Property tenure/ownership

Property ownership in Taiwan, also known as the Republic of China, is mainly freehold. Long-term leaseholds are becoming more common, particularly in Taipei City and for government build-operate-transfer infrastructure projects, where superficies are granted to superficiaries.

Generally, leasehold titles cannot be longer than 20 years. However, superficies can have 35-year to 50-year terms, and some can have 70-year terms. Renewal options are dependent on specific contract terms.

Strata ownership in large urban properties is common. The Regulations on Management of Apartment Buildings were promulgated in June 1995 and are being used to standardise building management and maintenance. Property titles outline specific ownership of areas in the buildings, including ownership of the percentage of land and common areas.

The market for leasing commercial, retail and residential properties is active. Lease terms are generally for two to five years for commercial and retail properties, and one year or more for residential properties.

To make transaction prices of real estate more transparent and accessible to the public, effective on August 1, 2012, the Ministry of the Interior (MOI) established a registration system under which the purchaser, land administration agent (i.e., scrivener) or broker of a given real property transaction must register the actual transaction price of real estate within 30 days of the completion of the title transfer.

Restrictions on foreign ownership

Foreign individuals and companies (except for nationals and companies of the People’s Republic of China or PRC that are subject to certain restrictions) are allowed to buy real estate in Taiwan, subject to government approval. Approval is conditional on a reciprocal arrangement, whereby Taiwanese individuals and companies are allowed to buy real property in the home country of the foreign individual or the country where the foreign company maintains its head office.

Since 2002, PRC nationals and companies may also invest in real property in Taiwan if they meet certain conditions. To be eligible, PRC investors must apply to the Investment Commission of the Ministry of Economic Affairs (MOEA) and/or the MOI. On November 26, 2013, the MOI promulgated certain control measures aimed at controlling the total volume of PRC individuals’ investments in real estate, which took effect from 2014. Subject to the relevant laws and regulations (such as the Regulations on Permission of the Acquisition, Creation or Transfer of Property Rights of Real Estate in Taiwan by PRC People), PRC individuals may purchase real estate in Taiwan, either individually or collectively, provided that the purchase(s) shall not exceed a total area of 13 hectares and a total of 400 buildings per year, and also provided that the overall purchases of real estate in Taiwan made by such PRC individuals shall not, at any given time, exceed a total land area of 1,300 hectares and a total of 20,000 buildings.

Companies established in Taiwan by foreign investors, also referred to as foreign investment approval (FIA) companies, may purchase or lease real property for their operations in Taiwan.

Major property legislation

- Land Act
- Land Tax Act
- Deeds Tax Act
- House Tax Act
- Urban Planning Act
- Regulations on Urban Renewal
- Building Act
- Regulations on Management of Apartment Buildings
- Management Rules for Hillside Buildings
- Management Rules for Interior Fixtures of Buildings
- Regulations on Permit for PRC Citizens to Acquire, Create or Transfer Real Property Rights in Taiwan
- Rules on Superficies on State-owned Non-public Land
- Statute for Investment by Foreign Nationals
- Statute for Investment by Overseas Chinese
- List of Negative Investments by Overseas Chinese and Foreign Nationals
- Act for Promotion of Private Participation in Infrastructure Projects
- Civil Code

Forms of foreign corporations

A foreign company may establish a presence in Taiwan in any of the following forms:

- Subsidiary (a limited company or a company limited by shares)
- Branch office
- Representative office (for conducting non-profit generating activities only)

Different forms of companies have different tax and legal implications, particularly when remitting funds out of Taiwan.
Registration/licencing requirements
Before commencing operations, foreign firms are required to register with the following agencies:

- Department of Commerce, MOEA
- Local city or county government where the business is to be located
- Bureau of Foreign Trade (if it is an importer/exporter)
- Local tax office

Foreign employment limitations
Foreign nationals have to meet certain academic and/or work experience criteria to be eligible for a work permit to engage in office work in Taiwan. To obtain a work permit, a foreign national must:

- Have a master’s degree in a related field
- Have a bachelor’s degree and at least two years of experience in a related field
- Have passed one of the exams conducted by the Taiwan government in accordance with the Act for Conducting Examinations for Professional Occupations or Technicians
- Have worked for a multinational enterprise for at least one year and be assigned by such enterprise to Taiwan
- Have been trained or studied by himself/herself, and have at least five years of experience in a related field with proven track records

Investment incentives
The Act for Promotion of Private Participation in Infrastructure Projects provides preferential tax treatment and financing treatment for investors of infrastructure projects. Also, under this legislation, the Taiwan government will assist investors in acquiring land necessary for infrastructure projects.

Restrictions on foreign property ownership
Foreigners are prohibited from owning any of the following land:

- Forestry land
- Fisheries
- Hunting grounds
- Salt fields
- Land with mineral deposits
- Sources of water
- Land within fortified and military areas
- Land adjacent to national frontiers

Foreign exchange controls
Each company in Taiwan may remit into and out of Taiwan USD 50 million per year. If the aggregate amount of remittances exceeds USD 50 million, approval must be obtained from the Central Bank of the Republic of China (Taiwan).

There are no foreign exchange limits for investment, trade or insurance premium payments by foreign companies in Taiwan, provided that their investments in Taiwan have been approved by the relevant authorities.

Taxes on possession and operation of real estate
House tax
House tax is an annual tax assessed on all buildings and houses. It ranges from 1.2 percent to 5 percent of the current assessed value of the house, depending on the type of use.

<table>
<thead>
<tr>
<th>Purposes</th>
<th>Statutory rate (%)</th>
<th>Actual rates enforced (%)*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Min. rate</td>
<td>Max. rate</td>
</tr>
<tr>
<td>For residential purposes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Used by the owner himself/herself, his/her spouse or relatives of a direct second lineage of the household or leased for public welfare purposes</td>
<td>1.2</td>
<td>1.2</td>
</tr>
<tr>
<td>Not occupied by the owner, his/her spouse or relatives of a direct lineage of the household</td>
<td>1.5</td>
<td>3.6</td>
</tr>
<tr>
<td>For non-residential purposes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Used for business purposes</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Used as a private hospital or clinic, or as a professional office</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Used as the premises for the operation of a non-profit civic organisation</td>
<td>1.5</td>
<td>2.5</td>
</tr>
</tbody>
</table>

* Actual rates enforced are fixed within the minimum and maximum rates above by the government of each special municipality (i.e., Taipei City, New Taipei City, Taichung City, Tainan City and Kaohsiung City, collectively referred to as “special municipality”), county or city, approved by the local people’s assembly and submitted to the Ministry of Finance (MOI) for record purpose.
Land value tax
Land value tax is payable on an annual basis to the local county or special municipality. The tax ranges roughly from 1 percent to 5.5 percent, based on a comparison of the starting cumulative value (SCV) and the current government-assessed land value (LV), as follows:

<table>
<thead>
<tr>
<th>Formula</th>
<th>Conditions</th>
<th>Applicable formula (land value tax)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LV ≤ SCV</td>
<td>LV x 1%</td>
</tr>
<tr>
<td>2</td>
<td>5 x SCV ≥ LV &gt; SCV</td>
<td>(LV x 1.5%) – (SCV x 0.5%)</td>
</tr>
<tr>
<td>3</td>
<td>10 x SCV ≥ LV &gt; 5 x SCV</td>
<td>(LV x 2.5%) – (SCV x 6.5%)</td>
</tr>
<tr>
<td>4</td>
<td>15 x SCV ≥ LV &gt; 10 x SCV</td>
<td>(LV x 3.5%) – (SCV x 17.5%)</td>
</tr>
<tr>
<td>5</td>
<td>20 x SCV ≥ LV &gt; 15 x SCV</td>
<td>(LV x 4.5%) – (SCV x 33.5%)</td>
</tr>
<tr>
<td>6</td>
<td>LV &gt; 20 x SCV</td>
<td>(LV x 5.5%) – (SCV x 54.5%)</td>
</tr>
</tbody>
</table>

The SCV is a constant figure set by the government for each county or special municipality. The LV is assessed by the government every three years.

Taxes on acquisition and transfer of real estate

Stamp tax and legal costs
Stamp tax is charged on sales and transfers of deeds or real estate. The stamp tax is 0.1 percent of the contract price or the real estate value and is usually paid by the purchaser. It is usual practice for each party to bear its own legal costs in a property transfer transaction.

Deed tax
Deed tax is assessed on all immovable property located on land, including houses, buildings and other fixtures. Different rates apply for different forms of exchange:

<table>
<thead>
<tr>
<th>Conditions</th>
<th>Rate (% of value of the deed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>On a purchase</td>
<td>6%</td>
</tr>
<tr>
<td>On a Dien</td>
<td>4%</td>
</tr>
<tr>
<td>On an exchange</td>
<td>2%</td>
</tr>
<tr>
<td>On a bestowal or a donation</td>
<td>6%</td>
</tr>
<tr>
<td>On a partition</td>
<td>2%</td>
</tr>
<tr>
<td>On a possession</td>
<td>6%</td>
</tr>
</tbody>
</table>

Capital gains tax and land value increment tax
Capital gains from the sale of real property other than land are treated as regular income and taxed at a corresponding personal or corporate income tax rate. Gains from the sale of land are exempt from income tax, but are assessed under land value increment tax (LVIT).

LVIT is levied on the sale of land. LVIT is based on the increase in the government-assessed value (GAV) of the land component of the property during the ownership period, adjusted by the consumer price index. LVIT rates range from 20 percent to 40 percent, depending on the amount of appreciation in GAV. The exact tax liability is established via the application of a complex formula, which takes into account the holding period (for increases in GAV of 100 percent or more only). The holding period discounts are available where the subject property has been held for more than 20 years, more than 30 years or more than 40 years.

<table>
<thead>
<tr>
<th>Formula</th>
<th>Increase in GAV</th>
<th>LVIT rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Less than 100%</td>
<td>20%</td>
</tr>
<tr>
<td>2</td>
<td>100% to less than 200%</td>
<td>30%</td>
</tr>
<tr>
<td>3</td>
<td>200% and above</td>
<td>40%</td>
</tr>
</tbody>
</table>

Under Taiwan’s current tax regulations, capital gain from the sale of land is generally exempt from income tax, but is subject to the LVIT only. However, the LVIT has long been an underestimate, as the GAV used for calculating the LVIT is usually much lower than the actual transaction price. Hence, it is proposed under a new tax scheme that the capital gain from the sale of land, after deducting the increase in the land value (which would still be subject to the LVIT), will be subject to income tax unless any of the statutory exemptions applies. As a result, the tax to be borne by the seller under the new tax scheme would probably be substantially higher than that under the current tax scheme. The establishment of the new tax scheme remains pending, as currently, the new tax scheme is still under review by the government and will have to go through three readings of the Legislative Yuan.

Selective commodities and services tax
The Statute for Selective Commodities and Services Tax (“Statute”) took effect on June 1, 2011, last amended on January 7, 2015.
According to the Statute, any seller who sells real property, including:
- A building and the land on which the building is located
- A piece of urban land for which a building permit can be issued
- A piece of nonurban land located at industrial zone for which a building permit can be issued, within one or two years of acquiring the same, is subject to the Selective Commodities and Services Tax (the so-called “luxury tax”) at 10 percent or 15 percent, respectively, of the sum of the sale price and the value added tax (VAT) payable for the sale.

Luxury tax is a special tax payable by sellers in addition to the regular taxes payable on the sale of a property.

**Value added tax/goods and services tax**

Taiwan has a 5 percent VAT on most goods and services.

**Tax depreciation**

Depreciation of fixed assets is calculated based on the depreciation periods prescribed in the Revised Table of Service Life of Fixed Assets (固定資產耐用年數表), as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Service life</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings for use as office, stores, residences, public places and others not otherwise classified.</td>
<td></td>
</tr>
<tr>
<td><strong>1. Reinforced concrete construction, prefabricated concrete construction</strong></td>
<td>50 years</td>
</tr>
<tr>
<td><strong>2. Reinforced brick construction</strong></td>
<td>35 years</td>
</tr>
<tr>
<td><strong>3. Brick construction</strong></td>
<td>25 years</td>
</tr>
<tr>
<td><strong>4. Metal construction (with cover treatment)</strong></td>
<td>20 years</td>
</tr>
<tr>
<td><strong>5. Metal construction (without cover treatment)</strong></td>
<td>15 years</td>
</tr>
<tr>
<td><strong>6. Wooden construction</strong></td>
<td>10 years</td>
</tr>
</tbody>
</table>

Current tax regulations allow the straight-line method, fixed-percentage method, sum-of-years-digits method, production method, working-hour method, and other depreciation methods approved by the competent authorities. Businesses are required to report to the national tax administration before they adopt any method other than straight-line. If no report is submitted, the business will be assumed to have opted for the straight-line method.

**Corporate taxation**

FIA companies are subject to tax at the same rates as Taiwan companies. FIA companies are subject to a withholding tax on their gross income.

Corporate tax is based on a progressive scale, as follows:

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Tax rate</th>
</tr>
</thead>
</table>
| Less than TWD 120,000 (USD 4,000)
| Exempt from tax |
| More than TWD 120,000 (USD 4,000)
| 17% of total taxable income, but the tax payable shall not exceed 50% of the portion of taxable income above TWD 120,000 (USD 4,067) |

Net losses can be carried forward for a maximum of 10 years, and cannot be carried back.

**Personal taxation**

Both residents and non-residents are taxed on Taiwan-sourced income only. Residency only determines how they will be taxed. After January 1, 2010, a Taiwan resident must include his/her non-Taiwan-sourced income in the calculation of his/her basic income, unless the sum of his/her non-Taiwan-sourced income received in a calendar year does not exceed TWD 1 million (USD 33.33 million).

Individuals who were in Taiwan for at least 183 days during a calendar year are treated as residents for income tax purposes and taxed at progressive marginal rates, as follows (for the taxable year of 2014):

<table>
<thead>
<tr>
<th>Taxable income</th>
<th>Tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>TWD 0–520,000 (USD 0–17,333)</td>
<td>5%</td>
</tr>
<tr>
<td>TWD 520,001–1,170,000 (USD 17,333–39,000)</td>
<td>12%</td>
</tr>
<tr>
<td>TWD 1,170,001–2,350,000 (USD 39,000–78,333)</td>
<td>20%</td>
</tr>
<tr>
<td>TWD 2,350,001–4,400,000 (USD 78,333–146,667)</td>
<td>30%</td>
</tr>
<tr>
<td>TWD 4,400,001 (USD 146,667) and above</td>
<td>40%</td>
</tr>
</tbody>
</table>

The taxable income of residents includes salary, professional fees, royalties, rental income, gains from property transactions, dividends, company profits, interest, prizes and awards, and payments relating to retirement, severance and resignation. Some personal exemptions and deductions are allowed.

1 The USD amounts in this Chapter are calculated at USD 1 to TWD 30 and for reference only.
Individuals who are in Taiwan for less than 183 days during a calendar year (i.e., non-residents for income tax purposes) are liable for a withholding tax on gross income at a flat rate of 20 percent, but if a non-resident who stays in Taiwan for 90 days or less in a taxable year receives remunerations for services provided from an offshore employer, such income will not be considered the non-resident’s Taiwan-sourced income.

Real Estate Investment Trusts

Introduction
Taiwan passed the Real Estate Securitization Act (RESA) in 2003. The MOI has also issued administrative guidelines that support the legislation. The RESA provides for the creation of two categories of real estate securities—real estate asset trusts (REATs) and real estate investment trusts (REITs). The difference between a REALT and a REIT lies in how they are established.

A REIT is created by a trust enterprise that invites investors to participate in the trust, based on the trustees’ REIT plan and prospectus. The trustee raises cash from the sale of certificates of beneficiary and then uses the funds raised to acquire real estate.

A REALT is created by the transfer of real estate from the owner (the sponsor/originator) to the trustee, who, in turn, launches a unit trust of certificates of beneficiary. These securities may then be traded, subject to certain rules and restrictions, in the same manner as REITs. Real estate contributed to a fund may be transferred back to the originator at the end of the REALT’s term or sold in the open market, as stipulated by the trust agreement. To date, REALTs have mainly been used in relation to commercial real estate deals.

The Fubon No. 1 REIT was the first REIT listed on the Taiwan Stock Exchange in March 2005. The Fubon No. 1 REIT raised TWD 5.83 billion (USD 194.3 million) to acquire two office buildings, an apartment building and a commercial building in Taipei City. As of January 23, 2015, there are seven REITs listed on the Taiwan Stock Exchange.

REITs will be closed-end funds, unless prior approval is obtained from the Financial Supervisory Commission.

The following rules apply to both REITs and REALTs, unless otherwise stated.

Restrictions
1. Originators/sponsors
   • The owner of the property that will be acquired by a REIT may purchase the certificates of beneficiary. However, once the REIT is established, the originator/sponsor will be subject to a lock-in period of one year.
2. Establishment of the trustee
   • To be eligible to act as a trustee of a REIT, an entity must have a paid-up capital of TWD 1 billion (USD 33.33 million).
   • To be eligible to act as a trustee of a REALT, an entity must have a paid-up capital of TWD 300 million (USD 10 million).

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3. Fund restrictions

- There are no specific restrictions on the minimum fund size, only practical limitations concerning where and how such securities can be traded.
- REITs with assets of TWD 3 billion (USD 100 million) or more are eligible to be listed on the Taiwan Stock Exchange. REITs with assets of TWD 2 billion (USD 66.67 million) or more are eligible to be listed on the over-the-counter (OTC) market.
- REATs with assets of TWD 500 million (USD 16.67 million) or more are eligible to be listed on the Taiwan Stock Exchange or the OTC market.
- Any five beneficiaries, except for the independent institutional investors under the RESA, must not own more than 50 percent of the beneficial securities in a REIT or more than 50 percent of the preferred stock in a REAT.

4. Asset restrictions

- Over 75 percent of a REIT’s assets must be invested in real estate or other real estate-related rights under development or generating stable income, real estate securities, government bonds, or cash.
- Not more than 40 percent of a REIT’s assets or TWD 600 million (USD 20 million) can be held in securities other than real estate securities.
- REITs and REATs cannot buy vacant land without a development plan. The RESA requires trusts to invest for the purpose of earning stable income.
- Idle funds can be invested in bank deposits, government securities, bonds issued by financial institutions, treasury notes, negotiable certificates of time deposit, and commercial papers of companies with an acceptable credit rating or guaranteed by banks with an acceptable credit rating, or other financial products approved by the competent authorities only.
- The RESA does not prohibit a trust from investing outside Taiwan.
- A fund cannot own more than 10 percent of another fund.
- A fund cannot invest more than 10 percent of its assets in another fund.

5. Dividends

- The fund’s net income should be distributed as dividends within six months of the end of the financial year.

6. Borrowing

- The RESA does not specify borrowing limits.

7. Private funds

- In addition to public offerings, the RESA provides for the creation of private funds.
- Private funds must have less than 35 members. Individual investors of private funds must (1) present proof of financial capacity, i.e., having at least TWD 30 million (USD 1 million), or a statement undertaking that his or her total assets exceed TWD 30 million (USD 1 million) if he/she invests in beneficiary securities worth more than TWD 3 million (USD 0.1 million), and his/her total assets at the trustee, including deposits and investments (including the said investment), is worth more than TWD 15 million (USD 500,000); and (2) have sufficient professional knowledge or experience in trading financial products. Corporations investing in private funds must have assets over TWD 50 million (USD 1.67 million).
- Restrictions on borrowing, liquidity ratios, appraisal regulations, investment plans, control reports and execution records and other such restrictions on public funds do not apply to private funds.

Taxation

Taiwan residents and foreign companies with a business presence in Taiwan are subject to a withholding tax of 10 percent on their dividend income from the trust; this income is not consolidated in their annual taxable income. A 15 percent withholding tax rate is levied on distributions of dividends from the trust to non-Taiwan residents and foreign companies without a business presence in Taiwan, provided, however, that this rate may be reduced under the terms of a tax treaty.

The sale and purchase of REAT and REIT securities are exempt from the Securities Transaction Tax. No capital gains tax is applied on the sale of the securities by investors or on the sale of real estate by the trusts. The transfer of property from an originator to a REAT trustee will be exempt from LVIT, provided that the REAT is required to return the entrusted property to the originator upon termination of the trust.
### Common Terms of Lease for Tenancy Agreements

<table>
<thead>
<tr>
<th><strong>Unit of measurement</strong></th>
<th>Ping (1 ping = 3.3 sqm = 35.58 sq ft)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Rental payments</strong></td>
<td></td>
</tr>
<tr>
<td>Rents</td>
<td>NTD/ping/month on the landlord’s stated gross area</td>
</tr>
<tr>
<td>Typical lease term</td>
<td>3-5 years; longer terms of up to 10 years are sometimes available for large-space users (but not typical)</td>
</tr>
<tr>
<td>Frequency of rent payable (in advance)</td>
<td>Monthly</td>
</tr>
<tr>
<td>Typical rent deposit (expressed as x months rent)</td>
<td>3-6 months</td>
</tr>
<tr>
<td>Security of tenure</td>
<td>Only for the duration of the tenancy, no guarantee beyond the original lease term</td>
</tr>
<tr>
<td>Does tenant have statutory rights to renewal</td>
<td>Reinstated to original condition</td>
</tr>
<tr>
<td>Basis of rent increases or rent review</td>
<td>Reinstated to original condition</td>
</tr>
<tr>
<td>Frequency of rent increases or rent review</td>
<td>At lease renewal or every 2-3 years</td>
</tr>
<tr>
<td><strong>Service charges, operating costs, repairs and insurance</strong></td>
<td></td>
</tr>
<tr>
<td>Responsibility for utilities</td>
<td>Electricity and telecommunication consumption are separately metered and payable by each tenant; water consumption is included in the management charges</td>
</tr>
<tr>
<td>Car parking</td>
<td>Held under a separate monthly lease for an additional rent</td>
</tr>
<tr>
<td>Responsibility for internal repairs</td>
<td>Tenant</td>
</tr>
<tr>
<td>Responsibility for repairs of common parts (reception, lifts, stairs, etc)</td>
<td>Landlord reinstated to original condition</td>
</tr>
<tr>
<td>Responsibility for external/structural repairs</td>
<td>Landlord reinstated to original condition</td>
</tr>
<tr>
<td>Responsibility for building insurance</td>
<td>Landlord reinstated to original condition</td>
</tr>
<tr>
<td><strong>Disposal of leases</strong></td>
<td></td>
</tr>
<tr>
<td>Tenant subleasing &amp; assignment rights</td>
<td>Reinstated to original condition</td>
</tr>
<tr>
<td>Tenant early termination rights</td>
<td>Reinstated to original condition</td>
</tr>
<tr>
<td>Tenant’s building reinstatement responsibilities at lease end</td>
<td>Reinstated to original condition</td>
</tr>
</tbody>
</table>

Source: JLL
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