

Morgan Stanley

INTERNATIONAL WEALTH MANAGEMENT

KPMG
Private Enterprise

Wealth Planning
Considerations
in Taiwan

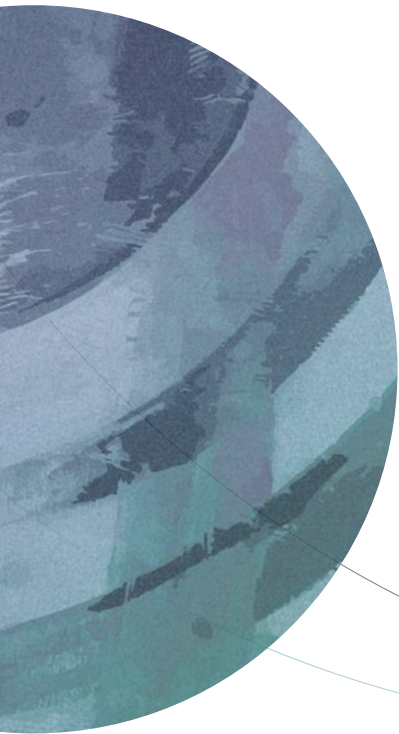
A GUIDE FOR CLIENTS OF MORGAN STANLEY
INTERNATIONAL WEALTH MANAGEMENT

TAIWAN

Morgan Stanley International Wealth Management offers highly personalized wealth management solutions for global entrepreneurs, high-net-worth families, executives and professionals. Leveraging the global resources and intellectual capital of our firm, International Client Advisors help clients pursue their personal, family and community goals. This report is part of the Asian Series produced in partnership with KPMG for the educational purposes of Morgan Stanley International Wealth Management clients.

DESCRIPTION OF TAIWAN AS A JURISDICTION

Taiwan is a civil law jurisdiction in which the Constitution of Taiwan is the rule of the land. The Legislative Yuan has the authority to enforce regulations, enacting rules through powers granted to it by the Constitution. The Executive Yuan may announce regulations and orders in accordance with the rules. In general, the Civil Code governs all civil matters and the Code of Civil Procedure governs administration of civil proceedings in Taiwan.



WEALTH PLANNING CONSIDERATIONS IN TAIWAN

A. LEGAL CONSIDERATIONS

In recent years, the Taiwanese authorities has made numerous changes to the rules to remove restrictions that may hinder expansion. Major breakthroughs in Taiwan's deregulation have opened up the financial market and made regulations more comprehensive. Since Taiwan has well managed the spread of COVID-19, the investment climate does not have material adverse changes during the pandemic when comparing to most countries.

LEGAL CAPACITY

According to the Civil Code, a person reaches full legal capacity at the age of 20, but such age of full legal capacity will be lowered to 18 pursuant to a recent amendment to the Civil Code coming into force on January 1, 2023. Minors are allowed to own assets received by inheritance, gifts or other gratuitous title ("Separate Property") or take actions appropriate for their age and status according to the necessities of life. However, minors can only enter into contracts with the authorization of their parents or a legal guardian. The parents of a minor may not dispose his/her Separate Property except when it is in the best interests of the minor.

MARRIAGE

According to the Civil Code, the legal age of marriage is 16 for women and 18 for men, but such legal age of marriage will be lowered to 18 for both men and women pursuant to a recent amendment to the Civil Code coming into force on January 1, 2023.

Before or during marriage, spouses may choose to sign a pre-nuptial or post-nuptial agreement to select one of two property regimes: Community Property or Separate Property. In the absence of a contract between the spouses in which they choose a regime, the Statutory Property Regime shall apply.

STATUTORY PROPERTY REGIME

Under the Statutory Property Regime, property of the spouses will be separated into two groups: property acquired before marriage and property acquired during marriage. In general, property acquired prior to marriage will remain under the sole ownership of the respective spouse, and property acquired during marriage will be owned by both spouses jointly. Any property which cannot be proven to be property acquired before marriage shall be presumed to be property acquired during marriage. When the property regime is dissolved, the remainder of the property acquired by the spouses during marriage, after deducting the

debts incurred during the continuance of the marriage, if any, shall be distributed equally between the spouses. The court however has the discretion to adjust the distribution of property among the spouses after considering factors such as household labor, caring and nurturing of the child, the collaboration of contribution to the family, the length of time of living together or separately, the time of receiving the property acquired in marriage or each Party's economic ability.

CONTRACTUAL REGIMES

Under the Community Property Regime, all properties and income of the spouses constitute property owned by them in common. Either party must have the consent of the other prior to disposing the common property.

Under the Separate Property Regime, each spouse retains ownership of his or her own property. Each spouse has the right to exclusively manage, use, dispose of and receive profits from his/her own property.

SAME-SEX MARRIAGE

Same-sex marriage is permitted and recognized in Taiwan. Provisions of the Civil Code concerning matrimonial property regimes apply mutatis mutandis to same-sex marriages.

CIVIL UNION/COMMUNITY PROPERTY

There is no concept of civil union or community property in Taiwan. Couples can only share or inherit property belonging to the other through marriage or valid wills.

INHERITANCE — SUCCESSION PLAN

An heir assumes all rights and obligations pertaining to the estate at the time of the decedent's death unless he/she waives his/her inheritance. Nevertheless, an heir's obligations to debts of the decedent are limited to the extent of the property acquired from the estate. Heirs to property other than the spouse come in the following order: (1) lineal descendants by blood; (2) parents; (3) siblings; and (4) grandparents. Where there are several heirs of the same order, they inherit in equal shares as per capita.

ESTATE PLANNING/WILL

A person may, through the execution of a will, freely dispose property as long as the arrangements of the will do not violate the rules regarding reserved portions of assets for statutory heirs. Five types of wills are valid in Taiwan: (1) holographic wills; (2) notarized wills; (3) sealed wills; (4) dictated wills; and (5) oral wills.

WEALTH PLANNING CONSIDERATIONS IN TAIWAN

FORCED HEIRSHIP

A person cannot disinherit forced heirs without cause. The rule guarantees to certain heirs a portion of the estate that cannot be freely assigned by the deceased by means of gifts during his/her lifetime or through testament. If the decedent makes a gift in his/her will to another beneficiary that results in an heir receiving less than his/her entitled reserved portion, the heir has the right to claim the deficit amount from the beneficiary.

B. TAX UPDATES

Key Tax Attributes in Taiwan

INDIVIDUAL TAX RATES

Personal Income Tax (“PIT”) is levied on a territorial basis. That is, resident and non-resident individuals are only liable to income tax on the Taiwan-sourced income they derive, unless exempted under the provisions of the Income Tax Act (“ITA”) and other related rules. Progressive tax rates of PIT range between 5% and 40%.

A foreign individual is considered a tax resident in Taiwan if he/she stays 183 days or more in Taiwan in the calendar year. Nonresident individuals will be subject to PIT at a flat rate of 18% on wages and salaries and 20% on commissions, rental income, royalties, professional fees, and prizes or awards. Interest income is generally subject to PIT at 20%, but a reduced rate of 15% applies on interest income from certain debt instruments. A non-resident tax return should be filed.

CORPORATE TAX RATES

Companies incorporated in Taiwan, or with their head office in Taiwan (i.e., including a private investment holding company), should be viewed as tax residents for tax purposes and are subject to Corporate Income Tax (“CIT”) on worldwide income. Since January 1, 2018, the standard CIT rate has been 20%.

ALTERNATIVE MINIMUM TAX (AMT)

Taiwan resident individuals are subject to AMT at 20% if deriving certain add-back items specified under the AMT regime (e.g., foreign-source income). General deductions are not allowed for AMT purposes, but an exclusion amount of TWD 6.7 million can be deducted for AMT calculation purposes. Taxpayers must pay the greater of the ordinary income tax liability or the AMT liability.

Taiwan resident companies, as well as Taiwan branches of foreign companies, would be subject to AMT if deriving certain add-back items specified under the AMT regime (e.g., capital gains from qualified securities and future transaction). The AMT rate is 12% and TWD 500,000 can be deducted for AMT calculation purposes. Companies must pay the greater of the corporate income tax liability or the AMT liability.

CONTROLLED FOREIGN COMPANY

Under Taiwan Controlled Foreign Company (“CFC”) regime, which will take effect from 2023, in principle if a Taiwan shareholder (individual or company) and its related parties directly/indirectly hold 50% or more of shares/capital in a foreign company incorporated in a low-tax jurisdiction, or the Taiwan shareholder has a significant influence on such foreign company, the foreign company generally will be a CFC of the Taiwan shareholder. The criteria for individuals and company meeting the CFC regime is quite complex and should be assessed separately.

The CFC regime requires a Taiwan shareholder to include in current income its pro rata share of the CFC’s earnings for CIT and AMT (for both individual and corporate shareholders) calculation purposes even if the earnings were not distributed to the Taiwan shareholder, unless the “Safe Harbor” rules are met.

INCOME TAX SYSTEM FOR INVESTMENTS

CAPITAL GAINS

Capital gains on disposal of Taiwanese qualified securities and futures by resident companies and non-resident companies with a fixed place of business or a business agent in Taiwan are exempt from CIT. They are, however, subject to income basic tax at 12% under the AMT regime, with an exemption amount of TWD 500,000. Capital losses may be deducted against capital gains and carried forward for five years. 50% of capital gains can be tax exempted should the securities be held for more than three years. Capital gains on disposal of Taiwanese qualified securities and futures by resident individuals are exempt from PIT and AMT. Capital gains on disposal of Taiwanese qualified securities and futures by non-resident individuals and companies without a fixed place of business in Taiwan are exempt from income tax and AMT. In addition, securities transaction tax and futures transaction tax are levied on the transfer price payable by sellers in both scenarios.

WEALTH PLANNING CONSIDERATIONS IN TAIWAN

DIVIDEND INCOME

Intercompany dividend distributions between resident companies are exempt from CIT in the hands of the recipient company. However, dividends received by a resident company from its non-resident subsidiaries should be taxable. In such cases, the foreign dividend With Holding Tax (WHT) paid may be claimed as a credit against the Taiwan CIT liability of the company. For resident individual shareholders, the domestic dividend income is subject to PIT, and the foreign dividend income is subject to AMT.

As for non-resident shareholders (both corporate and individuals) receiving dividends distributed by Taiwan companies, domestic dividend WHT should apply at a rate of 21%, which may be reduced under an applicable double taxation agreement.

INTEREST INCOME

Interest income received by resident individuals and companies, or nonresident companies with a fixed place of business in Taiwan, is subject to domestic WHT at a rate of 10%. For non-resident individuals and non-resident companies without a fixed place of business in Taiwan, interest income derived from commercial paper and certain interest-bearing financial instruments will be subject to WHT in Taiwan at 15%. Other types of interest income is subject to 20% WHT.

ASSET TAX

The transfer of land in Taiwan is currently subject to Land Value Incremental Tax (LVIT). LVIT is levied on the current assessed land value increment from the transfer of land at rates ranging from 20% to 40%. Tax reduction for long-term possession may be granted.

Moreover, House And Land Transaction Income Tax (HLTIT) applies to the gains derived from sale of real estate acquired after January 1, 2016 and direct/indirect transfer of shares/capital in a real estate-rich company (excluding listed companies) under certain conditions. Based on the holding period for the real estate or the shares/capital, the applicable tax rates are as follows:

TAX RATE FOR A RESIDENT COMPANY:

Holding period falls within 2 years: 45%

Holding period between 2-5 years: 35%

Holding period exceeds 5 years: 20%

TAX RATE FOR A NON-RESIDENT COMPANY:

Holding period falls within 2 years: 45%

Holding period exceeds 2 years: 35%

There are other transfer taxes associated with sale of real property: The contract for the sale of real estate would be subject to stamp duty at 0.1% on the government-assessed value of the land and building. A deed tax of 6% is also levied on deeds executed in connection with the sale of buildings. This tax is imposed on the government-assessed value of the building. Furthermore, the transfer of building should be subject to Value Added Tax (VAT) at 5% of the value of the building, but the transfer of land is exempt from VAT.

In holding real estate, the owner should bear house tax and Land Value Tax (LVT). House tax is imposed on all buildings in Taiwan at varying rates, depending on their classification. LVT is levied on land value assessed and publicly announced by the relevant local government authority depending on the use of the land.

STAMP DUTY

Stamp Duty (SD) tax is levied on documents and contracts executed within Taiwan. Cash receipts, for example, are subject to SD of 0.4% of the receipt amount. Contractual agreements are charged SD applicable 0.1% of the contract value, and contracts for real property are charged SD of 0.1% on the government-assessed value of the land and building. Movable properties are charged a fixed SD of TWD 12 per contract.

GIFT TAX

Gift tax is based on all property transferred annually and includes:

- Gifts made by a Taiwanese citizen who regularly resides in Taiwan, irrespective of whether the property gifted is located within or outside Taiwan.
- Gifts made by a Taiwanese citizen who resides outside Taiwan regularly, or who is not a Taiwanese citizen, only if the property given away is located within Taiwan.



WEALTH PLANNING CONSIDERATIONS IN TAIWAN

Generally, the taxpayer is the donor; however, in certain circumstances, the recipient could also be the taxpayer.

The total gift is valued according to the prescribed property value prevailing at the time of transfer and is subject to gift tax as follows:

NET TAXABLE GIFT AMOUNT (TWD)	TAX RATE
0–25,000,000	10%
25,000,001–50,000,000	15%
50,000,001+	20%

There are exemption thresholds and prescribed deductions for gift tax.

ESTATE TAX

Estate tax is based on all property transferred at death. The scope of estate tax covers the following:

- Property left by the deceased who was a Taiwanese citizen and regularly resided in Taiwan, irrespective of whether the location of the property is within or outside Taiwan.
- Property left by the deceased who was a Taiwanese citizen but resided outside Taiwan regularly, or who was not a Taiwanese citizen, only when the property is located within Taiwan.

The total estate is valued according to the prescribed property value prevailing at the time of death and is subject to estate tax as follows:

NET TAXABLE ESTATE AMOUNT (TWD)	TAX RATE
0–50,000,000	10%
50,000,001–100,000,000	15%
100,000,001+	20%

BUSINESS TAX

Business tax is an indirect tax that is imposed on the sale of goods and services supplied and/or utilized within Taiwan, as well as the importation of goods into Taiwan according to the Taiwan Business Tax Act (BTA). There are two Business Tax systems that apply to specific financial institutions: (1) Value Added Tax (VAT); and (2) Gross Business

Receipts Tax (GBRT). The VAT standard tax rate is currently 5%. The rate for GBRT depends on the sector the taxpayer operates in as well as the taxable item, but it should not be higher than 5%.

FOREIGN-INVESTMENT APPROVED (FIA) COMPANY

FIA INVESTMENTS

There are restrictions and regulations for foreign individuals and entities to invest in Taiwanese companies. Foreign Investment Approved (FIA) investments require approval from the Investment Commission, Ministry of Economic Affairs, pursuant to the Statute for Investment by Foreign Nationals, or the Statute for Investment by Overseas Chinese. FIA status brings the following privileges:

- The requirement that at least one supervisor shall have a domicile within Taiwan does not apply in FIA companies;
- Protection is guaranteed for 20 years against government divestiture if the foreign investment in an enterprise is 45% or more of the total paid-in capital; and
- If the foreign investment in an enterprise generates 45% or more of the total paid-in capital, the enterprise may be exempt from the requirement that 10–15% of capital shares be retained for the subscription of its employees when the enterprise is going to raise additional funds to issue new shares.

C. TAX REPORTING AND OBLIGATION

All Taiwan resident companies, as well as foreign companies with a permanent establishment in Taiwan, must file annual CIT returns with the tax authority no later than five months after the end of the tax year, and no extension is permitted.

For resident individuals, a PIT return is required to be filed by May 31 of the following year, with no extension.

INCOME TAX AGREEMENTS

Taiwan has signed Double Taxation Agreements (DTAs) with the following 34 jurisdictions: Poland, Canada, Japan, Italy, Austria, Luxembourg, Kiribati, Thailand, Germany, Switzerland, Slovakia, India, France, Hungary, Paraguay, Israel, Denmark, Belgium, Sweden, Senegal, United Kingdom, the Netherlands, North Macedonia, Malaysia, Eswatini, Gambia, Vietnam, New Zealand, Australia, South Africa, Indonesia, Singapore, Czech Republic, and Saudi Arabia.

WEALTH PLANNING CONSIDERATIONS IN TAIWAN

EXCHANGE OF INFORMATION

The Legislative Yuan passed amendments to Articles 5-1 and The Legislative Yuan passed amendments to Articles 5-1 and 46-1 of the Tax Collection Act on May 26, 2017, establishing the legal basis for implementation of automatic exchange of information for tax purposes. In September 2020, the Ministry of Finance in Taiwan has carried out the first exchange of financial account information with Japan and Australia. The Ministry of Finance is actively conducting discussions with other contracting parties for cooperation in automatic exchange of financial account information. On April 16, 2021, United Kingdom was added to the list of the jurisdictions.

FOREIGN EXCHANGE RULES

Taiwan's central bank imposes a foreign exchange limitation of USD 50,000,000 per year for business entities and USD 5,000,000 per year for individuals, with respect to any foreign exchange, both inward and outward, other than trading or service revenue. If the settlement of foreign exchange purchased or sold exceeds the limit, it may not be processed until approval is obtained from the Central Bank by submitting the declaration statement along with evidencing documents through banking enterprises.

FATCA

On December 22, 2016, the government of the United States and Taiwan authorities signed an agreement implementing Model 2 FATCA. The Model 2 agreement requires financial institutions to disclose account details directly to the IRS with the consent of the U.S. clients concerned.

CRS

On November 16, 2017, the Ministry of Finance in Taiwan announced Regulations Governing Common Reporting for Financial Institutions. Under this regulation, CRS was implemented in 2019 and exchange of information with foreign countries started in 2020.

IMMIGRATION OPTIONS

In general, unless a person has the right of abode in Taiwan, a visa must be obtained before entering Taiwan. Foreign nationals may enter Taiwan with a visitor visa, a resident visa, a diplomatic visa or a courtesy visa, depending on the purpose of the person's entry into Taiwan. Foreign individuals entering Taiwan to perform work under an agreement/contract with a local company for more than one month will be required to obtain a work permit in order to be able to work in Taiwan. Once a work permit has been granted, the foreign national working in Taiwan is required to apply for an Alien Resident Certificate (ARC), which will contain the foreign staff's local tax identification number for tax filing purpose.



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ABOUT KPMG

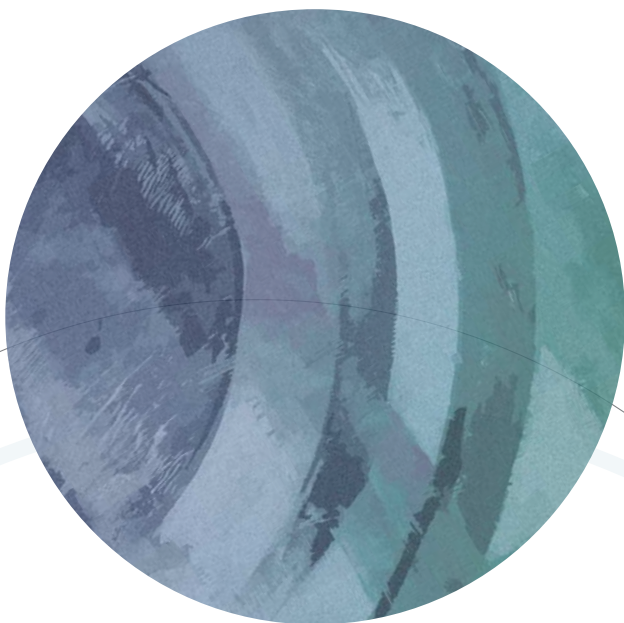
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LEGAL SERVICES

KPMG Law Firm has assembled a unique team of highly qualified professionals in our key service areas. Our legal professional team is currently led by our partners and executive consultants, Jerry Cho (as managing partner), Alan Jih, Lawrence Ong, Kelvin Chung, Eugenia Chuang, James Huang and David Huang. Our firm has forged solid and close strategic alliances with the established and reputable accounting, tax and finance teams of KPMG in Taiwan. Going forward, KPMG Law Firm will collaborate with the professional teams of KPMG in Taiwan and KPMG member firms across the globe on the goal of fully supporting clients to compete in today's fast-changing global marketplace with our value-added and wide-ranging professional solutions combining legal, accounting, finance and tax advisory services.

TAX AND INVESTMENT SERVICES

KPMG's Tax and Investment Services team has access to a global network whereby it obtains updates on the latest tax laws from around the world. The team applies robust project management practices and abundant industry experience to perform comprehensive taxation risk assessments and tax management services for customers, depending on their individual tax requirements. The KPMG Tax team's professional services include dispute resolution and controversy services; international tax services; global transfer pricing services; global mobility services; tax management consulting; BEPS and VCM advisory services; tax agency services for Foreign Institutional Investors (FINIs); family (individual) estate tax advisory services; China tax advisory services; Japanese tax services; investment and registration services; accounting; tax and payroll outsourcing services; and financial services tax (including FATCA and CRS).



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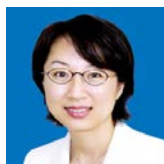
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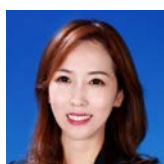
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WEALTH PLANNING CONSIDERATIONS IN TAIWAN



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