.

WORK PERMITS AND VISAS

Foreigners applying to work in Thailand require a valid work permit and non-immigrant business visa.

For those businesses (in the form of a limited company) not receiving BOI incentives, each work permit requires THB 2 million of paid-up capital. An applicant must earn a minimum amount of income as prescribed by law, which varies by nationality. In order to renew the expatriate's visa in Thailand, the employer must typically maintain an employment ratio of at least 4 permanent Thai staff members to 1 expatriate.

Typically, a maximum of 10 expatriate work permits are allowed per company. However, this limitation can be relaxed in certain situations, such as where the employer has paid income tax of at least THB 3 million in the previous year, or where the employer employs no less than 100 Thais.

TAXATION

The main business taxes in Thailand are value-added tax (VAT), withholding tax, and corporate income tax.

In general, all businesses for which the volume of sales exceeds THB 1.8 million a year must register for VAT. The nominal VAT rate is 10%, but has been temporarily reduced to 7%. VAT returns and related payments must be filed by the 15th of the month following that in which the tax invoice was issued.

Withholding tax is a deduction made on certain types of payments, such as rental, advertising, royalties, dividends, and interest. The amount of tax withheld depends on the category of the service provided and the tax status of the recipient. Rates range from 1% on interest paid to domestic companies to 15% on royalties paid to foreign corporations. Tax withheld must be submitted by the 7th of the month following that in which payment was made. The tax withheld can be offset against the final corporation tax liability.

The standard corporate tax rate is 20%, while the rate for SMEs (small and medium-sized companies whose paid-up capital at the end of any accounting period does not exceed THB 5 million and whose revenue from the sale of goods or the provision of services in any accounting period does not exceed THB 30 million) is nil on the first THB 300,000, with the balance being taxed at 10% effective from FY 2015 to FY 2016. From FY 2017 onwards, SMEs will be subject to corporate tax at progressive rates ranging from 0% to 20%. Two corporation tax returns are required, an annual return and a half-year return. The half-year return represents a prepayment calculated from the tax payable on the forecasted net profits for the year.

It is worth noting that whilst operating losses may be carried forward for up to 5 years, there is no provision for the carry-back of losses or for group relief in the event of consolidated losses of affiliates.

AUDIT AND ACCOUNTING

All legal entities, regardless of size, must have their accounts prepared by a registered Thai accountant, and audited by a registered Thai auditor. In 2011, the Thai Financial Reporting Standards for Non-Publicly Accountable Entities (TFRS for NPAEs) were introduced. The TFRS for NPAEs are similar in concept to the International Financial Reporting Standards (IFRS) for SMEs published in 2009.

For publicly accountable entities (effectively, listed companies), the reporting framework is broadly aligned to IFRS, although some of the more complex standards, such as IAS39, Financial Instruments, have yet to be adopted.

The Federation of Accounting Professions is in the process of translating and publishing new accounting standards for small and medium-sized entities (TFRS for SMEs), which are based on the IFRS for SMEs, as amended in 2015. This new set of accounting standards has been effective from 1 January 2017.

In November 2016, the Federation of Accounting Professions (FAP) announced that the effective date for applying the TFRS for SMEs has been postponed from 1 January 2017 to 1 January 2018, as FAP is in the process of translating and revising the TFRS

for SMEs to comply with the IFRS for SMEs incorporates 2015 amendment. This new set of accounting standards will become effective on 1 January 2018.

After the TFRS for SMEs are introduced, all non-publicly accountable entities must adopt and apply the TFRS for SMEs, and the TFRS for NPAEs will be cancelled.

COUNTRY QUIRKS

- Nominee shareholdings are not allowed.
- Accounts must be prepared by a Thai accountant and audited by a Thai auditor.
- The registered office address must be the actual office address. P.O. boxes and lawyers' addresses are not permitted.
- Board meetings require physical attendance. However, meetings held using electronic devices are currently acceptable, provided that they meet the criteria set out in the Thai government's regulations.
- Proxy and circulated resolutions of board meetings are not permitted.

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VIETNAM

GDP GROWTH	6.2%
INFLATION	3.2%
POPULATION	92.7M
GDP PER HEAD	USD 2,185.7
WORLD BANK EASE OF DOING BUSINESS RANK	68

VIETNAM

ESTABLISHING AN ENTITY

The legal structures available for foreign investors wishing to establish an enterprise in Vietnam generally include Limited Liability Company (LLC) and Joint Stock Company (JSC).

The business establishment and investment project to be implemented shall be governed by the Law on Investment and Law on Enterprises. In order to officially operate in Vietnam, a foreign invested enterprise will need to obtain 2 kinds of certificates issued by the licensing authorities (additional licenses may be required depending on the business, e.g. trading license is required for trading activities):

- Investment Registration Certificate for the project being implemented
- Enterprise Registration Certificate for the enterprise being established

Alternatively, foreign investors may consider establishing a representative office in Vietnam as an initial stage of their market entry strategy. A representative office is established when the foreign company logs a registration dossier and obtains a license from the provincial Department of Industry and Trade in the city or province where the representative office is to be set up. Representative offices are only allowed to carry out liaison and market development functions and cannot perform business activities in Vietnam.

FOREIGN BUSINESS RESTRICTIONS

Foreign investors may invest in all sectors and in all industries that are not prohibited. Generally, prohibited sectors/industries are those which are detrimental to the people, environment, defense or history and culture of Vietnam. The conditions imposed on projects in conditional sectors/industries will be stipulated in the relevant laws, ordinances, decrees and international treaties.

INVESTMENT INCENTIVES

Subject to the type of business and/or location of the investment, foreign investors may enjoy the following investment and tax incentives:

- An exemption of corporate income tax for up to four years, subject to the type of business and location of the investment.
- A 50% reduction of corporate income tax payable for up to 9 years, depending on certain conditions.
- Preferential corporate income tax rate of 10% or 17% for specific years, depending on certain conditions.
- Exemption of import duty for imported fixed assets, materials, etc. for specific cases.
- Exemption from, or reduction of, land rent, land use fees and land use tax.

WORK PERMITS AND VISAS

Foreigners working in Vietnam must obtain a work permit, unless they qualify under an exemption case (such as foreigners working in Vietnam for less than 3 months offering services or handling complicated technical issues that affect production or business, which cannot be handled by Vietnamese or foreign experts in Vietnam). Work permits are also required for foreign employees being dispatched to Vietnam for the implementation of projects in Vietnam (except for ODA-funded projects where exemption of work permit may be granted to foreign experts subject to certain conditions).

The term of the work permit shall be the employment contractual term, but it should not exceed 2 years before renewal.

In addition to work permits and normal visas, foreigners working in Vietnam might need to obtain business visas and temporary resident cards, where required. Temporary resident cards, which enable longer term stays, are available for up to 2 years and are subject to renewal. The cards also permit multiple entries and exits.

TAXATION

Value-Added Tax (VAT)

VAT is charged on most goods and services in Vietnam. Generally, goods and services are subject to the standard VAT rate of 10%. In a number of special cases, VAT is exempted or charged at the rate of 5% (for fundamental items) or 0% (for exported goods and services). Companies are required to register with the tax offices in order to obtain a VAT code.

Corporate Income Tax (CIT)

CIT is charged on profits of companies in Vietnam. The current standard CIT rate is 20%. Tax incentives are also offered to investment projects which meet certain conditions, primarily in relation to encouraged business lines and geographical areas. CIT is provisionally calculated and paid on a quarterly basis (quarterly CIT declaration is no longer required), before being finalised for the fiscal year, within 90 days of the financial year end. Tax losses incurred are allowed to be offset against different business activities of the same company (following stipulated order) and continuously for 5 consecutive years. Tax losses of a quarter can also be carried forward to the following quarter of the same fiscal year. Carry back of tax losses is not allowed.

Withholding Tax (WT)

Withholding Tax, which is a combination of VAT and CIT (or Personal Income Tax), is charged on payments made by companies in Vietnam for certain purchases of goods and services from overseas suppliers (corporate or individual). The WT declaration is categorised into 3 types:

- Withholding Method (or also referred to as Direct Method by law)
- Hybrid Method
- Vietnamese Accounting System (VAS) Method (or also referred to as Declaration Method by law)

Personal Income Tax (PIT)

PIT is applied to taxable income received by individuals, with the most common being employment income.

As a general rule, PIT is a liability of the employee but the obligation to temporarily

withhold or pay the PIT may initially rest with the employer (if the employer is a Vietnam-based organisation; otherwise, the employee shall be responsible for his/her tax filing). Where employees are remunerated on a gross basis, the employer is liable to withhold PIT payable before making the income payment to the employees, and remit the tax withheld to the State. If the employer remunerates the employees on a net basis, the employer is liable to gross up the net income, calculate the applicable PIT and pay such PIT to the tax office.

The PIT obligation is determined on a number of factors but mainly on the taxpayer's residence status in Vietnam for the relevant tax year.

AUDIT AND ACCOUNTING

The VAS is compulsory for all enterprises in Vietnam.

There is no requirement to register the application of VAS with the local authority. However, the enterprise is required to obtain written approval from the Ministry of Finance (MOF) for any permissible departure from the VAS.

The fiscal year normally commences on 1 January and ends on 31 December, or a fiscal year may also end on 31 March, 30 June or 30 September. The first fiscal year is generally from the date of the investment certificate to the end of the same fiscal year. If the first fiscal year is shorter than 90 days, it may be aggregated with the following year.

Companies are required to employ a Chief Accountant who holds either a relevant certificate or diploma. Many businesses coming to Vietnam outsource their accounting to qualified firms who can take on the responsibility of the Chief Accountant role. Foreign-invested companies must appoint an independent auditing firm to audit their annual financial statements.

Companies must submit their annual financial statements (audited, if required) to the tax authority, licensing authority and several other relevant authorities for reporting

purposes within 90 days after the end of the fiscal year.

COUNTRY QUIRKS

- Companies are required to employ a Chief Accountant.
- Nominee share holdings are not legally recognised.
- The registered office address must be the actual office address. PO boxes and lawyer addresses are not permitted.
- Law and regulations are frequently changed or amended. Private rulings are not legally binding in some cases.
- Copyright law is very weak in Vietnam.

YOUR CONTACTS

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