Morison Global

Global Tax Insights

Q3 - Q4 2021

Building Better
Business Globally

CONTRIBUTED BY
Stefan Huang
Wetec International CPAs, Taiwan
E: shanehua@cpawetec.com.tw

Uber onshores e-commerce operation in Taiwan – from VAT, corporate and transfer pricing perspectives

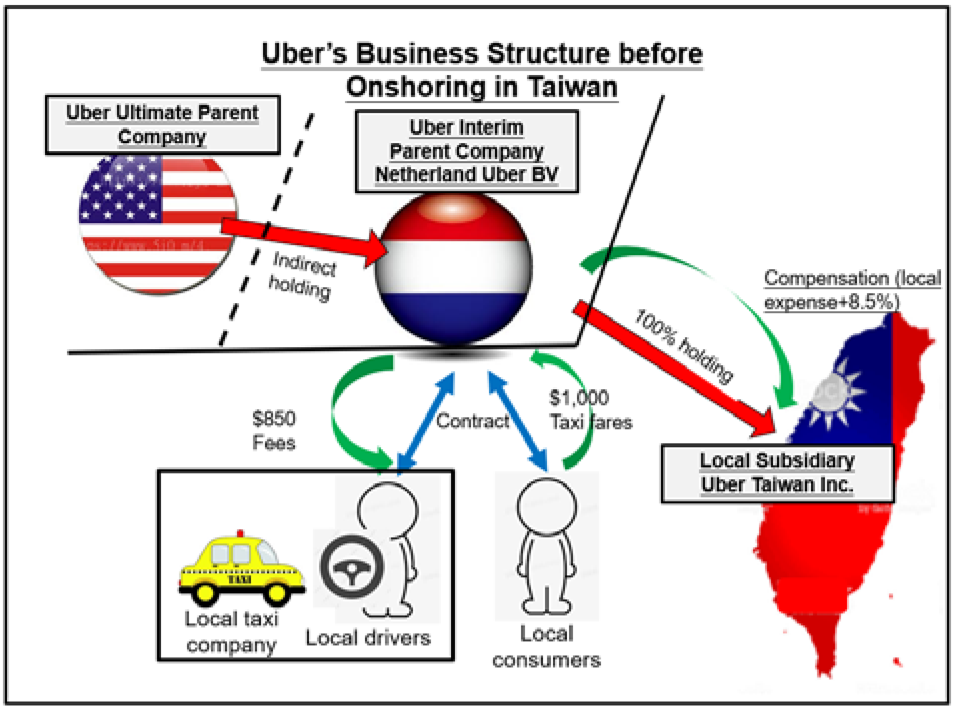
On 10 December 2020 the Uber group announced a major policy change for its operation in Taiwan: Uber's Taiwan subsidiary ("Uber Taiwan subsidiary") took over the taxi services from its parent company – the Netherlands Uber BV. According to the announcement, Taiwanese consumers can refrain from paying extra international transaction fees after Uber's onshoring. A similar announcement on 1 February 2021 conveyed the same policy change for Uber's food delivery services ("Uber Eats") in Taiwan.

From May 2017 until this onshoring policy took place, Uber had operated its taxi and delivery services using a *cross-border e-commerce* model, in which Netherlands Uber BV contracted local consumers and suppliers, matched the transactions via digital platform and mobile apps, and handled the cashflow by a cross-border clearance mechanism. The two following figures demonstrate the different business structures before and after the onshoring.

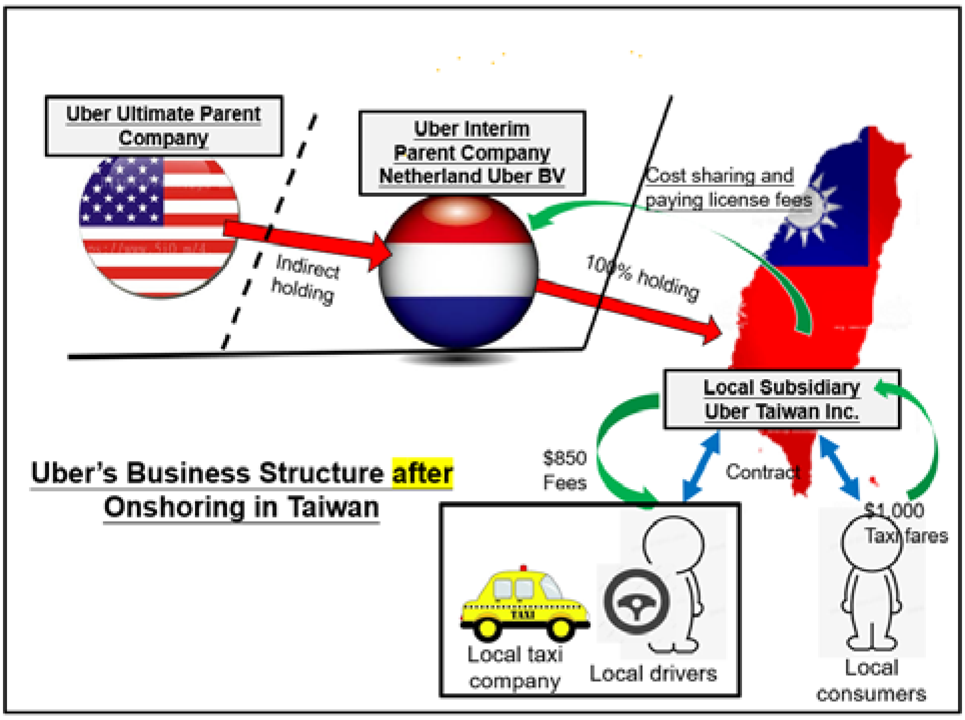
Uber emphasises the alleviation of consumers' cross-border payment costs as a major benefit after onshoring. The onshoring itself may also indicate that the taxi and food delivery businesses are quite price-sensitive in Taiwan and that consumers tend to compare cost between similar service providers. As a matter of fact, Uber faces strong competition from local players such as TaiwanTaxi and localised international brands such as Foodpanda, which also operate under the same digital business model. Thus, onshoring may bring Uber on to an equal footing with these local and localised players in market competition as well as tax burden and compliance.

Changes in VAT after onshoring

From the first day that Uber onshored its business, the simplified cross-border E-commerce VAT regime ceased to apply. Uber was required to calculate VAT payable



Morison Global



under the same multiple-stage VAT regime as other Taiwanese companies, collect inward VAT invoices ("GUIs") and then deduct input taxes from output taxes. The multiple-stage system now enables Uber to issue outward GUIs to consumers with a sales figure reflecting platform usage and delivery charges, i.e. netting these off against taxi and food prices. Moreover, Uber is relieved of the responsibility to issue eGUIs to taxi passengers under a special article of the GUI bylaws that favours local taxi service providers. Uber's B2B and food delivery business are required to issue GUIs to buyers in the same way as a normal VAT business.

Changes in corporate income tax after onshoring

Before onshoring, Uber neither paid corporate income tax nor was subject to the withholding tax regime for its B2B and B2C sales in Taiwan. That is because Uber had operated under the name Netherlands Uber BV without a local permanent establishment in Taiwan, so was subject to the business income exemption clause of the Taiwan-Netherlands Tax Treaty ("Tax Treaty"). Revenues earned in Taiwan were consolidated to Netherlands Uber BV income tax statements.

After onshoring, Uber performs business activities under the name Uber Taiwan Inc., its subsidiary company. The business operator – Uber Taiwan Inc. – is deemed an independent entity subject to the same income taxation, bookkeeping and filing standards as other local competitors. After-tax profits generated in Taiwan will be subject to a 10% withholding tax if repatriated to the Netherlands parent Uber BV under the Tax Treaty. Any losses incurred in Taiwan can be carried forward up to ten years. Onshoring also brings convenience in dealings with local suppliers and business clients since the

Taiwanese subsidiary can issue outward GUIs so no longer needs to apply for withholding exemption.

Transfer pricing concern after onshoring

Before onshoring, transfer pricing (TP) arrangements relating to intangibles were made between Uber BV and licensor enterprises within the Uber group. An intellectual property (IP) arrangement was not needed by the Uber Taiwan subsidiary because it performed only auxiliary and preparatory functions.

Since, after onshoring, Uber Taiwan Inc. becomes the business operator and uses corporate IP, TP issues now arise. See the red-circled part in the figure below.

To operate Uber's taxi and food delivery business in Taiwan, Uber Taiwan Inc. has to use the trademark, brand name and software, and access the global platform, technology and know-how owned by the Uber group, and properly compensate the group. However, in light of market competition in Taiwan, two elements must be taken into consideration for TP purposes, especially when choosing uncontrolled comparables and pricing methods:

1. Uber's brand name brings neither customer loyalty nor market segmentation. Taiwanese customers incline to consumer experience and compare cost in the taxi and food delivery sectors.
2. Uber's e-commerce model has been so pervasively employed by local competitors that the technologies and know-how associated with online-platform matchmaking are neither unique nor valuable for competitiveness.

Onshoring as a business alternative for cross-border e-commerce

Uber's decision to onshore its operation in Taiwan may set a positive example and reveal a trend for cross-border e-commerce operators to have closer contact with and react faster to end users. From tax perspectives, onshoring streamlines VAT and income tax calculation and compliance, with the costs of taxing profits in the market jurisdictions seen as reasonable. Onshoring can be a smart strategy to neutralise challenges from the OECD/G20 proposal for global digital and minimum taxation.

Uber's IP license structure before and after onshoring in Taiwan