

Newsletter No 33 (EN)

Basic Principles of Foreign Investment in Taiwan January 2005

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I. Introduction

According to the 2003-2004 Global Competitiveness Report by the World Economic Forum (WEF), Taiwan ranked fifth out of 102 economies around the world and was first in Asia on the Growth Competitiveness Index (CGI). Additionally the economic potential of Taiwan is illustrated by the fact that the Island holds the fourth highest number of US patents in the world.

For all these reasons, Taiwan is one of the most favourable economic environments in Asia.

With this Newsletter we want to give you a basic overview about the possibilities of an investment in Taiwan.

II. Restrictions on Foreign Investment

Taiwan currently deregulated nearly 95% of all foreign investments. It allows foreigners to invest in all sectors except some few where restrictions apply. These areas include investments which are relevant for the national security, public harmony, social behaviour or the public health. All restricted investments in Taiwan are enumerated in a negative list.

Restricted for example are air transportation, water and gas supply or chemical products manufacturing. For some of the restricted or prohibited investments exceptions for overseas Chinese apply.

III. Foreign Ownership of Taiwan Companies

Unlike many other countries in Asia Taiwan in general allows foreigners to own up to 100% of the Company in Taiwan. Only the investments enumerated in the negative list are subject to ownership restrictions for foreigners.

IV. Application for Business Licences

A foreign investor must, according to the regulations, prepare and file an application, including all relevant documents, with the Investment Commission. After the official letter of approval has been obtained, the investor must set up a bank account at a Taiwanese bank. Afterwards, he has to remit the investment funds to that account. When the remittance is completed, the investor needs to get a confirmation of the capital

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amount from the Investment Commission. Once the letter of confirmation has been obtained, the company must be registered with the competent authority in charge of company registration.

According to the investment volume the investment application review period approximately ranges from 2 to 5 days for investments up to 1 Million NT \$ (or roughly 23,000 EUR) and 14 to 30 days for investments exceeding 1 Million NT \$.

V. State Protection of Foreign Investment

Taiwan is a country which tries hard to achieve and maintain a good environment for Intellectual Property Rights (IPR). In the scope of this a number of IPR cooperation agreements were signed with advanced countries of the world to ensure an increase of global intellectual interflow. Also, Taiwan has got an educational program which shall promote IPRs. By this the idea of IPR protection among its population should be strengthened.

Many legal improvements have been made to protect IPRs. In order to achieve membership in the World Trade Organisation (WTO) in 2002, Taiwan had to revise its Patent Law so that nowadays an international standard is reached in this field as well. Copyright and Trademark Law had similar developments

However, talking about state protection of foreign investments, it has to be said that according to the "Statute for Investment by Foreign Nationals" foreign nationals holding less than 45% of the company can be expropriated, when national defence reasons are at the stake. If the foreign investor holds more than 45% of the total capital amount of the enterprise, this company shall not be subject to expropriation if the investor continuously holds more than 45% of the total capital amount for 20 years after the business started.

VI. Capitalisation

Special minimum capital requirements exist for some enlisted industries.

Beside this, a minimum capital of NT \$ 1 Million (or roughly 23,000 EUR) for general companies and NT \$ 0.5 Million (or roughly 11,500 EUR) for limited companies is required. However, if the company is engaged in the import/export business, the minimum capitalisation will be NT \$ 5 Million (or roughly 115,000 EUR).

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VII. Employment of Foreigners

When the company is already set up, foreign nationals who want to be employed by the company have to apply for a work permit with the Executive Yuan Council of Labour Affairs with the relevant information.

These information include:

1. Registration documents of the company
2. Passport of the employee
3. Certification of degrees
4. Labour agreement with the company
5. Passport photos
6. Permissions to work in the special profession (if a permission is needed)
7. Others (up to the commission)

Generally in Taiwan no employee quotas exist for foreign nationals. However, the relevant rules of employment give the competent authority the right to set up a quota if it is necessary to protect the domestic labour market.

VIII. Forms of Companies

The Taiwanese law basically knows three common and important forms of enterprises:

1. The Company Limited by Shares is similar to the German Aktiengesellschaft, which term denotes a company organized by two or more or one government or corporate shareholder. If no special rules apply for the company sector, the minimum capital for a Company Limited by Shares is NT \$ 1 Million.
2. The Limited Company can be set up by one or more shareholders. The minimum capitalisation is NT \$ 0,5 Million.
3. A Partnership has no minimum capital requirement. The partners liability is equal and cannot be limited.

Beside these forms there are also branch offices and representative offices known in Taiwan.

A Branch office generally is profit seeking and therefore has to be registered under Taiwanese Law.

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Representative offices are not allowed to generate profits and should only be used for representing the foreign company in Taiwan. Thus a company registration is not required.

There are few further forms of enterprises existing though they are not relevant to foreigners.

IX. Financial Funding Services and Incentives

Taiwan has special programs to help businesses to get access to capital. For example low interest loans for small and medium size enterprises are provided for the purchase of automatic machinery, for anti-pollution machinery or for businesses which promote the “traditional sectors.”

In order to modernise the Taiwanese economy the Government also enacted the Statute for Upgrading Industries. Under the rule of this statute preferential taxes are granted to special industrial sectors which are supposed to improve the economical infrastructure of Taiwan.

XI. Summary

Due to the fact that the Taiwanese Government early realised the necessity of protecting foreign investors and their intellectual and non-intellectual property, investments in Taiwan are generally safe compared to other Asian countries.

Although the average wage for an industrial worker in 2003 with 42,000 NT \$ (app. 1000 EUR) is high compared to other countries in the region, the political and economical stability in Taiwan and its expected GDP of 18,000 USD per capita in 2005 makes it well worth a consideration about an investment.

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