

Consultants in Taiwan

Understanding Taiwan Labor Regulations

Taiwan has a strict labor law regime and does not recognize “employment at will.” Whether an individual may be engaged as a consultant depends not only on contractual form, but also on the substance of the working arrangement.

Consultant Types

The classification of a consultant can affect employment status, withholding tax obligations, and GUI (Government Uniform Invoice) requirements. In practice, consultants in Taiwan generally fall into three categories, each subject to different legal and tax treatments:

1. Consultants from a consulting company

Where services are provided by a consulting company, the consulting company should issue a company invoice to the client.

For this category of transaction, there is no withholding tax and there is no need to provide statutory benefits to the consultant.

2. An individual consultant working under your instruction and supervision

If an individual consultant is required to report to work at fixed hours or perform services under the client’s direct instruction and supervision, the individual is likely to be deemed an employee under Taiwan labor law.

A consulting agreement cannot be used to circumvent an employment relationship. In such cases, the individual should be treated as an employee and all applicable labor and tax obligations must be observed.

3. An individual consultant working under flexible hours

Under this category, the consultant is not required to work fixed hours and may determine their own working schedule based on project needs.

Article 11 of the Taiwan Income Tax Act defines “practitioners of a profession” as including lawyers, certified public accountants, architects, technicians, physicians, pharmacists, obstetricians, authors, brokers, scribes, artisans, performers, and other individuals who earn a living through professional skill, craftsmanship, or artistic activity.

For this category:

- The consultant must register as either a sole proprietor or partnership in order to issue valid fee notes;

- The payer is required to withhold 10% withholding tax and issue an annual withholding certificate; and
- The payer is not required to provide statutory employment benefits.

Final Note

Given Taiwan's strict labor law framework and the emphasis on substance over form, misclassification risks can be significant. If there is any uncertainty regarding the appropriate classification of a consultant, professional tax or legal advice should be sought.

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