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Infrastructure Property investments in Asia

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Infrastructure property investments in Asia

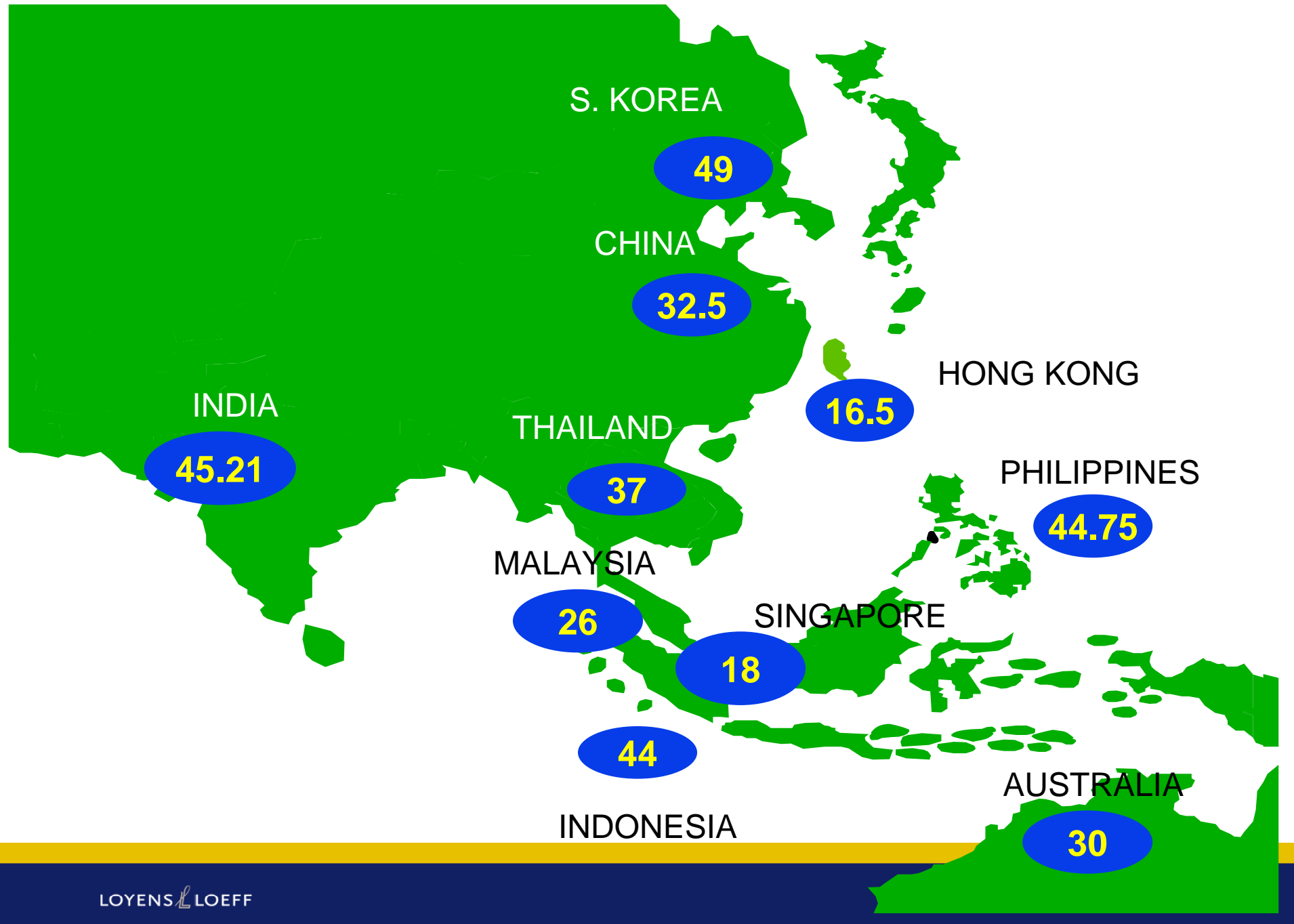
- **Tax rates**
- **Common issues**
- **Tax structures**
- **investment holding base**

Common issues to be addressed:

- Transfer taxes / stamp duties
- Real Property Gains Tax
- Income Tax (tax incentives)
- Permissible Business Forms
- Thin cap or other borrowing restrictions
- Exchange controls restrictions
- Foreign ownership restrictions



INCOME TAX RATES

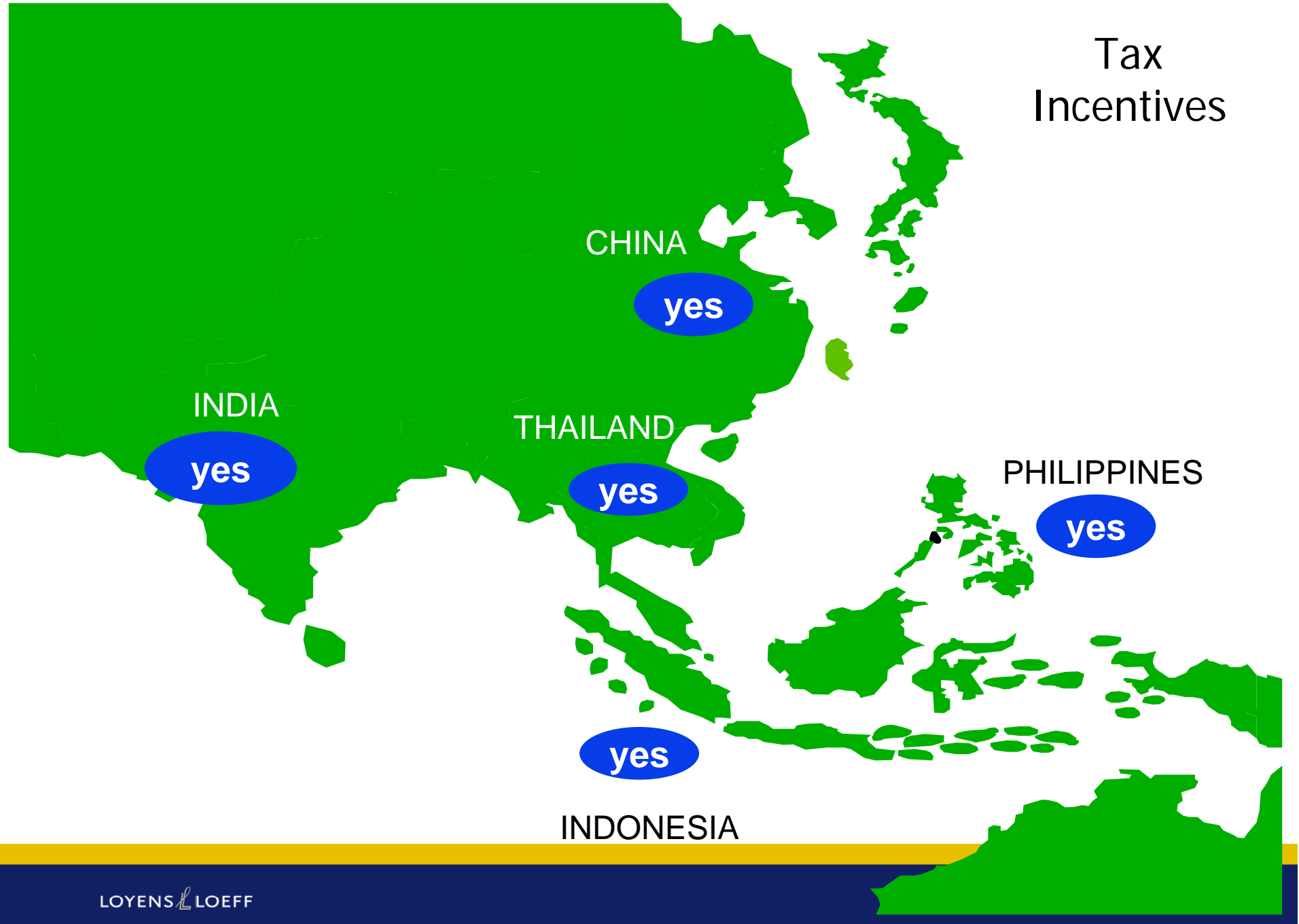


	CIT	PRT	Total
■ PRC	25%	10%	32.5%
■ India	33.66%	17%	45.21%
■ Indonesia	30%	20%	44%
■ Taiwan	25%	0/25%	25%
■ Philippines	35%*	15%	44.75%
■ Singapore	18%	-	18%
■ Malaysia	26%	-	26%
■ Thailand	30%	10%	37%
■ Vietnam	28%**	-	28%
■ Australia	30%	-	30%
■ Korea	27.5%	27.5%	49.07%

* CIT will be reduced to 30% w.e.f. 1-1-2009

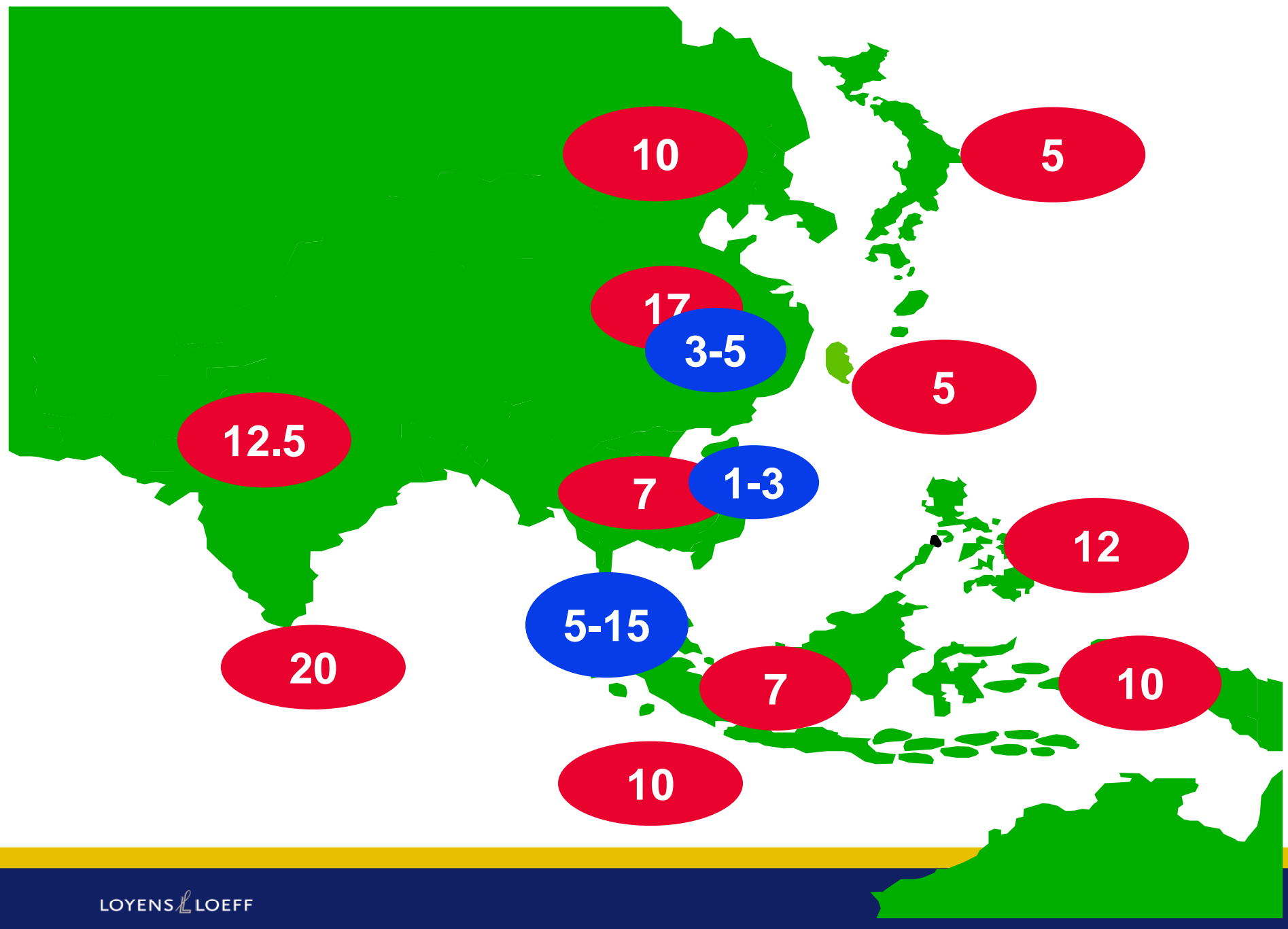
** Branches: 32%

Tax Incentives





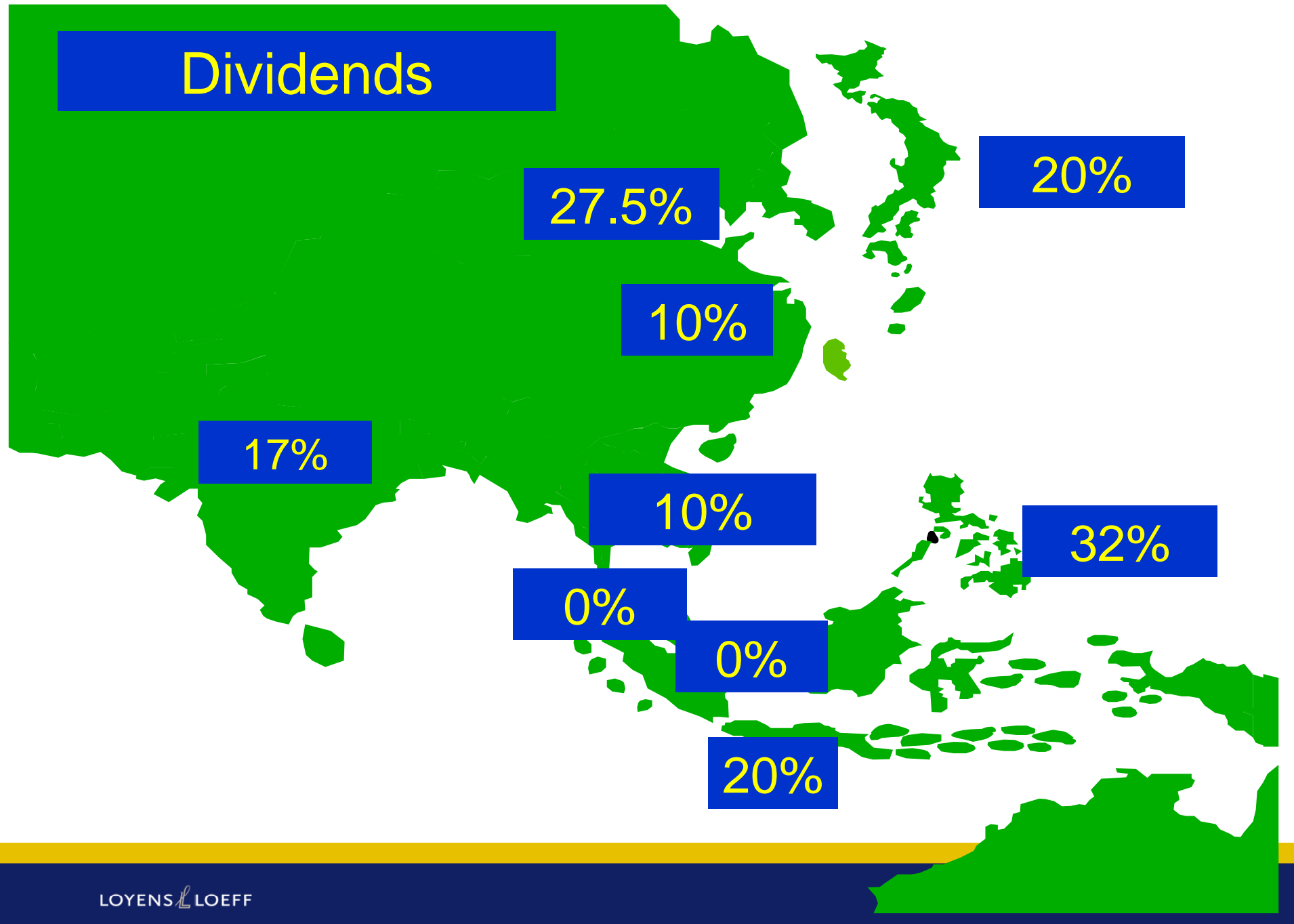
VAT & TURNOVER
TAX RATES



	VAT	TTX
PRC	17%	3 - 5% BT
India	12.5%	On services
Indonesia	10%	None
Vietnam	5-20%	4 - 40%
Malaysia	none	5 - 15%
Philippines	12%	None
Taiwan	5%	None
Thailand	7%	1 - 3%
Australia	10%	None
Japan	5%	None
Korea	10%	
Singapore	7%	

Withholding taxes

Dividends

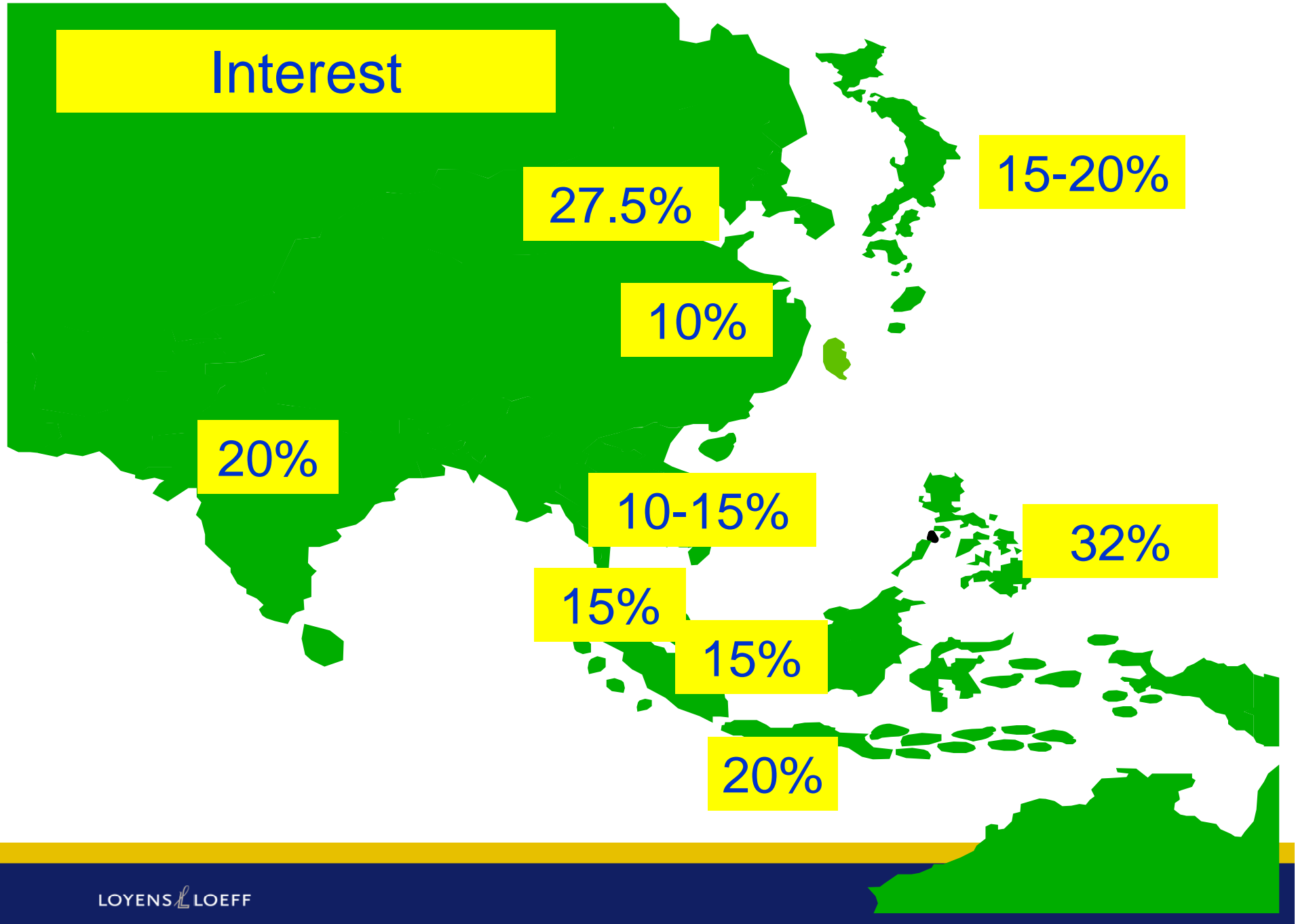


Non-resident CGT

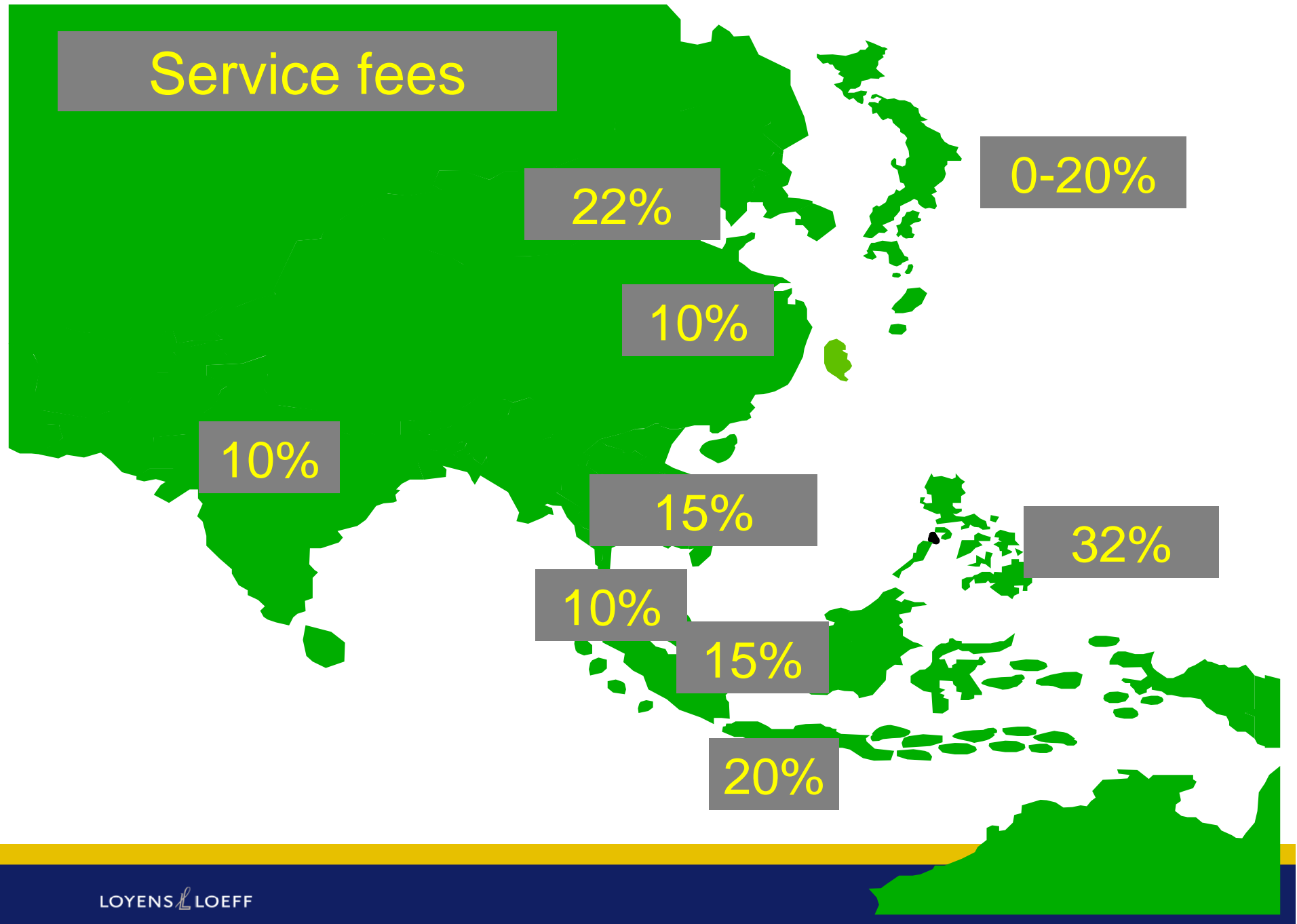
■ PRC	10%
■ Bangladesh	15%
■ India	10-20-38.5%
■ Indonesia*	5% (non-listed) or 0.1-5.1%
■ Malaysia	none
■ Philippines	10%
■ Singapore	none
■ Thailand	15%
■ Australia	30%
■ Taiwan	25% (temp. suspended)
■ Vietnam	25%

** tax is due on transaction value*

Interest



Service fees



Stamp duty

■ PRC	0.05%
■ India	0.5%
■ Indonesia	Nominal
■ Vietnam	none
■ Taiwan	0.3% STT
■ Malaysia	0.3% *
■ Philippines	P0.5 @ P200 PV
■ Singapore	0.2% *
■ Thailand	0.1% *
■ Japan	Nil

** Facility exists under local law for exemption of stamp duty in the event of a qualifying reorganisation*

Common approaches:

- Locally incorporated infrastructure investment company (BOT)
- Offshore financing
- Offshore support agreement
- Offtake agreement
- Real property lease from RP owning company

Interest

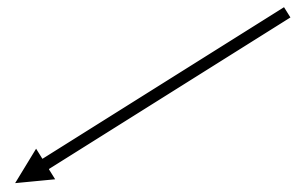
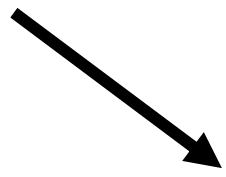
Tax treaty Lender
Co

Dividends and
capital gains

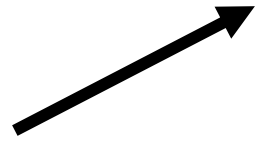
Tax treaty holdco
investor

Services

Tax treaty
Services Co



Infrastructure
company



Toll fees
purchase price
Service fees

Real property
owning company

Offtake company

Rental

Indonesia

- BOT company with toll fees charged for exploitation of the facility developed by BOTco
- Amortisation against toll fees, income as of moment of 'commercial production'
- Masterlist VAT and customs duties exemptions
- Income tax holidays

Indonesia

- investment allowances of up to 30% of investment amount within 6 yrs
- accelerated depreciation
- loss carry forward for up to 10 yrs instead of 5 years
- 10% withholding tax on dividends instead of 20%

Indonesia

- Foreign Aid Projects (FAS status granted by BAPPENAS)
- Main contractors, consultants and suppliers
- Exemption of import duty on capital equipment
- VAT and Sales Tax on luxury goods
- No PPh 22
- Income tax and withholding tax if Foreign Grant
- Contracts signed after 23 June 2000: not for subcontractors

PRC

- Fujian Consortium Refinery and petrochemicals
- Locally incorporated company
- Project financing wth local and foreign currency loans (entirely from domestic PRC banks in the case of Fujian) – 15 yr loans US\$: libor + 25 bps)
- 63-37 debt to equity ratio
- Offtake agreement for fuels and an Operator Company

India

- Transport: Mumbai Int'l airport
- SPV owned by government (26%) and rest by consortium
- Long term lease (30 yrs) given to the SPV to manage and operate the Mumbai and New Delhi airports
- Debt to equity ratio 81:19 – term loan 17 yrs
- BOOT project

Tax incentives

- SEZ developers – 100% tax holiday for 10 yrs (of 15 yrs) and no DDT nor MAT, customs duties, VAT
- SEZ units: 5 + 10 yrs tax holidays (100% resp. 50%) on profits on exports and services
- Industrial Park (IP) developers (infrastructure) provided status awarded prior to March 2009: 10 out of 15 yrs 100% income tax holiday
- Units established in (designated) IP: 10 yr income tax holidays
- Infrastructure Projects (power, housing, airports, bridges, roads: 10 yrs income tax holidays

Thailand

- Consortium (incl local and int'l parties)
- Either a local company or a branch
- Private sector contracts: local company, 51% Thai owned
- Public sector: unincorporated JVs are commonly seen, and registered for tax purposes

Tax incentives

- 3-8 yrs income tax holiday up to the amount of capital investment excl land cost and working capital
- Exemption from dividend WHT for the period of the tax holiday
- Import duty exemption on equipment and up to 90% exemption on raw materials
- Enterprises located in Investment Promotion Zones: 5 yr 50% income tax deduction after expiry of normal tax holiday; double deduction for cost of electricity, water supply, transportation and 125% tax deduction for infrastructure installation or construction cost



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Property and/or infrastructure company holding company



Holding company for Asian investments

- Singapore
- Mauritius
- The Netherlands
- Fund structure
 - Singapore
 - Hong Kong
 - Malaysia

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SINGAPORE



Tax features

- Territorial tax system
- Foreign dividends can be tax exempt (s.13(8) ITA)
- No dividend withholding tax
- Capital gains not taxable unless of an income nature
- Stamp duty
- Discretionary management can create a PE or source of income for the fund as 'doing business'
- Tax exemption for fund if approved fund manager and approved investments

Singapore

Foreign dividend tax exemption

- Unilateral Tax Credit (for certain income)
- Exemption for remitted foreign sourced income
 - Foreign 'headline tax rate' of 15%
 - Subject to foreign (underlying) tax
- Concessionary exemption

Singapore Investment Holding Companies

- Private Trust
- S-REIT

Resident Singapore Private Trust

- Taxed as a company for income tax
- Income taxed at normal rate (18% currently)
- Distributions subject to 18% withholding tax if unit-holders are overseas parties and exempt if not
- Limited restrictions on distributions by BT
- BT can obtain COR and enjoy tax credits for foreign source income
- Free to distribute capital gains as exempt dividends

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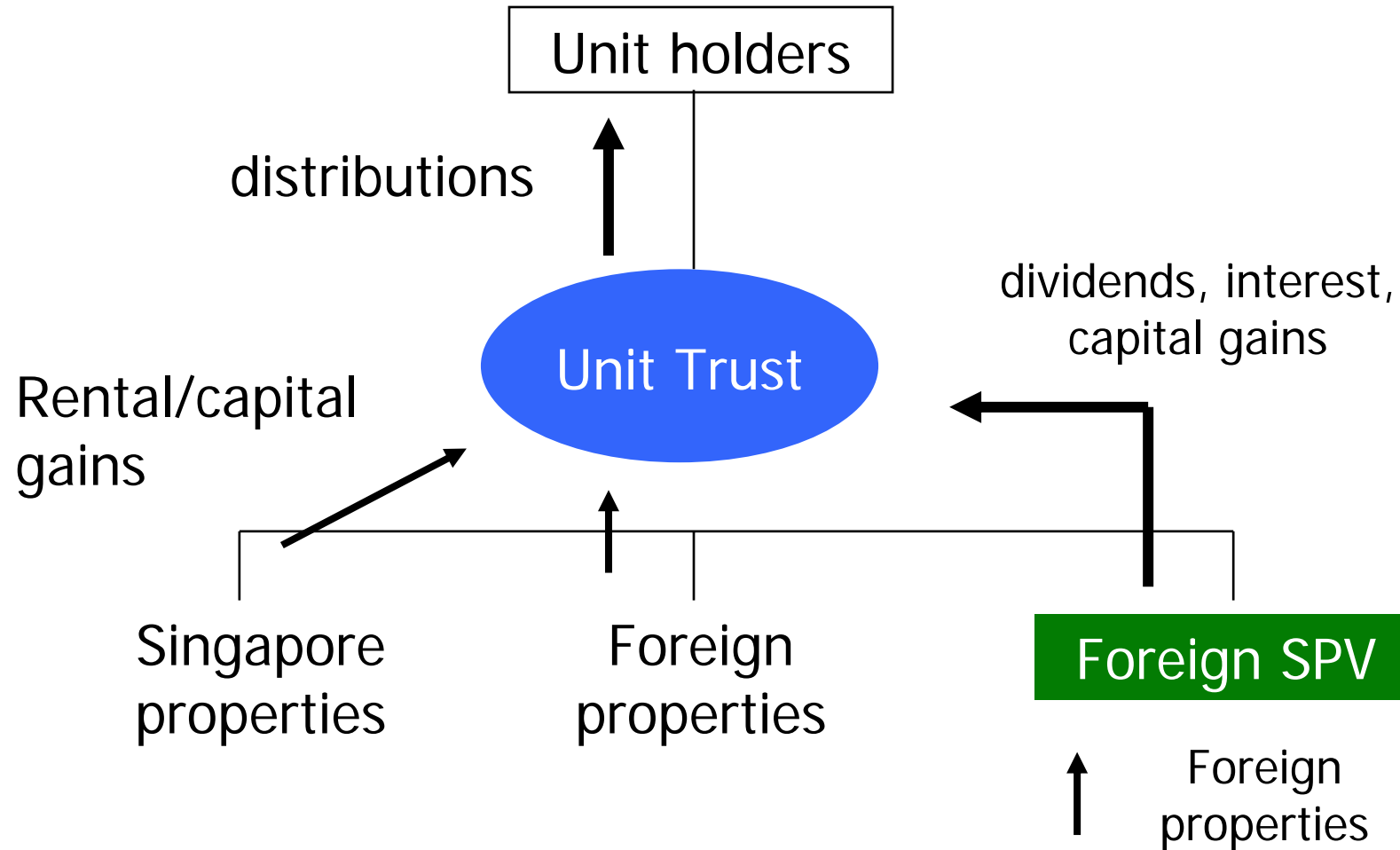
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S-REIT



- SREIT is tax transparent
- Unit holders taxed at prevailing income tax rate on distribution provided at least 90% of income is distributed
 - Foreign corporates taxed at concessionary 10% income tax rate with effect from 18 Feb 2005
 - Foreign individuals not taxed
 - Local parties taxed at normal income tax rate of 18%
- Offshore sourced dividends and exempt dividends not taxable in hands of SREIT nor any withholding tax on distributions
- Same with capital gains

Typical trust structure



- CapitaMall Trust (July 2002)
- Allco Commercial REIT (2006) with properties in S'pore and Australia;
- Ascott Residence Trust (residential apartments, regionally)
- Mapletree Logistics Trust (industrial properties in S'pore, HK, Malaysia, PRC)

Singapore properties

- No stamp duty on transfer of real property to REIT
- Sales gains for income tax: capital or trading?
- No stamp duty on transfer of units in REIT
- REIT distributions out of taxed income of REIT are tax exempt
- REIT distributions out of offshore sourced, tax exempt or capital gains income: no further tax deducted by REIT

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MALAYSIA



Taxation of Malaysian REITS

- Income tax rate 26%
- The trust itself is taxable/unit holders tax exempt
- Trust is tax transparent if listed on the Malaysian stock exchange and meets the Securities Commission guidelines (M-REITS)
- M-REITS are tax exempt on net income provided 90% of total income is distributed to investors (tax credit for investors if 90% not met)
- 75% or more of properties must be located in Malaysia
- Maximum 50% of assets may be borrowed

- Distributions made by listed REITS are subject to 15% final income tax for 5 yrs as of 1 January 2007 unless unit holder is FII
- FII's are subject to 20% for 5 yrs as of 1 January 2007
- Transfer of property is subject to stamp duty at rates ranging from 1-3% depending on the size of the transaction
- Exemption of stamp duty for transfer of property to and by M-REIT
- Exemption of RPGT for real property transferred to M-REIT
- No balancing charge for transfer of real property to a REIT, regardless of whether it is a third party transaction or a controlled sale

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HONG KONG



- Link REIT (4th quarter of 2005)
- GZI REIT (properties in PRC)

Taxation of Hong Kong REITS

- Income tax rate 16.5%
- The trust itself is taxable/unit holders tax exempt
- Transfer of property is subject to stamp duty at rates ranging from 0.75-3.75% depending on the size of the transaction

- REIT subject to 16% Hong Kong Property Tax on 80% of rental income after deducting bad rental receivables
- Dividends from SPVs held by REIT are tax exempt
- SPVs are taxed normally
- No stamp duty exemptions
- Investors are not subject to HK Profits Tax on distributions

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JAPAN



Taxes on real property in Japan

- Real property acquisition tax: 3-3.5%
- Consumption tax: 5%
- Fixed asset tax: 1.4%
- City planning tax: 0.3%
- Rental income income tax: 5-40% (individual) and approx. 42% (corporates)
- Sales profits: 15%/30% (individual) 42% (corporates)
- Dividend withholding tax: 20%
- Stamp duty: up to Yen 600K
- Registration and license tax: Land 1%/Buildings 2%
- Inheritance tax and gift tax: 10-50%

Investment vehicles choices?

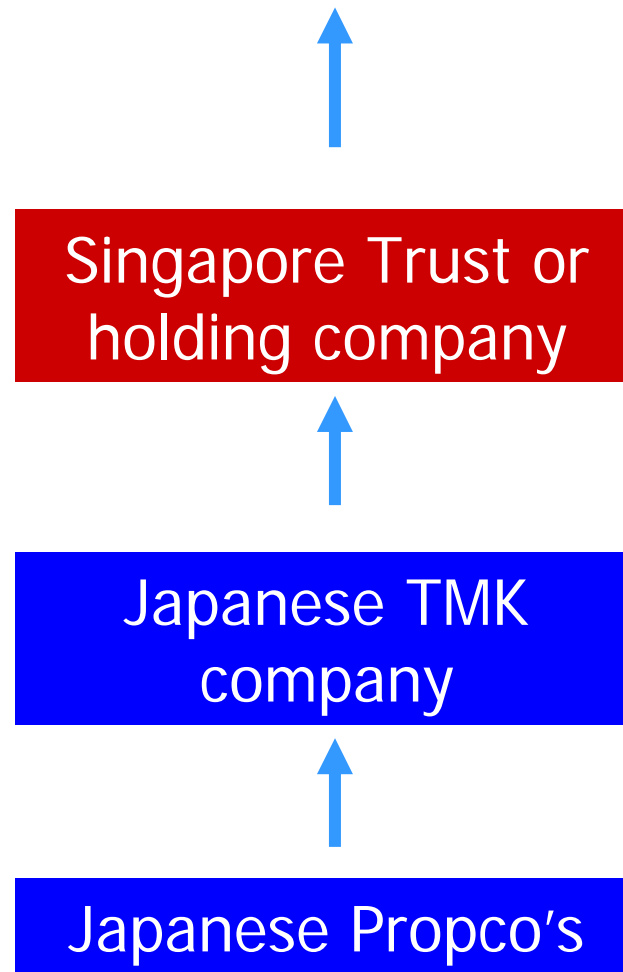
- Tokumei Kumiai (TK)
- Tokutei Mokuteki Kaisha (TMK)
- Real Estate Investment Trust (J-REIT) known as 'Toshi Houjin'

J-REIT tax aspects

- Normal corporate income tax (42%)
- Deduct dividends from taxable income
- Reduced acquisition tax of real property of 1%
- Real estate registration tax is reduced to 0.6%
- Dividend withholding tax is 20%
- Non-resident capital gains tax: 10-15% (individuals) or 30% (corporates) unless exempt

Conditions

- Registration with the Financial Services Agency
- Publicly offered shares/units for > Yen 100m
- shares offered primarily in Japan
- Licensed fund manager
- Qualifying custodian
- JREIT does not own 50% or more of another cy
- Loan provider, if any, must be qualifying FII
- Dividends must exceed 90% of distributable profits



- Singapore best combines income tax and tax treaty network benefits
- Recent comfort on fund management for both offshore and onshore funds in Singapore
- HK lacks a treaty network but good for PRC
- Infrastructure investments: indirect tax and direct tax planning (exemptions, tax holidays, depreciation, reduced rates)

THANK YOU