

RSM! Asia Pacific



A Guide to Taxation in Asia

For business entities and individuals operating in Asia

Fifth edition

An RSM Asia Pacific Limited publication

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This guide has been prepared to give a general indication of the tax laws applying as at 30 June 2006 in the countries and territories covered. It is, however, a general guide only and appropriate professional advice must be sought before any action is taken.

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Introduction

As part of the increasing globalisation of companies world-wide and in order to develop a global competitive advantage, an increasing number of companies are transferring personnel between countries.

This is in particular true for the Asia Pacific region which continues to attract a large number of expatriate personnel as multi-nationals expand their operations into this region. As both the cost of such transfers and the need to encourage the mobility of executives increase, tax and social security planning and advice on a world-wide basis become even more important.

RSM International through its member firms in the Asia Pacific region is able to offer advice and a range of services to executives who are on the move. For both home and host country, this includes advice on taxation and other matters affecting foreign nationals working abroad.

In a booklet of this nature it is not possible to provide detailed rules on which to base specific actions, but rather it is intended to be used as a guide. Where more comprehensive information is required on a specific country, reference should be made to the professionals who have prepared this guide and who are listed in the RSM Asia Pacific Directory on pages VI-VII.

If you require advice on a regional basis, contact with the regional client liaison office is recommended.

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Australia

The Taxation System

The taxation system in Australia provides for revenue raising from the following taxes:

- Income tax (including capital gains);
- Fringe benefits tax; and
- Indirect taxes.

Income tax is levied by the Commonwealth Government under the Income Tax Assessment Act 1936 and Income Tax Assessment Act 1997.

Fringe Benefits Tax is levied by the Commonwealth Government on employers on the value of certain fringe benefits provided to their employees or to associates of those employees.

Indirect taxes (such as the Goods and Services Tax) are levied by the Commonwealth and State Governments, as well as local municipalities on various goods and transactions.

Income Tax

General structure and scope

Australian income tax is imposed on taxable income (i.e. assessable income less allowable deductions) of companies and individuals.

Resident companies and individuals, together with entities where tax is payable by individuals (i.e. trusts and partnerships) are required to lodge annual income tax returns. The tax year ends on 30 June, unless leave to adopt a substituted accounting period has been granted by the Australian Taxation Office.

Company income tax

Generally, a company resident in Australia is subject to income tax on its world-wide taxable income. To calculate taxable income, deductions are allowed against assessable income for all ordinary business deductions (including depreciation) and any special incentive deductions, for example primary production incentives and research and development.

The rate of Australian income tax on the taxable income of a company is currently 30%.

Assessable income includes business profits and other amounts in the nature of income. It also includes certain capital gains (i.e. profits on the sale of assets acquired after 19 September 1985).

The income tax liability of a company for a given year of income is collected in advance of the final liability under the Pay As You Go (PAYG) system. PAYG replaced the previous collection systems for both withholding and instalments of tax as of 1 July 2000.

Tax Consolidation

On 1 July 2002, a tax consolidation regime was introduced which enables wholly owned corporate groups to consolidate for income tax purposes, thereby treating the group as a single entity for Australian tax purposes.

The head entity of a wholly owned group makes the choice to form a consolidated group. Participation is optional, but once the decision to consolidate has been made, it is irrevocable.

Where a head entity of a group makes the decision to consolidate, the assets of the joining subsidiary members must be reset to reflect the head companies cost of holding or acquiring the ownership interests in subsidiaries.

A consolidated group can be formed by a single Australian resident head entity and all of its eligible wholly owned Australian resident subsidiaries.

Table 1.1 - Individual income tax rates for Residents

Taxable income range (A\$)	Income tax rate (A\$)
Up to 6,000	0%
6,001 - 25,000	Nil + 15% of the excess over 6,000
25,001 - 75,000	2,850 + 30% of the excess over 25,000
75,001 - 150,000	17,850 + 40% of the excess over 75,000
Over 150,000	47,850 + 45% of the excess over 150,000

Companies, trusts and partnerships may form a consolidated group, however the head entity must be an Australian resident company.

A foreign owned group of Australian resident subsidiaries with multiple entry points of investment into Australia may form a multiple entry consolidated group.

The head entity of a consolidated group is required to file an annual income tax return on behalf of the whole group, rather than each entity itself preparing and lodging an income tax return on its own behalf.

Where a consolidated group is formed, all inter-company transactions between entities within the group will be disregarded for tax purposes. In addition, losses, franking credits and foreign tax credits generated by each entity in the group will be pooled and treated as those of the head entity of the group.

Trusts

A trust is not a separate taxable entity for Australian income tax purposes, but a trust income tax return must be lodged by the trustee.

A trust is a conduit for income on behalf of beneficiaries and as such any net income not distributed to a beneficiary is taxed in the hands of the trustee as though the trustee were an individual taxpayer. Beneficiaries are taxed on the income to which they are presently entitled.

Trust losses cannot be distributed to beneficiaries but are carried forward against future years trust income. Special provisions relate to the rate of tax payable by beneficiaries who are minors (under 18 years of age) and beneficiaries who are non-residents.

Partnerships

A partnership is not a separate entity for Australian income tax purposes. The net income of a partnership is determined in a similar manner as the taxable income of a company. The partners are assessable individually on their share of the partnership net income and are entitled to a deduction for their share of the net losses.

A partnership must file an annual income tax return to provide a basis for the determination of the share of each partner's net income or net loss for tax purposes.

Personal income tax

Generally, an individual resident in Australia is subject to income tax on taxable income derived from all sources within and outside Australia. The taxable income, subject to tax, is calculated by aggregating all gross income, then excluding exempt income and deducting allowable deductions.

Gross income includes income from personal exertion (i.e. salary and wage or business income); interest; dividends; allowances; bonuses etc. In addition, capital gains provisions apply to profits on disposal of assets acquired on or after 20 September 1985.

Exempt income is income specifically exempted by taxation legislation and includes certain government pensions and scholarships.

Deductions allowed from gross income include expenditure incurred in producing assessable income, or which is necessarily incurred in the course of carrying on a business, plus certain statutory deductions set out in the Income Tax Assessment Acts.

The taxable income is initially subject to tax calculated by the application of the rates applicable for that year. The Australian tax year ends on 30 June, and individual income tax rates for residents for the year ended 30 June 2007 are detailed in Table 1.1

A health care levy is imposed on the taxable income of a resident individual. The Medicare levy is currently 1.5% of taxable income. The levy is collected in the same way as income tax. Subject to taxable income thresholds, an additional 1% surcharge applies to high income earners who do not hold private patient hospital insurance.

From the calculation of tax payable, taxpayers are allowed to obtain rebates/tax offsets which reduce the amount of income tax payable. These rebates/tax offsets include dependant, pensioners, social security benefits, and zone rebates. In addition, rebates/tax offsets can be obtained for medical expenditure (over a certain threshold) for items including hospital, optical and dental expenses.

The Australian Taxation Office's (ATO) procedure for processing returns relies on the self assessment concept. Only a cursory view of the return is undertaken, but a more detailed review may be undertaken at a later date by way of an audit. Substantial penalties are imposed where reasonable care has not been exercised.

Overseas salary and wages subject to tax in the country of source are exempt from Australian income tax where the taxpayer has worked overseas for a continuous period of greater than 91 days and the income is taxed in the overseas country. However, the overseas salary and wage income is taken into account in calculating the rate of tax payable on any income derived in Australia.

Tax Losses

Like other taxpayers, a company is entitled to carry forward tax losses incurred in one year for deduction against assessable income in any one of the next succeeding years. However, companies must satisfy either the continuity of ownership test or, if failing that, a continuity of business test for company's with a turnover of over \$100,000,000.

A tax loss incurred by a resident company can not be transferred to another company after 1 July 2003 unless the companies are members of a consolidated group.

In this regard, companies that form part of a consolidated group will be required to transfer their losses (subject to satisfying certain tests) to the head entity of the group to utilise in calculating the consolidated group's taxable income.

Capital gains tax

Liability for income tax on capital gains may be incurred where there is a disposal of assets that have been, or are deemed to have been, acquired after 19 September 1985. Assets that may be subject to capital gains tax (CGT) include land and buildings, shares in a company and units in a unit trust.

Liability for CGT is imposed at personal or company rates of taxation. Where an asset was acquired before 21 September 1999, the purchase price or cost base of the asset was indexed to take account of inflation. As a result of tax reform changes, indexation was frozen at 30 September 1999.

Cost base of a capital gains tax asset

There are detailed rules relating to the way a cost base is calculated. A capital gain arises where the sale proceeds on disposal of an asset are greater than its indexed cost base. Conversely, a capital loss will be incurred where the sale price is less than the reduced cost base. In calculating the reduced cost base no allowance is made for inflation.

Alternatively, where an asset that is held for a period of greater than 12 months is disposed of after 21 September 1999, the amount of a capital gain can be calculated as the difference between its cost and the sale proceeds. Where this method is used, a discount of 50% for an individual or trust, or 33% for certain superannuation funds may apply. No discount is allowed if the capital gain is made by a company.

The net capital gain to be included in assessable income is calculated after allowing for any CGT discount, capital losses incurred in the current tax year and for unused capital losses carried forward. Capital losses can only be deducted from capital gains. If there are no such gains, then the capital loss can be carried forward.

Exemptions

Assets acquired before 20 September 1985 are generally exempt from the capital gains taxing provisions. However, certain assets acquired before 20 September 1985 may be taxable under the capital gains tax provisions such as improvements made to pre-CGT assets and where a building is constructed on pre-CGT land.

The main residence of an individual is also exempt from CGT where it is exclusively occupied as the main residence of the taxpayer since acquisition, or where such use ceases temporarily and no other residence is acquired. Where the residence is rented or otherwise used to produce assessable income, including where part of the house is used for business purposes, a proportional exemption is normally available. The exemption is only available to individual taxpayers and cannot apply where the family home is owned by a trust or other entity.

Personal use assets are exempt from the capital gains taxing provisions unless the acquisition price of such assets exceeds A\$10,000. However, listed personal use assets including jewellery, antiques and other collectables are subject to the capital gains taxing provisions where the cost of the individual item is greater than A\$500.

Sale of active assets

In certain circumstance a capital gain derived on or after 21 September 1999 from the sale of assets actively use in a small business (referred to as active assets) may be eligible for one or more of the following concessions, subject to satisfying the various conditions.

- If the active assets have been held by the taxpayer for at least 15 years, the capital gain is disregarded. In other words, it does not form part of the taxpayer's taxable income and therefore is not subject to tax.
- The capital gain arising on the disposal of active assets may be reduced by 50%, which is in addition to the general 50% discount outlined above, resulting in only 25% of the capital gain being taxed.
- If the taxpayer elects for the proceeds to be used for their retirement the capital gain is disregarded (subject to certain limits). In this case the taxpayer may also benefit from concessional tax treatment under the tax rules for retirement payments.
- The capital gain may be deferred by electing to rollover the capital gain into replacement business assets.

For capital gains that were derived prior to 21 September 1999, some small business relief was available.

Dividend imputation system

Dividend imputation removes the double taxation of company dividends (i.e. income firstly being taxed at the company level and then in the hands of shareholders when received as a dividend).

Under the dividend imputation system, individual shareholders pay tax on dividend income at the difference between the company tax rate (30%) and their marginal tax rate, provided the income from which the dividend has been paid has borne company tax at the appropriate rate.

Such dividends are referred to as 'franked' dividends. Shareholders in receipt of such dividends receive an imputation credit, which represents the amount of tax the company has paid in respect of these dividends.

Dividends paid from profits which have not borne company tax, referred to as unfranked dividends, do not carry the imputation credit, and are fully taxed in the hands of the shareholders.

As of 1 July 2000, shareholders in receipt of imputation credits in excess of their income tax liability are entitled to a refund of the unused imputation credits. The refund is available to resident individuals, trustees and superannuation funds, among others; however, it is not available to companies.

Reforms to the imputation system

As a result of recent tax reforms, changes were made to the mechanics of the imputation system, effective from 1 July 2002. In broad terms, the changes made are:

- Franking accounts (which record the availability of franking credits) are recorded on a tax-paid basis and use a rolling-balance account.
- Companies are able to choose the extent to which they frank a dividend distribution.
- Companies can align their franking period so that it coincides with their accounting period.
- The extent to which a company may frank its dividend is controlled by the "benchmark" rule and allows for greater flexibility in allocating franking credits to dividend distributions.
- A new gross-up and credit approach applies in respect of corporate entities receiving franked dividends whereby they include their dividends together with franking credits in their assessable income and obtain a tax offset equal to the amount of franking credits. This replaced the intercorporate dividend rebate system.

Fringe benefits tax

Fringe benefits tax (FBT) is imposed by the Commonwealth Government on employers (excluding self employed persons) and applies to the value of fringe benefits provided to employees or their associates.

A fringe benefit arises where a benefit is provided to an employee (or associate) in respect of the employment of the employee. Examples of benefits that are subject to FBT include motor vehicles, accommodation, entertainment, and property.

FBT is assessed annually with the year of tax ending on 31 March. Fringe benefits are taxed at 46.5% on a grossed up basis. FBT is a deductible expense to the employer.

Employers are required to self assess their liability for FBT and to pay in four quarterly instalments, with any balance remitted with an annual fringe benefits tax return by 21 May. Instalments paid each quarter are generally equal to one quarter of the annual FBT liability of the previous year.

Thin capitalisation

The thin capitalisation provisions seek to limit the level of debt deductions (such as interest) available to Australian entities that are either inward or outward investing entities. Where the prescribed thresholds are breached, the rules operate to deny an income tax deduction for all or part of an entity's debt deductions.

The provisions apply to foreign controlled Australian entities or foreign entities that invest directly into Australia or operate through an Australian permanent establishment (inward investing entities). The provisions also apply to Australian entities that control foreign entities or operate through an overseas permanent establishment (outward investing entities).

The rules do not apply where entities that either alone, or together with associate entities, claim no more than A\$250,000 in debt deductions in an income year, or satisfy an Australian asset threshold.

Pay As You Go (PAYG)

The PAYG system was introduced on 1 July 2000 for the collection of tax in advance and consists of PAYG withholding and instalments. It replaces the previous collection systems for both withholding and instalments of tax

PAYG withholding

The PAYG withholding system provides for the collection of salary and wages of employees and investment income (i.e. interest, dividends and royalties) received by non-residents that are subject to withholding tax. The payer is required to withhold a prescribed percentage of the payment and remit it to the ATO generally within 21 days after the end of each quarter. Quarters end on 30 September, 31 December, 31 March and 30 June. More frequent remittance may be required in certain cases.

PAYG instalments

Businesses (companies or individuals), or individual investment income earners are required to pay tax instalments towards their income tax liability (generally within 21 days after the end of each quarter).

The amount of quarterly instalments to be paid is generally calculated by multiplying the instalment income (generally assessable income) for the quarter by the instalment rate as advised by the ATO.

The rate is calculated by dividing the tax assessed

for the last income year by the instalment income. Taxpayers may choose their own instalment rate, subject to penalty for under estimation.

Taxpayers required to pay an instalment must notify the ATO of the instalment income for a period, even if the amount of the payment is nil. Depending on the tax profile of the taxpayer, they may be given the option to pay instalments based on their previous year's tax liability.

Instalments paid are credited against the income tax liability for the year of income.

Non residents

Dividends

Where an unfranked dividend (i.e. a dividend paid out of profits that have not been subject to the 30% company tax rate) is paid to a non-resident shareholder from a country with which Australia has a double tax agreement (DTA), the dividend is generally subject to a 15% withholding tax rate. Where a dividend is paid to a non-resident shareholder from a non-treaty country, the dividend is subject to a 30% rate of withholding tax. The withholding tax amount is deducted at source (i.e. in Australia) by the dividend paying company.

To the extent that such dividends are franked, no further tax liability arises and therefore no withholding tax is payable.

The Federal Government has recently negotiated a revision of a number of Australia's DTAs in regards to withholding taxes on dividends paid to non-resident shareholders. In some cases, this has further reduced the dividend withholding tax rate.

Interest

Non-residents in receipt of interest from an Australian source are liable to 10% withholding tax on the interest payment. The withholding tax amount is required to be withheld by the interest paying Australian entity. The rate of interest withholding tax is generally unaffected by DTAs, however some DTAs do provide for an exemption from interest withholding tax in certain circumstances.

Royalties

Where a non-resident is in receipt of a royalty from an Australian source, the rate of withholding tax payable

on the income received is 30% if the non-resident is from a country with which Australia does not have a DTA.

Where a DTA exists, the rate of withholding tax payable on the royalty is generally reduced to between 5% or 15% (depending on the country).

Taxation of foreign income

Foreign source income derived by an Australian resident (company or individual) is subject to Australian income tax. A credit against Australian tax payable is allowed for foreign tax paid. The credit cannot exceed the rate of Australian tax payable on the income. Special rules apply to salary and wage income derived from continuous foreign service.

Foreign conduit income of companies (income distributions received by an Australian resident company from a foreign source that is on-paid to a foreign parent company) is however generally not subject to tax in Australia.

Goods and services tax

A goods and services tax (GST) commenced on 1 July 2000 and replaces the wholesale sales tax system as well as a number of State based indirect taxes. GST is levied at a current rate of 10% on goods and services that are taxable supplies, except where the transaction is GST-free or input taxed.

Enterprises involved in making supplies of goods and services will generally be entitled to claim an input tax credit (ITC) for the GST paid on acquisitions. In order to claim an ITC, an entity must be registered for GST.

Registration is compulsory where the level of taxable supplies exceeds A\$50,000 per year. For non-profit clubs, societies and associations, registration is optional until their sales exceed A\$100,000 per year.

Goods imported into Australia will also be subject to GST at the time of importation, regardless of whether or not the person who imports the goods is registered for GST purposes. However, if the importer registers for GST and the deferred GST scheme, the GST on the importation of goods can be deferred until the ITC can be claimed.

Other taxes

Customs duties

Customs duty is imposed by the Commonwealth Government on imported goods and is primarily directed at protecting local industry.

The value of goods for custom duty purposes is based on the General Agreement on Tariffs and Trade (GATT) Code. However, where it can be established that the goods have no direct Australian equivalent, these goods attract a lower concessional rate of duty.

Excise duty

Excise duty is imposed by the Commonwealth Government on the local production of such goods as tobacco, petrol and alcohol at varying prescribed rates. Excise duty is generally indexed to movements in the consumer price index.

Mining royalties

The Commonwealth Government and various State Governments charge royalties on the extraction of certain minerals and petroleum products.

Land tax

Land tax is imposed by the State Governments on the unimproved capital value of land. The rates of land tax and the levels for exemptions vary for each State. Land tax is in addition to municipal rates imposed by local councils.

Stamp duty

Stamp duty is imposed by State Governments on dutiable events or documents such as bills of exchange, promissory notes, leases and contracts affecting the transfer of shares and real estate. Rates and exemptions vary on a State by State basis.

Payroll tax

Payroll tax is imposed by all State Governments on wages and salaries for work performed in their particular jurisdiction. The rate of payroll tax varies amongst the States, but ranges between 4.75% and 6.85% of the payroll in excess of specified thresholds. There are minor payroll tax exemptions.

Superannuation guarantee levy

The Commonwealth Government imposes an obligation on employers to provide prescribed minimum contributions towards employee superannuation. The current prescribed minimum contribution is 9% of an employee's ordinary time earnings. Superannuation contributions need to be made on a quarterly basis. The quarterly cut off dates are 28 October, 28 January, 28 April and 28 July.

Where an employer fails to provide the prescribed minimum contribution towards their employees' superannuation, the Government imposes a non-deductible levy, calculated at the relevant rate on total employee earnings, plus lost earnings.

China

Taxes on Corporations

General structure and scope

There are two corporate income tax systems in China: one for PRC domestic enterprises (stated owned enterprises, collectively owned enterprises, privately owned enterprises) and the other for foreign investment enterprises and foreign enterprises.

The income tax payable by a taxpayer is computed at 33% of their taxable income.

Foreign investment enterprises (FIEs) are subject to income tax on income sourced within and outside China at a flat rate of 30%, plus a flat rate of 3% local tax (which may be exempted or reduced by the local authorities).

Foreign enterprises (FEs) with an establishment or site in the PRC are subject to 33% income tax on income derived from sources within China. FEs without an establishment or site in the PRC but deriving certain types of income from sources in the PRC, are subject to a withholding tax on gross income at the rate of 10%.

However, in practice it is not very common for FIEs to be subject to the full tax rate due to various tax incentives. Based on a combination of the place where the taxpayer is operating and the type of operations conducted, a permanent rate reduction to 24% (mainly in coastal cities), or 15% (in special economic development zones, Shanghai Pudong New Area, economic development areas and hi-tech development areas) will be granted.

Furthermore, production oriented FIE's scheduled to operate for a period of ten years or more may be

exempted from income tax for two years starting from the first profit making year (tax holidays) and allowed a 50% reduction from the third year to the fifth year. Projects in energy, transportation, port and pier are granted five years of exemption and a 50% reduction from the sixth to the tenth profit making years.

Income tax payable is calculated on an annual basis and provisional tax payments are made on a monthly or quarterly basis. Provisional payments are made within 15 days from the end of each month or quarter as applicable.

The taxpayer is required to file their final accounting statements and income tax return with the local tax authorities within 4 months of the end of the tax year. The final settlement is made within five months from the end of the tax year with any excess tax payment refunded or deficiency repaid.

Allowances for depreciation

Depreciation of fixed assets is computed using the straight-line method on a monthly basis as set out in table 2.1.

If any other method is considered necessary an application may be filed by an enterprise which, following examination and verification by the local tax authority, shall be reported level by level to the State Administration of Taxation for approval.

Interest paid to overseas lenders

The applicable rate of withholding tax for interest payments to overseas lenders is 10%.

Interest derived from certain State owned banks is exempt from withholding tax. This withholding tax may be reduced under some double tax agreements.

Losses

Losses incurred in a tax year by a taxpayer may be offset against the income of the following tax year. Should the income of the following tax year be insufficient

Table 2.1 - Allowances for Depreciation

Asset	Minimum period	Residual value	Maximum depreciation rate on cost per annum
Plant & machinery	10 years	10% of cost	9%
Houses & buildings	20 years	10% of cost	4.5%
Electronic equipment & means of transport	5 years	10% of cost	18%

to absorb the said losses, the balance may be carried forward to offset against the income of subsequent tax years. However, losses may only be carried forward over a period not exceeding five tax years.

Dividends

Dividends from foreign investment enterprises are not subject to withholding tax.

Dividends received by a PRC resident individual are subject to individual income tax at the rate of 20%. No withholding tax is imposed in respect of dividends and gains derived by non-residents from the ownership and sale of 'B' shares (shares of a purely domestic company by a foreign person).

Value added tax and excise duties

Value added tax (VAT) is payable by any enterprise or individual who sells goods, provides processing and repair services or imports goods into China. The tax rates vary depending on the nature of the goods. The general tax rate is 17%. A reduced rate of 13% applies to certain items such as grain, tap water, coal, gas, etc.

Small-scale taxpayers engaged in selling goods or taxable services use a simplified method for calculating the tax payable at the rate of 6% (from 1 July 1998, small scale taxpayers operating in wholesale or retail are subject to a reduced rate of 4%).

Exemptions from VAT may apply to certain goods. The zero rate (as opposed to exemptions from VAT) applies to the export of goods except as otherwise stipulated by the State Council.

PRC Customs is required to collect VAT at the point of entry on behalf of the taxation authorities. Importers or their agents must pay tax within seven days of the issue of a duty and tax payment certificate by Customs.

Sellers must remit to the tax authorities VAT collected on sales, less a deduction of VAT paid on purchases of domestic and imported goods. The length of the VAT period may be anywhere from one day to one month.

Business tax

Business tax applies to enterprise and individuals in the service industry. The different tax rates are described in table 2.2.

Land value appreciation tax

A land value appreciation tax (LVAT) applies to the transfer of land use rights and related structures and attachments. LVAT is levied on the value added amount according to a schedule containing four progressive rates as detailed in table 2.3.

Consumption tax

In addition to VAT, consumption tax is imposed on manufacturers and importers of a range of luxury items such as liquor, tobacco products, cosmetics and motor vehicles. The rates range from 45% to 3%. Exports are not subject to consumption tax.

Stamp tax

This tax is payable by the parties to a contract that is executed in China. The rate of stamp tax depends on the subject matter of the contract.

Taxes on Individuals

Income tax

PRC income tax is payable by residents and non-residents who are domiciled in China for at least one year in relation to their income derived from sources both within and outside the PRC (although exceptions may be applied in some cases).

Non-residents are subject to tax on income derived from sources within the PRC only. Individual income tax (IIT) applies to wages and salaries (at progressive rates from 5% to 45%); income of individual entrepreneurs (at progressive rates from 5% to 35%); income from contracting for or leasing the operation of enterprise or institutions (at progressive rates from 5% to 35%); and income from personal services (at a flat rate of 20%, with the amount of tax payable to be reduced by 30%).

Table 2.2 - Business tax applicable to the service industry

Industry	Business tax rate
Transport, construction, communication, culture & sports	3%
Finance & insurance, intangible assets, real estate & other services	5%
Entertainment	5% - 20%

Royalties, interest and dividends, income from the leasing and assignment of property, casual income and other income determined as taxable by the State Council are also generally subject to IIT at a fixed rate of 20%. Individuals receiving RMB and foreign currency deposit interest income from savings institutions are subject to IIT at 20%. Certain other types of income, such as interest on Chinese government loan stock, are exempt from IIT.

Social security

A PRC employee has to pay social security, which mainly consists of pension fund, unemployment insurance, health insurance, and housing fund.

PRC employers also have to contribute funds for the pension funds, collective funds, health insurance, and the unemployment insurance. The total funds amount to about 50% of the payroll. Contributions are normally shared between the employer and the employee.

Estate and gift taxes

A PRC individual has no tax liability in respect of estate and gifts inherited.

Local taxes

There are no local income or capital taxes.

Withholding taxes on income paid to Non-residents

Dividends

No withholding tax is imposed in respect of dividends from FIEs.

Interest

The Income Tax Law provides for a 10% withholding tax on interest paid by PRC borrowers to non-residents. Some concessionary rates may apply.

Interest derived from certain state owned banks is exempt from withholding tax in the PRC.

Royalties

A 10% withholding tax applies to royalties paid by PRC licensees to non-resident licensors for the right to use intangible property in the PRC such as patents, registered designs, trademarks, know-how and other proprietary information.

Property

PRC sourced property income is subject to withholding tax according to the ordinary domestic tax rules.

Intangible Assets

PRC sourced intangible assets transfer income is first subject to business tax at the rate of 5%. A withholding tax of 10% is then imposed on the transfer income subsequent to the business tax deduction. The effective withholding tax rate is 14.5%.

Table 2.3 - Land value appreciation tax	
Gain	LVAT rate
On the portion of the gain which does not exceed 50% of the total cost	30%
On the portion of the gain which exceeds 50% but does not exceed 100% of the total cost	40%
For the portion which exceeds 100% but does not exceed 200% of the total cost	50%
For the portion above 200% of the total cost	60%

Hong Kong

Introduction

Hong Kong is one of the most open, externally-orientated economies in the world. In Hong Kong, there are no barriers to trade (no tariffs, no quotas, no exceptions), no restrictions on investments inward or outward, no foreign exchange controls and no nationality restrictions on corporate ownership.

Hong Kong taxes are among the lowest in the world, and our tax regime is simple and predictable. There is no capital gains tax, withholding tax on dividends and interest or collection of social security benefits in Hong Kong.

The profits tax rate is 17.5 %, imposed only on profits sourced in Hong Kong and the salaries tax rate is at a maximum rate of 16%, imposed only on all salary income of individuals derived from Hong Kong.

Taxes on Corporations

General structure and scope

Hong Kong has a territorial system of taxation, i.e. only profits sourced in Hong Kong are subject to profits tax. Profits arising from the sale of capital assets are not taxable in Hong Kong.

There is no distinction made between residents and non-residents except in very limited cases, for example shipping and air transport companies.

Generally, all expenses (excluding those of a capital nature) are allowed as deductions—to the extent that they have been incurred by the taxpayer in the production of chargeable profits.

The Hong Kong tax year runs from 1 April to 31 March each year, however taxpayers may choose their own accounting year-end date.

Profits tax rate for the year of assessment 2006/07 is 17.5%.

Allowances for depreciation

Capital allowances are available on expenditure on plant and machinery, leasehold improvements and real property (initial allowance is granted only in the year of expenditure) as per table 3.1. A balancing allowance or balancing charge may arise upon disposal of these fixed assets.

Losses

Losses incurred in an accounting year may be carried forward indefinitely and offset against future profits of that trade. Corporations carrying on more than one trade may offset losses in one trade against the profits of another.

Dividends

Dividends are not taxable in Hong Kong. There is no restriction for dividends paid to overseas shareholders.

Table 3.1 - Allowances for depreciation

Asset		Depreciation rate	Depreciation method
Plant & machinery			
•	Prescribed assets (including plant and machinery used specifically for manufacturing process, computer software and computer systems)	100% write off	
•	Others	Initial allowance 60% Annual allowance 10%, 20% or 30%	Reducing balance
Industrial buildings & structures		Initial allowance 20% Annual allowance 4%	Straight line
Commercial buildings & structures		Initial allowance 20% Annual allowance 4%	Straight line
Building refurbishment		Annual allowance 20%	Straight line

Interest

Interest tax was abolished on 1 April 1989. Only persons carrying on business in Hong Kong are subject to tax on interest income derived from Hong Kong under profits tax. However, interest income on bank deposits, which accrued on or after 22 June 1998, is exempted from profits tax under an Order issued by the Hong Kong Inland Revenue Department, if certain conditions are met.

Interest received by non-residents is not taxable in Hong Kong. However, the payer of the interest will not be entitled to claim the relevant interest expenses as deductible unless certain conditions are met.

Capital gains tax

Hong Kong does not tax capital gains, however profits tax may be levied on speculative profits if they arise from an adventure in the nature of trade. Whether or not a speculative profit is subject to profits tax will depend upon the nature of the taxpayer's activities and the intentions of the taxpayer who carries out the transactions.

Group of companies

Companies within a group are assessed for profits tax separately. There is no group assessment / relief where losses may be offset within a group of companies.

Double taxation relief

Hong Kong has entered into double taxation treaties in respect of income from shipping operations with

Belgium, Denmark, Germany, the Mainland China, the Netherlands, Norway, Singapore, Sri Lanka, Thailand, the United Kingdom and the USA; and double taxation treaties in respect of air traffic income with Bangladesh, Belgium, Canada, Croatia, Denmark, Estonia, Finland, Germany, Iceland, Jordan, Kenya, Korea, Kuwait, Macao SAR, Israel, the Netherlands, the Mainland China, New Zealand, Norway, the Republic of Mauritius, the Russian Federation, Singapore, Sri Lanka, Sweden, Thailand, the United Kingdom and the USA.

Double taxation treaties / memorandum have also been entered into with the Mainland China, Belgium and Thailand in order to minimise double taxation between the two jurisdictions. The arrangements cover permanent establishments, shipping, air and land transport, personal services, etc.

New double taxation relief with Mainland China

In order to provide added incentive for international investors to enter the Mainland China market through Hong Kong, Hong Kong and the Mainland China had entered into a new arrangement for double taxation relief which would be effective from 1 January 2007 and 1 April 2007 for Mainland China taxes and Hong Kong taxes respectively. The arrangement covers not only the double tax relief for direct income, but also reduced withholding tax rates for indirect income. The top rates for Mainland withholding tax for the indirect income are set out in Table 3.2. In addition, the Mainland tax rates for capital gains are set out in Table 3.3.

Table 3.2 - Top rates for withholding tax in Mainland China

Indirect income	Other Countries (without treaties)	Hong Kong
Dividend income	20% for individual 10% for company	10% for individual 5% for company (provided that the Hong Kong business holds at least 25% of the capital of the Mainland enterprise)
Interest income	20% for individual 10% for company	7%
Royalty income	20% for individual 10% for company	7%

Table 3.3 - Tax rates for capital gains in Mainland China

	Other Countries (without treaties)	Hong Kong
Capital gain	20% for individual 10% for company	Exempted (provided that (i) the Mainland company's assets are not mainly comprised of, directly or indirectly, immovable Mainland property; and (ii) the shares transferred are less than 25% of the shareholding of that Mainland company)

The new arrangement provides Hong Kong generally lower withholding tax rates in the Mainland China among other treaty countries which makes Hong Kong an ideal location for setting up intermediate holding, finance and licensing companies especially for corporations intending to hold the Mainland China investment on a long term basis.

Profits Tax Exemption for Offshore Funds

To strengthen Hong Kong's competitiveness as an international financial centre, the Hong Kong Legislative Council passed the Revenue (Profits Tax Exemption for Offshore Funds) Ordinance 2006 ("the Ordinance") in March 2006.

Under the Ordinance, an offshore fund entity (which covers individuals, partnerships, corporations and trustees of trust estates) would enjoy tax exemption in Hong Kong under the following two conditions:-

1. It is a non-resident entity; and
2. It does not carry on any business in Hong Kong other than the specified transactions and transactions incidental to the carrying out of the specified transactions.

A corporation, a partnership or a trustee of a trust estate is regarded as a non-resident entity if the central management and control of the corporation, partnership or trust estate is exercised outside Hong Kong.

The specified transactions including the following six categories:-

- a) A transaction in securities;
- b) A transaction in future contracts;
- c) A transaction in foreign exchange contracts;
- d) A transaction consisting in the making of a deposit other than by way of a money-lending business;
- e) A transaction in foreign currencies; and
- f) A transaction in exchange-traded commodities.

Income from both specified transaction and transactions incidental to the carrying out of the specified transactions would be exempt from Hong Kong profits tax provided that the trading receipts from the incidental transactions do not exceed 5 % of the total trading receipts from both the specified transactions and the incidental transactions. Otherwise, the incidental income would be chargeable to tax in Hong Kong, but income from the specified transactions would continue to be tax exempt.

For the Exemption Provisions to apply, the above transactions have to be carried out or arranged by specified persons i.e. licensed or authorized entities under the Securities and Futures Ordinance.

Other taxes

Consignment tax

Resident consignees are required to furnish quarterly returns to the Inland Revenue showing the gross proceeds from sales on behalf of their non-resident consignors, and pay 1% of the gross sales or such lesser sum as the Commissioner of the Inland Revenue has agreed as consignment tax.

In practice only 0.5% will be demanded. However, it is open to the non-resident to produce accounts showing that their liability to profits tax is less than that assessed under consignment tax.

Capital duty

Hong Kong imposes a capital duty of 0.1% (maximum HK\$30,000 per transaction) on the authorised (not issued) share capital of a locally incorporated company. This is not applicable to branches of a foreign corporation.

However, apart from the need to issue one subscriber share, there is no minimum capital requirement for Hong Kong companies.

Stamp duty

Stamp duty is payable in respect of sales of shares or marketable securities (0.1% each for the buyer and

Table 3.4 - Individual income tax rates for residents and non-residents

Net taxable income (HK\$)	Income tax rate / payable (HK\$)
Up to 30,000	2%
30,001 - 60,000	600 + 7% of income over 30,001
60,001 - 90,000	2,100 + 13% of income over 60,001
Over 90,001	3,900 + 19% of income over 90,001

seller), leases of property (0.25% to 1% depending on the length of the lease), and assignments and conveyance on the sale of immovable property (maximum 3.75%).

Registered debt instruments are exempt from stamp duty.

Local taxes

There are no regional, state or country taxes in Hong Kong.

Value added tax and customs duty

Hong Kong has no value added tax (VAT) or sales tax, and customs duties are levied only on wine, liquor, tobacco and hydrocarbon oil. Motor vehicles are subject to first registration tax on a similar basis to customs duties.

Taxes on Individuals

Salaries tax

Salaries tax is imposed (on both residents and non-residents) on all income arising in or derived from Hong Kong from an office or employment or any pension, including assessable fringe benefits.

However, for provision of accommodation by an employer, the employee is deemed to derive an additional income—being 10% of the total income—

instead of the actual rental payment.

Special provisions apply to seafarers, aircrews and individuals who do not spend more than 60 days during visits to Hong Kong in any tax year.

The salaries tax year runs from 1 April to 31 March each year. Salaries tax payable is calculated on the lesser of:

- the standard tax rate of 16% on net assessable income without deduction of personal allowances; and
- the amount calculated using the progressive rates of tax after deduction of personal allowances as set out in following paragraphs.

Tax rates and allowances

The rates for salaries tax in the 2006/07 year of assessment and personal allowances for salaries tax purposes are set out in tables 3.4 and 3.5 respectively.

If a non-resident is subject to Hong Kong salaries tax, he or she is entitled to personal allowances in the same manner as a Hong Kong resident.

Non-residents working in Hong Kong

Under a Hong Kong employment an individual is fully taxable unless his/her services are rendered entirely outside Hong Kong, or less than 60 days are spent on visits to Hong Kong during any tax year. An individual can also claim portion of his/her income exempted

Table 3.5 - Personal allowances and deductions for residents and non-residents

Allowance		HK\$
Personal allowances:	single	100,000
	married	200,000
Child allowance:	1st to 9th (each)	40,000
Dependent parent / grandparent allowance:	residing with taxpayer	60,000
	not residing with taxpayer	30,000
Single parent allowance:		100,000
Disabled dependent:		60,000
Dependent brother / sister:		30,000
Deductions		Limited to HK\$
Approved training courses		40,000
Home mortgage interest		100,000
Elderly residential care expenses		60,000
Contributions to retirement schemes		12,000
Donations to approved charitable institutions		25% of assessable income

from Hong Kong salaries tax in respect of the income derived by rendering services outside Hong Kong and salaries tax has been paid in that jurisdiction.

Under a non-Hong Kong employment an individual is assessed in proportion to the time spent in Hong Kong if services performed in Hong Kong exceed 60 days during any tax year.

Profits tax

Individuals carrying out any trade, profession or business in Hong Kong as sole traders or partnerships are chargeable to tax on all profits arising in or derived from Hong Kong from such trade, profession or business—excluding profits arising from the sale of capital assets.

Profits of individuals (sole traders and partnerships) are currently taxed at 16%.

Property tax

Individuals are liable to property tax at the standard rate of 16% on 80% of the assessable value of the property.

Tax payment

Provisional salaries tax is charged on earnings from employment. The tax is calculated based on the chargeable income of the preceding year.

For a tax year ending on 31 March, 75% of the provisional tax is generally payable in January-February of the tax year. The balance of 25% of the provisional tax is payable after 31 March on a date (usually April-May) fixed by the Commissioner.

Provisional tax paid is credited against the actual tax liability of the current year with any under or over payment adjusted accordingly when the first instalment of the following year's provisional tax falls due.

There is no 'pay as you earn' system (PAYE).

Social security / pension scheme

Mandatory Provident Fund ("MPF"), a compulsory retirement plan was implemented by the Government of Hong Kong on 1 December 2000. All full and part-time employees aged between 18 and 65, and employed for 60 days or more must be enrolled by the employer into an MPF scheme. Certain categories of persons are not required to join MPF schemes [e.g. expatriates employed for working in Hong Kong for less than 13 months, or who are covered under a retirement scheme

in their home country].

Mandatory contributions are basically calculated on the basis of 10% of an employee's relevant income, with the employer and employee each contributing 5%. The maximum and minimum income level is HK\$20,000 and HK\$5,000 per month respectively. If the employee's income exceeds HK\$20,000 per month, the employee and employer are only required to contribute 5% of HK\$20,000 (i.e. mandatory maximum contribution is HK\$1,000 per month each for the employer and employee). No contribution is required if the employee's income is below HK\$5,000 per month.

Estate duty and gift taxes

Estate duty was completely abolished for estates of those persons who die on or after 11 February 2006.

Estate duty in respect of estates of persons dying between 15 July 2005 and 10 February 2006 (inclusive) with the principal value exceeding HK\$7.5 million is charged at a nominal amount of HK\$100.

Withholding taxes on income paid to Non-residents

Dividends

Hong Kong does not impose withholding tax on dividends.

Interest

Hong Kong does not impose withholding tax on interest.

Royalties

Withholding tax is imposed on royalties paid for the use or right to use of certain intellectual property in Hong Kong.

The assessable profits are deemed to be 30% of the royalties received (i.e. the effective tax rate is 5.25% for corporations and 4.8% for non-corporations).

If the royalties are paid to an associate, the profits are deemed to be 100% of the gross royalty unless the Commissioner is satisfied that the intellectual property has never been wholly or partly owned by a Hong Kong person or entity.

India

Introduction

The Income-tax Act, 1961 contains the law relating to Indian income tax and The Wealth Tax Act, 1957 contains the law relating to taxation of certain specified wealth (assets). Revisions in the tax rates and other duties are made through the annual Finance Act or specific amendments. The tax administrators are not authorised to make changes in the tax legislation but are empowered by the statutes to make rules to carry out the provisions of law. The Ministry of Finance (Department of Revenue) through the Central Board of Direct Taxes (CBDT), an apex tax authority, implements and administers direct tax laws.

Income Tax On Corporates

General Structure and Scope

The companies are classified into 'domestic companies' and 'foreign companies' for tax purposes. The term 'domestic company' means an Indian company or any other company, which in respect of its income liable to tax under the Income-tax Act, has made the prescribed arrangement for the declaration and payment within India of the dividends payable out of such income. The term 'foreign company' means a company, which is not a domestic company.

A company is treated as 'resident' in India in any financial year, if:

- a) it is an Indian company i.e. a company formed and registered in India under the Companies Act, 1956 or
- b) during that year, the control and management of its affairs is situated wholly in India.

In view of the above, an Indian company is always an Indian resident. Consequently, an Indian company that is wholly owned by a foreign entity and managed from India by foreign individuals or companies is also considered as a resident Indian company. A foreign company is treated as resident only if it is wholly

controlled and managed from India during the relevant financial year.

Rates of Tax

The corporate tax year is the year ending 31 March and the income of the same is taxed in the assessment year commencing on the succeeding 1 April. The rates of tax for the assessment year 2007-08 (financial year 2006-07) in respect of taxable income (other than long term capital gains) is

- 33.66% {(30% tax plus 10% surcharge thereon) plus 2% education cess thereon} for domestic companies and
- 41.82% {(40% tax plus 2.5% surcharge) plus 2% education cess thereon} for foreign companies.

Minimum Alternate Tax (MAT): However, if the income-tax payable as computed under the provisions of the Income-tax Act is less than 11.22%* of the book profits, a special tax is levied on certain companies, known as the Minimum Alternate Tax (MAT). The MAT payable by a company would be 11.22%* {(10% tax plus 10% surcharge thereon) plus 2% education tax thereon} of the book profits. The MAT is not applicable to non-corporate entities. The MAT paid can be set-off in any of the subsequent five assessment years against the normal tax liability in excess of MAT payable under section 115JB of the Act.

* In the case of foreign companies the rate of MAT would be - 10.455% {(10% tax plus 2.5% surcharge thereon) plus 2% education cess thereon}.

Dividend Distribution Tax (DDT)

DDT is a tax payable on the dividend declared, distributed or paid. Dividends paid by an Indian company are currently exempt from income tax in the hands of the recipient shareholders. However the company paying the dividends is required to pay DDT on the amount of dividends, at the rate of 14.025 percent (inclusive of surcharge and educational cess). An exemption from this tax has been granted in case of dividends distributed on or after 1 April 2006 out of current income of Special Economic Zone (SEZ) developers.

Tonnage tax on shipping companies

Indian shipping companies are taxed on a presumptive basis. Tax is levied on the notional income of the

shipping company arising from the operation of ships at normal corporate tax rates. The notional income is determined in a prescribed manner on the basis of the tonnage of the ship. Tax is payable even in the case of loss. The scheme is applicable to the shipping companies that are incorporated under the Indian Companies Act (with its effective place of management in India) with at least one ship with minimum tonnage of 15 tonnes and holding a valid certificate under the Merchant Shipping Act, 1959. Shipping companies have an option to opt for the scheme or for taxation under normal income-tax provisions. Once the scheme has been opted for, it would apply for a mandatory period of ten years and other income-tax provisions would not apply.

Income of a foreign company or non-resident (not being a company) from royalty, technical fees, dividends, interest and income from units is taxed at the following rates (in the absence of lower rates under Double Taxation Avoidance Agreement):

Capital Gain Tax

Capital gain may arise on transfer of a capital asset. The expression "capital asset" means property of any kind. There are certain properties, which are excluded from the definition of the capital assets such as stock in trade, personal effects, agricultural land and certain other investments. There are two types of capital assets-long term capital assets and short-term capital assets. "Short term capital asset" means a capital asset held by an assessee for not more than 36 months, immediately prior to its date of transfer. In other words, if an assessee holds a capital asset for more than 36 months, then it is known as "long term capital asset". However, in case of shares in a company or listed securities or units of notified mutual funds if they are held for more than 12 months immediately prior to the date of their transfer then such assets shall be classified as long-term capital assets. The gain arising on transfer of "Long term capital asset" is called Long

Table 4.1 - Rates of tax

Type of income	% of gross amount in case of foreign company
Royalty and fees for technical services payable under an agreement approved by the Government of India or in accordance with new industrial policy *	10.455%**
Dividends	Nil***
Interest on monies borrowed in foreign currency	20.91%
Income from unites of notified mutual fund purchased in foreign currency	Nil****
*	Chargeable on net basis at normal tax rate specified in above if royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after 31 March 2003 where such non-resident or a foreign company carries on a business in India through a permanent establishment situated therein or performs professional services from a fixed place of profession situated therein and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of business as the case may be.
**	Effective in respect of royalty or fees for technical services under agreements entered into on or after 1st June 2005. The rate of 20% (Plus surcharge as applicable) would apply in respect of agreement entered into between 1 June 1997 and 1st June 2005 (30% for agreement entered into prior to 1 June 1997).
***	Domestic companies are liable to pay an additional income tax called Dividend Distribution Tax (DDT) on distribution of dividends at the rate of 14.025% {(12.5% tax plus 10% surcharge) plus 2% education cess thereon} in respect of such dividends, which would be in addition to normal corporate tax.
****	Mutual funds, other than equity oriented funds, are liable to pay an additional tax called Dividend Distribution Tax (DDT) in respect of income distributed to persons other than individuals and Hindu Undivided Families (HUF) at the rate of 22.44% {(20% tax plus 10% surcharge) plus 2% education cess thereon} and at the rate of 14.025 {(12.5% tax plus 10% surcharge) plus 2% education cess thereon} in case of income distributed to individuals and HUF.

Term Capital Gain and gain arising on transfer of "Short term capital asset" is called "Short Term Capital Gain". Long-term capital gain is generally taxable at lower rate as compared to short-term capital gain.

The long-term capital gains, after indexation of cost (indexation available only to residents), are subject to tax at the rate of 22.44% {(20% tax plus 10% surcharge) plus 2% education cess thereon}. However, in the case of listed shares, listed securities and listed/unlisted units of mutual funds on which securities transaction tax is not payable, tax payable on long term capital gains computed without indexation of cost shall not exceed 11.22% {(10% tax plus 10% surcharge) plus 2% education cess thereon}.

Long-term capital gains arising from transfer on or after 1 October 2004 of equity shares of a company on a recognized stock exchange in India or a unit of an equity oriented scheme of a specified mutual fund are exempt from tax provided that sale of such shares or units are chargeable to Securities Transaction Tax (Refer Para 8.3 for details).

Long-term capital gains in respect of depreciable assets shall be taxed as short-term capital gain. Short-term capital gains are taxed at normal tax rates.

Short term capital gain arising from transfer of shares of a company on a recognized stock exchange in India or a unit of an equity oriented scheme of a specified mutual fund are taxable at 10% (plus surcharge plus education cess) provided that sale of such shares or units are chargeable to Securities Transaction Tax. Other short-term capital gains are chargeable at normal income tax rates plus surcharge and education cess at applicable rates.

Fringe Benefit Tax

The Finance Act, 2005 has introduced a separate tax known as 'Fringe Benefit Tax' (FBT). Every employer as defined in provisions relating to FBT is liable to pay tax @ 33.66 % {(30% tax plus surcharge at 10%) plus education cess @ 2% thereon} on the value of fringe benefit provided or deemed to be provided to his employees. The nature of fringe benefits liable to FBT and value of various fringe benefits are discussed separately.

Taxable Income

An Indian company is taxed on income accruing or arising either in India or outside India and on income

deemed to accrue or arise in India. A non-resident company is taxed only on income accruing or arising in India or income which is deemed to accrue or arise in India. Actual receipt of income in India is taxable in either of the cases. Income from foreign branches is taxable in India. Double taxation of foreign income of either of the entities is avoided by means of double taxation treaties which also provide for tax relief in the appropriate situation. Income of a subsidiary company is taxed separately as an independent entity.

The following categories of income are deemed to accrue or arise in India for which taxpayers in all categories (including companies) are liable to Indian tax:

- All income accruing or arising, whether directly or indirectly, through or from any business connection, property, asset or source of income in India or through the transfer of a capital asset situated in India.
- Income by way of interest payable by the government or in respect of any debt incurred, or monies loaned and used for the purposes of a business or a profession carried on in India.
- Income by way of royalty payable by the government or in respect of any right, property or information used or services utilized for the purposes of a business or profession carried on in India except lump-sum payments for computer software supplied with a computer or computer-based equipment.
- Income by way of fees payable in respect of technical services payable by the government or utilized in a business or profession carried on in India.

Taxation on income other than agricultural income is the province of the Central Government. Taxation of agricultural income is determined by the states and different rates are levied on such income by different states.

In order to compute the income of the company, first one has to ascertain the gross total income under each head (ignoring the incomes which are exempted from the tax) viz. rental income of property, income from business or profession, capital gains and income from other sources such as interest, dividend etc. Then the admissible deductions viz. donations, income from new industrial undertakings, income from small-scale industries, export profits of units set up in special

economic zones, etc. have to be made to arrive at the taxable income.

Income from Property

The annual value of property, consisting of any buildings or lands appurtenant thereto, of which the assessee is owner, is chargeable to tax. If, however, a house property is occupied by the assessee for the purpose of his business or profession, carried on by him, annual value of such property is not chargeable to tax.

Assessee is allowed statutory deduction at the rate of 30% of such annual value of the property irrespective of the actual amount spent. In addition to above, deduction is allowed for interest paid on borrowed capital. However, the amount of interest deductible is restricted to Rs.150,000 (Rs. 30,000 in respect of specified cases) in case of self-occupied residential house.

Income from Business or Profession

Net profit as shown in profit and loss account prepared in accordance with the provisions of Parts II and III of the Sixth Schedule to the Companies Act, 1956 is the starting point for computing taxable income. Net profit as above is to be increased by the expenditure disallowable and is to be reduced by the expenditure allowable as per the provisions of the Income-tax Act.

Capital Gains

Capital gains on corporate entities are taxed at the rates specified in para 2.2 above. Capital gains are calculated by deducting the cost of acquisition, the cost of any improvement to the asset and transfer expenditure from the consideration received on transfer.

Cost of Acquisition

In case of a capital asset acquired before 1st April 1981 the cost of acquisition may be taken as the fair market value of the asset as on 1st April 1981. In case of long-term capital gains the indexed cost of acquisition and the indexed cost of improvement would be deductible from the value of consideration for determining taxable capital gains earned by residents.

Capital gains earned by non-residents on transfer of shares in or debentures of an Indian company will be computed by converting the cost of acquisition, improvement, or other expenses incurred on transfer and the sale price into the same foreign currency as was initially utilized in the purchase of the shares

or debentures and reconverting the capital gain so determined in foreign currency to Indian currency. In such a case, the benefit of indexation is not available to the non-residents.

Long-term capital gains arising from transfer of equity shares of a company on a recognized stock exchange in India or a unit of an equity oriented scheme of a specified mutual fund are exempt from tax provided that sale of such shares or units are chargeable to Securities Transaction Tax.

Short term capital gain arising from transfer of equity shares of a company on a recognized stock exchange in India or a unit of an equity oriented scheme of a specified mutual fund are taxable at 10% (plus surcharge plus education cess) provided that sale of such shares or units are chargeable to Securities Transaction Tax.

Gains arising on transfer of capital assets by a company are exempt from tax under the following circumstances:

- i. transfer by a parent company to a wholly owned Indian subsidiary company;
- ii. transfer by a wholly owned subsidiary company to its Indian holding company;
- iii. transfer, in a scheme of amalgamation, by an amalgamating company to the amalgamated company if the latter is an Indian company;
- iv. distribution by a company of its assets to its shareholders in a liquidation;
- v. transfer, in a scheme of amalgamation of shares held in an Indian company by the amalgamating foreign company, to the amalgamated foreign company if;
 - a) at least 25% of the shareholders of the amalgamating foreign company remain shareholders of the amalgamated foreign company; and
 - b) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated.
- vi. any transfer, in a de-merger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;
- vii. Any transfer in a de-merger, of a capital asset, being a share or shares held in an Indian company, if the resulting company is an Indian company, by the

demerged foreign company to the resulting foreign company, if-

- a) the shareholders holding not less than three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and
 - b) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated;
- viii. any transfer or issue of shares by the resulting company, in a scheme of de-merger to the shareholders of the demerged company if the transfer or issue is made in consideration of de-merger of the undertaking; and
- ix. transfer of capital assets or intangible assets by a partnership firm to a company or by a sole proprietary concern to a company, in the event of succession of business subject to fulfillment of specified conditions.

However, in cases (i) and (ii), if the transferee company converts such capital assets into stock in trade or if the holding company or its nominees cease to hold the whole of the share capital of the subsidiary company within eight years from the date of such transfer, the capital gains exempted on the transfer will be taxed as income of the year of transfer.

Income from Other Sources

A source of income, which does not specifically fall under any one of the other heads of income, is to be computed and brought to charge under this head of income.

Tax Incentives

In order to encourage industrial growth and development, the Government of India offers several tax incentives to industrial units and foreign exchange earners in the country. These incentives reduce the tax incidence substantially and are subject to fulfillment of specified conditions.

Table 4.2 - Tax Benefits

Section	Details of exceptions / deductions	Period	Quantum of deductions
10A/10B	- For newly established undertakings in Free Trade Zones or Export Processing Zone or Electronic Hardware Technology Park (EHTP) or Software Technology Park (STP) or 100% Export Oriented Undertakings (EOU). - For any new eligible undertaking set up in a Special Economic Zone ('SEZ') after 1 April 2002. - No deduction shall be allowed to any undertaking, which has begun or begins to manufacture or produce article or thing or computer software after 1 April 2005, in any Special Economic Zone**. - A new section 10AA has been inserted by The Special Economic Zones Act, 2005 to provide tax benefits to units set up under the SEZ on or after 1 April 2005. - Exemption is available for profits from export of article or thing or computer software, manufactured or produced by an eligible undertaking. - The term 'computer software' includes notified 'information technology enabled services'. - The benefit is available to cutting and polishing of precious and semi-precious stones. - The export proceeds must be realised within specified time. - No deduction under this section will be allowed unless the assessee files the return of income within the prescribed time limit.	First 10 years upto financial year 2008-09 First 5 years Next 2 years Next 3 years*	100% 100% 50% 50%
	* The deduction is allowed only on creation of a specified reserve, which is utilized for specified purposes. ** Inserted by The Special Economic Zones Act, 2005.		

Tax Benefits

The Income tax Act, 1961 provides for far reaching tax holidays and other tax incentives for businesses. We have enumerated, in brief, the significant tax holidays and incentives available to businesses along with the nature of deductions, eligibility criteria, quantum of deduction and period for which the deductions are available in Table 4.2. The tax holidays and incentives are subject to fulfillment of specified conditions.

Transfer Pricing Regulations

The Finance Act, 2001 (effective from 1st April 2001) has inserted new sections 92 to 92F in the Income-tax Act, 1961 to facilitate determination of the proper taxation methodology of the international transactions between 'associated enterprises' having regard to arm's length principles. As per the transfer pricing regulations, it is required that any income arising from an international transaction is to be computed at the

Table 4.2 - Tax Benefits continued

Section	Details of exceptions / deductions	Period	Quantum of deductions
10AA	- For any new eligible unit set up in a Special Economic Zone ('SEZ') on or after 1 April 2005. - Exemption is available for profits derived from export of article or thing or services, manufactured, produced or provided by an eligible unit. - There is no restriction on realisation of the export proceeds within a particular time frame for the purpose of claiming the deduction. - The profits and gains derived from on-site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India. - The term manufacturing includes processing	First 5 years Next 5 years Next 5 years+	100% 50% 50%
	+ The deduction is allowed only on creation of a specified reserve, which is utilized for specified purposes		
10BA	- Exemption is available for profits from export of hand-made wooden articles or things manufactured or produced by an eligible undertaking. - Exports of at least 90% of total sales during any financial year are necessary for claiming the exemption. - Employment of at least 20 workers in the manufacturing process during the year. - The export proceeds must be realised within the specified time.	Exemption is available upto financial year 2008-09	100%
33AB	Tea development allowance - - Deduction is available to assessee engaged in the business of growing and manufacturing tea, coffee or rubber in India. - Deduction equal to an amount deposited in a special account with the National Bank for Agriculture and Rural Development ('NABARD') from the profits is allowed. - The amount has to be deposited within specified period from the end of the financial year or before furnishing the return of income, whichever is earlier. - The amount has to be utilized by the assessee for specified purposes.	NA	Up to 40% of profits

Table 4.2 - Tax Benefits continued

Section	Eligibility Criteria, Quantum and Period of Deduction
32	- Additional depreciation of 20% is allowed for new plant and machinery acquired and installed after 31 March 2005. - General rate of depreciation for plant and machinery is 15% from financial year 2005-2006.
35	Expenditure on scientific research: - Where any capital expenditure (other than expenditure on land) is incurred on scientific research related to the business carried on by the assessee, 100% of such expenditure can be claimed as deduction. - Where any expenditure (other than expenditure on cost of land), on in-house research and development facility as approved by the prescribed authority, incurred by a company engaged in the business of bio-technology or in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified, the deduction shall be one and one-half (150%) of the expenditure incurred. The deduction is allowed only for expenditure incurred upto 31 March 2007. - Where amount is paid to a scientific research association, which has its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research, the deduction shall be one and one-fourth (125%) of the amount paid provided that such association, university, college or institution is approved by the Central Government. Similar deduction is available for amount paid to approved university, college or other institution to be used for research in social science or statistical research.
35DDA	Amortization of expenditure under voluntary retirement scheme: Any expenditure incurred by way of payment of any sum to employee in connection with his voluntary retirement is eligible for amortisation over 5 years, subject to specified conditions.
54G	Exemption of Capital gains on transfer of assets in case of shifting of industrial undertaking from urban area: Capital gains arising on transfer of plant, machinery, land, building or any rights in land / building effected in course of or in consequence of the shifting of an industrial undertaking situated in an urban area to any area (other than an urban area), shall be exempt to the extent of the amount of capital gains utilized within a period of 1 year before or 3 years after the date of transfer of the above assets, for purchase of new plant and machinery, land and building and for shifting expenses.
54GA	Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to Special Economic Zone: (Inserted by The Special Economic Zones Act, 2005). Capital gains arising on transfer of plant, machinery, land, building or any rights in land / building effected in course of or in consequence of the shifting of an industrial undertaking situated in an urban area to any Special Economic Zone, shall be exempt to the extent of the amount of capital gains utilized within a period of 1 year before or 3 years after the date of transfer of the above assets, for purchase of new plant and machinery, land and building and for shifting expenses, subject to specified conditions.
54EC	Capital gain not to be taxed on investment in certain bonds: Long-term capital gains shall be exempt from tax, if an assessee invests, within a period of six months from the date of transfer of a long-term capital asset, the capital gains in the specified assets. The specified asset must be held for a period of 3 years from the date of its acquisition. This exemption is restricted to investment in specified assets viz. bonds issued by National Highway Authority of India and the Rural Electrification Corporation Ltd.
10(38)	Capital gain arising from transfer of long term capital asset being an equity share in a company or a unit of an equity oriented fund, on which securities transaction tax is charged, is exempt from tax. However, this exemption is not available for computation of Minimum Alternative Tax.
115JB SS(6)	The provisions of the section 115 JB i.e. the provisions relating to Minimum Alternative Tax will not apply to income accruing or arising on or after 1 April 2005 from a unit in SEZ or from development of SEZ.
115O SS(6)	The undertaking and enterprise engaged in developing or developing and operating or developing, operating and maintaining a SEZ will not be liable to pay dividend distribution tax on dividend declared, distributed and paid, out of current income, on or after 1 April 2005.
80IA/80IB/ 80IC/80IAB /80LA	Deductions of Profits derived by Newly Established Industrial Undertakings / Infrastructure Projects / Facilities / Developers of SEZs / Banking units etc.

Table 4.2 - Tax Benefits continued

Sr. No.		Nature of activity and location	Type of organisation	Quantum of exemption	Number of years																		
i(a)	- Industrial undertaking located in notified industrially backward states. - Manufacturing or producing any articles or things or operating cold storage plant which has commenced operations during 1 April 1993 to 31 March 2004. - Industrial undertaking deriving profit from the business of setting up and operating cold chain facility for agricultural produce which has begun to operate such facility on or after 1 April 1999 but before 31 March 2004. - The terminal date has been extended upto 31 March 2007 for setting up of industrial undertakings in the State of Jammu and Kashmir. - A negative list is provided to specify the commodities, which should not be manufactured or produced by such undertakings. - The deduction of 100% of the profits hitherto available under Section 80IB for a period of ten assessment years to notified industries set up in North-Eastern Region, will be available under Section 80IC only, from financial year 2003-04	Company Co-operative Society Others	100% 30% 100% 25% 100% 25%	First 5 years Next 5 years First 5 years Next 7 years First 5 years Next 5 years																			
i(b)	- Undertaking set up in any part of India for the generation or generation and distribution, of power, which has commenced operations during 1 April 1993 to 31 March 2010 - Undertaking which undertakes substantial renovation and modernization of the existing network of transmission or distribution lines between 1 April 2004 and 31 March 2010 - The renovation / modernization should result into increase of at least 50 percent of the book value of such plant and machinery as on 1 April 2004	All	100%	Any 10 consecutive years out of first 15 years																			
i(c)	Industrial undertaking located in industrially backward districts of categories A and B notified by Central Government, manufacturing or producing articles or things (except specified low priority items) or to operate its cold storage plant or plants which has commenced operations during 1 October 1994 to 31 March 2004.	A. Set up in category 'A' districts <table><tr><td>Company</td><td>100% 30%</td><td>First 5 years Next 5 years</td></tr><tr><td>Co-operative Society</td><td>100% 25%</td><td>First 5 years Next 7 years</td></tr><tr><td>Others</td><td>100% 25%</td><td>First 5 years Next 5 years</td></tr></table> B. Set up in category 'B' districts <table><tr><td>Company</td><td>100% 30%</td><td>First 3 years Next 5 years</td></tr><tr><td>Co-operative Society</td><td>100% 25%</td><td>First 3 years Next 9 years</td></tr><tr><td>Others</td><td>100% 25%</td><td>First 3 years Next 5 years</td></tr></table>				Company	100% 30%	First 5 years Next 5 years	Co-operative Society	100% 25%	First 5 years Next 7 years	Others	100% 25%	First 5 years Next 5 years	Company	100% 30%	First 3 years Next 5 years	Co-operative Society	100% 25%	First 3 years Next 9 years	Others	100% 25%	First 3 years Next 5 years
Company	100% 30%	First 5 years Next 5 years																					
Co-operative Society	100% 25%	First 5 years Next 7 years																					
Others	100% 25%	First 5 years Next 5 years																					
Company	100% 30%	First 3 years Next 5 years																					
Co-operative Society	100% 25%	First 3 years Next 9 years																					
Others	100% 25%	First 3 years Next 5 years																					

Table 4.2 - Tax Benefits continued

Sr. No.	Nature of activity and location		Type of organisation	Quantum of exemption	Number of years
ii	Industrial undertaking other than (i) above, manufacturing or producing articles or things (except specified low priority items) or operating cold storage plant which has commenced its operations during 1 April 1991 to 31 March 1995. However, a small scale industrial undertaking manufacturing and producing any article or thing and commencing manufacturing operations or operating cold storage plant from 1 April 1991 to 31 March 2002 is eligible.		Company Co-operative Society Others	30% 25% 25%	First 10 years First 12 years First 10 years
iii	Enterprise being company or consortium of companies registered in India, for carrying on business of (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining of a new infrastructure facility like road, bridge, rail system, highway project and water supply project, water treatment system, irrigation project, sanitation and sewage system or solid waste management system, airport, port, inland waterways and inland ports, commencing its operations on or after 1 April 1995.		Company	100%	For 10 consecutive years out of first 15 years (20 for road, bridge, rail system, highway, water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system)
iv	Approved Hotel located in hilly or rural area or place of pilgrimage, which has started functioning during 1 April 1990 to 31 March 1994 or during 1 April 1997 to 31 March 2001.		Indian company with a minimum paid up capital of Rs. 5,00,000	50%	First 10 years
v	Hotel located in any place other than a hilly or rural area or place of pilgrimage which has started functioning during 1 April 1991 to 31 March 1995 or during 1 April 1997 to 31 March 2001. (However, for both (iv) & (v), hotel located at a place within the municipal jurisdiction of four metro cities of Kolkatta, Chennai, Delhi and Mumbai are not eligible if they start functioning during 1 April 1997 to 31 March 2001)		Indian Company with a minimum paid up capital of Rs. 5,00,000	30%	First 10 years
vi	Ship brought into use between 1 April 1991 to 31 March 1995.		Indian company	30%	First 10 years
vii	Any company registered in India with its main object being scientific and industrial research and development which is for the time being approved by the Department of Scientific and Industrial Research at any time after 31 March 2000 but before 1 April 2007.		Company	100%	For first 10 years (5 years if approved before 1 April 1999).
viii	- Any undertaking which starts providing tele-communication services, whether basic or cellular, including radio paging, domestic satellite service or network of trunking, broadband network and internet services on or after 1 April 1995 but before 31 March 2005 - The restrictions on transfer of old plant and machinery and reconstruction of business are made applicable to the telecom sector with effect from 1 April 2004.	All	100% 30%	First 5 years Next 5 years The above 10 years shall be consecutive assessment years out of first 15 years	

Table 4.2 - Tax Benefits continued

Sr. No.		Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
ix		Any undertaking which begins to develop or develops and operates or maintains and operates an industrial park or SEZ notified by the Central Government which has commenced operations during 1 April 1997 to 31 March 2009. # - As per amendments by The Special Economic Zones Act 2005, the exemption will not be available for SEZs notified after 1 April 2005. Exemption will now be available under a new section 80 IAB.	Company	100%	10 years out of first 15 assessment years
x		Any assessee being developer of a SEZ notified by the Central Government after 1 April 2005.	Any Assessee	100%	10 years out of first 15 assessment years
xi		Any undertaking, which begins commercial production of mineral oil in any part of India on or after 1 April 1997 and for refining of mineral oil on or after 1 October 1998.	All	100%	First 7 years
xii		Any undertaking engaged in developing and building housing projects approved by a local authority before 31 March 2007 In case of projects approved on or after 1 April 2004, it should be completed within 4 years from the end of the financial year in which it is approved. In other cases it should be completed before 31 March 2008 The deduction is allowed subject to fulfillment of various other conditions like minimum area of the land, maximum built-up area of residential and commercial units etc. In case of multiple approvals from the local authority, the date of first approval will be considered for the calculation of time limit of completion.	All	100%	Not applicable
xiii		An undertaking deriving profit from the integrated business of handling, storage and transportation of food grains subject to such business beginning its operations on or after 1 April 2001. The benefit is extended to undertakings engaged in the business of processing, preservation and packaging of fruits and vegetables with effect from 1 April 2004.	Company Others	100% 30% 100% 25%	First 5 years Next 5 years First 5 years Next 5 years
xiv		Any undertaking engaged in the business of building, owning and operating a multiplex theater located at any place other than a place within the municipal jurisdiction of four metro cities i.e., Kolkatta, Chennai, Delhi and Mumbai and constructed at any time during the period of 1 April 2002 to 31 March 2005.	All	50%	First 5 years

Table 4.2 - Tax Benefits continued

Sr. No.		Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
xv		Any undertaking engaged in the business of building, owning and operating a convention center constructed at any time during the period of 1 April 2002 to 31 March 2005	All	50%	First 5 years
xvi	- Any undertaking engaged in the business of operating and maintaining a hospital in a rural area. - The undertaking shall be eligible for the deduction if such hospital is constructed in accordance with the local regulations in force, and has at least 100 beds for patients. - The hospital should be constructed during the period beginning on 1 October 2004 and ending on 31 March 2008.	All	100%	First 5 years	
xvii	- New undertakings and enterprises, or substantial expansion of existing undertakings and enterprises located in the states of If located in Sikkim, the undertaking, which begins to manufacture or produce or undertakes substantial expansion during the period beginning from 23 December 2002 to 31 March 2012. - If located in Himachal Pradesh and Uttaranchal, the undertaking, which begins to manufacture or produce or undertakes substantial expansion during the period beginning from 7 January 2003 to 31 March 2012. - If located in North Eastern States*, the undertaking, which begins to manufacture or produce or undertakes substantial expansion during the period beginning from 24 December 1997 to 31 March 2007 - List of articles and products entitled / not entitled for such deduction have been prescribed * - States of Assam, Tripura, Meghalaya, Mizoram, Nagaland, Manipur and Arunachal Pradesh	All Company Other All 100% 100% 30% 100% 25% 100%	100% 100% 30% 100% 25% 100%	First 10 years First 5 years Next 5 years First 5 years Next 5 years First 10 years	
xviii	- Inserted by The Special Economic Zones Act, 2005 - Offshore banking unit in SEZ. - From the business referred to in section 6(1) of the Banking Regulation Act, 1949. - From any unit of the International Financial Services Center from approved business.	Scheduled Bank or any bank incorporated by or under the law of a country outside India. Or a unit of an International Financial Services Center.	100% 50%	First 5 years (beginning with the year in which prescribed permissions are obtained) Next 5 years	

arm's length price. It is also provided that to arrive at such income, the deductible expenses or interest is also to be computed at the arm's length price. Further, it is provided that when any allocation or apportionment of or any contribution to any cost or expenses between two or more associated enterprises, in international transaction, is required, in connection with a benefit, service or facility provided by one or more enterprise, then the same is to be determined at arm's length price.

Arm's length price means a price that would be obtainable had the transaction taken place between independent parties in uncontrolled conditions. The methods prescribed for computing arm's length price in transfer pricing regulations are as follows:

- a) Comparable uncontrolled price method;
- b) Resale price method;
- c) Cost plus method;
- d) Profit split method;
- e) Transactional net margin method.

Further, transfer pricing regulations provide for the record keeping regarding international transactions with associated enterprises and obtaining of certificate from the Chartered Accountant. The penalties for non-disclosure of the international transactions could be 2% of the transaction value apart from penalties for concealment which range from 100% to 300% of the tax sought to be evaded.

Table 4.3 - Significant Conditions for Eligibility for Deduction under section 80IA/80IB

•	An eligible industrial undertaking is one, which fulfils all of the following conditions:
•	It manufactures or produces any article or thing other than any non-priority article or thing (as specified in the Eleventh Schedule) or operates one or more cold storage plant or plants in any part of India. However, restriction regarding manufacture of non-priority article specified in eleventh schedule is not applicable to small-scale industrial undertakings and industrial undertakings located in backward states.
•	It employs (a) ten or more workers in a manufacturing process carried on with the aid of power or (b) twenty or more workers in a manufacturing process carried on without the aid of power.
•	It is not formed by splitting up, or reconstruction, of a business already in existence or by transfer to a new business of machinery previously used for any purpose (except under certain circumstances).
•	The profits and gains of an eligible business for the purpose of determining the quantum of deduction under this section for the assessment year be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the assessment year for which the deduction is to be made.
•	An eligible enterprise engaged in development, operation and maintenance of any infrastructure facility should have entered into an agreement with the Central Government / State Government / local authority / other statutory body for developing or operating and maintaining or developing, operating and maintaining a new infrastructure facility.
•	The exemption is also available to profits and gains derived from ships and approved hotels subject to fulfillment of certain conditions. In the case of a hotel, a significant condition is that the business of the hotel should be owned and carried on by a company registered in India with a paid up capital of Rs. 5,00,000 or more.
•	For the enterprise, where housing or other activities are an integral part of the highway project, then the exemption is available to profits and gains derived from such project subject to condition that the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account and the amount remaining unutilised shall be chargeable to tax as income of the year in which transfer to reserve account took place.
•	Where any amount of profits and gains of an industrial undertaking or of a hotel in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provision of the Act and shall in no case exceed the profits and gains of the undertaking or hotel as the case may be.
•	From 1 April 2002, any undertaking claiming deduction under this section must furnish a report of audit in the prescribed form duly signed and verified by an accountant.

Relief for Tax Losses

Business loss incurred in a tax year and not adjusted against other income can be carried forward for 8 years, and set off against future business profit provided the income tax return for the year of loss is filed timely. Losses from a speculation business (as defined) can be set off only against gains from speculation business for a maximum of four years. For private companies, a 51% continuity of ownership test must also be satisfied. Carry back of losses is not permitted. Further, the benefit of carry forward of losses and unabsorbed depreciation is allowed in cases of amalgamation of a company owing an 'industrial undertaking' or a ship, with another company or an amalgamation of a banking company with a banking institution sanctioned and brought into force by the central government under the Banking Regulation Act.

Unabsorbed depreciation can be carried forward indefinitely and can be set off against any income under any head of subsequent years. Short-term capital loss also can be carried forward for eight years, and set off against future capital gains only. However, long-term capital gain can be set-off only against long-term capital gain only.

Returns and Payment of Taxes

The companies are liable to submit their tax returns of the relevant financial year (i.e. year ending 31st March) on or before the immediately succeeding 31 October.

Tax is payable in advance on income, including capital gains, if the tax computed as payable for any year is Rs.5,000/- or more. Advance tax is payable on specified dates during the financial year in the manner set out below. The advance tax payable is determined by estimating the total income (including capital gains) for the year. Tax is to be calculated at the rates applicable for the financial year and is to be reduced by the amount of withholding tax deductible or collectible in terms of any provision of the Act. While shortfalls or excess payments, consequent upon errors in estimation, may be adjusted in subsequent installments, shortfalls vis-

à-vis specified percentages would attract interest. All taxes must be paid before filing return of income.

The due dates for payment of advance tax and the amounts payable are as indicated in Table 4.4 below.

In case of non-payment of specified percentages of advance tax by specified dates, interest @ 1.25% per month or part thereof is payable on the shortfall.

The unpaid balance of tax is payable before filing the return of income with interest thereon @ 1.25% per month. Further, interest @ 1.25% per month or part thereof is payable on such balance tax, if the return is not filed within the specified time.

Income Tax On Non-Corporates

Residential Status

Individuals

Individuals are classified into 'residents', 'non-residents' and 'residents but not ordinarily residents'. The gamut of income subject to tax is dependent on the residential status irrespective of the nationality of the individual.

An individual is said to be resident in India in any tax year if he is:

- i) in India for a period or periods amounting to 182 days or more in a tax year; or
- ii) in India for an aggregate period of 60 days or more (182 days in certain cases) in the tax year and has been in India for an aggregate period of 365 days or more in the 4 tax years preceding that tax year.

A person is said to be 'resident but not ordinarily resident' (NOR) in India in any tax year if such person is:

- i. an individual who has been non-resident in India in nine out of ten tax years preceding that tax year; or
- ii. an individual who has been in India for a period or periods amounting to 729 days or less, during the seven tax years preceding that year,

Table 4.4 - Due dates for payment of advance tax

Due date	Amount payable
On or before 15th June	Not less than 15% of advance tax
On or before 15th September	Not less than 45% of advance tax less earlier installment
On or before 15th December	Not less than 75% of advance tax less earlier installments
On or before 15th March	Whole of advance tax less earlier installments

A non-resident is a tax payer who is not resident in India.

Other Non-corporate Entities

There are certain other non-corporate entities recognised by the Income-tax law viz partnerships, trusts, Hindu Undivided Families (HUFs) etc. These entities are treated as 'resident' in India in any financial year, unless the control and management of their affairs are situated wholly outside India, during the year.

Rates of Tax

Income-tax rates for individuals and HUFs regardless of their residential status are as indicated in table 4.5.

The rate of tax is 33.66% (33% (30% + 2.5% surcharge) plus 2% education cess thereon) for partnership firms.

Long-term capital gains from transfer of shares/securities chargeable to securities transaction tax are exempt. Also, long-term capital gains from transfer of units of equity-oriented scheme of a specified mutual fund are exempt from tax. Other long term capital gains are taxable at a concessional rate of 20% (10% without indexation in case of gain arising from listed shares/securities and listed/unlisted units of mutual fund) plus surcharge at applicable rate. Non-residents of Indian origin are subject to a concessional tax rate as discussed earlier.

The incidence of income tax for individuals, women and senior citizens, for the financial years 2005-06 and 2006-07, having different income levels can be exemplified as indicated in Table 4.6.

Taxable Income

The provisions relating to determination of taxable income are as follows:

- a) Residents are liable to tax on their worldwide income.
- b) Non-residents are liable to tax on income, which accrues or arises or is deemed to accrue or arise in India as well as income, which is received or deemed to be received in India.
- c) 'Resident but not ordinarily resident' persons are liable to tax on income specified in (b) above and income derived from a business controlled from or profession set up in India.

Gross Income

An individual's gross income includes salary, income from house property, profits and gains of business or profession, capital gains and income from other sources.

Gift Received Liable to income tax

Any sum of money received on or after 1 September 2004 exceeding Rs.25,000* without consideration by an individual or Hindu Undivided Families shall be included in the total income of such individual or Hindu Undivided Family. However, the following gifts shall be excluded:

- a) Received from Relatives as defined in the explanation to the above provisions in the Income-tax Act.
- b) Received on the occasion of marriage of the individual

Table 4.5 - Income tax rates for individuals

Income Slab (Rs.)	Tax Rates*
0 - 1,00,000 [#]	Nil
1,00,001 [#] - 1,50,000	10.20% of income exceeding Rs.1,00,000
1,50,000 - 2,50,000	Rs. 5,100 plus 20.40% of income exceeding Rs. 1,50,000
2,50,001 - 10,00,000	Rs. 25,500 plus 30.60% of income exceeding Rs. 2,50,000
10,00,001 and above	Rs. 2,80,500 plus 33.66% of income exceeding Rs.10,00,000**
* The tax rates are inclusive of education cess of 2%. Further, in case of income exceeding Rs.10,00,000, surcharge of 10% is also included. # In case of a resident woman below 65 years of age at any time during the previous year, the basic exemption income slab is Rs. 1,35,000 and in case of a resident individual of the age of 65 years or more (senior citizen) at any time during the previous year, the basic exemption income slab is Rs. 1,85,000. The tax for other slabs will change accordingly. ** Marginal relief is available to ensure that the additional income tax payable, including surcharge of 10% on the excess of income over Rs. 10,00,000 is limited to the amount by which the income is more than Rs. 10,00,000. However, no marginal relief shall be available in respect of the education cess.	

- c) Received under a will or by an inheritance or in contemplation of death of the payer
- d) Received from any local authority as defined in the Explanation to clause (20) of section 10 or from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to clause (23C) of section 10
- e) Received from any trust or institution registered under section 12AA
- iii. Reinvestment of capital gain arising from sale of a capital asset for investment in specified bonds.
- iv. Reinvestment of long term capital gains arising from sale of listed securities or unit of a mutual fund for investment in equity shares forming part of an eligible issue of capital.

* - The limit is proposed to be enhanced to Rs. 50,000.

Capital Gains Tax

The provisions relating to computation of capital gains tax applicable to corporate entities are equally applicable to non-corporate entities. In addition to that following exemptions are available.

Long term Capital Gains - Exemptions

Individuals and Hindu undivided families are also entitled to claim exemption from long-term capital gains under the following circumstances in accordance with the relevant provisions:

- i. Reinvestment of long term capital gain arising from sale of residential house for acquisition of another residential house.
- ii. Reinvestment of sale proceeds arising from sale of a capital asset (other than a residential house) for acquisition of a residential house subject to fulfillment of certain conditions.

Deductions and Reliefs

Donations within specified limits, to approved charities qualify for deduction of 100% or 50%.

The reliefs available to corporate entities discussed above are generally available to non-corporate entities unless specifically excluded. The principal reliefs not applicable to non-corporate entities are benefits available to shipping companies, incentives for infrastructure facilities, hotels, ships, scientific and industrial research companies etc.

Deductions / Tax Relief

From the financial year 2005-06, individuals and HUFs are entitled to deduction upto Rs.100,000 in respect of certain specified savings/investments/expenditure.

Clubbing of Minor's Income

Income of minor children, other than income earned through personal endeavours is generally attributable to the parent that has the higher income for tax purposes. However, income of a minor child suffering from a prescribed disability is not aggregated but is taxable separately.

Table 4.6 - Individual income tax rates - liability

Income Level	Tax Liability		
	Individuals*	Women	Senior Citizens
1,00,000	-	-	-
1,25,000	2,550	-	-
1,50,000	5,100	1,530	-
2,00,000	15,300	11,730	3,060
2,50,000	25,500	21,930	13,260
3,00,000	40,800	37,230	28,560
5,00,000	1,02,000	98,430	89,760
10,00,000	2,55,000	2,51,430	2,42,760
15,00,000	4,48,800	4,44,873	4,35,336
20,00,000	6,17,100	6,13,173	6,03,636
25,00,000	7,85,400	7,81,473	7,71,936

Relief for Tax Losses

The provisions relating to carry forward of losses and depreciation applicable to corporate are equally applicable to non-corporate entities.

Returns and Payments of Taxes

The due dates for furnishing of tax returns in case of non corporate entities are as indicated in Table 4.7. The due dates for payment of advance tax are as indicated in Table 4.8.

Special Provisions For Computation Of Taxable Income Of Non-Residents

Non-residents Engaged in Specified Business

Taxable income of non-resident individuals and foreign companies is computed at a flat rate varying from 5% to 10% of the amount paid or payable (whether in or outside India) or an amount received or deemed to be received in India by or on behalf of the taxpayer on account of the following:

- Business of Exploration for Mineral Oils
- Business of Operations of Aircraft
- Shipping Business
- Business of Civil Construction for Turnkey Power Projects

Income from prospecting for Mineral Oils is, subject to certain conditions, eligible for special allowances in addition to permissible deductions available under the Act.

Income of a foreign national from employment in India

Indian laws provides for exemption of income earned by

foreign nationals for service rendered in India, subject to prescribed conditions. For example

- Remuneration from a foreign enterprise not conducting any business in India, provided the individual's stay in India does not exceed 90 days and the payment made is not deducted in computing the income of the employer.
- Remuneration received by a person employed on a foreign ship provided his stay in India does not exceed 90 days.

Income of Non Resident Indians

Non-Resident Indians (NRIs) have been offered a separate concessional tax of 20% (10% for long term capital gains) plus surcharge at applicable rates in respect of investment income. Also, specific provision is there in the Income-tax Act to safeguard interest of non-residents against devaluation of rupee in computing capital gains from the specified assets acquired out of convertible foreign exchange. However, the benefit of cost inflation index is not available to NRIs.

Income of Foreign Institutional Investors

Income of notified Foreign Institutional Investors (FIIs) from securities listed on an Indian Stock Exchange and capital gains on their transfer are charged to tax as under:

The provisions currently available to non-residents for protection from fluctuation of rupee value against foreign currency for computing capital gains arising from the transfer of shares in, or debentures of, an Indian company are not available to FIIs. Further, the benefit of cost inflation indexation is also not available to FIIs while computing long-term capital gains arising to them on transfer of securities.

Table 4.7 - Payments of taxes

In a case where the accounts of the assessee are required to be audited or report of an accountant is required to be submitted under specified provisions	31st October
In other cases	31st July

Table 4.8- Payments of advanced taxes

Due date	Amounts payable
On or before 15th September	Not less than 30% of advance tax
On or before 15th December	Not less than 60% of advance tax less earlier installment
On or before 15th March	Whole of advance tax less earlier installment

Income of Offshore Funds

Income of approved offshore funds from units of specified mutual funds and long term capital gains on their transfer are taxed @ 10% plus surcharge at applicable rates if the units are purchased in foreign currency.

Withholding Taxes

Every person, other than an individual and Hindu Undivided Family whose turnover is below Rs. 4 million, making certain specified payments including, interest, rent, fees for professional and technical services rendered, brokerage and commission, contract payments is required to deduct tax at source (TDS) at prescribed rates. From salary payment, every person is required to deduct tax at source. In the case of non-residents, tax is required to be withheld as per the provisions of income-tax law subject to double tax treaty provisions.

Withholding taxes are normally payable within seven days of the end of the month in which the tax is deducted / collected. However, tax on salary is payable within seven days of payment of salary.

The person responsible for deducting tax at source is required to file annual return of TDS before the specified dates. The non-filing of annual return of TDS or failure to issue certificate within the prescribed period will attract penalty as specified in the Act.

In case the income of a non-resident is not chargeable to tax in India or is taxable at rates lower than that prescribed for withholding taxes, an application can be made to the tax authorities for permission to deduct withholding taxes at a lower rate than those prescribed under the Act.

Double Tax Treaties

The Government of India has entered into comprehensive Double Tax Avoidance Agreements (DTAA) with over 65

countries to avoid double taxation of income. Certain other limited agreements are entered into by India to avoid double taxation of income only from shipping and air transport.

For countries with no DTAA with India, a unilateral tax credit for tax paid in foreign countries is available under Indian domestic law to a resident tax payer. This relief is by way of deduction from the Indian income tax of a sum which is calculated on the double taxed income at the lower of Indian rate of tax or the rate of tax of the other country where tax has been paid. The list of the countries with which India has entered into Double Tax Treaties and the rates applicable under the treaties is given in Table 4.14.

Other Administrative Aspects

Audit Reports

1. In addition to get the accounts audited, as per Companies Act for corporate entities, all entities are required to get their accounts audited for tax purposes in case of following:
 - a) A person carrying on business, if total sales, turnover or gross receipt in business for the accounting year or years relevant to the assessment year exceed or exceeds Rs.4 million.
 - b) A person carrying on profession, if his gross receipts in profession for an accounting year or years relevant to any of the assessment year exceeds Rs.1 million.

The tax audit reports in cases referred above are to be obtained and filed with the Income-tax authorities within a specified due date for filing return of income.

2. For claiming deductions from certain export incomes, it is compulsory to obtain audit reports with effect to the same. One of the condition for claiming exemption on export profits is that within specified period from the close of the accounting year, exchange earnings must be remitted to India.

Table 4.9 - Income of foreign institutional investors

Income from securities	20% (plus surcharge and education cess)
Short -term capital gains	10%* (plus surcharge and education cess)
Long-term capital gains	NIL* (plus surcharge and education cess)
* If Securities Transaction Tax is paid on the transfer of securities.	

For claiming deductions by newly established industrial undertakings / infrastructure projects, such entities are required to obtain specific audit report relevant for deduction.

Assessment Procedure

As per the provision of the Income-tax Act, the assessee has to self assess his income and pay taxes accordingly and file proof of payment of tax along with the return of income. If any interest is due for deferment of advance tax or non payment of advance tax or for late filing of return of income then the same also has to be paid with the self-assessment tax. Concealment of income and furnishing of inaccurate particulars may result in imposition of penalty of upto 3 times the tax sought to be evaded.

The assessing officer may select the return of income for scrutiny in which case an assessment order is passed. In cases where the returns of income are not selected for scrutiny, intimation is sent after adjusting the apparent errors, omissions and mathematical errors. An appeal may be preferred if the assessee does not agree with the assessment made. Special provisions apply for rectification of mistakes, revision of orders and income escaping assessment.

Advance Rulings

The government has constituted an "Authority for Advance Ruling". Non-resident taxpayers can obtain rulings in advance from the said authority on questions of law or fact, in relation to a transaction undertaken or proposed. A time limit of six months has been provided for the pronouncement of an advance ruling. The advance ruling once pronounced is binding on the applicant and on the income tax authorities in respect of the specific transaction for which advance ruling was sought. The advance ruling is not appealable.

From 01/10/1998, the concept of advance ruling is extended to a resident in India falling within such class or category of persons as the Central government may by notification in the Official Gazette, specify in this behalf. The authority shall give a decision in relation to an assessment which is pending before any income-tax authority, or the Tribunal in case of resident applicant. The decision shall include the decision on question of law or fact arising out of the orders of assessment in respect of which application has been made by resident applicant.

Other Direct Taxes

Fringe Benefit Tax

1. The Finance Act, 2005 has introduced a separate tax known as 'Fringe Benefit Tax' (FBT). Every employer as defined in the provisions relating to FBT is liable to pay tax @ 33.66 % {33%(30% tax plus surcharge at 10%) plus education cess @ 2% thereon} on the value of fringe benefit provided or deemed to be provided to his employees. The nature of fringe benefits liable to FBT and value of various fringe benefits are as under:

For this purpose employer shall include a company, a firm, an Association of Person ('AOP') or a Body of Individuals ('BOI') (excluding a charitable trust or fund or any institutions eligible for exemption under section 10(23C) of the Act or registered under section 12AA of the Act), a local authority and every artificial judicial person. In short, where an employer is an individual or HUF carrying on the business or profession or a charitable trust registered under section 12AA of the Act or institution eligible for exemption under section 12AA of the Act, will not be liable to pay FBT on the fringe benefits provided to their employees.

2. Nature and Quantum of Expenditure Liable for FBT

The following fringe benefits provided or deemed to have been provided by an employer to his employees during the year at the following specified rates shall be liable for FBT as per Table 4.11.

3. Other aspects of FBT

FBT @ 33.6% on the value of the fringe benefits is required to be paid in advance for each quarter, as represented in Table 4.10.

In case non-payment / short payment of advance FBT, simple interest @ 1% for every month or part of a month is payable from the due date of advance tax payment till the date of payment.

Table 4.10 - Payment of FBT	
Quarter ended	Due date for payment of FBT
June	15 July
September	15 October
December	15 January
March	15 March

Table 4.11 - Nature and quantum of FBT

Sr No.	Nature of fringe benefit	Value of fringe benefit
1	Fringe benefits	
(a)	any free or concessional tickets provided by the employer for private journeys undertaken by the employees or their family members	Cost incurred as reduced by the amount recovered from the employee
(b)	contributions by the employer to an approved superannuation fund for employees (in excess of Rs. 1,00,000 per employee)	100%
2	Any of the following expenses incurred or paid by the employer	
(a)	entertainment;	20%
(b)	provision of hospitality of every kind by employer to any person, whether by way of food or beverages or in any other manner, excluding (i) food or beverages provided to the employees in the office or factory (ii) any expenditure on or payment through paid vouchers which are not transferable and usable only at eating joints or outlets;	20%, If employer is engaged in the business of hotel, carriage of passenger or goods by aircraft or ship then 5%
(c)	conference expenses excluding conference fees for participation. For this purpose, any expenditure on conveyance, tour and travel (including foreign travel), or hotel or lodging and boarding charges in connection with any conference shall be considered as conference expenses;	20%
(d)	sales promotion including publicity but excluding advertisement expenses; *	20%
(e)	Employees' welfare (expenditure incurred or payment made to fulfill any statutory obligation or mitigate occupational hazards or provide first aid facilities in the hospital or dispensary run by the employer shall not be considered as an expenditure for employees' welfare);	20%
(f)	conveyance, tour and travel including foreign travel;	20% for conveyance and 5% for other than conveyance. (If employer is engaged in the business of construction, manufacture or production of pharmaceuticals or computer software then 5% in both cases)
(g)	use of hotel, boarding and lodging facilities;	20%. If employer is engaged in the business of manufacture or production of pharmaceuticals or computer software or carriage of passenger or goods by aircraft or ship then 5%
(h)	repair, running (including fuel) and maintenance of motor cars and the amount of depreciation thereon;	20%. If employer is engaged in the business of carriage of passengers or goods by motor car then 5%
(i)	repair, running (including fuel) and maintenance of aircrafts and the amount of depreciation thereon;	20%. If employer is engaged in the business of carriage of passengers or goods by aircrafts then Nil.
(j)	use of telephone (including mobile phone) other than expenditure on leased telephone lines;	20%
(k)	maintenance of any accommodation in the nature of guest house other than accommodation used for training purposes;	20%
(l)	festival celebration	50%

Table 4.11 - Nature and quantum of FBT

Sr No.	Nature of fringe benefit	Value of fringe benefit
(m)	use of health club and similar facilities;	50%
(n)	use of any other club facilities,	50%
(o)	gifts;	50%
(p)	scholarship.	50%
*	<i>The following advertisement expenses have been excluded from the sales promotion expenses liable for FBT.</i> <i>i) advertisement expenses (including rental) in any print mode (including journals, catalogues or price lists) or electronic media or transport system;</i> <i>ii) holding or participating in any press conference, business convention, fair, exhibition;</i> <i>iii) sponsorship of any sports event or an other event organized by any government agency or trade association or body;</i> <i>iv) publishing in any print or electronic media, any statutory notice required by or under any law or by an order of a court or tribunal,</i> <i>v) advertising by way of signs, art work, painting, banners, awnings, direct mail, electric spectacles, kiosks, hoardings, bill, boards, etc;</i> <i>vi) the expenditure on distribution of free samples of medicines or of medical equipment, to doctors and</i> <i>vii) payment to any person of repute for promoting the sale of goods or services of the business of employers; and</i> <i>viii) payments to any advertising agency for the purposes of any of the above (i) to (v).</i>	

The due dates for filing FBT returns are same as for filing Income-tax returns. If the return of fringe benefits is not filed within due date then employer shall be liable to pay interest @1% for every month or part of a month from the date immediately following the due date to the date of filing of return or where no return has been furnished then date of completion of assessment on the amount of the FBT payable as reduced by the advance FBT paid.

Based on the return of fringe benefits filed, the assessing officer will determine the tax payable or refund due after considering the tax paid by the employer assessee within a period of one year from the end of the financial year in which the return is filed.

If the Assessing Officer considers it necessary to ascertain that the employer has not understated the value of fringe benefits or has not underpaid the tax, he may serve a notice upon him for scrutiny assessment to be made. However no notice shall be issued after the expiry of twelve months from the end of the month in which the return has been filed.

On the basis of such evidences and after taking into account all relevant material, the Assessing Officer, shall pass an order in writing, make an assessment of the value of the fringe benefits paid / payable and determine the sum payable by him or refund due to him.

If the Assessing Officer has reason to believe that any fringe benefits chargeable to tax has escaped assessment for any assessment year, he may assess or reassess such or any other fringe benefits, which comes to his notice subsequently. The following shall be deemed to be cases where fringe benefits chargeable to tax have escaped assessment.

- a) Where no return of fringe benefits has been furnished by the employer.
- b) Where return has been furnished but no assessment has been made and the Assessing Officer has noticed that the employer has understated the value of fringe benefits.
- c) Where assessment has been made, but the fringe benefits chargeable to tax have been under-assessed.

Penalties imposable and prosecution can be lodged against the employer, if the employer is at default for not complying the provisions relating with FBT,

Banking Cash Transaction Tax

The Finance Act, 2005 has introduced a separate tax known as Banking Cash Transaction Tax (BCTT) with effect from 1 June 2005. BCTT will be levied @0.1% on cash withdrawals exceeding specified limits from schedule bank from all accounts except savings bank account. The specified limits are as indicated in Table 4.12

BCCT shall be debited to the account of the person from whose account the cash is withdrawn.

Securities Transaction Tax (STT)

STT shall apply to taxable securities transactions entered into on or after 1 October 2004 entered into through recognised stock exchanges in India. The taxable securities transaction shall attract STT with effect from 1 June 2006 at the rates specified in Table 4.13.

“Taxable securities transaction” means a transaction of (a) purchase or sale of an equity share in a company or a derivative or a unit of an equity oriented fund, entered into in a recognized stock exchange; or (b) sale of a unit of an equity oriented fund of specified mutual fund. The value of taxable securities transaction shall be:

- a) the aggregate of the strike price and the option premium, in case of taxable securities transaction relating to derivative being “option in securities”;
- b) the price at which “futures” is traded, in case of taxable securities transaction relating to derivative being “futures”; and
- c) the price at which securities are purchased or sold, in case of any other taxable securities transaction.

Every recognized stock exchange shall collect the securities transaction tax from every person being a purchaser or a seller who enters into a taxable securities transaction in that stock exchange.

STT paid shall not be eligible for deduction from total

income. However, where the total income includes any income, chargeable under the head “Profit and gains of business or profession”, arising from taxable securities transactions, assessee shall be entitled to a deduction, from the amount of income-tax on such income arising from such transactions, of an amount equal to the STT paid by him in respect of the taxable securities transactions. The amount of income-tax on the income arising from the taxable securities transactions shall be equal to the amount calculated by applying the average rate of income-tax on tax income. The amount of deduction under this sub-section shall not exceed the amount of income tax on taxable securities transactions.

Wealth Tax

Wealth-tax in India under the Wealth-tax Act is payable each year on the taxable wealth and depends upon residential status and on citizenship.

Taxable wealth includes residential house (other than residential house let out for a minimum period of 300 days during the year) and farm houses, motor cars, jewellery, bullion, yachts, aircrafts, urban land, cash exceeding specified limits as reduced by debts owed and incurred in relation to such assets.

However, exemption is available to individuals and HUFs for one house or part of a house or plot of a land comprising an area of five hundred square meters or less.

A resident Indian citizen pays tax on his global wealth.

Table 4.12 - Banking Cash Transaction Tax

Account Holder	Specified Limits
Persons other than individuals and Hindu Undivided Families (HUFs)	Withdrawals of cash on any single day from an account exceeding Rs.100,000
Individuals and HUFs	Withdrawals of cash on any single day from an account exceeding Rs.25,000

Table 4.13 - Securities Transaction Tax

Type of transactions	Payable by buyer / seller	STT rate
Delivery based purchase of an equity share in a company or a unit of an equity oriented fund, entered in a recognised stock exchange	Both (Buyer and Seller)	0.125%
Non-delivery based sale of an equity share in a company or a unit of an equity oriented fund entered in a recognised stock exchange	Seller	0.025%
Derivatives being option or future, entered in a recognised stock exchange	Seller	0.0166%
Sale of units of an equity oriented fund to the mutual fund	Seller	0.25%

If he is a “resident but not ordinarily resident” or a non-resident or a foreign citizen, then his Indian wealth is charged to tax at normal rates and foreign wealth is totally exempt.

Wealth-tax in case of individual and companies for the tax year 2006-2007 will be charged @ 1% of the net taxable wealth exceeding Rs. 1.5 million.

The due dates for filing wealth-tax returns are same as for filing Income-tax returns.

Gift Tax

Gift tax has been abolished with effect from 1st October 1998.

Estate Duty

Estate duty has been abolished since March 16, 1985.

Interest Tax

Interest-tax has been abolished with effect from 1st April 2000.

Indirect Taxes

Central Value Added Tax (CENVAT)

CENVAT is imposed on a large variety of manufactured items on ad valorem basis or at specified rates. CENVAT duty is levied at the rate of 16% on most of the items.

CENVAT credit is allowed against CENVAT payable in respect of certain inputs and capital goods purchased. The assessee is required to maintain prescribed records for availing of CENVAT credit.

Excise duty is levied on specified goods with reference to maximum retail price. The provision for cost auditing of accounts is provided in CENVAT Law in case of misuse of CENVAT credit scheme is introduced.

Customs Duty

Customs duty at varying rates is charged on goods imported into India. The peak rate of customs duty has been reduced to 12.5%. However, the customs duty on capital goods is generally between 12.5% to 20%. An additional duty of 4% is applicable on most of the imported goods.

Further, countervailing customs duty is levied which is equivalent to the excise duty which would have been chargeable had the item been manufactured in India. In respect of such countervailing duty paid, equivalent

CENVAT credit is available in certain cases. The customs duties are generally chargeable on ad valorem basis i.e. based on value of imported goods.

The Central Government can impose anti-dumping duty if manufacturers from abroad export goods in India at very low prices compared to prices in his domestic market.

Service Tax

1. Ambit of Service Tax

Service tax @ 12.24% (service tax @ 12% plus education cess thereon @ 2%) is levied on certain 95 specified services. Some of the specified services are advertising services, consulting engineers, air travel agents, clearing and forwarding agents, architects, management consultants, real estate agents and consultants, construction services, intellectual property services, business auxiliary services, business support services etc.

2. Export and Import of services

The Government has prescribed Export of Services Rules. The Rules provides that any taxable service may be exported without payment of service tax i.e. it grants exemption from levy of service tax on “export of services”. For determination of “export of service”, the 95 taxable services in force have been categorised in three categories, which provides for certain conditions in order for the services to be treated as export of services.

Further an explanation has been added to the definition of taxable services, specifying that where any service provided or to be provided by a person, who has established a business or has a fixed establishment from which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than India and such service is received or to be received by a person who has his place of business, fixed establishment, permanent address or, as the case may be, usual place of residence, in India such service shall be deemed to be taxable service.

3. Rebate for input services and inputs used in providing taxable services

The Export of Services Rules also provides for rebate of service tax paid on taxable service or service tax or duty paid on input services or inputs,

as the case may be, used in providing taxable service and the rebate is subject to specified conditions or limitations.

4. Cenvat Credit Rules, 2004

CENVAT Credit Rules, 2004 are notified with effect from 10 September 2004 and these Rules have put in place a mechanism for allowing inter-sectoral credit between goods and services. All input service tax paid is made eligible for credit against service tax chargeable on output services and excise duty leviable on goods manufactured and vice versa. However, education cess paid on input services is available as credit for payment of education cess on output services.

Credit in respect of capital goods is allowed at 50 per cent in the financial year of receipt of capital goods in premises of output service provider and 50 per cent in the subsequent financial year. Credit is not allowed on input services used in providing exempted services

5. Threshold Limits

Small service providers whose aggregate value of taxable services provided during the preceding financial year does not exceed Rs. 4,00,000 have been given an option to claim exemption from

service tax up to an aggregate value of taxable services of Rs. 4,00,000 in a financial year, subject to certain conditions as prescribed. Benefit of this exemption scheme is not available wherever service tax is payable by a person other than the service provider or the taxable services are provided by a person under a brand name or trade name, whether registered or not, of another person.

Value Added Tax

Apart from the central levies discussed above, the states levy a tax on sale of goods known as sales tax. Each state has their own sales tax laws, and most of the states have a complete value added tax, commonly known as VAT. Though each state has their own law, some of the common characteristics are as follows:

- It does not apply to services, except works contract i.e. services provided with material. E.g. printing services with paper.
- Exports are exempt from sales tax / VAT.
- Credit for tax paid on inputs is available to be setoff against the tax payable on sale of goods. (Mechanism similar to CENVAT credit discussed in para 9.3.4 above).

Table 4.14 - Double tax treaties

Country	Interest %	Royalty (For use of patents, trademarks and copyrights) ⁷ %
1. Armenia	10	10
2. Australia	15	15 ¹
3. Austria	10	10
4. Bangladesh	10	10
5. Belarus	10	15
6. Belgium	15 (10% if granted by a bank)	10
7. Brazil	15	15 ²
8. Bulgaria	15	20 ³
9. Canada	15	20 ¹
10. China	10	10
11. Cyprus	10	15
12. Czechoslovakia (Czech & Slovak Republics)	10	10
13. Denmark	15 (10% if granted by a bank)	20

Table 4.14 - Double tax treaties continued

Country	Interest %	Royalty (For use of patents, trademarks and copyrights) ⁷ %
14. Egypt (UAR)	20	20
15. Finland	10	15 ¹
16. France	10	10
17. Germany	10	10
18. Greece	Note 9	Note 9
19. Hungary	10	10
20. Indonesia	10	15
21. Ireland	10	10
22. Israel	10	10
23. Italy	15	20
24. Japan	15(10% if granted by a bank)	20
25. Jordan	10	20
26. Kazakhstan	10	10
27. Kenya	15	20
28. Korea (South)	15	15
29. Kyrgyz Republic	10	15
30. Libya	Note 9	Note 9
31. Malaysia	10	10
32. Malta	10	15
33. Mauritius	Note 10	15
34. Mongolia	15	15
35. Morocco	10	10
36. Namibia	10	10
37. Nepal	15	15
38. Netherlands	10	10
39. New Zealand	10	10
40. Norway	15	Note 10
41. Oman	10	15
42. Philippines	15	15 ⁵
43. Poland	15	22.5
44. Portuguese Republic	10	10
45. Qatar	10	10
45. Romania	15	22.5
46. Russia	10	10
47. Singapore	15	10 ⁸
48. Slovenia	10	10
48. South Africa	10	10
49. Spain	15	10 ⁴

Table 4.14 - Double tax treaties continued

Country	Interest %	Royalty (For use of patents, trademarks and copyrights) ⁷ %
50. Sri Lanka	10	10
51. Sudan	10	10
52. Sweden	10	10
53. Switzerland	10	10
54. Syria	7.5	10
55. Tanzania	12.5	20
56. Thailand	25	15
57. Trinidad & Tobago	10	10
58. Turkey	15	15
59. Turkmenistan	10	10
60. Uganda	10	10
61. United Arab Emirates	12.5	10
62. United Arab Republic	20	30
63. United Kingdom	15	15 ¹
64. Ukraine	10	10
65. USA	15 (10% if granted by a bank / insurance company etc.)	15 ¹
66. Uzbekistan	15	15
67. Vietnam	10	10
68. Zambia	10	10

1. *Reduced rate of 10% applies in case of rental of equipment and for services ancillary or subsidiary thereto.*
2. *The above rate of 15% is applicable to payments for copyrights and patents. The rate is 25% if royalty is paid for use of trademarks.*
3. *15% for royalties relating to copyrights of literary, artistic or scientific works.*
4. *These rates apply to payments of royalties and interest made after 29 November 96 (the date on which German treaty came into force). These rates are arrived at in accordance with respective article of the treaty entered into between India and these countries read with the protocol in the aforesaid treaties and Article 11 and 12 of the treaty entered into between India and Germany.*
5. *The rate of 15% will apply if royalty is paid in pursuance of any collaboration agreement approved by the Government of India.*
6. *The above rates are subject to the detailed provisions and conditions of the relevant double tax treaty.*
7. *The rate of withholding tax on royalty in respect of agreement entered into on or after 1 June 2005 would be 10% as per domestic Income-tax Act, 1961.*
8. *Pursuant to Protocol signed on 29 June 2005 with Singapore, which was made effective from 1 August 2005, the rate of withholding tax on royalty and fees for technical services has been reduced to 10% .*
9. *Chargeable as per domestic law in source country only.*
10. *Interest exempt if beneficially owned by Government or bank carrying bona fide banking business, in other cases rate as per domestic laws.*

Indonesia

Taxes on Corporations

General structure and scope

Residents of Indonesia are taxed on their world-wide income, irrespective of whether the income is remitted to Indonesia. Credit for tax paid on income earned offshore is available subject to rules preventing the credit exceeding Indonesian tax otherwise due on that income.

The definition of income according to Indonesian law is very broad and generally relates to any increase in economic prosperity received or accrued by a taxpayer—whether originating from inside or outside Indonesia. This includes revenue from operations, business profits, gains from the sale of fixed assets, interest, royalties, rent of assets, cancellation of indebtedness, etc.

The definition applies equally to both individuals and businesses operating via corporate structures.

The income tax law applies to resident and non-resident taxpayers. In general, to be a 'taxpayer' requires a tax "object" and a tax "subject", although in practice there are some exceptions.

The general annual income tax rate for corporate bodies is applied progressively subject to taxable income as set out in Table 5.1.

Allowable deductions

Deductions against income which are allowable include the following :

- expenses to earn, recover and secure the income derived;
- depreciation and amortisation in connection with business activities;

- pension contributions to approved pension funds;
- loss on disposal of assets in connection with business activities;
- foreign exchange loss;
- research and development costs that is done in Indonesia (research and development which is done outside Indonesia is not allowed as a deduction);
- training and development
- mobile phone expenses are 50% deductible; and
- bad debts, subject to certain conditions.

Non-commercial motor vehicle expenses are 100% deductible provided the vehicle is a mini-bus type and the vehicle is not for use by a designated individual. Deductibility is limited to 50% if the vehicle is a sedan or for use by a designated individual.

Items that are not allowable for the calculation of corporate income tax include :

- dividends and other forms of profit distribution;
- expenses incurred for the benefit of stockholders or partners;
- provisions, except for banks, insurance and financial lease companies (for bad debts) and mining companies (for reclamation costs);
- benefits in kind, except for those in remote areas;
- income tax and administrative penalties;
- donations, aid and contributions;
- excessive compensation (in amount) given to shareholders in connection to work performed; and
- premiums for health, accident and life insurance unless the premium is also reported as income of the related employee.

Allowances for depreciation

Allowances for depreciation are set out in Table 5.2.

Table 5.1 - Corporate income tax rates

Annual taxable income (Rp.)	Income tax rate / payable (Rp.)
Up to 50,000,000	10% of income up to 50,000,000
50,000,001 - 100,000,000	5,000,000 + 15% of income over 50,000,000
Over 100,000,000	12,500,000 + 30% of income over 100,000,000

Value added tax

Value added tax (VAT) (or PPN) applies to every 'VAT-able' transaction, with the general rate of 10% of the transaction (base of taxation).

The VAT law stipulates that practically all deliveries of goods and services are taxable. Included as deliveries of goods or services are transactions originating from:

- an agreement;
- an operating lease agreement;
- a transfer to an intermediary / auctioneer;
- own usage or a free of charge transfer;
- the transfer of assets not originally for sale which are left upon company dissolution—as long as the VAT input when the asset was acquired is creditable;
- an inter-branch / head office delivery as long as there is no centralization of VAT; or
- a consignment delivery.

Loss carried forward

Indonesian tax law allows companies to carry forward losses for five years from the year of loss.

Taxes on Individuals

Income tax

The general annual income tax rate for individuals is applied progressively subject to taxable income as set out in Table 5.3.

Only individuals operating as businesses or independent professionals are able to claim deductions for business expenses. Deductions for all other individuals are limited to personal allowances in the form of non-taxable income (PTKP) and occupational deductions.

Non-taxable income varies depending on the marital status and dependent situation as set out in Table 5.4.

An occupational deduction may also be claimed equal to 5% of gross income, to a maximum of Rp.108,000

Table 5.2 - Allowances for depreciation

Type of asset	Useful life	Straight line method	Declining balance method
Non-metal furniture ¹	4 years	25%	50%
Metal furniture, cars and general electrical devices	8 years	12.5%	25%
Medium machinery	16 years	6.25%	12.5%
Heavy machinery	20 years	5%	10%
Permanent buildings	20 years	5%	Nil
Non-permanent buildings	10 years	10%	Nil

1. Computers and related machines, and specific application software are included in this category

Table 5.3 - Individual income tax rates

Annual taxable income (Rp.)	Income tax rate* (Rp.)
Up to 25,000,000	5% of income up to 25,000,000
25,000,001 - 50,000,000	1,250,000 + 10% of income over 25,000,000
50,000,001 - 100,000,000	3,750,000 + 15% of income over 50,000,000
100,000,001 - 200,000,000	11,250,000 + 25% of income over 100,000,000
Over 200,000,000	36,250,000 + 35% of income over 200,000,000

Table 5.4 - Personal allowances / non-taxable income (PTKP)

Marital status / dependent situation	Non taxable income (Rp.)
Self ¹	13,200,000
For Spouse	1,200,000
Per dependent (maximum 3 persons related by blood or marriage)	1,200,000

1. Married women are normally only allowed the 'self' allowance unless they can show they are the bread-winner

per month. For pensioners there is an additional deduction of Rp.36,000 per month.

Contributions to pension funds that are approved by the Minister of Finance, and the employee's portion paid to the pension fund for Jamsostek (Indonesia's social security system) equalling 2% of salary, are also deductible.

Tax on earnings from employment will be deducted and paid to the Tax Office by the employer.

Withholding taxes on non-salary income

In general, payments of salary, management fees, royalties, interest, and dividends are subject to withholding taxes, regardless of whether they are paid to a resident or to a non-resident taxpayer. Where there is a Tax Treaty the actual rate of withholding tax on payments to non-residents may be lower, provided the administrative requirements are met.

Withholding taxes are imposed on the following transactions outlined in Table 5.5.

Table 5.5 - Withholding taxes

Types of payment		Resident taxpayer	Non-resident taxpayer
Dividends to individuals		15%	20%
Dividends to companies		15% ¹	20%
Interest		15% ²	20%
Royalties		15%	20%
Services:	Technical, management, intermediaries, appraisal, actuarial, dubbing/mixing films, design, installation and assembly services, repair & maintenance services, custodial, storage & deposit, information in technology sector, telecommunications that are not for public use, accounting and bookkeeping, and forest felling	6%	20%
Professional services (including legal & tax consulting)		7.5%	20%
Pest control & cleaning services		1.5%	20%
Construction services:	contracting (provided licence is obtained)	2% ³	20%
	planning & control (provided licence is obtained)	4% ³	20%
Drilling, mining & supporting services for mining, oil & gas sectors		6%	20%
Insurance premiums to offshore:	by insured party	Nil	10%
	by insurance company	Nil	2%
	by reinsurance company	Nil	1%
Rental of land & buildings (Final Tax)		10%	20%
Rental of other assets, except land transport		6%	20%
Rental of land transport		3%	20%
Recruitment services & provision of manpower		6%	20%
Contract manufacturing services		6%	20%
1.	Dividends to resident companies that own at least 25% of the subsidiary are not subject to withholding tax provided the parent company also conducts business activities in addition to acting as a holding company.		
2.	Withholding tax deducted by domestic banks on payments of interest uses a rate of 20% and is regarded as a "Final Tax".		
3.	The tax withheld is regarded as a "Final Tax" where the service provider is certified as the provider of small-scale services and the project size is less than Rp 1 billion.		

Korea

Taxes on Corporations

General structure and scope

A company with its head office or principal office in Korea is defined as a 'domestic' or 'resident' company

A 'non-resident' company is generally deemed to have a tax presence (i.e. permanent establishment) in Korea if it has either a fixed place of business in Korea where the business of the entity is wholly or partly carried on, or is represented by a dependent agent in Korea which has the authority to conclude contracts on its behalf.

Exceptions to the above include fixed places used only for purchasing, storage of property not for sale, advertising, publicity, collecting or furnishing of information, or other activities that are preparatory or auxiliary to the conduct of business.

Non-resident foreign companies without domestic places of business in Korea are generally taxed (through withholding) at flat rates on gross receipts from Korean sources.

Foreign construction and related companies that have a deemed permanent establishment in Korea (but are not registered with the Korean tax authorities) will be subject to Korean tax withholding on payments from Korean customers.

Tax rates

Corporate tax rates on the income of a domestic company are set out in table 6.1.

Resident tax surcharges

In addition to the basic tax rate there is a resident tax surcharge of 10% (local government tax) on income tax liability.

Allowances for depreciation

Depreciation on the fixed assets of corporations is

calculated according to the methods enumerated below:

- tangible fixed assets - fixed percentage method or straight line method for tangible fixed assets. For buildings the straight line method is applied only, but for machinery and equipment one of the two methods may be chosen;
- intangible fixed assets - straight line method;
- mining rights - service output method or straight line method;
- assets used in mining - service output method, fixed percentage method or straight line method.

Capital gains tax

Where any land or building (including facilities and structures attached to the building; hereafter "land, etc."), which is located in an area prescribed by the Presidential Decree where the average price of land during the immediately preceding quarter surveyed by the Minister of Construction and Transportation under Article 28 of the Act on the Utilization and Management of the National Territory rises by not less than 3/100 compared with that during the quarter before the immediately preceding quarter or by not less than 10/100 compared with that during the same quarter of the preceding year, is transferred, any such tax amount as calculated by multiplying 10/100 (20/100 with respect to any income accruing from the transfer of unregistered land, etc.) by any income accruing from such transfer (hereinafter, the "income accruing from the transfer of land, etc.") shall be the corporate tax on that income, which shall be paid in addition to any such corporate tax amount as calculated by applying above tax rates.

Inter-company dividends

Dividend income received by a holding company established in accordance with Anti-trust and Fair Trade Law from its subsidiaries is not recognized as gains to a certain extent.

- non-listed corporation (type of subsidiary): 60-100% (depends on the proportion of shares of subsidiaries)

Table 6.1 - Corporate tax rates

Taxable income (Won)	Income tax rate / payable (Won)
Up to 100,000,000	13% of income up to 100,000,000
Over 100,000,000	13,000,000 + 25% of income over 100,000,000

owned by their holding company)

- listed corporation (type of subsidiary) : 60-90% (depends on the proportion of shares of subsidiaries owned by their holding company)

But dividend income received by a corporation other than holding companies from its subsidiaries is not recognized as gains to a certain extent

- non-listed corporation (type of subsidiary) : 30-50% (depends on the proportion of shares of subsidiaries owned by a corporation other than holding companies)
- listed corporation (type of subsidiary) : 30-50% (depends on the proportion of shares of subsidiaries owned by a corporation other than holding companies)

Foreign income

Domestic companies are taxed on their world-wide income, whereas foreign companies are taxed in Korea on Korean source income. A Korean company is taxed on its foreign source income as earned at normal corporate tax rates.

Stock dividends

Companies listed on the Korean Stock Exchange may pay up to 100% of a dividend in stock. Stock dividends by unlisted companies are limited to 50% of a dividend declaration.

All distributions to shareholders are taxed as dividend income whether paid in cash or stock, except for stock issued by transferring the capital reserves and the revaluation reserves of listed or non-listed companies into capital.

Net operating losses

Loss carryover for five years is permitted. Loss carryback is permitted for one year (small sized firms only).

Group taxation

Not permitted.

Payments to foreign affiliates

Interest, royalty and management fee payments to foreign affiliates are deductible for income tax purposes.

Other taxes

Value added tax

Value added tax (VAT) is levied at a rate of 10% on sales and the transfer of most goods and services, except exports.

Branch tax

If the tax treaty between Korea and the country of which the foreign company is a resident allows the imposition of a branch profits tax, the tax is imposed on the adjusted taxable income of the Korean branch of the foreign company. This branch profits tax is levied in addition to the regular corporate tax under the Corporation Tax Law.

Branch profit tax is imposed at 25% (or at a reduced rate as provided in the treaty) of the adjusted taxable year that begins on or after 1 January 1996.

Taxes on Individuals

Territoriality and residence

All individuals in Korea are classified as either a citizen, a resident or a non-resident for income tax purposes.

A citizen is defined as a Korean national. A resident is an individual domiciled or resident within Korea for one year or more, with an occupation that would generally require them to reside in Korea for one year or more; or individuals whose families have accompanied them to Korea and who retain substantial assets in Korea.

Generally, residency is determined on a 'facts and circumstances' test, evaluated on a case by case basis. A non-resident is an individual who is deemed to be neither a resident nor a citizen.

Korean citizens and individuals considered as residents for tax purpose are subject to Korean income tax on world-wide income. An expatriate who is deemed to be a non-resident is taxed only on Korean source income. A non-resident is not allowed all of the personal deductions granted to residents.

Gross income

Individual income may be categorised as taxable, non-taxable or tax exempt. Taxable income includes global income, capital gains, and severance pay; each of which is subject to tax on a unique tax rate structure.

There are certain elements of income on which the Government has waived its taxing rights, whether or not an application for non-taxation is filed by an individual. There are other items of income for which a taxpayer may submit an application for tax exemption.

Global income is subject to global taxation and includes earned income (salaries, wages, bonuses, and other amounts received for personal services rendered), interest, dividends, rent, personal business income, and other income (prize winnings, royalties, rewards, etc.).

The income tax rates were revised effective 1 January 2005. Individual income tax rates on global income range from 8% to 35%. The top marginal rate, including the residence surcharge (local tax) is 38.5% of taxable income in excess of Won 80,000,000. Annual taxable income rates are set out in table 6.2.

Korean tax distinguishes between earned income Class A or Class B, depending on the income source.

Class A earned income is employment income received from a domestic (Korean) company or a Korean branch office of a foreign company for services rendered in Korea. Such income is subject to payroll withholding taxes by the employer on a monthly basis.

Class B earned income is employment income received in a foreign currency from a foreign company outside Korea. However, even if foreigners who work in Korea are paid their wages overseas, their wages are considered Class A earned income rather than Class B, regardless of whether the wages are deducted as an expense in calculating the taxable income of a permanent establishment of the foreign corporation in Korea.

The employer is not required to withhold Korean taxes at the time of payment of Class B income, however the individual is required to declare this income annually and pay income taxes thereon on a voluntary basis.

Alternatively, the individual may elect to pay Class B income taxes through a licensed taxpayers' association, which collects and remits such taxes on a monthly

basis. Taxpayers who join a taxpayers' association are eligible to receive a 10% reduction in the amount of income tax paid.

Personal allowances

Korean tax law provides all resident taxpayers with certain standard personal exemption from individual taxable income.

Basic exemption

Residents who have a global income are allowed to deduct an amount equivalent to that calculated by multiplying 1,000,000 Won per year by the number of persons considered as 'family' under the following criteria:

- a resident taxpayer;
- a spouse who does not have an income or has an income which does not exceed 1,000,000 Won per year
- dependants who live with the tax payer—a dependent includes a linear ascendant who is more than 60 years of age (55 years in the case of woman), a linear ascendant of a spouse, a linear descendant and adopted persons under 20 years of age (in the case of a handicapped person age is not counted), siblings under 20 or over 60 years of age, and any other person who requires support and does not have an income or has an income which does not exceed 1,000,000 Won per year.

Additional exemption

A resident eligible for the basic exemption is also allowed to deduct 1,000,000 Won per year from his or her global income if they are :

- 65 years of age or older; (if 70 years of age or older : 1,500,000 Won)
- prescribed as handicapped by Presidential Decree; 2,000,000 Won
- anyone with a linear dependant six years of age or younger; 1,000,000 Won.

Table 6.2 - Individual income tax rates

Taxable income (Won)	Income tax rate / payable (Won)
Up to 10,000,000	8% of income up to 25,000,000
10,000,001 - 40,000,000	800,000 + 17% of income over 10,000,000
40,000,001 - 80,000,000	5,900,000 + 26% of income over 40,000,000
Over 80,000,000	16,300,000 + 35% of income over 80,000,000

A resident eligible for the basic exemption is also allowed to deduct 500,000 Won per year from his or her global income if they are :

- a female head of family with dependents or with a spouse.

Special deduction

Wage and salary income earners may deduct from their wage and salary income an amount up to an aggregate sum enumerated under the following items during the taxable year :

- insurance premiums to a maximum of 1,000,000 Won—the full premium amount is allowed for medical care insurance;
- medical expenses incurred exceeding 3% of wage and salary income, up to 5,000,000 Won: The deduction ceiling does not apply to expenses paid for the rehabilitation of handicapped dependents, senior citizens and residents.
- domestically incurred educational expenses of an employed taxpayer including graduate students and educational expenses by a taxpayer on behalf of his descendants pursuant to (1). The deduction for education expenses of descendants is limited to the following amounts: 2,000,000 Won annually per student for kindergarten and nursery school expenses, 2,000,000 Won annually per student for elementary-, junior-and high school expenses, and 7,000,000 Won annually per student for college education expenses. Educational expenses incurred overseas by lineal descendants are eligible for deduction, subject to the following limits (annually, per student): 2,000,000 Won for kindergarten, 2,000,000 Won for elementary, junior, and high schools, and 7,000,000 Won for college. Education expenses for the taxpayer himself maybe deducted without a ceiling.
- Special education cost for the disabled: No ceiling
- Forty percent of the loan interest (for a total of up to three million won per year) allotted to the lease of a house of appropriate size paid by a person without housing or owning only one house which is no more than 85 square meters, who is subscribed to a qualifying savings program for home ownership
- Interest up to 10 million won per year of a mortgage loan with the duration of more than 15 years

- Deduction for donations; amounts donated to qualified institutions, up to 10% of the taxpayer's salary and wage income for the year: This limit of deduction does not apply to the donations to specific welfare facilities.

- Standard Deduction

A resident who has no special deduction is eligible to deduct 600,000 Won.

Tax credits

There are certain tax credits against the global income tax that are available to resident

- Tax credit for dividend income - Where dividend income of a resident received from a domestic corporation is included in global income, the amount calculated as below is deducted from the global income tax amount.
 - a) 15/100 of the dividend income is added to the amount of dividend actually received by the shareholder.
 - b) This figure is used in calculating the individual income tax amount of the shareholder.
 - c) Thereafter, the amount (15/100 of the dividend income) added to the amount of dividend calculated in (a) above, is credited against the individual income tax amount calculated in (b) above.
- Foreign Tax Credit - Where a resident has paid or is to pay income tax in a foreign country, the tax amount paid or payable is deducted from the amount of Korean income tax accrued with a limit. This limit is an amount equivalent to that of the income tax owed without the application of this credit, multiplied by the ratio of income from foreign sources to total taxable income. If the foreign tax amount paid or payable exceeds this limit, the excess portion may be carried over for 5 years.
- Tax credit for casualty loss - When a resident loses 30% or more of the total value of his business assets from one or more disasters, an amount equal to the tax due without application of this credit times the ratio of the value of the lost assets over the total value of assets owned prior to a disaster is subtracted from the amount of tax due in the year of the disaster(s).

- Special tax credit for wage and salary income - The credit amount available for wage and salary income earners shall be calculated. (The credit shall be limited to 500,000 Won per year against global income)

Other taxes

Minimum tax

With some exceptions, a minimum tax will be calculated at the greater of 35% of income tax liability before exemptions or actual tax after exemption. The minimum tax is applied to the business income of a resident individual and to Korean source business income of a non-resident individual, but it is not applied to employment (earned) income.

Social security taxes

A national pension program currently requires companies with more than five employees to contribute an amount equal to 4.5% of employee salaries to a national pension fund.

There is also a severance pay system that requires no employee contribution. Severance pay, or retirement income is taxed separately from global income.

Local taxes on income

In addition to the basic income tax (which is paid to the National Tax Office) there is also a local residence tax surcharge which is paid to the city or province that is the domicile of the taxpayer. The residence tax calculated as 10% of the basic income tax liability.

Withholding taxes on income paid to non-residents

A person paying interest, dividends, business profits prescribed by the Presidential Decree, Class A wage and salary income, pension income, retirement income, or other income is required to withhold income tax due thereon at the time of such payment, and to pay it to the government by the tenth day of the following month. However, a businessman who has less than ten employees on average at the end of every month of the preceding year may pay taxes withheld to the government by the tenth day of the following month each half-year, after obtaining the approval of the head of the tax office concerned.

Rates of Withholding

- Interest income
 - a) Interest on a long-term saving with a redemption period of 5 years or longer and interest on a long-term bond with a redemption period of 10 years: 30%
 - b) Interest from non-commercial loans : 25%
 - c) Other interest: 14%
- Dividend income: 14%
- Business income from personal services and medical or health services which are exempt from VAT: 3% of total revenue
- Class A wage and salary
 - a) Tax rates: the basic tax rates applicable to global income
 - b) Year-end adjustment: A person subject to tax withholding must calculate the total annual tax amount in January of the following year or at the time of the last payment of income in the year (i.e., when the income earner completes employment during the year) and collect or refund the difference between the tax amount payable. This amount is calculated by applying the basic tax rates and the tax amount withheld, which is explained in the "Simplified Tax Table."
 - c) Application for personal exemption: Class A wage and salary income earners who are entitled to personal exemptions must submit an application for personal exemptions, together with documentary evidence in support thereof, to the withholding agent before receiving wage and salary income for January of the following year.
 - d) Daily wage: Tax is withheld from the wages of daily workers at a rate of 9%.
- Pension income: national pension, government employee pension: basic tax rates (identical to labor income tax)(retirement pension, private pension: 5%)
- Class A retirement income: basic tax rates
- Other income is withheld at the rate of 20%.

Credit for tax paid abroad

- a) Where a domestic corporation has paid or is liable

to pay foreign corporation tax abroad, the tax amount paid or payable abroad is deducted from the corporation tax up to an amount equivalent to the ratio of the income from foreign sources to the total taxable income. If the foreign tax amount paid or payable exceeds the prescribed creditable limit against the corporation tax payable for the year, the excess portion may be carried over for 5 years.

- b) The foreign tax paid by a qualifying subsidiary is eligible for foreign tax credit against the dividend income of a parent company if an existing tax treaty between Korea and the country of which the foreign corporation is a resident allows it. A qualifying subsidiary is one in which a domestic corporation owns 20% or more of its shares for more than 6 consecutive months after the date of dividend declaration.

- c) When income from foreign sources earned by a domestic corporation is exempt from tax in a source country, nevertheless the exempted amount of income will be taken into account in calculating the foreign tax credit to the extent that the tax treaty allows.

- Tax credit for loss caused by disaster:

Where a domestic corporation is deemed to have difficulties in paying tax because it has lost 30% or more of the total value of its assets due to a natural disaster, a tax amount equivalent to the ratio of the value of the asset loss to the value of total assets is deducted from corporation tax.

Malaysia

Taxes on Corporations

General structure and scope

Resident companies

Income accruing in or derived from Malaysia received by a resident company is subject to Malaysian income tax. Foreign income received in Malaysia by a resident company is exempt from Malaysian income tax. However, a resident company carrying on the business of banking, insurance or air and sea transport operation is taxed on its worldwide income regardless of whether the income is or is not received in Malaysia.

A company is considered as a tax resident in Malaysia if the control and management of the company are exercised in Malaysia at any time during the year. Generally, a company is considered resident in Malaysia if the meetings of its board of directors are held in

Malaysia, even though the company is not incorporated in Malaysia.

A company resident in Malaysia with an issued capital of less than RM 2.5 million is taxed at the rate of 20% on the first RM 500,000 of the chargeable income of the company. The balance of the chargeable income is taxed at the rate of 28% (to be reduced to 27% in Year of assessment 2007 and 26% in Year of assessment 2008).

For a company carrying on the business of petroleum operations, the rate of income tax is 38%.

Non-resident companies

Non resident companies including branches of foreign companies are taxed on income accruing in or derived from Malaysia at the rate of 28% (to be reduced to 27% in Year of assessment 2007 and 26% in Year of assessment 2008). However, interest income is taxed at the rate of 15% which may be reduced in accordance with the Double Tax Treaty which Malaysia has signed with the country concerned.

Foreign income received in Malaysia by non-resident companies is not subject to Malaysian income tax.

Table 7.1 - Capital allowances

Asset	Initial allowance	Annual allowance
Industrial Building	10%	3% or 10%
Heavy machinery and motor vehicles	20%	20%
Plant and machinery (general)	20%	14%
Computer and information technology equipment, including software	20%	40%
Control equipment for environmental protection	40%	20%
Buses using natural gas	40%	20%
Equipment providing natural gas refueling at natural gas refueling outlets	40%	20%
Imported heavy machinery (used in building and construction, mining, plantation and timber industry)	10%	10%
Plant and machinery used for recycling of wastes or for further processing of wastes into finished products, for the purpose of a qualifying project in respect of a promoted activity or product or any agricultural project, and for conservation of energy	40%	20%
Equipment for conserving energy for own consumption	0%	100%
Others	20%	10%
Small value assets not exceeding RM 1,000 each, restricted to a maximum claim of RM 10,000 per annum		
Assets with a life span of not exceeding 2 years	-	Replacement value

Table 7.2 - Qualifying expenditure for private motor vehicles

Cost of private motor vehicle (RM)	Qualifying expenditure restricted (RM)
Below 150,000	100,000
Above 150,000	50,000

Self Assessment System

The Malaysian tax system is based on the Self Assessment System.

Allowances for depreciation

A provision for depreciation is not deductible for tax purposes. Capital allowances are instead granted at the rates as set out in tables 7.1 and 7.2 on qualifying capital expenditure incurred on industrial buildings and plant and machinery used for the purpose of the business.

Qualifying capital expenditure for industrial buildings

Qualifying capital expenditure is the construction cost reduced by the industrial building allowance claimed by the previous owner or the purchase price, whichever is the lower. In cases, where the building was used as an industrial building for a least one month prior to the disposal, qualifying capital expenditure to the purchaser is the lower of the purchase price of the building or the vendor's tax written-down value of the building increased by any balancing charge made on the vendor.

Interest paid to overseas lenders

Interest payment to a non-resident person is subject to withholding tax at the rate of 15%. Where the recipient is resident in a country which has a double tax treaty with Malaysia, the tax rate may be reduced.

Interest paid to a non-resident person by a licensed bank or a finance company in Malaysia is exempt from tax. The exemption does not apply to the following:-

- Interest accruing to a place of business in Malaysia of a non-resident person
- Interest paid on funds required for the purposes of maintaining net working funds by licensed banks and finance companies

Relief for tax losses and capital allowances

Business losses can be utilised against income from all sources in the current year or carried forward indefinitely to be utilised against future income from all business sources. However, the tax loss is disregarded where there is a substantial change in shareholding of more than 50%.

Unabsorbed capital allowances can be carried

forward indefinitely to be utilized against income of the same business source. However, the unabsorbed capital allowance will be disregarded where there is a substantial change in shareholding of more than 50%.

Group relief (50% of current year adjusted loss) is available to locally incorporated resident companies which satisfy the prescribed criteria.

Rental loss cannot be offset against business income or other income. It cannot be carried forward as a loss for setting off against future rental income.

However, where conditions are satisfied as provided in the Public Ruling issued by the Malaysian Inland Revenue and rental income is concessionary treated as a business source of income, the "rental loss" would then be available to be carried forward as a loss for setting off against future income from business sources.

Dividends

Malaysia adopts the imputation system of taxing corporate income. The income tax paid by a company on its profits is utilised to frank dividends paid to shareholders.

A dividend paid, credited or distributed by a tax resident company is deemed to be derived from Malaysia. When paying a Malaysian source dividend, the company is required to deduct tax from the gross amount at the corporate tax rate of 28%. The tax deducted at source is available as a credit to the shareholders receiving the dividend against the income tax payable on such dividend.

The company is required to account to the tax authorities for the tax deducted or deemed deducted at source. Where the tax paid by the company is insufficient to frank the tax deducted or deemed deducted from the dividend, the deficit becomes a debt due to the tax authorities.

Where dividends are paid out of a tax exempt account, the company is not required to deduct any tax at source on payment of the dividends. Dividends paid out of such tax exempt account are not taxable on the shareholders.

Capital gains tax

Malaysia does not impose tax on capital gains other than Real Property Gains Tax ("RPGT") on gains arising from the disposal of any real properties situated in

Malaysia or any interest, option or other rights in or over such land or shares in Real Property Companies. A Real Property Company (RPC) refers to a controlled company, which owns real properties or shares in another RPC or both, the market value of which is more than 75% of its total tangible assets. A controlled company means a company having not more than fifty members and controlled by not more than five persons.

The rate of real property gain tax ("RPGT") applicable on the gains on arising on the disposal depends on the period of ownership of the real property or shares in RPC companies as set out in table 7.3.

Tax incentives

Malaysia offers a wide range of tax incentives which include the following:

- Pioneer status
- Investment Tax Allowance
- Reinvestment Allowance
- Industrial adjustment allowance
- Incentive for high technology and strategic projects
- Double deduction of expenses incurred for promotion of exports
- Incentives for training
- Incentives for approved international procurement centre and regional distribution centre
- Incentives for biotechnology projects
- Incentives for agricultural projects
- Incentives for research and development
- Incentives for in-bound tour operators
- Incentives for approved overseas investments
- Incentives for overseas construction projects
- Incentives for export of products manufactured in Malaysia and export of approved services

- Operational Headquarters (OHQ) incentives
- Labuan International Offshore Financial Centre
- Multimedia Super Corridor (MSC)

Value added tax, sales tax and service tax

Malaysia does not have any value added tax (VAT) legislation. The closest to VAT are sales tax and service tax.

Sales Tax is a single ad valorem tax imposed on all goods (unless specifically exempted), manufactured or imported into Malaysia. It is a consumption tax and under the system the onus is on the manufacturers to levy, charge and collect the tax from their customers. In the case of imported goods, sales tax is collected from the importer at the time the goods are cleared from the customs control. Sales tax is generally chargeable at the rates of between 5% to 15%.

Service tax is a consumption tax levied on taxable services or taxable goods provided or sold in any prescribed establishments or prescribed professional establishments. Service tax is collected by the prescribed establishments or prescribed professional establishments at the time the prescribed services or goods are provided or sold. The rate of tax is 5% on the charge for services provided or price of goods sold.

Taxes on Individuals

Income tax

An individual, whether resident or not resident in Malaysia, is taxed on any income accruing or derived from Malaysia. Foreign Income remitted into Malaysia by an individual is exempted from income tax.

An individual's residence status is determined by reference to the number of days that he is physically present in Malaysia.

A resident individual is taxed on his total income at

Table 7.3 - Real property gains tax on disposal by companies

Category of Disposal (RM)	RPGT Rates
Disposal within 2 years	30%
Disposal in 3rd year	20%
Disposal in 4th year	15%
Disposal in 5th year	5%
Disposal in 6th year and subsequent years	5%

graduated scale rates, which range from 1% to 28% after deduction of personal reliefs.

A non-resident individual is taxed at a flat rate of 28%. A non-resident individual is not entitled to any personal reliefs.

Employees' Social Security Organisation

The Social Security Organisation (SOCSO) is a compulsory insurance scheme managed by the Malaysian Government. Establishments with employees earning less than RM 3,000 per month are required to insure them with the SOCSO.

The SOCSO administers the Employment Injury Insurance Scheme and the Invalidity Pension Scheme. The first scheme provides employees with coverage in the event of any disablement or death due to employment injury by way of cash benefits and medical care whereas the second scheme provides a 24 hour coverage to employees against invalidity and death due to any cause before the age of 55 years.

The contribution for the first scheme is borne solely by the employer and is about 1.25% of the wages of an employee. As for the second scheme, the total contribution is about 1% of the wages and is shared by the employer and employee equally.

Employees Provident Fund

The Employees Provident Fund (EPF) is a compulsory national pension fund and all employers and local employees are required to contribute to the EPF at the minimum rates as set out in table 7.4 based on the gross wages of each employee.

The statutory rates of contribution for employers and employees are as shown above. Employers and employees are, however, allowed to elect to contribute at rates higher than the statutory rates.

Expatriate employees with valid work permits can elect to contribute to the EPF. The same rates of contributions are applicable to expatriate employees unless the employer and expatriate employees elect to contribute at rates higher than the statutory rates.

Table 7.4 - Employees' provident fund contribution rates

Employee		Rate of Contribution
Local employee:	employer's share	12%
	employee's share	11%

Table 7.5 - Real property gains tax on disposal by individuals

Category of disposal	RPGT rates
Disposal within 2 years	30%
Disposal in 3rd year	20%
Disposal in 4th year	15%
Disposal in 5th year	5%
Disposal in 6th year and thereafter	0%

Table 7.6 - Rates of withholding tax

Non-resident contractor	On service portion of a contract payment to non-resident contractor :-	
	*	10% to account for the non-resident contractor's tax liability
	*	3% to account for the tax payable by expatriate employees of the non-resident contractor
Royalty and interest	*	10% of the gross royalty
	*	15% of the gross interest
Public entertainer	15% of gross remuneration or other income in respect of services performed in Malaysia by a public entertainer.	
Special payments	10% of the gross on payments to non-residents for:-	
	*	services rendered in Malaysia in connection with the use of equipment or installation of plant and machinery sold
	*	technical service, assistance or services rendered in Malaysia
	*	rental for use of movable property, excluding payment for film rentals

Capital gains tax

The rate of RPGT applicable to each disposal of chargeable asset by an individual who is a citizen or permanent resident depends on the period of ownership of the real property or shares in a RPC as set out in table 7.5.

Individuals who are citizens or permanent residents will be given an exemption equal to RM 5,000 or 10%

of chargeable gain whichever is the greater.

For individuals who are citizens or permanent residents, gains from the disposal of chargeable assets held after five years are not subject to RPGT. An individual who is a citizen or permanent resident will be given a once-a-lifetime exemption from RPGT on the chargeable gain arising from disposal of one private residence.

An individual who is not a citizen or permanent resident

Table 7.7 - Rates of tax on various payments provided in double taxation agreements ("DTA")

Country		Royalties	Interest	Technical Fees****	Dividends
		%	%	%	%
1.	Albania, Republic**	10	10	10	Nil
2.	Argentina*	10	15	10	Nil
3.	Australia	10	15	Nil	Nil
4.	Austria	10	15	10	Nil
5.	Bahrain	8	5	10	Nil
6.	Bangladesh	10	15	10	Nil
7.	Belgium	10	10	10	Nil
8.	Canada	10	15	10	Nil
9.	Chile**	10	15	5	Nil
10.	China, People's Republic	10	10	10	Nil
11.	Croatia	10	10	10	Nil
12.	Czech Republic	10	12	10	Nil
13.	Denmark	10	15	10	Nil
14.	Egypt	10	15	10	Nil
15.	Fiji	10	15	10	Nil
16.	Finland	10	15	10	Nil
17.	France	10	15	10	Nil
18.	Germany	10	15	Nil	Nil
19.	Hungary	10	15	10	Nil
20.	India	10	10	10	Nil
21.	Indonesia**	10	15	10	Nil
22.	Ireland	8	10	10	Nil
23.	Islamic Republic of Iran **	10	15	10	Nil
24.	Italy	10	15	10	Nil
25.	Japan	10	10	10	Nil
26.	Jordan	10	15	10	Nil
27.	Korea, Republic	10	15	10	Nil
28.	Kuwait**	10	10	10	Nil
29.	Kyrgyz, Republic **	10	10	10	Nil
30.	Lebanon	8	10	10	Nil
31.	Luxembourg	8	10	8	Nil
32.	Malta	10	15	10	Nil

Table 7.7 - Rates of tax on various payments provided in double taxation agreements (“DTA”)

Country		Royalties	Interest	Technical Fees****	Dividends
		%	%	%	%
33.	Mauritius	10	15	10	Nil
34.	Mongolia	10	10	10	Nil
35.	Morocco **	10	10	10	Nil
36.	Myanmar**	10	10	10	Nil
37.	Namibia	5	10	5	Nil
38.	Netherlands	8	10	8	Nil
39.	New Zealand	10	15	10	Nil
40.	Norway	10	15	10	Nil
41.	Pakistan	10	15	10	Nil
42.	Papua New Guinea	10	15	10	Nil
43.	Philippines	10	15	10	Nil
44.	Poland	10	15	10	Nil
45.	Romania	10	15	10	Nil
46.	russia	10	15	10	Nil
47.	Saudi Arabia**	10	15	10	Nil
48.	Saychelles**	10	10	10	Nil
49.	Singapore***	10	15	10	Nil
50.	South Africa**	5	10	5	Nil
51.	Sri Lanka	10	10	10	Nil
52.	Sudan**	10	10	10	Nil
53.	Sweden	10	15	10	Nil
54.	Switzerland	10	10	10	Nil
55.	Taiwan (Note 4)	10	10	7.5	Nil
56.	Thailand	10	15	10	Nil
57.	Turkey	10	15	10	Nil
58.	United Arab Emirates	10	5	10	Nil
59.	United Kingdom	8	10	8	Nil
60.	United States of America*	10	15	10	Nil
61.	Uzbekistan	10	10	10	Nil
62.	Vietnam	10	10	10	Nil
63.	Zimbabwe**	10	10	10	Nil
1.	Payments of approved royalties or approved industrial royalties and interest on approved loans and long term loan to non-residents are usually tax exempt and not subject to withholding tax where provided in the DTA of the country concerned.				
2.	Where the rate of tax on the above payments is not specifically mentioned in the respective double tax agreement, the rate of tax as provided in the Malaysian Income Tax Act 1967 (ITA 1967) will apply.				
3.	Where the rate of tax as stated in the ITA 1967 is lower than the maximum rate of tax as mentioned in the respective double tax agreement, the lower rate of tax shall apply.				
4.	For Taiwan, double tax relief is given to the Taipei Economic and Cultural Office in Malaysia by way of exemption orders.				
*	Limited double tax treaty.				
**	Gazetted DTAs which have not yet entered into force.				
***	Coming into force on 1st January 2007				
****	Applicable to services rendered in Malaysia				

is subject to a flat rate of 30% in respect of chargeable assets disposed of within five years after the date of acquisition. The RPGT rate is reduced to 5% in the case of a chargeable asset disposed of in the sixth year or thereafter after the date of acquisition.

Estate and gift taxes

There is no estate and gift tax in Malaysia.

Withholding Taxes on Income Paid to Non-Residents

Refer Table 7.6.

Double Taxation Agreements

Malaysia has signed double taxation agreements with more than 60 countries. Refer Table 7.7.

New Zealand

Taxes on Corporations

General structure and scope

New Zealand resident companies are subject to income tax on their world-wide income at the rate of 33%.

For companies with balance dates from 31 March to 30 September, terminal tax is payable on 7 February the following year. For all other balance dates, terminal tax is payable on the seventh day of the eleventh month after balance date.

Provisional tax is also payable in three instalments—the seventh day of the fourth month after balance date, the eighth month and the twelve month.

Late payment of any tax results in an initial 5% penalty plus monthly incremental penalties of 1%. In addition to penalties, use of money interest is charged from the due date of payment. The interest is a deductible expense.

Use of money interest

Use of money interest is assessed on the shortfall or overpayment of tax from due date until the date of payment. It is currently charged at rate of 13.08% and paid at a rate of 5.71%.

In the case of income tax, provisional tax paid is compared to the income tax liability for the year to determine if a shortfall or overpayment existed at the time the payment was due. Use of money interest is then assessed from the due date for payment of provisional tax until terminal tax is paid or refund issued.

Depreciation

New Zealand has a comprehensive depreciation regime and the rates vary depending on the individual asset purchased. Diminishing value and straight line methods are available.

Interest paid to overseas lenders

From 1 August 1991 certain interest payments to non-residents are exempt from non-resident withholding tax where an 'approved issuer' pays a levy of 2% interest

on payments in respect of registered securities.

The levy is in lieu of non-resident withholding tax and only applies where the lender and borrower are not associated persons, the security is registered, and the issuer is approved prior to the transaction.

Relief for tax losses

Trading losses can be offset against other income of the company in the current or future years. Losses can be carried forward indefinitely provided they are not forfeited by lack of shareholder continuity requirements.

Current losses of one company can be offset against those of a related company, provided there is 66% common ownership within New Zealand.

Dividends

A New Zealand company pays dividends to shareholders with 33% tax deducted at source. This is either in the form of imputation credits (based on tax paid by the company), if available, or resident withholding tax or a combination of both. The dividend is tax free if paid to a parent company by a wholly owned subsidiary.

Tax credits arising from the receipt of a dividend can be offset against the recipient's income tax liability, whether the recipient is a company or an individual. A non-resident may be able to claim a portion of the tax credit depending on the terms of the double tax agreement applicable.

In the past, non-resident investors were unable to utilise imputation credits attached to a dividend, placing them at a disadvantage to their New Zealand counterparts. To rectify this, a foreign investor tax credit (FITC) regime has been introduced which effectively eliminates the monetary effect of NRWT on dividends paid to foreign shareholders where, and to the extent that, the dividend is fully imputed.

Goods and services tax

Goods and services tax (GST) is charged on all supplies of goods and services in New Zealand, except for limited exempt supplies. The principal exempt supplies are export sales and financial services. The current rate is 12.5%.

Businesses with an annual turnover of less than NZ\$40,000 are not required to register. A registered business normally accounts for GST on a two monthly

basis paying the net of GST charges to customers, less GST charged by suppliers and GST paid on imported goods.

Fringe benefit tax

New Zealand employers are required to pay fringe benefit tax (FBT) on benefits given to their employees over and above their salaries or wages.

The four main categories of benefits that may be subject to FBT are:

- motor vehicles;
- low interest loans;
- free, subsidised or discounted goods and services; and
- employer contributions to sick, accident or death benefit funds, superannuation schemes and specified insurance policies.

FBT is charged at either 49% or 64% on the total taxable benefits provided, depending on the employees taxable income.

Accident compensation

Accident compensation provides no fault personal injury insurance for all individuals in New Zealand. This is a pay-as-you-go system where each year a premium is collected from employers and employees to pay the continuing cost of claims.

Property tax

There are no direct property taxes. Properties are subject to rates set by the local council. Depending on the nature of the property, stamp duty could be charged on purchase.

Capital gains tax

New Zealand has no capital gains tax.

Taxes on Individuals

Income tax

Income tax is payable by all New Zealand residents and

by all non-residents in respect of their income from New Zealand sources. The New Zealand individual tax rates are set out in table 8.1.

Tax relief by way of rebates is available for those earning less than NZ\$38,000 per annum.

Income from employment is taxed at source and deducted by the employer through the 'pay as you earn' system (PAYE). All other income is assessed annually and tax is paid on 7 February following balance date. There may also be a liability for provisional tax payable on the same basis as for companies.

Estate and gift taxes

There are no estate duties in New Zealand.

Gift duty is imposed on dutiable gifts at progressive rates and the maximum rate of 25% is reached when gifts for a year exceed NZ\$72,000. There is no duty on gifts below NZ\$27,000 in one year.

Goods and services tax

As with companies, individuals are subject to goods and services tax (GST). However, there is no liability to register for GST unless an individual has a business and the business turnover (excluding exempt supplies) exceeds NZ\$40,000 per annum.

Withholding taxes on income paid to Non-residents

Dividends

Withholding tax of 30% is deducted at source in respect of dividends. This is limited to 15% if the recipient is a resident of a country with which New Zealand has a double tax agreement (DTA).

Interest and royalties

Withholding tax of 15% is deducted at source, but is reduced if there is a DTA. In most cases the withholding tax is reduced to 10%.

Table 8.1 - Individual income tax rates

Taxable income (NZ\$)	Income tax rate
Up to \$38,000	19.5%
\$38,001 - \$60,000	33%
Over \$60,000	39%

Pakistan

Taxes on Corporations

General structure and scope

Pakistan resident companies are subject to income tax on their worldwide income and gains as per Table 9.1.

These corporate tax rates are applicable to all companies other than those who are in the presumptive tax regime wherein tax deducted at source is deemed to be the final tax liability.

The presumptive tax regime is applicable to companies involved in exports, and trading companies involved in commercial imports and supplies. It is also applicable to companies earning commission or brokerage.

Minimum tax on turnover

Companies not liable to tax due to exemptions, losses in the current year, or carried forward losses, are liable to pay a minimum tax at 0.5% of their turnover. However this payment is to be treated as an advance tax and can be adjusted against the tax liability accruing in the subsequent six years.

Small companies are companies incorporated after June 30, 2005 having paid up capital and turnover

not exceeding Rs.25 million and Rs.200 million respectively.

Allowances for depreciation

The rate of depreciation is uniform for both the corporate and non-corporate sectors. The general rates of depreciation, which is allowable on reducing balance method, are set out in Table 9.2.

A special initial depreciation allowance at 50% is allowed on eligible depreciable asset other than :

- Any road transport vehicle unless the vehicle is for hire;
- Any furniture, including fittings;
- Any second hand plant and machinery that has been used previously in Pakistan;
- Any plant whose cost is allowable as a deductible charges.

Initial depreciation is also allowable on assets owned and leased by a leasing company. However the deduction for initial allowance is restricted against income from lease rentals only.

Amortization

The amortization of following expenditures is allowable at the rates specified:

1. Intangibles: Cost of the person's intangibles wholly or partially used in deriving income from business

Table 9.1 - Corporate Tax rates

Year ending	Banking company	Public company	Private company	Small company
June 2005	41%	35%	39%	20%
June 2006	38%	35%	37%	20%
June 2007 & onwards	35%	35%	35%	20%

Table 9.2 - Allowance for depreciation

Assets	Rate of Depreciation
Building (all types)	10%
Furniture (including fittings) and Machinery & plant (not otherwise specified), Motor Vehicles (all types), Ships, Technical or Professional Books	30%
Computer hardware including printer, monitor & allied items, machinery & equipment used in the manufacture of I. T. products, aircrafts & aero engines	100%
In case of Mineral Oil Concerns:	
* Below Ground installations	100%
* Offshore Platform & production installations	20%

chargeable to tax and that have normal useful life exceeding 1 year.

Allowance = A/B

Where A is cost of the intangible and B is normal useful life up to 10 years.

A proportionate allowance on daily basis shall be allowed where asset is only partly used in a tax year for business purposes.

2. Pre-commencement Expenditure:

Allowance = 20% of expense (on straight line basis)

3. Scientific Research Expenditure:

Allowance = 100% Expense (conditions applicable)

4. Employee training and facilities:

Allowance = 100% Expense (conditions applicable)

Dividends

Companies are liable to deduct withholding tax on all dividend payments made to shareholders as tabulated in Table 9.3, which would be the final tax liability in respect of such dividends.

Companies who have invested in the shares of other companies shall be liable to income tax on their dividend income as detailed in Table 9.3.

Where the investing company is a foreign entity with no permanent establishment in Pakistan, the rates-as determined in the treaty for the avoidance of double taxation between the country of resident/permanent establishment and Pakistan-shall apply to the dividends received by such company.

Losses

The rules for the offset and carrying forward of losses are similar for the corporate and non-corporate sectors.

Tax losses in a particular year may be adjusted against income from any other source, except the income attributable to the presumptive tax regime.

Unabsorbed losses may be carried forward for a period of six years, however unabsorbed depreciation may be carried forward indefinitely.

Tax losses of an amalgamating company or companies shall be set-off or carried forward against the business profits or gains of amalgamated company for six tax years.

Any subsidiary of public listed company with 75% or more share holding owning and managing an Industrial undertaking may surrender its loss for set-off against business income of holding company for current year and two subsequent years subject to certain conditions.

Payment of tax

In addition to withholding tax at various stages, companies have charged to tax are liable to pay advance tax in four quarterly installments on the basis of quarterly turnover at ratio of last assessed tax to turnover after adjustment of all withholding tax, deductions.

Any remaining tax liability is payable at the time of filing of the annual return of income; normally six months after the closing of accounts.

A company is required to file an estimate of tax payable when it is expected that the tax payable if the tax payable is likely to be in excess of the payment based on last year's tax payable and pay the balance tax during the currency of the year. If a tax payer fails to pay 90% of his tax liability as advance tax during a year he would be liable for payment of additional tax on the unpaid amount.

Capital gains tax

Capital gains resulting from the sale of shares of listed companies are exempt from tax up to tax year 2007. Other capital gains are taxable at normal rates.

In case of gain arising for disposal of asset held for more than one year, 3/4th of the sale proceeds will be taken for calculation of capital gain.

Table 9.3 - Dividend income tax rates

Situation	Dividend income tax rate
Where dividends are received by a public company or any other resident company or an insurance company	5%
In any other case	10%

Sales tax

Manufacturers charge sales tax on most supplies. The scope of sales tax has been enlarged to include importers, distributors, wholesalers and retailers. The base rate of sales tax is 15%.

All manufacturers/retailers with an annual turnover of over Rs.5,000,000 are required to register. However if sale is subject to withholding tax then irrespective of quantum of turnover they are required to be registered.

There is no threshold for other categories i.e. importers, wholesalers and/or distributors. All exports are zero-rated and any tax paid during intermediately one year is refundable.

Imported or purchased plant and machinery, which is not locally manufactured and is used in certain specified industries is exempt from levy of sales tax.

Taxes on Individuals

Income tax

Income tax is payable by all Pakistan residents on their worldwide income and by non-residents on their Pakistan source of income only. The tax threshold is Rs.150,000 per annum for salaried individuals and Rs. 100,000 per annum for non-salaried individuals (excluding presumptive tax regime). In case of female taxpayers the tax threshold is Rs. 200,000 for salaried individual and Rs. 125,000 for non-salaried individual.

No allowances or deductions are allowable after the initial threshold, however in the case of salaries certain reimbursements of expenses i.e. medical expenses are tax exempt and are not included in the taxable income.

The tax rate for individuals is on a sliding scale and ranges from 0.25% to 25% for salaried individuals

and from 0.5% to 25% for non-salaried individuals. No surcharge is payable.

The tax payable by a full time teacher or a researcher employed in non-profit education or research institutes are entitled to a reduction in tax liability equal to 75% of tax.

Presumptive tax regime

The presumptive tax regime, under which the deduction on payments received is deemed to be the final discharge of tax liability, is applicable in the following cases:

- Import of goods except industrial undertaking importing raw material and plant and machinery for own use.
- Transport business.
- Income from export.
- Income from prizes and winnings.
- Income from property
- Commission earned by stock exchange member on sale and purchase of shares.
- Fee for technical services earned by non-residents.
- Royalty earned by non-residents.
- Supply of goods.
- Execution of contracts.
- Dividends received.
- Sale of petroleum products.
- Contractual payment to non-resident satellite T.V Channel.
- Commission & Brokerage including commission on sale of Airline tickets and indenting commission on import.
- Payment to non-resident carrying on business of

Table 9.4 - Specified deductions

Situation	Tax rate
Execution of contracts or sub-contracts under construction, assembly or installation project in Pakistan, including contract for supply of supervisory activities in relation to such projects	6%
Execution of a contract for advertisement services rendered by T. V. Satellite Channels	
Royalty or Fee for technical services rendered	15%
Shipping	8%
Air Transport	3%

operating ships & aircrafts.

- Services
- Profit on Debt

Withholding taxes on income paid to Non-residents

All payments made to non-residents are subject to withholding tax at the greater of 30%, or the rate of deduction applicable to a resident, except in the following cases:

- Where the rates of withholding tax are same as applicable for residents such as:
 - Salaries

- Dividends
- Supply of goods & rendering of services
- Income from property
- Income from prizes & winnings
- Where the rates of deduction has been specified as set out in Table 9.4.

The Philippines

Taxes on Corporations

General structure and scope

Domestic companies

In general, companies organised under Philippine law are subject to a flat rate of 33% 35% (beginning November 1, 2005) on their world-wide net taxable income. This rate shall be reduced to 32%, effective 1 January 2009. A lower tax rate of 10% is generally imposed on private educational institutions and non-profit hospitals.

To arrive at their taxable income, companies are allowed to deduct business expenses and direct costs paid or incurred during the taxable year such as raw materials, supplies, direct labour, rentals, interest on indebtedness, taxes, losses, donations, pension trust contributions, depreciation and other necessary expenses.

A minimum corporate income tax of 2% of gross income as of the end of the taxable year is imposed on domestic companies, beginning on the fourth taxable year immediately following the year in which the company commenced its business operations, when the minimum corporate income tax is greater than the

normal income tax rates for the taxable year.

An excess of the minimum corporate income tax over the normal income tax is allowed to be carried over and credited against the normal income tax for the three immediately succeeding taxable years.

Resident foreign companies

Resident foreign companies are those engaged in trade or business within the Philippines. They are generally subject to a tax equivalent to 33% of the taxable income derived from Philippine sources. This rate shall be 32% effective 1 January 2000.

The 2% minimum corporate income tax shall be imposed on a resident foreign corporation under the same conditions as a domestic corporation.

Certain types of resident foreign companies are taxed at preferential rates, as set out in table 10.1.

Non-resident foreign companies

In general, a foreign company not engaged in trade or business in the Philippines pays a tax equal to 35% (beginning November 1, 2005) of the gross income received from Philippine sources such as interest, dividends, rents, royalties, salaries, premiums (except reinsurance premiums), annuities, emoluments, profits and income, and capital gains (except capital gains realised from the sale of shares of stock).

This rate shall be reduced to 32%, effective 1 January 2009. However certain non-resident foreign companies are subject to preferential tax rates as described in table 10.2.

Table 10.1 - Preferential tax rates for resident foreign companies

Company	Preferential tax rate
international carriers	2.5% of gross Philippine billings
Offshore banking units	10% final tax on income derived from foreign currency transactions with local commercial banks and branches of foreign banks
Branch profits remittances	15% of the remittance (except for activities registered with the Philippine Economic Zone Authority)
Regional or area headquarters	Exempt
Regional operating headquarters	10% of taxable income

Table 10.2 - Preferential tax rates for non-resident foreign companies

Company	Preferential tax rate
Cinematographic film owners, lessors or distributors	25% of gross income from Philippine sources
Owner of vessels chartered by Philippine nationals	4.5% of gross rentals, lease and charter fees
Lessors of aircraft machinery & other equipment	7.5% of gross rentals or fees

Interest income

Interest income derived by domestic and resident foreign companies from any currency bank deposit and yield, or any other monetary benefit from deposit substitutes, trust funds and similar arrangements, and royalties derived from Philippine sources are subject to a final tax of 20%.

Interest income received by domestic and resident foreign companies from a depository bank under the expanded foreign currency deposit system is subject to a 7.5% final income tax.

Interest income derived by a depository bank under the expanded foreign currency deposit system shall be subject to a final tax of 10%. The amount of interest on foreign loans received by a non-resident foreign company is subject to a final withholding tax of 20%.

Dividends

Dividends received by domestic and resident foreign companies from a domestic company are exempt from income tax.

Dividends received by a non-resident foreign company from a domestic company are subject to a 15% final tax, provided the country in which the non-resident foreign company is domiciled shall allow a tax credit equivalent to 18% for 1999, and 17% from 2000 onwards.

Capital gains

The net capital gains realised by domestic, resident and non-resident foreign companies from the sale or disposition of shares of stock in a domestic corporation not traded through a local tax exchange shall be taxed at the rate of 5% for gains not over P100,000 and 10% on any amount in excess of P100,000.

A percentage tax of 0.5% shall be levied on the sale, barter, exchange or other disposition of shares of stock listed and traded through a local stock exchange based on the gross selling price or gross value in money of said shares of stock.

Capital gains derived by a domestic company from the sale of lands and / or buildings not actually used in the company business and treated as capital assets, shall be subject to a final tax of 6% based on the gross selling price or fair market value, whichever is higher.

Allowable Deductions from Gross Income

In general, deductions are expenses and losses

incurred in connection with the realization of gross income, which the law allows to be deducted from such income to arrive at net income subject to tax. These are referred to as itemized deductions or business expenses.

Itemized deductions, in general, are specific expenses permitted by the Tax Code to be deducted from gross income provided that supporting documents are available. By nature, they may represent payments of liabilities, realized losses or reductions in value or interest of property used in business. These items are shown as operating and other expenses in the income statement.

The following income are granted with allowable deductions:

1. Business and professional income derived within and outside the Philippines by a Resident Citizen taxpayer;
2. Business and professional income derived within the Philippines by a Non-resident citizen or by a resident alien; and business income derived within the Philippines by a Non-resident alien;
3. Business and Professional income of a general co-partnership;
4. Business income derived within and outside the Philippines by a domestic corporation;
5. Business income of proprietary educational institution and non-profit hospitals;
6. Business income of proprietary government-owned or controlled corporation; and
7. Business income within the Philippines earned by a foreign corporation.

Composition of Itemized Deductions

1. General Business Expenses—These include all ordinary and necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to the development, management, operation and/or conduct of the trade, business or exercise of a profession. (Examples are salaries, rental, advertising, repairs and maintenance, transportation, representation expenses)

In 2002, the Bureau of Internal Revenue issued Revenue Regulations No.10-2002 imposing a ceiling

on Entertainment, Amusement and Recreational Expenses including representation expenses. Under the said Regulations those expenses shall be allowed as deduction provided that the same were incurred for the benefit of a client or prospective client and not for the company's officers and employees, and the amount should not exceed $\pm$ of 1% of the annual net sales(i.e., gross sales less sales returns/allowances and sales discounts) for those engaged in sale of goods and properties, and 1% of net revenue (i.e., gross revenue less discounts) for those engaged in sale of services, including exercise of profession and use or lease of properties. The requirement of full substantiation must be complied with in order to be entitled to the said deduction.

2. Interest expenses – These pertain to the cost of money paid or incurred within a taxable year on indebtedness in connection with the taxpayer's profession, trade or business.

Revenue Regulations No. 13-2000 provides the rule on deductibility of interest expense as follows:

Requisites:

- a. There must be an indebtedness;
- b. There should be an interest expense paid or incurred upon such indebtedness;
- c. The indebtedness must be that of the taxpayer;
- d. The indebtedness must be connected with the taxpayer's trade, business or exercise of profession;
- e. The interest expense must have been paid or incurred during the taxable year;
- f. The interest must have been stipulated in writing;
- g. The Interest must be legally due;
- h. The interest payment arrangement must not be between related taxpayer as mandated in Section 34(B)(2)(b), in relation to Section 36(B) both of the Tax Code of 1997;
- i. The interest must not be incurred to finance petroleum operations; and
- j. In case of interest incurred to acquire property used in trade, business or exercise of profession, the same was not treated as a capital expenditure.

The taxpayer's otherwise allowable deduction for interest expense shall be reduced by an amount equal to the following percentages of the interest income subjected to final tax:

- 41% beginning January 1, 1998;
- 39% beginning January 1, 1999;
- 38% beginning January, 2000, and thereafter

This rule applies regardless of the currency the loan was contracted.

Interest expense which are not subjected to final tax of 20% are deductible in full in cases where there is a benefit accruing in favour of the government such as interest on tax delinquency.

3. Taxes– In general, taxes are allowed as deduction when paid or incurred within the taxable year in connection with the taxpayer's profession, trade or business. In the case of a non-resident alien individual engaged in trade or business in the Philippines and a resident foreign corporation, the deductions for taxes shall be allowed only if and to the extent that they are connected with income from sources within the Philippines.

The following taxes are allowed as deductions:

- Documentary stamp taxes
- Occupational taxes
- Privilege and license taxes
- Excise taxes
- Import duties
- Local business taxes
- Automobile registration fees
- Community tax
- Municipal tax

On the other hand, the following taxes are not allowed as deduction:

- Philippine Income Tax
- Estate and Donor's taxes
- Special assessment tax
- Foreign income tax, if claimed as a tax credit
- Percentage tax on stock transaction

- Value Added Tax
- Surcharges
- Compromise penalty

4. Allowances for depreciation

A 'reasonable allowance' for the exhaustion and wear and tear of property used in trade and business is allowed as depreciation deduction.

Reasonable allowance includes, but is not limited to, an allowance computed in accordance with regulations prescribed by the Secretary of Finance using any of the following methods :

- straight line method;
- declining balance method;
- sum of the years digit method; or
- any other method which may be prescribed by the Secretary of Finance upon the recommendation of the Commission of Internal Revenue.

All properties directly related to the production of petroleum are allowed a depreciation deduction using either the straight line or the declining balance method. The useful life of such properties shall be ten years or less as determined by the Commissioner of Internal Revenue.

An allowance for depreciation of all properties used in mining operations shall be computed at the normal rate of depreciation if the expected life is ten years or less; and depreciated between five years and the expected life if the latter exceeds ten years.

Resident foreign companies are allowed a depreciation deduction for the deterioration of property only when such property is located in the Philippines.

5. Losses

In general, losses actually sustained during the taxable year and not compensated by insurance or otherwise are allowed as deductions in computing taxable income if incurred in trade, business or profession.

In the case of resident foreign companies, deductible losses are those incurred in business, trade or exercise of a profession conducted in the Philippines when such losses are not compensated by insurance or other forms of indemnity.

The net operating loss of the business for any taxable year immediately preceding the current taxable year, which has not been offset as a deduction from gross income, shall be carried over as a deduction from gross income for the next three consecutive taxable years; provided that the loss was not incurred in a year when the taxpayer was exempt from income tax and there has been no substantial change in the ownership of the business.

Capital losses are deductible only from capital gains. There is no net capital loss carry over for companies.

6. Bad debts

Requisites for deduction of bad debts:

- There must be a valid and subsisting claim;
- The claim must be connected with the profession, trade or business;
- The claim must actually be ascertained to be worthless; and
- The claim must be written off within the taxable year.

7. Deductible pension trusts

An employer is allowed to deduct from business gross income contributions or payments made to pension trust in accordance with a reasonable pension plan. The rules applicable for the computation of deductible pension payments are:

- Payments to cover pension liabilities accruing during the taxable year are deductible in full
- Payments of past pensions are pro-rated in equal parts over a period of ten years beginning with the year in which the payment was made

8. Charitable and other contributions

The law allows some contributions or gifts within the taxable year as deductions from gross income. The amount of any charitable contribution of property other than money shall be based on the acquisition cost of said property.

Requisites for deductibility of contributions:

- The taxpayer making the charitable contribution must be engaged in profession, trade or business;

- There must be an actual payment of contribution or gift;
- The recipient must be a qualified donee-institution; and
- The net income of the institution must not inure to the benefit of any individual or private stockholder.

9. Research and Development

A taxpayer has the option to consider research and development expenditures that are paid or incurred during the taxable year in connection with profession, trade or business either as:

- Ordinary and necessary expenses deductible from the business gross income in the year the expenses are paid or incurred.
- Deferred expenses chargeable to the capital account but not chargeable to property subject to depreciation or depletion.

Value added tax

Value added tax (VAT) is imposed on any person, whether natural or juridical, who in the course of trade or business sells, barter, exchanges or leases goods or properties, renders services, or imports goods.

The VAT levies a tax rate of either the standard 12% (beginning February 1, 2006) on the sale of goods, services rendered or importation of goods, subject to certain exemptions provided by law, or 0% for export sale of goods and services destined for consumption or use outside of the Philippines. The VAT is an indirect tax and the amount thereof may be passed on to the buyer, transferee or lessee of the goods, properties or services.

Persons engaged in the sale or lease of goods or properties or the performance of services subject to tax whose aggregate annual sales and / or receipts exceed P550,000 are required to register as VAT-registered persons with the Bureau of Internal Revenue (BIR).

Persons not covered by VAT are required to register with the BIR as non-VAT registered enterprises. A non-VAT registered enterprise shall pay a percentage tax equivalent to 3% of gross sales or receipts (now payable on the 10th day of every month effective August 2002). However, co-operatives are exempt from this 3% gross receipts tax.

An annual registration fee of P500 is imposed on both VAT and non-VAT registration for every separate distinct establishment or branch, and yearly thereafter on or before 31 January.

Excise taxes

There are two types of excise taxes, 'specific' and 'ad valorem'. A specific tax is imposed based on weight or volume capacity or any other physical unit of measurement. An ad valorem tax is based on selling price or other specified value of the article. The excise tax is imposed in addition to VAT.

Excise taxes apply to articles manufactured or produced in the Philippines for domestic sale or consumption, and to those imported into the country. Excise taxes on domestic products are paid by the manufacturer or producer before the removal from the place of production.

When locally produced or manufactured articles are moved and actually exported, the excise tax paid will be credited or refunded upon submission of the proof of actual exportation and upon receipt of the corresponding foreign exchange payment.

Excise taxes on imported articles are paid by the owner or importer to Customs officers before the release of such articles from the Customs House.

Documentary Stamp Tax

The Documentary Stamp Tax (DST) is a tax on the privilege of executing documents, instruments, loan agreements and papers, and upon acceptances, assignments, sales and transfers of obligation, right or property. It is levied, collected and paid for by the person exercising the privilege.

Such privileges include the making, issuing, accepting, or transferring of obligations, rights or property ownership. The DST is payable on or before the tenth day of the following month when the document was assigned, issued, accepted or transferred. The amount of tax depends upon the nature of the instrument and its face value.

Improperly Accumulated Earnings tax (IAET)

In addition to other taxes imposed on corporations, a tax equal to 10% of the improperly accumulated taxable income of corporations formed or availed of for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of other

corporation, by permitting the earnings and profits of the corporation to accumulate instead of dividing them or distributing them to the stockholders.

The touchstone of the liability is the purpose behind the accumulation of the income and not the consequences of the accumulation. Thus, if the failure to pay dividends is due to some other causes, such as the use of undistributed earnings and profits for the reasonable needs of the business, such purpose would not generally make the accumulated or undistributed earnings subject to tax. However, if there is a determination that a corporation has accumulated income beyond the reasonable needs of the business, the 10% IAET shall be imposed.

The IAET applies only to corporations at least 50% in value of the outstanding capital stock or at least 50% of the total combined voting power of all classes of stock entitled to vote is owned directly or indirectly by or for not more than 20 individuals, otherwise referred to as closely-held corporations. This does not apply to banks and other non-bank financial intermediaries, insurance companies, publicly-held corporations, taxable partnerships, general professional partnership, non-taxable joint ventures, and corporations registered with Philippine Economic Zone Authority.

The IAET became effective in 1998.

Taxes on Individuals

Income tax of citizens and resident aliens

Resident Filipino citizens are taxed on income from all sources received within and outside the Philippines. Non-resident citizens and resident aliens are taxed only on income derived from Philippine sources.

Using the global system of income taxation, a taxpayer's gross compensation income is combined with the net taxable income from business, trade or the exercise of profession to arrive at the aggregate taxable income after allowable exemptions.

The total taxable income is then taxed at graduated

rates ranging from 5% to 33%. This top marginal rate shall be reduced to 32% beginning 2000 onwards.

Compensation income

Compensation income refers to all payments received as a result of an employer-employee relationship such as salaries, wages, allowances, fees, commissions and similar items. The employer is required to deduct and withhold the amount of income tax imposed from the salaries and wages of their employees.

Taxpayers are allowed to claim as deductions personal exemptions outlined in table 103.

A non-resident alien engaged in trade or business in the Philippines is entitled to a personal exemption in the amount allowed by the income tax law of their own country, but not exceeding the above amounts fixed for Philippine citizens and residents.

An additional exemption of P8,000 is granted for each additional dependent child, provided the total number of dependants for which additional exemptions may be claimed does not exceed four.

In the case of married couples who both derive taxable income in the Philippines, this additional exemption may be claimed by only one of the spouses. For legally separated spouses the additional exemption may be claimed by the spouse who has custody of the child or children.

Business income

Business income covers all gains, profits, and income of whatever kind, except those considered as passive income. This includes income received by individuals in the exercise of a profession and by self-employment.

Passive income

Passive income includes dividends, interest, royalties, annuities, winnings and prizes, and capital gains from sales of real property or stock not traded through a stock exchange. This type of income is subject to a final withholding tax at varying rates described in table 10.4.

Table 10.3 - Personal exemptions

Taxpayer	Allowance (Pesos)
Single individual or married individuals judicially declared as legally separated with no qualified dependents	P20,000
Head of the family	P25,000
Each married individual deriving taxable income in the Philippines	P32,000

Non-resident aliens

Non-resident aliens are subject to income tax to the extent of their net income received from all sources within the Philippines. However, for income tax purposes, non-resident aliens are classified into those who are engaged in trade or business in the Philippines, and those who are not.

A non-resident alien is deemed to be engaged in trade or business in the Philippines if they remain therein for an aggregate period of more than 180 days in any calendar year.

Generally, non-resident aliens engaged in trade or business in the country are taxed in the same manner as citizens and resident aliens on their income from Philippines sources.

However, a higher final tax of 20% is imposed on dividends received from a domestic company, share in the net profit of a partnership, interest, royalties and winnings.

Non-resident aliens not engaged in trade or business in the Philippines are subject to a 25% final tax on gross income derived from sources within the country—except for capital gains realised from sales of shares of stock of any domestic company not listed, or traded through a local stock exchange, and sales of real property, which shall be taxed at the rates applicable to citizens and residents stated above.

Aliens employed by regional or area headquarters established by multinational companies, offshore banking units, and petroleum service contractors / subcontractors are liable to a tax equal to 15% of their gross income.

Social security system

Social security coverage is compulsory for all employers, whether natural or juridical, domestic or foreign, who carry on any trade, business, industry, undertaking or activity of any kind in the Philippines.

Also covered are all employees in the private sector who are not over 60 years of age, regardless of citizenship, nature and duration of employment and the manner of payment or source of compensation.

Coverage in the social security system (SSS) is also compulsory for all self-employed persons earning P1,800 or more per annum. Contributions for membership are shouldered by both the employee and the employer and are credited to the account of the member / employee. These contributions entitle the member / employee to the benefits and loan privileges provided by the SSS.

Estate and donor's taxes

An estate tax is levied on transfers of property by reason of death and is based on the value of the net estate of the deceased, whether resident or non-resident of the Philippines.

The gross estate of the deceased includes all property - real or personal, tangible or intangible - wherever situated. However, in the case of a deceased non-resident who at the time of death was not a Filipino citizen, only that part of the entire gross estate which is located in the Philippines is included in the taxable estate.

The tax rates, which are paid by the executor, administrator, or any of the legal heirs, are based on a tax schedule ranging from 0 - 20%.

Table 10.4 - Withholding tax on passive income

Type of income	Final tax
Interest from any currency bank deposit, royalties, prizes (except those amounting to P10,000 or less) and other winnings	20%
Dividends received from a domestic company	10%
Capital gains tax on sale of real property based on the gross selling price or fair	6% market value, whichever is greater
Capital gains tax on sale of shares of stock listed and traded through a local Stock Exchange	0.5% percentage tax based on the gross selling price
Capital gains tax on sale of shares of stock not listed :	
up to P100,000	5%
P100,001 and over	10%

The donor's or gift tax is a tax on one's privilege to transmit property during one's lifetime by way of gifts. The tax is levied, assessed, collected and paid by any person, whether resident or non-resident, upon the transfer of the gift, whether direct or indirect, real or personal, tangible or intangible.

The gift tax is computed based on the total net gifts made during the year and is levied at graduated rates in accordance with a schedule ranging from 0% to 15%.

When the donee or beneficiary is a stranger, the tax payable is 30% of the net gifts. A stranger is a person who is not a sibling, spouse, ancestral and lineal descendant or collateral relative within the fourth degree of relationship.

The following gifts or donations made by a resident are exempt from tax :

- dowries or gifts made on account of marriage;
- gifts made to, or for the use of, the Philippine Government, its political subdivisions or its non-profit agencies; and

- gifts made in favour of educational, charitable, religious, cultural or social welfare companies, accredited non-government organisations, trust or philanthropic organisation or research institution—subject to certain conditions.

In the case of gifts made by a non-resident alien, the gifts enumerated in the latter two cases are exempt from tax.

A donor who is a citizen or resident of the Philippines at the time the donation is made shall be entitled to a tax credit for any donor's tax paid to a foreign country, subject to certain limitations provided by law.

Withholding taxes on income paid to Non-residents

Refer to 'Taxes on Individuals', subsection "Non-resident aliens".

Singapore

Taxes on Corporations

Corporate Income Tax

Income tax is levied on income derived in Singapore or received in Singapore from sources outside Singapore. The tax residence status of a company in Singapore depends on where the control and management of its business is exercised. A company is resident in Singapore if the control and management of its business is exercised in Singapore; the place of incorporation is irrelevant.

A Singapore-resident company can enjoy tax exemption from its foreign-sourced dividends, foreign branch profits, and foreign-sourced service income (ie income where service is rendered in the course of a person's trade, business or profession, through a fixed place of operation in a foreign jurisdiction) that are remitted into Singapore on or after 1st June 2003 provided that the highest corporate tax rate of the foreign country from which income is received from is at least 15% in the year the income is received and the foreign income had been subjected to tax in the foreign country from which it was received.

Tax Administration

The statutory tax year, known as a year of assessment, begins on 1 January and ends on 31 December. The period for which incomes are recognised for assessment is called the basis period. This means that income chargeable to tax during the 2006 basis period is assessed in the Year of Assessment 2007. However, for companies whose accounts are made up to a date other than 31 December, they are permitted to adopt the accounting year basis of taxation.

Generally, a company is required to file an income tax return by 31 July of the year of assessment. An estimate of its chargeable income must be filed within three months after the end of its accounting period.

Rates of Corporate Income Tax

The current corporate income tax rate is 20%. Partial tax exemption is granted on up to S\$100,000 of a company's chargeable income (other than Singapore

dividend) that is subject to tax as follows: (i) up to the first S\$10,000 of such income, 75% of the income is exempt from tax; (ii) up to the next S\$90,000 of such income, 50% of the income is exempt from tax. The balance of chargeable income in excess of S\$100,000, including Singapore dividend income is fully taxable at a flat rate of 20%.

Subject to certain qualifying conditions, full tax exemption of up to S\$100,000 is granted on chargeable income (excluding Singapore dividend) of newly incorporated companies for any of its first three consecutive years of assessment that falls within Years of Assessment 2005 to 2009.

Relief for Trade Losses, Capital Allowances and Loss Carry-Back

Companies can carry forward their unabsorbed trade losses, unabsorbed capital allowances and unabsorbed donations to offset against future taxable income provided at least 50% of the shareholders and their shareholdings remain the same at two relevant comparison dates. For utilisation of unabsorbed capital allowances, besides the continuity of ownership requirement, the principal activity of the company must also remain the same.

Notwithstanding a substantial change in ownership at the relevant dates, the Singapore Tax Authority may waive the continuity of ownership requirement if the change is not motivated by tax considerations. For example, where the change is caused by nationalization, privatization of industries or genuine commercial reasons.

With effect from the Year of Assessment 2006, companies may carry-back current year unabsorbed capital allowances and unabsorbed trade losses up to a limit of S\$100,000, to set off against the assessable income of the immediate preceding year of assessment.

Group Relief

Under the Group Relief System, companies within a group are allowed to transfer current year unabsorbed losses, unabsorbed capital allowances and unabsorbed donations from one company to another for set off against the current year assessable income. To qualify for the group relief, both the transferor and the claimant must be Singapore-incorporated companies, belong to the same group of companies, maintain 75%

shareholding threshold and have the same accounting year-end. Two Singapore incorporated companies are members of the same group if at least 75% of the ordinary share capital in one company is beneficially held, directly or indirectly, by the other; or at least 75% of the ordinary share capital in each of the two companies is beneficially held, directly or indirectly, by a third Singapore incorporated company.

Tax Incentives

Investment Allowances

Investment allowance is a tax incentive granted to encourage companies to invest in new machinery and equipment, which serve to upgrade their operations or lead to higher value-added activities. The incentive comprises tax exemption on assessable income based on an approved percentage (normally between 30% to 50%) of the approved capital expenditure incurred.

Global Trader Programme

The Global Trader status is granted to companies that are well-established international players in their industries with a good track record for international trading, procurement, distribution and transportation of qualifying commodities and products. Depending on the level of its turnover and business spending, an approved global trading company is granted concessionary tax rates of 5% or 10% on qualifying offshore trading income.

Approved International Shipping Enterprise

This scheme is granted to established shipowners and fleet operators of foreign ships with a worldwide network and good track record. Approved shipping enterprises must be Singapore resident companies, have at least 10% of its fleet (a minimum of one ship) registered in Singapore and have directly attributable total business spending in Singapore of at least S\$4 million a year. The income derived by such approved enterprises is exempt from tax for a period of 10 years, with possible extensions of up to 10 years at any one time.

Pioneer Incentive

Pioneer companies and pioneer service companies are exempt from tax on their pioneer profits for a period of 5 to 10 years, with possible extensions of incentive period up to a total of 15 years.

Dividends

The one-tier corporate tax system, which takes effect from 1 January 2003, has been introduced to replace the old imputation system. The change affects Singapore resident companies only.

Under the one-tier corporate tax system, income tax payable on the normal chargeable income of a company is a final tax in Singapore. This means that Singapore dividends paid will be exempt from tax in the hands of its shareholders. Companies under the prior imputation system can continue to pay franked dividends to their shareholders up to 31 December 2007. The imputation system will cease to exist on 1 January 2008 when the one-tier corporate tax system is fully operational.

Goods and Services Tax

Goods and services tax (GST) was introduced on 1 April 1994 and is administered by the Comptroller of GST. Certain aspect of the administration relating to imports and exports are handled by the Custom and Excise Department. GST is applicable for the supply of goods and services in Singapore. Any person who makes taxable supply of goods or services in Singapore with an annual turnover of exceeding S\$1,000,000 is required to register with the Comptroller of GST. The current standard rate is 5%. Supply of goods and services outside Singapore is zero-rated.

Taxes on Individuals

Individual Income Tax

Income of a person for any year of assessment shall be the aggregate of his income from all sources in the preceding calendar year. An individual is subject to tax on income which accrues in or derives from Singapore, regardless of his or her resident status. However, a non resident individual who exercises an employment in Singapore for less than 60 days in a calendar year will be regarded as exercising short term employment and exempt from tax.

Residence

Individuals are considered to be tax resident for tax purposes if they are physically present in Singapore or exercises employment in Singapore for a total period of 183 days or more during the calendar year preceding the year of assessment. Notwithstanding this, under the three-year administrative concession, an individual

shall be considered as tax resident for all three years of assessment even though his physical presence or employment duration in Singapore is less than 183 days in the first and third year.

The advantages of being tax resident in Singapore include the availability of personal reliefs and being assessed to tax at graduated rates ranging from 0% to 20% whereas non tax resident will be assessed to tax at the flat rate of 15% for employment income and at 20% for other types of income. Non-resident directors are also subject to withholding tax at 20% for remunerations from employment.

In addition, all foreign-sourced income received in Singapore by a resident individual will be exempt from tax with effect from 1 January 2004. However, the exemption will not apply if the foreign-sourced income is received through a partnership in Singapore.

Moreover, interest income received by resident from standard savings, current and fixed deposit accounts in Singapore are exempt from tax with effect from the Year of Assessment 2006.

Schemes

Area representatives

Foreign employee of a non resident employer may be granted the tax status of an area representative. Under this scheme, the employee must meet the following criteria:-

- Employee is based in Singapore for geographical convenience and required to travel outside Singapore in the course of works;
- Employee's remuneration must be paid by the non resident employer and must not be charged to the accounts of a permanent establishment of the non-resident employer in Singapore.

An area representative will be assessed to tax as follows:

- Only the amount of income which is applicable to the Singapore employment that corresponds to the number of days spent in Singapore during the year; and
- As a tax resident individual, he is entitled to personal reliefs.

Not Ordinary Resident ("NOR") Scheme for Employees

With effect from the Year of Assessment 2003, an individual can elect for the NOR scheme if the following conditions are satisfied:

- The individual is a tax resident for that Year of Assessment; and
- The individual is not a tax resident for the 3 Years of Assessment before that Year of Assessment;

Main features of the NOR scheme

- Once approved, the individual will be granted the NOR status for 5 consecutive Years of Assessment;
- Other than the first Year of Assessment where the individual is applying for the NOR status, the individual need not be a tax resident;
- Time apportionment of Singapore employment income if the individual spends more than 90 days in a calendar year outside Singapore for business purposes subject to a floor tax rate of 10% of his total employment income; and
- Tax exemption of employer's contribution to non-mandatory overseas pension fund or social security scheme.

Singapore Withholding Taxes

Dividends

No withholding tax is payable in respect of dividends.

Interest

Interest payable by a person resident in Singapore to a non-resident of Singapore will be subject to withholding tax at 15% and can be further reduced by tax treaty. However, inter-bank payments of interest will not be caught under the withholding tax provisions. Under certain qualifying conditions, interest payment to non-resident Singapore Branches (other than banks) will also be exempt from withholding tax. Tax exemption also applies to interest paid on certain qualifying debt securities issued before 31 December 2008 to non residents that do not have a permanent establishment in Singapore. However, the exemption will also apply for non residents who have permanent establishment if the debt securities were not acquired using the fund from the permanent establishment.

Royalties

Payments for the use of or the right to use copyright, patent, trade mark, design, etc. to a non-resident will be subject to withholding tax at 10% unless reduced by tax treaty. Payment for the use of moveable assets is covered under royalty in certain tax treaties.

Management fees

Withholding tax at 20% is applicable if the payment is made in respect of services rendered in Singapore. However, withholding tax will not apply if the payments are in respect of services carried on outside Singapore through a PE outside Singapore and the payments are purely reimbursement or allocation of administrative expenses by Head Office or between associated companies. Nevertheless, if such payment includes

profit, withholding tax will apply regardless of where the services are provided. Most tax treaties concluded do not provide a reduced rate of tax in respect of such fee payment.

Technical service fees

Withholding tax is payable if the services are rendered in Singapore. The rate of withholding tax is 20% unless reduced by tax treaty.

Non-resident directors' fees

Payment of such fee is subject to withholding tax at 20%. However, fees derived by non-resident directors purely in their capacity as directors of companies that have no presence in Singapore are not liable to Singapore withholding tax.

Table 11.1 - Withholding tax rates per tax treaties

Country	Interest	Royalties
Australia	10%	10%
Bangladesh	10%	10%
China	7 / 10% ¹	10%
Denmark	10%	10%
France	10%	0%
Germany	10%	0%
India	10 / 15% ²	10 / 15%
Indonesia	10%	15%
Japan	10%	10%
Korea	10%	15%
Malaysia	10%	8%
New Zealand	15%	15%
Papua New Guinea	10%	10%
Philippines	15%	15%
Sri Lanka	10%	15%
Switzerland	10%	5%
Taiwan	N/A	15%
Thailand	10 / 25% ⁴	15%
United Arab Emirates	7%	5%
United Kingdom	10%	10%
Vietnam	10%	5 / 15% ³
1.	7% of gross interest if received by a bank or financial institution or 10% of gross interest in all other cases.	
2.	10% of gross interest if interest paid on loan granted by bank carrying on bona fide banking business or by a similar financial institution (including insurance company) or 15% in all other cases.	
3.	5% of gross royalties for royalties for the use of, or the right to use any patent, design or model, plan, secret formula or process or industrial, commercial or scientific equipment, or information concerning industrial, commercial or scientific experience or 15% in other cases.	
4.	10% of gross interest if received by financial institutions or 25% of gross interest in all other cases.	

Non-resident professional

Payments made to non-resident professionals for services performed in Singapore are subject to final withholding tax of 15% on their gross income unless elected by non residents to be taxed at 20% on net income.

Others Taxes

Estate duty

Estate duty is levied on the market value of all assets (moveable and immoveable) in Singapore and moveable assets outside Singapore if the deceased is domiciled in Singapore. If the deceased is not domiciled in Singapore, only the immovable assets in Singapore are subject to estate duty.

On the first S\$12 million of dutiable assets, 5% estate duty is payable. For amounts in excess of S\$12 million, 10% estate duty is payable. Residential properties with aggregate value up to S\$9 million and other assets with aggregate value up to S\$600,000 are exempted from estate duty.

Social Security Payment

Contributions to the Central Provident Fund (CPF) are mandatory for employees who are either citizen or permanent residents of Singapore.

The employee's contribution is based on 5% to 20% of their gross emolument depending on the employee's

age. The employer is also required to contribute a corresponding 3.5% to 13% thereof. The monthly salary ceiling for statutory contribution is capped at S\$4,500 from the year 2006.

Both the employee and employer are entitled to claim a tax deduction for the contributions so long as the contributions are within the statutory rates.

Supplementary Retirement Scheme (SRS)

The SRS allows Singaporeans and foreigners alike to elect to contribute to private funds in addition to their social security payments. Contributions are based on earned income in the preceding year and are deductible as a relief against income. The rates of contributions are 15% for Singaporean and Singapore permanent residents and 35% for foreigners, subject to capping. Taxes will be levied on withdrawals from the scheme.

Taxation of Capital Gains

Singapore does not have a capital gains tax system. However, if the taxpayer is in the business of dealing in investments, shares or properties, the IRAS may treat the gains derived from the disposal of the investments, shares or properties as revenue gains and bring the gains to tax accordingly.

Taiwan

Taxes on Corporations

General structure and scope

In the Republic of China (ROC), all profit-seeking enterprises are taxed on their world-wide income, with the exception of the ROC branches of foreign companies.

A foreign company's branch in the ROC is taxed only on its income from the ROC source. A representative office or a liaison office is not required to pay tax on fund transfers from foreign headquarters. However, if the representative office or liaison office is an income generating type of business, the income generated from the ROC is subject to tax.

If a company outside the ROC provides service to a company in the ROC, the compensation received by the foreign company in the ROC is considered ROC source income and subject to income tax.

The tax accounting basis for such income is shown as follows :

- branch office in the ROC—the compensation is included in the income. The costs and expenses of the services are deductible from the compensation if the accounting information is certified by the foreign enterprise's CPA;
- a business agent only in the ROC—the agent must keep separate accounting books for the company, file a separate return to report the entity's ROC source income, and pay any tax due;
- neither a branch nor an agent in the ROC—ROC customers should withhold the income tax.

If a foreign enterprise with headquarters located outside the ROC is engaged in international transportation,

construction contracting, providing technical services, or leasing of machinery and equipment, etc. and its costs and expenses are difficult to calculate, then whether or not it has a representative office or a liaison office set up in the ROC that foreign enterprise may pay 10% tax on its international transportation business income earned within the ROC, and 15% on all other ROC source business income, with the approval of the Ministry of Finance (MOF).

Enterprise income tax

Profit-seeking enterprise income tax is imposed on net income. The net income equals gross income minus costs of sales, services, expenses, losses, and taxes other than business income tax, plus other income such as interest, dividend, rental income, etc.

There are three criteria which determine whether the expenses and losses of an enterprise are deductible:

- the expenses and losses are related to the enterprise's main operations;
- the expenses and losses are incurred during the tax year with the exception of provisions for employees' retirement, bad debts, and foreign investment losses;
- the expenses and losses are supported by the proper documents.

Enterprise income tax rates for 2004 are detailed in table 12.1.

Basic tax of profit-seeking enterprises

Whereas the amount of regular income tax is less than the amount of basic tax, the amount of income tax payable shall also include the balance of the amount of basic tax in excess of the regular income tax, in addition to the amount as calculated in accordance with the Income Tax Act and other relevant laws.

The amount of basic tax of a profit-seeking enterprise shall be the amount of basic income with a deduction of NT\$2,000,000, and then multiplied by the tax rate of 10%.

Table 12.1 - Enterprise income tax rates

Taxable income (NT\$)	Enterprise income tax rate (NT\$)
Up to \$50,000	Nil
\$50,000 - \$100,000	15% of total taxable income (but will not exceed 50% of the taxable income over \$50,000)
Over \$100,000	25%

The amount of basic income of a profit-seeking enterprise shall be the sum of the taxable income as calculated in accordance with the Income Tax Act and such income as may fall under the provisions of the following subparagraphs:

1. The amount of income exempted due to suspension of income tax in accordance with Article 4-1 and 4-2 of the Income Tax Act.
2. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 9, Article 9-2, Article 10, Article 15 and Article 70-1 of the Statute for Upgrading Industries.
3. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 8-1 of the Statute for Upgrading Industries before the revision of December 31, 1999.
4. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 28 of the Statute for Encouragement of Private Participation in Transportation Infrastructure Projects.
5. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 36 of the Statute for Promotion of Private Participation in Public Construction Projects.
6. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 18 of the Act for Establishment and Administration of Science Parks.
7. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 15 of the Act for Establishment and Administration of Science Parks before the revision of January 20, 2001.
8. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 37 of the Business Mergers and Acquisitions Act.
9. The amount of income exempted from profit-seeking enterprise income tax in accordance with Article 13 of the Statute Governing Offshore Banking Operations. However, the amount of income allowed for under this exemption does not include the total revenue derived from a credit extension that shall be taxed at the prescribed withholding rate in accordance with Article 73-1 of the Income Tax Act.

10. The amount of income that is entitled to reduction or exemption from profit-seeking enterprise income tax or that is excluded from the income tax base as may be provided for in such laws as may be promulgated after the implementation of the Income Basic Tax Act and thereafter announced by the Ministry of Finance.

Extra tax on retained earnings

The earnings after 1998 not distributed to shareholders is taxed at the rate of 10% in addition to the corporate income tax in the following year.

Relief for tax losses

The net losses of a corporation can be carried forward against the following years' taxable income for next five years.

Relief of tax on dividend

Dividends received by a local corporation from another corporation are free of tax. However, dividends received by a foreign company are subject to 20% of withholding tax.

Business tax

Business tax is levied on any sale of goods or services within Taiwan, on import of goods, or on foreign provided services used in Taiwan (with certain exemptions).

Under the law there are two forms of business tax - gross business receipts tax (GBRT) and value added tax (VAT).

Gross business receipts tax

The GBRT is paid by certain special restaurants engaging in special beverage and food services, traders in the wholesale agricultural market, small businesses supplying agricultural products, and small business and other business entities that the Ministry of Finance (MOF) has exempted from reporting transactions. The tax basis is gross business receipts. The current rates of the GBRT are detailed in table 12.2.

Value added tax

VAT is levied on the value added at each stage of a transaction involving the sale of goods or services. The tax rate may not be less than 5% or more than 10%. The current rate is 5%.

When goods are sold or services are rendered the business entity is required to issue a uniform invoice. If

a business fails to issue uniform invoices, the business, in addition to paying the tax owed at the prescribed tax rate, is fined five to ten times the amount of tax evaded.

There are two basic forms of exemption from the VAT, one known as 'zero-rate VAT' and the other simply as 'tax exempt'. The difference is that a profit seeking enterprise which purchases zero-rate VAT goods obtains a refund of taxes incurred on those purchases, whereas a profit seeking enterprise selling tax exempt goods does not.

Zero-rate VAT goods and services include those for export and for international transportation. Tax exempt business transactions include those in land, agriculture, health, education, national defence, and telecommunications.

Taxes on Individuals

Income tax

For income tax purposes, residents and non-residents must file their income tax on their ROC source income. ROC source income for tax purposes is defined as follows:

- dividends distributed by companies incorporated and registered in accordance with the Company Law of the ROC, and by foreign companies authorised by the government of the ROC to operate within the territory of the ROC;
- profits distributed by profit seeking enterprises organised in the form of co-operatives or partnerships within ROC territory;
- remuneration for services rendered within ROC territory, provided that this shall not apply to remuneration obtained from an employer outside ROC territory by an individual not residing in the

ROC but staying in the ROC for a period of not more than 90 days during a taxable year;

- interest received from various levels of the ROC government, from juridical persons within ROC territory, and from individuals residing in the ROC;
- rental income from lease of properties situated within ROC territory;
- royalties from patents, trademarks, copyrights, secret formulas, and franchises by virtue of their being made available for use by other persons within ROC territory;
- gain from the sale of properties within ROC territory;
- remuneration for services rendered by government employees stationed abroad;
- profits from the operation of industrial, commercial, agricultural, forestry, fishery, animal husbandry, mining and metallurgical enterprises within the territory of the ROC;
- prizes awarded to winners of contests or lotteries held in the ROC; and
- any other income obtained within the territory of the ROC.

A resident individual's income tax is assessed on gross income minus personal exemptions and deductions. Gross income for tax purposes is defined as :

- dividends or profits distributed by companies, partnerships, co-operatives, or sole proprietorships;
- remuneration from professional services;
- salaries and wages;
- income from interest;
- income from rental and royalties;
- profits from self-undertaking in farming, fishing,

Table 12.2 - Gross business receipts tax

Type of business	Gross business receipts tax rate
Financial institutions	2%
Night-clubs & restaurants with entertainment	15%
Tea-rooms, saloons, coffee shops & hostess bars	25%
Wholesale agricultural traders or small agricultural product suppliers	0.1%
Small business and other business entities not required by the MOF to report transactions	1%

animal husbandry, forestry and mining;

- gains on disposal of property, other than land and securities, located in the ROC;
- prizes awarded to winners of contests or lotteries held in the ROC; and
- other income earned in the ROC.

Foreign individuals who are employed and assigned to work in Taiwan are liable for income tax as detailed in table 12.3.

Resident income tax rates for 2003 are shown in table 12.4.

Personal exemptions

In 2005, the amount of personal exemption for residents filing individual income tax returns (including the taxpayer, spouse, and each dependent) was set at NT\$74,000 or, if the dependent is over 70 years old, NT\$111,000.

These exemptions are announced each year by the Government and are adjusted in line with annual variations in the consumer price index.

The deductions include standard deductions, itemised deductions, and special deductions. The taxpayer may elect either a standard deduction or itemised deduction, and they may make further special deductions.

The standard deductions in 2005 are NT\$44,000 for an unmarried taxpayer and NT\$88,000 for a married taxpayer.

Itemised deductions include :

- contributions and donations to educational, cultural, public welfare, or charitable organisations;
- insurance premiums;

- uncompensated medical and maternity expenses incurred in specified hospitals;
- uncompensated casualty losses; and
- mortgage interest on loans from financial institutions.

The special deductions are as follows :

- losses from disposal of properties other than land and securities if greater than gains from disposal of properties in the taxable year;
- special deductions from salary or wage;
- special deductions for savings and investments;
- special deductions for the disabled or handicapped; and
- special deductions for educational tuition.

Basic tax of an individual

Whereas the amount of individual regular income tax is less than the amount of basic tax that is calculated in accordance with the Income Basic Tax Act, the amount of individual income tax payable shall also include the balance of the amount of basic tax in excess of the individual regular income tax, in addition to the amount as calculated in accordance with the Income Tax Act and other relevant laws.

The amount of basic tax of an individual shall be the amount of basic income as calculated in accordance with the following paragraph with a deduction of NT\$6,000,000 and then multiplied by the tax rate of 20%.

The amount of basic income of an individual shall be the sum of the net taxable income as calculated in accordance with the Income Tax Act and the amount which is under the provisions of the following

Table 12.3 - Individual income tax rates for non-residents

Taxable income range (S\$)	Taxable Income	Income tax rate	Filing required
Non-resident stays for < 90 days in the tax year	Remuneraton received in Taiwan for services rendered in Taiwan	20%	No (tax already withheld)
Non-resident stays for > 90 days but < 183 days in the tax year	Remuneraton received for services rendered in Taiwan wherever received	20%	Yes (filing as a non-resident)
Resident stays for > 183 days in the tax year	Remuneraton received for services rendered in Taiwan wherever received	Refer to table 12.4	Yes (filing as a resident)

subparagraphs:

1. Income, which is derived from sources outside the Republic of China and is excluded from gross consolidated income, as well as income which is exempted in accordance with Paragraph 1, Article 28 of the Act Governing Relations with Hong Kong and Macau. However, if the aggregate of the two mentioned sources of income in a filing unit is less than NT\$1,000,000, it may be excluded from the basic income.
2. Insurance payment 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 January 1, 2006. However, in the case of payment made upon the death of the insured person, the part of which aggregate of payment made in a filing unit is equal to or less than NT\$30,000,000 may be excluded from the basic income.
3. Income derived from transactions of securities listed as follows:
 - a) Share certificates, certificates of entitlement to new shares, stock share payment certificates and documents of title to any of the securities issued or placed privately by a company that is not listed in a stock exchange or traded in the over-the-counter market.
 - b) Beneficiary certificates of privately placed securities investment trust funds.
 - c) The amount of non-cash donations or contributions which is deducted from the gross consolidated income in accordance with the provisions of the Income Tax Act and other laws.

- d) The amount of balance of the market value in excess of the par value of newly issued registered share certificates acquired by employees under the provision of Article 19-1 of the Statute for Upgrading Industries on the date next following the date of acquisition.
- f) 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 January 1, 2006 and thereafter announced by the Ministry of Finance.

Estate and gift taxes

A person's estate, together with gifts made within three years of death are subject to inheritance tax.

Table 12.5 - Withholding taxes on income paid to non-residents

Income		Withholding tax rate
Remuneration		20%
Dividends:	Individual corporation	30% 25% ¹
Commissions		20%
Interest		20%
Rent		20%
Royalties		20%
1.	The withholding tax on dividend received from a corporation incorporated in accordance with the Statute for Investment by Foreign Nationals or the Statute for Investment of Overseas Chinese is at the rate of 20%.	

Table 12.4 - Individual income tax rates for residents

Taxable income (NT\$)	Income tax rate / payable (NT\$)
Up to \$370,000	6% of income up to \$370,000
\$370,001 - \$990,000	\$22,200 + 13% of income over \$370,000
\$990,001 - \$1,980,000	\$102,800 + 21% of income over \$990,000
\$1,980,001 - \$3,720,000	\$310,700 + 30% of income over \$1,980,000
Over \$3,720,000	\$832,700 + 40% of income over \$3,720,000

Thailand

Corporate income tax

General structure and scope

Corporate income tax applies to the following categories of taxpayers:

- Private and public limited companies;
- Registered ordinary and limited partnerships;
- Joint ventures; and
- Branches of foreign corporations.

Companies and partnerships are subject to tax on their worldwide income, whereas joint ventures and branches of foreign corporations are taxed on their income derived from sources within Thailand.

The prescribed rate of corporate income tax applying to companies, partnerships, joint ventures and branches of foreign corporations is 30%. However, reduced rates of tax apply to Small and Medium Enterprises (see below).

Corporate taxpayers are required to file an annual income tax return, which must be accompanied by the annual audited financial statements. In addition, a filing of a half-year income tax return is also required.

Double tax agreements

Thailand has executed double taxation agreements (DTAs) with 50 countries. Whilst the specific provisions in each agreement are dependent upon the negotiations between the DTA countries, the following concept of a permanent establishment is atypical in the DTAs.

The permanent establishment concept is mainly used to determine whether there exists a fixed place of business through which the international business of an enterprise is carried on in Thailand. Business profits attributable to a PE are taxable in the country in which the PE exists. Thailand's DTAs define a PE to include:

- A place of management, an office, a factory, a workshop, and a place of extraction of natural resources, etc;
- A building site or a construction or assembly project,

which exists for more than 6 months;

- Supervisory activities connected with a building site or construction or assembly project, which lasts for more than 6 months;
- The furnishing of services (including consulting services) through employees, which lasts for more than 6 months; and
- The presence of an agent in the other country who has and habitually exercises an authority to negotiate and conclude contracts on behalf of the enterprise.

Taxable income

Corporate income tax is imposed on assessable or taxable income, which is calculated from the net profits ascertained in accordance with generally accepted accounting principles in Thailand, adjusted according to the conditions imposed by the Revenue Code.

Some of the more common conditions are as follows:

- Deductions are not allowed for capital and capital-related expenditure;
- Inventory must be valued at the lower of cost and market value;
- Contributions to provisions, reserves and other funds are not allowed, except for contributions to approved provident funds;
- No deduction is allowed for expenditure determined on the basis of net profit at the end of the accounting period (e.g. bonuses based on annual net profits);
- Depreciation of assets is limited to maximum prescribed rates (see below);
- Both realized and unrealized gains and losses from foreign exchange are included in taxable profits; and
- Tax losses can be carried forward for a maximum of 5 accounting periods.

Capital gains

The amount of assessable income from a capital gain is calculated by deducting the cost of the asset from the consideration received on the disposal of the asset. The cost of the asset is not indexed for inflation. The consideration received on the disposal of the asset must be market value. If the disposal of the asset is less than market value, the Revenue officers have the

power to assess tax as if the disposal had taken place at market value.

Capital gains and losses are included in the assessable income for the purposes of calculating the company or branch's taxable income, which is then taxed according to the rates of corporate tax applying to the assessable income.

Dividends

50% of the dividend income received by a Thailand company from another Thailand company can be excluded from assessable income.

100% of the dividend income can be excluded from assessable income if the Thailand company receiving the dividends is a public company listed on the Stock Exchange of Thailand.

100% exemption from tax is also granted to a recipient Thailand company, which owns not less than 25% of the shares in the paying Thailand company, which company does not own any shares in the recipient Thailand company.

For all the above three cases, there is requirement that

the recipient Thailand company must hold its shares in the paying Thailand company for at least 3 months prior to and after the date of receipt of the dividends.

100% exemption from tax is also granted to a recipient Thailand company, which owns not less than 25% of the shares in a paying foreign company for at least 6 months prior to receipt of the dividends and the net profit of the paying foreign company is subject to income tax at the rate of at least 15%. However, dividends received from paying foreign companies in jurisdictions that exempt dividends from tax (e.g. Singapore) do not qualify for the tax exemption.

Depreciation allowances

The tax rules in Thailand specifically prescribe that companies are required to adopt methods and rates of depreciation that are determined in accordance with generally accepted accounting principles, and that these methods and rates must be adopted and consistently applied for taxation purposes. Where a company adopts a particular rate of depreciation in its accounting records, which is lower than the rate specified in the tax legislation, the company must also

Table 13.1 - Maximum depreciation rates

Asset type	Rate
Durable buildings	5%
Temporary buildings	100%
Depleting natural resources	5%
Lease rights, if the period of the rights is not limited	10%
Lease rights, if the period of the rights is limited	100 divided by the number of years of original and renewal periods
Rights in a process, formula, goodwill, trademark, business license, patent, copyright or other rights, if the period of use is not limited	10%
Rights in a process, formula, goodwill, trademark, business license, patent, copyright or other rights, if the period of use is limited	100 divided by the number of years of original and renewal periods
Computers and computer equipment	33.33%
Other assets not mentioned above, which are subject to depreciation, excluding land and stock in trade	20%
Accelerated rates*	
Research and development plant	40% immediate deduction
Cash registers	40% or 100% immediate deduction
Computers and computer equipment purchased by small businesses	40% immediate deduction
Factory buildings purchased by small businesses	25% immediate deduction
Machines and equipment purchased by small businesses	40% immediate deduction
Permanent buildings purchased by regional operating headquarters	25% immediate deduction

* The amount remaining after the immediate deduction is depreciated over the useful life of the asset, but not in excess of the above maximum rates of depreciation.

adopt the lower rate for the purposes of taxation.

The tax law prescribes the maximum rates of allowable depreciation and also some accelerated rates for certain assets. These are shown in table 13.1.

Small and medium enterprises

Small and medium enterprises are companies and partnerships with paid up capital at the end of an accounting period not exceeding Baht 5 million (approx. US\$125,000). This is the only requirement to claim the reduced rates of tax for an SME, and as such, many foreign companies can operate as an SME in Thailand.

An SME is granted reduced rates of corporate income tax as shown in table 13.2.

Domestic payments withholding taxes

Domestic payments of certain types of income are subject to withholding tax deductions by the payers of the income at various rates depending on the type of income paid and the type of the recipient receiving the income. The tax withheld by the payer must be remitted to the Revenue Department on a monthly

basis. The recipient of the income is provided with a withholding tax certificate, which is used to claim a tax credit against the annual and half-year income tax payable by the recipient.

The major types of income and their domestic withholding tax rates are shown in table 13.3.

Repatriation of income overseas

Repatriation of after tax profits to a foreign company or head office not carrying on business in Thailand is subject to withholding tax at 10%. This 10% rate is not reduced by any double tax agreement. Sending of profits to foreign companies or head offices through the direct payment for goods or services by customers in Thailand is also subject to 10% withholding tax. This tax is in addition to the 30% corporate income tax on company or branch profits, making the effective corporate income tax rate 37%.

Local Thailand tax law also imposes withholding tax on the repatriation of income from Thailand to foreign companies and head offices not carrying on business in Thailand (i.e. to non-resident companies). These

Table 13.2 - Small and medium enterprise income tax rates

Net income (Baht)	Tax rate
1 - 1,000,000	15%
1,000,001 - 3,000,000	25%
3,000,001 +	30%

Table 13.3 - Domestic payments withholding tax rates

Payment type	WHT rate
Salary and wages	Personal income tax rates
Hire of work, office of employment and services rendered	Personal income tax rates for payments to individuals and 3% for payments to companies
Goodwill, copyright, other rights and annuities	Personal income tax rates for payments to individuals and 3% for payments to companies
Interest	15% for payments to individuals, 1% for payments to companies, banks and financial institutions
Dividends	10%
Leasing of property and installment sales	5%
Liberal professions income	3%
Construction and contract of work income	3%
Business, commerce, industry and other income for hire of work	3% for payments to companies, 5% for payments to foreign companies doing business in Thailand without a permanent office in Thailand, 5% for payments of prizes, 5% for payments to public entertainers, 2% for payments of advertising fees and 1% for payments of non-life insurance premiums

withholding tax rates are shown in table 13.4. However, the local Thailand tax law rates may be reduced under a Double Tax Agreement, and the more common DTA rates are also shown in the table.

Personal income tax

Personal income tax is payable under the law according to the following 5 categories of "persons":

- Natural persons;
- Non-incorporated body of persons;
- Unregistered ordinary partnerships;
- A deceased person's estate in the year in which death occurred; and
- An undistributed estate of a deceased person.

The assessable income of a resident individual taxpayer includes income derived from sources in Thailand and income derived from sources outside Thailand that is remitted into Thailand. The assessable income of a non-resident individual taxpayer includes only the income derived from sources in Thailand.

For the purposes of personal income tax in Thailand, a resident is a person who resides in Thailand for a period or periods aggregating 180 days or more in any tax year.

The tax year is the calendar year commencing 1 January and ending on 31 December.

The types of assessable income and the standard deductions that are allowable against the income are shown in table 13.5.

In addition to standard deductions, individual taxpayers are entitled to various standard allowances, as shown in table 13.6.

Taxation is imposed on individuals on a progressive basis, with higher rates applying to higher levels of taxable income. Non-resident individual taxpayers in Thailand are taxed at the same rates as for residents. Payment of income to non-residents abroad is subject to withholding tax at the rate of 15% of the gross income. The progressive rates of personal income tax are shown in table 13.7.

Employers are required to deduct withholding tax from all payments of salary, wages, hire of work, office of employment or services paid to individuals using the above progressive tax rates, and remit such deductions to the Revenue Department on a monthly basis. The withholding tax deductions are credited against the individual's tax liability calculated on the annual personal income tax return.

In addition to withholding tax, employers are required

Table 13.4 - International payments withholding tax rates

Repatriation type	Thai Law WHT rate	*DTA WHT rate
Dividends	10%	10%
Interest	15%	Reduced to 10% in the case of payment to a bank or financial institution
Rent	15%	15%
Royalties	15%	Can be reduced to 5% for copyright royalties and 10% for patent royalties, however 15% remains for know-how royalties
Services	15%	Reduced to nil under the business profits article
Capital gains	15%	15% for gains made on sale of immovable property, gains made on sale of movable property forming part of a PE, and gains made on sale of shares in a company with assets consisting of immovable property

* The DTA rates shown are the more common rates, however, there are variations depending on the particular DTA.

to register for the workers' compensation fund and the social security fund. Contributions to the workers' compensation fund are assessed by the Ministry of Labour and Social Welfare, and are payable annually. Social security fund contributions are deducted from payments to employees on a monthly basis at the rate of 5% of gross salary, with the maximum contribution in respect of any one employee being Baht 750 per month. The employer matches the social security fund contributions deducted from the employee.

Value added tax

Value added tax is currently levied at the reduced rate of 7%. The rate is due to revert back to the statutory rate of 10% on 1 October 2007.

VAT is levied on the value of goods sold, services rendered and importation. Export of goods are zero-rated (i.e. subject to VAT at 0%) and other categories of goods and services, such as the sale of agricultural products, sale of newspapers, magazines and text books, medical services, auditing services and letting out immovable property on hire are exempt from VAT.

Sellers of goods and services charge VAT to purchasers (Output VAT) and are entitled to claim against Output VAT, credits for Input VAT that is paid on the acquisition of raw materials, finished goods and other goods and services used in the business. Input VAT paid on entertainment expenditure and certain other specific assets, such as motor vehicles cannot be offset against Output VAT.

Business that sell zero-rated goods and services are entitled to claim Input VAT credits on purchases of goods and services, however businesses that supply exempt goods and services cannot claim Input VAT credits and therefore must bear the cost of the Input VAT paid.

The Thai VAT system places stringent registration and documentation obligations on businesses. Input VAT credits are only available if tax invoices in the prescribed form are received from the suppliers in a good condition. Monthly VAT returns must be done and records must be maintained to provide proper audit trails.

Other taxes

Specific business tax

Certain businesses and transactions are subject to specific business tax rather than value added tax. Banking, finance and securities and credit foncier businesses, and businesses with transactions similar to commercial banking and sales of immovable property in a commercial manner or for profits are subject to 3.3% SBT. Life insurance and pawn-broker businesses are subject to 2.75% SBT. SBT is applied on the monthly gross receipts of the businesses and transactions.

Stamp duty

Stamp duty is a tax imposed on 28 different classes of instruments and documents. The rates of stamp duty applying on some of the more common types of instruments and documents are as follows:

Leases of land and buildings, transfers of shares, hire purchase of property and hire of work contracts are subject to 0.1% SD.

Loans of money or agreements for bank overdrafts are subject to 0.05% SD, but not exceeding Baht 10,000.

Policies of insurance against loss are subject to 0.4% SD. Policies of life insurance and reinsurance are subject to 0.05% SD.

Transfers of or creation of rights in immovable property,

Table 13.5 - Personal assessable income and standard deductions

Income type	Amount per annum (Baht)
Income from employment	40% of income, but not exceeding 60,000*
Income from copyright and other rights	40% of income, but not exceeding 60,000*
Income from rent	10% to 30% of income, depending on the type of property rented
Income from liberal professions	30% to 60% of income, depending on the profession
Income from construction and other contact of work	70% of income or actual expenses

* Proposed to increase to 60% of income, but exceeding 100,000 Baht.

sale or letting out on hire purchase and transfer of ownership of vehicles is subject to 0.5% SD.

House and land tax

House and land tax is levied by local authorities and is paid on the value of houses not occupied by the owner, industrial and commercial buildings and land used in connection therewith.

The rate of tax is 12.5% of the annual rental value of the property, which is defined as the amount for which the property can be let from year to year. Industrial property is assessed at 1/3rd the annual rental value.

Local development tax

Local development tax is payable based on the appraised value of land, such value being determined by the local authorities. Land that has a building on it is not subject to the local development tax but maybe subject to house and land tax.

Table 13.6 - Standard allowances

Allowance	Amount per annum (Baht)
Personal allowance	30,000
Spouse allowance	30,000
Child allowances (aged not over 25 years)	15,000 per child (maximum of 3 children)
Education allowances (additional allowance for children)	2,000 per child (maximum of 3 children)
Parent care allowances	30,000 for each parent
Parent-in-law care allowances	30,000 for each parent-in-law
Life insurance premium allowance	Not exceeding 50,000 for each of taxpayer and spouse
Approved provident fund allowances	Not exceeding 10,000 for each of taxpayer and spouse
Retirement mutual fund allowance	15% of income, but not exceeding 300,000
Long term mutual fund allowance	15% of income, but not exceeding 300,000
Home mortgage interest allowance	Not exceeding 50,000
Social security fund allowance	Amount paid
Charitable contributions allowances	Not exceeding 10% of income

Table 13.7 - Personal income tax rates

Net income (Baht)	Tax rate
Up to 100,000	0%
100,001 - 500,000	10%
500,001 - 1,000,000	20%
1,000,001 - 4,000,000	30%
4,000,001 and over	37%

Vietnam

The Taxation System

The taxation system in Vietnam provides for revenue raising from the following taxes, all of which are imposed at the national level only:

- Corporate Income tax ;
- Personal income tax ;
- Social and health insurance premiums for Vietnamese employees;
- Withholding taxes;
- Value added tax ('VAT'); and
- Import duties.

The above taxes would affect all investors. The following taxes may apply to certain investors according to the nature of their projects:

- Special sales tax;
- Natural resources tax;
- Property tax;
- Export duties.

Corporate Income Tax ('CIT')

CIT Tax Rates

Prior to 1 January 2004 when the new law on CIT was introduced, foreign invested companies and foreign parties to business co-operation contracts (BCCs) were subject to rates which differed from those imposed on domestic enterprises, branches of foreign companies and foreign contractors not subject to the CIT law. From 1 January 2004 onwards the tax rates for all enterprises mentioned above was equalised at 28%.

Preferential rates of tax of 10%, 15% or 20% are available for investors provided they meet certain criteria in their investment license and/or where the project is to operate in an industrial sector or is located in a province in which investment is encouraged by the government. Preferential rates may be given for a period of between 10 and 15 years from the commencement of

commercial operations. The applicable rate generally reverts to the standard rate once the preferential rate period expires. Oil and gas companies are currently subject to CIT at rates ranging from 28% to 50% and are set on a project by project basis.

In addition, it should be noted that joint ventures, foreign parties to BCCs, branches of foreign companies, wholly foreign owned companies and domestic companies may be eligible for tax holidays. The criteria which need to be satisfied in order to be eligible for tax holidays are set out in the CIT regulations. Holidays normally take the form of a full exemption for a number of years immediately following the point where the enterprise first makes profits along with a number of further years in which taxes are levied at half the standard rate applicable to the entity.

Changes to the preferential rates available to foreign invested enterprises were changed as from 1 January 2004 and are now likely to be amended again because of unfavourable reaction to the latest amendments.

Taxable Income

Taxable income is defined as total revenue, whether domestic or foreign sourced, less deductible expenditure, plus sundry profits such as capital gains. Normally, the audited financial statements of an entity form the basis for calculation of the tax liability for each tax year. There has however been a gradual move towards accepting a greater number of adjustments to the accounting profit or loss in order to arrive at a figure for taxation purposes, especially in the areas of provisions and depreciation expenses.

Allowable deductions in arriving at taxable profit include the following:

- Production costs
- Employee costs
- Financing, insurance and accounting charges
- Management fees
- Other expenses

Note that Other Expenses includes selling and distribution costs relating to goods and services sold including packaging, transportation, warehousing and other storage costs and warranty expenses. Any other items included under Other Expenses should not exceed 10% of the total of all the above mentioned

categories of deductible expenses (there are some exceptions to this rule). Such other items are normally taken to include advertising, promotion and marketing expenses.

Deductible expenses have to be valid and reasonable and the tax authorities have the right to consider the reasonableness of declared expenditure as well as income. In addition, all deductible expenses over an individual invoice value of VND100,000 need to be supported by official Ministry of Finance invoices.

Administration

Filing of CIT returns is on an annual basis; however, quarterly provisional payments of the liability are required based on the company's estimates for the year as stated in its provisional CIT return. The tax year follows the calendar year and the standard accounting year end is also to December each year although the Ministry of Finance does allow different accounting year ends to be used if there is a valid reason for it. Audited financial statements should be filed within 90 days of the year end and the same deadline applies to the CIT return. These deadlines apply to all companies, both foreign invested and domestic.

Companies are subject to inspection, the trend being for the foreign invested enterprises to be audited frequently, especially the larger tax payers. Audits can be performed by the local tax office in the area where the company is located and by the central tax office from Hanoi and it is feasible that a company will be audited by both offices within the same year. However, the general rule as stated by the authorities is at least once every three years for the following types of entity:

- Those with no profit during the tax holiday period;
- Those with 'large' (not defined) turnover;
- Those with unclear, incorrect or late tax returns;
- Those with volatile results.

Transfer Pricing

As a major development, the Ministry of Finance has recently issued a long-awaited circular providing guidelines applied to transactions between related parties, both domestically and internationally, and to transactions between an offshore parent and its branch. Generally, the circular is aimed at ensuring that transactions take place between associates under the same pricing structure used with independent entities.

Although not a member of the Organisation for Economic Co-operation and Development (OECD), the methodologies generally follow the principles put forward in the revised OECD transfer pricing guidelines and the internationally accepted "arms length principle", but with additional prescriptive requirements.

The acceptable methods of determining an arms length price are comparable uncontrolled price, cost plus, resale price, comparable profits, and profit split.

There is no hierarchy of methods. The most appropriate method is the method which is most suitable to transaction conditions and has the fullest and most reliable source of information and data for analysis and comparison.

Tax Losses

Companies are entitled to carry forward tax losses incurred in one year for deduction against assessable income in any one of the next five succeeding years. A tax loss utilisation plan must be submitted annually; failure to do so may result in the forfeiture of such losses. There is no carry back of losses in Vietnam at present. The concept of consolidated filings for CIT purposes or group loss relief have also not yet been introduced into the Vietnamese taxation system.

Personal Income Tax ('PIT')

Application

The following individuals are covered by the law on PIT:

- Foreigners working in Vietnam and receiving income including employees of commercial, social or cultural organisations and individuals working independently;
- Vietnamese citizens living in Vietnam or working overseas and who are receiving income;
- Other individuals indefinitely residing in Vietnam;
- Persons who are receiving income sourced from Vietnam, such as dividends or royalties, but who are not present in the country.

Liability to PIT - resident foreigners

Foreign individuals residing in Vietnam for 183 days or more within a consecutive period of 12 months from the date of that individual's arrival, or in subsequent

calendar years, will be treated as a tax resident in Vietnam. As such, they will be subject to Vietnamese PIT on a graduated tax rates basis on all taxable income, regardless of where it is paid or earned. Generally, individuals are also regarded as resident in the year following any particular year in which they have been treated as resident for tax purposes. Resident foreigners are required to declare their full worldwide employment income to the Vietnamese authorities, regardless of where that income was paid.

Liability to PIT - non resident foreigners

Foreign individuals that spend between 0 and 182 days (arrival and departure days together count as one day as per international practice) in a consecutive 12 month period following the first date of arrival, or in subsequent calendar years, are considered non-resident for Vietnamese PIT purposes. Such individuals are subject to PIT at a flat rate of 25% on their Vietnam sourced income in the tax year, although relief may be available under any applicable Double Tax Treaty.

Taxable Income

The regulations divide this up into regular and irregular income and apply different rates of tax to each. Under the latest changes to the law it appears that income defined as irregular is now confined to lottery winnings (taxed at a flat rate of 10% for wins in excess of VND15 million) and technology assignments (taxed at a 5% for assignments with a value in excess of VND15 million). All other taxable income, including salaries, wages,

bonuses, allowances etc is taxed under the regular income rates which are as indicated in tables 14.1 and 14.2.

Non Taxable Income

This includes:

- Night shift allowances (not night shift wages)
- Hardship allowances
- Seniority allowances
- Mobility allowances
- Fixed meal allowances
- Termination allowances for government staff
- One off allowances for relocation expenses
- Insurance compensation
- Certain types of cash prizes from the State
- Severance/retrenchment allowances paid in accordance with the Labour Code

In addition, a temporary exemption has been granted from PIT for interest on bank deposits and savings accounts, profits from debentures, profits from bonds and profits from shares.

Fringe Benefits

There are a small number of fringe benefits which are either taxed at lower rates or are still considered free of tax, but the general rule is that fringe benefits are taxable.

Table 14.1 - Individual income tax rates for resident foreigners

Taxable income range (VND)	Income tax rate
Up to 8,000,000	0%
8,000,001 - 20,000,000	10%
20,000,001 - 50,000,000	20%
50,000,001 - 80,000,000	30%
80,000,001 and over	40%

Note : There are no deductions, merely zero band rates

Table 14.2 - Individual income tax rates for Vietnamese citizens

Taxable income range (VND)	Income tax rate
Up to VND5,000,000	0%
5,000,001 - 15,000,000	10%
15,000,001 - 25,000,000	20%
25,000,001 - 40,000,000	30%
Over 40,000,000	40%

Note : There are no deductions, merely zero band rates

Foreign Tax Credits

Vietnamese citizens and persons residing indefinitely in Vietnam who are not Vietnamese citizens are entitled to a deduction against Vietnamese taxes due for any overseas tax paid on presentation of the required proof of payment. Unilateral credit is also available in respect of royalties. These provisions do not apply to foreigners working in Vietnam. Foreigners working as employees in Vietnam who fall subject to tax in two jurisdictions will only be able to obtain relief in Vietnam where a relevant Double Taxation Treaty is in force.

The Vietnamese Government has signed agreements on double taxation avoidance with the governments of over 40 countries (including Japan).

Administration

PIT has to be declared and paid provisionally based on actual monthly income received and is then finalised annually. Employers must withhold the PIT and pay over the taxes to the authorities based on the monthly provisional return by the 25th day of the month following the month to which the return related. The amounts paid over provisionally are reconciled to the year end final liability and any differenced settled at the time of submitting the annual return. Any excess taxes paid are generally deducted against future liabilities. Irregular income is taxed separately based on each transaction.

The tax year follows the calendar year. Employees' tax returns have to be filed no later than the 28th February of the following year or within 30 days of terminating a contract. Tax finalisation for a foreigner who leaves Vietnam is carried out up to the month of departure.

Social and health insurance premiums (Vietnamese employees only)

Local and foreign companies must contribute 15% of total wages and salaries for Vietnamese employees to the government's Social Insurance fund. The employee must contribute a further 5%. In addition, all companies must pay health insurance premiums for Vietnamese employees equal to 2% of the total wages and salaries paid. The employees contribution to the health insurance fund is 1%. Where the company bears the social insurance health insurance contributions on behalf of the employee they do not constitute a taxable benefit for the employee.

Withholding Taxes

Such taxes may be applied to payments of royalties, interest, license fees, foreign contractors' fees and cross border lease charges. At present there is no remittance tax imposed on payments of dividends to offshore entities.

Royalties, license fees etc

Foreign parties to transfer technology agreements are generally subject to a 10% royalty withholding tax on payments made under the agreement. The definition of technology transfers is very broad in the legislation.

Foreign Contractors

A withholding tax is levied on payments to foreign contractors where a Vietnamese contracting party contracts with a foreign party that does not have a licensed investment in Vietnam. The withholding tax represents a combination of Value Added Tax ('VAT') and deemed Corporate Income Tax ('CIT'). If a foreign contractor hires a Vietnamese sub-contractor to perform part of the contract, taxable turnover excludes the value attributable to the sub-contract provided it has been appropriately registered with the tax authorities.

Foreign contractors can choose between two methods for accounting for VAT, the deduction method or the direct method.

Deduction Method

This can be applied for VAT payments provided that the contractor adopts the Vietnamese Accounting System ("VAS") or a system that is internationally recognised and accepted by the Vietnamese authorities. If the accounting records allow for accurate calculation of actual profits then these will be the basis for payment of CIT, otherwise a deemed basis will be used.

Direct Method

Under this method, VAT and CIT will be withheld by the contracting party at a deemed percentage of the taxable turnover under the contract. Rates vary according to the nature of the contract and are summarised in table 14.3.

Interest

For loan agreements signed after 31 December 1998 a withholding tax of 10% applies to interest payments to offshore entities. Certain exemptions from such withholding taxes are available where a relevant Double

Tax Treaty exists or where an Inter-Governmental Agreement applies.

Cross Border Leases

Withholding taxes also apply to instances where a Vietnam based lessee makes payments to an offshore lessor. Again the withholding tax is made up of VAT and deemed CIT, both of which are levied at a rate of 5% on all relevant payments. Some deductions are allowed from the gross rental amount for operational expenses to derive net taxable turnover. Exemptions from such withholding taxes are available for cross border leases relating to drilling rigs, aeroplanes and ships; however, the latter item only applies where the type of ship cannot be produced in Vietnam.

Double Taxation Agreements

Such agreements may impact on the above mentioned withholding taxes by either eliminating or reducing the CIT element of the total tax.

Value Added Tax ("VAT")

Under the VAT system output VAT is collected from a customer by adding VAT To the amount charged. Businesses also pay input tax to its suppliers on purchases that it makes. The net of total output VAT, after deducting input VAT, for any given return period must be paid over to the State. Businesses therefore pay on the value added by them in the supply chain, but the tax ultimately is borne by consumers or businesses that are exempt from VAT since they cannot recover the input taxes they have to pay.

Scope of Application

VAT is applied to goods and services used in production, trading and consumption in Vietnam (including those purchased from abroad). VAT is also applied to exported

services in Vietnam. VAT is also applied to the duty paid value of imported goods with imported paying the VAT over to Customs when they settle their import duty liabilities.

Exempt Goods and Services

Businesses that sell exempt goods and services cannot recover any input VAT paid on their purchases. There are many categories of exempt goods and services for VAT purposes and a list of these can be provided upon request.

Zero Rates Goods and Services

Zero rated sales are still considered part of the VAT system but with no tax payable on an entity's sales. Therefore, input VAT can still be claimed back from the authorities. If an entity generates a combination of zero rated and exempt sales then input VAT can only be claimed back according to the proportion of zero rated sales to total sales.

Rates of VAT

Under the amended VAT law which came into effect in 2004 only 3 rates of VAT may be applied:

- 0% which mainly applies to exported goods and certain exported services
- 5% which is generally applied to areas of the economy concerned with what the government classifies as essential goods and services, for example provision of clean water, medicine and medical equipment, coal etc.
- 10% which is considered the standard rate applicable in Vietnam.

Calculation of Output VAT

The output tax to be charged is calculated by multiplying

Table 14.3 - Foreign contractor withholding tax rates

Industry	Effective VAT Rate	Deemed CIT Rate
Trading	1%	1%
Services	5%	5%
Construction, installation without supply of supply of material/equipment, survey, design and supervision	5%	2%
Construction, installation with supply of material/equipment	3%	2%
Manufacturing	2.5%	2%
Transportation	1.25%	2%
Royalties	Exempt	10%
Interest	Exempt	10%

the taxable price (net of tax) by the applicable VAT rate. With respect to imported goods VAT is calculated on the import price plus any import duty and Special Sales taxes that apply.

Reclaiming of Input VAT

Input credits can be reclaimed in the month invoiced and must be claimed back within 3 months of invoicing. For imports, input credits are based on the date of payment to the Customs Office. Input VAT withheld from payments to overseas suppliers may also be claimed back.

Discounts and Promotions

Certain types of discounts are not allowable in terms of reducing the output VAT liability of a company and tax payers need to refer to the specific rules on different discounts and promotions in this regard.

VAT Calculation Methods

Two methods are available which companies can choose from as follows:

Tax Deduction Method

This is the conventional method adopted in most other VAT jurisdictions. VAT payable or reclaimable is the net of the output VAT less input VAT for the tax period.

Direct Method

Under this method, the business must firstly calculate the "value added" in the period which is equal to the sales value of goods/services less the value of goods/services purchased. The applicable VAT rate for the company's business is then multiplied by the value added figure previously generated to come to VAT payable. Taxpayers using this method are not permitted to issue VAT invoices on their sales. Businesses with little or no accounting records pay an estimated tax liability for each tax period.

Administration

Registration

All organisations and individuals producing or trading in taxable goods and services in Vietnam must register for VAT. In certain cases, branches of an enterprise must register separately and declare VAT on their own activities.

Filing and Payment of VAT

Filing of VAT returns by taxpayers is on a monthly

basis and must be completed by the 10th of the month following. The return is processed and an assessment notice issued to the taxpayer and payment must then be made by the 25th day of the month following the return month. An annual finalisation of VAT is required at the end of the tax year.

Refunds

Where a taxpayer's input VAT exceeds its output VAT for any given return period, the amount will generally be carried forward for three months and can then be reclaimed from the tax authorities. Certain projects are allowed to claim on a monthly basis, whilst start up entities usually have to wait until the end of their first tax year to claim a refund.

Import and Export Duties

Import Duties

Customs duty is imposed by the Vietnam Government on imported goods and is primarily directed at protecting local industry. Import duties are subject to frequent changes in Vietnam and hence should be checked on a regular basis to ascertain the latest position. Rates are classified as ordinary, preferential or special. Preferential rates are applied to imported goods from countries granted Most Favoured Nation status (now known as Normal Trade Relations). Special rates apply to imported goods from countries that have a special agreement with Vietnam. Special or preferential rates can only be obtained on presentation of a "Certificate of Origin".

Calculation of Import Duties

The preferential rates are used as a basis for import duty calculations and they generally range between 0% and 100%. The commercial contract between the buyer and seller will decide the dutiable value of the imported goods, but there are two lists of minimum prices that must be used issued by the Ministry of Finance and the General Department of Customs. Such minimum prices will be used where the actual price on the commercial contract is less than 70% of the minimum price or where no price is included at all. Article 1 of the Agreement on Implementation of the General Agreement on Tariffs and Trade 1994 introduced to Vietnam the concept of "transaction values" in June 2002 but only imports from ASEAN countries are eligible for this treatment.

The basis to be used for calculation of import duties is the CIF price. If the invoice for the goods does not include freight and insurance costs, additional relevant documents providing the actual freight and insurance charges paid will have to be presented. If such documents are not available then the General Department of Customs will use a deemed amount. Special Sales Tax will also be applied on top of import duties for some imported products.

Exemptions from Import Duties

Generally, exemptions are granted on machinery, equipment and construction materials comprising the fixed assets of foreign invested enterprises. This exemption normally excludes motor vehicles. Exemptions are also granted for raw materials, spare parts, accessories and other supplies imported for the production of goods for export, for the manufacture of machinery and equipment and spare parts used in technological processes and for Build-Operate-Transfer projects.

Exporting entities do not pay import duty on raw materials used in manufacture of goods for export provided that the enterprise does not, or is not expected to, export the finished products later than 275 days following importation of the materials. If the export occurs after 275 days or is expected to do so, the Customs Department will charge temporary import duty on the materials and then the enterprise may claim a refund when the export takes place, proportionate to the amount of raw materials contained in the exported product. Enterprises that import raw materials to produce goods which are then sold to entities operating in export processing zones for onward export are allowed to claim a refund of import tax paid on the imported material.

Various other exemptions are available to certain types of projects depending on their nature or location in Vietnam, either on a one off basis for certain imported items or for a certain length of time on all imports by the entity.

AFTA

Following Vietnam's entry into ASEAN, a commitment was made to reduce its tariff rates to no more than 5% on listed goods originating from ASEAN countries by 2006. A progressive lowering of the rates has been taking place in order to meet this commitment.

Import Duties

Such taxes are only levied on a few items, mainly natural resources such as rice, minerals, forestry products, fish etc... and scrap metal. Rates range from 0% to 45% based on the FOB price of the goods.

Other Taxes

Capital Assignment Profits tax

This is effectively a capital gains tax (although in Vietnam it is referred to under the heading of CIT) applied at a rate of 25% to profits made by foreign and domestic entities on transfers of interests in other foreign invested or Vietnamese entities. The taxable profit is defined as the excess of the sale proceeds over the cost of the transferors holding less transfer expenses. The purchaser is required to withhold the tax due from the payment to the vendor and pay the amount to the tax authorities.

Special Sales Tax

This is a form of excise tax applied to the production or importation of certain goods or provision of certain services. Goods and services subject to special sales tax are categorised as either commodities, including cigarettes, liquor, beer, automobiles with less than 24 seats, petrol, playing cards, votive paper and air conditioners up to 90,000 BTU or services, including discotheques, massage, karaoke, casinos etc.. Rates vary from 10% to 75% although some industries qualify for temporary reductions.

Natural Resources Tax

The Vietnam Government charge royalties on the extraction of certain minerals and petroleum products, the exploitation of forestry, fisheries and natural water. Specific rates are applied to the extracted quantities at pre-fixed taxable value per unit for each type of resource. Reference needs to be made to the specific regulation

Property Tax

The rental of land use rights from the Government by foreign investors is in effect a form of property tax. The rate levied varies depending on the location of the land and the business being engaged in by the company using the land, amongst other factors.

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