TAIWAN (REPUBLIC OF CHINA)

SUMMARY TABLE

PRACTITIONER'S NOTE

Although the People's Republic of China still considers Taiwan (Republic of China) to be part of China, it is well known that Taiwan marches to the beat of its own drum and differs in many significant respects from the mainland, including how it treats equity compensation.

Taiwanese tax and securities laws have developed over the decades to specifically address equity compensation. As a result, much of the guesswork regarding tax consequences and securities registration requirements no longer applies. Moreover, the existing legal framework coupled with exchange control regulations that are much less stringent than those of its neighbor across the Straits of Taiwan have fostered a generally hospitable equity grant environment.

TAIWAN SUMMARY TABLE

[updated for August 2014]

Editor's Note: Text highlighted with **BOLD FACE** indicates features that qualify for special tax relief or that present other plan-design opportunities.

EXCHANGE CONTROL	Non-trade-related foreign exchange transactions subject to Central Bank of China (CBC) approval, but any resident individual may remit up to US$5 million per year without approval. Reporting to the CBC required for all transactions. ROC companies can send out or bring in US$50 million per year. Residents and companies may apply for approval to remit more.
SECURITIES LAWS	Securities & Exchange Law, which has registration and prospectus requirements, applies to publicly offered securities. An offering by a foreign Parent may be a *de facto* private placement if not made to unspecified persons, offerees are knowledgeable, and offering is made in a discreet, nonpublic fashion. Plans with broad participation may constitute the "operation of a securities business," which may need licensing or use of a duly licensed intermediary.
LABOR LAWS	Stock-based benefits paid as part of regular compensation probably constitute wages under the broad definition in the ROC Labor Standards Law, which applies to specified industries. Under that law, workers doing the same work with equal efficiency must be paid the same wage. It is questionable whether stock-based benefits constituting wages may be withdrawn, but those not constituting wages can be, subject to private agreement. Companies earning profits in any year must pay a bonus, which could be paid in stock; in that case, there is no discretion to withdraw or place conditions on the bonus stock. Stock-based benefits constituting wages included in compensation when calculating severance pay and retirement pensions
SOCIAL SECURITY TAXES	Premiums for disability, old-age, and other benefits paid under the Labor Insurance Law and for government-operated medical insurance are calculated on the employee's monthly insured salary. Stock purchased through payroll deduction probably included; stock-based benefits that are discretionary and not part of employee's regular payroll probably not included. Payroll deductions are permitted with the employee's authorization.
PAYROLL DEDUCTIONS	Payroll deductions are permitted with the employee's authorization.
PRIVACY LAWS	No law specifically regulates protection of employee privacy. The Personal Information Protection Act, as last amended, regulates processing, collection and use of personal data. Individuals must be notified of the process and use or collection of personal data and then provide written consent. Fines and other penalties may be imposed if procedures are not followed.

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ELECTRONIC SIGNATURE	Electronic Signature Law allows parties to agree on suitable technology to produce electronic documents, provided they enter contracts with a certification agency stipulating respective rights and obligations. Electronic signatures can be on electronic documents if parties use a certification method authorized by a recognized certifier and other conditions are satisfied.
TAXATION OF EMPLOYEE	*Nonqualified stock options:* No tax on grant. Spread is taxable at the time of exercise. **Capital gains recognized upon resale of Parent Stock are generally exempt from income tax for individuals as overseas investment income, but starting January 1, 2015, if the shares are also publicly listed on certain ROC stock exchanges in addition to non-ROC exchanges, capital gains will be taxed.** *Qualified stock options or other awards:* Not applicable. *Restricted stock:* Taxable upon receipt unless the shares are subject to a restriction on transfer. *Restricted stock units*: Taxable upon delivery. *Bonus stock:* Taxable upon receipt. *Performance stock:* Taxable upon delivery. *Stock purchase plans:* Any discount is taxable upon receipt. *Retirement savings plans:* An employee may contribute up to 6% of monthly wages to a pension fund account, and taxation on the full amount will be deferred until payout, but these amounts may not be invested in Parent Stock.
TAX WITHHOLDING	Under a 2005 tax ruling, income earned upon the exercise of stock options is expressly excluded from withholding requirements, but income from other types of awards of Parent Stock may be subject to withholding. Stock option exercises must be reported before the end of January of the year following the year of exercise.
STAMP DUTIES AND OTHER FACTORS	Issuance of receipts for cash subject to 0.4% stamp duty unless receipts are issued offshore. Since transfer of stock certificates into or out of the ROC may be subject to exchange control laws, it may be desirable to use an offshore share depositary or book-entry format.