PKF

Asia Pacific tax guide

2019-20

FOREWORD

The Asia Pacific Tax Guide 2019/20 provides an overview of the taxation and business regulation regimes of Asia Pacific's most significant trading countries. In compiling this publication, member firms of the PKF network have based their summaries on information current on 30 June 2019, while also noting imminent changes where necessary.

On a country-by-country basis, each summary addresses the major taxes applicable to business; how taxable income is determined; sundry other related taxation and business issues; and the country's personal tax regime. The final section of each country summary sets out the Double Tax Treaty and Non-Treaty rates of tax withholding relating to the payment of dividends, interest, royalties and other related payments.

While the Asia Pacific Guide should not to be regarded as offering a complete explanation of the taxation issues in each country, we hope readers will use the publication as their first point of reference and then use the services of their local PKF member firm to provide specific information and advice.

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- Assurance & Advisory;
- Tax Advisory & Compliance;
- Financial Planning / Wealth Management;
- Corporate Finance;
- Management Consultancy;
- IT Consultancy;
- Insolvency - Corporate and Personal;
- Forensic Accounting; and,
- Hotel Consultancy.

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A

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BASIC FACTS

Full name:	Commonwealth of Australia
Capital:	Canberra
Main languages:	English
Population:	25.02 million (2019 estimate)
Monetary unit:	Australian Dollar (AUD)
Internet domain:	.au
Int. dialling code:	+61

KEY TAX POINTS

- Australian resident companies are subject to company income tax on income derived from all sources. Non-resident companies are required to pay income tax only on Australian-sourced income.
- There is no branch profits tax in Australia. However, Australian branches of foreign companies will generally only be taxed on Australian-sourced income at the prevailing company tax rate.
- All entities that carry on an enterprise in Australia are required to register for the goods and services tax (GST) if their annual turnover meets the registration turnover threshold.
- Australia has a CFC regime which is designed to ensure certain types of passive and associated party income of a CFC is included in the controlling Australian resident's taxable income each financial year.
- Where foreign sourced income is included in assessable income, tax credits are available equal to the

lesser of the foreign tax paid and the Australian tax payable. Credits are also available to Australian companies for foreign tax paid under the CFC regime on attributed income.

- Wholly-owned groups of Australian companies and trusts can elect to have their income tax liability calculated on a consolidated basis.
- Non-arm's length international profit-shifting arrangements and other international transactions between related parties are governed by transfer pricing rules which give the Commissioner of Taxation the power to calculate the income tax payable based on arms-length prices.
- Withholding tax must be deducted from interest, royalties and dividends (to the extent they are not franked) paid to non-residents.
- Income tax is payable by Australian resident individuals on non-exempt income derived from worldwide sources. Non-resident individuals are only required to pay tax on Australian-sourced income.
- There is no separate capital gains tax, but capital gains are included in taxable income. The tax treatment of capital gains and losses is generally the same for individuals and trustees as for companies, but there are some differences (e.g. Australian resident individuals and trustees, unlike companies, can claim a 50% discount of capital gains on assets held for more than one year). Small business CGT concessions may also reduce capital gains where certain conditions are met.
- There is no net wealth tax, real estate tax or inheritance or gift tax.

A. TAXES PAYABLE

COMPANY TAX

Australian resident companies are subject to company income tax on their income derived from all sources. Non-resident companies are required to pay income tax only on Australian-sourced income. Resident companies are those that are incorporated in Australia or those that carry on business in Australia and either have their central management and control in Australia or their voting power controlled by shareholders who are Australian residents.

The tax year runs from 1 July to 30 June. Companies' financial years usually coincide with the tax year. A taxpayer can choose to have an accounting period different to the tax year if they wish but this will require additional costs of preparing another set of accounts based on the tax year. Alternatively, if a taxpayer has a good reason for having a financial year other than 1 July to 30 June they can apply to the Australian Tax Office to have a substituted accounting period (SAP) and align the tax year with their financial year. The Australian Tax Office will generally accept applications for an SAP where an Australian subsidiary wants to align its tax year with its foreign parent company's financial year. The company tax rates applied to the company's taxable income are:

- 27.5% for companies with aggregate annual turnover of less than AUD 50 million for the 2018/19 income year); and
- 30% for all other companies.

Note, the reduced rate of company tax does not apply to entities which derive more than 80% of revenue from passive income.

A company is generally required to 'self-assess' its likely tax liability in a financial year and pay tax by quarterly instalments with the final tax liability being reconciled in an annual tax return. 'Likely tax' is the latest estimate of tax payable made by the company in a current financial year. If no estimate is made, 'likely tax' is the tax assessed in the preceding year. Company tax is payable on a quarterly basis (except for companies with a turnover of greater than AUD 20 million which are required to remit instalments monthly). Companies that are not required to report their goods and services tax (GST) on a monthly basis and with income tax payable of less than AUD 8,000 for the most recent income year can elect to pay an annual instalment of tax rather than quarterly instalments. Generally, the annual payment date is 21 October when the income year ends on 30 June.

Monthly or quarterly company tax instalments are payable within 21 days after the end of each month/quarter of the financial year. However, where taxpayers are eligible to pay other quarterly obligations on a deferred basis (namely those entities that are required to pay GST on a quarterly basis); the due date is the 28th day after the end of the quarter (except for the December quarter in which case payment date is 28 February). There are two methods of working out the instalment payment amount as follows:

- Instalment Income Option: the payment amount is the amount of gross assessable income earned for that month or quarter (less capital gains) multiplied by the instalment rate. The instalment rate is advised by the Tax Office and is based on the company tax paid on the most recent tax assessment divided by the company's turnover (less capital gains). This method is available to all taxpayers.

- GDP adjustment notional tax option: the payment income amount is based on the assessable income figure from the most recent tax return multiplied by a GDP factor. The income amount is advised by the Tax Office. This method is available for individual taxpayers or other entities where their most recent assessed taxable income was under AUD 2 million. Certain categories of taxpayers such as farmers, sports people and artists may meet their liability for these four instalments by making two payments per year.

BRANCH PROFITS TAX

There is no branch profits tax in Australia. However, Australian branches of foreign companies will generally only be taxed on Australian-sourced income at the prevailing company tax rate.

GOODS AND SERVICES TAX (GST)

All entities that carry on an enterprise in Australia are required to register for the goods and services tax (GST) if their annual turnover meets the registration turnover threshold of AUD 75,000 or AUD 150,000 for not-for-profit organisations. Once registered, entities are required to charge 10% GST on all goods and services that they supply within Australia, unless the supplies are specifically excluded, such as education, health, child care services and certain types of food.

Registered entities are entitled to claim an 'input tax credit' equal to the amount of GST paid on purchases, provided that those purchases were used for a 'creditable purpose' in carrying on their enterprise. This means that the cost of the GST is effectively borne solely by the end user. However, there are two exceptions to the general rule:

(1) GST-free supplies (zero rated supplies): These supplies are provided by enterprises to their customers free of GST, and the enterprise is also allowed to claim input tax credits on its creditable business acquisitions. Examples include education and health providers and certain types of food.

(2) Input taxed supplies: These supplies are provided by enterprises to their customers free of GST, but the enterprise is not allowed to claim any input tax credits on its creditable business acquisitions, effectively treating the supplier as an end user. Examples include financial services providers and residential accommodation supplies.

The GST collected from customers is remitted to the Federal Government on a quarterly or monthly basis, depending on the size of the entity's annual turnover.

There are new rules regarding the supply of goods and services by non-residents to Australian consumers which should be considered particularly digital services such as software.

FRINGE BENEFITS TAX (FBT)

Fringe benefits tax is a federal tax that is payable by resident and non-resident employers (with sufficient connection with Australia) on certain benefits that are provided to their employees. The tax is levied at a rate of 47% for the FBT year ending 31 March 2019 on the 'grossed-up taxable value' of each benefit that is provided to employees. FBT is separate from income tax.

In calculating the 'grossed-up taxable value' of a fringe benefit, the provider must first determine whether they are entitled to a GST input tax credit on that benefit. If so entitled, the value of the benefit must be 'grossed up' using a rate of 2.0802 for the 2018 FBT In all other cases, the value of the benefit is grossed up using a rate of 1.8868 for the 2018 FBT year.

The grossing up methodology effectively levies tax on the benefit at the rate of tax that an employee on the highest marginal tax rate would pay on the cash salary required for them to pay for the benefit out of after tax salary and taking into account any GST input tax credit the employer can claim on providing the benefit. Employees can make non-tax deductible contributions towards the private use component of a benefit to reduce the taxable value, thereby reducing the FBT payable.

The FBT year runs from 1 April to 31 March. If the prior year's FBT liability is AUD 3,000 or more, it is payable on a quarterly basis on the same payments dates as quarterly company tax (see above). If the total FBT liability is less than AUD 3,000, an annual payment is required. The annual FBT return is due for lodgement by 21 May of each year. Any FBT paid in Australia by an employer is generally deductible for Australian income tax purposes.

SUPERANNUATION CONTRIBUTIONS

Employers are required to make superannuation contributions on behalf of their employees at a rate of 9.5% (from 1 July 2014) of the employee's salary and wages. The rate will remain at 9.5% up until 30 June 2021; this will increase to 10% from 1 July 2021 and will increase gradually until the rate reaches 12% on 1 July 2025. Contributions are required on a quarterly basis.

If insufficient contributions are made, employers are liable for a Superannuation Guarantee Charge. The 'charge' includes the shortfall in the contributions together with an interest component and an administration fee. Employers who have a superannuation guarantee shortfall are required to lodge a Superannuation Guarantee Statement together with the 'charge' on the 28th day of the second month following the end of the quarter.

Superannuation contributions made by employers for their employees are generally income tax deductible and subject to 15% contributions tax payable by the superannuation fund. Where the employee's aggregate taxable income and concessional superannuation contributions exceed AUD 250,000 additional tax of 15% of the excess contributions is payable. Employees can make superannuation contributions on a "salary sacrifice" basis which effectively means these contributions are also tax deductible. There is a cap on the annual deductible aggregate superannuation contributions of AUD 25,000 for employees of all ages applying from 1 July 2017. Where concessional contributions exceed the cap, the excess amount is included in the individual's assessable income and taxed at their marginal tax rate. From 1 July 2018, individuals with superannuation balances of less than AUD 500,000 will have the ability to carry forward unused concessional contributions from up to the five previous financial years, and use the amounts to make additional concessional contributions during a particular financial year.

OTHER TAXES

Other Federal taxes include:

(1) Customs & Excise duties on certain imported items.

(2) The Petroleum Resource Rent Tax (PRRT) regime applies to onshore petroleum projects - including coal seam gas, tight gas and shale oil projects - as well as the offshore North West Shelf project. The PRRT is payable on the taxable profit of a person in relation to a petroleum project. If a person has an entitlement to assessable petroleum receipts from a production licence they will have a petroleum project.

(3) Minerals resource rent tax: this tax was repealed effective September 2014.

(4) Excise on fuel, tobacco and alcohol.

(5) Luxury Car Tax of 33% is payable on the value of certain vehicles that exceed the luxury car threshold of AUD 65,094 for the 2017/2018 year.

(6) Wine Equalisation Tax is a tax of 29% of the whole sale value of wine imported into Australia or sold by wholesale.

LOCAL TAXES

The States and Territories of Australia impose the following taxes:

(1) Stamp Duty: payable on specified transactions, including certain transfers of property.

(2) Payroll tax: payable by employers who have total payrolls exceeding specified thresholds which vary from State to State. Payroll tax rates between each State and Territory varies from 4.75% - 6.85%.

(3) Land and property taxes.

(4) Work-care / workers compensation levies or premiums.

(5) Insurance Duty: payable on certain insurance premiums.

B. DETERMINATION OF TAXABLE INCOME

Taxable income equals assessable income less allowable deductions. Assessable income includes ordinary income under common law and statutory income but does not include specifically exempt or non-assessable income. Generally, to be deductible, losses and outgoings must relate to the gaining or producing of assessable income. Some items are specifically non-deductible, such as penalties and fines. Capital expenses are generally non-deductible but may be deducted over time as a capital allowance or included in the capital gains tax (CGT) cost base. Expenses incurred in producing exempt income are also non-deductible. It is possible to claim a portion of expense items that have dual purposes. Special rules apply in respect of the categories listed below.

CAPITAL ALLOWANCES

Plant, equipment and other depreciable items are generally written off over their effective life. There are alternative rules for small business taxpayers with average turnover less than AUD 10 million. Taxpayers may self-determine the effective life of plant to calculate the tax depreciation rate or instead may rely on tax rates published by the Commissioner of Taxation. Either the straight-line or diminishing-value methods of depreciation can be used for each item of plant and is determined as follows:

(1) Straight-line method: 100% divided by the Asset's effective life.

(2) Diminishing-value method: 200% divided by the Asset's effective life.

Motor vehicles are subject to an indexed depreciation cost limit. The limit for the 2018/2019 financial year is AUD 57,581. A small business can pool depreciable assets in a general small business pool to be written off at one rate. The deduction for an asset acquired during an income year and allocated to the general small business pool is 15% of the taxable purpose proportion of its adjustable value. The general small business pool is written off at 30% per income year thereafter.

Effective from 12 May 2015 until 30 June 2020 small business taxpayers can claim an immediate write-off of eligible assets costing less than AUD 20,000 (expected to increase to AUD 25,000). This temporary upfront write-off will revert to the AUD 1,000 threshold for assets acquired after 30 June 2020. Most business-related capital expenses that are not otherwise deductible, included in the cost of depreciable assets or included in the CGT cost base of an asset, are deductible over five years.

STOCK / INVENTORY

All trading stock on hand at the beginning of the year of income and all trading stock on hand at the end of that income year must be taken into account in determining taxable income.

Each item of inventory must be valued at the end of each financial year at:

- Cost price valued at full absorption cost;
- Market selling value (the current selling value in the taxpayer's trading market); or,
- Replacement cost.

The closing value adopted becomes the opening value at the beginning of the following income year. Acceptable valuation methods include FIFO, average cost, standard costing and retail inventory method. Non-acceptable valuation methods include LIFO and the base stock method. Certain small business taxpayers who have an annual turnover of less than AUD 10 million are only required to make such valuations where the value of their stock changed by more than AUD 5,000.

CAPITAL GAINS AND LOSSES

Net capital gains are generally included in the determination of assessable income. Capital losses cannot be deducted from assessable income, and can only be offset against capital gains. Capital losses can be carried forward indefinitely to offset against future capital gains. Net capital gains are determined by deducting the cost base of an asset from the proceeds received on disposal of that asset. The purchase price of an asset purchased prior to 21 September 1999 can be adjusted for inflation indexation to the quarter ending 30 September 1999. Indexation is not available for assets purchased after 21 September 1999. In lieu of indexation, individuals and trustees may be eligible for a 50% reduction in their assessable capital gain if certain conditions are met. Complying superannuation funds are eligible for a 33.33% discount. This reduction is not available for companies.

Small business taxpayers which meet the eligibility conditions may access the Small business CGT concessions which contain CGT exemptions and reduction concessions, which may allow the taxpayer to disregard or defer some or all of a capital gain arising from an active asset utilised in a small business. Other exemptions from capital gains tax may also be available, such as the main residence exemption, gains from foreign branches or small business exemptions for businesses that satisfy certain criteria. Foreign residents are exempt from Australian CGT except on Australian real property; business assets used in an Australian permanent establishment (PE); or equity interests in Australian or foreign companies or trusts with substantial interests in Australian real property either directly or indirectly through interposed entities. Australian real property includes Australian land and mining, quarrying and prospecting rights over Australian land.

The 50% CGT discount for non-residents was removed on capital gains accrued after 8 May 2012 on Taxable Australian Property such as real estate and mining assets. However, non-residents will still be entitled to the 50% discount on capital gains accrued prior to this date (after offsetting any capital losses) provided they obtain a market valuation of assets as at 8 May 2012.

DIVIDENDS

In general, dividends received by resident shareholders from resident companies are taxable but grossed up for any franking credits attached. The franking credits are equivalent to the tax paid by the company on its profits out of which the dividend was paid. However, the resident shareholders are allowed a tax offset of tax equal to the amount of any franking credits on the dividend. Dividends received from non-resident companies do not qualify for this tax offset, but may be entitled to a foreign tax credit (see foreign tax relief below). Alternatively, the dividend may be tax-exempt if the recipient is an Australian company that has a 10% or greater interest in the foreign company.

Dividends paid by non-resident companies in certain foreign countries are also exempt to the extent that they represent profits already taxed in Australia under Australia's Controlled Foreign Corporation (CFC) rules. Dividends paid by resident companies to non-resident shareholders are not subject to income tax but may be subject to withholding tax to the extent that the dividends are not franked (i.e. have been paid out of Australian-taxed profits). Payments of dividends are not generally tax deductible.

INTEREST DEDUCTIONS

Interest is generally deductible to the extent it relates to funds borrowed for income-producing purposes. Interest deductions may be restricted by the thin capitalisation provisions. The thin capitalisation rules seek to deny deductions for interest payments if the taxpayer's debt exceeds 60% of the value of its assets. The interest attributable to this excess is denied deductibility. An exception to this rule is where the taxpayer can satisfy an 'arm's length test', which focuses on the taxpayer's likely borrowings if it had acted at arm's length and what independent lenders would lend to the taxpayer on arm's length terms.

The thin capitalisation provisions apply to foreign controlled Australian entities and the inward investments of foreign nationals and Australian-based entities with foreign investments. A de minimis rule ensures that all corporate entities and their associates (regardless of their nature or business) that claim no more than AUD 2 million for the financial year in debt deductions per income year will not be subject to the thin capitalisation rules.

MANAGED INVESTMENTS

Managed Investment Trusts (MIT) that make fund payments to an address outside Australia are required to pay withholding tax to the Tax Office. The rate of withholding is 30% but this rate is reduced if the country has an exchange of information agreement with Australia, in which case the rate is 15%. A concessionary rate of 10% applies to fund payments by a clean building MIT, that is an MIT that holds only energy efficient commercial buildings constructed on or after 1 July 2012. There are various other MIT concessions as well.

LOSSES

A tax loss is the excess of allowable deductions over assessable income (not including exempt income) and can be carried forward indefinitely to offset against future taxable income. For companies and trusts the deductibility of losses is restricted by a 'continuity of ownership' test (more than 50% of voting, dividend and capital rights). Alternatively, the loss is deductible if the company passes a 'same business' or ‘similar business’ test.

FOREIGN SOURCED INCOME

(i) Controlled Foreign Corporations (CFCs): Australia has a CFC regime which is designed to ensure certain types of passive and associated party income of a CFC is included in the controlling Australian resident's taxable income each financial year. In general, a foreign company will be regarded as a CFC where:

- Five or fewer Australian residents hold an associate inclusive 50% interest in the foreign corporation or have de facto control of the foreign entity;
- An Australian entity (and its associates) has 40% or greater control in the foreign corporation, unless they can prove that their interest is not a controlling interest; or,
- Irrespective of the interests in a foreign company, a group of five or fewer Australian entities (either alone or together with associates) has actual control of the company.

CFCs in seven listed countries (USA, UK, France, Germany, Japan, Canada - and New Zealand) are largely exempted from the CFC rules. There are several exemptions to the CFC rules including an active business exemption. The Government is currently reviewing the CFC provisions with a view to simplifying the rules.

(ii) Most foreign branch profits and capital gains of a resident company are generally not taxed when the income or gain is derived in carrying on a business through a permanent establishment in the following listed countries: UK, US, Canada, France, Germany, Japan and New Zealand. Losses from branches in the countries listed above cannot be claimed. Foreign branches of resident companies in other countries (unlisted countries) are generally not subject to tax on profits or gains where the income is from an 'active business' and for capital gains where the company used the asset wholly or mainly in an active business. Associated losses are also not deductible against the Australian source income of the entity.

CONDUIT FOREIGN INCOME

The conduit foreign income rules allow foreign income and certain foreign capital gains to flow through Australian companies and other interposed entities to foreign residents without being taxed in Australia.

INCENTIVES

Specific write-offs are provided for the mining and primary production industries. Special taxation treatment is also afforded to investment in innovative Australian companies through a 'venture capital tax concession'. The Research & Development (R&D) tax incentive provides a tax offset for eligible R&D activities targeting R&D activities that benefit Australia. The two core components of the incentive include:

- Refundable tax offset for certain eligible entities whose aggregated turnover is less than AUD 20 million;
- A non-refundable tax offset for all other eligible entities.

OTHER

(i) Debt Forgiveness: Where a commercial debt is forgiven, special provisions operate in some circumstances to effectively tax the borrower on the benefit received as a result of the forgiveness of the debt. The 'net forgiven amount' is not included directly in the borrower's assessable income but is applied against the borrower's tax attributes in the following order:

 (1) Reduction of revenue losses.

 (2) Reduction of net capital losses.

 (3) Reduction of deductions for particular expenditure.

 (4) Reduction of the cost base of certain assets.

(ii) Debt/Equity Rules: The debt equity rules determine the nature of an instrument for taxation purposes. Broadly speaking, the rules are based on the substance of the arrangement rather than its legal form. The rules determine whether a return on a debt or equity interest in an entity may be frankable and non-deductible (like a dividend) or may be deductible to the entity and not frankable (like interest).

(iii) Taxation of Foreign Exchange (forex) Gains or Loss: Special rules tax forex gains and allow tax deductions for forex losses. The rules apply to transactions where there is a disposal of foreign currency or a disposal of a right to foreign currency, a ceasing of a right or obligation to receive foreign currency, or a ceasing of a right or obligation to pay foreign currency. These provisions will not apply where the taxpayer has made certain elections.

(iv) Taxation of Financial Arrangements (TOFA): Broadly, the TOFA regime defines what constitutes a financial arrangement and provides a framework for calculating gains and losses on financial arrangements through default and elective tax timing methods. In broad terms, it is directed to entities that have:

 - Aggregated turnover of greater than AUD 100 million; or,
 - Assets of greater than AUD 300 million

 However, certain exceptions apply.

C. FOREIGN TAX RELIEF

Where foreign sourced income is included in a taxpayer's assessable income, foreign income tax offsets are available at the lesser of the foreign tax paid or the Australian tax payable. Any withholding tax paid on an assessable dividend from a foreign company will generally be allowed as a foreign income tax offset.

D. CONSOLIDATED CORPORATE GROUPS

Wholly-owned groups of Australian companies and trusts can elect to have their income tax liability calculated on a consolidated basis. This means that the entire group is treated, and taxed, as a single corporate taxpayer. Where the parent of Australian subsidiary entities is a foreign entity, the consolidation regime allows for the Australian subsidiary entities to be grouped under the consolidation regime where certain conditions are met.

E. RELATED PARTY TRANSACTIONS

Non-arm's length international profit-shifting arrangements and other international transactions between related parties are governed by transfer pricing rules which give the Commissioner of Taxation the power to calculate the income tax payable based on arm's length prices.

Documentation requirements and arm’s length conditions aim to better align Australian requirements with OECD Guidance material. Contemporaneous documentation should be prepared prior to lodgement of the entity’s income tax return and records should be made readily available to avoid failing to demonstrate a reasonably arguable position in the event of a transfer pricing adjustment.

The Australian Government has adopted a number of the recommendations of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Action Plan. Australia is currently one of 49 countries that will facilitate the exchange of Country by Country reports between tax authorities in different jurisdictions to better assess transfer pricing risks. The measure takes effect from income years commencing on, or after, 1 January 2016. It requires multinational entities with an annual global income of AUD 1 billion or more to provide the ATO with reporting statements within 12 months after the end of their income tax year.

It is also necessary for all Australian entities who are part of a consolidated accounting group where revenue exceeds AUD 1 billion to annually lodge a Master File and Local File with the ATO. It is also necessary to lodge a Country-by-Country report or notify the ATI if a group entity has lodged this overseas.

F. WITHHOLDING TAXES

Withholding tax must be deducted from interest, royalties and dividends (to the extent they are not franked) paid to non-residents. Liability for the remittance of withholding taxes rests with the payer of such amounts. Withholding tax is collected through the PAYG system and is determined according to the payer's PAYG withholding status. The payer is also required to lodge an annual report with the Commissioner of Taxation where such amounts have been withheld during the financial year. The relevant withholding tax rates are:

Type of income	Rate
1. Dividends - franked	0%
2. Dividends - unfranked[1]	0 - 15% (treaty countries); 30% (non-treaty countries)
3. Interest	10% (NIL for financial institutions under certain treaties)
4. Royalties	5% - 15% (treaty countries); 30% (non-treaty countries)

Note:

1. Australia does not impose withholding tax on dividends to the extent they are franked. To the extent dividends are unfranked, i.e. when paid out of profits of a company that have not borne Australian tax, the rate can be as low as 0% or 5%, if the beneficial owner of the dividends is a company that holds at least 80% or 10%, respectively, of the voting power in the payer. In all other cases, the rate is generally 15%.

G. EXCHANGE CONTROL

Where more than AUD 10,000 of Australian currency is physically taken out of Australia, the departing individual must report this to an Australian Customs Officer, or to the Australian Transaction Reports and Analysis Centre, (AUSTRAC). Equivalent amounts of foreign currency that are brought into Australia must also be reported.

H. PERSONAL TAX

Income tax is payable by Australian resident individuals on non-exempt income derived from worldwide sources. Non-resident individuals are only required to pay tax on Australian-sourced income. Residency is generally determined by reference to common law principles of residence. However, an individual can also be deemed an Australian resident if the individual's domicile is in Australia (unless they have a permanent place of abode outside Australia) or where the individual has spent more than one half of the relevant year of income in Australia (unless their usual place of abode is outside Australia and they do not intend to take up residence in Australia).

Individuals that become residents for a short time may be eligible for the temporary resident tax exemptions on their foreign income and capital gains. If they are holders of a temporary resident visa (generally for up to four years but may be longer), they will not be taxed on foreign-sourced income unless the income relates to employment or services rendered while they are a resident of Australia. In addition, temporary residents are not taxed on capital gains except for gains on 'Taxable Australian Property' (see capital gains section above). Income tax is payable on taxable income, which is the 'excess' of assessable income less allowable deductions.

Assessable income includes business income, employment income, capital gains on certain assets, dividends, rent and interest. Allowable deductions include outgoings incurred in gaining or producing assessable income such as interest expenses and statutory deductions such as tax-deductible gifts to specified charitable entities.

Most individual taxpayers that are employees will generally have Pay-As-You-Go (PAYG) tax instalments withheld from their salary or wage payments by their employers. Most individuals who are either self-employed or who earn non-salary income are required to make interim payments of tax during the financial year. The amount of these instalments is calculated using the same method outlined in section 'A' above for companies. Individuals with a most recent notional tax assessment of less than AUD 8,000 can elect to make an annual payment, otherwise interim payments are generally required either 21 days after the payment period (or 28 days if they are deferred business activity statement (BAS) payers).

A 2% levy, called the Medicare Levy, is payable by resident individual taxpayers. This levy covers basic hospital and medical expenses for all Australian residents and is assessed on the taxable income of resident individual taxpayers with no maximum ceiling on the amount payable. Low income taxpayers may be eligible for an exemption or reduced levy.

Temporary residents will generally be eligible to obtain a Medicare levy exemption. Higher income individuals without private health insurance are subject to an additional Medicare Levy Surcharge of between 1% and 1.5%.

A rebate is available to resident taxpayers for the cost of private health insurance. The rebate is subject to an income test and differs depending on the age of the taxpayer. A low income tax offset of AUD 445 is available to taxpayers with a taxable income of less than AUD 37,000. This tax offset is phased out when taxable income reaches AUD 66,667. Various other tax offsets are also available to resident individual taxpayers such as medical expenses rebate, zone offsets and superannuation offset. The tax rates for Australian individual residents and non-residents in the 2017/2018 financial year are outlined as follows:

Resident Individuals - rates 2018/2019

Taxable Income Exceeding AUD	Taxable Income Not Exceeding AUD	Tax On Lower Amount AUD	Rate On Excess %
0	18,200	0	0.0
18,201	37,000	0	19.0
37,001	90,000	3,572	32.5
90,001	180,000	20,797	37.0
180,000	--	54,097	45.0

Note, these rates exclude 2% Medicare Levy and Medicare Levy Surcharge.

on-resident Individuals - rates 2018/19:

Taxable Income Exceeding AUD	Taxable Income Exceeding AUD	Tax On Lower Amount AUD	Rate On Excess %
0	90,000	0	32.5
90,001	180,000	29,250	37.0
180,000	--	62,550	45.0

A

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends[1] (%)	Interest[2] (%)	Royalties[3] (%)
Resident corporations or individuals:	0	0	0
Non-resident corporations or individuals of non-treaty countries:	30	10	30
Treaty countries:			
Argentina	10/15	12	10/15
Austria	15	10	10
Belgium	15	10	10
Canada	5/15	10	10
Chile	5/15	5/15	5/15
China	15	10	10
Czech Republic	5/15	10	10
Denmark	15	10	10
East Timor	15	10	10
Fiji	20	10	15
Finland	0/5/15	10	5
France	0/5/15	0/10	5
Germany	15	10	10
Greece	30	10	30
Hungary	15	10	10
India	15	15	10/15/20
Indonesia	15	10	10/15
Ireland	15	10	10
Italy	15	10	10
Japan	0/5/10	0/10	5
Kiribati	20	10	15
Korea	15	15	15
Malaysia	0/15	15	15
Malta	15	15	10
Mexico	0/15	0/10/15	10
Netherlands	15	10	10
New Zealand	0/5/15	0/10	10
Norway	0/5/15	0/10	5
Papua New Guinea	15/20	10	10
Philippines	15/25	0/10/15	15/25
Poland	15	10	10
Romania	5/15	10	10
Russia	5/15	10	10

Singapore	15	10	10
Slovak Republic	15	10	10
South Africa	5/15	0/10	5
Spain	15	10	10
Sri Lanka	15	10	10
Sweden	15	0/10	10
Switzerland	0/5/15	0/10	5
Taiwan	10/15	10	12.50
Thailand	15/20	10/25	15
Turkey	15	10	10
United Kingdom	0/5/15	0/10	5
United States	0/5/15	10/15	5
Vietnam	10/15	10	10

Notes:

1. Franked dividends paid by Australian resident companies to non-residents are exempt from dividend withholding tax. To the extent dividends are unfranked, i.e. when paid out of profits of a company that have not borne Australian tax, the rate can be as low as 0% or 5%, if the beneficial owner of the dividends is a company that holds at least 80% or 10%, respectively, of the voting power in the payer. In all other cases, the rate is generally 15%.
2. Non-resident interest withholding tax in Australia is limited to 10% under Australian tax law.
3. Withholding tax of 30% is generally imposed on the gross amount of royalties paid from Australia to non-residents. A reduced rate is applicable to residents of treaty countries as listed above.

The various rates may change according to categories and circumstances. Taxpayers should consult the applicable DTAs to ascertain the applicable rate.

BANGLADESH

CORRESPONDENT FIRM

City	Name	Contact Information
Dhaka	Aftab Uddin Ahmed	+880 1713 008696 aftab.ahmed@ahkcbd.com

BASIC FACTS

Full name:	People's Republic of Bangladesh
Capital:	Dhaka
Main languages:	Bengali, English
Population:	167.86 million (2019 estimate)
Monetary unit:	Bangladesh Taka (BDT)
Internet domain:	.bd
Int. dialling code:	+880

KEY TAX POINTS

- In Bangladesh, the principal taxes are Customs Duty, Value-Added-Tax (VAT), Supplementary Duty, personal income tax and corporate income tax.
- The standard rate of VAT is15% levied on the transaction value of most imports and supplies of goods and services.
- For Bangladesh tax purposes, income is categorised into seven areas, namely, salaries, interest on securities, income from house property, agricultural income, income from business or profession, capital gains and income from other sources.
- Among direct taxes, income tax is one of the main sources of revenue. It is a progressive tax system. Income tax is imposed on the basis of ability to pay, based on the principle of “the more a taxpayer earns, the more he should pay”. It aims at ensuring equity and social justice. The top income tax rate for individuals is 30%.
- For the 2017/18 tax year (1 July 2017 to 30 June 2018) the top corporate tax rate is 45%.However, publicly traded companies registered in Bangladesh are taxed at a lower rate of 25%. Banks (except Merchant Bank), financial institutions and insurance companies are taxed at 40% whilst all other non-publicly traded companies are taxed at the 35% rate. Co-operative Society registered under the Co-operative Society Act 2001 are taxed at the 15% rate and Manufacturer and Exporter of Knitwear & Woven garments are taxed at the 12% rate (10% for factory having green building certifications).
- An individual is treated as a resident of Bangladesh if that person stays in Bangladesh for 182 days or more in any income year; or 90 days or more in an income year if that person has previously resided in Bangladesh for a period of more than 365 days during the 4 preceding years. Residence is determined in Bangladesh purely on the period of presence in Bangladesh, irrespective of residency in other countries. Short-term visitors and dependents of foreign nationals not earning any income in Bangladesh are not taxed and are not required to file a tax return in Bangladesh.
- In general, all remuneration and benefits received by an employee who is resident in Bangladesh, or for services rendered in Bangladesh, are taxable. Taxable remuneration and benefits include salary, bonuses, commissions, accommodation allowances, transport benefits, education allowances for children, employer-provided domestic assistance and medical allowances.

A. TAXES PAYABLE

TAX AUTHORITY ADMINISTRATION

The National Board of Revenue (NBR) is the central authority for tax administration in Bangladesh. Administratively, it is under the Internal Resources Division (IRD) of the Ministry of Finance (MoF) which is split into 4 divisions, namely, the Finance Division (FD), the Internal Resources Division (IRD), the Banking Division (BD) and the Economic Relations Division (ERD). Each division is headed by a Secretary to the Government. NBR is responsible for formulation and continuous re-appraisal of tax policies and tax laws in Bangladesh.

Negotiating tax treaties with foreign governments and participating in inter-ministerial deliberations on economic issues having a bearing on fiscal policies and tax administration are also the NBR's responsibilities. Its main responsibility is to mobilize domestic resources through collection of import duties and taxes, VAT and income tax for the government. Side by side with the collection of taxes, facilitation of international trade through quick clearance of import and export cargoes has also emerged as a key role of NBR. Other responsibilities include administration of matters related to taxes, duties and other revenue related fees/ charges and prevention of smuggling. Under the overall control of IRD, NBR administers the excise, VAT, customs and income tax services consisting of 3,434 officers of various grades and 10,195 supporting staff positions.

COMPANY TAX

The following rates apply to the taxation of the following companies:

25%	Publicly Traded Company
35%	Non-publicly Traded Company
37.5%	Local Bank, insurance and financial Company (except merchant bank); For non-publicly traded: 40%

37.5%	Merchant bank
45%	Cigarette manufacturing company
45%	Mobile phone operator company
40%	Publicly traded mobile company
15%	Co-operative Society registered under the Co-operative Society Act 2001
15%	Manufacturer and export knitwear & woven garments (12% for factory having green building certifications; Other - if listed: 12.5%; if non-listed 15%)

COMPANY TAX ADMINISTRATION

Company tax returns should be submitted by 15th July following the income year or, where the 15th July falls before the expiry of six months from the end of the income year, before the expiry of such six months. The consequences of not submitting a tax return (including a return of withholding tax) are that a penalty arises of 10% of the tax of a taxpayer's last assessed income or BDT 5,000, whichever is higher and in the case of continuing default, a further penalty of BDT 1,000 is levied for every month or fraction thereof during which the default continues. There are also penalties for using a false Taxpayer Identification Number (TIN).

There is a formal dispute resolution system for taxpayers in Bangladesh, and where a return has been submitted under the normal scheme a taxpayer can make his case at a Hearing, where a decision (assessment) will then be made. For returns submitted under the Universal Self-Assessment Scheme, the issue of an acknowledgement slip is determined to be an Assessment Order. Universal Self-Assessment is subject to audit.

PERMANENT ESTABLISHMENT CONSIDERATIONS

There is the potential that a permanent establishment (PE) could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has. The concept of a PE primarily exists in tax treaties.

VALUE ADDED TAX

Value Added Tax (VAT) is levied on the importation of goods and the making of taxable supplies in the course of carrying out a taxable activity. The standard rate is 15%. Reduced rates are available depending on the nature of the taxable supply, which ranges from 0% to 15%. VAT operates in Bangladesh partly as a sales tax.

FRINGE BENEFITS TAX

There is no separate Fringe Benefits Tax. However, all benefits received by an employee who is a resident in Bangladesh, or for services rendered in Bangladesh, are taxable.

INCENTIVES - TAX REBATE

An assessee, being a resident or a non-resident Bangladeshi, shall be entitled to a credit from the amount of tax payable on his total income. Amount of allowable investment is: actual investment or 25% of total (taxable) income excluding any income for which a tax exemption or a reduced rate is applicable under sub-section (4) of section 44 or any income from any source or sources mentioned in clause(a) of sub-section (2) of section 82C or BDT 1,500,000, whichever is less. The tax rebate amounts to 15% of allowable investment. A tax rebate of 15% of the allowable investment can be received depending on the investment meeting certain conditions. Types of investment qualified for the tax rebate are:

- Life insurance premium up to 10% of the face value;
- Contribution to Provident Fund to which Provident Fund Act, 1925 applies;
- Self-contribution and employer's contribution to Recognised Provident Fund;
- Contribution to Superannuation Fund;
- Contribution up to BDT 60,000 to deposit pension scheme sponsored by any scheduled bank or a financial institution;
- Investment in approved debenture or debenture stock, Stocks or Shares;
- Contribution to Benevolent Fund and Group Insurance premium;
- Contribution to Zakat Fund;

- Donation to charitable hospital approved by National Board of Revenue;
- Donation to philanthropic or educational institution approved by the Government;
- Donation to socio-economic or cultural development institution established in Bangladesh by Aga Khan Development Network;
- Donation to ICDDRB;
- Donation to philanthropic institution-CRP, Savar, Dhaka;
- Donation up to tk. 5 lac to (1) ShishuSwasthya Foundation Hospital, Mirpur, Shishu Hospital, Jessore and Hospital for Sick Children, Sathkhira run by ShishuSwasthya Foundation, Dhaka. (2) Diganta Memorial Cancer Hospital, Dhaka. (3) The ENT and Head-Neck Cancer Foundation of Bangladesh, Dhaka and (4) JatiyaProtibandhiUnnayan Foundation, Mirpur, Dhaka;
- Donation to Dhaka Ahsania Mission Cancer Hospital;
- Donation to Sylhet Diabetic Samity, Islamia Eye Hospital and MA Ispahani Institute ofOpthalmology, Kidney Foundation and National Heart Foundation of Bangladesh;
- Donation to Asiatic Society of Bangladesh;
- Donation to MuktijodhaJadughar;
- Donation to National level institution set up in memory of liberation war;
- Donation to National level institution set up in memory of Father of the Nation;
- Any investment by an individual in savings certificate and Bangladesh Government Treasury Bond;
- Investment in purchase of one computer or one laptop by an individual assessee;
- If any non-publicly traded company transfers a minimum of 20% shares of its paid-up capital through any IPO (Initial Public Offering) it will receive a 10% rebate on total tax in the year of transfer.

TAX HOLIDAY

A tax holiday is allowed for industrial undertaking and physical infrastructure facility established between 1 July 2011 and 30 June 2019 subject to certain conditions.

INDUSTRIAL UNDERTAKING ELIGIBLE FOR TAX HOLIDAY

- Active pharmaceuticals ingredient industry and radio pharmaceuticals industry;
- Automobile manufacturing industry;
- Barrier contraceptive and rubber latex;
- Basic chemicals or dyes and chemicals;
- Basic ingredients of electronic industry (e.g. resistance, capacitor, transistor, integrator circuit);
- Bicycle manufacturing industry;
- Bio-fertilizer; (will get tax holiday even if it is set up in district of Dhaka,
- Narayanganj, Gazipur, Chittagong, introduced in FA 2012);
- Biotechnology;
- Boilers;
- Brick made of automatic hybrid Hoffmann kiln or Tunnel Kiln technology;
- Compressors;
- Computer hardware;
- Energy efficient appliances;
- Insecticide or pesticide;
- Petrochemicals;
- Pharmaceuticals;
- Processing of locally produced fruits and vegetables;
- Radio-active (diffusion) application industry (e.g. developing quality or decaying polymer or preservation of food or disinfecting medicinal equipment);
- Textile machinery;
- Tissue grafting;

- Tyre manufacturing industry; or
- Any other category of industrial undertaking as the Government may, by notification in the official Gazette, specify.

PHYSICAL INFRASTRUCTURE ELIGIBLE FOR TAX HOLIDAY

- Deep sea port;
- Elevated expressway;
- Export processing zone;
- Flyover;
- Gas pipe line;
- Hi-tech park;
- Information and Communication Technology (ICT) village or software technology zone;
- Information Technology (IT) park;
- Large water treatment plant and supply through pipe line;
- Liquefied Natural Gas (LNG) terminal and transmission line;
- Mono-rail;
- Rapid transit;
- Renewable energy (e.g. energy saving bulb, solar energy plant, windmill);
- Sea or river port;
- Toll road or bridge;
- Underground rail;
- Waste treatment plant; or
- Any other category of physical infrastructure facility as the Government may, by notification in the official Gazette, specify.

OTHER EXEMPTIONS

- Any service charge derived from operation of micro credit by a non-government organisation registered with NGO Affairs Bureau;
- Any voluntary contributions received by a religious or charitable institution and applicable solely to religious and charitable purposes;
- Any income accruing to, or derived by, a provident fund to which the Provident Fund Act, 1925 (XIX of 1925), applies;
- Any income received by the trustees on behalf of a recognised provident fund, an approved superannuation fund or pension fund and an approved gratuity fund;
- Any amount of income received as pension;
- Gratuity received up to BDT 2.5 crore;
- Income from dividend amounting to BDT 25,000 received from a publicly traded company;
- Income from dividend of a mutual fund or a unit fund up to BDT 25,000;
- An amount equal to 50% of the income derived from export business is exempted from tax;
- Any income, not exceeding BDT two lakh chargeable under the head "agricultural income" of an assessee, being an individual, whose only source of income is agriculture;
- Income from Information Technology Enabled Services (ITES) or Nationwide Telecommunication Transmission Network (NTTN) business is exempted up to 30 June 2024;
- Income derived from export of handicrafts is exempted from tax up to 30 June 2019;
- Income of any private Agricultural College or private Agricultural University derived from agricultural educational activities;
- Income derived from any Small and Medium Enterprise (SME) engaged in production of any goods and having an annual turnover of not more than BDT thirty lakh is exempt from tax;
- Any profits and gains under the head "Capital Gains" arising from the transfer of stocks or Shares of a

public company listed in any stock exchange in Bangladesh of an assessee being a non-resident subject to the condition that such assessee is entitled to similar exemption in the country in which he is a resident;

- An amount equal to 50% of the income of an assessee derived from the production of corn/maize or sugar beet;
- Any income earned abroad by an individual assessee being a Bangladeshi citizen and brought any such income into Bangladesh as per existing laws applicable in respect of foreign remittance;
- Income of an assessee donated in an income year by a crossed cheque to any girls' school or girls' college approved by the Ministry of Education of the government;
- Income of an assessee donated in an income year by a crossed cheque to any Technical and Vocational Training Institute approved by the Ministry of Education of the government;
- Income of an assessee donated in an income year by a crossed cheque to any national level institution engaged in the Research & Development (R&D) of agriculture, science, technology and industrial development.

EXEMPTIONS AVAILABLE FOR POWER SECTOR

Following income from the Power Sector is fully/substantially exempted from tax:

- Coal based private power generation companies will enjoy a full tax exemption for fifteen years, if the company signs a contract with the Government in accordance with private sector power generation policy of Bangladesh by 30 June 2020 and starts commercial production by 30 June 2023;
- Private power generation company will enjoy a full tax exemption for fifteen years beginning with the month of commencement of commercial production if the company starts its commercial production by 30 June, 2016;
- Private power generation company that starts its commercial production after 30 June2016 will enjoy the following tax exemption:

Period of Tax Exemption	Rate of Tax Exemption
Five years from commencement of commercial production	100%
Next three years	50%
Next two years	25%

TAX REBATE FOR MANUFACTURING COMPANIES

To ensure sustainable industrialisation without disturbing the civic amenities; the following tax rebate facilities for the manufacturing industries set up in places other than city corporation areas is given through S.R.O. No. 185-Law/Income Tax/2014, dated 1 July 2014 as follows:

Industries	Proposed Tax Rebate	Period of Proposed Tax Rebate
Tax rebate for the manufacturing industries commencing commercial operation between 1 July 2014 and 30 June, 2019 located outside any city corporation area	20%	Up to 10 years as from the date of commencing commercial operation
Tax rebate for the manufacturing industries shifted/relocated to areas located outside any city corporation area and commencing commercial operation between 1 July 2014 and 30 June 2019	20%	Up to 10 years as from the date of commencing commercial operation after shifting
Tax rebate for the manufacturing industries already started commercial production located outside any city corporation area	10%	Up to 30 June 2019

TAX HOLIDAY FOR INDUSTRIAL UNDERTAKING ESTABLISHED IN EPZ

According to S.R.O. No. 219-law/Income Tax/2012, dated 27 June 2012, any industrial undertakings set up in EPZ on or after 1 January 2012 will benefit from the following tax benefit:

Industry set up within Dhaka and Chittagong Division (except Bandarban, Rangamati and Khagrachari hill districts):

Duration of Tax Rrebate	Rate of Tax Rebate
First two years (first and second year)	100%
Next two years (third and fourth year)	50%
Next one year (fifth year)	25%

Industry set up within all other divisions of the country and Bandarban, Rangamati and Khagrachari hill districts:

Duration of Tax Rebate	Rate of Tax Rebate
First three years (first, second and third year)	100%
Next three years (fourth, fifth and sixth year)	50%
Next one year (seventh year)	25%

TAX EXEMPTION FOR DEVELOPERS OF ECONOMIC ZONE (BEZA) AND HI-TECH PARK

According to S.R.O. No. 227-law/Income Tax/2015, dated 8 July 2015 and S.R.O. No. 229-law/Income Tax/2015, dated 8 July 2015 developers of Bangladesh Economic Zone (BEZA) and Hi-Tech Park shall enjoy the following tax exemption:

Duration of Tax Exemption	Rate of Tax Exemption
First ten (10) years	100%
Eleventh (11) year	70%
Twelfth (12) year	30%

According to S.R.O. No. 226-law/Income Tax/2015, dated 8 July 2015 and S.R.O. No. 228-law/Income Tax/2015, dated 8 July 2015 industrial undertakings established within BEZA and Hi-Tech Park areas shall enjoy the following tax exemption:

Duration of Tax Exemption	Rate of Tax Exemption
First three years (first, second and third year)	100%
Fourth year	80%
Fifth year	70%
Sixth year	60%
Seventh year	50%
Eighth year	40%
Ninth year	30%
Tenth year	20%

MAJOR AREAS FOR FINAL SETTLEMENT OF TAX LIABILITY

Tax deducted at source for the following cases is treated as a final discharge of tax liabilities. No additional taxes charged or refund is allowed in the following cases:

Head of Source	Tax Rate
Compensation against acquisition of properties (Sec. 52C)	As mentioned in section 52C, i.e. 2%/1%
The amount received as interest from any savings certificate (Sec. 52D)	As mentioned in section 52D, i.e. 5%

Head of Source	Tax Rate
Cash subsidy (Sec. 53DDD)	As mentioned in section 53DDD, i.e. 3%
Deduction at source from interest on saving deposits and fixed deposits, etc. (Sec. 53F)	As mentioned in section 53F, i.e. 10%/5%
Transfer of property (Sec. 53H)	As mentioned in section 53H and the rule made thereunder (see the Section and Rule 17II)

B. RELATED PARTY TRANSACTIONS

Transfer pricing was introduced into Bangladesh tax laws in 2012. However, such regulation has become effective from 1 July 2015.

C. EXCHANGE CONTROL

Expatriates are allowed to open foreign currency bank accounts in Bangladesh and remit a portion of their post-tax earnings through proper banking channels after obtaining the necessary permissions from the central bank. The balance can be taken out the country when leaving permanently.

D. PERSONAL INCOME TAX

RESIDENTIAL STATUS

An individual is treated as a resident of Bangladesh if he/she stays in Bangladesh for 182 days or more in any income year; or 90 days or more in an income year if that person has previously resided in Bangladesh for a period of more than 365 days during the 4 preceding years. Residence is determined in Bangladesh purely on the period of presence in Bangladesh, irrespective of residency in other countries. Short term visitors and dependents of foreign nationals not earning any income in Bangladesh are not taxed and are not required to file a tax return in Bangladesh. Otherwise, every taxpayer is required to file an annual tax return.

TAX RATE

For individuals other than female taxpayers, senior taxpayers of 65 years or more and disabled taxpayers, tax is payable at the following rates and bands:

First BDT 250,000	0%
Next BDT 400,000	10%
Next BDT 500,000	15%
Next BDT 600,000	20%
Next BDT 3,000,000	25%
On excess	30%

For an individual who is a non-resident assessee (non-resident Bangladeshi), the rate of income tax is 30% (flat rate) of his total income.

Tax-exempt income for all female taxpayers and senior taxpayers of 65 years is BDT 300,000, for a person with disability it is BDT 400,000 and for gazetted war-wounded freedom fighters it is BDT 425,000.However, tax-exempt income of the parents and legal guardians of a person with disability will be BDT 50,000 higher than the standard amount. Only one of the parents would avail those benefits.

Minimum Tax for any individual category of assessee is as follows:

Dhaka and Chittagong City Corporation	BDT 5,000
Other City Corporation	BDT 4,000
Other than City Corporation	BDT 3,000

TAX RETURN FILING

An individual's tax return must be filed by 30th November following the end of the income year. The return filing date may be extended up to 2 months from the date so specified by the Deputy Commissioner of Taxes upon application by an individual being assessed and the date may be further extended up to 2 months with the approval of the Inspecting Joint Commissioner.

TAXABLE REMUNERATION AND BENEFITS OF EMPLOYEE

In general, all remuneration and benefits received by an employee who is resident in Bangladesh, or for services rendered in Bangladesh, are taxable. Taxable remuneration and benefits include salary, bonuses, commissions, accommodation allowances, transport benefits, education allowances for children, employer-provided domestic assistance and medical allowances. Employers are required to withhold income tax when making payments to employees. Employers are also required to file an annual return showing the respective payments and tax deducted for each employee in the tax year.

WORKER PROFIT PARTICIPATION FUND

Exemption for any payment received from workers' profit participation fund established under Bangladesh Labour Act 2006 (amended up to 2013) has been restricted up to BDT 50,000 only. There was no such limitation previously.

WORK PERMITS / VISA REQUIREMENTS

A visa must be applied for before the individual enters Bangladesh. The type of visa required will depend on the purpose of the individual's entry into Bangladesh. Foreigners working in Bangladesh must have a work permit. These are issued by Bangladesh Investment Development Authority (BIDA), previously known as the Board of Investment.

LOCAL DATA PRIVACY REQUIREMENTS

Bangladesh does not currently have data privacy laws. However, Bangladesh tax laws provide a certain protection of information submitted under them.

E. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Bangladesh has concluded double taxation agreements with the following countries:

	Dividends		Interest[11] (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
Domestic rates				
Companies	20	20	20	20
Individuals	10/30	--	0/20/30	20
Treaty countries:				
Belgium	15	15	15	10
Canada	15	15	15	10
China	10	10	10	10
Denmark	15	10[1]	10	10
France	15	10[1]	10	10
Germany	15	15	10	10
India	15	10[2]	10	10
Indonesia	15	10[1]	10	10
Italy	15	10[1]	10/15[6]	10

	Dividends		Interest[11] (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
Japan	15	10[3]	10	10
Korea	15	10[1]	0/10[7]	10
Malaysia	15	15	15	15
Mauritius	10	10	–[8]	–[8]
Netherlands	15	10[1]	0/7.5/10[9]	10
Norway	15	10[1]	10	10
Pakistan	15	15	15	15
Philippines	15	10[2]	15	15
Poland	15	10[1]	10	10
Romania	15	10[1]	10	10
Saudi Arabia	10	10	7.5	10
Singapore	15	15	10	10
Sri Lanka	15	15	15	15
Sweden	15	10[1]	10/15[6]	10
Switzerland	15	10[4]	10	10
Thailand	15	10[1]	10/15[6]	15
Turkey	10	10	10	10
United Arab Emirates	10	5[5]	10	10
United Kingdom	15	10[1]	10	10
United States	15	10[1]	5/10[10]	10
Vietnam	15	15	15	15

Notes:

1. The reduced rate applies to dividends paid to a beneficial owner which is a company holding directly at least 10% of the capital of the payer.
2. The reduced rate applies to dividends paid to a beneficial owner which is a company holding directly at least 25% of the capital of the payer.
3. The reduced rate applies to dividends paid to a beneficial owner which is a company that owns at least 25% of the voting shares of the payer during the period of six months immediately before the end of the accounting period for which the distribution of profits takes place.
4. The reduced rate applies to dividends paid to a beneficial owner which is a company holding directly at least 20% of the capital of the payer.
5. The reduced rate applies to dividends paid to a beneficial owner which is a company that owns at least 3% of the shares of the payer.
6. The reduced rate applies to interest derived by a bank or any other financial institution (including an insurance company).
7. The reduced rate applies if interest is paid in connection with sale on credit of any industrial, commercial or scientific equipment.
8. No reduction under the tax treaty so the domestic rate applies.
9. Exemption for interest related to the construction of industrial, commercial or scientific installations or public works. The 7.5% reduced rate applies to interest received by a bank or any other financial institution (including an insurance company) as long as the Netherlands does not levy a withholding tax on interest.

10. The reduced rate applies to interest derived by a bank or any other financial institution (including an insurance company) or interest paid in connection with sale on credit of any industrial, commercial or scientific equipment or of any merchandise.
11. Certain tax treaties provide for an exemption or a reduction for some types of interest (but are not listed here), e.g. interest paid to public bodies and financial institutions or in relation to sales on credit or approved transactions.

CHINA

MEMBER FIRMS

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BASIC FACTS

Full name:	People’s Republic of China
Capital:	Beijing
Main languages:	Mandarin Chinese
Population:	1.414 billion (2018 estimate)
Monetary unit:	1 Chinese Yuan Renminbi (CNY) = 10 Jiao = 100 fen
Internet domain:	.cn
Int. dialling code:	+86

KEY TAX POINTS

- Corporate residents of China are taxed on their worldwide income. A foreign tax credit is allowed for income taxes paid in other countries. This credit is capped at the China income tax payable on the same income calculated under the Enterprise Income Tax Law.
- The Enterprise Income Tax Law unified the rate for domestic and foreign enterprises at 25% from 1 January 2008. For small profit making companies, the rate could be reduced to 20%. In recent years, the government authorities have issued favourite policies to promote the business of small profit making companies and thus the effective enterprise income tax rate could be further reduced to 5% and 10%.
- Foreign enterprises with establishments in China deriving the above income which is not effectively connected with that establishment is also subject to withholding tax. The statutory rate is 20% which is reduced to 10% by the Enterprise Income Tax Law Implementation Regulations. The 10% withholding tax may be reduced under an applicable treaty.
- Foreign enterprises without establishments in China are subject to Enterprise Income Tax on a

withholding basis on the income of dividends, royalties, interest, rental income, earnings from assignment of assets in China and any other income derived from inside China.

- Individuals are taxed on the comprehensive income and business income at progressive rates.
- There is no separate tax on capital gains. Capital gains will be considered as general taxable income and thus subject to Enterprise Income Tax or Individual Income Tax.
- Turnover taxes include VAT on all goods and services and Consumption Tax on consumable or luxury goods. Starting from 1 May 2016, Business Tax is completely replaced by VAT and is no longer levied in China.
- Land Value Appreciation Tax applies to transfers of land use rights and immovable properties.
- Stamp duty is levied on a variety of contracts and certain legal documents.

A. TAXES PAYABLE

ENTERPRISE INCOME TAX (EIT)

All foreign invested enterprises (FIEs) and those foreign enterprises (FEs) having their effective management office in China are subject to EIT on their worldwide profits. FEs with permanent establishments (PEs) in China are subject to EIT on profits derived from and attributed to the PEs. FEs without PEs in China are subject to EIT on China-source income only.

The EIT Law introduced a wider concept of management in determining tax residency. A company is recognised as a Chinese tax resident if it is incorporated in China or its place of effective control and management office is in China.

All FIEs (i.e. sino-foreign joint ventures and wholly owned foreign enterprises) and foreign enterprises (FEs) with or without establishments in China are now taxed at the same rate as domestic enterprises. EIT is charged at the rate of 25% on taxable profits in a calendar year.

In recent years, the government has introduced a series of preferential tax policies to stimulate economic growth, such as a reduced EIT rate of 15% for HNTE, qualified technology-advanced service enterprises and qualified western region enterprises as well as an effective EIT rate at 5% or 10% for small-scale enterprises.

The tax year in China is the calendar year (i.e. year ended 31 December).

BRANCH PROFITS TAX

When a corporate resident enterprise has branch offices registered in different regions in China, the head office and the branches are consolidated to calculate EIT payables. If a corporate resident enterprise has overseas branch offices, the loss of overseas branch offices could not deduct the profit made in China, while the profit of overseas branch offices need to be subject to EIT in China. If a FE has branches in China, the branches are subject to EIT in China.

CAPITAL GAINS TAX

There is no separate capital gains tax. Capital gains are subject to income tax as ordinary income and are combined together with operating income to calculate income tax.

VALUE ADDED TAX (VAT)

VAT is levied on the sales amount in respect of selling, transferring or importing of commodities, selling or transferring of properties and intangible assets, provision of repairs and processing, as well as rendering services covering research and development, and technical services; information technology services; cultural creative services; logistic auxiliary services; certification and consulting services; and tangible movable property leasing services; radio and television services; postage services, telecommunication services; construction; financing and consumer services et in China.

VAT taxpayers could be classified into two categories: general VAT payers and small-scale VAT payers depending on the annual sales amount. Generally, a small scale business is broadly defined as one with an annual turnover of less than CNY 5 million.

For a general VAT taxpayer, the standard VAT rates for goods sales and services are listed below:

- Goods sale/processing/repair and replacement Revenue from provision of labour services: 16% or 10% (for a small category of goods such as agricultural products);
- Lease of movable tangible assets: 16%;

- Basic telecommunication services: 10%;
- Construction: 10%;
- Postal services: 10%;
- Transportation services: 10%;
- Real estate (leasing and sale of immovable properties): 10%;
- Transfer of land use rights: 10%;
- Consumer lifestyle services: 6%;
- Financial services: 6%;
- Value-added telecommunication services: 6%;
- Sale of intangibles (except land use rights): 6%;
- Other modern services: 6%.

A VAT credit mechanism is allowed for a general taxpayer where VAT payable equals output VAT less input VAT by means of VAT special invoices. Input VAT is incurred on the purchase of material, services as well as purchase or construction of fixed assets.

Taxpayers engaged in small scale business are subject to VAT at a special rate of 3%, but there is no credit for input VAT.

Generally, for ordinary VAT taxpayers, export goods are subject to a zero VAT rate and are entitled to a tax refund in relation to the purchase or manufacture of the exported goods on which VAT has previously been paid. The VAT refund rate depends on the categories of the goods exported.

Goods exported by small-scale VAT payers shall be exempted from VAT and consumption tax. However, the input tax shall not be deducted or refunded.

For the transition period of property industries, a collection rate of 5% may also be applied to property leasing or property transfer.

CONSUMPTION TAX (CT)

CT is imposed on 15 categories of consumable or luxury goods (e.g. cigarettes, alcohol, petrol and motor vehicles). The tax is calculated based on the sales value of goods, the sales quantity or a combination of the two. CT rates range from 1% to 56%. Part collection of this tax has been shifted to the retailer and is levied by the tax authorities of the retailer's site.

FRINGE BENEFITS TAX

No separate fringe benefits tax is levied in China.

REAL ESTATE TAX (RET)

RET is imposed on owners, users or custodians of houses and buildings. RET is imposed at a flat rate of 12% on annual rental income of the leased property or at the rate of 1.2% on the purchase cost of self-used property. For self-used property, a discount of 10% to 30% on the purchase/construction cost is often offered by some local governments in determining the RET. The tax also applies to FIEs, FEs and foreign individuals. RET is deductible for EIT purposes.

LAND VALUE APPRECIATION TAX (LVAT)

LVAT applies to domestic enterprises, FIEs, FEs and individuals realising gains from the transfer of land use rights, buildings and premises and associated structures. LVAT is charged at progressive rates ranging from 30% to 60% depending on the percentage gain realised from the transfer of land use rights, buildings or associated structures. LVAT could be deducted when computing EIT.

DEED TAX (DT)

DT is imposed on the transferee or assignee to which land use rights or building ownership rights are transferred (sales, exchange or gifts). The tax rate ranges from 3% to 5% depending on the location of the property. The transferee or the assignee is the taxpayer.

STAMP DUTY (SD)

Stamp Duty is levied on various contracts including purchase and sale contracts, property leasing, loan contracts, documents for the transfer of property rights, engineering and design contracts, construction and installation, commodity transportation, storage and property insurance contracts, and registered capital as well as accounting books. Tax rates range from 0.005% to 0.1%. A fixed amount of CNY 5 is charged on certificates evidencing rights, patents, trademarks, and licenses.

ENVIRONMENTAL PROTECTION TAX

Enterprises, entities, other producers and operators that directly emit taxable pollutants into the environment within the territory and other sea areas under the jurisdiction of the People's Republic of China are taxpayers of environmental protection tax. This Law shall become effective as of 1 January 2018.

SOCIAL INSURANCE CONTRIBUTIONS

All enterprises are required to contribute to social security insurance (including pension, medical, unemployment, work-related injury, maternity), and housing funds (in certain cities) every month for their employees including foreign employees in China.

B. DETERMINATION OF TAXABLE PROFIT FOR ENTERPRISES

The taxable profit of a corporate resident is calculated as 'taxable gross income less deductible costs, expenses, non-taxable and tax-exempt items, and losses incurred in a tax year'. It is normally calculated in accordance with audited accounts prepared on an accrual basis subject to tax adjustments by reference to the prevailing tax regulations.

TAXABLE GROSS INCOME

The taxable gross income of an enterprise refers to the revenues derived from various sources, whether in monetary terms or in-kind, which shall include:

- Revenue from sales of goods;
- Revenue from provision of labour services;
- Gross proceeds from transfer of property;
- Dividend income from private and listed enterprises and other distributions with respect to equity interests;
- Interest income;
- Rental income;
- Royalty income;
- Revenue from donations; and
- Other income.

DEDUCTIBLE COSTS

DEPRECIATION

Fixed assets under the EIT Law mean the non-monetary assets owned and used for over 12 months in production or business operations. Generally, fixed assets are depreciable on a straight-line basis over their useful lives. Enterprises shall, in terms of the nature and operating conditions of the fixed assets, reasonably evaluate the new residual value of the fixed assets.

The minimum depreciation periods for various kinds of assets are as follows:		Years
(a)	For houses and buildings	20
(b)	For airplanes, trains, ships, machinery and other production facilities	10
(c)	For apparatus, tools and furniture and fittings in connection with production / business operations	5
(d)	For transportation facilities other than airplanes, trains and ships	4
(e)	For electronic equipment	3
(f)	For production-nature biological assets in the nature of forestry	10
(g)	For production-nature biological assets in the nature of livestock	3
(h)	For acquired software (subject to approval)	2

Recently, the scope of fixed assets to enjoy the accelerated depreciation method is expanded. Fixed assets acquired on or after 1 January 2015 by companies in the following industries may be allowed to depreciate the assets using accelerated depreciation method:

- Bio-pharmaceutical manufacturing;
- Special equipment manufacturing;
- Railway, ship, aerospace and other transportation equipment manufacturing;
- Computer, communications and other electronic equipment manufacturing;
- Instrumentation manufacturing;
- Information transmission, software and IT services industries;
- Light industry;
- Textile industry;
- Machinery; and
- Automobile industries.

In respect of equipment and instruments which are newly purchased from 1 January 2018 to 31 December 2020, and if the unit price is below CNY 5 million, the entire cost could be deducted on a one-off basis when computing taxable income. If the unit price of such newly purchased equipment exceeds CNY 5 million, the enterprises may either adopt the straight-line method or an accelerated depreciation method.

There are two ways the accelerated depreciation method can be used:

- Shorter of depreciation life: A shorter of depreciation life should not be less than 60% of the regular depreciation life of the asset.
- Accelerated depreciation: An accelerated depreciation method can be a double declining method or a sum of the years' digit method.

AMORTISATION OF INTANGIBLE ASSETS

Intangible assets, including technical know-how, patents and trademarks, can be amortised using the straight-line method over a period of not less than ten years or the stipulated time limit as set out in the acquisition agreement.

PRE-OPERATION EXPENSES

Pre-operation period starts from the date when the enterprise is approved for set up until the enterprise begins operations (trial operation is included). The deductible pre-operation expenses include salary, office expenses, training expenses, travelling, printing expenses, registration fees and interest (that would not be capitalised) and foreign exchange gain/loss during the pre-operation period.

Pre-operation expenses can be deducted on a lump sum basis in the year in which the enterprise commences business operations or amortised as a long term prepaid expenditure to be amortised within three years.

RESEARCH AND DEVELOPMENT (R&D)

R&D expenses incurred for new and high technology, new products or new craftsmanship can benefit from an extra 50% super-deduction of the actual expenses incurred as a tax incentive after proper filing with the relevant tax authorities. If the R&D expenses are qualified for capitalisation, an additional 50% super-deduction could be allowed for the amortisation when computing annual EIT settlement.

From 1 January 2018 until 31 December 2020, the extra/additional deduction ratio is increased from 50% to 75% for the eligible entities.

STOCK / INVENTORY

Inventory is to be valued at cost and the acceptable allocation methods include first-in, first-out (FIFO), weighted average, or specific identification basis. The last-in, first-out (LIFO) basis is not acceptable for tax purposes. The method chosen must be applied consistently.

MANAGEMENT FEE AND INTERCOMPANY CHARGES

Management fees between enterprises shall not be deductible for EIT purposes. As management fees are generally regarded as shareholder costs, they cannot be deducted before income tax for China enterprises.

The intercompany charges need to pass the six tests of benefit, necessity, duplication, value creation, remuneration and authenticity carried out by the tax authorities before China enterprises could remit the charges to the offshore companies.

A Cost Sharing Agreement (CSA) for joint development of intangible assets and sharing of services (generally limited to group procurement and group marketing synergies) are allowed. Under the CSA, the principle of matching costs with expected benefits shall be followed. The taxpayer can claim the tax deduction for shared costs provided the CSA could be filed with the local tax authorities.

LOSSES

Operating losses cannot be carried back but they can be carried forward for up to five years.

From 1 January 2018, high-tech enterprises or technology-oriented small- or medium-sized enterprises (SMEs) may carry forward losses for a maximum period of up to ten years.

TAX INCENTIVES

In general, enterprises engaged in encouraged projects may apply for certain tax incentives as follows.

HIGH AND NEW TECHNOLOGICALLY ADVANCED ENTERPRISES (HNTE)

If the enterprise is qualified as an HNTE, it can enjoy a reduced EIT rate of 15%. An enterprise has to fulfil a set of prescribed criteria and be subject to annual assessment in order to be qualified as an HNTE.

On 29 June 2016, the Ministry of Science and Technology, Ministry of Finance and State of Administration of Taxation jointly released an announcement regarding the guidance for HNTE recognition to replace the previous regulations. The government authorities will exert a much more severe administration on HNTE enterprises.

SPECIFIED BASIC INFRASTRUCTURE

When enterprises are engaged in basic infrastructure such as harbours, wharfs, airports, railways, highways, city public transportation, electric power and water resources utilisation projects, such income generated can enjoy a '3+3 years' tax holiday which means, starting from the first income generating year, three years of exemption from EIT followed by three years of 50% reduction of applicable EIT.

ENVIRONMENT PROTECTION PROJECTS

When enterprises are engaged in environmental protection projects and energy/water conservation projects such as public sewage treatment, public refuse treatment, comprehensive development and utilisation of methane, technologies alteration for energy-saving and emission reduction and seawater desalination projects, such income generated can also enjoy a '3+3 years' tax holiday.

This means, starting from the first income generating year, three years of exemption from EIT followed by three years of 50% reduction of applicable EIT.

QUALIFIED TECHNOLOGY-ADVANCED SERVICE ENTERPRISES

Since 1 January 2018, qualified technology-advanced service enterprises would qualify for a reduced EIT rate of 15%.

SMALL SCALE ENTERPRISE

EIT rate shall be reduced to 20% for small-scale enterprises if they meet the following criteria:

- The annual taxable income does not exceed CNY 3,000,000;
- The number of staff does not exceed 300; and
- The total assets do not exceed CNY 50 million.

From 1 January 2019 to 31 December 2021, small enterprises with annual taxable income equal to or lower than CNY 1 million may enjoy a 75% deduction on calculating the taxable income (i.e. an effective EIT of 5%); and if the annual taxable income exceeds CNY 1 million but is lower than CNY 3 million they may enjoy a 50% deduction (i.e. an effective EIT of 10%).

WESTERN REGION DEVELOPMENT POLICY

From 1 January 2011 to 31 December 2020, enterprises (1) that are based in the western region; (2) whose primary business is listed in one of the industry items provided in the Catalogue of Encouraged Industries in Western Regions; and (3) the annual primary business revenue of which accounts for more than 70% of the total enterprise revenue, may pay EIT at the reduced tax rate of 15% subject to their application to the competent tax authority and upon the examination and confirmation by the said authority.

C. FOREIGN TAX RELIEF

Corporate resident can claim tax credits for corporate income taxes paid by them or their branches in other countries in respect of income derived from sources outside China based either on a country-basket principle or on a comprehensive basis that income from all countries and of all types are considered together to calculate the tax credit starting from January 1, 2017. Once the credit basis is selected, it shall not be changed within 5 years. However, the amount of tax credit is restricted to the Chinese tax payable on the foreign income as calculated according to the EIT law.

D. CORPORATE GROUPS

There are no group relief tax consolidation provisions in Chinese tax law.

E. RELATED PARTY TRANSACTIONS

All companies should conduct business with their associated companies on an arm's length basis. The Chinese tax authorities are empowered to disregard, vary or make any necessary adjustments to the arrangements that are carried out for tax avoidance purposes.

TRANSFER PRICING

The New Law imposes transfer pricing documentation requirements. Specific information must be submitted to the Tax Authorities together with the enterprise's annual income tax returns or subsequently in the course of a transfer pricing audit. Interest will be payable in respect of any late tax payments arising from a transfer pricing adjustment.

China adopts stringent requirements on the related party transactions disclosure and taxpayers have to disclose related party transactions in Related Party Transaction Forms. The acceptable transfer pricing methods are comparable uncontrolled price (CUP); resale price method (RPM); cost-plus method (CPM); transactional net margin method (TNMM); profits split method (PSM); and other methods that are consistent with the arm's length principle approved by the in charge tax authorities.

In June 2016, the China tax authorities issued new transfer pricing compliance requirements whereby transfer pricing documentation has adopted a three-tiered structure, i.e. Master File, Local File and Special Issue File. The Local File and Special Issue File should be completed by 30 June 2017 for related party transactions carried out during the year 2016; the Master File should be completed within 12 months after the end of the same fiscal year of the group's ultimate holding company. Taxpayers should submit the transfer pricing report within 30 days upon the tax authorities' request.

If the company meets either of the following criteria, it shall prepare a Master File:

- Have cross-border related party transactions, and belong to a group which has prepared the Master File, or
- The total annual related party transactions exceed CNY 1 billion.

For the Local File, the thresholds for preparing a Local File depend on the types of related party transactions, which are listed below:

- CNY 200 million for tangible assets transfer (in the case of tolling manufacturing, the total amount in the annual customs record including raw material should be counted);
- CNY 100 million for financial assets transfer;
- CNY 100 million for intangible assets transfer; and
- CNY 40 million for other related party transactions in total.

The special issue file is required for taxpayers who are engaged in cost sharing agreements or fall in the thin capitalisation threshold.

The new transfer pricing compliance regulations also require the submission of a Country-by-Country (CbC) report if a Chinese resident company is the ultimate holding company of the group and the consolidated revenue is over CNY 5.5 billion or it is nominated as the reporting entity by the group.

Chinese companies that only have domestic related party transactions do not need to prepare a Master File, Local File and special issue file.

Single function enterprises, which are making losses, are also required to prepare the contemporaneous documentation regardless of the transaction amount threshold.

When an enterprise is audited for transfer pricing issues, the enterprise will be followed up by the tax authorities for five years and during the follow-up period enterprises are also required to prepare the contemporaneous documentation.

ADVANCE PRICING AGREEMENT (APA)

An Advance Pricing Agreement (APA) is available in China. The State Administration of Taxation encourages taxpayers to use an APA to ascertain the transfer pricing position and reduce the tax compliance burden.

THIN CAPITALISATION

In China, for non-financial enterprises, when the ratio of loans received from related parties to equity investments exceeds a prescribed ratio (2:1) (or 5:1 for financial institutions), the portion of interest expense related to the debt exceeding the ratio shall not be deductible when computing the taxable income in accordance with the thin capitalisation rule under the EIT law. However, enterprises could provide supporting documents to demonstrate that the financing is set at arm's length in order to claim the EIT deduction upon the agreement of the tax authorities.

GENERAL ANTI-AVOIDANCE

China requires a bona fide business purpose for any commercial arrangement that could result in reducing, deferring or avoiding taxable revenue or taxable income. When the absence of reasonable purposes is sustained, the tax authorities are authorised to disregard the arrangement and impose EIT. Nowadays, China is more focused on cross-border anti-avoidance.

CONTROLLED FOREIGN CORPORATION

Foreign controlled corporation (CFC) is defined as a non-Chinese company controlled by China tax residents (both companies and individuals, each of which must hold 10% or more of the voting shares and jointly own 50% or more of the shares) through direct or indirect share ownership.

CFC rules were introduced such that undistributed profits derived by CFCs located in low-tax jurisdictions with an effective corporate income tax rate of less than 12.5% may be taxed in China as a deemed distribution to the parent company in China.

BASE EROSION AND PROFIT SHIFTING (BEPS)

BEPS refers to tax planning strategies that exploit the gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations where there is little or no economic activity, resulting in little or no overall corporate tax being paid. The OECD and G20 countries worked together on an equal footing to tackle BEPS issues. The BEPS initiative aims to enhance the integrity and fairness of the international tax system by aligning jurisdictional tax rights with the location where value is created and business activities are actually incurred.

The new transfer pricing compliance requirements discussed in the Transfer Pricing Section are one of the most important developments of China's commitment to the BEPS action plans.

F. WITHHOLDING TAXES

Foreign enterprises without establishments in China are subject to Enterprise Income Tax on a withholding basis on the income of dividends, royalties, interest, rental income, earnings from assignment of assets in China and any other income derived from inside China. Foreign enterprises with establishments in China deriving the above income which is not effectively connected with that establishment is also subject to withholding tax. The statutory rate is 20% which is reduced to 10% by the EIT Law Implementation Regulations. The 10% withholding tax may be reduced under an applicable treaty.

When foreign enterprises obtain active income in China, the revenue is subject to turnover taxes, and EIT will be levied on the active income if the foreign enterprises have or are deemed to have a permanent establishment ("PE") in China. The domestic payers are the withholding agents to retain such turnover taxes and EIT from the total payments to foreign enterprises.

G. EXCHANGE CONTROL

Foreign currency transactions are controlled by the State Administration of Foreign Exchange Control and its branch offices. Financial institutions cannot engage in foreign exchange business without prior approval.

H. PERSONAL TAX (Individual Income Tax)

China is enforcing new individual income tax (IIT) laws effective from 1 January 2019 onwards.

According to the new IIT law, a tax resident is determined as follows:

(1) A person who has a domicile in China; or

(2) A person who does not have a domicile in China but has resided in China for more than 183 days in a calendar year.

A tax resident is subject to IIT on his/her worldwide income. A non-China-domiciled individual would generally be exempt from China IIT on foreign-source income that is not paid by a China domestic entity or resident individual, unless the non-China-domiciled individual has stayed in China for more than 183 days in each calendar year for six consecutive years in China.

Under the IIT Law, the following nine categories of income are subject to IIT in China:

Comprehensive Income	• Wages and salaries • Income from labour service • Remunerations to authors • Royalties
Income from Business Operation	• Income of individual industrial and commercial operators from production or business operation
Other Income	• Interests and dividends • Income from leasing of property • Income from transfer of property • Contingency income

(1) Comprehensive Income

Effective from 1 January 2019, the first four categories including salary, personal labour service income, royalty income and author's remuneration are combined into one comprehensive income base to be taxed together at the level of resident individuals. However, it will still be taxed on a separate basis for non-resident individuals.

Comprehensive Income shall be taxable at the following rates:

Annual Taxable Income (CNY)	Tax Rate (%)
0 – 36,000	3
36,001 – 144,000	10
144,001 – 300,000	20
300,001 – 420,000	25
420,001 – 660,000	30
660,001 – 960,000	35
960,001 or above	45

For comprehensive income, a yearly deduction of CNY 60,000 is allowed (CNY 5,000 per month). Apart from that, the following items are newly introduced to be deducted from comprehensive income.

- Dependent children's education expenditure;
- Serious illness medical expenditure;
- Continuous education expenditure;
- Rental or housing mortgage interest;
- Dependent parents.

From 1 January 2019 to 31 December 2021, non-resident individuals working in China could enjoy certain deduction items including rental, car leasing, children's education, home leave trip transportation expense, laundry, etc.

Where there is a withholding agent, the withholding agent shall withhold and prepay tax on a monthly basis or based on each income item.

Where there is no withholding agent for the taxable income, the taxpayer shall file tax returns within the first 15 days of the following month after obtaining the income, and pay tax.

Annual filing for the comprehensive income is required the next year from 1 March to 30 June. Non-resident individuals are not subject to annual filing for comprehensive income.

(2) Income from Business Operation

Net income derived from production and business operations by individuals (i.e. annual gross income less business costs, expenses and losses) shall be taxable at the following rates:

Annual Taxable Income (CNY)	Tax Rate (%)
0 – 30,000	5
30,001 – 90,000	10
90,001 – 300,000	20
300,001 – 500,000	30
500,001 or above	35

Taxpayers obtaining income from business operation shall compute individual income tax on a yearly basis, file tax returns within 15 days after the end of each month or quarter, make prepayment of tax, and complete the annual filing before 31 March of the following year.

(3) Other Income

Income derived from interest, dividends and bonuses, or contingency income and other income is taxed at a flat rate of 20%.

ANTI-TAX AVOIDANCE CLAUSES FOR INDIVIDUALS

The new IIT law also introduced anti-tax avoidance clauses for the first time. The tax authorities may perform tax adjustments and collect additional tax plus interest thereon pursuant to the law under any of the following circumstances:

- **Related Party Transactions**

  If a transaction between an individual and his/her related party does not comply with the arm's length principle, and the tax payable amount of the individual or his/her related party is reduced as a result, when there are no justifiable reasons.

- **CFC Rules**

  An enterprise established in a country (region) with significantly lower tax burden which is controlled by a resident individual or jointly controlled by a resident individual and a resident enterprise, does not distribute or reduces distribution of profits which are attributable to the resident individual, when there are no reasonable business purposes.

- **Others**

  An individual makes other arrangements without reasonable business purposes and obtains improper tax gains.

I. TREATY WITHHOLDING TAX RATES

The Mainland China Government has signed tax treaties with more than 100 countries. The following table summarises the withholding tax rates applicable to dividends, interest and royalties as provided by the double taxation agreements concluded by Mainland China government with some major countries and regions.

	Dividends[1] (%)	Interest[2] (%)	Royalties (general) (%)	Royalties[3] (%)
Non-treaty countries	10	10	10	10
Treaty countries:				
Albania	10	0/10	10	10
Algeria	5/10	0/7	10	10

Angola[4]				
Argentina[5]	10/15	0/12	3/5/7/10	n/a
Armenia	5/10	0/10	10	10
Australia	15	10	10	10
Austria	7/10	0/10	10	10
Azerbaijan	10	0/10	10	10
Bahrain	10	0/10	10	10
Bangladesh	10	0/10	10	10
Barbados	5	0/10	10	10
Belarus	10	0/10	10	10
Belgium	5/10	0/10	7	7
Botswana[6]	5	0/7.5	5	5
Brazil	15	0/15	15/25	15
Brunei	5	0/10	10	10
Bulgaria	10	0/10	7/10	7
Cambodia	10	0/10	10	10
Canada	10/15	0/10	10	10
Chile	10	4/10	2/10	2
Croatia	5/10	0/10	7	7
Cuba	5/10	0/7.5	5	5
Cyprus	10	10	10	10
Czech Republic	5/10	0/7.5	10	10
Denmark	5/10	0/10	10	7
Ecuador	5	0/10	10	10
Egypt	8	0/10	8	8
Estonia	5/10	0/10	10	10
Ethiopia	5	0/7	5	5
Finland	5/10	0/10	10	10
France	5/10	0/10	10	6
Gabon[7]	5	0/10	5/7.5	n/a
Georgia	0/5/10	0/10	5	5
Germany	5/10/15	0/10	10	6
Greece	5/10	0/10	10	10
Hong Kong[8]	5/10	0/7	5/7	7
Hungary	10	0/10	10	10
Iceland	5/10	0/10	10	10
India	10	0/10	10	10
Indonesia	10	0/10	10	10

	Dividends[1] (%)	Interest[2] (%)	Royalties (general) (%)	Royalties[3] (%)
Iran	10	0/10	10	10
Ireland	5/10	0/10	10	6
Israel	10	7/10	10	7
Italy	10	0/10	10	7
Jamaica	5	0/7.5	10	10
Japan	10	0/10	10	10
Kazakhstan	10	0/10	10	10
Kenya[9]	5	10	10	10
Korea	5/10	0/10	10	10
Kuwait	0/5	0/5	10	10
Kyrgyzstan	10	0/10	10	10
Laos	5	0/5/10	5/10	5/10
Latvia	5/10	0/10	7	7
Lithuania	5/10	0/10	10	10
Luxembourg	5/10	0/10	10	6
Macau[8]	5/10	0/7/10	5/7	7
Macedonia	5	0/10	10	10
Malaysia	10	0/10	10/15	10
Malta	5/10	0/10	10	7
Mauritius	5	0/10	10	10
Mexico	5	0/10	10	10
Moldova	5/10	0/10	10	10
Mongolia	5	0/10	10	10
Morocco	10	0/10	10	10
Nepal	10	0/10	15	15
Netherlands	5/10	0/10	10	6
New Zealand	15	0/10	10	10
Nigeria	7.5	7.5	7.5	7.5
Norway	15	0/10	10	10
Oman	5	0/10	10	10
Pakistan	10	0/10	12.5	12.5
Papua New Guinea	10/15	0/10	10	10
Philippines	10/15	0/10	10/15	10
Poland	10	0/10	10	7
Portugal	10	0/10	10	10
Qatar	10	0/10	10	10

Romania	0/3	3	3	3
Russia	5/10	5	6	6
Saudi Arabia	5	0/10	10	10
Serbia	5	0/10	10	10
Seychelles	5	0/10	10	10
Singapore	5/10	0/7/10	10	6
Slovakia	10	0/10	10	10
Slovenia	5	10	10	10
South Africa	5	0/10	10	7
Spain	10	10	10	6
Sri Lanka	10	0/10	10	10
Sudan	5	0/10	0/10	10
Sweden	5/10	0/10	10	7
Switzerland	5/10	0/10	9	9
Syria	5/10	0/10	10	10
Taiwan[10]	5/10	0/7	7	7
Tajikistan	5/10	0/8	8	8
Thailand	15/20	0/10	15	15
The Republic of Congo[11]	5/10	0/10	5	n/a
Trinidad and Tobago	5/10	0/10	10	10
Tunisia	8	0/10	10	5
Turkey	10	0/10	10	10
Turkmenistan	5/10	0/10	10	10
Uganda[12]	7.5	0/10	10	10
Ukraine	5/10	0/10	10	10
United Arab Emirates	0/7	0/7	10	10
United Kingdom	5/10/15	0/10	10	6
United States of America	10	0/10	10	7
Uzbekistan	10	0/10	10	10
Venezuela	5/10	0/5/10	10	10
Vietnam	10	0/10	10	10
Zambia	5	0/10	10	5
Zimbabwe	2.5/7.5	0/7.5	0/7.5	0/7.5

Notes:

1. Dividends received by non-resident shareholders holding at least 25% of the shares in FIEs were eligible for a reduced withholding tax rate in China based on the percentage of equity holding. This exemption was repealed under the New Law. The withholding tax rate for dividends under the New Law is 10%, effective from 1 January 2008. However, distribution of pre-2008 profits can still enjoy withholding tax exemption even if the dividend is declared and distributed after 1 January 2008.

2. Exemption of interest from withholding tax generally applies in the following situations:
   a. Interest on loans made by international financial organisations at a preferential rate to the Chinese government or resident enterprises; or
   b. Interest on loans made by foreign governments to Chinese government. A lower withholding tax rate may apply to interest paid by an enterprise in China to a foreign enterprise without establishments in China.
3. The rates of withholding tax on royalties for the use of industrial, commercial or scientific equipment is 10% and the taxable income is generally taken to be 60% or 70% of the remittance depending on the location of the enterprises. Accordingly, the effective withholding tax rate is 6% or 7% as shown above.
4. A double taxation agreement between Angola and the People's Republic of China was signed on 9 October 2018 but is not yet in force until both jurisdictions have completed their legislative procedures. The official content has not yet been published.
5. A double taxation agreement between Argentina and the People's Republic of China was signed on 2 December 2018 but is not yet in force until both jurisdictions have completed their legislative procedures.
6. A double taxation agreement between Botswana and the People's Republic of China was signed on 11 April 2012 but is not yet in force until both jurisdictions have completed their legislative procedures.
7. A double taxation agreement between Gabon and the People's Republic of China was signed on 1 September 2018 but is not yet in force until both jurisdictions have completed their legislative procedures.
8. A new amendment to double taxation agreement between Hong Kong or Macau and Mainland China to specify for the tax levying on the royalty income arising from airplane and ship leasing shall be less than 5%.
9. A double taxation agreement between Kenya and the People's Republic of China was signed on 21 September 2017 but is not yet in force until both jurisdictions have completed their legislative procedures.
10. A double taxation agreement between Taiwan and Mainland China was signed on 25 August 2015 but is not yet in force until both jurisdictions have completed their legislative procedures.
11. A double taxation agreement between the Republic of Congo and the People's Republic of China was signed on 5 September 2018 but is not yet in force until both jurisdictions have completed their legislative procedures.
12. A double taxation agreement between Uganda and the People's Republic of China was signed on 11 January 2012 but is not yet in force until both jurisdictions have completed their legislative procedures.

On 27 August 2013, China signed the Convention on Mutual Administrative Assistance in Tax Matters (Convention). The Convention can be described as a multilateral agreement designed to promote international cooperation regarding tax laws. The Convention includes provisions aimed at preserving the rights of taxpayers in relation to the exchange of information between countries.

On 16 December 2015, China signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information.

On 7 June 2017, China signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

HONG KONG

MEMBER FIRM

City	Name	Contact Information
Hong Kong	Henry Fung	+852 2806 3822 henryfung@pkf-hk.com

BASIC FACTS

Full name:	Hong Kong
Capital:	N/A. Hong Kong is a Special Administrative Region of the People's Republic of China
Main languages:	Chinese (Cantonese)
Population:	7.48 million (2019 estimate)

Monetary unit:	Hong Kong Dollar (HKD)
Internet domain:	.hk
Int. dialling code:	+852

KEY TAX POINTS

- Profits tax is charged on any person (including a corporation, partnership or individual) carrying on a trade, business or profession in Hong Kong. Income derived from outside Hong Kong is exempt (subject to rules deeming certain receipts to be derived from Hong Kong) regardless of residence status.
- Property tax is charged at 15% on the net assessable value of any land or buildings in Hong Kong.
- Transfer pricing regime was enacted and came into effect in 2018. Mandatory transfer pricing documentation is required based on the three-tiered structure recommended by the OECD.
- Dividends received by a Hong Kong corporate, whether from a domestic or overseas company, are not subject to tax and dividend payments made by Hong Kong resident companies are not subject to withholding tax.
- There is no VAT or sales tax.
- There is no capital gains tax, and capital gains are not subject to personal or corporate income tax.
- There is no inheritance tax. 'Estate Duty' was abolished with effect from 2006.

A. TAXES PAYABLE

PROFITS TAX

Profits tax shall be charged on every person (including corporations, partnerships and individuals) carrying on a trade, business or profession in Hong Kong. Income derived outside Hong Kong is generally exempt from tax. No distinction is made between residents and non-residents.

TAX YEAR

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

TAX RATES

The profits tax rates for 2018/19 (year ended 31 March 2019) are as follows:

- Corporations: 8.25% on assessable profits up to HKD 2 million and 16.5% on any part of assessable profits over HKD 2 million*
- Persons other than corporations: 7.5% on assessable profits up to HKD 2 million and 15% on any part of assessable profits over HKD 2 million*

* Each group of connected entities could only nominate one entity in the group to benefit from the two-tiered rates. Other entities within the group will be subject to the rate of 16.5% for corporations and the rate of 15% for unincorporated businesses.

DEEMED TRADING RECEIPTS

The following income of a non-resident person is deemed to be receipts from a trade, profession or business carried on in Hong Kong:

1) Royalties receivable from the exhibition or use in Hong Kong of cinematograph or television film or tape, any sound recording or any advertising material connected with such film, tape or recording;
2) Royalties receivable for the use of, or right to use in Hong Kong a patent, design, trademark, copyright, layout-design (topography) of an integrated circuit, performer’s right, plant variety right, formula or other property of a similar nature;
3) Royalties receivable for the use of, or right to use outside Hong Kong a patent design, trademark, copyright, layout-design (topography) of an integrated circuit, performer’s right, plant variety right, formula or other property of a similar nature if the payee of such royalties has claimed a tax deduction in Hong Kong;
4) Sums received by or accrued to a performer or an organiser for an assignment of, or an agreement to assign, a performer’s right in relation to a performance given by the performer in Hong Kong on or after 29 June 2018;

5) Sums receivable for the use, or the right to the use or for imparting or undertaking to impart knowledge directly or indirectly connected with the use outside Hong Kong of any intellectual property or know-how generated from any research and development activity in respect of which a deduction for such research and development expense has been claimed in Hong Kong; and
6) Sums received or accrued in respect of the hire, rental or similar charges for the use of movable property in Hong Kong.

The assessable profits for cases (1) to (3) above are equal to 30% of the sum receivable by the non-resident person if the Inland Revenue Department ("IRD") is satisfied that no person carrying on a trade, profession or business in Hong Kong has, at any time, wholly or partly-owned the relevant intellectual property or the royalty recipient is not an associate of the royalty payee. If the above condition is not satisfied, the assessable profits will be the full amount receivable by the non-resident person.

BRANCH PROFITS TAX

There is no distinction between branch profits tax and corporation profits tax. Branch profits of foreign corporations are also taxed at the flat rate of 16.5% on assessable profits or at two-tiered tax rates for the year of assessment 2018/19.

OTHER TAXES

Other important taxes imposed include the following:

PROPERTY TAX

Property tax is charged at a standard rate of 15% on the net assessable value of any land or buildings in Hong Kong. The net assessable value is the rent payable to the owner of the land or building after deducting the following amounts:

a) Unpaid rent;
b) Government rates paid by the owner; and
c) 20% of the assessable value after deduction of (a) and (b) above.

Any building occupied by the owner as their residence is exempted from tax.

ESTATE DUTY

The Hong Kong Government abolished Estate Duty as from 11 February 2006 pursuant to the Revenue (Abolition of Estate Duty) Ordinance 2005. No Estate Duty will be imposed on the value of an individual's Hong Kong property passing on death.

STAMP DUTY

Stamp Duty applies only to the following categories of transactions:

a) Contract notes on Hong Kong shares and marketable securities;
b) Assignment of immovable property;
c) Leases and assignment of leases of Hong Kong property; and
d) Insurance of bearer instruments.

Provided certain requirements are met, taxpayers may apply with the IRD for exemption from the stamp duty for the transfer of shares and immovable properties within a corporate group.

Transactions in Hong Kong Shares and Marketable Securities

Transactions in Hong Kong shares or marketable securities will attract an ad valorem duty of HKD 2 per HKD 1,000 payable equally by the buyer and the seller. Stamp duty is waived for the transfer of shares or units of all Exchange Traded Funds.

Transactions in Assignment of Immovable Property

Stamp Duty on assignment of immovable property is sub-divided into three categories as follows:

1. AD VALOREM STAMP DUTY (AVD)

The AVD rate for residential property transactions executed on or after 5 November 2016 is levied at a flat rate of 15% on the sales consideration or value of the properties (whichever is higher), unless specifically exempted or provided otherwise. The major exemption is where the residential property buyer is a Hong Kong permanent resident who acts on his/her own behalf and does not own any other residential property in Hong Kong at the time of acquisition. In such case, the AVD is levied at lower rates which vary from HKD 100 to 4.25% on the sales consideration or value of the properties (whichever is higher), depending on the sales consideration of the relevant properties.

The AVD for transactions of immovable properties other than residential properties is computed at rates which vary from 1.5% to 8.5% on the sales consideration or value of the properties (whichever is higher), depending on the sales consideration of the relevant properties.

2. SPECIAL STAMP DUTY (SSD)

Residential properties acquired, either by an individual or a company (regardless of where it is incorporated), and resold within 36 months, will be subject to SSD. The applicable SSD rates vary from 10% to 20% on the sales consideration or value of the properties (whichever is higher), depending on the holding period of the relevant properties.

3. BUYER'S STAMP DUTY (BSD)

Unless specifically exempted, BSD is payable on residential property transactions, except where the purchaser or the transferee is a Hong Kong permanent resident acquiring the property on his/her own behalf. BSD is charged at 15% on the sales consideration or the value of the properties (whichever is the higher), if applicable.

CAPITAL GAINS

There is no capital gains tax in Hong Kong and capital gains are not subject to corporate or personal income tax.

SALES TAX / VALUE ADDED TAX

There is neither sales tax nor value added tax in Hong Kong.

FRINGE BENEFITS TAX

There is no fringe benefits tax in Hong Kong.

LOCAL TAXES

There are no local taxes in Hong Kong.

B. DETERMINATION OF TAXABLE INCOME

Generally, in arriving at profits assessable to tax, deductions are allowed for revenue expenditure to the extent that they are incurred in the production of chargeable profits in the basis period. Special rules apply in respect of the following categories of expenditure.

CAPITAL ALLOWANCES

Capital allowances are available to a taxpayer who incurs qualifying capital expenditure on specified assets used in the production of chargeable profits. Capital allowances can be classified into industrial building allowance, commercial building allowance, depreciation allowance for plant and machinery and refurbishment allowance as summarised below:

1. **INDUSTRIAL BUILDING ALLOWANCE**
   An initial allowance of 20% is granted in the year of purchase for capital expenditure incurred on the construction of an industrial building or structure occupied for the purposes of a qualifying trade. An additional allowance of 4% of the capital expenditure (on a straight-line basis) is given annually.
2. **COMMERCIAL BUILDING ALLOWANCE**
   A building or structure used for the purposes of a trade, profession or business other than an industrial building or used as stock in trade can qualify for a commercial building allowance. An annual allowance of 4% of the capital expenditure incurred on the construction of the building is provided.
3. **DEPRECIATION ALLOWANCE ON PLANT AND MACHINERY**
   Depreciation allowance on plant and machinery is in the form of an initial allowance and an annual allowance. An initial allowance of 60% is granted in the year of purchase for capital expenditure incurred in acquiring the plant and machinery. The annual allowance is based on the reducing value of each class of plant and machinery (the 'pool').

A pool is made up of all items of plant or machinery carrying the same rate of depreciation. It is only necessary for the assets to be or to have been owned and used in the production of chargeable profits to qualify for the deduction. The annual allowance is equal to the reducing value of the pool multiplied by the appropriate depreciation rate, currently at 10%, 20% or 30% per annum.

4. **EXPENDITURE ON PRESCRIBED FIXED ASSETS**
   Capital expenditure incurred on certain prescribed fixed assets in any year of assessment is allowed to be fully written-off in the year it is incurred. 'Prescribed fixed assets' include computer hardware and software and certain defined plant and machinery used specifically and directly for any manufacturing process.

5. **EXPENDITURE OF PRESCRIBED ENVIRONMENTAL PROTECTION FACILITIES**
   Capital expenditure incurred on certain prescribed environmental protection facilities is entitled to a preferential tax deduction. Expenditure incurred on environmental protection machinery is allowed to be fully written-off in the year it is incurred whereas those on environmental protection installation is allowed to be deducted equally in five years of assessment.

6. **CAPITAL EXPENDITURE ON INTELLECTUAL PROPERTY**
   Capital expenditure incurred in registration of a trademark or design or patent (collectively referred to as “intellectual property (IP)”) or incurred in the acquisition of patent rights and rights to any know-how (collectively referred to as “properties”) qualify as a tax deduction in the year it is incurred if the IP and properties are used in the production of assessable profits irrespective of whether they are used in Hong Kong.

   Capital expenditure incurred in the acquisition of copyrights, registered designs or registered trademarks (collectively referred to as "specified IP rights”). The capital expenditure incurred on the purchase of specified IP rights is to be deducted equally over five years (or over the remaining years of protection) if certain conditions are met.

7. **REFURBISHMENT ALLOWANCE**
   Taxpayers are eligible to claim deduction on refurbishment expenditure equally over a five-year period.

INVENTORY

All trading stock should be valued at the lower of cost or market value. Accepted valuation methods include FIFO and average cost but not LIFO, base stock method or replacement value. The term 'market value' would normally mean realisable value.

CAPITAL GAINS AND LOSSES

Capital gains and losses are not taxable or deductible in arriving at the assessable profits.

DIVIDENDS

Dividend income, whether from Hong Kong or overseas, is not taxable. Dividends paid to either a resident or non-resident of Hong Kong are not subject to any withholding tax.

INTEREST DEDUCTIONS

Only interest expenses falling within specific categories and incurred in the production of a taxpayer’s chargeable profits are tax deductible. In addition, deductibility of interest expenses is subject to certain additional anti-avoidance provisions.

LOSSES

Losses incurred can be carried forward indefinitely for set-off against any future assessable profits of the same entity. However, there are anti-avoidance provisions in the Inland Revenue Ordinance (“IRO”) that restrict the use of tax losses where a change in shareholding was undertaken solely or predominantly for the purpose of utilising the losses to obtain a tax benefit. Losses cannot be carried back.

OFFSHORE INCOME

Generally, income derived from or arising outside Hong Kong is exempt from tax under the territorial taxation system.

TAX INCENTIVES

a) The low tax rates and territorial basis of taxation adopted by Hong Kong are in themselves major incentives to foreign investors.

b) A two-tiered profits tax rates regime has been implemented since the year of assessment 2018/19. Under this regime, the first HKD 2 million of profits derived by corporations or unincorporated businesses will be subject to a 50% reduction in profits tax rates. For connected entities, only one entity in the group can elect to benefit from the lower tax rates.

c) Income derived from the sale of certain financial instruments, including investments in eligible private companies incorporated offshore, earned by non-residents or special purpose vehicles established to hold offshore investments or eligible Hong Kong privately offered open-ended fund companies is exempt from profits tax (subject to other specific conditions).

d) Interest income derived from deposits placed in Hong Kong with authorised financial institutions by any person carrying on business in Hong Kong is exempt from profits tax.

e) Scientific research expenditure, including payments to an approved research institute and payments for technical education, qualify as allowable deductions.

f) Enterprises are allowed to enjoy a 300% tax deduction for the first HKD 2 million qualifying R&D expenditure, and a 200% tax deduction for the remainder.

g) Profits derived by a captive insurer from the business of insuring offshore risks will be entitled to a 50% reduction in profits tax rate.

h) Profits derived from qualified debt instruments with a maturity period of at least three years will also be entitled to a 50% reduction in profits tax rate and full exemption will be granted to certain qualified debt instruments having a maturity period of seven years or more.

i) Profits derived from specified qualifying treasury activities carried on by a qualifying corporate treasury centre with a non-Hong Kong associated corporation will be entitled to a 50% reduction in profits tax rate.

C. CORPORATE GROUPS

Companies of the same group are assessed to profits tax separately. There is no group tax relief in Hong Kong.

D. RELATED PARTY TRANSACTIONS

The IRD is empowered to adjust the profits or losses of an enterprise where the actual provision made or imposed between associated persons (associated in terms of management, control and capital) departs from the arm's length provision and has created a Hong Kong tax advantage. The transfer pricing rules shall apply to all Hong Kong enterprises including a permanent establishment ("PE") maintained by non-Hong Kong resident persons, covering both cross-border and domestic transactions which involve tangible assets, financial arrangements, intangible assets and services.

The TP legislation also provides that from the year of assessment 2019/20, the income or loss of a non-Hong Kong resident person attributable to the person's permanent establishment in Hong Kong will be determined as if the PE were a distinct and separate enterprise based on the functions performed, assets used and risk assumed by the person through the PE and through the other parts of the person.

In addition, mandatory TP documentation is introduced in Hong Kong based on the three-tiered documentation structure recommended by the OECD, which consists of the Local File, the Master File and the Country-by-Country ("CbC") report. All enterprises carrying on a trade or business in Hong Kong which engage in transactions with associated enterprises will be required to prepare the Master File and Local File for each accounting period within 9 months from the end of the accounting period, except enterprises which meet certain exemptions.

For each accounting period beginning on or after 1 January 2018, the Hong Kong ultimate parent entity of a multinational enterprise group ("MNE Group") with annual consolidated revenue of HKD 6.8 billion (or EUR 750 million) or above for the preceding accounting period ("Reportable Group") should file a CbC return, which includes a CbC report, with the IRD within 12 months after the end of the relevant accounting period. The contents of the CbC report should follow the recommendations of the OECD. Under the requirements, Master Files, Local Files and CbC reports should be prepared in either Chinese or English.

In addition, every Hong Kong entity of a Reportable Group is required to make a notification for determining the obligation for filing a CbC return unless it is not the entity which is to file a CbC return and another Hong Kong entity has already made the notification. The IRD will automatically exchange this report with the jurisdictions in which the MNE is active and with which Hong Kong has concluded relevant agreements for automatic exchange of tax information.

E. WITHHOLDING TAXES

Royalties and licence fees paid to non-residents for the use of certain intellectual properties in Hong Kong and payments to non-resident entertainers or sportsmen for their performance at commercial occasions or events in Hong Kong are subject to profits tax on a withholding basis based on the assessable profits. There are no withholding taxes levied on dividends and interest.

F. FOREIGN TAX CREDIT

Hong Kong has concluded double taxation agreements with many countries/territories. Where there is an applicable double taxation agreement, foreign income tax paid may be credited against the Hong Kong tax levied on the same profits, subject to a ceiling of the amount of the Hong Kong tax payable. Under the local legislation, Hong Kong also allows deduction (i.e. not tax credit) of foreign tax paid on a turnover basis in respect of the same income chargeable to tax in Hong Kong.

G. EXCHANGE CONTROL

There are no exchange controls in Hong Kong.

H. PERSONAL TAX

SALARIES TAX

Salaries tax is charged on individuals in respect of all income arising in or derived from Hong Kong in relation to any office, employment, pension or payments for services rendered in Hong Kong. The tax charge is calculated at the lower of:

a) 15% of chargeable income after allowable deductions; or,

b) The applicable progressive rates on net chargeable income after the deduction of charitable donations and personal allowances. The progressive salaries tax rates for the years of assessment 2018/19 and 2019/20 are as follows:

Net Chargeable Income (HKD)		Progressive Tax Rate for 2018/19	Net Chargeable Income (HKD)		Progressive Tax Rate for 2019/20
First	50,000	2%	First	50,000	2%
Next	50,000	6%	Next	50,000	6%
Next	50,000	10%	Next	50,000	10%
Next	50,000	14%	Next	50,000	14%
Remainder		17%	Remainder		17%

Notes:

Net chargeable income = Taxable income - Allowable deductions - Personal allowances

Salaries tax payable = Net chargeable income × Progressive tax rates

Personal Allowances		2018/19 (HKD)	2019/20 (HKD)
1.	Basic allowance	132,000	132,000
2.	Married person	264,000	264,000
3.	Child (each): First to ninth child:		
	- Year of birth	240,000	240,000
	- Other years	120,000	120,000
4.	Dependent parent/grandparent:		
	(a) Aged 55 to 59: - basic	25,000	25,000

	- additional (for dependent living with taxpayer)	25,000	25,000
	(b) Aged 60 or above: - basic	50,000	50,000
	- additional (for dependent living with taxpayer)	50,000	50,000
5.	Dependent brother/sister[1]	37,500	37,500
6.	Single parent	132,000	132,000
7.	Disabled dependent	75,000	75,000
8.	Personal disability allowance	75,000	75,000
Maximum amount of additional deductions:			
1.	Self-education expenses	100,000	100,000
2.	Home loan interest[2]	100,000	100,000
3.	Elderly residential care expenses	100,000	100,000
4.	Contribution to recognised retirement schemes	18,000	18,000
5.	Donations to charitable organisation	35% of income	35% of income
6.	Qualifying Voluntary Health Insurance Scheme Policy Premiums	-	8,000 per insured person
7.	Annuity Premiums and MPF Voluntary Contributions[3]	-	60,000

Notes:

1. For whom no child allowance is being claimed.
2. The deduction for home loan interest is for 20 years of assessment.
3. Proposed to be effective from year of assessment 2019/20 and subject to enactment of legislation.

OTHER INCOME TAXES

Under the Hong Kong tax system, various sources of income are taxed under separate categories i.e. business income is subject to profits tax, rental income is subject to property tax and employment income is subject to salaries tax.

Sometimes, it may be advantageous for an individual to elect to pay tax under 'personal assessment' if he/she has expenses which may be non-deductible against a particular source of income (e.g. mortgage interest payments or allowable tax losses which cannot be completely absorbed by his/her business profits). Under personal assessment, all his/her assessable sources of income are aggregated in a single assessment. Applicants must be permanent or temporary residents of Hong Kong. An election for personal assessment must be made within a stipulated time limit.

I. TREATY WITHHOLDING TAX RATES

The Hong Kong Government recognises that there are merits in concluding double taxation agreements with its trading partners, particularly in aviation and shipping industries. Hong Kong therefore has reached different limited double taxation relief arrangements with many countries: Bangladesh, Belgium, Canada, Croatia, Denmark, Estonia, Ethiopia, Fiji, Finland, Germany, Iceland, Israel, Jordan, Kenya, the Republic of Korea, Kuwait, the Lao People's Democratic Republic, Macao Special Administrative Region, Mainland China, Maldives, Mauritius, Mexico, the Netherlands, New Zealand, Norway, the Russian Federation, Seychelles, Singapore, Sri Lanka, Sweden, Switzerland, the United Kingdom and the United States of America in order to avoid double taxation of airline and/or shipping income.

Apart from the limited double taxation agreements applicable to airline and shipping income, the Hong Kong Government also concluded comprehensive double taxation agreements with many countries/territories. The following table summarizes the reduced withholding tax rates of treaty countries/territories for the payments of dividend, interest and royalty, provided certain requirements are met:

	Date of signing	Effective year	Dividend (%)	Interest (%)	Royalty (%)
Non-treaty countries[25]	–	–	–	–	4.95[1]
Treaty countries:					
Austria	25.05.2010	2012/13	0/10[2]	–	3
Belarus	16.01.2017	2018/19	0/5[3]	5	3/5[4]
Belgium	10.12.2003	2004/05	0/5/15[5]	10	5
Brunei	20.03.2010	2011/12	–	5/10[6]	5
Canada	11.11.2012	2014/15	5/15[7]	10	10
China (People's Rep.)	21.08.2006	2007/08	5/10[8]	7	5/7[9]
Czech Republic	06.06.2011	2013/14	5	–	10
Finland	24.05.2018	2019/20	5/10[8]	–	3
France	21.10.2010	2012/13	10	10	10
Guernsey	22.04.2013	2014/15	–	–	4
Hungary	12.05.2010	2012/13	5/10[8]	5	5
India	19.03.2018	2019/20	5	10	10
Indonesia	23.03.2010	2013/14	5/10[8]	10	5
Ireland	22.06.2010	2012/13	–	10	3
Italy	14.01.2013	2016/17	10	12.5	15
Japan	09.11.2010	2012/13	5/10[8]	10	5
Jersey	22.02.2012	2014/15	–	–	4
Korea	08.07.2014	2017/18	10/15[10]	10	10
Kuwait	13.05.2010	2014/15	0/5[11]	5	5
Latvia	13.04.2016	2018/19	0/10[12]	0/10[13]	0/3[14]
Liechtenstein	12.08.2010	2012/13	–	–	3
Luxembourg	02.11.2007	2008/09	0/10[2]	–	3
Malaysia	25.04.2012	2013/14	5/10[8]	10	8
Malta	08.11.2011	2013/14	–	–	3
Mexico	18.06.2012	2014/15	–	4.9/10[15]	10
Netherlands	22.03.2010	2012/13	0/10[2]	–	3
New Zealand	01.12.2010	2012/13	0/5/15[16]	10	5
Pakistan	17.02.2017	2018/19	10	10	10
Portugal	22.03.2011	2013/14	5/10[8]	10	5
Qatar	13.05.2013	2014/15	–	–	5
Romania	18.11.2015	Income derived on or after 1/1/2017	0/3/5[17]	3	3
Russia	18.01.2016	2017/18	0/5/10[18]	–	3

Saudi Arabia	24.08.2017	2019/20	5	–	5/8[19]
South Africa	16.10.2014	2016/17	5/10[8]	10	5
Spain	01.04.2011	2013/14	0/10[2]	5	5
Switzerland	04.10.2011	2013/14	0/10[2]	–	3
Thailand	07.09.2005	2006/07	10	10/15[20]	5/10/15[21]
United Arab Emirates	11.12.2014	2016/17	0/5	5	5
United Kingdom	21.06.2010	2011/12	0/15[22]	Domestic rate[23]	3
Vietnam	16.12.2008	2010/11	10	10	7/10[24]

Notes:

1. If the royalty income is derived from an associate of the non-resident person, the withholding tax rate will be 16.5% on the whole amount of royalty payable to the non-resident person. But the IRD will still apply the reduced withholding tax rate if it is satisfied that no person carrying on a trade, profession or business in Hong Kong has at any time wholly or partly owned the relevant intellectual property.
2. 0% applies if the beneficial owner is a company which holds / controls directly or indirectly at least 10% of the capital or voting power of the company paying the dividend or holds directly at least 25% of the capital of the company paying the dividend (applies to Spain only); and 10% of dividend in all other cases.
3. 0% applies if the dividend is derived and beneficially owned by (a) the Hong Kong Government (b) the Hong Kong Monetary Authority (c) the Exchange Fund or (d) a financial institution wholly or mainly owned by the Hong Kong Government; and 5% applies in all other cases.
4. 3% applies to royalty payments for the use of or the right to use aircraft; and 5% applies to all other cases.
5. 0% applies if the beneficial owner is a company which holds directly at least 25% of the capital of the company paying the dividend for an uninterrupted period of at least 12 months; and 5% applies if the beneficial owner is a company which holds directly at least 10% of the capital of the company paying the dividend; and 15% of dividend in all other cases.
6. 5% applies to interest payments to any bank or financial institutions; and 10% of interest payments in all other cases.
7. 5% applies if the beneficial owner is a company which holds / controls directly or indirectly at least 10% of the capital or voting power of the company paying the dividend; and 15% of dividend in all other cases.
8. 5% applies if the beneficial owner is a company which holds / controls directly or indirectly at least 10% of the capital or voting power of the company paying the dividend (applies to Finland, Hungary, Portugal, Malaysia, Japan and South Africa) or holds directly at least 25% of the capital of the company paying the dividend (applies to Indonesia and Mainland China); and 10% of dividend in all other cases.
9. 5% applies to royalty payments to an aircraft and ship leasing business; and 7% applies in all other cases.
10. 10% applies if the beneficial owner is a company which holds directly at least 25% of the capital of the company paying the dividend; and 15% of dividend in all other cases.
11. 0% applies if the beneficial owner is the Hong Kong Government or any of its institutions or other entity wholly-owned directly by the Hong Kong Government; and 5% of dividend in all other cases.
12. 0% applies if the dividend is paid to (a) the Hong Kong Government, (b) the Hong Kong Monetary Authority, (c) the Exchange Fund, (d) any entity wholly or mainly owned by the Hong Kong Government or (e) a beneficial owner which is a company (other than a partnership); and 10% of dividend applies in all other cases.
13. 0% applies if the beneficial owner is a company (other than a partnership); and 10% of interest applies in all other cases.
14. 0% applies to royalty payments for the use of or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience if the beneficial owner is a company (other than a partnership); and 3% applies to all other cases.
15. 4.9% applies to interest payments to any bank; and 10% of interest payments in all other cases.
16. 0% if (a) the beneficial owner is a company that holds directly or indirectly at least 50% of the payer's voting power, and meets specified requirements or (b) the dividend is paid to the Hong Kong Government, the Hong Kong Monetary Authority or any institution wholly or mainly owned by the Hong Kong Government, 5% applies if the beneficial owner is a company which holds directly at least 10% of the payer's voting power; and 15% of dividend in all other cases.
17. 0% applies if the dividend is derived and beneficially owned by (a) the Hong Kong Government (b) the Hong Kong Monetary Authority (c) the Exchange Fund or (d) a financial institution wholly or mainly owned by the Hong Kong

Government. 3% applies if the beneficial owner of the dividends is a company (other than partnership) which holds directly at least 15% of the payer's capital and 5% applies in all other cases.

18. 0% applies if the dividend is paid to (a) the Hong Kong Government (b) the Hong Kong Monetary Authority (c) the Exchange Fund or (d) any entity wholly or mainly owned by the Hong Kong Government. 5% applies if the beneficial owner of the dividends is a company (other than partnership) which holds directly at least 15% of the payer's capital and 10% applies in all other cases.
19. 5% applies to royalty payments for the use of or the right to use, industrial, commercial or scientific equipment; and 8% applies to all other cases.
20. 10% applies if the interest is beneficially owned by (a) any financial institution or insurance company, or (b) a resident of Hong Kong and is paid with respect to indebtedness arising as a consequence of a sale on credit by a resident of Hong Kong of any equipment, merchandise or services, except where the sale was between persons not dealing with each other at arm's length, and 15% applies in all other cases.
21. 5% applies to royalty payments for the use of, or the rights to use, any copyright of literary, artistic or scientific work; 10% applies to royalty payments for the use of, or the rights to use, any patent, trademark, design or model, plan, secret formula or process; and 15% applies in all other cases.
22. 15% applies if, other than the beneficial owner of the dividends is a pension scheme, dividends are paid out of income (including gains) derived directly or indirectly from immovable property by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax; and 0% applies in all other cases.
23. 0% applies if (a) the interest is beneficially owned by specified persons which include the Hong Kong Government, an individual, a listed company, a pension scheme and a financial institution which is unrelated to and dealing wholly independently with the payer or (b) the interest is paid by the Hong Kong Government, by a bank in the ordinary course of its banking business, or on a quoted Eurobond.
24. 7% applies to royalty payments for the use of, or the rights to use, any patent, design or model, plan, secret formula or process; and 10% applies to royalty payments in all other cases.
25. Withholding taxes are generally not levied, except on royalties.

INDIA

MEMBER FIRMS

City	Name	Contact Information
National/Chennai	Sudha Ashok	+91 8056028505 sudha.a@pkfindia.in
Bangalore	M. Seethalakshmi	+91 99 726 88008 seethalakshmi@pkfindia.in
New Delhi	S. Manigandan	+91 99 999 46374 manigandan@pkfindia.in
Hyderabad	Prasana Kumar	+91 91 766 62077 prasana@pkfindia.in
Mumbai	R. Suriyanarayanan	+91 98 210 11692 rsn@pkfindia.in

BASIC FACTS

Full name:	Republic of India
Capital:	New Delhi
Main languages:	Hindi, English
Population:	1.36 billion (28 Feb, 2019 UN estimate)
Monetary unit:	Indian Rupee (INR)

Internet domain:	.in
Int. dialling code:	+91

KEY TAX POINTS

- Companies resident in India are subject to income tax on their worldwide income and capital gains. Non-resident companies are subject to income tax on their income from Indian sources.
- A dividend distribution tax is payable in respect of dividends declared, distributed or paid. Dividends received from domestic companies are exempt from tax in the shareholder's hands where the payer has paid dividend distribution tax, except in certain cases where dividend income exceeds INR 1 million.
- Transfer pricing rules provide for income from or expense or interest arising from international transactions among associated enterprises to be computed at an arm's length basis.
- Advance Rulings may be obtained on questions of law or fact (http://www.aar.gov.in/about.html).
- There is also a mechanism of unilateral and bilateral Advance Pricing Agreements (APA mechanism) for transfer pricing transactions.
- The profits of small businesses or professions may be subject to presumptive taxation; income is deemed to be a percentage of gross receipts in case of presumptive taxation.
- There are no inheritance tax, wealth tax and gift taxes.
- Any person earning taxable income from India, should obtain a PAN (Permanent Account Number) and file an income tax return in India.

A. TAXES PAYABLE

The following are the major taxes are applicable:

1. Income Tax/ Corporate tax – A direct tax levy on the Income;
2. Equalisation Levy – Tax on gross consideration paid/payable to a non-resident for online advertisement, provision of digital advertising space and any other services as may be notified by Government;
3. Goods and Services Tax - An indirect tax levy on transaction of sale of goods and services, being a combined levy by central and state governments;
4. Custom Duty - An indirect tax collected on import and export of goods;
5. Securities Transaction Tax - Tax on dealing in securities through recognised stock exchanges;
6. Commodities Transaction Tax - Tax on dealing in commodities through recognised commodities exchanges;
7. Stamp Duty - Tax levied on legal documents;
8. Land and Property Tax - An ad valorem tax on the value of property.

INCOME TAX

The Indian tax year is a financial year from 1 April to 31 March. The amount of tax payable by Companies is computed after calculating income tax at prescribed rates and surcharge (SC) computed on income tax.

The aggregate of income tax and surcharge, wherever applicable, is further increased by 4% Cess. All tax rates mentioned hereinafter in this Tax Guide are net effective rates, inclusive of SC and Cess specified above.

COMPANY TAX
RESIDENTIAL STATUS

The scope of taxable income varies depending upon the residential status of the company. The following companies are resident in India:

a) Company incorporated in India;

b) Any other company whose place of effective management is in India.

Non-resident companies are those which are not resident companies.

Resident companies are subject to income tax on all sources of income and capital gains wherever arising. Foreign companies are subject to income tax only on their income from Indian sources. Company tax is levied as follows for the FY 2019-20:

DETERMINATION OF TAXES

	Rate*: if net income does not exceed INR 10 million	Rate*: if net income is in the range of INR 10 million – 100 million	Rate*: if net income exceeds INR 100 million
Domestic companies with a turnover of up to 250 crores in financial year 2016-17	26.00%	27.82%	29.12%
Domestic companies other than covered above	31.20%	33.384%	34.944%
Foreign companies	41.60%	42.432%	43.680%

*The rates given are after considering surcharge and cess. Surcharge is applicable at 7% for domestic companies and 2% for foreign companies if the net income exceeds INR 10 million but does not exceed INR 100 million and 12% for domestic companies and 5% for foreign companies if the net income exceeds INR 100 million. However, there are marginal relief provisions for border line cases transitioning into a higher tax slab. Cess is applicable at 4% on income tax and surcharge.

In order to provide relief to newly setup domestic companies engaged solely in the business of manufacture or production of any article or thing, a new section 115BA has been inserted, which provides an option to domestic companies to pay tax at 25% for any financial year beginning on or after 1 April 2016, provided inter alia, the following conditions are met:

1. The company has been setup and registered on or after 1 March 2016;
2. The company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business, etc.;
3. The company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and
4. The option is furnished in the prescribed manner before the due date of furnishing of income.

The following income of foreign companies is taxed at the following specified rates on a gross basis and not at the regular tax rate.

Income	Rate: if net income does not exceed INR 10 million	Rate: if net income is in the range of INR 10 million – 100 million	Rate: if net income exceeds INR 100 million
Royalties and fees for technical services (subject to certain conditions) received pursuant to an agreement, if such agreement is made after 31 March 1976*	10.40%	10.608%	10.92%
Interest income received by a foreign company or a non-resident non corporate taxpayer from Government or an Indian concern on money borrowed or debts incurred by Government or the Indian Concern in foreign currency	20.80%	21.216%	21.84%
Interest Income from an infrastructure debt fund referred to in clause (47) of Sec 10	5.20%	5.304%	5.460%

Interest income from units of Mutual Funds purchased in foreign currency	20.80%	21.216%	21.84%
Income from Global Depository Receipts (GDRs)	10.40%	10.61%	10.92%
Income of offshore funds (overseas company) under section 115AB	10.40%	10.61%	10.92%
Payment by way of interest by an Indian specified company or a business trust to a foreign company on foreign currency approved loans or long term infrastructure bonds from outside India or by way of issue of rupee denominated bonds, as referred to in sec 194LC	5.20%	5.304%	5.460%
Any income received by a non-resident or a foreign company from a business trust with effect from 1 October 2014	5.20%	5.304%	5.460%
Income of Foreign Institutional Investors (FIIs) in listed securities:			
- Short term capital gains in respect of transactions chargeable to Securities Transaction Tax	15.60%	15.912%	16.380%
- Long term capital gains in excess of Rs. 1 lakh in respect of transactions chargeable to Securities Transaction Tax	10.40%	10.608%	10.92%
- Short-term capital gains in cases other than the one mentioned above	31.2%	31.824%	32.76%
- Long-term capital gains other than those subjected to Securities Transaction Tax (without indexation)	10.40%	10.608%	10.92%
- Interest income of a rupee denominated bond of an Indian company or Government security which is payable after 31 May 2013 but before 1 June 2015, received by a foreign institutional Investor or a qualified foreign investor as referred to in section 194 LD	5.20%	5.304%	5.460%
- Any Income from securities (Dividends and Interest - except dividend under section 115O) Sec 196D	20.80%	21.216%	21.84%

* The definition of 'royalty' includes the transfer of all or any right for use (or right to use) computer software (including granting of license) irrespective of the medium through which such right is transferred. Furthermore,

royalty includes any consideration in respect of any right, property or information, whether or not:

a) The possession or control of such right, property or information is with the payer;

b) Such right, property or information is used directly by the payer;

c) Location of such right, property or information is in India.

Royalty also includes any consideration for the use of any process, where the process includes transmission by satellite (including up-linking, amplification and conversion for down linking of any signal), cable, and optic fibre or by any other similar technology, whether or not such process is secret.

CAPITAL GAINS TAX

Gains arising from the transfer of a long-term capital asset, i.e. assets held for a period of more than three years (one year in case of shares/securities of companies listed on a recognised stock exchange in India or a unit of an equity-oriented fund or a unit of business trust and two years in case of unlisted shares and immovable property), are regarded as long-term capital gains.

Gains arising from transfer of a short-term capital asset, i.e. assets held for less than the respective period stated above, are regarded as short-term capital gains.

With effect from 1 April 2018, exemption on long-term capital gains arising from the sale of equity shares, units of equity-oriented funds on a recognised stock exchange (chargeable to STT (Securities Transaction Tax)) stands withdrawn. Such long-term capital gain in excess of INR 100,000 shall be subject to tax at 10%. Similarly, any mutual fund distributing dividend on equity-oriented fund shall pay DDT (Dividend Distribution Tax) at the rate of 10%.

Finance Act 2018 introduced limited grandfathering in respect of protecting the gains realised on a mark to market basis up to 31 January 2018 on listed equity shares. Based on grandfathering, only an increase in share value post 31 January 2018 would be brought within the tax net.

Long-term capital gains on the sale of other assets are taxed separately at the following rates:

Particulars	**Rates**					
	Income does not exceed INR 10 million		**Income exceeds INR 10 million but does not exceed INR 100 million**		**Income exceeds INR 100 million**	
Long-term capital gains:	**For foreign companies**	**For Indian companies**	**For foreign companies**	**For Indian companies**	**For foreign companies**	**For Indian companies**
For listed securities or zero coupon bonds (Without STT)	10.40% without indexation or 20.80% with indexation whichever is lower	10.40% without indexation or 20.80% with indexation whichever is lower	10.61% without indexation or 21.22% with indexation whichever is lower	11.13% without indexation or 22.26% with indexation whichever is lower	10.92% without indexation or 21.84% with indexation whichever is lower	11.65% without indexation or 23.30% with indexation whichever is lower
For unlisted securities (in case of residents)	n/a	20.80% with indexation	n/a	22.26% with indexation	n/a	23.30% with indexation
For unlisted securities (in case of non- residents)	10.40% without indexation or foreign exchange conversion benefit	n/a	10.61% without indexation or foreign exchange conversion benefit	n/a	10.92% without indexation or foreign exchange conversion benefit	n/a
Short-term capital gains:	**For foreign companies**	**For Indian companies**	**For foreign companies**	**For Indian companies**	**For foreign companies**	**For Indian companies**

For listed securities or units or zero coupon bonds (subject to securities transaction tax)	15.60%	15.60%	15.912%	16.69%	16.377%	17.468%
For others	41.60%	31.20%	42.428%	33.384%	43.68%	34.944%

Long-term capital losses can only be set off against long-term capital gains. Short-term capital losses can be set off against any capital gain. Capital losses can be carried forward for a period of eight years for set off against capital gains of the same type in subsequent years. There are no provisions for carrying back losses to earlier years. Capital gains are taxable in India even on account of indirect transfers of assets.

Non-resident Indians (NRIs) earning long-term, capital gains on specified assets acquired in convertible foreign exchange are taxed at 11.44% or 11.960% (if SC is applicable) or 10.40% and on other assets at 22.08% or 23.920% (if SC is applicable) or 20.8%. Any other income from investments is taxed at 22.08% or 23.920% (if SC is applicable) or 20.8%.

INCOME FROM OTHER SOURCES

Income from other sources is the residual head of income. Any income which is not specifically taxed under any other head of income will be taxed under this head. For example, when the consideration received by a company (in which the public are not substantially interested) from a resident person, for issue of shares exceeding the face value of such shares (share premium), the difference between the consideration and the fair market value of such shares shall be chargeable to tax under "income from other sources".

MINIMUM ALTERNATE TAX (MAT)

In the case of companies, if the tax payable on their taxable income for any financial year is less than 18.5% of their 'book profit', minimum alternate tax is payable on the total income for financial year of such book profits.

MAT is also applicable to foreign companies. The rates of MAT for FY 2019-20 are as follows:

	If book profit doesn't exceed INR 10 million	**If book profit is in the range of INR 10 million - 100 million**	**If book profit exceeds INR 100 million**
Domestic company	19.240%	20.587%	21.549%
Foreign Company	19.240%	19.625%	20.202%

*If the company is located in International Financial Service Centres, then applicable MAT will be 9%.

For the purpose of computing book profits, income charged under presumptive basis should be excluded. The MAT paid could be carried forward and set off against normal tax (in excess of MAT for that year) of future years for up to 15 years. With effect from FY 2011-2012, carried forward MAT shall also apply to a limited liability partnership which has been converted from a private company or unlisted public company.

'Book profit' means net profit as per the profit and loss account as adjusted (increased or reduced) by certain specified items, which includes income tax paid or payable and the provisions made for unascertained liabilities, amounts carried to any reserves, provision for diminution in the value of assets, losses brought forward or unabsorbed depreciation, deferred tax, interest on tax, SC, EC and income exempt from tax.

MAT is also applicable in respect of SEZ units as well as developers.

The income of FII (Foreign Institutional Investor) from capital gains arising out of securities, other than short-term capital gains, royalty or fees for technical services is excluded from computation of book profits effective 1 April 2015.

TONNAGE TAX FOR SHIPPING INDUSTRY

The tonnage tax scheme for eligible shipping companies provides for a tonnage-based presumptive tax. Indian shipping companies now have the option to pay taxes on tonnage income in place of normal taxable income. There is a lock-in period of 10 years. If a company opts out, it is debarred from re-entry for 10 years. Tonnage income is to be taxed at the normal corporate tax rate. Tax is payable even if there is a loss in a year. Tonnage income is separately calculated for each qualifying ship by multiplying the number of days in the previous year with the daily tonnage income as per specified slab rates.

DIVIDEND DISTRIBUTION TAX

A company distributing dividends to its shareholders is liable to pay dividend distribution tax grossed up at 15% along with surcharge at 12% and cess at 4% totalling 20.5553% on dividend declared. To remove the cascading effect of DDT, section 115-O (1A) provides a relief when a holding company declares/distributes/pays a dividend (whether interim or otherwise) to its shareholder(s). The amount chargeable to tax shall be reduced by the amount of dividend, if any, received during the financial year from its subsidiary:

a) Where such subsidiary is a domestic company, the subsidiary has paid the tax which is payable under this section on such dividend; or

b) Where such subsidiary is a foreign company, the tax is payable by the domestic company under section 115BBD on such dividend.

The same amount of dividend should not be taken into account for reduction more than once. However, income distributed by a specified company or mutual fund to its unit holders is taxable at differential rates as follows:

Rates of DDT for Mutual Funds:

Particulars	Basic Rate	Effective Rate (incl. SC @12% & Cess)
(1) Distribution by MF under an Infrastructure Debt fund scheme to a non-resident	5.00	5.824
(2) To an individual or HUF excluding (1) above (Debt oriented fund and money market fund)	25.00	29.12
(3) To any other Person excluding (1) a (2) above (Debt oriented fund and money market fund)	30.00	34.944
(4) Income distributed to any person by an equity oriented fund	10	11.648

With effect from 1 October 2014, ‘Dividend Distribution Tax’ and ‘Income Distribution Tax’ to be levied on Gross Amount instead of amount paid net of taxes. The dividend is not taxable in the hands of the recipient due to the applicability of DDT, hence various rates applicable in the treaty for taxing dividend is redundant.

DIVIDENDS FROM FOREIGN COMPANIES

An Indian company receiving a dividend from a foreign company on holding of 26% or more of equity is liable to tax at 15% with a surcharge at 7% (income exceeding 10 million) or at 12% (income exceeding 100 million) and cess at 4%, inclusive of surcharge.

BRANCH PROFITS TAX

Profits of a branch office of a foreign company in India are taxed in India on income received and/or accrued in India (net of allowable expenses) at the rate applicable to Foreign Companies as given below for the FY 2019-20.

If net income does not exceed INR 10 million	41.60%
If net income exceeds INR 10 million but does not exceed INR 100 million	42.432%
If net income exceeds INR 100 million	43.68%

Under section 285, every person having a liaison office in India will have to file a statement pertaining to the liaison office to the Income tax authority within such time and format as prescribed. There are special provisions relating to conversion of Indian branch of a foreign bank into a subsidiary Indian company under section 115JG in the Income Tax Act.

ADVANCE RULINGS

In order to determine the tax liability in India in advance, and thereby avoid litigation and uncertainty in tax matters, a mechanism of 'Advance Rulings' is available to non-residents in relation to Indian transactions.

Indian residents can also seek advance rulings on transactions undertaken or proposed to be undertaken with non-residents.

For this purpose, an 'Authority for Advance Rulings' (AAR) has been constituted which is headed by a retired judge of the Supreme Court of India. The advance ruling is binding on the applicant and on the tax authorities. Application can be made to the AAR seeking a ruling on any question of fact or law on payment of a prescribed fee. The ruling is generally delivered within six months of making the application and is made in writing giving reasons for the decision of the AAR.

The Authority for Advance Ruling has been empowered to determine an arrangement which is proposed to be undertaken by any person (whether resident or non-resident) is an impermissible avoidance arrangement as referred to in Chapter X-A or not. A resident (falling within any such class or category of persons as the Central Government notifies) can approach the Advance Ruling authority in relation to its tax liability arising out of a transaction which is undertaken (or is proposed to be undertaken) by it.

GOODS AND SERVICE TAX

The 101st Constitutional Amendment Act has amended various Articles in the Constitution of India to provide power both to the Central Government and State Governments to levy tax on supplies which will include manufacture, sale and service. The GST Act was introduced with effect from 1 July 2017.

The GST Act provides for levy of Central Goods & Service Tax on Intra-state supplies of goods or services. The State GST Act provides for levy of State GST on intra-State supplies of goods or services. The Integrated GST Act provides for levy of IGST on Inter-State supply of goods and services. Thus, in short, CGST and SGST will be levied on intra-State supplies of goods and services whereas IGST will be levied on inter-State supplies of goods and services. Each State Government will enact statute for levy on supplies of goods and services. UTGST is applicable in case of Union territories which do not have legislature. They do not have SGST. Delhi and Puducherry have their own legislature. Hence, they have their own SGST. The GST Act is extended to Jammu and Kashmir with effect from 8 July 2017. Area up to 200 nautical miles inside sea is “India” for the purpose of GST.

It is a blanket indirect tax that subsumes several indirect state and federal taxes such as value added tax (VAT) and Central Excise duty, and different state taxes, central surcharges, entertainment tax, luxury tax and a slew of related levies by local bodies.

GST is based on the VAT concept of allowing input tax credit of tax paid on inputs, input services and capital goods, for payment of output tax. This will avoid a cascading effect of taxes.

In addition, GST Compensation Cess will be payable mostly on luxury, sin or unhealthy goods and services like pan masala, tobacco products, coal, aerated waters, motor cars, etc.

Basic customs duty, Social Welfare Surcharge and IGST will be payable on import of goods. In respect of specified petroleum products like petrol, diesel, crude, natural gas, aviation fuel, there will be Countervailing Duty (CVD) in lieu of IGST.

In case of a supply within State/Union Territory, CGST will be 50% of IGST Rates and SGST/UTGST for supply within the State or Union Territory will be 50% of IGST rates.

Rates of Tax under GST

Goods	Services
0%	0%
0.25%	-
3%	-
5%	5%
12%	12%
18%	18%
28%	28%

EQUALISATION LEVY

Considering the potential of new digital economy and the rapidly evolving nature of business operations, it is found essential to address the challenges in terms of taxation of digital transactions. In order to address such challenges, a new Chapter titled "Equalisation Levy" was introduced in the Finance Act 2016 to provide for an equalisation levy of 6% of the amount of consideration for specified services received or receivable by a non-resident not having a permanent establishment ('PE') in India, from a resident in India who carries out a business or profession, or from a non-resident having a permanent establishment in India.

Furthermore, in order to reduce the burden of small players in the digital domain, it was also provided that no such levy shall be made if the aggregate amount of consideration for specified services received or receivable by a non-resident from a person resident in India or from a non-resident having a permanent establishment in India does not exceed INR 0.10 million in any financial year.

CUSTOMS DUTY

Customs duty is payable on goods imported into India. The normal rate of import Duty is:

Particulars	Rate
Basic Customs Duty Normal Range	0% to 25%
Social Welfare Surcharge (In lieu of Customs Cess in the form of Education Cess & Secondary and Higher Education Cess until Feb 2018)	10%
IGST on import of goods	Normally equal to IGST under GST Laws.

The Tariff rate may vary depending upon the products. In addition, Additional Customs duty shall be levied on certain items like Petroleum products.

CENTRAL EXCISE DUTY

Central Excise duty will continue on petroleum products, i.e. petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel. Apart from this there shall be Special Additional duty and Road and infrastructure Cess on Petroleum products. These products are out of the scope of GST at present.

SALES TAX AND STATE LEVY

State VAT has been subsumed in GST with effect from 1 July 2017. Alcoholic beverages for human consumption, on sale would be subject to levy of state excise duties and State Value Added Tax (VAT) while specified Petroleum products are subject to State VAT.

SECURITIES TRANSACTION TAX

Securities transaction tax (STT) is applicable to the purchase or sale of equity shares, derivatives, units of equity-oriented funds through a recognised stock exchange or the sale of a unit of an equity-oriented fund or to a mutual fund. STT is also applicable on the sale of unlisted equity shares under an offer for sale to the public included in an initial public offer (IPO) and where such shares are subsequently listed on a recognised stock exchange.

STT will also be applicable on the transactions in units of a business trust, on the same line as are applicable to transactions in equity shares in a company. STT is to be collected by the Recognised Stock Exchange for taxable securities in that stock exchange; a prescribed person for the sale of units in a mutual fund and a lead merchant banker for an initial public offer. The transaction value is determined as follows:

a) Options - aggregate of strike price and option premium;

b) Futures - traded price;

c) Other securities - purchase/sale price.

STT is to be collected by the Recognised Stock Exchange for taxable securities, the mutual funds in the case of sale of units to the mutual funds and paid to the Government. STT paid is allowable as a deduction in the computation of taxable income under the head profits or gains from a business or profession. STT Rates applicable are given below:

Product	Transaction	STT rate	Basis for charge
Equity – Delivery	Purchase	0.10%	Turnover
	Sale	0.10%	Turnover
Equity – Intraday	Purchase	Nil	-
	Sale	0.025%	Turnover
Futures	Purchase	Nil	-
	Sale	0.010%	Turnover (Lot*Lot size*Price)
Options	Purchase	0.125%	Settlement price on exercise
	Sale	0.17%	Premium
Equity Oriented Mutual Fund - Delivery	Purchase	Nil	-
	Sale	0.001%	Turnover
Equity Oriented Fund to Mutual fund	Sale	0.001%	Turnover
Unlisted Equity under offer of sale	Sale	0.2%	Turnover

COMMODITIES TRANSACTION TAX

Commodities transaction tax (CTT) is levied on taxable commodities transactions entered into in a recognised association. Salient features of this are given below:

a) Taxable commodities transaction means a transaction of sale of commodity derivatives in respect of commodities (other than agricultural commodities) traded in recognised association;

b) Commodities transaction tax shall be payable by the seller at the rate of 0.01% of the value of the transaction (i.e. at the price at which commodity derivative is traded);

c) Every recognised commodity exchange shall collect the commodities transaction tax from the seller who enters into taxable commodities transaction in that recognised association;

d) The taxpayer will deposit commodities transaction tax within 7 days immediately after the end of the month in which such tax is collected. For non-payment or short payment or payment after due date, interest would be charged at the rate of 1% per month (or part thereof).

In order to mobilize growth of International Financial Services Centers (IFSC), the Budget 2016, amended that no Securities Transaction Tax (STT) and Commodities Transaction Tax (CTT) shall be levied on transactions of securities carried out through recognised stock exchange located in IFSC where the consideration for such transaction is paid or payable in foreign currency.

LOCAL TAXES

STAMP DUTY

Stamp Duty is payable at the prescribed rates on instruments recording certain transactions, including transfers of immovable property and shares. Generally, Stamp Duty is levied by the respective states as per the state Act. In the absence of such a state enactment, the provisions of the central Act (i.e. Indian Stamp Act 1899) apply.

Finance Act 2019 amended the Indian Stamp Act, 1899 for levy and administration of stamp duty on securities market instruments by the States at one place through one agency, viz., through Stock Exchanges or its Clearing Corporation or Depositories on one instrument, and for appropriately sharing the same with respective State Governments based on State of domicile of the ultimate buying client.

LAND AND PROPERTY TAX

Land and Property Tax is levied by each state separately.

B. DETERMINATION OF TAXABLE INCOME

A company is considered to be resident in India if it is incorporated in India. However, the concept Place of effective management (POEM) introduced in the Finance Act, 2016 will play an important role in determining whether the company is resident in India or not. Indian companies are taxable in India on their worldwide income, irrespective of its source and origin. Foreign companies are taxed only on income which arises from operations carried out in India or income deemed to have arisen in India. The Central Board of Direct Taxes (CBDT) has issued a set of guidelines for determining the POEM of companies for taxation purposes. Since residence is to be determined each year, POEM would also be determined on a year to year basis.

In the case of non-resident taxpayers engaged in certain businesses, income is assessed on a presumptive (deemed income) basis as follows:

Nature	Business income as a percentage of gross receipts
Shipping (b)	7.5%
Exploration of mineral oil (b) (c)	10%
Operations of aircraft (b)	5%
Turnkey power projects (b) (c)	10%

(a) To give relief to small taxpayers from the tedious job of maintenance of books of account and from getting the accounts audited, the Income Tax Act has framed the presumptive taxation scheme for business income under sections 44AD if the gross receipts of the taxpayer do not exceed INR 20 million, for specified professionals section 44ADA if the gross receipts of the taxpayer do not exceed INR 5 million and section 44AE if the taxpayer doesn't own more than 10 leasing goods carriages;

(b) All deductions/expenses (including depreciation) shall be deemed to have been allowed;

(c) The taxpayer can claim lower profits if he keeps and maintains specified books of accounts and obtains a Tax Audit Report;

(d) Applicable to Individuals, Hindu Undivided Families and Firm - excludes LLP, taxpayer availing deduction under Section 10A,10AA,10B,10BA or Section 80HH to 80RRB of the Act;

(e) Specifically excludes person carrying on specified profession, person earning commission or brokerage income and person carrying on any agency business.

DEDUCTIONS AND ALLOWANCES

In computing business income, expenditure (payable to a resident) from which tax is not deducted or deducted but not deposited until the due date of filing of return will be disallowed to the extent of 30% and the same can be claimed in the year when the tax is deposited. In case of payment to a non-resident on which tax is not deducted or deducted but not deposited until the due date of filing of return, the entire expenditure will be only allowed in the year when the tax is deposited. Several deductions are allowed while computing business income which includes the following.

CAPITAL ALLOWANCES

Certain expenditure qualifies for weighted deduction of 150%. For instance, capital expenditure on research and development (other than land) qualifies for full tax write off and in certain cases, is eligible for a 150% deduction subject to fulfilment of prescribed conditions. Expenditure incurred on merger/demerger of an undertaking is allowed as a deduction in five equal instalments beginning with the year in which the merger/demerger takes place.

DEPRECIATION

Depreciation allowance is available as per the following rates depending on the nature of the asset and classification into specified blocks:

Buildings (depending upon its nature)	5%, 10%
Buildings i. Purely temporary erections such as wooden structures ii. Buildings acquired on or after the 1st day of September 2002 for installing machinery and plant forming part of water supply project or water treatment system and which is put to use for the purpose of business of providing infrastructure facilities	40%
Furniture and fixtures	10%
Plant and machinery	15%, 30%, 40%
Plant and machinery: i. Air pollution control equipment ii. Water pollution control equipment iii. Solid waste control and recycling equipment iv. Machinery and plant, acquired and installed on or after the 1 September 2002 in a water supply project or a water treatment system and which is put to use for the purpose of business of providing infrastructure facility v. Wooden parts used in artificial silk manufacturing machinery vi. Cinematograph films - bulbs of studio lights vii. Match factories - Wooden match frames viii. Salt works - Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clayey material or any other similar material ix. Mines and quarries: Tubs, winding ropes, haulage ropes, sand stowing pipes, safety lamps x. Books, being annual publications for profession xi. Books owned by taxpayers carrying on business in running lending libraries etc.	40%
Intangible assets (patents, trademarks know-how, licenses, copyrights, etc.)	25%
Ships	20%

Additional depreciation of 20% on the cost of new plant and machinery (other than ships or aircraft) is allowable only in the year of commissioning for manufacture. Assets used for fewer than 180 days in the year of acquisition are entitled to half of the normal depreciation allowance (including additional/ enhanced depreciation). Depreciation not set off against current year income can be carried forward for set off against any future income for an unlimited period.

With effect from 1 April 2016, if an asset is acquired and put to use for the purposes of business for a period of less than 180 days in that previous year, and the deduction under sub-section (1) of section 32 in respect of such asset is restricted to 50% of the amount calculated for the previous year, the balance 50% shall be allowed in the immediately succeeding previous year.

INVESTMENT ALLOWANCE

To encourage the growth of Manufacturing in backward areas of certain states, a deduction of 15% on the cost of new assets purchased after 1 April 2015 till 31 March 2020, shall be allowed as deduction in the year of Installation.

STOCK / INVENTORY

The valuation of closing stock is normally done on the basis of cost or market value, whichever is lower.

INTEREST DEDUCTIONS

Interest paid on borrowings used for business purposes is tax deductible. For new businesses, interest incurred prior to commencement of commercial production is to be capitalised. Interest paid on amounts borrowed for investment in securities is allowed as a deduction from interest income. However, an interest barrier rule has been introduced from financial year 2017-18 onwards. If an Indian company pays interest exceeding INR 10 million to a non-resident lender, being an associated enterprise, the excess interest as computed below shall not be allowed as deduction.

Excess Interest = Total Interest expenditure in excess of 30% of EBITDA or the actual amount of interest paid to associated enterprise, whichever is lower.

EXPENDITURE INCURRED FOR EXEMPT INCOME

Expenditure incurred in earning income that is exempt from income tax is not allowed as a deduction.

LOSSES

The table given below highlights the rule of carry-forward of losses in brief:

Type of loss to be carried forward to subsequent years	Profit against which carried forward loss can be set off in subsequent years	Number of years loss can be carried forward
House property loss	Income from House property	8 years
Speculation loss	Speculation profits	4 years
Non-speculation business loss		
- Loss due to unabsorbed depreciation, capital expenditure on scientific research	Any income not being salary income	No time limit
- Loss from a specified business under section 35AD	Income from a specified business under section 35AD	No time limit
- Other remaining business loss	Any business profit, whether from speculation or otherwise	8 years
Short-term Capital Loss	Any income under the head Capital Gains	8 years
Long-term Capital Loss	Long-term Capital Gains	8 years

CORPORATE RESTRUCTURING AND MERGER

Specific provisions have been made in the Income Tax Act 1961 (the Act) in relation to corporate mergers / amalgamations. Corporate restructuring is tax neutral subject to the fulfilment of certain conditions.

DEMERGER

Under the Act, 'demerger' means any transfer by a demerged company of one or more undertakings to another company (resulting company) pursuant to a scheme of arrangement under Sections 230 and Section 235 of the Companies Act. With effect from 1 April 2000, the transfer of shares in a scheme of demerger has been made tax neutral, subject to fulfilment of certain conditions.

SLUMP SALE

The Act defines 'slump sale' to mean the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities. Profits or gains arising from slump sales are taxable as long-term capital gains if the undertaking is owned and held by the taxpayer for more than 36 months prior to the date of transfer. Otherwise, they are taxable as short-term capital gains. Net worth of the undertaking so transferred shall be deemed to be the cost of acquisition and no indexation benefit is allowed for slump sales.

BUYBACK

Buyback refers to the purchase of own shares by a company from its shareholders in lieu of consideration. Consideration received by a shareholder from the company for purchase of its own shares is taxable as a long-term capital gain, if shares were held for more than 12 months prior to transfer to the company. Indexation benefit is available for long-term capital gains. Otherwise, they are taxable as short-term capital gains in the year in which the shares are purchased by the company.

Income arising to a shareholder in respect of buy back of unlisted shares by the company will be exempt from tax. This exemption is available only in those cases where additional income tax is payable on distributed income under section 115QA by the company opting for buy back of unlisted shares.

FOREIGN SOURCED INCOME

Profits derived by a foreign branch of an Indian enterprise are taxable in India. However, credit is allowed for foreign taxes paid by the branch in India either under the tax treaties or under the Act.

BUSINESS TRUSTS

The real estate investment trust (REIT) and Infrastructure investment trust (Invit) are together referred as Business Trusts. The trusts would raise capital by issuing units (to be listed on a recognised stock exchange) and also raise debt directly from resident and non-resident investors. The taxation regime for these Business Trusts, applicable provides the manner, in which the income in the hands of such trusts is to be taxed and the taxability of the income distributed by them to the unit holders.

I

INCENTIVES

FOREIGN DIRECT INVESTMENT POLICY

Remarkable changes in the policy relating to FDI have been announced by the government in 2016. The highlights of the policy are:

- FDI caps in various sectors have been enhanced. (Appendix – I);
- Subject to the provisions of the FDI policy, foreign investment in 'manufacturing' sector is under automatic route. Further, a manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without Government approval;
- Approval of the Government will be a prerequisite for investment by swap of shares for sector under Government approval route. No approval of the Government is required for investment in automatic route sectors by way of swap of shares.

TAX HOLIDAY FOR ECONOMIC ZONES

A tax holiday is available in respect of profits derived from exports by a 100% export-oriented undertaking, or an undertaking located in a free trade zone, export processing zone, SEZ, software technology park, etc.

In the case of new units located in a SEZ commencing activities on or after 1 April 2006, the tax incentives available under sec 10 AA are as follows:

First five years	100% of profits
6^{th} to 10^{th} year	50% of profits
11^{th} to 15^{th} year	50% of profits or amount transferred to credit of SEZ Re-Investment Allowance reserve whichever is lower

PROFITS OF INDUSTRIAL UNDERTAKINGS

A tax holiday for a specified number of years is available in respect of either the entire or part of the profits derived by an industrial undertaking located in a backward state or district or an industrial undertaking engaged, inter alia, in any of the following activities:

(a) Infrastructure facility;

(b) Telecommunication service

(c) Industrial parks;

(d) Generation or distribution of power;

(e) Power transmission;

(f) Renovation of existing network for transmission of power;

(g) Hospitals in rural area;

(h) Hotels and convention centres in specified area;

(i) Undertaking establishments in the North Eastern State carrying on specified business;

(j) Undertakings deriving profits from operating and maintaining hospitals in places other than urban agglomerations.

INCOME FROM SALE OF CRUDE OIL

Exemption can be availed under section 10(48), by a foreign company in respect of income received on account of sale of crude oil to any person in India. Income should be received in Indian currency in India pursuant to an agreement entered into by the Central Government or approved by the Central Government. The foreign company should not be engaged in any other activity in India. The scope of section 10(48) has been enlarged. to include income on account of sale of any other goods or rendering of services as notified by the central government. The aforementioned exemption is also extended to any income arising to a foreign company through storage of crude oil in a facility in India and sale therefrom to any person resident in India (Sec 10(48A)) is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government. The aforementioned exemption is also extended to any income arising to a foreign company through sale from leftover stock of crude oil, from the facility in India after the expiry of the agreement or an arrangement entered into by the Central Government or approved by the Central Government.

GENERAL ANTI AVOIDANCE RULES (GAAR)

General Anti Avoidance rules have been inserted with effect from 1 April 2014. The provisions relating to GAAR are contained in Chapter X-A (Section 95 to 102). The procedural provisions relating to the mechanism for invocation of GAAR and passing of the assessment order in consequence thereof are contained in section 144BA. The provision of chapter X-A and section 144BA will come into force with effect from 1 April 2017.

In an environment of moderate rates of tax, aggressive tax planning by corporates, and use of opaque low tax jurisdictions for residence as well as for sourcing of capital, it is necessary that the correct tax base be subject to tax. GAAR has been introduced to codify the doctrine of 'substance over form'. Under GAAR, the real intention of the parties and effect of transactions and purpose of an arrangement is taken into account for determining the tax consequences, irrespective of the legal structure that has been superimposed to camouflage the real intent and purpose.

The main features of GAAR regime are:

(1) An arrangement whose main purpose is to obtain a tax benefit can be declared as an 'impermissible tax-avoidance arrangement', if it satisfies at least one of the following four tests:

   (a) It creates rights and obligations which are not normally created between parties dealing at arm's length;

   (b) It results in abuse or misuse of provisions of tax laws;

   (c) It lacks commercial substance;

   (d) It is carried out in a manner which is normally not employed for bona fide purpose;

(2) An arrangement will be deemed to lack commercial substance if it involves:

   (a) Round trip financing (i.e. transactions where funds are transferred among the parties to the arrangement);

   (b) An accommodating party;

   (c) Elements that have effect of offsetting or cancelling each other;

   (d) A transaction which disguises the value, location, source, ownership, or control of fund;

   (e) A location which serves no other substantial commercial purpose, except obtaining tax benefit;

(3) Once an agreement is declared to be an IAA, the tax authorities will be entitled to, inter alia, re-characterize the transaction, ignore the transaction, disregard the accommodating parties, reallocate income/expenses, etc.

(4) Approving Panel: The approving panel shall consist of a chairperson who is or has been a Judge of a High Court, one member of the Indian Revenue service not below the rank of Chief Commissioner of Income Tax and one member who shall be an academic or scholar having special knowledge of matters such as direct taxes, business accounts and international trade practices;

(5) Status of direction of approving panel: The direction issued by the approving panel shall be binding on the taxpayer as well as the income tax authority:

(6) Definition of 'associated person and connected person': As per the amendment there will be only one inclusive provision defining the expression 'connected person' under section 102.

C. FOREIGN TAX RELIEF

UNILATERAL TAX CREDIT WHERE THERE IS NO TAX TREATY

Where a resident of India has paid tax in any country with which India does not have a tax treaty, credit is available in India for such tax payments.

TAX CREDIT UNDER TAX TREATIES

India has entered into tax treaties (DTTs) with several partner countries. Under the applicable tax treaty, Indian residents paying taxes in other countries can claim a credit in India for foreign tax payments. The Finance Act 2012 states that provision of DTTs will not be applicable if General Anti Avoidance Rules (GAAR) are invoked.

As per the amendment to section 90 and 90A of the Finance Act 2012, any term which is defined neither in the Act, nor in the DTT, can be assigned a meaning by the Central Government through a Notification. The meaning assigned is generally in line with the intent and objective as understood during the course of negotiations leading to the formalisation of the treaty. This meaning assigned through the Notification shall be effective from the date of coming into force of the DTT.

Earlier, a Tax Residency Certificate (TRC) issued by the partner country was considered sufficient proof for accepting the status of residence for applying DTTs. With effect from 1 April 2013, submission of a TRC is considered a necessary but not sufficient condition, as the taxpayer shall also provide prescribed documents and information for availing DTT benefits referred under section 90 and 90A of the IT Act.

D. CORPORATE GROUPS

There are no provisions in India for consolidation of accounts for tax purposes or provisions for group taxation.

E. TRANSFER PRICING AND COUNTRY-BY-COUNTRY REPORTING

In India, detailed transfer pricing provisions were introduced by the Finance Act, 2001 in order to facilitate the computation of reasonable, fair, and equitable profits and tax in India in the case of businesses carried on by multinational companies. Essentially, transfer pricing is the process of adjusting the prices of cross-border transactions between related/associated parties. Section 92 of the ITA provides that the price of any transaction between Associated Enterprises (AE), either or both of whom are non- residents for tax purposes (international transaction), shall be computed taking into account the arm’s length principle. Subsequently, the Finance Act, 2012 also brought ‘specified domestic transactions’, where transactions are carried out between two related Indian entities under the purview of transfer pricing.

Two enterprises are considered to be associated if there is direct/indirect participation in the management or control or capital of an enterprise by another enterprise or by the same persons in both the enterprises. In determining whether there is participation in management or control, various factors are taken into consideration including:

- Direct/indirect shareholding with 26% or more of the voting power;
- Advancing of loans of 51% or more of the total assets;
- Appointment of more than 50% of the Board of Directors;
- Dependence on intellectual property rights owned by either party, etc.

An additional clarification was issued highlighting the concept of a ‘deemed international transaction’, thereby widening the scope of transfer pricing in India. This provision considers a transaction between two residents in India as an international transaction subject to certain conditions.

Determination of ‘Arm’s Length Price’

A crucial aspect of transfer pricing is the process of determining the Arm’s Length Price (ALP). The Central Board of Direct Taxes (CBDT) has prescribed six methods for determining the ALP:

- Comparable Uncontrolled Price Method;

- Resale Price Method;
- Cost Plus Method;
- Profit Split Method;
- Transactional Net Margin Method;
- Other Method (via Notification No.18/2012 dated 23 May 2012).

The 'other method' has been prescribed to potentially cover transactions involving intangibles and business restructuring for which the above methods may not be the most appropriate.

The choice of the appropriate method is determined with respect to the nature and class of transaction, the classes of associated persons, the functions performed by them and other relevant factors.

The Finance Act, 2014 had introduced the range concept for determination of ALP and use of multiple-year data for comparable analysis of transactions. The tax rules mention the manner and scope of computation of ALP when adopting the range concept and the use of multiple-year data.

International Transactions

Apart from routine transactions relating to the purchase and sale of goods and services, the Finance Act, 2012 enhances the definition to include transactions involving business restructuring, intangibles, goodwill, corporate guarantees, etc. There is no threshold exemption limit for this compliance.

Also, it is mandatory to obtain an accountant's certificate in the prescribed format for all international transactions between AEs. This report would have to contain prescribed particulars of the transaction and would have to be filed with the tax authorities by 30 November after the relevant financial year, along with the tax return.

Stringent penal provisions have been prescribed for non-compliance with the prescribed requirements under the new transfer pricing regime.

Advance Pricing Agreements

The Finance Act, 2012 introduced Advance Pricing Agreements (APAs). An APA is an agreement between a taxpayer and the tax authorities for specifying the manner in which the ALP is to be determined with respect to an international transaction. The ALP shall be determined on the basis of the prescribed methods or any other method.

An APA would be valid for a maximum of five consecutive years unless there is a change in the provisions or the facts having a bearing on the international transaction. In March 2015, the CBDT introduced roll-back provisions according to which an APA would also be applicable to international transactions undertaken in the previous four financial years subject to certain conditions.

Extensive Transfer Pricing Documentation

As a notable development, India's transfer pricing documentation requirements are being aligned with the Organisation for Economic Co-operation and Development's (OECD) recommendations under the Base Erosion and Profit Shifting (BEPS) Project. In line with the international consensus on this topic, companies need to maintain and furnish extensive, group-level details to the Indian tax authorities by way of a Country-by-Country (CbC) report and Master File, in addition to the current transfer pricing documentation requirements in India.

The CbC report shall include economic information within the multinational group, such as the nature of main business activities, revenues, profit/loss, income taxes paid, stated capitals, accumulated earnings, number of employees, tangible assets, etc. for each country in which the group operates. For non-furnishing or inaccurate furnishing of the CbC report, Master File and related details by an entity that is obligated to furnish the said details, a stringent penalty structure ranging from INR 5,000 to INR 50,000 per day of default would apply.

SAFE HARBOUR TRANSFER PRICE FOR INTERNATIONAL TRANSACTIONS

Safe harbour transfer price for international transactions: The Tax Authorities shall accept the transfer price declared by the taxpayer for the following eligible international transactions as per the ceilings and subject to the circumstances stated below:

S no	Eligible International Transaction	Circumstances
1.	Provision of software development services	The operating profit margin declared by the eligible taxpayer from the eligible international transaction in relation to operating expense incurred is: (i) not less than 17%, where the value of international transaction does not exceed a sum of one hundred crore rupees; or (ii) not less than 18%, where the value of international transaction exceeds a sum of one hundred crore rupees but does not exceed a sum of two hundred crore rupees.
2.	Provision of information technology enabled services	The operating profit margin declared by the eligible taxpayer from the eligible international transaction in relation to operating expense is: (i) not less than 17%, where the aggregate value of such transactions entered into during the previous year does not exceed a sum of one hundred crore rupees; or (ii) not less than 18%, where the aggregate value of such transactions entered into during the previous year exceeds a sum of one hundred crore rupees but does not exceed a sum of two hundred crore rupees.
3.	Provision of knowledge process outsourcing services.	The value of international transaction does not exceed a sum of two hundred crore rupees and the operating profit margin declared by the eligible taxpayer from the eligible international transaction in relation to operating expense is: (i) not less than 24% and the Employee Cost in relation to the Operating Expense is at least sixty per cent; (ii) not less than 21% and the Employee Cost in relation to the Operating Expense is forty per cent or more but less than sixty per cent; or (iii) not less than 18% and the Employee Cost in relation to the Operating Expense does not exceed forty per cent.
4.	Advancing of intra-group loans where the amount of loan is denominated in Indian Rupees (INR)	The interest rate declared in relation to the eligible international transaction is not less than the one-year marginal cost of funds lending rate of State Bank of India as on 1st April of the relevant previous year plus: (i) 175 basis points, where the associated enterprise has CRISIL credit rating between AAA to A or its equivalent; (ii) 325 basis points, where the associated enterprise has CRISIL credit rating of BBB-, BBB or BBB+ or its equivalent; (iii) 475 basis points, where the associated enterprise has CRISIL credit rating between BB to B or its equivalent; (iv) 625 basis points, where the associated enterprise has CRISIL credit rating between C to D or its equivalent; or (v) 425 basis points, where credit rating of the associated enterprise is not available and the amount of loan advanced to the associated enterprise including loans to all associated enterprises in Indian Rupees does not exceed a sum of one hundred crore rupees in the aggregate as on 31st March of the relevant previous year.

S no	Eligible International Transaction	Circumstances
5.	Advancing of intra-group loans where the amount of loan is denominated in foreign currency	The interest rate declared in relation to the eligible international transaction is not less than the six-month London Inter-Bank Offer Rate of the relevant foreign currency as on 30th September of the relevant previous year plus: (i) 150 basis points, where the associated enterprise has CRISIL credit rating between AAA to A or its equivalent; (ii) 300 basis points, where the associated enterprise has CRISIL credit rating of BBB-, BBB or BBB+ or its equivalent; (iii) 450 basis points, where the associated enterprise has CRISIL credit rating between BB to B or its equivalent; (iv) 600 basis points, where the associated enterprise has CRISIL credit rating between C to D or its equivalent; or (v) 400 basis points, where credit rating of the associated enterprise is not available and the amount of loan advanced to the associated enterprise including loans to all associated enterprises does not exceed a sum equivalent to one hundred crore Indian rupees in the aggregate as on 31st March of the relevant previous year.
6.	Providing corporate guarantee	The commission or fee declared in relation to the eligible international transaction is at the rate not less than 1% per annum on the amount guaranteed.
7.	Provision of contract research and development services wholly or partly relating to software development	The operating profit margin declared by the eligible taxpayer from the eligible international transaction in relation to operating expense incurred is not less than 24%, where the value of the international transaction does not exceed a sum of two hundred crore rupees.
8.	Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs	The operating profit margin declared by the eligible taxpayer from the eligible international transaction in relation to operating expense incurred is not less than 24%, where the value of the international transaction does not exceed a sum of two hundred crore rupees.
9.	Manufacture and export of core auto components	The operating profit margin declared by the eligible taxpayer from the eligible international transaction in relation to operating expense is not less than 12%.
10.	Manufacture and export of non-core auto components	The operating profit margin declared by the eligible taxpayer from the eligible international transaction in relation to operating expense is not less than 8.5%.
11.	Receipt of low value-adding intra-group	The entire value of the international transaction, including a mark-up not exceeding 5%, does not exceed a sum of ten crore rupees: Provided that the method of cost pooling, the exclusion of shareholder costs and duplicate costs from the cost pool and the reasonableness of the allocation keys used for allocation of costs to the taxpayer by the overseas associated enterprise, is certified by an accountant.

F. WITHHOLDING TAX

Tax at the prescribed rates is required to be deducted at source from payments of rent (for use of land, building, machinery, plant, equipment, furniture or fittings), salary, professional fees, fees for technical services, royalty, interest, commission, etc. to residents. Tax is also required to be deducted from payments to non-residents, in respect of interest or any other sum chargeable under the Act. With retrospective effect from 1 April 1962, tax will be deductible whether the deductor is a resident or non-resident and tax will be deductible even if a non-resident does not have any place of business, residence, business connection or any other presence in India. The rates are the same as those listed in Section A.

From 1 June 2013, under section 194IA, any person responsible for paying (other than the person referred to in 194LA) to a resident transferor any sum by way of consideration for transfer of immovable property (other than agricultural land in rural area in India) is liable to deduct tax at 1% if the amount of consideration is equal to or exceeds INR 5 million.

In case there is TDS default pertaining to any sum (other than salary) payable outside India or payable to a non-resident which is taxable in India, then expenditure will not be disallowed if TDS is deposited within the due date of submission of return of income under section 139(1). If TDS is deposited after this date expenditure will be deductible in the year in which TDS is deposited. In case of TDS default, 30% of expenditure will be disallowed not 100%.

Withholding tax provisions have been extended to trusts for the FY 2018-19.

G. EXCHANGE CONTROL

The foreign exchange regulations have been substantially liberalised in India, whereby no licence is required for setting up an industry except in a few cases such as electronic aerospace and defence equipment, industrial explosives, hazardous chemicals, distillation and brewing of alcoholic drinks, cigars and cigarettes, items reserved for small-scale sector and industries/sectors reserved for the public sector.

India has one of the most liberal and transparent policies on Foreign Direct Investment (FDI) among the emerging economies. The FDI policy has been rationalised on an ongoing basis to avoid multiple layers of regulatory approvals to facilitate foreign investment. FDI can be divided into two broad categories:

1) FDI under Automatic Approval route;
2) FDI with prior approval of the Government.

Under the automatic approval route, no government approval or Reserve Bank of India is required if the FDI is within the notified sectoral caps. However, if the FDI exceeds the prescribed sectoral cap, the approval of government through the Foreign Investment Facilitation Portal (FIFP) is required. FDI is allowed under the automatic route in almost all activities/sectors except the following, which require FIFP approval:

a) Activities/items that require an Industrial License (except for some cases);
b) Proposals in which the foreign collaborator has an existing financial/technical collaboration in India in the same field;
c) All proposals falling outside notified sectoral policy/caps.

In certain cases, such as distillation and brewing of alcohol, industrial explosives and manufacture of hazardous chemicals, FDI is permitted without FIFP approval subject to obtaining an industrial license from the appropriate authority. However, FDI is prohibited in the following cases:

a) Gambling and betting;
b) Lottery business;
c) Atomic energy;
d) Business of chit fund;
e) Nidhi company;
f) Trading in Transferable Development Rights (TDRs);
g) Manufacture of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes;
h) Real estate business (except development of townships, construction of residential and commercial premises, roads or bridges, real estate broking service to the extent specified by FEMA).

H. PERSONAL TAX

Individuals are taxed on their income based on income slabs on a progressive basis at 5%, 20% and 30%.

RESIDENTIAL STATUS

The scope of taxable income varies depending upon the residential status of the individual. Resident taxpayers are classified into two categories:

a) Ordinarily resident; or,
b) Not ordinarily resident.

An individual is classified as "Ordinary resident" if he spends:

a) At least 182 days in India during the tax year; or

b) 60 days in India during the year and at least 365 days in the preceding four years.

An individual is classified as "Not Ordinary resident" if he has been:

a) A non-resident in nine out of the ten preceding years, or

b) In India for less than 730 days during the preceding seven years.

Non-resident taxpayers pay tax only on Indian-sourced income. Income of a non-resident shall be deemed to accrue or arise in India under Section 9(1)(v) (relating to interest paid outside India), Section 9(1)(vi) (relating to royalties paid outside India) or Section 9(1)(vii) (relating to fees for technical services paid outside India) and shall be included in total income regardless of whether:

a) The non-resident has a place of residence, place of business or business connection in India;

b) The non-resident has rendered services in India.

The assessment year is the period of 12 months from 1 April to 31 March. Income earned in the period of 12 months or less immediately preceding the assessment year is taxed in the assessment year.

DETERMINATION OF TAXES

The Individual income is calculated under following heads:

1. Salary;
2. House property;
3. Business / Profession;
4. Capital gains;
5. Other sources.

In certain cases, income is taxed on a presumptive basis, wherein the income under each head is computed separately and aggregated to arrive at the gross total income, after allowing permissible deductions under each head. For Resident Senior Citizens (men or women who are 60 years or more at any time during the previous year but not more than 80 years on the last day of the previous year).

Income	Tax rates
Up to 300,000	Nil
300,001 - 500,000	5% of (total income minus INR 300,000)
500,001 - 1,000,000	INR 10,000 plus 20% of (total income minus INR 500,000)
1,000,001 - 10,000,000	INR 110,000 plus 30% of (total income minus INR 1,000,000)
Above 10,000,000*	INR 2,810,000 plus 30% of (total income minus INR 10,000,000)

For Resident Super Senior Citizens (men or women who are 80 years or more at any time during the previous year).

Income	Tax rates
Up to 500,000	Nil
500,001 - 1,000,000	20% of (total income minus INR 500,000)
1,000,001 - 10,000,000	INR 100,000 plus 30% of (total income minus INR 1,000,000)
Above 10,000,000*	2,800,000 plus 30% of (total income minus INR 10,000,000)

For any other resident individual (below the age of 60 years) and any non-resident individual.

Income	Tax rates
Up to 250,000	Nil
250,001 - 500,000	5% of (total income minus INR 250,000)
500,001 - 1,000,000	INR 12,500 plus 20% of (total income minus INR 500,000)

1,000,001 - 10,000,000	INR 112,500 plus 30% of (total income minus INR 1,000,000)
Above 10,000,000*	INR 2,812,500 plus 30% of (total income minus INR 10,000,000)

* For the financial year 2018-19, the surcharge is 10% of the income tax if net income is between INR 5 million and INR 10 million and 15% if it exceeds INR 10 million. It is subject to marginal relief (in the case of a person having net income exceeding INR 10 million, the amount payable, as income tax and surcharge shall not exceed the total amount payable as income tax on total income of INR 10 million by more than the amount of income that exceeds INR 10 million).

The tax computed above is increased by SC wherever applicable and is further increased by 4% Cess.

A resident individual (who has net income of INR 5,00,000 or less) is eligible for a rebate under section 87A. It is deductible from income tax before calculating cess. The amount of rebate is 100% of income tax or Rs. 12,500, whichever is less.

As per Finance Act 2019, an individual can declare two house properties as self-occupied, instead of one earlier. And the limit of Rs. 2,000,000 deduction on account of interest payable on borrowed capital on self-occupied houses shall continue to apply to the aggregate of the amounts of interest payable on borrowed capital for more than one self-occupied houses.

The Finance Act 2019 also increased the standard deduction from salary income from Rs.40,000 to Rs.50,000.

Tax payable by an individual who has claimed a deduction under sections 35 AD, 10AA, 80H to 80RRB (except 80P) cannot be less than alternate minimum tax which is 22.126% (i.e. 18.5% + SC if total income exceeds INR 10 million + Cess) of adjusted total income. Adjusted total income is to be calculated according to the provisions of sec. 115JC to 115JF of the Income Tax Act. Alternate minimum tax is not applicable if adjusted total income does not exceed INR 20,000,000.

If provisions of alternate minimum tax are applicable, the individual assessed will have to obtain a report in Form no. 29C from a Chartered Accountant.

Associations of persons are taxed at the rate applicable to the individual members if shares are determinant. Otherwise taxed at 30% (maximum marginal rate). If a non-resident is a member, then it is taxed at 40%.

CERTAIN RECEIPTS TREATED AS GIFTS

Any sum of money or property, the aggregate value of which exceeds INR 50,000, received without consideration by an individual on or after 1 October 2009, is taxable except for amounts received:

(a) From relatives;

(b) On the occasion of marriage;

(c) Under a will/inheritance;

(d) In contemplation of death of the payer;

(e) From any local authority;

(f) From any fund or foundation or university or other educational institution or hospital or other medical institution or other prescribed institutions;

(g) From trusts or institutions registered with the Indian revenue authorities.

In respect of movable property, value shall be the fair market value as on the date of the receipt in accordance with the method prescribed. In respect of immovable property, value shall be the Stamp Duty value.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Dividends are exempt from withholding tax if the payer has paid dividend distribution tax (see also higher under the chapter A. Taxes payable - Dividend distribution tax).

Country	**Interest %**	**Royalty %**	**Fee for Technical Services %**
Albania	10[1]	10	10
Armenia	10[1]	10	10
Australia	15	10/15[2]	10/15[2]

Country	Interest %	Royalty %	Fee for Technical Services %
Austria	10[1]	10	10
Bangladesh	10[1]	10	No separate provision
Belarus	10[1]	15	15
Belgium	15 (10 if loan is granted by a bank)	10	10
Bhutan	10[1]	10	10
Botswana	10[1]	10	10
Brazil	15[1]	a) 25 for use of trademark; b) 15 for others	No separate provision
Bulgaria	15[1]	a) 15 of royalty relating to literary, artistic, scientific works other than films or tapes used for radio or television broadcasting; b) 20, in other cases	20
Canada	15[1]	10-15	10-15
China	10[1]	10	10
Columbia	10[1]	10	10
Croatia	10[1]	10	10
Cyprus	10[1]	10	10
Czech Republic[4]	10[1]	10	10
Denmark	a) 10 if loan is granted by bank; b) 15 for others[1]	20	20
Estonia	10[1]	10	10
Ethiopia	10[1]	10	10
Finland	10[1]	10	10
Fiji	10[1]	10	10
France	10[1]	10	10
Georgia	10[1]	10	10
Germany	10[1]	10	10
Hong Kong	10[1]	10	10
Hungary	10[1]	10	10
Iceland	10[1]	10	10
Indonesia	10[1]	10	10
Ireland	10[1]	10	10

Israel	10[1]	10	10
Italy	15[1]	20	20
Japan	10[1]	10	10
Jordan	10[1]	20	20
Kazakhstan	10[1]	10	10
Kenya	10	10	10
Korea	10	10	10
Kuwait	10	10	10
Kyrgyz Republic	10[1]	15	15
Latvia	10[1]	10	10
Lithuania	10[1]	10	10
Luxembourg	10[1]	10	10
Malaysia	10[1]	10	10
Malta	10[1]	10	10
Mauritius	7.5	15	10
Mongolia	15[1]	15	15
Montenegro	10[1]	10	10
Morocco	10[1]	10	10
Mozambique	10[1]	10	No separate provision
Myanmar	10[1]	10	No separate provision
Macedonia	10[1]	10	10
Namibia	10[1]	10	10
Nepal	10[1]	15	No separate provision
Netherlands	10[1]	10	10
New Zealand	10[1]	10	10
Norway	10[1]	10	10
Oman	10[1]	15	15
Philippines	a) 10, if interest is received by a financial institution or insurance company; b) 15 in other cases[1]	15 if it is payable in pursuance of any collaboration agreement approved by the Government of India	No separate provision
Poland	10[1]	15	15
Portuguese Republic	10	10	10
Qatar	10[1]	10	10
Romania	10[1]	10	10
Russian Federation	10[1]	10	10
Saudi Arabia	10[1]	10	No separate provision

Country	Interest %	Royalty %	Fee for Technical Services %
Serbia	10[1]	10	10
Singapore	a) 10, if loan is granted by a bank or similar institute including an insurance company; b) 15, in all other cases	10	10
Slovenia	10	10	10
South Africa	10[1]	10	10
Spain	15[1]	10/20[3]	20[3]
Sri Lanka	10[1]	10	10
Sudan	10[1]	10	10
Sweden	10[1]	10	10
Swiss Confederation	10[1]	10	10
Syrian Arab Republic	10[1]	10	No separate provision
Tajikistan	10[1]	10	No separate provision
Tanzania	10	10	No separate provision
Thailand	10[1]	10	No separate provision
Trinidad and Tobago	10[1]	10	10
Turkey	a) 10 if loan is granted by a bank, etc.; b) 15 in other cases[1]	15	15
Turkmenistan	10[1]	10	10
Uganda	10[1]	10	10
Ukraine	10[1]	10	10
United Arab Emirates	a) 5 if loan is granted by a bank/similar financial institute; b) 12.5, in other cases	10	No separate provision
United Mexican States	10[1]	10	10
United Kingdom	a) 10, if interest is paid to a bank; b) 15, in other cases[1]	10/15[2]	10/15[2]
United States	a) 10 if loan is granted by a bank/similar institute including insurance company; b) 15 for others	10/15[2]	10/15[2]
Uruguay	10[1]	10	10
Uzbekistan	10[1]	10	10

Vietnam	10[1]	10	10
Zambia	10[1]	10	10

Note: Mutual agreement procedure amended with Singapore.

1. Dividend/interest earned by the Government and certain specified institutions, *inter-alia*, Reserve Bank of India is exempt from taxation in the country of source (subject to certain conditions).
2. Royalties and fees for technical services would be taxable in the country of source at the rates prescribed for different categories of royalties and fees for technical services. These rates shall be subject to various conditions and nature of services/royalty for which payment is made. For detailed conditions refer to the relevant Double Tax Treaties.
3. Royalties and fees for technical services would be taxable in the country of source at the following rates:
   a. 10% in case of royalties relating to the payments for the use of, or the right to use, industrial, commercial or scientific equipment;
   b. 20% in case of fees for technical services and other royalties.
4. The DTAA signed with Government of the Czech Republic on 27 January 1986 is applicable also to the residents of the Slovak Republic.

APPENDIX I:

Sector-wise FDI Limit:

Sector	**FDI Limit**	**Entry Route and Remarks**
Agriculture and animal husbandry • Floriculture, horticulture, apiculture and cultivation of vegetables and mushrooms under controlled conditions • Development and production of seeds and planting material • Animal husbandry (including breeding of dogs), pisciculture, aquaculture • Services related to agro and allied sectors	100%	Automatic
Plantation Sector • Tea sector including tea plantations • Coffee plantations • Rubber plantations • Cardamom plantations • Palm oil tree plantations • Olive oil tree plantations	100%	Automatic
Mining Mining and exploration of metal and non-metal ores including diamond, gold, silver and precious ores but excluding titanium bearing minerals and its ores	100%	Automatic
Mining (coal and lignite)	100%	Automatic
Mining Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities	100%	Government
Petroleum and Natural Gas Exploration activities of oil and natural gas fields, infrastructure related to marketing of petroleum products and natural gas, marketing of natural gas and petroleum products, etc.	100%	Automatic
Petroleum and natural gas Petroleum refining by the Public Sector Undertakings (PSU), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	Automatic

Defence Manufacturing	100%	Automatic up to 49% Above 49% under Government route in cases resulting in access to modern technology in the country
Broadcasting • Teleports (setting up of up-linking hubs/Teleports) • Direct to Home (DTH) • Cable networks (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalisation and addressability • Mobile TV • Head end-in-the Sky Broadcasting Service (HITS)	100%	Automatic
Broadcasting Cable Networks (Other MSOs not undertaking up gradation of networks towards digitalisation and addressability and Local Cable Operators (LCOs))	100%	Automatic
Broadcasting Content Services • Terrestrial Broadcasting FM (FM Radio) • Up-linking of ‘News and Current Affairs’ TV Channels	49%	Government
Up-linking of Non-‘News and Current Affairs’ TV Channels/ Down-linking of TV Channels	100%	Automatic
Print Media • Publishing of newspaper and periodicals dealing with news and current affairs • Publication of Indian editions of foreign magazines dealing with news and current affairs	26%	Government
Publishing/printing of scientific and technical magazines/specialty journals/ periodicals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from time to time by Ministry of Information and Broadcasting	100%	Government
Publication of facsimile edition of foreign newspapers	100%	Government
Civil Aviation – Airports Green Field Projects and Existing Projects	100%	Automatic
Civil Aviation – Air Transport Services • Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline • Regional Air Transport Service (Foreign airlines can invest up to 49% under approval route subject to below conditions: a) Foreign investment(s) in Air India including that of foreign Airline(s) shall not exceed 49% either directly or indirectly b) Substantial ownership and effective control of Air India shall continue to be vested in Indian National)	100%	Automatic up to 49% Above 49% under Government route 100% Automatic for NRIs

Civil Aviation • Non-Scheduled Air Transport Service • Helicopter services/seaplane services requiring DGCA approval • Ground Handling Services subject to sectoral regulations and security clearance • Maintenance and Repair organisations; flying training institutes; and technical training institutions	100%	Automatic
Construction Development: Townships, Housing, Built-up Infrastructure (including real estate broking service)	100%	Automatic
Industrial Parks (new and existing)	100%	Automatic
Satellites - establishment and operation, subject to the sectoral guidelines of Department of Space/ISRO	100%	Government
Private Security Agencies	74%	Automatic up to 49% Above 49% and up to 74% under Government route
Telecom Services	100%	Automatic up to 49% Above 49% under Government route
Cash and Carry Wholesale Trading	100%	Automatic
E-commerce activities (e-commerce entities would engage only in Business to Business (B2B) e-commerce and not in Business to Consumer (B2C) e-commerce.)	100%	Automatic
Single Brand retail trading Local sourcing norms will be relaxed up to three years and a relaxed sourcing regime for another five years for entities undertaking Single Brand Retail Trading of Products having 'state-of-art' and 'cutting edge' technology.	100%	Automatic
Multi Brand Retail Trading	51%	Government
Duty Free Shops	100%	Automatic
Railway Infrastructure Construction, operation and maintenance of the following: • Suburban corridor projects through PPP • High speed train projects • Dedicated freight lines • Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities • Railway Electrification • Signalling systems • Freight terminals • Passenger terminals • Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivity to main railway line • Mass Rapid Transport Systems.	100%	Automatic
Asset Reconstruction Companies	100%	Automatic
Banking - Private Sector	74%	Automatic up to 49% Above 49% & up to 74% under Government route

Banking - Public Sector	20%	Government
Credit Information Companies (CIC)	100%	Automatic
Infrastructure Company in the Securities Market	49%	Automatic
Insurance • Insurance Company • Insurance Brokers • Third Party Administrators • Surveyors and Loss Assessors • Other Insurance Intermediaries	49%	Automatic
Pension Sector	49%	Automatic
Power Exchanges (FIIs/FPIs allowed to invest in primary market as well)	49%	Automatic
White Label ATM Operations	100%	Automatic
Financial services activities regulated by RBI, SEBI, IRDA or any other regulator	100%	Automatic
Pharmaceuticals (Green Field)	100%	Automatic
Pharmaceuticals (Brown Field)	100%	Automatic up to 74% Above 74% under Government route
Food products manufactured or produced in India Trading, including through e-commerce, in respect of food products manufactured or produced in India	100%	Government

Prohibited Sectors

FDI is prohibited in the following sectors:

- Lottery Business including Government/private lottery, online lotteries, etc.
- Gambling and Betting including casinos, etc.
- Chit funds
- Nidhi company
- Trading in Transferable Development Rights (TDRs)
- Real Estate Business or Construction of Farm Houses (Real estate business does not include development of townships, construction of residential/commercial premises, roads or bridges and real estate broking service)
- Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
- Activities/sectors not open to private sector investment, e.g. Atomic Energy and Railway operations (other than permitted activities)

INDONESIA

MEMBER FIRM

City	Name	Contact Information
Jakarta/Surabaya	Donny Rindorindo	+62 21 2993 2121 donny_r@pkfhadiwinata.com

BASIC FACTS

Full name:	Republic of Indonesia
Capital:	Jakarta
Main languages:	Indonesian
Population:	269 million (2019 estimate)
Monetary unit:	Indonesian Rupiah (IDR)
Internet domain:	.id
Int. dialling code:	+62

KEY TAX POINTS

- Companies resident in Indonesia are subject to income tax on their worldwide income including capital gains. A permanent establishment of a foreign company is subject to tax in Indonesia on its worldwide income.
- Branch profits are taxed at the same rate as corporate profits. A 20% withholding branch profit tax is also payable on after tax income in addition to the corporate tax.
- Indonesian individuals are taxed on their worldwide income.
- Non-resident companies are subject to tax on income, including capital gains, derived from Indonesia.
- VAT is levied at a standard rate of 10% on taxable supplies of goods and most services.
- There is a sales tax on the transfer or importation of luxury goods, at rates between 10% and 125%.
- Stamp duties apply to the transfer of land, and certain documents are subject to Stamp Duty.
- Double tax relief credits are generally available to Indonesian residents in respect of overseas tax paid on foreign-sourced income, up to a maximum of the Indonesian tax payable on the income concerned.
- Generally, residents are subject to a creditable withholding tax of 15% on payments received from fellow Indonesian residents, although dividends are exempt under certain circumstances. Payments to non-residents are generally subject to a final withholding tax of 20%.

A. TAXES PAYABLE

FEDERAL TAXES AND LEVIES

COMPANY TAX

A company will be considered taxable in Indonesia if it has a presence and conducts business in that country. Resolution of this question depends on whether the entity has a 'permanent establishment' in Indonesia. This term is widely defined to include a place of management, branch, representative office, office building, agent, factory or workshop, construction or mining site. Where such a presence exists the permanent establishment is taxable on its worldwide income. Where similar businesses to that carried on by the permanent establishment are conducted in Indonesia, care must be taken to ensure that the 'force of attraction' principle does not result in that business income being taxed at the level of the permanent establishment.

Company tax is payable by monthly instalments. The collection of tax from interest, royalties, rentals and dividends, professional service fees, technical and management service fees, installation service fees, repair and maintenance service fees is by way of withholding tax. Where the recipient is a tax resident of Indonesia, the tax withheld is taken into account in determining the company's final tax liability (except for tax on interest from banks, space rentals, and construction services which are treated as a final tax). Where the recipient is not a resident, the tax withheld represents a final tax.

Under the Income Tax Law No. 36 Year 2008, which applies from 1 January 2009, corporations were taxed at a single rate of 28%, which was reduced to 25% from 2010 onwards. Corporations with an annual gross income of up to IDR 50 billion are entitled to a tax discount of 50% of the standard rate on taxable income derived from the portion of gross income up to IDR 4.8 billion. As for public companies, corporate tax deduction at 5% will be granted when meeting the following requirements:

(1) Minimum listing requirement is 40%;

(2) The minimum public ownership is 300 parties where each party holds less than 5% of the paid-in shares; and,

(3) The above two conditions must be fulfilled for at least six months (183 days) in a tax year.

CAPITAL GAINS TAX

Capital gains and losses are mainly included as ordinary income and taxed accordingly, except for transactions in stock on the Indonesian stock market and on private property. The gain/loss is ignored and tax is instead charged on the transaction value as follows:

Stock	0.1% of transaction value	Final tax, except for founder shares sold by founder = 0.5% of transaction value
Private property: Land and building	2.5% of transfer value	Final tax for individuals, foundations and corporations

BRANCH PROFITS TAX

Branch profits are taxed at the same rate as corporate profits. However, a withholding branch profits tax of maximum 20%, subject to protection under a double tax treaty, is also payable on after-tax income in addition to the corporate tax. This additional tax is payable irrespective of whether the profits are remitted. Refer to 'Withholding Taxes' below for variations in the above rate. An exemption from withholding tax may be granted to a permanent establishment which reinvests its net profit in Indonesia.

SALES TAX ON LUXURY GOODS

Under VAT Law No. 42 Year 2009, effected 1 April 2010, the tariff of sales tax on luxury goods is set at a minimum 10% and a maximum up to 200%, imposed on imported or domestically produced items. Currently, the rates of sales tax on luxury goods applied are between 10% up to 125%. However, exports - even if classified as luxury goods - are taxed at a 0% tariff.

The tax is collected at the manufacturer/import level. Payment of the sales tax is required by the 15th day of the following month and returns need to be submitted by the 20th day of the following month.

Luxury items subject to sales tax	**Tax Rate (%)**
Luxury houses and town houses non-strata title with selling price of IDR 20 billion and above	20
Apartments, condominiums, towns houses strata title and the likes with selling price of IDR 10 billion and above	20
Air balloons and unpowered aircrafts	40
Bullets of fire arms and other types fire arms, except for nation's use	40
Luxury cruisers, ferries and yachts, except for nation and commercial use	75
Aircrafts and helicopters, except for nation and commercial use	50
Firearms, revolvers, pistols, except for nation's use	50
Motor vehicles with the capacity of 10 to 15 passengers	10
Motor vehicles of 1500 cc to 2500 cc with the capacity of fewer than 10 passengers	20
Sedan or station wagon with the cylinder up to 1500 cc	30
2-wheel drive motor vehicles other than sedan and station wagon with the cylinder of 2500 cc to 3000 cc	40
4-wheel drive motor vehicles, sedan and station wagon, with the cylinder of 1500 cc to 3000 cc	40
Special purpose vehicles for golf	50
Motorcycles with the cylinder capacity of 250 cc to 500 cc	60
Special purpose vehicles to be used in the snow, beach, mountains and the like	60
Sedan and station wagon with the capacity of more than 3000 cc	125
Diesel sedan and station wagon with the capacity of more than 2500 cc	125

Motorcycles with the capacity cylinder of more than 500 cc	125
Caravan trailer and semi-trailer for housing and camping	125

VALUE ADDED TAX (VAT)

VAT at the general rate of 10% is imposed on importers, manufacturers, wholesalers and retailers and on the provision of most services. While the VAT laws permit amendments to the rates for individual items, currently the products with a rate other than 10% are cigarettes and used cars. Services such as package deliveries and travel agents are taxed at 1%, while factoring is imposed at 5% on the fees received. Exports of taxable goods are effectively excluded from VAT by being subject to the tax at a nil rate. Under VAT Law No. 42 Year 2009, which took effect from 1 April 2010, the export of services is subject to 0% VAT. However the Ministry of Finance (MoF) Regulation further defines that the zero-rated VAT is only applicable to the following services:

(1) Sub-contracting services with certain requirements:
- The buyer or recipient of taxable service is outside the Customs area and is a non-resident taxpayer and does not have a permanent establishment as specified in Income Tax Law;
- Specification and material are provided by the buyer or the recipient of the taxable service;
- Materials are defined as raw materials, work in process and/or supporting material to be further processed into finished taxable goods;
- Ownership of finished goods is in the hands of the buyer or the recipient of the taxable service;
- The sub-contracting entrepreneur delivers the products by request from the buyer or the recipient of the taxable service to outside the Customs area;

(2) Construction services including construction planning, construction work and construction supervision located outside the Customs area;

(3) Repair and maintenance services which are attached to services of movable goods utilised outside the customs area.

VAT is payable by the end of the following month of the relevant transaction prior to the submission deadline of the monthly tax return. In the case of certain services rendered by non-residents of Indonesia such as the use of intangible taxable goods and/or offshore services, the recipient of these services has an obligation, by way of self-assessment, to pay and report import VAT by the 15th of the following month.

Goods excluded from VAT:
- Basic necessities;
- Mining taken from natural resources;
- Food served in hotels and restaurants, including food and drinks provided by catering services;
- Money, gold and securities.

Services excluded from VAT:
- Medical, social and religious services;
- Postal and account transfer services;
- Banking, insurance and non-banking financial leasing;
- Educational services;
- Finance leasing;
- Art and entertainment services;
- Radio and television broadcasting services, other than advertisements;
- Public transportation services, i.e. land, sea and domestic air transportation (effective 1 April 2010);
- Manpower and recruitment services;
- Hotel and boarding house services;
- Services provided by the government relating to public administration and formality requirements;
- Parking services (effective 1 April 2010);
- Public telephone (by coin) services (effective 1 April 2010);
- Food and catering services (effective 1 April 2010).

FRINGE BENEFITS TAX (FBT) / BENEFITS IN KIND

Benefits in kind received by employees, including discounted or free housing, are not taxable to the employee nor deductible to the provider/employer. However, company cars and cellular phones provided to the employee are deductible at 50% of the acquisition cost by way of depreciating those assets over their useful lives (8 years and 4 years), while cellular phone refill vouchers and repair expenses can be claimed as a deduction at 50%.

However, a full deduction applies to food and drinks provided to employees in the workplace and employee benefits required for job performance such as protective clothing and uniforms, transportation costs to and from the place of work, accommodation for ship crews and the like, and also for housing provided in remote areas approved by the Minister of Finance.

LOCAL TAXES

Provincial tax is charged mostly at 10%, i.e. hotel and restaurant services, parking services.

STAMP DUTY ON LAND RIGHT TRANSFER

Effective from 1 January, 2011, Stamp Duty on building and/or land right transfer is charged under the provincial government at 5% of the transfer cost.

OTHER TAXES

DOCUMENTARY STAMP TAX

Stamp Duty is of a nominal amount of IDR 6,000 or IDR 3,000. The types of documents upon which Stamp Duty is payable include:

- Letters of agreement, prepared for the purpose of evidencing acts, facts or conditions of a civil nature;
- Notarial deeds;
- All documents bearing a sum of money including letters of promise to pay, securities or cheques.

LAND AND BUILDING TAX

Land and building tax is payable annually on land, buildings and permanent structures, although the effective rates are typically 0.5% of the value of the property.

IMPORT DUTIES

Import duties are due at the following rates:

Group	Goods	Rate (%)
Automobiles	Passenger and commercial vehicles	5 – 50
Automobiles parts		0 – 10
Vessels	Ship, boats, and floating structures	0 – 5
Electronic goods		0 – 12.5
Footwear		5 – 25
Beverages, ethyl alcohol and alcoholic drink	Ethyl alcohol, beer, wine, spirits, and other beverages.	5 – 150
Essential oils and resinoids	Odoriferous substances	5 – 150
Agricultural products	Animal and vegetable products	0 – 25
Textile, textile products and accessories	Bags, harnesses, apparels, and clothing accessories, etc.	5 – 15
Other	Chemicals, pharmaceutical products, rubber, etc.	0 – 25

B. DETERMINATION OF TAXABLE INCOME

Taxable income is calculated under normal accounting principles adjusted for specific tax rules. A deduction is allowed for all outgoings and expenses incurred for obtaining, collecting and maintaining taxable income.

Deductions are not allowed in relation to the following items:

- Benefits in kind such as free housing (see also 'Fringe benefits tax/benefits in kind' above);
- Income tax payments (including penalties);
- Capital expenditure (see 'Depreciation' below);
- Private expenses;
- Non-business gifts, aid and donations, except 'zakat' (Islamic alms) and other compulsory religious donations approved by the government;
- Profit distributions;
- Employers' contributions for life, health, and accident insurance and contributions to non- approved pension funds unless the contributions are treated as taxable income of employees;
- Provisions (except for financial institutions);
- Dividends;
- Expenses related to income which are taxed at a final rate, i.e. interest on loans related to time deposits;
- Expenses related to income which are exempt from tax, i.e. interest on loans used to buy shares where dividends to be received are not subject to income tax;
- Salaries or compensation received by a partnership or firm as members where their participation is not divided into shares.

I

INVESTMENT INCENTIVES

Taxpayers investing in certain business sectors and/or in certain areas/locations may be entitled to taxation incentives in the form of:

- A reduction in net income up to a maximum of 30% (5% per year for six years) from the total investment realised;
- Accelerated depreciation and amortisation;
- Tax loss compensations for a longer period but not exceeding 10 years;
- A reduction in withholding taxes on dividends to 10% unless a lower rate applies under the relevant tax treaty.

DEPRECIATION

Where fixed assets (either tangible or intangible) have a beneficial life of greater than one year, tax relief for the cost of acquisition is available through depreciation. The following depreciation rates are applicable:

Beneficial Life	Straight-line method (%)	Declining-balance method (%)
A. Non-building:		
1 – 4 years	25	50
4 – 8 years	12.5	25
8 – 16 years	6.25	12.5
16 – 20 years	5	10
B. Building:		
Permanent	5	-
Non-permanent	10	-

Note: Depreciation of property is taken into account commencing the month, instead of the year, that the property is acquired which means that the first year depreciation is accounted for on a pro rata basis, while the net book value is depreciated accordingly over its remaining beneficial years, unless it is retired or sold within its beneficial life.

STOCK / INVENTORY

Taxpayers may value inventory using either the 'first-in, first-out' (FIFO) or Average Cost methods. Whichever method is selected, it must be consistently applied.

CAPITAL GAINS AND LOSSES

Gains and losses on capital items are taxable in Indonesia without special treatment being afforded to such items, except for gains and losses on sales of share certificates of listed companies and on sales of land and buildings as previously mentioned.

DIVIDENDS

An exemption exists under particular circumstances for dividends received by companies incorporated in Indonesia where the payer is also an Indonesian company. In the absence of a double tax treaty, withholding tax at 20% is levied on dividend payments to non-residents. Reference should be made to the section on withholding tax and the individual treaties.

INTEREST DEDUCTIONS

While the Minister of Finance is empowered to prescribe required debt equity ratios for foreign companies, no limit has been set to date. Due to the existence of this power, however, caution should be exercised to ensure debt is not considered equity, with the result that the related interest and borrowing costs are disallowed.

LOSSES

While loss carry backs are not permitted, losses may be carried forward for up to 5 years. The period over which losses are able to be carried forward can be extended by decree from the Minister of Finance.

C. FOREIGN TAX RELIEF

Where an Indonesian resident has foreign branches (or earns other foreign-source income), the income of those branches will be taxable in Indonesia. Where such income has been subject to foreign tax, tax credits will be granted, subject to a maximum of the Indonesian tax payable on the income concerned.

D. CORPORATE GROUPS

The consolidation of returns is not allowed.

E. RELATED PARTY TRANSACTIONS

The revenue authorities will disallow a deduction for excessive/non-arm's length transactions between related parties.

F. WITHHOLDING TAX

Generally, residents are subject to a creditable withholding tax of 15% with any balance being payable or refundable, while non-residents are subject to a final withholding tax of 20%. Withholding taxes are collected when the taxable transaction takes place or payment becomes due. The rates of withholding tax are as follows:

	Residents[1] (%)	Non-residents[1] (%)
Dividends[2]	15	20
Interest	15	20
Royalties	15	20
Prizes and awards	15	20
Rental and other income related to the use of property, other than land/space rental	2	20
Technical, management, consulting, and other services	2	20

Notes:

(1) All percentage rates are on gross amounts unless otherwise noted.

(2) Withholding tax on dividends paid to Indonesian corporate shareholders will be exempt only if the following conditions are met:

(i) The dividend is sourced from retained earnings;

(ii) The recipient holds 25% share or more in the payer.

(3) A 100% withholding tax is imposed, in addition to the applicable tax rate, on individuals and corporations, other than non-tax residents, who do not possess a tax identification number (NPWP).

Note: Effective 1 January 2009, dividends distributed to an individual resident taxpayer are subject to final tax at a maximum rate of 10%.

FINAL WITHHOLDING TAXES

The following transactions are subject to a final withholding tax. These taxes apply to residents and permanent establishments of non-residents.

• Sale of listed shares[1]	0.1% of the gross proceeds
• Additional tax on sale of listed Founder shares; by a founder shareholder[1]	0.5% of the IPO price
• Sale of land or buildings[1]	2.5% of the sales value (final tax for individuals, foundations and corporations). An extra 5% stamp duty for the land and/or building acquisition rights is payable by the purchaser
• Transfer of real estate to a Real Estate Investment Fund (Kontrak Investasi Kolektif (KIK) - Dana Investasi Real Estate (DIRE)	0.5% of the gross proceeds
• Interest or discount on Government CDs and savings deposits and interest or discount on bonds[2]	20% (except for banks and certain approved pension and mutual funds; and loan interest on simple houses)
• Asset revaluation approved by the Tax Office	10% of the difference between the book value and the revalued amount of the assets (unless current year tax losses, which will firstly be applied against the revaluation difference)
• Prizes from lotteries	25% of gross proceeds
• Land and/or building rental (include service charge)	10% of gross proceeds

Notes:

1. These rates also apply to non-residents (subject to the application of a double tax treaty).
2. No withholding tax is payable in respect of savings, deposits or Government CDs with a principal amount up to IDR 7,500,000.

By the issuance of Government Regulation No. 51 dated 20 July 2008, Construction Services are subject to final tax with the following tax rates:

(a) 2% on construction services provided by qualified small enterprises;

(b) 4% on construction services provided by non-qualified enterprises;

(c) 3% on construction services provided by enterprises other than those mentioned in (a) and (b) above;

(d) 4% on construction planning and supervisory services provided by qualified enterprises; and,

(e) 6% on construction planning and supervisory services provided by non-qualified enterprises.

(Note that the above Government Regulation is effective as of 1 January 2008.)

GOVERNMENT REGULATION NO. 23 YEAR 2018 REGARDING 0.5% FINAL TAX

Government Regulation No. 23 Year 2018 (“GR-23”) entered into force on 1 July 2018 replacing GR No. 46 Year 2013 regarding final tax on taxpayers within a certain turnover.

Under GR-23, the final tax rate is reduced from the previous tax rate of 1% to 0.5% applicable to taxpayers with annual gross turnover not exceeding IDR 4.8 billion per annum based on the previous year's activity. However it does not include the following income:

a. Income derived from the delivery of certain freelance services by individuals;

b. Income derived from overseas which is payable or has been taxed in the source country;

c. Income subject to final tax under certain tax regulations; and

d. Income not subjected to tax.

The following taxpayers are also excluded from the application of the 0.5% final tax under the GR-23:

a. Taxpayers who choose to be submitted to the normal tax regime (Article 17 or Article 31E Income Tax);

b. Limited partnerships or firms set up by individuals who have special expertise, i.e. professionals and freelance services;

c. Companies that obtain an Income Tax Allowance or Tax Holiday; and

d. Taxpayers in the form of a permanent establishment.

The final tax should be self-assessed or withheld by the transaction counterpart. For withholding purposes, final-taxed taxpayers should apply to the DGT for a Statement Letter, allowing them to abide by GR-23 and hence to be subject to 0.5% on their gross income.

GR-23 sets the following new limitation periods during which taxpayers can benefit from the final tax regime before they are submitted to the normal tax regime:

a. Seven years for individuals;

b. Four years for cooperatives, limited partnerships, or firms; and

c. Three years for limited liability companies.

The limitation period commences from the tax year since the taxpayer is registered - for those registered after the commencement of GR-23 - and from tax year 2018 - for the taxpayers registered prior to the commencement of GR-23.

WITHHOLDING TAX - ARTICLE 22

Article 22 income tax is typically applicable to the following:

(1) The import of goods. A creditable withholding tax of 2.5% for importers with an import license or 7.5% imposed if the importer does not possess the appropriate import license;

(2) The sale of goods to the government requiring payment from the State Treasury, the State Budget General Directorate, or certain state owned companies. The tax rate applied for these transactions is 1.5% of its selling price; and,

(3) The sale/purchase of steel, cars, cement and paper products. The tax rates are: purchase of steel: 0.30%; automotive products: 0.45%; cement: 0.25%; and paper products: 0.10% of its selling price.

(4) The sale/purchase of high value luxury goods is subject to 5% tax.

An additional 100% withholding tax is imposed on individuals or corporations, other than non-tax residents, who do not possess a NPWP.

G. EXCHANGE CONTROL

While the importation of capital is relatively uninhibited, foreign investment must be approved. Similarly, foreign currency can be transferred essentially free of control although minor reporting requirements do exist. Importantly, repatriation of capital, other than resulting from the sale of existing shares to Indonesians, is prohibited for the period the investor enjoys any tax holiday.

H. PERSONAL TAX

Residents of Indonesia are taxed on their worldwide income. Non-residents are only taxed on income derived from Indonesia. An individual will be a resident of Indonesia if they are present in Indonesia for more than 183 days or reside in Indonesia during a fiscal year and intend to stay in Indonesia. Certain double tax treaties modify the above rules. Individual taxable income is progressively taxed at the following rates:

Taxable Income (IDR)	(IDR)
0 – 50,000,000	0 + 5% on excess
50,000,001 – 250,000,000	2,500,000 + 15% on excess
250,000,001 – 500,000,000	32,500,000 + 25% on excess
Above 500,000,000	95,000,000 + 30% on excess

An additional 20% tax is imposed on individuals, other than non-tax residents, who do not possess an NPWP.

ALLOWABLE DEDUCTIONS

In determining the annual taxable income of an individual, the following may be deducted from gross income:

	(IDR)
Occupational support: 5% of gross income, up to maximum of	6,000,000
Pension: 5% of gross income, up to maximum of	2,400,000
Non-taxable income (effective 1 January 2016):	54,000,000
- For the taxpayer	
- Additional for a married taxpayer	4.500,000
- Additional for each lineal family member related by blood	4,500,000 each

A married female employee is only allowed non-taxable income for herself if she has a certificate from the local authorities that her husband does not work. Non-resident individuals are subject to a final tax of 20% where the payments represent compensation for work performed in Indonesia regardless of where they are paid. Lump sum pension payments and severance pay on individual residents are subject to final tax on the gross amount at the following rates:

Lump Sum Pensions Payments	
Taxable Income	**(IDR)**
0 – 50,000,000	exempt/non-taxable income
Above 50,000,000	5%

Severance pay	
Taxable Income	**(IDR)**
0 – 50,000,000	exempt/non-taxable income
50,000,001 – 100,000,000	5%
100,000,001 – 500,000,000	2,500,000 + 15% on excess
Above 500,000,000	62,500,000 + 25% on excess

However, pension payments made to non-resident individuals are taxed under Article 26 of the Income Tax Law at a rate of 20% on the gross amount. Where home leave or education costs are reimbursed, the amount of the reimbursement is taxable in full at the level of the employee. Note that food and beverages provided at the workplace by an employer to its employees are not subject to tax but deductible for the employer.

SOCIAL SECURITY

Under the government regulations, employers are required to register themselves and their employees for a social security program managed by the social security agency, the so-called BPJS (formerly known as Jamsostek). While the employers must pay a certain portion of the premium contributions, the employees' contributions are normally collected through payroll deductions from their gross regular salaries/wages. Currently, the BPJS premium contributions consist of BPJS Employment Insurance and BPJS Health Insurance as follows:

Description	Borne by employer	Borne by employee
BPJS Employment Insurance		
- Working accident coverage	0.24% up to 1.74%	-
- Death insurance	0.3%	-
- Old age savings	3.7%	2%
BPJS Health Insurance		
- Health care[1]	4%	1%
BPJS Pension		
- Pension[2]	2%	1%

Notes:

1. Maximum calculation base is IDR 8,000,000/month.
2. Maximum calculation base is subject to yearly adjustment based on BPJS regulation.

Note that the requirement of participating in BPJS social security applies to all employees, including expatriates who have been working in Indonesia for more than six months.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Withholding taxes are levied on corporations and individuals, residents and non-residents as follows:

	Dividends (%)		Interest (%)	Royalties (%)
	Individuals, companies (%)	**Qualifying companies (%)**		
Non-treaty countries				
Companies	20	20	20	20
Individuals	20	--	20	20
Treaty countries:				
Algeria	15	15	15	15
Armenia	15	10[1]	10	10
Australia	15	15	10	10/15[10]
Austria	15	10[2]	10	10
Bangladesh	15	10[3]	10	10
Belgium	15	10[1]	10	10
Belarus	10	10	10	10
Brunei	15	15	15	15
Bulgaria	15	15	10	10
Canada	15	10[1]	10	10
China	10	10	10	10
Croatia	10	10	10	10
Czech Republic	15	10[4]	12.5	12.5
Denmark	20	10[2]	10	15

Egypt	15	15	15	15
Finland	15	10[1]	10	10/15[11]
France	15	10[2]	10/15[9]	10
Germany	15	10[2]	10	7.5/10/15[12]
Hong Kong	10	5[1]	10	5
Hungary	15	15	15	15
India	10	10	10	10
Iran	7	7	10	12
Italy	15	10[1]	10	10/15[13]
Japan	15	10[5]	10	10
Jordan	10	10	10	10
Korea (Rep.)	15	10[1]	10	15
Korea (Dem. People's Rep.)	10	10	10	10
Kuwait	10	10	5	20
Laos	15	10[3]	10	10
Luxembourg	15	10[1]	10	12.5
Malaysia	10	10	10	10
Mexico	10	10	10	10
Mongolia	10	10	10	10
Morocco	10	10	10	10
Netherlands	10	10	10	10
New Zealand	15	15	10	15
Norway	15	15	10	10/15[14]
Pakistan	15	10[2]	15	15
Papua New Guinea	15	15	10	10
Philippines	20	15[1]	15	15
Poland	15	10[4]	10	15
Portugal	10	10	10	10
Qatar	10	10	10	5
Romania	15	12.5[1]	12.5	12.5/15[15]
Russia	15	15	15	15
Serbia	15	15	10	15
Seychelles	10	10	10	10
Singapore	15	10[2]	10	15
Slovak Republic	10	10	10	10/15[16]
South Africa	15	10[3]	10	10
Spain	15	10[1]	10	10
Sri Lanka	15	15	15	15
Sudan	10	10	15	10
Suriname	15	15	15	15

	Dividends (%)		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
Sweden	15	10[1]	10	10/15[17]
Switzerland	15	10[1]	10	10
Syria	10	10	10	15/20[18]
Taiwan	10	10	10	10
Thailand	15/20[6]	15/20[6]	15	15
Tunisia	12	12	12	15
Turkey	15	10[1]	10	10
Ukraine	15	10[4]	10	10
United Arab Emirates	10	10	5	5
United Kingdom	15	10[7]	10	10/15[19]
United States	15	10[8]	10	10
Uzbekistan	10	10	10	10
Venezuela	15	10[3]	10	20
Vietnam	15	15	15	15

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Notes:

1. The reduced 10% rate applies if the beneficial owner is a company which holds directly at least 25% of the equity capital of the paying company.
2. The reduced 10% rate applies if the recipient is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
3. The reduced 10% rate applies if the beneficial owner is a company which holds (directly) at least 10% of the capital of the paying company.
4. The reduced 10% rate applies if the beneficial owner is a company which holds directly at least 20% of the capital of the paying company.
5. The reduced 10% rate applies if the beneficial owner is a company which owns at least 25% of the voting shares of the paying company during the period of 12 months immediately before the end of the accounting period for which the distribution of profits takes place.
6. 15% if the paying company engages in an industrial undertaking and 20% in other cases.
7. The reduced 10% rate applies if the beneficial owner is a company which controls, directly or indirectly, at least 15% of the voting power of the paying company.
8. The reduced 10% rate applies if the beneficial owner is a company that owns directly at least 25% of the voting stock of the paying company.
9. The reduced 10% rate applies if interest is paid by a bank, a financial institution or by an enterprise the activities of which are mainly carried on in the fields of agriculture, plantation, forestry, fishery, mining, manufacturing, industries, transportation, low cost housing projects, tourism and infrastructure and for interest paid to a bank or to another enterprise.
10. The reduced 10% rate applies to royalties for (i) the use of, or the right to use, any industrial, commercial or scientific equipment (ii) the supply of scientific, technical, industrial or commercial knowledge or information (iii) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the initial application of any such equipment mentioned in (i) or any such knowledge or information mentioned in (ii). The 10% rate also applies to total or partial forbearance in respect of the use or supply of any property or right considered as royalties in the treaty. The 15% rate applies in all other cases.
11. The 10% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting.
12. The 10% rate applies to royalties for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience. The 7.5% rate applies to fees for technical services. The 15% rate applies in all other cases.

13. The 10% rate applies to royalties in respect of payments of any kind received as a consideration for the use of, or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience. The 15% rate applies in all other cases.
14. The 15% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes for radio or television broadcasting. The 10% rate applies to royalties for any patent, trade mark, design or model, plan, secret formula or process, and for the use of or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.
15. The 12.5% rate applies to royalties for the use of, or the right to use, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, or for the use of, or the right to use, industrial, commercial or scientific equipment, cinematograph films or tapes for television or broadcasting. The 15% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work.
16. The reduced 10% rate applies to royalties for the use of, or the right to use any copyright of motion picture films or films or video for use in connection with television or tapes for use in connection with radio broadcasting or total or partial forbearance in respect of the use or supply or any property or right considered as royalties in the treaty.
17. The 10% rate applies to royalties for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience. The 15% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process.
18. The 15% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or tapes for television or radio broadcasting. The 20% rate applies to royalties for the use, or the right to use, any patent, trade mark, design or model, plan, or any industrial or scientific equipment, or for information concerning industrial or scientific experience.
19. The 10% rate applies to royalties for the use of, or the right to use, any industrial, commercial or scientific equipment. The 15% rate applies to royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films, and films or tapes for radio or television broadcasting, or any patent, know-how, trade mark, design or model, plan, secret formula or process.

JAPAN

MEMBER FIRMS

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BASIC FACTS

Full name:	Japan
Capital:	Tokyo
Main languages:	Japanese
Population:	127 million (2019 estimate)
Monetary unit:	Japanese Yen (JPY)
Internet domain:	.jp
Int. dialling code:	+81

KEY TAX POINTS

- Domestic corporations, whose head or main office is located in Japan are subject to tax on their worldwide income.
- Foreign corporations are subject to either corporation tax or final withholding tax on Japanese source income (including income relating to the exploration for oil in the continental shelf) depending on the type of income and the extent of the foreign corporation's activities in Japan.
- Vendors are liable for a consumption tax (value added tax) of 8% of sales, including imports of goods and services (10% from 1 October 2019).
- Relief of double taxation is available for foreign taxes on certain foreign-sourced income.
- Under the consolidated tax regime, an affiliated group of companies (a 'Consolidated Group') can report and pay national corporate income tax as one unit.
- All transactions between related companies are required to be conducted on an arm's length basis within the meaning of an 'arm's length price' depending upon the transaction.
- Domestic corporations are subject to withholding tax on dividends, interest and certain other income. Foreign corporations are subject to withholding tax on dividends, interest, royalties, income from immovable property, rentals from industrial or commercial equipment, and certain other income.
- Non-resident taxpayers are taxed only on their Japanese source income. Non-permanent resident taxpayers are taxed on income other than foreign-sourced income defined under Japanese income tax law plus that part of foreign-sourced income that is paid in and/or remitted to Japan. A permanent resident taxpayer is taxed on his worldwide income.

A. TAXES PAYABLE

COMPANY TAX

Domestic corporations are those whose head or main office is located in Japan. Companies incorporated in Japan under the Corporate Law or under other special laws are required to locate their head office in Japan. Such domestic corporations are subject to tax on their worldwide income. Foreign corporations are all corporations which are not domestic corporations. A corporation having its head or main office outside Japan is a foreign corporation even if its business operations are in Japan. Foreign corporations are subject to corporation tax on Japanese source income, including income relating to the exploration for oil in the continental shelf. Foreign corporations are subject to either corporation tax or final withholding tax on Japanese source income, depending on the type of income and the extent of the foreign corporation's activities in Japan.

The rate of national tax for Japanese corporations is 23.2% unless the paid-in capital of the corporation is JPY 100 million or less, in which case the first JPY 8 million of income is only taxed at 19% (this rate is temporarily decreased to 15%). From 1 October 2019, a part of inhabitant tax (local tax) will be further moved to the national tax regime as ‘local corporate tax’ at a rate of 10.2%. Tax is imposed on a current year basis. The tax year adopted is generally the one specified in a company's constituent documents with a standard year being a calendar year. However, it should be noted that other periods are also allowed, including periods of 12 months or less. Japanese branches of foreign corporations are required to adopt the accounting period used by their foreign head office. Final tax is payable when lodging the final corporation tax return, usually required within two months of the end of the accounting period. Extensions of time to lodge can be sought although interest at 7.3% or less is payable where such an extension is obtained.

Interim tax returns and payments are required if a corporation has a fiscal period longer than six months. Ordinarily, provisional taxes are computed as one half of the tax liability of the previous year but a reduction is available where the interim tax returns are filed to reflect bi-annual results of operations for the current year.

BLUE RETURN FILERS

Preferential tax treatment is given to companies who file ‘Blue Returns’. A company which undertakes to maintain specified bookkeeping records and documentation and gains approval from the Director of the District Tax Office can file a Blue Return, the associated benefits of which are as follows.

- Tax losses may be carried forward for ten years (however, for large scale companies the use of the losses is restricted to 50% of taxable income for fiscal years beginning on or after 1 April 2018 and thereafter) or carried back to the previous year (temporarily suspended except for companies with paid-in capital of JPY 100 million or less (except for a subsidiary of a large scale company).

- The revenue authorities cannot seek to adjust taxable income without a physical review of the books and records of the company and must state the reason for such an adjustment.
- Allowance of reserves, special depreciation and tax credits as stipulated in the Special Taxation Measures Law.

Importantly, a new company must seek registration for Blue Form returns within the earlier of three months from incorporation or the end of the initial accounting period.

CONSUMPTION TAX (JCT)

Vendors are liable for a consumption tax (JCT) of 8% (10% from 1 October 2019) of sales, including imports of goods and services. Only a limited number of goods and services are zero rated. Exemptions apply to leases of land, education and medical treatment. Exports and certain specific services invoiced to non-residents are zero rated.

LOCAL TAXES

INHABITANT TAX

Inhabitants Taxes are local prefectural and municipal taxes. These taxes are computed as a percentage of the corporation tax before tax credits. From 1 October 2014, a part of inhabitant tax has been moved to national tax regime as 'local corporate tax'. Each prefecture and municipality may elect an Inhabitants Tax rate within the range shown below:

	Rates (for fiscal years beginning up to September 2019)	**Rates (for fiscal years beginning as from October 2019)**
Prefecture	3.2% to 4.2%	1% to 2%
Municipality	9.7% to 12.1%	6% to 8.4%
Tokyo Metropolitan (combined)	12.9% to 16.3%	7% to 10.4%

In addition to the above, local governments charge a per capita levy on inhabitants with standard rates that vary from JPY 70,000 to JPY 3,800,000 depending upon the amount of the paid-in capital and the number of employees.

ENTERPRISE TAX

Prefectures can elect to levy an Enterprise Tax. The tax base is business income and liquidation income as computed for corporation tax purposes, with certain adjustments such as the exclusion of income from a business carried on in a foreign country. Enterprise Tax paid over the year is deductible in computing taxable income for corporation and Enterprise Tax purposes.

Size-based taxation was introduced and this taxation is applied only to large corporations with paid-in capital of more than JPY 100 million. For such large corporations, Enterprise Tax consists of the traditional Enterprise Tax levied based on the taxable income as well as Enterprise Tax levied based on the capital etc. (i.e. paid-in capital and capital surplus), and Enterprise Tax levied based on value added (i.e. wages, interest and rental expenses etc.). Tax rates vary depending on whether or not the corporation is a large corporation with paid-in capital of more than JPY 100 million (i.e. whether it is subject to size-based taxation or nor) and depending on the prefecture:

Taxable periods beginning on or after 1 October 2019

	Standard (%)	**Tokyo (%)**	**Local Corporate Special Tax**
(1) Company whose paid-in capital is JPY 100 million or less			
Taxable Income:			

First JPY 4,000,000 per annum	3.4	3.65	(Taxable Income*Tax rate)*81%
Next JPY 4,000,000 to JPY 8,000,000 per annum	5.1	5.465	
Above JPY 8,000,000 per annum	6.7	7.18	
(2) Company whose paid-in capital is more than JPY 100 million			
(a) Income base (taxable income):			
First JPY 4,000,000 per annum	0.3	0.395	(Taxable Income*Tax rate)*414.2%
Next JPY 4,000,000 to JPY 8,000,000 per annum	0.5	0.635	
Above JPY 8,000,000 per annum	0.7	0.88	
(b) Added value base:			
The sum of wages, net interest expense and net rental expense	1.2	1.26	
(c) Capital base:			
The sum of paid-in capital and capital surplus	0.5	0.525	

OTHER TAXES

FAMILY HOLDING COMPANY SURTAX

Family holding companies are liable for surtax on earnings not distributed in excess of specified limits at the following rates:

Excess Income	Rates
First JPY 30,000,000 per annum	10%
Next JPY 70,000,000 per annum	15%
Over JPY 100,000,000 per annum	20%

A Japanese company in which more than 50% of the shares are held by the first shareholder's group is a family holding company and is subject to the surtax, subject to certain other conditions. A family holding company with paid-in capital of JPY 100 million or less (when its 100% parent company's stated capital is JPY 500 million or more, 'Intra-group transaction taxation' takes away this benefit) whose net equity for tax purposes is less than certain threshold is not subject to this special corporate surtax.

BUSINESS OFFICE TAX

Companies whose business premises exceed 1,000 square meters and/or employ in excess of 100 employees in designated cities are subject to a tax on business activity based on space or gross payroll respectively. It is within the discretion of the city authorities whether or not to charge the tax. Additions can be made to the list of designated cities for the purpose of this tax but the city must have a population of at least 300,000. The tax is imposed on:

a) Construction or extension of business premises (a one-time payment due from the owner of the building);

b) Ongoing businesses.

The rate of tax is JPY 600 per square meter of floor space in business use plus 0.25% of the total remuneration paid to employees.

FIXED ASSETS TAX

Real property and tangible depreciable fixed assets are subject to a fixed assets tax at the standard rate of 1.4% (1.7% for real property in specified large cities).

TOTAL EFFECTIVE TAX RATE

By way of example of how the major taxes interrelate and accumulate, set out below is a sample effective tax rate calculation for a Japanese or foreign corporation having paid-in capital of more than JPY 100 million.

	Rate (%) (from April 2018)
Effective tax rate	29.74% - 30.62%

Note: Enterprise Tax is deductible for corporation tax purposes for the period in which it is paid. Also, Enterprise tax capital basis and value added basis will be separately imposed.

B. DETERMINATION OF TAXABLE INCOME

Income is ordinarily determined in accordance with generally accepted accounting principles, with certain adjustments made to comply with tax law. Income and expenses are recorded on an accrual basis, with deductions from gross income for all reasonable expenses, costs and losses. Several restrictions under tax law may apply to the deduction of losses or expenses (e.g. entertainment expenses).

DEPRECIATION

Depreciation is allowed in respect of all tangible assets, other than land and specified intangible assets. Depreciation on tangible assets is calculated using the straight-line or declining-balance method at the option of the taxpayer. However, for buildings, equipment attached to buildings, and structures, only the straight-line method should be used. Intangible assets are generally amortised on a straight-line basis.

Legislation specifies the period over which assets are to be depreciated and the rates for both the straight-line and declining-balance methods. Minor assets that cost less than JPY 100,000 are deductible as an expense during the year. In addition to ordinary depreciation, special depreciation in the form of increased initial depreciation and accelerated depreciation is available in certain cases.

STOCK / INVENTORY

Inventory valuation methods acceptable for tax include an item's individual cost, FIFO, moving or straight average, most recent purchase, retail and lower of cost or market. Importantly, the tax treatment must replicate that adopted for the statutory accounts.

LOSSES

Corporations filing a ‘Blue Return’ are eligible for loss carry-over treatment. In general, losses may be carried forward ten years (however, for large scale companies, use of the losses is restricted to 50%) of taxable income for each year. The carry-back provisions have been suspended for accounting periods ending after 1 April 1992. However, a Blue Return status corporation with paid-up capital of JPY 100 million or less (except for a subsidiary of a large-scale company) can carry back a net loss incurred in a business year to the previous year.

FOREIGN SOURCE INCOME

Japanese corporations are taxable on their worldwide income as and when earned. However, corporations are generally entitled to claim tax credits against corporation and Inhabitants Tax for foreign income taxes paid (direct credit). For subsidiaries in low or zero tax countries or jurisdictions where profits are not distributed, such profits are taxed at the level of the Japanese parent on an accruals basis by application of Japanese Controlled Foreign Company (CFC) rules, with any associated foreign tax credits being available.

OVERSEAS INVESTMENT

Japanese corporations investing in certain companies involved with developing countries or in prospecting for or developing natural resources may be able to establish a tax deductible reserve of 30% or 90% of the amount invested. After the reserve has been maintained for five successive years, the amount of the reserve multiplied by the number of months of the business year, divided by 60, must be restored to taxable income in succeeding years following the year of reserve accrual.

TAX CREDIT INCENTIVES – CAPITAL INVESTMENT

Corporate tax credits of 7% of the acquisition cost are available on designated energy efficient machinery and equipment acquired by small to medium sized corporations. However, the total credit available is limited to 20% of the corporate tax. The credit was only applied to qualifying capital equipment acquired by 31 March 2016.

[Several tax credits to encourage investment, R&D or salary increases etc. are available under tax law. To claim these tax credits, taxpayers need to meet certain conditions which are set for the respective credits.]

C. FOREIGN TAX RELIEF

Relief for double taxation could be available for foreign taxes imposed on certain foreign-sourced income. Where a tax treaty exists, the foreign tax might be reduced or exempted depending on the nature of the foreign-sourced income. Also, domestic tax legislation allows for a foreign tax credit or its deduction from taxable income. Under domestic law, foreign taxes not eligible for foreign tax credits are deductible.

Notwithstanding the above, 95% of dividend income from certain subsidiaries outside of Japan are excluded from the recipient’s taxable income instead of a tax credit being applied.

A foreign tax credit or exclusion of a dividend distributed by a foreign subsidiary at the level of the Japanese recipient’s income can be applied irrespective of whether there is a double tax treaty between Japan and the jurisdiction where the foreign-sourced income arose, subject to certain conditions under domestic tax law.

D. CORPORATE GROUPS

The Japanese consolidated tax regime (a part of the corporate tax reform act for the year 2002) was enacted on 1 August 2002.

Under the consolidated tax regime, an affiliated group of companies (a ‘Consolidated Group’) can report and pay national corporate income tax as one unit. For these purposes, a Consolidated Group means a Japanese parent company and its 100% directly or indirectly owned Japanese subsidiaries. An application for consolidated filing is at the taxpayers' choice but, if made, must include all of the parent's eligible subsidiaries. Once started, consolidated filing should in principle continue indefinitely, unless a specific event (such as change of ownership) causes the qualifying conditions for consolidated filing to be failed, or an application to discontinue is approved by the Commissioner of National Tax Administrative Agency.

The group's national corporate income tax liability will be computed on a consolidated basis by aggregating the separate taxable income or loss of the member companies, and then making various consolidation adjustments. The consolidated national corporate income tax liability will then be determined by applying the normal corporate income tax rate to the consolidated taxable income, adjusted for consolidated tax credits. The total liabilities will then be allocated among the members. The parent company will file the consolidated return and pay the national corporate income tax on behalf of the group, although the member companies remain jointly and severally liable for the Consolidated Group's national corporate income tax liability. Local corporate income taxes levied on member companies will continue to be paid on an individual basis although the amount payable will be affected by the existence of the consolidation.

The consolidation tax regime provides for certain benefits such as the deduction of losses of individual member companies from the total income of the Consolidated Group (for national corporate income tax purposes only); deferral of gains on intra-group transfers of certain assets; and non-taxability of the dividends received from other member companies (regardless of the interest expense attributable to the dividend income). On the other hand, some features of the consolidated tax regime may result in an unpredictable tax burden on the introduction of tax consolidation or when a company joins the Consolidated Group in the future, thus putting some restrictions on future M&A (mergers and acquisitions) activity by the group. Therefore, understanding these issues will become very important for tax professionals and taxpayers when considering an application for consolidation.

A company with registered capital of JPY 100 million or less can avail of various preferential tax treatments (for example, reduced tax rate for first JPY 8 million of income, one year loss carry-back). However, ‘Intra-group transaction taxation’ takes away such tax benefits when its 100% parent company’s stated capital is JPY 500 million or more.

E. RELATED PARTY TRANSACTIONS

All transactions between related companies are required to be conducted on an arm's length basis with the meaning of ‘arm's length price’ depending upon the transaction. Any difference arising between the price of the actual transaction and that regarded as the arm's length price is taxable or not deductible as applicable. The transactions covered by the provisions include the purchase and sale of inventory, the provision of services and financial facilities such as the making of loans and guarantee facilities.

F. WITHHOLDING TAX

Domestic corporations are generally subject to 20.42% withholding tax on dividends and interest and certain other income. Foreign corporations are subject to withholding tax (generally at the rate of 20.42%) on dividends, interest, royalties, income from immovable property, rentals from industrial or commercial equipment and certain other income. This tax may generally be taken as a credit against the ultimate tax liability of the recipient. It should be noted that where the foreign corporation has a permanent establishment in Japan, certain types of income (for example, rent and royalties) are exempt from withholding tax if taxed together with income from Japanese business income. As indicated, the tax may generally be taken as a credit against the ultimate tax liability of the recipient.

G. PERSONAL TAX

While similarities between the taxation of companies and individuals do exist in Japan, the above refers largely to companies. Accordingly, outlined below are the basic rules and rates applicable to individuals. Given the complexity of this area, it is necessary to stress the need to seek professional advice. Non-resident taxpayers are taxed only on their Japanese source income. Non-permanent resident taxpayers are taxed on income other than foreign-sourced income plus the part of foreign-sourced income that is paid in and/or remitted to Japan. A permanent resident taxpayer is taxed on his worldwide income.

Individuals are generally classified on the following basis:

Status / Period of Residence	Classification
Does not have domicile in Japan	Non-resident
Has domicile in Japan and lived there up to 60 months	Non-permanent resident
Has domicile in Japan and lived there more than 60 months	Permanent resident

National individual tax:

Taxable income (JPY)	Rate	Deduction (JPY)
0 - 1,950,000	5%	---
1,950,000 - 3,300,000	10%	97,500
3,300,000 - 6,950,000	20%	427,500
6,950,000 - 9,000,000	23%	636,000
9,000,000 - 18,000,000	33%	1,536,000
18,000,000 - 40,000,000	40%	2,796,000
Above 40,000,000	45%	4,796,000

Calculation: Taxable income × tax rate – deduction = national tax.

A surcharge of 2.1% of the national personal tax liability has been added to the national personal tax rate for 25 years from January 2013. Retirement income, interest and timber income are each taxed separately from other income.

In addition to the national tax, inhabitant local tax at 10% should be also imposed on the income if the individual resides in Japan.

H. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends			
	Individuals, companies (%)	Qualifying companies (%)	Interest (%)	Royalties (%)
Non-treaty countries				
Companies	15/20[26]	15/20[26]	0/15/20	20
Individuals	15/20	--	0/15/20	20
Treaty countries:				
Australia	10	0/5[1]	0/10	5

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
Austria	20	10[2]	10	10
Bangladesh	15	10[3]	10	10
Belgium	15	10[4]	10	10
Brazil	12.5	12.5	12.5	12.5/15/25
Brunei	10	5[5]	10	10
Bulgaria	15	10[3]	10	10
Canada	15	5[6]	10	10
Chile	15	0/5[7]	4/10	2/10
China	10	10	10	10
Czech Republic	15	10[4]	10	0/10
Denmark	15	10[8]	10	10
Egypt	15	15	–[21]	15
Fiji	–[21]	–[21]	–[21]	10
Finland	15	10[3]	10	10
France	10	0/5[9]	0/10	0
Germany	15	0/5[10]	0	0
Hong Kong	10	5[5]	10	5
Hungary	10	10	10	0/10
India	10	10	10	10
Indonesia	15	10[8]	10	10
Ireland	15	10[4]	10	10
Israel	15	5[6]	10	10
Italy	15	10[3]	10	10
Kazakhstan	15	5[5]	10	5
Korea	15	5[6]	10	10
Kuwait	10	5[5]	10	10
Luxembourg	15	5[6]	10	10
Malaysia	15	5[6]	10	10
Mexico	15	0/5[11]	10/15	10
Netherlands	10	0/5[12]	0/10	0
New Zealand	15	0[13]	0/10	5
Norway	15	5[6]	10	10
Oman	10	5[5]	0/10	10
Pakistan	10	5/7.5[14]	10	10
Philippines	15	10[15]	10	10/15
Poland	10	10	10	0/10
Portugal	10	5[16]	5/10	5

Qatar	10	5[17]	0/10	5
Romania	10	10	10	10/15
Saudi Arabia	10	5[18]	0/10	5/10
Singapore	15	5[6]	0/10	10
Slovak Republic	15	10[4]	10	0/10
Slovenia	5/10	5/10	0/5	5
South Africa	15	5[6]	10	10
Spain	15	10[19]	10	10
Sri Lanka	20	20	–[21]	0/10
Sweden	10	0[20]	0/10	0
Switzerland	10	0/5[12]	0/10	0
Taiwan	10	10	10	10
Thailand	–[21]	15/20[22]	10/25	15
Turkey	15	10[3]	10/15	10
United Arab Emirates	10	5[5]	10	10
United Kingdom	10	0[23]	0/10	0
United States	10	0/5[24]	0/10	0
USSR[25]	15	15	10	0/10
Vietnam	10	10	10	10
Zambia	0	0	10	10

Notes:

1. The 5% rate applies if the beneficial owner is a company which owns directly shares representing at least 10% of the voting power of the paying company. The 0% rate applies to dividends paid to a company that has owned directly shares representing at least 80% of the voting power of the company paying the dividends for the 12 month period ending on the date on which entitlement to the dividends is determined and the company that is the beneficial owner of the dividends (i) is a qualified publicly traded company or (ii) at least 50% of the aggregate vote and value of its shares is owned directly or indirectly by five or fewer such qualified publicly traded companies or (iii) has received a determination of entitlement to the treaty benefits.
2. The 10% rate applies if the recipient is a corporation which holds or owns more than 50% of the entire share capital of the paying company during a period of 12 months immediately before the end of the accounting period for which the distribution of profits takes place.
3. The 10% rate applies if the beneficial owner is a company which owns at least 25% of the voting shares of the paying company during the period of 6 months immediately before the end of the accounting period for which the distribution of profits takes place.
4. The 10% rate applies if the recipient is a company which owns at least 25% of the voting shares of the paying company during the period of 6 months immediately preceding the date when the dividends become payable.
5. The 5% rate applies if the beneficial owner is a company that has owned directly or indirectly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 10% of the voting shares of the paying company.
6. The 5% rate applies if the beneficial owner is a company which owns at least 25% of the voting shares of the paying company throughout the period of 6 months immediately before the end of the accounting period for which the distribution of profits takes place.
7. The 5% rate applies if the beneficial owner is a company that has owned directly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 25% of the voting power in the paying company. The 0% rate applies if the beneficial owner is a pension fund provided that the dividends are not derived from the carrying on of a business by such pension fund or through an associated enterprise.
8. The 10% rate applies if the beneficial owner is a company which owns at least 25% of the voting shares of the paying company during the period of 12 months immediately before the end of the accounting period for which the distribution of profits takes place.

9. The 5% rate applies if the beneficial owner is a company which holds during the period of 6 months immediately before the end of the accounting period for which the distribution takes place directly at least 15% of the voting rights in the paying company. The 0% rate applies if the beneficial owner is a company which is a French qualified resident and which has held during the period of 6 months immediately before the end of the accounting period with respect to which the profits distribution takes place directly at least 15% of the voting rights in the paying company. The term qualified resident refers to (i) a company quoted on the French Stock Exchange or (ii) more than 50% of the capital of the company is held directly or indirectly by, among others, the French State, its local authorities or public legal persons.
10. The 5% rate applies if the beneficial owner is a company that has owned directly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 10% of the voting shares of the paying company. The 0% rate applies if the beneficial owner is a company (other than a partnership) that has owned directly, for the period of 18 months ending on the date on which entitlement to the dividends is determined, at least 25% of the voting shares of the paying company.
11. The 5% rate applies if the beneficial owner is a company which owns at least 25% of the voting shares issued by the paying company during the period of 6 months immediately before the end of the accounting period for which the profits distribution takes place. The 0% rate applies if the recipient is a company which holds at least 25% of the voting shares issued by the paying company during the period of 6 months immediately before the end of the accounting period for which the profits distribution takes place and satisfies on the date of payment the following conditions: (i) the recipient's shares are traded on the Mexican Stock Exchange and (ii) more than 50% of the total shares is owned by, among others, the Mexican Government, its political subdivisions or local authorities.
12. The 5% rate applies if the beneficial owner is a company that has owned, directly or indirectly, shares representing at least 10% of the voting power of the paying company for the period of 6 months ending on the date on which entitlement to the dividends is determined. The 0% rate applies if the beneficial owner is (i) a company that has owned, directly or indirectly, shares representing at least 50% of the voting power of the paying company for the period of 6 months ending on the date on which entitlement to the dividends is determined or (ii) a pension fund, provided that the dividends are not derived from the carrying on of a business, directly or indirectly, by such pension fund.
13. The 0% rate applies if the beneficial owner is a company that has owned directly or indirectly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 10% of the voting power of the paying company and the beneficial owner of the dividends (i) is a qualified publicly traded company or (ii) at least 50% of the aggregate voting power is owned directly or indirectly by five or fewer such qualified publicly traded companies or (iii) is granted benefits to the dividends.
14. The 5% rate applies if the beneficial owner is a company that has owned directly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 50% of the voting shares of the paying company. The 7.5% rate applies if the beneficial owner is a company that has owned directly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 25% of the voting shares of the paying company.
15. The 10% rate applies if the beneficial owner is a company which holds directly at least 10% either of the voting shares of the paying company or of the total shares issued by that company during the period of 6 months immediately preceding the date of payment of the dividends.
16. The 5% rate applies if the beneficial owner is a company (other than a partnership) that has owned directly for the period of 12 months ending on the date on which entitlement to the dividends is determined, at least 10% of the voting shares of the paying company.
17. The 5% rate applies if the beneficial owner is a company that has owned directly or indirectly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 10% of the voting power or of the total issued shares of the paying company.
18. The 5% rate applies if the beneficial owner is a company which holds directly or indirectly, during the period of 183 days ending on the date on which entitlement to the dividends is determined, at least 10% of the voting shares or of the total issued shares of the paying company.
19. The 10% rate applies if the recipient is a company which holds directly at least 25% of the voting shares of the paying company during the period of 6 months immediately before the end of the accounting period for which the distribution of profits takes place.
20. The 0% rate applies if the beneficial owner is a company (other than a partnership) that has held, directly or indirectly, at least 10% of the voting power of the paying company for the period of 6 months ending on the date on which entitlement to the dividends is determined.
21. No reduction under the tax treaty, the domestic rate applies.
22. The 15% rate applies in case the dividends are paid by a company engaged in an industrial undertaking and if the beneficial owner is a company which owns at least 25% of the voting shares of the paying company during the period of 6 months immediately before the end of the accounting period for which the profits distribution takes place. The 20% rate applies in all other cases.
23. The 0% rate applies if the beneficial owner is a company that has owned, directly or indirectly, shares representing at least 10% of the voting power of the paying company for the period of 6 months ending on the

date on which entitlement to the dividends is determined or is a pension fund or pension scheme, provided that such dividends are not derived from the carrying on of a business, directly or indirectly, by such pension fund or pension scheme.

24. The 5% rate applies if the beneficial owner is a company that owns directly or indirectly, on the date on which entitlement to the dividends is determined, at least 10% of the voting stock of the paying company. The 0% rate applies if the beneficial owner of the dividends is either (i) a company that has owned, directly or indirectly through one or more residents of either state, more than 50% of the voting stock of the paying company for the period of 12 months ending on the date on which entitlement to the dividends is determined, and that satisfies various requirements on the ownership of its shares, or has received a determination of entitlement to the treaty benefits or (ii) a pension fund, provided that such dividends are not derived from the carrying on of a business, directly or indirectly, by such pension fund.
25. Japan continues to apply the treaty with the former USSR in its relations with Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

Dividends paid by resident companies to non-resident companies are subject to a 20% withholding tax. A reduced 15% rate applies to dividends from certain listed shares.

MALAYSIA

MEMBER FIRM

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BASIC FACTS

Full name:	Federation of Malaysia
Capital:	Kuala Lumpur
Main languages:	Malay (official), English, Chinese
Population:	32.38 million (2019 estimate)
Monetary unit:	1 Malaysia Ringgit (MYR) = 100 Sen
Internet domain:	.my
Int. dialling code:	+60

KEY TAX POINTS

- Taxable income of companies is generally subject to corporate tax at the rate of 24%. To simplify and ease the administrative burden under the previous tax imputation system, a single-tier tax system has been introduced with effect from Year of Assessment (YA) 2008. Under this new system, income tax imposed on a company's chargeable income is a final tax and dividends distributed are exempted from tax in the hands of the shareholders.
- Companies with credit balances which do not elect to switch over to the single-tier system were allowed to use the credit balances for the purpose of dividend distribution during a transitional period of six years until 31 December 2013, or until the credit balances are reduced to zero.
- Income tax in Malaysia is imposed only on income. Capital gains are not taxed, except those arising from transactions in real property or shares in Real Property Companies.
- A resident is taxed on income accrued in or derived from Malaysia. However, a resident company carrying on a business of banking, insurance or sea or air transport is also taxed on income derived from outside Malaysia and received in Malaysia.
- Tax incentives are given for Malaysian resident companies carrying on certain favoured activities including energy conservation services and the managing of Islamic funds.

- All manufacturers (including contractors) and importers are subject to sales tax. The basic rate of 10% applies to all goods not specifically exempted or taxed under a reduced (5%) or increased (15%) rate. Sales tax has been abolished and replaced by Goods and Services Tax (GST) with effect from 1 April 2015. However, GST has been repealed and Sales tax has come into effect again on 1 September 2018.
- Service tax is levied on prescribed goods and services provided by certain businesses, including hotels, restaurants, legal, accounting and insurance businesses. Service tax has been abolished and replaced by GST with effect from 1 April 2015. However, GST has been repealed and Service tax has come into effect again on 1 September 2018.
- With effect from 1 January 2008, under the single-tier system all dividends distributed by the company are exempted from tax in the hands of shareholders at all levels.
- Resident companies within a group of companies may enjoy group relief incentive. Up to 70% of the adjusted loss may be surrendered to companies within the group.
- Under Section 140A of the Income Tax Act 1967 (the Act), the Director General of Inland Revenue (DGIR) is empowered to make adjustments based on arm's length principle as set out under the Malaysian Transfer Pricing Guidelines revised in July 2017 on the transfer prices in relation to related party transactions.
- With effect from 1 January 2019, Earning Stripping Rules (ESR) have been introduced in Malaysia to be in line with BEPS Action 4: Limiting Base Erosion Involving Interest Deductions and Other Financial Payments to address base erosion and profit shifting by way of interest.
- There is no withholding tax on dividends paid by Malaysian resident companies. There is withholding tax on payments of interest, royalties and technical fees made to non-residents, although there are exemptions for certain types of interest payment.

A. TAXES PAYABLE

Malaysian taxation is territorial in scope, whereby income derived from sources in Malaysia is subject to tax. With effect from the YA 2004, income received in Malaysia by any person other than a resident company carrying on the business of banking, insurance, sea or air transport derived from sources outside Malaysia is exempted from tax.

Malaysia currently adopts a Self-Assessment tax regime (SAS) whereby taxpayers have the responsibility to assess the extent of their tax liability and bear the onus of disclosure and representation of information. Under the SAS, the tax authorities will conduct tax audits on taxpayers to ensure proper compliance in respect of returns submitted, failing which penalties will be imposed on tax adjustments made.

CORPORATE TAX

Resident and non-resident companies in Malaysia are generally subject to corporate tax at the rate of 24% with effect from YA 2016. However, if a resident company meets the requirements of a small and medium enterprise (SME), it will enjoy a lower tax rate for its first MYR 500,000 of its chargeable income. With effect from YA 2019, the income tax rate on the first MYR 500,000 of chargeable income is reduced by 1% from 18% to 17%. Please refer to the summary of tax rates as set out below:

	Corporate Tax Rates YA 2017 and YA 2018	**Corporate Tax Rates YA 2019**
SMEs** (resident company*):		
- First MYR 500,000 of chargeable income	18%	17%
- Chargeable income > MYR 500,000	24%	24%
Non-SMEs and non-resident companies	24%	24%

A company is tax resident in Malaysia if the management and control is exercised in Malaysia. Management and control is normally considered to be exercised at the place where directors' meetings are held.

** To qualify as a SME, the paid up capital of the resident company in respect of ordinary shares must be not more than MYR 2.5 million at the beginning of the basis period; and is not part of a group of companies where any of its related companies has a paid up capital in ordinary shares of more than MYR 2.5 million at the beginning of the basis period.

For YA 2017 and YA 2018, the tax rate for resident companies will be given a reduction in the income tax rate on the incremental chargeable income compared to the immediate preceding YA, based on the percentage of increase in chargeable income as provided below:

% of increase in chargeable income compared to the immediate preceding YA	% point reduction on income tax rate	Reduced income tax rate on increase in chargeable income (%)
Less than 5%	Nil	24
5% - 9.99%	1	23
10% - 14.99%	2	22
15% - 19.99%	3	21
20% and above	4	20

Under the SAS, every company is required to provide an estimate of its tax payable for a YA, 30 days before the beginning of the basis period. The estimate submitted for a particular YA cannot be less than 85% of the estimate/revised estimate of tax payable for the immediate preceding YA. Exemption for filing of tax estimate is only applicable under the following circumstances:

- For a period of 2 years beginning from the YA in which the company commences operation on the conditions that the SME must be a tax resident and incorporated in Malaysia.
- A company commencing operation in a YA is not required to furnish estimate of tax payable if the basis period the YA in which the company commences operation is less than 6 months.

The company is required to pay the estimated tax payable in equal monthly instalments according to the number of months in its basis period. The balance of tax payable by a company based on tax return submitted after deduction of tax estimate is due to be paid by the due date for submission of tax return.

All companies must file the annual corporate tax returns within 7 months from the close of the accounting period. It is mandatory for companies to submit tax returns via e-filing and the said return must be based on audited financial statements certified by the approved accountants, with the exception of non-audited Financial Statements that are prepared in accordance with the Companies Act 2016.

The following are some of the key aspects of the Malaysian income tax system and administration:

SINGLE TIER DIVIDEND SYSTEM

To simplify and ease the administrative burden under the previous tax imputation system, a single tier dividend system has been introduced with effect from YA 2008 and the old tax imputation dividend has been fully phased out by 31 December 2013. Under this new single tier dividend system, income tax imposed on a company's chargeable income is a final tax and dividends distributed are exempted from tax in the hands of the shareholders.

ADVANCE RULING

With effect from 1 January 2007, a taxpayer may request for an advance ruling from the DGIR on the interpretation and application of any provision of the Act to a particular type of arrangement or transaction.

GROUP RELIEF FOR NON-SME COMPANIES

With effect from YA 2006, group relief is made available to non-SME resident companies to allow their current year losses to be utilised by their related company within the group, subject to certain conditions. Under this provision, a company may elect irrevocably to surrender up to 70% of its current year tax losses to offset against the chargeable income of its related company. The following are some of the key conditions to be met in order to claim group relief:

- Both claimant and surrendering companies must be locally incorporated companies and have the same accounting period;
- Has paid up capital of more than MYR 2.5 million at the beginning of the basis period; and
- 70% direct/indirect shareholding requirements.

Effective from YA 2019, the eligibility to claim group relief is restricted on commencement of business as follows:

- The surrendering company is restricted to a company which newly commenced operations; and

- The adjusted loss surrendered is limited to 3 consecutive years of assessment.

The 3 consecutive years of assessment commence:

- Immediately following the basis period the surrendering company first commences operations (i.e. second year of assessment) if the basis period for the first year of assessment consists of a period of 12 months; or
- Immediately following the second basis period the surrendering company first commences operations (i.e. third year of assessment) if the basis period for the first year of assessment does not make up 12 months and the basis period for the second year of assessment consists of a period of 12 months.

Group relief shall not apply to a company for any basis period for a year of assessment during which that company has unutilised investment tax allowance or adjusted loss from a pioneer business under the Promotion of Investments Act 1986.

TRANSFER PRICING REGULATION

In line with the introduction of transfer pricing legislation in 2009, Transfer Pricing Guidelines 2012 have been issued by the DGIR on 20 July 2012 to replace the Transfer Pricing Guidelines issued on 2 July 2003. The Transfer Pricing Guidelines 2012 have also been revised in July 2017. Specific provisions have been established to empower the DGIR to make adjustments based on the arm's length principle as set out under the Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines on transfer prices in relation to related party transactions.

COUNTRY BY COUNTRY REPORTING

Malaysia has legislated the rules in respect of the requirements for filing a Country-by-Country Reporting (CbCR) and other related requirements, in line with the recommendations of OECD base erosion profit shifting (BEPS) Action Plan 13. The rules cover, among others, the conditions that require a multinational corporation group to perform CbCR, the details that should be reported in a CbCR, filing obligations, a deadline for filing as well as use and confidentiality of the CbCR information. The threshold for furnishing CbCR in Malaysia is set at a total group revenue in the financial year preceding the reporting financial year of at least MYR 3 billion. The abovementioned rules came into effect on 1 January 2017. CbCR shall be filed no later than 12 months after the last day of the reporting financial year.

ADVANCE PRICING ARRANGEMENTS

Advance Pricing Arrangements Guidelines 2012 were introduced by the DGIR on 20 July 2012 to explain the manner in which a company may apply for an Advance Pricing Arrangement (APA) from the DGIR via a prescribed form. This represents an agreement between the company and the DGIR that establishes the transfer pricing methodology to ascertain the prospective arm's length transfer prices in relation to related party transactions between the company and its foreign affiliates under specific terms and conditions. The period covered under an APA is a minimum of 3 years and a maximum of 5 years of assessment. A rollback of an APA can be requested.

EARNING STRIPPING RULES

Earning Stripping Rules (ESR) that have a similar objective to control excessive deduction on interest expenses between associated persons have been introduced to be in line with the proposals under the OECD’s report on BEPS Action 4: Limiting Base Erosion Involving Interest Deductions and Other Financial Payments to address base erosion and profit shifting by way of interest. Under ESR, the interest deduction on loans between related companies within the same group will be limited to a pre-determined range from 10% to 30% of a company’s Earnings Before Interest and Taxes (EBIT) or the Earnings Before Interest, Tax, Depreciation, and Amortisation (EBITDA). ESR is effective from 1 January 2019 but the relevant rules and guidelines have yet to be issued by the Malaysian tax authority.

REAL PROPERTY GAINS TAX

Malaysia does not impose capital gains tax on disposal of capital assets or related transactions, except for the disposal of real property or shares in Real Property Companies which fall within the ambit of Real Property Gains Tax Act 1976. With effect from 1 January 2019, the RPGT rates on the gains from disposal of real properties and shares in real property companies were revised as follows:

Date of Disposal	Real Property Gains Tax Rates		
	Companies	Individual (Citizen and Permanent Resident)	Individual / Executor of the Estate (Non-Citizen and Non-Permanent Resident)
Within 3 years from date of acquisition	30%	30%	30%
In the 4th year	20%	20%	30%
In the 5th year	15%	15%	30%
In the 6th year and subsequent years	10%	5%*	10%

*RPGT exemption is given to Malaysian citizens for the disposal of residential homes at a price of MYR 200,000 and below.

STAMP DUTY

Stamp duty is chargeable on certain instruments or documents. The rate of duty (either fixed rate or ad valorem) varies according to the nature of the instruments or documents and transacted value. The following are rates of stamp duty for some common instruments and documents:

- Properties (other than shares or marketable securities)

	Value (MYR)	Rate
On the first	100,000	MYR 1 per MYR 100 or part of
On the next	400,000	MYR 2 per MYR 100 or part of
On the next	500,000	MYR 3 per MYR 100 or part of
In excess of	1,000,000	MYR 4 per MYR 100 or part of

The rate of stamp duty on instruments of transfer of property valued at more than MYR 1 million is to be increased from 3% to 4% effective 1 January 2019.

- Shares

  MYR 3 for every MYR 1,000 or any fraction thereof based on consideration or value, whichever is greater. The Stamp Office generally adopts one of 3 methods for the valuation of ordinary shares for purposes of stamp duty:

  - price earnings ratio;
  - net tangible assets; or
  - sales consideration.

- Service Agreements and Loan Agreements

  Stamp duty of 0.5% on the value of the services/loans. However, stamp duty may be exempted or stamp duty in excess of 0.1% may be remitted for the following instruments:

1. Service agreement

		Stamp duty
All service agreements (one tier)		Ad valorem rate of 0.1%
Multi-tier service agreement:		
a) Non-government contract (i.e. between private entity and service providers)	First level	Ad valorem rate of 0.1%
	Subsequent level(s)	Up to MYR 50

b) Government contract (i.e. between Federal / State Government of Malaysia or State / local authority and service providers)	First level	Exempted
	Second level	Ad valorem rate of 0.1%
	Subsequent level(s)	Up to MYR 50

2. Loan agreement / loan instrument

   Ringgit Malaysia loan agreements generally attract stamp duty at 0.5%. However, a reduced stamp duty liability of 0.1% is available for MYR loan agreements of MYR loan instruments without security and repayable on demand or in single bullet repayment.

Certain disposals of assets between family members or within a group of companies may qualify for relief or exemption, subject to certain conditions.

INDIRECT TAXES

Service tax and sales tax have been abolished and replaced by GST with effect from 1 April 2015. On 1 September 2018, GST has been repealed and replaced with Service Tax and Sales Tax, which have come into effect again in Malaysia from 1 September 2018.

SALES TAX AND SERVICES TAX (SST)

- Basis of taxation and liability to be registered: A taxable person means a registered manufacturer/person or a manufacturer/person who is liable to be registered under S. 12 of the Sales Tax Act 2018 and Service Tax Act 2018.
- Sales tax

  Sales tax shall be charged and levied on all taxable goods:

  (a) Manufactured in Malaysia by a registered manufacturer and sold, used or disposed of by him; or

  (b) Imported into Malaysia by any person.

  The sales tax registration threshold is MYR 500,000.
- Service tax

  Service tax shall be charged and levied on:

  (a) Any taxable services provided in Malaysia by a registered person in carrying on his business; or

  (b) Any imported taxable services.

  The term "taxable services" refers to supplies of services that are liable to service tax, outlined in the First Schedule of the Service Tax Regulations 2018. On the other hand, the term "imported taxable service" refers to any taxable service acquired by any person in Malaysia from any person who is outside Malaysia. Service tax will be imposed on digital products and services imported by consumers (B2C) from 1 January 2020, where foreign suppliers who provide such services to consumers in Malaysia are required to register and charge service tax.
- Tax rate

  Sales tax

  Sales tax is imposed on taxable goods, unless otherwise exempt, at the rate of 5%, 10% or a specific rate.

Categories	Description
Exempt	• Meat, seafood, vegetables, coffee, tea, rice, fruit, spice, flour, salt, sugar, milk, bread, sausages, etc. • Textbook, exercise book, folder, notebook, etc. • Badminton racket, balls, etc. • Truck, motorcycle, etc. • Exportation of goods (to be substantiated by Customs Form No. 2) • Building materials • Bricks, blocks, tiles, etc.

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5%	• Fruits and certain foodstuff • Ham, smoked fish, butter, honey, potatoes, etc. • Strawberries, etc.
10%	• All taxable goods which are not otherwise prescribed
Specific rate	• Benzene, petroleum, diesel, etc.

(The above list is not exhaustive)

Service Tax

The rate of service tax in Malaysia is fixed at 6%. A specific rate of MYR 25 is imposed upon issuance of principal or supplementary credit card or charge card services.

- Compulsory registration

The sales tax registration threshold is MYR 500,000, while the service tax registration threshold ranges from Nil to MYR 500,000 or MYR 1,500,000. The threshold applies in the following ways if a person has begun making taxable supplies:

(a) Retrospectively – at the end of any month, where the total sale value of all his taxable goods/services in that month and the eleven months immediately preceding that month has exceeded the prescribed amount.

(b) Prospectively – at the end of any month, where there are reasonable grounds for believing that the total sale value of all his taxable goods/services in that month and the eleven months immediately succeeding that month will exceed the prescribed amount.

Any taxable person who is liable to be registered shall apply to the Director General for registration as a taxable person in SST-01 Form, not later than the last day of the following month in which he is liable to be registered. Every form for registration shall be submitted to the Director General by way of electronic service.

- Voluntary registration

If a taxable person has not yet made taxable supplies or if the value of its taxable supplies is below the registration limit, the taxable person may register for SST voluntarily. Upon receipt of the voluntary registration application, the Director General may approve the registration from such date as he may determine subject to conditions he deems fit.

- Branch registration

Branch registration is only applicable to service tax, where any business of a taxable person is carried on by one or more branches or divisions, the taxable person may apply to the Director General, in the SST-01 Form, for any branches or divisions to be registered in the name of the branch or division.

The Director General may approve an application made, subject to such conditions as he deems fit if he is satisfied that the registered person has fulfilled the following requirements:

(a) It is likely to cause real difficulty for the registered person to submit a single return in respect of all the branches or divisions but for the separate registration;

(b) Each branch or division maintains a separate account in respect of its activities;

(c) Each branch or division is separately identifiable by reference to the nature of the activities carried on by or the location of the branch or division; and

(d) Each branch or division has the same taxable period.

A taxable person that registers for service tax under the branch registration must remain registered for at least two years.

- Exemptions

Exemption from registration for sales tax

Any person whose manufacturing operations are conducted solely in any one of those specified in Schedule A of the Sales Tax (Exemption from Registration) Order 2018 are exempted from sales tax registration, irrespective of the total sale value of taxable goods in the period of twelve months.

Alternatively, the Minister may exempt any class of persons from sales tax registration, by order published in the Official Gazette. Approval is subject to conditions as the Minister deems fit. However, any person may still apply to be registered as a registered manufacturer and the provisions of the Sales Tax Act 2018 would still apply, notwithstanding that any person is exempted by the Minister.

- Persons exempted from payment of sales tax

  The following persons are exempted from sales tax, in accordance with the Sales Tax (Persons Exempted from Payment of Tax) Order 2018:

  - Schedule A: Class of persons, e.g. State Ruler, Federal or State Government Department, Local Authority, Inland Clearance Depot, Duty Free Shop.
  - Schedule B: Manufacturer of specific non-taxable goods – exemption of tax on the acquisition of raw materials, components, packaging to be used in manufacturing activities.
  - Schedule C: Registered manufacturer – exemption of tax on the acquisition of raw materials, components, packaging to be used in manufacturing of taxable goods.

- Intragroup treatment for service tax

  Where a company in a group of companies provides any taxable service specified in item (a), (b), (c), (d), (e), (f), (g), (h) or (i) in column (2) in Group G to any company within the same group of companies, such service shall not be a taxable service.

  Two or more companies are eligible to be treated as companies within a group of companies if one company controls each of the other companies.

  Where a company provides any taxable service as mentioned above to another person outside the group of companies, the same taxable service provided to any company outside or within the group companies shall be a taxable service.

- Deregistration

  A taxable person shall cease to be liable to be registered at the end of any month where the Director General is satisfied that the total sale value of all his taxable goods/services in the period of 12 months, does not exceed the prescribed threshold. The taxable person shall make a written request to cancel his registration within 30 days from the date of cessation.

- SST Due

  Sales tax is chargeable at the time the taxable goods are sold, disposed of otherwise than by sale, or first used otherwise than as materials in the manufacturing of taxable goods, by the taxable person.

  Service tax is chargeable at the time when payment is received for the taxable service provided to the customer by the registered person. Where the whole or ay part of the payment for any taxable service provided by the registered person is not received from the customer within a period of 12 months from the date of invoice for the taxable service provided, service tax shall be due on the day following that period of 12 months.

  Service tax on importation of taxable service shall be due at the time when the payment is made or an invoice is received for the service, whichever is the earlier.

IMPORT DUTIES

- Import duties are levied on goods that are subject to import duties and imported into the country.
- Import duties are generally levied on an ad valorem basis but may also be imposed on a specific basis.
- The rate of import duty on dutiable goods is dependent on the classification of the goods under the Customs Duties Order 2007. Malaysia adopts a coding or classification system commonly referred to as the Harmonised System which was established under the International Convention on the Harmonised Commodity Description and Coding System. Malaysia may enjoy preferential rates of duty under the relevant free trade agreements.
- Qualifying goods originating from China, Japan, Korea, Pakistan, Australia, New Zealand, India, Chile and ASEAN countries imported into Malaysia may enjoy preferential rates of duty under the relevant free trade agreements.
- The *ad valorem* rates of import duties range from 2% to 60%. Raw materials, machinery, essential foodstuffs, pharmaceutical products and certain tourism related and daily use products are generally non-dutiable or subject to duties at lower rates.
- Subject to certain exclusions, goods can be brought into or provided in free zones without payment of custom duties.

EXPORT DUTIES

- Export duties are generally imposed on the country's main commodities. The ad valorem rates of export duty range from 0% to 20%.

- The rate of export duty on dutiable goods is dependent on the classification of the goods under the Customs Duties Order 2007.
- For the purposes of computing export duty, the value of the goods is the price which an exporter would receive for the goods calculated to the stage where such goods are released by Customs at the place of export.

EXCISE DUTIES

- In Malaysia, excise duties are imposed on a selected range of goods manufactured in Malaysia and selected imported goods, including motor vehicles.
- Unless exempted from licensing, a manufacturer of tobacco, intoxicating liquor or goods subject to excise duties must have a licence to manufacture such goods. A warehouse licence is required for storage of goods subject to excise duty.
- Goods which are subject to excise duty include:
- Beer, stout and other intoxicating liquors (e.g. cider and perry, rice wine, mead, brandy, whisky, rum and tafia, gin).
- Cigarettes containing tobacco.
- Motor vehicles.
- Playing cards.
- As a general rule, duty is payable at the time the goods leave the place of manufacture or any other place under excise control.
- No excise duty is payable on dutiable goods that are exported.

B. DETERMINATION OF TAXABLE INCOME

CAPITAL ALLOWANCES

With effect from YA 2000 (current year basis), capital allowances for qualifying capital expenditure incurred by taxpayers have been categorised as follows:

Type of Assets	Initial Rate	Annual Rate
Heavy machinery and motor vehicles	20%	20%
Plant and machinery (general)	20%	14%
Type of Assets	**Initial Rate**	**Annual Rate**
Others	20%	10%
Assets with a lifespan not exceeding two years	N/A	Replacement basis
Small value assets (of value less than MYR 1,000 each)	N/A	100% (Note 1)

Industrial building allowances are available for certain types of qualifying industrial buildings at the following rates:

- Initial rates ranging from 0% to 10%; and
- Annual rates ranging from 3% to 10%.

Qualifying capital expenditures incurred for certain type of equipment are given accelerated capital allowances (ACA).

Notes:

(1) Total capital allowance claim shall not exceed MYR 10,000 except for SMEs. However, with effect from YA 2015, the total value of each asset for the purpose of claiming of special allowance for small value assets has been increased from MYR 1,000 to MYR 1,300. The maximum limit of total special allowance for small value assets claimable for each YA by a non-SME is increased from MYR 10,000 to MYR 13,000.

INVESTMENT INCENTIVES

Malaysia offers a wide range of tax incentives for foreign and local investors to promote investments in selected industry sectors and/or promoted areas. Malaysia has today become an export-driven economy spurred on by high technology, knowledge-based and capital-intensive industries and the Economic Transformation Programme (ETP) has been introduced by the government to propel and transform Malaysia into a high-income nation by 2020. Hence, the investment incentives have been designed to focus on these areas particularly the 12 National Key Economic Areas (NKEAs) identified under the Malaysian Economic Transformation Programme (ETP). The major types of tax incentives available in Malaysia are Pioneer Status, Investment Tax Allowance and Reinvestment Allowance.

PIONEER STATUS (PS)

- An income tax exemption ranging from 70% to 100% (depending on the type of promoted products and/ or activities) on a company's statutory income for a period of five years.
- The PS is generally favourable for companies expecting to generate large profits within a short time upon commencement of production of promoted products and/or activities.
- The exemption period may be extended for another further five years depending on the type of promoted products and/or activities.

INVESTMENT TAX ALLOWANCE (ITA)

- The ITA is an alternative incentive to PS which is preferable for capital intensive projects involving promoted products and/or activities.
- The ITA is accorded to the qualifying person in addition to the normal capital allowances available on the same asset.
- Generally, the rate of the ITA is 60% on the qualifying capital expenditure incurred on qualifying plant and machinery and can be used to offset up to 70% (or 100% in certain promoted products and/or activities) of the statutory income.
- The exemption period may be extended for a further five years depending on the type of promoted products and/or activities.
- PS and ITA are mutually exclusive.

REINVESTMENT ALLOWANCE (RA)

- RA is available for manufacturing companies that reinvest their capital to embark on:
- Expansion of existing production capacity;
- Modernisation or automation of production facilities;
- Diversification into related products.
- RA is also available to companies engaged in agricultural projects (e.g. cultivation of rice, maize, fruits, vegetables, tubers and roots, livestock farming, spawning, breeding or culturing aquatic products, etc.).
- The RA is accorded to the qualifying person in addition to the normal capital allowances available on the same asset.
- Generally, the rate of the RA is 60% on the qualifying capital expenditure incurred on factory, plant or/ and machinery and can be used to offset up to 70% (or 100% in certain circumstances) of the statutory income. Strict interpretation of types of "qualifying capital expenditure" need to be observed by the taxpayer in claiming the benefit accorded under this tax incentive.
- RA will only be given to a company which has been operating for not less than 36 months and is not applicable to an asset purchased by a company from a related company within the group.
- The incentive period is 15 years from the first year of claim and the RA is mutually exclusive to both PS and ITA as well as various tax incentives in Malaysia. Effective from YAs 2016 to 2018, companies whose RA incentive period has expired will be allowed a special claim of RA on qualifying capital expenditure.
- RA claimed by any qualifying person will be clawed back if the qualifying asset is disposed of within five (5) years from the date of acquisition.

OTHER INDUSTRIES WHICH MAY QUALIFY FOR TAX INCENTIVES IN MALAYSIA

- Biotechnology industries;

- Venture capital companies;
- Operational headquarters;
- International procurement centres;
- Regional distribution centres;
- Real estate investment trusts;
- Treasury management centre;
- Tun Razak Exchange (TRX) (formerly known as Kuala Lumpur International Financial District);
- New 4 and 5 Star Hotels in Peninsular Malaysia and Sabah and Sarawak;
- Profit-oriented private schools and international schools;
- Provider of industrial design services in Malaysia;
- Business Trust;
- Child care centres and pre-school education;
- Angel investor;
- Global incentive for trading programme;
- Medical tourism;
- Research and development (R&D) sector;
- Establishment of independent conformity assessment bodies (ICAB).

EXTENSION OF TAX INCENTIVES

- Foreign institutional investors, particularly pension funds and collective investment funds, and other non-corporate investors including resident and non-resident individuals receiving profit distribution from Real Estate Investment Trusts (REITs) listed on Bursa Malaysia are subject to final withholding tax at 10% has been extended for another 3 years from 1 January 2017 until 31 December 2019.
- Tax incentives made available to tour operating companies licensed under the Tourism Industry Act 1992 will be extended for another 3 years from YA 2015 to YA 2018. Based on the Malaysia Budget 2018 announcement, it is proposed that the tax incentive be extended for another 2 years.
- The application period for tax incentives for approved food production projects will be extended until 31 December 2020 and applications need to be submitted to the Ministry of Agriculture and agro-based industry for approval.
- Extension of tax exemption on income from managing Shariah-Compliant funds will be extended for another 4 years until the YA 2020.
- Tax incentives made available to new companies and existing companies undertaking expansion, modernisation or refurbishment of private healthcare facilities approved and licensed by the Ministry of Health Malaysia and registered with the Malaysia Healthcare Travel Council will be extended for another 3 years from 1 January 2018 to 31 December 2020.

C. WITHHOLDING TAXES

Certain types of payments to non-residents are subject to withholding tax at the following rates:

Type of Payment	Rates
Special classes of income (Note 1)	10%
Interest	15%
Royalties	10%
Contract payments (Note 2)	10% + 3%
Other income [Section 4(f)] (Note 3)	10%
Withdrawal of contribution made to a PRS (note 4)	8%
Dividends	Nil
Public entertainer	15%

Notes:

(1) Special classes of income (Section 4A) include:

 (i) Amounts paid in consideration of services rendered by the person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any plant, machinery or other apparatus purchased from such person;

 (ii) Amounts paid in consideration of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;

 (iii) Rent or other payment, made under any agreement or arrangement for the use of any moveable property.

 Payments on technical advice, assistance or services rendered overseas will not be liable to withholding tax. However, with effect for the period from 16 January 2017 to 5 September 2017, payments on technical advice, assistance or services rendered are no longer limited to services performed in Malaysia. According to Public Ruling 11/2018, disbursements and reimbursements incurred for non-residents are also subject to withholding tax except for disbursements on hotel accommodation in Malaysia.

(2) The 10% withholding tax is for non-resident contractors' tax liabilities while the 3% is for the tax of employees of the non-resident contractor. Withholding tax for contract payments is not the final tax.

(3) Section 4(f) income refers to gains and profits not specifically provided for under Section 4 of the Act, including commissions and guarantee fees.

(4) Where withdrawal of contributions from a Private Retirement Scheme (PRS) by an individual is made before the age of 55 (other than by reason of death or permanent departure from Malaysia), the PRS scheme provider (as approved under Section 139Q of the Capital Markets and Service Act 2007) is required to apply the withholding tax mechanism in remitting 8% tax to the Malaysian tax authority.

Effective from 1 January 2011 for the YA 2011 and subsequent YAs, in addition to the late payment penalty, the DGIR is empowered to impose a penalty for incorrect returns under Section 113(2) of the Act if a tax deduction on the expenses subject to withholding tax is claimed and such withholding tax and penalty are not paid by the due date for submission of the tax return that relates to such expenses.

D. PERSONAL TAX

Tax residency status of an individual person in Malaysia is generally determined by the number of days the individual is present in Malaysia during a particular calendar year. Generally, an individual is a tax resident in Malaysia if the individual is present in Malaysia for 182 days or more during a particular calendar year. An individual tax resident is entitled to several tax reliefs, tax rebates, scaled tax rates and exemptions, as set out below.

	YA 2018	**YA 2019**	
Tax Reliefs	**MYR**	**MYR**	
Taxpayer	9,000	9,000	
Husband/wife/alimony payments	4,000	4,000	(Limited) [Note 1]
Disabled taxpayer	6,000	6,000	(Further deduction)
Disabled wife/husband	3,500	3,500	
Child relief (<18 years old per child)	2,000	2,000	
Child aged 18 years old and above, not married and pursuing diploma or above qualification in Malaysia/bachelor degree or above outside Malaysia (per child)	8,000	8,000	
Disabled child	6,000	6,000	
Medical expenses for parents	5,000	5,000	(Limited)
Medical expenses for serious diseases	6,000	6,000	(Limited)
Basic supporting equipment for disabled	6,000	6,000	(Limited)

Life insurance premiums and Employees Provident Fund (EPF)	6,000	7,000	(Limited) [Note 6]
Private Retirement Scheme and annuity premium (YA 2012 to YA 2021)	3,000	3,000	(Limited)
Insurance premiums for education or medical benefits	3,000	3,000	(Limited)
Fee expended for any course of study up to tertiary level other than a degree at Masters or Doctorate level, undertaken for the purpose of acquiring law, accounting, Islamic financing, technical, vocational, industrial, scientific or technological skills or qualifications or any course of study for a degree at Masters or Doctorate level undertaken for the purpose of acquiring any skill or qualification	7,000	7,000	(Limited)
Purchase of books, journals, magazines and publications	-	-	(Limited) [Note 3]
Purchase of computer (once every 3 years)	-	-	(Limited) [Note 3]
Net savings in Skim Simpanan Pendidikan Nasional	6,000	8,000	(Limited) [Note 2]
Purchase of sports equipment	-	-	(Limited) [Note 3]
Parental care relief (until YA 2020): - father - mother	 1,500 1,500	 1,500 1,500	
Contribution to Social Security Organisation Scheme (SOCSO)	250	250	
Lifestyle	2,500	2,500	(Limited) [Note 3]
Breastfeeding equipment	1,000	1,000	(Limited) [Note 4]
Fees paid to children centres and kindergartens	1,000	1,000	(Limited) [Note 5]

Tax Rebates (Effective YA 2009)	**MYR**
Rebate given to taxpayer with chargeable income not exceeding MYR 35,000	400
Additional rebate for spouse with no income and elects for combined assessment	400
Zakat, Fitrah and any other Islamic religious dues	Full rebate

Notes:

(1) With effect from YA 2017, the existing relief of MYR 4,000 will not apply if the husband or wife has an income derived from sources outside of Malaysia and the gross income from such sources exceed the amount of relief provided for. However, the legislation would not be applicable to husband or wife who is disabled.

(2) The relief of up to MYR 6,000 is given for amounts deposited into Skim Simpanan Pendidikan Nasional established under the Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997 for his or her child. This is applicable from YA 2012 to YA 2017. Based on the Malaysia Budget 2018 announcement, it is proposed that the relief to be extended for another 3 years from YA 2018 to YA 2020. With effect from YA 2019, this relief is increased to MYR 8,000.

(3) With effect from YA 2017, the tax relief for purchase of reading materials, purchase of sports equipment, purchase of computer and subscription of broadband internet will be replaced with a new relief of MYR 2,500, which will include the following scope:

(i) Purchase of books, journals, magazines, printed daily newspapers and other similar publications (excluding banned publications);

(ii) Purchase of sports equipment for sports activities as defined under the Sports Development Act 1997;

(iii) Purchase of computer, smartphone or tablet;

(iv) Subscription of broadband internet; and

(v) Gymnasium membership fee.

(4) With effect from YA 2017, relief of up to MYR 1,000 is given for the purchase of breastfeeding equipment. This relief is applicable to working women with child aged up to 2 years and can be claimed once every two years.

(5) With effect from YA 2017, relief of up to MYR 1,000 is given for individual taxpayers who enrol their child up to 6 years of age, in child care centres or kindergartens registered with the Department of Social Welfare or the Ministry of Education. This tax relief can be claimed by either parent of the child.

(6) With effect from YA 2019, tax relief for contributions to approved provident funds and life insurance premiums is now separated. Relief up to MYR 4,000 is given to contributions to approved provident fund such as EPF. In addition, payments for takaful or life insurance premiums is eligible for a tax relief of up to MYR 3,000. The total relief for the above should not exceed MYR 7,000.

Non-residents are not eligible to claim relief and rebates and are subject to a tax of 28% on their taxable income.

The tax rates for resident individual are as follows:

Taxable Income MYR	**YA 2017**		**YA 2018**	
	Tax rate %	**Tax Payable MYR**	**Tax rate %**	**Tax Payable MYR**
on the first 5,000		0		0
on the next 15,000	1	150	1	150
on the first 20,000		150		150
on the next 15,000	5	750	3	450
on the first 35,000		900		600
on the next 15,000	10	1,500	8	1,200
on the first 50,000		2,400		1,800
on the next 20,000	16	3,200	14	2,800
on the first 70,000		5,600		4,600
on the next 30,000	21	6,300	21	6,300
on the first 100,000		11,900		10,900
on the next 150,000	24	36,000	24	36,000
on the first 250,000		47,900		46,900
on the next 150,000	24.5	36,750	24.5	36,750
on the first 400,000		84,650		83,650
on the next 200,000	25	50,000	25	50,000
on the first 600,000		134,650		133,650
on the next 400,000	26	104,000	26	104,000
on the first 1,000,000		238,650		237,650
above 1,000,000	28		28	

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Note:

(1) Preferential tax rate is available for the following categories of taxpayers:

- The employment income of an individual who is a knowledge worker residing in Iskandar Malaysia and is employed in a qualifying activity would be taxed at 15% of the individual's chargeable income.
- The employment income of an approved individual under the Returning Expert Programme would be taxed at 15% of the individual's chargeable income for a period of five years subject to terms and conditions met.

E. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Malaysia has concluded tax treaties with the following countries:

	Dividends[1]		Interest[9] (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
Domestic rates				
Companies	0	0	15	10
Individuals	0	--	15	10
Treaty countries:				
Albania	15	5[4]	10	10
Armenia[2]	0	0	15	10/15[13]
Australia	0	0	15	15
Austria	0	0	15	10/15[13]
Azerbaijan[2]	0	0	15	10/15[13]
Bahrain	5	5	5	8[14]
Bangladesh	0	0	15	0/10[15]
Belarus[2]	0	0	15	10/15[13]
Belgium	15	15	–/10[10]	10
Brunei	10	10	10	10
Canada	0	0	15	0[15]/15[16]
Chile	15	5[6]	15	10
China	0	0	10	10/15[13]
Croatia	10	5[5]	10	10
Czech Republic	0	0	12	12
Denmark	0	0	–[11]	10[17]
Egypt	0	0	15	15
Fiji	15	15	15	15
Finland	0	0	15	15
France	0	0	15	10
Georgia[2]	0	0	15	10/15[13]
Germany	15	5[5]	10	7
Hong Kong	10	5[5]	10	8
Hungary	0	0	15	15
India	5	5	10	10
Indonesia	0	0	10	10
Iran	0	0	15	10
Ireland	10	10	10	8
Italy	10	10	15	15
Japan	15	5[7]	10	10[18]
Jordan	10	10	15	15

	Dividends[1]		Interest[9] (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
Kazakhstan	10	10	10	10
Korea	0	0	0/15[12]	0[15]/10/15[13]
Kuwait	0	0	10	10/15[13]
Kyrgyzstan[2]	0	0	15	10/15[13]
Laos	10	5[5]	10	10
Lebanon	5	5	10	8
Luxembourg	10	5[5]	0/10[12]	8
Malta	0	0	15	15[19]
Mauritius	0	0	15	15
Moldova[2]	0	0	15	10/15[13]
Mongolia	10	10	10	10
Morocco	10	5[5]	10	10
Myanmar	10	10	10	10
Namibia	10	5[4]	10	5
Netherlands	0	0	10	0/8[15]
New Zealand	15	15	15	0/15[15]
Norway	0	0	–[11]	0[20]
Pakistan	0	0	15	0/15[15]
Papua New Guinea	0	0	15	10[19]
Philippines	0	0	15	0/15[15]
Poland	0	0	15	15
Qatar	10	5[5]	5	8
Romania	10	10	15	0/12[15]
Russia[2]	0	0	15	10/15[13]
San Marino	10	5[5]	10	10
Saudi Arabia	5	5	5	8
Serbia and Montenegro[3]	0	0	15	10
Seychelles	10	10	10	10
Singapore	10	5[4]	10	8
Slovak Republic	5	0[5]	10	10
South Africa	10	5[4]	10	5
Spain	5	0[8]	10	7[21]
Sri Lanka	0	0	10	10
Sudan	0	0	10	10
Sweden	0	0	10	8
Switzerland	15	5[4]	10	10[22]
Syria	10	5[4]	10	10
Taiwan	0	0	10	10

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Thailand	0	0	15	0/15[15]
Turkey	0	0	15	10
Turkmenistan	10	10	10	10
Ukraine[2]	0	0	15	10/15[13]
United Arab Emirates	0	0	5	10
United Kingdom	10	5[5]	10	8
Uzbekistan	10	10	10	10
Venezuela	10	5[5]	15	10
Vietnam	0	0	10	10

Notes:

1. Malaysia does not levy withholding tax on dividends under its domestic law. Should Malaysia introduce a withholding tax on dividends then the aforementioned rates would be the maximum withholding rates.
2. Treaties concluded with the former USSR. Malaysia continues to apply the treaty with Russia. Belarus, Kyrgyzstan, Russia and the Ukraine continue to apply the former treaties while Armenia, Azerbaijan, Georgia and Moldova don't.
3. Treaty concluded with the former Yugoslavia. Continues to apply in relations between Malaysia and Serbia and Montenegro.
4. The reduced rate generally applies to participations of at least 25% of capital.
5. The reduced rate generally applies to participations of at least 10% of capital or voting stock. The Slovak Republic additionally requires a minimum uninterrupted shareholding period of twelve months.
6. The reduced rate applies to a participation of at least 20% of the voting power.
7. The reduced rate applies to a direct participation of at least 25% of voting shares for six months prior to the year-end for which the distribution of profits takes place.
8. The reduced rate applies if the receiving company holds directly at least 5% of the capital of the paying company.
9. Certain treaties provide for an exemption of some types of interest (but not included in this list), e.g. interest paid to public bodies and institutions or banks or in relation to approved or state-guaranteed loans.
10. The 10% rate applies to interest paid by an enterprise engaged in an industrial undertaking. Otherwise the domestic rate applies and no reduction available under the treaty.
11. No reduction under the treaty, the domestic rate applies.
12. Exemption for interest paid by a banking business in Malaysia to a Korean resident carrying on a banking business. Also exemption in Malaysia for interest paid on an approved loan or a long-term loan.
13. 15% rate for payments for the use of, or the right to use, cinematograph films, or tapes for radio or television broadcasting or any copyright of literary or artistic work; 10% rate for payments for the use of, or the right to use, any patent, trademark, design or model, plan, secret formula or process, or any copyright of scientific work, or for the use of, or the right to use, industrial, commercial or scientific equipment or information/experience (China treaty includes know-how).
14. Are excluded as royalties: payments in respect of the operation of oil or gas wells or the extraction of mineral deposits or other natural resources.
15. Are exempt from withholding tax: approved industrial royalties payable by an enterprise wholly or mainly engaged in (i) manufacturing, assembling or processing (ii) construction, civil engineering or shipbuilding or (iii) electricity, hydraulic power, gas or water supply. Specifically for the Canada treaty, royalties do not include any royalty or other amount paid in respect of the operation of a mine, oil well, quarry or any other place of extraction of natural resources or of timber or forest produce.
16. Are excluded as royalties: any payments in respect of motion picture films or tapes for radio or television broadcasting;
17. The rendering of any services or assistance of a technical, managerial or consultancy nature are included as royalties.
18. Receipts from the bare boat charter of ships or aircrafts are included as royalties.
19. Payments for the supply of assistance which is ancillary and subsidiary to the use of any property, right or equipment are included as royalties.
20. Are excluded as royalties: payments in respect of literary or artistic copyrights, motions picture films, tapes for television or broadcasting or the operations of a mine, oil well, quarry or other place of extraction of natural resources, timber or forest produce.

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21. Are included as royalties: payments for the use of, or the right to use, films or tapes for radio or television broadcasting, industrial, commercial or scientific equipment or information (know-how) concerning industrial, commercial or scientific experience.
22. Are exempt from withholding tax: royalties arising in Malaysia if they are approved by the competent authority of Malaysia.

MONGOLIA

MEMBER FIRM

City	Name	Contact Information
Ulaanbaatar	Bayarmaa Perenleijamts	+976 99 19 3732 bayarmaa@pkf.mn

BASIC FACTS

Full name:	Mongolia
Capital:	Ulaanbaatar
Main languages:	Mongolian
Population:	3.15 million (2019 estimate)
Monetary unit:	Mongolian Tugrik (MNT)
Internet domain:	.mn
Int. dialling code:	+976

KEY TAX POINTS

- The corporate income tax rate is 10% for income up to MNT 3 billion and 25% for the excess while certain types of income are taxed at specific rates.
- Dividends, interest, royalties and technical service fees paid to a non-resident are subject to 20% withholding tax. A 20% branch remittance tax also applies.
- Loss-carry forward for 4 to 8 years for infrastructure and mining sectors, 2 years for other sectors.
- The standard VAT rate is 10%.

A. TAXES PAYABLE

COMPANY TAX

A corporate entity is a taxpayer provided it produces revenue subject to tax at the end of each accounting year or is bound to pay tax under Corporate Income tax law of Mongolia, notwithstanding the absence of taxable profits.

A taxpayer is either a permanent resident or non-resident taxpayer of Mongolia. A permanent resident taxpayer in Mongolia is a corporate entity incorporated under the laws of Mongolia. A non-resident taxpayer in Mongolia includes a foreign corporate entity that conducts its business in Mongolia within the framework of its representative office which earns income in Mongolia.

Permanent resident and non-resident companies are both required to pay tax on their revenues including income from activities, property income and income from the sale of property.

Rates

Taxable income up to MNT 3 billion is taxed at 10% while the excess is taxed at 25%.

Certain types of income are taxed at the following rates:

Income	Tax rate (%)
Dividends	10
Royalties	10
Interest	10
Sales of rights	30
Sale of immovable property	2
Quizzes, gambling and lotteries	40
Sale or rental of erotic materials and erotic performances	40

CAPITAL GAINS TAX

There is no separate tax on capital gains, which are included in ordinary taxable income and subject to corporate income tax.

BRANCH PROFITS TAX

There is no separate branch profits tax in Mongolia. Branches and permanent establishments of foreign entities are subject to the same rates as resident entities. Non-resident entities are subject to a 20% branch remittance/repatriation tax, subject to the application of a tax treaty.

SALES TAX / VALUE ADDED TAX (VAT)

Since 2016 Value Added Tax (VAT) is levied on imported and exported goods as well as on goods produced and sold, work performed, or services provided by a person or legal entity on the territory of Mongolia.

The VAT rate is 10% of the taxable amount of goods imported, produced or sold, work performed, or services provided. VAT is levied on goods, work, or services exported outside the territory of Mongolia at a 0% rate.

The registration threshold is an annual taxable turnover of MNT 50 million. Generally, the registration requirements for non-residents are the same as for residents.

Services provided by non-residents are subject to reverse charge VAT. There is no refund scheme for non-residents.

FRINGE BENEFITS TAX

Fringe benefits provided by an employer in addition to salaries, wages, bonuses, and incentives are considered an indirect income according to the Law on Personal Income Tax of Mongolia and includes income from the following goods and services, not directly related to the performance of an employee's duties:

a) Provision of free or discounted transportation or provision of cash for transportation;
b) Provision of payment for utilities expenses and cash for housing and fuel;
c) Provision of cash for meals and entertainment;
d) Provision of a housekeeper, chauffeur, gardener, or other services;
e) Waiver of an obligation to pay an amount owed to the employer or to any other person;
f) Interest discount on a loan if the rate of interest is lower than the market rate for a loan.

The following fringe benefits provided by an employer to an employee to improve the employee's working conditions shall not be subject to gross taxable income:

a) Provision of meals for all employees on equal terms in a canteen, cafeteria, or dining room operated by the employer at the workplace during working hours;
b) Provision of a lounge or other services for employees who work at a remote workplace and provision of scheduled transportation for going to and returning from the workplace;
c) Interest discount on a loan provided for purchase and construction of an apartment for an employee if the interest rate is lower than that of a commercial loan;
d) Medical expenses.

OTHER TAXES

- There is no net worth tax in Mongolia;
- An immovable property tax is levied at 0.6% to 1% of the value of the immovable property;
- Other taxes include real estate transfer tax (RETT) at a rate of 2% and social and health insurance tax (excluding life insurance and private medical insurance) at 11%.

B. DETERMINATION OF TAXABLE INCOME

Resident companies are subject to tax on their worldwide income. Corporate income tax is imposed on the following income:

- Income from activities includes: (i) income from primary and auxiliary production, operation and services (ii) income from sale of licenses (iii) income from sale of share and securities (iv) income from gaming and lottery (v) income from sale and rental of erotic publications, books, and video recording and erotic performance (vi) income from goods and services received from others free of charge (vii) income from sale of intangible assets (viii) income from technical, management, consulting and other services (ix) income from interest, penalty and damages compensated for infringement of contractual duties and (x) income from foreign currency exchange.
- Property income includes: (i) income from lease of movable and immovable property (ii) income from royalties (iii) income from dividends and (iv) income from interest.
- Income from sale of property includes: (i) income from sale of immovable property and (ii) income from sale of movable property.

DEPRECIATION

Depreciation and amortisation rates are applicable for a taxpayer's assets used for more than one year. Depreciation and amortisation rates thereof shall be calculated on a straight-line method:

Asset	Useful life (years)
Buildings	40
Computers and software	3
Intangible assets, including mineral exploration and extraction licences	10
Machinery and equipment	10
Production-purpose vehicles, mechanisms, techniques and equipment in industrial and technological parks	3
Buildings and constructions in industrial and technological parks	20
Other assets	10

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STOCK / INVENTORY

Inventory includes raw materials, work-in-progress and finished goods. Each item of inventory must be valued at acquisition cost or cost of production. Accepted valuation methods include average cost.

DIVIDENDS

Income from dividends includes monetary and non-monetary income and interest earned through profit sharing and income distribution by a legal entity with contributed capital.

A taxpayer's dividend income is taxed at 10%. As for a non-resident-taxpayer in Mongolia, the dividend income received from a corporate entity registered and operating in Mongolia is taxed at the rate of 20%.

In case of liquidation of a joint corporate entity where the taxpayer is a shareholder, taxable dividend income is determined by deducting the initial share purchase price from income prorated to the taxpayer's shares and invested capital.

INTEREST DEDUCTIONS

Interest for a loan taken to cover primary and auxiliary production, operation, services and purchase of property is a deductible expense from taxable income.

Interest payments are not deductible expenses when the loan is provided by an individual permanently residing in Mongolia that controls the taxpayer's company. The expenses shall be accounted as dividend to the individual and shall be subject to tax.

Interest payments for a loan shall not be deductible expenses when the loan provided by the investor to the taxpayer exceeds three times the value of the initial invested capital. The expenses shall be accounted as dividend to the investor and shall be subject to tax.

Interest payments for a loan to finance construction and installation work shall be part of the total cost of construction. Once the construction is completed, the interest payments borne as from the start shall be deducted from gross taxable income.

Interest income means any payment, discount and premium granted to a taxpayer for its financial transactions that may be any interest on a loan, interest on account balance, interest on savings, guarantee payment and interest on payable notes (bond).

LOSSES

A tax statement loss, i.e. the excess of allowable deductions over gross income, may be carried forward for 4 to 8 subsequent years for mining and infrastructure sectors, and 2 years for other sectors (if the loss is incurred after 1 January 2007). Losses carried forward can be set off against a maximum of 100% of the future taxable income in each tax year for mining and infrastructure sectors and 50% for other sectors.

Losses cannot be carried back.

FOREIGN SOURCED INCOME

Corporate income tax is levied on a taxpayer of a corporate entity incorporated under the laws of Mongolia and a foreign corporate entity with its head office located in Mongolia for its revenues generated both in Mongolia and a foreign country in a given year.

INVESTMENT ALLOWANCE / INCENTIVES

The following income of a taxpayer shall be tax exempt:

- Discounts equal to 50% of invested capital in Free Trade Zones (FTZs) for businesses with more than USD 300,000 of investment in building warehouses, loading and unloading facilities, tourist camps, hotels, or manufacturers of exported and import-substituted goods in the FTZs; and
- Discounts equal to 50% of invested capital in FTZs for businesses that have invested USD 500,000 or more in the FTZs operating to improve infrastructure, such as energy and heating sources, clean water supply, pipeline networks, roads, railways, airports, waste water sewage, and basic communication lines.

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C. FOREIGN TAX RELIEF

An ordinary tax credit is granted, both unilaterally and under tax treaties, for foreign tax paid on foreign income. The foreign tax credit is subject to a country-by-country limitation. Excess foreign tax credits cannot be carried forward or back.

D. CORPORATE GROUPS

There are no specific provisions for group taxation.

E. RELATED PARTY TRANSACTIONS

Where related parties sell or transfer goods, perform work or render services among themselves below or above fair market value, the tax authorities can determine the gross taxable income from such transactions based on the value of similar transactions among non-related parties.

Related parties are defined as follows:

a) Owns 20% percent or more of the common stock;

b) Has the right to receive 20% or more of dividends or income distributions;

c) Has the right to appoint 20% or more of the management of the corporate entity or to determine its business policies.

Transfer pricing documentation will need to be maintained for all transactions subject to the transfer pricing rules and should be presented to the tax authorities at their request.

On 25 December 2017, Mongolia was the 111th country to join the "Inclusive Framework on BEPS". By joining the group, Mongolia has pledged to adopt minimum international taxation standards developed in 2015 by OECD and G20 nations, with input by other nations, in response to the base erosion profit shifting (BEPS) plan.

The commitment means that Mongolia will adopt provisions to prevent tax treaty shopping, implement country-by-country reporting on multinationals and exchange country-by-country reports with other country tax administrations. Mongolia will also limit the benefits of any intellectual property or other tax regimes deemed to be preferential tax regimes and will fully implement the mutual agreement procedure in its tax treaties with other countries to aid resolution of tax disputes.

F. WITHHOLDING TAX

'Withholding agent' means a person that withholds tax imposed on a taxpayer's income and paying the same to the state and local budget. A withholding agent retains taxes imposed on income from:

a) Dividends and royalties at 10%;

b) Gaming and lottery at 40%;

c) Sale of rights at 30%;

d) Transferred profits by a representative office of a foreign company to a non-resident-taxpayer, i.e. branch remittance tax, at the rate of 20%;

e) Interest on loans and guarantee payments at the rate of 20%;

f) Royalties, leasing interest, payment for administrative expenses, rent, management expenses, and income from the use of tangible and intangible assets at the rate of 20%;

g) Goods sold, work performed and services provided on the territory of Mongolia at the rate of 20% and transferring it to the Treasury within 7 working days.

A withholding agent retains tax imposed on income from the sale of immovable property and transfers it to the Treasury within 10 working days following the sale of the property.

A Mongolian VAT withholding agent retains tax imposed on income from goods sold, work performed and services provided by a non-resident legal entity to the resident legal entity at 10%.

G. EXCHANGE CONTROL

There are no exchange control requirements.

H. PERSONAL TAX

A citizen of Mongolia, foreign national and stateless person who resides in Mongolia is a taxpayer. A taxpayer is classified as either a permanent resident taxpayer of Mongolia or a non-resident taxpayer of Mongolia.

A permanent resident taxpayer of Mongolia includes:

- An individual with a residence in Mongolia;
- An individual who resides in Mongolia for 183 or more days in a tax year;
- A civil servant of Mongolia appointed to work overseas.

A non-resident taxpayer of Mongolia is considered an individual who has no residence in Mongolia and has not resided in Mongolia for 183 or more days in a tax year.

The personal income tax rates are as follows:

Income	Tax rate (%)
Employment income[1]	10
Business and professional income[2]	10
Income from property	10
Sale of immovable property	2
Income from quizzes, gambling and lotteries	40
Income from sports competitions, art performances and similar income	5
Income from scientific, literary and artistic works, product designs and useful designs, and inventions	5

Notes:

1. Effective 1 January 2018 a new law introduced progressive rates on employment income. However, in February 2018 the law was repealed and the flat 10% rate was re-instated.
2. Including income derived by self-employed professionals like lawyers, doctors, accountants and independent contractors.

Taxable income of a non-resident taxpayer is determined by the amount of total income earned on the territory of Mongolia. A withholding agent has the obligation to retain withholding tax imposed on taxable income of a non-resident taxpayer at 20% of the total income amount.

I. TREATY WITHHOLDING TAX RATES

Dividends, interest, and royalties paid, and payments made for goods sold and work/services provided (directly or electronically), to non-residents are subject to WHT at a 20% rate. Interest provided to non-residents on bonds issued by Mongolian commercial banks and listed on the domestic or foreign stock exchange are subject to WHT at 10%.

Recipient	Withholding tax rates (%)			
	Dividends	Interest	Royalties	Technical fees
Austria	5/10[1]	10	5/10[11]	N/A
Belarus	10	10	10	N/A
Belgium	5/15[2]	10	5	N/A
Bulgaria	10	10	10	N/A
Canada	5/15[7]	10	5/10[12]	5
China	5	10	10	N/A
Czech Republic	10	10	10	N/A
France	5/15[7]	10	5	N/A
Germany	5/10[1,4]	10	10	N/A
Hungary	5/15[9]	10	5	N/A
India	15	15	15	15
Indonesia	10	10	10	N/A
Kazakhstan	10	10	10	N/A
Korea (North)	5	5	10	N/A
Korea (South)	5	5	10	N/A
Kyrgyzstan	10	10	10	N/A
Malaysia	10	10	10	10
Poland	10	10	5	N/A
Russia	10	10	10	N/A
Singapore	0/5/10[6,9]	5/10[10]	5	N/A
Switzerland	5/15[5]	10	5	N/A
Turkey	10	10	10	N/A
Ukraine	10	10	10	N/A
United Kingdom	5/15[3]	7/10[8]	5	N/A
Vietnam	10	10	10	10

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Notes:

1. 5% if the recipient is a company (excluding partnerships) and directly owns at least 10% of the capital of the company paying dividends.
2. 5% if the beneficial owner is a company (excluding partnerships) and directly or indirectly holds at least 10% of the capital of the company paying dividends.
3. 5% if the beneficial owner is a company that directly or indirectly controls at least 10% of the voting power in the company paying dividends.
4. 5% if the beneficial owner is a company (excluding partnerships) and directly owns at least 10% of the company.
5. 5% if the beneficial owner is a company (excluding partnerships) and directly owns at least 25% of the capital of the company paying dividends.
6. No tax if dividends paid to the government/certain public bodies.
7. 5% if the beneficial owner is a company and directly or indirectly holds at least 10% of the capital of the company paying dividends.
8. 7% if interest is paid to a bank that is the beneficial owner of the interest and carrying on a bona fide banking business.
9. 5% if the beneficial owner is a company and directly owns at least 25% of the capital of the company paying dividends.
10. 5% if interest is received by a bank or a similar financial institution.
11. 5% if the beneficial owner of the royalties in the meaning of any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial, or scientific experience; 10% in all other cases.
12. 5% if the beneficial owner of the royalties in the meaning of copyright royalties and other payments for production or reproduction of any literary, dramatic, and other work, royalties for the use of, or the right to use, computer software or any patent, or for information concerning industrial, commercial, or scientific experience; 10% in all other cases.

MYANMAR

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MEMBER FIRM

City	Name	Contact Information
Yangon	Thida Cho Win	+959 78 515 0902 tdcho.win@vdb-loi.com

BASIC FACTS

Full name:	Republic of the Union of Myanmar
Capital:	Naypyidaw
Main languages:	Burmese
Population:	54.29 million (2019 estimate)
Monetary unit:	Myanmar Kyat (MMK)
Internet domain:	.mm
Int. dialling code:	+95

KEY TAX POINTS

- Corporate income tax is levied at the rate of 25% on income earned in kyat.
- There is no withholding tax on dividends paid to a resident or non-resident.
- Interest is subject to a 15% withholding tax if paid to a non-resident. There is no withholding tax on interest paid to a resident.

- Royalties are subject to a 15% withholding tax if paid to a non-resident. Royalties paid to a resident are subject to a 10% withholding tax.
- There is no Value Added Tax, although commercial tax is levied as a turnover tax on goods and services, generally at a rate of 5%.

A. TAXES PAYABLE

COMPANY TAX

The current corporate income tax ("CIT") rate is 25% for Myanmar companies, branches registered under the Myanmar Companies Act 1914 ("MCPA"), Myanmar Companies Law ("MCL") 2017, and companies operating under permission from the Myanmar Investment Commission ("MIC") (i.e. foreign-owned resident companies with an investment license from the MIC granted under the Foreign Investment Law and Myanmar Investment Law 2016). However, please note that CIT rate for companies listed on the Yangon Stock Exchange is 20% effective from 2017-2018 income year. Resident entities, which are defined as companies established under the MCPA or MCL are obliged to declare and pay CIT on their worldwide income. Non-residents, including branches or overseas corporations registered under the MCPA and MCL, are only obliged to pay CIT on their Myanmar-sourced income.

Advance payment of 2% CIT on importation and exportation

Companies importing or exporting goods must pay a 2% advanced income tax on the assessed value of the goods for import and export. There are a few exceptions, including the import of materials and equipment during the construction period of projects, and raw materials imported during the first three years of production under an MIC permit and goods exported via border trade. The tax that is collected as an advance payment of CIT can be used as an offset against the annual CIT due at the end of the financial year.

CAPITAL GAINS TAX

Overview

Capital assets include land, buildings and their rooms, vehicles, and work-related capital assets. The expression also includes shares, bonds, securities and similar instruments. Capital gains tax ("CGT") is applicable to both resident and non-resident taxpayers deriving a profit from the sale, exchange, or transfer of capital assets in Myanmar. CGT is payable by the person deriving the profit. A CGT return must be lodged by any person who sells, exchanges or transfers capital assets, even if there is a loss.

Income threshold for paying CGT

If the total value of the capital asset; which was sold, exchanged or transferred, does not exceed MMK 10 million, CGT will not be applicable.

Rates of tax

The CGT rate for all taxpayers (with the exception of those deriving a gain from an upstream oil and gas asset or a company holding an upstream oil and gas asset) is 10%, and is imposed in either MMK or a foreign currency. CGT for upstream oil and gas sector must be paid in the same currency in which the gain was received. The following rates apply:

	Capital gain	Tax rate
1	Up to MKK 100 billion	40%
2	From over MMK 100 billion to MMK 150 billion	45%
3	Over MMK 150 billion	50%

Calculation of CGT

CGT is calculated on the full value of the sale, exchange or transfer after deducting depreciation, the original asset cost, any capital expenditures to increase the life of the asset, and any expenditures incurred in the procurement, sale, exchange or transfer of the asset. Deprecation is not allowed for the year of disposal of the capital asset.

BRANCH PROFITS TAX

A foreign company's branch is also taxed at a rate of 25% on Myanmar-sourced income. There is no branch remittance tax in Myanmar.

COMMERCIAL TAX

Overview

Commercial tax ("CT") is levied on four types of activities:

- Local production and sale of goods
- Importation of goods
- Trading
- Provision of services

Non-taxable goods and services

There are 86 goods exempted from CT, and the majority of the exempted goods are agricultural goods and related products. All kinds of services rendered in Myanmar are subject to CT at 5%, except 30 types of exempted services.

Revenue threshold for charging and paying CT

Taxpayers whose revenue from trading, the sale of goods and services in the financial year exceeds the minimum threshold of MMK 50 million are obliged to charge, collect and pay CT to the IRD.

Registration

Apart from importation, any person (including non-residents) who is performing the abovementioned activities that are subject to CT is required to register for CT one month in advance of the commencement of business. CT on importation will be collected by the Customs Department together with customs duty.

Rates of tax

Below is a summary of the applicable CT rates:

Activities	CT rate
Importation	5%
Local manufacturing	5% unless exempted
Trading	5% unless exempted
Exportation	Zero rated, unless crude oil 5% and electricity 8%
Services rendered in Myanmar	5% unless exempted
Real estate - lease - sale of building	 5% 3%
Sale of jewelleries made with gold	1%

Basis of taxation

The tax base is the sale or service proceeds including Specific Goods Tax (if applicable) from trading, rendering services, local production or sales of goods. For imports, the tax base is the CIF (cost, insurance and freight) value, customs duty and SGT (if applicable).

Offsetting input and output CT

All input CT can be offset against output CT apart from the CT paid for any fixed assets or capital assets. In addition, input CT paid on damaged goods and unsold goods cannot be offset against output CT. If there is more input CT than output CT at the end of the financial year, the unutilised input CT will not be refunded by the IRD. However, such input CT can be deducted as a business expense when calculating CIT.

SPECIFIC GOODS TAX

Overview

Myanmar introduced a Specific Goods Tax ("SGT"), effective from 1 April 2016. SGT is imposed on:

- The import of specific goods into Myanmar
- The local production of specific goods
- The export of specific goods overseas

Therefore, importers, producers and exporters of specific goods are subject to paying SGT. There are 17 types of specific goods.

SGT exemptions

There are a number of SGT exemptions, including an exemption for the export of specific goods temporarily imported for the purpose of re-exporting in the same condition.

Revenue threshold for charging and paying SGT

Apart from the local production of tobacco, cheroots and cigars that does not exceed the minimum threshold of MMK 20 million, there is no threshold for other types of specific goods.

Registration

Importers, producers and exporters of specific goods must register with the relevant IRD.

Rates of tax

SGT rates are announced on a yearly basis in the UTL.

Basis of taxation

The SGT basis for importation is the landed value of the specific goods. For local production of specific goods which are taxable as per price range, the basis is the greater of the factory sales price or the sales price as estimated and specified by the Director General and Management Committee of the IRD. For local production of specific goods which are not taxable as per price range will be assessed based on the value determined Management Committee of the IRD. However, the value determined by the IRD for locally produced specific goods which are not taxable as per price range would be similar to the landed value of similar goods imported from overseas.

Offsetting input and output SGT

Input SGT can be offset with output SGT.

OTHER TAXES

Stamp Duty

The Stamp Act, as amended on 1 April 2014, is the fundamental legislation in respect of stamp duty ("SD") obligations. The main purpose of levying SD is to give legal effect to chargeable instruments. Chargeable instruments are documents that create, transfer, extinguish or record rights or obligations.

As a general rule, SD is levied on all chargeable instruments, unless explicitly exempted. If the SD is not paid at the time of execution of the instruments or within one month of their execution, the IRD will impose an annual penalty of 10 times the amount of the overdue SD.

Property Tax

The fundamental legislation for property tax ("PT") is the Yangon City Development Law 2018 and Yangon City Development Committee ("YCDC") was created to administer these laws and collect PT. PT only applies to certain land, buildings or land and buildings ("premises") located within the territory of Yangon (Territory); in other areas of Myanmar, for instance Mandalay or Nay Pyi Taw, PT is administered in accordance with relevant local regulations.

PT includes four categories of taxes: miscellaneous tax, lighting tax, water tax and sanitation tax. PT is levied on the annual value of land or premises in question but subject to different tax rates and is payable once in a year. The rates and calculation of PT depend on the purposes of use of the premises. The general user of the premises is liable to pay PT on an annual basis once YCDC has already assessed the annual value of the premises.

Customs Duty

In Myanmar, customs duty is levied in accordance with the Sea and Land Customs Act. Customs duty is levied on Assessment Value and is payable according to the tariff schedule listed by HS code published by the Customs Department.

B. DETERMINATION OF TAXABLE INCOME

Tax is levied on total income, after deduction of allowable expenditure and depreciation.

Generally, expenditures incurred for the purpose of earning business income are deductible, subject to certain limitations. Capital expenditures, personal expenditures, expenditures not commensurate with the volume of business, inappropriate expenditures, expenditures incurred for purposes other than earning such income, and payments made to a member of an association of persons other than a company or a cooperative society, are not deductible.

DEPRECIATION

A depreciation allowance is deductible for CIT purposes. Capital assets must be capitalised and depreciated on a straight-line basis in accordance with the rates set out in Notification 19/2016, the Second Regulations Amending the Income Tax Regulations. A full-year depreciation allowance can be claimed for the year in which a capital asset is acquired, regardless of whether the asset is used for all or part of that year.

DIVIDENDS

There are no provisions for intercompany dividends in the tax legislation. However, dividends received from a company are exempt. Myanmar operates a one-tier corporate tax system, under which all dividends received from an association of persons (i.e. partnerships, joint ventures, companies, associations formed by individuals, cooperative societies and government economic organisations) are exempt from income tax at the level of the shareholders.

INTEREST DEDUCTIONS

There is no specific thin capitalisation regime in Myanmar, although capitalisation of a company might be covered in the licences granted to the company. However, there are restrictions to the deductibility of interest.

LOSSES

Under the Income Tax Law ("ITL"), if a company sustains a loss, it can be utilised against future profits and carried forward for up to three consecutive years, with the exception of capital losses.

C. FOREIGN TAX RELIEF

There are no provisions for unilateral relief. The entitlement to tax treaty benefits is not automatic. The Myanmar tax authorities and the MoF need to be consulted by the payer of the fee on a case-by-case basis in order to obtain tax treaty relief.

D. CORPORATE GROUPS

There are no provisions for group treatment in the tax legislation.

E. RELATED PARTY TRANSACTIONS

There are currently no transfer pricing rules in Myanmar.

F. WITHHOLDING TAX

Overview

The Ministry of Planning and Finance ("MOPF") released Notification 51/2017 ("Notification 51/2017") on 22 May 2017, which revokes the old Withholding Tax ("WHT") Notifications. The Notification 51/2017 is effective from 1 April 2017 (FY2017-2018) to 30 June 2018 (FY2018-2019). The MOPF released another new WHT Notification 47/2018 ("Notification 47/2018") on 18 June 2018 which revokes the WHT Notification 51/2017. The Notification 47/2018 will be effective from 1 July 2018 (FY2018-2019). Please refer to below table in relation to payments subject to WHT under the Notification 51/2017 and Notification 47/2018.

Type of income	Residents		Non-residents	
	Notification 51/2017	Notification 47/2018	Notification 51/2017	Notification 47/2018
Interest	0%	0%	15%	15%
Royalties	10%	10%	15%	15%
Goods (Locally purchased goods) – payments made by government organisations, ministries and state-owned enterprises	2%	2%	2.5%	2.5%
Goods (Locally purchased goods) – payments made by others apart from government organisations, ministries and state-owned enterprises	2%	0%	2.5%	2.5%
Services (Locally rendered services) – payments made by government organisations, ministries and state-owned enterprises	2%	2%	2.5%	2.5%
Services (Locally rendered services) – payments made by others apart from government organisations, ministries and state-owned enterprises	2%	0%	2.5%	2.5%
Lease	2%	N/A	2.5%	N/A

Both Notification 51/2017 and Notification 47/2018 impose legal obligation on payer to deduct WHT from payments that are subject to WHT, regardless of whether the income recipient has agreed to the deduction or not. Please note that the Internal Revenue Department ("IRD") may recover the WHT from payer if the payer is failed to deduct applicable WHT. The payer can be a resident taxpayer or a non-resident taxpayer. The obligation for deducting WHT rests with the payer.

Exemption of WHT

Exemption from WHT deduction is given to payments between government organisations, and payments made to respective government organisations and stated-owned enterprises and interest payments to non-resident lenders who open branches locally or file corporate income tax return for income derived from the branch. Previously, Myanmar branches of foreign banks were considered non-residents and are thus captured in Myanmar's 15% WHT rate on interest paid to non-residents. From 1 April 2017, the WHT on interest payment to the Myanmar branches of foreign banks will no longer apply.

Minimum threshold

Under Notification 51/2017 (1st April 2017 to 30th June 2018), if the payer is a company under self-assessment; companies under Large Taxpayers Office and Medium Taxpayers Office, payment amount not exceeding MMK 1.5 million per supplier per payment is exempt from WHT. For other taxpayers, the minimum threshold is MMK 0.5 million. There is no exemption for payments to non-resident or payments in foreign currency. Page 6 Under Notification 47/2018 (effective from 1st July 2018), there is a minimum threshold of MMK 1 million for total payments within a year period for payments made by government organisations, ministries and state-owned enterprises. However, there is no minimum threshold for payments made to non-residents.

Double Taxation Agreement

If the non-resident taxpayer is a resident taxpayer of a country with which Myanmar has a tax treaty, a relief may be available under the DTA. The IRD will require the non-resident to provide the Certificate of Residency issued by the tax authority of their country of residence. However, in order to enjoy the reliefs under the DTA, an application must be made to the IRD for approval.

G. EXCHANGE CONTROL

Myanmar's foreign exchange regulatory framework has evolved substantially since 2011. In order to ease its stringent foreign exchange controls, the Government of Myanmar enacted a new Foreign Exchange Management Law (FEML) in August 2012. The FEML liberalizes transfer payments related to current account transactions, though transfers related to capital accounts remain conditional. The application of the new law in practice continues to evolve. However, companies registered under the new investment law are guaranteed the ability to repatriate investment and profits in the foreign currency in which such investments were made, subject to the approval of Myanmar Investment Commission (MIC).

H. PERSONAL TAX

Overview

Employers, whether residents or non-residents of Myanmar for tax purposes, are liable to deduct personal income tax ("PIT") from payments of salaries, wages and other remuneration made to all employees. Employees that are residents of Myanmar (both Myanmar nationals and foreigners) are taxed on their worldwide income at progressive rates after deducting the prescribed allowances and reliefs; whereas non-residents are taxed only on their Myanmar-sourced income, at the same progressive rates.

Residency

A foreign individual is considered a resident foreigner for tax purposes if they are in Myanmar for 183 days or more during an income year (1 April to the following 31 March) or they are working on an MIC project and are in Myanmar for any length of time. Accordingly, foreigners who are not working on an MIC project and reside in Myanmar for less than 183 days are considered non-resident foreigners.

Taxable salary

Salary income as defined by the ITL includes "salary, wages, annuities, bonuses, awards, and fees or commissions received in lieu of or in addition to the salary or wages". Taxable benefits are not defined under the law; therefore, any payment from an employer to an employee will be considered a taxable benefit unless it can be demonstrated that it is business-related only. The following are exempt from PIT: pensions, gratuities, salary income of non-resident citizens received in foreign currency abroad, and money received from the state lottery. According to the Union Tax Law ("UTL") of 2018, anyone whose annual salary income is MMK4.8 million or less is exempt from paying PIT.

Tax reliefs and allowances for Myanmar residents

- Basic allowance of 20% of annual salary income, up to a maximum of MMK 10,000,000 (approximately USD 8,300*);
- MMK 500,000 per annum (approximately USD 400*) for each child living with the taxpayer who fulfils all of the following criteria: 1) is unmarried; 2) is not earning assessable income; and 3) is either under 18, or if 18 or over, is in full-time education;
- MMK 1,000,000 (approximately USD 830*) for one non-working spouse who is living with the taxpayer
- MMK 1,000,000 (approximately USD 830*) per parent for dependent parents living with the taxpayer. The term "parent" includes a father- or mother-in-law;
- Premiums paid for the life insurance of the taxpayer and taxpayer's spouse;
- Contributions towards savings funds approved by the Internal Revenue Department ("IRD");
- Social security contributions made by employees to the Social Security Board (2% of annual salary, capped at MMK 72,000 (approximately USD 60*).

* Using an exchange rate of USD 1 = MMK 1,200

Rates of tax

The tax rates for resident and non-resident employees are now at the same progressive rates, although for resident taxpayers, the PIT rates are applied on their worldwide income after deduction of the reliefs and allowances above, while for non-residents, the PIT rates are applied on their Myanmar-sourced salary income without any deduction. The following table shows the PIT rates on annual salary income. Approximate USD amounts are shown in brackets based on an exchange rate of USD 1 = MMK 1,200.

Personal income tax rates		
From MMK (USD)	**To MMK (USD)**	**Income tax rate**
1 (0.0008)	2,000,000 (1,666)	0%
2,000,001 (1,667)	5,000,000 (4,167)	5%
5,000,001 (4,168)	10,000,000 (8,333)	10%
10,000,001 (8,334)	20,000,000 (16,666)	15%
20,000,001 (16,667)	30,000,000 (25,000)	20%
30,000,001 (25,001) and above		25%

Social Security Contributions

The Social Security Law requires an employer with more than five employees to contribute to a social security scheme. The rates of the monthly contributions by the employer and employees are 3% and 2%, respectively, of an employee's total salary including benefits (capped at a maximum monthly salary of MMK 300,000), in local currency or US dollars, depending on the currency in which the employee is paid. Hence, the maximum monthly contribution for an employee is MMK 6,000, and for an employer it is MMK 9,000 per employee. The employer is responsible for deducting the contribution from the employee's salary and paying the amount to the social security board.

Undisclosed source of income

Undisclosed source of income will be subject to income tax at 30% for both citizens and foreigners before deduction of prescribed tax reliefs and allowances mentioned under the PIT section.

However, if the citizen can disclose source for income used for buying, constructing or acquiring any capital assets or establishing a new business or expanding an existing business, the portion of income that source can be proved shall be deducted from the total undisclosed income and the balance of the undisclosed income will be taxed at the progressive rates mentioned in the table below.

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No.	Income (MKK)	Income tax rate
a	1 – 30,000,000	15%
b	30,000,001 – 100,000,000	20%
c	100,000,001 and above	30%

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
Domestic rates				
Companies	0	0	15	15
Individuals	0	--	15	15
Treaty countries:				
India	5	5	10	10
Korea (South)	10	10	10	10/15[3]
Laos	5	5	10	10

	Dividends		Interest (%)	Royalties (%)
	Individuals, companies (%)	Qualifying companies (%)		
Malaysia	10	10	10	10
Singapore	10	0/5[1]	8/10[2]	10/15[3]
Thailand	10	10	10	5/10/15[4]
United Kingdom	0	0	--[5]	0
Vietnam	10	10	10	10

Notes:

1. The 5% reduced rate applies if the beneficial owner is a company which owns at least 25% of the shares of the dividend-paying company. The 0% rate applies if dividends are paid to the government of the other contracting state.
2. The 8% reduced rate applies if interest is received by any bank or financial institution.
3. The 10% reduced rate applies if royalties are paid for the use of, or the right to use, any patent, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The 5% reduced rate applies if royalties are paid for the use of, or the right to use, any copyrights of literary, artistic or scientific work. The 10% reduced rate applies if royalties are paid for any services of a managerial or consultancy nature, or for information concerning industrial, commercial, or scientific experience.
5. There is no reduction under the treaty, the domestic rate applies.

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MEMBER FIRM

City	Name	Contact Information
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BASIC FACTS

Full name:	Federal Democratic Republic of Nepal
Capital:	Kathmandu
Main languages:	Nepali
Population:	29.91 million (2019 estimate)
Monetary unit:	Nepalese Rupees (NRS)
Internet domain:	.np
Int. dialling code:	+977

KEY TAX POINTS

- Nepalese resident companies are subject to corporate tax on income derived from all sources at the rate of 25% subject to certain exceptions on various basis as per section 11 of ITA.
- All entities that carry their transactions in Nepal are required to register for Value Added Tax (VAT) if their annual turnover meets the registration turnover threshold.
- Withholding tax is deducted from interest, royalties and dividends and other specified payments as per section 88 of ITA.

- As per section 6 of ITA, Resident natural persons are taxed at all incomes from worldwide sources. Non-resident persons are taxed on incomes having source in Nepal.
- Resident natural persons are taxed at progressive rate.
- Non-resident natural person are taxed at flat rate and subject to final withholding as per section 92.
- Capital gain taxes are deducted as final withholding tax for non-resident persons and individuals and as advance tax for resident companies.
- Final withholding tax at rate of 25% is taxed on all windfall gains under section 88A of ITA.
- When foreign sourced income is included in assessable income, tax credits are available using credit method/ expense method as per sec 71 of ITA
- Non-resident air or transport operator pay taxes in its gross collection through sales of ticket at rate of 5%, whose first point is Nepal. The tax rate is 2% of gross sales of tickets where the flights do not originate from Nepal.
- Dividend distributed by foreign permanent establishment of non-resident is treated as amount repatriated and it is taxed at the rate of 5%.

1. DIRECT TAXES

1.1 GENERAL

The main objective of the tax system is to enhance revenue mobilisation through effective revenue collection procedure for the economic development of the nation. Income is taxed in accordance with the provisions of Income Tax Act 2002 (ITA). The salient features of the ITA are:

- Various concessions and incentives allowed under different Acts have been repealed and provided under the single ITA;
- The tax liability of residents and non-residents are clearly defined;
- Worldwide income of a resident, whether individual or company is made taxable in Nepal;
- Income with source in Nepal is taxable in Nepal irrespective of the place of payment;
- Specific provision for taxing capital gains is introduced;
- Procedures for granting credit for international tax are prescribed;
- General provision for anti-avoidance and income splitting rules introduced; and
- Clearly defined the tax administration and payment procedures are provided.

The tax is levied on income accrued or received from business, investment, employment and windfall gains. Employment income is taxed on cash basis, Investment income is taxed on cash basis for Natural person and on accrual basis for entity, Business income shall be taxed on accrual basis for both natural person and entity. Both individual and companies are required to follow a uniform income year that runs from July 16 to the following July 15 corresponding to the Nepali Fiscal Year (NFY). All persons with assessable income are required to register with the Inland Revenue Office (IRO) and obtain a Permanent Account Number (PAN) and to file a tax return annually. But in case of assessable income from employment only sourced in Nepal as per section 67 of ITA and where there is single resident employer and also the income is not greater than NRS 4 million then the employee is not required to file the income tax return.

Returns are filed under a self-assessment system under which the IRO considers returns final unless they are subject to a detailed scrutiny of the taxpayer's affairs. In practice, Assessing Officers make re-assessments and adjustments in the majority of the cases.

Income tax payments are made in the year in which the income is earned in the form of withholding tax and advance tax. Companies are subject to a flat rate of tax, whereas individuals are taxed at progressive rates. The Director General (DG) of Inland Revenue Department (IRD) has responsibility for the general administration of the ITA.

1.2 TAXATION OF COMPANIES

1.2.1 INTRODUCTION

Tax is levied under the provision of the Income Tax Act 2002, which provides for the imposition and collection of tax on the income of companies. Resident companies are subject to tax on their worldwide income. Non-residents are required to pay tax on their net income acquired or earned in Nepal or income with source in

Nepal. Tax is levied on the net income after making deductions for certain expenses/allowances as specified in the ITA.

"Company" means a body corporate or a company formed under the Companies Act of Nepal and includes foreign company and other institutions such as Unit Trust, Co-operatives Society or group of persons other than a partnership having less than 20 partners and proprietorship firm.

1.2.2 RESIDENCE

A resident company is a company formed or established in Nepal or is effectively managed in Nepal during the income year. A resident company is taxed on worldwide income. Dual residence is not recognised for the purposes of Nepalese tax.

1.2.3 ANNUAL FINANCIAL YEAR

The annual financial year in Nepal starts from mid-July of a year to mid-July of another year. All taxpayers are required to adopt uniform income year ending July 15 each year and submit tax returns within three months thereof i.e., by October 15 of each year although extension of 3 months may be requested and generally granted.

1.2.4 TAXABLE INCOME

Income tax is levied on the income earned or received from each of the following:

- Business income;
- Employment income;
- Investment income; and
- Windfall gains.

The income in relation to a business consists of the profit or gain derived from conducting the business, including:

a. Service fee;
b. Amounts derived from the disposal of trading stock;
c. Net gains from the disposal of business assets or liabilities;
d. Gain on the disposal of all depreciable assets in a pool of assets;
e. Gifts received in respect of the business;
f. Amounts derived as consideration for accepting a restriction on the capacity to conduct business; and
g. Amounts derived that are effectively connected with the business and that would otherwise be included in income from an investment.

In computing the income from business or investment, all actual costs are deductible to the extent they are incurred during the year by the entity in the generation of income from the business. The following methodology is available for the valuation of inventory:

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a. Prime cost or absorption cost method in case of cash accounting system;
b. Absorption cost method in case of accrual accounting system; or
c. Choice between first-in first-out method and average cost method.

1.2.5 CAPITAL GAINS TAX

Net gains from the disposal of business assets or liabilities of a business are taxable as business income. Generally, gains are calculated as proceeds from the capital transaction less the tax basis in the relevant property. In the language of the ITA, the gain from the disposal of an asset or liability is calculated as the amount by which the sum of the incomings of the asset or liability exceeds the outgoings of the asset or liability at the time of disposal and is reduced by the following losses:

a. The total of all losses suffered from the disposal of business assets or liabilities;
b. Any unrelieved net loss out of any other business losses; and
c. Any unrelieved net loss for a previous income year out of losses of any business.

Loss on the disposal of an asset or liability with a foreign source can be claimed against the above gain only to the extent that the amount includes gains on the disposal of assets or liabilities with a foreign source. A non-resident is taxed only on gains from the disposal of assets or liabilities sourced in Nepal.

1.2.6 DIVIDENDS

Dividend distributed by a resident company and partnership firms is subject to a final withholding tax at the rate of 5% to the resident and the non-resident person. These dividends are not taxed at the hand of the recipient and no withholding is applicable on distribution of dividends from dividend income. Dividends of a non-resident entity, which are distributed to a resident beneficiary, are taxed by inclusion in calculating the income of the beneficiary. Distributions of dividends, which are derived after final withholding tax, are exempted from tax.

1.2.7 EXEMPT INCOME

The following categories of income are exempt from tax:

a. Agricultural income derived from sources in Nepal by a person other than the income from an agriculture business derived by a firm, company, or partnership;

b. Income of cooperatives registered under the Cooperatives Act 2074 (2017) and savings and credit cooperatives operating in rural municipalities and conducting business in agriculture and forest-based products and industry including trading in seeds, animal feeds, pesticides, manure and agricultural tools (except machine operated); and

c. The income of a social, religious, educational, or charitable organisation of a public character registered without having a profit motive and similar other organisations approved by the IRD as exempt organisation.

All expenses incurred in earning exempt income are not tax deductible.

1.2.8 DEDUCTIONS

All actual expenses incurred in acquiring or earning income are allowable deductions for tax purposes, if it has been incurred in that NFY by the entity, including the following:

a. Interest as per section 14;

b. Cost of trading stock as per section 15;

c. Repair and improvement costs as per section 16 - amounts exceeding 7% of the value of depreciable assets in any income year are not deductible and are instead added to the depreciation basis of the relevant asset pool at the beginning of next income year. This limitation does not apply to the aviation industry;

d. Pollution control expenses as per section 17;

e. Research and development expenses as per section 18;

f. Depreciation as per section 19; and

g. Banking companies and financial institutions are allowed a deduction for impairment of non-performing assets (loan loss provision) subject to 5% of the total loan outstanding.

However, disclaimers, write-offs or the forgiveness of debt which is written off are not tax deductible. The ITA specifically provides that certain expenses are not deductible, such as:

a. Domestic and personal expenses;

b. Income tax paid in Nepal and fines and penalties paid to GON except tax payments to local and provincial governments;

c. Expenses incurred in deriving exempt income or final withholding payments;

d. Distributions of profits;

e. A cash payment in excess of NRS 50,000 by entities whose annual turnover exceeds NRS 2 million subject to certain exemptions; and

f. Expenses of capital nature which includes cost incurred on detailed feasibility report exploration and development cost of natural resources.

1.2.9 LOSSES

Tax losses can be carried forward for a period of 7 years and in the case of public infrastructure projects to be built, operated and transferred to GoN, projects relating to construction of power houses and generation and transmission of electricity and petroleum exploration and extradition companies, any unrelieved loss of the past 12 years can be deducted. However, tax losses can be carried back for set-off against taxable income of an earlier period in case of long-term contracts under international competitive bidding subject to prior approval from IRD.

Entities which has availed full or partial tax exemption in any of the year on investment or business income are not entitled to carry forward losses incurred in these exempt years.

Capital losses from the disposal of business assets or liabilities of a business are an allowable deduction and can be claimed as a normal business expense which are calculated as balancing charge (Gain) or terminal depreciation (Loss) as per section 19 except for gain and loss on sale of land.

1.2.10 TAX DEPRECIATION / CAPITAL ALLOWANCES

Depreciation is allowed on the acquisition cost of the following assets where such assets are used for income producing purposes:

Class	Assets Included	Depreciation Rate (%)
A	Buildings, structure and similar works of a permanent nature	5
B	Computers, fixtures, office furniture and office equipment	25
C	Automobiles, buses and minibuses	20
D	Construction and earth-moving equipment and any depreciable asset not included in another class	15
E	Intangible assets other than depreciable assets included in class D	During the useful life of the asset

Each depreciable asset at the time it is first owned or so used, are placed in a pool referred to as pools of depreciable assets. Depreciation is calculated on the reducing balance method except for pool E and is based on the pool of assets. Depreciation for pool E is calculated using SLM method. In case of disposal of each asset under pool E the pool is deemed to be dissolved because each asset under pool E is separate pool.

The pool of assets concept suggests aggregation of all assets with the same depreciation rate into a common block for computation of depreciation. Depreciation is computed at varying rates as prescribed. In the year of purchase depreciation is available for the full year, if an asset is added to the pool for more than six months. In other cases, depreciation is allowed at either two thirds or one third of the normal rate, if the addition is made for less than six or three months, respectively. Amounts derived from the disposal of an asset or assets are reduced from the written down value of the relevant pool.

Special Industries as per section 11, entities engaged in construction and operation of public infrastructures like road, bridge, tunnel, ropeway, overhead bridge, entities operating trolley bus or tram, cooperatives not covered by section 11(2), entities engaged in operating public infrastructure under BOOT (Built, own, operate and transfer) mechanism that are ultimately handed to GON, entities involved in construction , production, distribution and transmission of electricity and power generation houses can claim additional depreciation at one third rate of the normal rate.

Other additional benefits based on nature of business:

A. Entities undertaking public infrastructure projects under BOOT mechanism:

1. When equipment, machineries, or structures of pool D are replaced
   - Replacing assets (New Asset) is considered fully as absorbed addition and replaced assets (Old assets) is totally allowed as terminal depreciation for tax purpose in the year when replacement takes place.
2. When such project is finally transferred to GON
   - Total of closing depreciation base of all machineries, furniture and other equipment of pool D shall be claimed as terminal depreciation for tax purpose in the income year when the project is transferred to GON.

B. Entity undertaking electric power generation, distribution and transmission:

1. When equipment, machineries, or structures of pool D are replaced
   - Replacing assets (New asset) is considered fully as absorbed addition and replaced assets (Old assets) is totally allowed as terminal depreciation for tax purpose in the year when replacement takes place.
2. When such project is finally transferred to GON
   - Total of closing depreciation base of all machineries, furniture and other equipment of pool D shall be

claimed as terminal depreciation for tax purpose in the income year when the project is transferred to GON.

C. Purchase of Power Generating Equipment
- If any person purchases power generating assets during any income year to generate power for its business purpose, such industries are entitled to claim 50% of the cost of the assets as depreciation during the income year.

D. Purchase of Fiscal printer or Electronic cash register to issue invoice
- Irrespective of the date of purchase of Fiscal printer or Electronic cash register can claim depreciation equal to its cost if it is used to issue the invoice.

1.2.11 AMORTISATION OF EXPENDITURE

Costs incurred in respect of natural resource prospecting, exploration and developments are treated as if they were incurred in securing the acquisition of an asset that is used in that production and depreciated.

Expenditure incurred on R&D and pollution control related to the taxpayer's business is deductible up to 50% of the adjusted taxable income in the income year it is incurred. Any excess cost, for which deduction is not allowed as a result of the said limitation, is capitalised and depreciated.

Intangible assets are amortised over the useful life of the asset.

1.2.12 INTEREST

Interest means the following payments or gains:

a. A payment made or incurred under a debt obligation that is not a repayment of capital;
b. Any gain realised by way of a discount, premium, swap payment, or similar payment; and
c. The portion that is treated as interest in the payment made under an annuity or for acquiring an asset under an instalment sale or the use of an asset under a finance lease.

The interest incurred under a debt obligation is deductible to the extent, either that the obligation was required to be incurred in the production of income or the debt was used to purchase an asset that is used in the business.

1.2.13 TAX RATES

The current corporate tax rate varies depending on the nature of the taxable income as follows:

Industry	Nature of Business	Rate of Tax	Applied as
Manufacturing	Special industries qualifying under the Industrial Enterprises Act 2016 (except related to tobacco and alcoholic beverages)	20%	Flat rate
Financial Institutions	Bank and Financial Institutions licensed by Nepal Rastra Bank, Non-life insurance companies, Money Transfer, Capital Market Business, Securities Business, Merchant Banking Business, Commodity Future Market, Securities and Commodities Broker Business	30%	Flat rate
Telecom and ISP	Telecommunication, Internet Service Provider (ISP)	30%	Flat rate
Tobacco related	Entity engaged in business of cigarette, tobacco, cigar, chewing tobacco, alcohol and beer	30%	Flat rate
Other	Commercial trading/service entities and other businesses	25%	Flat rate

Tax rate for entities other than specified above is 25%. Non-residents are taxed at 25% except the income from transporting passengers, mail or cargo by sea or air that is embarked in Nepal is taxed at 5% and 2% on online and offline transactions, respectively.

1.2.14 ANNUAL TAX RETURNS

All taxpayers are required to adopt uniform income year ending July 15 each year and submit tax returns within three months thereof. i.e. by October 15 of each year although extension of 3 months may be requested and generally granted. The accounts are to be audited by an auditor qualified under the laws of Nepal. Tax returns also need to be certified by the auditor and submitted along with the audited accounts within the stipulated time. However, small and medium taxpayer, having annual turnover not exceeding NRS 10 Million, are waived from audit and they can self-attest their tax return.

1.2.15 ADVANCE TAX

Income tax is to be paid in advance in 3 instalments by all entities subject to certain exceptions during an income year by 14 January, 14 April and 15 July computed at the applicable rates on the estimated profits of the entity for the entire year. Advance tax to be deposited is as follows:

Instalment / due date	Advance Tax
1st i.e. 14 January	40% of the total estimated tax liability for the year
2nd i.e. 14 April	70% of the total estimated tax liability for the year
Final i.e. 15 July	100% of the total estimated tax liability for the year

Provided that, taxpayers based on turnover taxation shall pay advance tax as follows:

Instalment / due date	Advance Tax
1st i.e. 14 January	Tax at the rate specified on actual transaction up to 4 January
Final i.e. 15 July	Remaining of tax calculated at the rate specified on estimated transaction amount at 15 July based on actual transactions up to 4 July.

1.2.16 TAX PAYMENT / REFUNDS

Income-tax payments are made in the year in which the income is earned in the form of withholding tax and advance tax. The taxpayer is required to estimate taxable income and make advance payments in three instalments spread over the year. Income from services including contract payment is subject to tax withholdings that may be adjusted for the purpose of calculating advance tax.

Arrangements have been made by IRO to refund within 60 days the excess money deposited by taxpayers (in practice may take longer or not refunded but adjusted with future tax liabilities and is the process is cumbersome).

1.2.17 FINES AND PENALTIES

Failure to maintain records, non-submission of returns or late submission, non-payment or short payment of tax will attract late fee/ interest at prescribed rates. Submission of false or misleading returns shall attract a penalty ranging from 50 to 100% of tax loss. Fines including imprisonment for a term ranging from one month to two years are prescribed for not paying or evading tax.

1.2.18 REVIEW AND APPEAL

Application for Administrative Review may be submitted at IRD against revised assessment or an assessment of fees, interest and penalty within 30 days from the date of receipt of notice about the decision. While filing an application it is mandatory that the 100% of the undisputed tax and one third of the disputed tax is deposited.

1.3 TAXATION OF INDIVIDUALS

1.3.1 INTRODUCTION

As per section 6 of ITA, Resident individuals are subject to tax on their worldwide income derived from employment, business or investment. Non-residents are subject to tax on their net income earned or sourced in Nepal.

1.3.2 RESIDENT

A person who has resided in Nepal for a period of 183 days or more in a duration of consecutive 365 days or whose normal place of abode is Nepal or government employee who has been deputed by government in foreign nation are considered residents of Nepal. Dual residence is not recognised for the purpose of Nepalese tax.

There is no separate provision for taxing the income of short-term visitors. Depending on the length of stay, they will be classified as resident or non-resident and the Nepal sourced income shall be taxed accordingly.

1.3.3 TAXATION OF INCOME

Tax is levied on the total income earned or received by an individual less deductions, relief and incentives. Certain categories of income are not included in the total income of an individual but are taxed separately under special regimes, including:

a. The amount obtained by natural person (Other than private firm) towards the house rental has been excluded from the definition of “Rent” as per section 2 of ITA. Hence, 10% withholding rate on rental payment does not apply to the house rental payment to natural persons. House rental tax of 10% (in case of Lalitpur and Kathmandu municipal authority) on payment to natural person should be deposited in respective Municipality ward office. However, the rate may differ as per the decision taken by municipality.

b. Interest on bank deposits of natural person is taxed separately at source at a flat rate of 5% (final WHT) and of tax-exempt entity at a flat rate of 15% (final WHT) if payment is made by resident bank and financial institutions, company issuing debenture, bonds, etc. and it shall also be subject to final withholding as per section 92 of ITA. Interest on deposit up to NRS 25,000 provided by cooperative based on rural area or listed under section 11(2) shall be exempted from tax. In other cases, interest is taxed at the rate of 15% as per section 88 of ITA.

c. Gain in investment insurance of a resident natural persons and from unapproved retirement fund is taxed at a flat rate of 5%. However, gain earned on compensation received due to the death of individual is exempted from tax.

d. Windfall gains tax is taxed at a rate of 25%. Provided that if any national or international prize up to NRS 500,000 relating to Nepalese culture, arts, literature, etc. shall be exempted from income tax.

e. Returns distributed by a mutual fund to a natural person is taxed at a rate of 5%;

f. Meeting fees is taxed at a rate of 15%. Meeting fee up to NRS 20,000 per meeting shall be final withholding as per section 92.

g. Amount paid to a non-resident person after withholding applicable taxes under remuneration, fees, commission, royalty, interest and under contractual payments are final withholdings; and

h. Dividend received from a resident company and partnership firm is taxed as final tax withholding at a rate of 5% to the resident and non-resident person both.

1.3.4 CAPITAL GAINS TAX

Net gain derived in respect of disposal of shares listed in stock exchange is subject to tax at the rates of 7.5%, 10% and 25% for resident natural person, resident entity and others, respectively whereas in case of unlisted shares, tax at the rate of 10%, 15% and 25% is applicable for resident natural persons, resident entity and others, respectively.

Net gain derived from the disposal of land and building under the definition criteria of Non-Business Chargeable Asset (NBCA) as per section 2 is subject to tax at the rate of 2.5% if owned for more than 5 years and 5% if owned up to 5 years for natural person. Net gain on disposal of land and building by persons other than natural persons irrespective of the period of holding is subject to 10% WHT by Land Revenue office.

1.3.5 DIVIDENDS

Dividends received from resident companies and partnership firms are taxed at source as a final withholding and therefore tax exempt for both resident and non-resident individual.

1.3.6 EMPLOYMENT INCOME / EMPLOYEE BENEFITS

GENERAL

Remuneration earned or received from the exercise of employment is taxed as income from employment. Employment income is defined to include:

a. Wages, salary, leave pay, overtime pay, fees, commission, prizes, gifts, bonuses and other facilities;

b. Personal allowances including cost of living, subsistence, rent, entertainment and transport allowance;

c. Reimbursement of costs;

d. Payment for the agreement to any conditions of employment;
e. Retirement contributions; and
f. Other payments made in respect of the employment.

TREATMENT OF RETIREMENT BENEFITS

The actual contribution, one third of the employment income or NRS 300,000 whichever is lower, contributed to the approved retirement fund are deductible as per section 63 of ITA from total assessable income. No deduction is allowed if contributed to an unapproved retirement fund.

Contribution based retirement payments exceeding, 50% of the total sum or NRS 500,000 whichever is higher, received from an approved retirement fund and GON at the time of separation is taxed at 5%.

In case of retirement payments from an unapproved retirement fund, the gain is taxed at 5%.

The tax law provides for taxation of all non-cash benefits to be valued at market rate however, accommodation and vehicle facilities provided to employees are valued at 2% and 0.5%, respectively of gross remuneration (Basic salary + Grade).

1.3.7 DEDUCTIONS

Self-employed individuals can claim all reasonable expenses incurred in acquiring or earning income. Salaried employees are entitled to claim only specified deductions and relief.

1.3.8 PERSONAL ALLOWANCES AND REBATES OF TAX

The basic exemption is NRS 400,000 for a couple and NRS 350,000 for an individual. The exemption limit for the handicapped people is 50% in addition to the aforementioned limit. A rebate of 10% of the tax liability is provided to women (not with couple status and having income from employment only having source in Nepal) on their income from employment.

1.3.9 TAX RATES

The applicable tax rates for the resident Individual of Nepal shall be as follows:

Tax Banding	Tax Rates for the financial Year 2018-19			
Resident	Individual		Couple	
(a) First slab	350,000	1%*	400,000	1%*
(b) Second slab	100,000	10%	100,000	10%
(c) Third slab	200,000	20%	200,000	20%
(c) Fourth slab	1,350,000	30%	1,300,000	30%
(d) Balance exceeding NRS 2,000,000	> 2,000,000	36%	> 2,000,000	36%

Non-resident person shall be taxed at a flat rate of 25% on the remuneration earned from source in Nepal.

1.3.10 TAX ADMINISTRATION

The tax period is the financial year of the government, which is the 12-month period commencing on July 16 and ending on July 15 of the following year (corresponding to NFY which commences from Shrawan and ends in Ashad).

In general, every resident and non-resident individual must file a personal income tax return by within 3 months from the end of the NFY of the following year. However, individuals who only have income from employment are not required to file tax returns subject to the condition that the annual remuneration income does not exceed NRS 4 million. An employer must submit annual tax returns for each employee showing total remuneration due or paid permissible deductions and the amount of tax due, deducted and deposited with the IRO.

An employer is obliged to deduct tax at the time of payment of salary and forward the amount withheld to the tax authorities within 25 days from the end of the month of withholding.

1.4 INTERNATIONAL TAX

1.4.1 DOUBLE TAX RELIEF

Nepal provides relief against international double taxation to residents by granting foreign tax credits. This is restricted to an amount calculated by multiplying the Nepal income tax rate to the income subject to foreign tax. Excess credits can be carried forward and adjusted only against the assessable foreign income.

In addition, double tax relief can be claimed under the provisions of existing DTAs, which Nepal has negotiated with other tax jurisdictions.

An unrelieved foreign source loss can be set off only against foreign source income on standalone basis per country.

1.4.2 TREATY AND NON-TREATY WITHHOLDING TAX RATES

Nepal has entered into double taxation avoidance agreements with 10 countries including India in order to provide relief from the double taxation of income of foreign investors. The tax rates applicable as per the double tax avoidance agreements is as below:

Countries	Dividends	Interest	Royalties	Service fee
Non-treaty countries	5%	5/15%(NOTE 5)	15%	15%
Treaty countries:				
Austria	5*/10**/15%	At most 15/10%(NOTE 1)	At most 15%	15%
China	At most 10%	At most 10%	At most 15%	15%
India	5***/10%	At most 10%	At most 15%	15%
Korea	5*/10**/15%	At most 10%	At most 15%	15%
Mauritius	5****/10**/15%	At most 10/15%(NOTE 2)	At most 15%	15%
Norway	5*/10**/15%	At most 15/10%(NOTE 1)	At most 15%	15%
Pakistan	10**/15%	At most 10/15%(NOTE 2)	At most 15%	15%
Qatar	At most 10%	At most 10%	At most 15%	15%
Sri Lanka	At most 15%	At most 15/10%(NOTE 1)	At most 15%	15%
Thailand	At most 15%(NOTE 3)	At most 10/15%(NOTE 4)	At most 15%	15%

*5% if beneficial owner of shares is a company and it holds at least 25% of shares of the company paying the dividends.

**10% if beneficial owner of shares is a company and it holds at least 10% of shares of the company paying the dividends.

***5% if beneficial owner of shares is a company and it holds at least 10% of shares of the company paying the dividends.

****5% if beneficial owner of shares is a company and it holds at least 15% of shares of the company paying the dividends.

NOTE 1. Interest shall not exceed 10% if interest is paid to a bank, which is a resident of the other Contacting State and is the beneficial owner of the interest.

NOTE 2. Interest shall not exceed 10% if the beneficial owner is a financial institution, an insurance company or an investment company receiving income from financial investments.

NOTE 3. If beneficial owner of shares is a company and it holds at least 15% of shares of the company paying the dividends.

NOTE 4. 15% of the gross amount of interest if it is received by a financial institution (including insurance companies)

NOTE 5. 5% if paid to a natural person, not related to business, by financial institutions, listed company or entity issuing debentures, on deposit, loans, bonds, or debentures. 15% in all other cases.

1.5 WITHHOLDING TAXES

Payments are subject to withholding tax as follows:

A non-resident company carrying on business in Nepal is subject to tax in the same way as a resident company i.e. on income from a source within or deemed to be within Nepal.

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TITLE	DETAIL	RATE
Dividends	Dividends paid by resident companies and partnership firms shall be withheld to the resident and non- resident person both as final withholdings.	5%
Payment to Employees/Workers	Any amount paid to an employee or worker in lieu of employment is subject to tax withholdings. The annual gross earning of an employee is estimated at the beginning of each fiscal year and estimated tax liability ascertained. Tax is withheld each month proportionately on taxable income.	Rate as per Section 1.3.9 above
Contract Payments	Tax shall be withheld on payment made under a contract as per section 89.	1.5% (If payment made within 10 days and 11 moving days is greater than NRS 50,000) If the payment amount in 10 days with moving 11 days is less than NRS 50,000 then tax shall be exempted
Payment of Service fee	Withholding tax on service payments to VAT registered person.	1.5%
Payment of Service fee	Payment to non-resident or non-VAT registered person.	15%
Payment of Service fee	The tax withholding rates for services provided under the service contract by a foreign subcontractor shall attract a withholding tax from invoices raised without VAT.	15%
Insurance premium	Insurance premium paid to non-resident insurance companies attracts tax which is construed as final tax withholding.	1.5%
Rent	Payment of Rent is subject to withholding tax as per section 88.	10%
Interest	Withholding tax is not required for payment of interest to the resident bank or financial institutions. Service charge paid to bank also meets the definition of interest. Withholding tax is not required for payment of interest to the Central Bank or Central and State Governments.	No WHT
Freight Payment	Payment for freight relating to carriage of goods.	2.5%
Payment to Consumer Committee	On payment exceeding NRS 5 million made towards the works done through the consumer committee.	1.5%
Others	Payments of fees, royalties, commissions, bonus, rent, interest, windfall gains to non-resident after WHT will construe to be final tax and it will not require filing of tax returns.	15%

2. TAX INCENTIVES

SPECIAL ECONOMIC ZONES

The GON aims at attracting native and foreign investment by establishing Special Economic Zone (SEZ) in potential places for exportable industries. GON can prescribe any export processing area, special business area, tourism or entertainment area or any other area of Nepal as a Special Economic Zone (SEZ).

Certain privileges are provided in the SEZ laws, in terms of exemptions, facilities, tax benefits, etc. to industries in SEZ some of which are:

a. Special treatment for goods or services produced in SEZ
b. No nationalisation shall be made
c. Discount on the lease or rent of land or building
d. Exemption from income taxes, value added taxes, excise duty, customs duty and local taxes
e. Selling of raw materials or products to any industries in SEZ by any other industries will be deemed as export and such industries can enjoy facilities available for export
f. The foreign investment may be repatriated
g. Relaxation in visa provisions
h. Use of bonded warehouse
i. Sub-contracting within industries and accelerated rate of depreciation shall be available, along with such other facilities as may be specified by the GoN from time to time.

INCOME TAX RATES

The tax laws provide various incentives to stimulate industrial growth and development. Following are the key tax incentives, inter alia, designed to attract inward investment:

INDUSTRY	TAX RATES AND INCENTIVE
a. Special industries (mainly manufacturing other than alcoholic and tobacco producing industry)	20% (Normal Rate)
b. Special industries and information technology industries providing direct employment to:	
- 100 or more Nepalese citizens throughout the year	90% of normal rate
- 300 or more Nepalese citizens throughout the year	80% of normal rate
- 500 or more Nepalese citizens throughout the year	75% of normal rate
- 1000 or more Nepalese citizens throughout the year	70% of normal rate
Note: If among those employee if there is involvement of at least 33% of female, Dalit's and handicapped employee then additional 10% exemption shall be provided.	
c. Industries established in very undeveloped area, as defined in Industrial Enterprise Act 2016	10% of the normal rate (for 10 years from the year of establishment)
d. Industries establishment in undeveloped areas, as defined in Industrial Enterprise Act 2016	20% of the normal rate (for 10 years from the year of establishment)
e. Established in underdeveloped areas, as defined in Industrial Enterprise Act 2016	30% of the normal rate (for 10 years from the year of establishment)
f. Industry established in SEZ recognised in mountain areas or hill areas by the GON	Up to 10 years 100% exempt and 50% rebate in subsequent years
g. Industry established in SEZ other than above locations	100% exempt up to first 5 years and 50% rebate in subsequent years

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h. Dividend distributed by the industry established in SEZ	100% exempt for first 5 years and 50% rebate on subsequent 3 years
i. Income derived by the foreign investors from investment in SEZ (Source of income-use of foreign technology, management service fee and royalty)	50% of applicable tax rate
j. On capitalisation of accumulated profit through bonus share by Special Industry, Manufacturing Industry, Agro-based industry or industry related with tourism for expansion of capacity of industry	No dividend tax
k. Import income of information technology industries at IT park as declared by GoN	50% of normal tax rate
l. Institution having licensed to generate, transmit, and distribute electricity shall be allowed if the commercial activities started in terms of electricity generation, generation and transmission, generation and distribution or generation, transmission, distribution before mid-April 2024 and these exemptions shall also be available for solar, wind and other alternative energy companies	100% exempt up to seven years and 50% rebate on subsequent 3 years
m. If person involved in exploration and extraction of petroleum and natural gas starts commercial operation by mid-April 2019	100% exempt up to 7 years and 50% rebate in subsequent 3 years
n. Income from export of goods produced by manufacturing industries	75% of normal tax rate
o. Income from construction and operation of road, bridge, airport and tunnel or income from investment in tram and trolley bus	60% of applicable tax rate (i.e. 20%)
p. Income of manufacturing Industry, tourism service industry and hydropower generation, distribution and transmission industry listed in the security exchange (i.e. capital market)	85% of applicable tax rate
q. Industry established in least developed areas producing brandy, wine, cider from fruits	60% of applicable tax rate up to ten years
r. Royalty from export of intellectual asset by a person	75% of applicable tax rate
s. Income from sale of intellectual asset by a person through transfer	50% of applicable tax rate
t. Private company with capital of NRS 50 crore or more which conducts its operation by converting into public company	90% of applicable tax up to 3 years
u. Domestic tea production and processing industry, Dairy industry, Garments industry Concession of 50% on normal rate	50% of applicable tax
v. Health institution operated by the community-based organisation	20% of applicable tax
w. Micro entrepreneurial industry	100% tax exemption up to 5 years of operation. Additional 2 year exemption shall be provided if such industry is operated by women.

OTHER TAX INCENTIVES

a) Traditional cottage industries are not subject to income tax and VAT.

b) Dividends received from resident companies are taxed at 5% to resident and non-resident persons, as final tax.

c) Expenditure incurred on R&D and the installation of pollution control equipment or processes is immediately deductible up to 50% of adjusted taxable income from taxable income. The balance is available for deduction through tax depreciation (if qualifying).

d) Persons are allowed deduction for donation to approved institutions (i.e. educational, religious and social organisations) up to a limit of 5% of their adjusted taxable income not exceeding NRS 100,000.

e) No income tax shall be levied on the income of certain cooperatives incorporated under the Cooperative Act 2017 conducting agricultural, forestry and other agriculture-based activities. Similarly, savings and credit cooperatives operating in rural areas will be exempt from income taxes.

f) Dividend distributed by industry in SEZ will be exempt from tax for 5 years from the date of commercial transaction and will be taxed at 50% rebate for 3 years thereafter.

OTHER INCENTIVES

a) Industries importing plant, machinery and equipment required for direct production process falling under the chapter 84 of the harmonised customs classification will attract custom duty at 2.5% only.

b) Industry in SEZ will get full exemption from VAT while importing machinery, equipment, spare parts, and raw materials and up to 3 vehicles. Besides, these industries can avail certain other benefits under VAT Act.

c) No excise duty shall be levied on the goods to be produced by industries in SEZ.

d) Any duties or taxes levied on the raw materials, auxiliary raw materials, etc. used for producing goods for export/deemed export are entitled to get refund of such duties and taxes based on the quantity of export. The application for this must be submitted within a year of the date of export for duty refund.

e) Export-oriented industries may obtain the bonded warehouse facility. The raw materials for the products of such nature can be imported without paying any customs duty or sales tax by just entering the details of such transactions in a passbook made available by the Department of Customs. The quantity of such raw materials used for manufacturing of exportable products is deducted from the quantity entered in the passbook upon export of finished product. However, the industry must also submit a bank guarantee sufficient to cover the duties. The finished product must be exported within 10 months from the date of import of raw materials. The industry intending to avail of such facility must apply to the Department of Customs.

f) Sub-contracting within industries and accelerated rate of depreciation shall be available, along with such other facilities as may be specified by the GoN from time to time.

FOREIGN TAX RELIEF

A resident person may claim a foreign tax credit for an income-year for any foreign income tax paid by the person to the extent to which it is paid with respect to the person's assessable foreign income for the year.

A person may elect to relinquish a foreign tax credit for the year and claim a deduction for foreign income tax for which the credit is available.

3. INDIRECT TAXES

3.1 VALUE ADDED TAX

3.1.1 INTRODUCTION

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Value Added Tax (VAT) is tax based on goods and services. This tax is levied on the sale, exchange, transfer, import etc. of all goods and services apart from those specified by the law as tax-exempt. This means that this tax encompasses all types of goods and services produced in or imported into the country apart from those listed as tax-exempt by the law. VAT is considered as an improvised form of sales tax. This tax is imposed on different levels of value addition in the production and distribution process of goods and services. In short, the difference between the purchase price and the sales price of any firm is the value added.

In practice, the tax-payer does not have to calculate his value addition for the purpose of VAT. But s/he has to collect VAT on the sales price at the rate specified by the VAT Act and after deducting the VAT paid on purchases from the amount thus collected and s/he has to pay the balance amount as VAT. Under VAT each registered manufacturer and distributor must collect tax on the sales of their goods and services.

3.1.2 RATE

VAT is levied at a flat rate of 13%, which is applied to the invoice value. Certain specified goods are outside the scope or exempt from VAT. Exports of both goods and services are taxed at zero %.

3.1.3 THRESHOLD

Threshold for compulsory registration under VAT Act is a turnover exceeding NRS 5 million over the last 12 months in case of goods, and NRS 2 million for services or both services and goods. Exemptions apply inter alia, to salaried employment, banking and financial services, education and health services, agriculture produce and certain non-profit making activities.

3.1.4 REVERSE CHARGE OF VAT

Where a person Nepal, whether registered or not, avails services from a non-resident, is required to collect VAT on value of services availed on reverse charge system and deposit the same with the tax authorities. VAT collected shall be permitted for input VAT credit.

Furthermore, according to Section 8(3) of VAT Act, any person whether registered or not in Nepal if engaged in construction of commercial buildings, apartments, shopping malls or similar other structure as specified by IRD having value more than NRS 5 million, then tax has to be deposited on the construction cost as if it has been constructed from registered person. Construction should be for business purpose. Business purpose means for sale or for use in income generation.

3.1.5 TAX CREDIT

To avoid double taxation, a credit is given for VAT paid on goods and services used for the purpose of making any taxable supply (Input VAT). A credit is also given for VAT paid in respect of certain exempt supplies, e.g. exports. The principal mechanism for collecting the tax requires the taxable supplier to charge VAT on the goods or services supplied (Output VAT) to take credit for VAT paid on business expenditure (Input VAT), and to pay the net tax over to the authorities.

3.1.6 REQUIREMENTS

VAT registrants are required to:

a. Submit VAT return and pay tax within the 25th day of the following month
b. Provide their customers with a tax invoice
c. Maintain purchase book, sales book, VAT account
d. Keep their VAT records for a period of 6 years
e. Inform the IRO of changes to the business including new address, telephone number or a reorganisation of a partnership within 15 days.

3.1.7 PROCEDURES FOR APPROVAL OF ELECTRONIC BILLING FROM INLAND REVENUE OFFICE

Pursuant to the notice published by IRD on 12 November 2018 under section 14ka (2) and section 81(4) of the VAT Act 1996 and ITA, respectively, it is mandatory for every taxpayer with transactions in excess of NRS 350 million to issue invoice from computerised billing system which needs to be approved by the respective Inland Revenue Office.

3.1.8 OFFENCES

Fines will be imposed if the taxpayer fails to file returns within the specified time. The VAT Act imposes fines for failing to register. Similarly, if a registrant fails to use the registration number or clearly display the registration certificate in the business premises, fine may be imposed. Other penalties may be imposed if, for example, a registrant fails to file a return, issue invoices, keep an up-to-date account of transactions, obstructs visits by a tax officer in investigation, prepares false accounts and invoices or attempts to evade tax. Similarly, IRO/IRD may purchase or cause to purchase under invoiced goods.

3.1.9 OTHERS

a. In case of import of service, the point of taxation is earlier of payment or receipt of services.
b. Mandatory VAT registration of entity engaged in transactions of liquors, cigarettes, sanitary, electronics and construction materials in metropolitan and sub-metropolitan area.
c. Withdrawal of existing system of self-refund of VAT collected from consumers.
d. Withdrawal of existing system of refund of VAT paid on import of mobile sets by importer in case of sales of such mobile set to VAT registered person.
e. Withdrawal of education service fee and health service tax. Also, withdrawal of existing provision of VAT levied by private hospitals on health services
f. Federal and provincial governments are also required to collect VAT on sale of vatable goods and services.
g. Exemption in fines to be provided for taxpayers who have not been submitting VAT for a long period and are willing to pay on a regular basis henceforth.

3.1.10 ADMINISTRATIVE REVIEW

A taxpayer who is not satisfied with the tax assessment by tax office can apply to the DG of IRD for administrative review within 30 days from the time of receiving such decision. Taxpayer can approach to Revenue Tribunal if he is not satisfied with the IRD's decision.

3.2 CUSTOM DUTY

3.2.1 INTRODUCTION

Customs duty is calculated on transaction value which includes cost, insurance & freight up to Nepal border on the import of goods. In case there is under invoicing, the custom official can revalue the goods based on current market value and collect customs duty on such amount or purchase the goods at the under invoiced value as it so considers.

Customs Service Fee (CSF) of NRS 500 per declaration form will be charged at the time of import of goods into Nepal. Similarly, CSF of NRS 100 per declaration form will be charged at the time of export of goods from Nepal.

3.2.2 RATE

Custom duty ranges from 0-80% on the transaction value depending on the products. Most raw materials fall within the 0-10% duty band, whereas finished goods and consumer items fall within the 5-30% duty band. Duty at the rate of 80% is levied on only a few items (i.e. motorcar, arms and ammunitions and pipe tobacco). In the case of export there is generally no duty except for certain products, like those originating from forests, certain agricultural products that are in short supply in Nepal or industrial raw materials and minerals.

3.2.3 EXIM CODE

Exim code is required to be obtained from the Department of Customs by all importer of goods. The timing for registration of an importer on EXIM code shall be 2-3 days provided that all the documentation is well provided. Exim Code is renewable every year.

3.2.4 OTHERS

a. Goods of Indian origin being imported from India can be imported on concession of 5% on custom duty from 5% up to 30%. But 3% concession can be obtained on goods for which customs duty is above 30% (where custom duty is levied on value).

b. Resident of Nepal returning from foreign country can bring gold up to 100 gm after payment of NRS 5,200 per 10 gm up to 50 gm and NRS 6,200 per 10 gm for next 50 gm. Gold in excess of 100 gm shall be seized by the custom office.

c. 5% custom duty shall be levied on urine bag imported on the recommendation of Ministry of Health and Population.

d. Abatement of 75% on customs duty on purchase of bus having seat capacity of 30 or more for community schools. The benefit is available for one bus per community school.

3.2.5 MISCELLANEOUS

Import of old and used goods are prohibited except followings:

a. Equipment and machineries under heading 84 up to 5 years old from the date of manufacture required for the operation of industry. Printing Industry can import old printing machine up to 10 years.

b. Metal scrap.

c. Parts and accessories of repaired and overhauled Air Planes and Helicopters approved by Civil Aviation Authority of Nepal or other similar authorised authorities.

d. Old personal belongings imported as per provisions of baggage rules.

e. Old machineries imported with condition for re-export.

3.3 EXCISE DUTY

3.3.1 INTRODUCTION

Excise duty is payable on the manufacture of movable goods and also on import of certain goods. The excise duty is governed and regulated by the Excise Act 2058 (2002) and Excise Regulation 2059 (2003). As provisioned in the law, the excise commodities subject to physical control system are closely controlled and supervised by the GoN from their production to selling stage.

3.3.2 LICENSE REQUIRED

No one is allowed to manufacture, import, sell and store excisable goods without obtaining license. Likewise, the law prohibits import of excisable services without having license. Person, firm or institutions who need such license may submit a prescribed application form before excise officer at the concerned IROs.

3.3.3 RATE

The rate of excise duty ranges from 0-100%. Exports are exempt from excise duty.

3.3.4 OTHERS

a. Abatement of 100% on excise duty on purchase of bus having seat capacity of 30 or more for community schools. The benefit is available for one bus per community school.

b. In case of filtered cigarettes, the excise rate has been increased by approximately 20% on the basis of length of filter.

c. Increment in excise rates of paint from 5% to 7%.

d. Excise duty has been increased from 60% on 4 wheelers on the basis of cylinder capacity starting from 1000cc to the extent of 65%, 70%, 80%, 85%, 90% and 100%.

e. Excise duty has been increased from 40% on motorcycle on the basis of cylinder capacity starting from 150cc to the extent of 50%, 60%, 80% and 100%.

f. On the basis of concentration of alcohol in wine, the excise rate has been increased ranging from 19.64% to 20%

g. Excise duty has been introduced on energy drinks at the rate of NRS 25/liter.

h. Introduction of 5% excise rate in case of perfumed water or water for sanitisation, cosmetics, hygiene and make-up items

i. NRS 1,500 per metric ton excise duty in case of steel pipes, bridges, tower and other steel structures.

j. 5% excise duty for refrigerator, freezer, vacuum cleaners, juice extractors and its parts, puzzles, toys, video games, billiard and special tables for casino.

k. 5% excise duty in case of chocolates containing cocoa or not and 10% in case of other chocolate layered or not layered with sugar.

3.3.5 ADMINISTRATIVE REVIEW

Provision is made for an administrative review at IRD if the decision made by excise officer is not acceptable to the taxpayer. In such case, taxpayer has to submit and appeal to DG of IRD within 30 days from the date of receipt of the decision made by excise officer. The taxpayer has to deposit 100% of undisputed tax and one third of the disputed tax while submitting application for administrative review. Taxpayer can approach to Revenue Tribunal if he is not satisfied with the IRD decision.

3.4 PROPERTY TAX

Property taxes are levied as per Section 55 of the Local Government Operation Act 2074 (2017) and is calculated on the real property (land and building) on the basis of municipal valuation of the land and the cost of the building (plinth area) at a fixed rate for the type of structure. The type of the land, building, market value of the land and depreciable cost of the building and the use for commercial or residential purpose is considered when determining the value of the property.

For the purpose of property tax, the land means the building and the area of land on which the building is constructed, or 5,476 sq. ft. land, whichever is lower.

3.5 LAND REVENUE

Land revenue is levied by the Municipality on the land on which property tax has not already been levied as per section 55 of the Local Government Operation Act 2074 (2017).

NEW ZEALAND

MEMBER FIRMS

City	Name	Contact Information
Dunedin	Jono Bredin	+64 3 951 3162 jono@pkfbmr.nz
Christchurch	Dorian Crighton	+64 3 371 4412 dorian@pkfgf.co.nz

BASIC FACTS

Full name:	New Zealand
Capital:	Wellington
Main languages:	English, Māori
Population:	4.78 million (2019 estimate)
Monetary unit:	1 New Zealand Dollar ($NZ) = 100 Cents
Internet domain:	.nz
Int. dialling code:	+64

KEY TAX POINTS

- Income tax is payable by resident individuals on their worldwide income. Non-resident individuals pay tax on New Zealand-sourced income only.
- Income tax is payable by New Zealand resident companies on income derived from all sources. Non-resident companies pay tax on income sourced in New Zealand.
- There is currently no comprehensive capital gains tax legislated, but this may change over the next 18 months. However, where a capital asset is bought for the clear purposes of resale, any profits or gains are regarded as ordinary income. There are also specific income tax provisions in relation to certain land transactions that are similar to a capital gains tax.
- A value added tax called goods and services tax (GST) is levied on the supply of goods and services in New Zealand at a rate of 15%.
- There is a controlled foreign company (CFC) regime, a foreign investment fund (FIF) regime, and there are transfer pricing and thin capitalisation rules.
- Credits are available in New Zealand for the lesser of foreign tax paid or New Zealand tax payable on foreign income, regardless of whether a Double Taxation Agreement (DTA) is in place provided they are of the same nature as income tax. The credits may be subject to limits imposed by DTAs.
- Where there is at least 66% common ownership, revenue losses can be transferred between New Zealand tax resident companies. Where there is 100% common ownership between New Zealand tax resident companies, dividends between companies can be exempt, consolidated returns can be lodged and revenue and capital items can be transferred. Company losses can be carried forward indefinitely so long as the same shareholders hold more than 49% of the shares from the date of the losses are incurred until they are utilised.
- A look through company (LTC) regime exists whereby small closely held companies who elect to become an LTC must pass losses (or profits) directly to shareholders. LTC losses are unable to be carried forward. A foreign company cannot be a LTC. Non-resident shareholders can hold shares in a LTC. However, if a non-resident holds more than 50% of the shares any foreign-sourced income must not exceed the greater of NZD 10,000 or 20% of the LTC's gross income for the year.
- Dividends, interest and royalties paid to non-residents are subject to non-resident withholding tax (NRWT) at varying rates.

A. TAXES PAYABLE

COMPANY TAX

Income tax is payable by New Zealand resident companies on non-exempt income derived from all sources. Non-resident companies are required to pay tax on income sourced in New Zealand. Resident companies are companies that are incorporated in New Zealand, or have their head office or centre of management in New Zealand, or control of the company is exercised by directors in New Zealand. The tax year usually runs from 1 April to 31 March, although different balance dates are available in certain circumstances (one example is to align with an overseas parent's balance date). Tax is payable in instalments (referred to as 'provisional tax') if a company's residual income tax (total tax less available credits) exceeds NZD 2,500 per annum.

Income tax returns must be filed with the Inland Revenue Department within four months of the balance date or by 31 March of the following year where the company is enrolled with a tax practitioner that has an extension of time arrangement. The tax rate for companies is 28%. Tax paid is added to an "Imputation Credit Account" (ICA) and is available to shareholders as a tax credit in New Zealand when dividends are "imputed".

PARTNERSHIPS

General partnerships are not separate legal entities. This means that they have no existence separate from the individual partners that comprise them. Limited partnerships have both separate legal status and flow through tax treatment.

TRUSTS

Taxation of trusts is complex and based on the tax residence of the settlor. In general terms, distributions to beneficiaries of resident trusts are taxed at beneficiaries' marginal tax rates, provided that distributions are made in the income year or within a defined period after the end of the income year (maximum 12 months). In contrast, distributions made to New Zealand tax resident beneficiaries of foreign trusts are classified as 'taxable distributions' unless they are made from trust corpus or unrelated party capital gains. Taxable distributions are taxed at beneficiaries' marginal tax rates regardless of the distribution date. Trustee income is taxed at the flat rate of 33%. The trust regime does not apply to unit trusts. Unit trusts are deemed to be companies and are taxed accordingly. Foreign trusts (no resident settlor) are not taxed on foreign sourced income but can be subject to tax at a penal rate of 45% on both revenue and capital distributions in certain circumstances. There are also additional disclosure requirements.

CAPITAL GAINS TAX

There is currently no comprehensive capital gains tax legislated in New Zealand, but this may change over the next 18 months. However, where a capital asset is bought for the clear purpose of resale, any profits or gains will be regarded as ordinary income.

There are special tax rules that apply to the taxation of land (including buildings fixed to the land). The rules tax not only land bought with the intention of resale but certain land that is developed/subdivided, land sold by entities in the business of dealing, developing or building. Land sold by associates of the entities in business will also be taxable if sold within 10 years of either acquisition or building completion in the case of builders. Land where more than 20% of the profit is attributable to a rezoning will be taxable if the sale occurs within 2 years. There are certain exemptions.

Any profit on the sale of residential land purchased after 1 October 2015 and sold within 5 years of acquisition will be taxable. There is an exemption for a person's "main home". There are strict disclosure rules that must be completed before a sale can be completed. Certain sales made by non-tax residents will be subject to withholding tax.

BRANCH PROFITS TAX

There is no branch profits tax in New Zealand. New Zealand branches of foreign companies are taxed on New Zealand-sourced income only at the corporate tax rate.

SALES TAX / GST (VALUE ADDED TAX)

There is no sales tax in New Zealand, although there are levies on sales of certain products such as alcohol, tobacco and fuel. A value added tax called Goods and Services Tax (GST) is levied at 15% on the supply of goods and services in New Zealand. There are various exceptions including exported goods and services which are charged at 0%. Most land and buildings transactions are also zero rated as are the sale of businesses as a going concern between GST registered parties. A non-tax resident business that has a "taxable activity" in New

Zealand and makes “taxable supplies” exceeding NZD 60,000 (registration threshold) must register for GST. A non-resident business may be able to register for GST in New Zealand even if it does not have a taxable activity in New Zealand. This will enable them to claim back New Zealand GST paid on purchases. The entity must have an activity in its own country that is similar to a “taxable activity” as defined in the New Zealand GST legislation.

From 1 October 2016 new rules apply GST to cross-border “remote services” supplied by non-New Zealand resident suppliers (including e-books, music, videos and software purchased from offshore websites) to New Zealand-resident consumers, by requiring the offshore supplier to register and return GST on these supplies if they exceed the registration threshold.

Supplies of remote services by non-resident suppliers to New Zealand GST-registered recipients for their taxable activity are treated as being supplied outside New Zealand and therefore not subject to GST, unless the supplier chooses otherwise. Where the supplier chooses to treat the supply as made in New Zealand, the supply is zero-rated. The non-resident supplier is then able to claim back any New Zealand GST costs incurred in making the zero-rated supplies. Note that supplies of remote services to a non-registered person resident (consumers) in New Zealand cannot be zero-rated and 15% GST will apply if the supplier is registered for GST (this will be compulsory if the zero rated supplies and supplies to consumers exceed NZD 60,000).

FRINGE BENEFITS TAX (FBT)

FBT is payable by employers on benefits provided to employees. The rate is up to 49.25% of the taxable value of the benefit provided. The FBT year runs from 1 April to 31 March. FBT is payable and returns must generally be filed by the 20th day of the month following the quarters ending 30 June, 30 September, 31 December and 31 March.

KIWISAVER

KiwiSaver is a workplace savings scheme designed to help New Zealanders save for their retirement. It is primarily aimed at employees but all New Zealand residents may join a KiwiSaver scheme. All eligible employees starting a new job are automatically enrolled in a KiwiSaver scheme and must opt out if they do not want to be part of the scheme. Employees contribute either 3%, 4%, 6%, 8% or 10% of their gross earnings. Employers are required to contribute to their employee's KiwiSaver account at the minimum of 3% of the employee's gross salary or wage.

OTHER TAXES

GIFT DUTY

The gift duty regime was abolished with effect from 1 October 2011. Prior to this, gift duty applied at graduated rates to transfers of property for less than market value, unless a specific gift duty exemption applied.

ESTATE DUTY

New Zealand no longer has any assets tax imposed on death nor on inheritance.

LAND TAX

New Zealand does not impose a land tax, although local authorities impose “rates” to pay for their services.

STAMP DUTY

New Zealand does not impose stamp duty on the transfer of property.

B. DETERMINATION OF TAXABLE INCOME

Taxable income is determined by ascertaining gross income less all allowable deductions. Generally, to be deductible, expenses and losses must relate directly to the derivation of gross income. Certain expenditure is specifically non-deductible and special rules apply in respect of the categories listed below.

DEPRECIATION

Depreciation rates are set by the Inland Revenue. Application can be made for a special rate. Straight-line or diminishing-value depreciation methods can be used for each particular asset. Assets acquired on or after 19 May 2005 and which cost less than NZD 500 can be expensed immediately. From the 2012 income year no depreciation allowance is available for buildings having a useful life of more than 50 years (as determined by IRD) when first built.

RESEARCH AND DEVELOPMENT (R&D) TAX DEDUCTIONS

Taxpayers are allowed to allocate certain R&D tax deductions to tax years arising after the year in which the related expenditure is incurred. This means that deductions will not be lost if there is a shareholding change (that breaches the 49% continuity period) between when the expenditure is incurred and when the deduction is recognised by the taxpayer.

From 1 April 2015 a new tax credit regime was introduced for innovative start-ups to enable them to "cash out" an amount of their tax losses arising from qualifying R&D expenditure. Instead of carrying the tax loss forward to apply against future assessable income, the company receives a refundable tax credit. To qualify a company must be resident in New Zealand (and not be treated as non-resident under a double tax agreement). Companies that eventually earn assessable income or make a successful return on their investment through a non-taxable capital gain will have their cashed-out losses reinstated as losses to carry forward by repaying the value of the cashed-out loss out of the gain made. The regime specifically defines the qualifying R&D and there are a number of eligibility requirements that must be met.

STOCK / INVENTORY

Trading stock is generally valued in accordance with accounting principles. Livestock is valued under specified schemes.

CAPITAL GAINS AND LOSSES

Capital gains and losses on disposal of assets are neither assessable nor deductible at this point in time. The disposal of depreciable assets will involve tax adjustments where there is a loss on sale or depreciation recovered.

DIVIDENDS

Generally, dividends received by resident companies from other resident companies are taxable. Dividends can be imputed by attaching credits arising from tax paid by the company. The maximum rate at which imputation credits can be attached to dividends will be 28% of the gross dividend (cash dividend plus imputation credits). Provided these dividends are fully imputed (28%) there is no longer a 5% resident withholding tax required.

A credit for overseas tax paid by a company is limited to the NZ tax payable (28%). Foreign dividends received by NZ companies are wholly exempt. Tax on dividends received from entities with Portfolio Investor Entity (PIE) status are capped at 28% and are exempt income to the recipient if tax has been deducted at the correct rate.

INTEREST DEDUCTIONS

No interest deduction is allowed unless it is payable in deriving gross income or necessarily payable in carrying on a business for the purpose of deriving gross income. Companies (except in limited circumstances) are entitled to automatic interest deductions. Thin capitalisation rules limit the interest deduction available to New Zealand entities controlled by a single non-resident. Transfer pricing rules also apply to the rate of interest.

LOSSES

Broadly, a company can carry forward net losses indefinitely provided a continuity of ownership (49% of minimum voting, dividend and capital rights) is maintained from the beginning of the year of the net loss, to the end of the year of carry forward.

INVESTMENT ALLOWANCES

There are no investment allowances in New Zealand.

CONTROLLED FOREIGN COMPANIES

New Zealand operates a controlled foreign companies' (CFC) regime to ensure that foreign-sourced income is included in the New Zealand resident's tax return. CFCs with less than 5% attributable income (e.g. passive income such as rent, royalties, dividends and interest) or CFCs that are Australian resident and subject to Australian tax are not required to calculate CFC attributed income.

Broadly a foreign company will be regarded as a CFC where five or fewer New Zealand residents hold at least a 50% interest or have 'de facto' control.

FOREIGN INVESTMENT FUNDS

The Foreign Investment Fund regime complements the CFC regime and seeks to tax New Zealand residents on an accrual basis where the resident holds a non-controlling interest in a foreign entity.

C. FOREIGN TAX RELIEF

Credits are generally available for the lesser of the foreign tax paid or the New Zealand tax payable on the foreign income.

D. CORPORATE GROUPS

Where there is 66% (or greater) common ownership, tax losses can be transferred by New Zealand resident companies by way of subvention payments (where a profitable company makes a payment to a loss company up to the amount of that loss) or direct offset. Dividends between New Zealand resident companies with 100% common ownership (a wholly owned group) are exempt. Where there is 100% common ownership of New Zealand resident companies, consolidated tax returns can be lodged, and revenue and capital items transferred within the group.

LOOK-THROUGH COMPANY

A look-through company has separate legal personality for corporate law purposes but shareholders are taxed on the underlying profit and loss based on their proportionate share of interests held at the applicable marginal tax rate for that entity.

E. RELATED PARTY TRANSACTIONS

New Zealand has comprehensive transfer pricing and thin capitalisation rules to counter arrangements that seek to reduce the taxable income of New Zealand entities by shifting profits to related entities not resident in New Zealand.

F. WITHHOLDING TAXES

A 33% withholding tax is required to be deducted from dividends with a credit for imputation credits attached (subject to the exceptions referred to under 'Dividends' above). Withholding tax is also deducted from interest with limited exemptions. Dividend, interest and royalty payments made to non-residents are subject to non-resident withholding tax (NRWT). The NRWT rate depends on whether the non-resident is a taxpayer of a country which has a double tax agreement with New Zealand. (Please refer to Section I below).

NRWT (Non-Resident Withholding Tax) payable on a fully imputed dividend paid to a non-resident is 0% if the non-resident has a 10% or more direct voting interest in the paying company; or the non-resident has less than a 10% direct voting interest in the company but the post-treaty tax rate for the dividend is less than 15%. Non-resident shareholders with less than 10% direct voting interests in the paying company are able to receive a supplementary dividend and foreign investor tax credit with imputed dividends. The foreign investor tax credit offsets the 15% non-resident withholding tax deducted.

Withholding tax is also deductible from payments made to non-resident contractors, with exemptions available in certain circumstances. Where interest is paid to non-associated parties resident overseas, a 2% approved issuer levy (AIL) can apply on election instead of NRWT.

G. EXCHANGE CONTROL

There are no exchange controls in New Zealand. While foreign investment into New Zealand is encouraged, sensitive assets are protected by the Overseas Investment Act 2005. Consent must be obtained from the Overseas Investments Office for the acquisition of most land, fishing quotas and significant business assets (exceeding NZD 100 million).

H. PERSONAL TAX

Income tax is payable by New Zealand residents on their worldwide income. Non-resident individuals pay tax on New Zealand-sourced income only. An individual is resident in New Zealand if personally present for more than 183 days in any 12-month period or if the individual has a 'permanent place of abode' in New Zealand. Individuals arriving to live in New Zealand may qualify for a temporary tax exemption on foreign income as a transitional resident. All foreign-sourced income will be exempt, except for employment income connected with employment performed while resident in New Zealand and income from services. The exemption applies to the first 48 months (four years) following arrival in New Zealand. To qualify, an individual cannot have been tax-resident in New Zealand during the previous ten years.

Income tax is payable on gross income less any allowable deductions. Gross income includes employment income, business income, rents, interest and dividends. Employment income (salary/wages) has tax payments (PAYE) deducted from each salary/wage payment by the employer. Self-employed individuals and those receiving income with no tax deducted at source pay provisional tax in instalments based on their previous year's taxable income. The income tax rates for individuals are as follows:

Taxable Income (NZD)	Rate of Tax
0 - 14,000	10.5%
14,001 - 48,000	17.5%
48,001 - 70,000	30%
70,001 and over	33%

ACCIDENT COMPENSATION (ACC) LEVIES

All employees must pay an ACC earner's levy to cover the cost of non-work related injuries. Earner's levy is charged at a flat rate which may vary for each year. For employees, the levies are collected by the employer and paid to the Inland Revenue Department as part of the PAYE payments. Employers are liable to pay a residual claims levy. Self-employed persons pay a self-employed work levy and the earner levy. The residual claims levy rate is determined by the type of activity carried on by the self-employed person.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

	Dividends[2] (%)	Interest (%)	Royalties (%)
Non-resident corporations and individuals			
Non-treaty countries			
General	30 final	15 final	15 final
Fully imputed	15 final[1]	--	--
Fully imputed non-cash	Nil final	--	--
Treaty countries:			
Australia	0/5/15[2]	0/10	5
Austria	15	10	10
Belgium	15	10	10
Canada	5/15[3]	0/10	5/10
Chile	15	10/15	5/10
China	15	10	10
Czech Republic	15	10	10
Denmark	15	10	10
Fiji	15	10	15
Finland	15	10	10
France	15	10	10
Germany	15	10	10
Hong Kong	0/5/15[4]	0/10	5
India	15	10	10
Indonesia	15	10	15
Ireland	15	10	10
Italy	15	10	10
Japan	0/15[5]	0/10	5
Korea	15	10	10
Malaysia	15	15	15
Mexico	0/5/15[6]	10	10

Netherlands	15	10	10
Norway	15	10	10
Papua New Guinea	15	10	10
Philippines	15	10	15
Poland	15	10	10
Russia	15	10	10
Samoa	5/15[3]	10	10
Singapore	5/15[3]	10	5
South Africa	15	10	10
Spain	15	10	10
Sweden	15	10	10
Switzerland	15	10	10
Taiwan	15	10	10
Thailand	15	10/15	10/15
Turkey	5/15[7]	10/15	10
United Arab Emirates	15	10	10
United Kingdom	15	10	10
United States	0/5/15[8]	0/10	5
Vietnam	5/15[9]	10	10

Notes:

1. Refer to para F above: NRWT will be 0% if non-resident holds 10% or more direct voting interest.
2. The 5% rate applies if the beneficial owner of the dividends is a company which holds directly at least 10% of the voting power in the company paying the dividends. The 0% rate applies if the beneficial owner is a company that is a New Zealand resident that has owned, directly or indirectly through one or more residents of either Contracting State, shares representing 80% or more of the voting power of the paying company for a 12 month period ending on the date the dividend is declared and the New Zealand beneficial owner (i) is a publicly traded company, or (ii) is owned directly or indirectly by one or more such publicly traded companies or by companies which would qualify for treaty benefits in respect of the dividends if they had direct shareholding in the dividend-paying company, or (iii) has received a determination of entitlement to the treaty benefits. The 0% rate also applies if the New Zealand beneficial owner of the dividends holds directly no more than 10% of the voting power of the Australian company paying the dividends, and the beneficial owner is the New Zealand State, or political subdivision or a local authority thereof (including a government investment fund.
3. The 5% rate applies if the beneficial owner is a company that holds directly at least 10% of the voting power in the paying company.
4. The 5% rate applies if the beneficial owner is a company which holds directly at least 10% of the voting power in the paying company. The 0% rate applies to dividends paid to a company owning directly or indirectly at least 50% of the voting power of the paying company and which meets specified requirements (listing, eligibility for treaty benefits, etc.). The 0% rate also applies if dividends are paid to, among others, the New Zealand Government or the Central Bank.
5. The 0% rate applies if the beneficial owner of the dividends is a resident of New Zealand and is a company that has owned directly or indirectly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 10% of the voting power of the company paying the dividends and the company that is the beneficial owner of the dividends (i) is a listed and publicly traded company (ii) has at least 50% of its voting power in the aggregate owned directly or indirectly by 5 or fewer companies referred to in (i) and (iii) the requirements of a limitation on benefits clause must be met.
6. The treaty rate is 15%. However, under the application of a most favoured nation clause based on the Australia-New Zealand treaty, a 5% rate applies if the beneficial owner of the dividends is a company which holds directly at least 10% of the voting power in the company paying the dividends. A 0% rate applies if the beneficial owner is a company that is a New Zealand resident that has owned, directly or indirectly through one or more residents of either Contracting State, shares representing 80% or more of the voting power of the paying company for a 12 month period ending on the date the dividend is declared and the New Zealand beneficial owner (i) is a

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publicly traded company, or (ii) is owned directly or indirectly by one or more such publicly traded companies or by companies which would qualify for treaty benefits in respect of the dividends if they had direct shareholding in the dividend-paying company, or (iii) has received a determination of entitlement to the treaty benefits (cf. the 0% rate under footnote 1).

7. The 5% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company, provided that such dividends are exempt from tax in Turkey.
8. The 5% rate applies if the beneficial owner is a company that owns directly at least 10% of the voting power of the dividend-paying company. The 0% rate applies if a company shareholder owns 80% or more of the voting shares of the dividend-paying company for a 12-month period ending on the date on which entitlement to the dividend is determined and qualifies under certain provisions of the limitation on benefits article of the treaty.
9. The 5% rate applies if the beneficial owner is a company which holds directly at least 50% of the voting power in the dividend-paying company.

PHILIPPINES

MEMBER FIRM

City	Name	Contact Information
Manila	Rosario S Bernaldo	+63 2 892 4487 cherry.bernaldo@rsbernaldo.com

BASIC FACTS

Full name:	Republic of the Philippines
Capital:	Manila
Main languages:	Filipino, English
Population:	107.77 million (2019 estimate)
Monetary unit:	Philippine Peso (PHP)
Internet domain:	.ph
Int. dialling code:	+63

KEY TAX POINTS

- The tax year runs for the calendar year although approval of the Commissioner of Internal Revenue can be obtained for the adoption of a fiscal year.
- Company tax is payable by domestic companies on all income derived from sources within and outside the Philippines. Foreign corporations, whether resident or non-resident, are taxable only on income derived from sources within the Philippines.
- The corporate income tax rate both for domestic and resident foreign corporations is 30% based on net taxable income. Regional operating headquarters are taxed at 10% on taxable income. A 10% Improperly Accumulated Earnings Tax (IAET) is imposed on improperly accumulated taxable income earned by closely-held corporations.
- A 12% Value Added Tax (VAT) of the gross selling price or gross value in money of the goods is imposed to all importation, sale, barter, exchange or lease of goods or properties and sale of services.
- Tax credits are available for taxes and duties paid on purchases of raw materials of products for export, domestic capital equipment, and domestic breeding stock and genetic materials. A number of Special Economic Zones, some of which are operated as separate customs territories also exist.
- Compensation income of residents is subject to tax at progressive rates of up to 35%.
- Individuals deriving income from business or the practice of a profession whose annual gross receipts/revenue is PHP 3 million and below have the option to be taxed at 8% on gross income in lieu of income tax and other percentage tax. If such income exceeds PHP 3 million the tax is levied at progressive rates of up to 35%.

A. TAXES PAYABLE

COMPANY TAX

Company tax is payable by domestic companies on all income derived from sources within and outside of the Philippines. Foreign corporations, whether resident or non-resident, are taxable only on income derived from sources within the Philippines. However, non-resident foreign corporations are, in certain circumstances, subject to a final withholding tax on passive (investment) income at rates generally higher than the applicable tax rates applying to domestic and resident foreign corporations.

Resident companies are those that are created or organised under the laws of the Philippines or foreign companies duly licensed to engage in trade or business in the Philippines. The corporate income tax rate both for domestic and resident foreign corporations is 30% based on net taxable income. Excluded from the income tax are dividends received from domestic corporations, interest on Philippine currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements, and other passive income previously subject to final taxes.

Interest income derived from the expanded foreign currency deposit is subject to a final tax of 15%. All other interest earned by domestic and resident foreign corporations is subject to a 20% final withholding tax except for long-term time deposits of five (5) years or more that is exempt from final withholding tax rates, those with a term of four years to less than five years are taxed at 5%, and those between three and four years are subject 12% tax. Regional operating headquarters are taxed at 10% on taxable income.

Special economic zone enterprises duly registered with the Philippines Economic Zone Authority (PEZA) are taxed at the rate of 5% on gross income in lieu of national and local taxes, except real property tax. The term 'gross income' refers to gross sales or gross revenue derived from the business activity within the Ecozone, net of sales discount, sales returns and allowances, less the cost of sales or direct costs but before deduction is made for administrative expenses and incidental losses during the taxable period. Likewise, Tourism Infrastructure and Enterprise Zone Authority (TIEZA) registered entities enjoy a special income tax rate of 5%.

The tax year runs for the calendar year although approval of the Commissioner of Internal Revenue can be obtained for the adoption of a fiscal year. Tax is payable in four quarterly instalments, with every corporation filing quarterly income tax returns for the first three quarters and tax being payable 60 days following the end of each quarter. A final return covering the full year is required to be lodged 105 days after year end at which time the balance of tax, after deducting the prior three instalments and creditable withholding tax, is payable. Any excess is refundable or can be claimed as a tax credit against future tax payments.

MINIMUM CORPORATE INCOME TAX

A minimum corporate income tax of 2% based on gross income is imposed from the beginning of the fourth taxable year immediately following the commencement of the business operation of the corporation. Any excess of the minimum corporate income tax over the normal income tax may be carried forward and credited against the normal income tax for the three taxable years immediately succeeding. The computation and the payment of MCIT shall likewise apply at the time of filing of the quarterly corporate income tax.

The term 'gross income' for the purpose of applying the minimum corporate income tax shall mean the gross sales less sales returns, discounts and allowances and cost of goods sold. The Secretary of Finance, however, may suspend the imposition of the minimum corporate income tax on any corporation which suffers losses on account of prolonged labour dispute, force majeure or legitimate business reverses.

CAPITAL GAINS TAX – ON SHARE OF STOCK

The net capital gains from the sale of shares of stock of a domestic corporation not listed and traded through the Philippine Stock Exchange are taxed on a per transaction basis at the rate of 5% on the first PHP 100,000 and 10% in excess of said amount if the transferor or assignee is a corporation. If the transferor or assignee is an individual, the net gain shall be subject to 15%. The value of the shares of stock is computed based on the Adjusted Net Asset Method, whereby all assets and liabilities are adjusted to fair market values.

On the other hand, the sale of shares of stock of a domestic corporation through the Philippine Stock Exchange or through the initial public offering is subject to a percentage tax on the transaction at the rate of 6/10 of 1% of the selling price. Any gain or loss from said transaction is not considered for income tax purposes.

CAPITAL GAINS TAX – ON SALE OF REAL PROPERTY

The sale of land, building and other real properties classified as capital asset is subject to 6% final capital gains tax based on the gross selling price, current fair market value or zonal value at the time of sale, whichever is higher.

IMPROPERLY ACCUMULATED EARNINGS TAX

The 10% improperly accumulated earnings tax (IAET) is imposed on improperly accumulated taxable income earned by closely-held corporations. The term 'closely-held corporation' refers to corporations where at least 50% of the capital stock or voting power is owned directly or indirectly by or for not more than 20 individuals. The tax base of the 10% IAET is the taxable income of the current year plus income exempt from tax, income excluded from gross income, income subject to final tax, and the amount of net operating loss carry forward deducted. It is reduced by income tax paid for the current year, dividends actually or constructively paid, and amount reserved for the reasonable needs of the business. The IAET does not apply to the following corporations:

(a) Banks and other nonbank financial intermediaries;

(b) Insurance companies;

(c) Publicly-held corporations;

(d) Taxable partnerships;

(e) General professional partnerships;

(f) Non-taxable joint ventures; and,

(g) Duly registered enterprises located within the special economic zones declared by law which enjoy payment of special tax rate on their registered operations or activities in lieu of other taxes, national or local.

BRANCH PROFITS TAX

A branch is classified as a resident foreign corporation. As such, it is subject to income tax at the rate of 30% on its net income derived within the Philippines. Any branch profit to be remitted to the Head Office is additionally taxed at the rate of 15%. For purposes of branch profit remittance, income items which are not effectively connected with the conduct of its trade or business in the Philippines are not considered branch profits.

Such income items include interests, dividends, rents, royalties, including remuneration for technical services, salaries, wages, premiums, annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits, income and capital gains received during each taxable year from all sources within the Philippines. To be 'effectively connected', it is not necessary that the income be derived from the actual operation of the branch's trade or business. It is sufficient that the income arises from the business activity in which the branch is engaged. However, the 15% branch profit tax does not apply to profits remitted by a branch coming from those activities duly registered with the Philippine Economic Zone Authority (PEZA).

VALUE ADDED TAX (VAT)

A 12% value added tax (VAT) of the gross selling price or gross value in money of the goods is imposed to all importation, sale, barter, exchange or lease of goods or properties and sale of services. 'Gross selling price' means the total amount of money or its equivalent that the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding the value added tax. The excise tax, if any, on such goods or properties shall form part of the gross selling price.

FRINGE BENEFITS TAX

Fringe benefits furnished or granted in cash or in kind by an employer to an individual employee (except rank and file employees) are taxed at the rate of 35% based on the grossed-up monetary value of the fringe benefits.

LOCAL TAXES

There are no local taxes other than local authority rates and local (business) taxes and permit fees. Special economic zone enterprises are not subject to local taxes.

OTHER TAXES

Other taxes include the following:

PERCENTAGE TAXES

Percentage taxes are imposed on carriers (domestic or international), franchises, banks, financial intermediaries, finance companies, life insurance companies, agents of foreign insurance companies, overseas communications, amusement, winnings, and stock transactions.

INITIAL PUBLIC OFFERING (IPO) TAX

Sale, barter, exchange or other disposition through initial public offering of shares of stock in closely held corporations is taxed at the rates provided below based on the gross selling price or gross value in money of the shares of stock sold, bartered, exchanged or otherwise disposed of in accordance to the total outstanding shares of stock after the listing in local stock exchange:

	Rate
Up to 25%	4%
Over 25% but not over 33.33%	2%
Over 33.33%	1%

EXCISE TAXES

Excise taxes are imposed on alcohol and tobacco products, petroleum and mineral products, automobiles, sweetened beverages, cosmetic products and certain non-essential goods.

DOCUMENTARY STAMP DUTY

Documentary stamp tax is imposed on certain documents including shares certificates, bank cheques, bonds, sales documents of real properties and mortgages. Effective 1 January 2018, rates for most of the documents subject to documentary stamp tax were increased twofold.

REAL PROPERTY TAX

Real property tax is imposed on owners of real property and is calculated on the assessed value of the property.

B. DETERMINATION OF TAXABLE INCOME

A company's taxable profit is calculated by deducting ordinary and necessary expenses paid or incurred during the tax year in carrying on business. Typical expenses include salaries, travelling expenses and rentals, all of which need to be substantiated to be deductible. Additionally, taxes that relate to the business other than income, estate, gift and energy taxes and taxes charged to local benefits of a kind likely to increase the value of property are deductible. In calculating taxable income, special rules and exemptions apply in the circumstances outlined below.

DEPRECIATION

Any recognised depreciation method may be used if it is 'reasonable'. The annual depreciation allowance is determined on the basis of depreciable property, estimated useful life and salvage value. For extraction industries, a distinction is made between petroleum and other mining activities. Distinctions are also made between different categories of expense (e.g. tangible or intangible, exploration or drilling etc.), and different methods apply (e.g. expenditure, cost depletion, etc.).

STOCK / INVENTORY

For taxpayers engaged in a trade or business, the valuation of inventories must meet the following conditions:

- It must conform as nearly as possible to the best accounting practice in the trade or business; and,
- It must clearly reflect the income.

As such, although it cannot be uniform for all taxpayers, the system used must come within the scope of the best accounting practice in the particular trade or business. In order to clearly reflect income, the inventory practice of a taxpayer should be consistent from year to year as greater weight is given to consistency than to any particular method or basis of valuation. As long as the method is substantially in accord with these regulations, it is likely to be accepted.

The basis of valuation which is most commonly used by business concerns and which meets the requirements of the tax laws is the cost price or the lower of cost or market price.

Regardless of the basis of valuation, inventories are subject to investigation by the Commissioner of Internal Revenue and the taxpayer must satisfy the Commissioner of the correctness of the price adopted.

CAPITAL GAINS AND LOSSES

See discussions above. Ordinary assets include:

(a) Stock in trade of the taxpayers, or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the end of the taxable year;

(b) Property held by the taxpayer primarily for sale to customers in the ordinary course of trade or business;

(c) Property used in trade or business of a character which is subject to allowance for depreciation;

(d) Real property used in trade or business.

All properties held by the taxpayer, whether or not connected with trade or business, not included in the enumeration of ordinary assets are capital assets. Capital gains arise from the disposal of 'capital assets'.

DIVIDENDS

Dividends received by a Philippine corporation or by a resident foreign corporation from a Philippine corporation are not subject to income tax. However, resident individuals receiving dividends are subject to 10% final income tax. No credit is granted for underlying corporate profits out of which the dividends are declared. However, a domestic corporation that owns a majority of the voting stock of a foreign corporation from which it receives dividends is deemed to have paid the underlying foreign taxes.

INTEREST DEDUCTIONS

Interest is deductible on a cash or accrual basis depending upon the taxpayer's method of accounting but shall be reduced by 33% to the extent that a portion of interest income has been subjected to final tax. Where interest is paid to a foreign lender, it will remain deductible so long as it is incurred in connection with the trade or business of the taxpayer.

LOSSES

Losses may be offset against all income and capital gains in the same tax year. Losses must be sustained by the taxpayer during the taxable year and must be incurred in relation to the trade and business and evidenced by completed transaction. Operating loss for any taxable year immediately preceding the current taxable year which had not been previously offset as deduction from gross income may be carried over as a deduction from gross income for the next three consecutive years immediately following the year of such loss. This is known as the Net Operating Loss Carryover or the excess of allowable deduction over gross income in a taxable year. However, there are certain limitations to be followed:

(a) Any net loss incurred in a taxable year during which the taxpayer is exempt from income tax shall not be allowed as deduction;

(b) Allowed only if no substantial change in the ownership in that:

- Not less than 75% in nominal value of the outstanding issued shares, if the business is in the name of the corporation, is held by or on behalf of the same persons; or,
- Not less than 75% of the paid in capital of the corporation, if the business is in the name of the corporation, is held by or on behalf of the same persons.

For mines other than oils and gas wells, a net operating loss without the benefit of incentives provided for under Executive Order No. 226, as amended, otherwise known as the Omnibus Investment Code of 1987, incurred in any of the first ten years of operation may be carried over as a deduction from gross income for the next five years immediately following the year of loss.

FOREIGN SOURCE INCOME

A Philippine (domestic) corporation is taxed on worldwide income. Foreign income is taxed when earned or received, depending on the accounting method used by the taxpayer. Resident foreign corporations are taxed in the Philippines only on Philippine source income.

TAX INCENTIVES

Tax incentives available to enterprises registered with the Board of Investments (BOI) or the Philippine Economic Zone Authority (PEZA) include six years' income tax holidays for pioneer firms and four years for non-pioneer firms with expanding firms granted three years. For PEZA registered enterprises, a 5% tax on the modified gross income is imposed after the end of the income tax holiday. Likewise, Tourism Infrastructure and Enterprise Zone Authority (TIEZA) registered entities enjoy a special income tax rate of 5%.

The tax holiday may be extended for an additional year in specified circumstances but in no case may the aggregate period of the tax holiday exceed eight years.

For the first five years, an enterprise registered with the BOI or PEZA is, in specified circumstances, allowed an additional deduction from the taxable income of 50% of the wage expense corresponding to the increment in the number of direct labour for skilled and unskilled workers.

Enterprises located in less developed areas are, in specified circumstances, allowed a 100% deduction of said wages and a 100% deduction for construction costs. Enterprises located in export processing zones and special economic zones are likewise entitled to income tax holidays and tax and duty-free importation of raw materials and equipment. 'Gross income earned' shall refer to gross sales or revenues derived from business activity within the respective zones, net of sales discounts, sales returns and allowances and minus cost of sales or direct costs but before any deduction is made for administrative, marketing, selling and/or operating expenses or incidental losses during a given taxable period.

TAX CREDITS

Tax credits are available for taxes and duties paid on purchases of raw materials of products for export, domestic capital equipment, and domestic breeding stock and genetic materials. A number of Special Economic Zones, some of which are operated as separate customs territories also exist. (Refer also to 'Tax Incentives' above.)

OPTIONAL STANDARD DEDUCTION (OSD)

In lieu of the itemised deduction of ordinary and necessary expenses paid or incurred to calculate the net taxable profit, domestic and foreign corporations are allowed an OSD in the amount not exceeding 40% of gross income. Companies intending to avail of the OSD are required to indicate such intention upon filing the first quarter income tax return.

The computation and the payment using the OSD shall likewise apply at the time of filing of the quarterly corporate income tax. There are taxpayers (corporations, partnerships) not entitled to avail of the OSD, listed below:

a) Those exempt under the Tax Code, as amended, and other special laws, with no other taxable income;

b) Those with income subject to special/preferential rates; and,

c) Those with income subject to regular income tax rate, and also with income subject to special/preferential tax rates.

C. FOREIGN TAX RELIEF

Relief from double taxation is provided by way of double tax treaties and/or by means of foreign tax credits. The treaties generally define when a taxpayer will be deemed for income tax purposes to be doing business in the Philippines.

D. CORPORATE GROUPS

Group taxation is not permitted. The grouping of corporations has no tax implications as the tax laws treat each corporation in isolation.

E. RELATED PARTY TRANSACTIONS

Philippine corporations can claim a deduction for royalties, management services and interest charges paid to foreign affiliates provided the amount represents an arm's length price and the appropriate withholding taxes are withheld and remitted. Some interest deductions can be affected by related party transactions involving non-residents. See Section B above.

F. WITHHOLDING TAX

Non-resident foreign corporations

Interest on foreign loans, royalties and dividends paid to non-resident foreign corporations are subject to withholding tax at source at the time of their accrual in the taxpayer's books. The only exemption to this rule is when, at the time of the accrual of the income, there is a governmental restriction which prevents the actual remittances of the income due to the non-resident.

Dividends

Dividends received by non-resident foreign corporations from domestic corporations are subject to a final tax of 30%. However, tax is withheld at the reduced rate of 15% in certain circumstances.

Interest

Interest received by non-resident foreign corporations is subject to the following final withholding tax:

(a) 20% on interest paid or accrued from foreign loans contracted on or after 1 August 1986;

(b) 30% on other interest.

Royalties

Royalties received by non-resident foreign corporations are subject to a final withholding tax of 30%. However, said tax rate may be reduced under applicable double tax treaties.

Technical assistance and service fees

Technical assistance and service fees received by non-resident foreign corporations are subject to a final withholding tax of 30%.

Rental and leasing income

Rental and leasing income received by non-resident foreign corporations is subject to the following final withholding tax:

- 25% of the gross amount on film rentals from sources within the Philippines;
- 4.5% of the gross amount on charter fees or rentals in respect of foreign vessels;
- 7.5% of the gross amount on rentals and other fees in respect of aircraft, machinery and other equipment.

Non-resident aliens

The following income received by non-resident aliens (not engaged in trade or business in the Philippines) are subject to a final withholding tax of 25% on the gross amount of:

(a) Dividends, interest and royalties;

(b) Technical assistance and service fees (no tax is withheld in certain circumstances);

(c) Rental and leasing income;

(d) Capital gains (special rules apply to residents of double tax treaty states).

Final withholding tax

The following income received by Philippine citizens and resident aliens are subject to a final withholding tax of 20% on the gross amount of:

(a) Interest;

(b) Royalties, except royalties on books, literary works and musical compositions which are subject to 10%;

(c) Technical assistance and service fees.

G. EXCHANGE CONTROL

The *Bangko Sentral ng Pilipinas* (BSP) administers the exchange control laws of the Philippines including establishing minimum and maximum rates for the foreign exchange dealings of banks. However, banks may set their own rates for trading foreign exchange with the public. The value of the peso generally floats freely, although intervention by the BSP does occur when deemed necessary.

H. PERSONAL TAX

Income is divided into the following three categories which are taxed separately, as summarised below.

Compensation Employment Income

This income is taxed at progressive rates on gross income after deduction of personal and additional exemptions but without deductions for expenses. Remuneration for services performed by an employee for his employer are considered compensation subject to income tax, except for facilities and privileges, called as '*de minimis benefits*'. Thirteenth month pay and other benefits not exceeding PHP 90,000 (previously PHP 82,000) are also exempt from income tax.

Passive Income

This income (i.e. dividends, certain interest, royalties, etc.) is subject to final withholding tax only.

Business Income and Professional Income

This income is taxed at progressive rates on net business income, or income from the practice of a profession, after deduction of certain specified expenses. However, if the annual gross receipts/revenue from business or the practice of a profession does not exceed PHP 3 million, the taxpayer may opt to be taxed at 8% based on gross income in lieu of income tax and percentage tax.

TAXABLE INCOME

Resident Citizens

Resident citizens of the Philippines are taxed on all their net income derived from sources within and outside of the Philippines.

Alien Individuals

An alien individual, whether a resident or not of the Philippines, is taxable only on income derived from sources within the Philippines. Resident aliens are taxed in the same manner as resident citizens on income sourced within the Philippines. Tax is generally withheld in sufficient amounts from salary and wages to satisfy the final tax liability. If not, then the balance must be paid when filing the return, which is required on or before 15 April of the year following the year of income. In some cases, income tax liability may be paid in two equal instalments.

Resident Individuals

Income of residents is subject to the following rates:

a. Tax Schedule effective 1 January 2018 until 31 December 2022:

Taxable Income per Year (PHP)	Income Tax Rate (% and PHP)
Up to 250,000	0%
250,001 to 400,000	20% of the excess over 250,000
400,001 to 800,000	30,000 + 25% of the excess over 400,000
800,001 to 2,000,000	130,000 + 30% of the excess over 800,000
2,000,001 to 8,000,000	490,000 + 32% of the excess over 2,000,000
Over 8,000,000	2,410,000 + 35% of the excess over 8,000,000

b. Tax Schedule effective from 1 January 2023 onwards:

Taxable Income per Year (PHP)	Income Tax Rate (% and PHP)
Up to 250,000	0%
250,001 to 400,000	15% of the excess over 250,000
400,001 to 800,000	22,500 + 20% of the excess over 400,000
800,001 to 2,000,000	102,500 + 25% of the excess over 800,000
2,000,001 to 8,000,000	402,500 + 30% of the excess over 2,000,000
Over 8,000,000	2,202,500 + 35% of the excess over 8,000,000

The above rates also apply to individuals who derive income from business (including capital gains from the sale transfer or exchange of shares in a foreign corporation) or from the practice of a profession whose gross receipts/revenue exceeds PHP 3 million.

Optional Standard Deduction (OSD)

Except for individuals earning compensation income, resident citizens, non-resident citizens, and resident aliens shall be allowed to claim OSD in lieu of the itemised deductions of ordinary and necessary expenses paid or incurred during the year. The OSD allowed shall be a maximum of 40% of gross sales or gross receipts without deduction of the cost of sales or cost of services. The computation and the payment using the OSD shall likewise apply at the time of filing of the quarterly income tax return.

Like the corporation, there are individual taxpayers not entitled to avail of the OSD, listed below:

a) Those exempt under the Tax Code, as amended, and other special laws, with no other taxable income;

b) Those with income subject to special/preferential rates; and,

c) Those with income subject to regular income tax rate, and also with income subject to special/preferential tax rates.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The rates are as follows:

	Dividends (%)	Interest (%)	Royalties (%)
Non-treaty countries			
Companies	15/30[18]	10/20/30[18]	30[18]
Individuals	20/25	20/25	10/20/25
Treaty countries:			
Australia	15/25[1]	10/15	15/25
Austria	10/25[2]	10/15	10/15
Bahrain	10/15[3]	10	10/15
Bangladesh	15	15	15
Belgium	10/15[3]	10	15
Brazil	15/25[4]	10/15	15/25
Canada	15/25[5]	10/15	25
China	10/15[3]	10	10/15
Czech Republic	10/15[3]	10	10/15
Denmark	10/15[6]	10	15
Finland	15	10/15	15/25
France	10/15[7]	10/15	15
Germany	5/10/15[8]	10	10
Hungary	15/20[9]	15	15
India	15/20[10]	10/15	–/15
Indonesia	15/20[9]	0/15	15/20
Israel	10/15[3]	10	15
Italy	15	10/15	15/25
Japan	10/15[2]	10	10/15
Korea	10/15[6]	10/15	10/15
Kuwait	10/15[3]	10	20
Malaysia	15/25[11]	15	15/25
Mexico	5/10/15[19]	12.5	15
Netherlands	10/15[12]	10/15	10/15
New Zealand	15	10	15
Nigeria	12.5/15[13]	15	20
Norway	15/25[5]	15	7.5/25
Pakistan	15/25[14]	10/15	15/25
Poland	10/15[6]	10	15
Qatar	10/15[3]	10	15

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Romania	10/15	10/15	10/15/25
Russia	15	15	15
Singapore	15/25[15]	10/15	15/25
Spain	10/15[7]	10/15	10/15/20
Sri Lanka	15/25[20]	15	15/25[21]
Sweden	10/15[6]	10	15
Switzerland	10/15[3]	10	15
Thailand	15/30[16]	10/15	15/25
Turkey	10/15[6]	10	10/15
United Arab Emirates	10/15[3]	10	10
United Kingdom	15/25[5]	10/15	15/25
United States	20/25[17]	10/15	15/25
Vietnam	10/15[6]	15	15

Notes:

1. The 15% rate applies if double tax relief by way of a rebate or credit is given to the beneficial owner of the dividends (being a company) in accordance with article 24 of the treaty.
2. The 10% rate applies if the beneficial owner is a company which holds directly at least 10% either of the voting shares of the dividend-paying company or of the total shares issued by that company during the period of 6 months immediately preceding the date of payments of the dividends.
3. The 10% rate applies if the beneficial owner is a company (excluding partnerships) which holds directly at least 10% of the capital of the paying company.
4. The 15% rate applies if the recipient is a company including a partnership.
5. The 15% rate applies to dividends paid to a company which controls at least 10% of the voting power of the company paying the dividend.
6. The 10% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the dividend-paying company.
7. The 10% rate applies if the recipient is a company (excluding partnership) which holds directly at least 10% of the voting shares of the dividend-paying company.
8. The 5% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 70% of the capital of the dividend-paying company. The 10% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the dividend-paying company.
9. The 15% rate applies if the beneficial owner is a company which holds directly at least 25% of the capital of the dividend-paying company.
10. The 15% rate applies if the beneficial owner is a company which owns at least 10% of the shares of the dividend-paying company.
11. The 15% rate applies if the recipient is a company.
12. The 10% rate applies if the recipient is a company the capital of which is wholly or partly divided into shares and which holds directly at least 10% of the capital of the dividend-paying company.
13. The 12.5% rate applies if the beneficial owner is a company (excluding partnerships) which holds directly at least 25% of the capital of the dividend-paying company.
14. The 15% rate applies if the beneficial owner is a company (excluding partnership) which holds directly at least 25% of the capital of the paying company during the part of the paying company's taxable year which precedes the date of payment of the dividends and during the whole of its prior taxable year, if any.
15. The 15% rate applies if the recipient is a company (including partnership) and during the part of the paying company's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 15% of the outstanding shares of the voting stock of the paying company was owned by the recipient company.
16. The 15% rate applies if the recipient is a company which holds directly at least 15% of the voting shares of the dividend-paying company. In other cases the 30% domestic rate applies.
17. The 20% rate applies when the recipient is a corporation and if during the part of the paying corporation's taxable

year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10% of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation.

18. Dividends are subject to a 30% withholding tax. However, a 15% rate applies if the non-resident company's domicile country grants a deemed-paid tax credit of at least 15% (as from 1 January 2009) or provides a tax exemption for the dividends. Interest is subject to a 30% withholding tax. Interest on foreign loans (payable in foreign currency to OBUs and FCDUs) is subject to a 10% withholding tax while any other form of interest on foreign loans is subject to a 20% withholding tax. Royalties are subject to a 30% withholding tax and may include payments for technical assistance.
19. The 5% rate applies if the beneficial owner is a company (other than partnership) which holds directly at least 70% of the capital of the company paying the dividends. If the beneficial owner is a company (other than partnership) which holds directly at least 10% of the capital of the company paying the dividends, the dividends tax rate is 10%. In other cases the rate is 15%.
20. The 15% rate applies if the beneficial owner is a company (excluding partnership). In other cases, the rate is 25%.
21. The 15% rate applies where the royalties are paid by an enterprise registered with, and engaged in preferred areas of activities. In other cases, the rate is 25%.

SINGAPORE

MEMBER FIRM

City	Name	Contact Information
Singapore	Bun Hiong Goh	+65 6500 9359 bunhiong@pkf.com

BASIC FACTS

Full name:	Republic of Singapore
Capital:	Singapore
Main languages:	English, Malay, Mandarin, Tamil
Population:	5.844 million (2019 estimate)
Monetary unit:	Singapore Dollar (SGD)
Internet domain:	.sg
Int. dialling code:	+65

KEY TAX POINTS

- Resident and non-resident companies are liable for corporate income tax on income accruing or derived in Singapore, or income received in Singapore from outside Singapore. Companies and individuals are taxed on a preceding year basis.
- Goods and service tax, a value added tax, is levied on taxable goods and services in Singapore and on imports into the territory.
- Subject to certain conditions, foreign branch profits and certain foreign-sourced income remitted into Singapore by any resident person are exempt from tax.
- Dividends received from Singapore-resident companies are exempt from tax.
- Capital gains are not taxable, although transactions may be categorised as being trading in nature, and thus taxable.
- There are various tax exemptions and incentives to encourage trading and investment in Singapore.
- With effect from the Year of Assessment 2020, the first SGD 100,000 of chargeable income (CI) will be 75%-exempt while the next CI of SGD 100,000 will be 50%-exempt.
- Related party transactions are expected to be carried out at arm's length while additional documentation

is expected in situations of substantial related party transactions. There are no thin capitalisation or controlled foreign company (CFC) provisions.

- Payments between resident companies do not attract withholding tax. Interest, royalty and certain other payments by Singaporean companies to non-resident companies are, however, subject to withholding tax.
- Individual residents are subject to tax on income accruing in or derived from Singapore, or received in Singapore. Foreign income received by residents is otherwise generally exempt from tax. Non-residents are generally subject to tax on income accruing in or derived from Singapore, but not on foreign income remitted to Singapore.

A. TAXES PAYABLE

FEDERAL TAXES AND LEVIES
COMPANY TAX

Resident and non-resident companies are taxed on income accruing in or derived from Singapore as well as on foreign income received (actual or deemed) in Singapore. Remittance of foreign income (dividends, branch profits, services income) may be tax exempt when remitted by a resident company under certain conditions. A company is tax resident in Singapore if the management and control of its business is exercised in Singapore.

The standard corporate tax rate is 17%, a partial tax exemption is given for the first SGD 300,000 of chargeable income (CI). Under this scheme, 75% of the first SGD 10,000 of CI is tax exempt and 50% of the next SGD 290,000 of CI is tax exempt (reduced to SGD 190,000 from the current SGD 290,000 from the year of assessment 2020). This exemption does not apply to income of a non-resident company subject to the final withholding tax regime. Qualifying newly incorporated Singaporean companies may enjoy a separate tax exemption scheme for their first three consecutive years of assessment.

The tax year, referred to as the year of assessment (YA), runs from 1 January to 31 December of each year. Income for the YA is computed based on the income derived in the preceding calendar year (known as the basis year) from all sources. For a trade, business, profession or vocation with a non-31 December accounting year-end, the Inland Revenue Authority of Singapore (IRAS) normally accepts the accounting year as the basis year instead of the calendar year. Under such circumstances, tax is assessed for each YA on the income for the accounting year preceding that YA.

A company is generally required to provide an estimate of its CI within three months after the end of its financial year. The estimated tax payable can be paid via instalments. The number of instalments available depends on when the estimated CI is filed within the three month window period and on the method of filing. The annual corporate income tax return must be filed by 30 November of the YA. After the submission of the tax return, IRAS will issue a notice of assessment to collect any tax shortfall. The tax shortfall has to be paid within one month after the date of issue of the notice of assessment in the absence of an instalment plan.

GOODS AND SERVICES TAX (GST)

GST is a broad-based consumption tax aimed at taxing the final consumer of the goods and services. The supply of goods and services made in the ordinary course of business in Singapore by a GST registered person is subject to GST. The importation of goods into Singapore is also subject to GST. Persons carrying on businesses that make taxable supplies are required to register for GST if their annual turnover (retroactive or prospective) is more than SGD 1 million. A GST registered person (GST taxpayer) has to charge GST on their supplies (output GST) and pay GST on their purchases (input GST). The GST taxpayer has to file a monthly or quarterly GST return to declare the Output GST collected and the Input GST incurred. They will pay (or claim) the difference (after netting the Output GST against the Input GST) together with the GST return.

The current standard GST rate is 7%. The export of goods and the provision of international services are zero-rated. The sale and rental of residential properties and specified financial services are exempt from GST.

STAMP DUTY

Stamp Duty is levied on legal instruments relating to the sale, mortgage or lease of immovable property and the sale or mortgage of stocks and shares.

B. DETERMINATION OF TAXABLE INCOME

Singapore-incorporated companies are required to prepare their financial accounts according to Singapore Financial Reporting Standards (FRSs). The FRSs are closely modelled after the International Accounting Standards (IAS) and International Financial Reporting Standards (FRS) issued by the International

Accounting Standards Board (IASB). The accounting profits are adjusted in accordance with Singapore tax rules to arrive at the taxable income.

Companies are required under FRSs to prepare their financial accounts according to their functional currency. Those with non-Singapore dollar functional currency accounts are required to furnish their tax computations to the IRAS in that functional currency. Expenses must be incurred wholly and exclusively for the production of income in order to be tax deductible unless specifically disallowed or restricted (e.g. non-commercial motor vehicles, medical expenses, expenses of a capital nature). Special rules apply to expenses incurred by investment holding companies, companies that commence business activities during the financial year and expenses incurred in respect of foreign-sourced income.

INTEREST DEDUCTIONS

Interest expenses are tax deductible unless they are incurred in respect of non-taxable income or are regarded to be of a capital nature. There are no thin capitalisation rules in Singapore.

STOCK / INVENTORY

There are no prescribed valuation methodologies under domestic income tax law. As such, the IRAS will generally accept the valuation methodology under the FRSs.

CAPITAL GAINS AND LOSSES

There is no separate capital gains tax regime in Singapore. Gains of a capital nature are not subject to income tax. Similarly, expenses of a capital nature are not deductible for income tax purposes. The IRAS will look at the facts and circumstances of the transaction to determine whether the gain is capital in nature or a trading gain which is subject to income tax.

DIVIDENDS

Dividends paid by Singapore companies are currently exempt from tax in the hands of the shareholder. Foreign-sourced dividends remitted into Singapore may be tax-exempt under certain circumstances.

CAPITAL ALLOWANCE

Capital allowances, instead of accounting depreciation, are granted for plant and machinery acquired and used in a trade or business. Most plant and machinery qualify for three-year straight line tax depreciation. Low cost items (costing not more than SGD 5,000 per item) may be tax depreciated in full, subject to a total claim of SGD 30,000 for each YA. Certain equipment (such as computers, automation equipment, pollution-control equipment and energy-saving equipment) may qualify for 100% tax depreciation in the year of acquisition.

Current year unutilised capital allowances can be carried back (up to a total of SGD 100,000 for both unutilised capital allowances and unutilised tax losses) to the YA immediately preceding the YA in which the capital allowance arose. The unutilised capital allowances can also be carried forward indefinitely. The utilisation of unutilised capital allowances carried back or carried forward is subject to the business continuity test and the shareholding test.

The business continuity test requires the business/trade for which the capital allowances were granted to continue. The shareholding test requires that there is no substantial change (no more than 50%) in the ultimate shareholders and their respective shareholdings on certain dates.

TAX LOSSES

Current year unutilised trade losses can be carried back (up to a total of SGD 100,000 for both unutilised capital allowances and unutilised tax losses) to the YA immediately preceding the YA in which the trade losses were incurred. The unutilised tax losses can also be carried forward indefinitely. The carry back/forward of tax losses is subject to the same shareholding test as for the carry back/forward of unutilised capital allowances.

TAX INCENTIVES

Singapore has a comprehensive list of tax incentives and development schemes to attract investments and to assist investors in expanding their businesses. Highlights of key incentives and schemes are summarised below. The Regional and International Headquarters Awards encourages companies to use Singapore as a regional or global base. A customised package of tax incentives (such as Pioneer Certificate Incentive, Development and Expansion Incentive and Investment Allowances) and grants will be given to qualifying companies.

The Pioneer Certificate Incentive encourages the introduction and growth of new industries in Singapore. A pioneer enterprise is granted full income tax exemption on its qualifying profits for up to 15 years. Investors undertaking projects that will generate significant economic benefits for Singapore may apply for the Development and Expansion Incentive. This incentive provides preferential income tax rates on all qualifying profits above a pre-determined base for a set period.

Other than the above, Singapore also offers a range of tax incentives with respect to the banking, finance and shipping industries. In addition, companies investing into new equipment that introduces new technology to the industry or contributes to its efficiency can apply for Investment Allowances. This is a capital allowance given to partially offset the costs of acquiring qualifying equipment within a set period and is in addition to the normal tax depreciation.

The Approved Royalties Incentive encourages companies to transfer their cutting edge technology and know-how to Singapore by providing full or partial withholding tax exemptions for royalty payments or technical assistance fees payable to non-residents. Grants are also available with respect to productivity/process improvement projects, staff training, new product development, business capabilities improvements, R&D, intellectual property protection initiatives and overseas ventures.

C. FOREIGN TAX RELIEF

Under Singapore's network of comprehensive double tax treaties, Singapore will grant a tax credit for foreign tax suffered in the treaty country. The tax credit granted is limited to the lower of the foreign tax suffered and the Singapore tax payable on that income. Singapore also grants a unilateral tax credit for certain income derived from countries that have not entered into tax treaties with Singapore.

D. CORPORATE GROUPS

A corporate group (comprising of a Singapore-incorporated holding company and its Singapore-incorporated subsidiaries) can transfer current-year unutilised losses, unutilised capital allowances and unutilised donations within companies in the corporate group. There is a 75% ownership requirement that needs to be maintained to remain within the corporate group while the companies should also share the same financial year end.

E. RELATED PARTY TRANSACTIONS

Under domestic tax law, related party transactions have to satisfy the arm's length principle. The IRAS can make adjustments if it is of the opinion that the arm’s length principle is not applied appropriately by the taxpayer. Additional documentation is expected in situations of substantial related party transactions.

F. WITHHOLDING TAX

1.	Interest, fees, payments in connection with any loan or indebtedness	15% (final tax)
2.	Royalty or other payment for the use of movable property	10% (final tax)
3.	Payment for the use or right to use scientific, technical, industrial or commercial knowledge or information	10% (final tax)
4.	Technical assistance and service fees and management fees	Prevailing corporate tax rate (22% for individuals)
5.	Rent or other payments for the use of movable properties	15% (final tax)
6.	Time charter fees and voyage charter fees, bareboat charter fees	Nil to 2%
7.	Directors' remuneration/directors' fees	22% (Effective from 2016)

There is no withholding tax on dividends.

G. EXCHANGE CONTROLS

There are no exchange controls in Singapore.

H. PERSONAL TAXATION

Resident individuals deriving employment income and rental income is subject to income tax based on the following progressive rates. Various personal reliefs are available to resident individuals.

Taxable Income (SGD)	(%)
Up to 20,000	0
20,001 – 30,000	2
30,001 – 40,000	3.5
40,001 – 80,000	7
80,001 – 120,000	11.5
120,001 – 160,000	15
160,001 – 200,000	18
200,001 – 240,000	19
240,001 – 280,000	19.5
280,001 – 320,000	20
Over 320,000	22

A Singapore citizen is considered tax resident if the individual normally resides in Singapore except for temporary absences that are consistent with the claim to be a resident. A foreigner is considered resident in Singapore for tax purposes if the individual is physically present or exercises a Singapore employment for 183 days or more during the basis year.

Non-resident individuals exercising an employment in Singapore are subject to income tax depending on the number of days spent in Singapore. Employment income derived from short-term employment (not more than 60 days) is exempt from Singapore income tax for the non-resident employee. This exemption does not apply to non-resident company directors, non-resident public entertainers or non-resident professionals including foreign experts, foreign speakers, queen's counsels, consultants, trainers, coaches etc. Non-resident employees exercising an employment in Singapore for a period of 61-182 days will be taxed at the higher of 15% (without personal tax reliefs) or the progressive resident rates (with personal tax reliefs). Non-residents deriving rental income are taxed at 22%.

Dividend income from Singapore companies, interest income from savings, current or fixed deposit accounts with approved banks or finance companies in Singapore and foreign-sourced income are tax-exempt for individuals (regardless of residency).

I. TREATY WITHHOLDING TAX RATES

The chart shows the withholding tax rates applicable under the Singapore tax treaties that are currently in force. The domestic withholding tax rate will apply if it is lower than the treaty rate. Singapore does not levy any withholding taxes on dividend payments. Special rates with respect to distributions by Real Estate Investment Trusts have not been reflected in this summary.

In addition, Singapore has pending treaties with Brazil, Gabon, Ghana, and Tunisia; it is also in the process of negotiating treaties with Armenia, Argentina, Botswana, Cape Verde, Croatia, Greece, Kyrgyzstan, Maldives and Peru. Transport treaties have also been concluded with Bahrain, Brazil, Chile, Hong Kong, Norway, Oman, Saudi Arabia, United Arab Emirates and United States of America.

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	Dividends (%)	Interest (%)	Royalties (%)
Treaty countries:			
Albania	0[18]/5	0[18]/5	5
Australia	15	10	10
Austria	0[19]/10	0[18]/5	5
Bahrain	0	5	5
Bangladesh	15	10	10
Barbados	0	0[18]/12	8
Belarus	5[18]	0[18]/5	5

Belgium	0/5[4]/15	0[2]/5	5
Brunei	10	5[2]/10	10
Bulgaria	5	5	5
Cambodia	10	0[18]/10	10
Canada	15	15	15
China	5[1]/10	7[2]/10	10
Cyprus	0	7[2]/10	10
Czech Republic	5	0	5/10
Denmark	0[1]/5[9]/10	10	10
Ecuador	0[18]/5	0[18]/10	10
Egypt	15	15	15
Estonia	5[1]/10	10	7.5
Ethiopia	5	5	5
Fiji	5[4]/15	10	10
Finland	5[4]/10	5	5
France	5[4]/15	10	0
Georgia	0	0	0
Germany	5[4]/15	8	8
Guernsey	0	12[18]	8
Hungary	5[1]/10	5	5
India	10[1]/15	10[2]/15	10
Indonesia	10[1]/15	10	15
Ireland	0	0[18]/5	5
Isle of Man	0	12[18]	8
Israel	5[4]/10	7	5
Italy	10	12.5	15[11]/20
Japan	5[5]/15	10	10
Jersey	0	12[18]	8
Kazakhstan	5[1]/10	10	10
Kuwait	0	7	10
Laos	0[18]/5[4]/8	0[18]/5	5
Latvia	0[22]/10	0[23]/10	5
Libya	0/5[18,19]/10	0[18]/5	5
Liechtenstein	0	0[18]/12	8
Lithuania	5[1]/10	10	7.5
Luxembourg	0	0	7
Malaysia	5[1]/10	10	8
Malta	0[15]	7[2]/10	10
Mauritius	0	0	0
Mexico	0	5[2]/15	10
Mongolia	5[1]/10	5[2]/10	5
Morocco	0	0[18]/10	10
Myanmar	5[1]/10	8[2]/10	10[11]/15

	Dividends (%)	Interest (%)	Royalties (%)
Netherlands	0[1]/15	10	0
New Zealand	5[4]/15	10	5
Nigeria	0[18]/7.5	0[18]/7.5	7.5
Norway	5[1]/15	7	7
Oman	5	7	8
Pakistan	10[6]/12.5[6]/15	12.5	10
Panama	4/5[19]	0[18]/5	5
Papua New Guinea	15	10	10
Philippines	15[12]/25	15	0[13]/15[14]/25
Poland	5/10[19]	5[18]	2[20]/5
Portugal	10	10	10
Qatar	0	5	10
Romania	5	5	5
Russian Federation	5[16,18]/10	7.5	7.5
Rwanda	7.5	0[18]/10	10
San Marino	0	0[18]/12	8
Saudi Arabia	5	5	8
Seychelles	0	0[18]/12	8
Slovak Republic	5[4]/10	0	10
Slovenia	5	5	5
South Africa	5[4]/10	0[18]/7.5	5
South Korea	10[1]/15	10	15
Spain	0/5[19]	5	5
Sri Lanka	15	0[2]/10	15
Sweden	10[1]/15	10[2]/15	0
Switzerland	5[18,19]/15	0[18]/5	5
Taiwan	-[7]	-[17]	15
Thailand	10	10/15	5/8/10
Turkey	10[1]/15	7.5[2]/10	10
Ukraine	5[3]/15	10	7.5
United Arab Emirates	5	7	5
United Kingdom	0/15[21]	0[2,18]/5	8
Uruguay	5[4]/10	0[18]/10	5/10
Uzbekistan	5	5	8
Vietnam	5[8]/7[8]/12.5	10	5[11]/10

Notes:

1. The rate applies to dividends paid to a company which holds directly at least 25% of the capital of the paying company. For the treaty with Demark, the shares must be held for an uninterrupted period of at least one year, and the dividends are declared in that period. For the treaty with Netherlands, the capital can be held indirectly.
2. The rate applies to interest received by a bank or financial institution. For the treaty with Belgium, the payer must be a banking enterprise. For the treaty with Sweden, the payer must be engaging in an industrial undertaking.
3. The rate applies to dividends paid to a company which holds directly at least 20% of the capital of the paying company.
4. The rate of 5% applies to dividends paid to a company which holds directly at least 10% of capital or voting

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power, as the case may be, of the paying company.

5. The rate applies to dividends paid to a company which holds directly at least 25% of the voting shares of the paying company during a six month period prior to the year-end for which the distribution of profits occur.
6. 10% if the beneficial owner is a company and paid by a company engaged in an industrial undertaking. 12.5% if the beneficial owner is a company and paid by a company not engaged in an industrial undertaking.
7. The aggregate of dividend withholding tax and corporate income tax on the payer's profits cannot exceed 40% of the taxable income from which the dividends are declared.
8. 5% for dividends paid to a company which contributed directly or indirectly more than 50% of the capital of the paying company or more than USD 10 million. 7% for dividends paid to a company which contributed between 25% to 50% of the capital of the paying company.
9. The rate applies to dividends received by a pension fund or similar institution providing pension schemes in which individuals may participate in order to secure retirement benefits.
10. The rate applies to a royalty paid for any industrial, commercial or scientific equipment and related technical service fees.
11. The rate applies to payments of any kind received as consideration for the use of, or the right to use, any copyright of scientific work, any patent, trade mark, design or model, plan, secret formula or process or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial or scientific experience.
12. The tax rate applies when the recipient is a company (including partnership) and during the part of the paying company's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 15% of the outstanding shares of the voting stock of the paying company was owned by the recipient company.
13. The tax rate applies in the case of Singapore where the royalties are approved under the Economic Expansion Incentives (Relief from Income Tax) Act of Singapore.
14. The tax rate applies in the case of the Philippines where the royalties are paid by an enterprise registered with the Philippine Board of Investments and engaged in preferred areas of activities and also royalties in respect of cinematographic films or tapes for television or broadcasting.
15. The tax on the gross amount of the dividends shall not exceed the tax chargeable on the profits or income of the company out of which the dividends are paid.
16. The lower rate applies if the beneficial owner of the dividends is a company which holds directly 15% of the capital of the company paying the dividends and has invested in it at least USD 100,000 or its equivalent in other currencies.
17. The treaty is silent in respect of interest income. As such, the domestic rules will apply.
18. Exempt if paid to certain government/quasi-government institutions.
19. The lower rate applies to dividends paid to a company which holds at least 10% of the capital.
20. The rate applies to a royalty paid for any industrial, commercial or scientific equipment.
21. The higher rate applies in the case of distributions to a real estate investment trust.
22. The lower rate applies to dividends paid to a company or certain government/quasi-government institutions.
23. The lower rate applies to interest paid to a financial institution, a company, certain government/quasi-government institutions or in respect of loan guaranteed by certain government/quasi-government institutions.

SOUTH KOREA

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BASIC FACTS

Full name:	The Republic of Korea
Capital:	Seoul
Main languages:	Korean
Population:	51.81 million (2019 estimate)
Monetary unit:	South Korean Won (KRW)
Internet domain:	.kr
Int. dialling code:	+82

KEY TAX POINTS

- Corporate Income Tax: Domestic corporations are taxed on their worldwide income, whereas foreign corporations are taxed only on their Korean-source income. The corporate income tax rates vary from 11% (including local income tax) to 27.5% (including local income tax) depending on the level of total taxable income for the year.
- Value Added Tax: VAT is imposed at a rate of 10% on supplies of goods and services. However, zero-rated VAT or exemption is applied to certain supply of goods and services.
- Individual Income Tax: Any person domiciled in Korea or having resided in Korea for 183 days or longer is subject to individual income tax on his/her worldwide income (i.e. Korean-sourced income and foreign-sourced income). Individuals are taxed at progressive rates from 6.6% (including local income tax) to 46.2% (including local income tax) depending on their total taxable income for the year.
- Withholding Tax: Taxes are required to be withheld at rates ranging from 2.2% to 22%, from certain cross-border payments made to non-resident individuals or corporations without a permanent establishment in Korea, unless exempted or reduced under a relevant double tax treaty.

A. TAXES PAYABLE

TAX LAWS AND REGULATIONS

Taxes in Korea are comprised of national and local taxes. While national taxes, imposed by the central government, are divided into internal taxes and customs duties, local taxes are imposed by three-tier local authorities – province, city and county. Internal taxes consist of direct taxes (individual income tax, corporate income tax, inheritance and gift tax and comprehensive real estate tax), indirect taxes (VAT, individual consumption tax, liquor tax, stamp tax and securities transaction tax) and three earmarked taxes (transportation, energy and environment tax (or TEE tax), education tax and agriculture and fishery community special tax).

Presidential Decrees can be formulated by the executive branch of the Korean legal system in order to enforce the tax laws. The Minister of Strategy and Finance also formulates Ministerial Decrees to enforce the Presidential Decree and to publish rulings and authoritative interpretations of the laws. In addition to the Presidential and Ministerial Decrees, the Commissioner of the National Tax Service (NTS) may issue administrative orders and rules to ensure consistent application of the laws. The courts have the final authority in interpreting the tax laws. In this regard, taxpayers are not generally bound by such interpretations by the tax authorities, except for advance rulings.

CORPORATE INCOME TAX

Corporate income tax is imposed by the central government under Corporate Income Tax Law (“CITL”). There are two classifications of corporate taxpayers in Korea, i.e. Domestic Company vs. Foreign Company and Profit-making Corporation vs. Non-profit Corporation. For tax purposes, if a company has its head office or principal place of business in Korea or the place of effective management is located in Korea, the company is deemed to be a domestic company. While a domestic company is liable for taxes on its worldwide income, a foreign company is taxed on Korean-sourced income only.

Corporate income tax rates are as follows:

Taxable income (Tax base)	Tax rates (including local income tax)
Under KRW 200 million	11%
From KRW 200 million to KRW 20 billion	KRW 22 million + 22% in excess of KRW 200 million
From KRW 20 billion to KRW 300 billion	KRW 4.378 billion + 24.2% in excess of KRW 20 billion
In excess of KRW 300 billion	KRW 72.138 billion + 27.5% in excess of KRW 300 billion

Corporate taxpayers are liable for the alternative minimum tax before certain tax deductions and tax credits:

- For small and medium-sized companies: 7%(*) of taxable income (before tax incentives); and
- For other corporations: 10%(*) on taxable income (before tax incentives) up to KRW 10 billion, 12%(*) of taxable income exceeding KRW 10 billion but up to KRW 100 billion and 17%(*) of taxable income exceeding KRW 100 billion.

(*) Local income tax rate (i.e. 10% of corporate income tax rate) which will increase the total tax rate is not taken into account.

VALUE ADDED TAX (VAT)

VAT is a broad base consumption tax aimed at taxing the end consumers of the goods and services. If an entity or person engages in supplies of goods or services independently in the course of carrying on business, such supplies of goods or services attract VAT. Furthermore, supplies of goods or services for business purposes are VAT chargeable, regardless of whether the business aim is to make profit.

VAT taxpayers include individuals, corporations, national and local governments, associations of local authorities, any bodies of persons, and unincorporated organisations.

VAT taxpayers must file a quarterly VAT return to declare output VAT and input VAT. After filing the VAT return, VAT taxpayers will pay or receive the net VAT payable or refundable, amounting to the difference between the output VAT and the input VAT. VAT is also imposed on imported goods.

The standard VAT rate is 10%. The export of goods and the provision of certain cross-border services are zero-rated. However, zero-rated VAT is applied to certain supplies of goods and services (e.g. exports of goods and provision of eligible services to non-resident customers or clients) and an exemption is applied to certain supplies of goods and services (e.g. basic life necessities, finance and insurance services and duty-exempt goods).

Electronic VAT invoicing is required pursuant to the VAT law. If a taxpayer fails to issue the electronic VAT invoice or to report electronically to the tax authority, the relevant penalty tax shall be levied

B. DETERMINATION OF TAXABLE INCOME

The tax base of corporate income tax is defined as revenue minus expenses incurred in the operation of the business. Expenses can be deducted for tax purposes if they are incurred wholly and exclusively for producing income, unless specifically disallowed or restricted under appropriate tax laws and regulations (e.g. entertainment expenses exceeding the prescribed limits, non-business expenses, excessive or unreasonable expenses, penalties, fines, losses on valuation, etc.).

TRADING STOCK / INVENTORY

Securities can be valued using either the weighted average cost method or the moving average cost method. Also, a taxpayer can choose the individual cost method for the valuation of bonds.

A corporation may elect one of the following methods for inventory valuation and submit a report on its valuation method by the due date. The method elected is required to be applied consistently every year unless an application for change has been submitted three months before year-end at the latest.

1. Cost method:
   a) Individual cost method;
   b) First-in first-out method (FIFO);
   c) Last-in first-out method (LIFO);
   d) Weighted average cost method;
   e) Moving average cost method;
   f) Gross profit method.

2. Lower of cost or market price (LCM).

CAPITAL GAINS AND LOSSES

Capital gains derived by a company are regarded as assessable income that should be included in the calculation of its tax base for corporate income tax purposes, unless such capital gains are derived from capital transactions such as capital surplus or gains on reduction of paid-in capital.

However, a company's disposals of non-business purpose land or houses attract an additional corporate income tax at the rate of 10% (or 40% in case of non-registered land or houses) on top of the regular corporate income tax attributed to the capital gain already included in the tax base. Therefore, such capital gains are taxed twice under the CITL in Korea.

DIVIDENDS

Dividends paid by domestic companies in Korea are taxed at the level of the corporate recipient. However, to avoid double taxation on the dividend income earned by the corporate recipient, the prescribed portion of such dividend income is excluded from the calculation of the tax base of the corporate recipient. For instance, in case of a holding company established in accordance with Anti-trust and Fair Trade Law, its dividend income paid by its subsidiaries is not taxable to the extent of the exclusion ratio specified under CITL. Likewise, a corporation other than a holding company is not taxed on dividends paid by its subsidiaries up to the prescribed exclusion ratio under CITL.

Foreign-sourced dividends received by a domestic entity in Korea are also subject to corporate income tax. In order to avoid double taxation on the foreign-sourced dividend income, taxes imposed by foreign governments on such foreign-sourced dividends are allowed as a foreign tax credit up to the foreign tax credit limit or as tax deductible expense in computing the taxable income.

INTEREST DEDUCTIONS

Interest expenses incurred in the ordinary course of business are tax deductible. However, interest expenses are not deductible if such expenses are incurred in respect of non-business activities, etc.

Limiting Base Erosion Involving Interest Deductions

- Debt-based interest deduction limitation ("Thin Capitalisation Rules")

Where a domestic corporation borrows funds from its foreign controlling shareholder, or from a third party under a payment guarantee provided by its foreign controlling shareholder (including the offer of a collateral etc. for the guarantee of payment), and such borrowing exceeds twice (or six times for financial institutions) the share capital contributed by the relevant foreign controlling shareholder to the domestic corporation, the portion of total interest paid and discount on the borrowing that corresponds to the excess amount over the foregoing threshold shall not be tax deductible and is re-characterised into a deemed dividend paid to the foreign controlling shareholder or a deemed other outflow paid to the third party. The domestic corporation would furthermore be required to adjust the withholding tax which has already been withheld at the time of the payment of interest income to the foreign controlling shareholder or the third party in such a way that the above is taken into account.

- Income-Based interest deduction limitation ("Income Base Rules")

From the fiscal year which commences at 1 January 2019 and thereafter, if the net interest expense on funds borrowed by a domestic corporation from its foreign related parties exceeds 30% of the adjusted gross income, the excess amount shall not be tax deductible and is re-characterised into a deemed other outflow. Net interest expense can be calculated as interest paid and discount on the borrowing from the foreign related parties less the amount of interest income received from the foreign related parties. Adjusted gross income is the income before depreciation and the net interest expense referred to above.

- Interest deduction limitation in relation to Hybrid Financial Instrument Transactions ("Hybrid Financial Instrument Transaction Rules")

From the fiscal year which commences at 1 January 2018 and thereafter, interest paid and discount on the borrowing of a domestic corporation in relation to transactions involving prescribed hybrid financial instruments with a foreign related party are not tax deductible if the foreign related party treats the interest received (including the discount) as dividend income that is either 1) not included as taxable income or 2) taxable only up to less than 10% of the dividend income, according to the laws and rules of the jurisdiction in which the foreign related party is located, within the end of the fiscal year commencing within 12 months from the end of the fiscal year in which the domestic corporation bears the interest and the discount. The non-deductible interest and discount according to the Hybrid Financial Instrument Transaction Rules would be re-characterised into a deemed other outflow.

Where both Thin Capitalisation Rules and Income Base Rules can be applicable, the one with larger non-deductible expenses shall be applied. If the amounts calculated according to both rules are the same, Thin Capitalisation Rules shall apply. Thin Capitalisation Rules and Income Base Rules shall take precedence over Hybrid Financial Instrument Transaction Rules.

LOSSES

Deductions denote expenses or outgoings that decrease the net assets of a corporate taxpayer, except for return of capital and appropriation of surplus or unless otherwise stipulated under the CITL. In this respect, a loss for tax purposes is considered to be the deduction in excess of taxable revenue. Unutilised tax losses can be carried forward for up to 10 years. However, as from 2016 a company can only deduct the loss carry-forward up to 80% (70% for a fiscal year starting in the year 2018 and 60% for a fiscal year starting in the year 2019 and thereafter) of its tax base for a particular year under the CITL, except for small and medium-sized enterprises and certain qualifying companies under recovery process, etc.

FOREIGN SOURCE INCOME

As domestic corporations are subject to corporation tax on a worldwide basis, their foreign source income is also taxable. The tax treatment of foreign income is generally the same as for Korean-sourced income.

TAX INCENTIVES

Various tax incentives aimed at achieving specific national economic objectives have been provided under domestic tax law. For example, Special Tax Treatment Control Law provides various tax incentives to stimulate R&D activities including a tax credit for research and manpower development expenses and a tax credit for investment in facilities for technology and human resources development. A domestic company may be liable for the alternative minimum tax (see higher under “CORPORATE INCOME TAX”) before certain tax deductions and tax credits, subject to certain exceptions.

C. FOREIGN TAX CREDIT

Where a domestic corporation pays or is liable to pay income tax abroad, the amount of tax paid or payable abroad is allowed as a tax credit against corporate income tax up to an amount equivalent to the ratio of the foreign sourced income to total worldwide taxable income, or as tax deductible expenses in computing the taxable income. If the foreign tax paid or payable for a fiscal year exceeds the prescribed foreign tax credit limit, the excess of the tax credit may be carried forward for up to 5 years.

An indirect foreign tax credit is also available. Foreign taxes paid by a qualifying subsidiary may be creditable against corporate income tax payable by a parent company, attributable to its dividend income. In this regard, a qualifying subsidiary means a corporation the shares of which are owned for 25% or more by a domestic corporation for more than six consecutive months prior to the date of dividend declaration.

D. CORPORATE GROUPS

As from tax year 2010 a consolidated tax return system is in effect, the scope of which is limited to parent-subsidiary companies with 100% ownership, subject to certain technical exceptions that only allow a 5% deviation. Sister companies may join a group indirectly through a common parent company. Under the consolidated tax regime, the parent company pays corporate tax for the group, and the subsidiaries pay their share of corporate tax to the parent company. Companies in a group assume the tax liability jointly and severally. Tax consolidation can only be elected once every 5 years.

E. RELATED PARTY TRANSACTIONS

Pursuant to the Law for Coordination of International Tax Affairs (the “LCITA”) and its regulations in Korea, foreign related party transactions must meet the arm’s length principle. When a price charged between related parties is not at arm’s length and the Korean tax authorities therefore consider that the corporate income tax is unreasonably reduced, they could recalculate the corporation’s taxable income using what is considered to be an arm’s length price or margin.

The LCITA regulates transfer pricing issues surrounding cross-border transactions with foreign related parties. Cross-border transactions are defined under the LCITA as transactions where one party or both parties are foreign entities. Therefore, if a domestic company enters into any transaction with its foreign related parties, the transaction would be subject to transfer pricing regulations in Korea. The Korean transfer pricing rules generally follow the OECD guideline whereby the price for transactions between related parties should be determined at arm's length. Therefore, if the domestic company does not recognize arm's length revenue or expenses in relation to the transactions with its foreign related parties, the transfer pricing rules would be triggered to force the domestic company to recognize the arm's length income or expenses.

Similarly, under the CITL, the tax authorities may also reject the transaction of a company with its specially-related party if the transaction price is higher or lower than the market price, and may assess tax on the basis of the market price ("Principle of Rejecting Unfair Transaction"). Under the CITL, in case of a transaction price continuously used in arm's length transactions with third parties (other than with specially-related parties) or a transaction price generally used in transactions between unrelated parties, then such transaction price can be treated as the market price. If the market price cannot be determined based on the foregoing method, however, the market price can be determined by an appraisal price (excluding shares) or the value calculated according to the method stipulated in the Inheritance and Gift Tax Law of Korea.

F. WITHHOLDING TAX

Corporate income tax

A person paying interest income and distribution of profit from securities investment trusts to a domestic company is required to withhold the corporate income tax on such income at the rate of 14% (15.4% including local income tax). Regarding the interest from a non-commercial loan, the withholding tax rate is 25% (27.5% including local income tax).

Individual income tax

A person paying interest, dividends, business income, salary income, pension income, retirement income or other income to a resident is required to withhold the individual income tax on such income.

For the reference, interest income except the interest from non-commercial loans or excess refund from a workplace mutual-aid association and dividend income except dividend of joint investment business operators are subject to withholding tax at the rate of 14% (15.4% including local income tax).

G. PERSONAL INCOME TAX

Any person domiciled in Korea or having resided in Korea for 183 days or longer is subject to individual income tax on his/her worldwide income, i.e. both Korean-sourced income and foreign-sourced income.

Resident individuals are subject to the following progressive tax rates based on their taxable base. Various personal reliefs are available to resident individuals.

Individual income can be classified into global income, capital gains and severance pay under the Income Tax Law. Each of them is subject to tax under a unique tax calculation structure. Global income includes interests, dividends, business income, wages and salaries, pension income and other income.

Basic individual income tax rates are as follows:

Tax base of global income (KRW)	Tax Rates (including local income tax) (KRW)
12 million or less	6.6% of tax base
12 million - 46 million	0.792 million + 16.5% of the amount exceeding 12 million
46 million - 88 million	6.402 million + 26.4% of the amount exceeding 46 million
88 million - 150 million	17.49 million + 38.5% of the amount exceeding 88 million
150 million - 300 million	41.36 million + 41.8% of the amount exceeding 150 million
300 million - 500 million	104.06 million + 44% of the amount exceeding 300 million
In excess of 500 million	192.06 million + 46.2% of the amount exceeding 500 million

A Korean citizen is considered a tax resident in Korea if he or she normally resides in Korea. Korean public officials working overseas and directors and personnel dispatched to foreign affiliates of a Korean resident employer are deemed tax residents in Korea.

A foreigner is considered a resident in Korea for tax purposes, if he or she resides in or undertakes employment in Korea for 183 days or more during the year. A foreigner can opt for a flat tax rate of 20.9% (including local income tax) on Korean-sourced earned income without claiming a tax deduction for

5 years from the year of his or her first employment in Korea, provided that he or she commences his or her employment in Korea by 31 December 2021.

H. TAXATION OF NON-RESIDENTS

Corporate Income Tax

Resident corporations are taxed on their worldwide income, whereas non-resident corporations are taxed only to the extent of their Korean-sourced income. Non-resident corporations without a permanent establishment in Korea are generally subject to a withholding tax on Korean-sourced income.

	Resident corporation	Non-resident corporation
Definition	A corporation having its head office or principal office, or a place of effective management in Korea	Any corporation not regarded as a resident corporation
Taxable place	Head or principal office or a place of effective management	Permanent establishment or place of income source
Tax liability	Worldwide income	Korean-sourced income
Methods of taxation	Global taxation	Global taxation (In case of having a permanent establishment in Korea) Withholding tax (In case of having no permanent establishment in Korea)

Individual Income Tax

A non-resident individual is liable for tax on income derived from sources within Korea. Two methods of taxation are applied: global taxation and separate withholding taxation. Global taxation is applied to non-resident taxpayers who have a place of business in Korea or those with income from real estate located in Korea (excluding capital gains from the transfer of land, buildings or certain securities). All domestic source income is subject to global taxation, except for severance pay and capital gains, all of which are taxed in the same manner as if they would be earned by a resident. Withholding taxation is applied to each domestic item of income of non-residents who do not have a place of business in Korea and do not have income from real estate located in Korea.

	Resident individual	Non-resident individual
Definition	Residence or domicile in Korea for more than 183 days	Any person not deemed a resident
Taxable place	Residence or domicile	Place of business (fixed base) or place of income source
Tax liability	Worldwide income	Korean-sourced income
Methods of taxation	Global taxation Scheduled taxation for capital gains and retirement income Withholding taxation	Global taxation (in case of having a fixed base in Korea) Scheduled taxation for capital gains and retirement income Withholding taxation

Withholding Tax Rates

Withholding tax rates for non-resident corporations without a permanent establishment in Korea and non-resident individuals without a place of business in Korea are as follows:

Items of income	Tax rates (including local income tax) (*)
Interest	22% (15.4% in case of interest on bonds)
Dividends	22%
Lease Income	2.2%

Business Income	2.2%
Independent Personal Services	22% (3.3% in case of income deemed accrued in Korea under a tax treaty)
Capital Gains Income	Lesser of 11% of sales price or 22% of capital gains
Royalties	22%
Capital Gains from Securities Transaction	Lesser of 11% of sales price or 22% of capital gains
Other Income	22%

* If there is a tax treaty between Korea and the country of a non-resident, the reduced tax rate stipulated in the applicable treaty applies to such income derived by the non-resident.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Taxes are required to be withheld at applicable rates, ranging from 2.2% to 22%, from certain cross-border payments made to non-resident individuals or corporations without a permanent establishment in Korea, unless exempted or reduced under the relevant tax treaty.

As of the end of December 2018, Korea has entered into bilateral tax treaties with 93 countries globally. The chart below shows the withholding tax rates applicable under the Korea tax treaties that are currently in force. The applicable domestic withholding tax rate will apply if such a rate is lower than the reduced rate under the tax treaty or if there is no tax treaty. There are various reduced rates under the tax treaty applicable to residents of the following tax treaty countries. As for dividends, interest, and royalties, set out below are the reduced tax rates under applicable tax treaties.

	Dividends (%)	**Interest[36] (%)**	**Royalties (%)**
Domestic rates			
Companies	20[1]	14/20[1]	20[1]
Individuals	20[1]	14/20[1]	20[1]
Treaty Countries:			
Albania	5/10[2]	10	10
Algeria	5/15[2]	10	2/10
Australia	15	15	15
Austria	5/15[2]	10	2/10
Azerbaijan	7	10	5/10
Bahrain	5/10[2]	5	10
Bangladesh	10/15[3]	10	10
Belarus	5/15[2]	10	5
Belgium	15	10	10
Brazil	10/15[4]	10/15[25]	10/25
Brunei	5/10[2]	10	10
Bulgaria	5/10[5]	10	5
Canada	5/15[2]	10	10
Chile	5/10[6]	5/10/15[26]	5/10
China	5/10[2]	10	10
Colombia	5/10/15[7]	10	10
Croatia	5/10[2]	5	0
Czech Republic	5/10[2]	10	10
Denmark	15	15	10/15

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Ecuador	5/10[3]	12	5/12
Egypt	10/15[10]	10/15[27]	15
Estonia	5/10[2]	10	5/10
Ethiopia[14]	5/8[2]	7.5	5
Fiji	10/15[10]	10	10
Finland	10/15[10]	10	10
France	10/15[3]	10	10
Gabon	5/15[2]	10	10
Georgia	5/10[8]	0/10[28]	10
Germany	5/15[2]	10	2/10
Greece	5/15[2]	8	10
Hong Kong	10/15[10]	10	10
Hungary	5/10[2]	0	0
Iceland	5/15[2]	10	10
India[9]	15	10	10
Indonesia	10/15[10]	10	15
Iran	10	10	10
Ireland	10/15[11]	0	0
Israel	5/10/15[12]	0/7.5/10[29]	2/5
Italy	10/15[10]	10	10
Japan	5/15[13]	10	10
Jordan	10	10	10
Kazakhstan	5/15[8]	10	2/10
Kenya[14]	8/10[15]	12	10
Kuwait	5	5	15
Kyrgyz Republic	5/10[2]	10	5/10
Laos	5/10[8]	10	5
Latvia	5/10[2]	10	5/10
Lithuania	5/10[2]	10	5/10
Luxembourg	10/15[3]	5/10[30]	5/10
Malaysia	10/15[10]	15	10/15
Malta	5/15[2]	10	0
Mexico	0/15[16]	5/15[30]	10
Mongolia	5	5	10
Morocco	5/10[2]	10	5/10
Myanmar	10	10	10/15
Nepal	5/10[2]	10	15
Netherlands	10/15[10]	10/15[31]	10/15
New Zealand	15	10	10
Norway	15	15	10/15
Oman	5/10[8]	5	8
Pakistan	10/12.5[18]	12.5	10
Panama	5/15[2]	5	3/10

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	Dividends (%)	Interest[36] (%)	Royalties (%)
Papua New Guinea	15	10	10
Peru	10	15	10/15
Philippines	10/25[10]	10/15[32]	10/15
Poland	5/10[8]	10	5
Portugal	10/15[19]	15	10
Qatar	10	10	5
Romania	7/10[20]	10	7/10
Russia	5/10[21]	0	5
Saudi Arabia	5/10[2]	5	5/10
Serbia	5/10[2]	10	5/10
Singapore	10/15[10]	10	15
Slovak Republic	5/10[2]	10	0/10
Slovenia	5/15[2]	5	5
South Africa	5/15[2]	10	10
Spain	10/15[10]	10	10
Sri Lanka	10/15[10]	10	10
Sweden	10/15[10]	10/15[33]	10/15
Switzerland	5/15[8]	5/10[30]	5
Tajikistan	5/10[2]	8	10
Thailand	10	10/15[34]	5/10/15
Tunisia	15	12	15
Turkey	15/20[22]	10/15[35]	10
Turkmenistan	10	10	10
Ukraine	5/15[7]	5	5
United Arab Emirates	5/10[8]	10	0
United Kingdom	5/15[23]	10	2/10
United States	10/15[24]	12	10/15
Uruguay	5/15[7]	10	10
Uzbekistan	5/15[2]	5	2/5
Venezuela	5/10[8]	5/10[30]	5/10
Vietnam	10	10	5/15

Notes:

1. Dividends received by non-residents are subject to withholding tax at 20% (22% including 10% local income tax). Interest received by non-residents is subject to withholding tax at 20% (22% including 10% local income tax). A rate of 14% (15.4% including local income tax) applies to interest on bonds issued by the central government, local government or a resident corporation. Royalties received by non-residents are subject to withholding tax at 20% (22% including local income tax).
2. The 5% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
3. The 10% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the paying company.
4. The treaty rate is 15%. However, under the application of a most favoured nation clause based on the Brazil-Israel treaty, the rate is reduced to 10% regarding participations of at least 25% of capital.
5. The 5% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least

15% of the capital of the paying company.

6. The 5% rate applies if the beneficial owner is a company that controls directly or indirectly at least 25% of the voting power in the paying company.
7. The 5% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 20% of the capital of the paying company.
8. The 5% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the paying company.
9. Effective date: 1 January 2017 (Korea); 1 April 2017 (India).
10. The 10% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
11. The 10% rate applies if the beneficial owner is a company which controls directly or indirectly 10% or more of the voting power in the paying company.
12. The 5% rate applies if the beneficial owner is a company which holds directly or indirectly at least 10% of the paying company. The 10% rate applies if the beneficial owner is a company which holds 10% of the capital of the paying company where the latter is a Korean resident and the dividends are paid out of profits which are subject to Korean tax at a lower rate than the normal corporate tax rate. The 15% rate applies in all other cases.
13. The 5% rate applies if the beneficial owner is a company which owns at least 25% of the voting shares issued by the company paying the dividends during the period of 6 months immediately before the end of the accounting period for which the profits distribution takes place.
14. Effective date: 1 January 2018.
15. The 8% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
16. The 0% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the paying company.
17. The 5% rate applies if the beneficial owner is a company which holds directly at least 25% of the shares of the paying company. The 10% rate applies if the beneficial owner is a company which holds directly at least 10% of the shares of the paying company. The 15% rate applies in all other cases.
18. The 10% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 20% of the capital of the paying company and the latter is engaged in an industrial undertaking.
19. The 10% rate applies if the beneficial owner is a company that, for an uninterrupted period of 2 years prior to the payment of the dividend, owns directly at least 25% of the capital stock of the paying company.
20. The 7% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
21. The 5% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 30% of the capital of the paying company and invests not less than 100,000 USD or the equivalent amount of local currencies into the paying company.
22. The 15% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the paying company.
23. The 5% rate applies if the beneficial owner is a company (other than a partnership) which controls, directly or indirectly, at least 25% of the voting power in the paying company.
24. The 10% rate applies if the recipient is a corporation and if (i) during the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10% of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation and (ii) not more than 25% of the gross income of the paying corporation for such prior taxable year (if any) consists of interest or dividends (other than interest derived from the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50% or more of the outstanding shares of the voting stock of which is owned by the paying corporation at the time such dividends or interest is received).
25. The 10% rate applies if the recipient is a bank and the loan is granted for a period of at least 7 years in connection with the purchase of industrial equipment or with the study, the purchase and installation of industrial or scientific units, as well as with the financing of public works.
26. The 10% rate applies to interest derived from loans granted by banks and insurance companies. However, under the application of a most favoured nation clause based on the Chile-Spain treaty, the rate is reduced to 5% regarding (i) loans granted by banks and insurance companies (ii) bonds or securities that are regularly and substantially traded on a recognised securities market and (iii) sale on credit paid by the purchaser of machinery and equipment to a beneficial owner that is the seller of the machinery and equipment. The rate is furthermore also reduced to 5% under the application of a most favoured nation clause based on the Australia-Chile treaty regarding interest derived by a financial institution which is unrelated to and dealing wholly independently with the payer.

27. The 10% rate applies to interest paid in respect of a loan or other debt-claim for a period exceeding 3 years.
28. The 0% rate applies to (i) interest beneficially owned by the Government of Georgia (ii) interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment, or paid in connection with the sale on credit of any merchandise to a Georgian enterprise and beneficially owned by a Georgian resident (iii) interest beneficially owned by a Georgian pension fund, provided that such interest is not derived from the carrying on of a business, directly or indirectly, by such pension fund.
29. The 7.5% rate applies to interest received by any bank or financial institution. The 0% rate applies, among others, to a loan made, refinanced, guaranteed or insured, or a credit extended, refinanced, guaranteed or insured by the Central Bank of Korea or the Korea Development Bank.
30. The 5% rate applies to interest paid to a bank.
31. The 10% rate applies to interest paid on a loan made for a period of more than 7 years.
32. The 10% rate applies to interest paid in respect of public issues of bonds, debentures or similar obligations.
33. The 10% rate applies if the recipient of the interest is a bank and the loan is made for a period of more than 7 years.
34. The 10% rate applies if the interest is beneficially owned (i) by any financial institution (including an insurance company) (ii) by a Thai resident and is paid with respect to indebtedness arising as a consequence of a sale on credit by a Thai resident of any equipment, merchandise or services, except where the sale was between persons not dealing with each other at arm's length.
35. The 10% rate applies to interest paid in respect of a loan or other debt-claim for a period exceeding two years.
36. Certain treaties provide for an exemption of some types of interest (but not all included in this list), e.g. interest paid to public bodies and institutions or banks or in relation to approved or state-guaranteed loans.

TAIWAN

MEMBER FIRM

City	Name	Contact Information
Taipei	Wisdom Lee	+886 2 8792 2628 wl@pkf.com.tw

BASIC FACTS

Full name:	Republic of China
Capital:	Taipei
Main languages:	Mandarin Chinese (official), Min Nan Chinese (Taiwanese)
Population:	23.75 million (2019 estimate)
Monetary unit:	New Taiwan Dollar (NTD)
Internet domain:	.tw
Int. dialling code:	+886

KEY TAX POINTS

- Domestic entities are taxed on a worldwide basis, while other entities pay tax only on income sourced in Taiwan. Where a non-resident company has Taiwan-sourced income but no place of business or agent in Taiwan, the company's income is taxed at source under the withholding tax regime.
- Taiwan taxes all profit-seeking enterprises operating in Taiwan with total taxable income over NTD 120,001 at 20% effective 1 January 2018 (but the tax may not exceed 50% of the portion of taxable income over NTD 120,000).
- Profits that are earned in a year but not distributed by end of the following year are subject to 5% advance tax.
- All gains and losses on the disposal of capital assets are taxable as current year income or deductible as expenses with the exception of marketable securities and futures.
- 5% value-added business tax is applied to business entities in most industries under the VAT system.

Export sales and export-related services, however, are subject to a zero tax rate. Financial institutions are subject to non-value-added business tax.

- There are no local income taxes.
- Foreign tax suffered on overseas income is creditable against Taiwanese tax subject to a limit of Taiwanese tax payable on such income. Any unused tax credits may not be carried back or forward to other years.
- Domestic corporations paying certain types of income are required to withhold tax between 5% and 21%.
- Individuals are only subject to income tax on Taiwan source income with income derived from foreign sources being exempt from income tax. Residents, both Taiwanese and foreign nationals, pay tax on net consolidated income calculated as the total income received from all Taiwan sources less exemptions and deductions.
- If the amount of regular income tax for a company or an individual is less than the amount of basic tax, the total tax payable is the amount of the basic tax.

A. TAXES PAYABLE

BUSINESS INCOME TAX

Taiwan taxes all profit-seeking enterprises operating in Taiwan. Domestic entities are taxed on a worldwide basis, while other entities pay tax only on income sourced in Taiwan. Where a non-resident company has Taiwan-sourced income but no place of business or agent in Taiwan, the company's income is taxed at source under the withholding tax regime. Domestic entities include companies that are incorporated under Taiwan Company Law. A domestic company is incorporated when it is duly registered with the central competent authority and issued with an approval letter on its registration. Income tax rates for profit-seeking enterprises are as follows:

- Less than NTD 120,000: 0%
- NTD 120,001 and over: 20%, effective 1 January 2018 (but the tax may not exceed 50% of the portion of taxable income over NTD 120,000).

TAX ON INTEREST

Interest received by a resident profit-seeking enterprise is taxable as non-operating income and 10% creditable withholding tax is imposed.

Tax on interest received by a non-resident profit-seeking enterprise is withheld according to the following rules:

(1) For interest from the portion of the pecuniary amount realised by short-term commercial papers at their maturity in excess of the selling price at their initial issuance, 15% of the payment is withheld.

(2) For interest distributed derived from beneficiary securities or asset-backed securities issued in accordance with the Financial Asset Securitisation Act or the Real Estate Securitisation Act, 15% of the distribution is withheld.

(3) For interest on government bonds, corporate bonds or financial bonds, 15% of the payment is withheld.

(4) For interest derived from repo (RP/RS) trade whereby a taxpayer purchases securities or short-term commercial papers as described above in paragraphs 1 to 3 which shall be the net amount of the sale price at their maturity in excess of the original purchase price, 15% of the payment is withheld.

(5) For all other types of interest, 20% of the payment is withheld.

TAX ON RETAINED EARNINGS

Tax on retained profits

Retained profits attract an additional 5% income tax. Profits that are earned in a year but not distributed by end of the following year are subject to 5% advance tax.

Tax imputation system

Effective 1 January 2018, the imputation system is abolished to simplify the income tax system.

CAPITAL GAINS TAX

All gains and losses on the disposal of capital assets are taxable as current year income or deductible as expenses with the exception of marketable securities and futures.

Securities Transactions

The levy of tax on gains derived from the sale of marketable securities was suspended. However, gains from marketable security transactions shall be subject to Income Basic Tax, please see ‘Alternative minimum tax’ below.

Futures Transactions

The levy of tax on gains from transactions of futures under Statute for Futures Transaction Tax was suspended. However, gains from futures transactions shall be subject to Income Basic Tax, please see ‘Alternative minimum tax’ below.

Land and Buildings Transactions

Effective from 1 January 2016, gains or losses on the disposal of land and buildings of resident companies are taxable as current year income or deductible as expenses. However, for non-resident companies, gains on disposal of land and buildings shall be subject to income tax which shall be computed separately at a rate of 35% or 45% in accordance with the period held by the seller before the transaction occurred.

BRANCH PROFITS TAX

A foreign company's branch or any other permanent establishment in Taiwan is subject to income tax only on its income from Taiwanese sources. If the foreign enterprise has neither a branch nor a business agent in Taiwan, it is subject to withholding tax on its Taiwanese source income. The repatriation of profits by Taiwanese branches of foreign enterprises is not taxable. It is proposed, but not yet put into practice, that a branch profits tax be imposed on the repatriation of profits by the Taiwanese branch of foreign enterprises so that a branch does not have a tax-preferable treatment over a subsidiary.

ANTI-TAX-AVOIDANCE CLAUSE

Anti-tax-avoidance rules were put into the Income Tax Act in 2016 as follows:

- For any profit-seeking enterprise and its related parties directly or indirectly holding up to 50% of shares or capital of a foreign affiliated enterprise registered in a low-tax burden country or jurisdiction, or having a significant influence on such a foreign affiliated enterprise, the surplus earnings of the foreign affiliated enterprise shall be recognised as the profit-seeking enterprise’s investment income which is calculated according to the ratio and holding period of the shares or capital, and such investment income shall be included in taxable income of the current year.
- Any foreign profit-seeking enterprise established according to foreign law but with a place of effective management in Taiwan shall be deemed a profit-seeking enterprise having its head office within the territory of Taiwan, and shall be subject to profit-seeking enterprise income tax in accordance with the Income Tax Act and other relevant laws.

The effective date of the above clauses has not yet been announced by the government.

BUSINESS TAX

5% value-added business tax is applied to business entities in most industries under the VAT system. Export sales and export-related services, however, are subject to a zero tax rate. Financial institutions are subject to non-value-added business tax. Professional practitioners are not subject to VAT or business turnover tax for service revenue earned. Profit-seeking enterprises (e.g. manufacturers, wholesalers and retailers) are collectors of VAT and are required to pay the net VAT, being taxes collected from sales less taxes paid on purchases and business expenses, to their district tax offices and file returns. Zero rates and exemptions exist for some items.

A 5% non-value-added business tax rate shall apply to banking and insurance enterprises for their sales amounts which are connected with banking and insurance business, but the sales amounts from reinsurance premiums shall be taxed at 1%. A 2% non-value-added business tax rate shall apply to the enterprises for their sales amounts which are connected with investment trusts, securities, futures, commercial paper and pawnshops.

FRINGE BENEFITS TAX

Although there is no separate FBT, perquisites or other benefits supplementing normal wages and salaries are included in the computation of employment income and are taxable as such. Minor exceptions do exist. See ‘Personal tax’ below.

LOCAL INCOME TAXES

There are no local income taxes.

OTHER TAXES

Other taxes are summarised as below.

CUSTOMS DUTY AND TRADE PROMOTION SERVICE FEE

Customs Duty on taxable imported goods is based on the value of the goods including transport and insurance costs or on the quantity imported with different rates depending on the category of the goods. There are no harbour duties but a 'Trade Promotion Service Fee' is payable at rate of 0.0425% or less based on the value of goods, and a 'Commercial Port Dues' is payable based on the length of containers or the weight of goods.

COMMODITY TAX

Commodity Tax is imposed on certain designated commodities whether manufactured locally or imported. Commodity Tax on taxable commodities is based on the value or quantities of commodities manufactured or imported depending on the category of commodities.

STAMP TAX

Stamp Tax is imposed on business transaction documents, property titles, permits and the like. The following are exempt from stamp duty: all types of instruments used by offshore banking branches, documents executed abroad, receipts for the delivery of goods and certain other transactions. Subject to stamp tax are the following documents: receipts for cash, contracts or deeds for purchase or sale of chattels, contracts or deeds for undertaking jobs and contracts or deeds for sale, exchange, donation or division of real property.

SECURITIES TRANSACTION TAX

The rate is 0.3% for a transaction in shares or share certificates embodying the right of shares issued by a company limited by shares and 0.1% for corporate bonds or any securities which have been duly approved by the government. Bonds issued by governments are exempt from securities transaction tax. The securities transaction tax levied on corporate bonds and finance bonds are exempted from levy from 1 January 2010 to 31 December 2026.

FUTURES TRANSACTION TAX

The tax rate for transactions in option contracts or option contracts on futures is not less than 0.1% and not more than 0.6%. The tax rate for transactions in stock index futures contracts, interest rate futures contracts and other futures contracts varies from 0.0000125% to 0.06%.

LAND TAX

Three types of land tax are imposed: rural land tax, land value tax, and land value increment tax.

(1) Rural Land Tax: Applicable to rural or urban land used for agricultural production. The Rural Land Tax has not been levied since 1987.

(2) Land Value Tax: All land having value is subject to land value tax with a flat rate of 1% applicable to land for industrial use. For residential land meeting certain requirements for self-use, the flat rate is 0.2%. For land reserved for public facilities under urban planning, the rate is 0.6% if the land is used for buildings during the reserved period. Land used for other purposes is subject to a progressive rate of tax ranging from 1% to 5.5%.

(3) Land Value Increment Tax: The sale of land gives rise to tax imposed on the increase in the assessed value since the previous sale or transfer. Rates vary from 20% to 40% on a progressive scale except for:

    (a) Self-use residential land under certain requirements is taxed at 10%

    (b) Transfers by inheritance, government approved sales of industrial land and sales followed by replacement purchases in certain circumstances are exempt.

For land that has been owned for a period of over 20 years, its land increment tax on the portion exceeding 20% shall be reduced by 20% to 40%.

DEED TAX

Deed Tax is imposed on the transfer of real estate at tax rates varying from 2% to 6%. Deed Tax is not imposed on the land where Land Value Increment Tax is imposed.

BUILDING TAX

Building Tax is levied annually on the assessed value of buildings and improvements at the following rates: 3% to 5% for commercial space, professional offices and private hospitals; 1.5% to 2.5% for premises of non-profit organisations; and 1.2% to 3.6% for residential buildings.

SPECIFICALLY SELECTED GOODS AND SERVICES TAX

Specifically selected goods and services tax is imposed on the sale, manufacture, and import of specifically selected goods or the sale of specifically selected services within the territory of Taiwan.

Specifically selected goods and services include:

(1) Buildings and land which has been held for a period of no more than two years.

(2) Passenger cars with nine seats or fewer and a selling price or taxable value of not less than NTD 3 million.

(3) Yachts which have a length of not less than 30.48 meters.

(4) Airplanes, helicopters, or ultra-light vehicles with a selling price or taxable value of not less than NTD 3 million.

(5) Turtle shells, hawksbill, coral, ivory, furs, and their products: any of the aforesaid items that has a selling price or taxable value of not less than NTD 500,000.

(6) Any item of furniture with a selling price or taxable value of not less than NTD 500,000.

(7) Membership rights with a selling price of not less than NTD 500,000, except when in the nature of a refundable deposit.

The tax rate is 10%. However, 15% tax will be levied if the holding period of buildings and land is no more than one year.

Effective from 1 January 2016, specifically selected goods and services tax ceased to apply on buildings and land which has been held for a period of no more than two years.

B. DETERMINATION OF TAXABLE INCOME

In arriving at taxable income, certain expenses are allowed against total income. Expenses relating to the earning of business income are generally deductible to the extent that they are ordinary and necessary business expenses. The expenditure must be incurred in the course of operating a business or subsidiary. Certain foreign enterprises are permitted to calculate their taxable income as a percentage of their net income rather than claiming deductions for expenses. A foreign enterprise engaged in certain sectors (e.g. international transport, construction contracting, technical services, equipment leasing), regardless of whether it has a branch or a business agent in Taiwan, may apply to the Tax Authorities to consider a percentage of its gross business income as taxable. This percentage is 10% for an international transport business and 15% for all other businesses.

The following adjustments are required when calculating taxable income.

DEDUCTIBLE TAXES

All taxes with the exception of income tax and taxes relating to capital acquisitions (e.g. taxes on the purchase of land) are deductible. However, the deduction is only available in the year the taxes are paid or accrued. Fines or penalties under Taiwanese law are not deductible.

DEPRECIATION

The following methods are acceptable to the Tax Authorities: straight-line, declining-balance, sum-of-year's-digits, production quantity and machine/working hour methods. In specified circumstances, revaluation of fixed assets so as to increase claims for depreciation is allowable. Property with a useful life of less than two years or a value of less than NTD 80,000 is fully deductible in the year the purchase occurs. There is a depreciation limit of NTD 2.5 million on passenger cars.

STOCK / INVENTORY

Inventory may be valued at cost or the lower of cost or net realised value. Cost may be determined using the specific identification, first-in first-out, moving average, weighted average, or other methods approved by competent authority. Uniformity between book and tax reporting is not required.

DIVIDENDS

A domestic company which owns shares in another domestic company is, regardless of the percentage of ownership, exempt from business income tax on the dividends from another domestic company.

A domestic company is taxable on dividends received from foreign companies although a unilateral foreign tax credit is generally available subject to the requirement of reciprocal treatment by that foreign country and limited to the lesser of foreign tax paid or the tax which would otherwise have been payable in Taiwan.

INTEREST DEDUCTIONS

Interest payable on loans necessary for business operations is deductible in the period it is actually incurred. Interest on borrowings from individuals or firms other than financial institutions over the standard rate prescribed by tax offices will be disallowed to the extent of the excess.

Thin capitalisation

The excess interest expenditure on the debts owed directly or indirectly by an enterprise to a related party shall not be considered as expenses or losses if the proportion of related party debt-to-equity of the enterprise exceeds the specified ratio of 3:1.

LOSSES

The carry forward of losses is limited to ten years, while loss carry back is prohibited. In the case of loss carry forwards, these are only available to companies which keep a complete set of accounting records and which file blue returns or returns certified by a CPA.

FOREIGN SOURCE INCOME

Foreign income of Taiwanese corporations is taxable in Taiwan with double taxation being relieved by way of foreign tax credits.

TAX INCENTIVES

Based on the Statute of Industrial Innovation, a company may select one of the following incentives for crediting the company's total expenditure on R&D against its business income tax payable. However, this credit shall not exceed 30% of the business income tax payable by the company in that year.

- Up to 15% of the R&D expenses may be credited against the business income tax payable by it in the current year.
- Up to 10% of the R&D expenses may be credited against the business income tax payable by it within three years from the year the R&D expenses incurred.

Based on the Act for the Development of Biotech and New Pharmaceutical Industry, be effective until 31 December 2021, biotech and new pharmaceutical companies are entitled to a deduction from their business income tax liability when undertaking R&D on new drugs and high-risk medical devices, as well as the training of personnel. The deduction is limited to 35% of the total amount invested in R&D and personnel training and may be credited against the business income tax within five years from the year the tax liability is incurred. The total amount of investment credited against the payable corporate income tax in each year shall not exceed 50% of the amount of business income tax payable in a year. However, this restriction shall not apply to the amount to be offset in the last year of the aforesaid five-year period.

Furthermore, enterprises investing in biotechnology and new pharmaceutical companies and holding the shares for more than three years are entitled to a deduction from the business income tax payable for a period of five years starting from the year the tax liability is incurred, up to 20% of the acquisition cost of the shares.

The Act for Promotion of Private Participation in Infrastructure Projects provides tax incentives and government support for a private company investing in government-approved infrastructure projects. The tax incentives include:

- A company may enjoy a five-year tax exemption on business profits derived from government-approved infrastructure projects.
- Corporate shareholders holding registered stock issued by a private company in government-approved infrastructure projects for at least four years can offset the shareholder investment tax credit against their business income tax liability. The tax credit is 20% of the cost of the shares.
- A private company investing in government-approved infrastructure or transportation construction

projects may credit 5% to 20% of qualified expenditure incurred against its business income tax liability within five years starting from the year the expenditure is incurred.

Under the Offshore Banking Act, domestic and foreign banks can conduct an offshore banking business exempt from income tax, business tax, stamp duties, and withholding tax on interest.

ALTERNATIVE MINIMUM TAX

According to the Income Basic Tax (IBT) Act, if the amount of regular income tax for a company or an individual is greater than or equal to the amount of basic tax, the income tax shall be calculated in accordance with the Income Tax Act and if the amount of regular income tax is less than the amount of basic tax, the total tax payable is the amount of the basic tax. According to the Act, capital gains derived from marketable securities and futures and some other income exempted from regular income tax by incentives shall be included in the basic income of the company and subject to IBT.

C. FOREIGN TAX RELIEF

Foreign tax suffered on overseas income is creditable against Taiwanese tax subject to a limit of the Taiwanese tax payable on such income. Any unused tax credits may not be carried back or forward to other years.

D. CORPORATE GROUPS

Generally, group taxation is not permitted except for meeting the requirements of consolidated tax returns in Business Mergers and Acquisitions Act.

E. RELATED PARTY TRANSACTIONS

Royalties, interest and service fees paid to foreign (and Taiwanese) affiliates require adequate supporting transaction vouchers and documents to be deductible. Such payments are subject to withholding tax. Transactions between related parties are subject to Transfer Pricing Guidelines and contemporaneous documentation is required on an annual basis.

F. WITHHOLDING TAX

Domestic corporations paying certain types of income are required to withhold as follows:

Recipient	Salaries %	Dividends %	Interest %	Royalties/ rentals %	Professional fees/ commissions %
Resident corporations	--	–	10	10	10
Resident individuals	5[2]	–	10[1]	10	10
Non-resident corporations	--	21	15/20[3]	20	20
Non-resident individuals	18	21	15/20[3]	20	20

Notes:

1. For interest on short-term marketable securities, the final withholding tax rate is 10%.
2. Withholding in accordance with withholding schedule or a flat rate of 5%.
3. See “Tax on Interest” above.

For non-resident individuals, effective from 1 January 2016, the final withholding tax rate for gains from disposal of land and buildings is 45% or 35% in accordance with the period held by the seller before the transaction occurred.

G. EXCHANGE CONTROL

At present there is no limit on genuine trade-related remittances whether inward or outward. For non-trade-related remittances, the long standing controls were relaxed from 1997. Business entities can remit up to USD 50,000,000 (or the equivalent) into or out of Taiwan each year without advance approval from the Central Bank. The limit for individuals remains unchanged at USD 5,000,000 per year. Each remittance in excess of USD 1 million for a corporate or USD 500,000 for an individual requires supporting documentation.

H. PERSONAL TAX

Individuals are only subject to income tax on Taiwan source income with income derived from foreign sources being exempt from income tax. Residents, both Taiwanese and foreign nationals, pay tax on net consolidated income calculated as the total income received from all Taiwan sources less exemptions and deductions.

Non-residents who stay in Taiwan for no more than 90 days within a calendar year are taxed on their gross income under the withholding tax system without allowance for deductions and exemptions. A non-resident staying in Taiwan over 90 days but less than 183 days within a calendar year who has no Taiwanese source income other than salaries from local employers is not required to file an income tax return if 18% tax on local salaries is withheld. In practice, however, a non-resident may prefer to file an annual tax return voluntarily, without allowance for deductions and exemptions, in order to keep a clean tax record in Taiwan.

Residence is determined on the basis of whether a person is domiciled in Taiwan and lives in Taiwan on a regular basis. An individual will also be considered to reside in Taiwan when, although not domiciled in Taiwan, they reside in Taiwan for 183 days or longer within a calendar tax year. The types of compensation deemed to be taxable income include:

- Cost of living allowance;
- Expatriation premium;
- Relocation allowance;
- Education for dependent children;
- Life insurance premiums exceeding NTD 2,000 per month paid by the employer on the employee's behalf.

Tax-exempt income includes:

- Qualifying professional expatriates' housing provided by the employer may be tax-exempt;
- Meals allowance of up to NTD 2,400 per month;
- Overtime pay for up to 46 hours per month;
- Travel expenses to allow a qualifying professional expatriate employee to return to their home country.

DEDUCTIONS

A taxpayer may select either the 'standard deduction' or 'itemised deductions' and may, in addition thereto, declare 'special deductions'.

Standard deduction: For 2018, NTD 120,000 for a single taxpayer; NTD 240,000 for a taxpayer and his/her spouse.

Itemised deductions, subject to certain limitations, include:

- Charitable contributions;
- Insurance premiums up to NTD 24,000 per insured person for life or labour insurance;
- Medical and childbirth expenses;
- Disaster losses incurred due to force majeure, if not otherwise covered by insurance;
- Mortgage interest incurred on self-use residential dwelling up to NTD 300,000 per income tax return per year;
- Rent for housing up to NTD 120,000 per income tax return per year. However, no deduction shall be made for taxpayers who have filed the aforesaid mortgage interest on the same tax return.

Special deductions, subject to certain limitations, include:

- Losses from disposal of properties other than land, buildings and securities, not to exceed total gains from disposal of properties in the same taxable year;
- Salary or wage earner's special deduction up to NTD 200,000 per salary or wage earner in 2018;
- Interest income exclusion up to NTD 270,000 per income tax return;
- Deduction for the disabled up to NTD 200,000 per disabled person in 2018;
- Deduction for higher education of children up to NTD 25,000 per person;
- Deduction for qualified pre-school children up to NTD 120,000 per child in 2018.

EXEMPTIONS

Remuneration for services rendered in Taiwan received from an employer outside Taiwan (with no charge back to a Taiwan entity) by an employee who is a non-resident will be exempt from tax provided the employee stays in Taiwan for no more than 90 days. Remuneration for services rendered in Taiwan received from an employer outside Taiwan is also exempt if received by non-resident directors, managerial officers and technicians of an approved FIA entity who are sent to Taiwan for no more than 183 days in a tax year to undertake preparatory work such as investment planning, plant construction or market surveys.

PERSONAL EXEMPTION

The personal exemption is NTD 88,000. The exemption amount for taxpayers and spouses that are at least 70 years old is increased by 50%.

TAX RATE

The tax brackets and rates of resident individual income tax for 2018 are as follows:

Net taxable income (NTD)	Rates (%)
0 – 540,000	5
540,001 – 1,210,000	12
1,210,001 – 2,420,000	20
2,420,001 – 4,530,000	30
4,530,001 and above	40

DIVIDEND INCOME TAX

With effect from 1 January 2018, if an individual receives dividends or surpluses from domestic companies, co-operatives and other legal persons then 8.5% of the total amount of dividends and surpluses may be deducted from the consolidated income tax of the current year. However, the threshold amount of annual deduction of each reporting household is capped at NTD 80,000. Alternatively, the taxpayer may choose to calculate the amount of tax payable separately at the tax rate of 28%.

CAPITAL GAINS TAX

Effective from 1 January 2016, if an individual derives gains from disposal of land and buildings, such gains shall be subject to income tax, the tax payable shall be computed separately at a rate of 10% to 45% in accordance with the period held by seller before the transaction occurred.

ALTERNATIVE MINIMUM TAX

According to the Income Basic Tax (IBT) Act, the basic tax for individuals is calculated in a similar manner as for companies with items added back to calculate the relevant income, including the following:

- Income derived from overseas sources excluded from gross consolidated income;
- Non-cash donations or contributions deducted from gross consolidated income;
- Insurance payments received by the beneficiary of a life insurance policy or annuity in which the beneficiary and the proposer are not the same person and the life insurance policy and annuities are contracted after this Act coming into force;
- Gains derived from transactions of beneficiary certificates of privately-placed securities investment trust funds;
- The amount of income or deduction which is entitled to reduction, exemption or deduction from the consolidated income tax as may be provided by laws which may be promulgated after the implementation of this Act and thereafter announced by the Ministry of Finance.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The following withholding tax rates are applicable to Taiwanese-source dividends, interest and royalties paid to non-residents where the income is not connected with a permanent establishment in Taiwan.

T

	Dividends (%)	Interest (%)	Royalties (%)
Non-treaty countries:	21	15/20	20
Treaty countries:			

Australia	10/15[3]	10	12.5
Austria	10	10	10
Belgium	10	10	10
Canada	10/15[4]	10	10
Denmark	10	10	10
France	10	10	10
Gambia	10	10	10
Germany	10/15[5]	10/15[10]	10
Hungary	10	10	10
India	12.5	10	10
Indonesia	10	10	10
Israel	10	7/10[11]	10
Italy	10	10	10
Japan	10	10	10
Kiribati	10	10	10
Luxembourg	10/15[6]	10/15[12]	10
Macedonia (FYR)	10	10	10
Malaysia	12.5	10	10
Netherlands	10	10	10
New Zealand	15	10	10
Paraguay	5	10	10
Poland	10	10	3/10[14]
Senegal	10	15	12.5
Singapore	40[1]	-[2]	15
Slovak Republic	10	10	5/10[14]
South Africa	5/15[7]	10	10
Swaziland	10	10	10
Sweden	10	10	10
Switzerland	10/15[8]	10	10
Thailand	5/10[9]	10/15[13]	10
United Kingdom	10	10	10
Vietnam	15	10	15

Notes:

1. The treaty limits the aggregate of the corporate income tax and the tax on the dividends to 40% of that part of the taxable income out of which the dividends are declared.
2. The treaty is silent so the domestic rate applies. See Section F above.
3. The 10% rate applies if the dividends are paid to a company (other than a partnership) which holds directly at least 25% of the capital of the dividend-paying company.
4. The 10% rate applies if the beneficial owner is a company that holds directly or indirectly at least 20% of the capital of the dividend-paying company.
5. The 15% rate applies to dividends distributed by a real estate investment company that is tax-exempt regarding all or parts of its profits or that can deduct the distributions in determining its profits.

6. The 15% rate applies if the beneficial owner is a collective investment vehicle established in Luxembourg and treated as a body corporate for tax purposes in Luxembourg.
7. The 5% rate applies if the beneficial owner directly holds at least 10% of the capital of the dividend-paying company.
8. The 10% rate applies if the beneficial owner is a company (other than a partnership) which holds directly at least 20% of the capital of the dividend-paying company.
9. The 5% rate applies if the beneficial owner directly holds at least 25% of the capital of the dividend-paying company.
10. The 15% rate applies if the interest is the distributed income of a real estate investment trust or a real estate asset trust that is tax-exempt regarding all or parts of its profits or that can deduct the distributions in determining its profits.
11. The 7% rate applies to interest paid on any loan of whatever kind granted by a bank of the other territory. The 10% rate applies in all other cases.
12. The 15% rate applies if the beneficial owner of the interest is a collective investment vehicle established in Luxembourg and treated as a body corporate for tax purposes in Luxembourg.
13. The 10% rate applies to interest received by any financial institution (including an insurance company).
14. The lower rate applies to royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment.

THAILAND

MEMBER FIRM

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BASIC FACTS

Full name:	Kingdom of Thailand
Capital:	Bangkok
Main languages:	Thai
Population:	69.28 million (2019 estimate)
Monetary unit:	Baht (THB)
Internet domain:	.th
Int. dialling code:	+66

KEY TAX POINTS

- The tax residency of a company is determined by the place where the company is located. Resident companies for tax purposes are those incorporated in Thailand. Companies incorporated outside Thailand are non-resident companies.
- A resident company is subject to Corporate Income Tax (CIT) on its worldwide income and gains. Non-resident companies are subject to CIT on their Thai sourced income and gains. The current CIT rate is 20%.
- The tax residency of an individual is determined by the period in which the individual is present in Thailand. Resident individuals are those who are present in Thailand for at least 180 days in a calendar year. Resident individuals are subject to income tax on Thai sourced income and income arising or earned overseas if remitted to Thailand in the year in which it is derived. Non-resident individuals are subject to tax on income from sources in Thailand. Personal income tax is calculated using progressive tax rates with a maximum rate of 35% for taxable income over THB 5 million.
- Thailand relies on a self-assessment system and capital gains are treated as part of assessable income.

- A 10% profit remittance tax is imposed on profits remitted out of Thailand by Thai branches of foreign companies. Such branches are not tax resident in Thailand and thus cannot access treaty benefits under Thailand's Double Tax Treaties (DTTs).
- Thailand has entered into a DTT with many countries that provide for the elimination of double taxation using credit or exemption methods. The DTTs also provide for the exchange of information between treaty partners, including under a Mutual Agreement Procedure.
- By virtue of either Thai domestic tax laws or a relevant DTT, credit relief is provided for overseas taxes against taxation in Thailand up to a maximum of the Thai tax on the overseas income concerned so as to mitigate double taxation. Offshore dividend income can be exempt from income tax if certain conditions are met under Thai domestic laws.
- To make Thailand a regional hub of investment, the Thai Government has introduced in recent years several preferential tax regimes to attract multinational enterprises to establish international and regional headquarters, trading centers, and treasury centers in Thailand. Most recently, the Thai Revenue Department (TRD) has introduced the International Business Center scheme, which will effectively replace the existing Regional Operating Headquarters, International Headquarters and International Trade Center structures.
- Thai domestic tax laws do not include provisions on general anti-avoidance (such as a General Anti-Avoidance Rule), Controlled Foreign Corporations (CFCs) or thin capitalisation. However, since the recent OECD initiative on Base Erosion and Profit Shifting (BEPS) the TRD has paid much more attention to anti-avoidance and transfer pricing issues as evident from several legislative attempts to crack down on tax evasion and aggressive or unjustifiable tax planning.
- Value Added Tax (VAT) is payable on imports and the supply of goods and services in Thailand. A standard rate of 7% is currently being applied, although certain supplies are zero-rated or exempt. There are also other taxes such as Specific Business Tax imposed on certain transactions and Stamp Duty payable on certain types of instruments.

A. TAXES PAYABLE

CORPORATE INCOME TAX

Corporate Income Tax (CIT) is a direct tax levied on a juristic person that is established under Thai or foreign laws and carries on business in Thailand or derives certain types of income from Thailand. The term 'juristic person' (hereinafter referred to as a 'company' or collectively as 'companies') means a juristic company or partnership operating in Thailand. The term also includes any unincorporated joint venture and any trading or profit-seeking activity carried on by a foreign government or its agency or by any other juristic body incorporated under a foreign law. Resident companies are those incorporated for general business activities in Thailand. They are subject to CIT on taxable net profits by considering their worldwide income for each 12-month accounting period.

One exception to a general business activity applies to the business of international transport, which is instead subjected to CIT at a taxable rate at 3% of their fares, fees and other benefits collectible in Thailand with respect to such carriage before deduction of any expenses.

The ordinary fiscal year for tax submission is for the 12-month period ending 31 December. However, with the consent of the Director-General of the Thai Revenue Department (TRD), they may choose a different accounting period as their fiscal year-end for the purpose of determining taxable income.

Resident companies subject to CIT in Thailand can access Thailand's DTTs. Although Thailand is not a member of the OECD, the Commentaries on the Articles of the OECD Model Tax Convention on Income and Capital play an important role as a secondary source for interpreting Thailand's DTTs. The OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations also assist in the interpretation of Thai legislation (see Section E below).

Non-resident companies are those incorporated under foreign laws. They are treated as carrying on business in Thailand if they have a 'taxable presence' in Thailand. A taxable presence generally refers to either a fixed place through which the business is carried on (e.g., an office, a branch, or any other physical place of business) or an agent acting on behalf of the non-resident company to carry on business in Thailand (e.g., an employee, a representative, or a go-between). To this effect, the concept of a 'taxable presence' under the Thai Revenue Code (TRC) is broader than that of a 'permanent establishment' (PE) under a DTT.

Non-resident companies carrying on business in Thailand are subject to CIT on taxable net profits arising from, or in consequence of, business carried on in Thailand. The statutory CIT rate in the TRC is 30% and has been reduced to 20% since 2013. The National Legislative Assembly approved the draft of an Act to reduce the statutory CIT rate to 20%, becoming effective from accounting periods beginning on or after 1 January 2016 and there appears to be no suggestion that the statutory CIT rate will increase in the foreseeable future. Depending on the type of corporate taxpayer, CIT rates can vary and are applied at graduated rates depending on the level of taxable income starting from 0% up to 20%. CIT is payable twice a year, using Form PND50 for year-end filing and Form PND51 for mid-year filing.

Thai and foreign companies carrying on business in Thailand are required to file their annual tax return (Form PND50) within 150 days from the closing date of their fiscal accounting period. Form PND50 is submitted to the TRD together with the company's audited financial statements. Any tax payment must be submitted together with the tax return. Any companies that are subject to CIT on taxable net profits are also required to file their half-year tax return (Form PND51) within two months of mid-year. They are obliged to estimate their annual taxable net profits as well as their tax liability and pay half of the estimated tax amount within two months after the end of the first six months of each accounting period. The prepaid tax is creditable against the annual tax liability. Foundations, associations and foreign companies carrying on the business of international transportation services are subject to CIT on gross income. The applicable CIT rates vary depending on facts and circumstances.

CAPITAL GAINS TAX

There is no separate capital gains tax in Thailand. Capital gains are treated as assessable income for tax purposes.

BRANCH PROFITS TAX

There is no specific branch profits tax in Thailand. Thai branches of foreign companies will generally only be taxed in Thailand on their taxable net profits arising from the business carried on in Thailand. The Thai branches are subject to the same CIT rate as resident companies. Branch profits are subject to a profit remittance tax of 10%, regardless of whether these branch profits are actually remitted to the foreign head office or remain inside the branch in Thailand.

VALUE ADDED TAX (VAT)

VAT is an indirect tax levied on the supply of goods and provision of services in Thailand, irrespective of where the service is used, and the import of goods into Thailand. A service performed abroad but made use of in Thailand is also deemed to be a provision of services in Thailand. Any person or entity that regularly supplies goods or provides services in Thailand and has an annual turnover exceeding THB 1.8 million is subject to VAT registration in Thailand. Suppliers of goods and services collect VAT output tax. Purchasers of goods and services pay VAT input tax. Input tax is deducted from output tax to determine the VAT liability. Certain businesses are exempt from VAT.

A foreign supplier temporarily carrying on VAT-able business in Thailand is subject to VAT on a reverse charge basis, whereby the payer is required to self-assess any applicable VAT and remit it to the TRD.

VAT is currently levied at a rate of 7% on gross receipts, although a zero rate applies to exported goods and services (that are totally used abroad). The official VAT rate is actually 10%, not 7%. However, the VAT rate was reduced to 7% in 1997 and this reduced rate has since been extended by the TRD continuously thereafter. There appears to be no suggestion that the VAT rate will increase in the foreseeable future.

SPECIFIC BUSINESS TAX (SBT)

There are some businesses that are not subject to VAT but are subject to SBT, although certain entities and activities may be exempt from SBT. The tax is imposed on gross revenue and the rate of tax differs according to the nature of the business performed as follows:

Business	Tax Base	Tax Rate (%)
Banking, finance and similar business	Interest, discounts, service fees, other fees, profits from foreign exchange	3.0
Life insurance	Interest, service fees and other fees	2.5
Pawn brokerage	Interest, fees, remuneration from selling overdue property	2.5

Real estate	Gross receipts	3.0
Factoring	Interest, discounts, service fees and other fees	3.0

Note: Local tax at the rate of 10% is imposed on top of SBT, resulting in an effective SBT rate of 3.3% on interest, for example.

STAMP DUTY

Stamp Duty is payable on most documents filed by companies with the Government agencies or entities and on official documents of the company, including; transfers of land, leases, stock transfers, debentures, mortgages, life assurance policies, annuities, Powers of Attorney, promissory notes, letters of credit, cheques, etc. Stamp Duty is levied on instruments and not on transactions or persons. For the purposes of Stamp Duty, an instrument is defined as any document chargeable with duty under the TRC. The Stamp Duty rules are contained in Chapter VI of Title II of the TRC.

Only instruments listed in the Stamp Duty Schedule are subject to Stamp Duty and the persons liable to pay said Stamp Duty are those associated with the instrument. They are, for example, the persons executing the instrument, the holders of the instrument or the beneficiary. General exemptions are available under the TRC. Rates vary according to the class of the instrument. Non-compliance can result in a penalty or surcharge of tax. For certain categories of instruments, the liable person may pay Stamp Duty in cash instead of affixing stamps on the instruments, including: the lease of land, building, other construction or floating house (where the rental fee for the entire lease period is at least THB 1,000,000 or where registration by a Land Department Officer is required under Thai land law) and a hire-of-work service agreement for which the service fee is at least THB 1,000,000.

OTHER TAXES:
PETROLEUM INCOME TAX

Income derived from petroleum operations is subject to the Petroleum Income Tax Act. It is levied on net profit adjusted under the conditions specified by the Petroleum Income Tax Act and profit distributions outside Thailand. Petroleum income is taxed at various rates up to the maximum rate of 50%. The income tax rate is reduced to 10% of net taxable profit derived from the gross revenue on the export and import of fuel oil not less than THB 2 billion per annum into or between duty free zones.

The Petroleum Act (No. 7) B.E. 2560 and the Petroleum Income Tax Act (No. 7) B.E. 2560 have both recently been enacted. These introduce production sharing agreements (“PSAs”) and service contracts as an alternative to the granting of concessions for the exploration and production of petroleum. The new Act stipulates relevant conditions, revised benefits or rights of concessionaires, and applicable rates for remittance of royalties. Production sharing producers have been added to the list of petroleum operators governed by the Petroleum Income Tax Act and will be taxed at the rate of 20% of net profits, in which their computation of net profits includes the ability to deduct certain parent company expenditures made on behalf of the Thai subsidiary.

The last update, the Petroleum Income Tax Act (No. 8) B.E. 2561, has been enacted with effect from 21 November 2018. The amendment has added guidelines on bad debt expense for tax deduction and Petroleum Income Tax refund period of 3 years from the filing due date of the tax return to be aligned with Thailand Revenue Code.

EXCISE TAX

Excise Tax is levied on certain types of products such as alcoholic beverages, tobacco and sugary drinks with varying tax rates.

INHERITANCE TAX

With effect from 1 February 2016 the Inheritance Tax Act applies to individuals or juristic entities that receive a legacy from a deceased testator. Certain properties are subject to Inheritance Tax and only the value of a legacy that exceeds THB 100 million obtained from each deceased testator together either once or on several occasions is subject to Inheritance Tax at 10%. The rate is reduced to 5% if the heirs are ascendants or descendants of a deceased testator. A legacy received by the spouse of a deceased testator is exempt from Inheritance Tax.

GIFT TAX

With effect from 1 February 2016 a gift given by a living person is subject to Personal Income Tax under the TRC. Only the value of a gift exceeding the prescribed threshold is subject to Personal Income Tax at 5%, depending on the type of gifts and donor. An exemption may be granted in certain circumstances.

LOCAL TAXES:
SIGNBOARD TAX

This tax may be imposed at various rates per square meter (depending on the language) on any signs or billboards that display a name, trademark or product for the purpose of advertising or providing information on businesses.

PROPERTY TAXES

Owners of land and buildings in designated areas may be subject to either local administration tax (based on the unimproved capital value of land) or house and land tax (calculated at a percentage of actual or imputed annual rental value). Local administration tax is based on the appraised value of land as determined by the local authorities. Land that is subject to house and land tax is not subject to this tax. House and land tax cover all properties with the exception of an owner-occupied residence. The annual value is the official assessment of rental income that could be derived from such premises.

B. DETERMINATION OF TAXABLE INCOME

Income tax is payable by both individuals and companies on their taxable income. Taxable income is defined as assessable income less allowable deductions. For individuals, certain additional allowances can also be deducted against the assessable income.

CIT of a company carrying on business in Thailand is calculated from the company's net profit on an accrual basis under the TRC. A company shall take into account all revenue arising from or in consequence of the business carried on in an accounting period and may deduct all expenses in accordance with the conditions prescribed by the TRC. Additional deductions on certain types of expenditure may also be allowable.

No.	Description	Tax base (THB)	Rate 2017	Rate 2018
1	Small and medium enterprise [1]	Taxable Net Profit:		
		0 - 300,000	Exempt	Exempt
		300,001 - 3,000,000	15%	15%
		> 3,000,000	20%	20%
2	Standard enterprise	Taxable Net Profit	20%	20%
3	Company listed on the Stock Exchange of Thailand (SET)	Taxable Net Profit	20%	20%
4	Foreign company engaging in international transportation	Gross Receipts	3%	3%
5	Foreign company not carrying on business in Thailand but receiving dividends from Thailand	Gross Receipts	Generally, at 10%	Generally, at 10%
6	Foreign company not carrying on business in Thailand but receiving other types of income apart from dividends from Thailand	Gross Receipts	Generally, at 15%	Generally, at 15%
7	Foreign company remitting profits out of Thailand	Amount Remitted	10%	10%
8	Profitable association and foundation	Gross Receipts		
9	Company granted tax privileges from the Board of Investment (BOI) [2]	Taxable Net Profit		
10	International Headquarters (IHQ) [3]	Taxable Net Profit		
11	International Trading Center (ITC) [4]	Taxable Net Profit		

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Notes:

1. Small and Medium Enterprise

A 'small and medium enterprise' refers to companies with paid-up capital not exceeding THB 5 million at the end of each accounting period and revenue from sales of goods and services of not more than THB 30 million in the relevant accounting period.

In addition to the paid-up capital, if the amount of revenue derived from sales of goods and services is more than THB 30 million, the company no longer qualifies for the income tax reductions as a small and medium enterprise, even if the amount of revenue falls below THB 30 million in subsequent years. The sale of goods excludes the sale of assets where the business is operated and is not in the business to buy such assets for direct sale.

2. Board of Investment activities

Depending on the location (investment zone) and type of activity undertaken, a company may qualify for a tax exemption (tax holiday) for three to eight years on corporate profits as well as a reduction of import duty on imported machinery and materials, as well as an exclusion of income tax on dividends derived from BOI activities.

3. International Headquarters (IHQ)

For more than a decade, the Thai government has been actively attempting to boost Thailand's profile as a regional hub for the group operations of foreign multi-nationals. Incentive rules were introduced in 2002 in the form of the Regional Operating Headquarters (ROH). The requirements of the ROH regime, however, were complex and the benefits limited. In December 2014, the IHQ regime was announced as a replacement and was enacted in May 2015. Requirements to qualify as an IHQ are less onerous than the previous ROH regime, and the incentives are more attractive.

IHQ - Conditions Required

An IHQ entity must:

- Be incorporated in Thailand;
- Have paid-up capital of at least THB 10 million at the end of each accounting period;
- Incur annual operating expenses in Thailand of at least THB 15 million in each accounting period;
- Provide qualifying services to at least one associated enterprise outside *Thailand*.

Qualifying services comprise managerial, technical, supporting and financial management services. An IHQ can access the tax concessions available for financial management services if it has obtained a treasury center (TC) license from the Bank of Thailand.

An IHQ must continue to monitor the conditions above as the incentives may be withdrawn for any accounting year if the conditions are not met *in that year.*

IHQ - Incentives

- A registered IHQ entity is entitled to the following incentives:
    - An exemption from CIT on:
    - Income derived from international trading of goods that remain outside Thailand, or from the provision to overseas entities (associated or non-associated) of services related to such international trading;
    - Income derived from qualifying services provided to overseas associated entities;
    - Income derived from dividends and royalties from overseas associated entities;
    - Capital gains derived from the transfer of shares in overseas associated entities.
- A reduced CIT rate of 10% on:
    - Income derived from qualifying services provided to Thai associated entities;
    - Income derived from royalties from Thai associated entities.
    - (to the extent that they do not exceed income of the same nature from overseas associated entities).
- An exemption from withholding tax on:
    - Dividends paid to the IHQ's overseas corporate shareholders (provided the dividend is paid from income that is exempt from CIT);
    - Interest paid to overseas lenders (provided the loan was drawn for re-lending to associated entities as part of a financial management service).
- An exemption from Specific Business Tax on interest income derived on loans to Thai or overseas associated entities as part of a financial management service.
- A flat PIT rate of 15% for expatriates working for the IHQ full-time and meeting certain conditions.
- Various non-tax incentives including:
    - An exemption from import duty on machinery used in R&D and training activities;

- The ability to operate under 100% foreign ownership;
- The ability to bring skilled personnel into Thailand from abroad.

IHQ - Initial and On-Going Compliance

A formal application is required in order to establish an entity as an IHQ. A registered IHQ must then continue to isolate income and expenses that arise in providing qualifying services for the purposes of its CIT returns.

IHQ - Term

IHQs are entitled to incentives for 15 accounting periods. After this period, the entity will exit the regime and regain their obligations under the standard tax and corporate legislation.

4. International Trading Center (ITC)

The ITC regime was announced at the same time as the IHQ regime and grants tax incentives to eligible companies that are engaged in the business of buying and selling goods, raw materials and parts, including providing services relating to international trade to overseas entities.

ITC - Conditions Required

An ITC entity must:

- Be incorporated in Thailand;
- Have paid-up capital of at least THB 10 million at the end of each accounting period;
- Incur annual operating expenses in Thailand of at least THB 15 million in each accounting period.

An IHQ can also apply for ITC status and receive the same tax concessions.

ITC - Incentives

A registered ITC is entitled to the following incentives:

- An exemption from CIT on income from buying and selling goods abroad without importing such goods into Thailand, including income from services relating to international trade provided to overseas entities and received in or from a foreign country;
- An exemption from withholding tax on dividends paid to the ITC's overseas corporate shareholders (provided the dividend is paid from income that is exempt from CIT);
- A flat PIT rate of 15% for expatriates working full time for the *ITC and meeting certain conditions.*

ITC - Initial and On-Going Compliance

The registration and reporting requirements are similar to those of an IHQ.

ITC - Term

ITCs are entitled to incentives for 15 accounting periods. After this period, the entity will exit the regime and regain their obligations under the standard tax and corporate legislation.

DEDUCTIBLE EXPENSES

For the purpose of calculating CIT, the following items are allowed to be deducted:

1) Ordinary and necessary expenses. However, the deductible amount of the following expenses is allowed at a special rate:
   - 200% deduction of research and development expenses;
   - 200% deduction of job training expenses;
   - 200% deduction of expenditure on the provision of equipment for the disabled;
   - 200% deduction for donations made to private schools or educational institutions;
   - 200% deduction for donations made to Thai sports authorities and associations;
2) Interest, except interest on capital reserves or funds of the company;
3) Taxes paid to the Thai government except CIT and VAT;
4) Net losses carried forward from the last five accounting periods;
5) Bad debts;
6) Repairs and maintenance;
7) Donations up to 2% of net profits;
8) Provident fund contributions;
9) Entertainment expenses up to 0.3% of gross receipts but not exceeding THB 10 million;

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10) Depreciation: Special accelerated depreciation rates are available for certain asset classes. Alternatively, a company can use the rate based on the estimated life of the asset;
11) Exhibition or expo costs incurred either domestically or overseas;
12) 200% deduction for domestic employee training expenses which can include seminar room rental costs, accommodation, transportation, food and other expenses; and,
13) Full depreciation for car purchase in respect of a car rental business for the expenses incurred. Previously, a cost limit of THB 1 million in respect of depreciation applied.

DIVIDENDS

A resident individual taxpayer who derives dividends from a Thai company has a choice of including the dividend in assessable income or suffering a final withholding tax of 10% and excluding such dividend from their assessable income. Taxpayers who choose the first option must gross up the dividend to include the 10% withholding tax deducted as well as the company tax paid on that dividend (normally 20%). A tax credit is granted for both the withholding tax and company tax deducted. Dividends received by a company listed on the Stock Exchange of Thailand are exempt from tax as are those received by any other company incorporated in Thailand holding at least 25% of the voting shares in another Thai company, without any cross shareholding either directly or indirectly, provided that the related investments have been held for a period of at least three months before and three months after the receipt of the dividends.

Where a Thai company does not qualify for the conditions specified above including the 25% voting shareholding and no cross-shareholding criteria, it will nevertheless only need to include in its assessable income an amount of 50% of a dividend received from another company incorporated in Thailand if it can maintain the three-month holding periods before and after distribution of the dividend.

Offshore dividend income will be exempt from Thai CIT if the Thai company owns at least 25% of shares with voting rights in the foreign entity paying dividends; the shares are held for a period of at least 6 months from the date of acquiring the shares until the date of receiving the dividends; and the dividends have been paid out of profits having been subject to tax of at least 15% in the foreign jurisdiction.

INTEREST

Interest income derived by a resident individual may, at the taxpayer's election, be excluded from the computation of income tax provided that tax at 15% is withheld at source. However, the following forms of individual's interest income are exempt from any tax:

- Interest on bonds or debentures issued by a government organisation;
- Interest on saving deposits in commercial banks if the aggregate amount of interest received is not more than THB 20,000 during a taxable year.

With respect to interest expenses, there are no thin capitalisation provisions that restrict deductibility.

INCOME FROM SALE OF IMMOVABLE PROPERTY

There are special rules applicable to individuals calculating the gains on sale of immovable property that may allow the taxpayer to pay final withholding tax to the Land Department in lieu of including the gain on sale as assessable income.

LOSSES

A tax loss, being the excess of allowable deductions over assessable income, can only be carried forward for a maximum number of years as follows:

- Non-BOI Company: 5 years
- BOI Promoted Company: net taxable loss incurred during the BOI promoted period can be deducted against net taxable profit after the expiration of the BOI promoted period but not more than 5 years from the expiry date of the BOI promoted period.

C. FOREIGN TAX RELIEF

For income derived from overseas foreign tax credits are allowed, subject to certain conditions, up to the amount of Thai tax that would have been payable had the income been derived in Thailand. The rules apply whether or not Thailand has a relevant DTT with the overseas country from which the income is derived.

D. CORPORATE GROUPS

Each company is taxed as a separate legal entity. Losses incurred by one affiliate may not be offset against profits made by another affiliate.

E. RELATED PARTY TRANSACTIONS

The new Transfer Pricing legislation was announced in Thailand by the TRD under the Act Amending The Revenue Code (NO. 47), B.E. 2561, dated 18 November 2018. This enacts regulations for Transfer Pricing that apply to all juristic persons who have total revenues in an accounting period exceeding THB 200 million and have related company(ies) according to the Act's specified characteristics. The amendment requires the submission of "intercompany transactions reports" together with statutory year-end CIT return (PND50) as per the TRD's defined statutory format. TRD Officers have clear powers to request transfer pricing documents for review and assessment and/or adjustment of income and expenses that result from transfer pricing transactions, for which adjusted income or expenses will be applicable for calculating net profit for CIT calculation, plus penalties and surcharge. In addition to applicable tax assessments, penalties and surcharge, a taxpayer who does not submit, or files incomplete/incorrect reports, documents or evidence of transfer pricing transactions without justifiable reasons will be subject to fines of THB 200,000 per case. Any over-paid tax amounts caused from tax assessment adjustment and/or income or expenses is refundable from the tax return filing due date or within 60 days from the date of receipt for written notification of such income and expense adjustment.

F. WITHHOLDING TAX

1. Withholding Tax Rates: Payments to resident individuals

For certain categories of income, the payer of income must withhold tax at source, file the necessary return (Form PND 1, 2, or 3 as the case may be) and submit the amount of tax withheld to the District Revenue Office. The tax withheld is then credited against the tax liability of a taxpayer at the time of filing the PND return. The following are the withholding tax rates on some categories of income:

No.	Type of income	Withholding tax rate
1.	Employment income/hire of work	0 - 35% (depending on level of income and applicable allowances)
2.	Interest	15%
3.	Dividends	10%
4.	Royalties	5 – 15%
5.	Rents[1]	5%
6.	Prizes	5%
7.	Service and professional fees[1]	3%
8.	Public entertainer remuneration	5%
9.	Advertising fees[1]	2%
10.	Capital Gains[2]	0 – 35%

Notes:

1. *Not applicable if an individual is the payer of income.*
2. *Not applicable for sales of shares on the SET.*

2. Withholding Tax rates: Payments to resident corporations and branches of foreign companies

Certain types of income paid to companies are subject to withholding tax at source. The withholding tax rates depend on the types of income and the tax status of the recipient. The payer of income is required to file the return (Form PND 53) and submit the amount of tax withheld to the District Revenue Office within seven days of the month following the month in which the payment is made. The tax withheld is credited against the final tax liability of the taxpayer. The following are the withholding tax rates on some important types of income:

No.	Type of Income	Withholding tax rate
1.	Interest	1% if paid to local companies 10% if paid to associations or foundations
2.	Dividends	10%
3.	Royalties	3% if paid to local companies 10% if paid to associations or foundations
4.	Rents	5% if paid to local companies 10% if paid to associations or foundations
5.	Prizes	5%
6.	Service and professional fees	3% if paid to local companies 10% if paid to associations or foundations
7.	Hire of work	3% if paid to a local company or registered branch of a foreign company in Thailand; 5% if paid to a foreign company that does not have a registered branch in Thailand but carries on business in Thailand
8.	Advertising fees	2% if paid to local companies

Notes:

1. *10% withholding tax on dividends does not apply if the recipient of the dividend is a listed company or is a Thai company holding at least 25% of the shares with voting rights in the company paying the dividends without any cross-shareholding, either directly or indirectly.*
2. *Government agencies are required to withhold tax at the rate of 1% on all types of income paid to Thai companies.*

3. Withholding Tax Rates - Payments to non-residents

Apart from dividends, which attract withholding tax at 10%, some other payments to a non-resident that resides in a non-DTT country (including interest, royalties, rent, management fees, consultancy payments and capital gains) would attract withholding tax at 15%. The rates of withholding tax may be reduced under applicable DTTs (see treaty and non-treaty WHT rates below).

G. EXCHANGE CONTROL

Exchange control regulations are in place to govern the importation and repatriation of funds by residents and non-residents, and the import and export of goods. Subject to certain criteria and thresholds, forms are required.

H. PERSONAL TAX

Personal Income Tax (PIT) is a direct tax levied on the taxable income of a person. A ‘person’ means an individual, an ordinary partnership, a non-juristic body of persons, a deceased person and an undivided estate. In general, a person liable to PIT must compute his or her tax liability, file tax returns and pay tax, if any, on a calendar year basis. Taxpayers are classified into 'resident' and 'non-resident'. A 'resident' means any person residing in Thailand for a period or periods aggregating 180 days or more in any tax (calendar) year. A resident of Thailand is liable to pay tax on income from sources in Thailand regardless of where the money is paid, as well as on the portion of income from foreign sources that is brought into Thailand in the same year that the foreign income is derived. A ‘non-resident’ is subject to PIT only on income from sources in Thailand.

Income chargeable to PIT is called 'assessable income'. The term covers income both in cash and in kind. Therefore, any benefits provided by an employer or other persons, such as rent-free housing or the amount of tax paid by the employer on behalf of the employee, are also treated as assessable income of the employee for the purposes of PIT if they are ascertainable in terms of money. Assessable income is divided into eight categories under the TRC. Certain PIT deductions and allowances can be offset against assessable income in order to calculate taxable income. Taxpayers shall make deductions from assessable income before the allowances are granted.

On 27 January 2017, Thailand’s Revenue Code Amendment Act (No 44) BE 2560 and Royal Decree (No

629) BE 2560 were published in the Government Gazette, increasing some personal tax deductions and allowances and reducing some others from and including the 2017 tax year. PIT deductions and allowances are summarised in the tables below for 2017 going forward.

DEDUCTIONS PERMITTED FOR THE CALCULATION OF PIT

No.	Type of Income	Deductions
1.	Income from employment	50% but not exceeding THB 100,000
2.	Income from hire of work	50% but not exceeding THB 100,000
3.	Income received from copyright	50% but not exceeding THB 100,000
4.	Income in the nature of interest, dividend, capital gain	no deduction
5.	Income from letting out of property on hire:	
	– building and wharves	30%
	– agricultural land	20%
	– all other types of land	15%
	– vehicles	30%
No.	**Type of Income**	**Deductions**
	– any other type of property	10%
6.	Income from professional services	30% except for the medical profession where 60% is allowed
7.	Income derived from contract of work whereby the contractor provides essential materials besides tools	actual expense or 60%
8.	Income derived from business, commerce, agriculture, industry, transport, or any other activities not specified earlier	actual expense or 60% of assessable income
9.	Deduction against any category of income that is derived by a taxpayer who is 65 years or older	THB 190,000

ALLOWANCES PERMITTED FOR THE CALCULATION OF PIT

Type of Allowance	Amount
Personal allowance for single taxpayer	THB 60,000 for the taxpayer
Spouse allowance (legally married)	THB 60,000
Child allowance (child under 25 years old and studying at educational institution, or a minor, or an adjusted incompetent or quasi-incompetent person)	THB 30,000 each
Additional education allowance	Nil (allowance repealed)
Life insurance premium paid by taxpayer or spouse	Amount actually paid but not exceeding THB 100,000 each
Pension insurance premium	Maximum allowance (exemption) of THB 200,000 but not exceeding 15% of income
Health insurance premium paid for tax-payer's and spouse's parents (total income of parents shall not exceed THB 30,000)	Amount actually paid but not exceeding THB 15,000
Approved provident fund contributions, retired mutual fund, and pension insurance premium paid	Maximum allowance (exemption) of THB 500,000 but not exceeding 15% of income
Long term equity fund	Maximum allowance (exemption) of THB 500,000 but not exceeding 15% of income
Home mortgage interest	Amount actually paid but not exceeding THB 100,000

Social security contributions	Amount actually paid
Parent allowance (parents of either taxpayer and/or legal spouse over 60 years of age with income less than THB 30,000)	THB 30,000 each parent
Disability allowance (cost of caring for disabled persons)	THB 60,000
Charitable contributions	Amount actually donated but not exceeding 10% of income after standard deductions and allowances
Educational contributions	Two times the actual donation but not exceeding 10% of income after standard deductions and allowances
Purchase price of buildings with land or of apartments (under certain conditions)	20% of the amount actually paid (but not exceeding THB 3 million)

TAX RATES FOR RESIDENTS AND NON-RESIDENTS

The tax rates for resident and non-resident Individuals (2017 and subsequent years) are as follows:

Taxable income (THB)	Tax Rate (%)	Tax Amount	Accumulated Tax
0 – 150,000	Exempt	–	–
150,001 – 300,000	5	7,500	7,500
300,001 – 500,000	10	20,000	27,500
500,001 – 750,000	15	37,500	65,000
750,001 – 1,000,000	20	50,000	115,000
1,000,001 – 2,000,000	25	250,000	365,000
2,000,001 – 5,000,000	30	900,000	1,265,000
5,000,001 and over	35		

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

The schedule below is only intended to give a general outline of the rates of withholding tax applicable to interest, dividend and royalty payments under Thailand's DTAs. The DTAs should be consulted for more detailed information.

The table below sets out the lower of the relevant DTA rate and the applicable domestic rate on dividend, interest and royalty payments.

	Dividends[1] (%)	Interest[2] (%)	Royalties[3] (%)
Non-treaty countries	10	15	15
Treaty countries:			
Armenia	10	10/15	15
Australia	10	10/15	15
Austria	10	10/15	10/15
Bahrain	10	10/15	15
Bangladesh	10	10/15	5/10/15
Belarus	10	10/15	15
Belgium	10	10/15	5/15
Bulgaria	10	10/15	5/15
Canada	10	10/15	5/15

	Dividends[1] (%)	Interest[2] (%)	Royalties[3] (%)
Chile	10	10/15	10/15
China	10	10/15	15
Cyprus	10	10/15	5/10/15
Czech Republic	10	10/15	5/10/15
Denmark	10	10/15	5/15
Estonia	10	10	8/10
Finland	10	10/15	15
France	10	3/10/15	5/15
Germany	10	10/15	5/15
Hong Kong	10	10/15	5/10/15
Hungary	10	10/15	15
India	10	10/15	15
Indonesia	10	10/15	15
Israel	10	10/15	5/15
Italy	10	10/15	5/15
Japan	10	10/15	15
Korea	10	10/15	5/10/15
Kuwait	10	10/15	15
Laos	10	10/15	15
Luxembourg	10	10/15	15
Malaysia	10	10/15	15
Mauritius	10	10/15	5/15
Myanmar	10	10	5/10/15
Nepal	10	10/15	15
Netherlands	10	10/15	5/15
New Zealand	10	10/15	10/15
Norway	10	10/15	5/10/15
Oman	10	10/15	15
Pakistan	10	10/15	10/15
Philippines	10	10/15	15
Poland	10	10/15	5/15
Romania	10	10/15	15
Russia	10	10	15
Seychelles	10	10/15	15
Singapore	10	10/15	15
Slovenia	10	10/15	10/15
South Africa	10	10/15	15
Spain	10	10/15	5/8/15
Sri Lanka	10	10/15	15

Sweden	10	10/15	15
Switzerland	10	10/15	5/10/15
Taiwan	5/10[4]	10/15	15
Turkey	10	10/15	15
Ukraine	10	10/15	15
United Arab Emirates	10	10/15	15
United Kingdom	10	10/15	5/15
United States	10	10/15	5/8/15
Uzbekistan	10	10/15	15
Vietnam	10	10/15	15

Notes:

1. The lower rate generally applies if certain conditions are met including having a specified minimum percentage of equity in the company paying the dividend.
2. The lower rate generally applies to interest to which a financial institution is beneficially entitled.
3. The lower rate generally applies to payments made as consideration for the right to use any copyright of literary, artistic or scientific work.
4. The 5% rate applies if the beneficial owner directly holds at least 25% of the capital of the paying company.

VIETNAM

MEMBER FIRMS

City	Name	Contact Information
Hanoi / Ho Chi Minh City	Nhu Tien Nguyen	+849 12 005 808 +848 39 115 539 tiennn@pkf.com.vn
Hanoi / Ho Chi Minh City	Van Dang	+84 28 22 200 237 +84 944 622 461 dangmyvan@pkf.afcvietnam.vn

BASIC FACTS

Full name:	Socialist Republic of Vietnam
Capital:	Hanoi
Main languages:	Vietnamese
Population:	97.22 million (2019 estimate)
Monetary unit:	Vietnam Dong (VND)
Internet domain:	.vn
Int. dialling code:	+84

KEY TAX POINTS

- Corporate Income Tax is charged on any enterprise carrying on a trade, business in Vietnam. All Income (including income from overseas) of the enterprises registered in accordance with the Law of Enterprises are subject to Corporate Income Tax (CIT).
- For resident individuals Personal Income Tax is levied on their income earned within and outside

Vietnam's territory, while non-residents are taxed only on their income earned in Vietnam.

- Value Added Tax (VAT) is a tax levied on imported goods and goods and services used in manufacturing, trading or consumption in Vietnam (except for exempted cases stipulated in the law). There are two (2) methods to calculate VAT, which are the deduction method and the direct method.
- Excise Tax is applied to specific luxury goods and services.

A. TAXES PAYABLE

COMPANY TAX - CORPORATE INCOME TAX (CIT)

The standard CIT rate is 20% as from 2016. Companies operating in the oil and gas industry are subject to a CIT rate ranging from 32% to 50% depending on the location and specific project conditions. Companies engaged in prospecting and exploration of mineral resources (e.g. silver, gold, gemstones) are subject to a CIT rate of 40% or 50% based on the project's location.

Tax incentives

Tax incentives are granted to new investment projects based on regulated encouraged sectors, encouraged locations and the size of the project. Business expansion projects (including expansion projects licensed or implemented during the period from 2009 to 2013 which were not entitled to any CIT incentives previously) that meet certain conditions are also entitled to CIT incentives. New investment projects and business expansion projects do not include projects established as a result of certain acquisitions or reorganisations.

- The sectors which are encouraged by the Vietnamese Government include education, health care, sport/culture, high technology, environmental protection, scientific research, infrastructural development, processing of agricultural and aquatic products, software production and renewable energy.
- Locations which are encouraged include qualifying economic and high-tech zones, certain industrial zones and difficult socio-economic areas.
- Large manufacturing projects (excluding those related to the manufacture of products subject to special sales tax or those exploiting mineral resources) with a total capital of VND 6,000 billion or more, disbursed within 3 years of being licensed can also qualify for CIT incentives if the projects meet either of the following criteria:
  - minimum revenue of VND 10,000 billion per annum by the fourth year of operations at the latest; or
  - headcount of more than 3,000 by the fourth year of operations at the latest.

From 2015, large manufacturing projects are defined to also include projects with a total capital of VND 12,000 billion or more, disbursed within 5 years of being licensed (excluding those related to the manufacture of products subject to special sales tax or those exploiting mineral resources) and using technologies appraised in accordance with relevant laws.

Further, new investment projects engaged in manufacturing industrial products prioritised for development will be entitled to CIT incentives if they meet one of the following conditions:

- The products support the high technology sector; or
- The products support the garment, textile, footwear, IT, automobile assembly, mechanical sectors and are not produced domestically as at 1 January 2015, or if produced domestically, they meet the quality standards of the EU or equivalent.

The two common preferential rates of 10% and 20% are available for 15 years and 10 years respectively, starting from the commencement of operating activities. From 1 January 2015, a preferential rate of 15% will apply in certain cases. The duration of application of the preferential tax rate can be extended in certain cases. From 1 January 2016, enterprises having projects entitled to the preferential CIT rate of 20% will enjoy a rate of 17% instead. When the preferential rate expires, the CIT rate reverts to the standard rate. Certain socialised sectors (e.g. education, health) enjoy the 10% rate for the life of the project.

Taxpayers may be eligible for tax holidays and reductions. The tax holidays take the form of a complete exemption from CIT for a certain period beginning immediately after the enterprise first makes profits, followed by a period where tax is charged at 50% of the applicable rate. However, where the enterprise has not derived taxable profits within 3 years of the commencement of operations, the tax holiday/tax reduction will start from the fourth year of operation. Criteria for eligibility for these tax holidays and reductions are set out in the CIT regulations.

Additional tax reductions may be available for companies engaging in manufacturing, construction and transportation activities which employ many female staff or employ ethnic minorities.

Tax incentives which are available for investment in encouraged sectors do not apply to other income (except for income which directly relates to the incentivised activities such as disposal of scrap), which is broadly defined.

Administration

Enterprises shall make a self-declaration of CIT payable. The enterprise shall pay the amount of CIT provisionally payable determined each quarter during the year and shall finalize the whole CIT payable for the fiscal year within 90 days after the year end. Generally, the tax year for the purpose of tax finalisation shall be the calendar year, except for the enterprise that is permitted to apply a fiscal year other than the calendar year: the tax year of this enterprise shall conform to its fiscal year.

CAPITAL GAINS TAX

There is no specific capital gains tax in Vietnam. Capital gains are treated as ordinary income for the purpose of calculating income tax.

BRANCH PROFITS TAX

There is no specific branch profits tax in Vietnam. Foreign Enterprises and Foreign Individuals are subject to Withholding Tax on Income that they earn in carrying business.

VALUE ADDED TAX (VAT)

VAT is a tax levied on imported goods and goods and services used for manufacturing, trading or consumption in Vietnam (except for the exempted cases stipulated in law).

VAT Rate

There are three levels of VAT rate. In general, goods or services are mostly subject to a rate of 10%, while some goods or services are subject to a rate of 5% or 0% depending on the type of goods or services.

VAT payable = output VAT – deductible VAT

Output VAT is the total VAT on goods sold and services recorded on the VAT invoices. Deductible VAT comprises Input VAT which is total VAT on VAT invoices for purchases of goods and services (including fixed assets) serving the manufacture or sale of taxable goods and services, VAT on imported goods at Customs and VAT paid on behalf of foreign enterprises mentioned in the Withholding Tax. VAT shall be declared and paid monthly. For enterprises which have a turnover in the previous year below VND 50,000,000,000 (fifty billion) or newly established enterprises, VAT can be declared and paid quarterly.

VAT refund

Where the taxpayer's input VAT for a period exceeds its output VAT, it will have to carry the excess forward for a period of twelve months. It can then claim a refund from the tax authorities. In certain cases, a refund may be granted on a monthly/quarterly basis. Newly established entities in the pre-operation investment phase may claim VAT refunds on a yearly basis or where the accumulated VAT credits exceed VND 300 million. Newly established entities and certain investment projects which are in the pre-operation stage may be entitled to refund for VAT paid on imported fixed assets based on shorter timelines than normal, subject to certain conditions.

Calculating VAT

There are two (2) methods to calculate VAT, i.e. the Deduction Method and the Direct Method.

- For the Deduction Method, VAT is calculated as follows:

  Output VAT = selling price (excluding VAT) x VAT rate
- For the Direct Method, VAT is calculated as follows:

  VAT payables = selling price x rate of VAT (in direct method)

VAT payables includes the selling price. The VAT rates that apply to the Direct Method are:

- 1% for distribution or supply of goods;
- 5% for services or construction (excluding building materials);
- 3% for manufacturing, transport, services (associated with goods), construction (including building materials); and

- 2% for other lines of business.

For the enterprises trading and fashioning of gold, silver and gemstones, VAT is calculated as follows:

VAT payables = (selling price – cost price) x rate of 10%

EXCISE TAX

Excise Tax is applied to specific luxury goods, either imported or manufactured in Vietnam, and services. Excise Tax is calculated based on the quantity of taxable goods (services) sold at their taxable value, and their corresponding tax rate. Taxable value is selling price (excluding VAT) for manufactured goods and services or customs value for imported goods. Specific goods (services) and the tax rate are as follows:

Description		**Rate**
A.	**Goods**	
1.	Cigarettes, cigars and other tobacco products	
	- before 1 January 2016	65%
	- from 1 January 2016 to 31 December 2018	70%
	- from 1 January 2019	75%
2.	Liquor	
	a. over 20 degrees proof	
	- before 1 January 2016	50%
	- from 1 January 2016 to 31 December 2016	55%
	- from 1 January 2017 to 31 December 2017	60%
	- from 1 January 2018	65%
	b. under 20 degrees proof	
	- before 1 January 2016	25%
	- from 1 January 2016 to 31 December 2017	30%
	- from 1 January 2018	35%
3.	Beer	
	- before 1 January 2016	50%
	- from 1 January 2016 to 31 December 2016	55%
	- from 1 January 2017 to 31 December 2017	60%
	- from 1 January 2018	65%
4.	Automobiles under 24 seats	
	a. up to 9 seats	45% 60%
	b. from 10 to 16 seats	30%
	c. from 15 to 24 seats	15%
5.	Two- and three-wheeled motorcycles of a cylinder capacity of over 125 cm^3	20%

6.	Aircraft	30%
7.	Yachts	30%
8.	Gasoline of various kinds, naphtha, reformed components and other compounds for mixing gasoline	7% 10%
9.	Air-conditioners with capacity of 90,000 BTU or less	10%
10.	Playing cards	40%
11.	Votive paper and votive objects	70%
Description		**Rate**
B	**Services**	
1.	Discotheque	40%
2	Massage parlors and karaoke bars	30%
3.	Casino and reward games, including jackpot, slot and other similar machines	35%
4.	Betting business	30%
5.	Golf business, including sale of membership cards and golf game tickets	20%
6.	Lottery business	15%

BUSINESS LICENCE TAX

Business License Tax is a tax on the business capital of business establishments. Annually, Business Licence Tax shall be paid by 31 January. For new business establishments the deadline comes to the end of the first month of operations. Depending on the registration capital, Business Licence Tax amounts to:

Description		**Amount**
1.	Over VND 10 billion	VND 3,000,000
2.	From VND 5 billion to VND 10 billion	VND 2,000,000
3.	From VND 2 billion to VND 5 billion	VND 1,500,000
4.	Less than VND 2 billion	VND 1,000,000

EXPORT – IMPORT TAX

Export – Import Tax is levied on goods exported or imported across the Vietnamese border, on goods brought from the domestic market into non-tariff zones and vice versa and on other traded or exchanged goods that are considered imports or exports.

Export – Import Tax rate for each exported or imported item is determined by the Export Tax and Import Tax tariff.

NATURAL RESOURCES TAX

Natural Resources Tax is levied on organisations and individuals conducting the exploitation of natural resources in Vietnam. Natural Resources Tax is determined by the actual natural resources exploited, the unit price and the tax rate stipulated for the specific resources.

B. DETERMINATION OF TAXABLE INCOME

Generally, deductible expenses which are deductible for the purpose of calculation of taxable income include expenses actually used for the production or trading in goods and services and expenses incurred with receipts or source documents issued in accordance with the law.

- CIT payables = (Taxed income – Allocation to R&D fund) x CIT rate.
- R&D fund is Science and Technology Development Fund.
- Taxed income = Taxable Income – Exempt Income – Prior year loss carried forward.
- Taxable income = Turnover – Deductible Expenses + Other Income.

DIVIDENDS

Income divided from capital contribution, share purchase, joint venture or economic association with domestic enterprises, after contributed capital recipients, share issuers or joint venture or association parties have paid Corporate Income Tax (CIT) under the Law on CIT shall be exempted from CIT. When the enterprises receive this income (dividends) before the tax calculation, the income shall not be exempted from CIT. In this case, the enterprise must pay CIT on this income at the common rate applied to this enterprise. For individuals, dividends are liable to tax at a rate of 5%.

LOSSES

Enterprises which suffer losses shall be entitled to carry forward those losses to taxable income of the following years. Losses may be carried forward within five (5) years from the year following the year the loss arose.

FOREIGN SOURCE INCOME

Vietnamese enterprises which make an offshore investment and derive income from production and business activities overseas shall declare and pay CIT in accordance with the current Law on CIT of Vietnam.

C. FOREIGN TAX RELIEF

Vietnamese enterprises which make an offshore investment and derive income from production and business activities overseas shall declare and pay CIT in accordance with the current Law on CIT of Vietnam. In case these enterprises have paid income tax on income arising overseas, the paid tax amount may be subtracted (in Vietnam) but must not exceed the CIT amount payable under the Law on Corporate Income Tax.

D. CORPORATE GROUPS

There are no provisions for any form of consolidated filing or group loss relief.

E. RELATED PARTY TRANSACTIONS

Decree 20/2017/ND-CP, which came into force on 1 May 2017, sets out the transfer pricing (TP) regulations. The prescribed TP methodology generally follows the OECD Transfer Pricing Guidelines although some modifications and additional requirements exist.

A 25% control threshold (previously 20%) is sufficient for enterprises to be deemed as related parties. The definition also extends to companies under the common control of an individual through capital contribution or direct management, and where a company is substantially controlled or managed by another company.

The prescribed TP methods are: (i) comparable uncontrolled price (ii) resale price (iii) cost-plus (iv) transactional net margin and (v) profit split. The circular does not stipulate the preference of any method over the others.

Advance pricing agreements (APAs) are possible.

An annual declaration of related party transactions must be submitted together with the taxpayer's annual corporate income tax return, comprising a Master File, a Local File and a Country-by-Country ('CbC') report. Taxpayers are also required to prove that arm's length pricing has been adopted and are required to maintain contemporaneous records.

The taxpayer must perform CbC reporting if (i) the ultimate parent company also is obliged to prepare and submit such documents in its respective tax jurisdiction or (ii) the taxpayer is a Vietnamese ultimate parent company with worldwide consolidated revenue in a tax year exceeding VND 18 trillion.

The taxpayer is exempt from preparing TP documentation if one of the following conditions is met:

- The taxpayer has revenue below VND 50 billion and the total value of related party transactions is below VND 30 billion in a tax period;
- The taxpayer concludes an APA and submits annual APA reports; or
- The taxpayer has revenue below VND 200 billion and performs simple functions and achieves at least

the following ratios of EBIT to revenue on its respective business: distribution (5%), manufacturing (10%), processing (15%).

If the pricing strategy is found not to be at arm's length, the tax authorities may impose the deemed appropriate pricing and deemed taxable profits in order to impose the deemed tax.

F. WITHHOLDING TAX

Foreign enterprises and foreign individuals subject to Withholding Taxes are:

- Foreign enterprises and individuals doing business in Vietnam or earning income in Vietnam on the basis of contracts, agreements with Vietnamese organisations, individuals, or between foreign contractors and foreign sub-contractors to perform a part of the Contractor agreement;
- Foreign enterprises and individuals supplying goods in Vietnam in the form of on the spot export/import and earning income in Vietnam on the basis of contracts, agreements with Vietnamese organisations, individuals, or between foreign contractors and foreign sub-contractors to perform a part of the Contractor agreement.

Branches of foreign companies that carry out business or supply services in Vietnam shall be subject to Value Added Tax (VAT) and Corporate Income Tax (CIT) if they fully satisfy the following conditions:

- Having a permanent establishment in Vietnam;
- The business duration in Vietnam is 183 days or more;
- Applying the Vietnamese accounting regime, carrying out tax registration and obtaining the tax code from tax agencies.

These branches are subject to the same rules and the same tax rate as resident enterprises. Corporate Income Tax shall only be levied on the net profits arising from business carried on in Vietnam. Branches of foreign companies that do not satisfy these conditions shall be subject to the Withholding Tax which comprises VAT and CIT as mentioned below:

a) VAT rate (%) calculated upon taxable turnover applicable to business lines:

No.	Business line	Rate
1	Services, machinery and equipment lease, insurance; construction or installation without supply of raw materials, machinery and equipment	5%
2	Production, transportation, services provided together with goods; construction and installation involving the supply of raw materials, machinery and equipment	3%
3	Other business activities	2%

b) CIT rate (%) calculated upon taxable turnover (excluding VAT, if any) applicable to business lines:

No.	Business line	CIT Rate
1	Trade: Distributing, providing goods, raw materials, supplies, machinery and equipment; distributing, providing goods, raw materials, supplies, machinery and equipment attached to services in Vietnam (including the provision of goods in the form of on-spot export and import (except for processing goods for foreign organisations, individuals); providing goods under delivery conditions of the Incoterms).	1%
2	Services, insurance, leasing machinery and equipment, leasing drilling rigs, particularly:	5%
	- Restaurant, hotel, casino management services;	10%
	- Derivative financial services.	2%
3	Leasing airplanes, airplane engines, spare parts of airplane, ships.	2%
4	Construction, installation including or excluding materials, machinery, equipment.	2%
5	Other production and business, transport (including the transport by seaway, by airway).	2%

6	Transfer of securities, deposit certificates, reinsurance abroad, and commission of the reinsurance transfer.	0.1%
7	Interest on loans.	5%
8	Royalties.	10%

Generally, the Vietnamese party is responsible for declaring, deducting and paying Withholding Tax on behalf of the foreign party and is responsible for paying this Tax within fifteen (15) days from the day of payment to the foreign party.

G. EXCHANGE CONTROL

Within the territory of Vietnam, except for cases that are allowed by State Bank, any transaction, payment, listing, advertising, quotation, valuating, pricing in any contract, agreement and other similar forms (including the conversion or price adjustment of goods, services, value of contract, agreement) of residents, non-residents, shall not be performed in foreign exchange. Foreign currency revenues of residents earned from the import and export of goods and services or other current sources overseas must be deposited into the foreign currency accounts opened at authorised credit institutions in Vietnam, which correspond to the payment terms specified in the relevant contracts or payment records, except for some cases that the State Bank of Vietnam considers allowing to retain part of or the entire amount of foreign currency revenue overseas.

Foreign currency payment and transfer regarding imported and exported goods and services must be performed by wire transfer through authorised credit institutions. Upon entry into, or exit from, Vietnam, (and without declaration to the border Customs) individuals can carry foreign currency as follows:

- USD 5,000 or other foreign currency of the same value;
- VND 15,000,000;
- Precious metals, gemstones (excluding gold) valued at VND 300,000,000;
- Negotiable instrument valued at VND 300,000,000.

Vietnamese individuals and foreigners are not allowed to bring gold bars and gold materials to entry into or exit from Vietnam, but can carry gold jewelleries and gold arts with a total weight of under 300 grams. In excess of these norms, Vietnamese and foreigners shall be required to declare to the border Customs.

H. PERSONAL TAX

All residents and non-residents are subject to Personal Income Tax. A resident is a person that meets one of the conditions below:

- Has been present in Vietnam for 183 days or longer in a calendar year, or for 12 consecutive months from the day on which that person arrives at Vietnam;
- Has a regular residence in Vietnam in one of the two cases below:
  - Has a regular residence according to the legislation on residence;
  - Rents a house in Vietnam according to legislation on housing under a contract that lasts 183 days or longer in the tax year.

Non-residents are the persons that fail to meet the conditions listed above. A resident is liable to pay tax on income earned in Vietnam and overseas, except for non-taxable income, such as income from real estate transferred between spouses and between blood-relations. Personal income tax derived from wages for a resident is equal to assessable income multiplied by the tax rate. Assessable income is taxable Personal Income less deductions. For personal income from wages, deductions are as follows:

- Personal deduction per month comprises deduction for taxpayer and deduction for each dependant which are children under 18, unemployed spouse, elderly and parents;
- Insurance premium.
- Payment for business trips;
- Office clothes (subject to a cap if the office clothes are provided in cash);
- Overtime premium;
- One-off allowance for relocation;
- Transportation to and from work;

- Once a year home leave round trip airfare for expatriate employees and Vietnamese working overseas;
- Training;
- Mid-shift meals (subject to a cap if the meals are provided in cash);
- Allowances/ benefits for wedding, funeral (subject to a cap).

Personal income tax rates:

Level	Assessable income/year (million VND)	Assessable income/month (million VND)	Tax rate (%)
1	Up to 60	Up to 5	5
2	Over 60 to 120	Over 5 to 10	10
3	Over 120 to 216	Over 10 to 18	15
4	Over 216 to 384	Over 18 to 32	20
5	Over 384 to 624	Over 32 to 52	25
6	Over 624 to 960	Over 52 to 80	30
7	Over 960	Over 80	35

A non-resident is liable to pay Personal Income Tax only on income earned in Vietnam.

For Income from wages, Personal Income Tax is equal to taxable income from wages multiplied by a rate of 20% (with no deduction). Other calculation of Personal Income Tax is stipulated in the relevant legal documents.

Non-taxable income

Lump-sum moving allowances for foreigners that move and reside in Vietnam and Vietnamese people that go and work abroad, is non-taxable income.

I. TREATY AND NON-TREATY WITHHOLDING TAX RATES

Withholding Tax rates for dividend, interest and royalties are as follows:

	Dividends[1] (%)	Interest (%)	Royalties (%)
Domestic rates			
Companies	0	5	10
Treaty rates			
Algeria[2]	15	15	15
Australia	10	10	10
Austria	5/10/15	10	7.5/10
Azerbaijan	10	10	10
Bangladesh	15	15	15
Belarus	15	10	15
Belgium	5/10/15	10	5/10/15
Brunei	10	10	10
Bulgaria	15	10	15
Canada	5/10/15	10	7.5/10
China	10	10	10

	Dividends[1] (%)	Interest (%)	Royalties (%)
Cuba	5/10/15	10	10
Czech Republic	10	10	10
Denmark	5/10/15	10	5/15
Estonia	5/10	10	10
Finland	5/10/15	10	10
France	7/10/15	Nil	10
Germany	5/10/15	10	7.5/10
Hong Kong	10	10	7/10
Hungary	10	10	10
Iceland	10/15	10	10
India	10	10	10
Indonesia	15	15	15
Iran	10	10	10
Ireland	5/10	10	5/10/15
Israel	10	10	5/7.5/15
Italy	5/10/15	10	7.5/10
Japan	10	10	10
Kazakhstan	5/15	10	10
Korea (North)	10	10	10
Korea (South)	10	10	5/15
Kuwait	10/15	15	20
Laos	10	10	10
Luxembourg	5/10/15	10	10
Malaysia	10	10	10
Malta	5/15	10	5/10/15
Mongolia	10	10	10
Morocco	10	10	10
Mozambique	10	10	10
Myanmar	10	10	10
Netherlands	5/7/10/15	10	5/10/15
New Zealand	5/15	10	10
Norway	5/10/15	10	10
Oman	5/10/15	10	10
Pakistan	15	15	15
Palestine	10	10	10
Panama	5/7/12.5	10	10
Philippines	10/15	15	15
Poland	10/15	10	10/15

Portugal	5/10/15	10	7.5/10
Qatar	5/12.5	10	5/10
Romania	15	10	15
Russia	10/15	10	15
San Marino	10/15	10/15	10/15
Saudi Arabia	5/12.5	10	7.5/10
Serbia	10/15	10	10
Seychelles	10	10	10
Singapore	5/7/12.5	10	5/10
Slovak Republic	5/10	10	5/10/15
Spain	5/7/10/15	10	10
Sri Lanka	10	10	15
Sweden	5/10/15	10	5/15
Switzerland	7/10/15	10	10
Taiwan	15	10	15
Thailand	15	10/15	15
Tunisia	10	10	10
Turkey	5/10/15	10	10
Ukraine	10	10	10
United Arab Emirates	5/15	10	10
United Kingdom	7/10/15	10	10
Uruguay	5/10	10	10
Uzbekistan	15	10	15
Venezuela	5/10	10	10

Notes:

1. Dividends paid to non-resident corporate investors are not subject to withholding tax. Distributions repatriated abroad by foreign invested enterprises are not subject to withholding tax. A foreign investor generally may repatriate its after-tax dividends out of Vietnam after fulfilling all tax and financial obligations towards the Vietnamese Government. The rates provided in some treaties represent the maximum withholding tax rate should Vietnam impose a withholding tax on dividends in the future.
2. Treaty not yet in force.

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