正大聯合會計師事務所
Grant Thornton

Investing in Taiwan Real Estate

Understanding Taiwan Tax Regulations

To maximize the benefits of investing in Taiwan, it is vital that investors consider, as early as possible, both the tax planning opportunities and the specific tax obligations their investment presents.

Purchasing property is one of the biggest and most difficult investment decisions one can make, especially in a foreign country.

The tax and legal systems that apply to property transactions differ from one jurisdiction to another, making it imperative that investors understand the local implications of any proposed transaction.

To maximize the benefits of investing in Taiwan, it is vital that investors consider, as early as possible, both the tax planning opportunities and the specific tax obligations their investment presents.

Grant Thornton Taiwan has decades of experience assisting investors to structure their investments, identifying tax planning opportunities, and ensuring that investors comply with all of Taiwan's tax filing requirements.

Who can invest in Taiwanese real estate?

Resident or non-resident individuals or companies may invest in property located in Taiwan.

Per Article 18 of the Land Act, a foreign national can acquire land in Taiwan subject to the condition that his or her home country grants this same right to Taiwanese nationals.

Limitations on types of property that foreigners can acquire

Article 17 of the Land Act states that lands for agriculture, forestry, fishing, pasturing, or hunting; salt or mineral deposits; water sources; military areas, and lands adjacent to the national frontiers shall not be transferred, encumbered, or leased to foreigners.

Limitations on land usage by foreigners

Article 19 of the Land Act states that the usage of land leased or purchased by foreigners is limited to residences, shops, factories, churches, hospitals, schools for children of foreigners, diplomatic and consular buildings, buildings of organizations for the promotion of public welfare, and cemeteries.

Investment strategy

Residency status, as well as whether an individual chooses to hold the property in his/her name or in the name of a local or offshore entity, will impact the tax planning opportunities available and the level of tax compliance required.

Financing

Generally, onshore financing has been difficult for non-Taiwanese citizens to obtain. However, this is not a fixed rule; each bank has its own policy.

Tax implications

Taiwan imposes taxes on transfers of property located in Taiwan. These taxes include land value increment tax, deed tax, and stamp tax. There are also annual assessment taxes relating to property holding. The amount of tax levied on rental income depends on the residency status of the property's beneficial owner and whether withholding tax is levied on cross-border payments. Typically, rental income is included with the investors' other assessable income and taxed at the applicable marginal rate.

Tax breakdown

A property owner or investor should consider the following taxes:

- Taxes on acquisition – deed tax (DT) and stamp tax (ST) are payable upon the purchase of a property.
- Taxes on disposal – land value increment tax is payable by the seller on disposal of land.
- Taxes on holding – land assessment (LA) and building assessment (BA) taxes are payable on the assessable value of property.
- Taxes on rental income – rental income from Taiwan property is generally included with investors' other Taiwan source income and taxed at a marginal rate. Withholding tax is deducted from payments to non-resident investors and is treated as a prepayment of the investor's income tax liability

	Acquisition	Holding	Rental income
Individual (Taiwan resident)	DT 6% on the assessed value of the building (building only) ST (0.1% of the contract value)	LA, BA Rates depend on the location and usage of the property	Included in the individual's gross income and taxed at the marginal rate (5~40%); an individual can also claim either deemed expenses or actual expenses incurred to offset against income
Individual (non-resident)	As above	As above	Taxed at a fixed rate of 20%
Taiwan resident corporation	As above	As above	Included with the company's gross income and taxed at 20%
Foreign corporation with PE in Taiwan or deemed to have PE in Taiwan	As above	As above	Included with the company's gross income and taxed at 20%
Foreign Corporation (no PE in Taiwan)	As above	As above	Taxed at 20% (no local taxes levied)

Depreciation and other deductions

For corporate taxpayers

Taiwan's Taxation Administration allows corporate taxpayers to depreciate a building's value over a period of 50 years on a straight-line basis. The one-year residual value must be set aside. In addition to depreciation, taxpayers can also claim deductions relating to the actual maintenance of the property.

For individual taxpayers

In the case of individual taxpayers, Taiwan's tax laws allow depreciation on buildings to be claimed based on either 1/56 of the property value (for building with elevators) or 1/36 of the value (for buildings without elevators). In addition to depreciation, taxpayers can also claim deductions related to actual property maintenance. Individual taxpayers can also elect to claim deductions for deemed expenses incurred. Deemed expenses incurred are currently set at 43% of the rental income.

Profits earned from selling real estate in Taiwan

Profits earned from selling real estate in Taiwan are subject to land value increment tax and capital gains tax. Changes to the application of these taxes took effect on 1 January 2016. Whether the old or new rules apply in a given situation depends on the period of holding and the date of purchase. These are explained further below.

Old rules

The old rules apply to real estate purchased before 1 January 2016 and held for more than 2 years before disposal.

<u>Land value increment tax</u>

Capital gains from land sales are subject to land value increment tax. Land value increment tax is computed based on the monetary value of the land value increment, which is defined as the incremental increase in the assessed value of the land since the last ownership transfer. Tax rates vary from 20% to 40%. Losses from land sales cannot be reserved or utilised to offset against land value increment tax on other properties.

<u>Capital gains tax</u>

Profits earned from selling buildings are subject to capital gains tax, which is levied at the taxpayer's personal income tax rate. For non-residents, the tax rate is 20%. In the case of corporations, this is included in the company's taxable income and is subject to a 20% corporate income tax rate. Other than land the value increment tax mentioned above, there is no other capital gains tax on profits earned from selling land.

New rules

The new rules apply to

- Real estate purchased after 1 January 2016
- Real estate purchased before 1 January 2016 but held for less than two years prior to disposal.

Land value increment tax

Capital gains from land sales are subject to land value increment tax, computed based on the monetary value of the land value increment, which is incremental as defined above. Tax rates vary from 20% to 40%. Losses from land sales cannot be reserved or utilised to offset against land value increment tax on other properties.

<u>Capital gains tax for non-tax residents (Including individuals and companies)</u>

Taxable income is computed based on the following formula:

Taxable Income = Selling Price of Real Estate – Cost – Expenses – Land Value Increment Based on Assessed Values

For non-tax residents, if the holding period does not exceed two years, then taxable income is subject to capital gains tax at a rate of 45%. If the holding period is longer than two years then taxable income is subject to capital gains tax at a rate of 35%.

<u>Capital gains tax for tax residents</u>

The above formula for computing taxable income also applies to tax residents. Taxable income is subject to capital gains tax at rates ranging from 15%~45%, depending on the holding period.

If the real estate sold was registered as a residential home for personal use, then the taxpayer can claim a TWD 4 million exemption from taxable income. Furthermore, the capital gains tax rate for family homes can be reduced to a fixed rate of 10% if the real estate is held for 6 years or longer. Please note that capital gains are taxed separately from personal income tax. A special tax return needs to be filed within 30 days after the transfer of the title deed has been completed. If the individual is forced to sell the real estate due to special financial circumstances or due to job retrenchment, he or she may apply to be taxed at the rate of 20% on capital gains earned.

<u>Capital gains tax on real estate sales for resident corporations</u>

Taxable income is computed based on the following formula:

Taxable income = Selling Price of Real Estate – Cost – Expenses – Land Value Increment

If the holding period does not exceed two years, then taxable income is subject to capital gains tax at a rate of 45%. If the holding period is longer than two years but less than 5 years, then taxable income is subject to capital gains tax at a rate of 35%. If the holding period is longer than 5 years then taxable income is subject to capital gains tax at a rate of 20%. The above tax computation is applicable irrespective of the date that the real estate was acquired. Please note that the capital gains tax is to be taxed separately from other business income.

Capital gains on sales of shares in a property holding company

Taiwan has implemented an anti-avoidance rule. If a non-tax resident directly or indirectly owns more than 50% shares of a real estate holding company in Taiwan and more than 50% of the value of the company is represented by the real estate, then transfer of Taiwan company shares is subject to special capital gains tax.

In order to determine whether more than 50% of the value of the company is represented by real estate, the following formula shall be used.

(Market value of real estate, housing use rights, and right to purchase real estate in the territory Taiwan of the invested profit-making enterprise or the enterprise controlled by it) [1] / Net Asset Value of the Company≧50%.

[1] Market value shall be determined based on the following:

(1) The value of the real estate as assessed by a financial institution.

(2) Valuation information from a real estate appraiser.

(3) The estimated selling price as per a real estate broker after netting commission.

(4) Court auction price or price quoted by the State-owned Property Administration for selling public housing or land.

(5) Market price published in newspapers and magazines.

(6) Any other source of information that may contain reliable current market price information.

(7) If there are different sources of information available for determining the market price, the average of which shall be used.

Irrespective of the date that the real estate was originally acquired by the company, the profits earned from selling shares shall be taxed at a rate of either 45% or 35%, depending on the period of owning the shares. This rule does not apply to shares traded in stock exchange.

In the case of a tax resident (individual), the same set of rules would apply. However, capital gains tax would vary from 15~45% pending on period of holding.

In the case of a tax resident (company), the same set of rules would apply. However, capital gains tax would vary from 20~45% pending on period of holding.

Profits earned from selling rights issued by Construction Company relating to real estate under construction

Effective from 1 July 2021, profits earned from selling rights issued by Construction Company shall be taxed in the same manner as real estate. Taxable income can be computed as selling price – cost – deemed cost (3% of selling price capped at TWD 300,000).

If such right is transferred within 2 years, then taxable income shall be taxed at 45%.

Restricting companies from buying residential properties

Effective from June 2023, companies wanting to buy residential properties will need pre-approval from the Taiwan Government. If approved, the applicant needs to commit not to transfer the real estate for at least 5 years. Approval to buy residential properties will only be granted if the purpose of the purchase can meet one of the following conditions.

- To use it as an employee hostel
- To let it out as residential properties (the business scope of the applicant must contain leasing residential real estate)
- To work with a construction company to reconstruct an old residential building.
- Other purposes approved by the competent authority

The 5 years no transfer commitment rule will not apply if the company is

- Working with a construction company to reconstruct the existing residential property.

  Or

- Participating in a reconstruction project to assist in demolishing high-risk residential property.

  Or

- Acting by order of a Taiwan court to sell or dispose of the real estate.

Pre-approval will generally be granted in a week.

Inheritance tax

Inheritance tax is charged to the recipient of assets located in Taiwan or to permanent residents for Taiwan tax purposes who are the recipients of assets located offshore. The applicable tax rates are shown as follows:

Range	Rate
Less than TWD 25m portion	10%
TWD 25m ~ TWD 50m portion	15%
TWD 50m and above portion	20%

Practical considerations

Investing in Taiwanese real estate requires planning, patience, and a clear idea of what you want to achieve and the timeline you hope to achieve it. Building relationships and developing trust with landowners, real estate agents, and banks are all part of the Taiwan real estate investment experience. Grant Thornton Taiwan is highly experienced and well-positioned to assist you in this regard.

Contact

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