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CPA ASSOCIATES INTERNATIONAL

Doing Business in Taiwan 2019

By Yangtze CPAs & Co., Taichung, Taiwan
February 2019

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January 2019- by Yangtze CPAs & Co.



TABLE OF CONTENTS

1. GENERAL DATA ON TAIWAN	3
2. LEGAL SYSTEM	4
3. FOREIGN INVESTMENT	4
4. MOST COMMON FORMS OF BUSINESS ENTITIES.....	4
4.1 Representative Office	4
4.2 Branch	5
4.3 Company	5
5. TAXATION	7
6. LABOR RELATED REGULATIONS	12
6.1 Working Hours	12
6.2 Leaves	12
6.3 Retirement	12
6.4 National Health Insurance	13
6.5 Labor Insurance	13
7. ACCOUNTING AND AUDIT REQUIREMENTS	14
7.1 Accounting standards	14
7.2 Audit requirements of financial statements	14
7.3 Audit requirements of tax returns	14

1. GENERAL DATA ON TAIWAN

Population	:	Approximately 23.5 million
GDP	:	US\$ 575 billion
GDP Per Capita	:	US\$ 24,408
Currency	:	New Taiwan Dollar (US \$1=NT \$30.56 as of Dec 31, 2018)
Land Area	:	Approximately 36,000 sq. km
Industrial Outline	:	<ol style="list-style-type: none">1. Electronics technology2. Communications technology3. Optoelectronics technology4. Information technology5. Machinery technology6. Transportation technology7. Automation technology8. Biopharmaceutical technology
Emerging Industries	:	<ol style="list-style-type: none">1. Biotechnology2. Medicine and health care3. Culture and creation4. Tourism5. Green energy6. High-end agriculture
Government	:	Taiwan is a constitutional democratic country ruled by the laws. The Constitution guarantees various rights and freedoms to all citizens. Government is divided into central, provincial and municipal, as well as county and city levels. The central government consists of the Office of the President and five branches (called “Yuan”)—the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Examination Yuan, and the Control Yuan.

2. LEGAL SYSTEM

The Judicial Yuan (Judiciary) is the highest judicial organ of the Republic. Its chief powers are to adjudicate civil, criminal, and administrative cases, cases concerning disciplinary sanctions on public functionaries, and cases concerning the dissolution of political parties violating the Constitution. The subordinate units of the Judicial Yuan are the Supreme Court, high courts, district courts, Supreme Administrative Court, high administrative courts, Commission on the Disciplinary Sanctions of Functionaries, and Judicial Personnel Study Center.

The Judiciary has three levels: district courts and their branches, which hear civil and criminal cases in the first instance; high courts and their branches at the intermediate level, which hear appeals against judgments of district courts and their branches; and the Supreme Court at the highest appellate level, which reviews judgments by lower courts for compliance with pertinent laws or regulations. Specialized divisions may also be set up by district courts to deal with juvenile, family, traffic, financial, and labor cases. Generally speaking, issues of fact are decided at the first and second levels, while only issues of law are considered by the Supreme Court.

3. FOREIGN INVESTMENT

Taiwan government encourages foreign investment. Companies owned by foreigners or overseas Chinese are entitled to the same incentives as Taiwanese-owned companies. Matters relating to foreign investments and overseas Chinese investments are governed by “Statute for Investment By Foreign Nationals” and “Statute for Investment By Overseas Chinese”, respectively.

Department of Commerce of Ministry of Economic Affairs (MOEA) reviews applications for company registration of branches or representative offices of foreign companies.

Investment Commission of MOEA reviews all application required foreign investment approval status.

4. MOST COMMON FORMS OF BUSINESS ENTITIES

4.1 Representative Office

- Simplest and fastest way to establish a presence in Taiwan
- Without the status of legal person.
- Perform juristic activities such as negotiating executing contracts, giving quotations, negotiating prices and doing tendering and procurement work in Taiwan for the company.
- No capital requirement

A representative office is one of the easiest ways to establish a legal business presence in Taiwan. It is a form that many foreign companies take during early development stages of investing in Taiwan. A representative office is basically a legal agent of the foreign company that is permitted to engage in price negotiations, provide quotations, participate in tenders, and sign procurement agreements. However, a representative office is not permitted to engage in income-generating business activities such as signing sales contracts, providing services, or receiving funds from clients. Only businesses recognized as legally established companies in a foreign country are allowed to establish a representative office in Taiwan.

Applications to establish a representative office of a foreign company in Taiwan must be filed with the Department of Commerce, MOEA.

4.2 Branch

- According to company Act of Taiwan, a branch of a foreign company has the same rights and obligations as a domestic company.
- A branch is not an independent legal entity, the head office assumes all liabilities left unsettled by the branch.
- No requirements for a branch to have shareholders, directors or supervisors.
- The branch manager is the responsible person for the branch.
- A branch office has the following tax advantages over a subsidiary.
 - No retained earnings surtax. A subsidiary is subject to 20% withholding tax for retained earnings distributed to foreign shareholders.
 - No withholding tax on after tax profits, while a subsidiary is subject to 10% tax rate for retained earnings not distributed.

A "branch office" is a profit-seeking business entity established for the purpose of doing business in Taiwan, with a head office located in a foreign country. Foreign business entities registered as companies under foreign laws shall first apply for recognition as a foreign company and its establishment of a branch office in Taiwan with the Department of Commerce under the MOEA. No minimum working capital requirement, however, initial working capital should be sufficient to at least cover organization costs incurred when establishing the branch.

The working capital for the branch office shall be remitted from its foreign head office. The foreign company establishing a branch office shall appoint a representative for litigious and non-litigious matters in Taiwan and a branch manager for managing day-to-day business operations. If the branch manager is a foreign national, he or she shall obtain a work permit from the Council of Labor Affairs. Branch offices shall pay income tax on income generated within Taiwan but are exempt from income tax when they remit their after-tax surplus earnings back to their parent companies, because such remittances are not considered distribution of dividends.

4.3 Company

There are three most common types of company in Taiwan, a limited company, a company limited by shares and Closely-held company limited by shares. Each type of company has the following natures,

- Possess legal person status.
- Liability of each shareholder limited to capital contribution.

A foreign company or individual may set up a company for the purpose of doing business in Taiwan. A company that is a subsidiary of a foreign company differs from a branch office in that it is a Taiwan-based profit-seeking business entity with foreign investors. A Taiwan-domiciled company or subsidiary may have other branch offices in Taiwan and overseas. Aside from business areas designated in the Negative List for Foreign Investment, companies formed by foreign companies or foreign individuals in Taiwan and approved by the Investment Commission under the Ministry of Economic Affairs are not subject to foreign ownership restrictions. Aside from the specifically designated minimum capital requirement for certain industrial sectors, there is no minimum capital requirement to establish a company but the initial capital should be sufficient to at least cover organization costs incurred when establishing the company.

*** If the company/branch wishes to apply for working permit for an executive manager, the initial working capital shall be no less than NT 500,000.

The following table summarizes requirement of different business entities,

	Company limited by shares	Limited company	Branch	Representative Office
An independent legal entity?	Yes	Yes	No	No
Eligible to conduct business activities?	Yes	Yes	Yes	No. Permitted to do price negotiations, provide quotations, participate in tenders, and sign procurement agreements. Not permitted to engage in income-generating business activities such as signing sales contracts, providing services, or receiving funds from clients
Minimum capital requirements (must be remitted from a foreign territory)	None	None	None	Not applicable
Minimum shareholders	2 individual shareholders or 1 juristic person	1 (individual or juristic person)	None	None
Minimum executive officers	1 director and 1 supervisor, OR if 1 juristic person shareholder, supervisor is not required	1 director	1 representative (branch manager)	1 representative
TAX:				
VAT	5%	5%	5%	N/A
Enterprise income tax	20%	20%	20%	N/A
Profit retention tax levied on undistributed income of prior year	5%	5%	None	N/A
Distribution of retained earnings to foreign shareholders(parent company)	21%	21%	None	N/A

On August 1, 2018, Taiwan Company Act had the most significant amendment in the last 2 decades. 148 or total 449 articles were amended to create a more friendly investment environment and strengthen corporate governance. Requirement to minimum directors of a company limited by shares is reduced to one. For sole juristic shareholder, supervisor is not required.

5. TAXATION

Taiwan's tax regulations provide different tax designations that accommodate to the rapid changes in industry and the rapid development of industry and commerce; there are clear regulations governing, for example, income taxes, business taxes, and customs tariffs.

Tax Regulations

5.1 Classification by taxpayer-

Income tax is classified into consolidated income tax for individual taxpayers and profit-seeking-enterprise income tax for profit-seeking enterprises.

5.2 Individual tax

(1) Taxable income for individual-

For any individual having income from sources in the Taiwan, a consolidated tax shall be levied on his or her income derived from those sources. For any individual not residing in the Taiwan but having income from sources in the Taiwan which is subject to withholding tax, income tax payable by such non-resident on all such income shall be withheld and paid at the respective sources unless otherwise provided in the Income Tax Act. In case an individual not residing in the Taiwan has income that does not fall within the withholding scope, he or she shall file a tax return and make tax payment in accordance with the prescribed tax rates.

(2) Taxation of individual not residing in the Taiwan

Salaries paid to an "individual not residing in the Taiwan" (expatriate) by a nonresident employer and by the local subsidiary or branch or by any other local entity for services rendered in the Taiwan are subject to income tax. However, if the expatriate stayed in the Taiwan for not more than 90 days (cumulative) during a calendar year, salaries received from the nonresident employer are not subject to income tax. Under Paragraph 3 of Article 8 of the Income Tax Act, any individual not residing in the Taiwan but whose stay in the Taiwan exceeds ninety (90) days during a tax year is required to file a tax return and make tax payment in accordance with the law on remuneration obtained from employers outside the territory of the Taiwan for services rendered within the territory of the Taiwan. The term "individual residing in the Taiwan" as used in the Income Tax Act means a natural person domiciled and residing at all times within the territory of the Taiwan, or a natural person not domiciled within the territory of the Taiwan but residing within the territory of the Taiwan for 183 days or more within a tax year. The term "individual not residing in the Taiwan" denotes an individual other than those as provided above.

(3) Consolidated Income Tax Rates -2019

Net Taxable income (NTD)	Tax Rate		Progressive Difference		Tax payable
0 to 540,000	5%	-	0	=	
540,001 to 1,210,000	12%	-	37,800	=	
1,210,001 to 2,420,000	20%	-	134,600	=	
2,420,001 to 4,530,000	30%	-	376,600	=	
4,530,001 and above	40%	-	829,600	=	

5.3 Profit- Seeking Enterprise Income Tax-

(1) For any profit-seeking enterprise having its head office within the territory of the Taiwan, a profit-seeking-enterprise income tax shall be levied on its total profit-seeking-enterprise income derived within and without the territory of the Taiwan; provided that in case income tax has been paid on the income derived outside of the territory of the Taiwan in accordance with the tax law of the source country of that income, such tax paid may be deducted from amount of tax payable at the time of filing annual returns on the total profit-seeking-enterprise income, to the extent that such deduction shall not exceed the amount of tax which, computed at the applicable domestic tax rate, is increased in consequence of inclusion of its income derived from abroad.

For any profit-seeking-enterprise having its head office outside the territory of the Taiwan, the profit-seeking-enterprise income tax shall be levied only on income derived within the territory of the Taiwan. Compensation received by a foreign enterprise, institution, organization, or association for services rendered in the Taiwan directly from its Taiwan clients is considered Taiwan source income, subject to income tax.

(2) All income derived from securities or futures transactions within the territory of Taiwan is not taxable for income tax but shall be included in calculation of Income Basic Tax.

(3) Dividends are distributed from the after-tax surplus profits. If dividends are distributed by a profit-seeking-enterprise in the Taiwan, dividends received by a profit-seeking-enterprise are not included as taxable income. The amount of deductible tax contained in the aggregate of dividends so distributed shall be included in the balance of such profit-seeking- enterprise's shareholder tax offsetting account.

(4) Profit-seeking-enterprises may apply to the tax authority to adopt a non-calendar year as their fiscal year, while the taxable year of individuals shall be on the basis of a calendar year.

(5) Various income received by the same taxable entity shall be combined for filing a tax return.

(6) Tax rate for Profit-Seeking-Enterprise Income Tax is 20% for taxable income above NT 200,000 as shown in table below

Taxable Income (TI) Bracket (NTD)	Rate	Formula
Less than NTD 120,000	0	
Over NTD 120,000 but no less than half of income above 120,000	20%	$T1=TI * 20\%$ $T2=(T2 - 120,000) / 2$ Income tax = larger of T1, T2

A 2 years transition period applies to companies with taxable income between NTD 120,000 and 500,000 or less, with the tax rate increasing by 1% per year (that is, tax rate gradually adjusted to 20% in 2020).

(7) Imputation Income Tax

Starting from January 1, 2018, imputation income tax system is abolished and profit retention tax is reduced from 10% to 5%.

(8) Transfer Pricing Issue

All profit-seeking enterprises shall follow “The Rules Governing the Assessment of Income Tax for Profit-Seeking Enterprise on Non-Arm’s Length Transfer Pricing Issues” to issue Transfer Pricing Report or disclose related parties transactions.

(9) Income Basic Tax (Alternative Minimum Tax, AMT)

The income basic tax imposes a minimum tax on individuals and enterprises to all Taiwan resident enterprises and foreign entities with a fixed place of business or business agent in Taiwan if they earn certain income that is tax exempt or enjoy tax incentives

(i) AMT for profit-seeking enterprises

Income subject to AMT for an enterprise= Taxable income of a Profit-seeking-Enterprise + AMT add-back items

AMT=(Income subject to AMT for an enterprise – NT500,000) * 12%.

(ii) AMT for individuals

Resident taxpayers are subject to AMT, including foreign nationals who stay in Taiwan for over 183 days in one calendar year.

Income subject to AMT for an individual = Taxable income of an individual + AMT add-back items.

AMT = (Income subject to AMT for an individual – NT 6.7 million)*20%.

AMT add-back items include foreign-sourced income totaling NT 1 million or above and certain income exempted from regular income tax.

AMT represents floor of tax payable, if regular income tax is higher than AMT, no additional payment is required. If regular income tax is lower than AMT, then the taxpayer needs to pay additional tax for the difference between AMT and regular tax.

(10) Thin capitalization rules

Deductible interest expenses on inter-company loans are capped at debt-to-equity ratio at 3.

(11) Capital gains from securities & futures transactions

There is no capital gains tax in Taiwan for profit-seeking enterprises. Enterprises having gains from sales of qualified securities are exempted from enterprise income tax but are subject to alternative minimum tax.

(12) Value-added business tax system of Taiwan is generally similar to the system used by many European countries. Except for those specially exempted according to the law, a business tax is levied at each stage of the sale of goods or services. The business tax on imported goods shall be calculated at the prescribed tax rate based on the total amount of duty-paying value plus customs duty, commodity tax, or tobacco and alcohol tax, if applicable.

- (13) Except for those to whom the zero rate applies, the business tax rate shall not be less than 5%, but no more than 10%. The applicable rate shall be determined by the Executive Yuan. Currently, the rate is 5%.
- (14) Zero rating applies to all exported goods and services. The amount of business tax overpaid by a business entity at the time of purchase may be refunded upon request.
- (15) For business entities engaged solely in the business of tax-exempt goods or services, the input tax shall not be refunded.
- (16) A business entity, regardless of whether or not it has sales, shall file with the collection authority-in-charge a bimonthly tax return, and an entity to whom the zero rating applies may file a tax return on a monthly basis, for its sales amount and tax payable or tax overpaid during that period together with relevant documents within fifteen (15) days after the commencement of the subsequent period.
- (17) The amount of business tax payable on imported goods shall be levied by Custom.

5.4 Customs Duty

Customs duty is imposed under the Customs Law and Customs Import Tariff promulgated by the MOF.

Custom duty is imposed on imported goods, mainly on price basis, and also no quantity basis.

5.5 Stamp Tax

The stamp tax is levied on receipts of monetary payments, deeds for sale of movable property, contractual agreements, and deeds for real estate transactions.

Table 6: Documents Subject to Stamp Tax

Taxable Documents	Rate/NT\$
▪Receipts of monetary payments	0.4%
▪Deeds for the sale of movable property	NT\$12
▪Contractors' Agreements	0.1%
▪Deeds of contracts for sale, gratuitous transfers, partitions or exchanges of real estate or Dien agreement on real estate.	0.1%

The taxpayer is the person who signs or issues the taxable documents. If both contracting parties keep original taxable documents, each original would be subject to stamp tax.

Thus, each party would be the stamp taxpayer for the original documents kept.

5.6 Commodity Tax

The commodity tax is a single-stage excise tax levied on specific commodities whether manufactured domestically or imported from abroad.

5.7 Securities Transaction Tax

Except for government bonds and other tax-exempted securities, all securities transactions are subject to securities transaction tax.

Table 7: Tax Rates of Securities Transaction Tax

Type	Tax Rate(Based on trading price)
▪Shares and shares certificates stating the rights of the shares issued by companies	0.3 % of transaction amount
▪Futures transactions	0.0000125%– 0.6%

5.8 Land Tax

Land taxes include the Land Value Tax and Agricultural Land Tax. The taxpayers are: (1) the land title owner; (2) for land with an established Dien right, the Dien right assignee; (3) for publicly or commonly owned land, the administrator ;and (4)for jointly owned land, the joint owners would be responsible for their respective parts.

5.9 Building Tax

Building and other construction, which increases the value of the buildings are subject to building tax based on their assessed value. The taxpayers are: (1) the owner of the building; (2) for building with an established Dien right, the Dien right assignee; and (3)for jointly owned building, the joint owners would be responsible for their respective parts.

5.10 Land Increment Tax

Land value increment tax is applied to the unearned increase in the value of land, payable by the seller at the time of ownership transfer. The unearned increment is the difference between the official assessed value of the land at the time of sales and its official value of the land at the time of purchase. The taxpayers are: (1) the original holder of the land, for land transferred with compensation; (2) the acquiring holder of the land, for land transferred without compensation; and (3) the Dien right assignee, for land with an established Dien right.

5.11 Capital gain

Capital gain tax is applicable to: (a) buildings and land acquired on or after 1 January 2016, and (b) buildings and land acquired on or after 2 January 2014, if held for less than two years.

Tax rate differs depending on the holding period:

- Resident entity: 17%
- Resident individual: 15% ~ 45% depending on holding period
- Nonresident entity and individual: 45% for holding period less than one year, 35% for holding period one year or above.

A special rule for a foreign to foreign share transfer: If shares of one ono-tax resident entity is transferred directly or indirectly by another non-tax resident entity and more than 50% of the transferred entity value consists on land and building, capital gains arising from the transfer will be taxable as if the capital gain is from transfer of land and building.

6. LABOR RELATED REGULATIONS

Taiwan has a comprehensive and extensive labor protection system which is similar to those found in many developed countries.

Labor Standards Act is the center of the labor protection system. Taiwan government set up a committee to foster cooperation between capital and labor to elevate work efficiency.

6.1 Working Hours

- a. Statutory working hours are 40 hours per week and two days off per week.
- b. Normal working hours may not exceed 8 hours per day.
- c. Total work hours during work days may not exceed 12 hours. Over time payment for the first two hours shall be 1.34 times of regular hourly wage, and 1.67 for the 3rd and 4th hours overtime.

6.2 Leaves

- a. Public holidays- An employee shall be granted time off on holidays, Labor Day, and other days as prescribed by the central competent authority.
- b. Annual leave – An employee who continues to work for the same employer or business entity for a certain period of time shall be granted special leave on an annual basis according to the following table,

Years of service	Annual paid vacation (days)
6 months~ 1 year	3
1~ 2 years	7
2~ 3 years	10
3 ~ 5 years	14
5 ~ 10 years	15
More than 10 years	1 additional day for each year of service over 10 years up to maximum 30 days.

Unused annual leave not taken due to business reasons shall be paid out at year-end or , by agreement with an employee, be carried over for one year.

- c. Sick leave – Employees shall be granted 30 days of sick leave at half of regular pay. No salary paid for sick leave exceeding 30 days. Non-hospitalized sick leave shall not exceed 30 days in 1 year.
- d. Maternity leave - female employees shall be granted 56 calendar days at full pay as maternity leave; those with less than 6 months of service shall be paid at half of her regular salary.
- e. Bereavement leave- 3-8 days, depending on relationship to the deceased.
- f. Marriage leave- 8 days.

6.3 Retirement

An employee may receive benefits from older pension scheme under Labor Standard Act (LSA) or newer pension scheme under Labor Pension Act (LPA) depending on the retirement plan the employee has selected. New pension scheme under LPA which was launched in July 2005 is applicable to all employment started after July 1, 2005. Employees

hired before July 1, 2005 may elect to adopt pension under LSA or LPA. Pension scheme under LPA is a defined contribution plan which employers make at least 6% contribution of the employee's monthly wages to the employee's individual pension account monthly. Employees may make voluntary contributions up to 6% of their insured salary which may be deductible from their taxable income.

In addition, an employee is entitled to claim old age benefits upon retirement from Labor Insurance (LI) old age benefits which are managed independently from LSA or LPA retirement plans.

6.4 National Health Insurance

- a. The NHI system is a mandatory national insurance system which covers all employed people, including foreigners with an Alien Resident Certificate.
- b. National health insurance premium rate is 4.69% of the employee's insured salary which is measured by breaking wages into 53 levels where the lowest and highest are NT\$ 23,100 and NT \$182,000. Wages over upper limit of insured salary are not subject to NHI premiums.

The premium is split between employer (60%), employee (30%) and government (10%). The employee shall pay for the same rate for any additional dependent enroller under his/her name up to 3 dependents.

The employer is required to pay a percentage of premiums of employees' dependents based on average number of dependents for insured people in Taiwan. As of the time of writing this guide, the average is 0.61.

The following table summarizes allocation of NHI premiums.

Employee contribution	Insurance policy x 4.69% x 30% x (1+ no. of dependents (or 3,if more than 3 dependents))
Employer	Insurance policy x 4.69% x 60% x (1+0.61)
Government	Insurance policy x 4.69% x 10% x (1+0.61)

- c. Supplemental Health insurance

Under the second-generation NHI system, a 1.91% supplemental premium is imposed on the insured whose non-payroll income from the following five items exceeds NT\$ 20,000: professional income, moonlighting, stock dividends, interest and rental income. In addition, those who receive job bonuses of more than four times their monthly salary in a year will also be required to pay the supplemental premium.

6.5 Labor Insurance

Any establishment employing five or more workers shall enter into labor insurance contracts with the Labor Insurance Bureau for every employee in the 15-60 age group.

Labor related insurances include Labor Insurance and Employment Insurance.

- The labor insurance provides maternity benefits for female workers, benefit payments for injuries plus additional benefits in case of disability, death benefits for both the insured and their families (including parents), and retirement payments. Labor Insurance covers two types of risks: ordinary risk and occupational risk. Current premium for ordinary risk insurance is 10 % of insured salary which is measured by breaking wages into various levels.
- Employment Insurance –

Employment Insurance Act is established to improve workers' skill and capability, promote employment, and provide basic living support to the insured persons for a certain period of time during unemployment and job training.

Current premium rate for Employment Insurance is 1% of insured salary.

The range of monthly insured salary for both Labor Insurance and Employment Insurance is from NT\$ 23,100 to NT\$ 45,800 and allocated between employer (70%), employee (20%) and government (10%).

Premium for occupational risk insurance ranging from 0.06% to 3% of insured salary is paid entirely by the employer.

7. ACCOUNTING AND AUDIT REQUIREMENTS

7.1 Accounting standards

Listed companies and financial institutions supervised by FSC, except for credit cooperatives, credit card companies and insurance intermediaries are required to prepare financial statements in accordance with IFRS. Unlisted public companies, credit cooperatives and credit card companies are required to prepare financial statements in accordance with IFRS.

For business other than public companies in the above paragraph are required to prepare their financial statements based on Enterprise Accounting Standards developed by Accounting Research and Development Foundation (ARDF) which is responsible for developing accounting principles and auditing standards of Taiwan. IFRS for SME have served as a primary reference of ARDF during the course of developing those standards.

7.2 Audit requirements of financial statements

Financial statements of public companies including SEC or OTC listed companies, financial institutions, insurance companies, trust entities and certain industries required by FSC are required to be audited by a Certified Public Accountant (CPA) of Taiwan CPA firm. Financial statements of companies with paid in capital over NT 30 million are also required to be audited by an independent CPA.

Starting January 1, 2019, companies/branches with annual revenues over NTD 100 million or employees insured under labor insurance program over 100 also need to have their financial statements audited by a CPA firm.

7.3 Audit requirements of tax returns

Tax returns of the following companies should be certified by an independent CPA,

- a. Banks, credit cooperative institutions, investment and trust companies
- b. Public companies
- c. Companies enjoy tax holiday and report total revenues (including non-operating income) over NT 50 million.
- d. Filing consolidated revenues
- e. Companies not in any of the above categories but have total revenues over NT 100 million.

In addition, if a company incurs loss, the loss may be carried forward 10 years, if the company's tax return in the years the losses were incurred and in the years the losses were deducted from income were certified by an independent certified public accountant.

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