



Technical Update in Taiwan

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瑪澤聯合

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1. Audit & Assurance

EMPLOYEE WELFARE COMMITTEE: A FREQUENTLY OVERLOOKED COMPLIANCE REQUIREMENT AND GOVERNANCE RISK FOR FOREIGN-INVESTED ENTERPRISES IN TAIWAN

Many foreign-invested enterprises in Taiwan have established comprehensive human resources systems and employee benefit programs, yet may not be aware of the specific statutory requirements under the Employee Welfare Fund Act. Once an enterprise has 50 or more employees, it is required by law to establish an Employee Welfare Committee, allocate employee welfare funds, and continuously fulfil the relevant filing obligations. In our practical experience, it is not uncommon for enterprises to have failed to establish or continuously operate an Employee Welfare Committee as required by law. This has become a frequently overlooked aspect of corporate compliance management and governance frameworks.

For many multinational enterprises, this is a compliance requirement unique to Taiwan. Multinational groups often have well-developed global talent management systems, covering employee insurance, supplementary medical plans, employee assistance programs (EAPs), and flexible benefits, all supported by mature

governance mechanisms. Taiwan's Employee Welfare Committee system, however, has distinct local characteristics. Under the Employee Welfare Fund Act and related regulations, an enterprise with 50 or more employees must not only provide employee benefits, but also establish an Employee Welfare Committee, allocate welfare funds, and operate the committee in accordance with statutory requirements. Accordingly, even where an enterprise offers benefits above market standards, a compliance gap may still exist if it has not completed the required committee establishment and filing procedures. Foreign enterprises newly entering the Taiwan market are particularly likely to overlook these requirements during their initial establishment because such arrangements may be unfamiliar to group headquarters.

Which Enterprises Should Pay Particular Attention?

The following types of enterprises should prioritize a compliance review of their Employee Welfare Committee:

- Foreign-invested subsidiaries in Taiwan
- Taiwan branches of foreign companies
- Rapidly expanding technology companies
- Start-ups planning an IPO, strategic investment, or merger and acquisition transaction

In particular, many foreign-invested

enterprises in Taiwan have expanded in recent years from 30–40 employees to more than 50, without their internal teams recognizing that the obligation to establish an Employee Welfare Committee has consequently arisen.

Five Common Practical Deficiencies

From the perspective of a corporate compliance review, the following situations are relatively common:

1. The enterprise has reached the 50-employee threshold but has never established an Employee Welfare Committee

This is most common among start-ups, fast-growing companies, and foreign enterprises newly entering the Taiwan market.

2. No re-election has been held for an extended period after the committee was established

Under the applicable rules, a committee member's term may not exceed four years. However, some enterprises fail to hold re-elections for many years after establishment.

3. Committee meetings are not convened regularly

In principle, the Employee Welfare Committee should meet once every three months. In practice, many

enterprises do not retain complete meeting records.

4. Annual budget and final account filings have not been completed

The committee should periodically complete the relevant filing procedures with the competent authority. Many enterprises overlook these ongoing administrative obligations after the committee is established.

5. The welfare fund management system is incomplete

- Incomplete accounting records
- Insufficient basis for calculating allocations
- Inadequate retention of receipts and expenditure records
- Lack of internal control procedures

These issues may not immediately give rise to regulatory disputes, but they are often readily identified during regulatory inspections or transaction due diligence.

Growing Regulatory Focus on Labor Compliance and Corporate Governance

Corporate governance has become increasingly important in recent years. Whether in connection with IPO preparation, ESG disclosure, the establishment of internal control systems, or multinational group compliance management, enterprises are increasingly

expected to demonstrate that they have established an appropriate compliance management framework.

Although the Employee Welfare Committee forms part of the labor welfare system, it also involves:

- Organizational governance
- Fund management
- Legal and regulatory compliance
- Internal controls
- Employee relations management

It is therefore no longer merely an HR matter, but part of the enterprise's overall governance framework.

A Hidden Risk Often Identified During Transactions and IPOs

Many enterprises do not discover issues relating to their Employee Welfare Committee until they encounter one of the following situations:

- IPO preparation and listing advisory
- Private equity (PE) investment
- Mergers and acquisitions (M&A)
- Internal audits by multinational groups
- Compliance review projects

During legal and financial due diligence, advisory teams will typically examine:

- Whether the statutory establishment threshold has been reached
- Whether the required application has been duly completed

- Whether the committee remains operational
- Whether welfare funds have been allocated as required by law
- Whether annual filings have been completed
- Whether any potential labor compliance risks exist

Although Employee Welfare Committee issues are generally unlikely to prevent a transaction from closing, long-standing non-compliance will often be identified as a remediation item and may affect investors' assessment of the maturity of the company's governance framework. Such issues can be particularly confusing for foreign-invested enterprises because no equivalent system exists in many other countries, whereas in Taiwan it is a clear statutory requirement.

How Forvis Mazars Can Support You

Tax Services

We assist enterprises in assessing:

- Employee welfare fund allocations
- Tax treatment of welfare expenditures
- Tax issues relating to employee benefits
- Corporate income tax filing implications

Audit and Assurance Services

We assist in reviewing:

- Accounting administration of the Employee Welfare Committee
- Completeness of receipts and expenditure records

- Internal control procedures
- Adequacy of the governance structure

HR and Payroll Services

We assist enterprises with:

- Establishment of an Employee Welfare Committee
- Committee re-election procedures
- Employee voting arrangements
- Employee benefit program design

Compliance and Advisory Services

We assist enterprises with:

- Compliance reviews
- Remediation of identified deficiencies
- Monitoring of regulatory updates
- Pre-transaction compliance assessments

Forvis Mazars Perspective

We have observed that many enterprises devote considerable time to discussing the substance of employee benefit programs, but pay less attention to whether a complete governance framework that complies with Taiwan's regulatory requirements has been established behind those programs. The Employee Welfare Committee warrants particular attention for foreign-invested enterprises. It is a statutory system with distinct Taiwan characteristics and may become a key compliance review item at different stages of an enterprise's life cycle, from establishment and ongoing operations to investment and M&A transactions. As enterprises continue to grow and regulatory expectations for governance increase,

conducting an early compliance assessment of the Employee Welfare Committee not only helps reduce compliance risk, but also demonstrates the enterprise's long-term commitment to employee welfare and corporate governance.

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2. Payroll

INDUSTRIAL INNOVATION ACT

AMENDMENT TO TAKE EFFECT NEXT YEAR, RAISING TAX-DEFERRED EMPLOYEE STOCK REWARDS CAP TO NT\$10 MILLION

The tax-deferral threshold for employee stock-based compensation would be raised from NT\$5 million to NT\$10 million, helping companies attract and retain talent.

The Legislative Yuan passed amendments to the Statute for Industrial Innovation in its third reading, raising the tax-deferral threshold for employee stock-based compensation from NT\$5 million to NT\$10 million. According to the MOEA, employees who receive shares as compensation will be able to defer income tax on up to NT\$10 million worth of shares until they sell them. By reducing the immediate tax burden on employees, the measure is expected to help companies recruit and retain talent. The new rules will take effect on January 1, 2027.

The amendments cover three provisions, with the most significant change involving Article 19-1 of the Statute for Industrial

Innovation, which governs tax deferrals on employee stock-based compensation. Under the previous rules, employees receiving shares as compensation could defer taxation on up to NT\$5 million worth of shares, with the eligible amount excluded from their taxable income for the year. The amendment doubles this threshold to NT\$10 million.

The adjustment reflects Taiwan's economic growth and the sharp rise in stock prices, which have made the previous tax-deferral threshold increasingly inadequate. The Ministry of Finance and the MOEA therefore reviewed overseas practices before deciding to raise the limit.

For shares eligible for tax deferral, employees who have remained with their employer for at least two years may defer taxation until they sell the shares. When reporting the taxable income, they may use either the fair market value at the time of acquisition or the sale price at the time of transfer, whichever is lower.

The Industrial Development Administration said the measure would enable companies to use employee stock-based compensation, together with the tax-deferral incentives, as an effective means of retaining outstanding talent and encouraging employees to remain with their employers over the long term.

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3. Tax

FOREIGN ENTERPRISES GRANTED A BUSINESS PROFITS TAX EXEMPTION SHOULD CONTINUALLY REVIEW THEIR ELIGIBILITY

Summary

Under current Double Taxation Agreements (the “Tax Treaties” or “Treaties”) and the Regulations Governing Application of Agreements for the Avoidance of Double Taxation with Respect to Taxes on Income (the “DTA Regulations”), foreign enterprises providing services in Taiwan may apply for a business profits tax exemption if certain conditions are met. However, if the aggregate number of days spent providing services in Taiwan exceeds the threshold prescribed under the applicable tax treaty, the foreign enterprise may be deemed to have a permanent establishment in Taiwan, thereby losing its entitlement to the exemption and becoming subject to additional tax liabilities.

Analysis

Under current Double Taxation Agreements (the “Tax Treaties” or “Treaties”), if a foreign enterprise does not have a permanent establishment in Taiwan, its business profits derived within Taiwan are subject to taxation exclusively by the enterprise’s residence state. Conversely, if the enterprise carries on business in

Taiwan through a permanent establishment, Taiwan's taxing rights are restricted to the profits attributable to that permanent establishment. Consequently, the allocation of taxing rights over business profits depends on whether a permanent establishment exists in Taiwan.

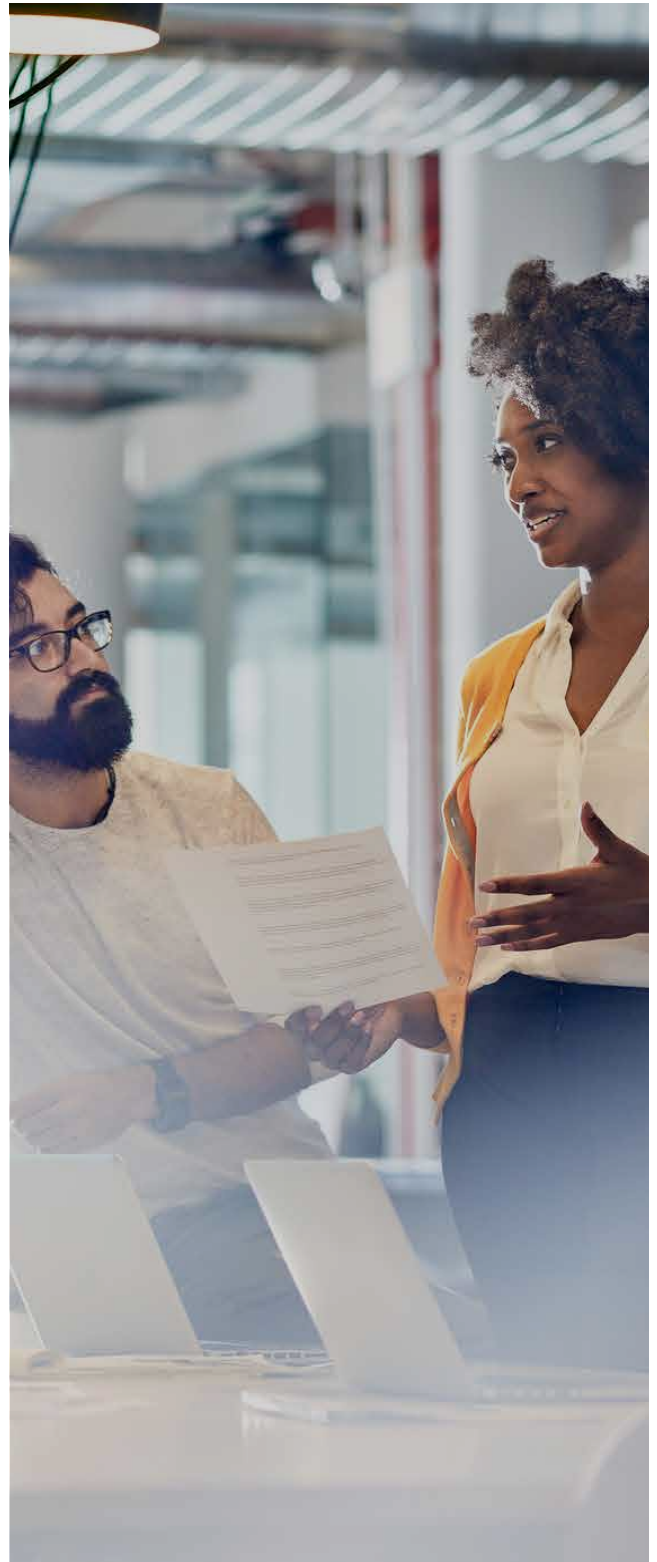
Regarding the determination of a permanent establishment, in addition to a building site, a construction, assembly or installation project or supervisory projects exceeding a specific period under the Tax Treaties, Article 9 of the DTA Regulations further provides that where a foreign enterprise furnishes services in Taiwan through its personnel for a period exceeding the prescribed threshold, it may constitute, or be deemed to constitute, a permanent establishment. Furthermore, formally distinct services belonging in substance to the same or a related project shall have their service days aggregated.

For example: In 2025, Japanese Company A concluded multiple maintenance contracts ("Contract X") with Taiwan Company B, dispatching technicians to Taiwan from March through December 2025 for an aggregate stay of 160 days and generating NT\$10 million in service revenue. Meeting the criteria under the Taiwan-Japan tax treaty, Company A obtained a tax exemption approval letter. Subsequently, Company B entered into a new contract ("Contract Y") with Company A for NT\$3 million, and Company A's personnel provided services in Taiwan from January to February 2026 for an accumulated stay of 35 days.

Since the nature of the work under Contract X and Contract Y is identical and the two contracts are commercially related, the service days attributable to Contract X and Contract Y should be aggregated for purposes of determining whether a permanent establishment exists. Under this premise, Company A's total service duration in Taiwan reached 195 days (160 + 35 days) within a consecutive 12-month period (from March 2025 to February 2026), which exceeds the 183-day threshold prescribed under the Taiwan-Japan tax treaty. Accordingly, Company A is deemed to have a permanent establishment within Taiwan. In this case, the NT\$3 million service fee under Contract Y would be subject to withholding tax at 20%. More importantly, the NT\$10 million service revenue derived from Contract X would likewise cease to qualify for the business profits tax exemption and would become subject to withholding tax at a rate of 20%, resulting in additional tax of NT\$2 million.

Special reminder to all foreign enterprises: even if a tax exemption approval letter for business profits has already been obtained, enterprises should continue to monitor newly executed contracts, contractual amendments, and the actual duration of personnel providing services in Taiwan and periodically reassess whether the conditions for treaty-based business profits tax exemption continue to be satisfied. If related projects are found, upon aggregation, to have exceeded the applicable permanent establishment threshold during the relevant period, the

enterprise should proactively report the matter to the tax authorities and arrange for any required additional tax filings and tax payments in order to mitigate potential tax exposure.



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