MAZARS

Doing Business in Asia Pacific

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DOING
BUSINESS
IN
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PACIFIC

Introduction

This guide has been prepared for the assistance of those interested in doing business in Asia Pacific. It does not cover exhaustively the subjects it treats, 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 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.

Sources for country statistics:
"The World in 2011." The Economist;
"Doing Business in 2012." The World Bank. www.doingbusiness.org/rankings;
Central Intelligence Agency www.cia.gov

Mazars

Mazars is an international, integrated and independent organisation, specialising in audit, accountancy, tax, legal and advisory services. As of 1st January 2012, Mazars has its own offices in 67 countries, across five continents, with 13,000 professionals. Through its correspondent agreements, joint ventures and representative offices, Mazars can operate in 17 additional countries and provide its clients with professional teams, who all share the same commitment to quality and a common determination to maintain the highest technical and ethical standards. Mazars' continually expanding portfolio of services reflects the Group's ambition: to provide its clients, whether international corporates, SMEs or individuals, with tailored and global solutions to help them achieve sustainable growth.

Since 2004, Mazars has enjoyed dramatic growth in the Asia Pacific region and now has more than 2,000 professionals sharing the same values and sense of responsibility across Asia in 13 different countries.

www.mazars.com

Mazars' regional outsourcing practice in Asia Pacific

Mazars provides outsourcing services in Asia Pacific across a range of markets and sectors. Our clients include owner-managed ventures, international corporate organisations and blue chip companies. We provide outsourcing services in the following areas: company registration, accounting, payroll, tax compliance, legal compliance, immigration and other recurring 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	2.6%
Inflation	2.5%
Population	22.5m
GDP per head	$52,830
World Bank Ease of Doing Business Rank	15

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 does not exist in Australia as an option to carry on business.

The company is much simpler to establish and obtain the various registrations to trade, and for this reason, 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 also an Australian resident "public officer" for dealings with the Australian Taxation Office (ATO).

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 acquisition of the various ATO registrations can be a difficult process due to the identification requirements for foreign entities. This process can add up to 3 months to the incorporation process. The branch will also have additional ASIC reporting requirements annually.

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 at www.firb.gov.au.

The foreign investment controls have been significantly relaxed for U.S. investors/purchasers as a result of the recent Free Trade Agreement between the U.S. and Australia.

Investment Incentives

There are very few investment incentives available in Australia. An Australian resident company can obtain income tax incentives for research and development expenditure and grants for exporting. A registered foreign company (branch) cannot obtain these incentives.

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 more than 3 months for business purposes must obtain employment authorisation (Temporary Business Entry Long Stay visa, subclass 457). Companies operating in Australia, or those in other countries wishing to establish an entity in Australia, are able to sponsor individuals to enter on the subclass 457 visa, which allows a stay in Australia of up to 4 years. Extensions are possible provided there continues to be an approved sponsor 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), Goods and Services Tax (GST) registration and Tax File Number (TFN).

The main business taxes in Australia are company tax, GST and withholding tax.

The company tax in Australia is 30%, which applies to all entities based on their taxable income. 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 throughout the current year. The instalments are then applied to the tax liability at year end.

The standard year end in Australia is 30 June, however you can apply to have an alternative year end to match your group reporting dates. Losses are available to be carried forward indefinitely, subject to meeting specific loss tests. All Australian entities in a group can also form a tax consolidated group.

In general, GST registration is required for all businesses where turnover exceeds $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 Australian Taxation Office 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 two of the following three criteria:

- consolidated gross operating revenue less than $25 million a year
- consolidated gross assets less than $12.5 million at year end
- 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 an audited financial report for lodgement with the Australian Securities and Investments Commission (ASIC) unless they obtain 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 before the commencement of the financial year, or within three months of incorporation in the first 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% 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 $1).
- **Capital gains tax applies to the sale of capital assets held within Australia, at the rate of 30% for companies. 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; however the sale of branch assets may attach capital gains tax.**

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C H I N A

GDP Growth	8.4%
Inflation	3.5%
Population	1,345.7m
GDP per head	$4,800
World Bank Ease of Doing Business Rank	91

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 the foreign investor(s). WFOEs were originally introduced to promote manufacturing activities that were either export orientated or encouraged advanced technology. Since China's entry into the WTO, the WFOE is also increasingly being used for consultancy & service, wholesale, retail and franchise activities.

Joint ventures offer the advantage of familiarity with the Chinese market and are sometimes the only way to register in China if a certain business activity is still controlled by the government.

The company registration process for any structure requires at least 1 representative. The minimum capital required is based on the business plan and feasibility study of each case. 15% of the capital must be contributed within 3 months of obtaining the Business License, whilst 100% of the capital must be contributed within 2 years of the company's establishment.

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 representative office. These two entities are treated as extensions of the head office overseas. However, as is usually the case, a representative office can only be used to facilitate market entry and/or act as a liaison for the group. It cannot earn income.

Foreign Business Restrictions

A foreign business is any business with foreign investment, regardless of the percentage of shareholding. Foreign businesses are regulated by the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) under the Catalogue for the Guidance of Foreign Investment. This catalogue categorises business activities into 4 groups: encouraged, permitted, restricted and prohibited. Each group includes a list of all the sectors and the legal structure required in each case: some of the activities require a joint venture, where the maximum percentage of shares held by the foreign partner is established case by case, whilst others can be engaged through a 100% foreign invested company.

Investment Incentives

Incentives for foreign investment in recent years have gradually focused on some key sectors and underdeveloped areas, according to China's development needs and planning goals. Specifically, incentives are offered in high-end manufacturing, high-technology, new energies, energy efficiency and environmental protection industries. Furthermore, foreign-funded projects under the encouraged category of activities can benefit from lower land prices, discounted at 30%. R&D activities are also incentivised with 150% of the related expenses deductible from corporate income tax.

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

We should underline that laws regarding investment incentives change constantly. For this reason, the current law or policies applicable should be checked when considering an investment.

Work Permits and Visas

Foreigners applying to work in China require a work permit.

To obtain a work permit, the applicant must hold a university degree; have at least two years of related experience in the industry and have a local contract in China. Please note that visa application procedures should be completed in the country of origin or in the country of residence (relevant residence documentation will be requested by the delivering body – Chinese embassy or consulate).

There is a maximum of 4 expatriate work permits allowed per representative office. However, there is no maximum for any of the other legal structures available.

Taxation

The main business taxes in China are VAT, business tax, withholding tax, corporate income tax and individual income tax.

VAT applies to all sales processes, while business tax applies to services rendered in China.

There are 2 VAT payer categories: general VAT payers and small-scale VAT payers. The first applies to companies with annual sales amounts over 0.5M RMB in production and 0.8M RMB in trading activities. The VAT rates for general VAT payers are mainly 0% for exports, 13% for utilities and 17% as a normal rate. If annual sales are lower, the company is considered a small-scale VAT payer, and the VAT rate is 3%. VAT returns, and related payments, must be submitted within the 15th day of the following month in which the tax invoice was issued.

Business tax applies to services rendered, and the rate varies from 3% to 20% depending on the service category. Business tax declarations and related payments must be submitted within the 15th day of the following month in which the tax invoice was issued.

Withholding tax applies to any payment abroad from China. The total rate is 15%, representing 5% business tax and 10% corporate income tax. The tax must be withheld when the expense is booked.

Corporate income tax is applied at a rate of 25% on net profits with no exception. Two types of declarations are required, an annual declaration and quarterly declarations. The quarterly declarations represent a prepayment calculated from the tax payable on the forecast 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, once the statutory audit report is issued.

Individual income tax in China is withheld on a monthly basis by the employer. The responsibility for computation and declaration is shared between employee and employer. In practice however, employers would be held responsible by the tax authorities. Individual income tax is progressive and was amended in 2011, benefiting lower income groups. An annual declaration should also be performed by the employee, summarizing all sources of income and potentially adjusting what was declared during the year.

Social contributions

Starting October 2011, foreign employees in China are required to register at the National Social Security Management Centre and contribute to all 5 contribution schemes: pension, medical, work-related injury, unemployment and maternity.

Social contributions are declared and paid for on a monthly basis. Rates and the calculation basis 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 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. 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 funds on a dedicated bank account.

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

Audit and Accounting

All legal entities in China must have their accounts prepared by a registered Chinese accountant and audited by a registered Chinese CPA firm. The closing date for any entity is the 31st December, and a financial and statutory report must be issued by a CPA firm, together with a foreign exchange report in case of foreign entities. Every time that any capital is received, a related capital verification report must also be issued. People's Republic of China (PRC) 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 is sector dependent.
- Accounts must be prepared by a Chinese accountant and audited by a Chinese CPA Firm.
- All legal entities in China must be audited.
- Four categories of business activities: encouraged, permitted, restricted and prohibited.
- Foreign exchange control on any transaction in and out of China.

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HONG KONG

SPECIAL ADMINISTRATIVE REGION ("HKSAR")

GDP Growth	4.5%
Inflation	5.7%
Population	7.1m
GDP per head	$34,393
World Bank Ease of Doing Business Rank	2

Establishing an Entity

There are a number of 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 HKSAR

A. Sole Proprietorship

Other than ensuring the 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 and they are generally limited to a maximum of 20 members, although there are certain limited exceptions under the Companies Ordinance.

In a general partnership, all partners are jointly and severally liable without limit for the debts and obligations of the partnership. Partners are also each personally liable, without limitation, for all the debts and obligations of the partnership not satisfied by the partnership assets.

It is possible to register a limited partnership. However, the liability of at least one of the partners must remain unlimited.

C. Limited Companies

Limited companies may be either private or public, 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 limited companies, whose articles of association as provided in the Companies Ordinance:

- Restrict the right to transfer the company's shares.
- Limit the number of members to 50.
- 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 which 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 and any place used for the manufacture or warehousing of goods, but does not include a place not used by the company to transact any business which creates legal obligations.

If the office in the HKSAR has purely a liaison function and no business is conducted in the HKSAR which 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 foreign business 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

N/A

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 the territory.

As a general rule, any person who wishes to study, enter into employment, invest in the HKSAR, settle in the territory for permanent residence, or stay as a visitor longer than the allowed visa free period, must obtain a 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 the HKSAR are required to register for an identity card by law.

After living in the HKSAR for seven years, one can apply for a permanent identity card and, if successful, there is no subsequent requirement for a visa or work permit.

Taxation

A company is resident in Hong Kong if it is incorporated in Hong Kong or centrally managed and controlled in Hong Kong. Generally speaking, only Hong Kong-sourced income is chargeable to profits tax.

Profits tax is imposed on Hong Kong-sourced profits derived from businesses carried on in Hong Kong. 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 chargeable profits. However, capital expenditure is not tax-deductible.

Tax losses incurred cannot be carried back but can be carried forward indefinitely for set-off against any future assessable profits. Anti-avoidance provisions contained in the Inland Revenue Ordinance 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 tax rate is 16.5% for corporations and 15% for unincorporated businesses.

An individual's personal income tax is calculated based on income arising in or derived from Hong Kong in relation to any office, employment, pension or payments for services rendered in Hong Kong. For Hong Kong employment, all income derived will normally be subject to salaries tax, even if some services are performed outside Hong Kong. Income from a 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 and entered into and where it is enforceable, where the employer is resident and where the employee's remuneration is paid to the employee. Income from services rendered during visits to Hong Kong by a person not exceeding 60 days in any tax year will be exempt.

Hong Kong salaries tax is charged at progressive rates from 2% to 17% with the maximum amount of tax limited to the standard rate of 15%. Additionally, both employer and employee are required to contribute 5% of the monthly income of the employee to a Mandatory Provident Fund (capped at HK$1,000).

Audit and Accounting

All companies incorporated under the Companies Ordinance, regardless of size, must have their (annual) financial statements audited by a practicing 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 the 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 size test and shareholders' approval can also choose to apply the Small and Medium-sized Entity Financial Reporting Framework and Financial Reporting Standard ("SME-FRF & SME-FRS").

Country Quirks

- Legal system: originated and based on British Common Law, unlike that of the mainland.
- Official languages: English and Chinese.

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I N D I A

GDP Growth	7.7%
Inflation	9%
Population	1,202.1m
GDP per head	$1,520
World Bank Ease of Doing Business Rank	132

Establishing an Entity

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

A Foreign Company is one which has been incorporated outside 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. To reduce risk, the establishment of an independent legal entity in the form of a Foreign Limited Liability Company may be preferred.

As an alternative to the Foreign Limited Liability Company, an investor may incorporate a company under the Indian Companies Act, 1956. Foreign equity 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.

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, construction of farm houses, trading in Transferable Development Rights (TDRs), manufacturing of cigars, cigarettes or of tobacco substitutes and multi brand retail trading.

Investment Incentives

Tax incentives are available for investment in India. India has a number of Special Economic Zones (SEZ). The SEZ zones are considered as foreign territory in all that concerns taxes and customs. Companies in the SEZ are eligible for a total exemption from tax for the first 5 years and a 50% exemption from the tax due for the next five years. Entrepreneurs who supply infrastructure resources in the SEZ are eligible for a 10 year tax exemption.

Companies carrying out scientific research and other promoted activities are also eligible for a 5-10 years tax holiday of 30%-100%.

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

Taxation

The main business taxes in India are: sales tax, service tax, withholding tax and corporate income tax.

The rates of sales tax and the associated thresholds vary by state. In the state of Delhi, sales tax registration is required for all businesses with sales volumes in excess of INR 1,000,000 per annum. Sales tax returns and associated payments must be submitted within the 25th day of the following month in which the tax invoice was raised.

Service tax registration is required for businesses with service volumes in excess of INR 1,000,000 per annum. The rate of service tax is 10.3%. Service tax returns must be submitted every six months. Service tax must be paid within the 5th day of the following month in which the tax invoice was raised.

Withholding tax is a deduction made on certain types of payments e.g. rental, advertising, professional services, royalties, dividends and interest. The amount of tax withheld depends upon the category of service provided and the tax status of the recipient. Rates range from 1% to 10%. Tax withheld must be submitted within the 7th of the following month and will be offset against the final corporation tax liability. The withholding tax returns are filed on a quarterly basis.

Corporation tax is applied at a rate of 30% on net profits. Advance corporate tax has to be paid quarterly, based on estimated annual income. Operating losses may be carried forward up to 8 years.

Work Permits and Visas

All foreign residents entering India must have a visa.

The main classes of visa in India are:

- A tourist visa, which is intended for anyone who intends to visit India solely as a tourist and is granted for a period of 6 - 12 months without any authorisation for an extension.
- An entry visa, which is intended for frequent entries into India.
- A business visa, which is intended for instances in which a foreign resident visits India for business purposes, including opening a business. The visa is usually granted for a period of 6 months from the date of entry.
- An employment visa, which is intended for a foreign resident who intends to work in India. A letter of invitation from the employer in India should be provided.

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 in India 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, companies with income exceeding INR 6,000,000 (INR 1,500,000 in the case of a service company) require a tax audit.

Indian 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

- Statutory Audit of all companies is mandatory.
- Companies with income exceeding INR 6,000,000 per annum require a tax audit.
- Every Company with a paid-up capital of more than INR 50,000,000 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	6.0%
Inflation	7.0%
Population	245.6m
GDP per head	$3,280
World Bank Ease of Doing Business Rank	129

Establishing an Entity

Foreign businesses may establish a Limited Liability Company 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 Limited Liability Company. 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, for example: data collection, handling promotional activity, checking quality and/or providing after sales support.

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

The Limited Liability Company registration is a three phase process. It requires a minimum of two shareholders, 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 portion of foreign shareholding. The type of business activity dictates the level of foreign ownership permitted. Some activities permit 100% foreign ownership, others less for example: retailing, tourism and mining. There are also several business activities, such as agricultural activities and handicrafts, which are closed to foreigners and reserved only for Indonesian small and medium-sized enterprises. The limitations on business activity are stipulated in the latest Indonesian Investment Negative List in the Presidential Regulation of the Republic of Indonesia No. 36/2010. It should be noted that after 15 years of operation, any company with 100% foreign ownership must sell a minimum of 5% of its shares to an Indonesian legal entity or to Indonesian individuals.

Foreign capital investment is governed primarily by the Indonesian Investment Coordinating Board ("BKPM"), which administers and approves foreign capital investment in the majority of economic sectors. Investment in oil and gas, mining, banking, finance and insurance industries also requires

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.

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 exemptions or relief on the import duty of equipment not yet produced in Indonesia; exemptions or relief on import duty of production raw materials; exemptions or deferment of value-added tax on import of production of capital goods, machines or equipment not yet produced in Indonesia; accelerated depreciation or amortisation; and relief on land and buildings tax, particularly for specified business sectors in specified regions, areas or zones.

Work Permits and Visas

For business visits, excluding employment or paid work activities, a business visa will be issued, of which there are two types: 1) Single Entry Business Visa 2) Multiple Entry Business Visa. Depending upon nationality, 30 days visas are issued on arrival. The visa costs USD 25 (cash only) and may be extended for a further 30 days.

Foreigners applying to work in Indonesia require a valid work permit (IMTA) and limited stay permit (KITAS) – usually for a duration of one year.

Company sponsorship is required for any foreigner who wants to work in Indonesia. The 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 – RPTKA). Once the RPTKA is approved, a TA-01 is issued and upon arrival a work permit and Izin Mempekerjakan Tenaga Kerja Asing (IMTA) are issued. These are then followed by the issuance of the KITAS card and the payment of an annual Skill & Development Fund fee (DPKK). The original approval letter TA-01 is also needed to obtain a temporary residence visa (VITAS – Visa Tinggal Terbatas).

Taxation

The main business taxes in Indonesia are VAT, income tax and corporate income tax.

Value-added tax applies to the import and delivery of most goods and services. Insurance and banking services are not subject to VAT. VAT is collected at a standard rate of 10%, but for some services the VAT effective rate is 1%. For export 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 net output VAT is then payable by the 15th of the following month and the monthly VAT report must be filed by the 20th.

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 that are resident 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-source income.

The corporate tax rate was reduced to 25%, starting in 2010. Micro, small and medium-sized business (MSMEs / UMKM) may have a tax discount of 50% for turnover of up to IDR 4.8 billion (US$ 535,000). Companies with a turnover of less than IDR 50 billion (US$ 5.5 million) are categorised as MSMEs /

UMKM. 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, firms handling public money (banks, insurance companies) and companies having a turnover above Rp 50 billion (US$ 5.5 million), must have their accounts audited by a registered Indonesian CPA. Indonesian accounting standards (PSAK) are generally aligned to those IFRS that were in existence 1 January 2009.

Non-public interest entities are able to elect to adopt PSAK or Indonesian Accounting Standards for Non-Publicly-Accountable Entities. The elected standards must be applied to the 2011 accounting period onwards.

Country Quirks

- Accounts must be prepared by an Indonesian accountant and audited by an Indonesian CPA.
- After 15 years of operation, any company with 100% foreign ownership must sell a minimum of 5% of its shares to an Indonesian legal entity or to Indonesian individuals.

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J A P A N

GDP Growth	1.3%
Inflation	0.3%
Population	126.5m
GDP per head	$44,440
World Bank Ease of Doing Business Rank	20

Establishing an entity

Foreign companies establishing a business entity in Japan may choose from four basic types of operations: 1) joint stock company ("Kabushiki Kaisha" or "KK") or limited liability company ("Godo Kaisha" or "LLC") as a subsidiary, 2) branch (of a foreign company), 3) limited liability partnership (LLP) and 4) representative office. The procedures for setting up a company in Japan are complicated and must be conducted in Japanese. They typically take one month to complete.

Companies can be set up with minimum capital of 1 yen.

Regardless of the type of operation, at least one representative (one partner in the case of an LLP) must be a resident in Japan.

Foreign Business Restrictions

The vast majority of industries have been liberalised and opened up for foreign direct investment. Such investment is treated as "foreign direct investment in Japan" under the Foreign Exchange and Foreign Trade Law and differentiated from financial and portfolio investment. In principle, 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 generally 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 categorized as belonging to industries which Japan has not yet liberalized.

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

Investment incentives

Foreign-capitalized firms operating in Japan are eligible to borrow from government-affiliated financial institutions such as the Development Bank of Japan for the purpose of acquiring land, buildings, machinery, and equipment, and for research and development, and M&A activities.

Furthermore, 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, and real estate acquisition taxes. Subsidies and loans are also available to finance the acquisition of land and buildings, operating expenses, and facilities investment.

Work Permits and Visas

A foreign national entering Japan having acquired a visa in principle receives landing permission at the port of entry and is granted permission to reside in Japan in accordance with the status of residence determined at that time.

The status of residence of foreigners (except persons falling under the category of "Investor/Business Manager") employed by a representative office, branch or subsidiary company will be either "Intra-company Transferee" or a status commensurate with the employee's academic/work record and the nature of his/her work in Japan ("Specialist in Humanities/International Services," "Engineer," etc.).

Taxation

Corporations engaged in economic activities in Japan are subject to taxes in Japan on the profits generated by those economic activities. The 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 approximately 42% for corporations with paid-in capital of less than JPY100 million and 40% for corporations with paid-in capital in excess of JPY 100 million.

Gains from capital transactions are generally treated as part of ordinary taxable income for corporate tax purposes. Where a tax loss is realized in a given tax year, provided the company has a "blue-form" tax return filing status, that loss may be carried forward by the company for use in sheltering taxable profits of future tax years for 7 years. Except in certain limited situations, the loss carry back rule has been suspended since 1992.

Consumption tax is categorized 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. The aggregate consumption tax rate is 5% (national consumption tax rate of 4% and local consumption tax rate of 1%).

Companies classified as Small and Medium-sized Enterprises ("SMEs") can get significantly reduced rates across the board for corporate tax. To qualify as an SME, essentially companies must have capital of JPY100 million or less and their parent less than JPY 500 million. These companies have an effective rate of national and local corporate tax of 28% (32% for the years closing after March 31, 2012) for taxable income not exceeding JPY 8 million. For SMEs there is a provision to carry back losses for one year which is not available to larger companies.

Consumption tax is categorized 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. The aggregate consumption tax rate is 5% (national consumption tax rate of 4% and local consumption tax rate of 1%).

The Japanese withholding tax rate on dividends, interests and royalties payable to a non-resident is generally 20% (15%for certain interest). The withholding tax rate on dividends from certain listed shares was 10% (7% for national tax and 3% for local tax) until 31 December, 2011 and is 20% (15% for national tax and 5% for local tax) thereafter. This may be reduced by applicable double tax treaties.

On payments of dividends, interests and royalties made to a resident, withholding taxes are levied at rates of between 10% to 20%.

Personal taxation and welfare insurance is quite complicated. 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

Based on the Company Code, only companies with statutory capital of JPY 500 million or more, or with liabilities of JPY 20 billion or more are required to be audited. However all listed companies, licensed banks and insurance companies are required to be audited to meet stock exchange and financial regulatory requirements. Kabushiki Kaishas are required to disclose a summary of the balance sheet via either official gazette, newspaper or via website.

Country Quirks

- The registered office address must be the office address. PO boxes are not permitted. However, there is an exception to allow lawyer's addresses.
- Representative offices of foreign companies can in most cases be set up without any formal process of approval other than registering for taxation.
- Functional currency accounting is not allowed.

Your contact

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MALAYSIA

GDP Growth	4.2%
Inflation	2.7%
Population	28.8m
GDP per head	$8,780
World Bank Ease of Doing Business Rank	18

Establishing an Entity

The principal forms of business organisation in Malaysia are sole proprietorships, partnerships, locally incorporated limited liability companies or branches of foreign companies.

Sole proprietorships and partnerships must be registered with the Register of Business, whilst companies must be incorporated or registered with the Companies Commission of Malaysia.

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

A locally incorporated company and a branch must maintain a registered office in Malaysia and keep the accounts and records of the Malaysian operations in Malaysia. A locally incorporated company must have at least two directors, who have a principal or only place of residence in Malaysia.

Foreign Business Restrictions

There is no foreign equity restriction for companies which carry on manufacturing activities in Malaysia.

Foreign investors are permitted to have a 100% interest for investments in certain services sub-sectors: computer and related services, health and social services, tourism services, transport services, sporting and recreational services, business services and ship rental/leasing services.

For wholesale and retail businesses, foreign equity participation of up to 70% is permitted with local bumiputera participation of 30%. For stock broking and unit trust management companies, foreign equity participation of up to 70% is permitted. There is no foreign equity restriction for wholesale fund management companies.

Investment Incentives

Companies engaged in manufacturing, agricultural, hotel and tourism, or other sectors that participate in promoted activities or manufacture promoted products, are eligible for either Pioneer status or investment tax allowance ("ITA") incentives.

Companies enjoying Pioneer status are given an exemption of 70% on statutory income (i.e. profit after deduction of capital allowances) for 5 or 10 years, with the balance of 30% subject to tax.

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

Companies granted ITA are given 60% allowance on the qualifying capital expenditure incurred within 5 years. The ITA is allowed to set off only 70% of the statutory income, whilst the remaining 30% of the income is subject to tax. Unabsorbed ITA can be carried forward to subsequent years until fully utilised. ITA is granted in addition to the normal tax depreciation.

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

Companies involved in manufacturing or agricultural activities are eligible for a reinvestment allowance ("RA") of 60% if they incurred qualifying capital expenditure for the purpose of expansion, modernisation, automation or diversification projects, and have been operational for at least 36 months. The RA granted is allowed to set off only 70% of the statutory income, whilst the remaining 30% of the income is subject to tax. Unabsorbed RA can be carried forward to subsequent years until fully utilised.

Attractive and enhanced tax incentives are also available for approved service and food production projects, operational headquarters, regional distribution centers, international procurement centers, real estate investment trusts, biotechnology and tourism industry, research and development activities, Islamic banking, insurance and fund management business, venture capital industry, multimedia super corridor status companies, companies operating in the Iskandar Development Region and Treasury Management Centers.

Work Permits and Visas

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

Foreigners can obtain a visit pass for social or business visits, but it cannot be used for the purpose of employment or work. For such purposes, the applicants must be sponsored by an entity in Malaysia and apply for either a visit pass (temporary employment or professional) or an employment pass. A dependant's pass can be applied for spouses and children.

Foreign companies are allowed to bring in expatriates in areas where there is a shortage of trained Malaysians and key posts.

Manufacturing companies with foreign paid-up capital of US$2 million and above are given automatic approval for 10 expatriate posts, including 5 key posts. Manufacturing companies with foreign paid-up capital of between US$200,000 to US$2 million are given automatic approval for 5 expatriate posts, including 1 key post. For manufacturing companies with foreign paid-up capital of below US$200,000, the number of expatriates allowed depends on the guidelines applicable at the time and 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. The exception to the general rule is that income derived from banking, insurance and air or sea transport operations is taxed on a worldwide basis.

Personal Income Tax

Resident individuals are taxed at a graduated rate, ranging from 0% to 26%, and are entitled to personal relief and rebates. Non-resident individuals are taxed at a flat rate of 26% without any relief.

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

Corporate Tax

Companies, whether tax resident or non-resident, are subject to corporate tax of 25%. Small and medium-sized enterprises are eligible for the preferential tax rate of 20% for the first RM500,000 of taxable income.

A company is regarded as tax resident in Malaysia if control and management of its affairs are exercised in Malaysia. Companies are required to provide a tax estimate and prepay their tax based on an instalment scheme. A corporate income tax return has to be filed 7 months after the end of the company 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 contract fees, technical services, royalties, interest, rental of moveable property, commission and guarantee fees may be subject to withholding tax at rates of up to 15%.

Real Property Gains Tax ("RPGT")

Disposal of property and shares in a real property company, within 5 years from the date of acquisition, is subject to RPGT of 5%. For disposal on and after 1 January 2012, the following rates will apply:

Disposal	RPGT rate (%)
Within 2 years	10
In 3rd to 5th year	5
After 5 years	0

Indirect Taxes

Sales tax is imposed on taxable goods manufactured or imported into Malaysia at rates of between 0% to 10%.

Service tax is charged on the provision of taxable services by a taxable person at the rate of 5%.

Excise duty is imposed on a specific range of goods manufactured or imported into Malaysia such as hard liquor, motor vehicles and tobacco at rates ranging from 15% to 105%.

Import duty is generally imposed on goods imported into Malaysia at rates ranging from 2% to 60%.

Stamp Duty

Stamp duty is chargeable on certain instruments and documents. The rate of stamp duty varies according to the type of instrument and the transacted value.

Audit and Accounting

All companies are required to have their annual financial statements audited by independent auditors.

Public interest entities adopt the Financial Reporting Standards (FRS) in Malaysia which are similar to International Financial Reporting Standards (IFRS), whilst small and medium-sized enterprises adopt the Private Entity Financial Reporting Standards.

Malaysia will become fully IFRS compliant in 2012.

Country Quirks

- Foreign wholesale and retail businesses must have 30% bumiputera ownership. Companies listed on the Kuala Lumpur Stock Exchange must also adhere to this requirement.

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PAKISTAN

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GDP Growth	3.2%
Inflation	9.9%
Population	189.6m
GDP per head	$992
World Bank Ease of Doing Business Rank	105

Establishing an Entity

The legal structures available for foreign businesses wishing to operate in Pakistan are (1) Foreign Company (2) Limited Liability Company (3) Branch office and (4) Representative office.

In the case of a foreign company and if the entity in Pakistan is for profit, then a branch office needs to be established. It is also possible to set up a representative office with permission from the Board of Investment (BOI).

A foreign investor may incorporate a company under the Companies Ordinance 1984. Foreign equity in such Pakistani companies can be up to 100%, depending on the business sector (manufacturing, services). There is no minimum foreign equity participation limit for manufacturing. Repatriation of capital and dividends net of tax is allowed.

In recent years, the Government of Pakistan has substantially simplified the regulatory environment for setting up a business. Administration of investment is now concentrated with the Board of Investment (BOI) and the Security and Exchange Commission of Pakistan (SECP) in a one stop shop system.

The number of days needed to set up a business is one of the lowest in Asia.

Foreign Business Restrictions

Pakistan's legal framework and economic strategy does not discriminate against foreign investment.

A number of government agencies oversee commercial and financial regulatory regimes, including the Securities and Exchange Commission of Pakistan (SECP), the Federal Board of Revenue (FBR), the Board of Investment (BOI) and the State Bank of Pakistan.

Foreign Investment

Foreign investment is generally subject to the same rules as domestic investment, with the exception of certain sensitive areas such as defence. The Foreign Private Investment (Promotion and Protection) Act, 1976, specifically provides that foreign investment shall not be subject to more taxation on income than investments made by Pakistani nationals.

The privatization of substantial government holdings in the energy, financial services, and telecom sectors has attracted considerable foreign investor interest. Foreign investors are permitted to bid on state-owned industries and financial institutions on terms equivalent to those offered to local investors. Mergers are allowed between multinationals, as well as between multinationals and local companies. The Companies Ordinance 1984 governs mergers and takeovers.

Investment Incentives

Pakistan has a very liberal investment policy. New incentives and liberalization measures include:

- Almost all economic sectors are open to foreign investors
- Foreign equity up to 100% allowed
- Attractive incentives package including:
  - 0-5% customs duty on import of machinery
  - Sales tax on import of certain machinery exempted
  - No withholding tax on import of machinery
  - Remittance of capital, profits, royalty, technical & franchise fee allowed
  - Network of export processing zones / industrial estates
  - Export of goods zero-rated
  - Tax credit at 100% of tax payable for equity investment in a new industrial set-up and for Balancing, Modernisation and Replacement (BMR) in an existing industrial set up
  - A first year plant and machinery allowance at the rate of 90% for certain industries

Work Permits and Visas

The new policy for the countries listed below* is as follows:

- Businessmen and investors from the listed countries with substantial investment in Pakistan will be granted 3 year multiple entry visas.
- Businessmen from the listed countries who want to establish business offices in Pakistan will be issued a multiple entry visa for one year on the recommendation of their Embassies/Missions in Pakistan.
- Businessmen/investors from any of the listed countries, where there is no Pakistan Embassy will also be allowed thirty days landing permission on arrival at Pakistan Airport.
- Multiple entry resident visas for a period of three years will be issued to the nationals of all countries, except those not recognized by Pakistan, who bring in an amount of US$200,000.
- Pakistani industrialists/businessmen interested in inviting foreign entrepreneurs from countries other than those listed, for the promotion of trade and industrial co-operation will be allowed to request 1 month visas through the Chambers of Commerce and Industry at Lahore, Karachi, Peshawar, Quetta, Islamabad and the Federation of Pakistan Chambers of Commerce and Industry with a personal guarantee to the Ministry of Interior.
- Businessmen and investors of the following countries will be granted a multiple journey visa:

* *Australia, Austria, Bahrain, Belgium, Brunei, Canada, China, Czech Republic, Denmark, Finland, France, Germany, Greece, Hong Kong, Hungary, Ireland, Iceland, Indonesia, Iran, Italy, Japan, Kenya, Kuwait, Luxembourg, Malaysia, Netherlands, New Zealand, Norway, Oman, Poland, Portugal, Qatar, Saudi Arabia, Singapore, South Korea, Spain, Sweden, Switzerland, Thailand, Turkey, UAE, UK, USA*

Taxation

The main business taxes in Pakistan are customs duty, sales tax and income tax.

Companies are required to withhold income tax from the salary of employees who draw a salary above the exemption threshold. A sales tax at the rate of 16% is levied on the value added at each stage of the production process, and is applicable to most firms in case of goods and services. The Sales tax must be paid on a monthly basis.

Corporate income tax is 35% of net profits. Small companies benefit from a lower tax rate of 25%. A minimum tax on 1% of turnover is applicable in all cases. Certain revenue streams attract fixed tax i.e. exports, dividends, property income and trading. Taxes are payable on a quarterly basis in case of income not applicable to fixed tax.

Audit and Accounting

Audit requirements can differ depending on the type of company. Following are the types of companies:

- Private Companies
- Public non-listed Companies
- Public listed Companies
- Banking Companies
- Non-Banking Financial Institutions
- Insurance Companies

Auditors must be members of the Institute of Chartered Accountants of Pakistan (ICAP). A firm where all its partners are members of the ICAP, can be appointed as an auditor and act in the firm's name. The auditors of a listed company must also possess a satisfactory quality control rating from the ICAP.

An auditor cannot be a director or officer of the company, be a partner or employee of a director or officer, or be indebted to the company. The firm of external auditors auditing a listed company or any partner in the firm and their spouse and minor children are prohibited to hold, purchase, sell or take any position in shares of the listed company or any of its associated companies or undertakings.

Auditing Standards as applicable in Pakistan are followed by the audit firms.

Members of the ICAP are required to observe the pronouncements of the International Federation of Accountants, as long as these do not conflict with Pakistani laws as Pakistani laws will prevail.

In Pakistan, the majority of the IFRS's have been adopted by the ICAP.

Country Quirks

- **Official Languages:** Urdu and English
- **Due Diligence, Due Diligence, Due Diligence:** Nothing is more important. Please ensure that the people you are talking to are credible, have the right level of finances, capabilities, certification and the type of products you want before you start discussing price.
- **Engage a local partner of repute:** Pakistanis know Pakistanis best - and can deal with them across geography, language and cultures. There are companies which can help you source them.

- **Hire reputable local advisory firms:** Don't think that your international advisor will be able to help you with your legal requirements in Pakistan; even if they can, it's best not to take the chance in business. There are numerous reputable Chartered Accountancy firms and Law firms and you should use their services to draft agreements.

Your contact

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PHILIPPINES

GDP Growth	3.4%
Inflation	3.8%
Population	94m
GDP per head	$2,300
World Bank Ease of Doing Business Rank	136

Establishing an Entity

The legal structures available for foreign businesses wishing to operate in the Philippines include: subsidiary, registered under Philippine law and treated as a Philippine domestic corporation; branch office; representative office; Regional or Area Headquarters (RHQs) and Regional Operating Headquarters (ROHQs).

A local subsidiary of a foreign corporation is a legally independent unit, governed exclusively by Philippine laws. Where a local subsidiary of a foreign corporation is created, two separate and distinct corporate entities exist, both in law and in fact, the original foreign company and a new domestic one, each having separate and distinct personalities.

A branch office is a foreign corporation, organised and existing under foreign laws, that carries out business activities of the head office and derives income from the Philippines.

A representative office is a foreign corporation organised and existing under foreign law. It does not derive income from the Philippines and is fully subsidised by its head office. It deals directly with clients of the head office as it undertakes such activities as information dissemination, acts as a communication centre and promotes company products, as well as quality control of products for export.

RHQ activities are limited to acting as a supervisory, communication and coordinating centre for subsidiaries, affiliates and branches in the Asia Pacific region. An RHQ can act as an administrative branch of a multinational company engaged in international trade. However, it cannot derive income from sources within the Philippines and cannot participate, in any manner, in the management of any subsidiary or branch offices it might have in the Philippines.

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 communications
- Business development

Incorporation of a local subsidiary requires at least five (5) but not more than fifteen (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 one (1) share of the capital stock of the corporation. At least twenty-five percent (25%) of the authorised capital stock, as stated in the articles of incorporation, must be subscribed at the time of incorporation; at least twenty-five percent (25%) of the total subscription must be 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 two: 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 Defence (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 administered by the Philippine Economic Zone Authority (PEZA), and domestic market enterprises with paid-in equity capital of less than $200,000.

All areas of investments other than those specified 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 Central Bank of the Philippines], may be allowed one hundred percent (100%) foreign equity provided the minimum capitalisation requirement of $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 Philippine Economic Zone Authority (PEZA) or the Board of Investments (BOI). The PEZA grants incentives to businesses engaged in export that are located within identified economic zones. The BOI, on the other hand, administers the grant of incentives to businesses engaging in any of the investment priority areas provided under the Investment Priorities Plan (IPP). Incentives are also available for businesses that wish to operate in special economic and Freeport zones, such as those located in Subic and Clark.

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 Permit and Visas

To promote foreign involvement in the economic development of the country, the Philippine government has liberalised 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:

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

Taxation

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

Corporate income tax of thirty percent (30%) is imposed on taxable income. In the 4th year of operations, the tax imposed is either 2% of gross income (gross sales less returns, discounts, allowances and cost of sales) or 30% of taxable income, whichever is higher. For entities covered by special laws (e.g. PEZA entities), a five percent (5%) income tax is imposed on the gross income. ROHQs, on the other hand, are entitled to an income tax rate of ten percent (10%) on taxable income. Quarterly income tax returns should be filed, and the payment 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.

Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services and any person who imports goods shall be subject to twelve percent (12%) VAT. It is an indirect tax, which may be shifted or passed on to the buyer, transferee or lessee of goods, properties or services. Except for those enrolled under the Electronic Filing and Payment System (EFPS), 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).

The withholding tax system is a means of collecting tax in advance. WT 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 rates provided that a prior application for tax treaty relief has been approved by the BIR. Except for those enrolled under the EFPS, WT returns shall be filed and payment 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 have their financial statements prepared in accordance with the Generally Accepted Accounting Principles (GAAP) 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.

Audited financial statements, in compliance with GAAP, are required to be submitted with the Securities and Exchange Commission (SEC) and the Bureau of Internal Revenue (BIR). The independent external auditors are required to perform the audit and issue an opinion on the financial statements in accordance with the Philippine Standards on Auditing (PSA). PSA 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	3.9%
Inflation	3.3%
Population	49.6m
GDP per head	$22,050
World Bank Ease of Doing Business Rank	8

Establishing an Entity

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

The majority of companies are chusik hoesa, or stock companies. However, yuhan hoesa, or private companies, may also be suitable for foreigners if the number of shareholders is not expected to exceed 50. Domestic commercial laws apply to investments made through a company.

A branch office is not considered a foreign investment but 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 was expected 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, R&D and customer liaison. Unlike branches, representative offices are not required to register as a legal entity and instead are given a unique business code number at the District Tax Office.

Foreign Business Restrictions

Foreign business restrictions fall into two 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.

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

Investment Incentives

The Foreign Investment Promotion Act and Korea's domestic commercial law apply to investments of over 50 million won, 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 business into Korea. For those foreign

investors meeting 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 locate into these zones shall be provided with incentives.

Work Permits and Visas

A D-8 visa is issued for specialist employees of foreign companies engaged in business management, production or technology. 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 that 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 law.

Taxation

The main business taxes in Korea are VAT, withholding tax and corporate income tax.

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 just ended.

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 range from 2% on interest paid by financial institutions to domestic companies, to 20% on royalties paid to foreign corporations. Withholding tax rates vary depending on the tax treaty with each country. Tax withheld must be submitted by the 9th day of the following month and will be offset against the final corporation tax liability.

Corporation tax is applied at a rate of 22% on taxable income over KRW 200mn and a 10% tax rate is applied where taxable income is less than KRW 200mn. There are also a number of tax deductions available, but the mechanics of these are complex and therefore professional advice should be sought.

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 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.

Audit and Accounting

External audits, by a registered KICPA, are mandatory for listed companies and/or those with over KRW 10 billion of assets. K-IFRS was adopted by all listed companies and non-listed financial institutions from 2011. Unlisted companies have the choice between full K-IFRS and the Korean Accounting Standards.

Country Quirks

- Only listed companies and companies which have over KRW 10 billion of assets must have an external audit.
- All audit contracts should be finalised and reported to FSS by following 15th May for December 31 year ended companies and by following 15th August for March 31 year ended companies

Your contacts

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SINGAPORE

GDP Growth	4.1%
Inflation	2.0%
Population	5.2m
GDP per head	$45,200
World Bank Ease of Doing Business Rank	1

Establishing an Entity

Foreign entrepreneurs are free to incorporate and operate a Singapore company.

There are three types of business structures in Singapore available for foreigners. These are: Limited Liability Company (LLC), Limited Liability Partnership (LLP), and Sole Proprietorship (SP). However, setting up an LLC (often called private limited company) is the most preferred and most widely used incorporation vehicle used by foreign entrepreneurs.

A Limited Liability Company is the most flexible and advanced type of business entity available and is a legal entity on its own, separate from its owners. Therefore, its liabilities do not extend to its owners. Furthermore, foreigners can be 100% owners of a Singapore Limited Liability Company.

The minimum required paid-up capital when registering a Singapore company is S$1 and the concept of authorised capital no longer exists. Further, the company should have a minimum of one director and one shareholder, and at least one director must be a local resident director (Singapore citizen, permanent resident, or EP holder). The company must have a local registered address.

Foreigners are required to engage the services of a professional firm to incorporate a Singapore entity as they are required to have a qualified corporate secretary. There are a number of firms which offer these services.

Foreign Business Restrictions

There are no strict rules on establishing and registering a company in Singapore so long as it complies with the minimum requirement on incorporating a business as mentioned in the preceding paragraphs.

It is worthy to note, however, that a company registered in Singapore cannot start to trade until it has been successfully registered with the Accounting and Corporate Regulatory Authority (ACRA).

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 efficient regulatory environment, amongst others.

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

Work Permits and Visas

Foreigners who plan to move to Singapore need to apply for a work permit of type Employment Pass or Entrepreneur Pass. Approval of a work pass is subject to review and approval by government authorities.

The key criteria for an Employment Pass include the educational qualifications and professional experience of the applicant. A tertiary level of education is expected for Employment Pass applications, including applicants' prior professional experience. An Entrepreneur Pass (known as EntrePass) is meant for business owners who lack tertiary level education but otherwise have a good entrepreneurial background. Other requirements for an Entrepreneur Pass include a minimum investment of S$50,000 and hiring of 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 in order to look after company matters, as and when required. However, in this case the company will need to identify a local resident director, since at least one of the company directors has to be a local resident director. Certain professional firms that offer incorporation services also provide the services of a nominee local director.

Taxation

The company's taxable income for the year will be subject to corporate tax in Singapore. Corporate tax rate in Singapore is a flat, low rate of 17%. Tax exemptions are available that make the effective tax rate for annual profits of up to S$300,000 less than 9%. There is no tax on capital gains or dividend distributions for Singapore companies. Any after-tax income of the company can be distributed to its shareholders anywhere in the world tax free. It is also important to note that Singapore companies can easily avoid any double taxation when conducting international trade. A Singapore company can claim tax credit for any tax paid overseas, subject to certain 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. The only 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.

GST registration is not mandatory unless the company's annual turnover exceeds S$1 million. Companies are required to register for GST in Singapore within 30 days of becoming liable.

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 an exempt private company. A company is called an Exempt Private Company (EPC) if it has less than 20 shareholders, and none of the shareholders is a corporation.

Accounting standards in Singapore are closely modelled after the International Accounting Standards and International Financial Reporting Standards issued by the International Accounting Standards Board. All companies in Singapore have to comply with Financial Reporting Standards (FRS). Listed companies must adhere to the Code of Corporate Governance and are required to submit a complete description of their corporate governance practices, including disclosures of non-compliance of the Code.

Annual financial statements must be submitted to both ACRA and the Inland Revenue Authority of Singapore (IRAS). 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. The company secretary must be a resident of Singapore.
- The company must have one local resident director.

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TAJIKISTAN

GDP Growth	6.5%
Inflation	6.4%
Population	7.6m
GDP per head	$2,000
World Bank Ease of Doing Business Rank	147

Establishing an Entity

Foreign businesses wishing to operate in Tajikistan can establish an entity under any legal structure that is provided by law (Partnership, Limited Liability Companies, Joint Stock Companies, Closed Joint Stock Company, Production cooperative).

The most common legal structure used for business is the Limited Liability Company. Founder/members of an LLC can number between one and thirty. The registered capital should not be less than five hundred TJS (Tajikistan Somoni), which is approximately 110 USD. The latest government regulations have simplified the procedure of state registration of an LLC. Now it is not necessary to file the organization's Charter, and it is possible to present the document of authorized capital stock formation within one year of registration.

The state registration of an entity can be completed on a "one stop shop" basis:

- The applicant files the documents required by Law at one central filing office. After input of all the required data into the state register, a registration document is issued.
- Registration in the Single State Register provides each entity with a unique identification number and simultaneous registration valid for a number of government offices.

Foreign Business Restrictions

There are no restrictions on direct investments from abroad. There are also no foreign exchange controls currently in place and interest rates are liberalized.

Investment Incentives

Employment and investment incentives are available for foreign investment in priority sectors permitted via joint ventures.

Priority sectors for investment include: hydropower, mining, processing of precious metals and stones, ores, development of telecommunications and infrastructure, processing of cotton and agricultural products, etc.

Some activities need special permission or a license, and such approval needs to be specified in the company Charter.

Work Permits and Visas

Categories of visas which can be granted for expatriate work in Tajikistan are as follows:

- Investor (C) - renewable, but not for more than 3 years.
- Business (K) - renewable, but not for more than 1 year.
- Employment (M) granted for three months, with subsequent extension.

General requirements for all foreigners are: a valid travel document, visa application form with photograph, receipts for payment of fees, a copy of the primary (previous visa), as well as medical examinations for antibodies to HIV \ AIDS (if you need a visa for more than 3 months).

Taxation

Companies pay taxes according to the Tax Code of the Republic of Tajikistan. There are two systems available: simplified and normal. Those companies whose gross income does not exceed 800 thousand TJS can pay taxes under the simplified system. Where gross income exceeds 800,000 TJS, the tax payer must pay under the general taxation system.

The advantage of the simplified system is that a tax of 4% on gross receipts replaces various taxes, including taxes on legal persons (15%) and minimum income tax (1%), tax on road users (2%), VAT value (18%), value added tax payable on goods imported into the customs territory of the Republic of Tajikistan, and entrepreneurs' income tax.

The simplified system also provides for the employer to pay Social Protection Fund taxes equivalent to 25% of employees' salary.

In addition, employees will pay:

- Income Tax (13%)
- Pension Fund (1%)

The tax authority provides certificates of registration and assigns a taxpayer identification number.

Audit and Accounting

Under Tajikistan law, the following entities currently require a mandatory annual audit:

- Banks;
- Non-bank financial institutions performing certain types of banking operations and organizations operating in the securities market;
- Open Joint Stock Companies;
- Insurance companies;
- Public funds;
- Natural monopolies;
- Stock and commodity exchanges, investment funds and state unitary enterprises.

The first steps on the transition to IFRS were taken by the Government in 2002: Regulation #428, November 4, 2002 "On International Financial Reporting Standards". This was followed by Regulation #465, October 3, 2006 "On additional measures for the implementation of IFRS" which set out a phased timetable for accounting practices to be compliant with IFRS by 2010. Currently, there is a Ministry of Finance project for the general implementation of IFRS and ISA over the period 2011-2016.

Country Quirks

- Official language: Tajik but Russian and English are prevalent in business.
- Law and regulations are frequently changed.
- There are four free economic zones in Tajikistan.

Your contact

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THAILAND

GDP Growth	4.0%
Inflation	2.0%
Population	68.2m
GDP per head	$4,920
World Bank Ease of Doing Business Rank	17

Establishing an Entity

The legal structures available for foreign businesses wishing to operate in Thailand include: company limited, branch office, representative office and regional operating headquarters (ROH). Due to the limited liability offered, the most commonly used structure for investors looking to earn income is the company limited. Representative offices are not permitted to earn income and therefore are only considered when the purpose of the entity is to provide services to an overseas head office, for example: data collection, sourcing goods, checking quality and providing clients with after sales support. An ROH provides management or technical services to associated companies or branches.

The company limited registration process 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 one company share. Upon registration of a company, the shareholders must pay 25% of the registered capital into the company.

Foreign Business Restrictions

A foreign business is any business with 50% or more foreign shareholding. Foreign businesses are regulated by the Foreign Business Act, which categorises business activities into 3 groups; List 1, List 2 and List 3. Foreign businesses are not permitted to engage in List 1 activities, e.g. rice farming. Engagement in List 2 activities requires cabinet approval, and List 3 activities require the permission of the Director General of the Department of Business Development. Foreign businesses wishing to engage in List 2 or List 3 activities need to obtain a foreign business license before commencing operations.

There are two alternatives to obtaining a foreign business license. The first is available to US companies via the 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. The second alternative is an application 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 and therefore 100% foreign ownership is permitted.

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

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 and/or exemptions on customs duties and corporate taxes, relaxation of the rules relating to 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 Visa.

Each work permit requires THB 2 million of paid-up, registered capital. Each applicant must earn the minimum income prescribed by law, which varies according to nationality, and the employer must typically maintain an employment ratio of at least 4 Thai permanent staff to 1 expatriate.

Typically, there are a maximum of 10 expatriate work permits allowed per company. However, this maximum can be relaxed in certain situations, for example: where the employer has paid income tax of no less than THB 3 million in the previous year or where the employer employs no less than 100 Thai employees.

Taxation

The main business taxes in Thailand are VAT, withholding tax and corporate income tax.

In general, VAT registration is required for all businesses with sales volumes in excess of THB 1,800,000 per annum. The nominal rate of VAT is 10%; however, currently this has been reduced to 7%. VAT returns, and related payments, must be filed within the 15th day of the following month in which the tax invoice was raised.

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 upon the category of service provided and the tax status of the recipient. Rates range from 1% on interest paid by financial institutions to domestic companies, to 15% on royalties paid to foreign corporations. Tax withheld must be submitted within the 7th of the following month. Withheld tax can be offset against the final corporation tax liability.

Corporation tax is generally applied at a rate of 30% on taxable profits. However, reduced rates of 20-25% are granted to SMEs and listed companies. Two corporation tax returns are required, an annual return and a half year return. The half year represents a prepayment calculated from the tax payable on the forecast 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.

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 Thai Financial Reporting Standards for Non-Publicly Accountable Entities (TFRS for NPAEs) were introduced. The TFRS for NPAEs are similar in nature to IFRS for SMEs. 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.

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 office address. PO boxes and lawyer addresses are not permitted.
- Board meetings require physical attendance. Proxy and circulated resolutions are not permitted.

Your contact

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V I E T N A M

GDP Growth	6.5%
Inflation	11%
Population	89.1m
GDP per head	$1,290
World Bank Ease of Doing Business Rank	98

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").

A foreign invested enterprise becomes a legal entity when an authorised licensing body (i.e. Department of Planning and Investment or Administration Board of Industrial Parks) issues an investment certificate. The investment certificate of a foreign invested enterprise also acts as a business registration certificate. A foreign invested enterprise can conduct businesses that have been permitted in the investment certificate.

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

Foreign Business Restrictions

Foreign investors may invest in any industry which is not in the prohibited sectors. Generally prohibited sectors are those which are detrimental to the people, environment, defence or history and culture of Vietnam.

Foreign investors are also required to implement the investment evaluation procedure in order to obtain an investment certificate where they invest into conditional sectors. These conditional sectors include: national defence and security; social order and safety; banking and finance; public health; culture; information; press and publishing; entertainment services; real estate; survey; prospecting; exploration and mining of natural resources; environment or ecological; development of education and training; trading and distribution, or other sectors as set out by the local laws or the international treaties to which Vietnam is a signatory.

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 specific 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.
- A reduced corporate income tax rate of 10% for 30 years or 20% for specific years, depending on the qualified conditions.
- Exemption of import duty for imported fixed assets, if the fixed assets are not yet produced in Vietnam.
- Exemption of import duty for materials for 5 years for specific cases.

Work Permits and Visas

Foreigners working in Vietnam for 3 months or more must obtain a work permit. Work permits are also required for foreign employees being dispatched to Vietnam for the implementation of projects in Vietnam.

The term of work permit shall be the employment contractual term but should not exceed three 3 years. The permit is renewable subject to certain conditions. Work permit exceptions are available in some cases, including, but not limited to: foreigners who work in Vietnam for less than 3 months; members of limited liability companies with two or more members; owners of single limited liability companies and members of the board of management of joint stock companies, chiefs of foreign NGOs in Vietnam, and technical and professional specialists of ODA-funded projects.

After 6 months working in Vietnam without a work permit, a foreigner may be expelled from Vietnam.

Valid passports and visas are required for foreigners working in Vietnam in addition to the resident cards, where required. Working visas and resident cards, where required, are only issued after work permits have been obtained. Business visas which enable longer term stays are available for up to 1 year and may be renewed. Some business visas 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 applied on profits of companies in Vietnam. The current standard CIT rate is 25%. 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 declared on a quarterly basis before being finalised for the fiscal year within 90 days of the financial year end. Tax losses incurred in any tax year are allowed to be offset for different business activities of the same

company and to be carried forward to the following 5 years. A tax loss for a quarter can be carried forward to the following quarter of the same fiscal year. Carry back of tax losses is not permitted.

Withholding Tax (WT)

WT, which is a combination of VAT and CIT, is charged on payments made by companies in Vietnam for certain purchases of goods and services from overseas suppliers. WT is categorised into 3 types:

- Withholding Method
- Hybrid Method
- Vietnamese Accounting System ("VAS") Method

Personal Income Tax (PIT)

Foreign and Vietnamese employees working in Vietnam are subject to PIT. 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. Where employees are remunerated on a gross basis, the employer is liable to withhold PIT payable before making an income payment to the employees. If the employer remunerates the employees on a net basis, the employer is liable to gross up the net incomes, calculate the applicable PIT and pay such PIT to the tax office.

The PIT is determined entirely on the taxpayer's physical presence in Vietnam for the relevant tax year.

Audit and Accounting

The Vietnamese Accounting System and Standards ("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 tax year normally commences on 1st January and ends on 31st December. The first tax year is generally from the date of the investment certificate to the 31st of December of the same year. The Ministry of Finance, or its delegated agency, may also approve a financial year ending on 31st March, 30th June or 30th September.

Companies are required to employ a chief accountant who holds either a certificate or diploma in financial accounting conferred by an approved institution.

Companies must appoint an independent auditing firm to audit its annual financial statements. Companies must submit their audited annual financial statements to the tax authority, licensing authority, and several other relevant authorities for reporting purpose within 3 months after the end of the fiscal year.

Country Quirks

- Companies must employ a chief accountant.
- Nominee shareholdings are legally not allowed.
- The registered office address must be the office address. PO boxes and lawyer addresses are not permitted.
- Law and regulations are frequently changed or amended. Private ruling is not legal binding in some cases.

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Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, France, Greece, Germany, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and Channel Islands (including a representative office in Gibraltar)

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